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BUSINESS 20

TASK FORCE ON TRADE AND INVESTMENT

POLICY PAPER

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EXECUTIVE SUMMARY

The B20 community continues to believe that the rules-based multilateral system, ensuring open trade with a level playing field, is crucial for inclusive development and economic growth. In order to guarantee continuity and improvement of the multilateral trade system as an enabler of inclusive and sustainable globalization, a comprehensive approach needs to be undertaken. **An ambitious and positive agenda for the 21st century, which includes the development of new rules and institutional adaptation, is therefore urgently required** to avoid unilateral approaches and ensure governability. In terms of the **Trade Agenda**, members of the B20 Trade & Investment Task Force identified three top priorities where joint action from leaders is required:

1. **Addressing state-related competitive distortions**, by initiating negotiations on transparent new rules that would ensure that no party is granted access to any non-commercially available benefit exclusively based on its ownership. These rules would therefore particularly address market-distorting industrial subsidies and consequently trade distorting actions by state-owned enterprises, which the Charlevoix G7 Summit Communique has recently pointed at.

2. **Adapting rules to the digital age** in order to provide regulatory coherence and identify regulatory gaps that need to be addressed to facilitate an open, inclusive and transparent digital trade with strong data protection and data privacy regulations.

3. **Ensuring further inclusion of Micro, Small and Medium Enterprises** (MSMEs) in international trade by improving access to finance, simplifying regulatory environments, tackling non-tariff barriers that impede fragmentation of global value chains and refraining from introducing new distortive measures that prevent inclusion. The B20 would welcome further concrete joint public-private work in the arena of technical barriers to trade and phytosanitary measures to ensure transparency and full adherence to international standards and scientific evidence in the case of Sanitary and Phytosanitary (SPS) measures.

In terms of the **Investment Agenda**: the B20 highlights the importance of proactive involvement in **investment facilitation negotiations** with the objective of reaching a predictable, transparent, non-discriminatory investment framework that at the same time fully ensures protection of intellectual property rights. In pursuing these objectives, there is also an opportunity for leaders to reach a clear, shared vision regarding **investment screening mechanisms**.

The World Trade Organization (WTO), because of its determinant role in international trade, is usually referred to as the guardian of the multilateral trade system. The B20 members concluded that **functional improvements of the WTO** need to be put into place to regain momentum. Several institutional reforms such as having a structured business advisory committee, addressing governance methods that would promote advancement (i.e. by considering alternative methods for decision making), as well as enhancing compliance (i.e. by strengthening the notification system), would bring substantial benefits. Finally, the B20 also strongly believes leaders should urgently get the Appellate Body vacant posts filled and work towards reforms that would foster effectiveness and a shortened timeframe for dispute resolutions.

It is of outmost important that G20 countries, who lead by example, strongly support adaptation to new economic realities and take positive actions to reshape the global trading system.

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TOPIC 1: AGENDA FOR THE FUTURE OF THE MULTILATERAL TRADE SYSTEM

A strong legal and institutional framework to sustain international trade and investment and effective transparency mechanisms that ensure inclusive and fair trade are fundamental pillars of economic growth.

While 20th century trade was characterized by goods made in one nation being sold in another nation, 21st century trade is much more complex, characterized by multi-directional and mostly regional flows of people, goods, services, capital, and data.

Governments, multilateral organizations and the business community need to agree on a comprehensive approach to define an ambitious agenda for a sustainable and fair trade and investment system aligned with the 21st century.

To adapt to these changes, World Trade Organization (WTO) members need to engage constructively in several arenas. Current rules need either further development or major updates and modernization. This process has to consider digital age challenges and also take on board how the role of the state and state-owned companies has evolved since current rules were negotiated, as well as the impact of non-tariff barriers in inclusive growth and micro, small and medium enterprises (MSMEs) participation in global trade.

Negotiations and agreements should ensure the possibility of subsequent multilateralization. All sectoral and other plurilateral agreements should be negotiated and implemented in a transparent manner and be open to all countries.

It is imperative that the G20 reaches agreement on the most required new initiatives and pushes for a forward-looking trade policy agenda. The Business community of the G20 desires to contribute with positive recommendations on several areas where we believe there is a necessity to obtain positive results.

B20 acknowledges the underlying difficulties in reaching agreements in many of the arenas suggested by these recommendations but does not believe a softer approach necessarily provides a way forward. Even at this difficult juncture, there will be no better time than now to start making constructive progress on unavoidable issues.

I. Addressing state-related competitive distortions

RATIONALE

Serious concerns about fairness, sustainability, reciprocity and even national security have arisen, particularly in the field of trade and investment, resulting in an increased number of trade measures with the potential of further restrictions being imposed as counter-measures.

The growing impact of state-owned enterprises (SOEs) SOEs as well as their objectives, motives and strategies, has become the subject of a significant body of research and debate and is at the core of recent developments.

The relevance of SOEs in the economic landscape

The relevance of SOEs in the international economic landscape cannot be understated. According to the Organization for Economic Cooperation and Development

(OECD), "22 of the world's 100 largest companies are effectively under state control"[1] .

According to the United Nations Conference on Trade and Development (UNCTAD) World Investment Report 2017[2], the number of government-owned, controlled or closely related enterprises has grown steadily over the past decade. About 1,500 state-owned multinational enterprises (MNEs), only 1.5 per cent of all MNEs, own more than 86,000 foreign affiliates, representing close to 10% of all foreign affiliates. At the same time, the economic relevance of these multinational enterprises is growing steadily, as they already represent almost 25% of the Fortune Global 500.

Furthermore, the ICTSD emphasized: "most of the economies with a particularly high share of SOEs among their largest enterprises are important players in international trade in goods and services. Moreover, those segments of the raw materials, manufacturing, and services sectors that have the strongest SOEs presence account for significant shares of world trade"[3].

Defining the issue

According to the OECD: "governments may create an uneven playing field in markets where state-owned enterprises (SOE) compete with private firms, as they have a vested (direct or indirect) interest in ensuring that state- owned firms succeed. Often this interest is not only driven by commercial considerations but is also due to non-commercial priorities such as maintaining public service obligations, promoting national champions through industrial policy, protecting fiscal revenue derived from SOEs, correcting market failures and other politically sensitive issues such as safeguarding the political influence of ministries and protecting public sector jobs. Competitive neutrality occurs where no entity operating in an economic market is subject to undue competitive advantages or disadvantages"[4].

"...several possible sources of competitive distortions can arise because of advantages some public-sector business has due to their government ownership"[5].

SOES "are not necessarily expected to maximize profits and long-term value"[6]). Conversely, "incentives at the national level might produce an anti-competitive effect on the global marketplace to the detriment of the public interest of other countries"[7].

These harmful effects on trading partners and competitors can be extremely significant "especially considering SOEs operate in sectors with important upstream and downstream roles in international supply chains"[8] .

[1] OECD (2016), State-Owned Enterprises as Global Competitors: A Challenge or an Opportunity? OECD Publishing, Paris, https://doi.org/10.1787/9789264262096-en.
[2] UNCTAD. (2017). World Investment Report 2017. Geneva: UNITED NATIONS PUBLICATION.
[3] Biau, Carole, Capobianco, Antonio, Chammas Mona, Christiansen, Hans, Gestrin, Michael, Kowalski, Przemyslaw and Sara Sultan. Governments as competitors in the global marketplace: Options for ensuring a level playing field. E15Initiative. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and World Economic Forum, 2016. www.e15initiative.org/
4 OECD (2011), "Competitive neutrality and State-owned Enterprises: Challenges and policy options", OECD Corporate Governance Working Papers, No.1, www.oecd.org/daf/corporateaffairs/wp
[5] Ibidem, p. 4.

[6] OECD (2016), State-Owned Enterprises as Global Competitors: A Challenge or an Opportunity? OECD Publishing, Paris, https://doi.org/10.1787/9789264262096-en.

[7] Ibidem, p. 27.

[8] Biau, Carole, Capobianco, Antonio, Chammas Mona, Christiansen, Hans, Gestrin, Michael, Kowalski, Przemyslaw and Sara Sultan. Governments as competitors in the global marketplace: Options for ensuring a level playing field. E15Initiative. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and World Economic Forum, 2016. www.e15initiative.org/

Specific sources of competitive distortions

SOES may enjoy privileges and immunities that are not available to their privately-owned competitors.

Examples of preferential treatment with distortionary cross-border effects includes, but are not limited to:

“1) preferential financing from SOEs, state banks or other (state-backed) financial institutions; 2) privileged access to information; 3) outright subsidies/tax concessions; 4) In-kind subsidies; 5) grants and other direct payments; 6) privileged position in the domestic market; 7) explicit or implicit guarantees; 8) exemptions; 9) preferential regulatory treatment; 10) preferential treatment in public procurement; 11) price support; 12) support in the form of commercial diplomacy”[9].

Political discussion developments on state-related distortions

During the 2011 Organization for Economic Co-operation and Development Ministerial Council Meeting, the chair remarked the urgent need to “develop multidisciplinary guidelines for the treatment of state-owned and state-controlled enterprises (...) whether they are owned by shareholders or states, all companies should operate on a level playing field consistent with the principles of competitive neutrality”[10].

In its 2016 guidelines for international investment, the International Chamber of Commerce (ICC) pointed out that few adequate and effective disciplines exist to deal with those state-owned enterprises that can remain protected in their home markets and abroad while receiving benefits, including political support from domestic governments, thus weakening the fundamental workings of a market-based system. The ICC also stated that “SOEs mode of operation undermines the fundamental workings of a market-based system where individuals and companies engaged in trade, investment, and finance compete freely, fairly, and on equal and non-discriminatory terms and are mutually constrained by accepted rules to act according to commercial considerations.[11]”

The World Economic Forum (WEF) emphasized that the prospect of intellectual property displacement by subsidized competition would discourage innovation and investment. Tackling the issue of economic neutrality of state-owned or state-related enterprises is therefore one of the ways to strengthen the WTO and ensure fairness and sustainability.

The G7 Taormina Statement[12] strongly agreed on the “removal of all trade-distorting practices including dumping, discriminatory non-tariff barriers, forced technology transfers, subsidies and other support by governments and related institutions that distort markets so as to foster a truly level playing field” (G7 Leaders: Final Communique, 2017).

Stressing the urgency to address these challenges, the Charlevoix G7 Summit Communique expressed that “we call for the start of negotiations – this year – to develop stronger, international rules on market-distorting industrial subsidies and trade distorting actions by state-owned enterprises. We also call on all members of the Global

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[9] Ibidem, p.5

[10] OECD (2012), Competitive Neutrality: Maintaining a Level Playing Field between Public and Private Business, OECD Publishing, Paris, https://doi.org/10.1787/9789264178953-en.

[11] International Chamber of Commerce. (2016). ICC Guidelines for international investment. Paris: ICC.

[12] G7 Leaders: Final Communique. (27 de 05 de 2017). Financial Market News. Obtained through https://www.marketnews.com/content/2-final-communique-g7-leaders-summit-taormina-sicily-text

Forum on Steel Excess Capacity to fully and promptly implement its recommendations. We stress the urgent need to avoid excess capacity in other sectors such as aluminium and high technology"[13].

WTO country-specific trade policy reviews also pointed at industries with "huge overcapacity, such as iron and steel, electrolytic aluminium, cement, plate glasses and vessels" as a result of government intervention[14].

In 2016, G20 leaders exceptionally mandated a specific sectoral approach through the Global Forum on Steel Excess Capacity (GFSEC). In its last meeting, in 2017, the GFSEC addressed all types of non-commercial assistance (including subsidies) coming from different levels of government and/or government-backed institutions reviewing them in a new light, reaching fundamental conclusions, and finding them responsible for severe distortions that impede the market operation.

Such distortive non-commercial assistance to state-owned enterprises was found to include government assistance through any combination of:

- Grants or debt relief.
- Loans, loan guarantees or any form of financing on terms more favourable than those that are commercially available to that enterprise.
- Equity capital infusion (including debt-for-equity swaps) that is inconsistent with usual investment practices under market conditions.
- Assumptions of liabilities, administrative fees, and others, inconsistent with market considerations.
- Goods and services on terms more favourable than those available to that enterprise.

Discretionary policies, such as regulatory exemptions (i.e. exemptions from competition laws), lower compliance costs, and others.

RECOMMENDATION 1: G20 COUNTRIES SHOULD PRIORITIZE MEASURES THAT ENSURE THAT STATE-OWNED ENTERPRISES DO NOT HAVE PRIVILEGED ACCESS TO NON-COMMERCIAL ASSISTANCE IN ORDER TO ALLOW FOR A LEVELED PLAYING FIELD FOR INVESTMENT AND TRADE.

POLICY ACTIONS

1.1: Recognize the principle of competitive neutrality to address state-owned enterprises distortive behavior.

1.2: Foster a plurilateral agreement on government-driven competitive distortions.

1.3: Promote the extensive application of domestic/regional policies ensuring non-discriminatory behavior from SOEs.

[13] The Charlevoix G7 Summit Communique | Sommet du G7 – G7 Summit. https://g7.gc.ca/en/official-documents/charlevoix-g7-summit-communique/

[14] Wto.org. (2016). *World Trade Organization*. [online] Available at: https://www.wto.org/english/tratop_e/tpr_e/s342_sum_e.pdf [Accessed 20 Jul. 2018].

Policy action 1.1: Recognize the principle of competitive neutrality to address state-owned enterprises distortive behavior.

Restoring trade to normal and fostering a level playing field should begin with a clear consensus on a high-level principle indicating that no business entity should be advantaged or disadvantaged solely because of its ownership .

One of the critical aspects of promoting competitive neutrality is transparency and accountability. The SOEs Guidelines suggest an approach that requires ongoing monitoring and enforcement to be effective . This is also related to the much-required revision of notification compliance practices at the WTO.

Policy action 1.2: Foster a plurilateral agreement on government-driven competitive distortions.

G20 leaders should actively engage in a plurilateral agreement on competitive distortions in order to achieve the level playing field required to allow sustainable and inclusive growth.

The agreement would require significant lessening/ limitation and/or complete elimination of policies that accord preferential treatment to SOEs, such as preferred supplier status though market limitations among other means, access to subsidies, diverse forms of low-cost financing, equity infusion inconsistent with market conditions, debt relief, and special exemptions from regulatory enforcement.

Special attention should be paid to strict and substantial phasing out preferential treatment to SOEs pertaining to sectors that have already shown severe adverse effects such as steel, aluminum, chemicals, glass, cement and others already identified or otherwise timely defined.

Most importantly, such discriminatory practices should not be allowed under the agreement in the future.

In order to achieve results, enforcement rules should be put in place, under which non-fulfillment of obligations should lead to loss of benefits/rights.

We suggest it would be advisable to immediately create a working team to advise G20 leaders on the specific technical alternatives.

Policy action 1.3: Promote the extensive application of domestic/regional policies ensuring non-discriminatory behavior from SOEs.

As a complement to a plurilateral agreement to phase out government driven competitive distortions and grant a leveled playing field in international trade, G20 leaders should promote regulatory consistency in competition regulations, at national level as well as in Preferential Trade Agreements (PTAs).

Disciplines to ensure competitive neutrality already provided for at national level in some G20 countries (see OECD competitive neutrality, national practices) PTAs could be considered as benchmarks.

Furthermore, the OECD pointed at the operational form of government business, cost identification, rate of return requirements, public service obligations, tax neutrality, debt neutrality, regulatory neutrality, and public procurement practices as some of the points to consider.

This recommended policy action is also required to impede returning to severe crises such as excess capacity in several industries.

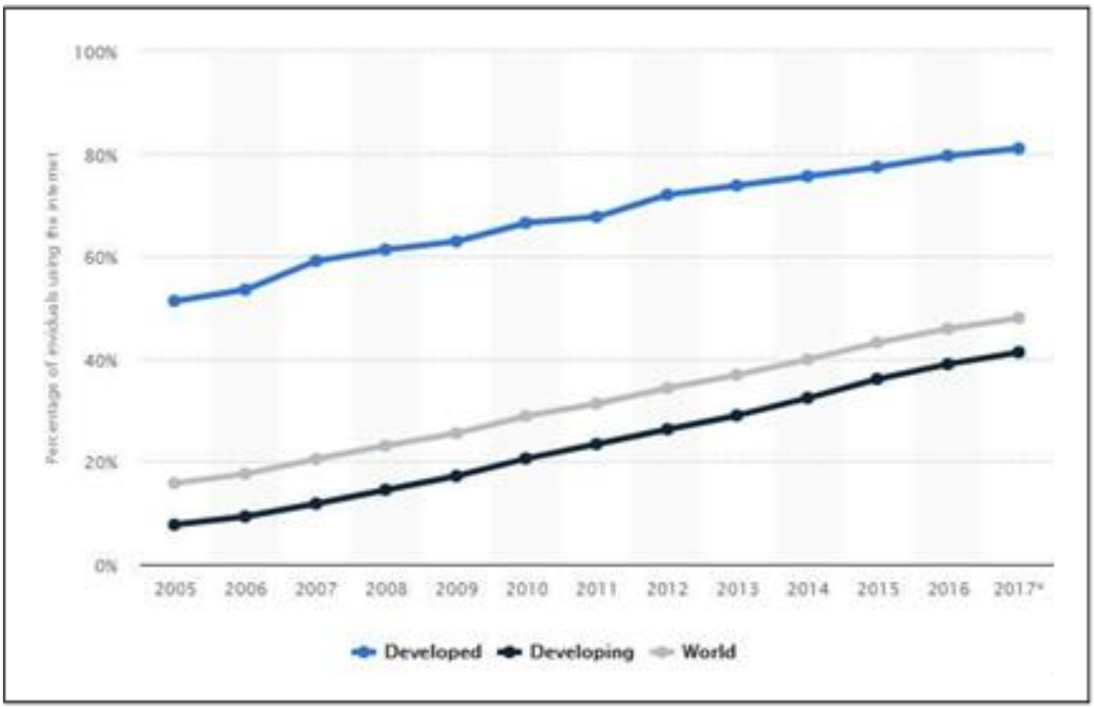
II. Designing new rules for digital trade and e-commerce

RATIONALE

As the Internet and new technologies have been gaining more relevance in the spheres of communications and information, they have also greatly affected the world economy dynamics. This effect has not been limited to the traditional producer-consumer transactions- it has also generated a new set of transaction dynamics, particularly in relation to data and information transfer. All these changes have contributed to the increasing development of digital trade.

Digital trade constitutes a key factor of today's global economy development. The positive impact of trade digitalization concerns the economy as a whole, fostering employment, entrepreneurship, innovation and growth. The increasing percentage of global population with access to the Internet facilitates the digitalization of trade and could potentially benefit developing countries, as well as enterprises of all sizes.

Exhibit 1| Global Internet access rate 2005-2017



Source: Statista, accessed March 6, 2018

The potential of digital trade remains significant according to near-future estimations. By 2020, cross-border "business-to-consumers (B2C) e-commerce alone is expected to reach approximately $1 trillion per year (including physical products, digital contents and services"[15]). Business-to-business (B2B) e-commerce, for which no reliable cross-border estimates are available, is much larger: according to UNCTAD, global B2B e-commerce (domestic and cross-border) stood at $19.9 trillion in 2015[16],

[15] AliResearch – Accenture. (2016). Global Cross Border E-Commerce Market 2020. Washington DC: Ali Research.
[16] UNCTAD. (2016). New Initiative to Help Developing Countries Grasp $22 trillion E-Commerce Opportunity. Obtained through http://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=1281

more than nine times the figure of global B2C e-commerce. Cross-border data flows grew by 50 percent annually from 2005 to 2014 and by 2025 they could be worth $20 trillion. Already today, approximately 50 percent of all traded services are enabled by information and communication technologies.

The Office of the United States Trade Representative highlighted the scope of what we can expect from trade digitalization in the near future. In terms of data flows, by 2024, "an estimated 27 billion devices will be constantly generating data and sending it across the room or across borders"[17]. As the manufacturing sector is the biggest data generator of all, the data it generates at every link in the value chain and firms, is crucial to increase productivity and drive down costs.

In this sense, the importance of data flows as enablers of digital trade cannot be overstated. Growth of data flows is only set to explode further, e.g. with the Internet of Things, 3-D printing, Industry 4.0 and machine-to-machine communications. In particular, intracompany and B2B data transfers are critical for these new commercial applications. By 2025, cross-border data flows could be worth US$20tn, more than the current global trade in goods according to Financial Times estimates[18]. Even today, approximately 50% of all traded services are enabled by information and communication technologies[19].

Despite the positive aspects of digital trade, there is a growing tendency towards digital trade protectionism that needs to be tackled, mainly driven by concerns about data protection and security issues. Governments that are addressing these issues tend to use regulation to promote domestic interests in a discriminatory way, creating unnecessary barriers for economic operators[20].

At least three categories of digital trade barriers have been identified and need to be properly discussed:

1. Data localization barriers, including unnecessary requirements to store data within a particular jurisdiction or locate computing facilities locally, as well as outright bans on cross-border data flows.
2. Technology barriers, including requirements to meet onerous and unnecessary security standards and requirements to disclose encryption algorithms or another proprietary source code.
3. Barriers affecting e-commerce, including barriers to digital products, issues surrounding electronic authentication and signatures, ban of foreign owned e-commerce platforms, inability to use certain types of credit and debit cards and other practices.

Given the nature of today's globally interconnected economy, national policies that increase data processing and storing costs have a severe economic impact as many sectors of the economy rely on digitally supplied services and goods. In this sense, there is a need to consider the potential indirect obstacles to free trade embedded in those national digital strategies.

Manufacturing, agriculture and other export sectors are dependent on having access

[17] Office of the U.S. Trade Representative. (04 de 03 de 2017). Office of the U.S. Trade Representative. Obtained through https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2017/march/key-barriers-digital-trade
[18] Financial Times - Digital trade boom: how data are replacing physical goods (October 16, 2017)
[19] UNCTAD, Information Economy Report (2017), 30, accessed February 28, 2017, http://unctad.org/en/PublicationsLibrary/ier2017_en.pdf
[20] Business Europe (2017). Business Europe's views on Digital Trade. [online] Available at: https://www.businesseurope.eu/sites/buseur/files/media/position_papers/rex/2017-02-06_digital_trade.pdf [Accessed 20 Jul. 2018].

to a broad range of services at competitive prices, such as logistics, retail distribution, finance or professional services, which in turn are heavily dependent on secure, cost-efficient and real-time access to data across borders.

When data must be confined and stored within a country, it does not merely affect social networks and email services, but potentially any business that uses the Internet to produce, deliver, and receive payment for their work, or to pay salaries and taxes. The idea that data should be stored only within one country falls apart as soon as business representatives or citizens cross a border and find that they no longer have continuous access to their data. At the same time, legitimate data protection standards and access security with regards to personal data (i.e. the case of medical records) should not be undermined.

Similarly, the inability to transfer data from one actor to the next (data portability) or to process data for technical reasons, can have a severely negative impact on the economic and social potential. A high degree of data portability also prevents lock-in effects and stimulates competition and innovation in digital services.

National policies that restrict cross-border data flows may also have a security impact. Big data and machine learning have the potential to drive improvements in our understanding of cyber security threats as well as in innovative defensive technologies and strategies. However, when data is confined to a local environment, it cannot be aggregated and used to analyse the behaviour or tools of malicious actors. As a result, organizations that operate across borders may not be able to take advantage of that scale to improve the security of their products and services and on top of that, groups such as sectoral organizations, will be limited in leveraging cross-border information sharing and in pursuing defense coordination.

Close G20 countries cooperation on these matters remain crucial to ensure as much understanding, harmonization, relevancy and level of transparency as possible in the context of their national strategy about digital transformation.

RECOMMENDATION 2: G20 LEADERS SHOULD AGREE ON A PLURILATERAL APPROACH TO HARMONIZE DATA FLOW REGULATORY FRAMEWORKS AND STANDARDS IN ORDER TO UNLEASH THE BENEFITS OF DIGITAL TRADE.

POLICY ACTIONS

2.1: Address restrictions on free data flow and localization requirements.

2.2: Data privacy standards should be properly defined and enforced with a focus on alignment across national policies to the greatest extent practicable.

2.3: Governments should seek international cooperation frameworks and exchange of information to enhance cyber security protection.

Policy action 2.1: Address restrictions on free data flow and localization requirements.

G20 leaders should agree on the principles of free cross-border data flow and avoid unnecessary localization requirements, taking a comprehensive perspective when addressing data flow regulations as well-intended national policies can act as a barrier to digital trade. Only a mutual recognition of privacy standards will enable a

truly free and global flow of data. Therefore, security or privacy protections should avoid fragmentation with other jurisdictions' approaches.

Policy action 2.2: Data privacy standards should be properly defined and enforced with a focus on alignment across national policies to the greatest extent practicable.

Governments should develop modern privacy frameworks, should strive for interoperability and focus on developing incentives for responsible and accountable organizations rather than on establishing blanket ex-ante prohibitions to the processing of information and to global data flows.

Harmonization of data protection regimes according to agreed international standard that enable information interoperability is crucial. Only international standards and adequacy decisions will enable a truly free and global flow of data. Given the increasing number of data transactions in which individuals engage every day, governments should promote more durable privacy systems and standards.

We note the new and proposed EU data protection policies for personal and non-personal data. While mutual recognition of private standards should be a priority, these policies could pave the way for the discussions of global rules.

Personal Data: EUs new set of GDPR standards shift control of personal data to customers. New rules require companies to obtain informed consent from users as to how data will be repurposed or sold and give the right to opt out of consent immediately, the right to be forgotten (or expunged from the Internet), the right to transfer data to another organization, and the right to transparency regarding use of their data and by whom.

Non-personal data: The European Commission proposed a regulation over free flow of non-personal data (FFDR), in hopes to "reduce the number and range of data localization restrictions, enhance legal certainty, facilitate cross-border availability of data for regulatory control purposes, improve the conditions under which users can switch data storage and/or processing service providers or port their data back to their own IT systems, and enhance trust in and the security of cross-border data storage and/or processing."

Policy action 2.3: Governments should seek international cooperation frameworks and exchange of information to enhance cyber security protection.

Cyber security maybe used by some governments as a protectionist barrier to digital trade and free digital flows. In other instances, conflicting government cyber security policies can serve as a barrier to digital trade. Governments must continue to recognize the importance of aligning cyber security baseline frameworks across sectors and geographies as an essential condition to avoid regulatory fragmentation.

G20 Leaders should agree on baseline principles to protect personally identifiable information (PII), or sensitive personal information (SPI) such as customers financial information. This agreement should be the result of private and public-sector consensus that enables post coordination of G20 countries on more ambitious cybersecurity policies, enhancing the cyber resilience and stability of the different industries. Some examples of these successful approaches can be found in the United States with the NIST framework or the ISO/IEC 27103 report that outline a framework and international standards for cybersecurity risk management.

Moreover, an updated cyber-threat testing framework for significant market participants and infrastructures should also be developed.

Governments and companies may profit from existing online cyber security knowledge by sharing platforms to leverage cyber risk initiatives and data. There are a number of information sharing regimes such as the Threat Exchange and Cyber Threat Alliance, the Trusted Automated Exchange of Indicator Information (TAXII) and the Structured Threat Information Expression (STIX), that enable information sharing for cybersecurity situational awareness, real-time network defense and sophisticated threat analysis.

Policy Action 2.4: G20 governments should support the timely achievement of a plurilateral trade agreement on e-commerce under the umbrella of the WTO.

68 WTO members responsible for 75 percent of global trade -including a vast number of G20 countries- launched an initiative on e-commerce under MC11.

G20 members should define the scope of the e-commerce definition to include: 1) digitally-enabled ordering of physical goods; 2) trade in digital goods (such as books, movies, software, music, games); and 3) trade in digital services.

In connection with these three components, there is a need to develop new commerce disciplines regarding digital goods and digital services. The latter in particular should be addressed specifically due to its relevance as an enabler for developing new generation jobs, a much important source of development and inclusion. As for digitally-enabled trade in goods, traditional commerce disciplines should be applied. E-commerce offers great opportunities to SMEs in developing countries, but important challenges remain, particularly in the areas of infrastructure and regulatory practices. The Trade Facilitation Agreement (TFA) has allowed a sustained boost in the trade liberalization agenda. No matter how significant its impact, the TFA extends only to the physical dimension of trade and does not adapt well to the characteristics of the new economy. The new business models, together with the new production structures reveal a new frontier for the facilitation of trade in this regard.

Faced with these challenges, the B20 suggests following these guidelines:

-Improve the institutional ecosystem for the development of e-commerce

- Update WTO rules to improve access of SMEs to the Internet and its services.
- Update and improve the regulatory framework for trade in telecommunications.
- Improve the capacities of global institutional coordination for the development of SMEs through electronic commerce.
- Improve the collection of data and metrics related to digital commerce.

-Support micro, small and medium enterprises to develop efficient e-commerce strategies.

- Carry out measures to simplify bureaucratic procedures in electronic commerce globally in customs, taxation and market access issues.
- Expand commitments to access service markets that can be delivered online.
- Improve online financial payment options for SMEs.
- Develop a dispute resolution mechanism for digital commerce.

-Establish clear rules for sustainable growth of electronic commerce and consumer confidence.

- As set out in the OECD Internet Policymaking Principles, promote IP protection and enforcement and appropriate limitations of liability for

intermediaries as important elements of a balanced policy framework that advances creativity and innovation.

- Develop international standards for the protection of consumers and new rules that promote technological innovation to improve the security of global electronic commerce.

III. Global Value Chains Development

RATIONALE

According to the OECD, international production, trade and investment are increasingly organized within global value chains (GVCs) where the different stages of the production process are located across different countries. Globalization motivates companies to restructure their operations internationally through outsourcing and offshoring companies, fragmenting processes. This fact provides countries with the opportunity to diversify exports, participate in global trade and ultimately to achieve further opportunities for growth and development. Following UNCTAD's studies, 80% of cross-border trade is carried out within GVCs coordinated by global firms, which include exchanges with affiliated companies, contractual partners and independent suppliers[21].

Literature has widely established the positive correlation between participation in GVCs and Gross Domestic Product (GDP) per capita growth rates. Particularly, in the case of developing countries, value added trade contributes nearly 30 percent to countries' GDP on average, as compared with 18 percent for developed countries. Furthermore, economies with the fastest growing GVC participation have GDP per capita growth rates some 2 percentage points above average. It should be highlighted that GVC participation in developing countries also leads to job creation[22], increased income and value added and to higher employment growth, even if GVC participation depends on imported contents in exports[23].

Small and Medium Enterprises and Global Value Chains

Several studies have identified the fundamental role of GVCS for SMEs development. As OECD highlights "stronger participation by SMEs in global markets creates opportunities to scale up and enhance productivity by accelerating innovation, facilitating spill-overs of technology and managerial know-how, and by broadening and deepening the skillset[24]."

According to the WTO, SMEs play an important role in economic and social development, particularly in poorer countries and least developed countries (LDCs). Following WTO calculations, based on data from World Bank Enterprise Surveys, out of more than 15,000 manufacturing and services firms in 41 LDCs, 88 percent were SMEs, including some 59 percent of small firms employing fewer than 20 people, and 29 percent of medium-sized firms with 20-99 employees. In general, their direct participation in international trade is low[25].

Rather than exporting directly, SMEs may connect indirectly to global markets by supplying goods and services to other domestic firms that export. SMEs can use the services of domestic intermediaries such as agents or distributors to help market

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[21] UNCTAD. (2013). GLOBAL VALUE CHAINS: INVESTMENT AND TRADE FOR DEVELOPMENT. Obtained through http://unctad.org/en/PublicationsLibrary/wir2013overview_en.pdf

[22] The International Labor Organization (ILO) "estimates that one in five jobs worldwide is linked to GVCs" (ILO, 2015).

[23] UNCTAD. (2013). GLOBAL VALUE CHAINS: INVESTMENT AND TRADE FOR DEVELOPMENT. Obtained through http://unctad.org/en/PublicationsLibrary/wir2013overview_en.pdf

[24] OECD. (2018). Fostering greater SME participation in a globally integrated economy. OECD Ministerial Conference on SMEs (22-23 February 2018, Mexico City).

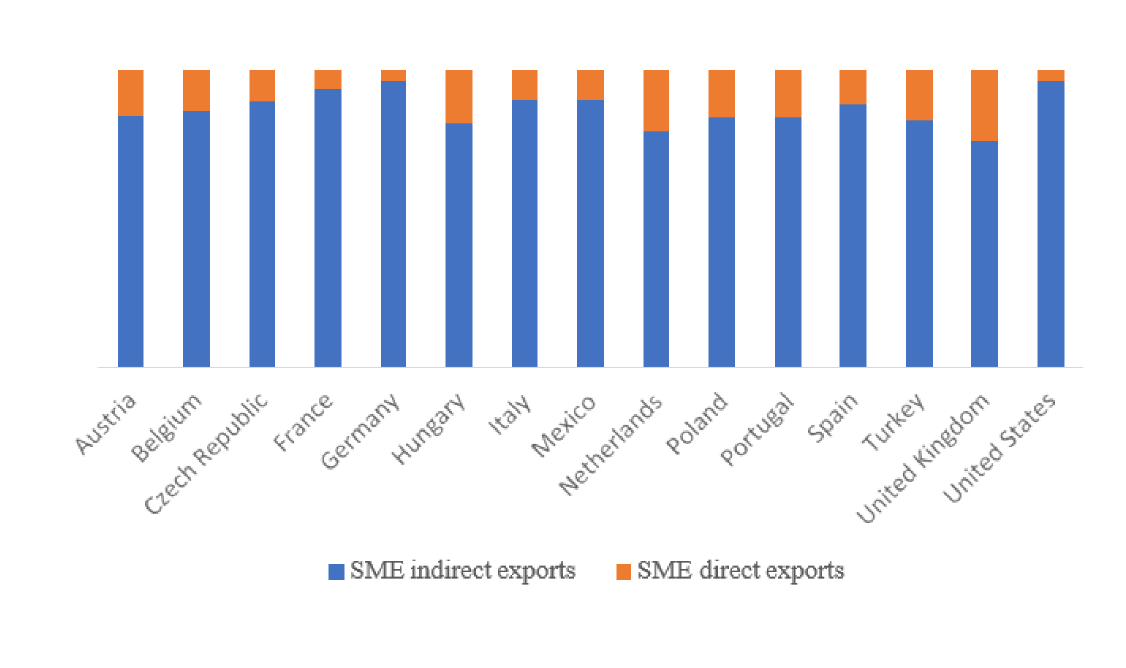
[25] WTO (2016). World Trade Report 2016: Levelling the trading field for SMEs. Geneva.

their products in foreign countries and reach new markets. However, goods and services produced by SMEs can also be indirectly exported as intermediate inputs incorporated in products exported through larger firms. In the manufacturing sector, for example, SMEs may be contracted to produce certain parts according to specifications of other companies, often larger ones, and enter value chains[26].

Unfortunately, the linkages between SMEs and indirect exports remain unexplored by recent studies. Results tend to vary according to different types of measurement and the chosen sector for analysis. For instance, "Slaughter (2013) showed that, yearly, US multinational companies purchase inputs valued at more than US$ 3 billion from SMEs, whereas estimates from the United States International Trade Commission indicate that the share of SMEs in gross exports rose from 28 per cent to 41 per cent after including indirect exports"[27].

Finally, Industry Canada (2011) produced estimates showing that 26 per cent of manufacturing enterprises sold inputs used in the production of final good for exports[28]. However, SMEs from Canada were actually less likely than larger companies to export, indirectly, intermediate goods. In numbers, according to this study, 26 percent of small enterprises and 27 percent of medium-sized firms exported intermediate goods indirectly, compared to 30 percent of large ones.

Exhibit 2| SMEs share of total domestic value added contained in exports of motor vehicles, 2009



Source: WTO Statistics Database, accessed July 27, 2018, http://stat.wto.org

[26] Ibidem.

[27] Ibidem.

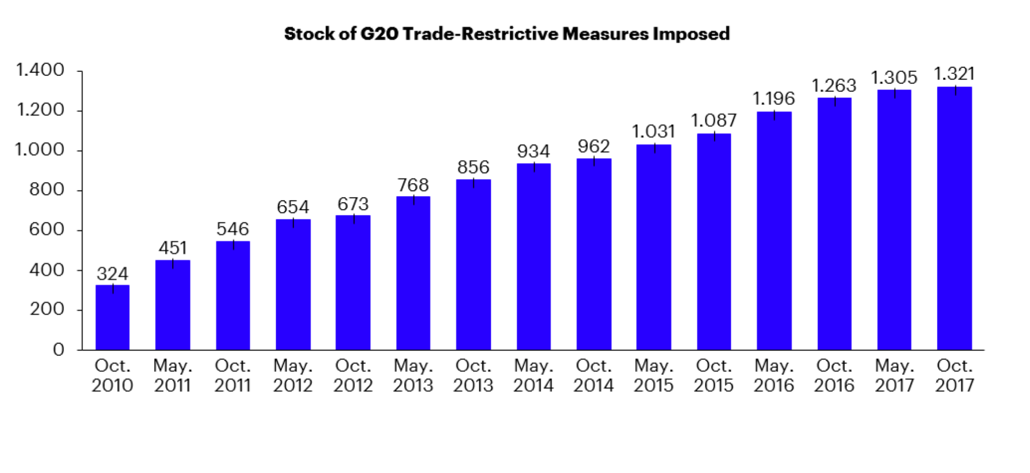
[28] Ibidem.

Trade restrictions as an impediment for GVCs development

The "Global Value Chains Development Report 2017" published by the WTO and the World Bank already stated the strong correlation between GVCs development and "deep" preferential agreements, including WTO-plus as well as WTO-extra policy areas[29]. Trade agreements can be an effective tool for policymakers to anchor national producers to global and regional production processes. In fact, the future of the relationship between Preferential Trade Agreements (PTAs) and GVCs will depend on continued trust in the willingness of other partners to preserve an open, rules-based multilateral trading system, which ensures a level playing field competition. To delocalize processes in GVCs, enterprises need to be sure that they are able to buy and sell across-borders without undue restrictions in order to secure adequate access to markets and inputs.[30] This issue is particularly sensitive in the case of low-income and developing countries that are seeking international investments to achieve a sustainable growth path.

Despite rollback commitments, the number of trade restrictive measures keep increasing. According to the WTO 18th report on G20 trade measures, G20 economies applied 3 new trade-restrictive measures per month during the period under consideration (May 2017 to October 2017), compared to six in the previous period. Trade remedy initiations also show an increase, there were 61 in 2016 whereas in 2017 they reached 97[31]. This change could indicate that unfair trade practices are damaging national productive sectors, but also that traded exports to those countries are also being compromised, not only in the countries where proceedings are initiated but also in countries (especially developing countries with smaller domestic markets) which send fairly traded exports to those countries whose exports are diverted by unfair competition.

Exhibit 3| Stock of G20 trade-restrictive measures imposed



Source: WTO, *Report on G20 Trade Measures* (2017), accessed July 27, 2018, https://www.wto.org/english/news_e/news17_e/g20_wto_report_november17_e.pdf

[29] "World Bank Group; IDE-JETRO; OECD; UIBE; World Trade Organization. 2017. Global Value Chain Development Report 2017: Measuring and Analysing the Impact of GVCs on Economic Development. Washington, DC: World Bank. © World Bank. https://openknowledge.worldbank.org/handle/10986/29593 License: CC BY 3.0 IGO."
[30] Where firm engagement in vertical integration or arm's length trade leads to a higher dependence on intermediate products. Whether firms are export-oriented or import-competing, fragmentation of production creates a direct dependency on imports and exports of intermediate products.
[31] Wto.org. (2017). Global Value Chain Development Report 2017. [online] Available at: https://www.wto.org/english/news_e/news17_e/g20_wto_report_november17_e.pdf [Accessed 20 Jul. 2018].

The Global Trade Alert Report[32] shows an increase in protectionist measures and state intervention in international trade implemented by G20 countries. Measures linked to export promotion have practically doubled after the international financial crisis, while subsidies have tripled. Interestingly, import tariff increases, which get a lot of attention, are "only" the fifth most important trade distortion, affecting 8.67% of G20 exports by the end of 2016. The top four discriminatory policy interventions in terms of G20 export coverage relate to various forms of state fiscal incentives. The top three relate entirely to measures to promote national exports at the expense of other countries' companies.

Exhibit 4| Breakdown of G20 export exposure to discriminatory policies, by UNCTAD MAST classification of trade measures

	Discriminatory policy instrument	2009	2010	2011	2012	2013	2014	2015	2016
D	Contingent trade protection	0.2	0.5	0.7	0.8	0.9	1.1	1.1	1.2
E	Non-automatic licensing, quotas	0.8	1.9	2.1	2.4	3.0	3.0	4.5	4.6
F	Price control measures	0.4	0.4	0.5	0.5	0.5	0.7	1.0	1.1
G	Finance measures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1
I	Investment measures	0.4	1.2	1.4	1.6	1.7	2.1	2.8	3.2
L	Subsidies (except export subsidi	5.4	7.8	9.4	11.9	13.4	14.7	15.9	17.2
M	Government procurement	4.5	6.4	6.6	9.6	10.7	11.0	11.3	11.4
P	Export measures	34.5	42.8	49.8	56.7	59.0	58.8	60.2	62.9
	Import tariff measures	0.8	1.7	1.8	2.0	3.4	6.8	7.9	8.7
	Instrument unclassified	0.2	0.8	0.8	1.0	1.7	2.4	4.1	4.0

Source: Evenett & Fritz (2017)

Whether firms are export-oriented or import-competing, fragmentation of production creates a direct dependency on imports and exports of intermediate products.

To foster sustainable and inclusive GVCs development, G20 governments should work in a coordinated manner to eliminate pervasive non-tariff barriers, including technical barriers with no scientific basis, (particularly relevant for agroindustry GVCs), harmonize production regulations, facilitate investments and diminish government interventions that distort GVCs developments. Regulatory coherence is also a fundamental need for SME participation.

At the same time, digitalization, particularly e-commerce, is helping independent SMEs to access foreign markets by helping them reach foreign consumers and distribution networks they could not otherwise attain by "reducing trade costs, increasing SME involvement in trade and spawning a new breed of born-global enterprises"[33]. Data from e-commerce platforms shows that SMEs that use on-line platforms are five times more likely to export than those in the traditional economy.

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[32] Evenett, S. and Fritz, J. (2017). The 21st Global Trade Alert Report. [online] London: CEPR Press. Available at: https://www.globaltradealert.org/reports/42 [Accessed 20 Jul. 2018].

[33] OECD. (2018). Fostering greater SME participation in a globally integrated economy. OECD Ministerial Conference on SMEs (22-23 February 2018, Mexico City).

It is crucial to give MSMEs proper training in international trade through initiatives like the ones from ICC and ITC among others, with on line courses and eventually the implementation of apps that would allow basic understanding of international transactions.

Many countries have implemented the Customs Single Window to facilitate customs access, while others have specific programs addressed to SMEs to make exports easier.

The G20 should build on the progress made at MC11 in Buenos Aires with regards to a dedicated work plan for MSMEs at the WTO and table a set of guidelines for recommendations. The well-established "think small first principle" should guide future work on regulatory coherence and transparency, reducing burdens for SMEs inclusion, including strengthening efforts already made in public procurement discussions.

RECOMMENDATION 3: ADDRESS INCREASING NON-TARIFF BARRIERS TO TRADE THAT RESTRAIN VALUE CHAIN FRAGMENTATION AND PROMOTE SMEs INCLUSION IN GLOBAL VALUE CHAINS.

POLICY ACTIONS

3.1: G20 leaders should refrain from increasing trade distortive measures that end up affecting inclusiveness.

3.2: G20 leaders should further the WTO work in the arena of technical barriers to trade (TBT) and sanitary and phytosanitary measures (SPMs) regarding: best practices, timely notification and due follow-up, particularly in the agribusiness sector.

3.3: G20 leaders should enable SME inclusion, facilitating international trade and access to trade defense and dispute settlement mechanisms.

Policy Action 3.1: G20 leaders should refrain from increasing trade distortive measures that end up affecting inclusiveness.

It is evident that G20 countries have not fulfilled their commitment on rollback of protectionism. New measures have been introduced since the last B20 cycle, which results in a net increase (instead of a much-needed decrease) of distortive measures. B20 calls for a renewal of the G20 commitment with the implementation of a mechanism to phase out past measures.

Policy Action 3.2: G20 leaders should further the WTO work in the arena of technical barriers to trade (TBT) and sanitary and phytosanitary measures (SPMs) regarding: best practices, timely notification and due follow-up, particularly in the agribusiness sector.

Transparency and predictability are fundamental principles for the global economy. Further work is required in the arena of technical barriers to trade. Periodical report on G20 Trade Measures stops short of indicating if SPS and TBTs to newly introduced NTF are trade distortive or trade facilitating.

At the same time, low compliance with notifications only creates a disincentive to notify. If a WTO member fails to notify SPS or TBT measures, it is already too late. Other members lag behind and cannot participate and influence the drafting and particularly SMEs in developing economies suffer the consequences.

As indicated in the WTO Trade Dialogues final report dated March 2017 "there is role for companies in the TBT committees in defining best practices". It further indicates, "the TBT committee should also develop necessary rules or disciplines to address concerns from developing members and SMEs and promote better integration into global value chains."[34] This very same approach should be applied to SPS. While recognizing WTO communication efforts, a closer balanced and structured relation to the private sector in terms of an advisory committee would prove fruitful.

Policy action 3.3: G20 leaders should enable SMEs inclusion, facilitating international trade, and access to trade defense and dispute settlement mechanisms.

[34] WTO BUSINESS. FOCUS GROUP 2. Market Access, Trade in Services and. Investment Facilitation. Final report, March 2017.

TOPIC 2: MULTILATERAL INVESTMENT POLICY

RATIONALE

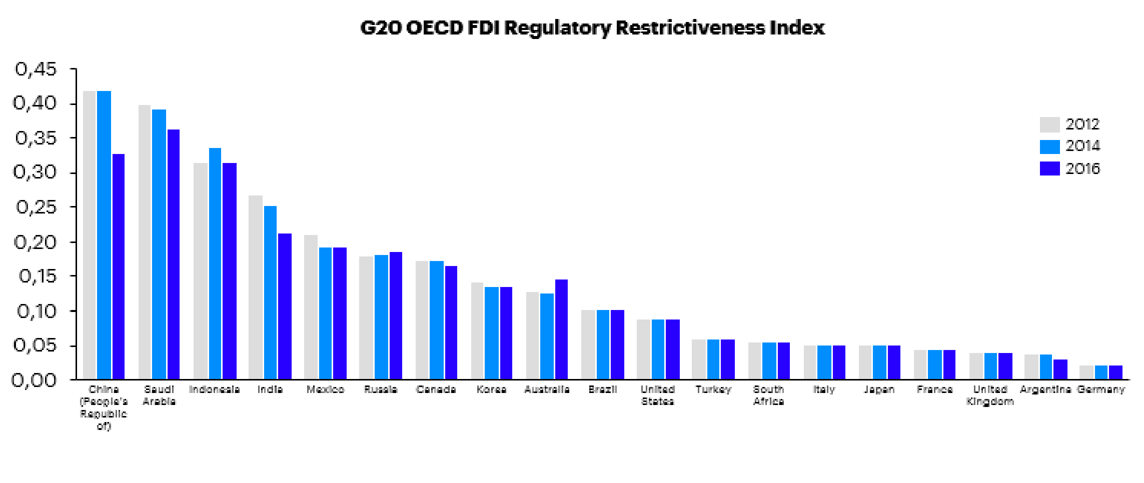
Investment is a central pillar for growth and sustainable development. According to UNCTAD, G20 countries represented 74 percent of global inward FDI and 81 percent of outward FDI[35].

Investment policymaking is becoming more complex and uncertain in G20 economies. It is also becoming more divergent as new generation agreements overlap with older ones (according to the International Agreement Navigator, 2947 bilateral agreements plus 379 agreements with investment provisions[36]). As mentioned, overlapping is abundant: i.e. six mega-regional trade agreements overlap with 95 bilateral investment treaties (BITs) and 45 regional and International Investment Agreements (IAs). Much ground work needs to be done to provide an adequate roadmap to consistency and avoid deadlocks in the field of international agreements.

Evidence shows that, as reported in the UNCTAD World Investment Report 2018, the percentage number of investment restrictive measures keeps increasing. According to the report, "in 2017, 65 countries and economies adopted at least 126 investment policy measures affecting foreign investment – the highest numbers of countries and policy changes over the past decade."[37] . From 2017 to 2018, "about 30 percent of newly introduced investment measures were of a restrictive or regulatory nature". -

Sometimes disapproving pronouncements by the government or fears of a popular backlash are enough to stop a potential cross-border investment in its tracks.

Exhibit 5| G20 OECD FDI Regulatory Restrictiveness Index



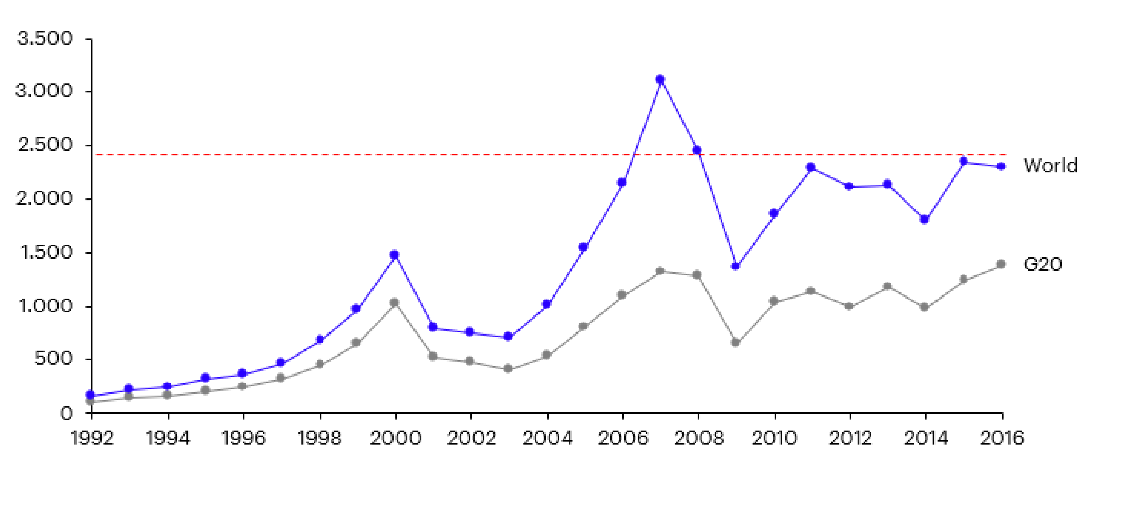
Source: OECDS, *OECD Stat* (2018), accessed July 27, 2018, http://www.oecd.org/investment/fdiindex.htm

[35] UNCTAD. (2017). World Investment Report 2017. Geneva: UNITED NATIONS PUBLICATION.
[36] For further information please visit: http://investmentpolicyhub.unctad.org/IIA
[37] UNCTAD. (2018). World Investment Report 2018. New York & Geneva: UNITED NATIONS PUBLICATION.

These are issues that demand attention and precise policy recommendations in order for FDI to regain momentum. Even if it is true that, globally, FDI fell by 16 percent in 2017, to an estimated USD 1.52 trillion, from a revised USD 1.81 trillion in 2016, trends show different conclusions according to the group of economies under study. In the case of developed countries, the decrease of FDI inflows (-27%) explains most of the general negative trend. Whereas in the case of developing economies, flows rose marginally (2%) in developing Asia and Latin America and the Caribbean and remained flat in Africa. Focusing strictly on G20 members, in 2017, FDI inflows fell, going from around USD 300 billion per quarter in 2016 to an average of around USD 200 billion in 2017.

In spite of GDP growth recovery, global FDI inflow has not regained the levels achieved before the financial crisis (2008). It becomes evident that G20 governments should develop instruments to boost much needed investments to improve global growth.

Exhibit 6| FDI, net inflows (in USD billions)



Source: Wold Bank, *World Bank Data* (2018), accessed July 27, 2018, https://data.worldbank.org/

Policymakers need to find the right balance between creating a business climate conducive to investment and removing barriers to investment on the one hand and protecting public interests through regulation on the other.

In 2016, G20 countries adopted the Guiding Principles for Global Investment Policymaking, marking the first time that a multilateral consensus on investments was reached.

These principles recognize four building blocks of investment policy and treaty making: 1) establishment, 2) protection and treatment, 3) promotion and facilitation, and 4) dispute settlement. Out of these building blocks, investment facilitation was identified as an effective first step in providing a fresh multilateral roadmap to increase investment flows growth.

Along with the growing relevance of state-owned enterprises in the trade arena, government entities relevance in FDI has increased substantially. As pointed out in the 2017 UNCTAD report, the value of greenfield projects by SOEs has risen to 11 percent of the world total in 2016, up from 8 percent in 2010. Multinational SOEs already account for 15 percent of all multinational enterprises.

Investment screening linked to "cutting edge technologies", "strategic assets", when seemingly unfair competition might develop, or when government funded acquisitions or mergers are involved, has been a growing source of concern on both sides - the international investor and the host country.

At the same time, whereas some countries do not restrict sectoral access to foreign investors, others exclude strategic sectors altogether, or force association with local partners, restrict the number of foreign employees (particularly in top management positions), or impose conditions which can eventually lead to violation of intellectual property rights, raising claims about lack of reciprocity in the investment market access.

RECOMMENDATION 4: FOSTER A MULTILATERAL INVESTMENT POLICY COORDINATION THAT WOULD ALLOW SIGNIFICANT FDI FLOWS INCREASE.

Investment facilitation could be defined by the G20 guidelines on global investment policymaking as "efforts that promote transparency and are conducive for investors to establish, conduct and expand their businesses" (article VII).

POLICY ACTIONS

4.1: G20 leaders should accelerate the multilateral framework initiative on investment facilitation and encourage all G20 member countries to contribute.

4.2: G20 leaders should reach a shared clear vision of investment screening.

Policy action 4.1: G20 leaders should accelerate the multilateral framework initiative on investment facilitation and encourage all G20 member countries to contribute.

Investment facilitation could be defined by the G20 Guiding Principles for Global Investment Policy-making as "efforts that promote transparency and are conducive for investors to establish, conduct and expand their businesses" (article VII) .

In May 2017, UNCTAD published its global action menu for investment facilitation noting that 80 percent of the efforts attracting investment referred to incentives and special economic zones and only 20 percent to investment facilitation.

The WTO should develop best practices on investment facilitation that go beyond investment attraction and focus on establishing the best enabling environment (including regulatory transparency and predictability) to encourage long-term sustainable investment.

At MC11, 70 WTO members accounting for around 73 percent of trade and 66 percent of inward foreign investment, announced plans to pursue structured discussions with the aim of developing a multilateral framework for investment facilitation.

The explicit aim of the announcement was to "improve the transparency and predictability of investment measures, streamline and speed up administrative procedures and requirements and enhance international cooperation, information sharing, the exchange of best practices, and relations with relevant stakeholders, including dispute prevention" (WT/MIN (17)/59).

B20 welcomes the initiative and suggests considering the OECD 2015 framework for investment as a fundamental starting point to further develop the framework, which should include best practices. Not all G20 countries were initial participants of the initiative and B20 encourages a more extensive participation.

An investment facilitation framework should have the ultimate purpose of inclusion for countries that have been proportionately minor recipients of FDI.

Policy action 4.2: G20 leaders should reach a shared clear vision of investment screening.

Investment policies designed to address national security concerns are not a new phenomenon. They have a long history but their expansion in recent years -as well as the growing involvement of emerging economies as actors in these areas of policy making- have nonetheless began to generate some policy debates and uncertainty among home countries for this trend.

The OECD Guidelines for the Treatment of Investment recommend that, if governments consider or introduce investment policies (including measures) designed to safeguard national security, these have to be guided by principles such as non-discrimination, transparency of policies and predictability of outcomes, proportionality of measures and accountability of implementing authorities.

Furthermore, OECD Recipient Country Investment Policies Relating to National Security recognize that each country has a right to determine what is necessary to protect its national security. The guidelines define that this determination should be made using risk assessment techniques that are rigorous and that the relationship between investment restrictions and the national security risks identified should be clear. Unfortunately, today there is no internationally binding definition of what security and public order actually means.

As highlighted by recent reports on G20 Investment Measures, more attention is being paid to investment policies related to national security within G20 economies.

Considering the diverse approaches to FDI monitoring in member countries, which vary significantly in scope (review of intra- or extra-EU FDI differing screening thresholds, breadth of sectors covered beyond defense) and in design (pre-authorization vs. ex-post screening of FDI), the EU commission adopted a proposal in Sep 17th to establish a framework which would enhance cooperation on FDI screening between the Commission and Member states, thus increasing legal certainty and transparency

Australia, Canada, Japan, China and the USA have long-established statutory FDI screening procedures. The Committee on Foreign Investment in the United states (CFIUS) is the most widely known, sophisticated and active body applying such a mechanism. All FDI screening mechanisms operate on a broad security concept that is not limited to the national defense sector but encompasses a variable number of sensitive sectors, such as critical infrastructure and technologies.

Consequently, these policy actions could imply:

- In order to better understand concerns about national security topics related to FDI, G20 leaders should request UNCTAD/ OECD to research recent measures and issues, identifying among others, host countries, investor countries, sectors, and eventually reciprocity issues and establish a periodic monitor report on the developments regarding investment screening.
- Following recent initiatives between US, EU and Japan, G20 could establish a work stream on investment screening among G20 countries with the ultimate goal of having members adhere to consensus-based criteria that would allow preservation of national security concerns and curtail distortive competitive behavior and at the same time reduce investor uncertainty. This would allow G20 countries to single out best practices in terms of precise definitions and a shortened timeline.

TOPIC 3: IMPROVING THE MULTILATERAL TRADE SYSTEM AT WTO

RATIONALE

The Word trade Organization is the guardian of a rule-based multilateral trade system, and its dispute settlement system is a central pillar of the international trade regime. It guarantees that obligations stemming from international agreements can be enforced when one of the signatories fails to comply with such obligations. As such, it has in fact served as the safe-keeper of a rule-based multilateral trade system. Nevertheless, there is growing consensus in considering that some aspects of the WTO require a successful modernization process to gain further support.

As part of the work achieved during the Doha Round, WTO Members agreed to a number of practical modifications to the DSU, which should be introduced. These modifications should result in more rapid decisions, greater possibility to settle without going to final judgment, and more transparency of hearings and submissions by parties. Of course, continued protection of the confidentiality of proprietary business information in WTO dispute settlement proceedings is encouraged.

Proposals for reform include:

- Extension of third-party rights, provided that an adequate balance between the rights of main parties and third parties is maintained.
- Improved conditions for Members seeking to be involved in consultations.
- Introduction of remand, allowing the Appellate Body the ability to remand the case back to the panel for factual findings.

RECOMMENDATION 5: GOVERNMENTS SHOULD CONTINUE THE DISCUSSION ON FUNCTIONAL IMPROVEMENTS OF WTO INITIATED IN THE DOHA ROUND, PARTICULARLY IN THE FIELDS OF REACHING NEW AGREEMENTS ENHANCING THE DISPUTE SETTLEMENT MECHANISMS.

POLICY ACTIONS

5.1: Promote a structured contact between WTO and the business community.

5.2: Strengthen the notification system.

5.3: Consider alternative decision-making schemes.

5.4: Improve the functioning of dispute settlement avoiding deadlocks.

Policy action 5.1: Promote a structured contact between WTO and the business community.

Establishing direct contact with the WTO and enhancing a permanent trade dialogue is vital for the business community. Business, trade and the WTO have always been closely connected, as the Trade Dialogues illustrates. The main findings of a recent WTO survey among the business community allowed this organization to gain a better understanding of the needs of businesses and how the WTO and businesses can better work better together.

Permanent working contact with business working teams such as BIAC in relation to OECD.

Policy action 5.2: Strengthen the notification system.

The WTO's rule-based system provides the predictability and accountability that businesses need before they invest.

The first step would be for the WTO to vastly improve the notification system in terms of fostering more timely commitment and accuracy from members.

The joint readout from the United States, European Union and Japan meeting in Brussels in March 2018 reaffirmed the intention of these governments to work jointly with WTO regular bodies towards improving the effectiveness and efficiency of the WTO monitoring function, including the strengthening of notification requirements.

Compliance and sanctions mechanisms applicable to members that forego their obligations should also be put in place. We insist on the notion that mild enforcement only creates a disincentive to notify measures.

In this respect, leaders should note that article XVII of the 1994 GATT points out that the purpose of the notification is not only to add transparency but also to ensure compliance.

At the same time, we suggest that WTO monitoring and reporting mechanisms should be equally strengthened to allow for the assessment of support programs and barriers.

Policy action 5.3: Promote a structured contact between the WTO and the business community.

G20 members should start considering options for an alternative decision-making scheme that would impede blocking the adoption of disciplines routinely agreed in deep regional trade agreements.

Policy action 5.4: Improve the functioning of dispute settlement avoiding deadlocks.

The WTO should work on improving the efficiency of the dispute settlement mechanism, both in terms of cost and duration. WTO-inconsistent measures are being applied regardless of the end result of a dispute settlement process given the time it takes to final resolution. A shortened timeframe, as the WEF has noticed, could also be more effective to ensure everyone sticks to the agreed rules.

There is a need to unblock the Appellate Body stalemate. Transparency should be increased substantially to address some member´s concerns regarding the Appellate Body decisions in creating new obligations.

An Appellate Body crisis at the WTO has arisen from a decision by the United States not to support new appointments to the court on the grounds that Appellate Body members should be obligated to cease their activity upon the expiration of their terms and such obligation has not been fulfilled. As a result, the activity of the seven-member Appellate Body is at risk of grinding it to a halt. Leaders should agree on a way forward to resolve the crisis with a positive and proactive approach.

ANNEX I: GLOSSARY

In order to better define the scope of policy recommendations, a certain lexicon has to be agreed upon. The following glossary is exclusively intended to provide a better understanding of the general concepts of this B20 policy document.

Recommendation 1

State-owned enterprise: According to OECD (2015: 7): “countries differ with respect to the range of institutions that they consider as state-owned enterprises. For the purpose of the Guidelines, any corporate entity recognized by national law as an enterprise, and in which the state exercises ownership, should be considered as an SOE. This includes joint stock companies, limited liability companies and partnerships limited by shares. Moreover, statutory corporations, with their legal personality established through specific legislation, should be considered as SOEs if their purpose and activities, or parts of their activities, are of a largely economic nature.”

Some agreements, such as the Trans-Pacific Partnership (TPP), define a state-owned enterprise as an enterprise principally engaged in commercial activities in which the government either:

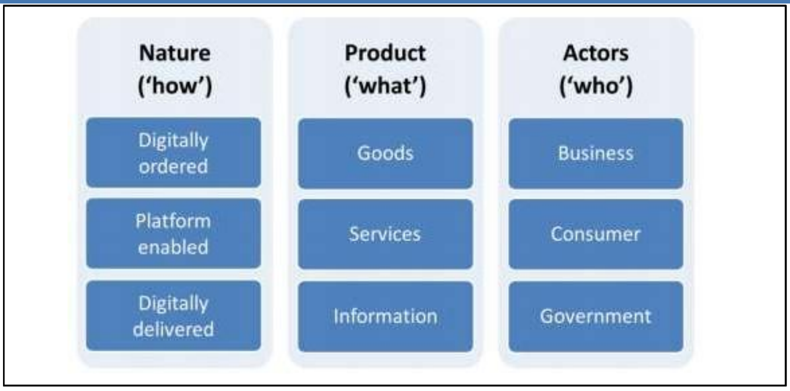
- owns more than 50 percent of the share capital
- is the ultimate beneficiary of 50 percent of the voting shares (or otherwise exercises an equivalent degree of control); or
- has the power to appoint a majority of members of the board of directors or any other equivalent administration body.
- The Global Forum on Steel Excess Capacity considers ten percent ownership as a definition of SOE but focuses on cases where the state as the ultimate beneficiary has a controlling stake.
- we also acknowledge that at the same time G20 countries may have other definitions, that may differ from the ones above.

For the purpose of these high-level policy recommendations, taking into account we are discussing competitive neutrality, it is fitting that the most inclusive definition of enterprises prevail. Therefore, we will consider the OECD definition for the purpose of this document.

Recommendation 2

Digital Trade:

Exhibit 7| Dimensions of Digital Trade



Source: OECD, 2017

Digital Trade: OECD (2017: 6) developed a categorization of digital trade that takes into account three dimensions: "the nature of the transaction, the product and the actors involved." In particular, as regards the nature of the transaction, it identifies that in order to fall under the scope of the term, the transactions need to be "digitally ordered, platform- enabled, or digitally delivered".

E-commerce: OECD defines an e-commerce transaction as the "sale or purchase of a good or service, conducted over computer networks by methods specifically designed for the purpose of receiving or placing orders. The goods or services are ordered by those methods, but the payment and ultimate delivery of the goods or services do not have to be conducted online. An e-commerce transaction can be between enterprises, households, individuals, governments, and other public or private organizations. To be included, orders are to be made over the web, extranet or electronic data interchange. To be excluded, orders are to be made by phone, fax or manually typed email" (OECD, 2017: 6). As such, e-commerce is an important part of cross-border digital trade, but the latter is not limited by it and encompasses other elements as well.

Platform-enabled takes into consideration intermediate platforms such us Amazon, Alibaba, Uber, Mercado Libre, which connect products and services with consumers online. As clearly gathered from the definition, digital trade transactions do not necessarily involve such platforms.

Digitally ordered: refers specifically to e-commerce transactions but such transactions do not need to be performed through an intermediate platform.

Digitally delivered focuses on those "services and data flows that are delivered digitally as downloadable products" (OECD, 2017: 7). It refers to software, e-books, games, music, movies, data and database services.

ANNEX II: LIST OF ABBREVIATIONS

B2B	Business-to-business
B2C	Business-to-consumers
COBIT	Control Objectives for Information and related Technology
FDI	Foreign Direct Investment
FFDR	Free flow of non-personal data
GDPR	General Data Protection Regulation
GVCs	Global Value Chains
ICC	International Chamber of Commerce
LDCs	Least Developed Countries
MSMEs	Micro, Small and Medium Enterprises
OECD	Organisation for Economic Co-operation and Development
PPI	Personally identifiable information
PTA	Preferential Trade Agreement
SME	Small and Medium Enterprises
SOEs	State Owned Enterprises
SPI	Sensitive personal information
SPMs	Sanitary and Phytosanitary Measures
TBT	Technical Barriers to Trade
TFA	Trade Facilitation Agreement
UNCTAD	United Nations Conference on Trade and Development
WEF	World Economic Forum
WTO	World Trade Organization

ANNEX III

SCHEDULE OF TASK FORCE EXCHANGES

#	Date	Location	Theme
1	March 23rd	Teleconference	Inception Document and Participation Chanel Results
2	April 20th	Washington	1st Policy Paper Draft Discussion
3	May 28th	Paris	2nd Policy Paper Draft Discussion
4	July 10th	Teleconference	2rd Policy Paper Draft Discussion
5	August 13th	Teleconference	Advocacy Process