

# FIVE KEY INGREDIENTS FOR A HIGH STANDARD OUTCOME ON TRADE-RELATED ASPECTS OF E-COMMERCE

## 1. MARKET ACCESS AND CONNECTIVITY

Common rules to ensure open, non-discriminatory access to digital and digitally-enabled markets that support competition and enable the development of vibrant ecosystems to support the growth of digitally-enabled trade. The global use of ICT applications and e-commerce must also be supported by better conditions of deployment and adoption of very high-capacity networks.

Provisions to ensure market access and national treatment for electronic payments providers to enable choice and service options for consumers and businesses. Additionally, new provisions to encourage the use of electronic payments for customs and duties in multiple currencies, without mandatory currency conversion.

## 2. CROSS-BORDER DATA

Recognition that existing WTO rules in GATS Annex on Basic Telecommunications, particularly but not limited to Article V, apply to all economic activity in both goods and services covered by the agreement, to ensure that international transfers of data continue to be protected, as well as an obligation to be bound by the Telecommunications Services Reference Paper.

Any exceptions to this rule under applicable privacy or security regulations should be limited to public policy objectives and subject to GATS XIV. Such a framework could build on the OECD Guidelines on the Protection and Privacy of Trans-border Flows of Personal Data, the APEC Cross Border Privacy Rules system, and other regional policy frameworks, as appropriate.

A permanent prohibition on customs duties and discriminatory tariffs for digitally-supplied products and electronic transmissions to ensure that customs duties do not impede the flow of data, communications, music, video, software and games.

## 3. TRADE FACILITATION

New disciplines building on the Trade Facilitation Agreement to enable simplified processing of low value shipments, including through establishment of a commercially meaningful baseline *de minimis* threshold for low value / low risk goods and a separate threshold for informal clearance of goods valued above the *de minimis* threshold but below what is required for formal clearance.

## 4. TRUST & SECURITY

Commitments on cross-border consumer protection standards, data protection standards and dispute settlement to strengthen consumer trust and confidence in cross-border e-commerce, including a commitment from each Party to have a data protection framework in law, that is effective and transparent in operation and embodies the minimum best practice standards. Such a framework would help ensure legal certainty for businesses and also support consumers in cross-border business-to-consumer e-commerce.

In addition, forced transfer of technology, source code, algorithms and encryption keys should be prohibited in order to ensure the protection of data and intellectual property rights.

## 5. CAPACITY BUILDING

The United Nations should significantly scale up and enhance coordination of existing trade-related capacity building programs to expand connectivity, bridge digital divides and digitally-enabled market access, including targeted capacity building programs for MSMEs looking to expand through e-commerce.