E-Commerce and Trade Regulations
<table>
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<tbody>
<tr>
<td>Addressing E-Payment Challenges in Global E-Commerce</td>
<td>Paperless Trading: How Does it Impact the Trade System</td>
<td>Making Deals in Cyberspace: What’s the Problem?</td>
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AFRICA E-COMMERCE AGENDA

ITC and World Economic Forum led call for action from e-commerce stakeholders: September 2019

Eight Point Action Agenda

1. Refresh policies
2. Expand connectivity
3. Upgrade logistics
4. Enable e-payments
5. Manage data
6. Grow tech
7. Coach small businesses
8. Join forces
1. SMEs have limited resources to shoulder frictional costs of customs clearance and advanced knowledge of duties.

2. TFA: Step in the right direction

3. Recommendations for ‘TFA-plus’ moves targeted towards small, low-value and returns-heavy nature of e-commerce goods:
   
a) Apply principles of functional equivalence
b) Refrain from erecting new barriers to e-commerce shipments
c) Simplify release of return packages
d) Re-affirm benchmarks for simplified entry procedures
e) Flexible conditions for releasing return packages
Requirement to use paper-based documents is a barrier for cross-border e-commerce transaction.

If electronic trade documents not accepted, e-commerce parcels have to be individually declared.

Principles for governance co-operation:

1. Non-discrimination
2. Functional equivalence
3. Technology neutrality
# Typology of E-transaction Laws

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<tr>
<th>Types</th>
<th>Key features</th>
<th>Pros</th>
<th>Cons</th>
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<tbody>
<tr>
<td>Minimalist</td>
<td>The same status is given to e-signatures as to handwritten ones, provided the method or technology used is fit for purpose</td>
<td>Adaptability to technological developments, business and consumer friendly, limited cross-border friction</td>
<td>The appropriateness of the e-signature method used will only be judged after the fact if there is a dispute</td>
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<td>Prescriptive</td>
<td>A requirement to employ a specific method or technology to sign documents electronically</td>
<td>Maximum certainty on what methods and technologies can be used for an e-signature to have legal recognition</td>
<td>Limited recognition of emerging technologies that offer new benefits, challenges for SMEs to comply on a cross-border basis</td>
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<td>Hybrid (two-tier)</td>
<td>Mixed approach that may provide legal status to all methods, such as typing a name at the bottom of an email. Greater evidentiary weigh may be afforded to certain methods, however, such as digital signatures or qualified e-signatures.</td>
<td>Users have a choice, but greater certainty if they decide to employ certain technologies</td>
<td>Regulatory frameworks can be more complex to navigate</td>
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# Towards Harmonization: Model Law

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<tr>
<td><strong>Aim:</strong> Predictability, removal of barriers</td>
<td><strong>Technical inter-operability of standards</strong></td>
<td><strong>Principles for cross-border, low-value B2B and B2C transactions:</strong></td>
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<tr>
<td>Non-discrimination, functional equivalence between online and offline contracts</td>
<td><strong>Mutual recognition of certification agencies</strong></td>
<td>Explicit and informed consent</td>
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<tr>
<td>Adopted by 70+ nations</td>
<td><strong>Functional equivalence and technology neutrality.</strong></td>
<td>Transparency and independence</td>
</tr>
<tr>
<td></td>
<td><strong>Adopted by 30+ nations</strong></td>
<td>Used by national legislation and private dispute resolution processes.</td>
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CROSS BORDER ELECTRONIC EXCHANGE OF INFORMATION

UN APTIR 2019: Cross-border electronic exchange of information can significantly reduce trade costs of NTMs.

Different regulatory regimes: Local Storage and processing, Conditional Transfer, Ban on Transfer

Divergent regulatory practices: Increased costs, barriers for MSMEs

Parallel concerns: Privacy, cyber-security, government access, industrial policy

Interoperability mechanisms to facilitate exchange between diverse regimes: Adequacy, EU-US Privacy Shield, APEC CBPR, Model contracts
E-payments: Major barrier for e-commerce

Cross-border payments needed across complex multi-party e-commerce business models.

**Existing barriers**

- Regulatory divergence on payment, messaging and security standards.
- Compounded by evolving financial technology.
- Creation of domestic standards inhibits access to new technologies and services.
- Limited options and regulatory barriers for real-time processing of payments.
• Encourage cashless transactions

• National/regional payment gateway systems aimed to facilitate market entry and enable interoperable payments.

• Open Banking Guidelines (Singapore): Guide for financial institutions and technology companies to share financial data.

• Industry-led effort to adopt international standards.

• Regulatory sandbox approach by central banks or governments.
## Existing WTO Agreements Affecting E-commerce

### Goods
- General Agreement on Tariffs and Trade (GATT)
- Information Technology Agreement (ITA)

### Services
- General Agreement on Trade in Services (GATS)
  - Positive list for national treatment and market access, opt-out for MFN
  - W/120 Classification
  - 4 modes
- Reference Paper and Annex on Telecommunications

### Intellectual Property
- TRIPS Agreement
Thank You