

# Introduction to Digital Economy and Digital Trade Agreements

Digital Trade Agreements in Asia and the Pacific

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September 3, 2024 (Day 1 – morning session)



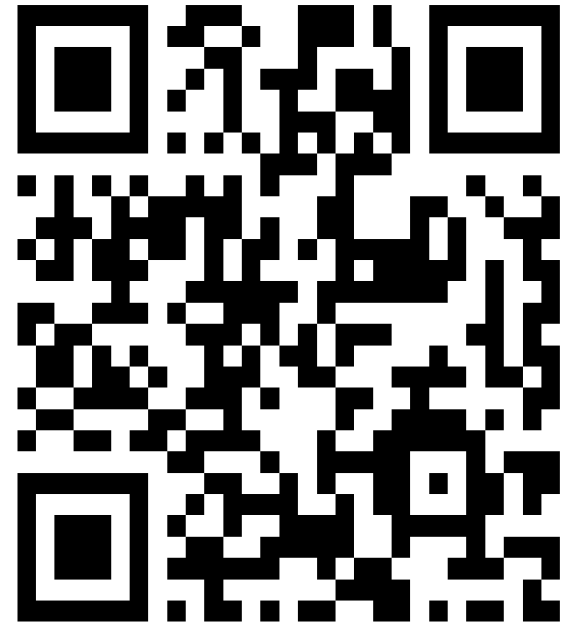
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# Objective

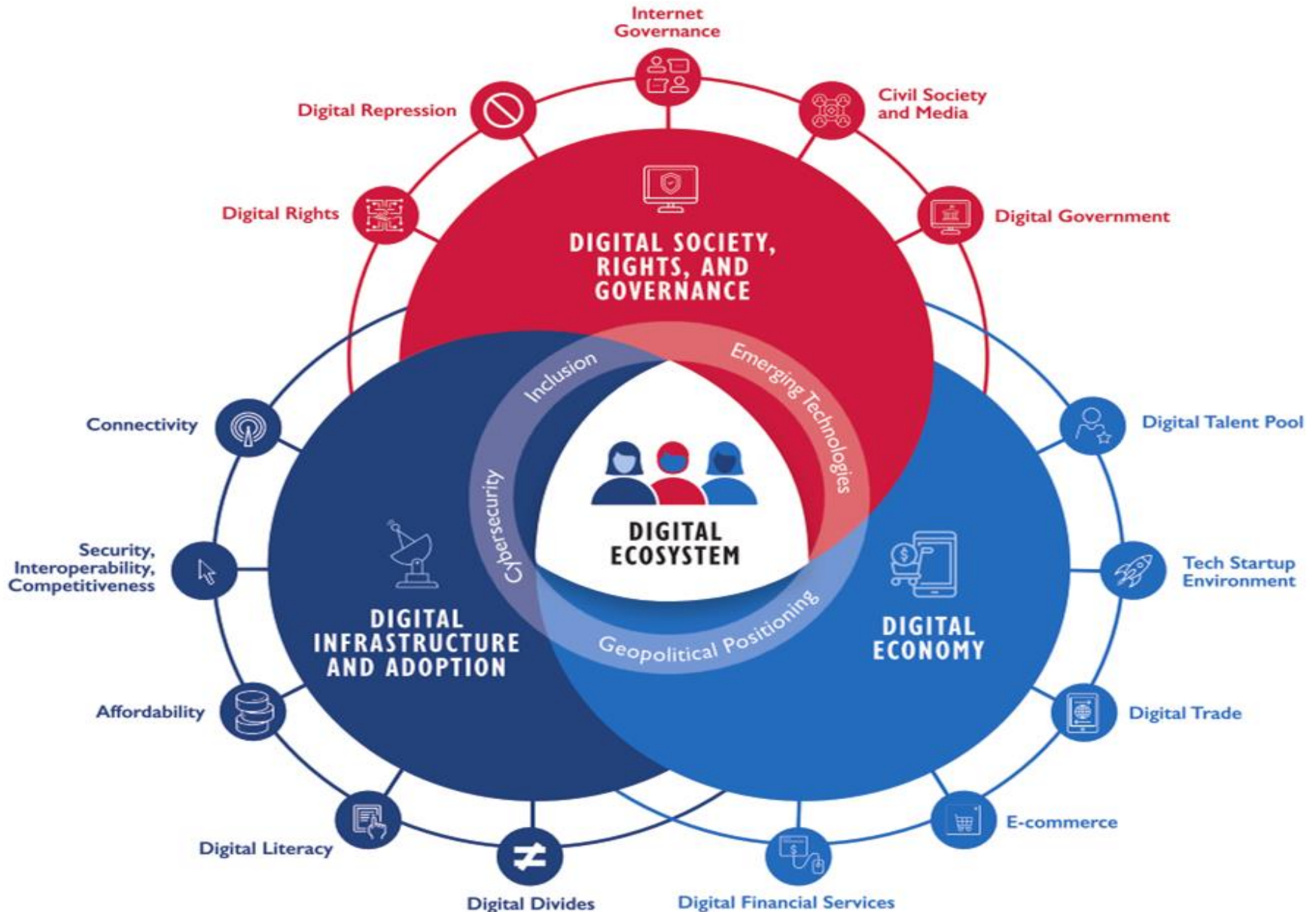
*By the end of the workshop, you should be able to:*

- ✓ Understand the scope and evolution of Digital Trade Agreements (DTAs) and Digital Economy Agreements (DEAs) in the Asia-Pacific region.
- ✓ Recognize the different approaches to digital trade within Regional Trade Agreements (RTAs).
- ✓ Analyze the implications of digital trade provisions for the Pacific Island countries.
- ✓ Prepare for future negotiations and implementations of digital trade agreements in your region.

# Session 1

# Introduction and Overview

# DIGITAL ECOSYSTEMS ARE COMPLEX







# Overview of the Digital Economy

- The digital economy is reshaping global trade and economic structures.
- Digital Trade Agreements (DTAs) and Digital Economy Agreements (DEAs) set the rules for digital trade and data governance.
- This presentation explores the evolution, scope, and impacts of DTAs in the Asia-Pacific region, with a focus on implications for Pacific island countries.

# Key Acronyms

- DTA - Digital Trade Agreement
- DEA - Digital Economy Agreement
- DEPA – Digital Economy Partnership Agreement
- DTP – Digital Trade Provisions
- CPTPP - Comprehensive and Progressive Agreement for Trans-Pacific Partnership
- RCEP - Regional Comprehensive Economic Partnership
- IPEF - Indo-Pacific Economic Framework
- JSI – WTO Joint Statement Initiative
- DEFA - ASEAN Digital Economy Framework Agreement



# Digital Economy, Digital Trade, and E-commerce



**Digital Economy:** The global network of economic activities, commercial transactions, and professional interactions enabled by ICT.



**Digital Trade:** Trade in goods and services that is digitally enabled, including cross-border data flows, e-commerce, and other online services.



**E-commerce:** Buying and selling of goods and services over the internet. A subset of digital trade, usually involving retail transactions.

**Tip:** In the context of trade agreements: **DEAs** cover broader areas like digital payments, AI, talent mobility, governance, while **e-commerce** focuses on online trade specifics.



# Fours Ways of Managing Digital in Asia and Pacific FTAs

**To embed coverage in bilateral free trade agreements (FTAs)**

- In practice, many bilateral FTAs in Asia continue to have limited services sector coverage.
- Many do not include provisions on other elements of digital services like data rules, intellectual property rights in the digital sphere, digital investment provisions, etc.

**To include digital services more explicitly in regional FTAs**

- Increasingly popular approach including through ASEAN, the Regional Comprehensive Economic Partnership (RCEP), and Comprehensive and Progressive Trans-Pacific Partnership (CPTPP).

**To create a “stand-alone” digital trade arrangement**

- One with Chile, New Zealand and Singapore called the Digital Economy Partnership Agreement (DEPA).

**To create a deeper set of rules for digital trade attached to an existing FTA**

- Several in place with Singapore and Australia, South Korea, and the United Kingdom.



# Key Regional Agreements

## Trade Agreement with EC or DT Provisions

- CPTPP: 11-member agreement including Australia, known for its comprehensive e-commerce chapter.
- RCEP: 15-member agreement including China, Japan, and ASEAN countries, with a focus on e-commerce.
- IPEF: 14-member framework led by the U.S. focusing on open trade among other pillars.

## Digital-only Agreements

- DEFA: Regional agreement among ASEAN Members
- DEPA: Digital Economy Partnership Agreement among Singapore, New Zealand, and Chile.

# WTO vs. RTAs in Digital Trade Negotiations



WTO: The Joint Statement Initiative on E-commerce has made substantial progress in digital trade rules.



RTAs: Preferential regional trade agreements are now the main forum for comprehensive digital trade rule-making.



Emerging consistency in RTAs may help develop a multilateral consensus on digital trade rules.

# Session 2

# RTAs with DTP

# Asia-Pacific RTAs with Digital Trade Provisions

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There is a clear trend of PTAs including Digital Trade Provisions (DTPs) and digital trade chapters, with a significant rise since 2000.

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However, low and lower-middle-income economies, particularly in the Pacific, are lagging in incorporating DTPs into their trade agreements.

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East and Southeast Asian countries have been more proactive in adopting comprehensive DTPs, particularly through agreements like CPTPP and RCEP.

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Pacific Island countries, while participating in agreements like PACER Plus, still face challenges in fully integrating digital trade provisions due to limited infrastructure and regulatory frameworks.



# Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

- **Significance:** A key trade agreement among 11 Asia-Pacific nations that set high standards for digital trade and e-commerce.

- **Scope:** CPTPP includes comprehensive digital trade provisions, such as cross-border data flows, data localization ban, and protection of source code.

- **Digital Provisions:** The agreement promotes data privacy, consumer protection, and paperless trading, serving as a template for other agreements.

- **Influence:** CPTPP's digital trade rules have influenced subsequent trade agreements like RCEP, USMCA, and various DEAs in the region.

# Regional Comprehensive Economic Partnership (RCEP)

- Significance: The largest trade agreement globally, covering 15 Asia-Pacific countries including China, Japan, and South Korea.

- Scope: RCEP includes an e-commerce chapter that addresses digital trade, though it is less comprehensive than CPTPP.

- Digital Provisions: Focuses on electronic signatures, paperless trading, and consumer protection, but excludes strong commitments on data localization.

- Challenges: RCEP's digital trade provisions are not subject to dispute settlement, reflecting a cautious approach by key members like China.

# Digital “Big Three” Barely in RCEP

- Lots of possible ways to manage e-commerce and digital trade, but three big points usually locked into trade chapters:
  - Cross-border data flow language
  - Data localization details
  - Managing customs moratorium on customs duties for electronic transmissions
- After years of negotiations, all three only weakly included in RCEP
  - Critical problem: footnotes 12 and 14 that read:
    - “For the purposes of this subparagraph, the Parties affirm that the necessity behind the implementation of such legitimate public policy shall be decided by the implementing Party.”
- Chapter reaffirms commitments on electronic signatures, digital submissions of documents whenever possible, etc.



# Indo-Pacific Economic Framework (IPEF)

**Significance:** A strategic initiative by the U.S. to enhance economic cooperation in the Indo-Pacific region, including digital trade.

**Scope:** IPEF covers multiple pillars, with the trade pillar focusing on digital economy, clean energy, supply chain resilience, and infrastructure.

**Digital Provisions:** Emphasizes cross-border data flows, data privacy, cybersecurity, and establishing high-standard rules for the digital economy.

**Challenges:** Balancing diverse priorities among member countries, especially in areas like data governance and digital trade standards.

# Different National Approaches to Digital Trade in RTAs

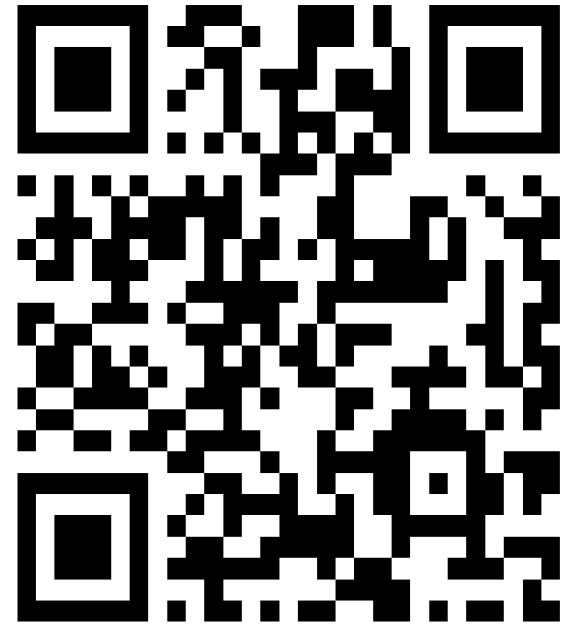
**US:** Ambitious on digital trade liberalization, cautious on financial services.

**EU:** Emphasizes regulatory cooperation, strong on personal data protection.

**Singapore:** Flexible and comprehensive, promotes its model through bilateral agreements.

**China:** Cautious, prioritizes security and regulatory rights over digital liberalization.

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# Session 3

## DEAs

# Emerging Digital Economy Agreements (DEAs)

DEAs are dedicated 'digital-only' agreements with broad digital economy topics.

Include new approaches to data governance, emerging technologies, and inclusive digital economy.

DEAs offer flexibility with modular commitments and emphasize MSMEs and sustainable development.

# ASEAN Digital Economy Framework Agreement (DEFA)

**Significance:** DEFA is ASEAN's initiative to create a cohesive digital economy in the region, aimed at boosting digital trade and economic growth.

**Scope:** The agreement seeks to harmonize digital policies, facilitate cross-border data flows, and enhance cybersecurity across ASEAN member states.

**Digital Provisions:** Focuses on digital payments, data governance, e-commerce, and digital identity verification, promoting regional integration.

**Challenges:** Aligning the diverse digital regulatory frameworks of ASEAN countries and addressing varying levels of digital infrastructure development.

# Digital Economy Partnership Agreement (DEPA)

**Significance:** DEPA, signed by Singapore, New Zealand, and Chile, is the world's first digital-only trade agreement, focusing exclusively on digital economy issues.

**Scope:** The agreement covers a wide range of digital economy aspects, including data flows, AI governance, fintech, and e-commerce.

**Digital Provisions:** DEPA includes innovative provisions on digital identity, data innovation, and MSME participation, setting a high standard for future digital agreements.

**Flexibility:** DEPA's modular structure allows other countries to join by committing to specific digital trade provisions that align with their own policies.

# Impacts of DTAs and DEAs



DTAs and DEAs promote trade in digitally deliverable services more effectively than traditional FTAs.



These agreements facilitate cross-border data flows, reduce trade costs, and enable modern business operations.



Firms value commitments to cybersecurity, free data flows, and consumer protection as key benefits of these agreements.



# Future Evolution of DTAs and DEAs

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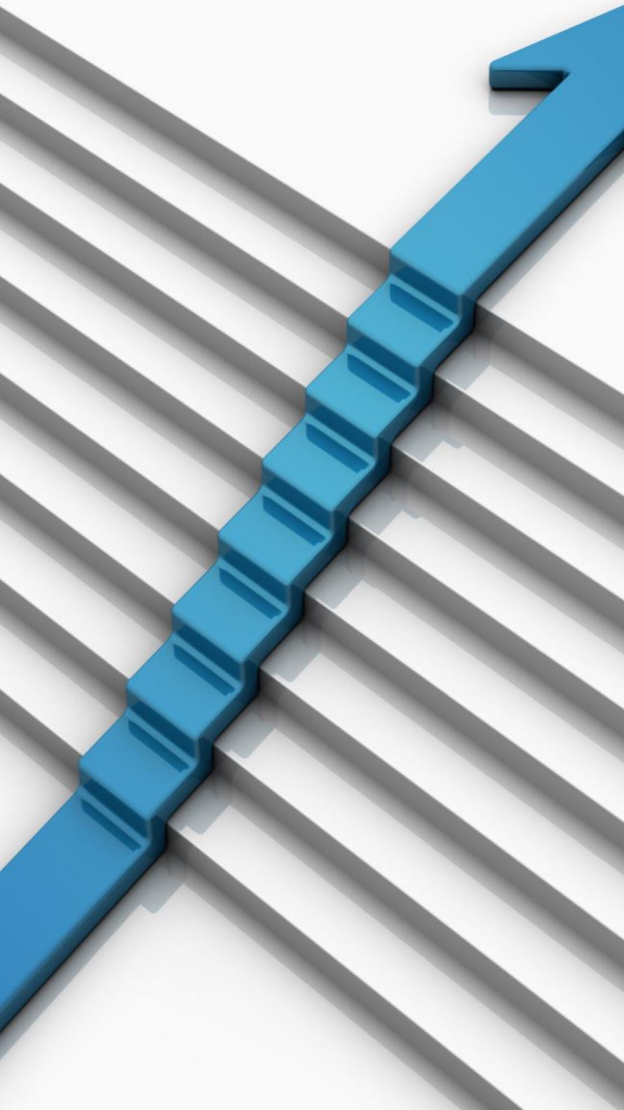
- Domestic policies in Asia-Pacific, such as data localization and cloud governance, are shaping future DTAs and DEAs.
- Businesses are driving demand for new rules that address emerging technologies and digital trade challenges.
- New stakeholders, including content creators and influencers, are influencing the evolution of digital trade regulations.
- The scope of DTAs and DEAs is likely to expand, incorporating issues like AI governance and digital identities.



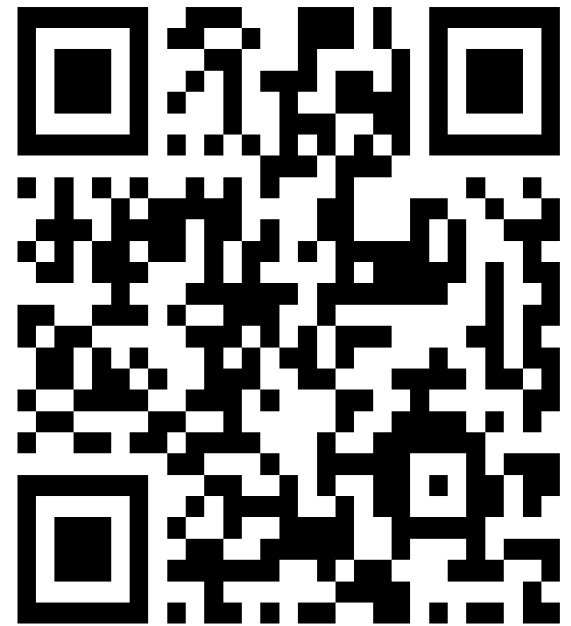
# Best Endeavor Provisions

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- Best endeavor provisions allow flexibility in adopting digital trade principles, particularly for developing countries.
- These provisions guide domestic policy development, offering a pathway to align with international standards.
- Advanced economies often pursue these policies unilaterally but benefit from common principles established in DTAs and DEAs.
- Review mechanisms, like FTA Commissions, help monitor and enhance the implementation of these provisions.



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# Session 4

# Implementation Challenges

# Implementation Challenges



Implementation varies widely across member countries, with specific challenges in data governance and cybersecurity.

Countries like China face difficulties meeting certain e-commerce provisions, such as data transfer and server localization.

The effectiveness of DTAs and DEAs depends on aligning domestic regulations with international commitments.

Ongoing technical assistance and capacity building are crucial for successful implementation.

# New Trends in Digital Trade Policy

Emerging trends include a focus on AI governance, cloud computing, and digital identities in trade agreements.

Harmonizing digital trade standards across the region is increasingly important to prevent regulatory fragmentation.

Private sector stakeholders are pushing for more comprehensive digital trade provisions, particularly in areas like data privacy and security.

## **U.S. Influence and the Indo- Pacific Economic Framework (IPEF)**

- ✓ The U.S. plays a significant role in shaping digital trade policies in the Asia-Pacific, particularly through the IPEF.
- ✓ IPEF's trade pillar faces challenges, including differences in digital trade priorities among member countries.
- ✓ Despite these challenges, there is strong interest from businesses in including digital trade provisions in the IPEF.
- ✓ The U.S. private sector is advocating for the adoption of AI and cloud computing rules within the IPEF framework.



## **The Role of China in Regional Digital Economy**

- China is becoming a key player in the regional digital economy, influencing digital trade through its cautious approach.
- China's policies prioritize regulatory control and security, impacting the regional digital trade environment.
- The impact of China's policies is evident in agreements like RCEP, where certain digital provisions are not subject to dispute settlement.
- China's digital trade strategy is increasingly focused on expanding its influence in Southeast Asia and beyond.

# Convergence and Divergence in Regional Digital Policies

*The region's digital policy landscape is becoming increasingly complex, with varying approaches to digital trade regulation.*

While there is **some convergence** in digital trade policies across the region, significant differences remain.

Key areas of **divergence** include data localization, cybersecurity, and digital governance.

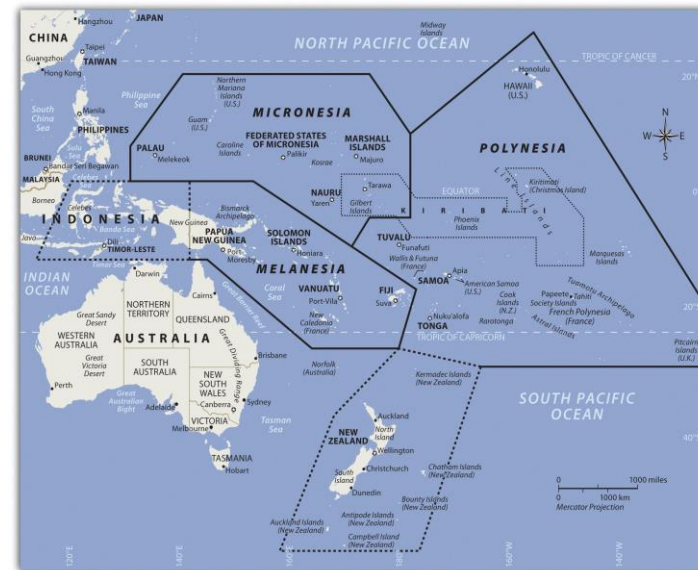
**Opportunities for alignment exist**, but addressing these divergences will require coordinated efforts at both regional and multilateral levels.

# Session 5

# What it means for the Pacific Islands Countries

# What It Means for the Pacific Island Countries

1. PICs are uniquely positioned to leverage digital trade for economic development, especially through sectors like tourism and e-commerce.
2. However, PICs face significant challenges in integrating into global digital trade, including limited digital infrastructure, low levels of digital literacy, and fragmented regulatory frameworks.
3. Opportunities exist to build digital capacity, particularly in areas like fintech, where small-scale innovations can have outsized impacts.
4. Regional cooperation and alignment with global digital trade standards are crucial for overcoming these challenges and maximizing the benefits of digital trade.



# What It Means for PACER Plus Agreements

PACER Plus currently lacks comprehensive digital trade provisions, limiting its ability to address the growing importance of the digital economy.

Expanding PACER Plus to include digital trade could enhance its relevance, providing member countries with the tools needed to engage in the global digital marketplace.

Supplementary agreements focused on digital trade could address key areas like cross-border data flows, digital payments, and cybersecurity.

Incorporating digital trade provisions would support the economic diversification of Pacific Island countries, enabling them to tap into new markets and industries.



An aerial night view of a city skyline, likely New York City, with numerous skyscrapers illuminated. Overlaid on the city are glowing, interconnected digital network lines and arcs, symbolizing digital trade and connectivity. The sky is dark with some clouds.

# How to Get Ready for Future Digital Trade Agreements

- Pacific Island countries should prioritize capacity building, particularly in digital literacy and skills development, to prepare for future digital trade agreements.
- Developing robust legal frameworks that support digital trade, including laws on data protection, cybersecurity, and e-commerce, is essential.
- Investing in digital infrastructure, such as broadband connectivity and secure payment systems, will provide the foundation for successful digital trade integration.
- Regional cooperation and public-private partnerships can help address common challenges, share best practices, and leverage resources effectively.

# Technical Assistance and Capacity Building

Technical assistance from international organizations is crucial for building the capacity of Pacific Island countries to implement digital trade agreements.

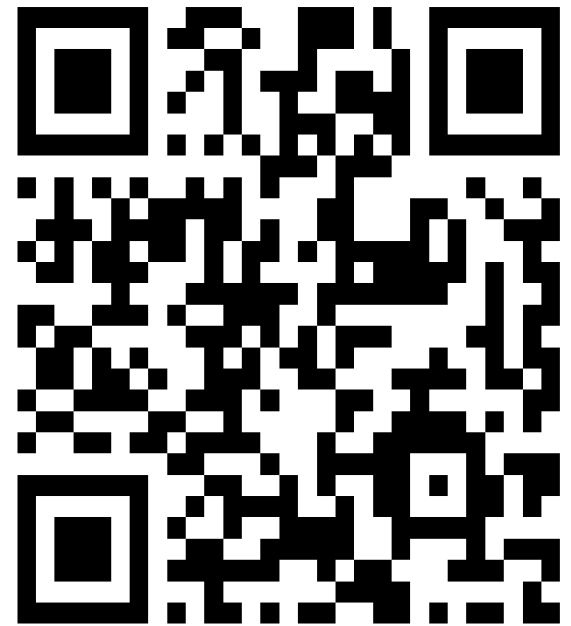
Capacity building should focus on key areas such as regulatory alignment, digital infrastructure development, and the creation of supportive legal environments.

Regional initiatives, like the Pacific E-commerce Initiative (PECI), can play a pivotal role in coordinating technical assistance and fostering collaboration among member states.

Leveraging partnerships with developed economies and international bodies can provide the necessary expertise and resources to overcome digital trade challenges.



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# Conclusions

Governments increasingly using trade agreements as one mechanism to tackle newer issues.

Digital trade, including digitally delivered services, makes up a growing share of overall trade flows in the region.

Past commitments failed to capture many digital services or provide consistent rules of managing trade in services.

A variety of trade arrangements, including stand-alone digital-only agreements, are one way forward.

But, as these approaches apply only to members, they also can discriminate against non-members by providing less access and fewer consistent rules.

Digital trade does not recognize geographic boundaries: having a global agreement would be clearly the best solution to future challenges.

PICs can learn from the progress but also mistakes made by other developing states.



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# Questions & Answers

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