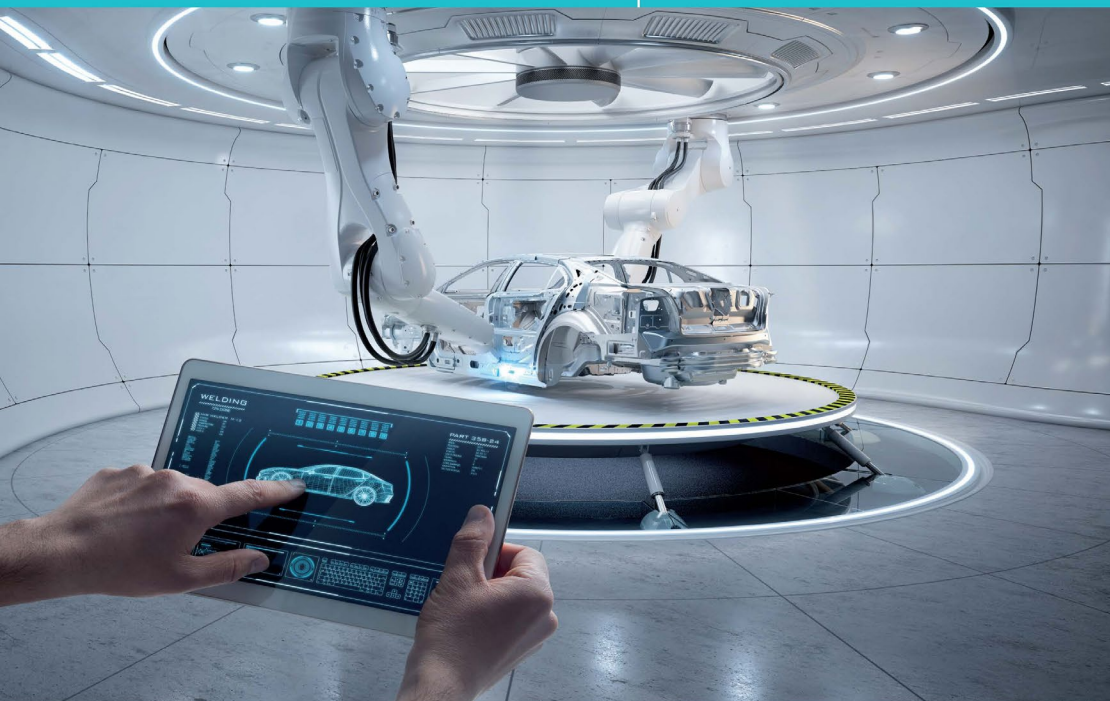


WORLD TRADE REPORT 2018

The future of world
trade: How digital
technologies are
transforming global
commerce



An in-depth look at the World Trade Report 2018

20 November 2018

Section D – How do we prepare for the technology induced reshaping of trade?



Main opportunities and challenges

How do governments respond?

Digital trade and international cooperation

Section D is a joint effort



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- ▶ With important contributions from:
 - Agriculture and Commodities Division
 - Intellectual Property, Government Procurement and Competition Division
 - Legal Affairs Division
 - Market Access Division
 - Trade in Services and Investment Division

Key findings

- ▶ Digital technologies bring about opportunities... but also challenges that may require the consideration of governments and the international community
- ▶ Provisions referring explicitly to digital technologies have been included in an increasing number of regional trade agreements
- ▶ While the WTO framework is relevant for digital trade and certain steps to promote digital trade have been taken by Members within the existing framework, Members will have to consider how they want to respond to continued changes

Opportunities and challenges raised by digital technologies



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- ▶ Digital technologies offer new opportunities...
 - New markets
 - New forms of trade and new products
 - Lower trade costs
 - New trade patterns

- ▶ And new challenges for governments
 - Ensure that firms can seize the new opportunities
 - Address concerns related to loss of privacy, consumer protection or security threats
 - Address digital divide between small and big firms, high- and low-skilled workers

Governments initiatives – National policies

Governments respond to opportunities and challenges brought by digital technologies through:

- ▶ Investment in infrastructure and human capital
- ▶ Trade policy measures related to goods and services
- ▶ Enhancing the domestic regulatory framework
 - Electronic authentication, contracts and signatures
 - Consumer protection
 - Data privacy protection
 - Cybersecurity
 - Competition policy
 - Data localization
 - Intellectual property rights
 - MSMEs specific measures

Digital trade and international cooperation



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- ▶ Rationales for and context of cooperation
- ▶ World Trade Organization
- ▶ Other international organizations
- ▶ Regional Trade Agreements

Rationales for cooperation

- ▶ Fundamental purpose of trade agreements is to ensure that governments internalize the negative externalities they impose on their trading partners
- ▶ Digital trade may alter the trade rules that are necessary to deal effectively with terms-of-trade manipulation
- ▶ Digital technologies create new forms of international externalities that can be addressed by the multilateral trading system
 - Help governments reduce the costs related to regulatory heterogeneity
 - Prevent a regulatory race-to-the-bottom through a competitive lowering of regulatory standards

Context

- ▶ Digital trade is becoming a more complex and debated aspect of international trade relations
- ▶ Digital trade raises issues at the intersection of trade governance and some aspects of internet governance
- ▶ The effects of digitalization on international trade rules are of a horizontal cross-cutting nature

WTO framework and multilateral cooperation



- ▶ There are few explicit mentions of e-commerce in the covered agreements
- ▶ Because existing WTO trade rules on goods, services and the protection of IPRs are technologically neutral (they apply irrespective of the particular mode of delivery of a good or service), digital trade is in principle covered by those rules

WTO Framework and Multilateral cooperation



- ▶ Work programme on e-commerce (1998)
 - Moratorium on customs duties on electronic transmissions
- ▶ Friends of E-commerce for Development and Joint Statement on e-commerce (44 Members)
- ▶ General Agreement on Trade in Services (GATS) and Schedules
- ▶ Information Technology Agreement (ITA), Trade Facilitation Agreement (TFA), Trade in agricultural products
- ▶ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- ▶ Aid for Trade initiative
- ▶ Disputes before the WTO involving goods, services and digital technologies

WTO work programme on e-commerce

- ▶ Allowed consideration of how WTO rules apply to e-commerce:

Goods	Services	Development	TRIPS
Market Access	Market Access	Impact on economic prospects of developing countries, and on their participation in the multilateral trading system, notably SMEs	Protection and enforcement of copyrights and related rights
Customs valuation, duties and charges	Financial implications: customs duties	Ways to enhance the participation of developing countries	Protection and enforcement of trademarks
Import licensing	Domestic regulation	Impact on means of distribution of physical goods	New technologies and Access to technology
Classification of digital goods	Classification of digital services	Financial implications: customs duties	
Standards	Competition		
Rules of origin	Protection of privacy and public morals and the prevention of fraud		
	Participation of developing countries		
	Transparency		
	Annex on Telecoms		

GATS (1)

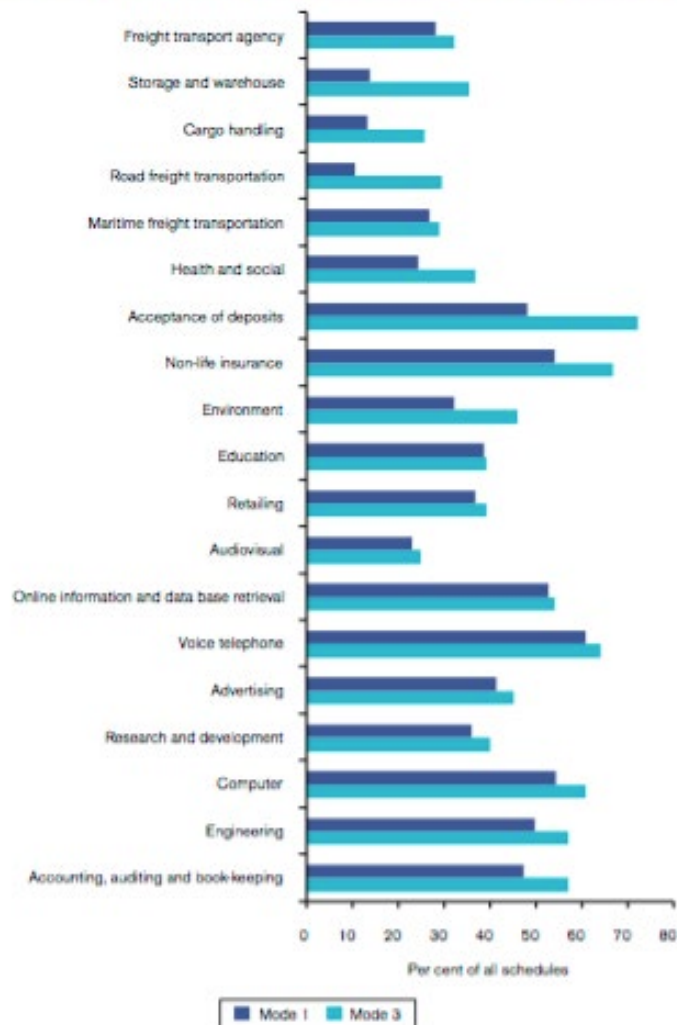
- ▶ Because a number of services sectors provide the basic infrastructure for e-commerce and since many services are supplied electronically, the GATS appears particularly relevant
- ▶ The GATS is “technology-neutral”, i.e. it makes no distinctions regarding the different technological means through which a service may be supplied.
- ▶ As a result, trade restrictions as well as domestic regulations affecting electronic trade in services are subject to GATS
- ▶ Some general obligations – in particular MFN and transparency – apply across the board to all services, whether or not scheduled
- ▶ Many other general obligations apply only to sectors where a member has scheduled specific commitments

GATS (2)

- ▶ The Annex on Telecommunications ensures that suppliers of all scheduled services have access to and use of public telecommunications transport networks and services on reasonable and non-discriminatory terms and conditions
- ▶ The Reference Paper promotes competitive conditions in the supply of telecommunications services and should help foster the extension of affordable and efficient infrastructure for e-commerce
- ▶ General exceptions provisions of Article XIV permit members to take GATS inconsistent measures if they are “necessary” to achieve certain public policy objectives such as:
 - Protection of public morals
 - Maintenance of public order
 - Securing compliance with laws or regulations for the protection of the privacy of individuals and the prevention of deceptive and fraudulent practices

Specific commitments relative to e-commerce

Percentage of schedules with commitments for Modes 1 and 3 in selected sectors



- ▶ Overall, members have so far made uneven use of GATS commitments to reduce trade barriers or guarantee existing levels of openness
- ▶ The fact that most commitments under the GATS date from negotiations concluded 20 years ago represents the single most important gap in the coverage of e-commerce in services

Trade in goods

- ▶ Interpretation of existing trade rules in the context of new technologies
 - Example: 3D printing may raise interpretation challenges regarding rules of origin, customs valuation
- ▶ How the legal texts have been adjusted to take into account digital technologies
 - ITA contributed to lower the cost of digital infrastructure
 - TFA makes explicit reference to a number of digital technologies
- ▶ Trade in agricultural products
 - Several government policies permitted by Annex 2 of the AoA would support digitalization and the introduction of innovative agricultural techniques and production practices

Agreement on Trade-Related Intellectual Property (TRIPs)



- ▶ Digital goods are often traded through IP licenses
- ▶ Digital services entail cross-border flows of data that are sensitive to IP rights
- ▶ Some business models rely on exceptions and limitations of the use of IP rights, such as search engines, user-generated content, advertisement keywords, internet services providers.
- ▶ The TRIPS Agreement, and the integrated architecture of the multilateral IP system that it has created, constitute a key component of the legal framework necessary for e-commerce and for international trade in digital products
- ▶ TRIPS itself does not expressly address e-commerce or the digital environment as such, but several of its provisions supported and facilitated e-commerce:
 - TRIPS disciplines on the non-discriminatory availability of IP rights such as undisclosed information, copyright, patents and trademarks, balanced enforcement mechanisms and the scope for competition safeguards

International organizations



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- ▶ Illustrative list of key initiatives undertaken by other multilateral organizations to help governments realize the benefits and address the challenges related to digital trade:
 - Facilitating investment in human capital and addressing knowledge gaps
 - Addressing challenges related to trade facilitation and ICT infrastructure
 - Facilitating a favourable legal and regulatory framework
 - Competition-related issues
 - Intellectual property-related issues
 - Supporting MSME participation in digital trade
 - Promoting digital inclusion and making trade an engine of development
 - Supporting collection and dissemination of reliable ICT statistics

Regional Trade Agreements



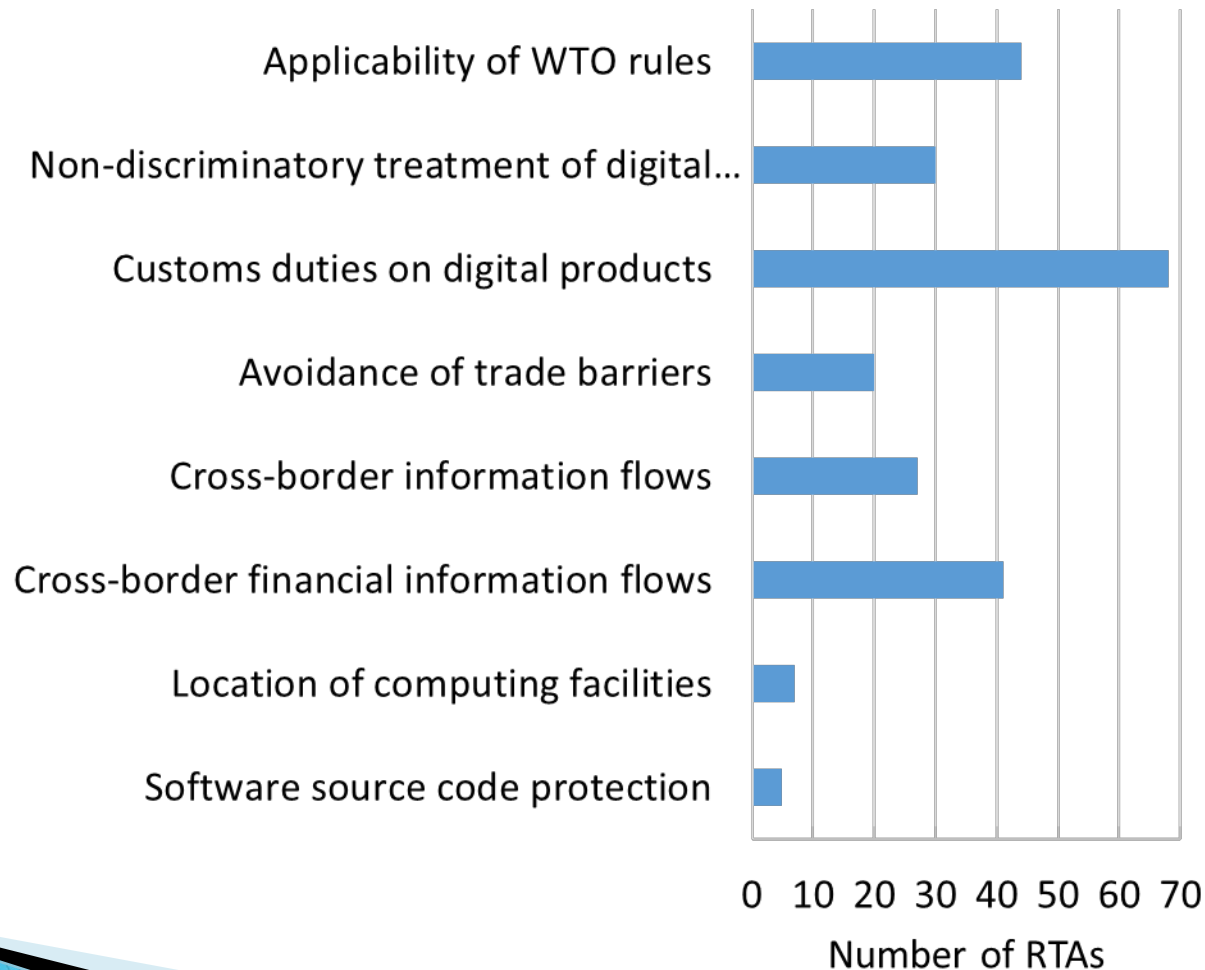
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- ▶ Mapping of 362 RTA, including 286 currently in force and notified to the WTO as of August 2018
- ▶ Provisions related to digital technologies are included in various chapters of RTAs, and not only in those dedicated to e-commerce
- ▶ The number and scope of provisions related to digital technologies in RTAs increase
- ▶ These provisions relate to:
 - market access and trade rules
 - telecommunications regulatory framework
 - domestic regulatory framework for e-commerce
 - intellectual property
 - electronic government management
 - cooperation

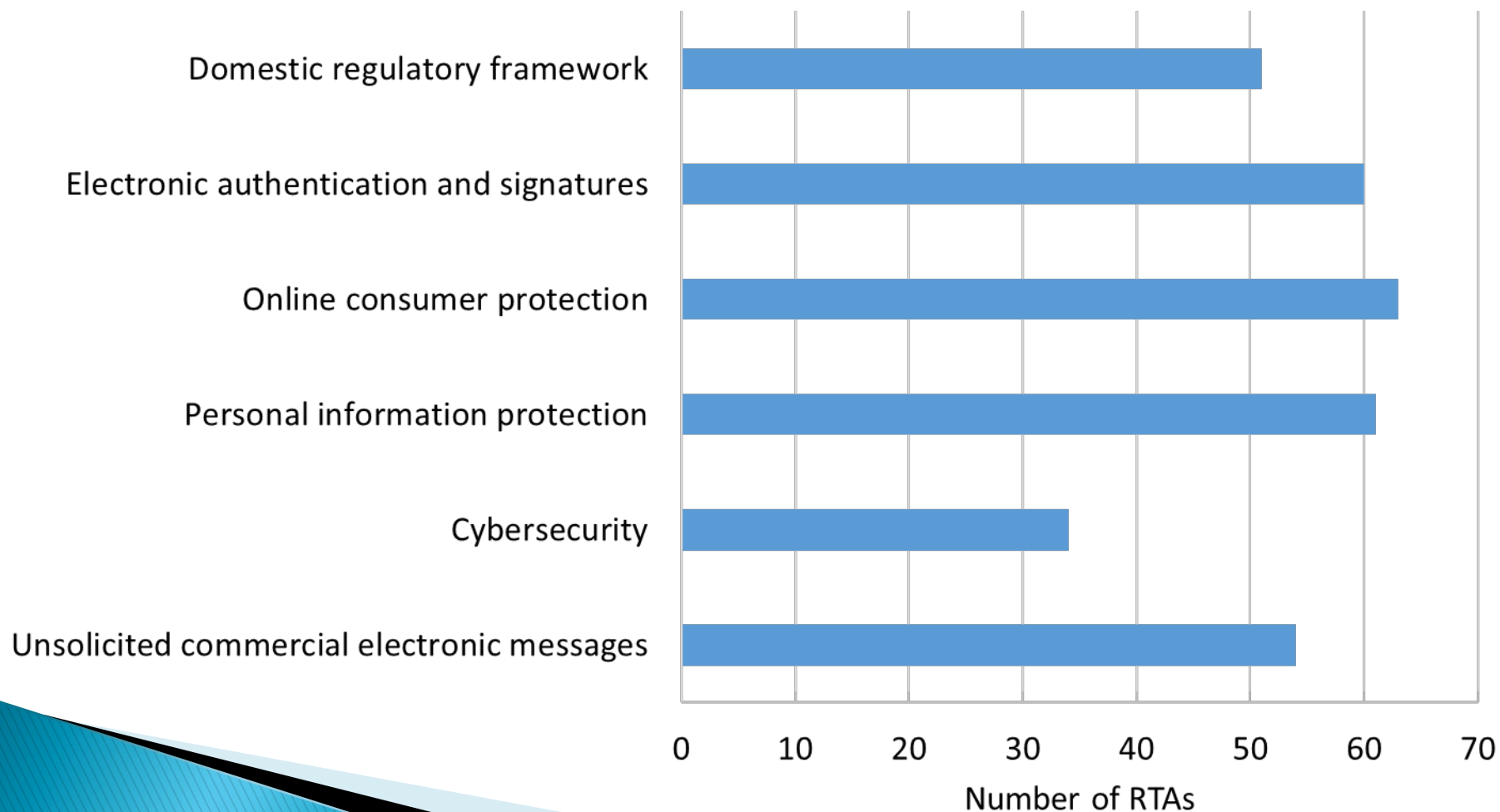
Regional Trade Agreements: market access and trade rules



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Regional Trade Agreements: domestic regulatory framework for e-commerce



Thank you for your attention!