



NEXT GENERATION PRACTICES FOR SERVICES AUTHORIZATION IN THE ASIA-PACIFIC REGION

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LIST OF ACRONYMS

APEC	Asia-Pacific Economic Cooperation
ASCR	APEC Services Competitiveness Roadmap
CISP	Commerce Industrial Services Portal
CPA	Certified Practicing Accountant
EU	European Union
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
GOS	Group on Services
GRP	Good Regulatory Practice
GVC	Global Value Chain
ICTs	Information and Communication Technologies
LAISR	Leaders Agenda to Implement Structural Reform
MOEA	Ministry of Economic Affairs
NASBA	National Association of State Boards of Accountancy
NCSBN	National Council of State Boards of Nursing
OECD	Organization for Economic Cooperation and Development
RIA	Regulatory Impact Assessment
TIP	Trade Information Portal
TISMOS	Trade in Services by Mode of Supply
TiVA	Trade in Value Added
UPC	Unified Public Consultation
USA	United States of America
WPDR	Working Party on Domestic Regulation
WTO	World Trade Organization

EXECUTIVE SUMMARY

The services economy is increasing in size and economic importance across the world, developing and developed economies alike. This is no less true for APEC economies, where in most, services account for over half of all economic activity. As such, regulating services with the twin goals of effectiveness and efficiency is more important than ever. Effective regulation means that important social goals, like consumer protection or environmental protection, are properly achieved. Efficient regulation seeks to achieve those goals at minimum economic cost to society as a whole, including to the regulator and the service supplier. APEC, with its long-standing commitment to structural reform, integration of services markets, and good regulatory practice, is well placed to take advantage of growth in the global services economy, as well as developments in effective and efficient regulation, to support worldwide efforts to improve policymaking as it affects services sectors.

While discussions on services trade in multilateral fora have historically focused on discrimination between domestic and foreign service providers, including through quantitative measures, there is widespread recognition that domestic regulation also matters for the performance of services markets. APEC has been a leader in this area, with its Non-Binding Principles for Domestic Regulation. As it is understood in the Non-Binding Principles, domestic regulation primarily relates to the authorization of a provider, in the sense of a grant of permission from a regulator, to supply particular services in a market. Closely linked to this question of authorization are issues of licensing requirements and procedures, qualification requirements and procedures, and technical standards. A key aspect of the Non-Binding Principles is transparency, for instance through the promotion of prior publication of laws and regulations, with an opportunity for interested parties to comment.

This study is part of a larger project aimed at developing APEC members' awareness of innovative, effective and emerging regulatory practices related to services authorization in the region. This work will build on prior APEC work, including the findings of the 2019 study on "Transparency and Predictability in Rulemaking". The project will look beyond the APEC non-binding principles on Domestic Regulation of the Services Sector to additional practices which support the establishment of sound regulatory environments in the region that allow for the successful development of domestic and international trade in Services markets. Examination of these practices is intended to raise awareness of innovative approaches across the region. The two deliverables under the project include a study on next generation regulatory practices, e.g., new and innovative approaches, that are being introduced in the region, and an APEC-wide capacity building event. These will contribute to the "final push on Services" and the conclusion of the Bogor Goals.

Against this background this report serves an exploratory purpose, looking at "next generation" approaches to domestic regulation. It presents four case studies from APEC member economies, covering a mix of developed and developing economies, as well as economies from Asia and the Americas. In addition, the report presents a comparative case study from the European Union for its informational value, while fully recognizing the major differences between APEC and the EU.

The concept of "next generation" regulation is not defined at the international level. In general terms, "next generation" approaches to domestic regulation seek to incorporate one or more of the following dimensions into regulatory practice:

- A willingness to experiment with incentive-compatible, market-based interventions, as well as behavioral approaches such as “nudging” where compatible with regulatory aims.
- Mechanisms to facilitate dialogue with stakeholders, and in particular efficient information transfer to regulators so that learning and experimentation are possible.
- Incorporation of the international dimension into the design of regulatory interventions, so as to facilitate trade and investment in so far as consistent with regulatory obligations.
- Use of technology to reduce transaction costs and facilitate market entry, including through cross-border transactions. An added benefit of reducing transaction costs is typically to reduce the burden on administrative authorities, by streamlining processes and using technology appropriately.

The unifying factor behind these dimensions is an emphasis on the use of modern regulatory techniques, as well as new technologies, in an effort to reduce compliance costs and improve regulatory outcomes as far as possible.

The report contains case studies, which are designed to highlight, for exchange and learning purposes, instances of good practice in developing and developed economies from the region, as well as from outside the region. The case studies are not presented in a normative framework, but instead to provide information to economies on the types of approaches that others have found useful, so that all can collaboratively work towards better outcomes. The final section of the report summarizes findings and discusses their policy implications.

As the case studies show, APEC economies have shown real innovation and creativity in developing regulatory interventions such as online stakeholder consultations (Malaysia), a regulatory sandbox for FinTech firms (Mexico), overseas testing of candidates for certain professions (United States), and an online portal to assist with business and company registration (Chinese Taipei). All of the case studies incorporate at least one of the factors listed above, and some incorporate more than one.

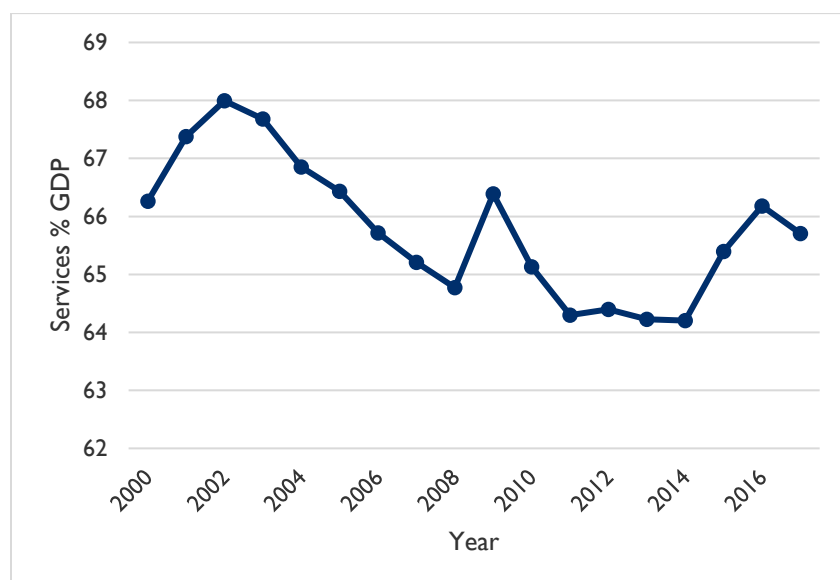
As member economies seek to promote economic growth and trade integration in the wake of the recent economic weakness, an important additional benefit of some of these approaches is that they reduce the need for in-person interactions and long-distance travel. Moving regulatory procedures online to the extent possible means that good regulatory practice is perfectly consistent with the imperatives of public health during the present crisis, and in particular the need for social distancing. Moreover, as the example from the EU makes clear, there is scope to use “next generation” practices specifically in the COVID-19 context, for example to facilitate the efficient movement of healthcare providers within the EU, so that services can be provided where need is greatest.

Given the emerging nature of these regulatory practices, the report does not draw normative conclusions at this stage. Rather, the experiences highlighted in the case studies offer APEC member economies the opportunity to learn from innovative regulatory approaches in the Asia-Pacific and elsewhere. As APEC pursues its work in related areas, such as Good Regulatory Practice, Ease of Doing Business, and Structural Reform, it is to be hoped that these examples will inform developing and developed economies alike as they look to adopt effective and efficient approaches to domestic regulation of services sectors. APEC has played an important leadership role in this area through the Non-Binding Principles. The case studies collected here show that the region has much to offer in terms of experience sharing and development of new and innovative approaches to regulation.

INTRODUCTION

As in other parts of the world, recent decades have seen a notable growth of the services economy in the Asia-Pacific. As incomes grow, consumer demand tends to shift in favor of services, which is one factor behind this trend. At the same time, technology has made it possible to exchange more and more services on a market basis, with geographical separation of buyers and sellers. Information and communication technologies (ICTs) loom large in this development, given their ability to influence transaction costs and thus affect firm-level choices as to activities that should be supplied internally or outsourced to other companies. The net result, as Figure 1 shows, is that services are growing in economic importance in the Asia-Pacific Economic Cooperation (APEC) economies. As of 2015, 16 out of 20 APEC economies for which data was available had a services sector that accounted for more than 50% of their total economies, as measured by gross domestic product (GDP).

Figure 1: Services as a percent of GDP, APEC member economy average, 2000-2017.

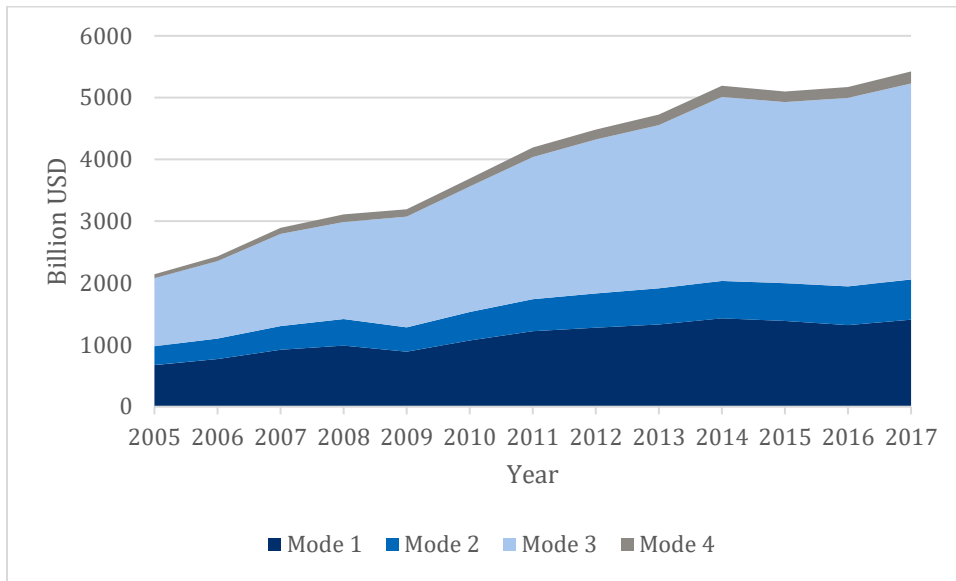


Source: StatsAPEC.

These two developments—shifting demand and changing supply—have also made services more tradable over time.¹ Figure 2 shows that exports of services from the Asia-Pacific have been growing rapidly over recent years, and that this growth has been driven to a significant extent by “Mode 3” trade, namely sales of services by foreign affiliates. Together, total APEC services exports are comparable to, though still less than, the total value of merchandise exports. In other words, services account for a sizable percentage of total regional trade.

¹ A recent pioneering effort by World Trade Organization (WTO) statisticians and their partners has made it possible for the first time to present some global figures on the extent of services trade under the four “Modes of Supply” (i.e. ways of trading services) for a large number of economies. The dataset is still in the experimental stage, so numbers should be taken as indicative only.

Figure 2: Exports of services by GATS mode of supply, APEC member economies, 2005-2017, billion USD.

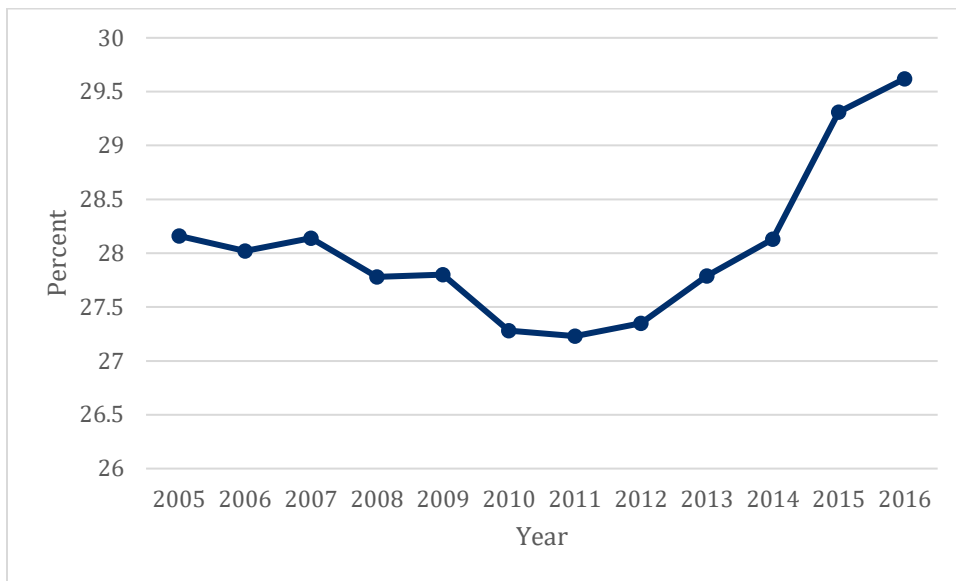


Source: WTO Trade in Services by Mode of Supply (TISMOS) database.

In addition to direct trade through the four modes of supply captured by the above data, many services are traded indirectly: they are embodied in traded goods as inputs. For instance, a manufacturer uses financial services, professional services, and transport services in order to produce their output, some of which is then exported. The goods that cross borders in this way have some level of embodied services value added.

The OECD-WTO’s Trade in Value Added database (TiVA) is currently the best available international source for this kind of breakdown, and it covers all APEC economies except Papua New Guinea. Figure 3 shows the percentage of gross manufactured goods exports of each economy that is made up of embodied services value added. As of 2016, the latest year for which data are available, the figure was around 30%, which represents a significant increase since 2011. This figure is consistent with an important representation of Global Value Chains (GVCs) in the Asia-Pacific, as they are known to use services intensively in their production processes, in particular “backbone” sectors like transport, telecommunications, and logistics. The shift towards GVC-based production platforms is another factor that coincides with the rise of the services economy, and heightens the importance of ensuring that services markets work efficiently.

Figure 3: Services value added as a percentage of gross exports of manufactured goods, 2005-2016, APEC.



Source: OECD-WTO TiVA Database. Note: Data not available for Papua New Guinea.

APEC economies have recognized the increasing importance of the services economy in general, and services trade in particular, through a number of interlinked policy initiatives, and indeed have displayed leadership in this regard relative to other world regions, particularly those with developing economies. On the one hand, APEC’s structural reform agenda under the APEC Economic Committee has focused heavily on services, in particular in “backbone” sectors with strong linkages to the rest of the economy, including transport, telecommunications, and energy.² This emphasis has been clear since the Leaders’ Agenda to Implement Structural Reform (LAISR) in 2004, and is discussed in detail in the *2016 APEC Economic Policy Report*. In addition, the APEC Services Competitiveness Roadmap (ASCR) envisages concrete actions aimed at boosting services sector performance over the 2016-2025 period. A number of APEC workstreams have important insights for the regulation of services sectors, including in areas related to trade. In services, trade-related policies are typically regulatory in nature. Examples include APEC’s workstream on Good Regulatory Practices (GRPs), as well as the OECD/APEC Checklist on Regulatory Reform, and work on Regulatory Impact Assessment (RIA). In addition, work within the Group on Services (GOS) on issues like measuring the restrictiveness of services trade policies is a strong recognition of the importance of the policy dimension for member economies.

The GATS does not require a particular type of regulation in any services sector, but instead provides a framework for WTO members, including APEC economies, to make binding market access commitments in selected sectors, and to specify any ways in which foreign service suppliers will be treated differently from their domestic counterparts. The agreement recognizes, however, that many aspects of service sector regulation do not fit neatly into this framework, in the sense that it is to a large extent domestic regulation that influence the competitive conditions in services markets. From an economic standpoint, pure trade policy as it is understood within the GATS, namely Market Access and

² See Hoekman, B., and G. Pasadilla. 2017. “Structural Reform and Services.” Document No. APEC#217-SE-01.6, APEC Policy Support Unit.

National Treatment, helps identify instances of discrimination affecting foreign service providers, but the broader set of policies that condition market entry and determine the cost of doing business are often captured by this notion of domestic regulation.

With the establishment of the WTO in 1995, members began the process of negotiating disciplines on domestic regulation. Specifically, the aim was not to deregulate any sector, but instead to promote better regulatory practice, with a focus on licensing and qualification requirements, as well as technical standards. There is a clear recognition among members that these types of measures, even though they are not quantitative restrictions and are non-discriminatory, can have a substantial impact on the ability of service providers to operate in foreign markets. So far, the focus of talks in Geneva has been on professional services, where issues like licensing loom large. A document was agreed on accountancy, but it will not enter into force until the Doha Round negotiations are concluded. Since 1999, talks have taken place within the Working Party on Domestic Regulation (WPDR), which has a mandate to develop generally applicable disciplines, as well as sector-specific disciplines as appropriate. With the exception of accountancy, the focus of the WPDR has been on general disciplines. While numerous members have made submissions to the WPDR, progress has proved difficult within the overall negotiating mandate. As a result, in 2017 a group of 59 members led the Joint Initiative on Services Domestic Regulation, to work in parallel to the WPDR. In 2019, members again signaled their commitment to the issue, with a view to incorporating the outcome in schedules of commitments in 2020. The initiative is open to all members. In addition to multilateral initiatives, some regional agreements have also dealt with domestic regulation, including some among APEC member economies.

Against this background, APEC economies have recognized that domestic regulation is an issue at the forefront of ongoing discussions on regional and global economic integration. In 2018, member economies issued the APEC Non-Binding Principles on Domestic Regulation of the Services Sector (“APEC’s Non-Binding Principles”), which brings together some of the key ideas in this area. At the core of the principles are the concepts of predictability and transparency as the bedrock of a better regulatory agenda.³

While APEC’s Non-Binding Principles represent an important step forward that will prove influential in terms of discussion on domestic regulation elsewhere, there is an emerging body of practice in the region that goes even further. The purpose of the present report is to present a selection of case studies from inside and outside the region, with the aim of highlighting how next generation regulatory practices can help take work on domestic regulation forward, with the aim of facilitating market access and trade opportunities for developing and developed economies alike.

The concept of “next generation” regulation is not defined at the international level, so the next section discusses what it means in this context and how it relates to domestic regulation. The following section presents the case studies, which are designed to highlight, for exchange and learning purposes, instances of good practice in developing and developed economies from the region, as well as from outside the region. The case studies are not presented in a normative framework, but instead to provide information to economies on the types of approaches that others have found useful, so that all can

³ USAID. 2019. “Study on APEC’s Non-Binding Principles for Domestic Regulation of the Services Sector: Transparency and Predictability in Rulemaking.”

collaboratively work towards better outcomes. The final section of the report summarizes findings and discusses their policy implications.

NEXT GENERATION REGULATORY PRACTICES

This section discusses the concept of next generation regulatory practices, specifically as it relates to domestic regulation in services sectors. The discussion is intentionally thematic and far reaching, as the concept itself does not yet have any internationally agreed definition. The objective of this section is to open up areas for discussion and consideration by APEC economies, starting from a concrete appreciation of what the term “domestic regulation” means in the context of service sector regulation.

WHAT IS DOMESTIC REGULATION?

As it is understood in the APEC Non-Binding Principles, domestic regulation primarily relates to the authorization of a provider, in the sense of a grant of permission from a regulator, to supply particular services in a market. Closely linked to this question of authorization are issues of licensing requirements and procedures, qualification requirements and procedures, and technical standards. Policies that can broadly be understood under the rubric of authorization are important in services markets for a number of reasons. On the one hand, many services are “experience goods”, in the sense that quality cannot be assessed until the service is consumed, thereby justifying measures to protect consumers from sub-standard services. Similarly, some services by their nature pose special risks to health and safety, for instance medical services, so there is an additional social justification for requiring service providers to satisfy certain criteria before being permitted to supply the service. As such, domestic regulation is an important part of ensuring that the services economy works efficiently, but not at the expense of consumer health or safety.

Domestic regulation within the meaning of the GATS refers in a general way to qualitative restrictions (such as licensing requirements) and administrative procedures, unlike the specific disciplines addressing quantitative restrictions (Market Access) and origin-based discrimination (National Treatment and Most-favored Nation). There is a recognition that complex, unpredictable, or non-transparent rules can have a significant impact on services, because they increase the cost of entering a given market. This cost can act as a particular disincentive to market entry by foreign service suppliers, thereby limiting international competition and holding back trade.

The aim of the APEC Non-Binding Principles is to state some reasonable approaches that member economies are free to use in considering how to structure and implement their domestic regulations. Key examples include suggestions to publish regulations and allow comment periods, use online applications where feasible, process applications without undue delay, and ensure authorization decisions are reached with independence. APEC economies are typically very familiar with these types of requirements, which are anchored in the concepts of predictability and transparency. The Non-Binding Principles therefore provide a useful starting point for both independent and collaborative efforts to move forward in this area.

Of course, these broad principles can be applied in many different ways, depending on economy context, sectoral realities, and a variety of other factors. The remainder of this section discusses a general set of questions that arise for regulators in the current environment, where all economies are seeking to move towards the best practice frontier. The discussion is not normative, in the sense of making suggestions for economies to follow, but rather is exploratory. The aim is to give economies a sense of the different ways in which authorization, as one type of regulatory intervention, is being conceptualized regionally

and internationally, and thereby to provide context for the case studies that make up the bulk of this report.

RETHINKING REGULATORY INTERVENTIONS

A preliminary question for any domestic regulation relates to the type of intervention that should be used. Molineuvo and Saez (2014)⁴ catalogue a range of different ways in which a particular regulatory question can be addressed, when a social objective is taken as a given. In other words, they show how different regulatory strategies can produce the same social outcome, but with different patterns of costs for economic actors. Some implementations of Regulatory Impact Assessment (RIA) explicitly deal with this issue, by requiring regulators to consider feasible alternatives and to assess relative costs and benefits before deciding on the appropriate way forward. But Molinuevo and Saez (2014) go further, to highlight the general equilibrium nature of the analysis that is required, that is to say an analysis that takes account of flow-through effects to other sectors, not just the partial effect on the sector being regulated. Authorization of a professional service is a good example: while a restrictive approach will have a particular pattern of benefits and costs for actors within the sector, it will also have implications for firms that use professional services as inputs into their own production processes, and ideally it is this full range of economic effects that should be taken into account, at least for regulations above some threshold level of economic impact.

In descending order of market intervention, Molinuevo and Saez (2014) identify the following regulatory strategies of relevance to service provision:

1. Direct provision by public authorities.
2. Command and control regulation.
3. Incentive-based regimes.
4. Market-harnessing controls.
5. Design solutions and “nudging”.
6. Self-regulation.

They argue that the general tendency in service sector regulation in developed economies is to move down the list, so that direct provision and command and control are now relatively rare, whereas market-harnessing controls, design solutions, and other “lighter” regulatory touches are now relatively common. In other words, regulators tend to use incentives and market mechanisms to bring about social objectives, rather than directly providing services, or exercising detailed control over the day-to-day activities of service providers.

A key issue for authorization in the context of domestic regulation is therefore how to reconcile the vital objective of consumer protection and public safety—ensuring that only competent providers are in the market place, and only safe services are provided—with the principle of proportionality, which means that any economic distortion introduced by the regulation should be no larger than required to achieve the objective in question.

⁴ Molinuevo, M., and S. Saez. 2014. *Regulatory Assessment Toolkit: A Practical Methodology for Assessing Regulation on Trade and Investment in Services*. Washington, D.C.: World Bank.

INFORMATION, LEARNING, AND EXPERIMENTATION

There is, of course, no hard and fast rule to help choose among the approaches discussed in the previous subsection. Indeed, an additional category of next generation regulatory practice is the facilitation of information flow between the public and private sectors, so that regulators can learn from experience. Market actors have detailed information on matters like cost structures, technology, and competitive conditions, which is not typically available to the regulator directly. It is therefore important for regulators to devise mechanisms by which this information can be transferred to them, so that regulation starts from an appropriate factual basis. An extension of this approach is the use of an experimentalist mindset, in which new interventions are trialed under controlled circumstances, and only scaled up if the experience has a strong net benefit-cost ratio; otherwise the intervention is retooled until the desired outcome is reached.

By way of distinction with the direct provision and command and control models mentioned above, modern regulatory practice seeks to engage closely with industry, and to learn from experience rather than regulating “once and for all”. In many cases, regulators are at an informational disadvantage relative to industry in areas like the analysis of costs and competitive conditions, as well as understanding consumer responses to changes in regulatory structure. An informed dialogue with private sector actors can help bridge this gap, and can support the implementation of more effective and efficient regulations. An important objective is for regulatory interventions to be incentive compatible, in the sense that while they modify behavior of market actors to achieve social objectives, they do so in a way that does not undermine the fundamental tenets of consumer or producer behavior in particular markets.

While the use of experimental protocols is now mainstream in some areas of economics, it is still an emerging issue for most regulators. However, there are important examples of regulators moving beyond the facilitation of information transfer to put in place a dynamic regulatory model in which experimentation is permitted and indeed encouraged, so that innovations can be better understood in a controlled setting.

The case studies will selectively highlight different regulatory strategies, including instances of information transfer and consultation, as well as experimentation. Together, they will show that it is not just the “what” of regulation that matters for economic performance, but also the “how”—meaning the set of procedures and programs that govern how the regulation is made in the first place, as well as those that make it easier for businesses to comply with whatever the substance of a regulatory intervention is.

REGULATING FOR THE INTERNATIONAL DIMENSION

In the context of a rapidly growing and integrating global services economy, a key aspect of proportionality in general, and RIA-type activities specifically, is the need to take account of spillover effects beyond the domestic market in designing domestic regulations. When services were largely produced and consumed domestically, as was the case for much of the post-1945 period, there was only a limited case for explicitly considering the impacts of domestic regulations on foreign service providers. But there has been a major increase in world services trade, which means that cross-border spillovers are arguably as important in services markets as in goods, and so should be explicitly considered by regulators when making decisions regarding possible interventions. An understanding of these spillovers is an important element of an overall cost-benefit assessment of a given regulatory intervention.

For example, as detailed in a case study below, deciding where applicants must take a professional services exam might consider the extent to which different options facilitate foreign participation, and how a larger pool of applicants affects consumer welfare outcomes. Examined in detail in one case study below is the case of testing in professional services: a requirement that testing take place within an economy's territory may act as a disincentive to foreign providers, who must physically travel, and thereby engage substantial expense, in order to take the test. While such a requirement may be non-discriminatory, it nevertheless reduces the number of potentially qualified applicants and the benefits of trade in the service.

As the case studies will show, regulators are better incorporating the international trade dimension in their regulatory impact assessments, and finding creative new ways to move beyond traditional rules and procedures. The example of testing location has already been mentioned. Another is the use of cross-border regulatory cooperation to facilitate easier movement of service providers consistent with applicable immigration requirements. To be clear, such processes do not necessarily require regulatory harmonization across economies. All that is required is cooperation between regulators in different economies with a view to establishing recognition arrangements, or even just facilitated procedures for authorization, for service providers from other jurisdictions. Such measures can help facilitate services trade, with consequent benefits for producers and consumers across a range of economies, without undermining the important regulatory objectives.

USE OF TECHNOLOGY

The issue of technology is present in each of the previous points, but it is useful to make it explicit. There are many ways in which technology can reduce the costs of compliance with domestic regulations, in particular for foreign service providers. One example is information costs: making applicable laws, regulations, and procedures available through an online portal means that they are easier and less expensive for foreign providers to access, thereby reducing the market entry costs they face. An emerging development in this area is the use of machine readable laws, in which particular kinds of regulations and procedures can be codified into a format that can be used automatically in computer programs designed to pursue and demonstrate compliance. While application of such technologies is still in the experimental stage in areas like rules of origin, there is scope for the use of technological solutions more broadly to help reduce the information costs associated with entering foreign markets.

Another area in which there is an obvious role for technology is in moving authorization procedures online. Enabling service providers to submit electronic applications, along with supporting documentation, makes for more rapid decisions, in an environment where preparation of the relevant material is less time consuming and therefore less expensive.

The key role of technology in this area is not in altering the nature or objectives of domestic regulations, but only in facilitating less costly compliance. Indeed, the use of technology frequently accompanies innovations in the other areas mentioned above, even though it also has a standalone reality as a regulatory technique in its own right.

POLICY IMPLICATIONS

In today's economy, domestic regulation looms large as a determinant of effective market access for foreign service providers. There is a clear tendency for creative regulation to facilitate better access

without any sacrifice of the important social goals embodied in regulatory interventions, particularly as regards authorization. Next generation regulation can be understood as a set of techniques that seeks to combine novel regulatory approaches with increased attention to the international dimension of services markets, and the role of technology in reducing compliance costs and facilitating the efficient transfer of information.

There is no “one size fits all” recipe for next generation regulatory practices. Instead, it is a menu, from which economies can select according to their own characteristics and priorities, and the nature of the service being regulated. The next section of the paper provides concrete examples of economies moving towards the cutting edge of global practice in domestic regulation, reflecting the general tendencies referred to in this section.

CASE STUDIES

This section presents five case studies from developing and developed economies. They are designed to highlight different aspects of the next generation approach to domestic regulation that is at the core of this report. Not every case study is an example of all aspects, but each embodies at least one. In addition to looking at experience in the Asia-Pacific, the discussion also includes one example from outside APEC, as an indication of the way in which good practice is developing in other regions. The case studies are presented for their informational content, with the aim of helping all member economies improve their approach to domestic regulation over time, but without any normative statements as to the appropriateness of particular arrangements for any economy.

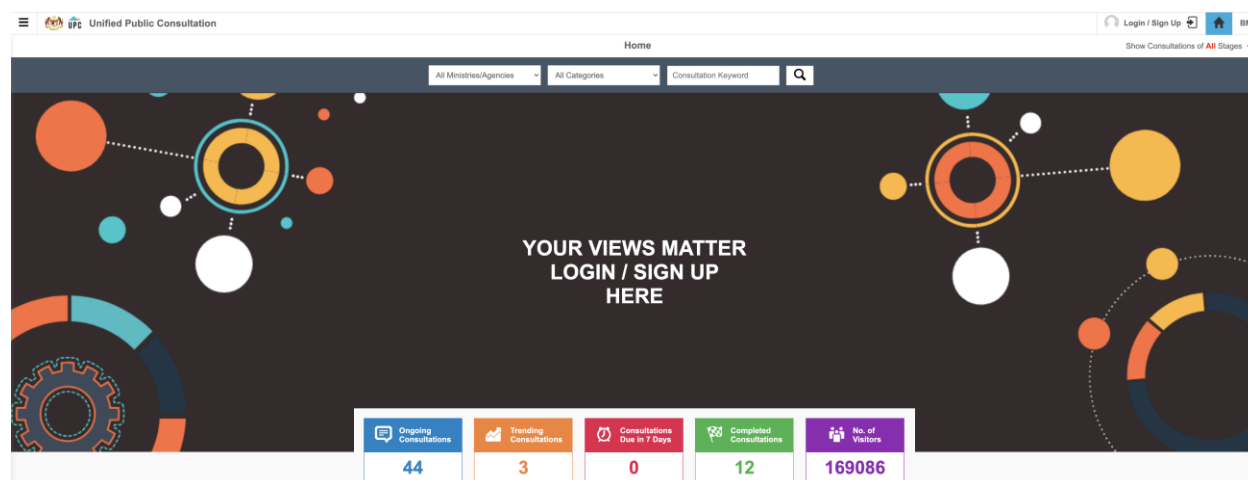
MALAYSIA: UNIFIED PUBLIC CONSULTATION PORTAL⁵

The Malaysian government has long been aware of the need to facilitate effective stakeholder engagement during the regulatory process. The Malaysian Productivity Commission has a dedicated Good Regulatory Practice unit, and regulators in various sectors have historically engaged in constructive dialogue and discussion with a range of stakeholders. However, the engagement process has historically been particular to each regulator, in the sense that it would rely on a variety of online platforms, which could be easier or more complex to access and use depending on the practice of individual regulatory bodies.

In October 2019, the government launched a new Unified Public Consultation (UPC) portal online (Figure 4), with the aim of centralizing and standardizing the stakeholder engagement process. It provides a single online interface that can be used by any regulatory body engaging in a public consultation, and has been designed to be streamlined and easy to access and use for the wide variety of parties potentially interested in engaging in discussions over possible regulatory changes. As of May 2020, the UPC had been used for 68 completed consultations, with another 51 ongoing. Over 13,000 individual users had registered, and the site had been visited over 160,000 times. These figures show the widespread level of interest among stakeholders in engaging effectively in the regulatory process, as well as the willingness of regulators to use the new system.

⁵ This section is based on material provided by the Malaysia Productivity Commission, for which the author is grateful.

Figure 4: UPC homepage.



Source: <https://upc.mpc.gov.my/csp/sys/bi/%25cspapp.bi.index.cls?scnH=1177&scnW=2560>.

The move to a central online portal is seen by the government as an important way of keeping information and communication flowing between regulators and stakeholders during the COVID-19 pandemic. Social distancing measures mean that in-person consultations and hearings, which have historically been an important way of engaging with stakeholders, cannot safely take place in the short term. But the online portal overcomes this restriction by enabling stakeholders to engage effectively, while fully respecting social distancing protocols.

Development of the portal also provided an opportunity to formalize the steps that consultations typically need to go through, based on Good Regulatory Practice in the Malaysian context (Figure 5). The first stage, known as “Forum”, allows regulators to put forward topics and seek feedback from stakeholders. The objective is to better understand issues of public interest that may require policy interventions.

The second stage, “Preliminary Consultation”, takes place following an assessment of an issue by a regulator, resulting in a determination that there may be a need for policy intervention. In general, this determination is made based on information received during the first stage of UPC consultations. The regulator then prepares a draft paper containing information, clearly stating the issue of concern, identifying the risks associated with non-intervention, and then proposing tentative solutions and considering their possible impacts. The draft paper is made available for stakeholder feedback on issues such as analytical validity and feasibility of proposed solutions.

The third stage, “Final Consultation”, is undertaken on the basis of a draft final policy paper and draft regulation. At this point, the regulator shares its proposed solution with stakeholders in a way that allows for greater specificity in discussions, following consideration of inputs from the two previous stages.

Figure 5: Stages of stakeholder consultation through the UPC.



Source: Malaysian Productivity Commission.

In developing the UPC, the Malaysian Productivity Commission recognized that effective stakeholder engagement is vital to modern good regulatory practice, as it:

- Allows stakeholders' views to be heard and considered;
- Promotes transparency and accountability;
- Enhances predictability;
- Reduces the risk of policy failures; and
- Encourages public commitment to the policy.

The UPC takes important steps towards rationalizing and promoting this good practice in the Malaysian context. As noted above, it has particular salience in the midst of the COVID-19 pandemic, as it allows these outcomes to be achieved even in a context where it is unsafe for groups to meet in person. As such, both the use of technology to facilitate communication, as well as the emphasis on information sharing and consultation, emphasize the next generation aspects of this approach to regulatory practice in Malaysia. Developed and developing economies alike can potentially benefit from this kind of mechanism both through its ability to facilitate information transfer and consultation, and also likely resource savings relative to in-person hearings.

UNITED STATES: OVERSEAS TESTING FOR ACCOUNTANCY AND NURSING⁶

Drawn from its constitutional structure, the United States takes a relatively decentralized approach to authorization and licensing in regulated professions like accountancy and nursing. In both cases, registration of professionals takes place at the local level, through local boards, not the economy level. However, both professions have an economy-level association of the relevant local professional boards, which provides an economy-wide forum to discuss issues of importance to the profession, as well as to facilitate mobility of professionals across localities and to develop some degree of harmonization in regulatory structures amongst localities.

As they work in regulated professions, accountants (specifically, Certified Public Accountants (CPAs)) and nurses are required to pass an examination covering various aspects of professional competence. The peak professional bodies, which provided substantial information for this case study, are the National Association of State Boards of Accountancy (NASBA)⁷ and the National Council of State Boards of Nursing (NCSBN).⁸ The public policy rationale for requiring an examination is clear: such an ex ante control of competence is necessary to protect the public from poor quality professionals whose characteristics otherwise would not become known to consumers until after consumption of the service, by which point injury may have taken place. While the decentralized structure of the United States, as well as the role of private bodies, mean that the regulatory touch in this case is relatively light compared with what is seen in other economies, where professions are regulated more closely by central statutes, the US approach still ensures that regulated professionals are required to demonstrate competence prior to licensing.

Given the size and importance of the US market globally, there has long been demand from foreign origin professionals to receive US professional authorizations in accounting and nursing, and significant demand from US firms for qualified foreign professionals. While there is no discrimination in law based on economy of origin, there have been significant compliance issues that have confronted foreign professionals de facto

One of the main obstacles for foreign professionals has been the need to sit an exam, or series of exams, in order to obtain a license. Historically, the exams were administered on a pen and paper model, and were only available within the United States. In 2004, accountancy regulators made smart use of emerging technologies by shifting the exam requirement to a computerized format. But the exam was still only available in selected testing centers within the United States. However, in both accountancy and nursing, the test was offered through a partnership with a private business: Prometric for accountancy, and Pearson VUE for nursing. Both companies run testing centers and administer tests in a variety of areas for a large number of organizations.

In the case of accountancy, it was in 2010 that local boards started to recognize that there was significant demand for their licenses, and thus to take their exams, from candidates based outside the US. Imposing this travel requirement meant that some foreign candidates were discouraged, and thus

⁶ This section is based on interviews with the relevant professional bodies in the United States, for which the author is grateful.

⁷ National Association of State Boards of Accountancy, <https://nasba.org/>.

⁸ National Council of State Board Nursing, <https://www.ncsbn.org/index.htm>.

professional mobility more generally was limited. The challenge was therefore to find ways of reducing the compliance costs faced by foreign citizens and residents seeking US licensure, without in any way sacrificing consumer protection, professional standards, or the integrity of the examination process. A key consideration for regulators was the public interest in attracting the most talented professionals to their jurisdiction, irrespective of current location.

At the time, Prometric had already established testing centers outside the United States, in selected markets such as Canada and Europe, to administer tests other than the accounting exam. The two professions therefore began to work with Prometric in accountancy and Pearson VUE in nursing to develop modalities for offering their respective tests outside the United States, based on market demand from local professionals, security, safety, and the integrity of the exam both from a confidentiality point of view and from an intellectual property standpoint.

With these considerations in writing, the CPA exam is now offered internationally in Bahrain, Brazil, Egypt, the UK, Germany, India, Ireland, Japan, Jordan, Korea, Kuwait, Lebanon, Nepal, and the United Arab Emirates. As an additional benefit of this expansion of testing locations, the computerized exam model has enabled more frequent exam taking, based on a rolling schedule, as opposed to the traditional model where exams were offered only on specific dates, and less frequently than current practice.

Table 1: International testing locations, CPA exam.

Testing Center Location	Citizens or Long-Term Residents Of
United States of America	All economies
Japan, Korea	China
	Hong Kong, China
	Japan
	Korea
	Macau
	Mongolia
	Singapore
	Philippines
	Chinese Taipei
	United States of America
Brazil	Antigua and Barbuda
	Argentina
	Bahamas
	Belize
	Bolivia
	Brazil
	Cayman Islands
	Chile
	Colombia
	Costa Rica
	Dominica
	Dominican Republic
	Ecuador
	El Salvador
	French Guyana
	Grenada
	Guatemala
	Guyana
	Haiti
	Honduras
	Jamaica
	Mexico
	Nicaragua
	Panama
	Paraguay
	Peru
	St. Kitts and Nevis
	St. Lucia
	St. Vincent and the Grenadines
	Suriname
	Trinidad and Tobago
	Uruguay
	United States of America
	Venezuela
Bahrain, Egypt, Jordan, Lebanon, Kuwait, United Arab Emirates	Bahrain
	Egypt
	India

Testing Center Location	Citizens or Long-Term Residents Of
	Jordan
	Kuwait
	Lebanon
	Oman
	Pakistan
	Qatar
	Saudi Arabia
	United States of America
	United Arab Emirates
	Yemen
England, Scotland, Ireland, Germany	All economies
India, Nepal	Bangladesh
	Bhutan
	India
	Maldives
	Myanmar
	Nepal
	Sri Lanka
	United States of America

Source: <https://nasba.org/internationalexam/>;
<https://www.aicpa.org/becomeacpa/cpaexam/forcandidates/faq.html#international>.

On a similar model to the one for accountancy, discussed above, international testing for nursing was also gradually expanded over time. However, the driving force in this case was industry, with healthcare companies recognizing an increasing demand for properly trained nursing professionals, and the need to source from a variety of locations. As of writing, the National Council Licensure Examination for nursing is offered in Australia, Brazil, Canada, the UK, Hong Kong China, India, Japan, Mexico, Philippines, South Africa, and Chinese Taipei. Like the CPA exam, the nursing exam is now also offered on a rolling basis, with candidates eligible to take the test multiple times in a year if required, as opposed to the historical model of a small number of set dates.

From a regulatory perspective, this case study shows the transformative role of technology in terms of lessening the compliance burden for foreign service providers when it comes to domestic regulation. Specifically, in the case of authorization—licensure for these two professional services—the need to travel internationally to take the required test represents a major cost barrier to entry by foreign professionals, which thereby holds back professional mobility to a significant extent. The use of computerized testing has made it feasible to administer the same exam in multiple locations around the world, thereby eliminating the need to travel internationally for many candidates. Computerization is an important part of the process, as it allows for administration of the same exam under the same conditions. But this latter aspect of the process can only be guaranteed through a contractual process with the testing service providers, private companies in both cases. Indeed, it would be difficult from a jurisdictional standpoint for licensing boards to themselves offer tests outside their own geographical locations. But contracts with private providers allow not only for this process to take place in a way that is respectful of jurisdictional sovereignty, but also for the maintenance of security and secrecy regarding the examination process itself. There is thus a high degree of certainty that candidates passing the exam have similar levels of knowledge and professional competence, regardless of where the test was in fact taken.

As the world economy starts the process of recovering from the recent economic slowdown, regulatory initiatives that facilitate provision of services from abroad without the need to travel by air have the potential to provide significant health benefits, in addition to the obvious economic ones. Candidates for professional licensure will likely be more reluctant to travel internationally for examination purposes in the future, given the continuing health risks associated with air travel. The combination of computerization and international testing means that such steps will be required for fewer candidates over time, thereby limiting possible spread of the virus through international movements of people. Similarly, growth in the number of foreign-resident licensed professionals in a sector like accountancy means that more services can be provided cross-border, using information and communications technologies, rather than in person; this modal shift could also have significant public health benefits as the world economy recovers.

While some incidental regulatory changes may have been required at the local level in particular cases to allow for international testing, the main challenge to this next generation approach to domestic regulation was chiefly practical. The technology is now well-established, so what was required was a shift in mindset with the aim of recognizing the potential benefits of international testing, and an exploration of the conditions under which international testing could take place in a way that would bring benefits to foreign resident candidates without sacrificing broader regulatory objectives of consumer protection and integrity of the examination process. In this case, a light regulatory touch—and in particular, partnership with private companies—has proved crucial to putting in place an innovative regulatory arrangement that has the potential to bring significant benefits both to foreign resident licensure candidates, as well as to the US economy itself.

In addition to technology, this case study shows the importance of incorporating the international dimension into regulatory practice. This perspective helped regulators see the importance of facilitating access to US testing for foreign practitioners, while recognizing that international testing for US authorization would not in any way interfere with the operation of local testing systems that give their own licenses and certifications. Taking account of the spillovers of regulatory practice across borders helped US regulators develop a comprehensive, technology-based approach to facilitating the access of foreign practitioners in these two licensed professions.

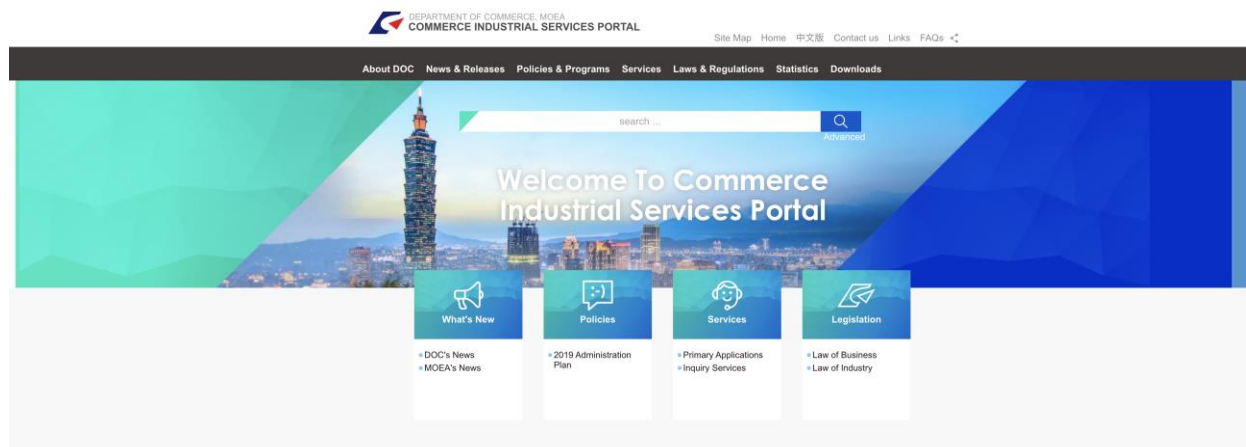
CHINESE TAIPEI: COMMERCE INDUSTRIAL SERVICES PORTAL

Like other APEC economies, Chinese Taipei has recognized the importance of reducing the market entry barriers facing new firms, as well as existing firms seeking to expand the range of products or services they offer. In the services sector, the issue of authorization—a key aspect of domestic regulation—looms large in this endeavor, which is fully consistent with APEC’s work on Ease of Doing Business.

With this framework in mind, the government introduced in 2015 the Commerce Industrial Services Portal (CISP), consistent with its broader E-Government policy. The system works on the basis of existing information systems of the Ministry of Economic Affairs (MOEA) that allow new businesses to register companies online. However, company registration has historically been a relatively complicated task involving a range of government departments, each with its own requirements. CISP serves as a single entry point to various commerce industrial administrative services. It makes full use of modern information technology tools to allow users to find the information and documents they need simply and quickly.

The CISP runs on a similar principle to online repositories like Trade Information Portals (TIPs) in goods markets. As Figure 4 shows, CISP provides an all-inclusive information source, with access to relevant laws and regulations. In addition, some applications can be filled out and processed online, in particular those dealing with company naming and registration. Other forms can easily be downloaded and filled in offline.

Figure 6: CISP homepage.



Source: <https://gcis.nat.gov.tw/mainNew/English/index.jsp>.

By providing a unified interface for information retrieval, as well as performing certain operations related to authorization, CISP can help reduce the costs facing new or expanding businesses in Chinese Taipei. This use of technology is consistent with a regulatory approach in which technology is used to the maximum extent possible so as to reduce information and transaction costs in relation to domestic regulation. In addition, the website is available in English as well as Chinese, so there are specific cost reduction effects for foreign companies looking to do business in Chinese Taipei.

CISP is an outwardly straightforward use of technology to reduce information and transaction costs. Given the multiplicity of systems previously in existence, however, CISP required considerable coordination across government behind the scenes. This use of technology to reduce compliance costs is in line with the main thrust of the next generation approaches to domestic regulation discussed above. In addition, the website makes a wealth of statistics available on company and business registration, which also helps improve transparency and track performance, and so is useful to a range of stakeholders beyond new or expanding businesses.

MEXICO: FINTECH REGULATORY SANDBOX

While the issue of domestic regulation is most commonly recognized in relation to professional services, where licenses are typically required in order to practice—a key aspect of the concept of authorization—there are also important licensing requirements in financial services in most economies. For instance, operating as a retail bank requires that certain stringent conditions be met, again in the interests of protecting consumers. Those conditions typically relate to capital adequacy, as well as the range of services offered and the circumstances under which they are offered. Licensing of foreign financial service providers can therefore be seen as part of domestic regulation, in the sense that

authorization is typically required before certain services can be provided, although the scope of that regulatory space varies from economy to economy. And of course, viewing this issue as one of domestic regulation is moving away from the traditional policies in many economies that made licenses unavailable for foreign financial companies; by and large, such market access restrictions have been considerably eased in recent years, so the focus for assuring effective entry conditions for foreign providers is therefore shifting more towards domestic regulation in many economies.

As in other contexts, authorization requirements in financial services can create de facto burdens on foreign providers. For instance, capital adequacy requirements may be administered on a purely domestic basis, so even a large institution with global capital reserves may have to demonstrate that each foreign operation independently satisfies regulatory requirements. Indeed, these kinds of complexities came to light vividly during the Global Financial Crisis, when Lehman Brothers, a global institution, saw intervention by regulators all around the world, even though its financial difficulties were limited to a subset of markets only. The interface between domestic and global concerns is a complex one to navigate, but as in other areas, there are significant economic benefits in regulating with an eye towards international engagement, which tends to facilitate trade and enhance consumer choice.

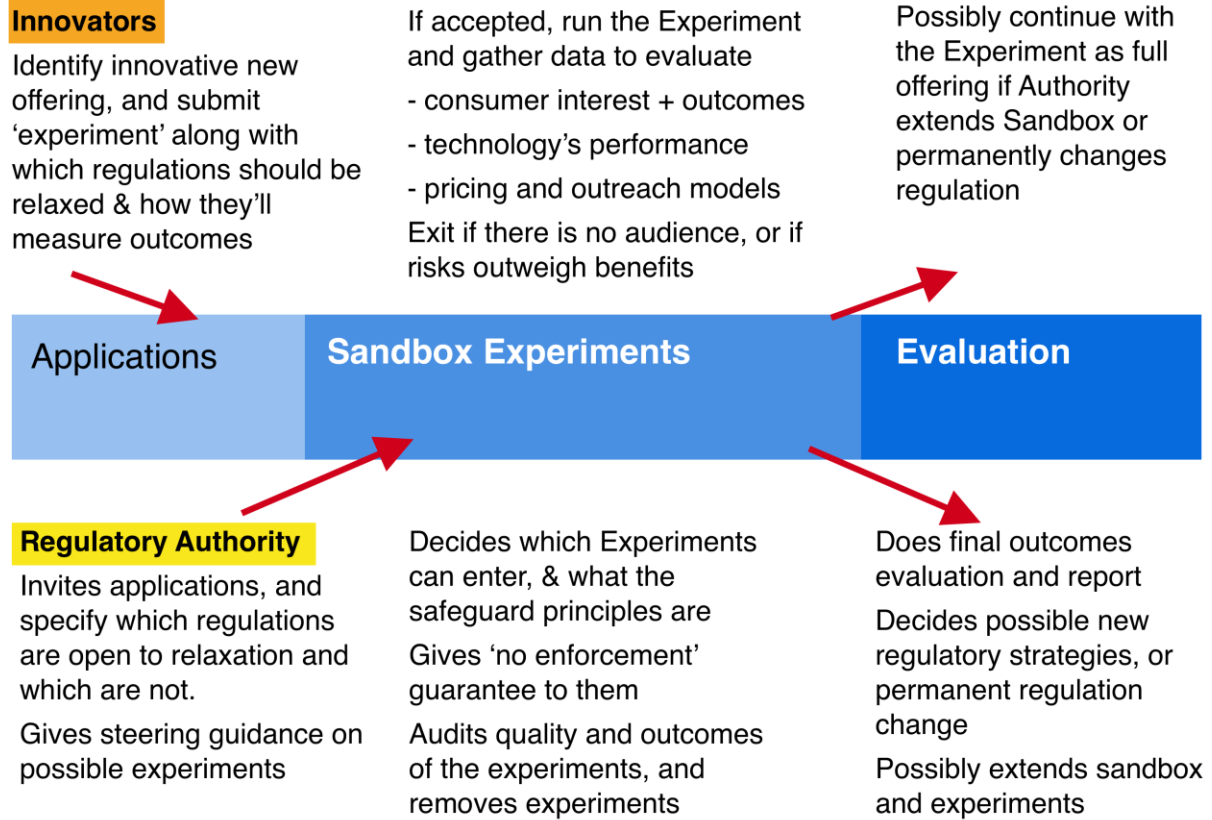
While banking is an obvious example of where domestic regulation plays an important role in structuring financial markets, financial technology (“FinTech”) brings many of the key regulatory issues to a head. Innovation has been proceeding rapidly in financial markets, both in terms of developing new services to offer clients, and in deploying new tools for accessing those services. Regulators in all economies face a difficult tradeoff between retaining technological neutrality, and thereby permitting useful innovation, and ensuring not only consumer protection but also systemic stability, an issue that has acquired particular prominence after the Global Financial Crisis.

Mexico has developed an innovative approach in this area, having recently launched a “regulatory sandbox” for FinTech. This approach was first deployed by the UK in 2015, and is designed to allow financial services providers to experiment with innovations under a regulator’s oversight (Figure 5).⁹ The essence of the sandbox is to create a controlled space for innovation in products, business practices, and technologies. By working collaboratively with regulators in a controlled environment, FinTech companies can help make a case for innovation in the substance of regulation by showing that innovations both bring value and are safe from the consumer and systemic points of view. A key outcome companies seek from deploying an innovation in a regulatory sandbox is that the product, service, or technology will ultimately be authorized by the regulator, which makes the link with domestic regulation clear.

⁹ United Nations Secretary-General’s Special Advocate for Inclusive Finance for Development (UNSGSA) Fintech Sub-Group on Regulatory Sandboxes, “Briefing on Regulatory Sandboxes”, <https://www.unsgsa.org/files/1915/3141/8033/Sandbox.pdf>.

Figure 7: Outline of a regulatory sandbox model.

A Regulatory Sandbox Model



Source: <https://medium.com/legal-design-and-innovation/regulatory-sandboxes-for-legal-services-innovation-7438bb9b658e>.

The Mexican regulatory sandbox, for which the groundwork was laid in 2018, very much works in the way just described. There is a trial period of two years, during which time FinTech providers can deploy novel technologies, products, services, or business models in a strictly controlled environment, in which they only have contact with a limited number of customers. If they can show tangible benefits from their innovation, they can apply for authorization to operate as a financial service provider.¹⁰ The overarching goal is therefore to boost innovation in Mexico's financial services sector, which in turn will have benefits for other industries that use financial services.

Mexico issued its first authorization under the sandbox provision earlier in 2020. The grantee is a cryptocurrency exchange, which can now operate as a financial technology institution under the 2018 law. The system has proved popular, with a further 85 applications for authorization so far under the

¹⁰ René Arce Lozano, "Mexico's Regulatory Sandbox In 2020", Mondaq, <https://www.mondaq.com/mexico/fin-tech/891724/mexico39s-regulatory-sandbox-in-2020>.

law.¹¹ Mexico has led the way in Latin America with this initiative, and it has no doubt been part of the reason behind increasing venture capital flows to the region in the FinTech space.

Part of the attraction of FinTech in the Mexican context is that traditional financial services have had difficulties developing within the historical framework. As of 2018, nearly one-third of the population lacked access to a bank account, and only a quarter owned a credit card.¹² As such, it is important to look at innovative ways of providing financial services with an eye to inclusion of traditionally underserved communities. While not all FinTech innovations fall into this category, innovations such as the use of cell phones for “mobile money” in other parts of the world shows that there is a sweet spot where technological innovation meets social inclusivity.

While the regulatory sandbox is by no means a panacea for the financial sector, it nonetheless shows a willingness on the part of regulators to encourage technological change, and to adopt an experimentalist mindset, learning about appropriate regulatory stances from observation of impacts in a controlled environment. As such, the regulatory sandbox incorporates at least two next generation approaches to domestic regulation, namely innovation in the substance of regulation by the incorporation of emerging insights in relation to experimentation and learning, as well as the use of technology to promote sectoral growth and development, with an eye to promoting broader economic gains.

EUROPEAN UNION: INTRA-EU MOVEMENT OF HEALTHCARE PROVIDERS

The EU provides an interesting counterpoint to examples of regulatory innovation in APEC. Unlike APEC, the EU is based on a comprehensive set of legal documents, and incorporates major institutional underpinnings including a parliament, a court of justice, and a Central Bank for those members that have adopted the European single currency. A key part of the EU model of regional integration is the so-called Single Market for Services. A guiding principle of that approach is that barriers to the movement of professionals should be as limited as possible, including as regards the recognition of qualifications, and thus authorization to practice in an economy different from the one where they received their original qualifications and license. This approach is also consistent with freedom of movement, one of the four freedoms of the European Single Market, which favors the movement of natural persons across borders within the European space with as little formality as possible.

For medical doctors and nurses, Directive 2005/36/EC as modified by Directive 2013/55/EU sets up a system of recognition of professional qualifications that facilitates cross-border movement of professionals.¹³ This system provides for the automatic recognition of professional qualifications within the EU space, based on harmonized minimum training requirements. So, while the details of professional training continue to differ across member economies, they have mutually agreed on a minimum level of training that all such providers must have, and on that basis, accord automatic recognition to providers

¹¹ Yvette D. Valdez, Roderick O. Branch, Daniel Gallo Mainero, “Mexico Issues First License Under New FinTech Law”, Lexology, <https://www.lexology.com/library/detail.aspx?g=e54d449f-c4fa-4408-b1a5-5326f3a1cdd0>.

¹² *Ibid.*

¹³ European Commission, “Free Movement of Professional-Internal Market, Industry, Entrepreneurship and SMEs”, https://ec.europa.eu/growth/single-market/services/free-movement-professionals_en; European Commission, “Recognition of professional qualifications in practice- Internal Market, Industry, Entrepreneurship and SMEs”, https://ec.europa.eu/growth/single-market/services/free-movement-professionals/qualifications-recognition_en.

from other EU economies. Figure 6 shows relative levels of movement of healthcare providers in response to differences in conditions driven by factors including healthcare spending.

In the context of the COVID-19 pandemic, however, it became clear that although the system is by its nature quite liberal, there are nonetheless issues of implementation that make it harder in practice for professionals to move across borders. In particular, strict paperwork requirements and processing times meant that in this moment of crisis, when needs for health professionals varied substantially across individual EU members, there were regulatory measures that impeded to some extent the ability of one member economy to make use of medical professionals from other member economies to deal with emergency conditions.

As a result, the European Commission issued a guidance note in May 2020, containing a series of recommendations on the de facto application of Directive 2005/36/EC.¹⁴ Importantly, the guidance noted that nothing in the Directive prevented EU members from taking a more liberal approach to the recognition of professional qualifications, meaning that they were free to temporarily relax their usual scrutiny in the interests in ensuring completely free movement of healthcare professionals. The Commission recommended use of a prior declaration only in the case of temporary, emergency movement of healthcare providers, without the need to wait for a decision from the relevant destination location. In addition, it noted that prior checks on qualifications are not mandatory under the Directive, but are an action that EU members are permitted to take. As such, they were free to derogate from it in this moment of crisis.

Given that recognition of qualifications within the EU is based on a harmonized minimum standard of training, the issue of derogations arose for those EU members that needed to authorize advanced medical students to undertake activities normally reserved to licensed practitioners. The guidance note set up a system for seeking derogations from the harmonized minimum training requirements, based on established need within a member economy.

Finally, the guidance note addressed the issue of recognition of qualifications from outside the EU. Historically, the EU's liberal approach to recognition within the zone has contrasted with a relatively restrictive view of foreign qualifications and licenses. But in the emergency situations of the pandemic, the Commission made two concrete recommendations to loosen this constraint somewhat. First, the Commission explicitly indicated that member economies could employ healthcare providers with qualifications from outside the EU provided that those qualifications meet the harmonized minimum training criteria. In addition, the note reminded EU members of the possibility of authorizing non-conforming professionals—that is to say, those whose training does not comply with the harmonized minimum criteria—to practice in a restricted way through a different status from that of a fully licensed professional. For instance, a nurse from outside the EU who does not meet the harmonized minimum training criteria could nonetheless be authorized to work as a health care assistant carrying out a more limited range of tasks, according to domestic law.

¹⁴ European Commission, “Guidance on Free Movement of Health Professionals and Minimum Harmonisation of Training in Relation to COVID-19 Emergency Measures – Recommendations Regarding Directive 2005/36/EC”, https://ec.europa.eu/info/sites/info/files/guidance-movement-health-professionals-harmonisation-training-covid19_en.pdf.

The EU approach to regulating the movement of healthcare professionals in the context of the COVID-19 pandemic demonstrates at least two characteristics of next generation approaches to domestic regulation, as set out above. First, it is inherently international in character, as the whole intervention is motivated by the objective of facilitating cross-border movement of medical professionals. As such, the international dimension is fully integrated into the regulatory process. Importantly for an EU example, the international dimension is not only with reference to other EU economies, but also to economies outside the European zone: the guidance note encourages EU members to develop systems to encourage movement of those providers, albeit with appropriate safeguards in place, in order to ensure a robust, continent-wide response to the pandemic.

The second aspect of interest relates to the substance of the regulatory approach itself. The guidance note essentially advises some degree of regulatory forbearance, or at least a maximal use of available discretion, with the aim of reducing the time and cost burdens on foreign professionals looking to practice domestically. As such, the regulatory approach follows the principle of adopting the lightest possible regulatory touch that is consistent with given social objectives, in this case ensuring that consumers have access to safe, high quality medical care during a crisis period.

The EU has a very different institutional and legal setup from APEC, so it is obviously not possible to take an example like this and treat it as a simple case for application in a different region. The suggestion, rather, is that economies can and should consider how trade can support the fundamental public policy goals when designing new approaches to services regulation. While the precise way in which the intervention developed in Europe could not easily be transposed to the Asia-Pacific context, there are nonetheless more general lessons about taking account of the international dimension of regulation, as well as the substance of regulatory interventions and the need for a light touch as well as consistency with social objectives, that could be of relevance to APEC member economies at all levels of development.

CONCLUSION

As the services economy in the Asia-Pacific works to re-establish its growth path in the wake of the recent economic slowdown, APEC member economies recognize that it will be important to ensure that appropriate regulatory infrastructure is in place to both facilitate growth and development, and secure important social objectives like consumer protection and public health. Domestic regulation is an important part of this equation, as it can have a profound influence on conditions in the marketplace for domestic and foreign services firms alike. Although trade policy discussions in services have historically focused on the issues of quantitative restrictions and discrimination, non-discriminatory policies that come under the rubric of domestic regulation are increasingly receiving attention in international fora. APEC's work on Good Regulatory Practice provides many important insights that are relevant to this particular area of the economy, in addition to their broader importance.

Against this background, this report has sought to highlight emerging experience from inside and outside the region with next generation approaches to domestic regulation. While that term has no settled international definition, it is used here to encompass a range of modern regulatory practices including the adoption of a light regulatory touch, facilitation of information flow and experimentation, incorporation of the international dimension in rule-making, and the use of technology.

The case studies show that developing and developed economies alike are using innovative regulatory practices to promote service sector development, as well as regional and global integration of services markets. Technology looms large in all of the case studies, and is particularly important in the present climate, as it allows transactions and information exchange to take place without physical contact, thereby respecting the imperative to social distancing in light of the Covid-19 pandemic. The case studies show that regulators can use technology not only to make information available to market actors as in the Chinese Taipei case study, but also to solicit information and views from stakeholders, as the example of Malaysia shows very well. Similarly, technology can be used to allow market actors to complete formalities more quickly and at lower cost, especially in the case of overseas service providers. The case studies from Chinese Taipei and the United States both make this point well.

In addition to highlighting the importance of facilitating information flow, the Mexican case study shows that an experimentalist approach can have important benefits in emerging policy domains like FinTech. By allowing companies to deploy innovative technologies and business models in a controlled environment, regulators can collect detailed performance information, and make a more informed assessment of risks, if any, to consumers and financial market stability.

Finally, the case study from the EU shows that regulatory forbearance and flexibility, as particular instances of moving from a directive stance to a more facilitative one, can have particular benefits in crisis situations. Authorization to provide particular services is important from a consumer protection standpoint, but other considerations—such as public health—can sometimes push in the direction of greater flexibility in order to facilitate maximum movement of service providers to where they are most needed. This is the case with the EU's approach to facilitating the movement of healthcare workers in response to the COVID-19 pandemic.

Given the emerging nature of this practice, it is not possible to draw strong normative conclusions at this stage. Rather this report is intended to inform discussions and, the experiences highlighted in the case studies offer APEC member economies the opportunity to learn from innovative regulatory

approaches in the Asia-Pacific and elsewhere. As APEC pursues its work in related areas, such as Good Regulatory Practice, Ease of Doing Business, and Structural Reform, it is to be hoped that these examples will inform developing and developed economies alike as they look to adopt effective and efficient approaches to domestic regulation of services sectors. APEC has played an important leadership role in this area through the Non-Binding Principles. The case studies collected here show that the region has much to offer in terms of experience sharing and development of new and innovative approaches to regulation.

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