

Environment and the digital economy trade agenda

*how do these two spheres fit
together?*

Sofia Scasserra

Introduction

Digitality crosses our paths in an increasingly connected world. And as the digital economy has expanded, devoid of rules and wrapped in a halo of comfort and satisfaction, the problems caused by the lack of regulation have increasingly become apparent. Issues such as racial and gender bias, discrimination, excessive power, lack of privacy, and extractivism, make it harder and harder to dispute that a form of governance for the digital world is necessary. Such governance would merely begin to put order in a deregulated world, to maximize the benefits, which are many, and to mitigate the negative effects, which are also not few.

The environmental agenda has become necessary and urgent for the world. A change of direction is urgently needed, and cannot be avoided, if we are to mitigate the consequences of climate change, excessive extractivism, and the extinction of flora and fauna species, among other effects.

In this sense, just as the gender agenda must permeate all decisions, the environmental issue must also be present in all discussions that take place in society.

When it comes to the digital economy, two governance models are currently being negotiated: on the one hand, the United Nations Global Digital Compact seeks a kind of adherence to basic principles to regulate or bring order to the digital sphere, until such time as states regulate internally or regionally. On the other hand, the trade rules in the WTO and other bilateral and plurilateral treaties seek to regulate the digital economy in a binding way guided purely by business profit motive.

In this article, we ask ourselves, *"How can the digital trade agenda impact the environment?"*

An ecological alternative?

Digitality is presented to us as an ecological alternative, one that is free of paper, bureaucracy, and unnecessary printouts that lead to the felling of trees, and the accumulation of garbage. It should lead us, therefore, to a cleaner planet. If we look only at this sphere of digitality, one can easily fall into the trap of thinking that more digitalization equals a more sustainable economy. Unfortunately, this is far from the truth.

We will not delve here into what is involved in the production of hardware, lithium batteries, and the programmed obsolescence of most of the devices we use today: just taking this aspect into account, the environmental balance sheet of technology begins to teeter in free fall. Some of the negative impacts include excessive lithium mining leading to water pollution, technological waste that is sometimes impossible to recycle, and energy that is increasingly needed to connect devices and make them "wireless" when they do not need to be. Technological consumption has become part of everyday life, and it seems that everything that is connected to the Internet is an avant-garde, modern, and special product.

Beyond that, what interests us here is to understand what is involved in the digital governance model proposed by the Joint Statement Initiative (JSI) on e-commerce being negotiated at the WTO and whether we are indeed moving towards a green economy.

E-commerce JSI clauses

The negotiations on the digital economy at the WTO seek to generate a more accelerated economic model, where trade has fewer obstacles, processes are streamlined, and the exchange of goods is unimpeded in value chains. While this may be considered valuable for the global economy, this acceleration of international trade undoubtedly leads to an acceleration of logistics: more shipments, more airplanes, more cars and trucks, and the movement of packages. The digital revolution is, above all, a logistics revolution, which seeks a door-to-door movement of packages and retail trade almost instantaneously, reducing time and thus accelerating this sales channel over other channels, such as traditional face-to-face trade. Thus, the P2C (peer-to-consumer)¹ model results in a model that necessitates logistics development, which in turn demands more energy and fuel, among other resources.

The digitization of commercial processes brings less paper but more data. Today, little is said about data centres and the pollution they generate. Not only do they require water for cooling and loads of energy to function, but they also generate housing problems in large cities, where the telecommunications exchange points are located. In other words, data centres are strategically located in the nodes where there is the greatest connectivity today, and these happen to be heavily populated cities that already face many difficult to solve urban problems. The installation of data centers only aggravates an already existing situation.

The e-commerce agenda explicitly states under Section B.2, "Flow of Information", that no restrictions can be imposed on the location of data, meaning one location cannot be preferred over the other. This is not a minor issue; it is known that data storage consumes energy, consumes water, and pollutes the environment in various ways. Ensuring that states can regulate in favour of best environmental and social practices is strategic and necessary in a scenario where the digitization of life leads to an accumulation of data that was unthinkable decades ago. This would be forbidden by WTO rules.

Algorithms and source code

However, this is not the only clause that will affect the environment. There is another that is particularly problematic. Section C.3 under "Business Trust" concerns the prohibition of the transfer of the algorithms and associated source code. This clause is problematic for two main reasons:

- First, the transfer of or access to the source code may be requested for technology transfer issues. It is well known that in environmental matters, the best technologies are those that pollute the least and, in turn, are the most advanced in terms of design,

evaluation, and required infrastructure. In this sense, it could be argued that the more technology, the less pollution. This is why it is often very difficult for developing countries to invest in green energies or less polluting technological systems, because incorporating them overnight implies a disinvestment in sovereign technologies that would encourage the development of national industry. For this reason, they often prefer to make a slower but more sovereign technological transition. In this sense, a just transition in environmental and energy issues is needed, which necessarily implies a just transition in technological terms. In this way, it could be beneficial that, in certain investments and contracts, the countries of the global South could have access to technology, obliging companies to transfer this technology if they wish to invest in these countries. And this may involve access to the associated algorithm or source code.

- Second, there is a consensus today that artificial intelligence and decision automation systems must meet certain ethical standards. The very European standard now under discussion highlights this need. In this sense, room for public policy is needed to allow states to regulate how such auditing will be done. This audit should consider environmental standards and fundamental rights as core values to be preserved. A good example of this can be seen in delivery platforms. These companies have an algorithm that assigns tasks to workers. Let's imagine for a moment that such an algorithm has in its instruction that it will only assign tasks if workers are on the move, in such a way that the active mobility of the worker is promoted to generate publicity for the company, given that workers move around the city with their backpacks. This generates occupational health and safety risks as well as environmental risks, as the worker on the motorcycle is constantly on the move even without carrying orders. If an authority had the ability to check this algorithm before it went to market, it would quickly ask the company to modify this so as to be able to operate in a city. The fact that the worker receives orders while sitting in a square while resting means fewer traffic accidents, fewer physical demands, and less pollution in the cities. In this way, with an example, we can see how it is probably a good idea to have an enforcement authority that audits technological products before they go on the market, making sure that they are respectful of the environment and fundamental rights and not only take care of privacy and discriminatory biases.

In many cases, such as in the clause on the localization of systems and databases, the WTO agreement states that contradictions can be raised as long as they are in pursuit of a legitimate objective. These words lend confusion, as it is not made clear whether protecting the environment is a legitimate objective, exposing states to great costs in terms of lawsuits to prove it in the event of making use of this exception. The end result tends to have a chilling effect on decisions taken by states in order not to expose themselves to greater costs and lawsuits. Do we really want a world where regulators would rather do nothing than act on climate change and the environmental consequences of digitality?

Financial resources

Finally, under sector B.3, "customs duties on electronic transmissions", the e-commerce agreement determines that no customs duties can be levied on electronic transmissions, something that already exists in the WTO since 1998 but which is faltering ministerial after ministerial meeting as states are realizing the enormous amount of money in fiscal terms that they are missing out on collecting because of this "moratorium" that is renewed every 2 years or so. In this sense, it is necessary to understand that to address the climate crisis, it is necessary to invest resources in renewable energy, to strengthen the control and auditing capacity of states, and to carry out awareness campaigns, among other issues. All of this requires much-needed financial means, especially for the countries of the Global South that still have to solve such basic problems as access to education, health, and basic goods such as drinking water for their citizens. In an emergency, we cannot wait; we must give the states the necessary resources to face climate change. Taking away from them a potential source of funding that can be easily accounted for through electronic transactions does not seem like a very good measure in a world that cannot wait for answers. A recent paper by The South Centre estimated that in the period 2017-2020, developing countries and LDCs lost \$56 billion of tariff revenue, of which \$48 billion were lost by the developing countries and \$8 billion by the least developed countries².

Conclusion

The world needs urgent answers, and digitality is a sphere that not only involves us today but will also grow exponentially in the years to come. Thinking of leaving room for states to regulate and force companies to have better practices, verifying their compliance, and even slowing down the economy if necessary, seems like a prudent path to follow.

Notes

1. The online shopping business through platforms can be called peer-to-consumer because it is mainly a really small business or just a person who posts products online to sell and adds earnings to his/her monthly budget. If the company selling online is big, it should be called B2C (business-to-consumer), and if there are second hand items, it should be called C2C (consumer-to-consumer).
2. <https://www.southcentre.int/research-paper-157-3-june-2022/>