

Enhancing Cooperation in Digital Trade

21-30 SEPTEMBER 2021



HIGHLIGHTS OF CAREC TRADE WEEK

E-Commerce Development in CAREC Countries: Assessment and the Way Forward 21 September 2021

1. The conference jointly organized by ADB and CAREC Institute was chaired by Mr. **Fariz Guliyev**, Member of Board Council at Innovation Agency, Ministry of Transport, Communications and High Technologies of Azerbaijan. He underscored the importance of digital transformation for economic growth and individual choice, and of law and infrastructure as building blocks of e-commerce and innovative activity. Mr. **Safdar Parvez**, Advisor, Office of the Director General, East Asia Department, ADB, in his opening remarks highlighted that digital transformation is a huge policy imperative to maintain the momentum of trade, that was made more evident by the pandemic, and that ADB continues to support CAREC countries' digitalization, in compliance with the CAREC Integrated Trade Agenda 2030.

Part A: Presentation of Research Findings

2. Ms. **Dorothea Lazaro**, Regional Cooperation Specialist from ADB's East Asia Department, introduced the two e-commerce reports jointly conducted by ADB and CAREC Institute under the CAREC Integrated Trade Agenda 2030. The first study looks at the regulatory framework¹ and the second focuses on infrastructure development. These reports confirm the importance of an enabling environment, infrastructure, and collective effort to harmonize, build mutual trust and facilitate trade. With the pandemic disrupting supply and demand, e-commerce and digital trade have become both an opportunity and a necessity. The CAREC program leverages on existing work to deepen cooperation in digital trade and remains committed to support member countries in implementing their national strategies to accelerate digital transformation and aligning with global and regional initiatives such as the UN Framework Agreement on Facilitation of Cross-Border Paperless Trade in Asia and the Pacific (FCBPT). CAREC trade's capacity building efforts complement ADB investments in digital and cross border connectivity.

Presentation 1: Laws and Policies

3. Mr. **John Gregory**, ADB consultant, conveyed that legal barriers to e-commerce are usually in the form of old fashioned laws on writing, signature, or originals, and how these apply to electronic documents. But once legal barriers are removed, there is the question of regulation, i.e., how to control the activity so that people trust it and can carry on business. Model laws and instruments in international legal system are existing to support harmonization across countries. E-commerce legislation is generally advanced in most CAREC countries. The recommendations are to (i) harmonize with important instruments such as the UN Convention on the Use of Electronic Communications in International Contracts, UN Convention on International Sale of Goods, UN Framework Agreement on FCBPT, WTO's Trade Facilitation Agreement, WCO's

¹ <https://www.adb.org/publications/e-commerce-carec-laws-policies>

Revised Kyoto Convention, Customs Convention on the International Transport of Goods under TIR Carnet, and Council of Europe Convention on Cybercrime, (ii) ensure effective enforcement, and (iii) update domestic laws in key areas: e-signatures, certification processes, cybercrime, modern privacy, consumer protection. The adoption of a holistic approach and participation at international and regional platforms have been underscored.

Presentation 2: Infrastructure Development

4. Mr. **Michael Minges**, ADB Consultant, revealed that last-mile infrastructure is adequate in most of CAREC, but a gap exists between coverage and use of the internet, due to the lack of digital literacy and affordability. Backend core infrastructure such as internet exchange points, data centers, secure servers, cloud services, are crucial for data analytics. For payments, there is a large gap between the ability to have a bank account and actual level of bank account ownership due to antiquated laws, but payment card ownership and advanced digital payment tools have risen rapidly, and innovative banks are driving e-commerce. Robust payment infrastructure is needed for handling growing transactions in real time. Postal coverage or last mile delivery capability is high but integrated logistics platforms from warehouse to delivery are few, and single window implementation differs considerably. De minimis value varies and does not exist in some countries. A key point is the lack of data. Recommendations include: (i) for core infrastructure: establish internet exchange points (IXPs), attract cloud providers, private sector investment; (ii) for payments: introduce big data, support SME digital finance, consider regional payment card; (iii) for logistics: expand connectivity, e-commerce oriented warehouses and cold chain, modernize post offices; (iv) enhance Customs capacity to handle cross-border e-commerce including review and adoption of standard de minimis value; (v) improve data collection; (vi) support startup ecosystems for incubators, venture capital, organize an e-commerce association; and (vii) overcome lack of trust through legislation, digital literacy, trustmarks, cybersecurity.

Part B: Experience Sharing by CAREC Countries

5. Ms. **Aisha Humera Moriani**, Senior Joint Secretary (e-commerce), Ministry of Commerce, Pakistan, shared Pakistan's e-commerce policy which was approved in October 2019. Efforts to increase internet use include addressing the gender gap, and digital literacy through youth empowerment and digital skills of provincial and federal governments. For digital payment, the National Bank rolled out contactless payment card while mobile wallet is popular for smaller value digital payments. Last mile delivery and tracking capability require automation and postal development. Transparent regulations have spurred investment and innovation, e.g. Amazon, while fintech is vibrant, e.g. Strive and checkout.com. Pakistan experience with startups shows trust in new companies and can be shared. She proposed creating a separate learning working group on transformation to digital economy in CAREC to increase understanding and share country experiences.

6. Ms. **A. Ariunaa**, Counsellor, Foreign Trade and Economic Cooperation Department, Ministry of Foreign Affairs, Mongolia, remarked that while the pandemic is challenging, it is a reminder of interdependence and the importance of regional cooperation. Mongolia targets being a digital nation by 2025, using data and IT to innovate and diversify into a mining-resilient economy. The e-Mongolia online platform provides 181 of the most in-demand government services digitally. E-commerce law will be drafted, and draft cybersecurity law is at Parliament's consideration. Efforts are ongoing to ratify the Framework Agreement on FCBPT. Being a landlocked country, remote and far from ports, transport and logistics are critical. Electronic documents and mutual recognition of conformity assessment will promote e-commerce. She proposed (i) a technical assistance to introduce paperless transit, including the declaration and

guarantee; (ii) engagement with WTO in negotiations towards e-commerce agreement; and (iii) collection of trade in services statistics including e-commerce. Joint efforts on digital trade are important for digital transformation.

7. Kazakhstan delegate (speaking on behalf of Mr. **Erbol Dauletbekovich Medeuov**) from Department of Digitalization, reported that the development of e-commerce is a priority, with the objective of increasing B2C share in retail trade to 15% by 2025. The Ministry is working in 3 main areas: (1) stimulating SMEs to shift to online platforms, (2) developing delivery and logistics services, (3) developing cross-border e-commerce. To develop e-trade, the initiatives are (a) to pilot external e-trade in goods addressed to physical persons in 2022; (b) to take domestic goods to e-trade platforms, e.g., entrepreneurs can now trade on Amazon; (c) “Smartduken” platform, in partnership with Mastercard, is now available as the first online shop constructor for domestic enterprises to open internet stores and accept online payments, improving visibility; (d) to participate in international trading platforms.

Part C: Experience Sharing by Experts and Other Development Partners

8. Mr. **Jong Woo Kang**, Principal Economist, Economic Research and Cooperation Department, ADB) moderated the panel session with representatives from development partners and lead experts joining: (i) Mr. **Oswald Kuyler**, Managing Director, Digital Standards Initiative, International Chamber of Commerce (ICC); (ii) Mr. **Tumurpurev Dulambazar**, Senior Research Specialist, CAREC Institute (CI), (iii) John Gregory; and (iv) Michael Minges.

9. A key recommendation of Presentation 1 was to align with international instruments such as the UN Convention on the Use of Electronic Communications in International Contracts (ECC), which could also help align rules on domestic transactions with those for international transactions, to avoid dual regimes. What is the difference and what are the steps for CAREC countries to take this forward? Mr. **Gregory** responded that many have enacted laws based on 1996 UNCITRAL Model Law on E-Commerce (MLEC) which was before the 2005 ECC that is more modern and slightly readjusted. Where a country does not have the MLEC, it makes sense to go to the ECC, which has advantages. ECC applies to only certain kinds of international contracts, not to consumer contracts nor types of financial transactions since countries already have applicable domestic laws (i.e., consumer protection has specific national policy area).

10. The 2021 ADB-ICC paper “Digitizing Trade in Asia Needs Legislative Reform” discussed the UNCITRAL Model Law on Electronic Transferable Records (MLETR). What are its features and benefits? Is the adoption of the UNCITRAL Model Law on Electronic Signatures (MLES) a prerequisite to it? Mr. **Kuyler** responded that even though everyone has tried to digitize for 22 years now, only between 0.1 to 1% of all trade processes have been digitized. This is because electronic transferable records are not recognized as legal in most countries. One solution is the MLETR, a framework that enables functional equivalence for electronic records to physical documentation. It resolves risks whether for banks or small traders, is non-discriminatory between technologies, enables digitization of documents, and ensures harmonization of rules among countries and of processes. MLES is not a prerequisite but enables easier adoption of MLETR. It is hoped that it could be part of the agenda of CAREC countries.

11. On Presentation 2, what initiative must CAREC prioritize in developing e-commerce infrastructure (internet, payments, logistics)? Mr. **Minges** responded that rather than just one type of infrastructure, it's the group that has links to all, and that's support to SMEs. For e-commerce to develop, it's the new companies that are developing shops that need more support, e.g., bank financing, venture capital, liberalized rules for opening accounts by online merchants. Big priority

areas are the development of off-the-shelf logistics and warehouse, so small enterprises can pay to use the warehouse and handle delivery. Integrated logistics platforms for SMEs are completely lacking, and the area with the biggest payoff.

12. Should countries adopt a de minimis rule, is it a universal recommendation or does it depend on the country? **Mr. Minges** responded that there is no straightforward answer. It frees up Customs service from processing thousands of small value packages. But it encourages cross-border trade at the expense of the domestic e-commerce market. Governments have to sort out the pros and cons, i.e., do they want to free up resources or build up domestic e-commerce capability? What is the consideration for the consumer? On the question of taxes, it may lead to loss of some import duties, but it boosts the delivery business, which pays taxes. All are part of an equation to see where the maximum benefit is. **Mr. Gregory** added that while doing the study of legal ramifications in CAREC, Customs admitted they had no capacity to process small value parcels and wanted to go digital, but computers cannot handle the volume of packages. De minimis solves practical problems for Customs; it is more efficient. **Mr. Kang** concluded that different levels of de minimis taxation are also confusing to consumers, and there is room to pursue regional cooperation on this.

13. ADB-CI reports recommended the need to build institutions and enhance stakeholder awareness. What are the ongoing and planned initiatives of CI for members or researchers in this area? **Mr. Dulambazar** reported that digital trade and e-commerce development is a priority topic for CI research, capacity building, and knowledge sharing. CI is also undertaking a “Digital CAREC” research project in 3 phases: a gap analysis, identifying measures for CAREC countries to adopt to attract investments in the digital economy, and the digital economy with 4th industrial revolution technologies, designing the governance framework for emerging technologies. Researchers may apply to do the latter two phases. CI also has a CAREC Think Tank Network Research Grants Program and Visiting Fellows Program, for 15 researchers or teams annually. The newly established E-Learning Platform offers virtual workshops to the CAREC audience, with most capacity building activities based on CI’s research outputs

14. The Chair made two observations. On taxes and de minimis thresholds, if harmonized among CAREC, it would enhance tax collection. It is not about the nominal amount but about allowing SMEs to build their sales turnover and create small “Amazons”, which will in turn help tax authorities use the data and collect taxes. The other point is the psychology of consumption. Legal and infrastructure aspects together impact future of consumption in a market economy – a major question that should be tackled. Governments by themselves cannot influence technological trends, aside from their approaches to using technology as tools. It is an economic and social question, choice theory that can be talked about in the future.

15. Closing remarks were provided by Mr. **Syed Shakeel Shah**, Director of CAREC Institute. He highlighted that e-commerce is both a great leveler and opportunity for CAREC countries, and governments have been acknowledging this through policy initiatives. Useful recommendations, cross-learning and international models, were provided on regulations and infrastructure, and CI stands committed while working closely with ADB to provide support.

Presentation materials are available at the: <https://www.carecprogram.org/?event=e-commerce-development-in-carec-countries-assessment-and-the-way-forward>

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