



**Asia-Pacific
Economic Cooperation**

FTAAP Capacity Building Workshop on E-commerce Elements in FTAs/RTAs (Phase 2)

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APEC Committee on Trade and Investment

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I. Introduction

1.1 Background of the Workshop

The APEC FTAAP Capacity Building Workshop held on 8-9 September 2021, via Zoom online, was a program under the 3rd phase of the Capacity Building Needs Initiative (CBNI). The workshop was arranged to enhance the capacity and skills of the government officials based in APEC economies on the issue of E-commerce.

The growing trend of e-commerce sales was already in motion before the COVID-19 pandemic, and the outbreak has strikingly accelerated the rising trend of e-commerce. Given the increasing importance of e-commerce in the global trading environment and trade negotiations, Korea selected e-commerce as the central theme of the workshop this year. Following the previous FTAAP Capacity Building Workshop on E-commerce Elements in FTAs/RTAs (CTI 06 2019T) held in Korea in 2019, this year's workshop reflected latest developments and issues in e-commerce trade negotiations.

1.2 Overview of the Workshop

More than 90 delegates from 15 APEC economies (Canada; Chile; Hong Kong China; Indonesia; Japan; the Republic of Korea; Mexico; New Zealand; Peru; the Philippines Singapore; Chinese Taipei; Thailand; the US; and Viet Nam) attended the workshop. Distinguished scholars and experts from international organizations, government officials from economies participating in e-commerce negotiations presented their expertise and engaged in discussion with other participants from APEC economies:

- **Mr Victor Luiz do Prado**, Director of TNC division, WTO
- **Prof. Jaemin Lee**, Professor of International Law, Seoul National University
- **Prof. Dukgeun Ahn**, Professor of International Trade Law and Policy / Director of Center for International Commerce, Seoul National University

- **Prof. Jay Pil Choi**, Distinguished Professor of Economics, Michigan State University
- **Ms Shannon Coe**, Director of Global Data Policy, US Department of Commerce
- **Prof. Hyo-Young Lee**, Professor, Korea National Diplomatic Academy
- **Ms Fatimah Alsagoff**, Director of Public Affairs, UPS Asia Pacific
- **Ms Esther Peh**, Lead of External & Regulatory Affairs, AT&T Asia Pacific
- **Ms Sofi Soeria Atmadja**, Policy Analyst, Coordinator of Regional Affairs Center of International Affairs, Ministry of Communications and Informatics, Indonesia
- **Mr Shen Hong Tham**, Senior Assistant Director, Multilateral Trade Policy, International Trade Cluster, Ministry of Trade & Industry, Singapore
- **Mr Piero Guasta**, Senior Advisor, Services and Digital Economy Division, Undersecretary for International Economic Relations, Ministry of Foreign Affairs, Chile
- **Mr Nolan Wiebe**, Senior Trade Policy Officer, Services Trade Policy Division, Global Affairs Canada

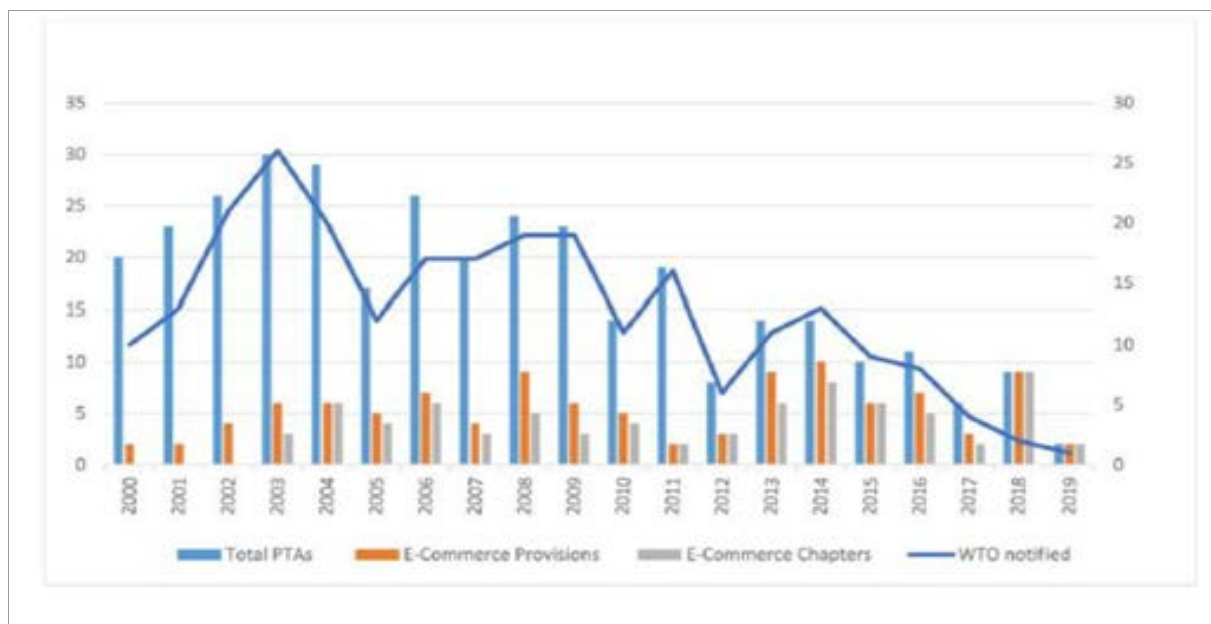
Dr Yungshin Jang, Director of the National Center for APEC Studies at the Korea Institute for International Economic Policy (KIEP), participated in the workshop as a facilitator. Mr Seongho Lee, Deputy Minister for Economic Affairs of Korea's Ministry of Foreign Affairs, delivered his opening remarks. The workshop had six sessions and ten presentations, starting with “**Opportunities and Challenges of the E-Commerce Sector in RTAs/FTAs Negotiation**” (Session 1) and “**Recent Trends and Main Issues on WTO E-Commerce Negotiations**” (Session 2). Participants then attended “**Perspectives of the Private Sector on the Spread of E-commerce Norms and the Subsequent Challenges**” (Session 3), before moving on to two other sessions themed after different types of negotiations such as “**RCEP and DEPA**” (Session 4), and “**CPTPP and USMCA**” (Session 5). Finally, the workshop concluded with “**Data Privacy and Digital Platform Competition on E-Commerce,**” issues that have been drawing more attention recently.

II. Summary of the Workshop

2.1 Session 1: Opportunities and Challenges of the E-Commerce Sector in RTAs/FTAs Negotiation

In the first session, Prof. Hyo-young Lee (Korea National Diplomatic Academy) showed the recent progress on the e-commerce chapter in RTAs/FTAs and explained the main characteristics of digital trade agreements concluded in the Asia-Pacific region, such as the digital trade chapter of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the United States–Mexico–Canada Agreement (USMCA), US-Japan Digital Trade Agreement (USJDTA), Digital Economy Partnership Agreement (DEPA), Singapore-Australia Digital Economy Agreement (SADEA), and Regional Comprehensive Economic Partnership (RCEP).

Figure 1. Evolution of PTAs with digital trade provisions.

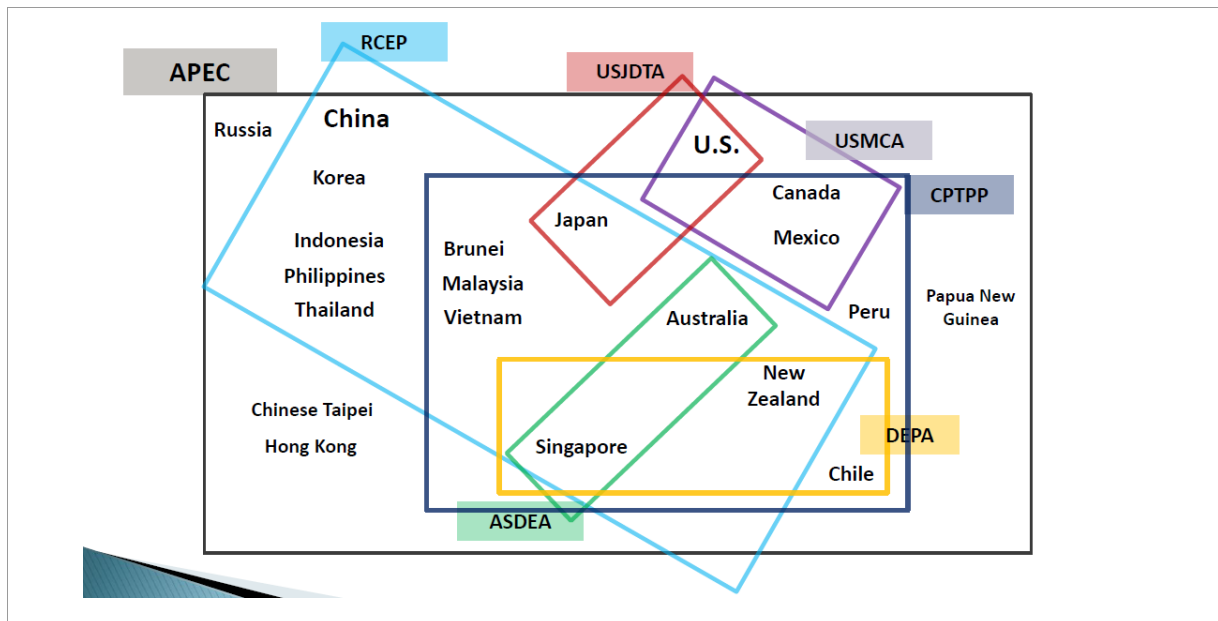


Source: Burri and Polanco (2020)

Before going into features of the e-commerce provisions and chapters in newly adopted agreements, Prof. Lee mentioned that there had been an increasing trend of e-commerce

provisions since 2013 (Figure 1). PTAs with digital trade provisions are mainly shown in bilateral type, intercontinental region, and developed–developing parties. She also mentioned that the types of e-commerce and digital trade rules in the Asia-pacific region are so diverse, which may produce fragmentation of international digital trade rules (Figure 2).

Figure 2. E-Commerce/Digital Trade Rules in the Asia-Pacific Region.



Source: Prof.Hyo-young Lee's Presentation Slides (Sept. 8, 2021)

CPTPP is the first agreement that includes mandatory provisions on cross-border data transfer, localization requirements of computing facilities, and prohibition of source code transfer requirements. USMCA is the first RTA that has a digital trade chapter, and it specifies the prohibition of data localization requirement for financial data. USJDTA is the first stand-alone digital trade agreement that includes a mandatory provision on ICT goods that use cryptography and incorporation of all exception clauses such as general, security, prudential exception, and taxation. DEPA is the first digital-only plurilateral agreement on digital trade rules, and they used “modules” instead of “chapters.” It includes a monetary provision on cross-border data transfer, localization requirement of computing facilities as a non-binding obligation. Also, the Cooperation agenda is included in emerging trends and technologies modules such as AI, Fintech, data innovation, digital identity, etc. SADEA is similar to CPTPP, USMCA, USJDTA regarding digital trade rules and similar to DEPA regarding digital

economy cooperation provisions. It includes the inclusion of exception clauses related to key obligations on data free flow. Lastly, RCEP containing the e-commerce chapter was signed in November 2020 and has yet to be ratified by member economies. It includes mandatory provision on cross-border data transfer and localization requirements of computing facilities. However, it is non-binding since dispute settlement procedures do not apply to these key provisions.

Prof. Lee provided her evaluation after comparing crucial provisions and coverage of different digital trade agreements. There seems to be a general convergence in digital trade agreements toward facilitating digital trade. However, at the same time, there are various exception clauses on cross-border data transfer. These clauses are the results of an effort to achieve the balance between the necessities of facilitating digital trade and governments' needs to preserve policy space since each government has a different domestic policy and philosophy on data privacy and data protection.

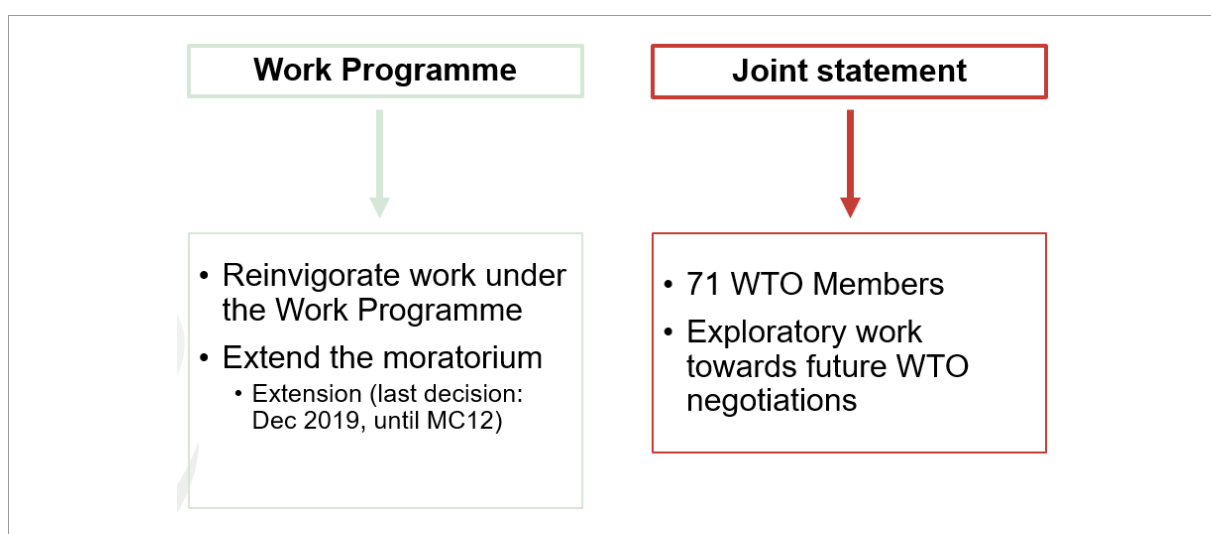
Prof. Lee, in conclusion, emphasized the need to integrate various rule templates that have been developed in the Asia-Pacific region

In the Q&A session, the moderator asked about the similarities and differences between stand-alone digital trade agreements (DEPA, DEA and USJDEA) and e-commerce chapters in regular conventional FTAs (CPTPP, USMCA, and RCEP). Prof. Lee provided some examples. The stand-alone agreements seem to be a wider coverage in developing new rules and incorporating cooperation-related provisions on the digital economy. DEPA, for example, has a lower level of commitments and shallow depth of the commitments. DEA is also wider in coverage, but it has a higher level of commitments as well. Provisions in RTAs' level of commitment depend on the parties' commitments to the agreement. RCEP and CPTPP are both regular mega FTAs, but they have different levels of commitments depending on the parties' willingness to agree on the commitment.

2.2 Session 2: Recent Trends and Main Issues on WTO E-Commerce Negotiations

In the second session, Mr Victor Luiz Do Prado (Director of the Trade Negotiation Committee Division at the WTO secretariat) introduced the history of e-commerce trade-related discussions in the WTO context. There are a growing number of regional trade agreements containing e-commerce provisions and the growing importance of e-commerce in the global economy. And the impact of the COVID-19 pandemic has made situations even more pressing. The term “e-commerce” was brought up in 1998 at the WTO and endorsed e-commerce related declaration on Global Electronic Commerce in May 1998. The declaration contains the mandate for a comprehensive work programme on E-commerce to better understand the relationship between e-commerce and WTO agreement. Member ministers also agreed on a moratorium on the “practice of not imposing customs duties on electronic transmissions.” From the work programme, WTO defines E-commerce as the “production distribution, marketing, sale or delivery of goods and services by electronic means.”

Figure 3. 11th Ministerial Conference, Buenos Aires



Source: Director Victor do Prado's Presentation Slides (Sept. 8, 2021)

He also brought up key issues under Joint Statement Initiatives (JSI): customs duties on electronic transmission, electronic authentication and electronic signatures, privacy, source code, market access for goods and services, reference paper on telecommunications, cross-cutting issues, and so on. (Figure 3) He concluded the presentation by sharing challenges such as difficulties in synchronizing different legal architectures by economies, finalizing the scope

of negotiations, and bridging different approaches to data-related issues.

In the Q&A session, participants asked whether the moratorium would be easy to be obtained or sustained in the future in MC12, which will take place from November 30, and whether there was a possibility of an early consensus on the cross-border data flow and localization requirement issues. Mr Prado expressed his concern saying that it is not going to be easy for the Moratorium. He mentioned that he had been following this issue for 20 years; however, in his personal view, it is going to be more difficult because many members are posing tough questions on the definition and the scope of the Moratorium. Many members are worried that they might be losing tax revenue because of the Moratorium. In his evaluation, he does not see much convergence in data privacy approaches.

Another question is about market access commitment in JSI. Mr Prado mentioned that the market access commitment had been already covered in terms of commitment in Mode 1 of the types of service trade, which is the type of Cross-border supply. One heated debate among WTO members is, whether they should discuss further e-commerce commitments such as the expansion of ITA in the context of the JSI. Some members see the JSI as an opportunity for further market opening and liberalization of IT goods, but others see JSI as not about market access negotiation (NAMA) and claims not to mix things up.

Prof. Lee, the moderator, asked about WTO's perspective on the development of new rules in RTAs that are mentioned in session 1. Director do Prado answered that there are two sides to viewing the newly developed RTAs. One side is that the development of new rules in RTAs has been helpful because most of the provisions that are currently being discussed in the WTO come from RTAs. Another side is that it may lead to confusion in international trade due to fragmentation of the rules. It might create "Spaghetti Bowl Effects," which make things more complicated due to so many agreements.

The final question was about the discussion on Legitimate Public Policy Objective (LPPO) in WTO negotiations. LPPO exception has been discussed in the context of the JSI because these

exceptions would determine the agreeable scope of data flow. Theoretically, if they choose a freer flow of data, there is a smaller LPPO, while a limited flow of data will lead to a larger LPPO. He concluded by addressing that we have to find the right balance between these two.

2.3 Session 3: Spread of E-Commerce Norms and the Subsequent Challenges: Perspectives of the Private Sector

In the third session, Ms Fatimah Alsagoff (Director of Public Affairs of United Parcel Service, Asia Pacific) firstly introduced the company United Parcel Services, and its recent e-commerce growth story. She mentioned that the e-commerce market has been growing tremendously with the global spread of the COVID-19 virus, and supply chains are becoming more customer-centric. She explained that as trade structures become more complex, we face new challenges in border management. Then, she proposed a few recommendations to deal with emerging challenges: Implementing WTO trade facilitation agreements as the baseline, Encouraging further facilitation in low-value shipments, Enhancing trust-building and compliance-promoting mechanisms that SMEs are easy to comply with, and Leveraging emerging tech to manage risk efficiently. Among them, she emphasized facilitating low-value shipments by reducing paperwork, simplifying taxation, enhancing clearance, and supporting returns. Also, she mentioned that e-commerce growth should not be hindered by cumbersome border processes, showing proposals on duty & tax collection on low-value shipments and related contents.

Ms Esther Peh (Lead of External & Regulatory Affairs, AT&T Asia Pacific) introduced the operations at AT&T and the company's global network information. Then, she explained the importance of broadband access and the expansion of 5G. She presented that, these days, we can easily see areas where 5G technology is thriving – such as healthcare, education, entertainment, manufacturing – and that data flow across borders has increased significantly over the years. She emphasized that whenever we consider policy responses supporting the digital economy including trade agreements, we should consider interoperability, trade, and investment issues. She also added that having multi-stakeholder dialogues on a regular basis is necessary for global cooperation.

In the Q&A session, the moderator first asked about the special benefits of implementing e-commerce from the private sector perspective. Ms Alsagoff finds that e-commerce can be a very empowering mode for small businesses in that it democratizes trade, and allows them to engage in cross-border trade even without having the infrastructure in place. The private sector sees e-commerce as an opportunity for more segments of society to participate in trade. The second question was about the most burdensome trade barriers. She answered that trade barriers at the border are the most challenging issue in e-commerce. The growth of e-commerce has brought issues such as a large volume of small parcels, changing risk profiles, lots of unknown shippers, and many ways for people to take advantage of loopholes.

Additionally, a participant asked about a proposal on duty and tax collection that was mentioned during the presentation. Ms Alsagoff elaborated more on the proposal, suggesting a more simplified classification and duty rate system. It has buckets that allow a vendor to classify goods easily and apply relevant duties at the origin. If A and B economies agree on preferential duty rates, the bucket system could be an option, and agencies from A and B can declare specific HS codes and benefit from the system.

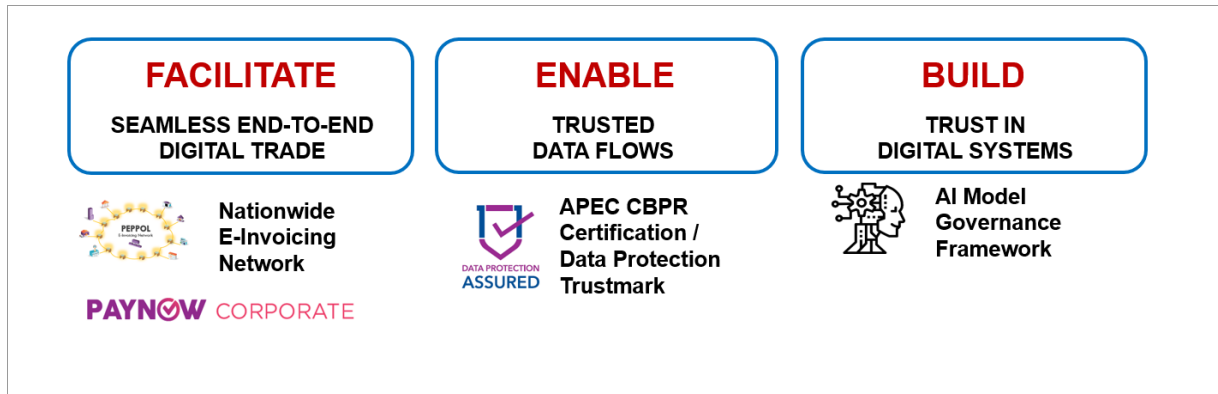
There were a few questions to Ms Peh, and the first one was about the efforts that have been made on the part of AT&T or in the industry to protect personal information. Ms Peh commented that AT&T is operating in several markets globally, and we set all the applicable rules and regulations especially for personal data and privacy. Another question was about regulatory concerns when the private companies encounter the new norms discussed in session 1. As an example, Ms Peh pointed out that when people now talk about AI they can never run away from thinking about privacy and data protection. Some of the commitments and provisions from new RTAs are consistent across borders, but some are different. She concluded that as the digital economy develops and grows over time, we should pay attention to how these different commitments or provisions interact.

2.4 Session 4: Experiences and Lessons Learned from the Negotiations (1): RCEP & DEPA

[RCEP] In the fourth session, Ms Sofi Soeria Atmadja (Policy Analyst, Center of International Affairs, Ministry of Communications and Informatics, Indonesia) provided a brief introduction to the historical background of the RCEP e-commerce chapter. And she explained that four provisions (Treatment on digital products, Promotion of Movement Natural Person, Electronic Settlement, and Disclosure of source code) were taken out from the e-commerce chapter in the consolidated text. Then, she presented some domestic measures related to regulations on e-commerce and the rapid development of the e-commerce sector in Indonesia. She elaborated challenges during negotiations, including different backgrounds, regulations, policies, and domestic measures, overlapping articles or provisions, and prudent discussion on some articles. She proposed that we should consider six following factors during negotiations: 1) public or stakeholder consultations for deadlock issues, 2) being mindful with negotiations timeline, 3) dissemination of domestic regulations, 4) prioritizing relationships among members, 5) pragmatically thinking, and 6) studying emerging e-commerce issues/topics. She also explained elements that should be considered under new FTAs, such as new spam, e-payment, comprehensive online consumer protection, digital trade standards, and e-invoicing. Finally, she emphasized the importance of e-commerce policies and regulatory reorientation in order to form a holistic ecosystem as well as to promote and facilitate stakeholders, particularly MSMEs, in joining e-commerce. She suggested that concrete actions are needed on cooperation and e-commerce dialogue under the RCEP forums.

[DEPA] Mr Shen Hong Tham (Senior Assistant Director, International Trade Cluster, Ministry of Trade & Policy, Singapore) presented an overview of the DEPA from Singapore's point of view. Singapore aimed to develop international frameworks to support businesses engaging in cross-border digital trade and e-commerce. The targeted outcomes of the DEPA were as follows: facilitating seamless end-to-end digital trade, enabling open and secure data flows, building trust in digital systems (Figure 4).

Figure 4. Target Outcomes of DEPA



Source: Mr Shen Hong Tham's Presentation Slides (Sept. 8, 2021)

Through this agreement, companies can reduce costs for businesses, increase efficiency, introduce faster payments, promote innovation, strengthen consumer trust and increase business competitiveness and market penetration. He introduced ongoing DEPA collaborations and projects. Singapore and New Zealand will be working on an International Connectivity System (ICS), including the exchange of e-certificates for animal products such as meat and meat products. And he shared that Singapore and New Zealand have adopted the Peppol electronic invoicing standard. Also, Chile customs has initiated a National Single Window project at APEC. It aims to connect National Single Windows to facilitate the exchange of trade data. Finally, he gave the audience information about how to join the DEPA and its procedure and shared lessons from the negotiation process

In the Q&A session regarding the RCEP, participants asked whether the RCEP can be a pathway towards FTAAP in terms of the e-commerce chapter. She emphasized that the RCEP covers significant region in terms of population and GDP. She also addressed that the RCEP creates new regional power and brings many opportunities, especially for the e-commerce within the APEC region, saying it will become an important beginning. Also, she mentioned the e-commerce chapter is important, but due to a flexibility issue, some members suggested making the e-commerce part to leave it as non-binding measures.

For Mr Tham, participants asked what the module approach adopted by DEPA exactly means, whether other economies can join or not, and how DEPA can help AI technology in practice.

For the first question, he explained the module approach allows parties to refine a module by amending texts, and to expand DEPA by adding a new module. Due to considering the evolution matters for emerging technology, the module approach ensures more flexibility. This module approach is not intended for other economies to come into DEPA and cherry-pick some modules of their interest. Regarding AI, he emphasized that even though it is not legally binding, parties and related agencies can start the discussion on AI regulation. The objective of creating AI module in DEPA is to make other economies –reflect certain principles of AI modules to their own AI regulations. The last question for Mr Tham was “what are the reasons to have overlapping agreements on e-commerce such as CPTPP, DEA, DEPA?” He explained that Singapore and Australia have a mutual interest in specific areas such as data flow illustrating the SADEA. They precisely included special references about cross-border privacy rules in the agreement. The Singapore’s strategy is to build specific and updated bilateral digital economy agreements to develop interoperability and harmonization between and among parties.

2.5 Session 5: Experiences and Lessons Learned from the Negotiations (2): CPTPP & USMCA

[CPTPP] In the fifth session, Mr Piero Guasta (Senior Advisor of Services and Digital Economy Division in Undersecretary for International Economic Relations of Ministry of Foreign Affairs, Chile) introduced the key aspects of the digital economy (free data flows, no forced localization of computer facilities, no discrimination of digital products) and development of Chile’s digital economy briefly. Following a basic introduction, he explained the main objectives and key articles of the CPTPP’s e-commerce chapter. He mentioned that the CPTPP aligns with Chile’s main trade objectives: to make permanent the Moratorium on imposing tariffs to electronic transmissions, commitments on no discrimination, no force localization of computer facilities, free flow of data but with the flexibility to apply some exceptions like data privacy protection. He also shared the main lessons of the negotiations. Specifically, two-tier negotiations, working with internal Ministries and agencies, should be proceeded, and communication with civil society should be considered. And avoiding highly technical or difficult language and engaging with various stakeholders are important. Additionally, he touched upon Pacific Alliance which has basically the same e-commerce

chapter as the CPTPP.

[USMCA] Mr Nolan Wiebe (Senior Trade Policy Officer, Services Trade Policy Division, Global Affairs, Canada) scrutinized the digital trade chapter of the. He explained the articles that were modified or newly added, compared with the CPTPP or other trade agreements. Specifically, the modified articles are as follows: Non-discriminatory treatment of digital products (not subject to annex reservations, no broadcasting carve-out), Cross-Border transfer of information (footnote 5 is newly created: differential treatment for cross-border transfers), Location of computing facilities, Unsolicited commercial electronic messages, Cyber security, and Source code. And from the perspective of Canada, newly created articles were about 'Interactive Computer Services' and 'Open Government Data'. Also, mentioning that the negotiating challenges for Canada were focused on data localization, privacy, and interactive computer services, he presented the details with lessons from the negotiation. He constantly stressed the importance of consulting with governments and agencies when formulating trade policy negotiations (due to different economic backgrounds, policy positions, etc.)

In the Q&A session, participants asked Mr Nolan about the relations between programming services and cultural exceptions under the service chapter. Mr Nolan said that the balance between protecting online providers and internet users is a complex issue. Canada included the civil liability provision where an Internet platform should take responsibility for user-generated harmful content in the agreement, but this is still under discussion and challenging to the parties.

Regarding the financial services chapter, Mr Guasta said that the chapter is self-contained, and not connected with others. Chile has an exception for the localization of computer facilities for financial services because in the past Chilean law indicated that Chile required a copy of key information of financial services.

2.6 Session 6: Data Privacy and Digital Platform Competition on E-Commerce

In the sixth session, Ms Shannon Coe (Director of Global Data Policy, US Department of Commerce) firstly introduced CBPR (Cross-Border Privacy Rules) system and PRP (Privacy

Recognition for Processors). The APEC CBPR System with nine member economies was modeled from the OECD framework on the protection of privacy and trans-border flows of personal data. The system is a voluntary and enforceable certification that companies can join to demonstrate compliance with internationally recognized data privacy protections. The PRP was designed to help processors demonstrate their ability to implement a controller’s privacy requirements and help controllers identify qualified processors. For now, two economies (the US and Singapore) are participating in PRP. She presented core principles and some examples of CBPR recognitions elaborated participation requirements such as enforceable standards, cross-border enforcement cooperation, accountability, risk-based protections, consumer empowerment, and provided a CBPR process overview. She brought examples that Singapore and Japan has amended the Personal Data Protection Regulation to recognize the APEC CBPR system certifications as one of the modes for overseas data transfer. Also, she mentioned that the parties of USMCA and SADEA recognize that the CBPR system is a valid mechanism to facilitate cross-border information transfers while protecting personal information.

She explained how to apply for CBPR certification and the benefits of APEC CBPR certification for companies, all stakeholders, and processors (Figure 5). Finally, she emphasized that APEC CBPR should continue to improve the existing system and expand interoperability with other regional frameworks.

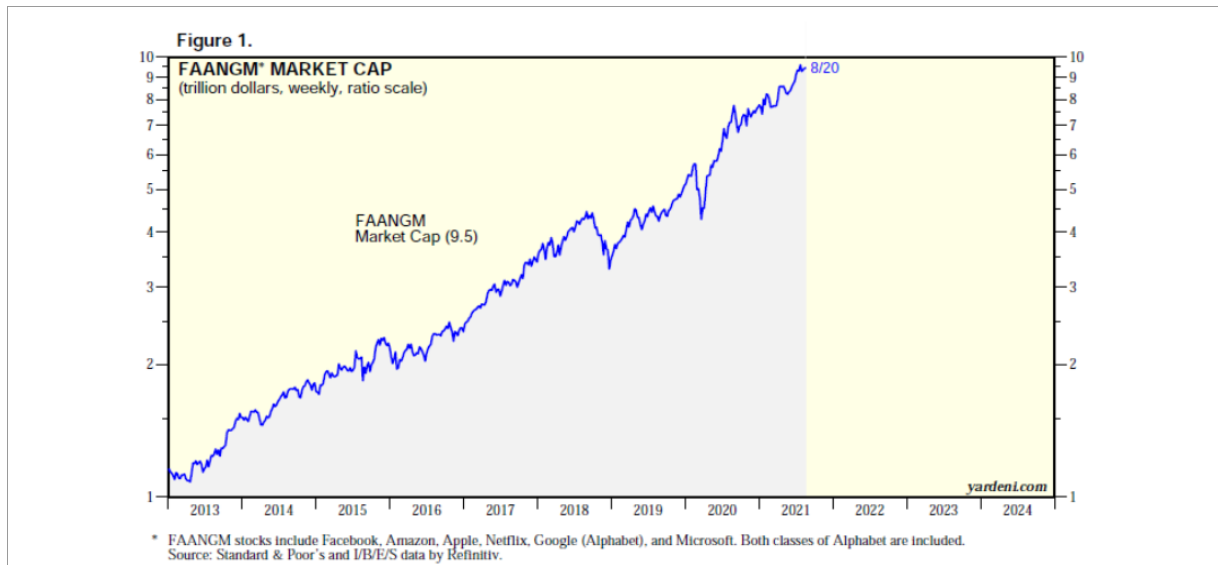
Figure 5. Benefits of APEC CBPR Certification

For Companies
➤ Creates basis for global corporate privacy program and facilitates compliance abroad
➤ Converts companies’ existing privacy programs into a cross-border transfer mechanism
➤ Demonstrates accountability and trust to consumers and national enforcement bodies
➤ Streamlines business operations in Asia-Pacific markets and throughout the U.S., Mexico, and Canada
For All Stakeholders
➤ Establishes consistent requirements across jurisdictions with varying approaches to data protection
➤ Enables enforcement and cooperation between different national authorities
➤ Prevents barriers to cross-border flows, while ensuring common protections travel with data
➤ Allows flexibility in implementation, while also ensuring legally enforceable protections

Source: MsShannon Coe's Presentation Slides (Sept. 9, 2021)

Prof. Jay Pil Choi (Distinguished Professor for Economics, Michigan State University) explained the digital platform market dominance of big techs such as Google, Facebook, and Amazon (Figure 6).

Figure 6. Evidence of Market Dominance



Source: Prof. Jay Pil Choi's Presentation Slides (Sept. 9, 2021)

Then he elucidated the fundamental reasons for this market concentration and elaborated an issue of inadequacy of the current regime regulating the monopoly. He emphasized the need for international cooperation to solve the entrenched monopoly and harmonization with existing laws and enforcement tools. He explained that broad consensus on the high desirability of a uniform substantive and procedural antitrust regime already exists, but the question is how to harmonize economies with individual sovereign rights.

He presented a few proposals, for example, the case of G7 Digital and Technology Minister's Meeting and International Competition Network (ICN) activities. Especially, ICN was founded in 2001 to improve global cooperation and enhance convergence in competition policy through dialogue among competition authorities worldwide. He stressed that the ICN framework would be helpful for APEC, as APEC also shares similar goals for market competition among member economies. Finally, he highlighted that one possible convergence path to harmonization and international coordination most agreed upon is effects-based antitrust enforcement guided by economic principles.

In the Q&A session, participants asked about the major challenges to improve the understanding and awareness of the CBPR. Ms Coe answered that since the CBPR is a voluntary system rather than a regulatory requirement, it is hard to convince the person in charge of companies. However, Singapore, Japan, and non-APEC economies recognize the CBPR as a certification mechanism for cross-border data transfer. APEC members need to work towards increasing recognition and enhancing the benefits for the companies. As a CBPR representative of the US, she reaches out to companies in member economies and informs them about the program and its benefits. Large companies have due diligence requirements that they have to meet before sharing data overseas, and the CBPR and PRP system provides a streamlined process, which is very beneficial to companies. These economic benefits of CBPR and PRP system become more apparent as people become aware of the program.

For Prof. Choi's presentation, participants asked “what should be the priority among merger control, cartel regulation or unilateral conduct in mitigating the divergence between different jurisdictions’ competition policy enforcements?” Prof. Choi answered that for the digital platform, cartel regulation is less concerned since it is not dominated by one firm. However, algorithmic collusion can be problematic in the digital market. For example, in the airline industry, there are many routes whose price will not be determined manually and will be calculated by an algorithm. Therefore, how to regulate this AI algorithm collusion is an increasingly important issue. He said merger control could be the least important because it can be implemented right away. However, Prof. Choi emphasized all three regulations are equally important.

III. Conclusion

Overall, the workshop provided an excellent opportunity for APEC member economies government officials with useful discussions on e-commerce elements in FTAs/RTAs. Most participants showed appreciation for the topic's relevance to their daily works and for the valuable materials on various e-commerce issues provided throughout the workshop. As a result, the workshop achieved its intended goal by allowing participants to enhance their

understandings, share experiences, and exchange views on how to better negotiate FTAs/RTAs in e-commerce. Many government officials said that the workshop was beneficial for their future e-commerce negotiations.

According to the results of the survey following the workshop, participants expressed their full satisfaction with the structure, expertise of speakers, as well as the real story of experiences and lessons from the negotiations. All materials from the workshop were uploaded to the official website of APEC.

Appendix: Workshop Program

FTAAP Capacity Building Workshop on E-commerce Elements in FTAs/RTAs (Phase 2)

Virtual workshop hosted by the Republic of Korea
8-9 September, 2021

☞ **Facilitator** : Yungshin Jang, Director of Korea National Center for APEC Studies, Korea Institute for International Economic Policy (KIEP)

Day 1	8 September, 2021 (Wednesday) 14:00 pm –18:00 pm (Singapore time)
14:00-14:10	<p>Opening Remarks</p> <p>- Seong-ho Lee, Deputy Minister for Economic Affairs, Ministry of Foreign Affairs, Republic of Korea</p> <p>Photo Session (<i>all the participants are encouraged to turn on the camera for a while</i>)</p>
14:10-14:50	<p>Session 1</p> <p>Opportunities and Challenges of the E-Commerce Sector in RTAs/FTAs Negotiation</p> <p>The first session aims to explore the recent progress (after the CBNI Phase 1 Workshop in 2019) on the e-commerce chapter in RTAs/FTAs by examining achievements and limitations and comparing the rules/regulations of newly adopted agreements.</p> <p>- Speaker : Hyo-Young Lee, Professor, Korea National Diplomatic Academy - Moderator : Jaemin Lee, Professor of International Law, Seoul National University</p> <p>* 30-minute presentation by the speaker → 10-minute Q&A</p>
14:50-15:30	<p>Session 2</p> <p>Recent Trends and Main Issues on WTO E-Commerce Negotiations</p> <p>The second session will guide the participants (current or future negotiators) to understand the recent trends and main issues of negotiations in relation to electronic commerce (or digital trade, hereafter E-commerce) in the WTO and to look into the expected outcomes of the 12th Ministerial Conference (MC12).</p> <p>- Speaker : Victor Luiz Do Prado, Director of the TNC Division, WTO - Moderator : Jaemin Lee, Professor of International Law, Seoul National University</p> <p>* 30-minute presentation by the speaker → 10-minute Q&A</p>
15:30-15:40	Break

15:40-16:50	<p>Session 3 Spread of E-Commerce Norms and the Subsequent Challenges: Perspectives of the Private Sector</p> <p>The third session aims to help E-commerce negotiation practitioners in APEC member economies understand the opportunities and challenges that the private sector is facing as the E-commerce norms spread.</p> <ul style="list-style-type: none"> - Speaker (1) : Fatimah Alsagoff, Director of Public Affairs, UPS (Asia Pacific) - Speaker (2) : Esther Peh, Lead of External & Regulatory Affairs, AT&T (Asia Pacific) - Moderator : Jaemin Lee, Professor of International Law, Seoul National University <p>* 30-minute presentation by each speaker → 10-minute Q&A</p>
16:50-18:00	<p>Session 4 Experiences and Lessons Learned from the Negotiations (1): RCEP & DEPA</p> <p>The fourth session shares the experiences and lessons-learned of the member economies that participated in the e-commerce negotiations, namely the RCEP and DEPA. The presentations will introduce basic information on the agreements (including their importance and expected benefit as well as the difficulties during the negotiation process) and address challenges in the process of domestic implementation, etc.</p> <p>Moderator : Jaemin Lee, Professor of International Law, Seoul National University</p> <p>Topic 1: Digital chapter of the RCEP (Regional Comprehensive Economic Partnership) - Speaker : Sofi Soeria Atmadja, Policy Analyst, Coordinator of Regional Affairs Center of International Affairs, Ministry of Communications and Informatics, Indonesia</p> <p>Topic 2 : the DEPA (Digital Economy Partnership Agreement) - Speaker : Shen Hong Tham, Senior Assistant Director, Multilateral Trade Policy, International Trade Cluster, Ministry of Trade & Industry, Singapore</p> <p>* 30-minute presentation by each speaker → 10-minute Q&A</p>

Day 2	9 September, 2021 (Thursday) 9:00 am –11:25 am (Singapore time)
09:00-10:10	<p>Session 5 Experiences and Lessons Learned from the Negotiation (2): CPTPP & USMCA</p> <p>The fifth session shares the experiences and lessons-learned of the member economies that participated in the e-commerce negotiations, namely the CPTPP and the USMCA. The presentations will introduce basic information on the agreements (including their importance and expected benefit as well as the difficulties during the negotiation process) and address challenges in the process of domestic implementation, etc.</p> <p>Moderator : Dukgeun Ahn, Professor of International Trade Law and Policy / Director of</p>

	<p>Center for International Commerce, Seoul National University</p> <p>Topic 1 : Digital chapter of the CPTPP (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) - Speaker : Piero Guasta, Senior Advisor, Services and Digital Economy Division, Undersecretariat of International Economic Relations, Ministry of Foreign Affairs, Chile</p> <p>Topic 2 : Digital chapter of the USMCA (United States-Mexico-Canada Trade Agreement) - Speaker : Nolan Wiebe, Senior Trade Policy Officer, Services Trade Policy Division, Global Affairs Canada</p> <p>* 30-minute presentation by each speaker → 10-minute Q&A</p>
10:10-11:20	<p>Session 6 Data Privacy and Digital Platform Competition on E-Commerce</p> <p>This sixth session consists of two sub-sessions: Data Privacy & Digital Platform Competitions on E-commerce. The first sub-session will focus on APEC Cross-Border Privacy Rules (CBPR), a data privacy certification system developed by APEC in 2011. The next sub-session will examine the pro-competitive and anti-competitive effects of digital platforms that play a key role in the E-commerce ecosystem. This sub-session helps negotiators have deeper understanding of digital platforms.</p> <p>Moderator : Dukgeun Ahn, Professor of International Trade Law and Policy / Director of Center for International Commerce, Seoul National University</p> <p>Topic 1 : Progress and prospects of APEC CBPR - Speaker : Shannon Coe, Director of Global Data Policy, U.S. Department of Commerce</p> <p>Topic 2 : Tech platforms and market competition - Speaker : Jay Pil Choi, Distinguished Professor for Economics, Michigan State University</p> <p>* 30-minute presentation by each speaker → 10-minute Q&A</p>
11:20-11:25	<p>Closing (Wrap-up) by Dukgeun Ahn, Professor, Seoul National University</p>