



LATIN AMERICAN
AND CARIBBEAN
ECONOMIC SYSTEM



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UNCTAD



Rapporteur's Report

Economic Recovery

*X Annual Meeting of the Working Group on Trade and Competition of Latin America and the Caribbean
Asunción, Paraguay
20 and 21 October 2022
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I. GENERAL OVERVIEW

1. The [X Annual Meeting of the Working Group on Trade and Competition of Latin America and the Caribbean](#), organised by the Permanent Secretariat of the Latin American and Caribbean Economic System (SELA), in partnership with the United Nations Conference on Trade and Development (UNCTAD) and the National Competition Commission (CONACOM) and with the support of the Ministry of Industry and Trade of Paraguay, was held in Asunción, Paraguay, on 20 and 21 October 2022.
2. In line with the objectives outlined by the organisers, this meeting of the Working Group on Trade and Competition (WGTC): i) presented an overview of e-commerce and the digital economy in the region in the aftermath of the pandemic and its impact on the economic recovery process; ii) identified and discussed the strengths and weaknesses faced by the region with the purpose of boosting the dynamism of its economy; and iii) provided a space for a proactive discussion that facilitated the analysis, learning and exchange of best practices in the regulation and promotion of e-commerce and the digital economy in the region.

Participants included representatives of the following Member States of SELA: Argentina, Bolivia, Brazil, Chile, Ecuador, El Salvador, Honduras, Mexico, Panama, Paraguay, Peru, Dominican Republic, and Paraguay as host country. Participants also included representatives of the following regional organisations: CAF-development bank of Latin America, the Economic Commission for Latin America and the Caribbean (ECLAC), the Institute for Integration of Latin America and the Caribbean (INTAL) and the Secretariat for Central American Economic Integration (SIECA), Computer and Communications Industry Association (CCIA), Paraguayan Chamber of Electronic Commerce (CAPACE), GAMES Economics, the Association of SMEs, Micro-enterprises and Entrepreneurs for Electronic Commerce (APPCE), and Meta.

Opening remarks were delivered by Rolando Díaz, President of CONACOM; Juan Luis Crucelegui, Head of Capacity Building and Advisory Services of the Competition and Consumer Policy Department of UNCTAD; and Ambassador Clarems Endara, Permanent Secretary of SELA.

3. Mr. Rolando Díaz welcomed the audience, thanked UNCTAD and SELA for their support to hold the meeting, and expressed his pleasure for having the possibility of a face-to-face event. He said he was confident that at the end of the meeting, the participants would have shared a lot personally and, above all, professionally, and that upon returning to their daily work, they would be able to incorporate ideas and reflections discussed and shared during the exchanges that took place during the two days of work.
4. Mr. Juan Luis Crucelegui then pointed out that this meeting was the only forum where competition and trade authorities meet to discuss issues affecting both competition and trade in Latin America and the Caribbean, and that UNCTAD, for its part, would gladly continue to support the WGTC and maintain the joint work with SELA. He referred to the advantages that have emerged with digitalisation for businesses, consumers, and the economy in general. However, he said that a series of challenges must be faced, such as the exponential growth of digitalisation which, in turn, has given rise to the exponential growth of companies that manage digital platforms such as Amazon, Alibaba, and Mercado Libre, among others. While they greatly facilitate communication, work, and

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commerce, they have subjected the latter to several risks. Finally, he pointed out that action is required in the face of the enormous economic growth of global platforms and that this meeting was an opportunity to discuss the related risks; he also expressed his hope that conclusions and possible solutions to address these risks would be derived from this discussion.

5. Ambassador Clarems Endara, Permanent Secretary of SELA, welcomed the audience and acknowledged and expressed his gratitude to CONACOM for its efforts to hold this meeting, just one day after fulfilling the commitments of the National Competition Day, held on 19 October. He also extended his gratitude to the national government of Paraguay for its contribution and, in general, to the countries and organisations for their participation. He welcomed the possibility for the WGTC to meet again face-to-face. He then referred to the survey conducted by SELA among its member countries. Basically, he said, they were asked about the efforts they wanted to externalize with a regional approach, beyond individuality, which is "our main weakness," as was seen during the pandemic. The purpose, he explained, was to promote convergence among countries to work together.

The interesting thing about the responses obtained, he said, is that most of the countries identified three common challenges to be faced: economic recovery, digitalisation and social development. In response to this request, he explained, SELA has proposed to design plans that are transversal to two pillars: economic recovery and digitalisation. In the specific case of e-commerce, he explained that it has reported a very relevant growth in the region. He recalled that in the midst of the pandemic, electronic intercommunication processes were accelerated and that, at the borders, for example, having not been able to activate a single window for communication between customs authorities, it was replaced by WhatsApp and the transmission of JPG documents.

Subsequently, he added, both governments and organisations streamlined their systems and considered the possibility of establishing a single window. He went on to say that this reflection serves as a basis for starting this debate in a very constructive way, because the "process of accelerating processes" in e-commerce is irreversible and has the potential to focus on more precise coordination and eliminate biases that could result from competition or distortions in trade itself. He added that this was a very important challenge, and combining competition and trade is something unique and represents a heritage that "we should not neglect."

He called for work to be intensified beyond the annual face-to-face meeting through interim work to strengthen academic and scientific criteria and, above all, common positions as a region, taking advantage of the best practices not only of the countries but also those of organisations such as SIECA, CAN, and MERCOSUR itself. The mere exchange of information or best practices can result in significant fiscal savings, he said. He referred to the experience of SELA, which now has a permanent forum to exchange experiences in order to lighten the burden and, subsequently, to start generating a common diagnosis base to have a permanent working group that will evolve, first in public policy proposals, and later on, in proposals to regulate certain activities of a regional nature.

He concluded by valuing the collaborative nature of SELA's work with UNCTAD and, at the same time, he expressed the need for this work to be oriented towards much more tangible results, including the preparation of documents that could be used by national

governments and the presentation of proposals that could be considered in their public policies at some point in time.

6. The presentations of the panellists, photographs, videos and the list of participants are available on SELA's Web site, at the following link: <http://www.sela.org/es/eventos/e/82751/x-grupo-de-trabajo-sobre-comercio-y-competencia-de-alc>

II. SUMMARY OF PRESENTATIONS

Session: Diagnosis of the challenges and opportunities for e-commerce in Latin America and the Caribbean in the aftermath of the pandemic

This session was moderated by Pedro Mancuello, Vice-Minister of Trade and Services of the Ministry of Trade of Paraguay, who welcomed the audience and appreciated the efforts made by the organisers to hold the meeting. He also highlighted CONACOM's performance, thanked Ambassador Clarems Endara, Permanent Secretary of SELA, for his contribution to the meeting, and reiterated the commitment of the WGTC to build a joint work agenda. He then introduced the panellists of this session:

7. Ricardo Rozemberg, Senior Specialist of the Institute for the Integration of Latin America and the Caribbean (INTAL), who spoke on the [Impact and evolution of e-commerce in Latin America and the Caribbean](#).
8. Nanno Mulder, Chief of the Sustainable Trade Unit of the Division of International Trade and Integration of ECLAC, referred to [The regulation of e-commerce: implications and considerations for Latin America and the Caribbean](#).
9. Ramón Pérez Fermín Vice-Minister of Trade of the Dominican Republic (DR), spoke on [E-commerce and its impact on domestic trade](#).
10. Alfredo Worner, Advisor, E-commerce Department of the General Directorate of Export Promotion – ProChile.
11. Jorge Arreola, Director General of Competitiveness and Competition of the Ministry of Economy of Mexico, presented the paper [The promotion of e-commerce in Mexico](#).
12. Afterwards, Norman Harris, Advisor Representative in Panama of the Secretariat for Central American Economic Integration (SIECA) explained the [IT platforms in support of e-commerce](#).

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Session: Digital platforms, e-commerce and MSMEs. Recommendations for best practices

This session was moderated by Federico Martínez, lawyer, member of Mersan Abogados and the Paraguayan Association of Studies on Competition Defence (APEDEC). The following panellists took the floor:

13. Juan Luis Crucelegui, Head of Capacity Building and Advisory Services, Competition and Consumer Policy Department, UNCTAD, spoke on [The interaction between digital platforms and SMEs: best practices for digital platforms](#).
14. Edgar Felipe Arcila, Executive President of the Association of SMEs, Microenterprises and Entrepreneurship for Electronic Commerce (APPCE) of Colombia, spoke on [The role of e-commerce in the economic recovery of the country](#).
15. Gustavo Giménez, President and Executive Director of the Paraguayan Chamber of Electronic Commerce, spoke on [E-commerce in Paraguay](#).
16. María Elena Vásquez, President of the National Commission for the Defence of Competition (PROCOMPETENCIA) of the Dominican Republic, made a presentation on [Digital platforms, e-commerce and MSMEs](#).
17. Federico Peña, Technical Director of the National Competition Commission (CONACOM) of Paraguay, spoke about the [Challenges for free competition in digital platforms](#).

Friday, 21 October 2022

Session: The digitalisation of the economy in Latin America: benefits and risks for competition

This session was moderated by Juan Luis Crucelegui (UNCTAD) and included the following panellists:

18. Guillermo Cabral, specialist of the Directorate for Macroeconomic Studies of CAF-development bank of Latin America, made a presentation on [The digitalisation of the economy in Latin America](#).
19. Krisztian Katona, Vice President of Global Competition and Regulatory Policy at the Computer and Communications Industry Association (CCIA), presented the paper [E-commerce: a pathway to regional economic recovery](#).
20. Enrique Vergara, lawyer, academic, former head of the National Economic Prosecutor's Office and of the Chilean Court for the Defence of Free Competition, spoke about [Digital markets: the UBER Cornership case](#).
21. Esteban Greco, Director of GAMES Economics and international consultant in regulatory and competition economics, and Fernanda Viécens referred to the [Analysis of mergers in digital markets in Latin America](#).

FORUM I

Roundtable moderated by Juan Luis Crucelegui (UNCTAD), with the participation of the following four panellists:

22. Marianela López-Galdós, Director of Public Policy in the Competition Area of META Platforms Inc, spoke about [The need to establish a specific regulation as a complement to competition rules](#).
23. Vicente Lagos, Chief Economist of the Mergers Division of the National Economic Prosecutor's Office (FNE) of Chile, made a presentation on [The definition of the relevant market in digital economy: aspects to be considered](#).
24. Diogo Thomson, Deputy Superintendent of the Conselho Administrativo de Defesa Econômica (Cade) of Brazil, spoke on [The exercise of market power of digital platforms](#).
25. Daniel Escalona, Executive Director of Mergers at the Federal Economic Competition Commission (COFECE) of Mexico, addressed [Control of mergers in digital markets](#).

Session: Presentation of practical cases dealt with by competition authorities in the field of the digital economy and e-commerce.

This session was moderated by Rolando Díaz, President of CONACOM, with the participation of the following panellists:

28. Humberto Ortiz, Advisor to the National Directorate for the Research and Promotion of Free Competition (INDECOPI), Peru, spoke on [Card payment services](#).
29. Gerardo Henríquez. Superintendent of Competition of SC-El Salvador, referred to [Competition policy and digital platforms](#).
30. Guido Farbiarz, Instructor and Economic Analyst of the National Commission for the Defence of Competition (CNDC) of Argentina, analysed [The case of WhatsApp - Facebook](#).

III. CONCLUSIONS

Following are some concluding remarks arising from the presentations of the panellists and their interventions during the discussions in the different sessions.

1. Regardless of the method of delivery and payment, e-commerce is carried out by digital means. However, some associate it with goods, which can only be exchanged physically, so e-commerce and real trade in goods are synonymous and both share the same difficulties.
2. The pandemic taught us that digital transformation had to be accelerated to drive real growth and, at the same time, highlighted the limitations to be overcome.
3. E-commerce was very useful during the pandemic, and now, in the post-pandemic, it is proving to be equally useful as a tool to generate opportunities for inclusion, integration and efficiency in both the formal and informal productive sectors.
4. Latin America and the Caribbean is very limited in terms of locating consistent data on e-commerce. This situation makes it difficult for analysts to study the phenomenon, for companies to make decisions, and for governments to design policies and intervene in markets.
5. Cross-border flow or international digital trade is still very marginal and, in terms of international trade, only represents 2% of world merchandise exports, indicating that e-commerce is still more a national or domestic business than a transnational or cross-border one. Latin America and the Caribbean's share of B2C e-commerce is much lower than its share of the world's population, and it is not yet as consolidated as in developed, digitally mature countries.
6. In the region, there are major differences in e-commerce regulation to the point that countries within the same integration scheme have major differences between them and there is no interest in converging in this area.
7. A positive development in digitalisation in Latin America and the Caribbean is that the Pacific Alliance (PA), MERCOSUR and CAN have a roadmap to promote integration and that ECLAC has offered its assistance to discuss and promote greater convergence between the three subregional integration schemes.
8. The region has an irregular regulatory framework, which means that in some countries and in some areas, there is a high number of potentially restrictive measures, a situation that can affect subregional and regional integration to the extent that the regulatory frameworks between countries are not comparable when establishing restrictions. It also affects foreign companies seeking to enter domestic markets and, consequently, individuals and companies that could benefit from e-commerce.
9. Fintech enables the generation of new business models, applications, processes or products with a significant associated impact on the provision of financial services.
10. Latin America and the Caribbean is a marginal player in the global trade in modern services or digitally delivered services. Its share in the global e-commerce is only 2% and, although small, its cross-border trade is growing fast.
11. Digital platforms that act as intermediaries between businesses (suppliers, advertisers, content providers, etc.) and users and consumers play a key role in the digitalisation of economies.
12. Developing countries can benefit from the digitalisation of their economies.
13. Concentration problems result from the lack of contestability that characterises the markets in which platforms operate, and the consequences of the power they hold are more severe for MSMEs because they are less protected by the authorities and, as a result,

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consumers lose the advantages that derive from a system of effective competition in the market.

14. UNCTAD's *Recommended Practices for Digital Platforms (RPD)* are aimed at platforms that provide specific services that are indispensable for businesses. As such, they are characterised as essential and quasi-essential platforms due to their particular importance in connecting to specific services in one or more countries.
15. RPDs complement existing or forthcoming regulations and can even serve as a guide for countries wishing to establish a regulation or a voluntary soft law instrument to help strengthen a more pro-competitive culture and to more effectively address the complex issues that arise from the application of regulation in this area. Similarly, these rules also provide guidance to Member States, MSME associations and digital platforms to ensure that digital markets are fair and contestable (free market entry and exit) for the benefit of consumers, users, and businesses (in particular, MSMEs).
16. Four examples of best practices in the context of the Colombian digital economy include the *Mipyme Day*, a cyber-event where "Colombians are motivated to buy from Colombians" to help small national entrepreneurs; *MiPymStore.com*, a domestic marketplace; and *diasinIVA.co*, which has contributed significantly to reactivating the economy. The fourth example is the proposal for a reform aimed at forcing companies not to distribute annual profits, but to reinvest them, thus contributing to boosting wealth.
17. Some of the challenges to promote e-commerce include: i) evangelising or training consumers to learn how to shop online; ii) promoting inclusion and digital transformation of SMEs; iii) making it easier for small business owners and entrepreneurs to access banking and credit; iv) making it easier to use digital means of payment both domestically and internationally; v) promoting cross-border e-commerce; and vi) flexible and modern regulation.
18. Actions that would contribute to the integral growth of MSMEs include: i) promoting a culture of e-commerce among the population; ii) leveraging investment incentives, strongly promoting exports; and iii) designing public policies that contribute to accelerating the development of MSMEs.
19. E-commerce takes place on platforms that produce network effects which, in turn, entail a great deal of market power that can lead to practices such as abuse of dominant position or "the winner takes it all."
20. Among the challenges that competition authorities must face in the digital economy, the following stand out: i) the need to understand new business models based on new technologies; ii) the need to transform the way in which the problems of new business models are addressed, with special reference to digital platforms; iii) the need for an agile and flexible approach to regulatory frameworks that facilitate their adaptation to the dynamism of digital markets; and iv) the promotion of solutions that foster innovation in companies operating in digital markets.
21. Network effects of platforms are not considered anti-competitive as they promote an increase in the quality and value offered by goods and services, but this effect may have a detrimental impact on competition by raising barriers to entry or increasing substitution costs, resulting in one platform emerging as dominant.
22. E-commerce has positioned itself, globally and regionally, as one of the largest trading spaces.
23. In Latin America and the Caribbean, the digital infrastructure gap is widening due to: i) lags in the level of investment and quality of telecommunications service, despite advances such as investment, mobile network coverage and improved broadband network speeds in Latin America and the Caribbean; ii) mobile network coverage, especially 4G, is reaching OECD country levels, but 5G and fibre optic coverage still lags behind; and iii) although

- there is an improvement in download speeds, the gap is widening in relation to the average levels of OECD member countries.
24. Any new regulation of digital platforms must consider their potential impact on areas such as data privacy, national security, cybersecurity, and intellectual property. Such an impact can be detrimental to competition, to consumers and to innovation, and thus to the economy at large. In addition, it should be subject to a thorough cost-benefit analysis.
 25. It is of the utmost importance that competition authorities promote a dialogue among themselves and with the participation of all stakeholders to identify opportunities and challenges that may arise in the digitalisation of the economy. Any measures adopted in this dialogue should benefit the consumer.
 26. Latin America and the Caribbean should consider inter-agency policy integration with a regional approach. To do so, it is crucial to have a deep understanding of other jurisdictions' initiatives and to bear in mind that over-regulation would be detrimental to innovation and, in general, to the region's economy.
 27. Excessive regulation reduces the ability of competition authorities to manoeuvre, especially in the field of mergers where prospective or conjectural analysis is key but which is much more complex in a digital market.
 28. Digitalisation in the region has evolved, albeit slowly, and the gap with respect to digitally mature regions has not narrowed, placing the region in an intermediate state of digitalisation.
 29. As regards mergers, it was found that: i) traditional players seek to acquire disruptive digital players; ii) competition agencies are incorporating new theories of harm in the digital economy into their analysis; iii) offline and online coexist in the same relevant market or as competitive pressure; and iv) the definition of notification thresholds establishes differences between countries to address acquisitions of start-ups, potential competitors, and killer acquisitions.
 30. There are efficiency and pro-competitive reasons why a large digital player may be interested in buying a start-up (acquisition of talent or an add-on to the platform that has already been efficiently developed by the start-up).
 31. In cases where start-ups cannot continue with their project and the acquirer has incentives to develop it, the merger may be pro-competitive.
 32. An extended application of theories of harm could discourage innovation by start-ups that develop with the objective of monetising their creations through sale to more financially capable players.
 33. Latin America and the Caribbean is characterised by the need for investment and innovation and poor access to capital markets.
 34. The digitalisation of economies, especially less developed economies, benefits governments, businesses and larger digital platforms alike, and it is in everyone's interest that smaller economies implement policies to promote digitalisation, especially of SMEs as the backbone of all economies.
 35. Digital platforms are intermediaries among businesses, suppliers, advertisers, users, especially consumers, hence their importance in promoting the much-needed digitalisation of the economy.
 36. In many countries, there are major bottlenecks in the whole telecommunications structure, and without competition at the level of Internet providers, it is unlikely that there will be competition in the digital economy and that the economies of less developed countries will be able to digitise.

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37. The number one bottleneck for SMEs is the lack of competition in Internet provision, a problem whose solution is crucial to make some headway in the digitalisation of the economy.
38. Inflexible regulations that cannot adapt to the rapidly changing and dynamic digital economy will harm SMEs and, eventually, the consumer.
39. What is really important in the digital economy is that the economy grows, poverty is reduced, and SMEs develop, so the premise is to design and implement timely policies that promote their digitalisation.
40. The statement that there is no competition in the digital economy is inaccurate. Internet provision is one of the most fiercely competitive areas where users are generally dependent on a single provider.
41. In the digital economy, innovation leads to competition and not competition to innovation, because frequently innovation is disruptive, induced by what users demand.
42. Interoperability will be fundamental in the metaverse¹ so that the user can use several platforms at the same time.
43. Conversations about regulations should be preceded by discussion of the technical issues involved.
44. Three factors have changed the way the relevant market is traditionally defined: i) the existence, across multiple platforms, of more than one relevant market; ii) many digital services with zero price; and iii) the blurred boundary between markets.
45. Digital markets have a great inclusive potential for the region that should not be dismissed due to their importance for the economy.
46. Regional cooperation is a key element when analysing the situation in Latin America and the Caribbean in terms of harnessing trade and digital markets.
47. The analysis of digital platforms has involved the incorporation of new elements: i) definition of the relevant market: various approaches (mono- and multi-market); ii) assessment of market power and barriers to entry: indirect network effects, parallel use of multiple digital services (multihoming) and switching costs for users; and iii) access to privileged information as a mechanism to consolidate market position.

¹ Metaverse is a platform where the combination of immersive technologies (such as virtual reality and augmented reality) with social networks will allow for a virtual experience that is as engaging as real-life interaction.

IV. RECOMMENDATIONS

The following recommendations were drawn from the presentations and the interventions of the panellists in the discussions:

1. Competition agencies should be promoters of good administrative practices in their role as regulators of platforms by promoting the protection of personal data; promoting studies and observatories to visualise market conditions and irregularities; and accompanying them through programmes of digital transformation and promotion of free and fair competition.
2. Competition authorities should also contribute to the defence, support and accompaniment of MSMEs.
3. In their task of enforcing the rule correctly, competition regulators should: i) promote understanding of new business models based on new technologies; ii) transform the way they address the problems of new business models, with particular reference to digital platforms; iii) promote an agile and flexible approach to regulatory frameworks that facilitate their adaptation to the dynamism of digital markets; and iv) promote solutions that foster innovation in companies operating in digital markets.
4. Latin American and Caribbean countries should make a greater effort to advance towards regulatory homogenisation of the digital economy among integration schemes, which would be a decisive step towards the creation of an integrated Latin American digital market.
5. Address gaps in coverage, access, and affordability barriers through comprehensive digital inclusion initiatives.
6. Increase investment in digital infrastructure to accommodate the growing traffic generated by the use of technologies and to support high-speed networks.
7. Address the human capital gap, both in terms of basic training and critical mass generation, in researchers and software developers in advanced technologies and in artificial intelligence and virtual reality.
8. Accelerate the rate of innovation by companies and governments in the region by increasing public and mainly private investment in R&D&I to reach critical mass levels.
9. Promote the digital transformation of production processes, especially in the SME sector.
10. Promote processes of digital transformation of the State, taking advantage of the potential of emerging technologies, data, and public innovation.
11. Develop the circular economy and positive biodiversity using digital technologies that contribute to the Green Agenda.
12. It is essential that competition authorities in the region set guidelines through internal guidelines that do not limit competition and support trading on or through digital platforms.
13. Generate comparable quantitative information to measure the magnitude of domestic and cross-border e-commerce, for the purpose of designing public policies to promote the sector.
14. Strengthen measures to facilitate trade in goods through the standardisation of customs procedures, the digitalisation of local customs and the electronic connection between logistics operators.
15. Improve performance in terms of speed and predictability of last-mile delivery of postal services.
16. Improve the quality of the infrastructure and connectivity of the digital ecosystem.

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17. Expand the coverage of access to information and communications technology services.
18. Incorporate the option of international operations into the business model of electronic platforms.
19. Promote the convergence of the digital agendas of each of the regional integration processes.
20. To promote the comprehensive growth of MSMEs, the governments of the region should:
 - i) leverage incentives for investment, decisively promoting exports (only 13% export); ii) promote a culture of e-commerce among the population; and iii) design public policies that contribute to the acceleration of their development and growth.
21. Latin America and the Caribbean should consider an inter-agency public policy integration with a regional approach. To that end, it is crucial to have a deep understanding of initiatives in other jurisdictions and to bear in mind that over-regulation would be detrimental to innovation and, in general, to the region's economy.

V. PROPOSED THEME AND VENUE FOR THE XI MEETING OF THE WGTC IN 2023

During the meeting, it was agreed that the topic for discussion for the next meeting of the WGTC would be: "Competition, regulation and impact on trade of new technologies in financial markets." The Dominican Republic, through PROCOMPENIA, offered to host the XI meeting with the support of the Vice-Ministry of Commerce.