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❖ Digital Trade

❖ Why e-Commerce?

❖ Scope of Discussion: The interplay among WTO (existing regimes), ESCAP regional cross-border paperless trade and regional PTA

❖ Framework on Agreement on Facilitation of Cross-Border Paperless Trade
  ❖ Aims and Outcome
  ❖ ESCAP Regional Support and Plans

❖ Emerging Regional/Global Trends and Issues on Preferential Trade Agreements
  ❖ e-Commerce Chapter
  ❖ Related Digital Trade treaty languages and nuances

❖ Case Study
### Table 6: Estimates of the effect on growth of increased telecommunication services penetration

<table>
<thead>
<tr>
<th></th>
<th>Fixed</th>
<th>Mobile</th>
<th>Internet</th>
<th>Broadband</th>
</tr>
</thead>
<tbody>
<tr>
<td>High-income countries</td>
<td>0.4</td>
<td>0.6</td>
<td>0.8</td>
<td>1.2</td>
</tr>
<tr>
<td>Low-income countries</td>
<td>0.7</td>
<td>0.8</td>
<td>1.1</td>
<td>1.4</td>
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</table>

Percentage increase in economic growth per 10 percent increase in penetration, in:
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)


*However the current language on digital products can been 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

Source: HfS Research
Benefits of Paperless Trade

**Government**
- Effective & Efficient Deployment of Resources
- Correct Revenue Yield
- Improved Trader Compliance
- Enhanced Security
- Increased Integrity & Transparency

**Traders**
- Cutting Costs through Reducing Delays
- Faster Clearance & Release
- Predictable Application and Explanation of Rules
- Effective & Efficient Deployment of Resources
- Increased Transparency
Towards Cross-border paperless trade
(including to enable cross-border e-commerce)

Need to facilitate cross-border trade data exchange in the region and beyond

...Legal and technical barriers in information exchange (across borders)

Increased implementation of (national) Single Windows and paperless trade systems, but...

International Supply Chain Integration / Cross-Border e-Commerce

Rise of regional and global production networks

Rise of 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.

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

Source: http://www.unescap.org/resources/estimating-benefits-cross-border-paperless-trade
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.”
Called for a Moratorium to Not Impose Custom Duties on Electronic Transmissions
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

- E-commerce Chapters and related items in PTA
- ESCAP Framework on Regional Cross-Broader Paperless Trade
- WTO New Trade Facilitation Agreement

The interplay between the three mechanisms is not always aligned.
Paperless trade coverage of RTAs

- Figure shows number of measures (out 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

<table>
<thead>
<tr>
<th>RTA</th>
<th>Measures</th>
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<td>TPP</td>
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<td>Rep. of Korea - Australia</td>
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<td>Rep.of Korea-Viet Nam</td>
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<td>Japan-Australia</td>
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<td>Canada-Rep.of Korea</td>
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<td>Singapore-Taiwan,PoC</td>
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<td>Japan - Switzerland</td>
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<td>Hong Kong - Chile</td>
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<td>Japan - Thailand</td>
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<td>Nicaragua - Taiwan,PoC</td>
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<td>Rep. of Korea-...</td>
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<td>Rep.of Korea-India</td>
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<td>WTO TFA</td>
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<td>Japan - Peru</td>
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<td>Japan - Philippines</td>
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<td>ASEAN-China</td>
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<td>Chile-China</td>
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<td>India - Japan</td>
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<td>New Zealand-China</td>
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<td>China-Costa Rica</td>
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<td>EFTA-Hong Kong</td>
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<td>Iceland - China</td>
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<td>Switzerland - China</td>
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<td>China-Singapore</td>
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<td>Japan - Mexico</td>
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<td>Pakistan - China</td>
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</table>

![Figure 2. Paperless trade coverage in RTAs of East Asian Economies since 2005](image-url)
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

- Use of international standards in paperless trade measures
- E-certification and e-signatures
- Laws for electronic transactions
- E-exchange of TBT related information
- E-Customs System/Customs Automation
- E-submission of trade-related data/docs
- Electronic record-keeping
- Acceptance of e-copies
- E-transmission of financial information
- E-system for inter-organization communication
- Mutual recognition of digital certificates and electronic signatures
- Promote e-exchange of data/documents
- (Mutual) Determination and recognition of authentication technologies
- E-System for Risk Management
- E-system for COO application/processing
- Proving regulatory compliance of E-transactions
- E-exchange of SPS related information
- E-exchange of COO related information
- Interoperability of digital certificates used by business
- Meeting standards for E-signature and E-authentication
- E-submission of Air Cargo Manifests
- Single Window System
- E-payment system
- E-system for SPS certification
- E-system of Export/Import Permits
- E-application for customs refunds
- E-submission of Sea Cargo Manifests

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New WCO Report on Cross-Border E-commerce*

New WCO Report on Cross-Border E-commerce*

REGIONAL CROSS-BORDER PAPERLESS TRADE ESCAP FRAMEWORK

Available at:

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
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 Infraregional 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.
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; Forster harmonization and minimize necessity for numerous bilateral/subregional intergovernmental approach;

- **Strong capacity building programme**
  Inclusive imitative, 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

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

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

### Table: Agreements on Paperless Trading

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

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

<table>
<thead>
<tr>
<th>Agreement</th>
<th>SNG</th>
<th>IND</th>
<th>AUS</th>
<th>CHI</th>
<th>JPN</th>
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<th>VN</th>
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<th>WTO</th>
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<tbody>
<tr>
<td>Paperless trade measures</td>
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<td>Electronic transmission of goods</td>
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<td>Trade-related electronic data exchange</td>
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<td>E-exchange of COG-related information</td>
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<td>E-exchange of TBT-related information</td>
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<td>E-transmission of information</td>
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<td>Total number of paperless trade measures</td>
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Source: Authors

Notes: 1 star (*) indicates the measure is only mentioned, generally as an option, without further specification; 2 stars (**) indicate the measure is mentioned (e.g., shall endeavor to); or, shall, to the extent possible, to with clarification on how it is to be provided (e.g., complying with relevant international standards). 3 stars (***) indicate that implementation of the measure is required and binding (e.g., shall) with details included on how to do so. **Note:** The commitment to these measures is implied by the existence of the regional ASEAN Single Window Agreement text.
FACILITATING CROSS-BORDER E-COMMERCE...

ININVOLVES

e- BUY
- Prepare for Export
  - Commercial Procedures
    - Establish Contract
    - Order Goods
    - Advice on Delivery
    - Request Payment
    - Packing
    - Certification
    - Accreditation
    - Warehousing

- Export
  - Transport Procedures
    - Establish Transport Contract
    - Collect, Transport and Deliver Goods
    - Provide Waybills, Goods Receipts, Status Reports, etc.

- Ship
  - Regulatory Procedures
    - Obtain Import/Export Licenses, etc.
    - Provide Customs Declaration
    - Provide Cargo Declaration
    - Apply Trade Security Procedures
    - Clear Goods for Export/Import

- Pay
  - Financial Procedures
    - Provide Credit Rating
    - Provide Insurance
    - Provide Finance
    - Execute Payment
    - Issue Statements

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?
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, defined as the transmission of bulk unsolicited email, has been a plague on the Internet email system.

**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

Figure 1: Map of countries by total taxes and tariffs for consumer ICT products and services.
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?