Facilitating Trusted Cross-Border Data Flows

Submitted by: Singapore
FACILITATING TRUSTED CROSS-BORDER DATA FLOWS

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OVERVIEW OF DATA PROTECTION LAWS WORLDWIDE

128 economies had put in place legislation to secure the protection of data and privacy

- **66% with legislation** (e.g. Australia; China; EU; Malaysia; Singapore; The Philippines)
- **10% with draft legislation** (e.g. Indonesia; Viet Nam)
- **19% with no legislation** (e.g. Cambodia, Laos)
- **5% with no statistics** (e.g. Somalia)

Patchwork of laws and different regulatory approaches = Uncertainty for businesses operating in multiple jurisdictions

Source: UNCTAD Global Cyberlaw Tracker on 194 members, May 2021
SINGAPORE’S APPROACH TO ENABLING TRUSTED DATA FLOWS

International Agreements

DEAs / FTAs
- DEAs - SG-Chile-NZ;
- SADEA;
- Korea
- Singapore DPA

ASEAN Certification
for Cross Border Data Flows, Model Contractual Clauses

WTO
JSI E-commerce

Multilateral Arrangements

APEC CROSS BORDER PRIVACY RULES SYSTEM
SINGAPORE

ASEAN Certification
for Cross Border Data Flows, Model Contractual Clauses

Harmonisation or interoperability through bloc-to-bloc - APEC-ASEAN, EU-ASEAN

Bilateral Cooperation

Mutual Recognition of DP regime

Recognition of Singapore’s DP Trustmark Certification

MOUs
Australia; Hong Kong, China; The Philippines, United Kingdom.

Regulatory sandboxes
ASEAN FRAMEWORK ON DIGITAL DATA GOVERNANCE

Mission
Strengthen the Data Ecosystem | Harmonise Legal and Regulatory Frameworks | Foster Data Innovation

Strategic Priorities

Data Life Cycle & Ecosystem
- Data Governance through the data lifecycle (e.g., collection, use, access, storage)
- Adequate protection for different types of data

Cross-border Data Flows
- Business certainty on cross-border data flows
- No unnecessary restrictions on data flows

Digitalisation and Emerging Technologies
- Data capacity (infrastructure and skills) development
- Leveraging new technologies

Legal, Regulatory and Policy
- Harmonised legal and regulatory landscapes in ASEAN (including personal data protection)
- Development and adoption of best practices

ASEAN Data Management Framework
ASEAN Cross Border Data Flows Mechanism
ASEAN Digital Innovation Forum
ASEAN Data Protection and Privacy Forum

Enablers
Cybersecurity | Capacity Building | Enforcement Cooperation
ASEAN CROSS BORDER DATA FLOWS MECHANISM

- Trusted flow of personal data across borders in ASEAN
  - Valid legal bases for transfer of personal data

**Model Contractual Clauses (MCCs)**

- Baseline set of contractual clauses for transferring data between data senders and data recipients in ASEAN
- MCCs for Controller-to-Processor Transfer
- MCCs for Controller-to-Controller Transfer
- Approved at the 1st ASEAN Digital Ministers' Meeting in Jan 2021

**Certification**

- Work in Progress
- Businesses will be certified to Data Protection standard
- Interoperable with APEC CBPR
POSITIVE FEEDBACK FROM INDUSTRY*

“Many of our member companies have established internal data management practices and stand ready to work with ASEAN governments to continue sharing these best practices, support upskilling efforts for SMEs, and encourage industry self-management and the principle of accountability…

- ASEAN based industry association

“If an SME comes to my company with the baseline ASEAN MCCs, it would demonstrate advantage”

- Bank with global presence

“Baseline, standalone contract is useful to assign accountability to parties and avoid lengthy negotiations.”

- Regional e-commerce conglomerate

*Industry Consultation with companies/industry associations (MNCs and SMEs)

- Help ASEAN businesses build trust, transparency and accountability
- Help ASEAN businesses meet data protection and regulations requirements, build readiness to take up new digital opportunities
- Assure ASEAN citizens of protection of their personal data held by businesses
- Prepare ASEAN for international interoperability
RECOGNITION OF CBPR IN SINGAPORE’S REGULATIONS AND GUIDANCE FOR ASEAN MCCS

• An overseas recipient that is CBPR- or PRP-certified is considered legally bound to provide comparable protection for the transferred personal data to SG’s PDPA

• PDPC has published guidance on the use of the ASEAN MCCs to fulfil their Transfer Limitation Obligation under the PDPA

Fig 1: Recognition of APEC CBPR under Singapore’s Personal Data Protection Act (PDPA)
Thank You