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Assessment of Capacity Building Needs to Support WTO Negotiation on Trade-Related Aspects of E- Commerce

Submitted by: Policy Support Unit, APEC Secretariat



**Preparatory Meeting for the Symposium on
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Trade Related Aspects of E-Commerce
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Economic Cooperation

Assessment of capacity building needs to support WTO negotiation on trade-related aspects of e-commerce

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Advancing Free Trade
for Asia-Pacific Prosperity

Two complementary components

Database of relevant laws and regulations

- Provides a snapshot of where members are on areas with implications on e-commerce.
- Understands variation in situations and approaches pertaining to these areas.

Case studies

- Captures in more details approaches by economies to promote e-commerce.
- Showcases examples of specific laws, regulations and initiatives that could facilitate or affect e-commerce.

Database of laws and regulations

Overview

- 6 focus areas

A. Electronic transactions framework

B. Openness and cross-border related issues

C. Consumer protection and privacy issues

D. Cybersecurity/ network security

E. Infrastructure-related aspects

F. Market access

- Draft database for all 21 economies
- Analysis of economies' laws and regulations across focus areas

Database of laws and regulations

Some observations

Focus Area A – Electronic transactions framework

- Increased recognition of electronic authentication (i.e., electronic contracts and signatures) in the region, but not entirely sufficient for all forms of legal instruments.
- Although many economies have electronic payment (e-payment) laws and regulations, interpretation of e-payments varies.

Focus Area B – Openness and cross-border related issues

- Many economies have established conditions under which data exports of personal data can occur and/or are allowed. Some are also part of international/regional frameworks that regulate or facilitate cross-border data transfers.
- Although most economies have competition laws in place, most of them do not have specific policies for competition issues associated with online platforms.

Database of laws and regulations

Some observations

Focus Area C – Consumer protection and privacy issues

- While enacted consumer protection laws and regulations in economies broadly cover e-commerce transactions, only a few have made specific references to it or have legislations devoted to it.
- Most economies have introduced laws on data privacy and protection, but they differ in terms of what is defined as personal information.

Focus Area D – Cybersecurity/network security

- Different economies have cybercrime legal frameworks embedded in their criminal laws. Additionally, some economies have laws and regulations that are specific to cybercrime.
- A large number of economies have developed strategies to protect themselves against cyber threats. However, not many economies have cybersecurity laws to deal with a larger set of issues.

Database of laws and regulations

Some observations

Focus Area E – Infrastructure-related aspects

- Most economies have adopted full market entry liberalization for their GATS commitments on telecommunication services.
- Although all economies had adopted the Telecommunications Reference Paper, some have adopted a modified/reduced version, while others have adopted additional commitments.

Focus Area F – Market access

- Although most economies have joined the WTO Information Technology Agreement (ITA), a few economies have put in place regulations pertaining to encryption and other aspects such as those requiring licensing of electronic/IT products.
- While most or all economies have made commitments in their GATS schedules and/or through their trade agreements, there continues to be variation in the extent of liberalization at the MFN level.

Case studies

Overview

- Comprises of case studies from 11 economies.
- Examples of case studies:

A. Electronic transactions framework	<ul style="list-style-type: none">• China (E-commerce Law)• Chinese Taipei (Electronic Signatures Law)• Thailand (PromptPay)
B. Openness and cross-border related issues	<ul style="list-style-type: none">• Australia (Data portability and open banking)• The Philippines (IPR enforcement and ISP liability)
C. Consumer protection and privacy issues	<ul style="list-style-type: none">• Japan (Cross-border online dispute resolution)
D. Cybersecurity/network security	<ul style="list-style-type: none">• Chile (Cybersecurity strategy)• United States (Cybersecurity policy)
E. Infrastructure-related aspects	<ul style="list-style-type: none">• Korea (Universal broadband access)• Mexico (Competition in telecommunications)

Case studies

Some observations

- The importance of international engagements and adoption of international standards in promoting platform interoperability.
- The importance of cross-agency collaboration and public-private cooperation in combating online IPR infringement.
- The role of an online dispute resolution mechanism in increasing access to consumer justice.
- The value of working with the private sector on cybersecurity.
- The importance of consistent long-term planning and carefully calibrated policies, including those facilitating the use of TV white space (TVWS) and cloud computing in bridging the digital divide.

Capacity building needs

Possible themes

1. Encouraging the adoption of international standards, practices, guidelines and recommendations in economies' laws and regulations.
2. Improving mutual recognition and interoperability among the laws, regulations and initiatives.
3. Strengthening international cooperation with regards to specific aspects of e-commerce.
4. Instituting new approaches to regulations, including the use of technology to facilitate process.
5. Ensuring that laws, regulations and initiatives are practical, reasonable and can be operationalized efficiently.

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