Session 14 – E-commerce and trade Facilitation in Regional Trade Agreements

Sangwon Lim
Trade, Investment and Innovation Division
United Nations ESCAP
Coverage of E-Commerce

E-commerce
— Purchases and sales of products (e.g., physical goods, digital products and services) conducted over computer networks

B2B + B2C
— B2B and B2C are the two leading segments in terms of size and relevance
— Data source of global estimate is available at UNCTAD (2017a)

Internet Retail
— Subset of B2C e-commerce that excludes items such as auctions and online reservations
— Data sources include eMarketer and Euromonitor International

Digitisation is transforming all flows and expanding opportunities for smaller players

The digital component of global flows is growing quickly

<table>
<thead>
<tr>
<th>Flow</th>
<th>Category</th>
<th>Digital component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goods</td>
<td>E-commerce share of total goods trade</td>
<td>3.0</td>
</tr>
<tr>
<td></td>
<td>Calls</td>
<td>3.0</td>
</tr>
<tr>
<td></td>
<td>Skype share of international calls</td>
<td>39.0</td>
</tr>
<tr>
<td>Services</td>
<td>Digitally enabled share of total services trade</td>
<td>51.0</td>
</tr>
</tbody>
</table>

Source: McKinsey Global Institute
Individuals are participating in globalization eventually leading to trade implications

- Social networking users with at least one foreign connection: 914 million
- International travelers: 429 million
- Cross-border e-commerce shoppers: 361 million
- People living outside home country: 244 million
- Cross-border online workers: 44 million
- Cross-border online students: 13 million
- Students studying abroad: 5 million

Source: McKinsey Global Institute
Supply side perspective

50 million SMEs use Facebook to find customers, and 30 percent of their fans are from other countries.

Source: McKinsey Global Institute
Demand side perspective

By 2020, some 940 million online shoppers are expected to spend almost $1 trillion on cross-border e-commerce transactions.

Global B2C e-commerce transaction volume

Global B2C e-commerce shoppers

Source: McKinsey Global Institute
Trade Openness - Can be increased by the rise of broadband users

Source:
ADBI Working Paper Series
DIGITAL TRADE IN EUROPE AND CENTRAL ASIA Shawn W. Tan No. 751
E-commerce is transforming sales to both domestic and foreign consumers

Commercial Sellers on eBay in ECA are able to reach an average of 27 export destinations

Source: ADBI Working Paper Series
DIGITAL TRADE IN EUROPE AND CENTRAL ASIA
Shawn W. Tan
No. 751
Digital Trade in the Asia-Pacific region

• Rapid spread of internet access
• Growing culture of e-Commerce
• High proportion of SMEs
• Understanding sectors and implications
  – Healthcare
  – Education
  – Retail
  – Media and entertainment
  – E-commerce related
### Number of internet users in the Asia Pacific region as of January 2017, by country (in millions)

<table>
<thead>
<tr>
<th>Country</th>
<th>Number of Internet Users (in millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>731</td>
</tr>
<tr>
<td>India</td>
<td>462</td>
</tr>
<tr>
<td>Indonesia</td>
<td>132.7</td>
</tr>
<tr>
<td>Japan</td>
<td>117.8</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>53.3</td>
</tr>
<tr>
<td>Philippines</td>
<td>80</td>
</tr>
<tr>
<td>Vietnam</td>
<td>50.05</td>
</tr>
<tr>
<td>Thailand</td>
<td>46</td>
</tr>
<tr>
<td>South Korea</td>
<td>45.49</td>
</tr>
<tr>
<td>Pakistan</td>
<td>35.1</td>
</tr>
<tr>
<td>Malaysia</td>
<td>22</td>
</tr>
<tr>
<td>Australia</td>
<td>21.18</td>
</tr>
<tr>
<td>Taiwan</td>
<td>20.64</td>
</tr>
<tr>
<td>Nepal</td>
<td>14.12</td>
</tr>
<tr>
<td>Myanmar</td>
<td>14</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>6.26</td>
</tr>
<tr>
<td>Hong Kong</td>
<td>5.26</td>
</tr>
</tbody>
</table>

**Source:**
Retail Trade in the Asia-Pacific region - Growing culture of e-Commerce

Retail Ecommerce Sales as a Percent of Total Retail Sales in Select Countries in Asia-Pacific and Worldwide, 2014 - 2019

Source: https://www.itu.int/net4/wsis/forum/2016/Content/AgendaFiles/document/ef6eeafe-0ccd-46cd-9c0f-db87fe80fa1f/UN_ESCAP_presentation_Heal.pdf
Factors Affecting the Development of e-marketplace

**Economic**
- Affordability and access to ICTs
- Bandwidth availability
- Availability of online payment options
- Delivery infrastructures
- Economies of scale

**Social Acceptance and Awareness**
- Firm level
  - Confidence, risk aversion, and inertia
  - Awareness, knowledge and understanding of e-commerce opportunities
- Consumer level
  - Awareness and knowledge of e-commerce benefits
  - General and computer literacy
  - English proficiency
  - Trust in e-commerce vendors and postal services
  - Perception of foreign products/vendors

**Normative institutions**
- Importance of personal relationships in business
- Roles played by industry bodies and trade/professional associations

**Regulative institutions**
- Legislative measures related to e-commerce
- Measures making e-commerce affordable and accessible
- Policy initiatives that directly facilitate e-commerce activities
- Public-private partnership programs

**Environmental readiness for e-commerce**

**Legitimation to participate in e-commerce**

**Legal and Institutional**
- Economic environment that affects accessibility and viability of e-commerce activities
- Legal and Institutional
  - Social and political environment that plays roles in the evolution of the legitimacy of e-commerce-related activities
- Social Acceptance and Awareness
  - Internalized norms that affect e-commerce-related behaviors of individuals and organizational decision-makers

ICT = information and communications technology.
High proportion of SMEs

Exporters using e-trade outperform traditional exporters, especially SMEs

Cross-border e-commerce & paperless trade

• E-marketplaces brings buyers and sellers together, making contract/commercial procedures easier.

• But goods still need to be transported to buyers, goods still need to be paid for, and regulations still need to be complied with.

• ... all of which typically involve a lot of paperwork acting as a barrier to cross-border e-commerce development.
Cross-border e-commerce & paperless trade: Three flows

- **Goods Flow**
  - **Ship**
  - **Buy**
  - **Pay**

- **Financial Flow**

- **Information Flow**

**Exporting Country**

**Importing Country**
Asia-Pacific RTAs

• In force – 179
  ❖ FTA – 76
  ❖ FTA & EPA – 79
  ❖ PTA – 21
  ❖ CU – 2
  ❖ CU & EPA – 1

• 88 RTAs are having provisions relating to Trade Facilitation and Customs Cooperation provisions.
Structure of TF and CC in RTAs

• Cooperation
• Transparency
• Exchange of experts
• Early warning
• Advance ruling

• In parallel issues relating to electronic CoO or self declared CoO are being also provided in RTAs
Paperless trade coverage in 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:
  - CPTPP 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

- Use of international standards in paperless trade measures
- E-certification and e-signatures
- Laws for electronic transactions
- E-exchange of TBT related information
- 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

- 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
Exercise

Please find out:
1) How many FTAs/RTAs your country is a party to:
2) How many of your country’s FTAs/RTAs have provisions on e-commerce and paperless trading

*Source of Information
1) Your country’s Trade Portal or FTAs/RTAs Database
2) WTO Regional Trade Agreements Database: https://rtais.wto.org/UI/PublicMaintainRTAHome.aspx
WTO and TFA

• WTO members concluded negotiations at the 2013 Bali Ministerial Conference on the landmark Trade Facilitation Agreement (TFA), which entered into force on 22 February 2017 following its ratification by two-thirds of the WTO membership.

• The TFA contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues.

• It further contains provisions for technical assistance and capacity building in this area.
WTO and e-commerce

- At the Second Ministerial Conference in May 1998, ministers, recognizing that global electronic commerce was growing and creating new opportunities for trade, adopted the Declaration on Global Electronic Commerce. This called for the establishment of a work programme on e-commerce, which was adopted in September 1998. Periodic reviews of the programme are conducted by the General Council based on reports from the WTO bodies responsible for implementing the programme. Ministers also regularly consider the programme at the WTO's ministerial conferences.

- The Work Programme on Electronic Commerce states that: "Exclusively for the purposes of the work programme, and without prejudice to its outcome, the term 'electronic commerce' is understood to mean the production, distribution, marketing, sale or delivery of goods and services by electronic means". Four WTO bodies were charged with the responsibility of carrying out the Work Programme: the Council for Trade in Services; the Council for Trade in Goods; the Council for TRIPS; and the Committee on Trade and Development. The General Council plays a central role and keeps the work programme under continuous review.
WTO and e-commerce (2)


• At those Conferences, Ministers have taken note of the reports on electronic commerce and have instructed the General Council and its relevant subsidiary bodies to continue their work on e-commerce.

• Ministers have also agreed to continue the practice of not imposing customs duties on electronic transmissions until their next session (December 2019).
Recent WTO Joint Statement on Electronic Commerce.
(January 2019

We confirm our intention to commence WTO negotiations on trade-related aspects of electronic commerce.
Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

Preamble
1. Initial Provisions and General Definitions
2. National Treatment and Market Access for Goods
3. Rules of Origin and Origin Procedures
4. Textile and Apparel Goods
5. Customs Administration and Trade Facilitation
6. Trade Remedies
7. Sanitary and Phytosanitary Measures
8. Technical Barriers to Trade
9. Investment [PDF, 244 KB]
10. Cross-Border Trade in Services
11. Financial Services
12. Temporary Entry for Business Persons
13. Telecommunications
14. Electronic Commerce
15. Government Procurement
CPTPP (Cont’d)

16. Competition Policy
17. State-Owned Enterprises and Designated Monopolies
18. Intellectual Property
19. Labour
20. Environment
21. Cooperation and Capacity Building
22. Competitiveness and Business Facilitation
23. Development
24. Small and Medium-Sized Enterprises
25. Regulatory Coherence
26. Transparency and Anti-Corruption
28. Dispute Settlement
29. Exceptions and General Provisions
30. Final Provisions
CPTPP (Cont’d)

• CHAPTER 5 - CUSTOMS ADMINISTRATION AND TRADE FACILITATION
  – Customs cooperation
  – Advance rulings
  – Response to Requests for Advice or Information
  – Review and Appeal
  – Automation
  – Express shipments
  – Penalties,
  – Risk management
  – Release of goods
  – Publication
  – Confidentiality

2. Each Party shall endeavour to provide a facility that allows importers and exporters to electronically complete standardised import and export requirements at a single entry point.
CPTPP (Cont’d)

• CHAPTER 14 - ELECTRONIC COMMERCE
  – Definitions
  – Scope and General Provisions
  – Customs Duties
  – Non-Discriminatory Treatment of Digital Products
  – Domestic Electronic Transactions Framework
  – Electronic Authentication and Electronic Signatures
  – Online Consumer Protection
  – Personal Information Protection
  – Paperless Trading
  – Principles on Access to and Use of the Internet for Electronic Commerce
  – Cross-Border Transfer of Information by Electronic Means
  – Internet Interconnection Charge Sharing
  – Location of Computing Facilities
  – Unsolicited Commercial Electronic Messages
  – Cooperation
  – Cooperation on Cybersecurity Matters
  – Source Code
  – Dispute Settlement
Article 14.9: Paperless Trading

Each Party shall endeavour to:
(a) make trade administration documents available to the public in electronic form; and

(b) accept trade administration documents submitted electronically as the legal equivalent of the paper version of those documents.

Is this mandatory and specific enough to do paperless trading?
Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific (FA-PT): Contents

*Preamble*

**Articles 1 to 16: Substantive clauses**

Article 1: Objective
Article 2: Scope
Article 3: Definitions
Article 4: Interpretation
Article 5: General principles
Article 6: National Policy Framework, Enabling Domestic Legal Environment and Paperless Trade Committee
Article 7: Facilitation of Cross-border Paperless Trade and Development of national Single Window(s)
Article 8: Cross-border Mutual Recognition of Trade-related Data and Documents in Electronic Form
Article 9: International Standards for Exchange of Trade-related Data and Documents in Electronic Form
Article 10: Relation with Other Legal Instruments Enabling Cross-Border Paperless Trade
Article 11: Institutional Arrangements
Article 12: Action Plan
Article 13: Pilot Projects and Sharing of Lessons Learned
Article 14: Capacity Building
Article 15: Implementation of the present Framework Agreement
Article 16: Other agreements in force

**Articles 17 to 25: Final clauses**
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.

Introductory Video on
Key Substantive Provisions of the Framework Agreement on
Facilitation of Cross-border Paperless Trade in Asia and the Pacific

https://www.youtube.com/watch?time_continue=5&v=TTPXQIr8RHU
General Benefits of FA-PT

- **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 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
Potential Advantages and disadvantages

Advantages:

• Helps/facilitates a society to transition into knowledge-based economy with wide application of information and communication technologies (ICTs) in international trade transactions

• Network effects to also stimulate other related sectors (like logistics and other service industries) to move into knowledge-based economy

• Improved transparency, safety and security in international trade transactions

• Improved trade efficiency and competitiveness (lower cost and less time)

• Chance for enhancement of human capacity with capacity building opportunities (trainings, workshop, knowledge-sharing, pilot projects, etc.)

• More chance to get support from development partners in developing hard and soft infrastructure for international trade transactions

• Improvement of external image and recognition from other countries

Disadvantages: ???
Thank You