

# G2 HACKATHON CHALLENGE

How to Make the WTO  
Fit for Future Trade



INSTITUTE OF INTERNATIONAL  
ECONOMIC LAW  
GEORGETOWN UNIVERSITY LAW CENTER



Geneva Trade  
Platform

Akin Gump  
STRAUSS HAUER & FELD LLP

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& KO 법무법인(유) 광장

# 2021 Hackathon Submission

## Agreement on E-commerce

### UBUNTU VISIONARIES

Cedric Odongo

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## Watch the Video



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### Question #1

Define the substantive issue that your team is addressing, why it's a problem, and why your team believes the WTO is the right forum to address it.

#### OPEN PLURILATERAL AGREEMENTS IN ECOMMERCE

The proposal below focuses on keeping trade open, transparent, and to ensure that trade is not discriminated while trading digitally. WTO members may raise concerns on data privacy, regulatory conditions and various data requirements which other members are unlikely to be in consensus. For example, the trade controversy between the United States and China would have a difficulty being in consensus because of concerns on digital and regulatory privacy in terms of who will own the data. This current situation where all parties must come to a consensus on an agreement may be absolute in handling neo commercial mode of global trade. For this reason, we propose an open plurilateral agreement on e-commerce dubbed "Ubuntu agreement on digital trade".

The COVID-19 pandemic has gratified this situation where most businesses turned to ecommerce thereby creating an urgent need of digital trade which the WTO has to respond to if they are to remain fit for the future. We the Ubuntu Visionaries are in the opinion that international digital trade has future prospects through ecommerce platforms and the WTO has the central mandate to come up with rules that can govern such digital trade. It's vital that the institution boosts its efficacy when reaching a concurrence, and a feasible solution is to come up with Open Plurilateral Agreements to facilitate trade flows.

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We recognize that reforms are needed to improve the functioning of the WTO, including a willingness to pursue agreement pertaining to only a subset of WTO members but are open to all WTO members and where benefits in principle extend to all countries on a nondiscriminatory basis. Experience with the WTO negotiations and the Paris Agreement make clear that common approaches reflected in binding multilateral agreements are unlikely feasible given the difficulty of attaining consensus.

The World Trade Organization was formed before the boom of the internet and it will be problem if it fall short of rules of the e-commerce game such ensuring a proper mechanism on digital trade that provides for the use of electronic signatures to control fraud, e-invoicing, facilitating electronic payments for cross border transaction, making policy transparent and enhancing consumer protection which authenticate and protect data. Failure to monitor domestic regulation by enabling members who have signed the OPA to authorize and certify, through their domestic policy provisions, foreign service providers eg licensing and qualifying them for technical support is also risky and the organization has to flex it's muscle to fit future trade.

Developing and Least developing countries have unique challenges which can only be raised and addressed by the World Trade Organization. Otherwise they'll be left out of this transformation and we propose, such members to helped so us to move together- in spirit of Ubuntu. This transformation will be inclusive enabling such countries to participate in digital trade, add on the potential of small, medium and enterprises tap the opportunities in international markets and is inclusive of youth and women. We suggest that the WTO should consider positive impacts of COVID-19 such as women and youth businesses that turned to ecommerce. This will help the WTO cover gender inclusivity in digital trade.

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## Question #2

Propose a specific treaty text, or more informal commitment/declaration text, that addresses either the concern or a particular, detailed aspect of it.

Ubuntu Ecommerce Agreement

Parties to this agreement;

Pursuant to the "Joint Statement of Electronic Commerce," signed at the 11th WTO Ministerial Conference in December at Buenos Aires, Argentina,

Re-affirm the importance of ecommerce and opportunities it opens for inclusive trade and development.

Share the goal of advancing electronic commerce work in the WTO in order to better harness these opportunities.

Recognize the role of the WTO in promoting open, transparent and non-discriminatory and predictable regulatory trading environments in facilitating e-commerce.

Take full account of special considerations of each member including LDCs with regard to funding and transfer of technology and trade facilitation.

Recognize the fundamental priority of safeguarding food security and ending hunger to keeping digital trade open.

Recognize the fundamental priority of safeguarding data across borders.

Have agreed as follows;

That membership is open and voluntary to WTO members

That membership shall be subsequent by WTO Members that did not join when it was first agreed

To satisfy basic regulatory conditions for freedom of cross-border data flows, or the need for data localization requirements.



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To publish information; create enquiry points; establish good practice timeframes for processing of applications; acceptance of electronic applications, use of objective criteria, and ensuring authorizing bodies are independent and/or impartial and decisions can be appealed

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## Question #3

Suggest a legal/technical or institutional way to implement your textual proposal within the broader WTO framework (500 words)

A necessary condition for successful OPAs is to create mechanisms that support informed deliberation in a given policy area and fosters substantive evidence and analysis-based discussion. Without robust information on applied policies across countries and experience in implementing them it is not possible to identify either good practices, what policies create spillovers that are systematically important, or efficient approaches to attenuate such spillovers in ways that reflect and respond to local capabilities and priorities. Integrating relevant stakeholders, regulators and sources of expertise i.e., International organizations, is necessary. Different models can be envisaged to prepare the ground for the new OPAs. One is to work through the G20 trade and investment Working Group, which spans G20 governments and the major international agencies. Another approach is to create a sector specific platform serviced by one specialized agency, as was done by the G20 through the 2016 Global forum on Steel Excess Capacity (GFSEC), which was tasked with producing reliable statistics on steel production capacity and identifying policies that affect steel production. Yet another option is to bring together a group of independent policy research institutes and provide them with a mandate and the resources to collect and analyze information to support engagement by countries to cooperate on a critical mass basis. In practice, effective OPAs are likely to be policy and/or sector specific, bringing together the WTO with other organizations that have the mandate in an area of overlapping interest. The concept can be applied to other policy domains, with clubs of countries, without the consent of other WTO members, defining regulatory standards for themselves, but committing that cooperation be open to participation by any WTO member. As a result, participation would be selective, with a WTO member deciding to join some OPAs but not others