



**Asia-Pacific  
Economic Cooperation**

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## **Using Pathfinder to Build Capacity in Emerging Economies**

Submitted by: Davara Abogados, S.C.



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Implementation of the APEC Privacy  
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# DAVARA

ABOGADOS, S.C.

DATA PRIVACY & E-COMMERCE: FOSTERING ECONOMIC GROWTH

Technical Assistance Seminar on International Implementation of the  
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## USING PATHFINDER TO BUILD CAPACITY IN EMERGING ECONOMIES

Dra. Isabel Davara F. de Marcos  
Partner, Davara Abogados, S.C.  
Chair Latin America Electronic Commerce Committee, ABA  
Lima, Peru  
February 2008  
[idavara@davara.com.mx](mailto:idavara@davara.com.mx)

[www.davara.com.mx](http://www.davara.com.mx)

## OUTSOURCING

- Outsourcing as a great opportunity in emerging economies to foster economic growth, provided quality and efficiency of the SLA.

- Key actors:

- Governments
- Regulators
- Businesses
- Consumers
- "Trustmarks"

## ACTORS INVOLVED IN DATA PROCESSING

- Personal information controller
- Processor
- Consumer/ data's subject

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## WORLDWIDE MAIN PRIVACY SCHEMES

- European Union → privacy laws
- USA → some federal and state laws (moreover sectorial) + self-regulation
- Australia and New Zealand → privacy codes (hybrid approach)
- So: there is a wide range of approaches to privacy frameworks applying to personal information across APEC economies.

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## APEC PRIVACY PRINCIPLES

- Preventing harm
- Integrity of Personal Information
- Notice
- Security Safeguards
- Collection Limitations
- Access and Correction
- Accountability
- Choice

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## APEC PRIVACY FRAMEWORK'S PRINCIPLES AND IMPLEMENTATION GUIDANDE

### Four main goals:

- a) to develop appropriate privacy protections for personal information
- b) to prevent the creation of unnecessary barriers to information flows
- c) to enable multinational businesses to implement uniform approaches to the collection, use and processing of data, and
- d) to facilitate both domestic and international efforts to promote and enforce information privacy protections.

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## KEY PRINCIPLES FOR E-COMMERCE AND OUTSOURCING

- Responsibility
- Accountability
- Effectiveness (of privacy protections)
- Free movement (without creating barriers to cross border data flows)

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## OUTSOURCING EXAMPLES

- Call Centers in LatAm and Asian countries (i.e. Colombia and Spanish DPA last case)
- Hosting and other services related to ITC
- Marketing activities
- Banking and financial services
- Other online activities

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## CONCERNS ABOUT PRIVACY & OUTSOURCING

- Cross border data flows: different countries and different legal and/or privacy protection schemes
- CBPR governing relations controller-processor
- Accountability
- Enforcement

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## THE MOST USUAL PROBLEMS

- Lack of legal/self-regulation protection in processor's country
- Breach of contract (privacy principles, security measures, ...)
- Difficulties for audit compliance
- Lack of consumer and business trust

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## CURRENT SCHEMES FOR OUTSOURCING

- Binding Corporate Rules (EU)
- Contractual solution (EU + ICC)
- Cross-Border Privacy Rules (APEC)

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## ELEMENTS OF A CBPR SYSTEM

- Self-assessment
- Compliance review
- Recognition/Acceptance
- Dispute Resolution/Enforcement

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## BENEFITS OF A CBPR SYSTEM

- Flexibility
- Consistency with legal framework that supports the cross-border handling of personal information

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## SOME IMPORTANT POINTS

- Audit of security measures
- Audit of privacy principles
- Legal cooperation between governments and business
- Investigation and enforcement powers

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## SOME FINAL THOUGHTS

- Privacy is an essential factor for promoting consumer confidence and therefore an opportunity for APEC economies to enjoin a digital economy
- If privacy law is unpredictable = Limits outsourcing choices + Increases business risk = Problematic decision-making + impact on consumer and business trust

**Thank you!**