

Current Landscape of E-commerce Trade Rules

Victor do Prado
Director, Council and TNC Division
WTO

Introduction

- E-commerce not new in the WTO (1998)
- Increased interest in discussing e-commerce recently
- E-commerce within scope of existing WTO Agreements
- Relevance of basic WTO principles

WTO Agreements

- GATT 1994 & Annex 1 agreements; GATS; and TRIPS
 - No language excluding their application to e-commerce
 - No explicit confirmation either by Members
- TPRM – transparency/e-commerce elements in reviews
- Other Agreements:
 - TFA – electronic payments; electronic copies
 - ITA – elimination of tariffs on IT products
- Further discussions/clarifications
 - "digital products": GATT or GATS?

WTO dispute settlement – case law

- Cases involving electronic commerce
 - US-Gambling
 - Mexico-Telecoms
 - China-Publications and Audiovisual Products
 - China-Electronic Payment Services

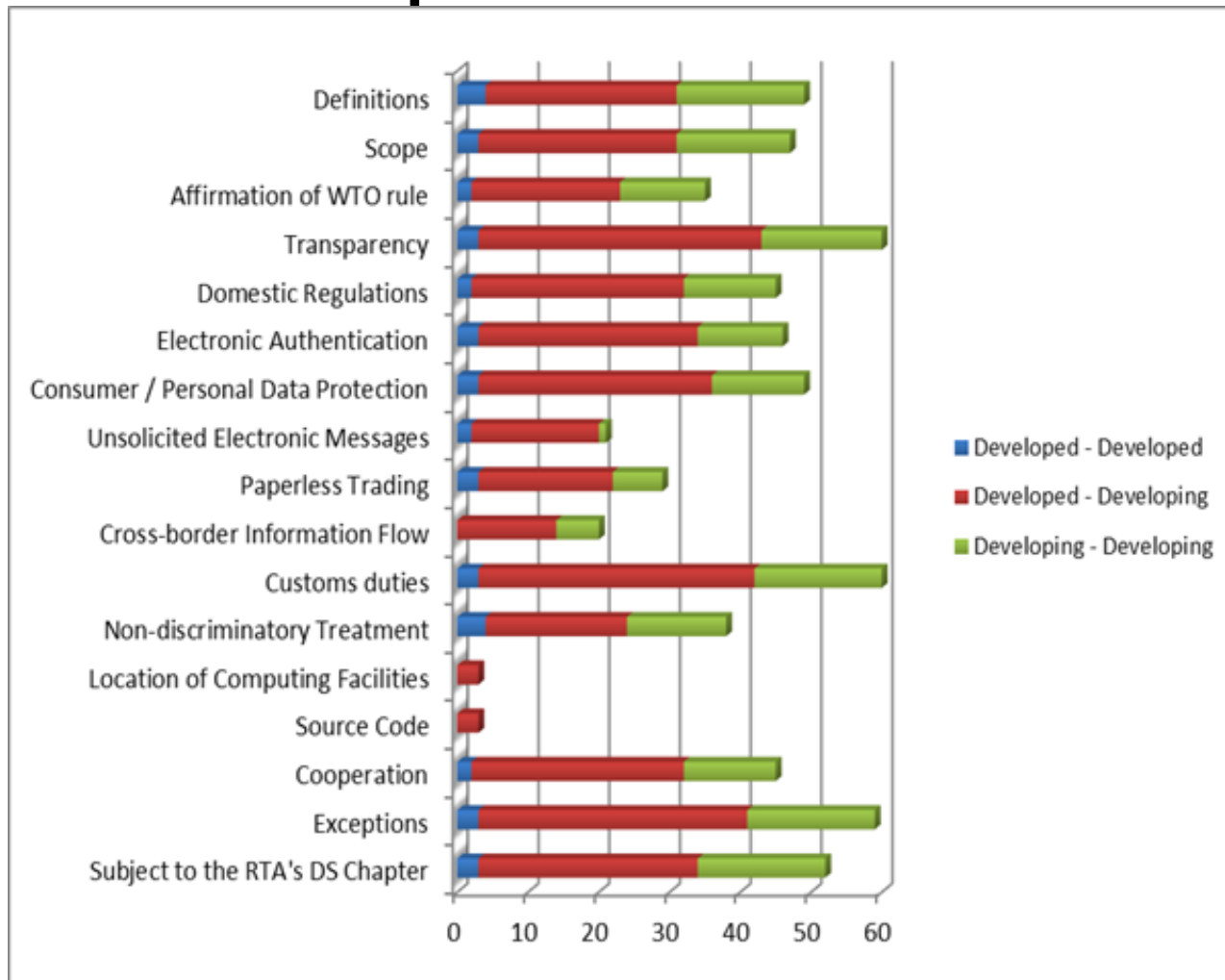
Development – Technical Assistance and Capacity Building

- More requests for e-commerce TA
 - Regional and national
- Cooperation with other partners
- Role of Aid for Trade/EIF in the development of e-commerce capacity:
 - July Global AFT Review focus on connectivity
- UNCTAD’s “eTrade for All” initiative

E-commerce Chapters in RTAs

- About 20% of RTAs notified to the WTO have e-commerce chapters
- Diverse membership – not only involving developed countries
 - 18 RTAs concluded among developing countries
- Issues addressed in RTAs are highlighted in recent submissions

Common provisions in RTAs



The presence of certain provisions does not seem to be linked to the level of development of the parties involved; most of them are found across all categories of RTAs, with the exception of provisions regarding Location of Computing Facilities and Source Code

Common provisions in RTAs

- Definitions
- Scope
- Affirmation of WTO rules
- Transparency
- Customs duties
- Non-discriminatory treatment
- Domestic regulations
- Electronic authentication

Common provisions in RTAs

- Consumer/personal data protection
- Unsolicited electronic messages
- Paperless trading
- Cross-border information flows
- Location of computing facilities
- Source code
- Cooperation; Exceptions; Dispute settlement

Conclusions

- WTO rules apply to e-commerce
- Further clarifications/discussion on how rules might address specific challenges
- Some issues covered in RTAs not explicitly addressed in WTO Agreements
- Up to WTO Members to decide way forward
- Addressing developmental aspect is key

Thank you!