MINISTRY OF FOREIGN AFFAIRS
OF MONGOLIA

# SESSION6. INTERNATIONAL AGREEMENTS AND THEIR IMPLICATIONS TO MONGOLIA'S DIGITAL TRADE POLICY

## Focus on WTO E-commerce agreement and RCEP text

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**Ulaanbaatar, 27 March 2025**

MINISTRY OF FOREIGN AFFAIRS OF MONGOLIA

# Participation of Mongolia in the international and regional e-commerce rule-making initiatives

## International and regional dedicated initiatives

- UN Convention on Electronic Communications in International Contracts
- Mongolia – Japan FTA (Chapter 9)
- WTO (Work Programme on e-commerce, 1998) --> Moratorium on customs duties on electronic transmissions
- WTO Joint Statement initiative on E-commerce (negotiations in progress)

## International and regional accessory initiatives

- UN ESCAP Framework Agreement on Cross-Border Paperless Trade in Asia and Pacific
- WCO Revised Kyoto Convention
- WTO Agreement on Trade Facilitation
- Varied IP treaties administered by the WIPO, to which Mongolia is a party agreements
- CISG- Convention on Contracts for the International Sale of Goods" -Vienna Convention

NB: international treaty prevails in case of a conflict

*Source: WTO Training in Mongolia*



# ECONOMIC PARTNERSHIP AGREEMENT (EPA) BETWEEN MONGOLIA AND JAPAN

**Negotiation concluded: 15 February 2015**
**Entered into force: 07 June 2016**

**Chapter 9. Electronic Commerce**
**Article 9.1. General Provisions**
1. The Parties recognize the economic growth and opportunities provided by electronic commerce, and the importance of avoiding unnecessary barriers to its use and development.
2. The objective of this Chapter is to contribute to creating an environment of trust and confidence in the use of electronic commerce and to promote electronic commerce between the Parties and the wider use of electronic commerce globally.
**Article 9.2. Definitions**
**Article 9.3. Customs Duties**
Each Party shall maintain its practice of not imposing customs duties on electronic transmissions between the Parties.
**Article 9.4. Non-discriminatory Treatment of Digital Products**

**Article 9.5. Electronic Signature**
**Article 9.6. Consumer Protection**
**Article 9.7. Unsolicited Commercial E-mail**
Each Party shall endeavor to take appropriate and necessary measures to regulate unsolicited commercial e-mail for advertising purposes.
**Article 9.8. Paperless Trade Administration**
**Article 9.9. Domestic Regulation**
Each Party shall ensure that all its measures affecting electronic commerce are administered in a transparent, objective, reasonable and impartial manner, and are not more burdensome than necessary to meet legitimate policy objectives.
**Article 9.10. Prohibition on Requirement Concerning the Location of Computing Facilities**
1. Neither Party shall require:
(a) a service supplier of the other Party;
(b) an investor of the other Party; or
(c) an investment of an investor of the other Party in the Area of the former Party, as a condition for conducting its business in the Area of the former Party, to use or locate computing facilities in that Area.
**Article 9.11. Source Code**
1. Neither Party shall require the transfer of, or access to, source code of software owned by a person of the other Party, as a condition of the import, distribution, sale or use of such software, or of products containing such software, in its Area.
**Article 9.12. Cooperation**
**Article 9.13. Sub-committee on Electronic Commerce**



# EPA IMPLEMENTATION

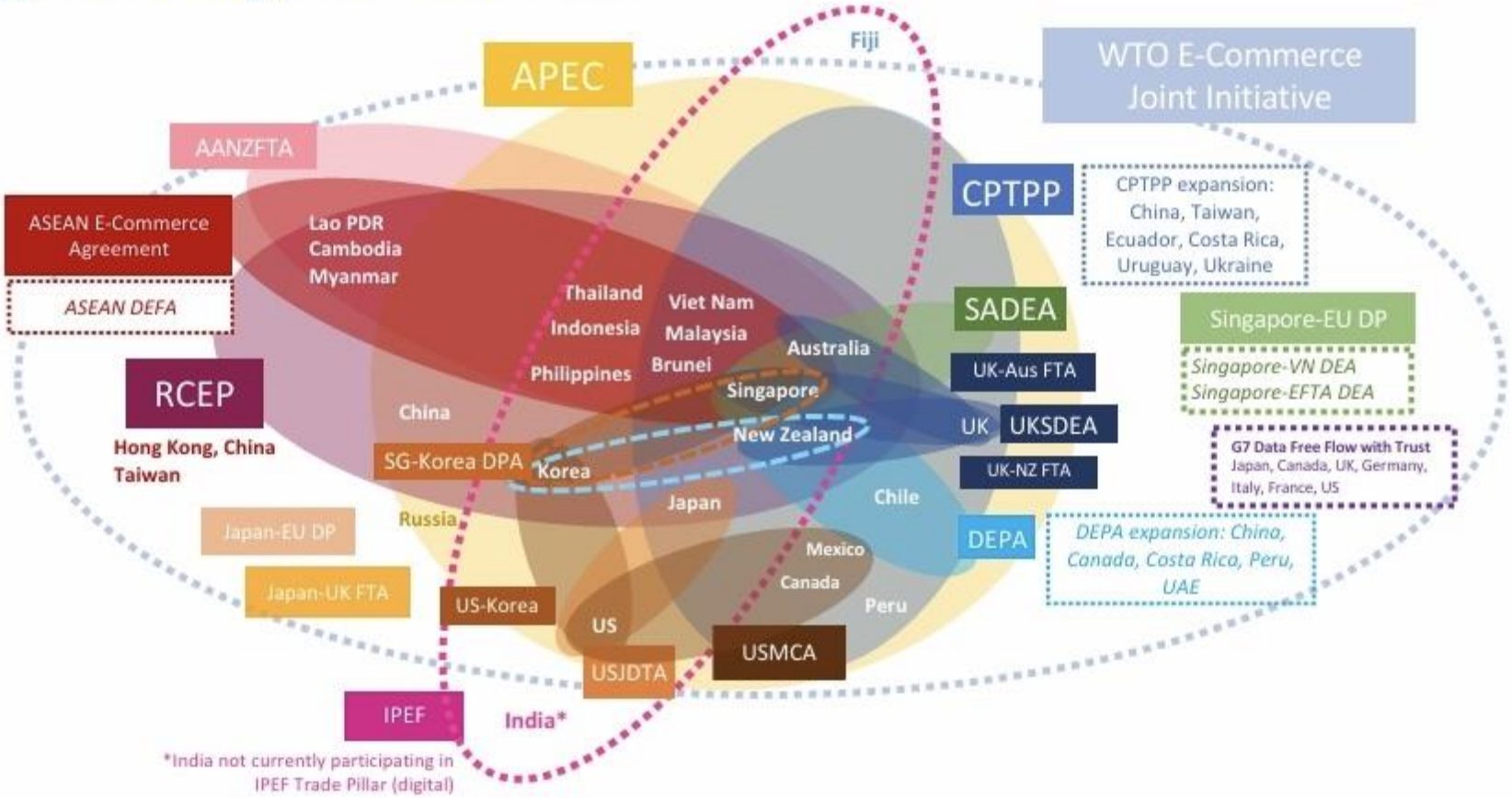
**The Second Meeting of the Sub-Committee on Cooperation Established under the Japan-Mongolia Economic Partnership Agreement**

1. On November 27, 2024 the second meeting of the Sub-Committee on Cooperation established under the Japan-Mongolia Economic Partnership Agreement (EPA) was held at the Ministry of Economy and Development of Mongolia. The meeting was chaired by Mr. ISHITOBI Takashi, Director, Second China and Mongolia Division, Asian and Oceanian Affairs Bureau, Ministry of Foreign Affairs from the Japanese side and Mr. Purevdorj Chandmani, Director-General, Economic Cooperation and Integrated Trade Policy Department, Ministry of Economy and Development from the Mongolian side.

2. At the sub-committee meeting, the two sides had candid discussions on the efforts that Japan and Mongolia has respectively made, as well as on issues, with the view to further promote their bilateral economic and trade relationship. The two sides concurred to continue such discussions in order to ensure the steady implementation of the EPA and for both sides to promote its utilization. In addition, the two sides concurred on holding the next sub-committee meeting in Tokyo next year.

*Source: https://www.mofa.go.jp/a_o/c_m2/mn/pageite_000001_00684.html*

# Digital fragmentation




Source: Adapted by the author from Stephanie Honey, 'The long road to a seamless global digital economy', Hinrich Foundation, 30 May

# E-commerce and the WTO:
## Two “Tracks”

**Work Programme and Moratorium**

- **Multilateral “track”**
- 1998, MC2 (Geneva):

Ministerial Declaration on Global Electronic Commerce

**Joint Statement Initiative**

- **Plurilateral “track”**
- 2017, MC11 (Buenos Aires):

Joint statement signed by 71 WTO Members (currently 86 participants)

*Source: WTO Training in Mongolia, 2023*

# Work Programme on E-commerce



- Established in **September 1998** (WT/L/274)
- **Objectives**:
  - Examine all trade-related aspects of e-commerce
  - Relation between e-commerce and WTO agreements
  - Consideration of the economic, financial, and development needs of developing countries
- Work is conducted in the **General Council** and **relevant bodies** (Councils for Trade in Goods, Services, TRIPS, and Committee on Trade and Development)

*Source: WTO Training in Mongolia, 2023*

# Definition of E-commerce




What is **e-commerce**?

***"the production, distribution, marketing, sale or delivery of goods and services by electronic means"***

*Work Programme on Electronic Commerce (WT/L/274), 1998*

*Source: WTO Training in Mongolia, 2023*

# The Moratorium on customs duties on electronic transmissions

"[…] we also declare that Members will **continue their current practice of not imposing customs duties on electronic transmissions**."

*Declaration on Global Electronic Commerce, 1998*

*Source: WTO Training in Mongolia, 2023*

# E-commerce Joint Statement Initiative

- **December 2017 (MC11)**: Joint statement signed by 71 WTO Members
  - Objective: exploratory work towards future WTO negotiations on trade related aspects of e-commerce
- **January 2019**: 76 WTO Members confirmed their intention to commence negotiations
  - Objective: a high standard outcome that builds on existing WTO Agreements and frameworks with the participation of as many WTO Members as possible
- Current number of participants: **86 Members**

# E-commerce JSI: Process

**Discussions are organized into 6 focus groups:**

- Enabling e-commerce
- Openness and e-commerce
- Trust and e-commerce
- Transparency, cooperation and development
- Telecommunications
- Institutional arrangement

- **Co-conveners**: Australia, Japan and Singapore
- **Proposals** based on Members' proposals and language from RTAs (e.g., CPTPP, USMCA)
- **Negotiations** are being conducted in a combination of plenary, focus group and small group meetings

*Source: WTO Training in Mongolia, 2023 and updated by AA*

# WTO Joint Statement Initiative on E-commerce

E-commerce negotiators finalize “technical discussions” and outline next steps

Co-convenors of the e-commerce talks — Australia, Japan and Singapore — said at their last round of negotiations held from 22 to 25 April, 2023 that the work now will move to the final decision-making phase. This is where participating members will focus on domestic consultations and conduct political outreach to try to close the gaps on remaining issues in the negotiations, they added.



*Source: https://www.wto.org/english/news_e/news24_e/ecom_25apr24_e.htm*

# WTO Joint Statement Initiative on E-commerce

At the 11th Ministerial Conference in December 2017, a group of 71 WTO members agreed to initiate exploratory work towards future WTO negotiations on trade-related aspects of e-commerce. In January 2019, 76 WTO members confirmed in a joint statement their intention to commence these negotiations. They agreed to "seek to achieve a high standard outcome that builds on existing WTO agreements and frameworks with the participation of as many WTO members as possible".

As of 25 June 2024, there are 91 WTO members participating in these discussions, accounting for over 90 per cent of global trade. As is the case for all the joint statement initiatives, participation in the e-commerce JSI is open to all WTO members. The initiative is jointly co-convened by H.E. Mr. James Victor BAXTER (Australia), H.E. Mr. Atsuyuki OIKE (Japan) and H.E Mr TAN Hung Seng (Singapore).

On 26 July 2024, the joint statement Co-conveners, Australia, Japan and Singapore, confirmed in a statement on behalf of the participants that after five years of negotiations, participants had achieved a stabilised text (INF/ECOM/87).

- For more information on the Agreement on Electronic Commerce, please refer to the

*Source: https://www.wto.org/english/tratop_e/ecom_e/joint_statement_e.htm*

# WTO E-commerce negotiations

RESTRICTED

WORLD TRADE ORGANIZATION

INF/ECOM/85/Rev.3

6 May 2024

(24-3610) Page: 1/33

Original: English

**WTO ELECTRONIC COMMERCE NEGOTIATIONS**

DRAFT CHAIR'S TEXT

6 May 2024

*Revision*

The following Chair's text, dated 3 May 2024, has been prepared by the Co-convenors of the WTO JSI on E-commerce. The Chair's Text reflects the judgement of Australia, Singapore and Japan, as Co-convenors, concerning the landing zones where consensus is most likely to be achieved in the agreement. While the Co-convenors take responsibility for the Chair's Text, it does not prejudice the positions or views of Australia, Japan and Singapore as individual WTO Members participating in the negotiation.

This text incorporates amendments arising from the 22-25 April 2024 negotiating round. Specifically, amendments have been made in this version to Article 8 indigenous peoples, Article 15 electronic payments, Article 16 customs duties, Article 25 development, Article 26 telecommunications, Article 36 review and to remove Article 22 ICT products that use cryptography.

The development article remains critical to the final agreement. However, some members' divergent positions on this article cannot be easily reconciled. Co-convenors convened several sessions on this issue during the 22-25 April negotiating round and consulted proponents and other members subsequently. Following these discussions, we suggest herein amendments that we assess have the best prospect of achieving consensus. In parallel, we are seeking more information from members and international organisations on the relevant capacity building and technical assistance to be made available to participants so that we can put together a comprehensive compendium of e-commerce-related resources for members to consider holistically with the package of commitments in this agreement.

Customs duties is another area where some members are still consulting or have expressed reservations. During the 22-25 April negotiating round and subsequently we conducted a number of consultations with members to confirm their support for the revisions to Article 16 contained herein. We are committed to continued dialogue with members on this important issue.

Co-convenors ask members to consult capitals on this text as an overall package that could allow us to conclude negotiations on a WTO Electronic Commerce Agreement in a timely manner before the European summer. While technical negotiations have concluded, we propose to host a Heads of Delegation (HoD) meeting at 11am on 21 May, to update members on the Co-convenors statement that we hope to circulate in coming weeks. Co-Convenor Ambassadors and attachés remain available to support delegations as needed.

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# WTO E-commerce negotiations

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# MONGOLIA – JAPAN EPA
# Chapter 9


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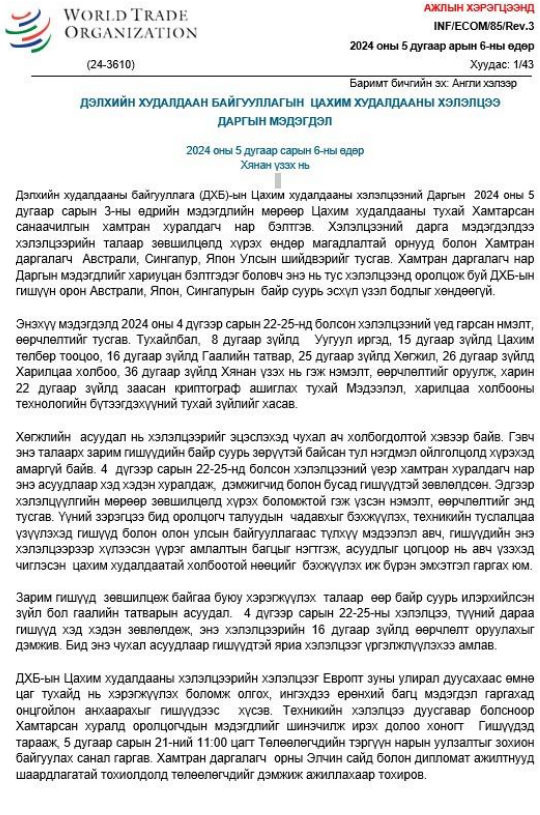
# WTO E-commerce negotiations



WORLD TRADE ORGANIZATION

(24-3610)

АЖЛЫН ХЭРЭГЦЭЭНД

INF/ECOM/85/Rev.3

2024 оны 5 дугаар арын 6-ны өдөр

Хуудас: 1/43

Баримт бичгийн эх: Англи хэлээр

## ДЭЛХИЙН ХУДАЛДААН БАЙГУУЛЛАГЫН ЦАХИМ ХУДАЛДААНЫ ХЭЛЭЛЦЭЭ ДАРГЫН МЭДЭГДЭЛ

2024 оны 5 дугаар сарын 6-ны өдөр

Хянан үзэх нь

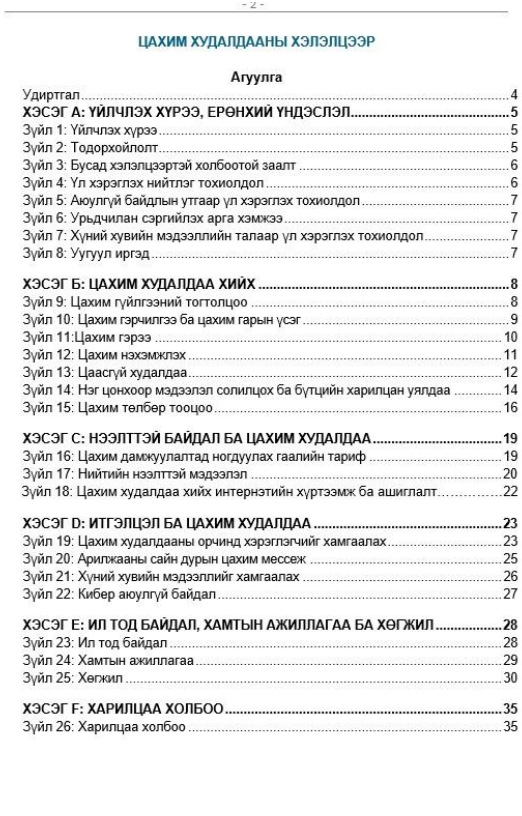
Дэлхийн худалдааны байгууллага (ДХБ)-ын Цахим худалдааны хэлэлцээний Даргын 2024 оны 5 дугаар сарын 3-ны өдрийн мэдэгдлийн мөрөөр Цахим худалдааны тухай Хамтарсан санаачилгын хамтран хуралдагч нар бэлтгэв. Хэлэлцээний дарга мэдэгдэлдээ хэлэлцээрийн талаар зөвшилцөлд хүрэх өндөр магадлалтай орнууд болон Хамтран даргалагч Австрали, Сингапур, Япон Улсын шийдвэрийг тусгав. Хамтран даргалагч нар Даргын мэдэгдлийг хариуцан бэлтгэдэг боловч энэ нь тус хэлэлцээнд оролцож буй ДХБ-ын гишүүн орон Австрали, Япон, Сингапурын байр суурь эсхүл үзэл бодлыг хөндөөгүй.

Энэхүү мэдэгдэлд 2024 оны 4 дүгээр сарын 22-25-нд болсон хэлэлцээний үед гарсан нмэлт, өөрчлөлтийг тусгав. Тухайлбал, 8 дугаар зүйлд Уугуул иргэд, 15 дугаар зүйлд Цахим төлбөр тооцоо, 16 дугаар зүйлд Гаалийн татвар, 25 дугаар зүйлд Хөгжил, 26 дугаар зүйлд Харилцаа холбоо, 36 дугаар зүйлд Хянан үзэх нь гэж нэмэлт, өөрчлөлтийг оруулж, харин 22 дугаар зүйлд заасан криптограф ашиглах тухай Мэдээлэл, харилцаа холбооны технологийн бүтээгдэхүүний тухай зүйлийг хасав.

Хөгжлийн асуудал нь хэлэлцээрийг эцэслэхэд чухал ач холбогдолтой хэвээр байв. Гэвч энэ талаарх зарим гишүүдийн байр суурь зөрүүтэй байсан тул нэгдмэл ойлголцолд хүрэхэд амаргүй байв. 4 дүгээр сарын 22-25-нд болсон хэлэлцээний үеэр хамтран хуралдагч нар энэ асуудлаар хэд хэдэн хуралдаж, дэмжигчид болон бусад гишүүдтэй зөвлөлдсөн. Эдгээр хэлэлцүүлгийн мөрөөр зөвшилцөлд хүрэх боломжтой гэж үзсэн нэмэлт, өөрчлөлтийг энд тусгав. Үүний зэрэгцээ бид оролцогч талуудын чадавхыг бэхжүүлэх, техникийн туслалцаа үзүүлэхэд гишүүд болон олон улсын байгууллагаас түлхүү мэдээлэл авч, гишүүдийн энэ хэлэлцээрээр хүлээсэн үүрэг амлалтын багцыг нэгтгэж, асуудлыг цогцоор нь авч үзэхэд чиглэсэн цахим худалдаатай холбоотой нөөцийг бэхжүүлэх иж бүрэн эмхэтгэл гаргах юм.

Зарим гишүүд зөвшилцөж байгаа буюу хэрэгжүүлэх талаар өөр байр суурь илэрхийлсэн зүйл бол гаалийн татварын асуудал. 4 дүгээр сарын 22-25-ны хэлэлцээ, түүний дараа гишүүд хэд хэдэн зөвлөлдөж, энэ хэлэлцээрийн 16 дугаар зүйлд өөрчлөлт оруулахыг дэмжив. Бид энэ чухал асуудлаар гишүүдтэй яриа хэлэлцээг үргэлжлүүлэхээ амлав.

ДХБ-ын Цахим худалдааны хэлэлцээрийн хэлэлцээг Европт зуны улирал дуусахаас өмнө цаг тухайд нь хэрэгжүүлэх боломж олгох, ингэхдээ ерөнхий багц мэдэгдэл гаргахад онцгойлон анхаарахыг гишүүдээс хүсэв. Техникийн хэлэлцээ дуусгавар болсноор Хамтарсан хуралд оролцогчдын мэдэгдлийг шинэчилж ирэх долоо хоногт Гишүүдэд тарааж, 5 дугаар сарын 21-ний 11:00 цагт Төлөөлөгчдийн тэргүүн нарын уулзалтыг зохион байгуулах санал гаргав. Хамтран даргалагч орны Элчин сайд болон дипломат ажилтнууд шаардлагатай тохиолдолд төлөөлөгчдийг дэмжиж ажиллахаар тохиров.





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# E-commerce in Mongolia supportive factors and challenges

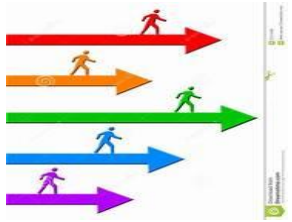
**Key supportive factors**

- Strong political will
- Positive [sectoral] investment outlook
- High private sector engagement
- Considerable consumer interest
- Support from the International organizations and development partners
- The COVID "*boost*"

**Key challenges**

- Important stakeholder capacity gaps
- General and ICT ifrastructure needing improvement
- Limited access to the ICT devices
- Partial decicated and accessory legal framework, which is not fully implemented
- Limited access to startup financing, including for the disadvantage groups
- Trust and data protection issues
- Lack of demografically disaggregated statistics
- Quickly changing sectoral policies and institutions

# THE WAY FORWARD



- **Multilatral/Plurilateral:**
  - WTO E-commerce Agreement
  - WTO JSI on Services Domestic Regulations
  - WTO Investment Facilitations for Development
  - WTO/WB I-TIP Data for Mongolia - regulatory information, STRI, dashboard ( EU - ITDM)
- **Regional integration:**
  - CPTA
  - RCEP – Regional comprehensive Economic Partnership
  - Regional Digital Trade Integration Index (RDTII)
- **Bilateral:**
  - EPA with Japan (E-commerce chapter-9)
  - Epa negotiations with Korea (Digital trade chapter)
- **Mongolia:**
  - e-Trade Readiness Assessment (UNCTAD)
  - Digital trade policy strategy (ESCAP)

MINISTRY OF FOREIGN AFFAIRS
OF MONGOLIA

# Once again, our special thanks to UN Mongolia, UNESCAP and EU-ITDM

## Thank you all for your attention