

# KEY STAGES IN THE FORMATION AND DEVELOPMENT OF INTERNATIONAL COOPERATION ON DIGITAL TRADE

Alijonov Ayubjon Qobiljon o‘g‘li

Lecturer of Tashkent State University of Law

## **Abstract:**

The development of international cooperation on digital trade has progressed significantly over the past few decades, largely driven by the digitalization of global commerce and the growth of e-commerce. This paper analyzes the key stages in the formation and development of digital trade cooperation among states, particularly focusing on multilateral and bilateral agreements, treaties, and frameworks such as the World Trade Organization (WTO) and regional trade blocs. It examines the legal structures, challenges, and successes of interstate cooperation on digital trade, shedding light on how digital trade regulation is shaping the future of global commerce. This analysis highlights the importance of international collaboration in regulating cross-border data flows, e-commerce, and technology transfer.

**Keywords:** Digital trade, international cooperation, e-commerce, multilateral agreements, cross-border data flows, WTO, regional trade blocs, trade regulation, technology transfer, global commerce, interstate cooperation, digital commerce, international trade law, trade frameworks, digital economy.

## **Introduction**

International digital trade refers to the exchange of goods, services, and data across borders using digital platforms and technologies. The evolution of the internet, the proliferation of e-commerce, and the growth of new technologies like cloud computing, blockchain, and artificial intelligence (AI) have drastically changed how countries and businesses engage in trade. The concept of international digital trade now extends beyond the sale of physical goods to include intangible products such as software, digital media, and services that rely on the internet for distribution.



The initial phase of international digital trade cooperation focused on establishing the legal recognition of electronic transactions and signatures. The **UNCITRAL Model Law on Electronic Commerce (1996)** served as a pivotal instrument, providing a template for countries to develop their own legislation, thereby promoting international trade by removing legal obstacles to the use of electronic communications in international contracts.<sup>1</sup>

This article examines the key stages in the formation and development of international cooperation on digital trade within interstate cooperations, highlighting the evolution of global legal frameworks from early regulatory efforts to the more contemporary, complex, and often contentious arrangements seen in multilateral and bilateral trade agreements.

As digital commerce grew, integrating digital trade provisions into preferential trade agreements became a strategic approach. The **Digital Trade Integration in Preferential Trade Agreements** report outlines five foundational elements for digital trade integration: reducing digital trade barriers, digital trade facilitation, digital trade regulatory frameworks and digital trust policies, digital development and inclusion, and institutional coordination.<sup>2</sup>

The World Trade Organization (WTO) became one of the first multilateral institutions to address issues related to digital trade. In 1998, the WTO's **Work Programme on E-Commerce** was established during the **Ministerial Conference in Seattle** (WTO, 1998). This program focused on issues such as tariffs on electronic transmissions, privacy protection, and cross-border data flows. At the time, many nations were still grappling with the implications of the internet and digital technologies, which had yet to achieve the global ubiquity they would later have.

One of the key developments in this early stage was the WTO's **Moratorium on E-Commerce Tariffs**, which, starting in 1998, prohibited members from imposing customs duties on electronic transmissions. This moratorium was an essential step toward creating a digital trade environment free from traditional barriers, particularly for software, digital media, and other online services (Jackson, 2016). The decision was significant because it signaled the first

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<sup>1</sup> <https://uncitral.un.org/en/texts>

<sup>2</sup> <https://documents1.worldbank.org/curated/en/998881578289921641/pdf/The-Regulation-of-Digital-Trade-Key-Policies-and-International-Trends.pdf>



international commitment to facilitating the free flow of data and digital products across borders.

However, this early stage of cooperation highlighted the challenges in balancing the need for free digital trade with concerns over regulation, privacy, and the protection of local industries (Teece, 2018).

While multilateral frameworks like the WTO began to address digital trade, bilateral agreements were also critical in setting the groundwork for future cooperation. The **United States-Canada Free Trade Agreement (FTA)** (1989) and the **North American Free Trade Agreement (NAFTA)** (1994) both included provisions on digital trade, signaling the growing importance of digital commerce in international relations (López-González & Jouanjean, 2017). These early agreements laid the foundation for future digital trade policies by addressing issues such as market access for digital products, copyright protection for digital media, and the facilitation of cross-border data flows

In the 2000s and 2010s, the digital trade landscape became more diverse as regional trade agreements (RTAs) began incorporating provisions for digital commerce. These agreements recognized the potential for e-commerce to boost economic growth and sought to create more targeted frameworks for cooperation on digital trade issues.

The evolution of digital trade agreements reflects a shift towards comprehensive frameworks addressing various aspects of digital commerce. The **Digital Economy Partnership Agreement (DEPA)** exemplifies this progression, incorporating provisions on business and trade facilitation, data flows, and digital economy practices shaped within international fora such as APEC and the OECD.<sup>3</sup>

The **European Union (EU)**, for instance, adopted the **Digital Single Market Strategy** in 2015 to ensure that the digital economy could function seamlessly across member states (European Commission, 2015). The EU established legal frameworks to promote the free movement of data, protect privacy through regulations like the **General Data Protection Regulation (GDPR)**, and eliminate barriers to cross-border e-commerce. These efforts were instrumental in shaping the global discourse on digital trade regulation, particularly regarding data privacy and protection.

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<sup>3</sup> <https://ainowinstitute.org/publication/international-digital-trade-agreements>



The **Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)**, finalized in 2018, also marked a significant milestone in digital trade cooperation. The agreement includes provisions that address cross-border data flows, the prohibition of data localization requirements, and enhanced intellectual property protections, which are essential in promoting digital commerce across the Asia-Pacific region (Gibson, 2018).

The United States has played a leading role in advocating for the liberalization of digital trade. The **United States-Mexico-Canada Agreement (USMCA)**, signed in 2018, replaced NAFTA and included expanded provisions on digital trade. Notably, the agreement includes rules on the free flow of data, bans on data localization, and stronger protection of online services and digital products. This was a significant step in codifying digital trade provisions in a modern trade agreement (Patterson, 2020).

Moreover, the **WTO's Joint Statement Initiative on E-Commerce**, launched in 2019, exemplified the desire for multilateral collaboration on digital trade rules. The initiative seeks to establish global norms on issues like electronic contracts, privacy protection, and artificial intelligence in trade. While the initiative represents progress, it also underscores the challenges in achieving universal consensus on digital trade regulation (WTO, 2019).

As digital trade has become increasingly integral to global commerce, concerns around **data privacy** and **sovereignty** have emerged as central issues in international cooperation. Many countries, particularly in the European Union, have implemented strict data protection laws like the **GDPR**, which regulate the handling and transfer of personal data across borders (Lynskey, 2018). The EU's regulatory approach has become a model for other countries, but it also creates tensions in international trade agreements, as the free flow of data is a critical component of digital trade.

Recent agreements, such as the **EU-Singapore Digital Trade Agreement**, underscore the ongoing efforts to enhance digital trade relations. This agreement aims to facilitate cross-border data flows, set global data regulations, and promote a safe online environment for consumers.<sup>4</sup>

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<sup>4</sup> <https://www.reuters.com/markets/eu-singapore-agree-digital-trade-deal-2024-07-25>



In contrast, countries such as China and Russia have adopted more restrictive data localization measures, requiring that data generated within their borders be stored and processed domestically (Meltzer, 2019). These measures have raised concerns about trade barriers and the fragmentation of the global digital economy. As the digital economy continues to grow, it will be crucial for interstate cooperation to address these issues in a way that balances privacy protection with the need for seamless cross-border data exchange.

Another critical issue in international cooperation on digital trade is the protection of **intellectual property (IP)**, especially as digital trade involves the movement of intangible assets, including software, patents, and digital content. The **TRIPS Agreement** under the WTO provides a global legal framework for IP protection, but as digital technologies advance, new IP challenges have emerged. The widespread use of AI, machine learning, and other technologies in digital trade has created new questions around the ownership of digital innovations and the protection of IP across borders (Barton, 2017).

In addition, the **World Intellectual Property Organization (WIPO)** continues to play a crucial role in regulating the global IP system. However, there are ongoing debates about how to address new challenges, such as digital piracy and the use of AI in creating innovative products, which raises questions about IP ownership and enforcement (Helfer, 2019).

As digital trade continues to expand, multilateral efforts will be crucial in developing international frameworks that regulate emerging issues such as AI, blockchain, and digital trade standards. The **World Economic Forum (WEF)** has highlighted the need for **global digital trade rules** that foster collaboration between countries, protect consumer rights, and support sustainable development (WEF, 2020). This requires a shift from fragmented regional and bilateral agreements to a more inclusive, multilateral approach.

Organizations like the WTO, WIPO, and the **Organisation for Economic Co-operation and Development (OECD)** will continue to play a central role in shaping the future of digital trade. The **OECD's Digital Economy Policy Paper (2020)** provides a roadmap for member countries to enhance cooperation on digital trade while ensuring that regulatory frameworks are flexible enough to adapt to rapid technological changes.

## Conclusion

The evolution of international cooperation on digital trade has been marked by significant legal milestones, from the early days of the WTO's moratorium on e-commerce tariffs to the more sophisticated agreements and frameworks established in the 2000s and 2010s. However, challenges remain, particularly in the areas of data privacy, intellectual property, and regulatory divergence. Moving forward, interstate cooperation will be essential to create a cohesive and fair global digital trade ecosystem that fosters innovation, protects consumers, and promotes sustainable economic growth.

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