tralac webinar: Digital trade in Africa

Report

The Trade Law Centre (**tralac**) organised a webinar on 25 October 2021 focusing on specific issues policymakers need to address in responding to the challenges and opportunities offered by digital trade in Africa. The basis for the discussion was the book 'Adapting to the digital trade era: challenges and opportunities', edited by **Maarten Smeets** of the World Trade Institute in Bern, who moderated the webinar. The book contains contributions by WTO Chair holders, members of the Advisory Board and WTO Secretariat staff, and explores the impacts of rapid adoption of digital technologies on trade and development and the role of domestic policies and international cooperation in creating a more prosperous and inclusive future. Based on theory and practice, including lessons learned, speakers from leading African institutions and academia focused on these issues as they pertain to digital trade development and governance in African countries, and offered some suggestions on the way forward.

Mustapha Sadni Jallab, WTO Secretariat, began the discussion by highlighting that the e-commerce sector is a key element to support endogenous growth. He referred to a seminal paper by Grossman and Helpman (1994), which embodied the spirit of e-commerce as a proxy for empirical work on innovation and how new technologies can support economic growth. Turning to some key facts on digital trade in Africa, the International Telecommunications Union (ITU) has estimated that in 2019, 28% of the 4.1 billion global internet users come from within the continent, marking an increase of 5.3% from 2018. In 2021, internet penetration in Africa stands at 43%, compared to the world average of 68.6%. Despite an ambitious programme to triple fixed broadband connectivity by 2023, the statistic in Africa remains below 1%.

Mustapha highlighted three key points: firstly, in terms of the 'digital gap' in Africa, women do not benefit equally from access to the internet, and rural versus urban areas are disproportionally connected. Secondly, the COVID-19 pandemic directly accelerated e-commerce and online sales, particularly in medical supplies, household essentials and food products. E-commerce emerged as a key pillar in African businesses' responses to the pandemic across manufacturing, retail and other sectors. And finally, while many challenges still present themselves in translating gains drawn from e-commerce into tangible reality on the ground, it is important to address infrastructure gaps, including access to energy, and improve the regulatory environment to ensure privacy, support interoperability of mobile money platforms, and promote consumer and business development.

Nassim Oulmane, United Nations Economic Commission for Africa (UNECA), indicated that in Africa, digital trade is still relatively concentrated in very few countries; just 10 African countries are responsible for 94% of all online business on the continent. The majority of online marketplaces in Africa operate using a domestic country-focused model, i.e. they use only national platforms which have restrictions based on the origin of the sellers. 57% of marketplaces allow only domestic sellers on their platforms. Cross-border e-commerce is thus very limited. Oulmane highlighted the top five reported challenges to cross-border e-commerce in Africa: postal competence on delivery and transport costs; taxations, including foreign and double taxation and VAT regulations; lack of reliable payment solutions; lack of national and rules of origin; and customs duties and procedures. Intra-African trade fares better in terms of electronically-transmitted products than African trade with countries outside of the continent, but 95% of intra-African exports of digitally visible products are dominated by only five countries – South Africa, Mozambique, Kenya, Tanzania and Mauritius. This illustrates a specialisation in niche areas within the African market; in particular, the smaller the country, the higher the proportion of intra-African digital trade. In general, the potential of digital trade in Africa is not fully exploited, and is further constrained by a lack of digital trust related to consumer protection mechanisms. In this context, the African Continental Free Trade Area (AfCFTA) could potentially play a crucial role by implementing cross-border trade facilitation measures.

Leila Baghdadi, University of Tunis, Tunisia, argued that digital and internet technologies are a strong channel of trade facilitation: the internet can be used to reduce the time and costs required for trade, particularly in the context of global value chains (GVCs) where goods are actually traded across borders several times. While African firms participate in GVCs to a certain extent, mainly through supplying inputs and raw materials to foreign firms (forward participation), they are less present in backward participation in GVCs. Access to the internet and related infrastructure in African countries has a stronger influence on forward participation than backward participation in GVCs. Digitalisation and internet connectivity in the context of trade facilitation measures, including the design of "green lanes" for streamlining border controls or exchanging specific trade documents electronically, are therefore important ways to increase economic and firms' resilience in trade in response to global shocks, such as COVID-19.

Tabitha Kirigi Nganga, University of Nairobi, Kenya, discussed the current status of digital trade and digitally-enabled transactions in Kenya, which have become an integral part of numerous day-to-day activities and service delivery in the country. E-commerce penetration reached 8.4 million in 2017 and is expected to rise to 32.1 million by 2025. The COVID period saw a spike in the use of e-commerce, which is expected to increase from 34.6% in 2021 to 53.6% in 2025. The majority of e-commerce users in Kenya are younger than 34 years old; 57.% of users are males; and 63.1% of users fall into the medium to high income bracket.

At the national level, both the private sector and government are using electronic channels to facilitate domestic and intra-African trade. Kenya has adapted its policy framework to create an enabling environment for digital transactions and e-commerce and to keep pace with changes in technology, ensure adequate competition, encourage innovation, standardise quality of ICT products and services, maintain global connectivity, and safeguard privacy and security. An e-Citizen web portal launched in 2014 enables efficient and convenient access to public services, such as filing and payment of taxes; reducing the number of procedures, time and costs involved in starting a business; and a platform for payments. A National Electronic Single Window System was established in 2016 which makes it easier to process import and export documentation and simplifies trade processes for the private sector. A Digital Economy Blueprint and data protection policy were enacted in 2019. The potential for digital trade in the country is constrained, however, by lack of access to financial services, low income, limited broadband and fibre coverage, inadequate transport infrastructure, skills gaps, cybersecurity threats, lack of consumer trust, and limited interoperability between mobile money platforms.

Boopen Seetanah, Varsha Mooneeram-Chadee and Verena Tandrayen Rughoobur, University of Mauritius, highlighted the country's shift from a mainly agriculture-based economy to a more diversified economic structure. Since 2005, Mauritius has set out different ICT-related strategy plans to encourage the adoption of ICT services across sectors and establish smart cities and techno parks, and high-speed telecommunication infrastructure. More importantly, however, is building a competitive and highly skilled workforce as the country depends more on its human capital than on natural resources. In 2000, the Electronic Transaction Act was implemented which catered, inter alia, for electronic signatures and contracts as well as certification authorities, to establish a secure environment for e-commerce to take place. In 2021, however, this has become a little obsolete. More recently, the Digital Mauritius 2030 Strategic Plan has been put in place to guide the transformation of Mauritius into a digital economy, encouraging investment in emerging technologies and embracing a FinTech revolution. Mauritius is also implementing legislation concerning cybersecurity and cybercrime, data protection, national payment platforms and competition, all of which are intended to encourage the development of online and cashless transactions, digitalisation of banking platforms, business intelligence, and an open data culture. Having a proper regulatory framework is essential for trade in the digital economy to function. The speakers highlighted recent work being undertaken in this area as well as capacity building and training initiatives to help develop policies to enhance digital trade, curb the COVID-19 impact and guide digital marketing.

Wilma Viviers, North-West University, South Africa, reiterated that the COVID-19 pandemic has led to rapid digital advances and increased time spent online. She posed the following question: Is the digital era an inclusive force bringing together economic opportunities to some, or divisive in that it only works for those with internet access and digital skills? In an NWU study, three indicators were used as proxies for digital advances – digital service delivery as a percentage of trade; ICT as a percentage of total trade in ICT goods; and individuals using the internet as a percentage of the total population – as well as five indicators for inclusive economic growth. Findings revealed that overall digital developments impact inclusive growth differently; it is not ‘one size fits all’. Digital advances cannot on their own compensate for development failures. There are necessary building blocks to be put in place: broadband connectivity, reliable energy infrastructure, a digitally responsive education system, and policies addressing consumer protection and cybersecurity. Implications for industrial and trade policies depend on developing countries’ aspirations; for instance, creating a more ‘open’ environment for foreign investment and imports.

Stephen Karingi, United Nations Economic Commission for Africa (UNECA), noted that work focusing on e-commerce has recently attracted more attention, with additional training and research at UNECA focusing on digital services trade and digital trade integration. Preliminary research results indicate that digital services trade restrictions are largely found in infrastructure and lack of provisions on data protection. Countries that are not party to international agreements also tend to have higher scores on trade restrictions for intellectual property and electronic transactions. Comparing 2014 and 2020, most African countries have reduced their restrictive measures on digital trade, which suggests we have a foundation on which to build when it comes to the AfCFTA. Most of the firms studied indicated that the harmonisation of rules and regulations would be the most helpful in this regard. Consumer protection regulations, data governance, reprioritisation of goods and services sectors were also highlighted.

According to Karingi, four challenges present themselves: firstly, the importance of identifying and improving regulations in key sectors that may constrain the dynamics of e-commerce, such as payment systems, internet traffic, postal services, and digital skills. Secondly, ensuring impartiality and validity of cross-border electronic contracts. Thirdly, guaranteeing balanced protection of IPR holders in the digital environment. Fourthly, strengthening the domestic regulatory framework for digital trade and e-commerce. And finally, how to appropriately design data governance and protection regimes for the privacy and security of consumers. A key recommendation, among others, is to promote the harmonisation of regulations regionally and continentally through the AfCFTA, especially in the areas of taxation, consumer protection, and data standards.

Trudi Hartzenberg, executive director, tralac, concluded the webinar by emphasising that the perennial challenges of trade facilitation cannot be avoided by e-commerce. Connection between the e-commerce agenda and the trade in services governance agenda – in which priority sectors include financial services, communication and transport – is critical. Equally important are the issues of border economic governance, consumer protection, data protection, cybersecurity, data flows and data localisation. The number of African countries in WTO processes, for example, the Joint Statement on Electronic Commerce initiative, is small. While we promote digital trade at the continental level, we are not yet participating within that multilateral governance opportunity. There is a great deal to be learned from that.