Chapter 4

Institutional Connectivity between Asia and Africa: Regulatory Coordination in Trade Facilitation

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Introduction

In effectively realizing all policies, schemes, and programs to strengthen physical, infrastructural, and people-to-people connectivity, institutional mechanisms or regulatory frameworks are inevitably prepared seamlessly and efficiently for goods, services, people, and funds across borders. In this sense, institutional connectivity is fundamental for all connectivity enhancements.

According to the Association of Southeast Asian Nations (ASEAN) which popularized the term "connectivity" by adopting the Master Plan on ASEAN Connectivity in 2011, institutional connectivity refers to "strategies, international and regional agreements, and legal and institutional mechanisms to facilitate international transactions of goods and services, the appropriate types of investment policies, as well as the movement of people across borders" (ASEAN 2015a). Specifically, institutional connectivity includes, for example, improving customs procedures to reduce logistics costs and lead times, simplifying procedures for obtaining rule-of-origin certification, harmonizing the certification system to promote production efficiency through commonality of parts, harmonizing energy conservation standards, harmonizing the system for protecting intellectual property rights to prevent the risk of competition by counterfeit goods, and strengthening utilization of the trade liberalization agreements to expand access to emerging markets outside the country or region.

Originally, these measures, together with the concept of a sovereign state, belonged to the area of domestic regulations. Each state has the right to choose what kinds of laws and regulations it imposes and how it manages such regulations from its whole policies perspective. It is natural for each country to have different restrictions on the same matter, which unavoidably becomes a barrier to the free movement of goods and services across borders. To strengthen institutional connectivity, it is necessary to reduce or eliminate the differences in laws and regulations between states. Therefore, improving institutional connectivity includes elements of regulatory management, regulatory coherence, regulatory consultation, and regulatory coordination or cooperation (Hawke and Prakash 2016: 5, Stone and Lejárraga 2018: 7).

Based on such notion of institutional connectivity, this chapter clarify the current situation of Asia-Africa institutional connectivity from the legal perspective. Following examination of legally binding agreements in trade and investment in the first section, regulatory frameworks of trade facilitation are explored from both international and regional level in the second section. Among various kinds of trade facilitation measures, e-commerce is focused in the last section.

1. Institutional Connectivity between Asia and Africa: The Current Status of RTAs and BITs

There are many ways to enhance institutional connectivity. Among them, however, legal instruments, such as bilateral or regional trade agreements (RTAs) and bilateral investment treaties (BITs), have played the most significant roles in improving connectivity.

1.1. Trade Agreements

Trade agreements, which are represented by free trade agreements (FTAs), economic partnership agreements (EPAs), and preferential trade agreements (PTAs), are major tools in the promotion of institutional connectivity. Asian and African countries have utilized trade agreements to liberalize and facilitate trade, and to coordinate trade policies among signatory countries. Asian countries, in particular, have actively concluded various kinds of trade agreements. The largest number of partners is in the same region, that is, Asian countries, followed by the Asia-Pacific region (see Table 1). Recently, Asian countries have concluded or negotiated trade agreements with European countries. As a result, multi-layered networks of trade agreements within Asia, between Asia and the Americas, and between Asia and Europe have been established.

However, the link between Asia and Africa through trade agreements is very weak. Except extensive trade agreements, such as the Global System of Trade Preferences among

Developing Countries (GSTP),[1] Protocol on Trade Negotiations (PTN),[2] and Trade Preferential System of the Organization of the Islamic Conference (TPS-OIC),[3] only two agreements have been signed between Asia and Africa: the Pakistan–Mauritius PTA and the PTA among Group of Eight Developing Countries (PTA-D8).[4] However, several agreements are being negotiated, as shown below. The relationship between Asia and Africa is gradually being strengthened.

- China–SACU FTA
- India–Egypt PTA
- India–Southern African Customs Union (SACU) PTA
- Singapore–Egypt Comprehensive Economic Cooperation Agreement
- Indonesia–Mauritius PTA
- India–Mauritius Comprehensive Economic Cooperation and Partnership Agreement (negotiations suspended).

It is not that African countries do not have RTAs at all (see Table 2). Each African country has concluded several RTAs, and in particular, has joined in regional economic communities, which consist of neighboring countries and promoted trade liberalization within the community. In addition, African countries have deep trade relations with Europe, and some countries have trade agreements with the European Union (EU) and the European Free Trade Association (EFTA).

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1 Member countries are Algeria, Argentina, Bangladesh, Benin, Bolivia, Brazil, Cameroon, Chile, Colombia, Cuba, Ecuador, Egypt, Ghana, Guinea, Guyana, India, Indonesia, Iran, Iraq, South Korea, Democratic People's Republic of Korea, Libya, Malaysia, Mexico, Morocco, Mozambique, Myanmar, Nicaragua, Nigeria, Pakistan, Peru, Philippines, Singapore, Sri Lanka, Sudan, Tanzania, Thailand, Trinidad and Tobago, Tunisia, Venezuela, Viet Nam, and Zimbabwe. This agreement was entered into force in 1989.

2 Member countries are Bangladesh, Brazil, Chile, Egypt, Israel, South Korea, Mexico, Pakistan, Paraguay, Peru, Philippines, Serbia, Tunisia, Turkey, and Uruguay. This agreement was entered into force in 1973.

3 Member countries are Bahrain, Egypt, Indonesia, Jordan, Kuwait, Lebanon, Morocco, Nigeria, Pakistan, Saudi Arabia, Turkey, Uganda, Bangladesh, the Ivory Coast, Guinea, Iran, the Maldives, Oman, Qatar, Senegal, the Syrian Arab Republic, Tunisia, the United Arab Emirates, Benin, Burkina Faso, Cameroon, Chad, Comoros, Djibouti, Gabon, Gambia, Guinea-Bissau, Iraq, Libya, Malaysia, Mauritania, Niger, Palestine, Sierra Leone, Somalia, and Sudan. This agreement was signed in 2004 but is not yet in effect.

4 Member countries are Bangladesh, Indonesia, Malaysia, Pakistan, Egypt, Iran, Nigeria, and Turkey.

Table 1: Trade agreements concluded by Asian countries

		Number of agreements					
		Total	with				
			Asia	Asia-Pacific*	Europe	Africa	Others
East Asia	China	15	6	6	3	0	0
	Japan	17	10	5	2	0	0
	South Korea	18	5	8	3	0	2
ASEAN	Brunei	9	6	3	0	0	0
	Cambodia	6	5	1	0	0	0
	Indonesia	8	6	1	0	0	1
	Laos	8	6	2	0	0	0
	Malaysia	15	8	5	1	0	1
	Myanmar	7	5	1	0	0	1
	Philippines	10	6	1	1	0	2
	Singapore	24	10	9	2	0	3
	Thailand	13	8	4	0	0	1
	Vietnam	12	7	3	0	0	2
South Asia	Bangladesh	5	3	0	0	0	2
	Bhutan	3	3	0	0	0	0
	India	16	12	3	0	0	1
	Maldives	2	2	0	0	0	0
	Nepal	3	3	0	0	0	0
	Pakistan	9	5	0	0	1	3
	Sri Lanka	6	4	1	0	0	1

(Source) WTO RTA Database (http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx).
(Note) * Asia-Pacific does not include RTAs that are concluded with or among only Asian countries.

Table 2: Trade agreements concluded by African countries

	Numbers of agreements					
	Total	with				
		Africa	Europe	Asia	The Americas	Others
Algeria	2		1			1
Angola	2	2				
Benin	3	2				1
Botswana	5	2	2		1	
Burkina Faso	2	2				
Burundi	2	2				
Cabo Verde	1	1				
Cameroon	3	1	1			1
Central African Republic	1	1				
Chad	1	1				
Comoros	1	1				
Congo, Democratic Republic of	1	1				
Congo, Republic of	1	1				
Cote d’Ivoire	3	2	1			
Djibouti	1	1				
Egypt	9	2	3		1	3
Equatorial Guinea	1	1				
Eritrea	1	1				
Eswatini	6	3	2		1	
Ethiopia	1	1				
Gabon	1	1				
Gambia	1	1				
Ghana	3	1	1			1
Guinea	2	1				1
Guinea-Bissau	1	1				
Kenya	2	2				
Lesotho	6	3	2		1	
Liberia	1	1				
Libya	3	1				2
Madagascar	3	2	1			
Malawi	2	2				
Mali	2	2				
Mauritania	0					
Mauritius	5	2	2	1		
Morocco	7	1	3		1	1
Mozambique	3	1	1			1
Namibia	5	2	2		1	
Niger	2	2				

	Numbers of agreements					
	Total	with				
		Africa	Europe	Asia	The Americas	Others
Nigeria	2	1				1
Rwanda	2	2				
Sao Tomé and Principe	0					
Senegal	2	2				
Seychelles	3	2	1			
Sierra Leone	1	1				
Somalia	0					
South Africa	6	2	3		1	
South Sudan	1	1				
Sudan	3	1				2
Tanzania	3	2				1
Togo	2	2				
Tunisia	7	1	3			3
Uganda	2	2				
Zambia	2	2				
Zimbabwe	4	2	1			1

(Source) WTO RTA Database at http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx.
(Note) Blank means zero.

1.2. Bilateral Investment Treaties

BITs can increase the transferability of funds across borders and secure the investment activities of foreign companies. Japan has three BITs with African countries (out of a total of 28), and India has 13 (out of a total of 83). Although major Asian countries, including India and Japan, have signed BITs with several African countries (see Table 3), the number of BITs between Asian and African countries is small, and the functions of BITs are underutilized.

Table 3: BITs between Asian and African countries

	Number of BITs		Partner countries
	Total	With African countries	
China	129	35	Algeria, Benin, Botswana, Cabo Verde, Cameroon, Chad, Congo (DRC), Republic of Congo, Côte d'Ivoire, Djibouti, Egypt, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, Kenya, Libya, Madagascar, Mali, Mauritius, Morocco, Mozambique, Namibia, Nigeria, Seychelles, Sierra Leone, South Africa, Sudan, Tanzania, Tunisia, Uganda, Zambia, Zimbabwe
India	23	5	Congo (DRC), Libya, Mozambique, Senegal, Sudan,
Japan	32	3	Egypt, Kenya, Mozambique
Indonesia	42	7	Algeria, Mauritius, Morocco, Mozambique, Sudan, Tunisia, Zimbabwe
Malaysia	66	14	Algeria, Botswana, Burkina Faso, Djibouti, Egypt, Ethiopia, Ghana, Guinea, Malawi, Morocco, Namibia, Senegal, Sudan, Zimbabwe
Philippines	37	0	--
Singapore	45	7	Burkina Faso, Côte d'Ivoire, Egypt, Libya, Mauritius, Nigeria, Zimbabwe
South Korea	95	19	Algeria, Burkina Faso, Cameroon, Congo (DRC), Republic of Congo, Egypt, Gabon, Kenya, Libya, Mauritania, Mauritius, Morocco, Nigeria, Rwanda, Senegal, South Africa, Tanzania, Tunisia, Zimbabwe
Thailand	39	2	Egypt, Zimbabwe
Vietnam	61	5	Algeria, Egypt, Morocco, Mozambique, Namibia,

(Source) UNCTAD Database
https://investmentpolicyhub.unctad.org/IIA/IiasByCountry#iiaInnerMenu.

As supply chains globalize, regional links led by the legal instruments such as RTAs and BITs are strengthened. To facilitate the international flow of goods, services, and people, links between Asia and Europe, Asia and the Americas, Africa and Europe, Africa and the Americas, and Europe and the Americas have strengthened. In contrast, the connectivity between Asia and Africa has long remained weak.

2. Regulatory Frameworks of Trade Facilitation

Another key measure, in addition to RTAs and BITs, for enhancing institutional connectivity is the facilitation of trade which reduces supply chain barriers considerably. Trade facilitation (simplifying the required paperwork, modernizing procedures, and harmonizing customs requirements) is critical for the promotion of seamless trade. The Trade Facilitation Implementation Guide [5] set four elements as the fundamental principles of trade facilitation: transparency, simplification, harmonization, and standardization. Each element is explained in the Guide as follows:

- Transparency: the disclosure of information regarding governments' and administrations' actions, such as laws, regulations, and administrative decisions about general application, budgets, and procurement decisions in a way that the public can readily access and use the information.
- Simplification: the process of eliminating all unnecessary elements and duplications in trade formalities, processes, and procedures.
- Harmonization: the alignment of national procedures, operations, and documents with international conventions, standards, and practices. It can come from adopting and implementing the same standards as partner countries, either as part of a regional integration process or as a result of business decisions.
- Standardization: the process of developing formats for practices and procedures, documents, and information internationally agreed by various parties. Standards are then used to align and eventually, harmonize practices and methods.

Two approaches can be considered effective in promoting strengthening of connectivity in trade facilitation. One is to develop a regulatory framework between Asia and Africa. The other is to harmonize national procedures, operations, and documents by accepting international regulation.

2.1. International Frameworks for Trade Facilitation

The Trade Facilitation Agreement (TFA) entered into force on 22 February 2017[6] as the result of the Bali Package of the Ninth Ministerial Conference of the World Trade Organization (WTO). The TFA broadly defines the regulations for improving the

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[5] The Guide, which the United Nations Economic Commission for Europe (UNECE) developed with contributions from the UN Centre for Trade Facilitation and Electronic Business (UN/CEFACT), is available online at http://tfig.unece.org/index.html.

[6] It was when the WTO obtained two-thirds acceptance of its 164 members (141 ratifications).

transparency of trade rules and expediting customs procedures. Similar provisions are included in bilateral and regional FTAs and EPAs concluded in recent years; however, the TFA has more comprehensive provisions. Because the TFA has been adopted as an agreement that forms an integral part of WTO agreements, in the event of a violation of the TFA, WTO members can ensure legal enforcement through the WTO dispute settlement procedures (WTO 2015). In this respect (strong enforcement power), the TFA is distinctively different from the existing international frameworks for trade facilitation, such as the revised Kyoto Convention stipulated by the World Customs Organization (WCO).

The TFA consists of three sections and 24 articles. Section 1 (Articles 1–12) sets out trade facilitation measures aimed at shortening and improving efficiency in customs clearance work, which each country must implement as an obligation under the TFA. Section 1 can be broadly divided into four categories:

(1) Measures concerning the improvement of the transparency of trade rules

In accordance with requests from importers, member countries have to publicize information on export and import costs and trade procedures on the Internet (Article 1), previously announce revised laws on trade proceedings, customs procedures, tariff classification, etc. (Article 2). It is mandatory for the customs agency in each country to improve predictability and transparency by providing a written ruling on the tariff classification or origin of goods (Article 3).

(2) Measures for expediting and simplifying customs procedures

The customs agency in each country is required to accept import declaration documents before the arrival of cargo and give special or preferential customs treatment provided to reliable traders. These measures shorten the time required for border procedures (Article 7). In addition, Import, export and transit formalities and documentation requirements should be as fast and efficient as possible and they should be eliminated or modified if no longer necessary (Article 10).

(3) Regulations for freedom of transit (Article 11)

Regulations or formalities on transit shall be eliminated or reduced and technical regulations and conformity assessment procedures on goods in transit shall not be applied.

(4) Customs cooperation, cooperation with other border control agencies

National border authorities and/or agencies shall cooperate and coordinate border controls and procedures to facilitate trade (Articles 8). In addition, one member shall provide another information and/or documents concerning specific import or export declarations (Articles 12).

Section 2 includes provisions for special and differential treatment for developing and least developed country (LDC) members, as well as the provision of technical assistance and capacity building. Developing and LDC members can request grace periods and capacity-building support to implement the TFA. To benefit from these flexibilities, the developing and LDC members must designate all measures as category A, B, and/or C which have the following implementation timelines:

- CATEGORY A: developing Members will implement the measure by 22 February 2017 and LDCs by 22 February 2018.
- CATEGORY B: Members will need additional time to implement the measure.
- CATEGORY C: Members will need additional time and capacity-building support to implement the measure.

Section 3 contains institutional arrangements and final provisions, covering the relationship with other WTO agreements, the accession process of members to the agreement after entry into force, the WTO Committee on Trade Facilitation, and national trade facilitation committees to be established in all WTO members.

Table 4: Implementation notifications (Asian members)

(%)

Member	Notified A	Notified B	Notified C	Not yet notified	Ratification
Afghanistan	11.3	31.1	57.6	0.0	2016-07-29
Bangladesh	34.5	38.2	27.3	0.0	2016-09-27
Brunei Darussalam	91.6	8.4	0.0	0.0	2015-12-15
Cambodia	60.9	19.3	19.7	0.0	2016-02-12
China	94.5	5.5	0.0	0.0	2015-09-04
Hong Kong, China	100.0	0.0	0.0	0.0	2014-12-08
India	72.3	27.7	0.0	0.0	2016-04-22
Indonesia	88.7	11.3	0.0	0.0	2017-12-05
Japan	100.0	0.0	0.0	0.0	2015-06-01
Korea, Republic of	100.0	0.0	0.0	0.0	2015-07-30
Laos	21.0	11.8	67.2	0.0	2015-09-29
Macao, China	98.3	1.7	0.0	0.0	2016-04-11
Malaysia	94.1	5.9	0.0	0.0	2015-05-26
Maldives	0.0	0.0	0.0	100.0	No
Mongolia	23.5	36.1	40.3	0.0	2016-11-28
Myanmar	5.5	9.2	85.3	0.0	2015-12-16
Nepal	2.1	12.2	85.7	0.0	2017-01-24
Pakistan	25.6	42.9	31.5	0.0	2015-10-27
Philippines	93.3	5.0	1.7	0.0	2016-10-27
Singapore	100.0	0.0	0.0	0.0	2015-01-08
Sri Lanka	29.0	1.7	69.3	0.0	2016-05-31
Chinese Taipei	100.0	0.0	0.0	0.0	2015-08-17
Thailand	91.6	8.4	0.0	0.0	2015-10-05
Vietnam	26.5	48.7	24.8	0.0	2015-12-15

(Source) Trade Facilitation Agreement Database at https://www.tfadatabase.org/notifications/abc-designations?type=all.

(Note) Shaded columns are countries that provided notification that more than 80% of their implementation measures were designated as Category A.

Table 5: Implementation notifications (African members)

(%)

Member	Notified A	Notified B	Notified C	Not yet notified	Ratification
Angola	22.7	47.1	30.3	0.0	No
Benin	0.0	0.0	0.0	100.0	2018-03-28
Botswana	28.2	67.2	4.6	0.0	2015-06-18
Burkina Faso	12.2	0.0	0.0	87.8	2018-09-21
Burundi	32.8	0.0	0.0	67.2	No
Cabo Verde	0.0	0.0	0.0	100.0	No
Cameroon	1.7	0.0	0.0	98.3	2018-11-30
Central African Republic	26.9	0.0	0.0	73.1	2018-01-11
Chad	34.5	30.3	35.3	0.0	2017-02-22
Congo, Democratic Republic of	42.0	0.0	0.0	58.0	No
Congo, Republic of	12.2	0.0	0.0	87.8	2017-10-05
Cote d’Ivoire	31.1	0.0	0.0	68.9	2015-12-08
Djibouti	0.0	0.0	0.0	100.0	2018-03-05
Egypt	20.2	0.0	0.0	79.8	No
Eswatini	9.7	41.2	49.2	0.0	2016-11-21
Gabon	12.6	0.0	0.0	87.4	2016-12-05
Gambia	48.7	38.2	13.0	0.0	2017-07-11
Ghana	8.8	0.0	0.0	91.2	2017-01-04
Guinea	0.0	0.0	0.0	100.0	No

Member	Notified A	Notified B	Notified C	Not yet notified	Ratification
Guinea-Bissau	0.0	0.0	0.0	100.0	No
Kenya	7.1	0.0	0.0	92.9	2015-12-10
Lesotho	11.8	28.2	60.1	0.0	2016-01-04
Liberia	0.0	0.0	0.0	100.0	No
Madagascar	8.8	2.5	88.7	0.0	2016-06-20
Malawi	63.0	10.1	26.9	0.0	2017-07-12
Mali	65.5	17.2	17.2	0.0	2016-01-20
Mauritania	0.0	0.0	0.0	100.0	No
Mauritius	55.9	36.6	7.6	0.0	2015-03-05
Morocco	91.2	0.8	8.0	0.0	No
Mozambique	65.5	11.3	23.1	0.0	2017-01-06
Namibia	51.3	0.0	0.0	48.7	2018-02-09
Niger	31.9	10.9	57.1	0.0	2015-08-06
Nigeria	15.1	42.4	42.4	0.0	2017-01-16
Rwanda	26.9	56.3	16.8	0.0	2017-02-22
Senegal	45.0	0.0	0.0	55.0	2016-08-24
Seychelles	55.9	12.2	31.9	0.0	2016-01-11
Sierra Leone	0.8	19.7	79.4	0.0	2017-05-05
South Africa	90.3	9.7	0.0	0.0	2017-11-30
Tanzania	5.9	0.0	0.0	94.1	No

Member	Notified A	Notified B	Notified C	Not yet notified	Ratification
Togo	42.9	32.8	24.4	0.0	2015-10-01
Tunisia	59.7	0.0	0.0	40.3	No
Uganda	8.0	0.0	0.0	92.0	2018-06-27
Zambia	5.5	29.4	65.1	0.0	2015-12-16
Zimbabwe	34.9	0.0	0.0	65.1	2018-10-17

(Source) Trade Facilitation Agreement Database
https://www.tfadatabase.org/notifications/abc-designations?type=all.
(Note) Shaded columns are countries that provided notification that more than 80% of their implementation measures were designated as Category A.

In Asia, 12 countries of 24 countries have provided notification that more than 80% of their implementation measures were designated as Category A; whereas in Africa, only two countries among 44 countries have, Morocco (91.2%) and South Africa (90.3%) (see Table 4 and Table 5). Even in Asia, it is true that some countries such as Afghanistan, Laos, Myanmar, Nepal, and Sri Lanka designated more than half of their implementation measures as Category C, seeking support. However, more countries that designated many measures as Category C exist in Africa than in Asia. It is difficult for many African countries to implement facilitation measures without any capacity-building support. In Africa, many countries have not completed or initiated notification, even ratified the TFA. The notification situation shows that the implementation status of trade facilitation measures listed in Section 1 is quite different between Asia and Africa, which can hinder the strengthening of Asia–Africa connectivity.

2.2. Regional Frameworks

As the supply chain has spread across borders, that is, as the number of differently regulated markets involving the supply chain has increased, regulatory differences have become an obstacle in terms of trading costs. Each regional community has been trying to reduce such barriers. For example, the EU has adopted common standards across its member states. Asian and African countries, however, have made some efforts in their respective regions to achieve greater harmonization of standards and mutual recognition of national conformity assessment systems.

Asian Region

In ASEAN countries, liberalization and promotion of trade (ASEAN goods trade agreement, standard and conformity assessment procedure, ASEAN single window, and customs unification), liberalization and promotion of investment (the ASEAN Comprehensive Investment Agreement), service liberalization and mutual recognition agreements (MRAs), regional transportation agreements, capacity-building programs, etc., are in progress.

ASEAN established the ASEAN Economic Community (AEC) in 2015 offering opportunities in the form of a huge market. However, ASEAN recognized that the establishment of the AEC is not the goal, but a milestone on ASEAN's regional economic integration agenda. Therefore, ASEAN declared the organization would continue implementing strategic measures for further integration by adopting the AEC Blueprint 2025.[7] In Section A of the Blueprint, "A Highly Integrated and Cohesive Economy," the purpose of strategic measures in the area of trade in goods is "[t]o reduce or eliminate border and behind-the-border regulatory barriers that impede trade, so as to achieve competitive, efficient, and seamless movement of goods within the region" (ASEAN Secretariat 2015b). The measures include 1) strengthening the ASEAN Trade in Goods Agreement (ATIGA) further, 2) simplifying and strengthening the implementation of the rules of origin (ROO), and 3) accelerating and deepening the implementation of trade facilitation measures,[8] most of which are related to trade facilitation. ASEAN evaluated that tariff elimination has progressed to a considerable extent in accordance with the ATIGA, and the organization has focused on trade facilitation as the next strategic step.

ASEAN publicized the achievement rate and the main achievements as of the end of October 2015, regarding the implementation status of various measures for the AEC Blueprint 2015 targets (ASEAN 2015c). In the report, the implementation rate of the full

7 The AEC Blueprint 2025 is being implemented under the AEC Blueprint 2025 Integrated Strategic Action Plan (CSAP) adopted in February 2017.

8 Key actions in trade facilitation are listed as follows: Fully roll out national single windows in all ASEAN member states, and widen the scope of the ASEAN Single Window (ASW) project; operationalize the National and ASEAN Trade Repositories (ATR) effectively for enhanced regulatory transparency and certainty for the private sector in the region; streamline and simplify administrative regulatory regimes, documentary requirements, as well as import and export procedures, including customs procedures; work toward facilitative standards and conformance which involves accelerated implementation of harmonized standards and technical regulations, improvement in the quality and capability of conformity assessment, and enhanced information exchange of laws, rules, and regulatory regimes for standards and conformity assessment procedures.

AEC Scorecard stood at 79.5%, or 486 out of 611 measures. In terms of priority measures, 469 out of 506 measures, which includes 54 high-priority measures (HPMs), have been achieved (92.7%). Major achievements in the field of trade facilitation in goods include 1) continuous simplification of the ROO, as well as the ASEAN Self-Certificate pilot project,[9] 2) authorization of the project establishing an ASEAN Trade Repository (ATR),[10] and 3) the conclusion of three sectoral MRAs for electrical equipment and electronics (EEE), cosmetics, and medicinal products.[11] Although many non-tariff barriers remain, ASEAN is steadily progressing in implementing measures listed in the AEC Blueprint 2025 (ASEAN 2018). For example, five ASEAN member states (Malaysia, Indonesia, Singapore, Thailand, and Vietnam) started operating electronically transmitted Form D (e-Form D) of the ATIGA through the ASEAN Single Window (ASW) Gateway in 2018.[12]

African Region

In Africa, regional economic communities (RECs) have promoted trade facilitation. There are currently 14 RECs in Africa, and the African Union selected eight of them as the core of regional economic integration.[13] Each REC has developed its own roadmap for economic integration, and is currently implementing programs to create free trade areas, customs unions, or monetary unions. Trade facilitation has been promoted in parallel with this liberalization process. Currently, African countries are making efforts to create two FTAs: One is a large intra-REC FTA, or the Tripartite Free Trade Area among the Common Market for Eastern and Southern Africa (COMESA), East African Community (EAC), and Southern African Development Community (SADC). The other is a continental Africa-wide FTA, or the Continental FTA (CFTA). These two FTAs are expected to accelerate Africa's economic integration in terms of trade liberalization and

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[9] After the examination of the effect of this pilot project, the self-certification system was formally introduced in the ROO procedure at the 50th ASEAN Economic Ministers Meeting (AEM) in 2018. Thailand announced that it aims to introduce a Self-Certificate by the end of 2019.

[10] The ATR aims to ultimately contain trade-related information, such as MFN tariffs, preferential tariffs offered under ATIGA and other ASEAN FTAs, ROO, non-tariff measures (NTMs), and national trade and customs laws and rules.

[11] Other MRAs are in the works for prepared foodstuffs, automotive, and building and construction sectors.

[12] Brunei, Cambodia, and the Philippines are in the final stages to participate in this system.

[13] The Arab Maghreb Union (AMU/UMA) in the north, the Economic Community of West African States (ECOWAS) in the west, the East African Community (EAC) in the east, the Intergovernmental Authority on Development (IGAD) also in the east, the Southern African Development Community (SADC) in the south, the Common Market for Eastern and Southern Africa (COMESA) in the southeast, the Economic Community of Central African States (ECCAS) in the central region, and the Community of Sahel-Saharan States (CENSAD) in the north.

trade facilitation.

Each RECs promote to establish single window systems in the national and regional level, which lead to efficient and competitive trading system in Africa. As most of single window projects are ongoing, however, traders who export to and import from African countries still face with challenges such as delay in customs clearance procedures and mandatory pre-shipment inspection (see Table 6 and Table 7).

Table 6: Cross-border Trade Indicators in Selected Sub-regions

	Lead time to export, median case (days, 2016)	Cost to export, documentary compliance (US$, 2018)	Lead time to import, median case (days, 2016)	Cost to import, documentary compliance (US$, 2018)
East Asia & Pacific*	2.8	120.7	4.5	121.4
South Asia	3.8	160.3	5.2	276.6
Sub-Saharan Africa	6.0	168.9	7.9	283.6
Middle East & North Africa*	6.2	315.9	4.4	296.8
Latin America & Caribbean*	3.7	86.1	4.4	89.5
North America	2.5	108.0	2.5	131.5
EU	2.1	17.0	2.6	4.5
OECD	2.1	36.5	2.7	28.5
World	4.1	125.5	4.9	160.2

(Source) World Bank Database at https://data.worldbank.org/indicator/.

(Note) * The sub-region excludes high-income countries.

Table 7: Logistics performance index (Overall) in Selected Sub-regions

	Logistics performance index: Overall (1=low to 5=high)			
	2007	2010	2014	2018
East Asia & Pacific*	2.58	2.73	2.85	2.82
South Asia	2.30	2.49	2.61	2.51
Sub-Saharan Africa	2.35	2.42	2.46	2.45
Middle East & North Africa*	2.37	2.60	2.50	2.51
Latin America & Caribbean*	2.49	2.69	2.70	2.60
North America	3.88	3.87	3.89	3.81
EU	3.43	3.46	3.56	3.54
OECD	3.55	3.59	3.65	3.62
World	2.74	2.87	2.89	2.87

(Source) World Bank Database (the Logistics Performance Index) at https://lpi.worldbank.org/.

(Note) 1. * The sub-region excludes high-income countries.
2. Logistics performance index (Overall) is the average of six elements: competence and quality of logistics services, efficiency of customs clearance process, quality of trade and transport-related infrastructure, ease of arranging competitively priced shipments, frequency with which shipments reach consignee within scheduled or expected time, and ability to track and trace consignments.

Inter-regions: Asia–Africa

Similar to other tools that enhance institutional connectivity, trade facilitation efforts have been made *within* each region. As mentioned above, the ATIGA, as well as other FTAs and EPAs concluded by Asian countries, emphasize trade facilitation. In addition, one of the three pillars of the Asia-Pacific Trade Conference's (APEC's) activities is trade facilitation, which resulted in a single-window system, data-sharing, and travel card programs. The same is true on the African continent. Each REC in Africa has individually worked on various trade facilitation programs. However, very few frameworks for trade facilitation exist *between* Asia and Africa. Recently, Asian countries have implemented stricter regulations and standards for chemical products, animal and plant health, and food safety. Asian countries have also paid more attention to socially and environmentally friendly production. To export goods to the Asian market or to join Asian supply chains, African companies need to meet the conditions of each Asian country. The problem is that African companies do not have precise and updated information regarding the technical barriers to trade (TBT) or sanitary and phytosanitary (SPS) measures of Asian countries.

3. Regulatory Frameworks on E-Commerce

Trade facilitation has been addressed for a long time. A representative example of the facilitation issue is harmonization of regulations and standards for food safety and mutual recognition of national conformity assessment systems. To ensure a steady supply of safe agricultural and marine products for consumers, each country has its own technical regulations and standards for food safety. Although these regulations and standards are essential for the population's health, they make it more difficult for companies to export products. It is necessary to build an appropriate regulatory framework and employ good governance.[14] Therefore, as one of the tools for enhancing institutional connectivity, the harmonization of regulations and standards has reduced supply chain barriers considerably.

In addition to such traditional facilitation, some areas have recently attracted attention in terms of trade facilitation. One example is a single window where international facilitation is in progress, and the other is E-commerce, where the market is rapidly expanding, and each country is aware of the urgent need for regulation.

Since the late 1990s, the world's e-commerce market has exploded, and continues to grow. E-commerce is spreading not only in developed countries (such as Japan, Europe, and the United States) but also in emerging countries (such as China, India, and Indonesia). E-commerce is also developing in African countries. In the near future, the major e-commerce market will shift from developed countries to developing countries. The factors for rapid market growth in developing countries vary, such as increased income, along with economic development, the spread of the Internet and smartphones, development of transportation and logistics mainly in urban areas, and diversification of payment methods.

Table 8 to Table 10 represent top 10 countries in Asia and Africa for B2C E-commerce Index, which the United Nations Conference on Trade and Development (UNCTAD) measures an economy's preparedness to support online shopping (UNCTAD 2018: 1). Comparing the index of 2014 and 2018, these tables show that computerization and on-line systematization through introducing and enhancing information technologies has

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[14] ISO 22000—a food safety management standard developed by the International Organization for Standardization—defines food safety as "related to the presence of foodborne hazards in food at the point of consumption (intake by the consumer). As the introduction of food safety hazards can occur at any stage of the food chain, adequate control throughout the food chain is essential. Thus, food safety in ensured through the combined efforts of all parties participating in the food chain."

progressed in both Asia and Africa. However, Africa lags behind other regions in readiness for global e-commerce. This is due to the insufficient support to small businesses, low connectivity, high cost for internet access, and underdeveloped online payment system (ITC 2015: 9-11).

Table 8: Top 10 Asian countries in the UNCTAD B2C E-commerce Index, 2014

	Economy	Share of population having mail delivered at home (2012, %)	Share of individuals with credit card (15+) (2011, %)	Share of individuals using Internet (2013, %)	Secure servers per 1 million people (2013)	Index value	World Rank
1	South Korea	100	56.4	82.1	98.6	84.3	8
2	Japan	100	64.4	79.5	90.5	83.6	12
3	Hong Kong (China)	100	58.1	74.2	89.2	80.4	18
4	Singapore	100	37.3	72.0	89.0	74.6	26
5	Malaysia	93	11.9	63.6	71.1	59.9	45
6	China	100	8.2	44.1	48.1	50.1	65
7	Thailand	95	4.5	28.9	60.6	47.2	70
8	Sri Lanka	98	3.5	18.3	54.9	43.7	79
9	India	100	1.8	12.6	48.2	40.6	83
10	Pakistan	95	0.7	10.0	39.2	36.2	86

(Source) UNCTAD (2015).

Table 9: Top 10 Asian countries in the UNCTAD B2C E-commerce Index, 2018

	Economy	Share of individuals using the Internet (2017 or latest)	Share of individuals with an account (15+, 2017 or latest)	Secure Internet servers (normalized) (2017)	UPU postal reliability score (2017 or latest)	Index value (2017 data)	Index value change (2016-17 data)	World Rank
1	Singapore	84	98	98	100	95.2	1.8	2
2	Hong Kong (China)	89	95	84	92	90.2	1.1	15
3	South Korea	95	95	66	100	89.0	0.6	21
4	Japan	91	98	79	84	88.2	-2.8	24
5	Malaysia	80	85	78	80	80.8	2.2	34
6	Thailand	53	82	60	98	73.2	4.3	43
7	Mongolia	22	93	68	81	66.1	-0.9	58
8	China	54	80	51	61	61.7	3.0	63
9	Vietnam	60	31	67	74	58.0	4.9	69
10	India	25	80	47	54	51.5	2.0	80

(Source) UNCTAD (2018).

Table 10: Top 10 African countries in the UNCTAD B2C E-commerce Index, 2014

	Economy	Share of population having mail delivered at home (2012, %)	Share of individuals with credit card (15+) (2011, %)	Share of individuals using Internet (2013, %)	Secure servers per 1 million people (2013)	Index value	World Rank
1	Mauritius	100	14.1	37.6	76.3	57.0	54
2	South Africa	81	7.8	32.0	73.2	48.5	67
3	Egypt	99	1.4	44.1	47.2	47.9	68
4	Tunisia	93	4.3	21.0	60.1	44.6	74
5	Morocco	72	4.5	53.0	47.6	44.3	75
6	Sierra Leone	95	2.2	1.3	35.6	33.5	89
7	Zambia	60	3.7	13.5	45.4	30.6	93
8	Madagascar	80	0.0	2.1	33.7	28.9	96
9	Zimbabwe	45	6.5	17.1	46.5	28.8	97
10	Mali	70	0.6	2.2	37.6	27.6	100

(Source) UNCTAD (2015).

Table 11: Top 10 African countries in the UNCTAD B2C E-commerce Index, 2018

	Economy	Share of individuals using the Internet (2017 or latest)	Share of individuals with an account (15+, 2017 or latest)	Secure Internet servers (normalized) (2017)	UPU postal reliability score (2017 or latest)	Index value (2017 data)	Index value change (2016-17 data)	World Rank
1	Mauritius	55	90	56	66	66.9	-7.2	55
2	Nigeria	42	40	52	85	54.7	5.5	75
3	South Africa	59	69	83	0	52.9	-1.9	77
4	Tunisia	56	37	51	63	51.7	2.1	79
5	Morocco	62	29	54	59	50.9	n/a	81
6	Ghana	39	58	45	53	48.8	7.6	85
7	Kenya	39	82	37	27	46.2	3.7	89
8	Uganda	17	59	31	58	41.5	-3.2	99
9	Botswana	47	51	41	26	41.4	0.1	100
10	Cameroon	23	35	25	78	40.3	3.6	101

(Source) UNCTAD (2018).

In recent years, in addition to e-commerce transactions in domestic markets, cross-border e-commerce has grown exponentially. There is no doubt that cross-border e-commerce has great potential to become an important part of developing countries' economies. However, e-commerce, similar to other industries, faces challenges. The disadvantages of cross-border e-commerce mainly include legal and regulatory problems, payment methods and processes, and logistics systems (Lallana 2016). Because e-commerce is still a newly emerged industrial area, laws and regulations are in the development stage; the relevant authorities make rules and impose requirements, which leads to a lack of consistency in regulatory practice. For example, the payment method and the system for foreign currency settlement differ depending on the country, and there is a risk of exchange rate fluctuation. Furthermore, the cost of transportation is higher than in developed countries.

The legal and regulatory framework is an important and necessary element to support the growth of e-commerce. Various kinds of e-commerce rules have been proposed, including for electronic transactions, electronic signatures and authentication, data protection and privacy, consumer protection, computer crime, intellectual property, access to source code, competition, financial regulation, taxation and information (UNCTAD 2013: 11-13).

Among them, the UNCTAD recommendations listed below (UNCTAD 2015) became the basics for governments of not only developed countries but also developing countries to take legislative initiatives regarding e-commerce.

1) Align e-transaction laws.
2) Streamline consumer protection policies.
3) Streamline data protection and cybercrime policies.
4) Strengthen the capacity of lawmakers and the judiciary.
5) Enhance consumers' and companies' awareness.

The regulatory frameworks for cross-border e-commerce, as well as the one of domestic e-commerce, has not caught up with the development of the actual market. Even though cross-border e-commerce between Asia and Africa has just emerged, it keeps expanding at an incredible rate. Both Asian and African e-commerce companies are joining one after another to the market. For example, the Rwandan government and Alibaba Group, China's biggest e-commerce company, launched the Electronic World Trade Platform (eWTP) in Rwanda in 2018. However, as Table 12 and 13 shows, legislation in the area of cyberlaws are still under development especially in African countries. Therefore, each country make urgent effort introducing laws and regulations concerning e-commerce.

However, there is no standard for governments to use it as a reference. If model laws that will serve as benchmarks are formulated, differences in the legal systems newly introduced by each country will be minimized, which will make strengthening connectivity easier.

Table 12: Availability legislation or draft legislation of key areas of cyberlaws (Asia)

		Electronic Transactions		Consumer Protection		Privacy and Data Protection		Cybercrime	
		Legislation	Draft	Legislation	Draft	Legislation	Draft	Legislation	Draft
East Asia	China	✓		✓		×	×	✓	
	Japan	✓		n/a	n/a	✓		✓	
	South Korea	✓		✓		✓		✓	
ASEAN	Brunei	✓		✓		×	×	✓	
	Cambodia	×	✓	×	✓	×	×	×	✓
	Indonesia	✓		✓		✓		✓	
	Lao	✓		✓		×	×	×	×
	Malaysia	✓		✓		✓		✓	
	Myanmar	✓		✓		×	×	✓	
	Philippines	✓		✓		✓		✓	
	Singapore	✓		✓		✓		✓	
	Thailand	✓		✓		✓		✓	
	Viet Nam	✓		✓		✓		✓	
South Asia	Bangladesh	✓		✓	n/a	n/a	✓		
	Bhutan	✓		✓		✓		✓	
	India	✓		×	×	✓		✓	
	Maldives	×	×	n/a	n/a	×	×	×	×
	Nepal	✓		n/a	n/a	✓		✓	
	Pakistan	✓		n/a	n/a	×	✓	×	✓
	Sri Lanka	✓		n/a	n/a	n/a	n/a	✓	

(Source) UNCTAD (2015: 109-112).

Table 13: Availability legislation or draft legislation of key areas of cyberlaws (Africa)

Member states	Number of countries							
	Electronic Transactions		Consumer Protection		Privacy and Data Protection		Cybercrime	
	Legislation	Draft	Legislation	Draft	Legislation	Draft	Legislation	Draft
Eastern Africa (18 countries)	Yes: 6	-	Yes: 4	-	Yes: 5	-	Yes: 9:	-
	No: 9	Yes: 7	No: 4	Yes: 2	No: 7	Yes: 7	No: 7	Yes: 4
		No: 2		No: 2		No: 0		No: 3
	n/a: 3	n/a: 3	n/a: 10	n/a: 10	n/a: 6	n/a: 6	n/a: 2	n/a: 2
Middle Africa (9 countries)	Yes: 2	-	Yes: 2	-	Yes: 2	-	Yes: 1	-
	No: 1	Yes: 0	No: 2	Yes: 0	No: 0	Yes: 0	No: 5	Yes: 3
		No: 1		No: 2		No: 0		No: 2
	n/a: 6	n/a: 6	n/a: 5	n/a: 5	n/a: 7	n/a: 7	n/a: 3	n/a: 3
Northern Africa (6 countries)	Yes: 5	-	Yes: 2	-	Yes: 3	-	Yes: 4	-
	No: 1	Yes: 0	No: 3	Yes: 2	No: 3	Yes: 1	No: 2	Yes: 1
		No: 1		No: 1		No: 2		No: 1
	-	-	n/a: 1	n/a: 1	-	-	-	-
Southern Africa (5 countries)	Yes: 3	-	Yes: 2	-	Yes: 1	-	Yes: 2	-
	No: 2	Yes: 2	No: 0	Yes: 0	No: 4	Yes: 3	No: 3	Yes: 1
		No: 0		No: 0		No: 1		No: 2
	-	-	n/a: 3	n/a: 3	-	-	-	-
Western Africa (16 countries)	Yes: 8	-	Yes: 9	-	Yes: 10	-	Yes: 6	-
	No: 7	Yes: 4	No: 6	Yes: 3	No: 4	Yes: 3	No: 10	Yes: 5
		No: 3		No: 3		No: 1		No: 5
	n/a: 1	n/a: 1	n/a: 1	n/a: 1	n/a: 2	n/a: 2	-	-

(Source) UNCTAD (2015: 110-111).

(Notes)
1. Eastern African countries are Burundi, Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Mozambique, Rwanda, Seychelles, Somalia, South Sudan, Uganda, Tanzania, Zambia, and Zimbabwe.
2. Middle African countries are Angola, Cameroon, Central African Republic, Chad, Congo, DR Congo, Equatorial Guinea, Gabon, and Sao Tome and Principe.
3. Northern African countries are Algeria, Egypt, Libya, Morocco, Sudan, and Tunisia.
4. Southern African countries are Botswana, Eswatini, Lesotho, Namibia, and South Africa.
5. Western African countries are Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, and Togo.

Conclusion

Trade relations between Asia and Africa are not close compared to those of other regions. Although both Asian countries and African countries have actively concluded RTAs and

BITs, Asia's partners of these legal instruments are mainly other than African countries and vice versa. Furthermore, although each African country acknowledges the importance of Asia, negotiations to conclude FTAs and EPAs between the two regions are not active, because Asia and Africa are not mutually important trading partners at present.

Trade facilitation measures that harmonize and standardize the differences in laws and regulations between countries have also played an important role in strengthening institutional connectivity. Asian and African countries put the priority to promote trade facilitation in respective regions. Therefore, the effort for facilitation across the regions has left behind. However, once TFA has come into effect as one of the WTO agreements in 2017, the approach facilitating trade barrios is gradually changing from regional to worldwide. TFA plays a role as a benchmark for trade facilitation. Nevertheless, many African countries use the flexibility of TFA for developing countries to postpone implementation of facilitation measures, which leads a gap in progress of facilitation between Asia and African. Considering the fact that there is little trade facilitation framework between Asia and Africa, the difference in the implementation status under TFA has possibility to impede improving institutional connectivity between the two regions. In terms of facilitation in the area of e-commerce, the speed of market expansion is so rapid that regulatory coherence and regulatory cooperation cannot catch up the actual situation. African countries are in the process to develop relevant regulations. Especially the regulatory frameworks for cross-border e-commerce is still underdeveloped.

The absence of communication leads to uncertainty regarding other countries' interests, and hinders mutual understanding in general. The lack of mutual understanding and poor cooperation may also cause certain information to remain hidden, thus inhibiting the sharing of, for example, customs procedures and systems. The Asian–African Legal Consultative Committee (AALCC) is one candidate for promoting institutional connectivity between Asia and Africa. The AALCC, consisting of Asian and African members, is an intergovernmental organization established in 1956 by seven countries, including Japan, as one of the outcomes of the Asian–African Conference (Bandung Conference) of 1955. The purpose of this committee is to discuss legal issues related to international laws, to make appropriate recommendations to member governments, and to exchange opinions and information on issues that have legal implications. The AALCC has discussed diplomatic privileges and exemptions, state exemptions in judicial transactions, principles and procedures for delivering criminals, status of foreigners, mutual enforcement of property judgments, arbitration procedures, legality of nuclear tests, rights of displaced persons, the status and treatment of refugees, maritime law, the International Criminal Court, and international law in cyberspace. To date, legal issues related to economic law, such as trade liberalization and facilitation, have not been discussed much. However, as an organization promoting regulatory coherence and regulatory coordination between Asia and Africa, the AALCC should be used as a resource to promote institutional connectivity.

Without appropriate regulatory framework, economic activity cannot operate healthy. However, regulatory heterogeneity will hinder proper growth of economic operation especially in the newly born industry such as e-commerce. In this sense, it will be highly required for all countries joining in the global value chain to discuss the future design of legal systems that will guide e-commerce properly.

It is important to build trusting relationships that can maintain long-term relationships between Asian and African countries. To build a relationship of trust, it is necessary to promote exchanges of human resources more positively, as well as to promote institutional harmonization that lowers barriers. Standardization and harmonization of legal frameworks in various fields, such as technical standards, environmental standards, and corporate governance standards, will help strengthen Asia–Africa collaboration, and further stimulate economic activities.

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