



**Pacific**  
E-commerce  
Initiative

# **Case Study: the WTO JSI on E-commerce - feed back by a co-convener**

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E-Commerce Training Programme  
for Pacific Negotiators  
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**PACIFIC ISLANDS FORUM**



# WTO JSI on E-commerce

- 1. Mandate and objectives**
2. Characteristics of the negotiation
  - (1) Aiming for high-standard outcome
  - (2) Openness, transparency and inclusiveness
  - (3) Consideration for development aspects
3. State of play and next steps
4. Q&As

# Overview of WTO JSI E-com negotiation

Start of the exploratory work	December 2017 (on the margin of MC11)
Number of members	86 (including a number of developing members and 3 LDCs) Albania; Argentina; Australia; Bahrain, Kingdom of; Benin; Brazil; Brunei Darussalam; <u>Burkina Faso</u> ; Cameroon; Canada; Chile; China; Colombia; Costa Rica; Côte d'Ivoire; Ecuador; El Salvador; European Union (and 27 EU members); Georgia; Guatemala; Honduras; Hong Kong, China; Iceland; Indonesia; Israel; Japan; Kazakhstan; Kenya; Korea, Republic of; Kuwait, the State of; <u>Lao People's Democratic Republic</u> ; Liechtenstein; Malaysia; Mexico; Moldova, Republic of; Mongolia; Montenegro; <u>Myanmar</u> ; New Zealand; Nicaragua; Nigeria; North Macedonia; Norway; Panama; Paraguay; Peru; Philippines; Qatar; Russian Federation; Saudi Arabia, Kingdom of; Singapore; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; Turkey; Ukraine; United Arab Emirates; United Kingdom; United States; Uruguay;
Co-conveners	Australia, Japan and Singapore
Topics covered	A. Enabling digital trade/e-commerce B. Openness C. Trust D. Cross-cutting issues E. Telecommunication F. Services Market Access
Format	Plenary meeting (hybrid) + small group meetings (virtual)



# 1. Mandate and the objectives

## (1) Mandate

- [Work Programme on Electronic Commerce](#) at WTO since 1998
  - Members have discussed E-commerce related issues at various forum of WTO and required to report the results to General Council.
- [Joint Statement on Electronic Commerce](#) issued (by 71 WTO Members) on the margins of **the Eleventh WTO Ministerial Conference (MC11) in December 2017**
  - Signatories agreed to initiate **exploratory work** together towards future WTO negotiations on trade-related aspects of electronic commerce.
- [A second Joint Statement on Electronic Commerce](#) issued (by 76 WTO Members) at Davos in **January 2019**
  - Signatories confirmed their intention to **commence WTO negotiations** on trade-related aspects of electronic commerce.



# 1. Mandate and the objectives

## (2) Objectives - E-commerce JSI

- '(Signatories) reaffirm the importance of global electronic commerce and the opportunities it creates for inclusive trade and development.'
- 'We also recognize the important role of the WTO in promoting **open, transparent, non-discriminatory and predictable** regulatory environments in facilitating electronic commerce.'
- 'We will seek to achieve a **high standard outcome that builds on existing WTO agreements** and frameworks with the participation of as many WTO Members as possible.'
- 'We recognise and will take into account **the unique opportunities and challenges** faced by Members, including **developing countries and LDCs, as well as by micro, small and medium sized enterprises**, in relation to electronic commerce.'



# 1. Mandate and the objectives

## (2) Objectives - opportunities

- E-Commerce has enabled companies to continue their business even during COVID pandemic.
- 'The digital economy offers enormous opportunities for developing Members and least-developed country (LDC) Members, including by **lowering the costs for businesses**, particularly MSMEs, to access and participate in global markets. WTO rules and commitments on digital trade can help unlock these opportunities.'  
(Statement by the Minister of Australia, Japan and Singapore (December, 2021))

# 1. Mandate and the objectives

## (2) Objectives - Challenges of business

**Examples of challenges of businesses, including MSMEs, are facing in cross-border e-commerce**

Topics	Examples of Issues
Personal information protection	<ul style="list-style-type: none"><li>• Lack of /complicated rules on personal information protection, as well as fragmented relevant policies across borders, would undermine consumers' trust and give rise to the increase of compliance costs.</li></ul>
Logistic solution	<ul style="list-style-type: none"><li>• Prices of goods or services would be increased due to logistics costs.</li></ul>
Electronic payments	<ul style="list-style-type: none"><li>• There would be risks of payment failure in some countries where so many companies or private people do not have bank accounts or credit cards.</li></ul>
Customs procedures	<ul style="list-style-type: none"><li>• Complicated and obsolete customs procedures would give rise to additional lead time.</li></ul>
Consumer protection	<ul style="list-style-type: none"><li>• Lack of /vague consumer protection policy would bring about fraudulent or deceptive marketing or advertising by online sellers.</li></ul>
Data flow regulation	<ul style="list-style-type: none"><li>• Regulation of data outflow will hinder enterprises from effective marketing in that country.</li></ul>
Data localization requirement	<ul style="list-style-type: none"><li>• Installing computing facilities in specific countries would give rise to the significant increase of operating cost.</li></ul>
Disclosure of source code	<ul style="list-style-type: none"><li>• Mandatory disclosure of intellectual property or business secret would lower the motivation of access to the markets.</li></ul>



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## 2. Characteristics of the negotiation

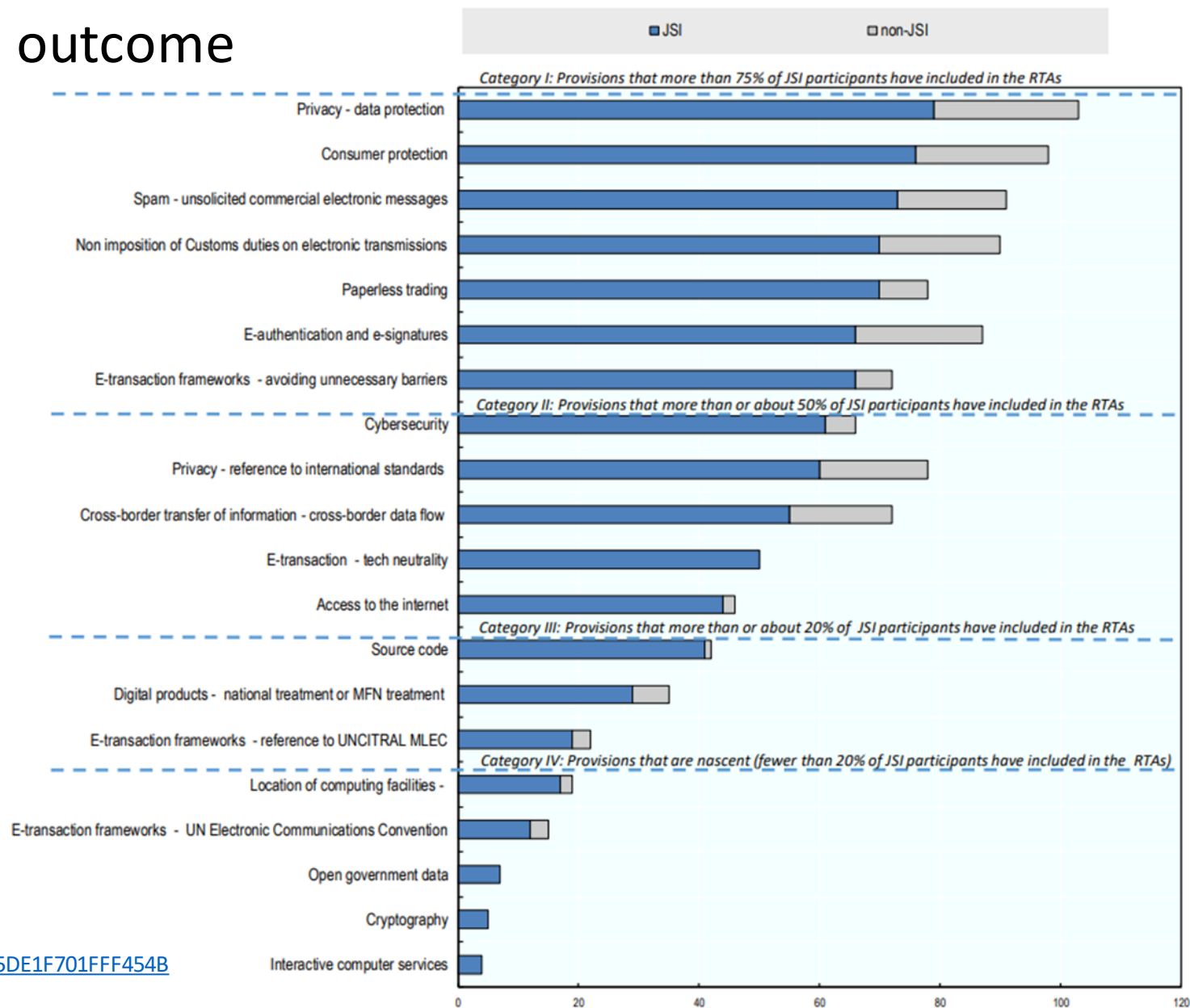
### (1) Aiming for high-standard outcome

Areas covered in JSI E-com	Examples of provisions
A. Enabling digital trade/ e-commerce	Electronic transactions frameworks/ Paperless trading/ Electronic authentication and electronic signatures/ Electronic contracts/ E-invoicing/ E-trade facilitation
B. Openness	Data flow/ Data localization/ Custom duties on electronic transmissions/ Open government data
C. Trust	Online consumer protection/ Unsolicited commercial electronic messages/ Privacy/ Cryptography/ Source code
D. Cross-cutting issues	Transparency/ Cybersecurity/ Capacity building
E. Telecommunication	Updating the WTO Reference Paper on Telecommunications Services
F. Market Access	Goods Market Access / Service Market Access

# 2. Characteristics of the negotiation

## (1) Aiming for high-standard outcome

- Number of jurisdictions and coverage of issues in RTAs



\*OECD TRADE POLICY PAPER 'Digital trade inventory Rules, standards and principles' (p.33 Figure 3.), June 2021  
<https://www.oecd-ilibrary.org/docserver/9a9821e0-en.pdf?expires=1624881266&id=id&accname=guest&checksum=9AE5DE1F701FFF454B96E84331533333>



## 2. Characteristics of the negotiation

### (3) Consideration for development aspects

- Proposals on capacity building, technical assistance and transitional period
- Latest discussion at the plenary (September 2021)
- Number of capacity building programs related to e-commerce by int'l organizations and bilateral donors



# WTO JSI on E-commerce

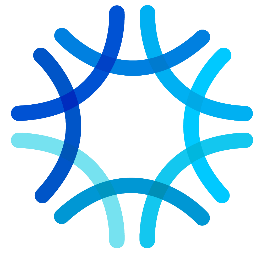
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## 3. State of play and next steps

### (2) Next steps

- Progress of small group discussions
- Proposals by one or few members
- Contentious issues such as data flow, privacy, legal architecture, market access, development issues
- Utilization of ministerial guidance



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Thank you for your attention.

Any questions?