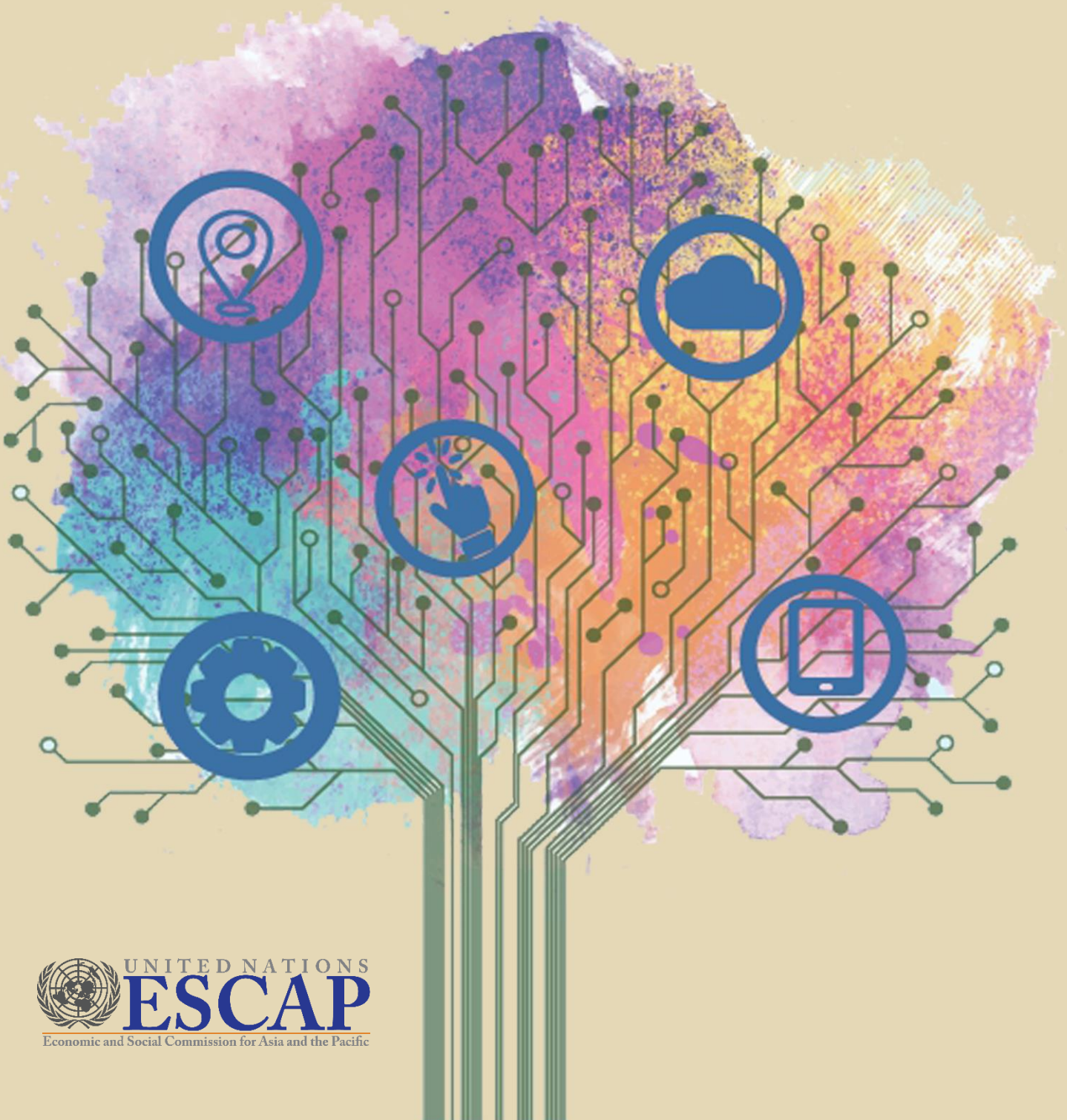
NATIONAL ACTION PLAN

PROMOTING PAKISTAN'S DIGITAL TRADE INTEGRATION IN THE ASIA-PACIFIC REGION



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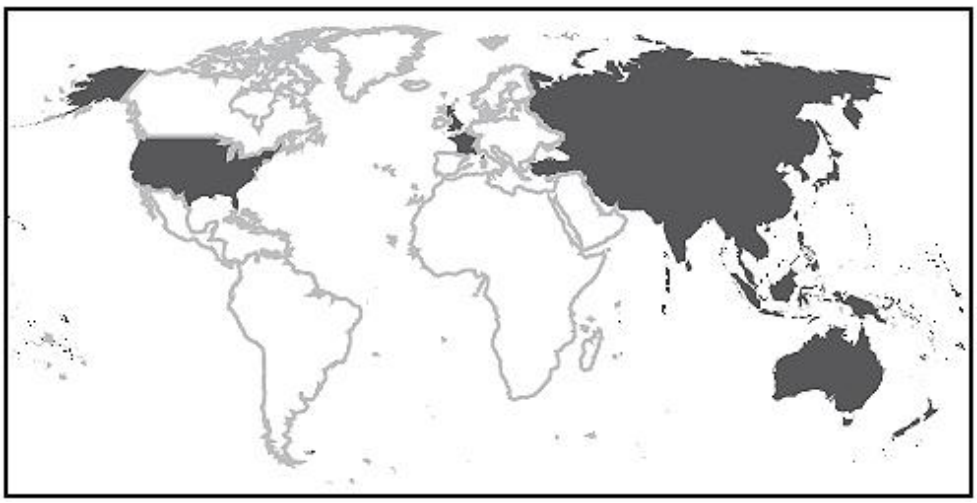

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Abstract

Study shows Pakistan has relatively restrictive digital-trade policy environment. Removing trade obstacles on investment in digital sectors, digital goods, and services would serve Pakistan's interest to fully utilize the opportunity brought by digital technology. It will allow firms to seize digital trade opportunities and create productivity effects. The success of Pakistan in digital transformation will depend on whether the country can overcome the barriers to adopt the latest technologies made available through growing FDI and increase openness to digital trade and technology ideas.

It is important that domestic policies are complemented by the digital trade integration of Pakistan at multilateral, regional and bilateral level. Collaboration with international organizations for technical assistance and with the private sector to address specific and most pressing challenges is a priority. Participating in the new-generation FTAs could be an instrument to support advancements in digital trade and lift restrictions in some areas such as data flows, consumer protection, digital goods and IPR. In addition, Pakistan should consider engaging actively in the plurilateral discussions on the Joint Statement Initiative (JSI) on digital trade ongoing at the WTO level.

Contents

Abbreviations and Acronyms

B2B	business-to-business
B2C	business-to-consumer
CJEU	Court of Justice of the European Union
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
DECT	Digital Enhanced Cordless Telecommunication
ESCAP	(United Nations) Economic and Social Commission for Asia Pacific
FIA	Federal Investigation Agency
FTA	Free Trade Agreements
ITA	Information Technology Agreement
ISPs	Internet Service Providers
JSI	Joint Statement Initiative
MOITT	Ministry of Information Technology and Telecommunication
NRI	Networked Readiness Index
PCT	Patent Cooperation Treaty
PECA	Prevention of Electronic Crimes Act
PTA	Pakistan Telecommunications
PTCL	Pakistan Telecommunication Company Ltd.
RIM	Research in Motion
SBP	State Bank of Pakistan
SDoC	Self-Declaration of Conformity
SDPI	Sustainable Development Policy Institute
SOEs	State-Owned Enterprise
UNCTAD	United Nations Conference on Trade and Development
UNESCO	United Nations Educational, Scientific and Cultural Organization
WEF	World Economic Forum
WTO	World Trade Organization

Introduction

The Asia-Pacific region is already the fastest growing e-commerce marketplace. The region covers 43% of the global share of the e-commerce market with a value of USD 1 trillion in e-commerce transactions. In this context, those countries in the region which will succeed in implementing a conducive environment that can leverage on digital trade are set to benefit the most from the value created by the digital economy. Pakistan is one of these countries.

While Pakistan is the second highest exporter of ICT services from South Asia with more than USD 1 billion of exports, this represents only 0.2% of world market share. Moreover, Pakistan's exports are concentrated in a few traditional products, which calls for diversification in trade in goods and services. Digital trade represents an opportunity to promote diversification with low up-front trade costs due to the very nature of the internet that reduces the burden of distance (see Lendle et al., 2016). The national study on digital trade integration (SDPI, 2021) clearly shows that Pakistan lags behind in terms of exports of digital goods, while instead exports in some digitally-enabled services are increasing over time and are supporting Pakistan in achieving trade balance. This calls both for more investment in the production of digital goods in the long-term, while in the short-term supporting digital trade in services.

The country has already implemented several policies and strategic frameworks to support digital trade. The Strategic Trade Policy Framework of Pakistan 2015, for example, targets the increase in annual exports and export competitiveness. The key enablers defined in the policy to achieve the target include promoting the technological development, protection of intellectual property, tax regime and investment policies. The E-Commerce Policy of Pakistan 2019 aims to streamline laws and regulatory framework for e-commerce business, provide efficient e-payment through issuing rules and regulations and address challenges in taxation structure and digital infrastructure. The State Bank of Pakistan (SBP) has approved the e-commerce payment gateway "PayFast" to begin its operations (Profit Pakistan Today, 2020). PayFast offers payment acceptance by multiple instruments including UnionPay, Mastercards, mobile wallets, Visa and bank account numbers. Finally, the Digital Pakistan Policy 2018 and the Digital Pakistan Vision 2019 set the foundation for the construction of a holistic digital ecosystem with advanced concepts and components for the rapid delivery of next generation digital services, applications and content.

Building on these policies implemented in the recent years and on the momentum created by the COVID19 crisis to support digitization and digital adoption in the country, this paper presents policy recommendations for a national action plan for Pakistan's digital trade integration in the Asia-Pacific region. Digital trade and cross-border data flows can support Pakistan's growth by tapping into the potential of the digital economy. With a national strategy targeted at lifting restrictions on digital trade, Pakistan has the potential to increase its exports, especially in high value-added and content-intensive activities, and therefore reap the benefits of the digital economy.

The analysis is based on the measures listed in the RDTII database, on the country study on digital trade integration in Pakistan developed by the Sustainable Development Policy Institute (SDPI, 2021) and on other recent reports on digital trade strategy in Pakistan. The policy actions included in this national action plan cover: (i) policies related to trade in digital goods, (ii) regulation of cross-border data flows and domestic processing of data, (iii) content access and intermediary liability; (iv) policies on online sales and transactions, (v) taxes on digital

goods and services, and (vi) policies related to the telecommunication sector and connectivity. In addition, the report presents a brief section on complementary policies that cover digital skills, IPR, policies on startups and transparency. Finally, the report concludes with a reference to trade negotiations at plurilateral and multilateral levels which might act as a leverage to lift some of the restrictions identified in the analysis.

Policy to support regional trade in digital goods

Both Pakistan's share of ICT goods exports (as a percentage of total exports) and ICT imports (as a percentage of total imports) have decreased substantially from 2005 to 2017 (Saez *et al.*, 2020). This downward trend gives the impression that Pakistan has been less able to profit from positive spillover effects that come with the imports of ICT goods, while also showing limited trade competitiveness which prevents the country from having access to up-to-date technologies embodied in goods necessary to increase competition (*Ibid.*). This section highlights some policy actions that Pakistan could put in place to support regional trade integration in digital goods.

A. Reduce Tariffs on ICT products from other ESCAP countries

Despite the general reduction witnessed in the past years in the tariffs applied by Pakistan, the tariffs applied on digital goods are still high. According to the analysis conducted, Pakistan applies an effective tariff rate equal to 7.57% (weighted average) on digital goods imported from ESCAP countries (UNCTAD TRAINS, 2019). This level is almost double the average of 3.94% which is applied by countries in the Asia-Pacific region. While tariffs can be an important source of revenue, the country should consider lowering tariffs on certain digital goods which might be important for the digital economy.

In addition, the country has also a low share (only 9.36%) of digital goods with zero-tariffs applied, which can result in higher costs for digital goods in the country (UNCTAD TRAINS, 2019). This low level of zero-tariffs coverage is not surprising given that Pakistan is not signatory of the 1996 WTO Information Technology Agreement (ITA) nor its expansion (ITA II). As of today, 82 countries representing about 97% of world trade in IT products have signed the agreement. The signature of the ITA would be an important signal to show that Pakistan wants to play an active role in digital trade and would allow to decrease the costs of digital goods (including inputs) in the country.

B. Introduce de Minimis Rule to facilitate cross-border e-commerce transactions

Pakistan has no de minimis rule, which means that there is no minimum value below which a good is exempted from duties and taxes collected by customs at the border. The country should consider implementing a de minimis rule in order to reduce costs on imports and foster online transactions across borders.

C. Eliminate unnecessary import bans and other import restrictions on digital goods

The RDTII database shows that the Import Policy Order of 2020 renewed the ban on import of digital products from India and Israel, while the Import Policy Order of 2016 banned the import of Digital Enhanced Cordless Telecommunication (DECT) 6.0 phone and discs, tapes from all countries. The Import Policy Order of 2016 also states that only the Pakistan Television Corporation and other licensed authorities by the Federal Government are allowed to import transmission apparatus for radio broadcasting or television, television cameras, digital cameras and video camera recorders. Other companies which have an agreement with the Government

may also import these items for the supply of cellular and mobile phone facilities. On top of these bans, the analysis under the RDTII found that the Strategic Trade Policy Framework (2015-2018) requires that, in order to avoid the misuse of 3D printers, they can only be imported with prior permission from the Ministry of Interior.

Restrictions on imports of digital goods can reduce the availability of inputs for manufacturing while also increasing the costs of digital products for consumers. Therefore, the government should consider removing these restrictions to enhance digital trade.

Policy to facilitate cross-border data flows

Cross-border data flows and domestic data processing are considered to be the lifeblood of the digital economy, therefore restrictions on data are likely to discourage the growth of value-added and content-intensive services in Pakistan. As restrictions on data flows and data processing create costs for digital services and make local companies less productive (Ferracane, *et al* 2020; Ferracane and van del Marel, 2018), this study suggests lifting the data restrictions implemented in the country as well as to implement a comprehensive data protection regulation and a framework for cybersecurity.

A. Data policies: Lift restrictions on cross-border data transfers

According to the analysis conducted in the RDTII, it appears that several restrictions apply to the transfer of data to countries not recognized by Pakistan, which include Israel, Taiwan, Kosovo, Somaliland, Nagorno-Karabakh, Transnistria, Abkhazia, Northern Cyprus, Sahrawi Arab Democratic Republic, South Ossetia and Armenia. More importantly with regard to digital trade, it appears that data can only be transferred to India if such a transfer can be justified by the transferor. Such restrictions should be lifted, if considered politically feasible.

Moreover, the analysis in the RDTII found that data collected by banks, insurance firms, hospitals, defense establishments and other 'sensitive' institutions may not be transferred to any individual or body without authorization from the relevant regulator on a confidential basis. While it is important to preserve the privacy of consumers, it should be avoided that the conditions on data transfers result in unnecessary restrictions on digital trade without adding to the level of protection of these data. The government might want to consider some alternative measures which protect the privacy of citizens regardless of whether the processing happens within or outside the national borders.

B. Data protection law: Finalise the Data Protection Law and avoid unnecessary restrictions

There is no specific data protection regime in Pakistan, although the Prevention of Electronic Crimes Act 2016 contains some provisions on data protection. It prevents unauthorized acts with respect to information systems and provides for related offences as well as mechanisms for their investigation, prosecution and trial. A Personal Data Protection Bill has been uploaded by the Ministry of Information Technology and Telecommunication (MOITT) on its website for stakeholders' comments before it is tabled to the Parliament. Although the final version of the document is not available, it appears that some versions of the bill have included the requirement to store a copy of all personal data on servers within the territory of Pakistan and a prohibition of transfer of 'critical data', which include 'data relating to access control (username and/or password), financial information such as bank account, credit card, debit card, or other payment instruments, and, passports, biometric data, and physical, psychological, and mental health conditions, medical records, and any detail pertaining to an individual's ethnicity, religious beliefs, or any other information for the purposes of this Act and rules made there under' (Page 6 of the Bill). Such a requirement would create costs for digital services and should be reconsidered if Pakistan aims to become a digital leader. In fact, several studies show that these restrictions are costly for trade in digital services and they are not the least trade restrictive option to achieve the desired policy objective (among others, see Ferracane, *et al* 2020; Ferracane and van del Marel, 2021).

The Bill states that personal data other than those categorized as critical data may be transferred outside the territory of Pakistan under a framework (on conditions) to be devised by the Authority (Page 11 of the Bill). If the conditions will reflect the EU approach of conditionalities and adequacy, it is important that the framework is laid out in a transparent way so that there is legal certainty regarding how to be considered 'adequate' as a recipient country. In addition, it should be analysed whether in practice the conditions improve the quality of data protection or rather create unnecessary costs for digital trade.

C. Data policies: Consider limiting data retention requirements

The Prevention of Electronic Crimes Act (PECA) includes data retention provisions that make it mandatory for service providers to hold traffic data for a one year minimum or as "authorised officers" see fit. Art. 32 states that a service provider shall, within its existing or required technical capability, retain the specified traffic data for a minimum period of one year or such period as the Authority may notify from time to time and, subject to production of a warrant issued by the Court, provide that data to the investigation agency or the authorized officer whenever so required. The government should consider whether such a requirement is proportional to achieve the objective of supporting law enforcement authorities and whether less trade restrictive alternatives are available. In a 2016 ruling, the Court of Justice of the European Union (CJEU) invalidated the Data Retention Directive which imposed similar requirements as the PECA. The CJEU considered the data retention directive invalid in the light of serious interference with the rights to privacy and personal data protection of individuals.[1]

In addition, Section 31 of the Act discusses "expedited preservation and acquisition of data". It allows an authorized agent to require a person to hand over data without producing a court warrant if it is believed that it is "reasonably required" for a criminal investigation. This has been termed as a 'blanket authorization provision' that gives the executive direct authority to take action without any judicial oversight or scrutiny (Khan, 2016). In addition, no test as to what amounts to a reasonable requirement is provided in the section. This is considered problematic because of the lack of checks and balances, which could afford the executive a discretionary power which might result in the violation of fundamental rights. The fact that the government has such a level of discretion to access users' data might reduce the willingness of consumers to use digital services. It is therefore suggested to enforce a more transparent mechanism to ensure that investigations can be conducted in a transparent way while respecting the privacy of citizens.

D. Data policies: Need for a cybersecurity framework

The current legal framework for cybersecurity is governed by the PECA. While PECA punishes unauthorised access, copying and transmission of data as well as the interference with an information system and critical information systems, the current regulation lacks a comprehensive framework to protect critical infrastructure systems and prevent cybercrime. Considering also that 12'000 complaints were reported to the Federal Investigation Agency (FIA) in 2019 related to e-commerce and online banking related crimes, Pakistan should consider implementing a more updated legal framework for cybersecurity and support companies with the necessary skills and technical capabilities to implement cybersecurity. The

[1] Grand Chamber, Digital Rights Ireland Ltd. (C–293/12) v. Minister for Communications, Marine and Natural Resources, http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62012CJ0293&rid=1

NIST cybersecurity framework published by the US National Institute of Standards and Technology could provide guidance in this area.[2]

[2] More information of the framework can be found at this website: https://www.nist.gov/cyberframework

Policy on intermediary liability

Internet intermediaries are those companies that act as an intermediary between content producers and the internet, facilitating its use. Such companies include Internet Service Providers (ISPs), search engines and social media platforms. In those jurisdictions that provide a safe harbour mechanism, the intermediary is shielded from the responsibility for the user's actions as long as it respects certain conditions and acts promptly when notified of an illicit behaviour. Conversely, in those jurisdictions without a safe harbour framework, intermediaries bear the legal responsibility, i.e. "liability", for illegal or harmful activities performed by users through their services. They have the obligation to prevent the occurrence of unlawful or harmful activity by users of their services and, in case of failure to comply with such obligation, they might be exposed to civil or criminal legal action. The existence of a safe harbour, therefore, is considered a strategic factor supporting the emergence of innovative services: it provides intermediaries with the sufficient legal certainty to conduct a wide range of activities, free from the threat of potential liability and the chilling effect of potential litigation.

A. Intermediary liability: clarify the coverage of safe harbour

Section 38 of PECA limits civil or criminal liability for service providers for content posted by users, unless it is proven that the service provider had "specific actual knowledge and willful intent to proactively and positively participate" in cybercrimes committed under the Act. However, there have been concerns regarding lack of clarity, particularly with regards to what constitutes "willful intent". It is suggested to clarify this concept in order to ensure legal certainty for intermediaries and users.

Moreover, it is reported that the Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules 2020 passed in November 2020 create new obligations and liabilities for social media companies which can be in contradiction of limitation of intermediary liability provisions for technology companies in PECA. It is suggested to verify the compatibility of the new rules with the safe harbour regime under PECA and to avoid unnecessary restrictions on intermediaries.

B. Content Access: Limit blocking and filtering of web content

Section 37 of PECA gives the Pakistan Telecommunications Authority (PTA) the power to block or remove access to information "if it considers it necessary in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality." Based on this section, the PTA blocks a considerable number of websites in Pakistan, with over 900'000 websites reported to be blocked in 2019.[3] The authority can also be directed by the federal government in requiring its licensees to implement IP/URL blocking and filtering protocols.

It is reported that instances of state blocking and filtering of the internet have increased since 2005 with instances of blocking websites and social media, e.g. Facebook, YouTube and Twitter. In addition, the UNESCO reports that, in 2017, Pakistani authorities imposed internet

[3] See DAWN (2019), *900,000 websites blocked over content, says PTA*, September 2019, https://www.dawn.com/news/1507590/900000-websites-blocked-over-content-says-pta (last accessed in April 2021).

and mobile network shutdowns in different parts of the country at least 17 times. Cell phone networks were shut down on five occasions in Islamabad and Rawalpindi alone. These, along with complete media shutdowns, occurred as a response to political unrest.

These blockings can create costs on internet service providers and undermine the quality of the digital services for internet users, impacting in turn digital trade integration. Therefore, it is suggested to limit these practices, where considered politically feasible.

In January 2020, the Federal Cabinet approved the Citizens Protection (Against Online Harm) Rules 2020, a set of regulations on social media content. There was no public consultation and the process has attracted criticism from different segments of society, including from the Asia Internet Coalition.[4] The implementation of the rules was suspended, but in November 2020 the Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules 2020 were approved, attracting similar criticism. The rules hold that online dissemination of any information that intimidates or harms the reputation of the Federal or Provincial Government or any person holding public office or attempting to "excite disaffection towards" the government would be seen as a threat to 'integrity, security and defense of Pakistan" and would be removed or blocked. It is suggested to initiate a consultation process with both the private sector and civil society in order to take into account the impact of these regulations on the economy and on citizens' rights.

C. Allow foreigners to access licences for broadcast media and distribution services

Under Section 25 of the Pakistan Electronic Media Regulatory Authority Ordinance 2002, a licence is required for broadcast media and distribution services. These licenses cannot be granted to foreigners. This can limit the availability of online digital services to Pakistani consumers and therefore it should be considered to soften these restrictions.

[4] See among others: Article 19 (2021), *Pakistan: Online Harms Rules violate freedom of expression*, August 2020, https://www.article19.org/resources/pakistan-online-harms-rules/ (last accessed in April 2021).

Policy on online sales and transactions

The steady increase in online sales and transactions over the years in both developed and developing countries shows how critical these flows have become for digital trade. UNCTAD estimates that the value of global e-commerce regarding business-to-business (B2B) exceeded USD 15 trillion and that of business-to-consumer (B2C) was around USD 1.2 trillion in 2013. In Asia and Africa, the B2C part of e-commerce is rapidly growing. In order to foster these activities, there should be a conducive environment for online sales and transactions.

A. Consumer protection: Implement a framework for consumer protection online

While the Telecommunication Consumer Protection Regulations 2009 apply to telecom services, Pakistan lacks a general framework for consumer protection for online sales and transactions. Such protection is an important priority to build trust in digital trade. According to the analysis conducted by SDPI, there is also a need to streamline provincial and federal consumer protection laws.

B. Remove unnecessary restrictions on online payments

According to a survey conducted by the World Bank, 34.7% of firms cite poorly working online payment systems as one of the top three challenges in conducting e-commerce business in Pakistan (World Bank, 2020). On one hand, it is reported that there are various service costs associated with digital payments, which are even higher if online payments cover cross-border transactions. It is also reported that taxes on local payments to foreign companies are high and it is still difficult to make large international payments online. On the other hand, foreign exchange regulations are considered burdensome and complicated, with intense paperwork and 6-7 days needed for international payments to be processed.

According to the World Bank (Saez *et al.*, 2020), firms have difficulties opening bank accounts in USD for pay firms and other trading partners. It is also reported that there are only a few banks which offer debit cards that can be used for online payments or have the facility of transferring money from online accounts to other bank accounts. Furthermore, the vast amount of different payment gateways by different banks and/or telecom companies has created a fragmented market which means that online businesses have to manage different banks and strike deals with several payment suppliers in order to reap larger market share.

These restrictions should be removed in order to foster online payments. The recent ban imposed in November 2020 on online payments from India for the subscription of electronic media content also risks limiting the development of digital transactions and the services available to Pakistani companies and consumers.

C. Encryption: avoid unnecessary costs for accreditation of encryption and cryptography services

Pakistan requires entities using encryption and cryptography services to obtain accreditation from the Electronic Certification Accreditation Council, which falls under the Ministry of Information Technology. It is reported by firms that, in practice, this requirement is not

consistently enforced. For example, WhatsApp is widely used in Pakistan, despite the company's April 2016 announcement that it would employ end-to-end encryption. However, Research in Motion (RIM), the makers of BlackBerry mobile devices, faced scrutiny from the government regarding its use of encryption. The government should promote transparency related to this requirement and consider lifting it.

Taxation

Both foreign investors in Pakistan and domestic firms regularly report that federal and provincial tax regulations are difficult to navigate. The World Bank's Doing Business Report notes that companies pay 34 different taxes, compared with the average of 27 taxes in other South Asian countries. In addition, companies lament the lack of transparency in the assessment of taxes.

At present, general sales tax on services are collected from provinces. The criterion and rule of applying and collecting different general sales tax rates on services are different. For example, in Punjab Province, the preference is given to collection of taxes at the point of sale, whereas in Sindh, taxes are collected at the point of origin of the services. At present, the applicable sale tax rates in Khyber Pakhtunkhwa, Sindh, Baluchistan, Punjab and are 15%, 13%, 15% and 16% respectively.

These different criteria used by the provinces and the overlap with central government on certain taxes are found to create an unnecessary high taxation burden and a complex administration system. It is also reported that changes in tax code take place very frequently at the federal and provincial levels. Businesses are of the view that double taxation at federal and provincial levels not only increases the burden of taxation, but also enhances confusion related to the taxation system, which fragments the domestic market across provinces.

In order to promote digital trade, the tax system should be simplified and better coordination of tax authorities should be promoted. Reforms could take the form of harmonization in sales tax rates, avoidance of double taxation and simplification of the procedures in the filing of the tax returns.

Policy related to telecommunication sector & connectivity

Pakistan has seen a remarkable increase in broadband subscribers from 2% to 30% within five years (SDPI, 2021). Internet penetration also grew substantially in the past year, but it is still low compared to other countries in the region (35%).[5] Despite the improvement in the availability of bandwidth, the internet speed of fixed broadband is the lowest in South Asia and, in addition, the cost of internet is the highest among South Asian countries (Saez *et al.*, 2020). This is also reflected in the score of Pakistan in the Pillar 3 on Infrastructure and Digital Content of the Networked Readiness Index (NRI) of the WEF, where Pakistan ranks 126th out of 139th countries analyzed.

The World Bank reports that, based on a survey conducted in 2020, the most important domestic obstacles for Pakistan's IT services firms are electricity shortages and IT infrastructure. The adequate provision of digital infrastructure, that is essential to promote digital trade, needs to be strengthened to raise the supply capacity of the digital trade sector in Pakistan.

A. Promote competition in the telecommunication sector

Although the telecommunication sector is deregulated and liberalized, Pakistan Telecommunication Company Ltd. (PTCL) still owns the access to the last mile infrastructure. The company is still a State-Owned Enterprise (SOEs), which could cause inefficiency.

While the telecommunication sector in Pakistan does not have a minimum domestic presence requirement, it is reported that the PTA prefers an established local entity that applies for a licence to provide telecommunications services. Such a preference risks creating inefficiencies in the telecommunication sector, which is a crucial sector underpinning the digital economy.

B. Clarify standards and certifications for telecommunication equipment

According to a survey conducted by the World Bank (Saez *et al.*, 2020), firms report that certification procedures for telecommunication equipment are considered to be cumbersome, complex and obsolete. Chapter 2 of the Telecom Act requires that telecom equipment should conform to the standards adopted by the PTA. In order to promote digital trade and avoid unnecessary costs, it is important that the standards adopted nationally do not differ from those internationally recognized.

In addition, Section 29 stipulates that no terminal equipment can be directly or indirectly connected with a public switched network unless it has been type approved by PTA. It is also reported that the type approval for a local manufacturer is twice cheaper (5000 PKR, approx. 48 USD) than for a foreign one (100 USD). While such an approval may be important for security reasons, the government should consider whether such a strict requirement applies to all telecom products or whether some of them can be approved with a Self-Declaration of Conformity (SDoC) or with a third party certification which could be undertaken in third countries (including through Conformity Assessment Bodies identified in Mutual Recognition Agreements).

[5] See the website of Data Reportal, *DIGITAL 2020: Pakistan*: https://datareportal.com/reports/digital-2020-pakistan

Complementary enabling policies

In addition to removing certain policy restrictions which are directly relevant for digital trade, Pakistani government can foster digital trade by implementing complementary enabling policies. These include, but are not limited to, investment in human capital, protecting IP, supporting entrepreneurship and innovation, while also promoting transparency and data collection for better informed policy-making.

A. Invest in human capital and digital skills

The IT firms surveyed by the World Bank (Saez *et al.*, 2020) identified lack of skilled human resources as a hindrance in adopting technological advancements. According to the study, the specific skill gaps identified include: coding, English, soft skills (in particular communication and teamwork), knowledge of corporate culture and customer management for foreign clients. It is also crucial to provide the necessary training to employees on privacy and cybersecurity. A collaboration and dialogue with the private sector should be encouraged to identify the most relevant skills needed.

While promoting these skills among employees is important, if Pakistan aims to become a digital leader, it will be crucial to invest in developing the so-called 21st century skills starting from primary schools.[6]

B. Intellectual property rights

Pakistan is not a member of the Patent Cooperation Treaty (PCT), which is considered conducive to digital trade. In addition, several reports state that there are issues related to the lack of enforcement with more than 3,000 unattended complaints. According to the WEF Global Information Technology Report 2016, the rate of pirated software in the country is 85%, which is considerably higher than the average as Pakistan ranks 96th out of 139 countries analysed in the report. Moreover, Pakistan remains under the watchlist of the US Trade Representative in the latest Special 301 Report.[7]

According to a survey conducted by the World Bank in 2020, insufficient IPR protection is the third most significant obstacle faced by Pakistan's IT services firms.[8] Among the issues reported in the survey, there are the lack of information on the procedures and trust in the system that is responsible for protecting IPRs, long and non-transparent registration procedures and difficulty in protecting trade secrets. Given the importance of IP in the digital economy, the government should address this issue and implement a more transparent and comprehensive framework to protect IP, with particular interest on copyright, patents and trade secrets.

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[6] World Economic Forum (2015), *The skills needed in the 21st century*, Chapter 1 of the Report New Vision for Education - Unlocking the Potential of Technology, available at: https://widgets.weforum.org/nve-2015/chapter1.html (last accessed in April 2021).

[7] USTR (2020), 2020 Special 301 Report, April 2020, available at: https://ustr.gov/sites/default/files/2020_Special_301_Report.pdf (last accessed in April 2021).

[8] The first two obstacles are electricity shortages and IT infrastructure, as mentioned in the section related to connectivity. According to the survey, 73% of the exporting firms and 64% of the non-exporting firms consider that insufficient IPR in Pakistan is an obstacle for their business.

C. Support startups

With a growing number of incubators and accelerators, Pakistan shows an important investment in startups, which is also reflected in the growing number of startups being established (720 startups since 2010) (Saez *et al*., 2020). However, securing finance for these companies still remains challenging and more could be done to support the startup ecosystem. In particular, attention could be put on facilitating the establishment of startups (for example with quick online procedures) and providing incentives for the first years of operations (for example through tax breaks and regulatory sandboxes).

D. Promote transparency & collaboration with the private sector

According to a survey conducted by the World Bank (Saez *et al*., 2020), the obstacles for the current operation of Pakistan's IT services firms are mainly related to regulatory timeframes and transparency of regulatory rules and requirements. Interestingly, there were important differences among respondent firms depending on their location and, therefore, best practices from the different provinces could be identified and extended to the rest of the country.

In order for Pakistan to become a leader in digital trade, public-private dialogue should be strengthened to identify the needs of the private sector and define a shared vision for digital trade.

Another priority is the investment in data collection. The country shows structural issues regarding the availability and reliability of data. For example, trade-related data is not available in digitized form and, when some information is digitized, it is reported that it is not shared. Data about internet penetration, including by city, gender, and age, is not available, except for some general data and this is reported to be a potential obstacle for ICT firms. This is also the case with agriculture data. Investing in building reliable and complete dataset would support policy decisions, incentive programs, and schemes that need to be informed and monitored by data. In order to do so, Pakistan needs to establish a more comprehensive framework for data collection at different levels: macro and firm-level data as well as national and provincial level data.

Conclusion

Pakistan tends to have a more stringent policy environment on digital trade compared to several of the neighbouring countries, especially in regards to content access and fiscal policies. Study shows Pakistan's digital trade is below its potential based on its level of development in comparison to other peer countries due, in large part, to its restrictive digital policy environment (Saez *et al.*, 2020). Removing trade obstacles on investment in digital sectors, digital goods, and services as well as digital technologies would serve the country's interest by allowing firms to seize digital trade opportunities and create productivity effects. The success of Pakistan will depend on whether the country can overcome the barriers to adopt the latest technologies made available through growing FDI and increase openness to digital trade and technology ideas.

It will be important that domestic policies are complemented by international activities at multilateral, regional and bilateral level. On the one hand, collaboration with international organizations for technical assistance and with the private sector to address specific and most pressing challenges is strongly recommended. On the other, it is recommended that Pakistan engages more actively in new generation trade negotiations which cover digital trade. In particular, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) has shown a clear example of deep and ambitious commitments on digital trade. New-generation FTAs could be an instrument to support advancements in digital trade and lift restrictions in some areas such as data flows, consumer protection, digital goods and IPR.

In addition, Pakistan should consider engaging actively in the plurilateral discussions on the Joint Statement Initiative (JSI) on digital trade ongoing at the WTO level. The initiative has already attracted the attention of over 85 WTO member states, several of which are in the Asia-Pacific region, and joining the discussion would allow Pakistan to shape the future of multilateral commitments on this important topic.

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Note

United Nations
Economic and Social Commission for Asia and the Pacific
Trade, Investment and Innovation Division
United Nations Building, Ratchadamnoen Nok Avenue
Bangkok 10200, Thailand
Email: escap-tiid@un.org
www.unescap.org