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Discussion Paper on E-commerce for the G20

Prepared by the OECD, UNCTAD and the WTO

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(The views expressed in this paper do not necessarily represent those of G20 members.)

G20 DISCUSSION PAPER ON E-COMMERCE

At the First Trade and Investment Working Group meeting in Beijing on January 28-29, 2016, G20 members agreed on the need to deepen their understanding of and co-operation on e-commerce issues. To help inform G20 discussions, the WTO, OECD, UNCTAD and World Bank were asked to jointly report on the evolving role of e-commerce in international trade, with a particular focus on the supply-side challenges affecting developing countries, the opportunities and challenges for SMEs, the role of service global value chains, and the scope for further multilateral policy cooperation. The G20 also indicated that it agrees to engage with the B20 in establishing an E-commerce Platform aimed at strengthening the dialogue between G20 governments and business on where opportunities and challenges lie, and how policy-makers can respond. The International Organizations propose the following.

A G20 platform for policy dialogue on e-commerce

In the light of the policy issues identified below in this paper, the existence of related G20 work streams such as that on the digital economy, and the importance given by the B20 on the topic including the need to facilitate public-private partnerships,¹ there might be significant benefits from establishing a dedicated platform on e-commerce (the "G20 e-commerce platform"), involving members of the TIWG and digital economy work streams and the B20, for conducting a dialogue on the opportunities and challenges faced by e-commerce businesses.

For this year, the G20 could establish the G20 e-commerce platform and organize the kick-off meeting before the G20 Trade Ministers' Meeting. In the longer term, participation in the G20 e-commerce platform can potentially be enlarged by involving international organizations who can be asked to report on their e-commerce or digital economy work programmes (such as for example, UNCTAD's Aid for eTrade initiative, the OECD's digital economy work programme and the WTO's e-commerce work programme) with a view to seeing how these may be better aligned with or complement the priorities established by the platform.

A global initiative to support e-commerce uptake in developing countries

E-commerce can become a powerful driver of economic growth, inclusive trade and job-creation across the developing world. While numerous development partners, foundations, and private sector actors are working from different angles to unlock the power of the Internet for economic development, current efforts are seldom holistic or systematically focused on building e-commerce economies.

Accelerating the uptake of e-commerce in developing countries would require a more concerted approach. UNCTAD has taken the initiative to explore the possibility for launching an "Aid for eTrade" initiative, envisioned as a demand-driven mechanism for leading development partners, in partnership with the private sector, to make actions more coherent, and pool capabilities and resources. To facilitate the public-private dialogue, a Private Sector Advisory Council would be established, comprising e-commerce platform companies, merchants, payment providers, logistics firms, IT infrastructure and other companies of different sizes, from developing and developed economies alike.

Aid for eTrade would seek synergies with other international initiatives and mechanisms, such as Aid for Trade and the Enhanced Integrated Framework, as well as with projects implemented by individual partner agencies. The initiative would help developing countries to navigate more easily the supply of capacity building from the international community while at the same give

¹ B20 Coalition, Digital Economy: Driver for Growth, <http://www.b20coalition.org/uploads-pdf/B20-Coalition-DIGITAL-ECONOMY-DRIVER-FOR-GROWTH.pdf>

donors a clear picture of technical assistance programmes to potentially fund. The overall effect would be more transparency and greater aid efficiency.

The initiative would be a timely, high-impact value proposition, offering a means for developing countries to enter and harness the employment, economic and social gains offered by the digital economy. It would also advance several other international efforts, such as the Enhanced Integrated Framework and the WTO-led Aid for Trade programme, to foster trade, growth, and development, notably the SDGs. G20 leaders could endorse such efforts. Aid for eTrade would bring benefits to multiple industries, exporters and economies that choose to leverage it.

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I. Introduction

Electronic commerce is expanding and creating new markets for products and services and fostering greater competition as new entrants challenge brick-and-mortar incumbents.² B20 Leaders have highlighted the strong linkage between adoption of digital technology/e-commerce and economic growth and articulated the need to improve the global trade system for the digital economy/e-commerce.³ To promote inclusiveness, they have also called for improving small and medium-sized enterprises' (SMEs) access to the digital economy. This discussion paper identifies a set of issues for further work by international organizations that will allow G20 members to have a focused discussion on these matters.

2. Improving the global trading system for electronic commerce

Electronic transmissions that underlie e-commerce transactions recognize no borders making e-commerce markets global and borderless by nature.

A. Measuring cross-border e-commerce

While it presents significant challenges, obtaining better estimates of the magnitude and nature of cross-border e-commerce transactions is essential to our understanding of global e-commerce, for evidence-based policy making and to inform trade negotiations. For example, the UN Interagency Task Force on Trade Statistics (including national governments, the IMF, UNCTAD, UNSD, WTO, OECD, etc.) have been developing some concepts, definitions and guidelines touching upon improving measurement of on-line international transactions. More recently, the WTO joined by UNCTAD and the Universal Postal Union (UPU), initiated collaboration to identify ways to improve the measurement of cross-border e-commerce. These three organizations, together with the OECD, could be tasked to continue and deepen their work, in particular, to find means to better capture data on e-trade by SMEs, and expand it to encompass other international organisations, industry associations and the business sector (through the B20). There is currently little information on such trade, even among developed countries. A first step could be to develop a comprehensive conceptual framework for measuring cross-border e-commerce, taking into consideration existing definitions and classification used to measure trade in goods and services. The envisaged work could also consider new approaches, indicators and tools to extract meaning for public policy from the large amount of information ("Big Data") that is now being generated.

B. Global rules on e-commerce

B20 leaders have emphasized the importance of preserving the global nature of e-commerce and facilitating it across borders.⁴ Having common rules on e-commerce is one way of helping maintain these features. Ideally, these rules will be shaped in the WTO. However, the only deliverable of the WTO e-commerce work programme, to date, is a temporary moratorium on customs duties on electronic transmissions (in place since 1998). In fact, the work programme does not, nor was it originally mandated to conduct rulemaking, although its bodies did reach provisional conclusions that

² See, e.g. UNCTAD (2015) Information Economy Report 2015: Unlocking the Potential for Developing Countries (New York and Geneva: United Nations), unctad.org/ier.

³ Summary of B20 recommendations to the G20, http://b20turkey.org/policy-papers/b20turkey_key.pdf

⁴ B20 Coalition, Digital Economy: Driver for Growth, <http://www.b20coalition.org/uploads-pdf/B20-Coalition-DIGITAL-ECONOMY-DRIVER-FOR-GROWTH.pdf>

the technological neutrality of WTO agreements encompasses e-commerce. Perhaps as a consequence, explicit international rule making on e-commerce has migrated to RTAs.

A growing number of RTAs now include specific chapters covering e-commerce (see Figure 1), and address many of the issues that are yet to be solved on a multilateral level. Of the 269 RTAs notified to the WTO as of 4 March 2016, 65 of them (or roughly a quarter of the total) include provisions on e-commerce. For instance, most RTAs contain a workable taxonomy and definitions on aspects such as digital products, carrier media, and electronic transmissions. Another common provision in RTAs confirms the applicability of their trade rules to e-commerce, particularly with respect to cross-border services, financial services and investment, and the application of national treatment and MFN obligations to digital products. Many RTAs also recognize that WTO rules apply to e-commerce, and adopt an often binding version of the WTO customs duties moratorium on trade transactions involving digital products. Furthermore, RTAs often pledge not to discriminate on grounds of technology, minimise regulatory burden, and align domestic regulation with international model laws on electronic commerce.

Among more recent RTAs that cover e-commerce, the regulatory approach has been more comprehensive. Provisions expand on the provisions included in earlier agreements., Recent RTAs address paperless trade, electronic authentication and e-signature. Often the commitments in these areas, however, need to be read in the light of provisions, including exceptions and non-conforming measures, found in other chapters of the RTA.

However, liberalisation through RTAs is only a second best option in comparison to global multilateral regulation. “Multilateralisation” of RTAs entails minimising the costs of trade diversion and increasing trade flows through geographical expansion. Furthermore, in the absence of global regulation, the growing proliferation of RTAs further intensifies the “spaghetti bowl” effect of preferential agreements creating greater regulatory complexities. Previous studies on RTAs suggest that there is prospect for such “multilateralisation” since RTAs contain similar, albeit not identical, provisions on e-commerce, and there is increasing convergence on addressing some issues.⁵

“Multilateralisation” could take either a bottom-up or a top-down approach. The former entails extending the coverage of existing RTAs by allowing new members to join or by creating regional convergence of e-commerce rules across different RTAs. The latter approach would entail a process whereby the progressive results achieved in RTAs could be transposed into new rules on e-commerce adopted at the WTO level. Alternatively, RTA members could also multilateralise their preferential e-commerce commitments by accepting WTO bindings based on deeper commitments made in their RTAs.

Looking into the future, further work is needed to evaluate the regulatory approaches and best practices taken in recently concluded RTAs, assess whether such rules are apt to address technological developments and e-commerce trends applied on the ground, and further analyse coherence and homogeneity across RTAs with respect to progressive elements such as electronic authentication, paperless trade, international data transfers, and consumer protection. These steps will further inform policy making and contribute to improving the global regulation of e-commerce.

Beyond provisions in trade agreements, greater regulatory consistency would facilitate cross-border sales online. UNCTAD's Global Cyberlaw Tracker, which maps the availability of national legislation in four key areas: e-transactions, consumer protection online, data protection and privacy, and cybercrime,⁶ shows that relevant laws in these areas are mostly in place in developed countries but highly inadequate in many other parts of the world. Many governments still need to adopt baseline

⁵ Herman, L. (2010), “Multilateralising Regionalism: The Case of E-Commerce”, OECD Trade Policy Papers, No. 99, OECD Publishing, Paris, <http://dx.doi.org/10.1787/5kmbjx6gw69x-en>

⁶ See http://unctad.org/en/Pages/DTL/STI_and ICTs/ICT4D-Legislation/eCom-Global-Legislation.aspx

laws in legal areas where they do not exist and to ensure their enforcement. There is also a need to align laws with international legal instruments. The annual E-Commerce Week convened by UNCTAD could be leveraged as a forum for discussing relevant legal and regulatory frameworks in support of building trust in cross-border online transactions.

3. How SMEs can better reap the dividends from the digital revolution

While some developing countries have made significant inroads into e-commerce, the vast majority is still on the wrong side of the "e-commerce divide." The extent to which people purchase goods and services varies considerably among the G20 economies, ranging from less than 2 percent in Saudi Arabia and Indonesia to more than 70 percent in the United Kingdom (see Figure 2). SMEs, particularly those in developing countries, also trail larger enterprises in taking advantage of the Internet for reaching out to consumers or suppliers for the purpose of day-to-day operations, marketing, data collection or online commercial transactions.⁷ Higher uptake of e-commerce among SMEs would help them reach more potential customers (both final consumers and as part of global value chains) in domestic as well as foreign markets. In Europe, increased e-sales had strong positive productivity effects especially on small enterprises and on firms in services industries.⁸

The World Bank's recent World Development Report on digital dividends bemoans how the development benefits from using digital technologies have lagged behind the pace of adoption and identifies a number of requirements — the so called “analogue complements” that are necessary for small businesses to engage in trade on line. ITC presented its findings in December 2015 on how providing these analogue complements can lead to digital benefits for SMEs in Africa.⁹

In Antalya, the G20 leaders committed themselves to bridging the digital divide.¹⁰ In the WTO e-commerce work programme, members have identified improving SMEs' capacity to participate in e-commerce as a priority in on-going discussions. Building on this, and on previous or ongoing work in this area, the WTO, UNCTAD and the World Bank can assess the potential of e-commerce for SMEs and developing countries, and with ITC, identify the market access and regulatory hurdles that prevent them from fully realizing the potential of e-commerce and recommend concrete actions that G20 members can take to remedy the situation. This work would complement analysis of the infrastructure and other supply side constraints that will be undertaken in the digital economy pillar of the framework for innovation growth under the G20 Chinese Presidency.

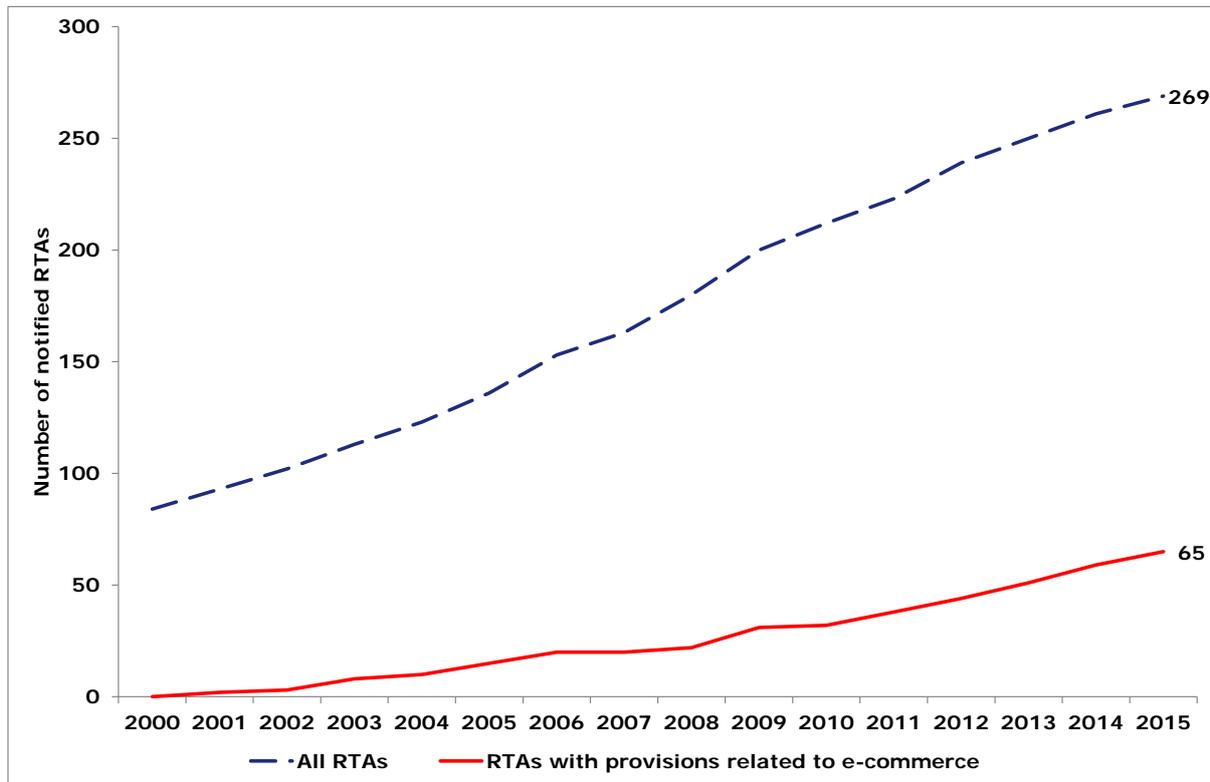
⁷ <http://www.intracen.org/smecompetitiveness>

⁸ See, e.g. UNCTAD (2015) Information Economy Report 2015: Unlocking the Potential for Developing Countries (New York and Geneva: United Nations), unctad.org/ier.

⁹ <http://www.intracen.org/publication/International-E-Commerce-in-Africa-The-Way-Forward/>

¹⁰ G20 Leaders' communiqué Antalya summit, 15-16 November 2015.

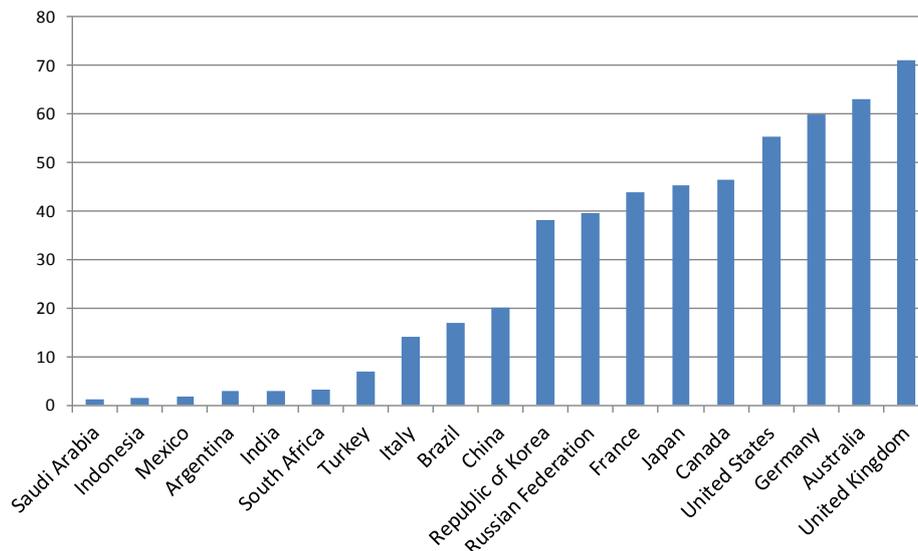
Figure 1: RTAs with e-commerce provisions, 2000-15



Source: WTO Secretariat.

Note: The figure only includes RTAs that have been notified to the WTO and are currently in force.

Figure 2: Share of individuals purchasing online, G20 economies, 2013 (%)



Source: UNCTAD, based on Eurostat, ITU and national data.