

Session 4: Policy and Regulation for Inclusive Digital Services: Interoperability, Liberalization and Market Access

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Key points

- Digital Market Access = Liberalization + Interoperability
- Interoperability Failures are Inclusivity Tax
 - Digitally Connected SMEs
 - Traditional SMEs
 - Rural-, Marginalized business
- Domestic institutional reform, beyond treaty commitment, is necessary for Asia-Pacific



Digital Market Access = Liberalization + Interoperability

Concept	Focus	Action Required	Examples from Trade Agreements
1. Liberalization (Don't do this)	Policy & Market Entry	Removal: Commit not to maintain restrictive policies.	CPTPP Art. 14.13: Prohibits mandatory local server storage.
2. Regulatory Interoperability (Recognize this)	Legal Recognition	Alignment : Commit to recognize the legal validity of foreign digital processes.	DEPA Mod. 2: Ensures foreign electronic signatures have legal effect.
3. Technical Interoperability (Use this standard)	System Functionality	Adoption (Harmonization): Commit to adopt or encourage common digital standards.	EU-Singapore DPA Art. 3.7: Promotes interoperable e-invoicing (e.g., Peppol standards).

Inclusivity Tax of Non-Interoperability

	Digitally Connected SMEs & Startups	Traditional SMEs (Manufacturing, Retail)
Barrier Focus	Digital/Data Flow Barriers (Invisible)	Physical/Regulatory Barriers (Visible)
Non-Interoperability Cost	Existential Barrier (Prevents the business from running)	Friction/Compliance Barrier (Increases transaction cost)
Example of issues	Lack of e-signature MR means a service contract is legally void. Data localization prevents using an efficient cloud server.	Lack of standardized customs forms means customs paperwork must be redone at every border.
Impact on SMEs	Cannot access foreign market at all.	Can still export, but profitability is eroded by delays and administrative overhead.

Can Trade Agreements Help?

Challenge Category	How Trade Agreements Address It
Legal/ Regulatory	Directly : Mutual recognition of standards and prohibit overly restrictive regulatory measures (e.g., data localization).
Organizational	Directly : Regulatory cooperation: establish working groups, and create mechanisms to resolve disputes or align future regulations.
Technical	Indirectly : Encourage the use of internationally recognized technical standards (e.g., ISO) but rarely mandate specific technologies.
Semantic	Indirectly : Push for transparency and shared definitions but do not manage the day-to-day complexity of data terminology or context.

Trade agreements and Domestic Regulation

Trade Agreement between Country A and Country B	Country A's Regulation	Country B's Regulation
Allowing cross-border data transfer subject to legitimate public interest .	Data export is allowed only if the receiving country meets an "adequacy" standard or the data is protected via specific contracts (SCCs)	Certain categories of "sensitive" business data must be stored and processed exclusively on local servers .
Ensuring digital products meet necessary security and technical requirements	Digital devices (e.g., IoT sensors, routers) must use widely recognized, international encryption protocols and testing certified by bodies like ISO	Digital devices must use a unique, nationally-developed encryption algorithm and must be certified by a specific domestic-only security agency

Spectrum of Specificity in Trade Agreements

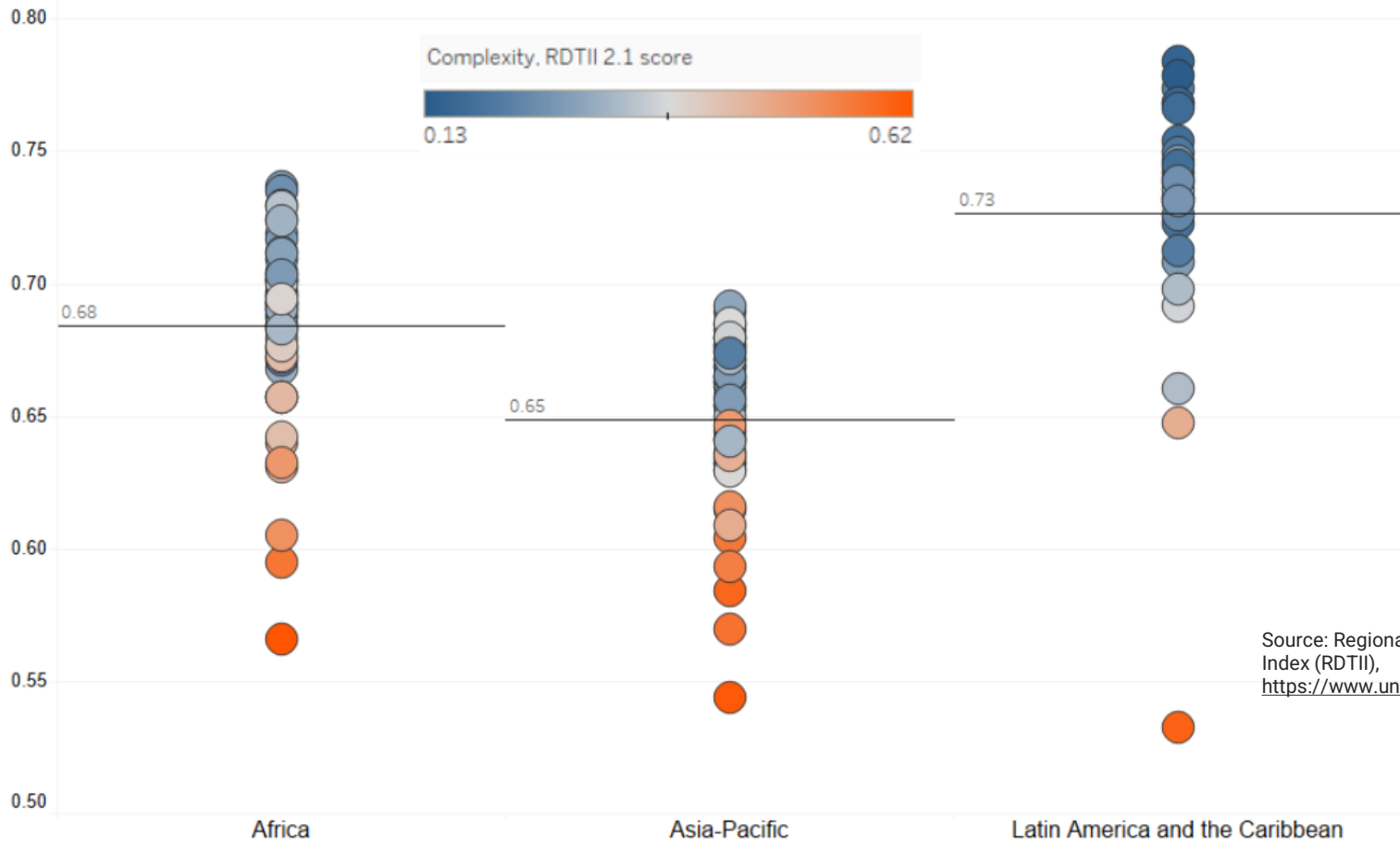
Area of Interoperability	Typical Level of Detail	Nature of Commitment	Example Agreements & Provisions
Data Governance/Privacy	High-Level (Principles-based)	Aspirational / "Shall take into account"	CPTPP, USMCA: Encourage compatibility between data protection regimes.
Paperless Trade	Specific (Mechanism-focused)	Legal Obligation / "Shall permit"	WTO TFA: Requires a Single Window system.
Electronic Signatures/Contracts	Specific (Legal Standard)	Legal Equivalence / "Shall not deny legal validity"	DEPA, USMCA: E-signatures must have the same legal effect as paper.
E-Invoicing/E-Certification	Very Specific (Technical Standards)	Cooperation on mutual recognition of technical standards	Digital Economy Agreements (DEAs): Focus on using international standards (e.g., UN/CEFACT).



Digital Trade Regulatory Environment

ESCAP-ECA-ECLAC RDTII

Regulatory similarity of the group: 0 (Lowest similarity), 1 (Highest similarity) ★



Source: Regional Digital Trade Integration Index (RDTII), <https://www.unescap.org/projects/rcdtra>

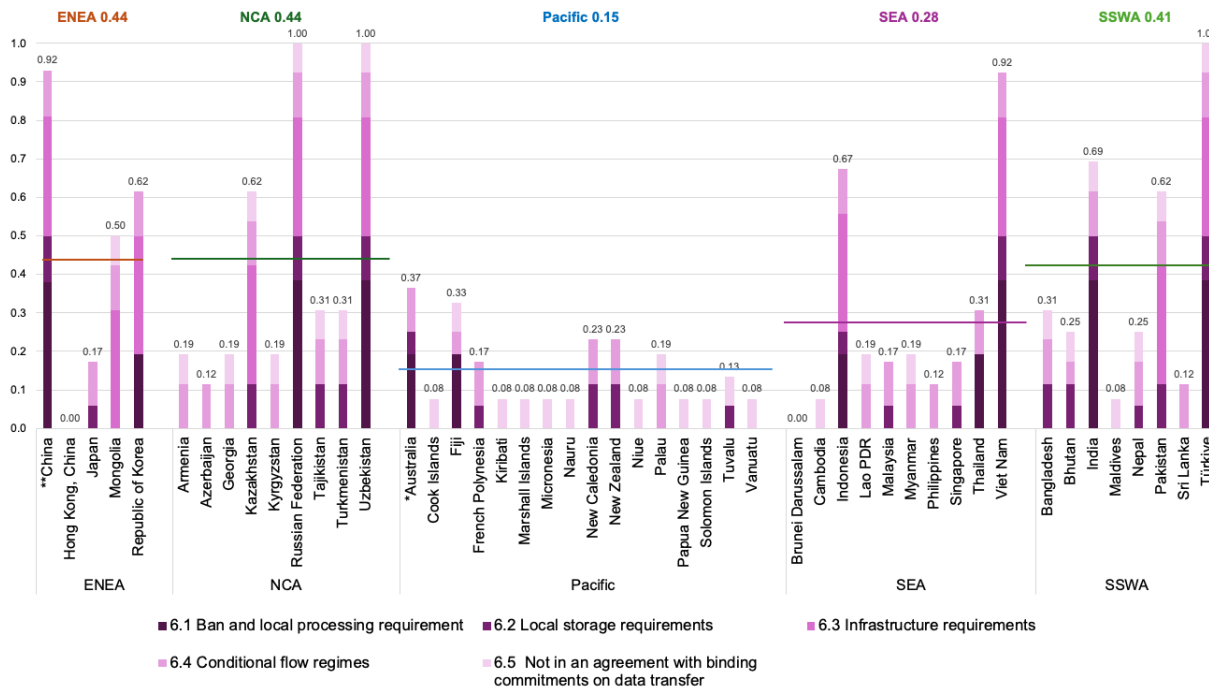
Cross-border data policies

RDTII Pillar 6 (Cross-border data policies) in sample Asia-Pacific, 2024-25

High compliance cost

RDTII score

Low compliance cost



No Bans Implemented on Data Flows; Some Data Localization

- 22 of 48 economies require sector-specific or non-personal data storage.

Conditional Flow Regimes

- Widely applied, with varied conditions (e.g., consent, approval, adequacy).

Low participation in agreements with binding commitments on data flows



* Preliminary data only
 ** Based on initial data from EUI
 *** Not all members shown

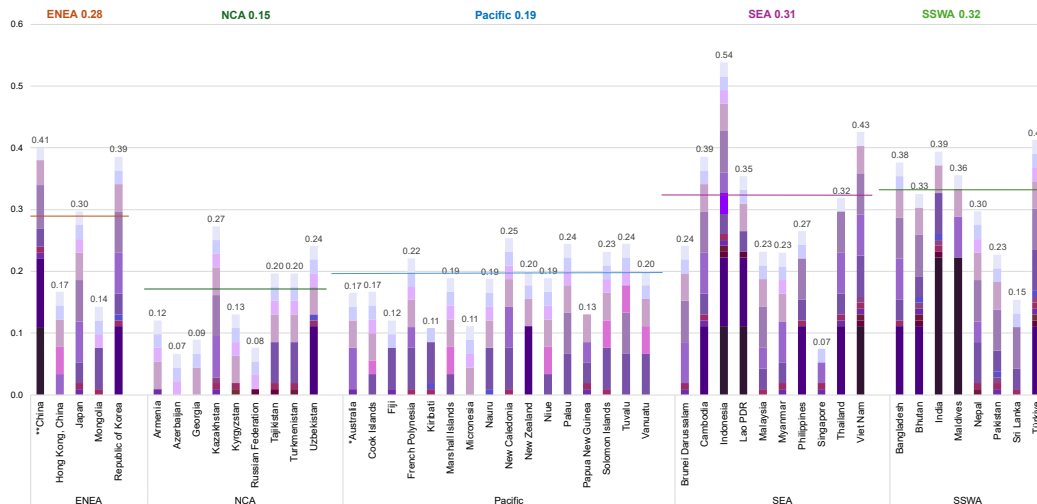
Online sales and transactions

RDTII Pillar 12 (Online sales and transactions measures) in sample Asia-Pacific, 2024-25

High compliance cost

RDTII score

Low compliance cost



- 12.1 Foreign equity limits in e-commerce sector
- 12.2 Online purchases and delivery limitations
- 12.3 Licensing scheme for e-commerce providers (B2B and B2C)
- 12.4.1 Online payment limitations: mandate local bank account
- 12.4.2 Online payment limitations: mandate currency used for international payments
- 12.4.3 Online payment limitations: deviate national standards
- 12.4.4 Online payment limitations: licensing requirements
- 12.4.5 Online payment limitations: ceiling on the maximum amount
- 12.4.6 Online payment limitations: mandate specific intermediaries
- 12.4.7 Online payment limitations: others restrictions
- 12.5 Low De Minimis
- 12.6 Imposition of custom duties on electronic transmission
- 12.7 Domain name requirements
- 12.8 Local presence requirements for online service providers
- 12.9 Lack of legal framework for online consumer protection
- 12.10 Not in the United Nations Convention of Electronic Communications
- 12.11 Not in the UNCITRAL Model Law on Electronic Commerce
- 12.12 Not in the UNCITRAL Model Law on Electronic Signatures
- 12.13 Not in the UNCITRAL Model Law on Electronic Transferable Records

Supportive e-commerce regulatory environment

- Online consumer protection
- Few foreign equity limits
- Few online purchase and deliver restrictions
- No custom duties on electronic transmission

Online Payment Restrictions

- Most observed: licensing requirements for payment services and celling on the maximum amount

Low De Minimis rule

- 33 sampled economies have De Minimis threshold

Insufficient ratification of international frameworks



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Toward inclusive digital market access

Service Trade Agreement Design

- Support Equivalence and Trust
 - Outcomes-Based
 - Regulatory Dialogue Chapter
 - Non-Regression Clause
- Facilitate Dispute Resolution
 - Transparency
 - Arbitration

Domestic Regulation Design

- Support Interoperability and Simplicity
 - Principles-Based
 - Sunset Clause
 - International Standards
- Facilitate Innovative Compliance
 - Regulatory Sandboxes
 - Substituted Compliance

THANK YOU!

