

Stockholm, 5 November 2020

ICC Sweden's Comments on the ICC Draft Advocacy Brief for a Swift Conclusion of the WTO E-Commerce Negotiations

We welcome this opportunity to provide input on the ICC draft advocacy brief for a swift conclusion of the WTO e-commerce negotiations. Overall, it is a good first draft, setting down some of the baselines of a high standard agreement, while emphasising the urgency to conclude the negotiations. Below you will find some comments on how we believe that the message can further be improved as well as some aspects that we feel would be an essential part of a high standard agreement.

- We believe that already in para 2 of the Introduction, the importance of the digital economy not only to MSMEs but to people in general during the pandemic should be highlighted by adding “and ensured continued access to goods and services for millions of people around the globe” to the end of the sentence.
- The final para of the introduction seems a bit standalone in the current version, as it does not make it entirely clear why an agreement is now needed more than ever. In order to tie the knot together and emphasize that it is the pandemic that is behind the greater urgency, something along these lines might be warranted instead: “The digital economy will have an even more critical role to play in ensuring a rapid post-pandemic recovery. However, the ability of the digital economy and digitally-enabled trade to assist in the global economic recovery, promote inclusive economic growth, and ensure resilience in the face of future crises to a large extent hinges on a high standard agreement on the trade-related aspects of e-commerce. Such an agreement needs to be concluded before the next WTO Ministerial Conference and, as a minimum, contain the following elements:”
- Part 1 “Market Access and Connectivity” could benefit from being framed in similar terms as the introduction made in Issue Brief 4, i.e. that market access and connectivity (just as was the case with payment services in the issue brief) are highlighted as critical drivers of financial inclusion and reducing poverty etc., while also pointing out that the economies of developing and least developed countries are among the ones hardest hit by the pandemic.
- In para 2 of part 1 “Market Access and Connectivity”, market access commitments should extend beyond electronic payments services to include telecommunication and computer related services. Also, the agreement should include commitments for those countries that are not parties to the ITA and its expansion, to become so, as suggested by Canada and the EU. The e-commerce agreement can in this regard be used as a means of pressure to increase participation in the ITA I and II.

- We consider it important that part 2 “Cross-Border Data” includes a mention of the need for rules that not only allow data to flow, but also more specifically prohibits forced data localization requirements.
- We find the approach in para 2 of part 2 “Cross-Border Data” on existing WTO rules in the GATS Annex on Basic Telecommunications to be a bit unclear. The current phrasing of this para reads as though we are not arguing for new provisions on data because the mentioned existing rules would be enough. Is there a reason why we do not support new rules on data flows?
- We would suggest that part 3 “Trade Facilitation”, should include provisions on electronic signatures as well as on electronic contracts and other trade documents. The regulation in place for supporting digital documentation needs significant strengthening as there are still a number of documents generally perceived or mandated to only be valid as originals and specifically paper originals. A high standard agreement on e-commerce must address this and should require that the parties adopt the UNCITRAL Model Law on Electronic Records (MLETR).
- As it currently stands, part 5 “Capacity Building” seems a bit out of context as it does not directly relate to the e-commerce negotiations and what we want to see included in the agreement itself. Therefore, we believe it is all the more important to frame this part well, by emphasizing that **in addition** to a high standard WTO agreement, the parties should also call on the UN to significantly scale up capacity building measures to bridge digital divides and ensure an inclusive global post-COVID recovery.

Best regards,



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