

AFRICA'S DIGITAL TRADE REGULATORY FRAMEWORK:

Unlocking Africa's Digital Potential

Africa has some of the most rapidly growing markets and greatest entrepreneurial energy in the global economy. With the right policy frameworks - that focus on harmonised trade rules, data protection, cybersecurity, cloud computing and taxation - they can become ideal launching pads for future innovation. Over the past decades, the global spread of new technologies has helped lift over **one billion people** out of extreme poverty.

Source: Digital sprinters: driving growth in emerging markets

Africa's internet economy has the potential to grow to

US\$180 billion  **5.2%** of the continent's GDP by 2025.¹
(compared to US\$115 billion in 2022)

Realising this economic potential will depend on the ability of African countries to embrace and encourage digital transformation.

¹ IFC e-Economy Africa report: Africa's \$180 Billion Internet Economy Future (<http://surl.li/glpqqs>)

Internet access in Africa remains very uneven

Internet access (through both fixed and mobile networks combined) is



40% in Africa

vs.



66% worldwide



64%
of urban citizens have access



23%
of rural citizens are connected²

46%
of men are connected



34%
of women have access to the internet.²

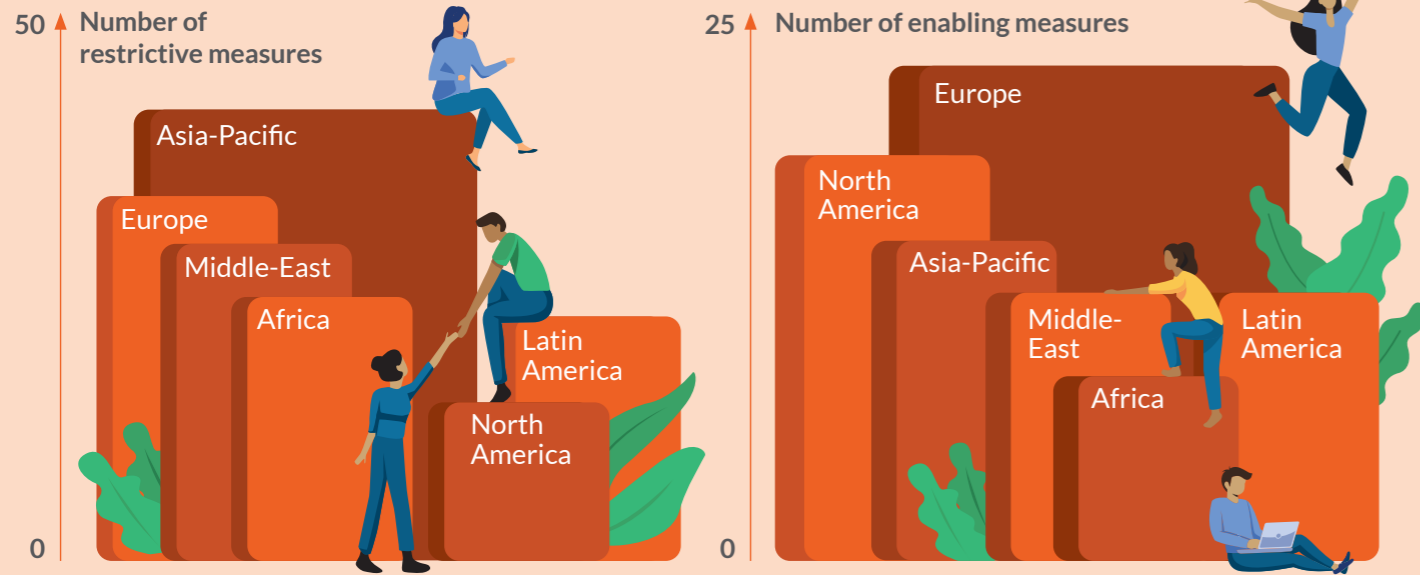
Digital transformation is not limited to internet access alone; it pertains to all the ways technologies or data can advance human activity. Artificial Intelligence (AI) is already transforming industries from health to education, agriculture to climate change and energy transition. Technology has reduced the costs of engaging in trade; connecting businesses and consumers globally. Despite this, policy restrictions and limitations to digital trade may prevent African countries from fully harnessing its benefits.

² World data- ITU DataHub (<http://surl.li/glprrk>)

How policy measures affect digital trade

According to the **Regional Digital Trade Integration Index (RDTII)**³ whereas Africa is not the region with the largest number of restrictive measures to digital trade, it is the region with the least number of enabling policies in place. In addition, the number of restrictive measures matters less for digital trade than the level of restrictiveness of these policies. Recent empirical evidence by ECA confirms that restrictiveness undermines Africa's trade, starting with itself.

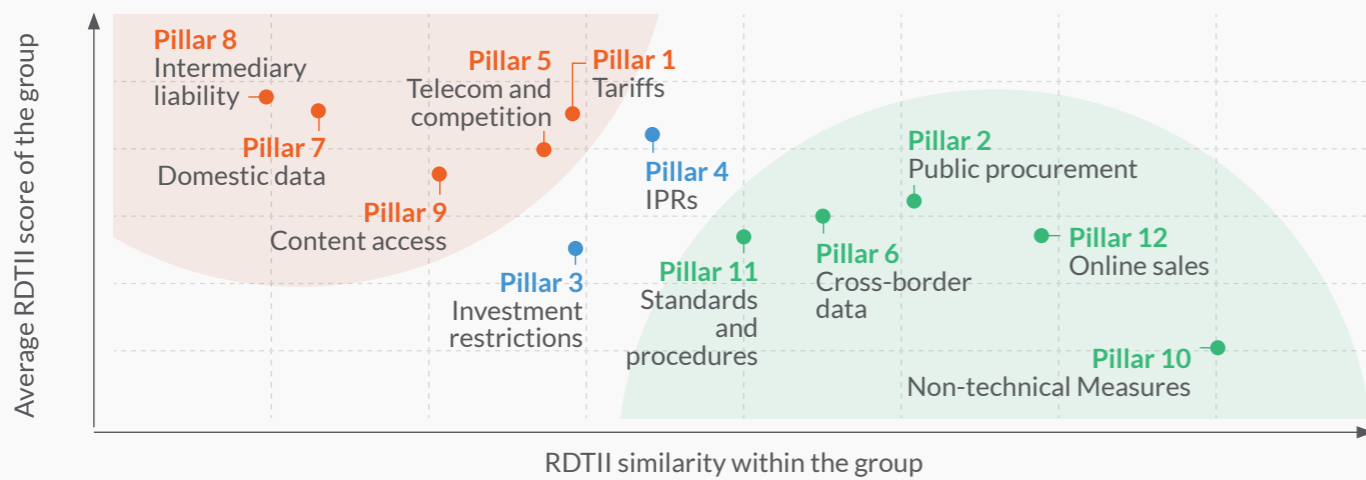
Source: ECA (forthcoming) Digital trade's regulatory environment: Opportunities for regulatory harmonisation in Africa.



Source: EUI with data from ECA, ECLAC, ESCAP and EUI.

Digital-trade policy diversity in the African region in 2022, based on RDTII pillars

The RDTII index further indicates that certain areas of trade policy are trailing behind and could be prioritised for regional similarity. To assess digital trade policy diversity in Africa, the index grouped 28 African countries and assessed the level of restrictiveness alongside the level of similarity. The pillars within the green circle below have relatively low RDTII scores and display high levels of similarity, suggesting policy areas where African countries are already rather well integrated in digital trade. However, those within the red circle, with relatively high RDTII scores and low similarity require special attention for potential interventions and harmonisation of digital trade regulations in the framework of the AU Digital Transformation Strategy for 2020-2030, and ongoing negotiations of the Digital Trade Protocol under the AfCFTA.



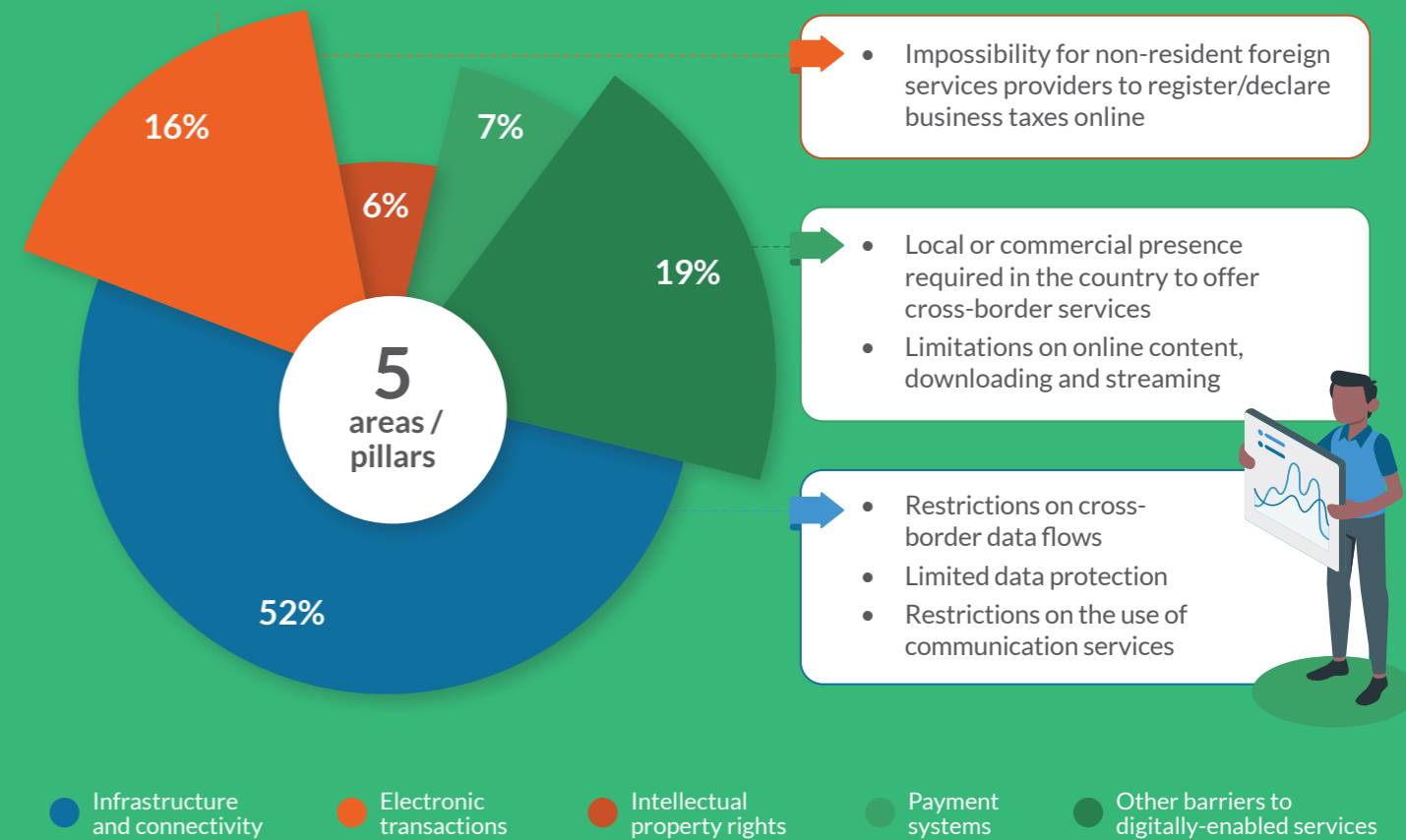
Source: ECA's calculations based on RDTII data as of December 2022.

³RDTII was developed by the Economic Commission for Africa (ECA), the Economic Commission for Latin America and the Caribbean (ECLAC), the Economic and Social Commission for Asia and the Pacific (ESCAP) in collaboration with the European University Institute (EUI). The index is based on nationally collected data concerning restrictive (limiting) and enabling (conductive) measures to digital trade, to assess the extent to which African countries are integrated in digital trade globally and continentally. Index, pillars and indicators' scores range from 0 to 1, such as 0 reveals that the policy environment is perfectly conducive to digital trade whereas 1 attests of a policy framework that is fully obstructing digital trade. Data collected so far for the RDTII cover 28 African countries, namely: Botswana, Burundi, Cameroon, Chad, Congo, Democratic Republic of Congo, Egypt, Eswatini, Ethiopia, Gabon, Gambia, Ghana, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mozambique, Namibia, Nigeria, Rwanda, Senegal, Sierra Leone, Tanzania, Togo, Uganda, Zambia, Zimbabwe. For further insights about the initiative, please see: <https://dtri.uneca.org/>.

Limitations to digital services trade in Africa

Whereas on average restrictions to digital services trade in Africa tend to be relatively moderate, they are still relatively higher than in other regions, where similar information is available.⁴ Policy areas with the largest restrictions on digital services trade are infrastructure & connectivity, with restrictions on cross-border data flows (transfer of data is often found to be restricted, sometimes prohibited), limited data protection (detering consumers from using digital means), and restrictions on the use of communication (e.g. restricted internet connection, blocked social media) representing the major impediments:

Main restrictions to digital services trade in Africa (2021)



Source: ECA and OECD.

The AfCFTA Protocol on Digital Trade remains a core outstanding component. The protocol should seek to promote and facilitate digital trade among State Parties to support the attainment of the objectives of the AfCFTA Agreement amongst others. Alongside the digital protocol, the existing protocols on trade in goods and services, protocol on IPRs, investment and competition policy as well as the protocol on women and youth in trade are highly relevant as they address tariff and non-tariff barriers to trade in ICT goods and services: two areas where barriers remain, despite the AfCFTA's objective of free trade.

⁴OECD, Asia-Pacific, Latin America and the Caribbean.

RECOMMENDATIONS

The regulatory landscape across various policy areas needed to enable digital trade in Africa can be made more robust with a range of policy considerations along the following lines:

Tariffs and taxes

- Reduce intra-African tariffs on ICT goods (i.e. no ICT goods should be placed on exclusion list of countries' tariff offers under the AfCFTA Agreement)
- Simplify ICT goods import processes (e.g. authorisation, documents)
- Avoid unilateral tax policies that raise trade barriers (e.g. digital services taxes or equalisation levies)

Promote free flow and innovative uses of data

- Implement & enforce enhanced framework for data privacy and protection, including personal data for online sales and transactions (only 33 African countries have data protection legislation in force)
- Promote data interoperability
- Adopt mutual recognition of digital identities
- Put in place a framework for intermediary liability protection
- Improve management of content access
- Encourage data sharing initiatives (e.g. data trusts)
- Ease conditions on cross-border data flows
- Adopt an open-by-default approach to public data: no prohibitions or restrictions on the cross-border transfer of data
- Minimise data retention without court order or open investigation
- Adopt a harmonised approach with common mechanisms for legal recourse to combat cybercrimes

Enforce digital trade rules and secure systems

- Cooperate to ensure harmonised mechanism for legal recourse with limited impact on digital trade (cybercrime is estimated to cost Africa USD 4 billion per year)⁵

Commit to open digital trade

- Non-discrimination of digital products
- Prioritise digital-first trade agreements
- Advance a digital government (e.g. move more citizen services online)
- Promote the use of and provide access to public data, and enable paperless trading
- Adopt internationally and regionally accepted payment standards

Encourage movement to the cloud

- Adopt cloud-first policies by government agencies
- Avoid unnecessary data localisation requirements within AfCFTA State Parties, and more systematically use data encryption
- Adopt a proportionate, risk based framework to AI regulation

Encourage entrepreneurship and startups

- Introduce harmonised regulation to enable innovation
- Offer a framework to protect early stage investors

Competition

- Diversify the ownership in telecom companies
- Liberalise telecom licensing requirements
- Facilitate competition in telecom sector to draw capital/innovation in Africa's digital



⁵ African cyber threat assessment report (<http://surl.li/glprp>)