

New rules for the digital economy and multilateral cooperation



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As the digital economy continues to evolve, we are seeing a rising call for both balance and fairness. The concerns for an appropriate balance between economic benefits and the preservation of privacy are prompted by the nature of data and its flows. Concerns over fairness arise from taxation disparity between traditional and digital firms. Such concerns have led countries to initiate talks for setting up new rules for digital trade and digital tax. As of today, no digital trade rules are present at the WTO-level – while there is the General Agreement on Tariffs and Trade (GATT) for goods trade and the General Agreement on Trade in Services (GATS) for services trade – despite how the current tax system is the subject of wide criticism by countries that are engaged in international trade.

Since last year, 80 countries have participated in discussions on WTO e-commerce. Key issues include cross-border data flows, bans on data localization, data and consumer protection among many others. However, the prospects are rather dim for any high-level consensus to be reached at the WTO on e-commerce in the near future. 118 countries in an “OECD plus” format have also discussed new taxation rules on digital firms and paid much effort to reach an agreement on tax reforms by the end of 2020.

The main goal is to realize fairness by revising the current tax system that applies to all parties involved in international trade. If the revision is passed, digital tax would be imposed on not only manufacturing firms but service firms as well, generating large revenues worldwide. The collected tax revenues would be apportioned to individual countries according to the new tax system.

Although the issues of new digital trade and digital tax rules on a global scale are under discussion, many countries have independently tried to amend their own countries' laws. For example, the EU General Data Protection Regulation (GDPR) has brought about changes in trading partners' domestic laws. In particular, right after the EU GDPR went into effect in May 2018, California passed its own law on consumer privacy, the CCPA (effective since January 2020), and at the same time, the US began talks to set up federal-level laws to protect data and consumers. Korea, Japan, and some other nations have revised their own laws to meet requirements prescribed under the EU GDPR. On the other hand, some countries have actively adopted advanced digital trade rules within recent FTAs, including the US-Japan Trade Agreement (USJTA), Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and the United States-Mexico-Canada Agreement (USMCA). It is important to notice that provisions of digital trade chapters in such FTAs have also been dealt with in WTO e-commerce talks. In regard to digital taxation, France, Italy, Spain, and England have independently tried to pass bills to impose taxes on digital services. In this matter, the United States Trade Representative (USTR) has announced that the US would retaliate if France takes such an action. The French bill for digital tax has been postponed until after the effects of the OECD/G20 Base Erosion and Profit Shifting (BEPS) project become evident.

New rules for the digital economy call for multilateral cooperation and coordination. The bottom line for new rules should stem from balance and fairness considerations in a comprehensive way. New rules for digital trade should embrace consumers, small-and-medium-sized firms, and developing countries, while new taxation rules should be designed as least distortive as possible. Also, new rules for digital trade and digital tax should not discourage innovators and inventors from developing digital technology as general purpose technology aimed at global economic prosperity. Digital technology has been observed to enhance environmental and financial issues in Africa, Southeast Asia and elsewhere. Multilateral cooperation and coordination towards new rules for digital trade and digital tax enable us to reap full benefits from the digital economy and share them across developed and developing countries. I hope that the upcoming developments we will see in digital technology, together with the new rules we will

eventually agree upon, can expedite the era of the 4th industrial revolution, digital disruption, or digital transformation – whichever term you choose. **KIEP**