

# DIGITAL TRADE REGULATORY INTEGRATION

## COUNTRY PROFILE

### **Liberia**





# INTRODUCTION

The African Trade Policy Centre of the United Nations Economic Commission for Africa (ECA) has embarked on a Digital Trade Regulatory Integration (DTRI) initiative with four primary objectives:

Provide information on digital services trade regulations that could facilitate the negotiation and implementation of the African Continental Free Trade Area (AfCFTA) Protocol on Digital Trade.

Inform the development of a digital trade integration index that could become a component of the Africa Regional Integration Index.<sup>1</sup>

Inform the addition of African countries to the Digital Services Trade Restrictiveness Index (Digital STRI), as developed by the Organisation for Economic Co-operation and Development.

Offer a solid basis for further analytical work by ECA and others on digital trade.

The DTRI initiative researches the legal and regulatory environment associated with digital trade and will help African countries bet-

ter understand and address barriers to the growth and development of digital trade and e-commerce. Addressing the issues DTRI identifies will help promote digital trade and e-commerce and make it a more plausible choice for commercial transactions between businesses and consumers.

This country profile is based on observations from two datasets developed from the DTRI initiative. The first includes information on restrictions to digital services trade from 2014 to 2021 and is modelled after the Digital STRI. The second covers measures related to digital trade integration, beginning with the effective date of each measure, and reflects the latest available information. The legal and regulatory measures researched are categorized into policy areas in both digital services trade restrictions and digital trade integration, and the results are presented in the corresponding section of the profile. Where policy areas overlap, the profile presents results only once, to the extent possible.

This country profile presents the key findings for Liberia.

<sup>1</sup> See <https://arii.uneca.org/>.

# RESTRICTIVENESS OF THE REGULATORY REGIME FOR DIGITAL SERVICES TRADE

To assess the degree of restrictiveness among digital services trade in Botswana, an in-depth review of policies, legislation and regulations on digital services trade restrictions was conducted under the five pillars of the Digital STRI:

- Infrastructure and connectivity.
- Electronic transactions.
- Payment systems.
- Intellectual property rights.
- Other barriers affecting trade in digitally enabled services.

## **Infrastructure and connectivity**

This pillar captures measures related to telecommunications interconnection, vertical separation, dominant firm in the market and cross-border data flows. The Liberia Telecommunications Law of 2007<sup>2</sup> sets out several objectives, including a transparent regulatory regime and a fair and competitive telecommunications sector. It mandates interconnection among mobile and fixed telecommunications service providers and requires reference intercommunication offers to include prices and conditions for

connectivity. Dominant telecommunications service providers are required to accept requests for interconnection. The Liberia Telecommunications Authority (LTA) is the regulatory authority, and it has broad powers, including specifying the terms of interconnection for service providers.

The Telecommunications Law also regulates the prices for interconnection and access services by the dominant service providers in a telecommunications market. But the LTA has not designated any telecommunications service provider as dominant in the market. There are two major mobile network operators (Lone Star Cell-MTN and Orange Liberia) and one fixed telecommunications service provider, a state-owned enterprise.

Liberia has a liberalized regime on the use of communications services and access to the internet. The laws are silent on data protection and cross-border data flows, except for regulations from the Central Bank of Liberia on the licensing and operation of electronic payment services. There is also a draft law on e-commerce, which is still undergoing consultation among stakeholders. The LTA

<sup>2</sup> [https://www.wto.org/english/thewto\\_e/acc\\_e/lbr\\_e/wtacclbr15\\_leg\\_38.pdf](https://www.wto.org/english/thewto_e/acc_e/lbr_e/wtacclbr15_leg_38.pdf).

asserts that, once approved, the bill will address issues of cross-border data flows.

## Electronic transactions

The electronic transactions pillar covers online tax registration, licenses for e-commerce businesses and conformity of laws to international treaties on electronic contracts and dispute settlement mechanisms.

Liberian laws do not require a separate license to engage in e-commerce, only a general business license. There is an online tax registration system, but foreign taxpayers must have a local presence in Liberia to file and pay the taxes.

Liberia is not a signatory to the United Nations Convention on the Use of Electronic Communications in International Contracts, the current international treaty, but it is a party to the older international protocol, the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Commerce. Electronically concluded international contracts and electronic signatures are acceptable under Liberian law. The 2016 Intellectual Property Law of Liberia<sup>3</sup> clearly protects confidential information, which can even be concealed in a court of law or at an administrative investigation. Liberia's regulatory framework does not include any law or regulation for settling disputes arising from cross-border digital services trade, except for Central Bank regulations protecting consumers and governing market conduct in the digital financial services market.

## Payment systems

The payment systems pillar covers measures that affect electronic payments, including access to payment methods, adoption of international security standards for domestic payments and internet banking restrictions.

Liberia does not have a discriminatory regulatory regime for access to payment methods. Firms can use any payment method in settling financial obligations in Liberia. International payment security standards are generally applied in Liberia payment settlement systems. The Central Bank of Liberia regulations on electronic payments<sup>4</sup> require all e-payment service providers to use international security standards, though the regulations do not mention the most widely used EMV standard. There is no ceiling on the amount that can be paid using an electronic payment method, and there is no requirement to use a specific intermediary for online payment and credit services. However, the 2020 Central Bank regulations on the licensing and operations of electronic payment services require that all bank and nonbank financial institutions and other companies interested in engaging in online banking and insurance obtain a license from the Central Bank as the regulatory authority of the financial system in Liberia.

## Intellectual property rights

The intellectual property rights pillar focuses on policies and regulations for the protection of intellectual property through copyrights and trademarks and on legal remedies in cases of infringement.

<sup>3</sup> [https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=104010](https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=104010).

<sup>4</sup> <https://www.cbl.org.lr/general/payment-systems-regulatory-framework>.

Liberia is a party to several international and regional intellectual property rights treaties and protocols, including the Bern Convention for the Protection of Literary and Artistic works, World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty, African Regional Intellectual Property Organization Banjul Protocol on Marks, WIPO Copyright Treaty, World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights and Madrid Agreement on the International Registration of Marks, among others.

In Liberia, the use of copyrighted work without the right holder's consent is permitted in certain exceptional cases, in conformity with international treaties and enshrined in the Liberia Intellectual Property Act of 2016.<sup>5</sup> Liberia does not discriminate against foreign firms in trademark registration and protection. Liberia has explicit judicial and administrative procedures for a right holder whose intellectual property rights are infringed. Penalties prescribed by the Intellectual Property Act include payment for damages by the infringer, fines, imprison-

ment, injunction, forfeiture or disposal of the infringing goods.

### **Other barriers affecting trade in digitally enabled services**

Liberian laws are silent on other measures that affect digitally enabled services in the country. There is no law or regulation requiring firms to use local software or transfer technology or to disclose source code in the provision of digital services. Similarly, there is no restriction on downloading, streaming and online advertisement. Anticompetitive business practices are covered by the Liberia Telecommunications Act of 2007,<sup>6</sup> the Liberia Competition Law of 2016<sup>7</sup> and the Central Bank of Liberia Regulations on Consumer Protection and Market Conduct of 2019.<sup>8</sup>

Liberia does not have a legal or regulatory requirement that firms providing cross-border services have a commercial presence in Liberia. However, the Business Corporation Act of 2020<sup>9</sup> requires every foreign company wanting to do business in Liberia to have a local presence or a registered agent in Liberia.

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5 [https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=104010](https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=104010).

6 [https://www.wto.org/english/thewto\\_e/acc\\_e/lbr\\_e/wtacclbr15\\_leg\\_38.pdf](https://www.wto.org/english/thewto_e/acc_e/lbr_e/wtacclbr15_leg_38.pdf).

7 <https://www.moci.gov.lr/doc/Competition%20Law.compressed.pdf> and <https://www.moci.gov.lr/doc/Competition%20Law%20continues.compressed.pdf>.

8 <https://public.cbl.org.lr/doc/Consumer%20protection%20regulation2020.pdf>.

9 <https://www.systemday.com/liberia-company-law/>.

# INDICATORS OF DIGITAL TRADE INTEGRATION

This section discusses measures related to the level of digital trade integration in Liberia. The regulatory regime of digital trade integration was assessed under 11 pillars:

- Tariff and trade defence on measures applied to intraregional imports of information and communications technology (ICT) goods.
- Public procurement of digital goods and services.
- Foreign direct investment for digital trade.
- Intellectual property rights.
- Telecommunications infrastructure and competition.
- Cross-border data policies.
- Domestic data policies.
- Intermediary liability and content access.
- Quantitative trade restrictions.
- Standards.
- Online sales and transactions.

Since the findings for some of these pillars are discussed in the previous section on Digital STRI, to the extent possible, a duplicative discussion is avoided in this section.

## **Tariffs and trade defence mechanisms**

Liberia's average applied tariff on imported ICT goods from other African countries is high, at 8.1 per cent according to WITS 2020 trade data for Liberia. That yields a score of 0.81 on the Digital Trade Integration Index (on a scale of 0 to 1, where 0 is best and 1 indicates a tariff value of 10 per cent or higher).

Liberia is not a signatory to the WTO Information Technology Agreements (ITA-I or its expansion ITA-II). Liberia does not impose protective tariffs against foreign imported ICT goods in favour of domestic producers. The country has not applied any countervailing duties or safeguard measures on imported ICT goods.

### **Public procurement**

The Liberia Public Procurement and Concession Act of 2010<sup>10</sup> and complementary regulations govern public procurement in Liberia. The act allows government procuring entities to award a margin of preference to domestic businesses and solely Liberian-owned businesses against foreign competitors in the procurement of works, services and goods. The act permits foreign competition if there is no domestic response to a national competitive bidding process or if effective competition is not possible without foreign participation. The margins of preference are 2–50 per cent for the procuring entity, whereas the range for concessionaires is 4–25 per cent.

The regulatory framework in Liberia does not require any firm engaging in digital trade or digital services to disclose patents, trade secrets or source codes in the awarding of procurement contracts. Liberia is not a signatory to the WTO Agreement on Government Procurement. Liberia ranks 130 of 139 countries on the Networked Readiness Index 2016, earning a score of 2.8 on a scale of 1–7 (where 7 is best), because the government's limited procurement of advanced technology products is a disincentive to innovation in ICT goods and services.

### **Foreign direct investment**

Liberia's Investment Act of 2010<sup>11</sup> sets aside 16 businesses for Liberian entrepreneurs. Foreign-owned businesses are allowed to engage in other commercial activities, with certain capital investment thresholds. Of

these businesses, only a few are part of the digital economy: advertisement, commercial printing, graphics and commercial artists. The act allows foreign investment in advertising, graphics and commercial artists only if the total investment capital is more than US\$500,000. Similarly, the Investment Act requires joint ventures or partnerships between a Liberian national and a foreign investor to invest in businesses of advertising, commercial printing, graphics and commercial artists only if the total shareholding of the Liberian is at least 25 per cent and the total capital invested is more than US\$300,000.

The overall investment and business regulatory environment in Liberia does not discriminate against foreigners. Liberia's economy is a free enterprise market-based economy with most sectors, including ICT and financial services, currently owned and operated by foreigners. Liberia offered substantial liberalization of trade in services in its WTO accession. The Liberia Business Corporation Act of 2020<sup>12</sup> makes it optional for a corporation, whether resident in Liberia or elsewhere, to appoint a Liberian national to the board of directors. There is also no discriminatory screening of foreign investors or acquisitions in sectors relevant to digital trade.

### **Domestic data policies**

There is no comprehensive legal framework in Liberia for data protection, and firms are not required to have a data protection officer or a data protection impact assessment. No law gives the government direct

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<sup>10</sup> [https://www.wto.org/english/thewto\\_e/acc\\_e/lbr\\_e/WTACCLBR15\\_LEG\\_29.pdf](https://www.wto.org/english/thewto_e/acc_e/lbr_e/WTACCLBR15_LEG_29.pdf).

<sup>11</sup> [https://www.moci.gov.lr/doc/TheInvestmentActof2010\(1\).pdf](https://www.moci.gov.lr/doc/TheInvestmentActof2010(1).pdf).

<sup>12</sup> <https://www.systemday.com/liberia-company-law/>.



access to personal data, unless the data are the subject of a court proceeding and the court requires such information. However, the Liberia Telecommunications Act of 2007<sup>13</sup> and the Telecommunications International Traffic Regulations of 2015<sup>14</sup> require some information on call records. The Telecommunications International Traffic Regulations mandate that all telecommunications service providers retain international call records for at least five years and that the records be made available to the LTA when requested for inspection.

The Central Bank of Liberia's regulations protect consumers of online financial services. But the internet is not commonly used to sell goods and services in Liberia, as evidenced by its low ranking on the Networked Readiness Index 2016. Liberia ranks 113 of 139 countries, with an index value of 3.2 (out of 7) for business usage of the internet to sell goods and services to consumers.

### **Intermediary liability and content access**

Liberia has no law providing safe harbour for intermediaries. The laws are silent about allowing the government to block or filter web content. However, the Liberia Telecommunications Regulations LTA-REG-008 mandate that all SIM/RIUM cards users register with their service providers using their National Identification Cards. This is to record and maintain personal information on

all mobile telecommunications subscribers. To provide digital commercial services in Liberia, a foreign service supplier must have a local presence or agent, according to the Liberia Business Corporation Act.<sup>15</sup>

### **Quantitative trade restrictions**

Liberia has a liberalized regime on imports and exports of ICT goods and digital services. It has neither an import ban on ICT goods, nor export restriction in force.

### **Standards**

Liberia has transparent and liberalized standard setting and testing processes and requirements. The Telecommunications Act of 2007<sup>16</sup> mandates the participation of all telecommunications businesses, including foreign-owned, in standard setting processes. The law also specifies that before the LTA can issue any order, regulation or policy, it must conduct an appropriate public consultation. The Telecommunications Act also allows foreign businesses importing telecommunications equipment into Liberia to submit a supplier declaration of conformity, and it permits mutual recognition of certification or test reports from countries that enter into a Mutual Recognition Agreement with Liberia. Liberia allows third-party test certification as well and follows international norms for product screening and testing. It does not impose any restrictions on encryption standards and trade secrets.

13 [https://www.wto.org/english/thewto\\_e/acc\\_e/lbr\\_e/wtacclbr15\\_leg\\_38.pdf](https://www.wto.org/english/thewto_e/acc_e/lbr_e/wtacclbr15_leg_38.pdf).

14 [https://www.moci.gov.lr/doc/ICT%20\\_%20Telecom%20Policy%20Main%20Body.pdf](https://www.moci.gov.lr/doc/ICT%20_%20Telecom%20Policy%20Main%20Body.pdf).

15 <https://www.systemday.com/liberia-company-law/>.

16 [https://www.wto.org/english/thewto\\_e/acc\\_e/lbr\\_e/wtacclbr15\\_leg\\_38.pdf](https://www.wto.org/english/thewto_e/acc_e/lbr_e/wtacclbr15_leg_38.pdf).

### **Online sales and transactions**

The tax law, through the Liberia Modernized Customs Code of 2018,<sup>17</sup> Section 1640, sets a de minimis of US\$100 but calls for the minister of finance and development planning to issue a regulation stipulating this threshold or below for an imported good to be exempted from paying customs duties.

The Liberian National Policy of 2015 on the Use of the .Gov.Lr Domain Name restricts use of .gov.lr to companies with a local presence in Liberia and intending to do business in the country.

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<sup>17</sup> <https://revenue.lra.gov.lr/customs-laws-regulations/>.

# CONCLUSION AND RECOMMENDATIONS

Broadly, analysis of the datasets reveals that Liberia's regulatory measures are not restrictive. But about a third of the measures reviewed are restrictive, either because they are limited in scope or because there are no laws or regulations regarding certain vital regulatory measures needed for digital trade to thrive in Liberia. That impedes the growth and development of digital trade and e-commerce in the country. The 2007 Telecommunications Act establishes the foundation for a competitive telecommunications sector and non-restrictive connectivity in Liberia. The payment systems and intellectual property rights protection for digital services trade are non-discriminatory, and the regulatory environment allows for open cross-border data flow. Liberia also has an open standard-setting regime for the telecommunications sector, and there is no ban on ICT imports.

Liberia faces challenges in a few areas where there are barriers or restrictions to digital trade and e-commerce. These include the absence of data protection and e-commerce laws and the failure to become a party to several important international treaties. The

following actions could help digital trade and e-commerce thrive in Liberia:

Expedite the development of a law on e-commerce that incorporates all stakeholders and details their roles and responsibilities within an overall legal and regulatory framework.

Amend the regulations of the Central Bank of Liberia concerning the licensing and operation of electronic payment services in Liberia to include a requirement that the payment channels of all digital financial service providers conform to the EMV international standard. to instil trust in users.

- Consider establishing a comprehensive dispute settlement mechanism to address disputes arising from cross-border digital trade, to give both users and service providers confidence in the digital trade system.
- Issue a regulation through the minister of finance and development planning regarding the de minimis customs duties exemption threshold, as required by the Customs Code of Liberia. That will boost digital trade in Liberia.

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- Develop a data protection law to regulate cross-border data flows.
- Ratify and become a party to the United Nations Convention on the Use of Electronic Communications in International Contracts, which builds on the UNCITRAL Model Law on Electronic Commerce and the UNCITRAL Model Law on Electronic Signatures.
- Support and implement the government's Information and Communication Technology Policy and the National Financial Inclusion Strategy, as described in these national policy documents.
- Review the applied tariff regime on imported ICT goods, and reduce some of them. That will foster growth of the digital economy in Liberia in line with Liberia's national development goals in the ICT and the digital financial services sectors.

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This country profile was prepared by Clarence Freeman.





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