Harnessing Digital Trade for Competitiveness and Development

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‘Digital economy’

* Digital goods, products
* Online services
  — Data/telecommunication
  — Over-the-top (OTT) services
  — E-commerce
  — Computer related services (CRS), consultancy services
* Cross border data flows
  — Data generated and transmitted by goods
  — ICT enabled delivery of services
  — Horizontal definition
* Common narrative: Improving the ability to trade
  — Data dependency in services delivery exceeds e.g. importance of car exports
  — Replacing mode 1 & 2
  — Reducing investment and mobility requirements – really?
Policy failure in trade

* Structural problems of the multilateral system
  — Poor fit with trade concepts and definitions
  — Architecture; mode based scheduling
  — Servification and mode 5
  — Limited horizontal disciplines
  — Distinction between foreign and domestic

* Preferential agreements have not fared better
  — Direct transposition of WTO GATS or national laws
  — Few horizontal disciplines to date; new ideas tends to be barrier-specific

* Real rollbacks in commitments
  — Financial services despite commitments in FTAs
  — ‘Information processing services’ through censorship, privacy laws
Digital trade barriers

* Fiscal measures
  — Customs measures: Tariffs, trade defense, de minimis rules
  — Taxation: Reverse corporate taxation rules, VAT, copyright levies
  — Discriminatory subsidies, export credits

* Investments
  — FECs, SOEs, screening on M&A

* Local content requirement in manufacturing

* IPRs
  — Indigenous innovation policies, legal injunctions
  — Disproportionate and inadequate enforcement
  — Trade secrets

* Standard setting

* Public procurement
  — Preferential purchase schemes
  — Confiscation of IP
  — Technology mandates

Based on ECIPE Digital Trade Estimates
Digital trade barriers

- Intermediary liability
  - Notice and takedown rules,
  - 'License to operate'
- Antitrust issues
  - Deregulation of telecom markets
  - Interconnection
- Business mobility
  - Quotas, limit to stay, intra-corporate transferees
- Data related measures
  - Data localization, data retention
  - Commercial censorship
  - Privacy legislation, right to be forgotten
  - Asymmetrical bandwidth, net neutrality
- E-commerce
  - Barriers to fulfilment
  - Payment services
  - Domain name registration
  - Sales restriction and discrimination of online vendors

Based on ECIPE Digital Trade Estimates
* Often internal, domestic discrimination against digital delivery
  — *Rather than a obvious case of non-national treatment*
* Regional, competing market standards
  — *Dynamic competition*
  — *Interoperability*
* Opaque regulations
  — *Guidelines, circulars to unwritten practices*
* De facto anti-competitive behavior
  — *Incumbent in telecom sector, standard essential patents (SEPs), net neutrality issues*
* Often a ‘hard’ sensitivity
  — *Often based on non-commercial law/sensitivities, such as*
  — *Intermediary liability, intellectual property*
  — *Privacy; national security concerns*
  — *Crisis and jobs narrative*
* Often exploits weakest chain to block all trade; not just loss of margins
Example of impact: Data localisation

* Using Computable General Equilibrium (CGE) model and static accounting based cost estimates
* Cost increases in the domestic economy
  — Data regulation measures on domestic prices
  — Losses on total factor productivity (TFP)
* Restrictions on foreign supply
  — Tariff equivalent (AVEs) on services
  — Forced to replace certain data processing inputs with local supply
* Downstream linkage via input prices
* Lower returns on investments
  — Use of big data in enterprise environments
  — R&D (base research, customer relationship management, EDI)
Data localisation: Effects on GDP (%)
Data localisation: Effects on exports (%)
Digitalisation of trade policy

* Rethinking objectives
  - Domestic productivity losses and price increases widely exceed other effects
  - It suggests biggest gains are in structural adaptation, i.e. industrial internet
  - Moving from current account to value-chain focus
  - But led to a new type of mercantilism in both primarily high and middle income countries

* FTA-induced liberalisation?
  - Digitalisation of existing trade disciplines
  - New horisontal discipline on trade related aspects of data, equal footing to investment, IP

* Managing policy linkages
  - Hinged on liberalisation in non-ICT services
  - Made the traditional industrial policy dysfunctional
  - No effects (yet) on fiscal policy
  - Non-trade policy measures to deal with jurisdictional problems in crime, privacy, IP

* ...therefore policy changes likely to be unilateral