

Resilience, Responsibility, Responsiveness – Towards a Future-oriented, Sustainable World Economy

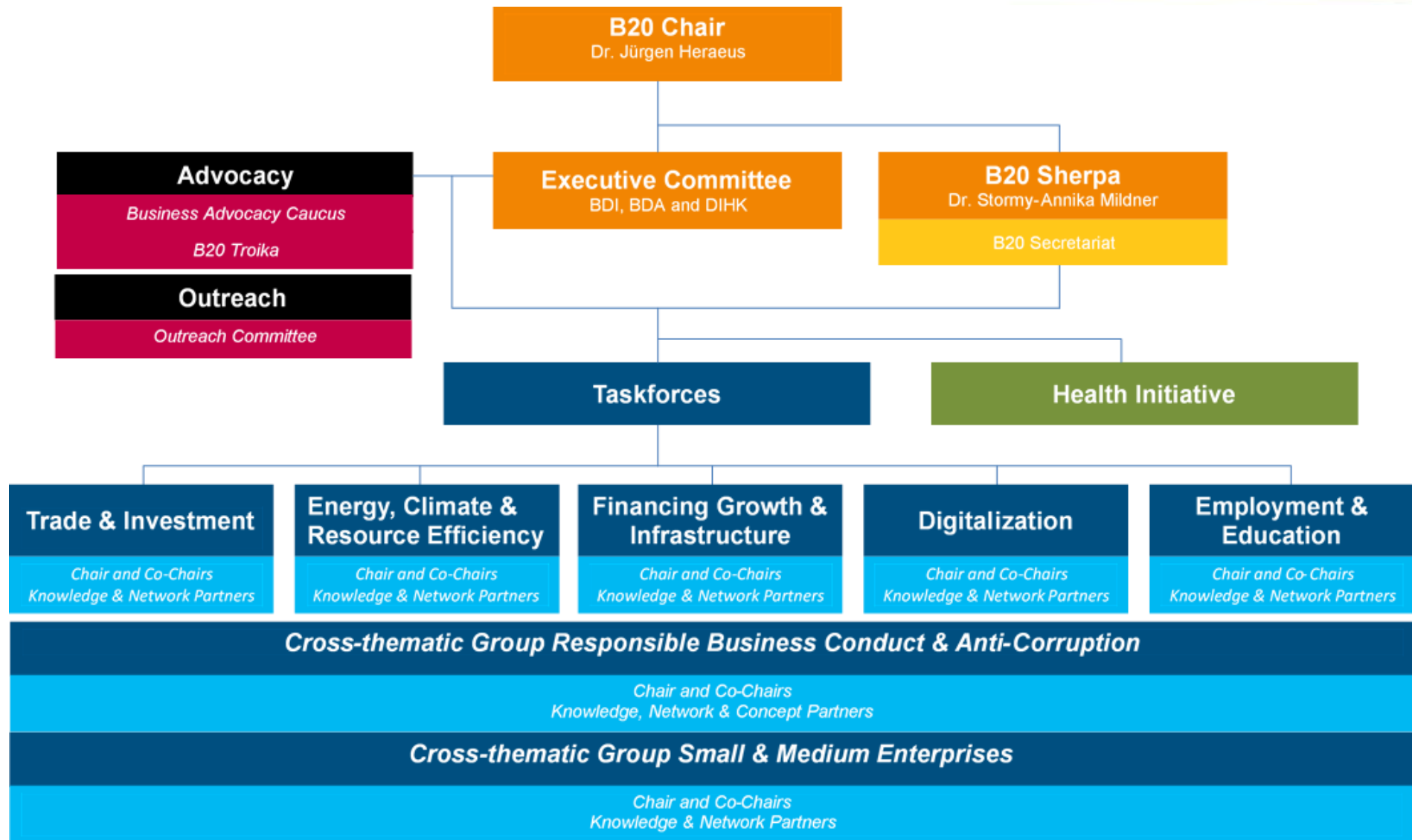


B20 Recommendations on Digital Trade

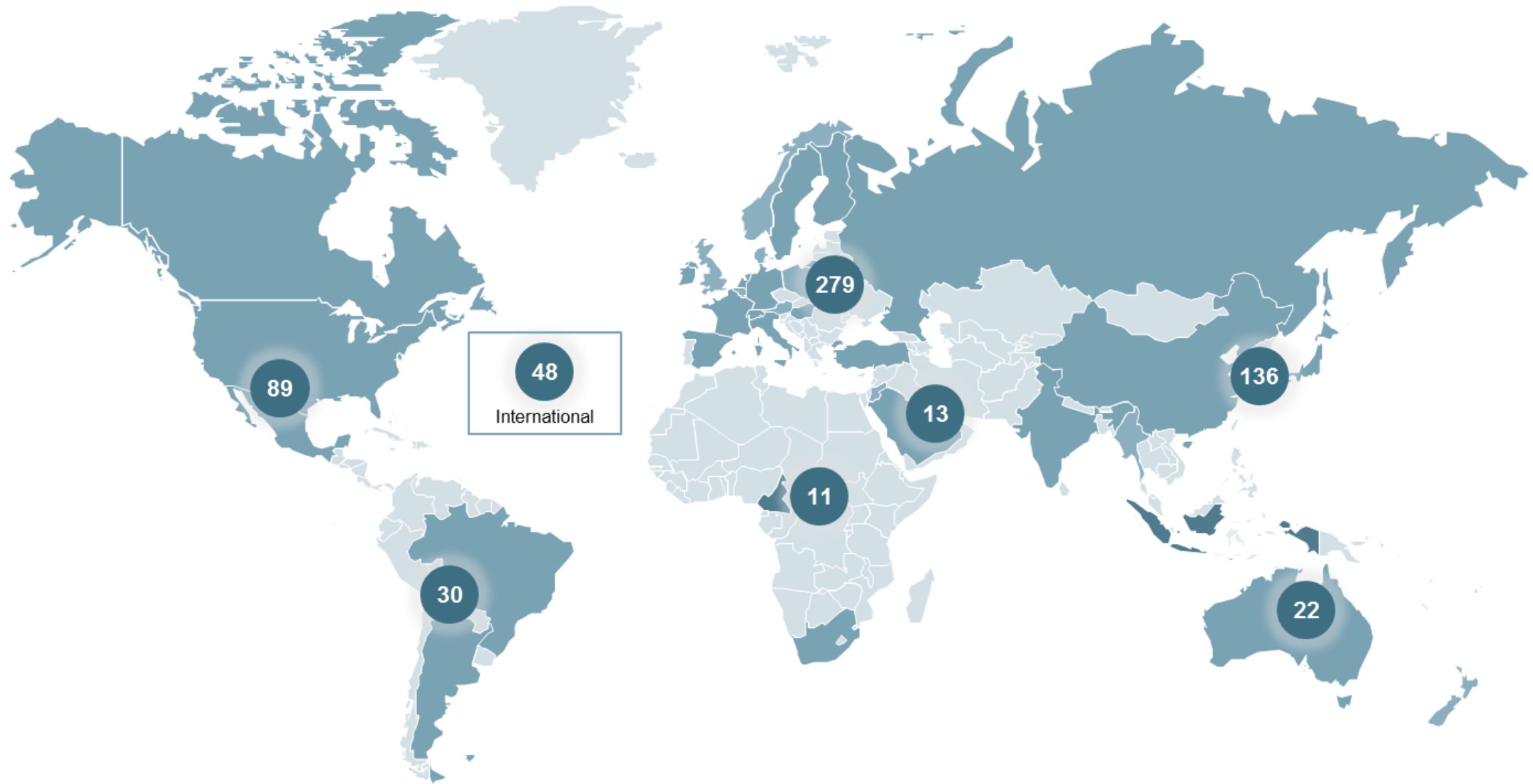
Dr. Stormy-Annika Mildner, B20 Sherpa

April 25, 2017

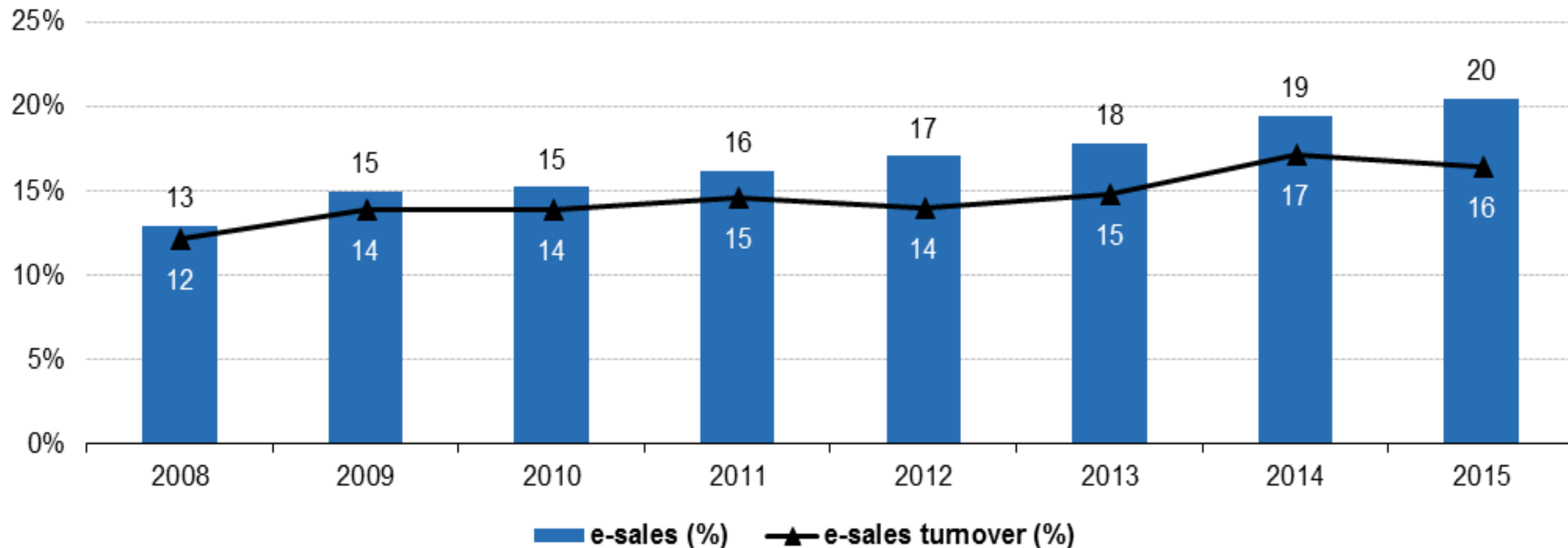
B20 Structure



Members of B20 Taskforces and Cross-thematic Groups



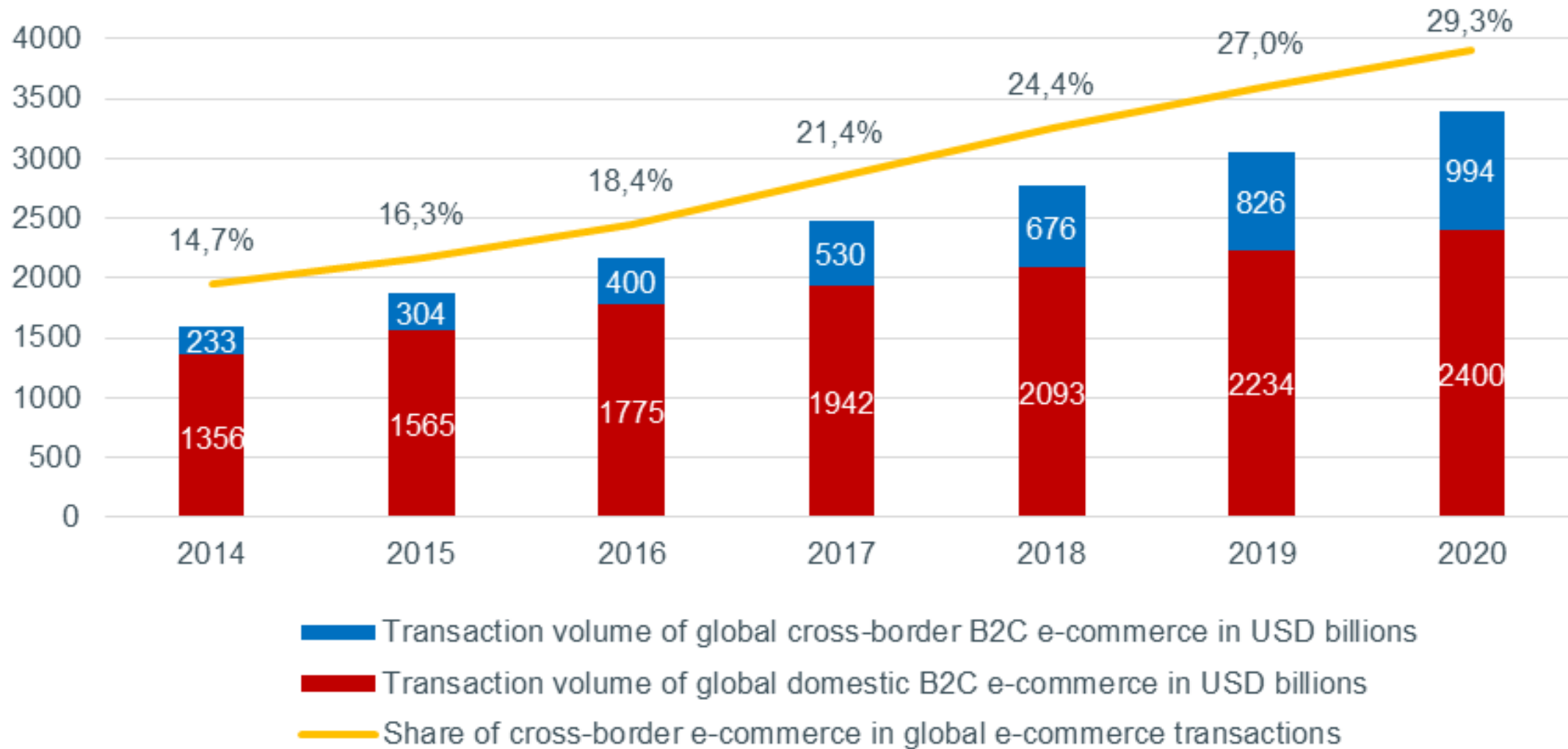
The volume of e-commerce has risen sharply



Note: 2008 data without enterprises in the NACE Rev 2 group 95.1 referring to 'Repair of computers and communication equipment'.

Global B2C E-commerce in Goods, Services and Digital Products

US\$ billion



Contribution of internet to GDP

SECTOR	IN BILLION \$	SHARE OF GDP
PRIVATE CONSUMPTION	736	1.8%
PRIVATE INVESTMENT	395	1.0%
PUBLIC EXPENDITURE	209	0.5%
TRADE BALANCE	36	0.1%
TOTAL	1,376	3.4%
WORLDWIDE CONTRIBUTION OF INTERNET	1,672	2.9%



If Internet were a sector, it would have greater weight in GDP than agriculture or communication

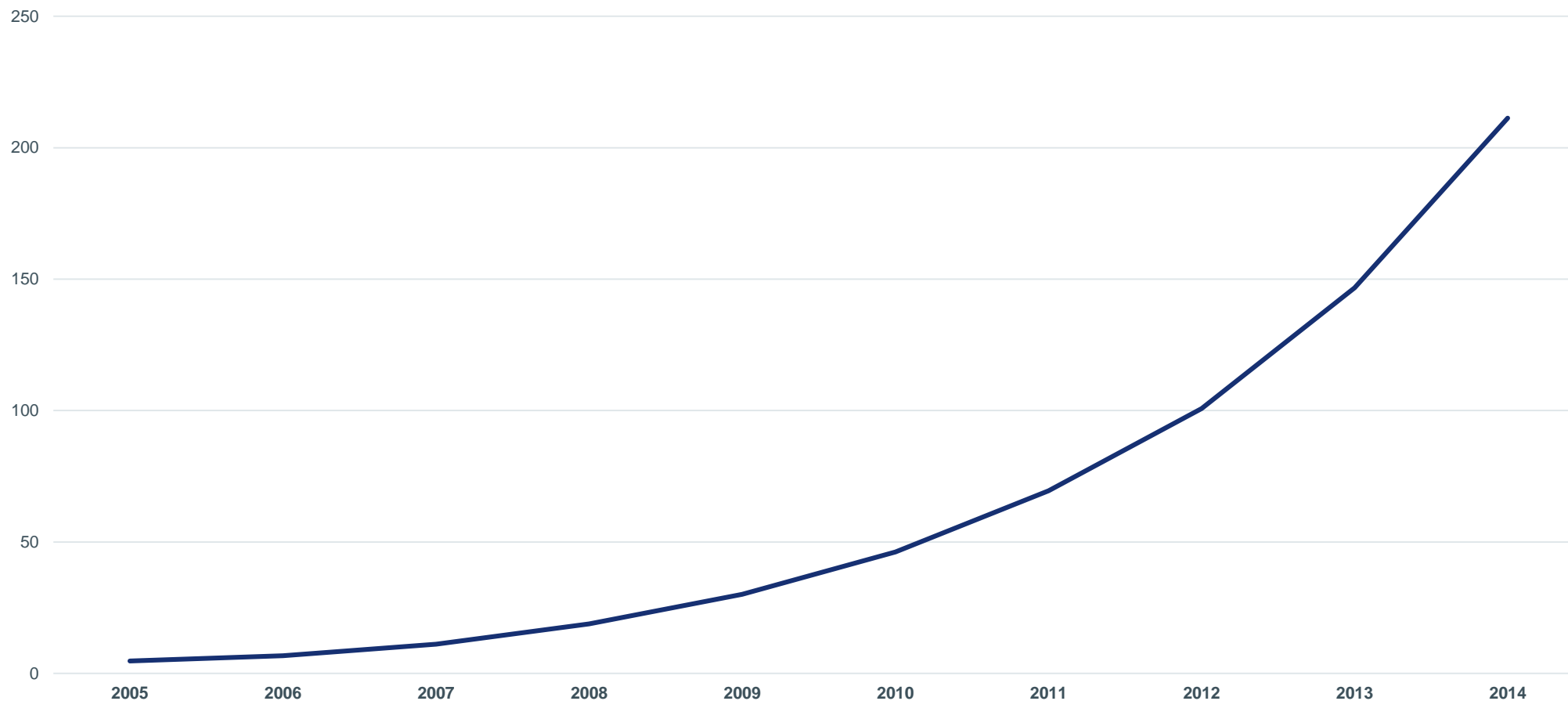
SECTOR	% OF TOTAL GDP
REAL ESTATE	11.0
FINANCIAL SERVICES	6.4
CONSTRUCTION	5.4
INTERNET	3.4
EDUCATION	3.0
COMMUNICATION	3.0
AGRICULTURE	2.2



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WIRTSCHAFTSPARTNERSCHAFT

Cross-border Data Flows 2005 - 2014

Terabytes per second



Source: McKinsey Global Institute, Digital Globalization: The New Era of Global Flows, March 2016, <http://www.mckinsey.com/business-functions/mckinsey-digital/our-insights/digital-globalization-the-new-era-of-global-flows> (accessed on 4 March 2016).

- **Lack of information** - about relevant laws ...
- **Barriers relating to customs** - complicated procedures ...
- **Barriers relating to consumer and sales law** - differences in the right to cancel and return purchases ...
- **Cross-border data transfer:** legislation limiting store and transfer...
- **State controls + localization requirements:** censorship ...
- **Payments and taxes:** requirements for specific payment solutions ...
- **Intellectual property rights barriers:** IP rights violations ...
- **Other barriers:** roaming charges, fraud, problems
- obtaining insurance, certification of products, state subsidies ...



Increasing Inclusiveness through Digital Trade

BENEFITS



Digital Trade provides a variety of benefits to both economies and consumers.

- **New business models**
- **Fast and easy access to a global market place**
- **Lower transactions costs**
- **Access to diverse goods**



BARRIERS



Barriers prevent the potential of Digital Trade from being fully exploited.

- **Lack of e-commerce readiness**
- **Discriminatory & incompatible national policies**
- **Legal gaps in existing trade rules**
- **Digital protectionism**

B20 calls upon G20 members to...

- Support the development of e-commerce capacities, especially in developing countries & for small and medium sized businesses
- Encourage implementation of interoperable and non-discriminatory e-commerce-related policies
- Clarify and adapt global trade rules to the digital age



B20 Digital Trade Focus Topics

Make Use of Digital Trade Potential



Accelerate Capacity Building



Ensure Sound E-Commerce-related Policies



Adapt Trade Rules to the Digital Age



Enable Cross-Border Data Flows

Digital Trade



**Capacity
Building**



**E-Commerce-
related Policies**



**Trade Rules
for the Digital Age**



**Cross-Border
Data Flows**

G20 members should accelerate the inclusive buildup of e-commerce capacities, especially in developing countries and for micro, small, and medium enterprises (MSMEs).

- G20 members should develop and implement country-specific initiatives to improve e-commerce readiness and digital literacy of developing countries and MSMEs.
- G20 members and international organizations should streamline existing Aid for Trade initiatives towards capacity building for digital trade.
- G20 members should actively support the eTrade for All initiative and develop an action plan on how to support each of the initiative's seven key policy areas.
- In support of and in complementarity with already existing initiatives such as Aid for Trade, governments should set up frameworks that allow for further funding sources for e-commerce capacity building, such as foreign investments and public-private partnerships.

Digital Trade



Capacity
Building



E-Commerce-
related Policies



Trade Rules
for the Digital Age



Cross-Border
Data Flows

G20 members should ensure that e-commerce-related policies are interoperable as well as nondiscriminatory and strengthen the regulatory dialogue with all relevant stakeholders.

- G20 members need to align e-commerce-related policies with existing international standards and guidelines.
- G20 members should establish regulatory dialogues on national e-commerce-related policies among each other as well as with non-G20 members.
- G20 members should engage in a dialogue with private stakeholders in the electronic World Trade Platform.

Digital Trade



*Capacity
Building*



*E-Commerce-
related Policies*



*Trade Rules
for the Digital Age*



*Cross-Border
Data Flows*

The G20 should instigate a WTO negotiation mandate on digital trade at the next WTO Ministerial Conference, which should address free cross-border data flows, trade in digital products and services, trade facilitation, regulatory coherence, and other identified legal gaps.

- The G20 Trade and Investment Working Group should establish consensus for the need of a digital trade agreement and the potential components of negotiations.
- WTO members should review the WTO telecommunications annex and its reference paper to reduce barriers to trade in telecommunications services.
- The G20 should push for a revitalization of the WTO Work Programme on Electronic Commerce.

Digital Trade



*Capacity
Building*



*E-Commerce-
related Policies*



*Trade Rules
for the Digital Age*



*Cross-Border
Data Flows*

G20 members should commit in trade agreements not to prevent the free flow of data across borders – without prejudice to clearly defined exceptions for the protection of privacy and security. Furthermore, G20 members should strengthen efforts for interoperable data protection standards, facilitate the use of the accountability principle, and pursue additional bilateral and plurilateral agreements that enable cross-border data flows consistent with privacy and data protection requirements.

- G20 members should address cross-border data flows in their discussions on digital trade and aim for guarantees for unimpeded transfer, access, and storage of data across borders in their trade agreements. These should include appropriate safeguards for privacy and security.
- The G20 should ask UNCTAD and the OECD to guide a dialogue with all relevant stakeholders – including governments as well as experts from private and public organizations – on interoperable data protection and privacy protection standards. The process should lead to the development of a framework of common guiding policy principles that increase interoperability.
- G20 members should facilitate the use of accountability-based legal instruments and pursue bi- or plurilateral agreements, such as the Privacy Shield to enable cross-border data flows while safeguarding privacy requirements.

BDI Positions on Data Flows in Free Trade Agreements (1/3)

- FTA's should ensure **cross-border access to / transfer and storage of data.**
- Localization requirements by law on data and ICT infrastructure should be **explicitly prohibited.**
- Cross-border data transfer should **not** depend on **tests of the necessity** of data transfer.
 - These tests would lead to profound legal unclarity without contributing to data security or protection.

A high degree of **privacy, security and trust** is paramount for digital trade.

- The provisions of the EU **privacy regulation should not be circumvented by FTA's**.
 - FTA's may contain explicit **exemptions** from regulations preventing data and ICT infrastructure localisation.
 - But **risk** that exemptions may be abused for **protectionist** purposes !
 - Exemptions have to be **clearly defined, non-discriminatory and transparent** !

Exemptions from free flow of data should (furthermore)

1. be based on **GATS article XIV**,
 2. comply with **EU privacy regulations** and
 3. ensure effective **protection of cross-border data transfer**.
 4. **Burden of proof** to show that measures restricting cross-border dataflow are legitimate and non-protectionist has to lie **on the government** applying them.
- On this basis, the EU can **set gold standards** for FTA's constraining digital protectionism and fostering high levels of privacy.

Many thanks for your attention



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BUSINESS 20 DIALOGUE