

ASSESSING THE IMPACT ON TRADE OF E-GOVERNMENT AND ASSOCIATED INFORMATION COMPLIANCE

Policy and Business Practices

POLICY STATEMENT

Summary and highlights

- Emphasizes governments' increased use of information and communications technologies (ICT) ("e-government") and its impact on business
- Proposes a high-level assessment framework for governments and businesses to analyse the impact of e-government information compliance requirements on businesses, national economies and international trade

Background and objectives

For many years, state authorities have focused on the emerging information society to mitigate risks in areas such as privacy, security and consumer protection. More recently, governments have started to recognize the potential of information and communications technologies (ICTs) for improving the way in which they provide services to users (like citizens or business entities) and for optimizing their own administrative processes. Governments can do this firstly by adopting available office automation tools in traditional processes, and secondly re-engineering such processes to take full advantage of the potential of ICTs. The resulting projects, processes and systems are often referred to as “e-government”.

A side-effect of, in particular, the latter developments can be that governments increasingly impose “information compliance” provisions on businesses to adopt processes or systems, which enable interaction with e-government facilities. A concrete example of such a case is a manufacturing company which has subsidiaries for sales, distribution and production across different countries. Increasingly, such companies must integrate with a multitude of e-government systems (using a multitude of mandatory technologies and processes) for tax, customs and other purposes so as to obtain data clearance for e.g. invoicing, import/export or sales to public administrations. Such conditions require businesses to meet certain provisions in their own use of ICTs to ensure control and audit by public administrations. Meeting such provisions may force businesses to adopt technologies and processes other than those businesses use for their own control and audit purposes.

Examples:

- *Mandatory message formats and content*

Businesses are required to support standards for multiple messages to meet e-government objectives. Mandatory message document formats can be applied to ensure smooth interaction between businesses and governments. However, their use may also be mandatory for particular transaction types if used between businesses.

- *Regulated or government-operated pre-authorization (clearance) systems*

There is a strong trend among authorities (e.g. tax, customs) to set up service platforms through which business-to-business messages must be channelled – either to be cleared before sending to a trading partner, or as a mandatory hub passing business-to-business messages onto the trading partner.

- *Compulsory agreements between market players*

In certain cases, governments not only impose technical requirements on business processes and documents, but also on the agreements trading partners execute to regulate their relationship and communication methods.

- *Localization requirements*

While it is understandable that governments want to have the possibility to position a digital resource (application, dataset, content and process) for e-government service provision in a given location, it can be problematic if they also require businesses to interact with such resources to deploy local systems or locally-registered service providers as a precondition for meeting administrative requirements.

- *Authentication mechanisms, ID management and security*

E-Government platforms and services often require businesses to adopt specific access, authorization and security methods. The same often applies to e.g. business-to-business transactions to ensure long-term data auditability.

These e-government and associated information compliance requirements¹ force enterprises to consider public law requirements in the design, operation and change management of e-business systems and processes. As many requirements vary among countries, and repeatedly within countries, they often frustrate businesses' desire to consolidate systems and processes. Such consolidation is an important step in optimizing demand and supply chains through the adoption by enterprises of standardized processes. This would generate cost savings while improving quality, security, cash-flow, reporting, customer service and business intelligence.

It must be noted that there are areas of e-government and information compliance in which measures have been identified and taken with business stakeholders to avoid as much as possible the side-effects mentioned in the examples above. Such an approach is, for example, demonstrated in the proposed European Directive on e-Invoicing in e-Procurement.

In short, e-government and companies' forced use of public administration-friendly technologies often maximize public sector efficiencies, while not always fully factoring in the potential negative impact this can have on businesses and the broader economy.

As a future exercise, it may be beneficial to monitor the trade impact of countries' diverse approaches to security, authentication and other requirements. It is legitimate for states to strive for the highest possible level of security and data privacy to enhance industry and consumer confidence in e-government services and solutions. Nevertheless, significant disparity in approaches should not be regarded as a trade barrier and typically fall under the exception provided for by Article XIV, General Agreement on Trade in Services [GATS]. However it has a cost to business - and particularly global enterprises - that might be outweighed by the gains created by consumer confidence. Finally, it may be beneficial as a future exercise to develop an inventory of data commonly required by governments in order to promote greater use, or development, of international standards for commonly requested e-government

¹ It is typical for these requirements to drastically change long-held assumptions about the distribution of administrative control and audit costs between the private and public sector.

information.

This ICC policy statement proposes a high-level assessment framework that governments and businesses can use (where relevant and in addition to existing impact assessments) to better analyze the impact of e-government initiatives and associated information compliance requirements on businesses, national economies and international trade.

A high-level impact assessment framework

N.B. None of the assessment criteria described in this statement are exhaustive. It should also be borne in mind that requirements may differ among different kinds of companies, e.g. between SMEs and large enterprises.

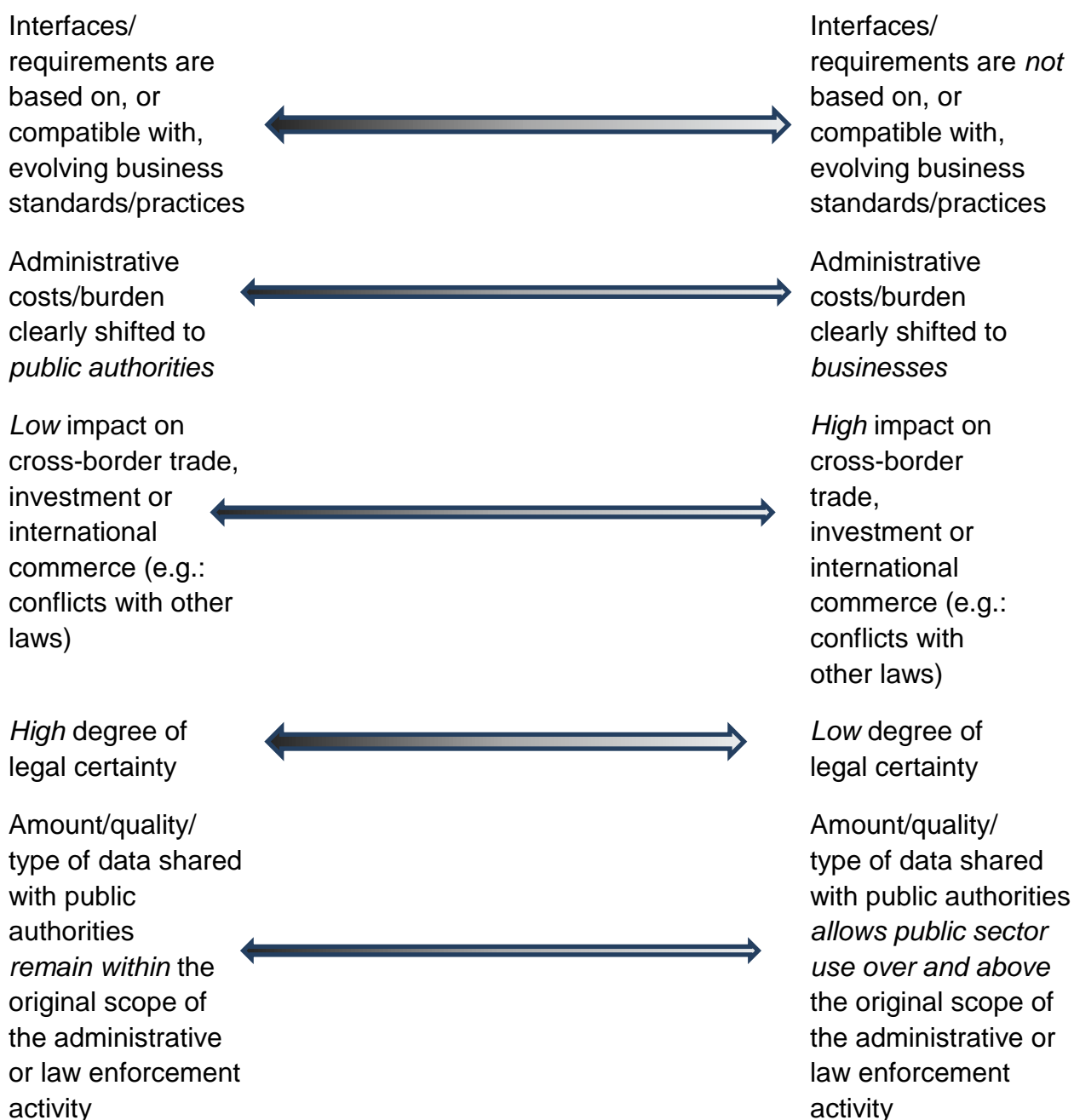
Describing the initiative

To fully understand e-government or associated information compliance initiatives, the regulatory domain or mandatory service should first be specified. The following description matrix is proposed:

General description	<i>Describe the initiative to be analyzed in general terms: legal references, responsible public authority, etc.</i>
Mandatory message formats and content?	<i>[Do businesses have to map to data formats specified by/on behalf of a public authority? Are there constraints as to the data content; minimum data fields or exclusions? Yes/No]</i>
Regulated or government-operated pre-authorization (clearance) systems?	<i>[Do businesses have to integrate technical interfaces made available by/or on behalf of public authorities prior to/after creation, receipt, or use of certain business data? Yes/No]</i>
Compulsory agreements between market players?	<i>[Are there requirements in law or regulation that force trading partners to conclude and confirm specific agreement types? Are there requirements as to form, content and storage of such agreements? Yes/No]</i>
Localization and related requirements?	<i>[Are there legal constraints determining the geographic location of processing or storing business data? Are there constraints on the registration or physical establishment of IT vendors facilitating transactions/archiving? Yes/No]</i>
Authentication mechanisms, ID Management and security-related requirements?	<i>[Are there requirements for maintaining or confirming the use of mechanisms or third party verifications for: access/authentication/authenticity/authorization/electronic signatures/encryption/integrity/non-repudiation/security certifications/transport-level security? Yes/No]</i>
Section on business requirements	<i>[Yes/No, description: what private sector requirements are being met by the public sector topic, etc]</i>

General analysis framework

Finally, to assess objectively the economic and trade impact of an e-government or associated information compliance initiative, the following high-level methodology can help visualize to what extent businesses, international trade and the economy are affected. A sliding scale/diagnostic spectrum is proposed to evaluate several assessment criteria. The impact of each initiative is plotted somewhere along this scale/spectrum.



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The International Chamber of Commerce (ICC)

ICC is the world business organisation, a representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world.

The fundamental mission of ICC is to promote open international trade and investment and help business meet the challenges and opportunities of globalisation. Its conviction that trade is a powerful force for peace and prosperity dates from the organisation's origins early in the 20th century. The small group of far-sighted business leaders who founded ICC called themselves "the merchants of peace".

ICC has three main activities: rule setting, dispute resolution, and policy advocacy. Because its member companies and associations are themselves engaged in international business, ICC has unrivalled authority in making rules that govern the conduct of business across borders. Although these rules are voluntary, they are observed in countless thousands of transactions every day and have become part of the fabric of international trade.

ICC also provides essential services, foremost among them the ICC International Court of Arbitration, the world's leading arbitral institution. Another service is the World Chambers Federation, ICC's worldwide network of chambers of commerce, fostering interaction and exchange of chamber best practice. ICC also offers specialised training and seminars and is an industry-leading publisher of practical and educational reference tools for international business, banking and arbitration.

Business leaders and experts drawn from the ICC membership establish the business stance on broad issues of trade and investment policy as well as on relevant technical subjects. These include anti-corruption, banking, the digital economy, marketing ethics, environment and energy, competition policy and intellectual property, among others.

ICC works closely with the United Nations, the World Trade Organisation and intergovernmental forums including the G20.

ICC was founded in 1919. Today its global network comprises over 6 million companies, chambers of commerce and business associations in more than 130 countries. National committees work with ICC members in their countries to address their concerns and convey to their governments the business views formulated by ICC.