SUPPORTING ECONOMIC TRANSFORMATION

An inclusive digital trade policy in 2021

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Key messages

- Digitalisation is rapidly changing the nature of trade, in terms of both what and how trade is conducted. The Covid-19 crisis has reinforced this trend.
- A range of trade policy events in 2021 could shape a new digital trade policy, to (i) support an economic recovery; (ii) modernise the policy environment; and (iii) accommodate the needs of the poorest countries.
- AfCFTA, CHOGM, the WTO, (UK) FTAs and the G7 should all be used to enhance inclusive digital trade in 2021.

Introduction

Digitalisation is changing the nature, content and modalities of trade, and Covid-19 has reinforced recent trends. A range of international trade events in 2021 could shape digital trade policy. E-commerce discussions will take place at upcoming Commonwealth Heads of Governments Meetings (CHOGMs) and the 12th World Trade Organization (WTO) Ministerial Conference (MC12). The African Continental Free Trade Area (AfCFTA) should also bring forward discussions on e-commerce. In addition, the UK is signing and reviewing free trade agreements (FTAs) with a range of partners and will chair G7 discussions on trade, health and climate. This note sets out key issues around the digital economy, trade and development, discusses the digital divide and presents ways the global trade community and bilateral players can facilitate inclusive digital trade.

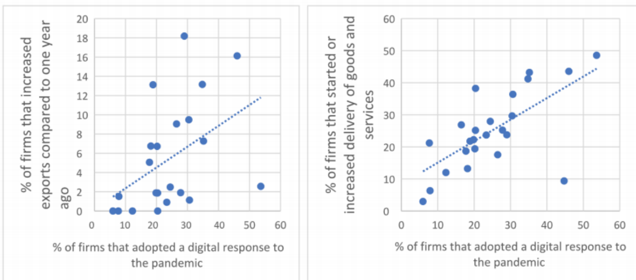
Digitalisation supports trade and economic development

Digitalisation supports trade and development in three ways: (i) increased production efficiencies in firms using digital technologies; (ii) digital delivery of services (e.g. software delivery, online health and education services, or call centre services); and (iii) e-commerce, in terms of both gaining access to cheaper inputs and reaching consumer markets through e-commerce platforms.

Digital trade includes (i) trade in digital products that are traded online (e.g. software and videogames); (ii) trade in digital services (ICT, cloud computing, data processing, etc.) and digitally deliverable export services (e.g. legal, digital health and education services, financial, business); and (iii) e-commerce (e.g. ordering apparel online).

Digitalisation and ICT technologies increase growth. During the Covid-19 crisis, digitalisation has supported governments, firms and consumers. Countries that had higher internet penetration in 2019 imposed stricter lockdown policies to curtail the spread of the virus. Second, while more than 70% of surveyed African firms with a digital response to the pandemic adjusted or converted production, only 40% of those without a digital response were able to do so. Figure 1 finds a positive correlation between the share of firms in a country adopting a digital response to the crisis and that of firms that have increased exports compared with a year ago and those that have increased delivery of goods and services. Third, consumers gain easier market access through e-commerce.

Figure 1: Economic performance in digital firms



Source: Banga and te Velde (2020). Data are from 23 countries.

Need for inclusive digital trade

There is a digital divide in relation to the use and impact of digital technologies. For example, African countries have relatively few robots installed (compared with their relative position in GDP). They also derive fewer productivity benefits once digital techniques have been installed because of lack of complementary activities.

Covid-19 has exposed digital and economic divides between low- and middle-income countries and high-income countries. For producers, the magnitude of the impact in the manufacturing sector of social distancing policies depends on the rate of automation in the country or industry. India's robot density in manufacturing is at 3 and South Africa's is at 28; the global average is 74. There may be a further global push towards automation by high-income countries to mitigate supply chain risks and increase flexibility post-pandemic. For consumers, the benefits of e-commerce are likely to be higher in high-income countries, where almost 60% of the population was buying online before the pandemic, compared with low-income countries, where the figure was only 2%. The share of e-commerce revenue during the pandemic is relatively small in African firms (16%), and lower in goods than in services. The quality of digital infrastructure has hampered the digital response. Increased demand for internet faced declining broadband speeds in Kenya, Mozambique, Rwanda, South Africa and Tanzania. The digital divide hampers digital responses and digital trade.

Digital trade and development issues

A key outstanding issue in e-commerce negotiations is the classification of e-commerce products; should electronically transmitted (ET) goods such as software and e-books be treated as goods and therefore covered by WTO rules under GATT or treated as ET services, bringing into question the applicability of general GATS rules and mode of supply. To avoid taking an explicit position on the ongoing debate on classification of e-commerce products, several regional trade agreements – particularly those with the US – include e-commerce rules under a separate chapter. Uncertainties have also emerged during plurilateral negotiations around the coverage of the WTO moratorium on customs duties on electronic transmissions, including application of duties to the transmission or the content of the transmission if the moratorium were absent.

A number of issues on e-commerce in FTAs have come up. How will governments regulate the internet, with intermediary liability regimes for intellectual property infringements introduced in the UK–Japan agreements? Should governments be able to demand disclosure of source code from businesses, and how could accountability and intellectual property be balanced? Investment and services negotiations are becoming increasingly important in multilateral, regional and bilateral settings. In addition, the rise in e-commerce needs to be managed inclusively and appropriately, requiring the development of appropriate regulatory frameworks and policies on privacy, data, online dispute resolution, consumer protection and cybercrime, etc.

The use of big data in the battle against Covid-19 – particularly the use of detailed mobile phone data to track and monitor the pandemic – has further spurred major privacy concerns. 72% of African countries have a law against cybercrime and 61% have an e-transaction law but only 46% have a consumer protection law and only 50% have a privacy and data protection law. Taxation and competition laws need to be updated.

Crucial digital trade and development opportunities in 2021

Digital advances are being made in multilateral, regional and bilateral trade fora. India, South Africa and the Africa Group's position has been to not negotiate e-commerce rules at the WTO, with only five WTO members from Africa co-sponsoring the Joint Statement Initiative (JSI) (Benin, Cameroon, Côte d'Ivoire, Kenya and Nigeria). Covid-19 has heightened the need for a regulatory framework on e-commerce, and therefore e-commerce negotiations under the AfCFTA are likely to be fast-tracked. Some issues, such as requirements for the use of electronic customs processing, might be considered part of traditional topics; others, such as data protection or third-party content liability laws, would seem wholly novel e-commerce issues. African negotiators have three dimensions to consider while negotiating: (i) how broadly they would like to address e-commerce issues; (ii) how deep the commitment should be – that is, basic cooperation, to common principles for regulations, to unified laws; and (iii) sequencing/timing of commitments.

Similar to the UK–Japan FTA, the AfCFTA may want to seek a dedicated chapter for SME provision on digital trade. The UK–Japan FTA differs from the EU–Japan FTA in relation to data localisation and free flow of data but both deals contain provisions that ban transfer or access to source code. Which is the best model to follow for other FTAs? And do e-commerce proposals by developed countries reflect business priorities in Africa? Banga et al. (forthcoming) survey 31 African firms and find that 90% of firms highlight the need for access to digital intelligence generated by platforms using the data provided by the private sector, and 61% want intra-regional economic community data-sharing but need capacity-building for data sorting and analysing.

There is further potential for digital development cooperation. UNCTAD highlights that only 1% of all Aid for Trade funding is allocated to ICT solutions. Multilateral development banks invest just 1% of their total spending in ICT projects, with only about 4% spent on policy development for the digital economy. At CHOGM, countries can support aid for digital trade. The UK can also use the G7 to support Africa's digital transformation and develop a framework on health-tech. It can also announce pilot blockchains that trace the use of (carbon) inputs to inform carbon border adjustments.

Summary of key digital trade policy issues/debates in 2021

	Digital goods	Digital services	E-commerce	Aid for Trade
WTO	To extend or not the moratorium on custom duties on electronic transmissions	To participate or not in JSI negotiations	To participate or not in JSI negotiations on e-commerce	Support poorest JSI signatories
AfCFTA	Lower barriers for trade in critical infrastructure equipment	Investment / services negotiations	Digital trade chapter to provide a harmonising framework	Support negotiations
CHOGM				New initiative for digital trade
FTAs, including by the UK	Zero tariffs	Include services	Free movement of data when managed well	Foster bilateral collaboration