
TPP Rules for Digital Trade in Asia

Minh Hue Nguyen and Deborah Elms

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minhhue@asiantradecentre.org



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



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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

1. Market access for digital goods and services
2. 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

2. Protecting innovation, technology choice and copyrights

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

2. 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



2. 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

SIX MOTIVATIONS FOR TPP AGREEMENT

1. 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%



SIX MOTIVATIONS FOR TPP AGREEMENT

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)



SIX MOTIVATIONS FOR TPP AGREEMENT

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

SIX MOTIVATIONS FOR TPP AGREEMENT

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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For more information, please contact:

Minh Hue Nguyen
Research Assistant
Asian Trade Centre
Singapore

www.asiantradecentre.org

