

E-COMMERCE AND PREFERENTIAL TRADE AGREEMENT

By
International Institute for Trade
and Development (ITD)
22 June, 2017

The logo for the International Institute for Trade and Development (ITD) features the letters 'itd' in a stylized font. The 'i' is red, and the 'td' is blue. A small globe icon is integrated into the letter 'd'.

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- ❖ Why e-Commerce?
- ❖ Scope of Discussion: The interplay among WTO (existing regimes), ESCAP regional cross-border paperless trade and regional PTA
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 - ❖ ESCAP Regional Support and Plans
- ❖ Emerging Regional/Global Trends and Issues on Preferential Trade Agreements
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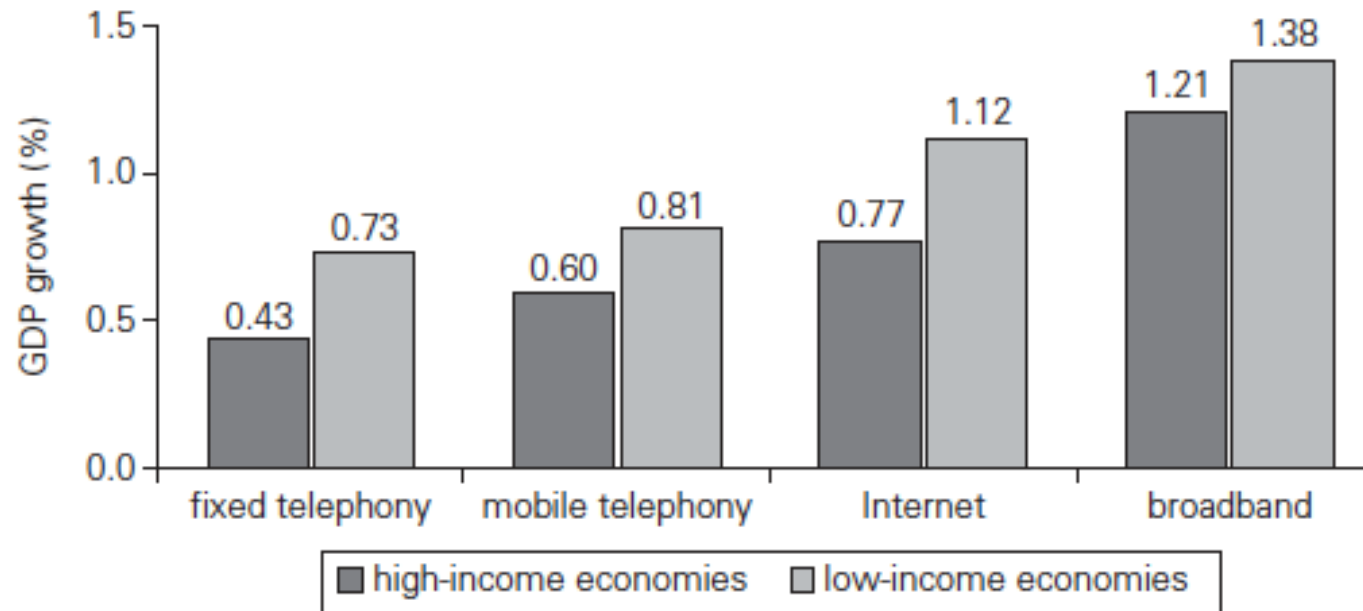
WHY INTERNET DEVELOPMENT & BROADBAND?

Percentage increase in economic growth per 10 percent increase in penetration, in:	Fixed	Mobile	Internet	Broadband
High-income countries	0.4	0.6	0.8	1.2
Low-income countries	0.7	0.8	1.1	1.4

Table 6: Estimates of the effect on growth of increased telecommunication services penetration⁴⁵

ICT CONTRIBUTION TO %GDP GROWTH

Figure 1.1 Effect of Various Information and Communication Technologies on GDP Growth in High- and Low-Income Economies, 2000-06



Source: Adapted from Qiang and Rossotto 2009, 45.

Note: Measures the percentage point increase in gross domestic product that is associated with a 10 percent increase in different information and communication technologies.

WHAT IS DIGITAL TRADE?

E-Commerce Definitions:

WTO: the production, distribution, marketing, sale or delivery of goods and services by electronic means (Sep., 1998)

UNCITRAL: Universal Model Law on e-Commerce data transactions using electronic means via electronic data interchange (EDI). EDI means the electronic transfer from computer to computer of information using an agreed standard to structure the information (1996).

*However the current language on digital products can be putting less emphasis on means but more on attribution or substance and on non-discrimination.

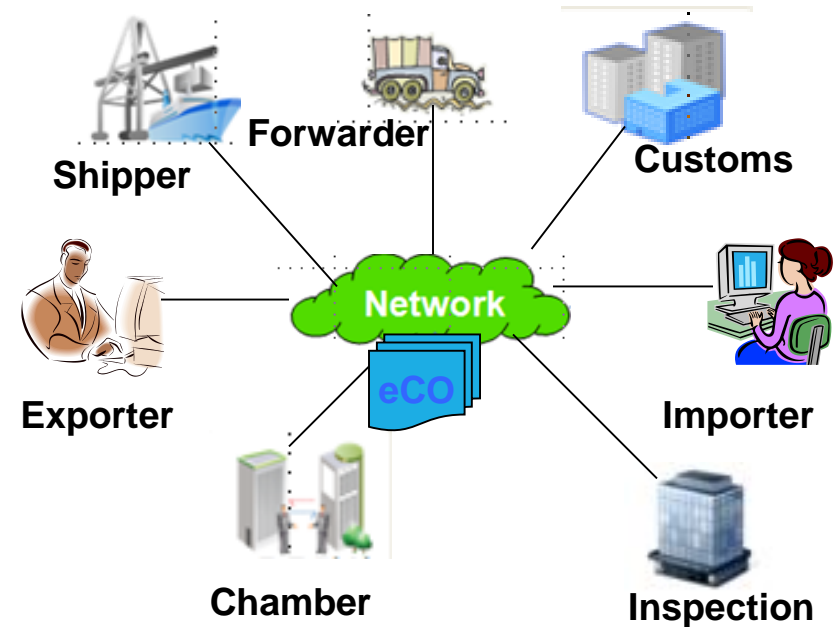
Paperless Trade?

- Paperless Trade

Conduct of trade activities on the basis of electronic rather than paper documents *e.g. electronic Customs declaration, electronic cert. of origin*
(application of e-commerce to international trade domain)

- Paperless Trade Systems

Legal/regulatory and technical frameworks in which paperless trade transactions take place *e.g. electronic Single Window facility, e-port management systems, Framework Act on Electronic Transaction (in RoK)*



How should digital products or services be treated in the International Trade system?

DATA IS EATING THE WORLD!

World's largest taxi company owns no taxis → UBER

Most popular media creates no content → Facebook

Largest accommodation provider owns no real estate → AirBnB

Largest phone companies does not own any telephone infrastructure → Skype, WeChat

World's most valuable retailer has no inventory → Alibaba

Fastest growing banks have no actual money → Society One

World's largest movie house owns no cinemas → NetFlix

Largest software vendor, does not write their apps → Google

Most popular emerging research firm, has no researchers → HfS Research

Benefits of Paperless Trade

Government

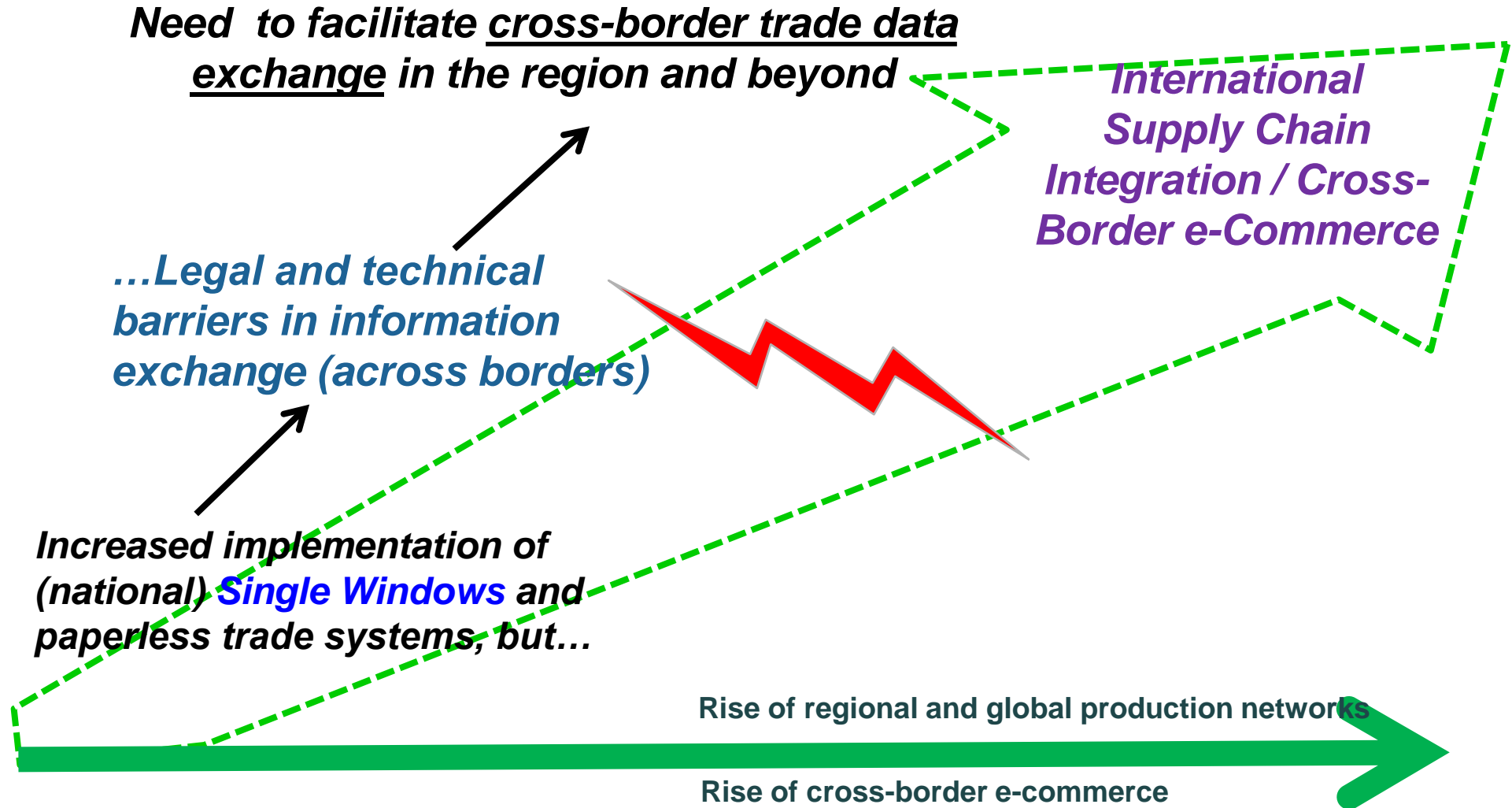


Traders



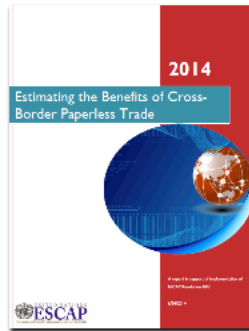
Towards Cross-border paperless trade

(including to enable cross-border e-commerce)



BENEFITS OF CROSS-BORDER PAPERLESS TRADE

Estimating the Benefits of Cross-Border Paperless Trade



Date: Tuesday, June 24, 2014

Type: Books

ABSTRACT

This report estimates the possible economic benefits—export gains, and cost savings—from partial or full implementation of cross-border paperless trade facilitation measures. Simulation results suggest that cross-border paperless trade has significant potential to reduce trade costs and boost trade in the Asia-Pacific region. Moreover, there is every reason to believe that these are low-end estimates of the possible economic gains from reform, due to the way in which the simulations are set up on a technical level, and the fact that they focus on implementation of cross-border measures only. In reality, paperless trade is typically implemented on a broader basis, which would tend to increase the level of export gains and cost savings reported here.

DOWNLOAD:

Benefits of Cross-Border Paperless Trade

✓ Download

Annual regional export gains :

\$36 bn (for partial implementation) to \$257 bn (full implementation)

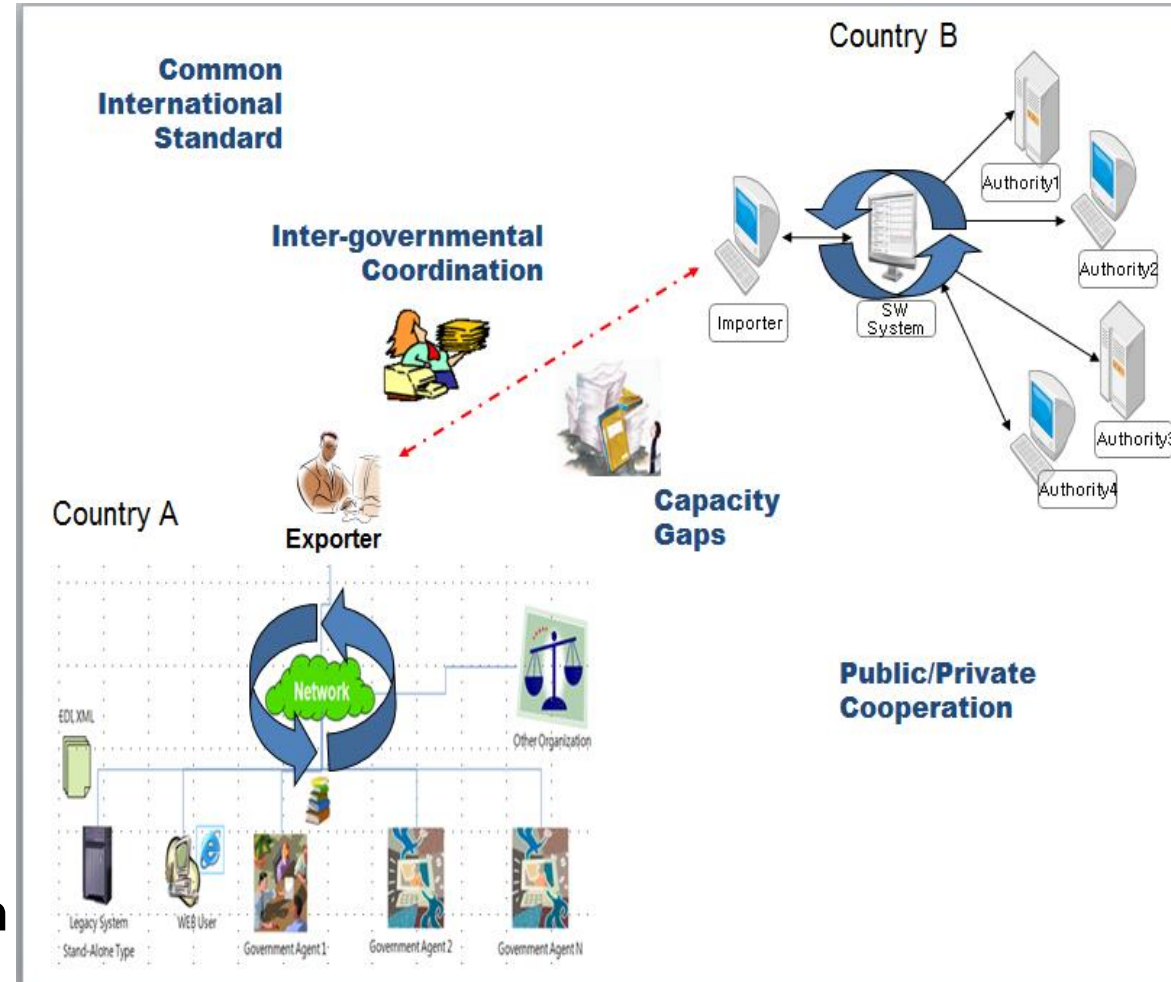
Export time reduction: 24% to 44%

Export cost reduction: 17% to 31%

Total direct cost savings across all trade: \$1bn to \$7bn annually

CHALLENGES TO MOVING FORWARD ON CROSS-BORDER PAPERLESS TRADE

- **Adoption of common International Standards**
- **Harmonization of legal frameworks**
- **Capacity gaps among the parties (infrastructure & HR)**
- **Cooperation between public and private sectors**
- **Lack of intergovernmental coordination mechanism**



DIGITAL TRADE

- ❑ Enable trade (physical goods and services)
- ❑ Digital services (consumed online)

TECHNOLOGY BEHIND E-COMMERCE

Instant Messaging

Social Media

The Web

Payment and Settlement system

WHY IS DIGITAL STANDARD IMPORTANT?

Relevant to future communication technology (Future Proofing)

Convergences in services not technology (licensing, broadband applications)

For infrastructure sharing*

Content(Data) is King!

New Generation of Network

Achieving Digital inclusion

*IP based services and applications, promote “any to any principles of connections.

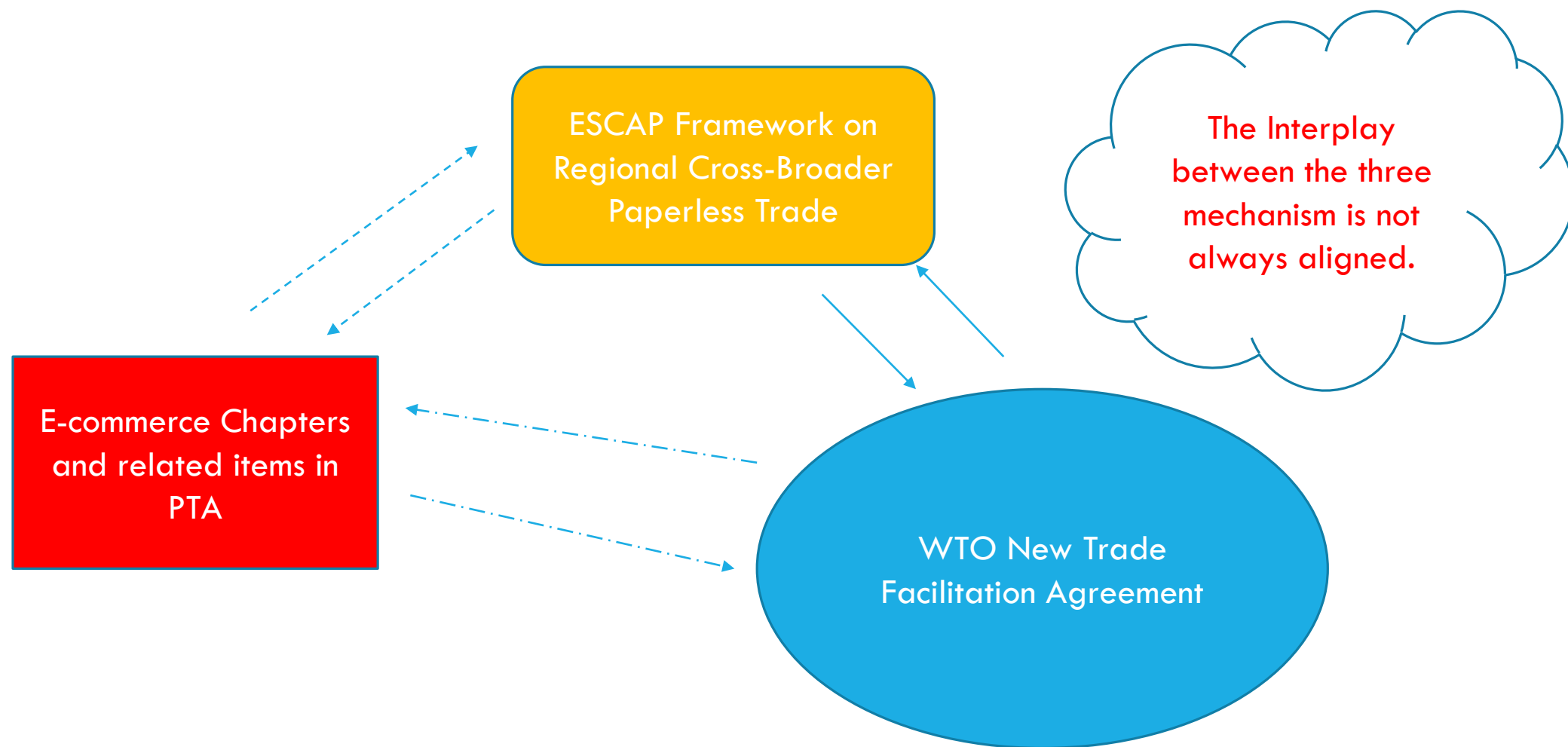
WTO GENEVA MINISTERIAL SESSION 1998

Called for a Moratorium to Not Impose Custom Duties on Electronic Transmissions

DIGITAL TRADE —SDG 2030

Today's cross-border trade in developing countries are dominated by women.
Rwanda 74%, Cambodia 86% or China 55%.

MAPPING THE MECHANISMS IN APAC REGION



Paperless trade coverage of RTAs

- Figure shows number of measures (our of 27) that are featured in each RTA
- Measures mainly found in **TF & Customs** chapters, and **e-commerce** chapters
- Regional findings:
 - TPP most far reaching
 - Rep.of Korea, USA, and Australia/N-Z leading
 - East Asia is leading subregion, followed by South-East Asia
 - RTAs of South and Central Asia are (far) behind; India as a leader

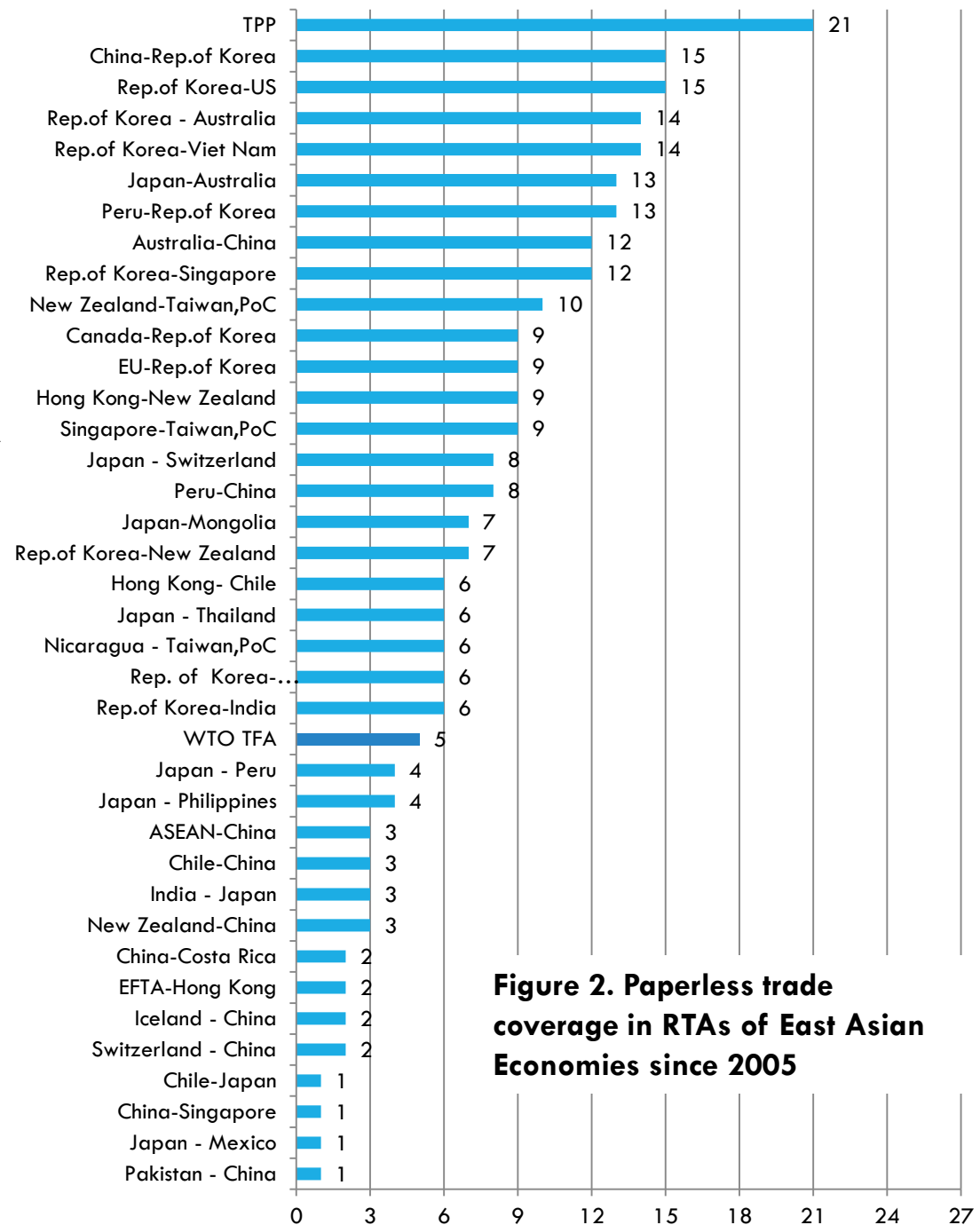
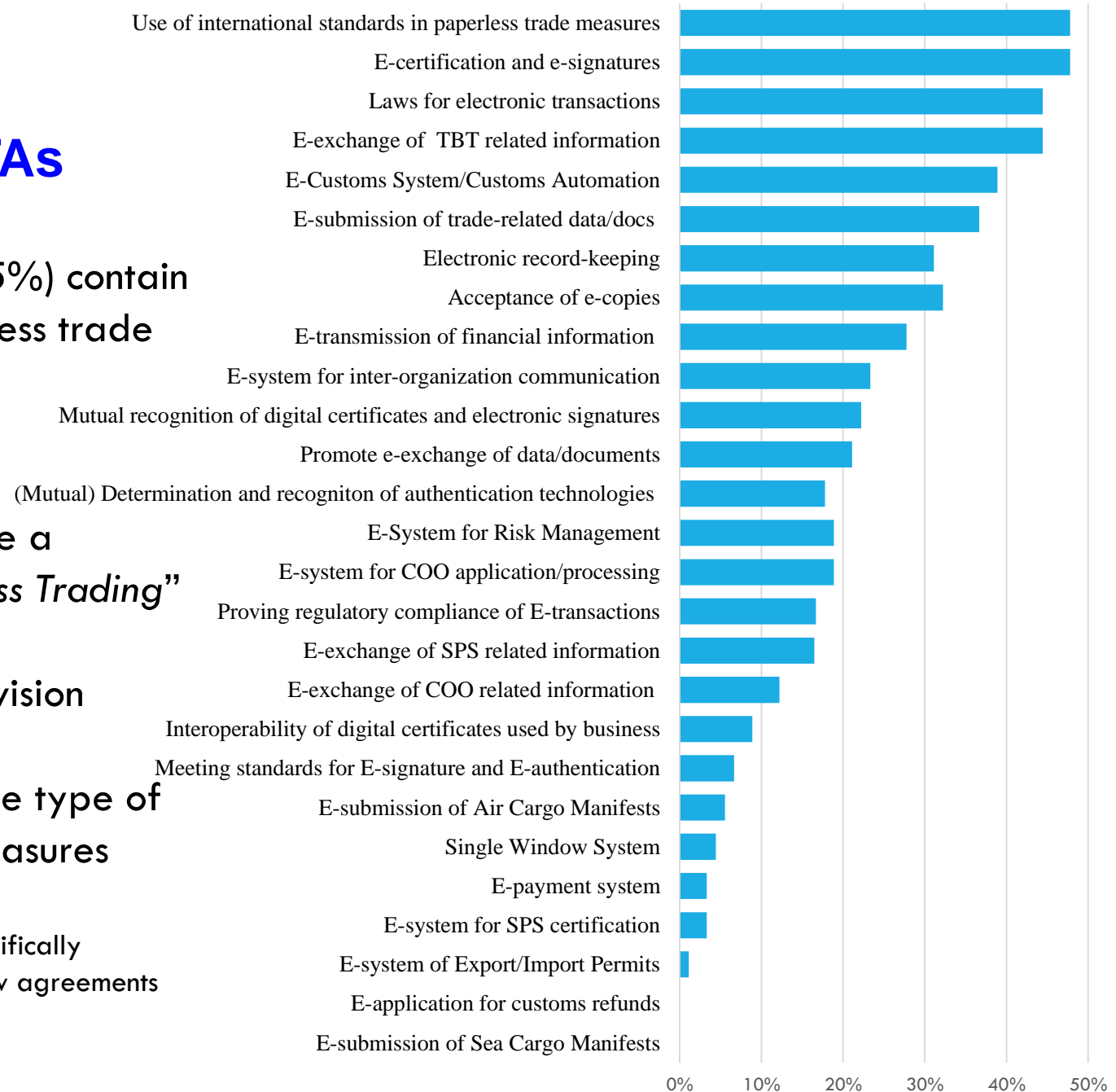


Figure 2. Paperless trade coverage in RTAs of East Asian Economies since 2005

Frequency of paperless trade measures in RTAs

- 90 of 138 RTAs (65%) contain at least one paperless trade measure
- 30 RTAs (22%) have a dedicated “*Paperless Trading*” or “*Paperless Trade Administration*” provision
- Wide diversity in the type of paperless trade measures included
 - “Single window” specifically mentioned in very few agreements

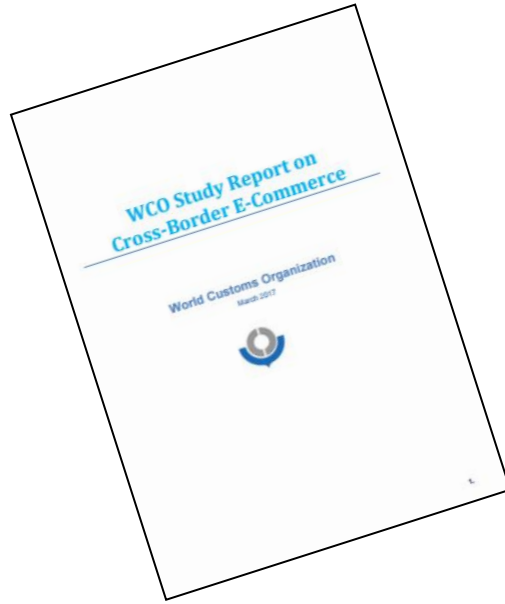


New WCO Report on Cross-Border E-commerce*



Figure 8

[*http://www.wcoomd.org/~media/wco/public/global/pdf/topics/facilitation/activities-and-programmes/ecommerce/wco-study-report-on-e-commerce.pdf?la=en](http://www.wcoomd.org/~media/wco/public/global/pdf/topics/facilitation/activities-and-programmes/ecommerce/wco-study-report-on-e-commerce.pdf?la=en)



New WCO Report on Cross-Border E-commerce*



Figure 13

[*http://www.wcoomd.org/~media/wco/public/global/pdf/topics/facilitation/activities-and-programmes/ecommerce/wco-study-report-on-e-commerce.pdf?la=en](http://www.wcoomd.org/~media/wco/public/global/pdf/topics/facilitation/activities-and-programmes/ecommerce/wco-study-report-on-e-commerce.pdf?la=en)

REGIONAL CROSS-BORDER PAPERLESS TRADE ESCAP FRAMEWORK



Available at:

<https://www.adb.org/publications/digital-trade-facilitation-paperless-trade-regional-trade-agreements>



ADBI Working Paper Series

**DIGITAL TRADE FACILITATION:
PAPERLESS TRADE IN REGIONAL
TRADE AGREEMENTS**

Yann Duval and
Kong Mengjing

No. 747
June 2017

Asian Development Bank Institute

Framework Agreement on the Facilitation of Cross-Border Paperless Trade in Asia and the Pacific

❑ A new UN Treaty

- Open to interested (53) ESCAP member states (voluntary) to become parties
- Opening for signature set to **1 October 2016** at UN Headquarters, New York

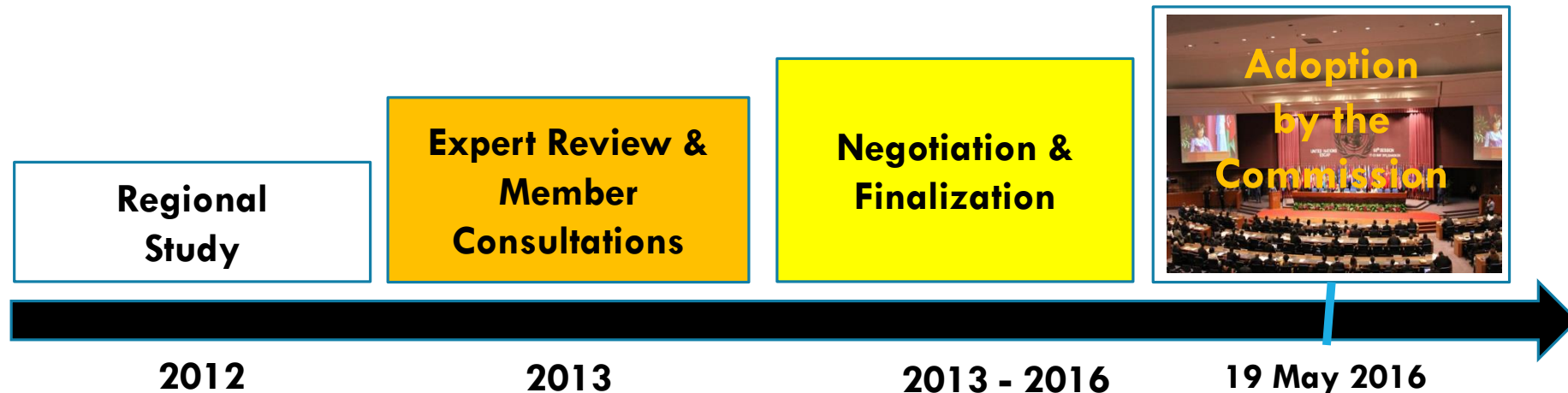
❑ Objective

To facilitate cross-border paperless trade (data exchange) among willing ESCAP member states by providing a dedicated intergovernmental framework to develop legal and technical solutions

- ❑ Complementary to the WTO Trade Facilitation Agreement as well as (sub)regional efforts

❑ 4 year step-by-step development process (ESCAP resolutions 68/3,70/6,72/4)

- ❑ Over 30 countries directly involved in finalizing the treaty text in March 2016





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Facilitation Agreement

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“It is expected to provide countries of Asia and the Pacific with a new tool and “digital” complement for better implementation of the WTO Trade Facilitation Agreement (TFA) and the development of cross-border e-commerce.”

New UN treaty to facilitate paperless trade in Asia and the Pacific to support Trade Facilitation Agreement implementation

01.10.2016

A new UN treaty, entitled *Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific*, will open for signature on 1 October 2016. It is expected to provide countries of Asia and the Pacific with a new tool and “digital” complement for better implementation of the WTO Trade Facilitation Agreement (TFA) and the development of cross-border e-commerce. Grounded on a common set of general principles and a dedicated intergovernmental platform, the regional treaty will provide Parties with enhanced opportunities to exchange and harmonize practices, build each other’s capacity, and multilaterally develop, adopt and implement more specific and detailed technical and/or legal protocols needed to achieve safe and secure cross-border paperless trade. Implementation will build upon existing international standards as well as on-going bilateral and subregional initiatives, such as the ASEAN Single Window.

In May 2012, Member States of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) adopted a Resolution on Enabling Paperless Trade and the Cross-border Recognition of Electronic Data and Documents for Inclusive and Sustainable Intraregional Trade Facilitation. In May 2016, after four years of consultations and negotiations, the text of a new UN treaty to facilitate cross-border paperless trade in Asia and the Pacific was adopted. Participation

Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific: **Key Provisions**

Article 1: Objective

The objective of the present Framework Agreement is **to promote cross-border paperless trade** by enabling the exchange and mutual recognition of trade-related data and documents in electronic form and facilitating interoperability among national and subregional single windows and/or other paperless trade systems, for the purpose of **making international trade transactions more efficient and transparent while improving regulatory compliance.**

Article 5:
General
Principles

Article 8:
Cross-border
Mutual
Recognition

Article 11:
Institutional
Arrangements

Article 12:
Action Plan

Article 13:
Pilot Projects
and Sharing
of Lessons
Learned

Article 14:
Capacity
Building

<http://www.unescap.org/resources/framework-agreement-facilitation-cross-border-paperless-trade-asia-and-pacific>

Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific: **Benefits**

☐ **Region-wide multilateral intergovernmental platform**

Builds upon existing bilateral/subregional initiatives; Supports WTO TFA implementation; Foster harmonization and minimize necessity for numerous bilateral/subregional intergovernmental approach;

☐ **Strong capacity building programme**

Inclusive initiative, open to Asia-Pacific countries at all levels of development; Strong emphasis on knowledge sharing and CB/TA among parties

☐ **Pilot projects**

Allow parties to adjust their systems before engaging in actual cross-border trade data exchange

☐ **Action Plan**

Allow parties with different implementation level to set actions based on their respective readiness

☐ **Mutual recognition**

Commit to the goal, while allowing flexibility in how to materialize the goal

Typology of Paperless trade related provisions & measures

- Based on the review, compiled a list of 27 paperless trade related provisions and measures

	Measure/Provision
1	Acceptance of e-copies
2	E-submission/processing of trade-related data/documents
3	E-submission of Sea Cargo Manifests
4	E-submission of Air Cargo Manifests
5	E-system of Export/Import Licenses or Permits
6	E-system of SPS certificates
7	E-system of COO
8	E-record keeping
9	E-payment system
10	E-application for customs refunds
11	E-Customs System/ Customs Automation
12	Automated System for Risk Management and targeting
13	Single Window System
14	E-system for inter-organization communication

Typology of Paperless trade related provisions & measures

15	Laws for electronic transactions
16	Use of electronic certificates and electronic signatures
17	(Mutual) determination of authentication technologies
18	Proving in court legal compliance of E-authentication
19	Meeting standards for E-signature and E-authentication
20	Mutual recognition of digital certificates and E-signature
21	Interoperability of digital certificates used by business
22	Trade-related electronic data exchange
23	E-exchange of COO related information
24	E-exchange of SPS related information
25	E-exchange of TBT related information
26	E-transmission of financial information
27	Use of international standards for paperless trade

A closer look: Paperless trade in selected RTAs in Asia-Pacific

- 8 RTAs selected from 2005 to 2016
- Articles on “*Paperless Trading*” found to typically feature 3 key elements:
 - Endeavour to (1) make electronic versions of their trade administration documents available publicly,
 - Endeavour to (2) accept trade documents submitted electronically as the legal equivalent of their paper version.
 - [Commitment to (3) exchange views and/or cooperate with each other as well as internationally to enhance the acceptance of electronic documents.]

Agreement name / Abbreviation	Year of entry into force
Singapore-India Comprehensive Economic Cooperation Agreement / SING-IND	2005
Australia-Chile Free Trade Agreement / AUS-CHI	2009
Japan-Switzerland Economic Partnership Agreement / JAP-SWI	2009
Intra-ASEAN Agreements (including The ASEAN Trade in Goods Agreement, The ASEAN Agreement on Customs, Single Window Agreement) / ASEAN (ATIGA, AAC and SWA)	2010 (ASW since 2005; ATIGA since 2010)
ASEAN-Australia-New Zealand Free Trade Agreement / AANZFTA	2010
The United States- Rep. of Korea Free Trade Agreement / US-KOR	2012
Rep. of Korea-Viet Nam Free Trade Agreement / KOR-VN	2015
Trans-pacific Partnership / TPP	Not yet in force (signed by all TPP members in 2015)

Source: Authors

A closer look: Paperless trade in selected RTAs in Asia-Pacific

- Looking at the coverage of the 27 paperless trade measures:
 - All feature acceptance of electronic copies
 - Strong commitments on Customs automation and risk management in recent RTAs
 - Promotion of acceptance and mutual recognition of e-authentication and e-signatures
 - Emerging commitments towards cross-border e-exchange of information (including related to SPS and TBT)

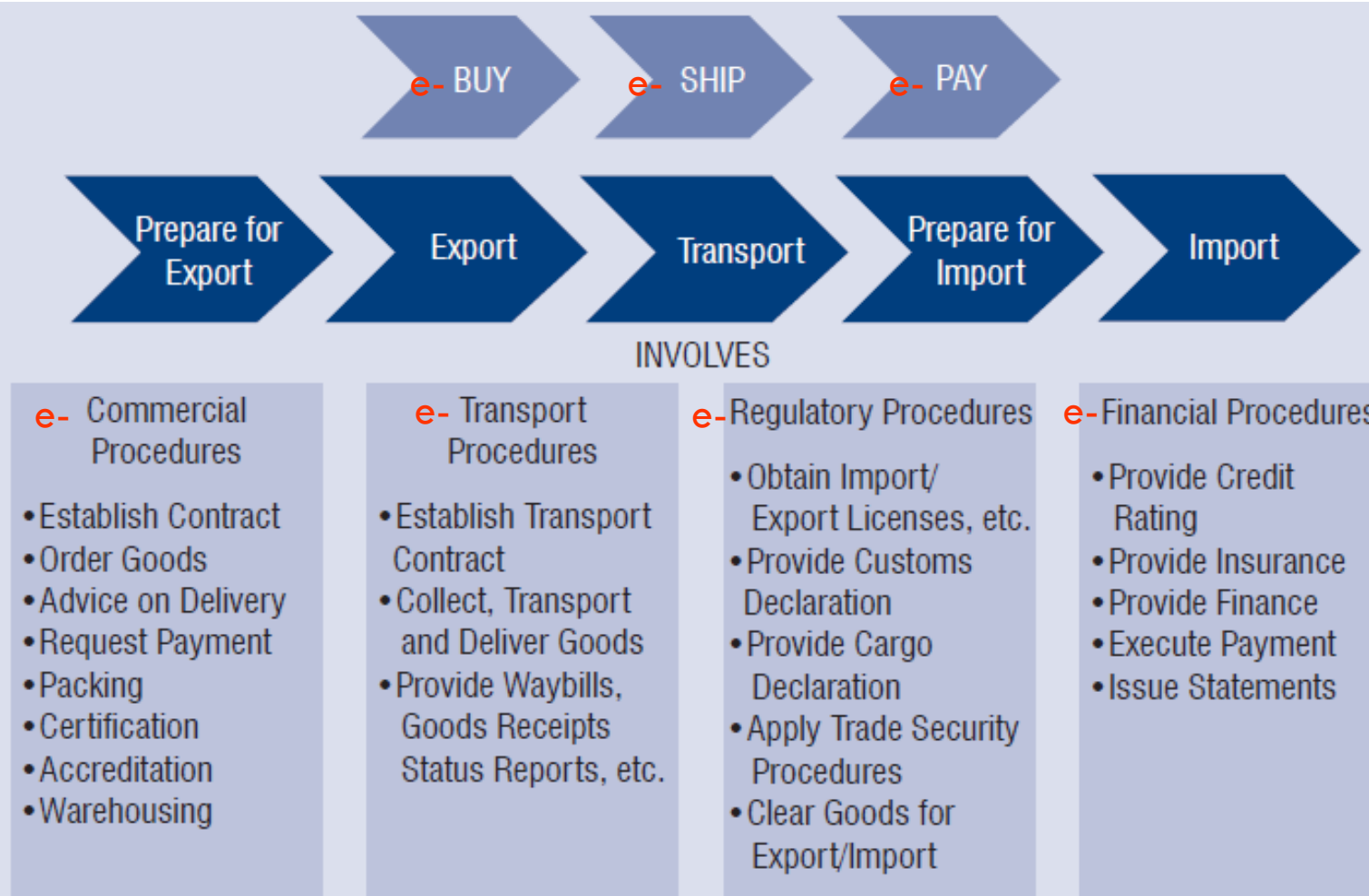
Table 5. Paperless trade coverage in selected Asia-Pacific agreements

Agreement:	SING-IND	AUS-CHI	JAP-SWI	Intra-ASEAN	AANZ-FTA	KOR-US	KOR-VN	TPP	WTO TFA
Paperless trade measures									
Year of entry into force:	2005	2009	2009	2010	2010	2012	2015	-	-
Acceptance of electronic copies	*	**	**	**	***	**	**	**	*
E-submission of trade-related documents						*	*	*	*
E-Submission of Air Cargo Manifests						*	*	*	
E-system of Export or Import Permits								*	
E-system for SPS certification						*		*	
E-system of COO						*		*	
Electronic record-keeping	*	***			*	*		*	
E-payment system								***	*
Electronic/Automated Customs System/Customs Automation		*		*	**	***	**	***	
Automated System for Risk Management and targeting					**	***	***	***	
Electronic Single Window System		***		***				**	*
E-system for inter-organization communication	*			*					
Laws for electronic transactions	*	***	**	*	**	*	**	***	
Promoting e-certification and e-signatures		*	*	*	*	*	*	*	
Mutual determination of authentication technologies		***			*	*	*	*	
Proving in court legal compliance of E-authentication		*	*		*	*	*	*	
Meeting standards for E-signature and E-authentication			**			**		*	
Mutual recognition of digital certificates and E-signature		***	**		**		**	*	
Interoperability of digital certificates used by business		*			*		*		
Trade-related electronic data exchange	*			***		**	**	***	
E-exchange of COO related information				*					
E-exchange of SPS related information				*				*	
E-exchange of TBT related information		**		*		**	*	**	
E-transmission of financial information			*		*	**		*	
International standards for paperless trade		*	*	*	*	*	*	*	*
Total number of paperless trade measures:	5	12	8	10	12	15	14	21	5

Source: Authors

Notes: 1 star (*) indicates the measure is only mentioned, generally as an option, without further clarification; 2 stars (**) indicate the measure is encouraged (e.g., Shall endeavour to; or Shall, to the extent possible, to) with clarification on how it is to be provided/implemented (e.g. complying with relevant international standards); 3 stars (***) indicate that implementation of the measures is required and binding (e.g., shall) with details included on how to do so. ~~indicates~~ indicates that commitment to these measures is implied by the existence of the regional ASEAN Single Window Agreement itself.

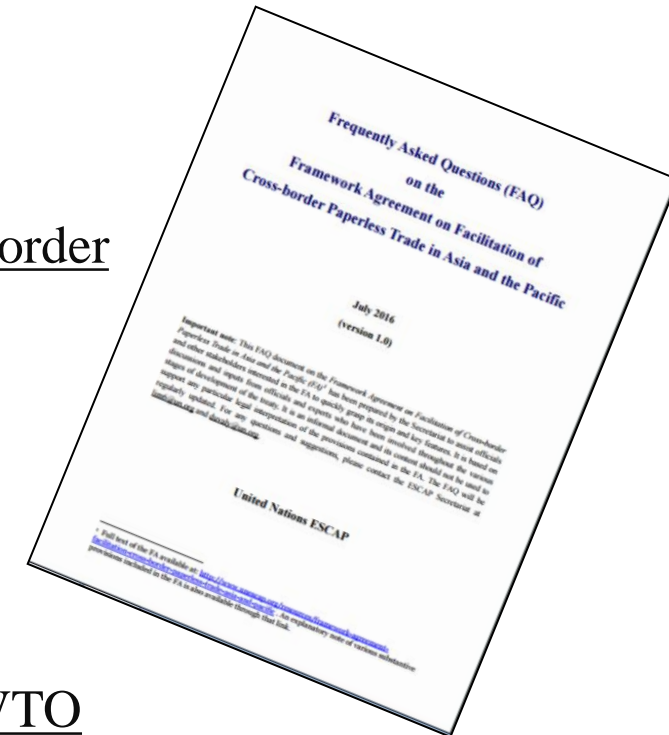
FACILITATING CROSS-BORDER E-COMMERCE...



Source: United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT). 2008.

More information: Frequently Asked Questions (FAQ) on the Framework Agreement

1. Why was the Framework Agreement on the Facilitation of Cross-border Paperless Trade in Asia and the Pacific (FA) prepared?
2. Why the agreement at regional level?
3. Does the FA duplicate the efforts of other regional initiatives such as APEC and ASEAN?
4. What are the benefits of the FA to my country?
5. How was the text of the FA developed?
6. Which agency should play a leading role in cross-border paperless trade facilitation?
7. What does the text of the FA contain?
8. What is the nature of the FA?
9. To what areas is the FA applied?
10. What are key features of the FA?
11. What is the relationship between the FA and the WTO Agreement on Trade Facilitation?



More information: [FAQ on the FA \(Cont'd\)](#)

- 12. What is the relevance of the FA to Least Developed Countries (LDCs) and Land-Locked Developing Countries (LLDCs)?
- 13. What are the obligations of parties?
- 14. What are conditions for entry into force of the FA?
- 15. What actions would follow after entry into force?
- 16. What would be covered in the action plan?
- 17. What is the timeline to achieve cross-border paperless trade in Asia-Pacific?
- 18. If I become a party, do I have to exchange electronic data and information with all other parties?
- 19. How will my country benefit from becoming a party at an early stage?
- 20. What are possible negative impacts of the FA?
- 21. Do I need to fulfill technical and legal requirements to become a party to the FA?
- 22. Who would sign the FA from my country?

E-COMMERCE CHAPTER AND ISSUES



CONSUMER PROTECTION

- 1) Quality of Service (spam, speed, bandwidth, etc.)
- 2) Pricing of services (retail)
- 3) New services (platform, apps)
- 4) Data Protection (hardware and software)
- 5) IPR
- 6) Privacy vs. anonymity
- 7) Internet security
- 8) Ecosystem approach (end to end)*
- 9) Universal enforcement
- 10) Cross-border data transfer

* (Physical infrastructure, DRM, EMF, spectrum)

SPAM

WCIT definition:

IETF definition: Transmission of bulk unsolicited email that plagues the Internet System.

OECD/APEC TEL definition

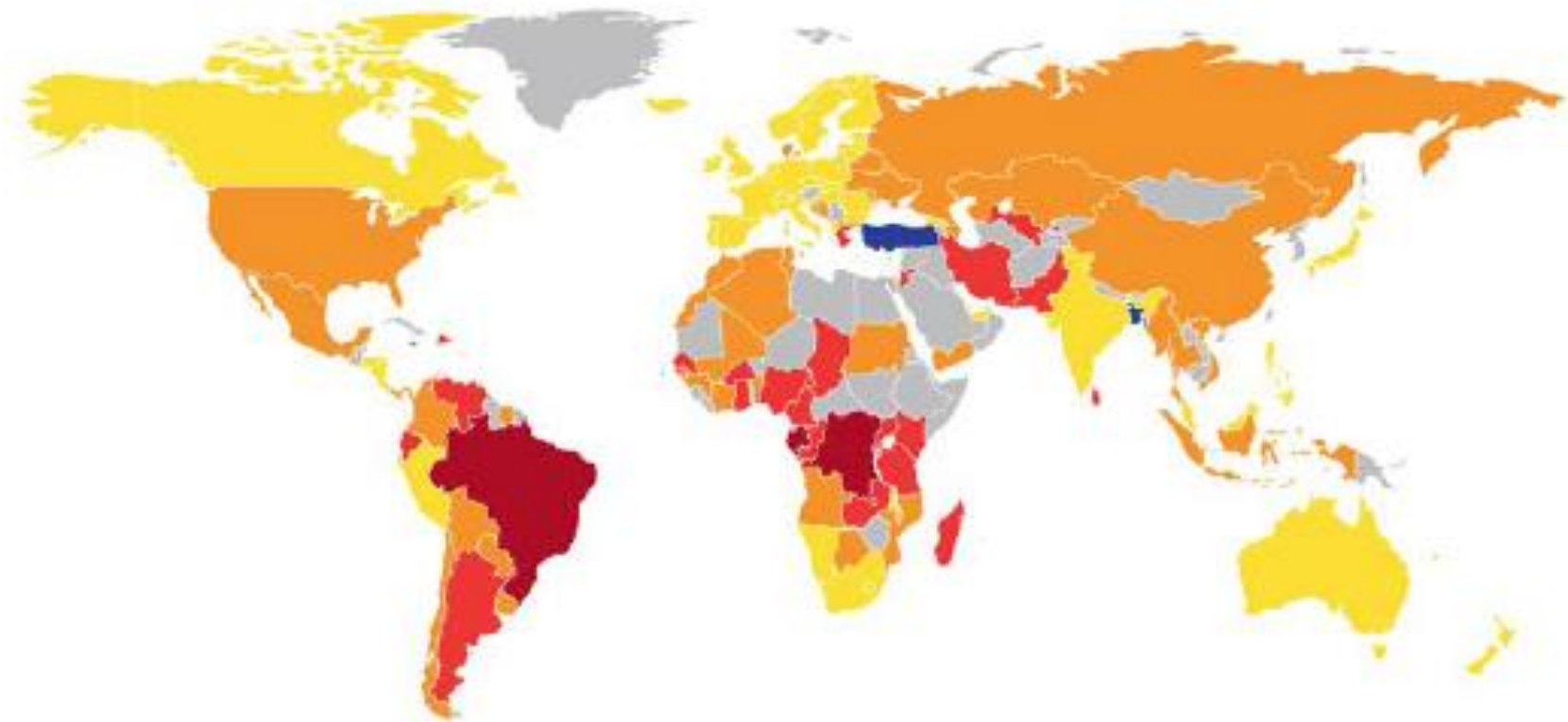
Industry definition: Unsolicited bulk emails.

SPAM

Not a content issue but a consent issue!

Legislate (Anti-Spam
Law) not Criminalise!

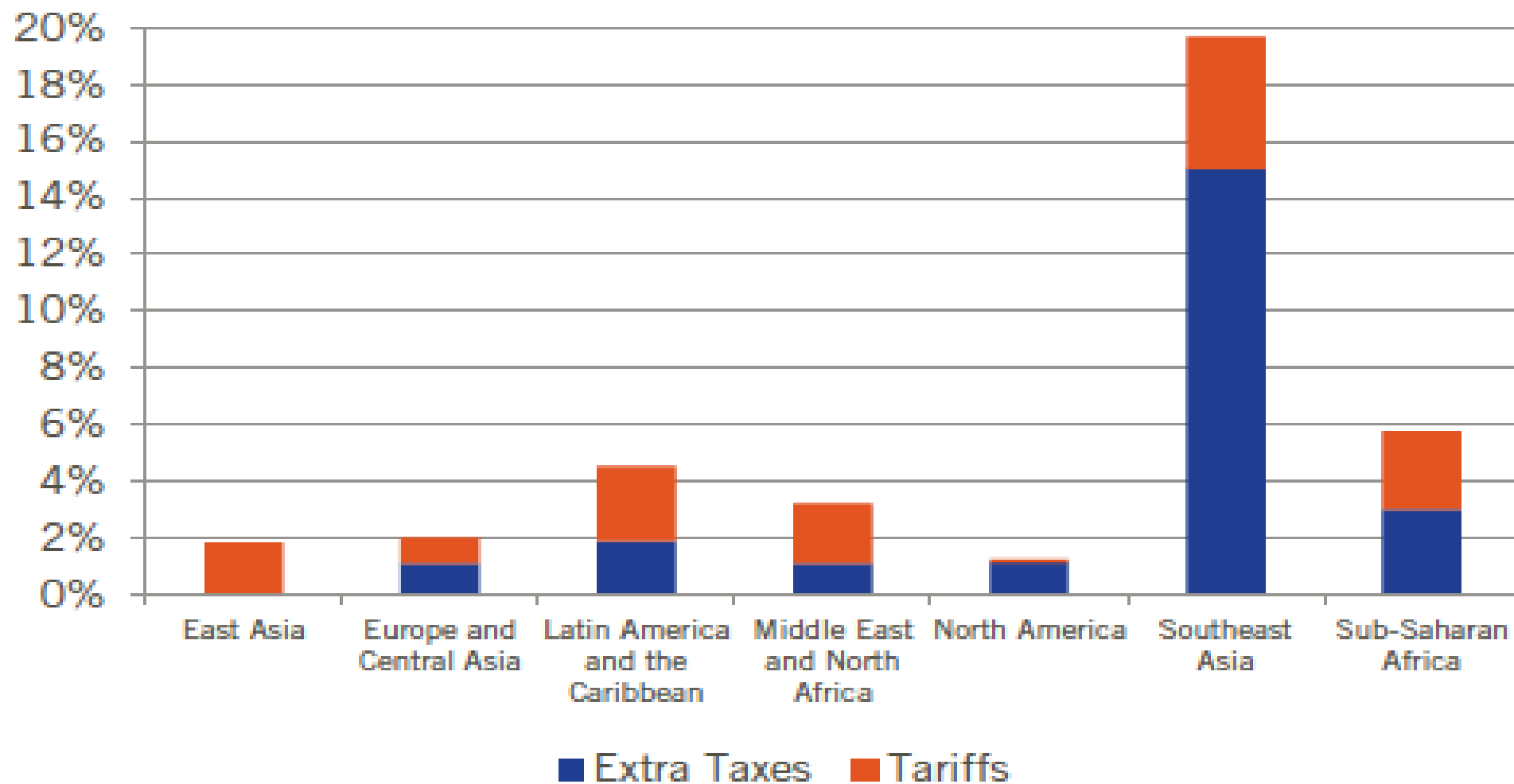
MAP OF GLOBAL TRADE TARIFF AND TAXATION ON ICT



Less than 1 percent Between 1 and 5 percent Between 5 and 15 percent Between 15 and 25 percent Greater than 25 percent Data not available

Figure 1: Map of countries by total taxes and tariffs for consumer ICT products and services¹

ICT TAX AND TARIFF BY REGIONS



DIGITAL TRADE RELATED ISSUES

Digital Goods and Services definition (WCIT, GATT, UNCITRAL, OECD, G20, APEC)

ICT goods and services (classification)

ITA (member countries, trade barriers)

E-Commerce Framework (OECD, APEC, ASEAN, GATT)

De minimis threshold international rule

Current and emerging Intellectual Property Rights (IPR) → domain name system, ccTLD

Internet Governance Issues (open data, privacy, digital identity, data localization, sovereign rights, etc.)

Cybersecurity and cyberspace (legal and regulatory framework)

Economic Model (2-sided market, long tail, monetization, network science, technology policy)

NEW NETWORK ECONOMICS EFFECT

More eyeballs (network) → Competitive market (market access)

More content (network) → High local net worth

Higher traffic → Lower cost, better connectivity performance, promote inward investments

Open data exchange → GVC linked, leverage external growth effect, competitive market enabling new technology and services (i.e. blockchain, IoT, e-signature, paperless trade, regional single window, etc.)

Secure network → trustworthiness, resiliency

Technology neutral policy → Access to technology, neutral service policies grows innovative digital services and start ups (open standard, open API, etc.)

Cost efficiency → lower operating cost, attract FDI and local entrepreneurs (HW, infrastructure, SW, network management policies, leverage global network effects, local content, infrastructure sharing, Climate Change, Energy Security)

Invest in neutral IXP, lower barrier to ICT devices and related technology, build local content and new businesses

DE MINIMIS THRESHOLD?

