



Opportunities and challenges for trade in the digital era

Janos FERENCZ and Javier LOPEZ
GONZALEZ

Trade and Agriculture Directorate, OECD

Lisbon Council
1st December 2020

» Digital trade is about...

- **More traditional trade** (lower trade costs) → across all sectors (natural resources, agro-food, low-tech and high tech).
- **More digitally ordered parcels crossing borders** → with implications for Customs and related authorities
- **More digitally delivered trade** → including through new tech (platforms combined with devices).
- **More bundled or ‘smart’ products** → which combine characteristics of goods and services and are constantly connected
- **More cross-border data flows** → which underpin all digital trade transactions but raise new issues
- **More opportunities** for individuals and firms if they can harness these, but also **new challenges**.

» But trade policy has become more complex

- Trade rules continue to apply and discussions are underway → Whether at e-commerce JSI or in trade agreements.
- But how trade rules apply has become more complex
 - blurring distinctions between goods and service.
 - Old measures raising new issues (parcels, de minimis and trade facilitation)
 - New measures raising new challenges (data flows)
 - Simple transactions resting on series of enabling or supporting factors
- Focus on two elements of this landscape: i) data flows; and ii) the broader digital trade regulatory landscape (DSTRI).

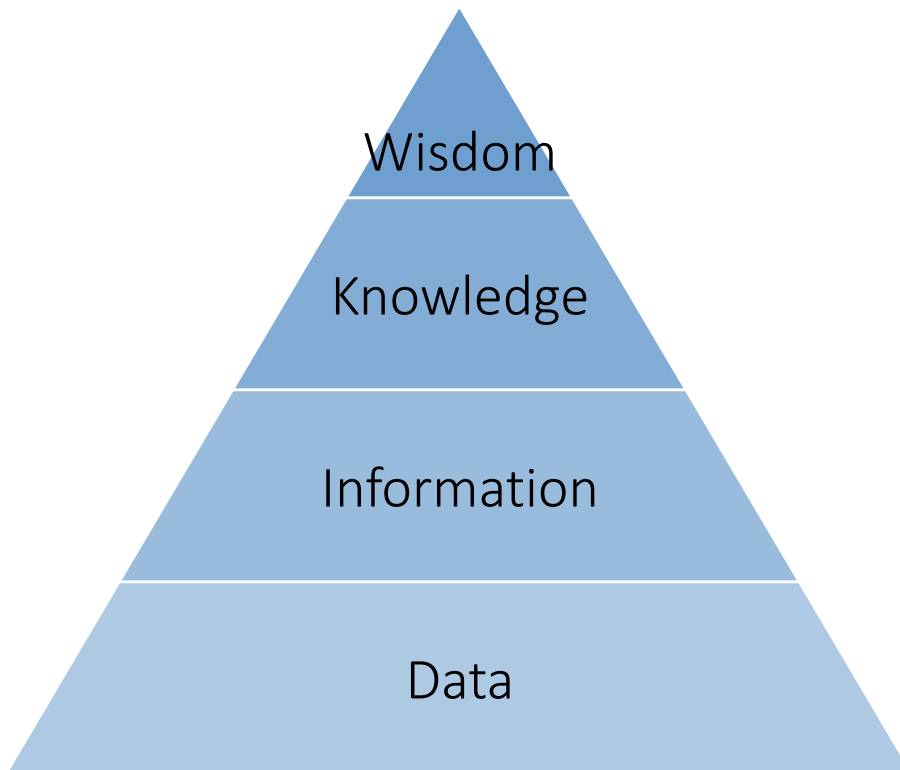


DATA IS THE LIFEBLOOD OF DIGITAL TRADE

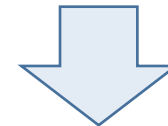
» Data flows underpin modern day economic and social interactions

- Today's digitised and globally interconnected world is underpinned by the movement of data across borders.
- They
 - Enable the coordination of production along Global Value Chains;
 - allow firms, including smaller ones, to access global markets; and
 - Change how goods and services are produced and delivered.
- This means that today, it is increasingly difficult for an international trade transactions to take place without a cross-border data transfer for some sort.

» But data is different, there are significant benefits from enhancing its use and re-use

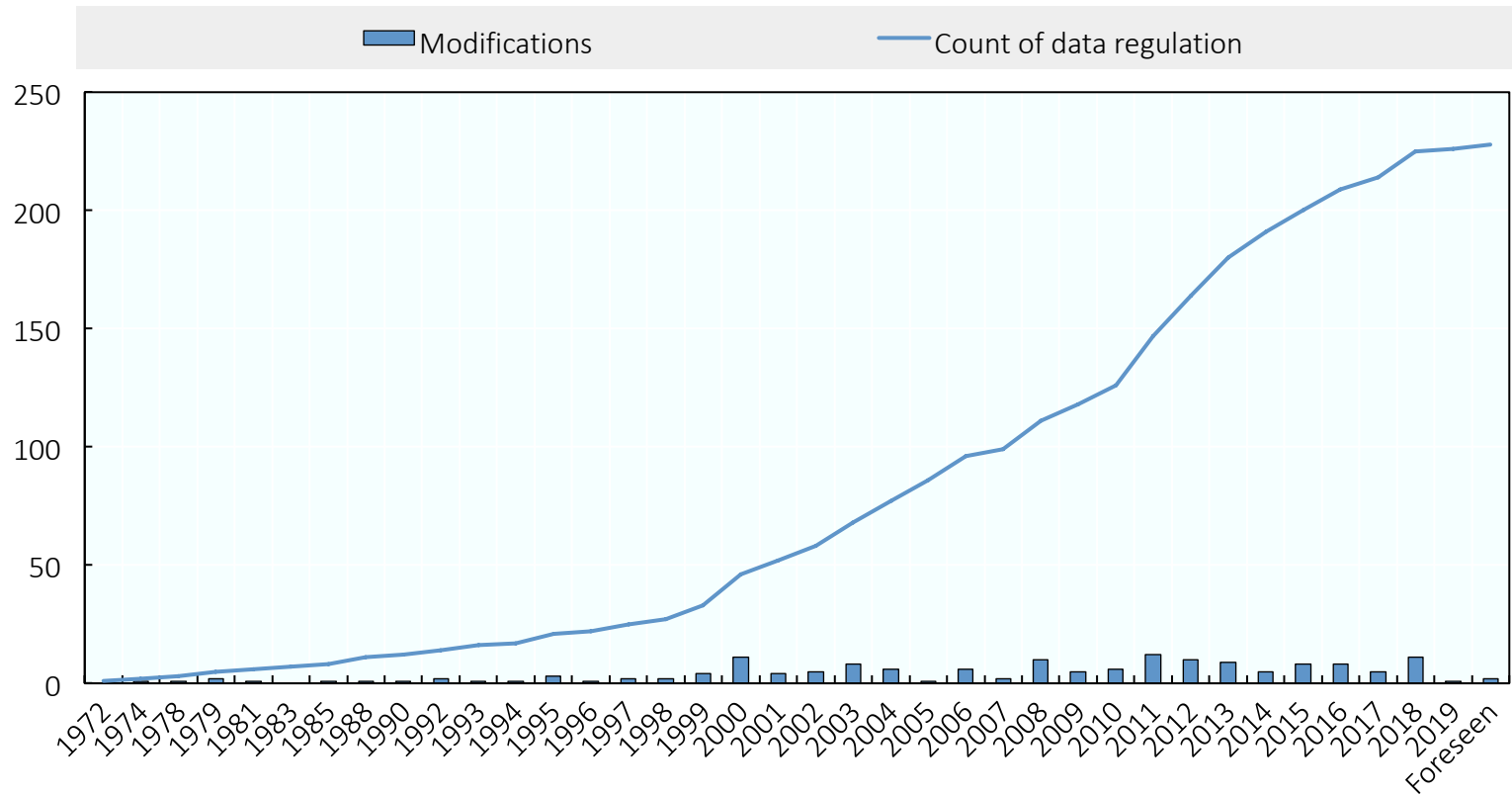


- How bits and bytes translate into dollars and cents is not easy to establish
- **Data is different** (valued at use, not volume, not scarce, can be copied and shared at virtually no cost').

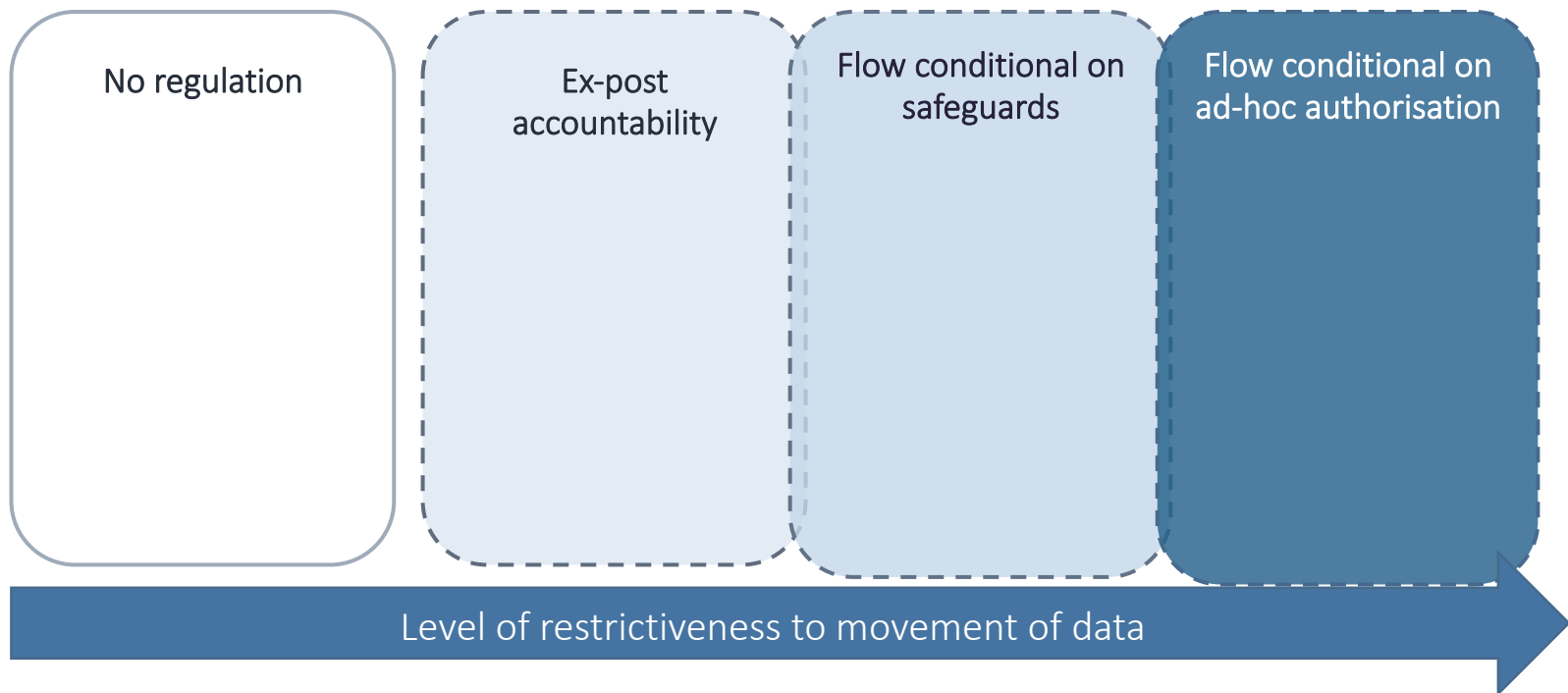


- **There are considerable increasing returns to scale and scope from sharing data, including across borders**

But pervasive exchange of data has fuelled concerns about use and misuse of data leading to new data policies...



4 broad approaches to cross-border data flows

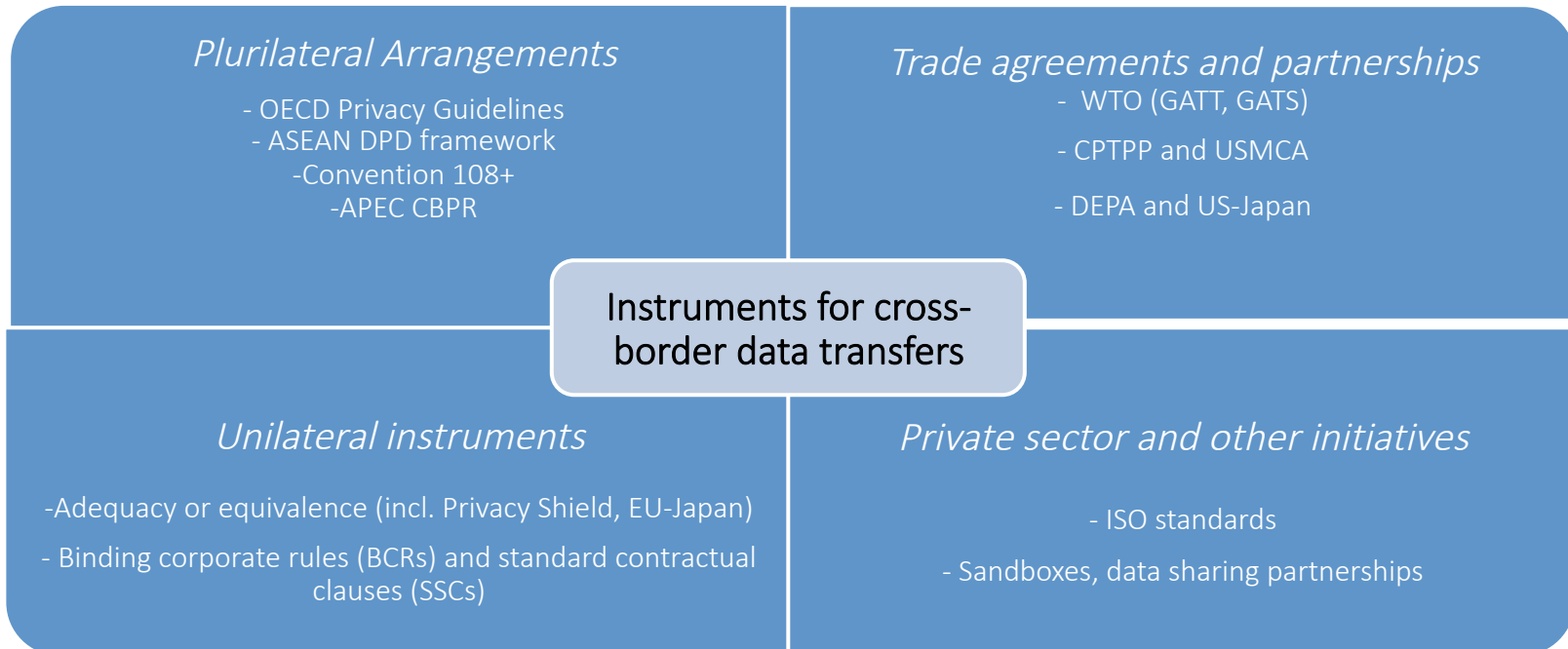


Source: Casalini and Lopez-Gonzalez (2019)

» Emerging patchwork of regulation is creating challenges

- For governments and individuals there is growing uncertainties related to the applicable rules in any given situation.
- For firms challenges relate to ability to internationalise (more difficult and costly to operate across different markets, affecting SMEs more), but also more difficult to know what level of data protection to afford to consumers in different markets (so also compromises data protection).

Governments have turned to different instruments to enable data flows with trust



» Making progress on this issue can be difficult

- Highly sensitive topic evolving in a rapidly changing landscape:
 - Schrems II.
 - WTO Joint Statement Initiative on e-commerce.
 - In **OECD countries** (issues around Brexit and ongoing discussions in the US on federal regulation on privacy).
 - A number of **non-OECD countries adopting new frameworks** (Brazil, India, China, Russia...).
 - Countries without regulation are choosing...
- Need to continue discussion about the opportunities and challenges of data flows so as to ensure its movement across borders with trust.
 - OECD-wide Horizontal Project on Data Governance



THE ENVIRONMENT THAT UNDERPINS DIGITAL TRADE HAS BEEN TIGHTENING

» What is the OECD Digital STRI?

- Background:
 - Services are increasingly tradable online
 - Regulatory barriers risk derailing the benefits of digitalisation
 - There is a growing need for a comprehensive and up to date evidence base
 - New toolkit under the OECD Services Trade Restrictiveness Index (STRI)
- Objectives:
 - Insights into the nature and extent of cross-cutting barriers that affect trade in digitally enabled services

» What can the Digital STRI be used for?

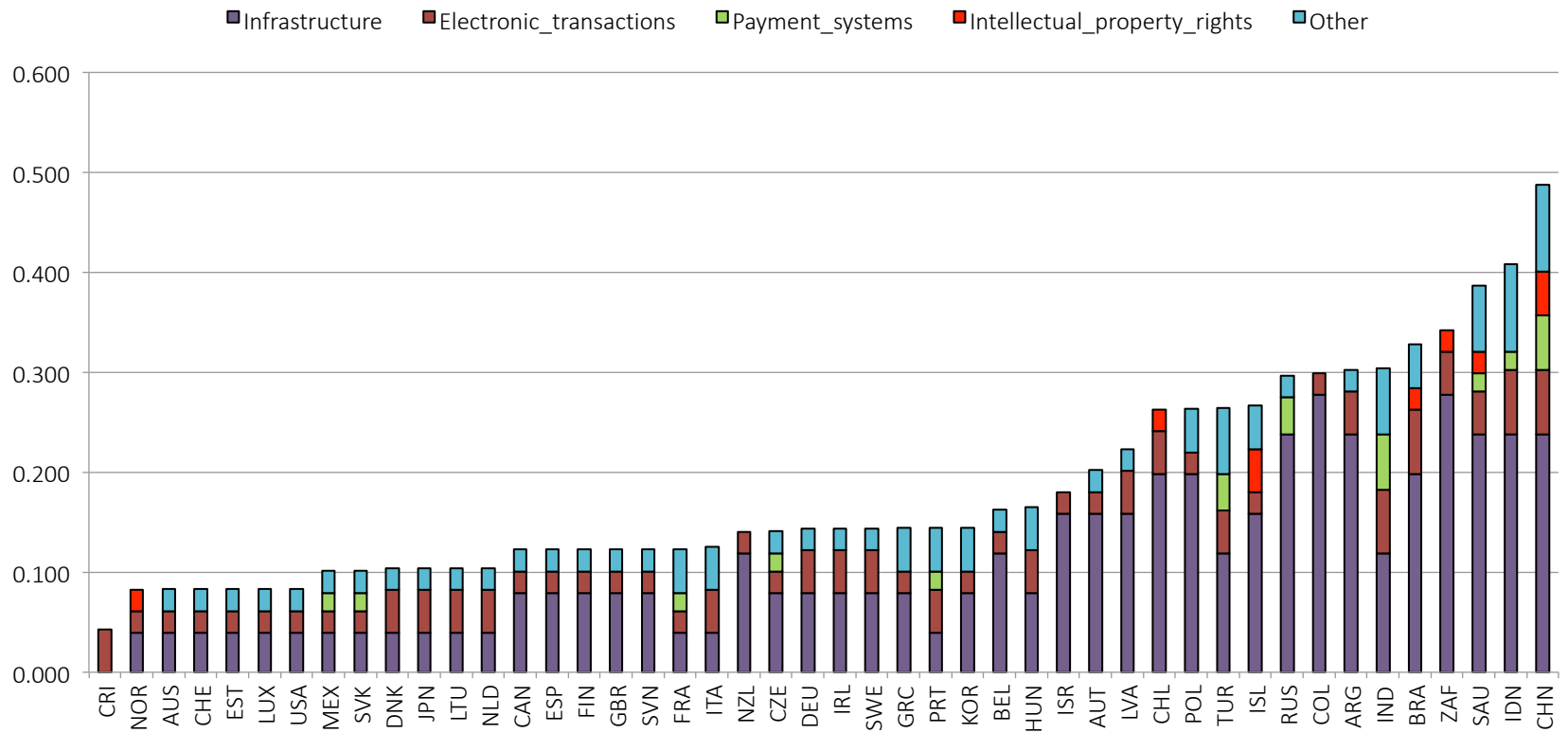
- Build an **evidence-base** reflecting the applied laws and regulations
- **Background information** for trade negotiations
- Identify **regulatory bottlenecks** and scope for reforms
- Identify areas of **regulatory convergence**
- **Benchmarking** domestic reforms
- **Monitoring** regulatory and policy developments
- Identifying **emerging challenges**
- Support analysis on the impact of proposed **trade agreements**

» The DSTRI framework

1. Infrastructure and connectivity	3. Payment systems
<p>Interconnection is regulated</p> <p>Vertical separation is required</p> <p>Memo: Non-discriminatory Internet traffic management</p> <p>Restrictions on the use of communication services</p> <p>Cross-border data flows</p>	<p>Discriminatory access to payment settlement methods</p> <p>National payment security standards deviate from international standards</p> <p>Restrictions on internet banking or insurance</p>
2. Electronic transactions	4. Intellectual property rights
<p>Discriminatory conditions for e-commerce licenses</p> <p>Online tax registration and declaration</p>	<p>Foreign firms are discriminated against on trademark protection</p> <p>Discriminatory treatment on copyrights and related rights</p> <p>Memo: Exceptions to copyright protection</p> <p>Enforcement of intellectual property rights</p>
<p>National contract rule deviate from international rules</p>	5. Other barriers affecting trade in digitally enabled services
<p>Laws or regulations explicitly protect confidential information</p> <p>Legal validity of e-signatures</p> <p>Dispute settlement mechanism</p>	<p>Performance requirements</p> <p>Limitations on downloading and streaming</p> <p>Restrictions on online advertising</p> <p>Commercial or local presence requirements</p> <p>Firms have redress when business practices restrict competition in a given market</p>

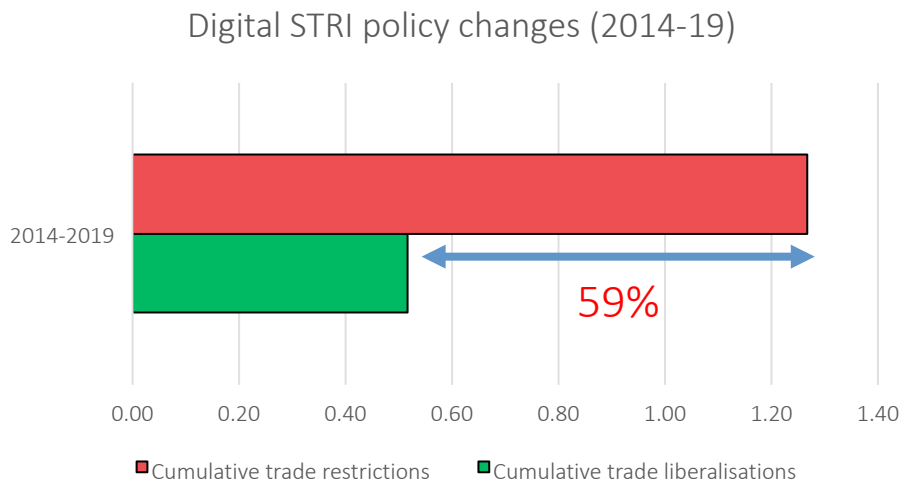
Barriers for digital trade are high

Digital STRI, 2019



» Regulations are becoming more burdensome

- Increased limitations on **online payments** for foreign services providers;
- Increased **localisation** requirements for digital services suppliers;

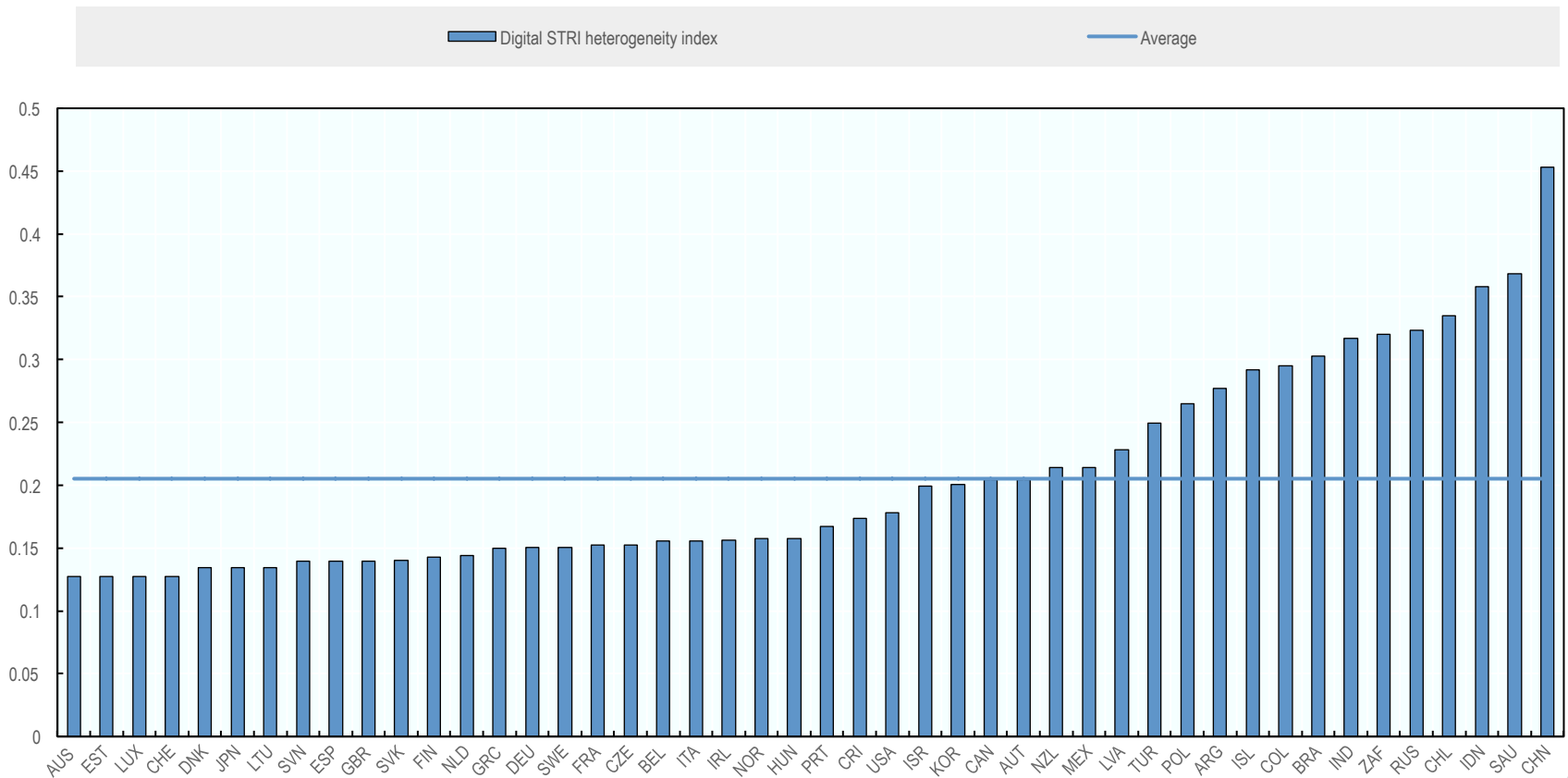


Emerging measures:

- New **re-licensing requirements** for on-demand services providers with localisation requirements;
- **Mandatory routing** of Internet traffic through domestic exchange points
- Tightening requirements on **cloud computing services** (e.g., specific approval for foreign providers; burdensome conditions on the use of foreign cloud computing services in public procurement).

» Digital trade is global, regulations are not

Digital STRI Regulatory heterogeneity, 2019



» Today getting it right on digital trade is more important than ever

- The benefits of trade for digitalisation were already apparent before COVID-19.
- Today they are more important than ever:
 - Trade can **help keep cost of access to the Internet down** by promoting more competition.
 - Trade enables **access to the devices through which we connect to the internet**
 - Trade in parcels enables consumers to **access the goods they need in times of confinement** (and smaller firms maintain economic activity).
 - Digitally enabled services help **maintain economic activity**
- **Digitalisation also important for trade** → including in context of expediting processes and procedures at the border.
- Digital trade will be key in **enabling recovery to pick up as soon as possible**.
- But greater attention needed to **bridge digital divides** so that more people can take advantage of these new opportunities.

Give this a try!

Digital Services Trade Restrictiveness Index Simulator

Digital for Norway compared to Sweden

Digital measures	Search a measure	Search	Cancel	Answers	Scores	Values	Sweden
Norway					0.083		
Sweden					0.144		
▶ dg.1 Infrastructure and connectivity					1	0.04	0.079
▼ dg.2 Electronic transactions					1	0.021	0.043
7.1.1 Discriminatory conditions for licenses to engage in e-commerce				<input type="radio"/> Yes <input checked="" type="radio"/> No	0	0	0
7.2.1 Memo: License or authorisation is required to engage in e-commerce				<input type="radio"/> Yes <input checked="" type="radio"/> No	0	0	0
7.3.1 Online tax registration and declaration is available to non-resident foreign providers				<input checked="" type="radio"/> Yes <input type="radio"/> No	0	0	0.021
7.4.1 National contract rule for cross-border transaction deviate from internationally standardised rules				<input checked="" type="radio"/> Yes <input type="radio"/> No	1	0.021	0.021
7.5.1 Laws or regulations explicitly protect confidential information				<input checked="" type="radio"/> Yes <input type="radio"/> No	0	0	0
7.6.1 Laws or regulations provide electronic signature with the equivalent legal validity with hand-written signature				<input checked="" type="radio"/> Yes <input type="radio"/> No	0	0	0
7.7.1 Dispute settlement mechanism exist to resolve disputes arising from cross-border digital trade				<input checked="" type="radio"/> Yes <input type="radio"/> No	0	0	0
▶ dg.3 Payment system					0	0	0
▶ dg.4 Intellectual property rights					1	0.022	0
▶ dg.5 Other barriers affecting trade in digitally enabled services					0	0	0.022

<http://sim-dev.oecd.org/Default.ashx?lang=En&ds=DGSTRI>
 Or Google the terms “OECD Digital STRI”

Contact us

We look forward to hearing from you!



Access all of the information from the Trade & Agriculture Directorate at:

www.oecd.org/tad



You can reach us via e-mail by sending your message to the following address:

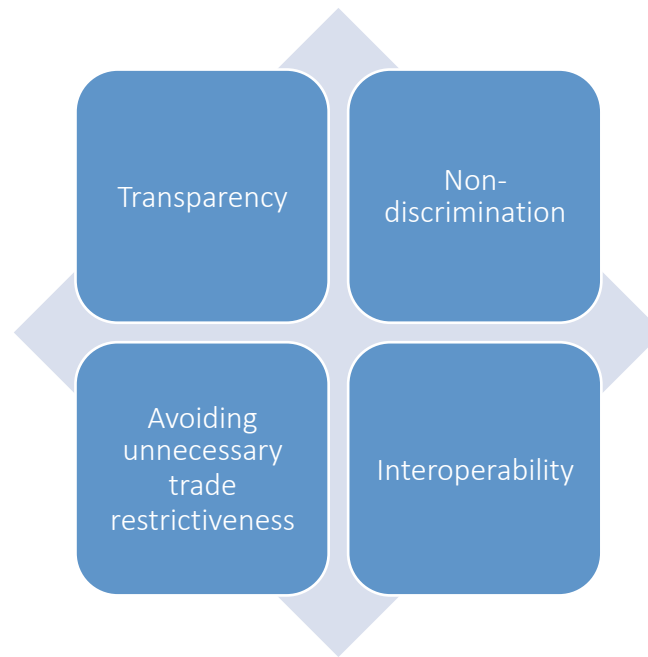
tad.contact@oecd.org



We invite you to connect with us on Twitter by following:

[@OECDtrade](https://twitter.com/OECDtrade)

In facing new challenges, old principles of market openness can help



Source: Casalini et al (2018) Principles for Market Openness in the Digital Age