出國報告（出國類別：國際會議）

出席2018年APEC「第1次貿易暨投資委員會(CTI 1)會議及其項下之專家會議」-電子商務推動小組(ECSG)會議出國報告

服務機關：經濟部商業司
姓名職稱：呂靜忻專員
派赴國家：巴布亞新幾內亞莫士比港市
出國期間：107.2.23~107.3.3
報告日期：107.5.11

目　　錄

壹、摘要

一、 目的

　　本次出國行程參與亞洲太平洋經濟合作會議(簡稱亞太經合組織 Asia-Pacific Economic Cooperation, APEC)之電子商務推動小組 (Electronic Commerce Steering Group, ECSG)系列會議。ECSG 於 1999 年成立，宗旨係透過法及政策的建立，推動電子商務的發展與使用，為 APEC 會議建立可預期、透明且一致的電商發展環境。2007 年起 ECSG 改隸於貿易投資委員會(Committee on Trade and Investment, CTI)下，並成立資料隱私次級小組(Data Privacy Subgroup, DPS)。2018 年本部係參加 DPS 非正式及正式會議，和 ECSG 大會。

　　為協助亞太地區網路社群商務發展，將國內具潛力之網創團隊推升至國際舞台，展現豐沛創意與能量。延續連續兩年(2016-2017 年)已申辦 IDEAS Show@APEC 經驗，本部在 ECSG 會議中，提報繼續辦理一場國際型「IDEAS Show @ APEC」活動，並邀請 APEC 成員之創新服務團隊，與國內相關專家學者及網創團隊進行交叉論壇及網路創意發表活動。

　　另外本部於會議中說明為支持及保護網路零售業之個人資料安全，透過兩種主要方式：一是提供諮詢服務，協助網路零售商提升資安防護水準，並建議網路零售業者定期進行網站弱點掃描；二是按照個人資料保護法第 27 條規定，對疑似個資外洩的廠商進行行政檢查，其中約 70%比例檢查後資安防護程度有顯著改善。

　　末以說明我國去（2017）年 10 月 2 日辦理 CBPR 研討會成效，共有來自 16 個經濟體，19 位講師以及 166 位參與者。並再次感謝秘書處、包括美國，日本，泰國，韓國，越南，菲律賓，墨西哥，新加坡，印尼，馬來西亞和紐西蘭等經濟體共同提案和協助；另說明我國加入 CBPR 進度，感謝 ECSG 主席（缺席）、CPEA 管理者（Melinda）之協助。我國預訂於今年 3 月遞交申請加入 CPEA，此亦為加入 CBPR 第一步。

貳、會議經過

　　本次會議於莫士比港市(Port Moresby)的 Laguna Hotel 舉行。2 月 26 日為 DPS 會議（非正式會議），會員經濟體於正式會議開始前，先就會期將討論之要點及會員經濟體立場簡要說明，以俾後續討論聚焦，而如有臨時動議亦可於此會議中提出，整理後納入後續討論議程中。由於 APEC 為共識決議，主席相當重視會員經濟體個別意見和發言，因此非正式會議之參與亦有其重要意義，以下就非正式會議各會員經濟體提出之發言摘要如下：

一、　　跨境隱私保護規則體系（Cross-Border Privacy Rules System，簡稱 CBPRs）

　　（一）聯合監督小組（Joint Oversight Panel-current issues for discussion, JOP）

　　　　A　JOP 副主席 Michael Rose 報告：

　　　　　　(a) 為利推廣 CBPR 體系，渠認為經濟體的重要工作係提升大眾對於 CBPRs 的認識，以及了解 CBPR 的益處。近來 JOP 通過 3 件申請案，包含新加坡（同時申請 CBPRs 和「資料處理業隱私識別體系」（Privacy Recognition for Processors system，簡稱 PRP）以及美國（PRP 申請案），雖然申請案審查相當費時且複雜，但因提升隱私保護的必要性及長遠好處，仍值得付出相關代價。

　　　　　　(b) 美國國內推行 CBPR 有兩大挑戰，包含國際法和國內法調合，如何將 CBPRs 運用於美國法，以及跨國公司如何在採用 CBPRs 國家和不採用 CBPRs 國家，或不同法律體系間選擇準據法。第二個挑戰係美國僅有 1 家當責機構（Authority Agent，簡稱 AA），可能有市場獨占問題（Monopoly of Accountability Agency），未來將再與聯邦貿易委員會（Federal Trade Committee, 以下簡稱 FTC）討論。

　　　　　　(c) 加拿大與墨西哥均表示有意提出申請 AA。

　　　　B.　加拿大代表報告

　　　　　　(a) 國內消費者和企業對 CBPRs 瞭解有限，希望各國分享經驗，提升各利害關係人對於 CBPRs 之瞭解。

　　　　　　(b) 加拿大 CBPR 在推動執行階段（Implementation Stage），由於 CBPRs 頗具彈性，企業可向加拿大境外 AA 申請 CBPR 認證，故盼其他經濟體可分享利用境外 AA 的經驗。

　　　　C.　日本代表報告

(a) 日本企業對於 CBPR 體系的認知仍需提升，目前除 1 家企業已獲得「一般財團法人日本情報經濟社會推進協會」（Japan Institute for Promotion of Digital Economy and Community，簡稱 JIPDEC），JIPDEC 目前為日本唯一一家 AA。

(b) CBPR 審查標準（discretion criteria）如能更透明化，可以提升企業對於 CBPR 信任度。

(二) 行政暨問責研究小組（Administration and Accountability Study Group）

A. JOP 副主席 Michael Rose(美籍)報告：

(a) 目前利用 APEC 基金的 CBPRs 網站改善計畫進展順利，預計於（2018）年底前完成。

(b) 美國曾研擬 2 份有關 CBPR 的推廣文件，其中述及加入 CBPR 的益處等內容，將提供加拿大等有興趣的 APEC 經濟體參考。

B. 菲律賓代表發言感謝 JOP 對建立國內隱私保護制度提供的幫助，日本亦因參與菲國「跨境隱私執行協議」（Cross-Border Privacy Enforcement Arrangement，簡稱 CPEA）審核工作，發言歡迎菲國通過 CPEA 審核。

二、 CPEA

FTC 之管理者 Melinda Claybaugh 表示：

(一) 經彙整各經濟體 CPEA 資料，普遍問題在於經濟體主管機關仍不清楚如何運作 CPEA，未來希望能有更多調查和經濟體分享經驗，FTC 並分享與加拿大隱私執法機關合作調查位於香港之公司（based in Hong Kong）違反資料保護規定（Data Breach）的案件。

(二) 美國國內發生多起企業不實聲明（False Claims），聲稱獲得 CBPR 認證但實際並未取得認證之案例，該國為瞭解參加 CPEA 經濟體處理類似案件的法令規範等資料，已於去年要求各經濟體提供調查資料，目前 12 個經濟體已有 7 個提供資料，盼其餘 5 個經濟體亦儘速提供相關資料。

(三) CPEA 預定向 12 個 CPEA 經濟體進行調查，瞭解經濟體加入 CPEA 後，在執行上是否面臨困難及挑戰，以做為改善 CPEA 的參考，相關調查結果亦擬向資深官員報告。

(四) 日本代表詢問國內主管機關對於跨境隱私侵權是否有管轄權疑問，FTC 代表回覆此取決於各經濟體主管機關之措施，如是否與其他經濟體簽訂協議。

三、 資料隱私次級小組（APEC ECSG Data Privacy Sub-Group，簡稱 DPS）

工作計畫：各經濟體代表對 DPS 工作計畫並無意見或評論，於 2 月 27 日正式會議中按照議程討論。

四、 其他：俄羅斯代表發言，建議利用新興科技增進個人隱私保護，主席將列為修訂 APEC 隱私架構協定的參考。

2 月 27 日為 DPS 正式會議，會議討論方式為主席 Mr. Colin Miniha(澳洲代表)向各經濟體代表確認議程及第 36 次會議紀錄，各經濟體代表均無意見。

一、 跨境隱私保護規則體系 Cross-Border Privacy Rules(CBPR) System

(一) 聯合監督小組(Joint Oversight Panel, JOP)副主席 Michael Rose 報告

A 韓國及日本均為 JOP 成員，感謝此兩經濟體協助審查作業。JOP 近期通過 3 件申請案，包含新加坡（同時申請 CBPRs 和 PRP）以及美國（PRP 申請案），另刻正受理韓國設立問責機構(Accountability Agency, AA)之申請。

B 預計於今年 SOM3 前完成 CBPR 網站之更新，以充備網站內容，提高消費者、企業等各界對 CBPR 的認識。

(二) 已參與或有意願參與之重要經濟體分享 CBPR 資訊

A 美國：最重要的進度是美國業獲准加入 PRP，目前有 21 家美國企業參與，未來希望提高 SMEs 的參與，以及使 SMEs 更容易獲得 PRP 的資訊。

B 日本：目前有 1 家企業取得 JIPDEC(日本唯一 AA)認證，另尚有 1 家企業有意提出申請。日本並說明去年分別於 10 月、12 月參加我國與菲律賓舉行之 CBPR 研討會，以及參加去年 12 月香港國際研討會。日本 PPC(日本個人情報保護委員會)並更新說明該國已加入 ICDPPC(the International Conference of Data Protection and Privacy Commissioners)。

C 韓國：2017 年 6 月加入 CBPR 後，2017 年 12 月提出 AA 申請。韓國原本已有個人資料管理制度(Personal Information Management System, PIMS)，現面臨 CBPR 與 PIMS 兩制度間介接的問題，另韓國積極與企業推廣 CBPR。

D 新加坡：

(a) 首先說明其同時申請加入 CBPR 及 PRP 體系的理由，係其國內個資法(Personal Data Protection Act, PDPA)下針對資料控制者(controller)、資料處理者(processor)分別規範，爰基於該法同時申請 CBPR 及 PRP 體系。惟兩個體系的申請行政程序多有重複，建議應予以精簡。

(b) 預計於今年度提出申請設置 AA。

(c) 新加坡加入 CBPR 後，亦面臨既有標章與 CBPR 介接問題，且對於新加坡企業來說，可能必須申請 3 個認證，包含既有標章、CBPR 認證、PRP 認證，故新加坡代表表示，程序簡化對於新加坡來說十分重要。另新加坡刻正加強對業界的溝通，宣導加入該兩體系之效益，以促使 SMEs 採用該認證體系。

E. 我國

(a) 說明去(2017)年 10 月 2 日辦理 CBPR 研討會成效，共有來自 16 個經濟體，19 位講師以及 166 位參與者。並再次感謝秘書處、共同提案以及其他經濟體的幫助，包括美國，日本，泰國，韓國，越南，菲律賓，墨西哥，新加坡，印度尼西亞，馬來西亞和紐西蘭。

(b) 說明我國加入 CBPR 進度，感謝 ECSG 主席(不在現場)、CPEA 管理者(Melinda)之協助。2016 年 AMM 期間我國已表達參與 CBPR 的意願，現在我國預訂於今年 3 月遞交申請加入 CPEA，此亦為加入 CBPR 的第一個步驟。對於 CBPR 網站豐富的資料，我們感到非常實用，做為資料宣傳的重要媒介，我們希望未來與各經濟體共同合作促進網站內容的豐富性。另，CBPR 及歐盟 GDPR 均已投注許多努力，希望強化該兩體系之相容性。

F. 日本代表回應支持及歡迎我國之參與。後詢問我加入之計畫。我國回復，規劃於 3 月遞交申請，另也同時間準備第二階段的 50 道執法路徑圖的問題。至於整體申請程序所需時間係由審查程序而定，非我國可控制。CPEA 管理者美方代表回應，1 至 2 個月大約是合理的時程。

G. 其他：泰國今年將通過 Personal Data Protection Bill (the "PDPB") 草案(由數位經濟及社會部 Ministry of Digital Economy and Society, MDES 負責)，通過後將會啟動申請 CBPR 的申請工作。

二、 APEC 隱私架構更新(APEC Privacy Framework)

A. 主席簡述 APEC 資料可攜性研究小組討論文件(APEC Data Portability Study Group Discussion Paper)主要目的，在於解釋 1)資料可攜性的潛在益處及缺點；2)跨國司法及管轄權的資料可攜性及互通性，並分析歐盟、英國、菲律賓、紐西蘭、澳洲及美國等案例。主席表示將以此版本在 3 月 16 號前透過秘書處收集各經濟體的意見，希望在今年 SOM3 前彙整完成。

B. 加拿大報告隱私同意(Development on the concept of consent)發展，說明隱私同意說明書須具透明性，針對資料的機密度其書面格式須容易了解、易寄送，並鼓勵利用創意的方式及技術，而即使同意也設定 NO-GO Zone。另外，針對不同意亦有其他選擇方案，例如去識別化、設定公開資訊及例外情況。最後提出線上名譽(Online Reputation)措施草案，包括 De-Indexing (減少網路搜尋)、來源修改

(Source Amendment)、在學校推廣隱私教育等。

C. 其他領域建議：美國建議未來可有特定科技裝置領域的隱私法律；菲律賓建議網路社群(online community)等領域更新。

三、　跨境跨境隱私執行協議(Cross-Border Privacy Enforcement Arrangement, CPEA)

美國聯邦貿易委員會(Federal Trade Committee, FTC)Melinda Claybaugh(註：CPEA 管理者)報告 CPEA 申請進度，已通過第 12 位 CPEA 會員菲律賓 The National Privacy Commission (NPC)的申請，希望還有更多經濟體參加。並說明 CPEA 是各經濟體 PEA 間，在跨國調查隱私事件時可以交換有關訊息之架構，建立如跨境隱私資料調查的合作機制。另說明 CPEA 正進行不實聲明調查，將給各經濟體填寫問卷，同時正進行 CBPR 不實聲明的撰擬工作。另一項調查是通盤了解各經濟體間 CPEA(Agreement)同意書，調查資料之分析結果將在 SOM3 前提交。

四、　DPS 工作計畫(DPS Workplan)：

(一) 中國大陸(未出席前一日非正式會議)、美國、俄羅斯及韓國代表均提出修正建議，最後修正版 Work Plan 與前版主要差異如次：

A. 第 1 項鼓勵和促進經濟體參與 CBPR 和 PRP

(a) 第 3 點僅保留在會員經濟體間分享訊息，而非限定分享有關 CBPR 的訊息。

(b) 新增第 4 點：探索評估商業參與和貿易影響的可行性。

B. 第 2 項發展堅強的財務、管理、問責和執行機制，以促進 CBPR 和 PRP 的透明度和可信度，新增第 4 點 AA 間分享訊息。

C. 在促進 APEC 和 EU 互通性項下第 3 點，原本僅討論遵循歐盟 GDPR 的相關議題與挑戰，現限定與 GDPR 商業影響有關的議題與挑戰。

D. 在更新 APEC 隱私架構項下第 1 點，鼓勵和支持國內和國際實施，加上包括 CBPR 的字樣。

E. 在資訊分享項下

(a) 第 1 點第 2 小點，應特別喚醒個資保護意識的群體，除兒童與青年外，增加弱勢群體。

(b) 新增第 3 點，在 CPEA 成員之間分享有關執行合作的實施和使用 CPEA 的訊息。

(二) 本工作計畫將提交 ECSG 大會確認。

五、　秘書處報告：ECSG 新任秘書 Adrian Cheng Sai Pong 簡報 APEC 行政庶務事務，內容包括 2018 年 APEC 重要會議日曆、2017 年 ECSG 重要討論成果

及提交文件、公告 APEC project 申請時程、2018 年新版 APEC Project 評分準則、應提交 Monitoring and Completion Reports 新制、如何進行 APEC 專案等。

六、 資料隱私個別行動計畫(Data Privacy Individual Action Plan, IAP):此計畫鼓勵會員經濟體基於非約束性與自願性原則提出行動計畫,累積隱私保護發展經驗,以進行能力建構。主席請各會員更新過往填覆之 IAP 檢核表,並提出依新修正檢核表填具之範例供各經濟體參考。

七、 美國亞太經濟合作組織國家中心 The National Centre for APEC (NCAPEC), 亦為 APEC 企業諮詢委員會(ABAC)的秘書單位,於本會議針對 "APEC CBPR survey Takeways(精要)" 進行簡報。此調查建議需要推動更多措施喚起企業對 CBPR 的認知、多數回覆者是由國內外的政府組織得知 CBPR、申請 CBPR 認證成本為多數企業不加入 CBPR 主要原因、加入企業已熟知 CBPR 之益處並期待有更多經濟體加入等結論。

八、 經濟體報告（Reports from sub-group member economies）相關資料隱私發展概況

(一) 我國報告按照個資法第 27 條辦理行政檢查成效,70%經檢查之業者,資安防護水準均有明顯改善。

(二) 執行面為主：加拿大強化消費者個資保護權利和企業通知義務（notification requirement）,此外,加拿大隱私保護專員公署數位教育工作小組（digital education working group）剛成立任務小組,成員包含菲律賓,摩洛哥等 6 個經濟體;美國 FTC 針對企業不實聲明與加拿大聯手取締等。

(三) 規範面為主:中國大陸 2017 年「網路安全法」專章強化個資保護、2018 年 1 月 2 日甫公布國家資料保護標準、中國大陸香港特別行政區則對照 GDPRC 和行政區資料保護相關法規;韓國針對智慧型手機大數據利用進行規範、菲律賓身分證利用規範、日本、俄羅斯對於指紋等生物特徵、新加坡、美國配合 CPBRs 等國際標準等。

(四) 仍在評估國內情況:巴布亞紐幾內亞、智利。

九、 會議最後由 CIPL(the Center for Information Policy Leadership;全球隱私及安全智庫,據點在華府、布魯塞爾及倫敦)、ICDPPC、GPEN、APPA、OECD 等組織分享跨境隱私議題相關資訊。

2 月 28 日為資料隱私次級團體與歐盟會議(DPS and EU Meeting)。本次會議(主席 Mr. Colin Minihan)係與歐盟(EU)之聯合會議，主要就 CBPR 體系、歐盟「一般資料保護規則(GDPR)」進行資訊分享及進度更新，亦就 DPS 與 EU 間的共同合作交流事項，研訂出 3 項議題，納入工作計畫：1) CBPR 體系與 GDPR 第 42 條認證機制之介接(mapping)；2)發展具體工具及措施以提升兩個體系之相容性；3)　討論及發掘 APEC PRP 體系與 GDPR 之間的相容性。

一、　　資訊分享及更新

(一) 主席 Colin Minihan(澳洲)：首先說明 2017 年 8 月 22 日 DPS 與歐盟雙邊會談報告略以，DPS 將透過小型工作小組研析與歐盟的潛在合作領域，並在本次 SOM 1 提交工作計畫。

(二) 本日歐盟未派員出席會議，改由美國資訊政策中心 CIPL(the Center for Information Policy Leadership)代為說明 GDPR 推展狀況：已參與 CBPRs 的各經濟體 updates 及重要議題報告

A　GDPR 將於 2018 年 5 月 25 日正式實施，目前「29 條工作小組」(Article 29 Working Party)」已提出 7 項相關指導方針(guidelines)，包括資料可攜權(Data Portability)、資料保護員(Data Protection Officers)、領導監管機關(Lead Supervisory Authority)、資料保護影響評估(Data Protection Impact Assessment)、行政罰款之設定及適用等 5 項已完成採認，可供外界參考遵循。另有適足性評估之傳輸(GDPR 第 45 條)及認證(GDPR 第 42 條)等 2 項仍進行公眾諮詢(Public Consultation)，其中，對本小組最重要的是「Guidelines on GDPR Certification」。另 GDPR 部分條款屬開放性(Open Clause)，如：歐盟會員國就個人資料處理之兒童年齡界定，採 13 歲或 16 歲不等，需進一步搭配國內法。

B　歐盟新成立「歐洲資料保護委員會」(European Data Protection Board/EDPB)，將取代原運作之「29 條工作小組」，做為 GDPR 監督機構。另歐盟亦提出 e-Privacy Regulation 草案，旨在升級電子傳輸隱私之保障，惟具高度爭議性，支持者仍為少數。

C　目前僅奧地利及德國完成 GDPR 國內法修法程序，另有 9 個會員國已提出修法草案。香港及加拿大等經濟體均就歐盟能否如期實施 GDPR 提出詢問，惟在場無歐盟代表，故無相關回應。

D　歐盟提供財務、專業諮詢等，以協助會員國及企業儘速瞭解及遵循 GDPR，特別是認證及資料可攜性(Data Portability)議題。

E　歐盟 BCRs(企業拘束規則)適用跨國公司(MNCs)以及國際組織機構間的個人資料內部傳輸管道。

F　根據調查，業界對於 GDPR 之施行，主要關注資料處理合法性基礎(legitimate interest of processing)，包括管理、處理層面等之風險。

另 2017 年業界對於 GDPR 的關注已大幅提升，超過半數以上的企業均投入專家及財務資源。

G 歐洲法院(ECJ)近來已接獲大量關於 GDPR 之訴訟，肇因於罰金太高，GDPR 法源依據亦成為訴訟爭執焦點。

(三) 美國

A 有關歐美隱私盾協議(Privacy Shield)一節，雙方自 2017 年 10 月起，每年均製作年度檢視報告(Annual Review Report)，內容包含歐美兩系統介接等議題。雖 GDPR 對於達到與歐盟適當保護水準的國家將採每 4 年檢視，但美歐隱私盾協議屬雙邊協議性質，美國僅取得準適足性（Quasi-Adequacy）的地位，故採逐年檢視，不適用 GDPR 的規定。

B FTC 持續監督與 EU 間之資料跨境傳輸(實際監督行為包括展開不實陳述(False Claim)調查等)。目前約有 3,000 多家美國企業取得隱私盾認證，其中超過半數為中小企業。

(四) 加拿大

A 加拿大商業性企業(Commercial Organization)資料跨境傳輸通過 GDPR 適足性評估，目前正與歐盟執委會(EC)協商延長適用 GDPR 適足性認定(Adequacy Decision)。 (註：依 GDPR 第 45 條規定每 4 年更新檢視一次)

B GDPR 訂有個資主管機關相關監督義務(Monitory Obligation)之規定，如持續評估適足地位是否仍具合理性。加拿大需定期提出監督報告(Regular Monitoring Report)，加拿大已於 2017 年 11 月提出報告，預計今年 6 月提出下 1 份報告。

(五) 日本：目前刻正加速與歐盟諮商雙邊資訊互相傳輸規範，相關細節目前不能透漏，但諮商內容將包含 CBPR，而日本對在本年 5 月前完成諮商不表樂觀。

(六) 韓國：目前正與歐盟進行 GDPR 適足性評估的相關討論，惟尚未到實際執行層面(Implementation)；另政府亦向企業界徵詢意見，未來將製作工作手冊(Handbook)及指導方針(guidelines)教育韓國企業界。

(七) 巴布亞紐幾內亞交流：歐盟已提供巴紐發展電子商務之技術協助，未來將與歐盟加強本議題的交流。

(八) 菲律賓：持續與國內私部門討論適足性議題。

(九) 澳洲：目前尚無與歐盟洽談相關議題之規劃，惟已在相關個資官網提供 GDPR 參考資訊。

二、 未來工作展望

(一) 2015 年 8 月第 32 屆 ECSG-DPS 成立之「小型工作小組」(Small Working Group)將恢復運作，除日本、美國、歐盟及美國問責機構 TrustArc 等既有成員外，新增澳洲、加拿大及 CIPL 等成員，預計在本年 ECSG2(SOM3)

前的休會期間，繼續透過電郵、文件分享及視訊會議等方式持續與歐方交流與溝通。

(二) 期盼前揭工作小組能於今年 SOM3 前，提擬具體可供討論之文件。

3 月 1 日為電子商務推動小組第 37 次會議正式會議。本次會議由副主席 Mr. Michael Rose 主持，向各經濟體代表確認議程及前次會議紀錄，各經濟體代表均無意見。ECSG-DPS 主席 Mr. Colin Miniha(澳洲代表) 報告「資料隱私次級團體(DPS)」及「資料隱私次級團體與歐盟會議」進展及會議結論。

一、 巴紐說明 2018 年優先領域及預期成果：巴紐報告 2018 年大會主題，3 大優先領域為「增進連結性，深化區域經濟整合」、「促進永續暨包容性成長」、「透過結構改革強化包容性成長」。

二、 CTI 主席說明工作重點：1.多邊貿易系統：回應 2017 年 MC 11 相關議題。2.貿易便捷化與連結性：支持 WTO 貿易便捷化(TFA)的執行與能力建構及 2 階段供應鏈連結架構行動計畫。3.區域經濟整合及茂物目標：執行去年 APEC 通過的倡議，包含網路和數位經濟、下一世代貿易及投資議題、全球價值鏈等。4.創新和包容工作：與私部門合作。

三、 網路及數位經濟路徑圖：2017 年 APEC 年度部長會議指示推動執行路徑圖，美方據以提出「網路與數位經濟路徑圖執行計畫」，主要提案內容為該路徑圖為活文件(Living Document)，應鼓勵有關 APEC 委員會/論壇/次級論壇參與執行，並由 ECSG、TELWG 負責共同監督向資深官員報告，謹摘陳討論情形如下：

(一) 美國：本提案係資深官員層級的文件，將提本次資深官員會議以及 CTI 會議討論，但渠相信於不同層次的工作小組先做討論、蒐集意見及凝聚經濟體對本執行計畫的共識，至為重要。

(二) 我國：會中發言表示，本案雖尚在國內意見諮詢階段，惟我國基本上對本案持正面看法並歡迎美方提案，強調我國初步認為 ECSG 負責推動路徑圖極為適當，惟因本案尚牽涉其他次級論壇如電信工作小組(TELWG)，我國需要更多時間整合各單位立場。主席回應感謝我國意見，並稱本案後續將提交 CTI 及 SOM 討論。

(三) 中國大陸：路徑圖所涉 11 個關鍵領域並非均可在 ECSG 執行，涉及諸多論壇/工作小組，應將本執行計畫草案送至 SOM 討論，另稱本案尚需進行國內諮商程序，相關意見將於休會期間提供。

(四) 俄羅斯：網路及數位經濟特別指導小組（AHSGIE）及電信工作小組(TELWG)已經盤點路徑圖 11 項關鍵領域的負責執行單位，其中多數關鍵領域與 TEL 相關，而與 ECSG 相關者相對較少，美方提案僅係重複工作(Duplicate Works)，強調路徑圖關鍵領域的執行，應指定相對應之工作小組，有其既定的 TOR，避免工作重複。另認為美國不應將本提案逕提交資深官員，應先由 ECSG 工作小組討論定案，再逐層提案採認。

(五) 加拿大：美國所提的執行計畫非常實用及具策略性，惟質疑本提案提出由 ECSG 與 TEL 共同合作，是否已先諮詢 TEL，強調據其多年參與 TEL 工作的經驗，TEL 組織龐大，推動 ECSG 與 TEL 工作小組合作的可行性有待商榷。

(六) 馬來西亞：質疑美國提案有關監督、執行及推動等工作將出現整合問題，將在美國所提的執行機制之上，於休會期間提出不同的建議做法。

(七) 日本：歡迎並支持美國所提執行計畫，支持由 ECSG 與 TEL 攜手合作。

(八) 秘魯：支持本提案，並將持續在 CTI、SOM 積極參與討論，在執行路徑圖的各項關鍵領域做出貢獻。

四、 「電子商務推動小組（ECSG）職權範圍(TOR)草案」：

(一) 主席 Michael Rose：首先表示本次會議無意通過 ECSG 的職權範圍(TOR)，僅盼各經濟體提供意見，俾於休會期間討論，並於第 3 次資深官員會議前定案。另於會中多次強調網路及數位經濟係 APEC 跨論壇議題，並無意透過本次修訂讓 ECSG 成為唯一負責網路及數位經濟議題的論壇。

(二) 俄羅斯：俄羅斯對於美國長期把持 ECSG 頗有不滿，擬藉由本次 ECSG 職權範圍修改，減少美國對 ECSG 的影響力，爰對主席連任等多項條款均提出具體的修正建議。

(三) 中國大陸：網路及數位經濟在 APEC 極為重要，惟網路及數位經濟涵蓋頗廣，除電子商務及貿易外，尚包括製造、教育、工業等多個層面，涉及諸多 APEC 論壇/工作小組，應由較高的資深官員層級負責，ECSG 應僅負責電子商務。

(四) 韓國：支持 ECSG 職權範圍修正，惟認為 ECSG 推動重點應為電子商務及數位貿易，並將於會後提出具體的文字修正意見。

(五) 會議決議：請各會員於 3 月 16 日前提供修正意見，俾於休會期間討論定案，提交本年第 3 次資深官員會議採認，另將依秘書處建議增訂最低 14 個法定出席經濟體，以及 4 年的落日條款。

五、 經濟體更新現有提案之執行進度，包括：

(一) 中國大陸「在 RTA/FTA 架構下之跨境電子化貿易」提案：調查印度、馬來西亞、澳洲及韓國跨境電子化貿易(e-trade)，亦於去年 12 月在中國大陸舉辦相關研討會。此報告及兩個案例已提交秘書處，正收集各經濟體的意見。會中，日本說明已提交相關疑問，俄羅斯亦補充其國內相關海關系統資料。中國大陸回覆將請研究單位進行回覆及更新。

(二) 秘魯報告「電子商務新興議題之公私部門對話 」研討會，將於本年 3 月 2 日於巴紐舉辦。主題包括線上消費者保護(Online Consumer Protection)、個資保護(Personal Information Protection)、運算設備在地化(Location of Computing Facilities)、原始碼(Source Code)及 WTO 下的數位貿易討論: 無差別待遇條款(non-discrimination)等議題。會中，日本表示支持此研討會並強調使用者經驗及私部門的參與之重要性。

(三) 美國「利用大數據進行醫療研究之跨論壇合作」提案：本提案即生命科學創新論壇(LSIF)與 ECSG 之聯合計畫。將建構經濟體內健康與資料隱私代表之工作圈、發展醫學資料之二次運用，及有系統發展以使用為基礎之健康資料保護資料庫等目標。

(四) 我國經濟部國際貿易局在會場報告說明去(2017)年10月2日辦理CBPR研討會成效，共有來自 16 個經濟體，19 位講師以及 166 位參與者。並再次感謝秘書處、共同提案以及其他經濟體的幫助，包括美國，日本，泰國，韓國，越南，菲律賓，墨西哥，新加坡，印度尼西亞，馬來西亞和紐西蘭。

六、　　經濟體新提案:

(一) 新加坡說明「Survey Ecommerce Regulation in APEC」，提案內容主要為更新 APEC 貿易知識庫(APEC Trade Repository; http://tr.apec.org)，會中日本表示此提案將有助於 APEC 會員間貿易透明度,希望線上資訊更新後，亦可提供非 APEC 經濟體參考。

(二) 本部說明將延續過去經驗再提報一場國際型「IDEAS Show @ APEC」活動一場。會中，秘魯及美方皆發言說明雙方皆有代表來台參與去年 Ideas Show 活動並表示支持。

七、　　經濟體或組織對數位經濟發展之看法：

(一) 太平洋經濟合作理事會(PECC):第二次專家會議的第二次工作會議提出晉江提案（jingan proposal），與 APEC-ECBA 合作，致力於跨境紛爭解決，跨境隱私保護，跨境資料流通等議題。

(二) 日本：提出電子商務發展新概念，包含工業 5.0（society 5.0）和連結產業（connected industries）。

(三) 俄羅斯：報告國內數位經濟帶動俄羅斯 GDP 大幅成長，2017 年又配合國家支付系統法和提出 2025 年前達成「e 貿易策略」諸多指標，如：欲達成 70%零售商利用網路販售之目標。

(四) WEF: 提出數位東協（digital ASEAN）之概念，強調東協市場數位經濟發展潛力。

參、心得建議

一、　　隨著歐盟 GDPR 將於 5 月 25 日施行，以及參與 APEC CBPRs 經濟體逐漸增加，我國勢必於隱私法制上須與其接軌，而與之同時，也須了解產業所受衝擊。以本司所轄網路零售業而言，按照中華民國無店面零售商業同業公會公布之會員名冊，其中屬網路零售業購物網站者，極少有英文版；縱有英文版其商品介紹(圖檔)也多為中文，外國人倘不諳中文，並無法透過該等商品介紹完成交易，故初步評估 GDPR 生效後所受衝擊應不至過大，但或應宣導業者盤點所收集之外國人個資，以確定受影響範圍並採取因應措施。

二、　　提報辦理「IDEAS Show @ APEC」

　　3 月 1 日 ECSG 大會中，我國說明將延續過去經驗再提報一場國際型「IDEAS Show @ APEC」活動一場。會中祕魯及美方皆發言說明雙方皆有代表來台參與去年 Ideas Show 活動，並表示支持；會後俄羅斯代表也主動詢問 IDEAS Show 活動。經場邊與多經濟體交流後，目前初步評估有強烈意願，可協助邀約或親自來台參與 7 月 IDEAS Show 的經濟體有美方、越南、祕魯、俄羅斯。另外，APEC 秘書處於會中報告最新 APEC 提案辦法，經與 ECSG 秘書 Adrian Cheng Sai Pong 確認，自費提案(Self-funding project)可隨時提交計畫內容，並須獲兩個經濟體共同提案(co-sponsors)。秘書處收到自費提案，將再電郵詢問各經濟體，俟獲支持(endorsement)後，始算提案通過。

肆、附件

附件一、ECSG 會議議程

附件二、ECSG 每日議程表

附件三、我國 DPS 會議發言內容

附件四、會場所發送資料

附件一：ECSG 會議議程

日期	行程
2/26（一）	電子商務推動小組之資料隱私次級小組會議（非正式會議） （Electronic Commerce Steering Group（ECSG）– Data Privacy Sub-Group Meeting （DPS）） （informal meeting）
2/27（二）	電子商務推動小組之資料隱私次級小組會議 （Electronic Commerce Steering Group（ECSG）– Data Privacy Sub-Group Meeting （DPS））
2/28（三）	電子商務推動小組之資料隱私次級小組與歐盟會議 （ECSG-DPS-EU Electronic Commerce Steering Group – Data Privacy Cub-Group and European Union Meeting）
3/1（四）	電子商務推動小組會議 （ECSG Electronic Commerce Steering Group Meeting）

附件二、每日議程表

APEC DATA PRIVACY SUBGROUP
INFORMAL MEETING
AGENDA

9:00 AM TO 6:00 PM, MONDAY 26 FEBRUARY 2018
Laguna Hotel
Port Moresby, Papua New Guinea

I.   **WELCOME AND INTRODUCTION**

The Chair will set out the goals for the informal meeting

II. **CROSS-BORDER PRIVACY RULES (CBPR) SYSTEM**

A. Joint Oversight Panel – current issues for discussion
   a. Joint application for economies and for accountability agents to the CBPR and PRP systems
   b. Other matters

B. Administration and Accountability Study Group
   a. Website update
   b. Communications plan update
   c. Enforcement update
   d. Other matters

III. **CPEA**

A. Discussion of current issues

IV. **UPDATED APEC PRIVACY FRAMEWORK**

A Updates to Privacy Framework and implications for CBPR system requirements

V.   **DPS WORK-PLAN**

This item is linked to item 5 of the DPS Meeting agenda

A. Review of proposed 2018 workplan
B. Opportunities for work options in digital economy matters

VI. **CONCLUSION AND NEXT STEPS**

37ᵀᴴ APEC ELECTRONIC COMMERCE STEERING GROUP MEETING
DATA PRIVACY SUB-GROUP MEETING
<u>AGENDA</u>

9:00 AM TO 6:00 PM, TUESDAY 27 FEBRUARY 2018
Laguna Hotel
Port Moresby, Papua New Guinea

1) **INTRODUCTION AND ADMINISTRATION**

    (a) The Chair will request **<u>approval</u>** of the agenda
    (b) **<u>Noting and approval</u>** of 36ᵗʰ DPS meeting report
    (c) DPS Executive positions – update

2) **CROSS BORDER PRIVACY RULES (CBPR) SYSTEM**

    (a) Report from Joint Oversight Panel Chair – **United States**
        i. Current matters under JOP consideration
        ii. Opportunity for Economies to communicate Intent to Participate
    (b) Update on Multi-Year Project - CBPR System Capacity Building and Administrative Support - **United States**
        i. Report on capacity building activities – **United States**
    (c) Updates from existing CBPR economy participants – **United States, Japan, Mexico, Canada, Korea**
    (d) Updates from economies working towards participation – **Singapore, Chinese Taipei, Philippines, Australia**
    (e) Updates from economies considering participation – **to be advised**
    (f) Administration and Accountability Study Group – **United States**
        i. Report on work on hand
        ii. Work planned for 2018

3) **UPDATED APEC PRIVACY FRAMEWORK**

    (a) Study Group on data portability – review of work
    (b) Developments on the concept of consent - **Canada**
    (c) For **<u>discussion</u>**: possible areas of future work for DPS

4) **CROSS BORDER PRIVACY ENFORCEMENT ARRANGEMENT (CPEA)**

    (a) Overview of CPEA and participation by member economies – **United States**
    (b) Update on recent developments by administrators – **United States**

5) **DPS 2018 WORK PLAN**

    (a) The Chair will lead a discussion reviewing the proposed 2018 Work Plan
    (b) **<u>Discussion and decision</u>** on Work Plan

6) **APEC PROJECTS**

    (a) Project Management Update - the **APEC Secretariat**
    (b) Proposals for Projects

7) UPDATED DATA PRIVACY INDIVIDUAL ACTION PLANS

(a) Chair will invite economies to submit a new IAP or update their existing IAP using the revised IAP template

8) UPDATE FROM APEC BUSINESS ADVISORY COUNCIL (ABAC)

(a) The National Centre for APEC (NCAPEC) will present the "APEC CBPR survey Takeways"

9) REPORTS FROM SUB-GROUP MEMBER ECONOMIES

(a) Member Economies of the Sub-Group are invited to provide a <u>brief</u> (3 minute) report on relevant data privacy developments.
   i.   Russia

10) INFORMATION SHARING ON CROSS-BORDER PRIVACY ISSUES

(a) Guests are invited to provide a <u>brief</u> (3 minute) report on relevant data privacy developments
(b) Report on developments in:
   i.   the International Conference of Data Protection and Privacy Commissioners (ICDPPC)
   ii.   the Asia Pacific Privacy Authorities Forum (APPA)
   iii. the Global Privacy Enforcement Network (GPEN)
   iv.   the APEC E-Commerce Business Alliance (ECBA)
   v.   the World Trustmark Alliance (WTA)
   vi.   the OECD Working Party on Security and Privacy in the Digital Economy

11) CONCLUSION AND NEXT STEPS FOR THE DATA PRIVACY SUB-GROUP

(a) Members will have the opportunity to inform the Sub-Group of any other matters by prior arrangement with the Chair
(b) **Review and decision** - Meeting document access
(c) The Chair will provide a verbal summary of the meeting that will form the basis for the Chair's report to the ECSG

APEC ECSG DATA PRIVACY SUB-GROUP AND EUROPEAN UNION MEETING
AGENDA

9:00 AM TO 6:00 PM, WEDNESDAY 28 FEBRUARY 2018
Laguna Hotel
Port Moresby, Papua New Guinea

1) **INTRODUCTION AND WELCOME**

   (a) The Chair will request **approval** of the agenda

2) **INFORMATION SHARING AND UPDATE**

   (a) Cross-Border Privacy Rules System
   (b) EU General Data Protection Regulation

3) **DPS-EU COLLABORATION ACTIVITIES**

   (a) Draft work-plan
       i.   Mapping the requirements of the CBPR System and GDPR Article 42
             concerning Certifications
       ii.   Development of practical tools to support interoperability
       iii. Exploring interoperability between the APEC Privacy Recognition for
             Processors System and the GDPR

4) **CROSS-BORDER ENFORCEMENT**

   ✓ (a) Discussion of issues

5) **COMMUNICATIONS ISSUES**

   (a) Development of joint communications materials

6) **CONCLUSION AND NEXT STEPS**

THE 37th APEC ELECTRONIC COMMERCE STEERING GROUP MEETING
(ECSG)
AGENDA
9:00-6:00pm, 1 March 2018
Port Moresby, Papua New Guinea
Laguna Hotel, Orchid Ballroom

AGENDA #1. INTRODUCTORY REMARKS BY THE ECSG CHAIR
The ECSG Chair will welcome Members, Observers and Guests, and make introductory remarks.

AGENDA #2. ADOPTION OF THE AGENDA
The ECSG Chair will invite comments and request the ECSG Meeting to adopt the agenda.

AGENDA #3. APEC PRIORITIES FOR 2018
Presentation by the SOM Chair's Office on the priorities for 2018.

AGENDA #4. ADOPTION OF 36TH ECSG MEETING REPORT
The ECSG Chair will invite the ECSG Meeting to endorse the report of the 36th ECSG Meeting held on 23 August 2017 in Ho Chi Minh City, Viet Nam.

AGENDA #5. REPORT ON APEC DEVELOPMENTS
The APEC Secretariat will provide an update on APEC developments relevant to the ECSG, and an update on APEC project management to the ECSG.

AGENDA #6. REPORT FROM DATA PRIVACY SUB-GROUP
The ECSG Chair will invite the Chair of the ECSG-DPS to submit his report for the information and consideration of the ECSG meeting.

AGENDA #7. REPORT ON DEVELOPMENTS IN EU DATA PROTECTION AND E-COMMERCE POLICY
The ECSG Chair will invite the small working group to brief the meeting on ECSG's continued engagement of the EU.

AGENDA #8. BRIEFING BY CTI CHAIR ON CTI PRIORITIES FOR 2018 [1130-1200hrs]
The CTI Chair would brief the Meeting on CTI priorities for 2018 with a view to strengthen collaboration among CTI and ECSG.

AGENDA #9. BRIEFING BY ECSG CHAIR ON THE INTERNET AND DIGITAL ECONOMY ROADMAP
(a) Proposal for the Implementation Plan for the APEC Internet and Digital Economy Roadmap, United States

AGENDA #10. DEVELOPING THE ECSG STRATEGIC PLAN AND REVIEWING THE ECSG TERMS OF REFERENCE (TOR)

(a)   The ECSG Chair will invite comments on proposed revisions to the ECSG TOR.

(b)   The ECSG Chair will provide an update and invite comments on the joint proposal for a strategic plan (2017/SOM1/ECSG/029) last discussed at the 36th ECSG meeting on 23 August 2017.

AGENDA #11. PROJECT PROPOSALS

(a)   Update on Completed/Ongoing Projects
The ECSG Chair will invite the respective member economies to update the meeting of the following ongoing and completed projects.

Ongoing Projects

(i)   Promote Cross-Border E-Trade under the Framework of Regional Trade Agreements (RTAs) / Free Trade Agreements (FTAs) – Based on Best Practices in the APEC Region, **China**

(ii)   Public- Private Dialogue (PPD) on Existing and Emerging Issues related to E-Commerce and Digital Economy, **Peru**

(iii)   Cross-Fora Collaboration in APEC on the Use of Big Data in Medical Research, **United States**

Completed Project

(iv)   Capacity Building for Compliance with Cross-Border Privacy Rules System in APEC, **Chinese Taipei**

(b)   New Projects or Activities
The ECSG Chair will invite member economies to submit project proposals or activities.

(v)   Proposal to Survey Ecommerce Regulations in APEC, **Singapore**

(vi)   Self-Funded Proposal "IDEAS Show", **Chinese Taipei**

AGENDA #12. APEC'S CONTINUED IMPLEMENTATION OF THE BORACAY ACTION AGENDA (BAA) AND THE 2018 MID-TERM REVIEW.
The Philippines will brief the meeting on the proposed revised 2017 Annual Stocktake of the BAA.

AGENDA #13. UPDATE FROM APEC E-COMMERCE BUSINESS ALLIANCE (ECBA)
ECBA will present the "APEC E-Commerce Business Alliance Secretariat Report".

AGENDA #14. UPDATE FROM APEC BUSINESS ADVISORY COUNCIL (ABAC)

The National Center for APEC (NCAPEC) will present the "APEC CBPR survey Takeways".

AGENDA #15. INFORMATION SHARING ON ELECTRONIC COMMERCE ISSUES

The ECSG Chair will invite guests and members who would like to submit voluntary reports to the ECSG for information.

(a) Member Economies

    i.   Recent development of METI's basic (digital-related) policy, **Japan**

    ii.   Brief report on e-commerce development in the Russian Federation (presentation), **Russia**

    iii. Brief report on e-commerce development in the Russian Federation (text), **Russia**

(b) Guest Organizations

    i.   World Economic Forum (WEF)

    ii.   World Trustmark Alliance (WTA)

AGENDA #16. Promoting E-commerce to Globalize MSMEs

The APEC Policy Support Unit will present to the meeting its publication "Promoting E-commerce to Globalize MSMEs".

AGENDA #17. Other Business

(a) Report to CTI

The ECSG Chair will inform the meeting that an ECSG-Convenor's report, based on the discussions at the meeting will be prepared for submission to the CTI.

AGENDA #18. Conclusion and Next Meeting

(a) Document access

The APEC Secretariat will present the document classification list for the endorsement of the ECSG.

(b) Dates and venues for next meeting

The host of the next ECSG meeting will brief the meeting on the dates and venues for the next meeting.

¤ ¤ ¤ END ¤ ¤ ¤

附件三、我國 **DPS** 會議發言內容

2018 APEC SOM1 ChineseTaipei MOEA 發言稿

The Ministry of Economic Affairs (MOEA) of Chinese Taipei supports and protects security of personal information through two main mechanisms: one is providing counseling to assist online retailers in establishing a personal data management system; the other one is, based on the Article 27 of the Personal Data Protection Act, to implement administrative inspections for enterprises which are suspected of data breach. Under the inspections, the result shows that 70 percent of data security from retailers improved significantly.

In the future, MOEA will continue to assist Online Retailers in protecting personal data and will oversee its crime prevention and security measures against data breach.

附件四、會場所發資料

**Asia-Pacific
Economic Cooperation**

Draft Agenda

Purpose: Consideration
Submitted by: DPS Chair

**APEC 2018
PAPUA NEW
GUINEA**

**Data Privacy Sub-Group Informal Meeting
Port Moresby, Papua New Guinea
26 February 2018**

APEC DATA PRIVACY SUBGROUP
INFORMAL MEETING
AGENDA

9:00 AM TO 6:00 PM, MONDAY 26 FEBRUARY 2018
Laguna Hotel
Port Moresby, Papua New Guinea

I. **WELCOME AND INTRODUCTION**

The Chair will set out the goals for the informal meeting

II. **CROSS-BORDER PRIVACY RULES (CBPR) SYSTEM**

    A. Joint Oversight Panel – current issues for discussion
        a. Joint application for economies and for accountability agents to the CBPR and PRP systems
        b. Other matters

    B. Administration and Accountability Study Group
        a. Website update
        b. Communications plan update
        c. Enforcement update
        d. Other matters

III. **CPEA**

    A. Discussion of current issues

IV. **UPDATED APEC PRIVACY FRAMEWORK**

    A Updates to Privacy Framework and implications for CBPR system requirements

V. **DPS WORK-PLAN**

This item is linked to item 5 of the DPS Meeting agenda

    A. Review of proposed 2018 workplan
    B. Opportunities for work options in digital economy matters

VI. **CONCLUSION AND NEXT STEPS**

Asia-Pacific
Economic Cooperation

2018/SOM1/ECSG/DPS/000
Agenda Item: 11(b)

Document Classification List

Purpose: Consideration
Submitted by: APEC Secretariat

**APEC 2018
PAPUA NEW
GUINEA**

**Data Privacy Sub-Group Meeting
Port Moresby, Papua New Guinea
27 February 2018**

Document Classification List

Document No.	Title	Agenda Item	Submitted By	Public Release Yes	Public Release No	Reason for Restriction	Derestriction Date (where applicable)
2018/SOM1/ECSG/DPS/000	Document Classification List - Data Privacy Sub-Group Meeting 2018	11(b)	APEC Secretariat		√	Internal document	
2018/SOM1/ECSG/DPS/001	Draft Agenda - Data Privacy Sub-Group Meeting 2018	1(a)	DPS Chair	√			
2018/SOM1/ECSG/DPS/002	Report of 36th Electronic Commerce Steering Group Data Privacy Sub-Group Meeting 2017	1(b)	DPS Chair	√			
2018/SOM1/ECSG/DPS/003	APEC Data Portability Study Group Discussion Paper	3(a)	DPS Chair		√	Under consideration	
2018/SOM1/ECSG/DPS/004	Data Privacy Sub-Group Work Plan for 2018	5	DPS Chair		√	Under consideration	
2018/SOM1/ECSG/DPS/005	APEC Secretariat Updates	6(a)	APEC Secretariat	√			
2018/SOM1/ECSG/DPS/006	APEC Cross Border Privacy Rules (CBPR) Survey Takeaways	8(a)	NCAPEC	√			
2018/SOM1/ECSG/DPS/007	Brief Report on Recent Data Protection Development in the Russian Federation – Text	9(a)i	Russia	√			
2018/SOM1/ECSG/DPS/008	Brief Report on Recent Data Protection Development in the Russian Federation – Presentation	9(a)i	Russia	√			
2018/SOM1/ECSG/DPS/009	Update on Organisation for Economic Cooperation and Development Privacy Initiatives	10(b)(vi)	OECD	√			

NB: Highlighted documents have been printed. All papers are accessible via the APEC Collaboration System (ACS).

**Asia-Pacific
Economic Cooperation**

2018/SOM1/ECSG/DPS/001
Agenda Item: 1(a)

Draft Agenda

Purpose: Consideration
Submitted by: DPS Chair

APEC 2018
PAPUA NEW
GUINEA

**Data Privacy Sub-Group Meeting
Port Moresby, Papua New Guinea
27 February 2018**

37TH APEC Electronic Commerce Steering Group Meeting
Data Privacy Sub-Group Meeting
AGENDA

9:00 AM TO 6:00 PM, TUESDAY 27 FEBRUARY 2018
Laguna Hotel
Port Moresby, Papua New Guinea

1) INTRODUCTION AND ADMINISTRATION

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(b) **Noting and approval** of 36th DPS meeting report
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3) UPDATED APEC PRIVACY FRAMEWORK

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(a) Project Management Update - the **APEC Secretariat**
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        ii.   the Asia Pacific Privacy Authorities Forum (APPA)
        iii.   the Global Privacy Enforcement Network (GPEN)
        iv.   the APEC E-Commerce Business Alliance (ECBA)
        v.   the World Trustmark Alliance (WTA)
        vi.   the OECD Working Party on Security and Privacy in the Digital Economy

11) CONCLUSION AND NEXT STEPS FOR THE DATA PRIVACY SUB-GROUP

    (a) Members will have the opportunity to inform the Sub-Group of any other matters by prior arrangement with the Chair
    (b) **Review and decision** - Meeting document access
    (c) The Chair will provide a verbal summary of the meeting that will form the basis for the Chair's report to the ECSG

Asia-Pacific
Economic Cooperation

APEC Data Portability Study Group Discussion Paper

Purpose: Consideration
Submitted by: DPS Chair

**APEC 2018
PAPUA NEW
GUINEA**

**Data Privacy Sub-Group Meeting
Port Moresby, Papua New Guinea
27 February 2018**

APEC Data Portability Study group

Discussion Paper[1]

Contents

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[1] Any opinions, comments and analysis expressed in this paper are for the purposes of discussion and do not necessarily represent the views of any APEC member economies or guests.

Purpose of this Paper

The purpose of this paper is to present background information to stimulate discussion on *data portability*. The paper is divided into the following sections:

1. potential benefits and drawbacks of data portability; and
2. interoperability and data portability across jurisdictions.

The APEC Data Privacy Subgroup set up a study group in 2/16 with the task "to review developments in relation to data portability" and to report back with findings or, if warranted, recommendations for further work in 2017/8. The study group was asked to "pay particular attention to the position of consumers in the digital age and the interoperability between privacy frameworks".

I Potential benefits and drawbacks of data portability

The idea of data portability is gaining momentum worldwide. Various arguments have been put forward that data portability will benefit consumers. The potential benefits of data portability can be broadly grouped into the following categories:

- support trade and competitiveness of APEC members by empowering consumers to switch to more competitive and suitable service providers (and thereby removing administrative trade barriers);[2]
- improve financial awareness;[3]
- enhance consumer control and trust in the transparency of processes when transferring personal data;[4]
- ease the burden of backing up personal data;
- reduce barriers to entry for new and innovative services;[5] and
- encourage growth in the digital economy as a lack of interoperability can stifle economic growth and prevent regions from achieving economies of scale where there are relatively small geographic boundaries.[6]

Others have been more sceptical of the benefits of data portability and have ventilated potential drawbacks. The potential drawbacks of data portability include:

- costs to government and businesses (passed to consumers) to implement data portability;[7]
- the economic benefits of data portability are not well understood;[8]

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[2] Data portability would help people to **switch service providers** without losing their histories. For example, if a consumer wanted to switch from Strava to RunKeeper (both apps that track physical activity), the data portability right would ensure they could get hold of the data held about their activities by Strava for import into RunKeeper (see http://www.jenitennison.com/2017/12/26/data-portability.html).

[3] Ibid.

[4] Ibid; it is suggested that data portability will provide more **transparency** than is currently provided. At the moment, exercising one's data access right can simply lead to receiving pages and pages of printed information. With data portability, people will be able to search within and analyse the data that organisations hold about them.

[5] Ibid; Data portability would support the growth of data analytics by third parties. Especially services oriented around providing insights into particular types of activity (eg helping you reduce your energy usage) or that link together different types of activity (eg bringing together one's transport spend with the routes that one travels).

[6] European Commission, 'A Digital Single Market Strategy for Europe' 6 May 2015 < http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0192&from=EN>.

[7] Ibid 13; Peter Swire and Yianni Lagos, 'Why the Right to Data Portability Likely Reduces Consumer Welfare: Antitrust and Privacy Critique' (2013) 72(2) *Maryland Law Review* 379.

- interoperability is increasingly complex and data portability requirements may raise barriers to entry for new service providers if they are too burdensome;[9]
- regulatory intervention mandating data portability may hinder innovation;[10] and
- in some jurisdictions data portability may lead to conflicts in consumer law and privacy or data protection law.[11]

II Interoperability and data portability across jurisdictions

The following analysis of data portability across jurisdictions provides some insight into the underlying objectives of the various models.

Data Portability	
EU	• Article 20 of the General Data Protection Regulation (GDPR) includes a right to data portability, allowing for data subjects to **receive** the personal data, which has been provided to a controller, in a structured, commonly used and machine-readable format, and to **transmit** them to another data controller without hindrance. • Article 20 is said to support the free flow of personal data in the EU and encourage competition between data controllers. • The right is a balance between data subjects and data controllers, by affirming individuals' personal rights and control over their personal data. • The right to data portability complements the right of access. • EU A29 Working Party developed guidance on data portability from 2016. • Article 20 has an extra territorial reach and companies should consider their need to comply in order to avoid fines.
UK	• The new Data Protection Bill (introduced and published in September 2017) will 'implement' and 'supplement' the GDPR in the UK. • The UK Government is also commissioning research to investigate the benefits of data portability for consumers and the economy.[12]
Philippines	• The *Philippines Data Protection Act* (DP Act) was passed in 2012. • The DP Act passed in order "to protect the fundamental human right of privacy, of communication while ensuring free flow of information to promote innovation and growth".

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[8] Aysem Dike Vanberg, 'The Right to Data Portability in the GDPR: What Lessons Can Be Learned From the EU Experience' (2018) 21(7) *Journal of Internet Law*; scholars suggest that interdisciplinary research is needed to ascertain the economic effects of data portability under the GDPR. Several commentators have mentioned that personal data is the new oil. Legislating on how an individual's personal data should be made available to other parties has wide ranging consequences and should be treated cautiously. It is important to ascertain to what degree the data portability provision under Article 20 of the GDPR drives innovation, economic growth and consumer welfare, delivering on the promise of the European Digital Economy.
[9] Ibid 17.
[10] Ibid 14.
[11] Dan Svantesson, 'Enter the quagmire – the complicated relationship between data protection law and consumer protection law' (2018) 34 *Computer Law & Security Review* 25-36.
[12] The Department for Digital, Culture, Media and Sport (DCMS) in the UK plans to begin a project in February investigating likely gains to consumers and the economy of making data across various sectors and applications more easily portable. In particular, it wants to gain a better understanding of the potential of data portability as a beneficial tool for consumers in a competitive market. It also wants to develop an example of how data portability that works for consumers and businesses might be practically achieved. The project is due to start on February 27 and run until April 23 with receipt of tenders or requests to participate expected by February 12; David Bicknell, *DCMS launches research project into data portability* Government Computing (18 January 2018) <http://central-government.governmentcomputing.com/news/dcms-launches-research-project-into-data-portability-6031585>.

NZ	- The DP Act has a complete data portability right in reasonably similar terms to the EU. - Under the *New Zealand Health Act 1956*, an individual has the **right to request** from any person who holds health information to disclose the requested information to that person, representative or another person with refusals to transfer deemed to constitute an 'interference with privacy' enforceable by way of complaint to the Privacy Commissioner and accompanying remedies. - There is no equivalent right to data portability for records other than health records under the *New Zealand Privacy Act 1993*.
Aus	- The *Privacy Act 1988* (Privacy Act) does not include an explicit 'right to data portability'. - Under the Privacy Act individuals have a right to request access to, and correction of, their personal information under Australia Privacy Principles 12 and 13. - The Productivity Commission's *Data Availability and Use* inquiry report was released in May 2017.[13] The Australian Government has committed to: - Commissioning an independent review into banking data portability;[14] and - A 'Comprehensive Data Right' for consumers, including an Open Banking Initiative that will take forward data portability in the financial sector.[15]
USA	- Data portability is generally seen as an access to information/data issue. - The USA does not have a uniform data protection law and no single regulatory authority that oversees data protection law. - The 1996 *Health Insurance Portability and Accountability Act* gives individuals the right to access (not a portability right) personal health information collected about them. 'My Data initiatives' were introduced from 2010 onwards and allow individuals to access tax, student and utility data. - It has been suggested that, at present, the assumption is data portability is a choice for data controllers, not a right for data subjects.[16]

The need for interoperability

Global data flows are accelerating. At the same time, data privacy laws continue to be implemented around the world. For example, since 2010 nearly a dozen APEC member economies have introduced or updated laws that protect personal information privacy. The EU, which represents the largest economy in the world, is working to strengthen its data protection law.[17] This is likely to have a far-reaching impact on data flows worldwide. While the main purpose of the GDPR is to give EU citizens control over their

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[13] Productivity Commission, Australian Government, *Data Availability and Use* (2017) <http://www.pc.gov.au/inquiries/completed/data-access/report>.

[14] The final report of the review is available at: https://treasury.gov.au/consultation/c2018-t247313/ . The final report makes 50 recommendations covering the regulatory framework, the type of banking data in scope, privacy and security safeguards for banking customers, the data transfer mechanism and implementation issues. The Australian Treasury is seeking submissions on the review's recommendations to inform the Government response.

[15] Department of the Prime Minister and Cabinet, Australian Government, *Australians to own their own banking, energy, phone and internet data'* (26 November 2017) <https://ministers.pmc.gov.au/taylor/2017/australians-own-their-own-banking-energy-phone-and-internet-data>.

[16] Aysem Dike Vanberg, above n 7, 17.

[17] John Kropf and Malcolm Crompton, 'The EU and APEC: A Roadmap for Global Interoperability?' International Association of Privacy Professionals (IAPP) <https://iapp.org/news/a/the-eu-and-apec-a-roadmap-for-global-interoperability/>.

personal data, it also claims an extra territorial reach. The GDPR applies to any company that operates in the European Union. Hence, transnational businesses that collect data from EU data subjects will need to comply with the GDPR to avoid hefty fines. Accordingly, it is timely for the Data Privacy Sub-Group to consider how to engage with, and provide leadership in, data portability policy. The table above shows that there are different approaches being adopted, but at this early stage there appears to remain potential for interoperability to be developed and frameworks like APEC's CBPR and the EU's Binding Corporate Rules (BCRs) may hold promise.[18]

One option – interoperability through CBPR/BCR systems

APEC has made steady progress in establishing a regional privacy framework that maximises privacy protection while facilitating cross-border information flows. With over one-third of the 21 APEC member economies being either CBPR participants or intending to participate, there is a growing impetus amongst APEC trading partners to provide a common mechanism for businesses to protect personal information in the digital and cross-border environments. Whilst APEC has been developing the CBPR system, the EU has been experiencing a slow-but-steady increase in the use of BCRs. The BCRs provide a set of binding rules that can be put into place in order to allow multinational groups to transfer personal data. For an application to be approved, the applicant will be required to prove that adequate safeguards for protecting the personal data are in place. Multinationals have increasingly seen BCRs as a way of undertaking cross-border transfers within the company group even if some group members are not within the EU. Approximately 85 companies have had their BCRs approved and 21 European countries are part of the mutual recognition procedure. For some of these companies the BCRs have become a *de facto* baseline for their global compliance and accountability programs.

There are substantial similarities between the BCRs and CBPR systems. Both BCR and CBPR systems require the implementation of internal policies and procedures with protections that are enforced externally. The synergies of the CBPR and BCR systems have the potential to permit interoperability. Dealing with the issue of data portability as part of the consideration of interoperability between CBPR and BCR is one approach to developing a solution to sharing cross-border data globally.[19]

Consideration could be given to including a right to data portability in the CBPR system documentation. For example, this could be included as a component of the access and correction elements, recognising that Principle VIII of the APEC privacy principles is most directly relevant to the issue of data portability. A broader question is also whether APEC economies want to recommend that data portability be added as an additional privacy requirement in domestic legislation going forward, i.e. an extension to the APEC Privacy Framework. In addition, the DPS could give consideration to the development of additional guidance material. Further consideration would need to be given to the fundamental policy reasons for the data portability right. The approach chosen may have significant implications for businesses. For example, an approach that focusses on providing rights to individuals sets a different basis than an approach which provides an opportunity to businesses to more effectively provide services and stimulate competition.

Finally consideration should be given as to how the potential benefits and economic opportunities of data portability align with APEC's overall objectives.

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[18] Ibid.
[19] Ibid.

Sources & further reading

Journal Articles, Reports & Conference Presentations

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Blair Stewart, 'A Privacy Right to Personal Information Portability: Will this be an essential new consumer right for the digital age?' presented to the Asian Privacy Scholars Network 5th International Conference, Auckland, 13-14 December 2016.

Blair Stewart, 'A Privacy Right to Personal Information Portability: Resource Document' presented at Privacy Research Week, Auckland, 12-14 December 2016.

Blair Stewart, 'Translating a Privacy Right to Data Portability into Law: Case studies from two regions – the European Union and the Philippines' (April 2016) *Privacy Laws & Business International Report* 7.

Dan Svantesson, 'Enter the quagmire – the complicated relationship between data protection law and consumer protection law' (2018) 34*Computer Law & Security Review* 25-36.

David Bicknell, 'DCMS launches research project into data portability' Government Computing, 18 January 2018 <http://central-government.governmentcomputing.com/news/dcms-launches-research-project-into-data-portability-6031585>.

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New Zealand Privacy Commissioner (Te Mana Matapono Matatapu), 'Public attitudes to data sharing cautious but shifting – survey' (9 May 2016) <https://privacy.org.nz/news-and-publications/statements-media-releases/public-attitudes-to-data-sharing-cautious-but-shifting-survey/>.

Paul T. Moura, 'The Sticky Case of Sticky Data: An Examination of the Rationale, Legality, and Implementation of a Right to Data Portability Under European Competition Law' (LSE, 2014)

Peter Swire and Yianni Lagos 'Why the Right to Data Portability Likely Reduces Consumer Welfare: Antitrust and Privacy Critique' (2013) 72(2) *Maryland Law Review* 379.

News Articles & Blogs

Alexander Macgillivray and Jay Shambaugh, 'Exploring Data Portability' (30 September 2016) The White House <https://obamawhitehouse.archives.gov/blog/2016/09/30/exploring-data-portability>.

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Kristen Honey, Phaedra Chrousos and Tom Black, 'My Data: Empowering All Americans with Personal Data Access' (15 March 2016) The White House <https://obamawhitehouse.archives.gov/blog/2016/03/15/my-data-empowering-all-americans-personal-data-access>.

Privacy Laws & Business, 'Degradation of privacy standards could be deemed abuse under competition law' (26 April 2016) <https://www.privacylaws.com/UK_enews_26_4_16>.

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Will Rinehart, 'Why A Data Portability Act Might Not be An Effective Policy Path' 6 February 2018 American Action Forum < https://www.americanactionforum.org/insight/data-portability-act-might-not-effective-policy-path/>.

Asia-Pacific
Economic Cooperation

Data Privacy Sub-Group Work Plan for 2018

Purpose: Consideration
Submitted by: DPS Chair

APEC 2018
PAPUA NEW
GUINEA

Data Privacy Sub-Group Meeting
Port Moresby, Papua New Guinea
27 February 2018

APEC ECSG Data Privacy Sub-Group
WORK PLAN FOR 2018

The APEC Data Privacy Sub-Group (DPS) is responsible for privacy-related work within APEC. As a sub-forum of the Electronic Commerce Steering Group (ECSG) that operates under the APEC Committee on Trade and Investment (CTI), the DPS aims to support the CTI's efforts to liberalize and facilitate trade and investment within the APEC region, to reduce impediments to business in the areas outlined in the Osaka Action Agenda, and assist Member Economies achieve the Bogor Goals of free and open trade and investment. The DPS aligns its work agenda with the goals and priorities laid out by the APEC Host Economy, as well as contributing to meeting the Leaders' commitments and delivering on their instructions as set out in their Annual Leaders' Declaration.

For 2018, the DPS Work Plan seeks to engage in the following activities:

IMPLEMENTATION OF THE APEC CBPR AND PRP SYSTEMS

- Encourage and facilitate economy participation in the CBPR and PRP systems:
  - Provide assistance and guidance to economies as required, including in relation to the interaction of the CBPR System with domestic legislation in economies;
  - Subject to funding, deliver CBPR capacity building projects under the Capacity Building Multi-Year Project;
  - Share information on the further development of the CBPR and PRP systems and implementation mechanisms as well as achievements between parties concerned
- Develop strong financial, governance, accountability and enforcement mechanisms that will promote the transparency and credibility of the CBPR and PRP systems. Working through the Administration and Accountability Study Group, the DPS work will include:
  - Upgrading the CBPR website and developing a communications strategy and associated products to promote participation in the CBPR and PRP systems;
  - Improving the complaint intake mechanism for reporting violations of the CBPR system program requirements and false claims of CBPR participation, operated through the CBPR website, and identifying and applying for APEC funds to support its operation;
  - Identifying potential resources necessary to administer the CBPR system and developing a proposal for obtaining or collecting funding; and
  - Exploring the use of a CBPR-related seal or certification that would be used by all Accountability Agents and displayed by all certified companies.
- Under the coordination of the CBPR Joint Oversight Panel:
  - continue to monitor and assess governance of the CBPR system; and
  - consider economy notices of intent to participate and accountability agent applications/renewals, as appropriate.

APEC and EU Interoperability

- Further to the 14 April 2015 APEC DPS expression of interest and 29 May 2015 response from EU Article 29 Working Party, jointly with relevant EU authorities identify opportunities to develop practical tools that will help organizations understand and meet application requirements for the EU Binding Corporate Rules and APEC CBPR system.
- Review the best path for interoperability with the EU's General Data Protection Regulation regime based on accountable privacy protections and the CBPR system.

- Discuss issues and challenges relating to compliance with the European Union's General Data Protection Regulation.

UPDATED APEC PRIVACY FRAMEWORK

- Following the update of the APEC Privacy Framework, initiatives to encourage and support domestic and international implementation will focus on:
    - Report by the Data Portability Study Group
    - Identifying and developing capacity building opportunities related to the updated elements of the APEC Privacy Framework, including:
        - Data breach notification
        - Implementation of a Privacy Management Framework
        - Privacy By Design
        - Capacity building for Privacy Enforcement Authorities
- Continue to offer assistance, including capacity building activities, to economies that are considering the development or implementation of domestic approaches to privacy.
- Engage with other APEC bodies on the development of policy initiatives that have privacy implications.

Data Privacy Individual Action Plans (IAPs)

- Encourage economy updates of IAPs based on the revised IAP template to reflect the updated APEC Privacy Framework;
- Explore and identify options for improving use of updated IAPs, including as tools to encourage and assist remaining economies to submit an IAP.

INFORMATION SHARING

- Identify and develop options for information sharing, particularly between economies, including among privacy enforcement authorities, and among stakeholders, on relevant matters, including:
    - consideration of tools such as web-based platforms and other collaborative arrangements;
    - Raising awareness of personal data protection related issues among different population groups, particularly for children and youth.
- Continue to monitor developments in and share information with other international fora on cross-border privacy issues and initiatives.

**Asia-Pacific
Economic Cooperation**

Draft Agenda

Purpose: Consideration
Submitted by: DPS Chair

APEC ECSG DATA PRIVACY SUB-GROUP AND EUROPEAN UNION MEETING
AGENDA

9:00 AM TO 6:00 PM, WEDNESDAY 28 FEBRUARY 2018
Laguna Hotel
Port Moresby, Papua New Guinea

1) **INTRODUCTION AND WELCOME**

   (a) The Chair will request **approval** of the agenda

2) **INFORMATION SHARING AND UPDATE**

   (a) Cross-Border Privacy Rules System
   (b) EU General Data Protection Regulation

3) **DPS-EU COLLABORATION ACTIVITIES**

   (a) Draft work-plan
     i. Mapping the requirements of the CBPR System and GDPR Article 42 concerning Certifications
     ii. Development of practical tools to support interoperability
     iii. Exploring interoperability between the APEC Privacy Recognition for Processors System and the GDPR

4) **CROSS-BORDER ENFORCEMENT**

   (a) Discussion of issues

5) **COMMUNICATIONS ISSUES**

   (a) Development of joint communications materials

6) **CONCLUSION AND NEXT STEPS**

Document Classification List

Purpose: Consideration
Submitted by: APEC Secretariat

APEC 2018
PAPUA NEW
GUINEA

**37th Electronic Commerce Steering Group
Meeting
Port Moresby, Papua New Guinea
1 March 2018**

Document Classification List

Document No.	Title	Agenda Item	Submitted By	Public Release Yes	Public Release No	Reason for Restriction	Derestriction Date (where applicable)
2018/SOM1/ECSG/000	Document Classification List – 37th Electronic Commerce Steering Group Meeting 2018	18(a)	APEC Secretariat		√	Internal document	
2018/SOM1/ECSG/001	Draft Agenda – 37th Electronic Commerce Steering Group Meeting 2018	2	ECSG Chair	√			
2018/SOM1/ECSG/002	APEC 2018 Theme and Priorities	3	Papua New Guinea	√			
2018/SOM1/ECSG/003	Summary Report of the 36th APEC Electronic Commerce Steering Group Meeting	4	APEC Secretariat		√	Under consideration	
2018/SOM1/ECSG/004	APEC Secretariat Updates	5	APEC Secretariat	√			
2018/SOM1/ECSG/005	2018 Work Program Briefing for Committee on Trade and Investment Sub-Fora	8	CTI Chair	√			
2018/SOM1/ECSG/006	Implementation Plan for the APEC Internet and Digital Economy Roadmap	9	United States		√	Under consideration	
2018/SOM1/ECSG/007	APEC Internet and Digital Economy Roadmap	9	APEC Secretariat	√			
2018/SOM1/ECSG/008	Proposed Terms of Reference of APEC Electronic Commerce Steering Group	10(a)	ECSG Chair		√	Under consideration	
2018/SOM1/ECSG/009	Proposed Language for Sunset Clause and Quorums to be Used for the Revised Terms of Reference	10(a)	APEC Secretariat		√	Under consideration	
2018/SOM1/ECSG/010	The Establishment of a Steering Group on Electronic Commerce	10(a)	ECSG Chair	√		Under consideration	
2018/SOM1/ECSG/011	Priorities for the Electronic Commerce Steering Group 2018-2021 Strategic Plan – Draft	10(b)	ECSG Chair		√	Under consideration	
2018/SOM1/ECSG/012	Progress Report on Promote Cross-Border E-Trade Under the Framework of Regional Trade Agreements / Free Trade Agreements - Based on Best Practices in the APEC Region	11(a)(i)	China	√			
2018/SOM1/ECSG/013	Work Undertaken by APEC in Support of the Boracay Action Agenda to Globalize MSMEs for 2017	12	Philippines		√		
2018/SOM1/ECSG/014	APEC E-Commerce Business Alliance Secretariat Report	13	ECBA	√			
2018/SOM1/ECSG/015	APEC Cross Border Privacy Rules (CBPR) Survey Takeaways	14	NCAPEC	√			

Document No.	Title	Agenda Item	Submitted By	Public Release Yes	Public Release No	Reason for Restriction	Derestriction Date (where applicable)
2018/SOM1/ECSG/016	Connected Industries Tokyo Initiative 2017	15(a)i	Japan	✓			
2018/SOM1/ECSG/017	Brief Report on E-commerce Development in the Russian Federation – Presentation	15(a)ii	Russia	✓			
2018/SOM1/ECSG/018	Brief Report on E-commerce Development in the Russian Federation – Text	15(a)iii	Russia	✓			
2018/SOM1/ECSG/019	Center for the Fourth Industrial Revolution - Digital Trade and Cross-Border Data Flows	15(b)i	WEF	✓			
2018/SOM1/ECSG/020	Concept Note - Digital ASEAN - Work-Stream to Support the Development of a Regional Digital Economy in ASEAN	15(b)i	WEF	✓			
2018/SOM1/ECSG/021	Concept Note - Enabling E-commerce - Dialogue and Training on Cross-Border E-commerce Policy and Practice	15(b)i	WEF	✓			
2018/SOM1/ECSG/022	Digital Trade, E-commerce and Globalizing MSMEs	16	PSU, APEC Secretariat	✓			
2018/SOM1/ECSG/023	Digital Trade, E-commerce and Globalizing MSMEs – Presentation	16	PSU, APEC Secretariat	✓			
2018/SOM1/ECSG/024	Promoting E-commerce to Globalize MSMEs – Summary and Recommendations	16	PSU, APEC Secretariat	✓			
2018/SOM1/ECSG/025	Survey on e-Commerce Regulations in APEC	11(b)v	Singapore		✓	Draft	
2018/SOM1/ECSG/026	Data Privacy Sub-Group Work Plan for 2018	6	DPS Chair		✓	Under consideration	

NB: Highlighted documents have been printed. All papers are accessible via the APEC Collaboration System (ACS).

Asia-Pacific
Economic Cooperation

Draft Agenda

Purpose: Consideration
Submitted by: ECSG Chair

APEC 2018
PAPUA NEW
GUINEA

37th Electronic Commerce Steering Group
Meeting
Port Moresby, Papua New Guinea
1 March 2018

THE 37th APEC ELECTRONIC COMMERCE STEERING GROUP MEETING (ECSG)
AGENDA
9:00-6:00pm, 1 March 2018
Port Moresby, Papua New Guinea
Laguna Hotel, Orchid Ballroom

AGENDA #1. INTRODUCTORY REMARKS BY THE ECSG CHAIR
The ECSG Chair will welcome Members, Observers and Guests, and make introductory remarks.

AGENDA #2. ADOPTION OF THE AGENDA
The ECSG Chair will invite comments and request the ECSG Meeting to adopt the agenda.

AGENDA #3. APEC PRIORITIES FOR 2018
Presentation by the SOM Chair's Office on the priorities for 2018.

AGENDA #4. ADOPTION OF 36TH ECSG MEETING REPORT
The ECSG Chair will invite the ECSG Meeting to endorse the report of the 36th ECSG Meeting held on 23 August 2017 in Ho Chi Minh City, Viet Nam.

AGENDA #5. REPORT ON APEC DEVELOPMENTS
The APEC Secretariat will provide an update on APEC developments relevant to the ECSG, and an update on APEC project management to the ECSG.

AGENDA #6. REPORT FROM DATA PRIVACY SUB-GROUP
The ECSG Chair will invite the Chair of the ECSG-DPS to submit his report for the information and consideration of the ECSG meeting.

AGENDA #7. REPORT ON DEVELOPMENTS IN EU DATA PROTECTION AND E-COMMERCE POLICY
The ECSG Chair will invite the small working group to brief the meeting on ECSG's continued engagement of the EU.

AGENDA #8. BRIEFING BY CTI CHAIR ON CTI PRIORITIES FOR 2018 [1130-1200hrs]
The CTI Chair would brief the Meeting on CTI priorities for 2018 with a view to strengthen collaboration among CTI and ECSG.

AGENDA #9. BRIEFING BY ECSG CHAIR ON THE INTERNET AND DIGITAL ECONOMY ROADMAP
*(a) Proposal for the Implementation Plan for the APEC Internet and Digital Economy Roadmap, **United States***

AGENDA #10. DEVELOPING THE ECSG STRATEGIC PLAN AND REVIEWING THE ECSG TERMS OF REFERENCE (TOR)

(a) *The ECSG Chair will invite comments on proposed revisions to the ECSG TOR.*

(b) *The ECSG Chair will provide an update and invite comments on the joint proposal for a strategic plan (2017/SOM1/ECSG/029) last discussed at the 36th ECSG meeting on 23 August 2017.*

AGENDA #11. PROJECT PROPOSALS

(a) Update on Completed/Ongoing Projects
The ECSG Chair will invite the respective member economies to update the meeting of the following ongoing and completed projects.

Ongoing Projects

(i) Promote Cross-Border E-Trade under the Framework of Regional Trade Agreements (RTAs) / Free Trade Agreements (FTAs) – Based on Best Practices in the APEC Region, **China**

(ii) Public- Private Dialogue (PPD) on Existing and Emerging Issues related to E-Commerce and Digital Economy, **Peru**

(iii) Cross-Fora Collaboration in APEC on the Use of Big Data in Medical Research, **United States**

Completed Project

(iv) Capacity Building for Compliance with Cross-Border Privacy Rules System in APEC, **Chinese Taipei**

(b) New Projects or Activities
The ECSG Chair will invite member economies to submit project proposals or activities.

(v) Proposal to Survey Ecommerce Regulations in APEC, **Singapore**

(vi) Self-Funded Proposal "IDEAS Show", **Chinese Taipei**

(vii) Preparation for the Workshop on the Opportunities and Challenges of Cross Border E-commerce, Chinese Taipei

AGENDA #12. APEC'S CONTINUED IMPLEMENTATION OF THE BORACAY ACTION AGENDA (BAA) AND THE 2018 MID-TERM REVIEW.
The Philippines will brief the meeting on the proposed revised 2017 Annual Stocktake of the BAA.

AGENDA #13. UPDATE FROM APEC E-COMMERCE BUSINESS ALLIANCE (ECBA)

ECBA will present the "APEC E-Commerce Business Alliance Secretariat Report".

AGENDA #14. UPDATE FROM APEC BUSINESS ADVISORY COUNCIL (ABAC)
The National Center for APEC (NCAPEC) will present the "APEC CBPR survey Takeways".

AGENDA #15. INFORMATION SHARING ON ELECTRONIC COMMERCE ISSUES
The ECSG Chair will invite guests and members who would like to submit voluntary reports to the ECSG for information.

    (a) <u>Member Economies</u>
        i.   Recent development of METI's basic (digital-related) policy, **Japan**
        ii. Brief report on e-commerce development in the Russian Federation (presentation), **Russia**
        iii. Brief report on e-commerce development in the Russian Federation (text), **Russia**

    (b) <u>Guest Organizations</u>
        i.   World Economic Forum (WEF)
        ii. World Trustmark Alliance (WTA)

AGENDA #16. Promoting E-commerce to Globalize MSMEs
The APEC Policy Support Unit will present to the meeting its publication "Promoting E-commerce to Globalize MSMEs".

AGENDA #17. Other Business

(a) Report to CTI
The ECSG Chair will inform the meeting that an ECSG-Convenor's report, based on the discussions at the meeting will be prepared for submission to the CTI.

AGENDA #18. Conclusion and Next Meeting

(a) Document access
The APEC Secretariat will present the document classification list for the endorsement of the ECSG.
(b) Dates and venues for next meeting
The host of the next ECSG meeting will brief the meeting on the dates and venues for the next meeting.

¤ ¤ ¤ END ¤ ¤ ¤

Summary Report of the 36th APEC Electronic Commerce Steering Group Meeting

Purpose: Consideration
Submitted by: APEC Secretariat

APEC 2018
PAPUA NEW
GUINEA

37th Electronic Commerce Steering Group
Meeting
Port Moresby, Papua New Guinea
1 March 2018

**SUMMARY REPORT OF THE 36th APEC ELECTRONIC COMMERCE STEERING GROUP
MEETING (ECSG)
9:00-6:00pm, 23 August 2017
Rex, Lotus B**

INTRODUCTION

1.   The 36th APEC Electronic Commerce Steering Group (ECSG) meeting was held on 23 August 2017, in Ho Chi Minh City, Viet Nam. The meeting was chaired by Ms Shannon Coe, Department of Commerce, United States. The following member economies, observers and guest organisations were represented at the meeting: Australia; Brunei Darussalam; Chile; China; Hong Kong, China; Japan; Korea; Malaysia; Papua New Guinea; Peru; Philippines; Russia; Singapore; Chinese Taipei; Thailand; United States; Viet Nam; APEC Business Advisory Council (ABAC); Pacific Economic Cooperation Council (PECC); APEC E-Commerce Business Alliance (APEC ECBA); Center for Information Policy Leadership (CIPL); International Chamber of Commerce (ICC); World Trustmark Alliance (WTA); and World Economic Forum (WEF).

AGENDA #1.   INTRODUCTORY REMARKS BY THE ECSG CHAIR

2.   The ECSG Chair, Ms Shannon Coe, United States, welcomed the delegations, expressed her appreciation for the Host Economy's warm hospitality and excellent logistical arrangements, and encouraged the active participation from all Member Economies to ensure a fruitful and effective meeting.

AGENDA #2.   ADOPTION OF THE AGENDA

3.   The meeting adopted the agenda (2017/SOM3/ECSG/001rev1).

AGENDA #3.   ADOPTION OF 35TH ECSG MEETING REPORT

4.   The Meeting endorsed the report of the 35th ECSG Meeting held on 25 February 2017 in Nha Trang, Viet Nam (2017/SOM3/ECSG/002).

AGENDA #4.   SELECTION OF ECSG CHAIR

5.   The Meeting endorsed Ms Shannon Coe as Chair of the ECSG. Ms Coe's two (2) year term will be from SOM 1, 2018 – SOM 3, 2019. The Meeting also endorsed Chair's designation of PPC, Japan as a CPEA Administrator, subject to further approval from Japan.

AGENDA #5.   BRIEFING BY CTI CHAIR ON COLLABORATION BETWEEN CTI AND CTI SUBFORA

6.   The Meeting noted the CTI Chair's briefing on APEC Committee on Trade and Investment Sub-Fora Contributions (2017/SOM3/ECSG/003).

AGENDA #6.   LIMA DECLARATION ACTION PLAN

7.   The Meeting noted the discussion led by ECSG Chair on the Lima Declaration Action Plan 2017-2020 (2017/SOM3/ECSG/0040 and agreed to undertake intersessional work to provide ECSG inputs to the Lima Declaration Action Plan before AMM 2017.

AGENDA #7.   REPORT ON APEC DEVELOPMENTS

8.   The APEC Secretariat gave an update of the relevant developments in APEC since SOM1, 2017 (2017/SOM3/ECSG/006) and presented the "Governance Improvements for a More Effective APEC" (2017/SOM3/ECSG/007).

AGENDA #8.   REPORT FROM DATA PRIVACY SUB-GROUP

9.   The Meeting endorsed the report from the ECSG-DPS Chair (2017/SOM3/ECSG/021) at **Annex A**, with the key decisions as follows:

o   Leadership Position of the DPS
  ▪   Endorsed Mr Michael Rose as the Vice Chair of the ECSG-DPS. Mr Rose's two (2)-year term will be from SOM 1, 2018 – SOM 3, 2019.

o   Cross Border Privacy Rules (CBPR) System:
  ▪   Noted:
    •   Korea's successful application to participate in the CBPR;
    •   Singapore's official application to participate in the CBPR and the PRP systems which is under the consideration of the JOP;
    •   Australia, Philippines, and Chinese Taipei are at different stages of consideration to participate in the CBPR;
    •   JIPDEC's successful renewal (2-years) as Accountability Agent (AA) for the CBPR;
    •   Updates from existing CBPR economy participants – Japan, Korea, and the United States; and
    •   Ongoing work by the AASG on enforcement issues, including survey on false claims enforcement

  ▪   Endorsed (for submission to the ECSG's Approval):
    •   Recommendation to submit to BMC (through ECSG and CTI) to use the remaining MYP funds for CBPRS.org enhancements (2017/SOM3/ECSG/022);
    •   Proposed Amendments to JOP Charter (2017/SOM3/ECSG/023);
    •   The Guideline of the Common Numbering System to Identify the CBPR Certification Granted by the APEC Recognized Accountability (2017/SOM3/ECSG/024);
    •   The Guideline of the Common Numbering System to Identify the PRP Certification Granted by the APEC Recognized Accountability (2017/SOM3/ECSG/025); and
    •   The Communications Strategy for the CBPR and PRP Systems (2017/SOM3/ECSG/026)
    •   The above items were endorsed by the Meeting and will be annexed to the ECSG Convenor's Report to CTI for endorsement.

o   APEC Privacy Framework
  ▪   Noted that the Data Portability Study Group will be submitting its report at the next ECSG-DPS Meeting at SOM 1, 2018

o   Reviewing the DPS Work Plan 2017
  ▪   Agreed to include the following areas for inclusion into 2018 Work Plan
    •   Personal Data Protection for Youth and Children
    •   Issues and challenges relating to compliance with GDPR

Agreed to undertake the following intersessional work:-
o   CBPR
  ▪   Joint application process for CBPR and PRP Systems: The United States to circulate the "Template Notice of Intent to Participate in the APEC Cross-Border Privacy Rules System and the Privacy Recognition for Processors System" for intersessional discussions

o Reviewing the DPS Work Plan 2017
   ▪ ECSG-DPS Chair will work with Russia and Hong Kong, China to revise the Work Plan for consideration at SOM 1, 2018

Noted the following reports received at the DPS:
o Update from Cross Border Privacy Enforcement Arrangement (CPEA) Administrators, including the ongoing consideration of the Philippines' intention to participate in the CPEA and ongoing work
o Status Report from MYP Project Lead, United States
o Member Economies' updates on their respective data privacy developments: Australia; Chile; China; Hong Kong, China; Korea; Malaysia; Papua New Guinea; the Philippines; Russia; Singapore; Chinese Taipei; Thailand; United States and Viet Nam
o Guest Organisations Updates: ITI; CIPL, ICDPPC; APPA; GPEN

AGENDA #9.   REPORT ON DEVELOPMENTS IN EU DATA PROTECTION AND E-COMMERCE POLICY

10.   ECSG-DPS Chair noted the positive desire for collaboration from the EU during the ECSG-DPS-EU meeting held on 22 August 2018. In view of the implementation of EU's General Data Protection Regulation (GDPR) in May 2018, ECSG-DPS Chair emphasized the importance of interoperability between the CBPR system and the GDPR, while taking into account the need to ensure balance between facilitating the free flow of data and privacy protection.

AGENDA #10.   DEVELOPING THE ECSG STRATEGIC PLAN

(a)   The ECSG Chair will invite updates from the intersessional discussions on the joint proposal (2017/SOM1/ECSG/029) last discussed at the 35th ECSG meeting on 25 February 2017.

11.   The meeting was informed that the joint proposal put forth by the United States and Russia did not received any intersessional comments from members. In view of the expected instructions from CTI to include sunset clause and quorum, the Chair was of the view that ECSG could revisit this proposal after SOM3 intersessionally.

(b)   The ECSG will discuss the United States' proposal at the CTI on Modernizing the ECSG.

12.   With regard to the United States' proposal on "Modernizing the Electronic Commerce Steering Group" (2017/SOM3/ECSG/009) and renaming ECSG as "Digital Economy Working Group", the members expressed the following views. China said that it was premature to consider this proposal when the APEC Internet and Digital Economy Roadmap has yet to be finalized and that a holistic view should be taken in view of the cross-cutting nature of the key focus areas of the Roadmap. Australia queried about the scope of the mandate of the "modernized" ECSG. Hong Kong, China was concerned that the use of the term "working group" in the renaming might create confusion. Thailand agreed to modernize the scope of ECSG to streamline with principle 8 and 11 of the APEC Internet and Digital Economy Roadmap and the APEC Cross-Border E-Commerce Facilitation Framework but preferred to remain the name of "the Electronic Commerce Steering Group". Viet Nam agreed on the need to modernize the ECSG in view of the necessity to revise the outdated TOR and the focus of modernization should be on the mandate and the responsibility of ECSG as opposed to renaming. Japan would like to work with the United States on its proposal in line with CTI's effort to streamline, strengthen and sharpen its work processes. Russia commented that this proposal should be considered after the finalization of the APEC Internet and Digital Economy Roadmap and the APEC Cross-Border E-Commerce Facilitation Framework.

(c)   Russia will share the proposal on the future of the Electronic Commerce Steering Group (ECSG) of the Asia-Pacific Economic Cooperation (APEC) Forum, based on the analysis of its 2009 Terms of Reference.

13.   Russia briefed the Meeting on the key points of its proposal and said that it welcomed comments and inputs from other members. The United States would like to clarify the rationale of introducing term limits for ECSG's leadership positions. Russia explained that the proposal for term limits was made after taking reference from other APEC foras' practices and it was not directed at any particular member economy. The Chair and Australia were of the view that some of the proposed procedural provisions governing the working method of ECSG might be overly prescriptive and could leave less flexibility for participation. Russia explained that having such provisions would provide more clarity for delegates who are new to ECSG. The Chair suggested that this proposal can be revisited after the finalization of the APEC Internet and Digital Economy Roadmap and the APEC Cross-Border E-Commerce Facilitation Framework.

AGENDA #11.   PROJECT PROPOSALS

(a)   Update on Completed/Ongoing Projects

Ongoing Projects

(i)   Promote Cross-Border E-Trade under the Framework of Regional Trade Agreements (RTAs) / Free Trade Agreements (FTAs) – Based on Best Practices in the APEC Region, **China**

14.   China updated the meeting that the research on the cross-border e-trade involving India, Malaysia, Australia and Korea will be discussed at a stakeholder seminar in Chengdu, China in November 2017. A completion report will be submitted in December 2017.

(ii)   Enhance MSME's Capacity for Inclusive Development by Cross border E-commerce adoption, **Viet Nam**

15.   Viet Nam shared that it will issue an evaluation report on the impact of TPP's e-commerce chapter in APEC, in particular, on MSMEs and economic development of APEC's developing economies and hope to have a final draft in September 2017.

(iii)   Cross-Fora Collaboration in APEC on the Use of Big Data in Medical Research, **United States**

16.   The United States provided a recommended outline for the next steps of the above initiative. Endorsed at SOM1 2016, the initiative aims to examine the benefits for health research from the secondary use of medical data, to evaluate the impact of policies affecting secondary use and to generate recommendations on a framework to facilitate the secondary use of historical data in medical research.

(iv)   Progress Update of Korea-Chinese Taipei Electronic Certificate of Origin (e-C/O) Project, **Korea** or **Chinese Taipei**

17.   Chinese Taipei shared that there was no wide adoption of e-C/O at the moment and that the utilization of e-C/O among businesses was rather limited as well.

(v) Capacity Building for Compliance with Cross-Border Privacy Rules System in APEC, **Chinese Taipei**

18. Chinese Taipei updated on the progress for the arrangements of the Seminar on Capacity Building for Compliance with Cross-Border Privacy Rules System in APEC which will be held on 2 October 2017 and welcome the participation of other members.

Completed Project

(vi) IDEAS Show @ APEC Innovation, **Chinese Taipei**
The Meeting noted Chinese Taipei's update on its hosting of the IDEAS Show @ APEC Innovation on 25 – 26 July 2017 with the participation of start-ups from Chinese Taipei, United States, Viet Nam and Peru.

(b) New Projects or Activities

(i) Public- Private Dialogue (PPD) on Existing and Emerging Issues related to E-Commerce and Digital Economy, **Peru**

19. Peru updated the Meeting that the project is currently at the Principal Decision Maker Stage and the outcome should be known by September 2017. Australia, Japan, Papua New Guinea and Chinese Taipei expressed their support for the project.

AGENDA #12.   FRAMEWORK ON CROSS BORDER E-COMMERCE FACILITATION, VIET NAM

20. The Meeting noted the APEC Cross-Border E-Commerce Facilitation Framework proposed by Viet Nam which was endorsed intersessionally (2017/SOM3/ECSG/015). Viet Nam thanked the Members for their support for the Framework which will be submitted to CTI and Senior Officials for approval. Viet Nam highlighted that the APEC Cross-Border E-Commerce Facilitation Framework was a key deliverable for APEC 2017 and called for the Members' continual support so that it could be endorsed by AMM at the end of 2017. The United States thanked Viet Nam for its work on the Framework and looked forward to its final endorsement at AMM.

AGENDA #13.   ANNUAL STOCKTAKE OF THE BORACAY ACTION AGENDA TO GLOBALIZE MSMES (BAA)

21. The Meeting noted the presentation by the Philippines on the work undertaken by APEC in support of the Boracay Action Agenda to Globalize MSMEs for 2017 (2017/SOM3/ECSG/017).

AGENDA #14.   UPDATE FROM APEC E-COMMERCE BUSINESS ALLIANCE (ECBA)

The Meeting noted the report from ECBA (2017/SOM3/ECSG/018).

AGENDA #15.   INFORMATION SHARING ON ELECTRONIC COMMERCE ISSUES

(a)   Member Economies

(i) Proposal at Group on Services (GOS) Meeting on e-commerce public-private dialogue, **Australia**

22.   **Australia** informed the Meeting on its self-funded Public-Private Dialogue (PPD) on New Technologies in the APEC Services Competitiveness Roadmap (ASCR) which will be held on 2 – 3 October 2017 in Kuala Lumpur (approved by GOS). The PPD aims to build the capacity of policy officials and regulators to understand and develop policy related to new technologies (internet-based technology, ICTs) and ASCR.

(ii) Brief of Conceptual Paper on Global Data Facilitation, **Japan**

23.   The Meeting noted the presentation from Japan's on "Global Data-Flow Facilitation" (2017/SOM3/ECSG/019).

(iii) Brief Report on Russian Information and Analysis Platform on Digital Economy, **Russia**

24.   The Meeting noted the report from Russia (2017/SOM3/ECSG/027).

(b)   Guest Organizations

(i) Update from World Trustmark Alliance (WTA)

25.   The Meeting noted the presentation from WTA (2017/SOM3/ECSG/028).

(ii) WEF

26.   The Meeting noted the oral update from WEF on its current work and activities including the opening of its Center for the Fourth Industrial Revolution in San Francisco, as well as initiatives and projects to provide future engagement among policy-makers, experts and academics, international organizations and others on a wide spectrum of issues related to digital trade, data and mitigation of downside risks.

AGENDA #16.   APEC Services Competitiveness Roadmap (ASCR) Baseline Indicators

27.   The Meeting noted the update on the development of the ASCR Baseline Indicators from the APEC Policy Support Unit (2017/SOM3/ECSG/020).

AGENDA #17.   SCE CHAIR UPDATE TO THE ECSG

28.   The Meeting noted SCE Chair's briefing on the APEC Guidelines for Promoting Cross-Fora Collaboration (2017/SOM3/ECSG/029).

AGENDA #18.   Other Business

(a) Report to CTI

29.   The Chair informed the Meeting that she would be preparing an oral presentation and written ECSG-Convenor's report to the CTI based on the discussions at the meeting. The decision points prepared by the APEC Secretariat at (2017/SOM3/ECSG/031) would be incorporated into the Convenor's Report to the CTI.

AGENDA #19.   Conclusion and Next Meeting

(a) Document access

30.   The meeting endorsed the meeting document classification list ((2017/SOM3/ECSG/000).

(b) Dates and venues for next meeting

31.   The next ECSG and related meetings will be convened at the margins of SOM 1, 2018, at Port Moresby, Papua New Guinea. The administrative details of the meetings will be circulated to all Members, Observers and Guests in due course.

¤ ¤ ¤ END ¤ ¤ ¤

ECSG-DPS REPORT TO THE 36TH ECSG MEETING

- **Endorsed** the report of the DPS Chair, including:

  o Leadership Position of the DPS
     - Endorsed Mr Michael Rose as the Vice Chair of the ECSG-DPS. Mr Rose's two (2)-year term will be from SOM 1, 2018 – SOM 3, 2019.

  o Cross Border Privacy Rules (CBPR) System:
     - Noted:
        - Korea's successful application to participate in the CBPR;
        - Singapore's official application to participate in the CBPR and the PRP systems which is under the consideration of the JOP;
        - Australia, Philippines, and Chinese Taipei are at different stages of consideration to participate in the CBPR;
        - JIPDEC's successful renewal (2-years) as Accountability Agent (AA) for the CBPR;
        - Updates from existing CBPR economy participants – Japan, Korea, and the United States; and
        - Ongoing work by the AASG on enforcement issues, including survey on false claims enforcement

     - Endorsed (for submission to the ECSG's Approval):
        - Recommendation to submit to BMC (through ECSG and CTI) to use the remaining MYP funds for CBPRS.org enhancements;
        - Proposed Amendments to JOP Charter
        - The Guideline of the Common Numbering System to Identify the CBPR Certification Granted by the APEC Recognized Accountability; and
        - The Communications Strategy for the CBPR and PRP Systems

  o APEC Privacy Framework
     - Noted that the Data Portability Study Group will be submitting its report at the next ECSG-DPS Meeting at SOM 1, 2018

  o Reviewing the DPS Work Plan 2017
     - Agreed to include the following areas for inclusion into 2018 Work Plan
        - Personal Data Protection for Youth and Children
        - Issues and challenges relating to compliance with GDPR

- **Agreed to** undertake the following intersessional work:-
  o CBPR
     - Joint application process for CBPR and PRP Systems: The United States to circulate the "Template Notice of Intent to Participate in the APEC Cross-Border Privacy Rules System and the Privacy Recognition for Processors System" for intersessional discussions

  o Reviewing the DPS Work Plan 2017
     - ECSG-DPS Chair will work with Russia and Hong Kong, China to revise the Work Plan for consideration at SOM 1, 2018

- **Noted** the following reports received at the DPS:
  o Update from Cross Border Privacy Enforcement Arrangement (CPEA) Administrators, including the ongoing consideration of the Philippines' intention to participate in the CPEA and ongoing work – Agenda #4
  o Status Report from MYP Project Lead, United States – Agenda #5(a)

o   Member Economies' updates on their respective data privacy developments: Australia; Chile; China; Hong Kong, China; Korea; Malaysia; Papua New Guinea; the Philippines; Russia; Singapore; Chinese Taipei; Thailand; United States and Viet Nam – Agenda #8(a)
o   Guest Organisations Updates: ITI; CIPL, ICDPPC; APPA; GPEN – Agenda #9

- END -

Asia-Pacific
Economic Cooperation

Implementation Plan for the APEC Internet and Digital Economy Roadmap

Purpose: Consideration
Submitted by: United States

APEC 2018
PAPUA NEW
GUINEA

37ᵗʰ Electronic Commerce Steering Group
Meeting
Port Moresby, Papua New Guinea
1 March 2018

DRAFT

Implementation Plan for the APEC Internet and Digital Economy Roadmap

Submitted by the United States (Co-Sponsors TBC)

As Senior Officials discussed at ISOM and identified by Papua New Guinea as a host year theme, the advancement of issues related to the digital economy is not only essential for our business community, but also for APEC's ability to remain at the forefront of policy development internationally. Therefore, to realize the successful implementation of the Internet and Digital Economy Roadmap (Roadmap), the following Implementation Plan could be considered. The proposed Plan utilizes existing APEC Committees, fora, and subfora to ensure that Senior Officials are well-informed of progress as they oversee implementation of the Roadmap, while also promoting coordination and collaboration. This approach is also consistent with APEC's efforts to streamline its organizational structure, ensure utilization of fora expertise, as well as APEC's "bottom-up approach" approach to its work.

Implementation of the Roadmap

As Committees, fora, and subfora undertake initiatives that support the growth of the Internet and Digital Economy, they are encouraged to consider the Key Focus Areas identified in the Roadmap. In addition, Committees, fora, and subfora should monitor and report on initiatives and activities that support the Internet and Digital Economy during their normal reporting processes to their respective Committees of oversight. This information would ultimately be reported to Senior Officials through the reports by the Committee on Trade and Investment, Economic Committee, and SOM Steering Committee on Economic and Technical Cooperation.[1]

Given the greater focus on issues related to the Internet and Digital Economy in the Electronic Commerce Steering Group (ECSG) and the Telecommunications and Information Working Group (TELWG), these two groups would jointly coordinate relevant APEC initiatives and reporting to Senior Officials.

Monitoring and Reporting Process

- Coordination for monitoring and reporting on implementation of the Roadmap to Senior Officials would be delegated to the ECSG and TELWG. The ECSG and TELWG will coordinate and develop initiatives relevant to their respective mandates. Other APEC Committees, fora, and subfora are also encouraged to develop initiatives to facilitate

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[1] The list of relevant APEC fora and subfora relevant to the Internet and Digital Economy development in APEC, includes, but is not limited to, the Committee of Trade and Investment (CTI), Economic Committee (EC), APEC Business Advisory Committee (ABAC), and APEC Senior Officials' Meeting Steering Committee on Economic and Technical Cooperation (SCE), Electronic Commerce Steering Group (ECSG), Telecommunications and Information Working Group (TELWG), Policy Partnership on Science, Technology and Innovation (PPSTI), Human Resources Development Working Group (HRDWG), Sub-Committee on Customs Procedures (SCCP), Small and Medium Enterprises Working Group (SMEWG), Policy Partnership on Women and the Economy (PPWE), Group on Services (GOS), and Group of Friends on Disability Issues (GOFD).

the growth of the Internet and Digital Economy that are consistent with their respective mandates.

- Given the coordinating role of the ECSG and TELWG, a joint meeting between these two bodies would help facilitate effective implementation of the Roadmap. Thus, once a year, starting in 2019, the ECSG and TELWG would hold a joint meeting on the margins of the first Senior Officials' Meeting (SOM). Like the ECSG schedule of holding its meetings on the margins of SOM 1 and SOM3, this would also require the TELWG to hold one of its regular meetings on the margins of SOM 1. The joint meeting would be an opportunity for the two groups to provide updates and identify synergies in their respective work agendas to advance implementation of the Roadmap.

- Having the ECSG and TELWG both meeting on the margins of SOM 1 also provides an opportunity to hold a dialogue focused on the Internet and Digital Economy that would include participation by stakeholders, including the business community. A dialogue at SOM 1 would help inform the work by APEC to implement the Internet and Digital Economy Roadmap and provide APEC with feedback from stakeholders on the implementation process.

- APEC fora and subfora will include an "Implementation of the Internet and Digital Economy Roadmap Annex" (Roadmap Annex[2]) in their regular reports to their Committees of oversight (i.e., CTI, EC, and SCE) using the attached template. In turn, Committees would include the same Annex in their reports to Senior Officials that summarizes initiatives by Committees and the subfora under their oversight. Included below are illustrative examples of the process.
  - For example: The ECSG and other subfora under the CTI's oversight would include this section in their reports to CTI. CTI would include the same section it its reports to Senior Officials that would include relevant initiatives by CTI and subfora under its oversight.
  - For example: The EC would include this section in its reports to Senior Officials and include relevant initiatives being undertaken by the EC and the Competition Policy and Law Group.
  - For example: The TELWG and other subfora under the SCE's oversight would include this section in their reports to the SCE. The SCE would include the same

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[2] The Roadmap Annex is based on the existing 2017 Ad Hoc Steering Group on the Internet Economy (AHSGIE) "Template on Internet and Digital Economy" developed in 2017. The Template was used by fora and subfora to inventory completed initiatives, current initiatives, and planned initiatives. The three categories are mapped to the 11 Key Focus Areas of the Roadmap. Relevant fora and subfora, as noted above, would update their respective Roadmap Annexes as part of their normal reporting process to their Committees of oversight. (*See Annex for sample template*)

section it its reports to Senior Officials that would include relevant initiatives by the SCE and subfora under its oversight.

- The ECSG Chair and TELWG Chair would be responsible for collecting the Roadmap Annexes from each Committees' reports to Senior Officials and creating a separate "Implementation of the Internet and Digital Economy Roadmap" report to Senior Officials. The written report would be submitted at CSOM. A separate oral presentation of the report and any updates based on the joint ECSG-TELWG meeting would be provided by the ECSG Chair and TELWG Chair at the following SOM 1.

This approach creates a streamlined process for developing a consensus-based report for Senior Officials since the information would be sourced from approved reports from each Committee and its relevant fora and subfora. The written report submitted to Senior Officials at CSOM will provide an overview of the year's activities related to the implementation of the Roadmap. The oral presentation by the ECSG Chair and TELWG Chair at SOM 1 of the following year would provide an interactive session with Senior Officials and help to set the work agenda for the current APEC year. Future revisions to the Roadmap would be decided by Senior Officials should they deem it appropriate.

ANNEX 1

Reporting Annex on the Internet and Digital Economy Roadmap
[*Insert Committee, Fora, or Subfora*]

Each Committee and fora and subfora under its oversight would include a section in their final report of the year titled "Implementation of the Internet and Digital Economy Roadmap Annex". The Annex should include entries for the following initiatives:

- Completed Initiatives: Initiatives that were endorsed and completed during the implementation phase of the Roadmap (i.e., completed in 2018-2021).
- Current Initiatives: Initiatives that are currently underway that support implementation of the Roadmap.
- Future Initiatives: Initiatives or concepts that are being discussed by Committees, fora, and subfora. Future initiatives would not need to be endorsed yet by the Committee, fora, or subfora to be included.

Each initiative should be described in a short paragraph (i.e. 3-4 sentences) that includes the name of the initiative or activity with a brief description that utilizes the template below for consistency and ease of collating activities into a final report for Senior Officials. The Key Focus Area from the Roadmap also should be identified by including the entries in the relevant row of the matrix below. If relevant, a completion date or status should also be included.

Key Focus Area	Completed Initiatives	Current Initiatives	Planned Initiatives
1. Development of digital infrastructure	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Current status] [Insert: Completion date]
2. Promotion of interoperability	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert:

SAMPLE TEMPLATE

Key Focus Area	Completed Initiatives	Current Initiatives	Planned Initiatives
3. Achievement of universal broadband	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• Current status] [Insert: Completion date] • [Insert: Name of initiative or activity description] [Insert: Current status] [Insert: Completion date]
4. Development of holistic government policy frameworks for the Internet and Digital Economy	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Current status] [Insert: Completion date]
5. Promoting coherence and cooperation of regulatory approaches affecting the Internet and Digital Economy	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Current status] [Insert: Completion date]
6. Promoting innovation and adoption of enabling technologies and services	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Current status] [Insert: Completion date]
7. Enhancing trust and security in the use of ICTs	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Current status] [Insert: Completion date]
8. Facilitating the free flow of information and data for the development of the Internet and Digital Economy, while respecting applicable domestic laws and regulations	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Current status] [Insert: Completion date]

Key Focus Area	Completed Initiatives	Current Initiatives	Planned Initiatives
9. Improvement of baseline Internet and Digital Economy measurements	• [Insert: Name of initiative or activity description] [Insert: Completion date] •	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Current status] [Insert: Completion date]
10. Enhancing inclusiveness of Internet and Digital Economy	• [Insert: Name of initiative or activity description] [Insert: Completion date] •	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Current status] [Insert: Completion date]
11. Facilitation of E-commerce and advancing cooperation on Digital Trade	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Current status] [Insert: Completion date]
Others	**Completed Initiatives**	**Current Initiatives**	**Planned Initiatives**
Initiatives that do not fall under the 11 Key Focus Areas of the Roadmap	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Completion date]	• [Insert: Name of initiative or activity description] [Insert: Current status] [Insert: Completion date]

**Asia-Pacific
Economic Cooperation**

Proposed Terms of Reference of APEC Electronic Commerce Steering Group

Purpose: Consideration
Submitted by: ECSG Chair

**APEC 2018
PAPUA NEW
GUINEA**

**37th Electronic Commerce Steering Group
Meeting
Port Moresby, Papua New Guinea
1 March 2018**

Terms of Reference of APEC Electronic Commerce Steering Group

1. Background

The APEC Electronic Commerce Steering Group (ECSG) was established in 1999 to ensure continued cooperation and pursuit of the APEC Blueprint for Action on Electronic Commerce adopted by Ministers in 1998 and to perform a coordinating role for APEC e-commerce activities. Originally established as an APEC Senior Official's Special Task Force, the ECSG was aligned with the Committee on Trade and Investment (CTI) in 2007, ensuring a strong focus on advancing APEC's goal of free and open trade and investment in the region.

2. Vision Statement

To serve as a regional and global leader in recognizing new opportunities and emerging challenges in the Internet and Digital Economy, which includes e-commerce, to promote sustainable, innovative and inclusive growth, deepen regional economic integration, and realize the full potential of the business sector in the APEC region, including micro, small and medium-sized enterprises (MSMEs).

3. Mission Statement

The ECSG endeavors to maximize the benefits of the Internet and Digital Economy for economies at all levels of development, recognizing the role of the Internet and Digital Economy in fostering innovative development and increasing economic participation. To achieve this objective, the ECSG works to build trust and confidence; enhance government use; intensify community outreach; promote technical cooperation and experience exchange; where appropriate work towards eliminating impediments to its uptake; and develop seamless legal, technical, operating and trading environments to facilitate the growth and development of the Internet and Digital Economy.

4. Objectives

The ECSG will actively pursue the following objectives:

1. Promote and facilitate the development and uptake of e-commerce based on the principles set out in the APEC Blueprint for Action on Electronic Commerce approved by Ministers.
2. Address emerging issues in the Internet and Digital Economy.
3. Promote better understanding and recognition of the Internet and Digital Economy and e-commerce as drivers of economic growth and prosperity in the APEC region.
4. Promote innovative, sustainable and inclusive growth through the development of the Internet and Digital Economy.
5. Enhance the competitiveness of MSMEs and their ability to participate in the global economy through participation in the Internet and Digital Economy.
6. Ensure robust private sector engagement through a dialogue with the private sector, including MSMEs, to be held annually.

5. Considerations

In order to achieve the above objectives, the ECSG will review its Strategic Plan every four years to:

1. Provide a mechanism to enable a better understanding of the importance of the Internet and Digital Economy by leaders and policy makers, including APEC Leaders and member economy decision makers;

2. Perform a coordinating role for APEC e-commerce activities and maintain strong linkages with other APEC working groups, the private sector and relevant international organizations to address various issues affecting the Internet and Digital Economy;

3. Recognizing the importance of public-private collaboration in developing the Internet and Digital Economy, encourage the active participation and contribution of the private sector;

4. Provide recommendations to SOM on ways to coordinate and prioritize Internet and Digital Economy related activities within the APEC process;

5. In coordination with other APEC working groups as appropriate, implement and report on relevant APEC initiatives, including the Internet and Digital Economy Roadmap and the E-Commerce Facilitation Framework; and

6. Address issues related to data privacy and the cross-border flow of personal information within the APEC region through oversight of the Data Privacy Subgroup (DPS), which includes oversight and implementation of the Cross-Border Privacy Rules (CBPR) system consistent with the APEC Privacy Framework endorsed by APEC Ministers in 2004.

6. Selection, Terms and Functions of the Chair and Vice-Chair(s)

1. Selection and Terms

i. The ECSG will nominate and select a Chair by consensus for a two-year term (two calendar years).

ii. One or more Vice Chairs will be selected by the ECSG by consensus for a two-year term (two calendar years) to assist the ECSG Chair.

a. In the event that the Chair cannot complete his/her term, the ranking Vice Chair will assume the role of the Chair until a new Chair is selected by consensus.

b. If the ranking Vice Chair or another Vice Chair cannot assume the

role of the Chair, the Chair of the Data Privacy Subgroup will assume the role of the Chair until a new Chair is selected by consensus.

iii. If a Vice Chair cannot complete with his/her term, a new Vice Chair can be selected; there must be at least one Vice Chair at all times.

iv. Should the Chair be unable to attend an in-person meeting of the ECSG, the ranking Vice Chair will assume the role of the Chair for that meeting; or the Chair and Vice-Chair shall agree to propose another delegate to assume the role of Chair for that meeting, to be agreed by the ECSG by consensus in advance of the meeting.

v. At the conclusion of the Chair's two-year term, a new Chair shall be nominated and selected by consensus. Should there be no consensus, the ranking Vice Chair shall assume the Chairmanship for one year to ensure continuity.

vi. The Chair of the DPS and the Vice Chair(s) of the DPS will be selected in the same manner as the Chair and Vice Chair(s) of the ECSG outlined in this Terms of Reference.

2. Functions

i. The duties of the ECSG Chair include:

   a. Coordinate the schedule of meetings, chair meetings and prepare summary reports of the meetings in conjunction with the APEC Secretariat Program Director.

   b. Oversee the development of projects and activities to ensure that the work aligns with Leaders' and Ministers' priorities, as well as the ECSG StrategicPlan.

   c. Liaise with the APEC Secretariat, other APEC fora and international organizations to enhance the quality of activities, including project proposals, with well-defined outcomes. Track the progress of project implementation.

   d. Act as the spokesperson for the ECSG.

ii. The duties of the ECSG Vice Chair include:

   a. The Vice Chair will assist the Chair in fulfilling the ECSG mission and in implementing the ECSG Strategic Plan.

   b. To chair the Working Group's meetings on behalf of the Chair if the Chair cannot perform his/her duties.

vii. The duties of the Chair of the DPS and the Vice Chair(s) of the DPS shall be the same for the DPS as the Chair and Vice Chair(s) of the ECSG outlined in this Terms of Reference.

7 Business Conduct of Meetings

1. Meetings
   i. The ECSG and any related subgroups shall meet twice a year. The current APEC host economy will host both meetings each year.

   ii. A quorum for ECSG and any related subgroups meetings constitutes attendees from 14 economies. Should the ECSG fail to meet quorum for two consecutive meetings, it shall be referred to Senior Officials for a decision on whether it should continue to exist.

   iii. The APEC Secretariat shall notify member economies of the actual date, place and time of the meetings as soon as it is determined by the Chair and host economy.

2. Distribution of Papers
   i. Economies shall endeavor to circulate papers for discussion and decision no later than two weeks before the meeting to enable other economies to consider their positions, consult internally and address any issues that may arise so that they are better equipped to represent their economies at the meeting.

3. The ECSG shall review the Terms of Reference every four years.

8 Collaboration and Guest Participation

1. Given the crosscutting nature and the impact of the Digital and Internet Economy and e-commerce, the ECSG will collaborate actively with other APEC fora in order to exchange successful experiences and quality information, complementing its work and avoiding overlaps with their agendas.

2. Guest status will be approved by consensus if an applicant meets the following criteria:
   - Link strongly to ECSG or its subgroup's agenda and Strategic Plan priorities;
   - Desire to collaborate with and support the ECSG;
   - Demonstrate expertise in matters before the group; and
   - Contribute actively to ECSG agenda and projects.

3. The participation of guest members shall be necessarily proactive; it is expected that guest members get as involved as the Member Economies in terms of sharing information and contributing with resources, as evidence of their commitment with the ECSG.

4. ECSG will review guest participation as a condition of their renewal of guest status.

5.   The Chair may convene closed sessions of the ECSG excluding some or all guests at his/her discretion. Project consultants and other special guests not currently holding guest status will only participate in the relevant agenda items. Participation in the remainder of the meeting is up to the discretion of the Chair.

9   Annual Dialogue with the Private Sector

1.   Stakeholder engagement is critical to ensure APEC is responsive to the needs of businesses and emerging trends in the region. To provide a formalized mechanism to engage the private sector, including MSMEs, and other stakeholders, the ECSG will hold an annual public-private dialogue on the Digital and Internet Economy and e-commerce issues.

2.   The ECSG will hold the dialogue once annually as part of a working group meeting.

3.   Guests will receive approval according to guidelines on guest participation outlined above.

10   Term

The ECSG is established for a term of four years from [2019] to [2023]. The ECSG will cease to exist upon reaching the 'sunset date' unless renewal is explicitly approved by Senior Officials.