Trade DIALOGUES

WTO BUSINESS FOCUS GROUP 1

MSMEs AND E-COMMERCE

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BACKGROUND

Recent years have witnessed remarkable developments in the digital economy, creating unprecedented opportunities for cross-border trade. The Internet is enabling micro, small and medium-sized businesses ("MSMEs") to access global markets unlike ever before. Studies show that MSMEs that use on-line platforms are around five times more likely to export than those in the traditional economy. Empirical research also finds that companies connected to the global economy are more productive and contribute to the development of more prosperous communities. Small businesses and entrepreneurs in developing economies are already at the forefront of this emerging trend.

But Internet-led changes to the composition, nature and speed of global trade are raising increasing policy frictions. Today's trade rules—which largely reflect 20th Century patterns of trade—are not always well-suited to supporting the growth of MSME e-commerce.

What's more, fragmented national rules on data, consumer protection and the availability of online information can act as a major impediment to trade—creating new market barriers and pushing up costs for MSMEs looking to enter global markets. One precondition for the success and viability of e-commerce is the ability for information to freely and efficiently cross borders—without being limited by technical barriers or anti-competitive bottlenecks.

THE OPPORTUNITY

Traditionally, commerce over distance has come with significant costs—limiting the ability of MSMEs and businesses in developing economies to benefit from global trade. In an Internet-enabled environment this does not need to be the case.

We believe that with the right global policies in place there is an opportunity to unleash a new era of "inclusive trade": one in which all companies—regardless of size, sector or location—can benefit from equal access to the global trading system. Simply put, a trading system in which MSMEs are empowered to drive the transition to a fairer, more inclusive and robust world economy.

TOWARDS NEW WTO TALKS ON E-COMMERCE

We propose that WTO members give active consideration to launching new talks on a holistic package of trade disciplines, rules and assistance to boost MSME e-commerce with an overriding objective to promote inclusive growth.

It is important to note that such an agreement would not confer an inherent bias towards MSMEs within the global trading system, but would establish a global ecosystem that better enables small businesses to access global markets by leveraging new technologies. Since MSMEs operating online rely on larger service providers to deliver products and services, an effective e-commerce environment must level the playing field for all businesses—including global enterprises. The latter, in turn, offer opportunities to MSMEs by integrating them into their global supply chains or by providing platforms that enable them to reach international markets.

We recommend that any new WTO package should also encompass capacity building resources for developing economies—including targeted assistance to ensure that MSMEs can get online and expand their business through e-commerce.

It is proposed that such a WTO package could be built around three pillars:

(i) Enhancing connectivity and capacity building for e-commerce;

(ii) Enabling MSMEs to get goods sold online to consumers more efficiently ("Trade Facilitation 2.0"); and

(iii) Digital rules to support online growth and build consumer trust.

Specific recommendations for measures under each of these three pillars follow below.

RECOMMENDATIONS FOR A WTO E-COMMERCE AGREEMENT

PILLAR 1
Connectivity and capacity building for e-commerce

Enhancing connectivity. WTO disciplines have already played an important role in supporting enhanced access to the Internet through the development of competitive telecoms markets. Given rapid technological changes over the past decade, the time may be right to consider whether these WTO disciplines should be upgraded in support of digital trade.

To take one important issue: information access management and data security is essential for inter- and intra-corporate transactions, whether at national, regional or global scale. However, the deployment of essential Internet infrastructure and/or services—such as hybrid cloud services and virtual private networks—is frequently frustrated by problems with the supply of business-grade data networks at the local level. These are too often overpriced or simply unavailable in some developing economies.

The global use of company-wide ICT applications and e-commerce must therefore be supported by better conditions of access to high quality data networks. A new WTO e-commerce agreement should therefore:

- Work towards the removal or reduction of regulatory non-tariff impediments to trade in telecommunications services by applying a review of the WTO telecommunications rules and its reference paper.
- Include measures such as: (i) removing barriers to the construction of new networks; (ii) enabling deployment of new technologies to enhance international connectivity; (iii) promoting use of unlicensed spectrum; (iv) increasing availability of both licensed and unlicensed wireless spectrums; and (v) encouraging a progressive light-touch approach to regulation that enables the entrance of new players in the ICT ecosystem.

Capacity building. The WTO should establish access to resources to help MSMEs in developing economies grow through e-commerce, encompassing:

- A significant scaling-up and enhanced coordination of existing trade-related capacity building programs with an MSME/e-commerce nexus. This should include targeted capacity building programs for MSMEs looking to expand through e-commerce, including through the use of global Internet platforms and online educational tools.

  Under such an approach the WTO should be positioned as a global hub for e-trade related capacity building, working in synergy with UNCTAD's eTrade for All initiative and existing donor-funded schemes, and leveraging private sector resources.

- A commitment by WTO Members to aggregate trade, customs and other applicable rules. Such data should be made publicly available to allow third party developers to create user-friendly tools to help e-traders to better understand—and to suggest improvements to—existing trade rules.

PILLAR 2
Trade Facilitation 2.0

There is an opportunity to build on the WTO's landmark Trade Facilitation Agreement to further simplify and expedite the clearance of e-commerce shipments through targeted customs, tax, and market access measures. Such measures would aim to support the growth of self-employed entrepreneurs and MSMEs by facilitating the delivery of small shipments direct to consumers. Possible measures proposed by members of the Business Focus Group include:

- Establishment of a small number of harmonized tariff codes for low-value items (NB: only where classification is required to collect taxes or define specific treatment for Customs clearance such as quotas or preference regimes).
- New disciplines to enable simplified processing of low value shipments— including through establishment of a baseline *de minimis* threshold for low value/ low risk goods. (See also: Box 1).
- Provisions to enable electronic submission of customs documents prior to arrival to allow for an automated risk assessment and pre-arrival processing and immediate release/clearance.
- Provisions to encourage the use of electronic payments for customs and duties.
- Government-created customs and duties application and programming interfaces (APIs) that can be incorporated into any e-commerce website.
- New measures to simplify returns processes, certificates of origin and duty drawback procedures.
- Provisions to mandate advanced rulings on any applicable treatment for duties and taxes.
- Disciplines to simplify the collection of duties (including GST/VAT) by providing multiple options (including seller, buyer, vendor) around account based periodic payments. The collection of indirect taxes should match the account based systems in-country.
- Disciplines to ensure that data captured by Customs and other Regulatory bodies is restricted to only that necessary to carry out the required activity. Such provisions should focus on the way that data is captured and transmitted in the commercial world and look to exploit these to minimise costs all-round.
- Provisions to encourage the establishment of national "centres of excellence" within customs agencies with dedicated resources to focus on e-commerce, e-sellers, and buyers, including MSME shipments. This initiative should be based on a multi-stakeholder model, making full use of private sector resources and expertise.
- Establishing a globally consistent programme for "trusted e-commerce shippers" incorporating customs facilitation. Such a programme should recognise that technology-enabled global trade by MSMEs is diffused, package-level and about very, very large numbers.
- Developing rules on transparency to provide MSMEs information they need to sell online, including on certification/licensing, registration and standards requirements.
- Establishment of market access and national commitments for e-commerce service providers, including: retail, on-line platforms, transportation, logistics, warehousing, delivery, electronic payments and other related services.

- Development of rules on competition between private and public delivery service suppliers.
- Establishment of a new WTO committee to enhance cooperation with the Universal Postal Union to discuss how national postal services can become part of the global transportation infrastructure of the new package-based trade.
- Encouraging information sharing between government agencies and the private sector to better manage trade compliance.

RETHINKING *DE MINIMIS* THRESHOLDS — MODALITIES AND CAPACITY BUILDING

A first step towards a multilateral effort to raise the *de minimis* threshold could take the form of a ministerial decision and associated guidance.

This effort would represent a "package-based trade" equivalent of traditional efforts to reduce tariffs to promote world trade: a *de minimis* change promotes package-level trade which is almost exclusively a form of MSME trade, whereas traditional tariff cuts have promoted trade by large international enterprises.

With a higher *de minimis* threshold, government agencies will no longer expend resources to assess the low value parcels. One effect is that they will no longer collect taxes and duties on low value parcels, and as a result will receive less revenue. However, these agencies will benefit from freed-up resources. Research suggests that the net effect on government revenues from raising the *de minimis* threshold largely depends on what agencies decide to do with these new resources.

To support particular developing countries in this transition, the WTO could provide recommendations and technical support to assist countries in utilising these additional resources to protect government revenues.

PILLAR 3
Digital rules

We believe there is an opportunity for WTO members to establish a balanced package of measures to promote an open, trusted and secure Internet, which would drive down transaction costs and frictions for businesses trading online. Given that a large share of international data flows (critical to the success of e-commerce) are intra- and inter-company, efforts to tackle impediments to e-commerce should not only focus on business-to-consumer barriers to sale, but also business-to-business transactions.

New WTO disciplines could also play a significant role in building consumer trust in e-commerce, while promoting an online ecosystem in which MSMEs can thrive. Specific measures should include:

- Commitments on cross-border consumer protection standards and dispute settlement to build consumer trust and confidence in cross border e-commerce.
- Disciplines to promote technological innovation to enhance online security and reliability based on broadly agreed industry guidelines.
- A prohibition on customs duties for digital products to ensure that customs duties do not impede the flow of music, video, software and games.

- Establishment of a WTO rule to ensure the free flow, storage, and handling of all types—in any sector—of data across borders. Any exceptions to this rule under applicable privacy or security regulations should be limited to public policy objectives and subject to GATS XIV. Such a framework could build on the APEC Cross Border Privacy Rules system and the OECD guidelines on the protection and privacy of trans-border flows of personal data. (See also: Box 2, below).
- Commitments to promote the growth of open digital markets across borders, including appropriate limitations on liability for online platforms that handle user content and transactions.
- Disciplines to promote a free, open and globally-interoperable Internet that enables competition, consumer choice and unhindered access to online content.
- Provisions to embed technological neutrality online, in that all technologies are given the chance to compete in the marketplace—subject to legitimate security or privacy let-outs.
- National treatment in licensing regimes for financial services.
- Provisions that establish and recognize the benefits for consumers of access to Internet services and applications, subject only to reasonable network management.

DATA LOCALIZATION REQUIREMENTS AND THE IMPACT ON THE COST OF DOING BUSINESS FOR MSMES

Research shows that the impact of disrupting cross-border data flows should not be ignored.

Forced localization is often the product of a one-sided economic analysis, with the underlying objective of keeping foreign competitors out of local markets. Although this may create a small number of "national winners" in the short term, the overall impact is to significantly increase the cost of doing business online for MSMEs.

This is because MSMEs rely on an efficient, reliable and cost-effective Internet ecosystem enabled by global online platforms and services providers. Data localization measures add significant costs for additional data management and compliance, for local facilities and power—and in practice can undermine data security.

For example, some localization requirements mandate that social networks and search engines must store information on servers within their jurisdictions. Such data storage requirements are anathema to the "global platform" business model that most digital services suppliers apply to achieve greatest efficiency and to keep costs low for MSME users.

Studies to assess the economic impact of data localization requirements have pointed to significant GDP and welfare losses in a number of major economies.

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