## TPP Rules for Digital Trade in Asia

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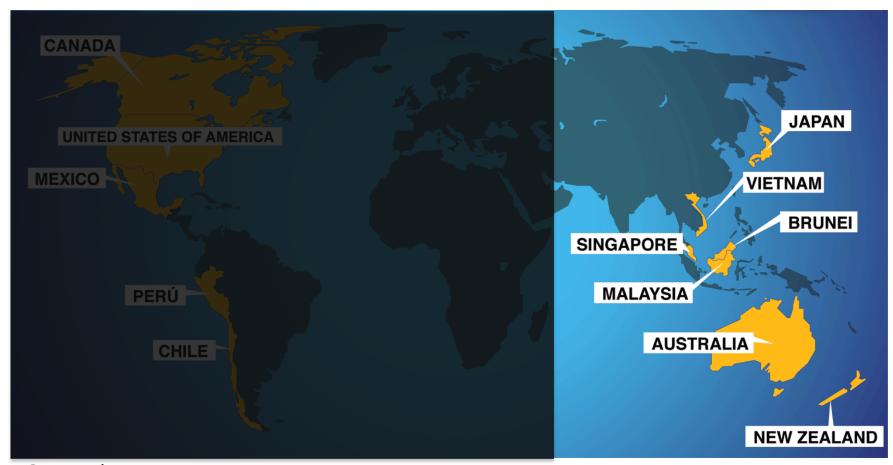


#### DIGITAL TRADE: CRUCIAL ECONOMIC DRIVER

- According to McKinsey: 1990-2014, value of global flows increased from \$5 trillion to \$30 trillion (39% of 2014 GDP)
- Cross-border data flows: \$2.8 trillion > trade of goods



#### **TPP COUNTRIES**



Source: Thomson Reuters



### RESEARCH QUESTION

- Brunei, Malaysia, and Vietnam: less developed, and existing regulatory gaps
- Australia and New Zealand: more developed, more influenced by EU regulations
- TPP: more US-influenced, high standards
- Motivations for joining TPP and the implications?



# THREE KEY AREAS OF TPP RULES ON DIGITAL TRADE

- Market access for digital goods and services
- Protection of innovation, technology choice and copyright
- 3. Protection of consumer privacy



### 1. Market access for digital goods & services

- What TPP does:
  - Preventing data localization
  - Enabling cross-border data and information flows
  - Prohibiting digital customs duties



### 1. Market access for digital goods & services

- Current situation:
  - A wide range of different regulations.
  - Examples:
    - Brunei and Vietnam: explicit
    - Malaysia: partial
    - Australia & New Zealand: sector-specific
    - Japan & Singapore: regional initiatives



# Protecting innovation, technology choice and copyrights

- What TPP does:
  - Barring forced technology transfers
  - Promoting strongly copyright protections
  - Recognizing importance of cybersecurity



# Protecting innovation, technology choice and copyrights

- Current situation:
  - US's Special 301 Report by USTR
    - Vietnam: unlicensed software use and online piracy
    - Brunei: no patent laws and office before 2012
  - Australia, Japan, New Zealand, Singapore: Anti-Counterfeiting Trade Agreement



# Protecting innovation, technology choice and copyrights

- Current situation:
  - Different regulations on Cybersecurity:
    - Australia, Singapore: Specific laws
    - Other countries: Computer Misuse Act, Penal Code, E-Transaction Act, Criminal Law Act...
    - Australia and Japan: Convention on Cybercrime first in the world



### 3. Protecting privacy of consumers

- What TPP does:
  - Enhancing consumer protection and tackling spam
- Current situation:
  - Brunei: no data protection and privacy laws



#### THE DIGITAL GAPS AT DOMESTIC LEVEL

- Different levels of regulations
  - Lack of regulations: Brunei (data protection and privacy)
  - Inefficient regulations: Vietnam (IPR)
  - More complete regulations: Australia, Japan,
     New Zealand, Singapore



#### THE DIGITAL GAPS AT REGIONAL LEVEL

- No other strong and ambitious commitments as TPP
  - APEC: voluntary, weaker commitment
  - RCEP: E-commerce being discussed
  - ASEAN: no commitments on digital yet



#### Attract investment

- Investors views on regulations:
  - 89% investors said legal environment had modest or strongly negative impact on investing activities
  - 75% investors do not like regulatory ambiguity
  - Majority of investors mainly concerned about:
    - Security/surveillance: 81%
    - Freedom of expression: 79%
    - Data localization: 67%
    - Third party liability: 71%



#### 1. Attract investment

- Brunei, Malaysia, Vietnam
- Uplift and safeguard the standards of investments, said former Minister of Economic Planning in Malaysia
- 2. Enhance business environment and facilitate companies
  - Brunei, Vietnam
  - Adopt international best practices to facilitate business in the country, said Brunei Permanent Secretary (Trade)



- 3. The need to modernize regulations to address new challenges
  - Former PM of Vietnam
- 4. Competitive disadvantage for not joining TPP
  - According to Trade Minister of New Zealand



- 5. Facilitate digital trade development and hence the development of supply chain
  - Former PM of Vietnam
- 6. Facilitate regional integration
  - construct a sustainable economic zone, said PM of Japan



#### IMPLICATIONS AND CONCLUSION

- TPP rules matter! Why?
  - Points out the important areas that need better focus
  - Provides framework for countries to improve their current regulatory system
  - Provides high and ambitious standards for future FTAs (Ex: RCEP & FTAAP)
  - FTAs with developing members can still reach a certain level of ambition



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