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Item 9 of the provisional agenda

**Integrating digital economy considerations into Studies
on Regulatory and Procedural Barriers to Trade****Integrating digital economy considerations into Studies on
Regulatory and Procedural Barriers to Trade*****Note by the secretariat***Summary*

In preparation of the 70th session of the Commission on “Digital and green transformations for sustainable development in the Economic Commission for Europe (ECE) region”, EXCOM invited relevant subsidiary bodies of ECE and the secretariat to consider how they may contribute, as appropriate, to the cross-cutting theme of the 70th Commission session within their respective mandates, ongoing work and existing resources, and while making full use of the existing nexuses.¹

At the seventh session of the Steering Committee on Trade Capacity Standards in 2022, several member States (Azerbaijan, the Republic of Moldova, and Uzbekistan) requested technical assistance on issues related to digital trade in the context of the ECE Studies on Regulatory and Procedural Barriers to Trade (RPBT studies).²

This note, prepared by the secretariat, provides several options on how digital economy considerations could be integrated into the work under the RPBT studies.

* This document has not been formally edited by ECE.

¹ See https://unece.org/sites/default/files/2021-12/Item%207%20ECE_EX_2021_32__Commission%20session%20update%20on%20preparations.pdf

² See https://unece.org/sites/default/files/2023-01/ECE_CTCS_2022_2E.pdf.



I. Introduction

1. Digitalization has become an intrinsic part of trade activity over the recent decades. It has reshaped trade patterns and contributed to expanding and diversifying trading opportunities domestically, regionally and internationally, enabling a faster supply and distribution of goods and services and facilitating trade by allowing easier entry and lowering and/or eliminating related costs. Digital tools can also play an important role in accelerating progress towards the Sustainable Development Goals (SDGs) of the Agenda 2030. For example, information and communication technologies (ICT), e-certificates, and electronic traceability of products can contribute to more sustainable and circular production processes.

2. The COVID-19 pandemic and related restrictions have further underlined the importance of digitalization during the crisis and beyond. During these times, the share of e-commerce in global retail trade rose from 10.4 per cent in 2017 to 19 per cent in 2020.³ It is forecasted to grow annually by 1 per cent, reaching nearly 22 per cent in 2024.⁴ To support these developments, policies and regulations governing e-commerce trade have proliferated, including in the ECE region. For example, there was an increase in cross-border paperless trade measures from 22.2 per cent in 2019 to 44.4 per cent in 2021 in Central Asia.⁵

3. Associated policymaking has been ongoing at various levels - national, regional and international. At the international level, the World Trade Organisation (WTO) plays a key role as a forum for discussions and negotiations of digital trade rules. While there is no multilateral instrument on digital trade/e-commerce,⁶ multilateral trade rules under the WTO are relevant to some advancements in emerging technological area. Furthermore, in many instances, the WTO rules address issues in a technologically neutral manner⁷ and promote the use of digital tools, e.g. digitalization of customs procedures under the WTO Agreement on Trade Facilitation (TFA).

4. At the same time, with regard to some traditional trade policy areas, e.g. conformity assessment disciplines under the WTO Technical Barriers to Trade (TBT) Agreement, e-commerce might pose new challenges, such as difficulties with regard to implementation and verification of technical regulations for products purchased online.⁸

5. Other challenges are associated with the lack of consensus on the international regulation of novel issues, such as data privacy and protection, data localization measures, cybersecurity, and implications to traditional trade measures such as border control, which can lead to divergent approaches at the national level, thus creating barriers for cross-border digital trade.

6. In recognition of some of the emerging challenges associated with digital trade, the WTO established a multilateral Work Programme on Electronic Commerce back in 1998.⁹ Given that the multilateral track on e-commerce has not achieved significant progress, in

³ UNCTAD, Global E-Commerce Jumps to \$26.7 Trillion, Covid-19 Boosts Online Retail Sales, available at <https://unctad.org/press-material/global-e-commerce-jumps-267-trillion-covid-19-boosts-online-retail-sales>

⁴ See [eCommerce Sales & Size Forecast \(trade.gov\)](https://www.trade.gov/e-commerce-sales-size-forecast).

⁵ UN Global Survey on Digital and Sustainable Trade Facilitation, available at <https://www.unfsurvey.org/region?id=ECE>. The new edition will be available in 2023.

⁶ The ECE secretariat recognises the challenge associated with defining “e-commerce”, as currently discussed in various international organisations, and does not attempt to provide a definition of “e-commerce” in the current note. See, e.g. <https://www.oecd-ilibrary.org/sites/1885800a-en/index.html?itemId=/content/component/1885800a-en>.

The objective of this note is rather to provide an update on recent developments, especially at the context of the discussions in the WTO and indicate potential avenues on how ECE secretariat can support ECE member States in navigating these policy areas within the work under RPBT studies.

⁷ WTO rules are technologically neutral in the sense that in most instances they do not contain any provisions that distinguish between the different technological means through which goods/services may be supplied.

⁸ For example, goods purchased online can enter markets in ways that bypass existing systems for verifying compliance with local technical regulations., See

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/TBT/W745.pdf&Open=True>

⁹ The work programme is cross-cutting in nature, covering aspects of e-commerce related to trade in services, trade in goods, IP and economic development and involves coordination of the work with various WTO committees.

2017, a group of WTO Members agreed to launch exploratory work towards future WTO negotiations on e-commerce, and in 2019 a Joint Statement Initiative (JSI) on E-Commerce¹⁰ was established, initiating e-commerce negotiations in the WTO.¹¹ As of February 2023, 89 out of 164 WTO Members participate in the JSI negotiations. This includes eight out of 17 ECE programme countries.¹² While there is an increasing interest among ECE member States in this topic, some ECE member States (Azerbaijan, Belarus, Bosnia and Herzegovina, Serbia, Turkmenistan and Uzbekistan) do not yet have access to these negotiations as they are still in the process of the WTO accession process.

7. The United Nations system has played an essential role with measures to facilitate digital trade. The United Nations Commission on International Trade Law (UNCITRAL) has developed legal tools such as the Model Law on Electronic Commerce (1996, 1998).¹³ The United Nations Conference on Trade and Development (UNCTAD) provides an important digital economy monitoring function on issues such as e-commerce preparedness (i.e., availability of personal financial accounts, online experience of the population, access to secure internet and postal service reliability); policy recommendations; and digital trade statistics.¹⁴

8. The ECE has also supported digital transformation among its member States. Work related to digital trade is ongoing within different bodies, including the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), which develops electronic business standards (additional detail on the ECE work is presented below). Building on the successful earlier work on this topic, the ECE member States designated “Digital and green transformations for sustainable development in the ECE region” as a cross-cutting topic for the 70th session of the Commission session in April 2023.¹⁵

9. New approaches with regard to regulating digital trade have emerged at the regional level in the context of negotiations of regional trade agreements (RTAs) as well as dedicated digital trade agreements. Out of the 384 RTAs entered into force between 2000 and 2022, 276 contain provisions relevant to digital trade, and 109 have dedicated electronic commerce chapters.¹⁶ Over the years, digital trade commitments in RTAs have become more detailed and cover, inter alia, issues related to data, electronic transactions, digital trade facilitation, consumer protection, privacy and intellectual property. While some convergence took place over the years on the approaches, there is still some divergence on, inter alia, data localization measures, data privacy and cybersecurity. Some of the existing differences are among developed and developing countries, leading the policymaking in this area (including the European Union (EU), the United States of America, and China). Given that many developing countries and countries with economies in transition have not yet developed full-fledged national legal regulatory frameworks governing digital trade, they face an uneven playing field in negotiations and would still need to build capacities in this area. Out of 109 RTAs with dedicated chapters, only 12 RTAs apply to eight ECE programme countries (Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Republic of Moldova, Türkiye and

¹⁰ The WTO E-commerce Joint Statement Initiative aims to level the playing field by agreeing on a set of common rules across a range of electronic commerce issues including enabling electronic commerce; promoting openness and trust in e-commerce; cross-cutting issues; telecommunications and market access for e-commerce firms.

¹¹ The negotiations are based on members' textual proposals made available to the whole WTO membership. They are conducted through a combination of plenary sessions, focus groups and small group meetings. Additional information available at https://www.wto.org/english/tratop_e/ecom_e/joint_statement_e.htm.

¹² Most recently, in February 2023, Kyrgyzstan joined the JSI negotiations. Available at https://www.wto.org/english/news_e/news23_e/ecom_17feb23_e.htm.

¹³ UNCITRAL Model Law on Electronic Commerce (1996) with additional article 5 bis as adopted in 1998, 12 June 1996, available at https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_commerce.

¹⁴ Available at <https://unctadstat.unctad.org/wds/ReportFolders/reportFolders.aspx> (digital economy folder).

¹⁵ See https://unece.org/sites/default/files/2021-12/Item%207%20ECE_EX_2021_32__Commission%20session%20update%20on%20preparations.pdf.

¹⁶ This analysis is based on a dataset of all data-relevant norms in trade agreements (TAPED). See Mira Burri, Maria Vasquez Callo-Müller and Kholofelo Kugler, TAPED: Trade Agreement Provisions on Electronic Commerce and Data, available at <https://unilu.ch/taped>, accessed 29 January 2023.

Ukraine), which in most cases include the EU as a party (for the list of these RTAs, see annex 1).

10. The ECE RPBT studies is a flagship product of the ECE Economic Cooperation and Trade Division (ECTD). These demand-driven reviews aim to provide an assessment of a country's regulatory and procedural trade regime in the country, identify related non-tariff barriers and provide action-oriented recommendations for the consideration of the government. The initial methodology for conducting the studies was developed in 2013,¹⁷ and issues related to digital trade, especially in the context of chapters on trade facilitation and overall regulatory reforms, have already been part of the assessment.¹⁸ Building on the outcomes of this capacity-building work, member States expressed specific technical assistance needs related to building capacities in relation to digital trade. This includes the seventh session of the Steering Committee on Trade Capacity Standards in 2022, during which several member States (Azerbaijan, the Republic of Moldova, and Uzbekistan) expressed their capacity-building needs regarding the issues related to digital trade in the context of the RPBT studies.

11. Responding to these requests, and also in line with the topic of the 70th session of the Commission on "Digital and green transformations for sustainable development in the ECE region", this note, prepared by the secretariat, provides several options on how digital economy considerations could be integrated into the work under the RPBT studies. The first two entry points relate to existing chapters under the studies: trade facilitation and quality infrastructure (Section II, A,B). In this context, future RPBT studies could consider expanding and refining the analysis on the digitalization of trade-related procedures and/or provide a focused assessment of regulatory barriers with regard to digital trade/e-commerce. Additional option is to include an e-commerce chapter into the RPBT study in case requested by a member State (Section II, C). This chapter could look at both the economic and legal dimensions of e-commerce policymaking in the country in the context of RPBT study. Given an important focus of RPBT studies on regulatory and procedural barriers to trade, which are critical areas for digital transformation, the studies can make a further important contribution in mapping country gaps and opportunities to benefit from digitalization.

II. Integrating digital economy considerations into RPBT studies

A. Measures at the border

12. While border measures¹⁹ are not a novel trade issue, countries are increasingly incorporating more advanced digital elements in the context of border procedures. Traditional border measures are of relevance to digital/e-commerce trade and can still constitute a significant trade barrier. Digital technologies and data flows can increase the efficiency of the movement of goods across borders. For example, the digitalization of customs information and management can reduce trade costs and speed-up clearance at the border.

13. Trade facilitation is regulated at the multilateral level through the WTO TFA, and digitalization can significantly support the implementation of the Agreement. While the WTO TFA promotes digital transformation in some respects (e.g. through creating Single Windows), practically many countries implement more advanced digital measures (in line with the WTO TFA, but going beyond the mandatory requirements of the Agreement). The ECE, jointly with other United Nations Regional Economic Commissions, conducts the UN Global Survey on Digital and Sustainable Trade Facilitation on a biannual basis, which provides, inter alia, the state of play with regard to the implementation of paperless trade and cross-border paperless trade measures. The Survey results for 2021 indicated that the level of implementation of general and digital trade facilitation measures in the ECE region was

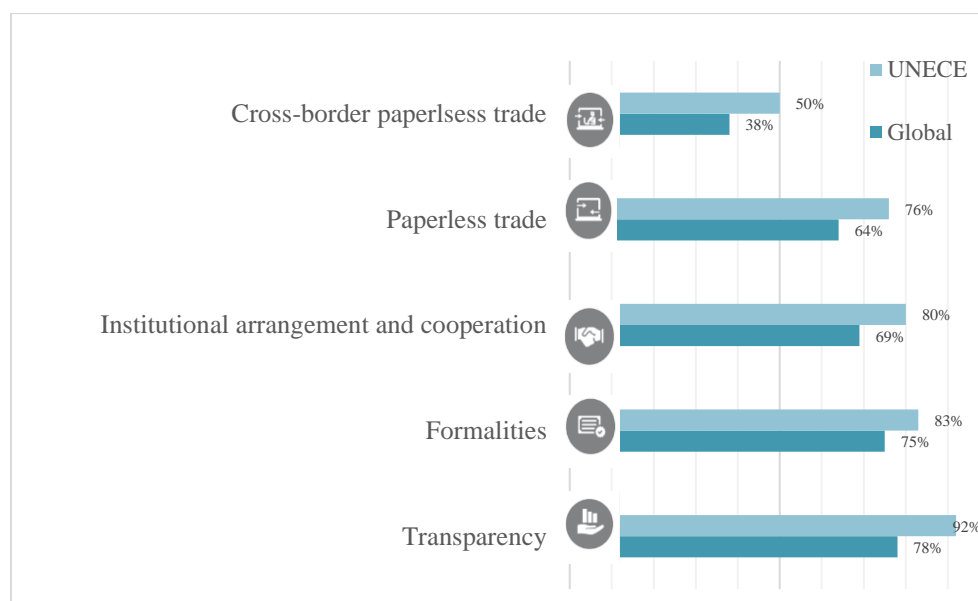
¹⁷ See <https://unece.org/DAM/trade/Publications/ECE-TRADE-409E.pdf>.

¹⁸ See <https://unece.org/trade/studies-regulatory-and-procedural-barriers-trade>.

¹⁹ Border measures cover both tariff and non-tariff measures. Of particular relevance to the ECE ECTD work is the category of non-tariff measures, associated with customs formalities at the border, technical barriers to trade etc.

more advanced when compared with the global level, confirming the impact of trade policy reforms adopted by member States of the ECE region.

Global and ECE implementation rates of general and digital trade facilitation measures, 2021 (%)



Source: Digital and Sustainable Trade Facilitation: ECE Regional Report 2021; see https://unece.org/sites/default/files/2021-11/ECE_TRADE_467_UNECE_Regional_Report.pdf

14. While significant progress has been made with regard to the digitalization of trade facilitation measures, there are potential risks of regulatory divergence with regard to digital trade facilitation, especially with regard to elements which go beyond the mandatory requirements of the WTO TFA. The work of the UN/CEFACT is aimed to facilitate coherence in the area of trade facilitation and electronic business. This work has been recognized by a number of analytical instruments and toolkits recently issued by the International Chamber of Commerce (ICC), the World Economic Forum (WEF) and the WTO.²⁰

15. The issue of regulatory coherence can have an important impact on cross-border digital trade. The major challenge is to address regulatory fragmentation, by encouraging international regulatory cooperation (e.g., via good regulatory practices, equivalence and mutual recognition) and by promoting regulatory harmonization and coherence (e.g., via sharing and discussion of international standards at the pre-implementation stage).²¹ Given the important role RTAs can play in fostering regulatory convergence and interoperability,²² countries increasingly include elements related to digital trade facilitation and electronic transactions into RTAs. Some of the frequently adopted disciplines include paperless trade, electronic payments, electronic signatures, electronic authentication, clearance and logistics. Some of these elements also included in the negotiations of JSI on E-Commerce at the WTO.

16. RPBT studies have had chapters on the trade facilitation framework in a country, taking into consideration the WTO TFA requirements and the potential application of UN/CEFACT tools and standards. Further RPBT studies assessments could be enhanced in two ways. First, the trade facilitation chapter could provide a particular focus on e-commerce

²⁰ WTO-WEF report launch The promise of TradeTech: Policy approaches to harness trade digitalization, available at https://www.wto.org/english/res_e/publications_e/tradtechpolicyharddigit0422_e.htm; WTO-ICC Standards Toolkit for Cross-border Paperless Trade: Accelerating Trade Digitalisation through the Use of Standards, available at https://www.wto.org/english/res_e/publications_e/standtoolkit22_e.htm.

²¹ See https://www.wto.org/english/res_e/booksp_e/tradtechpolicyharddigit0422_e.pdf.

²² See *ibid.*

and identify border measures which pose bottlenecks for e-commerce.²³ While some bottlenecks in relation to digital trade might be similar to the ones in relation to traditional trade, there are certain regulatory procedures which are of particular relevance to e-commerce transactions and pose significant challenges for micro-, small-, and medium-sized enterprises (MSMEs).²⁴ Second, an RPBT study chapter could conduct a gap analysis by identifying regulations which might be necessary to promote digital trade facilitation in a country, taking into consideration requirements under the WTO TFA, RTAs, and best practices under the UN/CEFACT standards and tools (some of the elements are presented in the annex 2).²⁵

B. Regulatory policies

17. Digitalization can have a positive impact on institutions and policies related to the quality infrastructure of countries (e.g. standardization, metrology, conformity assessment and accreditation). For example, digital measuring tools, such as automatic weighing instruments can contribute to ensuring the accuracy of metrology and inspection services, ensuring that these processes are done in a consistent and fair manner. Related discussions on how digital tools can support various areas of quality infrastructure were initiated under the ECE Working Party on Regulatory Cooperation and Standardization Policies (WP.6).²⁶

18. While there are important benefits with regard to the digitalization of quality infrastructure institutions and procedures, digitalization also poses some challenges associated with the control of products where such digital components, have been integrated into the product design (e.g. products containing artificial intelligence (AI)). Furthermore, the intangible nature of several complex digital product, such as information technology (IT) applications and digital software, can also pose challenges to regulatory authorities and calls for adapting existing policies and technical regulations to ensure continued protection of populations from risks to health and safety, among others.

19. At the multilateral level, disciplines related to standardization policies, technical regulation and conformity assessment are regulated within the WTO TBT Agreement. Over the recent years, the TBT Committee has received an increasing number of notifications of regulatory measures affecting a wide variety of digital issues, ranging from autonomous vehicles and drones to 5G and AI.²⁷ Given that the TBT disciplines, established in 1995, regulate traditional trade in goods, WTO Members have increasingly voiced concerns regarding the need to explore ways how its disciplines could be applied in relation to intangible digital products.²⁸ Furthermore, at the regional level, some requirements vis-à-vis digital products in general and more specifically related to disciplining technical barriers to trade have been included in several digital trade provisions of modern RTAs and dedicated digital agreements.²⁹

20. Another pertinent issue relates to the interface between certain quality infrastructure elements and e-commerce. Conformity assessment and certification procedures are increasingly difficult to implement in the context of online purchases, given that, in many instances, products are shipped from overseas directly to the buyers addresses. Entering the

²³ The main problems at the border are regulatory – laws, policies, processes and procedures that slow down the movement of goods. See: <https://mag.wcoomd.org/magazine/wco-news-78/let-cross-border-e-commerce-be-an-engine-for-growth/>.

²⁴ The high cost of determining import requirements and completing excessive paperwork pose a great obstacle for MSMEs engaged in e-commerce. See *ibid*.

²⁵ The trade facilitation chapters in the RPBT studies are carried out in close cooperation with the ECTD Trade Facilitation Section and complement other trade facilitation work streams, such as Trade Facilitation Roadmaps and Trade Facilitation Readiness Assessments.

²⁶ See [ECE/CTCS/WP.6/2022/13](https://www.ece.org/ctcs/wp6/2022/13).

²⁷ See https://www.wto.org/english/tratop_e/dtt_e/dtt-tbt_e.htm

²⁸ See e.g. <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/TBT/W745.pdf&Open=True>

²⁹ See e.g. The Digital Economic Partnership Agreement (DEPA) between New Zealand, Singapore and Chile requires each Party to base its measures, related to e-invoicing, on international standards, guidelines or recommendations, where they exist (Article 2.5(2)). The CPTPP proscribes regulations inhibiting the cross-border transfer of information by electronic means and the localization of computing facilities.

market in this manner creates challenges associated with ensuring compliance with domestic technical regulations and with leaving consumers with limited information regarding the quality of products.³⁰

21. The WTO TBT Agreement plays a central role in establishing and promoting multilateral disciplines in the area of technical regulations and conformity assessment. Given that e-commerce is reinventing the way goods and services are obtained, related challenges with regard to the TBT area have been discussed within the WTO TBT Committee. An increasing number of WTO Members raise “specific trade concerns” with regulations of other members concerning, inter alia, AI systems, cybersecurity, use of QR codes, encryption requirements, privacy risks of data collected by vehicle sensors at the TBT Committee meetings.³¹ In 2022, as part of the work under the TBT Committee, Members also held a thematic session on conformity assessment procedures (digital solutions), during which several Members called for an urgent need to innovate and upgrade the quality infrastructure to provide the fundamental technical rules in the context of digitalization. Members also pointed out the challenges associated with the adoption and application of digital solutions, such as the need to add digital certification and testing-related content to the existing conformity assessment system, technological challenges for assessing conformity (e.g., blockchain technology (interoperability, legal basis, acceptance by regulators) and 3D Printing (data quality, different uses entailing different risks)) as well as enabling market surveillance over an update of embedded software in a smart device.³²

22. The RPBT studies provide an assessment of elements of the quality infrastructure. In relation to this area, further contribution of RPBT studies to the topic of digital trade could be twofold. First, RPBT studies could incorporate best practices and related discussions at the international level (e.g. the WTO) with regard to the challenges and opportunities that digitalization creates for enhancing the quality infrastructure system in the reviewed country. Second, RPBT studies could explore specific challenges with regard to quality infrastructure as it applies to trade procedures in the context of e-commerce.

C. Dedicated chapter on e-commerce and related regulatory framework

23. In addition to expanding digital economy considerations in two chapters of RPBT studies— on trade facilitation (in the context of border measures) and on quality infrastructure (in the context of regulatory policies), future RPBT Studies could also incorporate a dedicated chapter on e-commerce. This chapter could focus on the following two key aspects.

24. First, the chapter could provide an overview of e-commerce in a country. While there is limited data with regard to digital trade worldwide, certain elements could be analyzed in the context of global and regional trade flows of the country. This analysis would build on the earlier work under the ECE on e-commerce³³ and take into account a Toolbox of instruments of the ECE related to digital transformation developed for the 70th Commission session in April 2023.³⁴ It could also be complemented by other related toolkits and indexes developed by the UNCTAD and the Organisation for Economic Co-operation and Development (OECD) to provide an overview of the state of play with regard to digitalization in the country.

25. An important consideration of this assessment is MSMEs’ access to e-commerce and the identification of related procedural and regulatory barriers in this regard. This chapter could also assess novel trade barriers which create bottlenecks in relation to e-commerce.

³⁰ See

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/TBT/W745.pdf&Open=True>.

³¹ See https://www.wto.org/english/tratop_e/dtt_e/dtt-tbt_e.htm.

³² Available at <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/TBT/GEN324.pdf&Open=True>.

³³ ECE Report “Post-pandemic Covid-19 Economic Recovery: Harnessing E-commerce for the UNECE Transition Economies”.

³⁴ See https://unece.org/sites/default/files/2023-03/E_ECE_1505_ENG.pdf.

Some of these barriers include the following: data localization requirements,³⁵ data privacy and protection measures,³⁶ and cybersecurity.³⁷ All of these measures would be only analysed in the context of existing and potential barriers to trade, rather than providing a full-fledged assessment of these areas, which in some instances are beyond the scope of the ECE ECTD.

26. Second, the additional chapter could provide a detailed overview of the legal and regulatory framework related to e-commerce in a country. The assessment would review this framework vis-à-vis existing instruments at the regional and multilateral levels, with a particular focus on the approaches applied by existing trade partners of a country under the study (an initial set of legal and regulatory areas to be analysed is provided in annex 2). This part could support e-commerce policymaking at the national level, as well as accommodate harmonization of complex or diverging e-commerce disciplines at the regional level. It could also contribute to supporting policymaking in the context of negotiating RTAs with digital trade/e-commerce chapters and participation of ECE member States in WTO discussions on e-commerce, including the WTO JSI on E-Commerce.

27. Finally, the chapter could also provide action-oriented recommendations in relation to harnessing e-commerce for sustainable development, taking into account best international practices and ongoing discussions, including at the WTO and the ECE inter-governmental bodies.

³⁵ According to Gao (2018) trade-related data localization requirements might have the following variations: (i) local commercial presence or residency requirements; (ii) local infrastructure requirements. These include both hardware requirements for service providers to use computing facilities located in the host territory and software requirements to use computer processing and/or storage services located in such territory; (iii) local content requirements (e.g., granting preferences or advantages to goods or electronically transmitted contents produced in a territory); (iv) local technology requirements (e.g., the requirement for foreign service suppliers to purchase or use local technologies). See Gao, H. (2018), "Digital or trade? The contrasting approaches of China and US to digital trade", *Journal of International Economic Law* 21(2): 297-321. <https://doi.org/10.1093/jiel/jgy015>.

³⁶ This includes laws for personal data protection to help maintain consumer trust and confidence in e-commerce. An example in this regard is the General Data Protection Regulation (GDPR) of the European Union.

³⁷ Cyber security protects computer systems from information disclosure, misdirection, damage, or theft of electronic data, software, or hardware. In e-commerce, it is all about electronic security related to e-commerce activity. For example, cybersecurity threats to an electronic payments system, attack on customer personal data, malware attacks. See Schatz, D., Bashroush, R., and Wall, J. (2017). Towards a more representative definition of cyber security. *J. Digit. Forensics Secur. Law* 12, 1558–7215. doi: 10.15394/jdfsl.2017.1476. See also <https://www.frontiersin.org/articles/10.3389/fpsyg.2022.927398/full>.

Annex I

RTAs with digital trade/e-commerce chapters signed by ECE programme countries

1. Association Agreement between the European Union and European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part (2014)
2. Association Agreement between the European Union and European Atomic Energy Community and their Member States of the one part, and the Republic of Moldova of the other part (2014)
3. Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (2014)
4. Free Trade Agreement between the Eurasian Economic Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part (2015)
5. Canada-Ukraine Free Trade Agreement (2016)
6. Free Trade Agreement Between the Republic of Singapore and the Republic of Turkey (2017)
7. Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States of the one part and the Republic of Armenia of the other (2018)
8. People's Republic of China-Eurasian Economic Union Free Trade Agreement (2019)
9. Free Trade Agreement between Hong Kong, China and Georgia (2019)
10. Eurasian Economic Union (EAEU) - Singapore Free Trade Agreement (2019)
11. Strategic Partnership and Cooperation Agreement Between the United Kingdom of Great Britain And Northern Ireland, And Georgia (signed in 2019)
12. Political, Free Trade and Strategic Partnership Agreement Between the United Kingdom of Great Britain And Northern Ireland And Ukraine (signed in 2022)

Annex II

A future RPBT study chapter could focus on the following two parts as part of its assessment of e-commerce/digital trade legal and regulatory framework. This is only an illustrative and non-exhaustive list of potential areas to be assessed under the dedicated e-commerce chapter under the RPBT study.

I. Descriptive part on existing legal and regulatory frameworks related to digital trade in the country

- a. Promoting digital trade at the national level (national strategies/laws, e-governance, e-procurement platforms)
- b. Digital trade and regional integration
 - i. RTAs with digital chapters/e-commerce where the country participates
 - ii. Existing RTA approaches with regard to regulating digital trade worldwide/in the most prominent trade partners (comparison of existing models and assessment of their application to the assessed country)
 - iii. Participation in other regional initiatives promoting digitalization (including the United Nations Special Programme for the Economies of Central Asia (SPECA))
- c. Digital trade and multilateral trading system
 - i. Existing legal framework within the WTO (goods, services, trade facilitation, TBT)
 - ii. Discussions within E-commerce Working Group
 - iii. Discussions within Joint Initiative on E-Commerce
 - iv. E-commerce discussions/initiatives within other organisations (UNCTAD, ECE, ITC, World Economic Forum, OECD) and participation in these discussions

II. Mapping of the existing legal and regulatory framework in the country vis-à-vis the areas which are being most prominently implemented by ECE member States and their trade partners, included in RTAs and related negotiations at the multilateral level ¹

	<i>Yes (2)</i>	<i>Being discusses/ draft law (1)</i>	<i>No (0)</i>
1. General questions			
<ul style="list-style-type: none"> • WTO Member • If yes, participates in WTO Joint Initiative on E-Commerce • Participates in the RTA with a dedicated chapter on digital trade • ECE transition economy 			
2. Legal framework related to e-commerce/digital trade			
<ul style="list-style-type: none"> • Dedicated framework law/strategy on e-commerce • Provisions on technological innovation and trade 			

¹ Some of the elements do not fall under the direct mandate of the ECE ECTD (e.g. competition policy). The assessment will not provide a detailed overview of these areas which fall beyond the ECE ECTD scope. It will rather identify whether these issues are regulated at the national level to provide a full-fledged state of play and consider the interconnected nature of disciplines in relation to e-commerce.

	<i>Yes (2)</i>	<i>Being discusses/ draft law (1)</i>	<i>No (0)</i>
<ul style="list-style-type: none"> • Provisions on public-private partnerships (PPPs) and digital infrastructure • Provisions for facilitating of e-commerce by MSMEs • Provisions on digital economy in the competition law • Provisions on international cooperation on e-commerce/participation in related forums 			
3. Electronic transactions framework			
<ul style="list-style-type: none"> • Law/provision on electronic transactions • Reference to the United Nations Convention on the Use of Electronic Communications in International Contracts • UNCITRAL Model Law on Electronic Commerce referenced/used as a model • Provision on e-invoicing • Provision on facilitating e-payments • Provision on electronic authentication, electronic signatures or digital certificates 			
4. Access to and use of the internet			
<ul style="list-style-type: none"> • Principles on access to and use of the internet for e-commerce • Provision on net neutrality • Provision on internet interconnection charge sharing • Provision on interactive computer services 			
5. Custom duties			
<ul style="list-style-type: none"> • Provision on the non-imposition of custom duties² • Provision on the customs value of carrier mediums³ 			
6. Digital trade facilitation and border-related processes			
<ul style="list-style-type: none"> • Established information portal • Established Single Window • Provision on paperless trading 			

² Relates to the provision stating a permanent moratorium on the imposition of customs duties on electronic transmissions, meaning that no customs duties must be imposed on electronic transmissions and digital products or if there is a recognition of the current practice of not imposing customs duties.

³ Such provisions usually state that Parties shall determine the customs value of an imported carrier medium bearing a digital product of the other Party based on the cost or value of the carrier medium alone, without regard to the cost or value of the digital product stored on the carrier medium.

	<i>Yes (2)</i>	<i>Being discusses/ draft law (1)</i>	<i>No (0)</i>
<ul style="list-style-type: none"> • Provision on electronic transferable records • Provision on customs procedures automatization • Provision on customs data exchange • Automated services for clearance of perishable goods 			
7. Consumer protection ⁴			
<ul style="list-style-type: none"> • Provision on consumer protection • Provision on Unsolicited Commercial Electronic Messages (SPAM) 			
8. Laws/provisions on cybersecurity, cybercrime			
9. Regulation of data			
<ul style="list-style-type: none"> • Laws/provisions related to data protection and privacy • Provisions on the free movement of data • Provision banning or limiting data localisation requirements • Mechanism to address barriers to data flows • Provision on data innovation, allowing data to be shared and reused 			
10. Data and electronic government			
<ul style="list-style-type: none"> • Provision on e-government • Provision on open government data or open data • Government procurement by electronic means 			
11. New issues			
<ul style="list-style-type: none"> • Provision on digital identities⁵ • Provision on digital inclusion⁶ 			
Provision on artificial intelligence ⁷			
Provision on standardization, interoperability, or mutual recognition			

⁴ Provisions for the protection of consumers using e-commerce, or consumer confidence in e-commerce, prevention of deceptive and fraudulent practices, and cooperation activities, or recognising the importance of cooperation between the respective national consumer protection agencies.

⁵ This provision seeks to promote the interoperability of frameworks or standards regarding digital identity domestic programmes.

⁶ This provision may recognise/acknowledge the importance of digital inclusion, which can be defined as the participation in the digital economy and benefiting from it.

⁷ This provision may recognize the need to promote internationally aligned frameworks on AI, which could include ethical and governance frameworks.

	<i>Yes (2)</i>	<i>Being discusses/ draft law (1)</i>	<i>No (0)</i>
Provisions related to source code, algorithms, and encryption ⁸			

Source: ECE based on Mira Burri, Maria Vasquez Callo-Müller and Kholofelo Kugler, TAPED: Trade Agreement Provisions on Electronic Commerce and Data Codebook, see https://www.unilu.ch/fileadmin/fakultaeten/rf/burri/TAPED/Codebook_TAPED_Burri_Vasquez_Kugler_November_2022.pdf.

⁸ Provisions on source code access are relatively new and meant to secure that no access to proprietary code is granted as a condition for doing business in the country.