

E-Commerce and Trade Regulations



Digital Trade

**Delivering the Goods:
E-commerce Logistics
Transformation**

**The Global Governance of
Online Consumer Protection
and E-commerce**

**Windows of Opportunity:
Facilitating Trade with
Blockchain Technology**

**Addressing E-Payment
Challenges in Global E-
Commerce**

**Paperless Trading: How Does it
Impact the Trade System**

**Making Deals in Cyberspace:
What's the Problem?**

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

DELIVERING THE GOODS: E-COMMERCE LOGISTICS TRANSFORMATION

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

MOVING TO PAPERLESS TRADING

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

TYOLOGY OF E-TRANSACTION LAWS



Types	Key features	Pros	Cons
Minimalist	The same status is given to e-signatures as to handwritten ones, provided the method or technology used is fit for purpose	Adaptability to technological developments, business and consumer friendly, limited cross-border friction	The appropriateness of the e-signature method used will only be judged after the fact if there is a dispute
Prescriptive	A requirement to employ a specific method or technology to sign documents electronically	Maximum certainty on what methods and technologies can be used for an e-signature to have legal recognition	Limited recognition of emerging technologies that offer new benefits, challenges for SMEs to comply on a cross-border basis
Hybrid (two-tier)	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.	Users have a choice, but greater certainty if they decide to employ certain technologies	Regulatory frameworks can be more complex to navigate

Model Law on E-Commerce, 1996

- Aim: Predictability, removal of barriers
- Non-discrimination, functional equivalence between online and offline contracts
- Adopted by 70+ nations

Model Law on E-Signatures, 2001

- Technical inter-operability of standards
- Mutual recognition of certification agencies
- Functional equivalence and technology neutrality.
- Adopted by 30+ nations

Technical Notes on Online Dispute Resolution

- Principles for cross-border, low-value B2B and B2C transactions:
- Explicit and informed consent
- Transparency and independence
- Used by national legislation and private dispute resolution processes.

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.

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

