

Statement from Civil Society Organizations working on eCommerce for Development, on the Africa eCommerce Week and Outcomes

December 14, 2018

Electronic commerce, and digital trade and technology more generally, can stimulate development, generate jobs and help build sustainable livelihoods. However just like previous changes in technology and trading patterns, for developing countries to benefit, they need the right policies and institutional support, both domestically and internationally. This conference has well highlighted the opportunities of e-commerce for African entrepreneurs, but the primary challenge is to harness digital industrialization for structural transformation of the continent.

Nearly all digital trade is currently dominated by a few global players from the United States and China through platforms that are not simply disrupting and re-organizing economic activity but leading to digital domination. In order to trade, we have to produce. If we expand digital trade without first improving our productive capacities, as well as closing the digital divide through improvements in our physical infrastructure as well as interconnectivity, we will be simply opening our economies even further to imports from outside the region. Thus, further liberalization in the digital sphere, without the necessary domestic investments to improve productive capacities, will destroy jobs, decimate micro, small and medium enterprises (MSMEs), and distort development.

These threats from premature digital liberalization to our economic sovereignty and future development prospects will be greatly amplified if the rapidly evolving digital economic space is governed by rules that were developed by transnational corporations (TNCs) for their own profit-making around the world, as they are proposing in the World Trade Organization (WTO) discussions on e-commerce. There should be no negotiations on e-commerce in the WTO. As the African Group said in the WTO, they “will not support any ideas for negotiating rules, or move in a direction on developing rules on e-commerce. We believe it is entirely premature.”

Instead of digital liberalization leading to further digital colonialism, what we need for the structural transformation of the region in line with **Agenda 2063: The Africa We Want** vision is a jobs- and development- focused digital industrialization strategy. Digital industrialization indicates the need for policies to prevent big international corporations controlling our data and to use our data in the public interest; to develop and support domestic digital businesses and platforms; to strategically promote domestic MSMEs including through technology transfer; to promote inclusion in the digital economy through full employment policies; to ensure proper taxation and investments to close the digital divide; to advance consumer welfare and privacy through data protection; to ensure public interest regulation of the digital economy and break up platform monopolies; and other pro-development strategies. Much of this can be accomplished through domestic policies that should be developed with appropriate stakeholder input, as well as through regional integration; but policy makers require sufficient policy space to do so; restricting that space is the clear aim of plurilateral efforts currently under discussion in the WTO.

The role of the United Nations Conference on Trade and Development (UNCTAD) should not just be technical assistance, and should not follow the same ideology as the World Bank, WTO, World Economic Forum (WEF), and other neoliberal institutions dominated by developed countries. It should not be driven by the donor agenda and funding, as we see here, where the European agenda is being given undue prominence over the African Union. We believe the African Union should be given space to drive the digitalisation agenda for Africa, for the African digital industrialisation development objectives and this must be

consistent with the positions taken by the African Group in the WTO. The role of development partners should be supportive rather than be seen as driving the agenda. Given the persistent poverty and lack of convergence after decades of liberalization, and the increasing power of digital platforms over our economies, we believe that UNCTAD should focus on digital industrialization and structural transformation of our economies, rather than merely facilitating online shopping and platform presence in Africa. We note with dismay a paucity of African government and African civil society representatives on the panels.

UNCTAD must reclaim its historic role in policymaking that is centered around an integrated approach to development strategy and focused on industrialization policies. We commend UNCTAD for this year's Trade and Development Report (TDR), which focused on "Power, Platforms and the Free Trade Delusion." But this is not sufficient given the vast army of "sales representatives" marshalled by advanced countries to persuade and cajole developing countries into adopting measures that they are not ready for and that many, on their own admission, do not yet fully understand.

It is unfortunate, to put it mildly, that despite repeated requests by African member states, the findings from this original piece of in-house evidence-based research by UNCTAD has been noticeable by its absence from this gathering and, as a result, key political economy issues raised by the challenges of digital industrialization have received insufficient attention.

Sustainable development depends on the free flow of information, and we want freedom of expression. But this is different than cross border data transfers of our most valuable natural resource to foreign corporations. Just as in previous centuries, when we lost control of our capacity to properly exploit the wealth creating potential of commodities, we are in danger of repeating those same mistakes in the 21st century with our data. At this point, we don't properly value our data, so governments are too easily allowing it to be transferred outside the country. We need to harness the value of our data for domestic entrepreneurs, but also for community economic development in the public interest. African countries must maintain the policy space to evaluate when policies of maintaining data locally or regionally would be in the national or community interest.

The doctrine of free global flow of data is dubious, when data is also considered the key resource of a digital economy. Data must be owned by "that whom the data is about" whether an individual or a community. Data ownership frameworks should be developed urgently on this principle and employed by developing countries to promote domestic digital industry. Also, new digital businesses that work on data and business intelligence derived from it, must be owned domestically, because it is after all 'our data' that underpins such business.

UNCTAD has highlighted that all countries which successfully industrialised used infant industry protections, so since Africa needs to industrialise, we will also need to be able to use tariffs strategically, along with other protections for nascent industries. We need to maintain and use the policy space to promote our MSMEs, which represent the majority of employment in our countries, including through active policies of technology transfer. The international system of rules governing patents and copyrights have proven to facilitate tax avoidance and resulted in a huge transfer of wealth from the global South to TNCs in the North. We need systems of innovation and MSME promotion without further entrenching anti-development systems of intellectual property protectionism that least developed countries (and non-WTO Members) in Africa are not required to implement.

Inclusive digital industrialization for development must also focus on decent job and livelihood creation and social and economic rights in the digital sphere. The most important strategy for inclusive growth from digital industrialization is a commitment to job creation

towards full employment, focused on equity strategies, including strong labor rights for all workers, gender equality, and portable social protections including for platform workers.

An egregious example of the prominence of the EU was agenda was the EU labelling high taxes and import duties as trade barriers. We oppose this as African countries should not be told by Europe that European companies should not have to pay taxes when they operate in African countries, when African companies would obviously have to contribute to the national tax base. Digital players are taking advantage of the mobility and intangibility of digital goods and services to avoid tax and create an uneven playing field that is hurting competitors who are running traditional businesses and complying with traditional tax models. Tax planning by digital TNCs that artificially reduces taxable income or shift profits to low-tax jurisdictions in which little or no economic activity is performed should be tackled as part of a pro-development strategy and must not be exacerbated by digital trade rules proposed at the WTO and ignored in discussions on digital trade in Africa.

Appropriate taxation is essential to build the fiscal base in African countries that we need for investments in development-focused infrastructure, including the digital infrastructure, and good quality and accessible public services. This is all the more important given that the build-up of debt (both public and corporate) in recent years is once again raising concerns about its sustainability with a number of countries in the region already facing serious levels of distress or worse.

Our current infrastructure is built to facilitate extracting commodity resources from Africa through ports, rails and road; this must be altered to focus on domestic market development and regional integration through the four pillars of transport, water, energy, and the information communications and telecommunication (ICT) infrastructure necessary to close the digital divide. The trade facilitation drive in Africa, largely funded by donors have focused more on facilitating imports rather than addressing the much-needed supply side constraints. We are concerned that the recent drive to support digitalisation in Africa by developed countries are following a similar trend, which will ultimately push Africa deeper into consumers of what we do not produce. This will have far reaching consequences on employment, revenue and digital innovations in Africa which is ultimately needed for structural transformation. African countries will not be able to achieve the Sustainable Development Goals (SDGs) without expanding fiscal supports to achieve quality accessible public services in education, health, access to water, electricity, and more.

We also need strong policies for consumer protection, including around matters of privacy and data protection. Africans are entrepreneurs, but we are also citizens with rights to privacy and consumers with rights to have our data protected and not abused by giant TNCs for private profit, or by governments against our human rights in the digital space.

Special policies are urgently required to protect the small actors, traders, farmers, small service providers, etcetera that are threatened by new globally organized digital models. This requires steps to decentralise digital economy structures and power, as well as specific policy measures to support small actors in their extremely uneven relationships with digital majors, quite like the labour laws of industrial era. Additionally, a good share of the newly created digital value must be utilised for ameliorative and redistributive measures, like social protection and public services.

Africa must develop its own agenda for digital industrialization. We must not copy the “e-commerce trade rules” that were developed by TNCs like Amazon and Google, for their interests to open our markets, control our data, handcuff our regulators, and constrain the role of the state in fomenting jobs and industrialization policies. If e-commerce disciplines in the WTO were good for development in Africa, there would not be the arm-twisting of African

states to join the e-commerce negotiations that we are seeing in the WTO. Neither would proponent Members and the WTO Secretariat advocate for African countries to join the e-commerce negotiations. The international nature of international organisations is thus questionable. We believe that as the Africa Group remain firm in their position on eCommerce proposals at the WTO, national governments need to put in place a development oriented digital industrialisation policies and agendas in place. This would support the realisation of the AU agenda 2063.

Given the dearth of Geneva-based African trade negotiators at this Africa ecommerce week, any talk of an outcome document from this week's activities containing recommendations is highly inappropriate and any summary document of what transpired here should not be used to undermine the African Group position against e-commerce rules in the WTO[i]. Any recommendations arising from Africa eCommerce Week would not be the product of discussions or consensus. Aid for Trade must not be linked to African governments joining negotiations on the new issues at the WTO. The African Group in the WTO's focus, which parallels that of civil society, is on agricultural reform and removing high levels of domestic support given to farmers by developed countries; removing cotton subsidies in the U.S. and EU that harm African cotton farmers; public food stockholding; the Special Safeguard Mechanism (SSM) to safeguard domestic farmers; special and differential treatment; and increasing flexibilities for industrial development, rather than undermining regional integration.

We look forward to working with UNCTAD, governments, the private sector, and more civil society actors on future engagements that focus more on Africa's urgent development needs.

Endorsements as of December 14, 2018

International Trade Union Confederation Africa (ITUC Africa), *which includes 16 million members*

East Africa Trade Union Confederation (EATUC), *which includes 3.5 million members*

Third World Network-Africa (TWN-Africa)

Tax Justice Network Africa (TJNA)

Southern and Eastern African Trade Information and Negotiations Institute (SEATINI)-
Uganda

National Association of Nigerian Traders (NANTS) *which employs 57 million people in 37 million MSMEs*

Nigeria Private Sector Alliance (NiPSA)

African Center for Trade and Development (ACTADE), Uganda

[i] Eg see WT/MIN(17)/11 and JOB/GC/144 at https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S001.aspx