Leveraging Digital Economy Agreements for a durable post-Covid recovery

Moving towards a globally harmonised system of government regulating cross-border digital flows would ensure that the digital transformation revolution would contribute to shared global prosperity in the post-pandemic world. By SADIDJAR GOPALAN AND RAMKISHEN S RAJAN

THE exponential expansion of the intangi-
bles-based data-driven digital economy
seems to be the only bright spot in an other-
wise gloomy global economic outlook.

While there was already a significant expan-
sion of digital trade flows within and across
countries pre-pandemic, the onset of Co-
v-19 accelerated these trends even more.

Data on e-commerce trade from Statista
shows that the share of digital trade in global
real trade increased sharply from 14 per
cent in 2010 to about 20 per cent in 2021 and
is estimated to hit around 25 per cent by 2025.

The rapid adoption of digital technol-
ogies such as AI, cloud services and mobile
applications has facilitated a surge in global
cross-border digital trade.

To be sure, digital trade is a broad term
that is generally considered to include not only cross-border exchange of goods and services
online, but also that of data. The OECD Hand-
book on ‘Measuring Digital Trade’ defines it as
cross-border trade flows that are “either
digitally ordered or digital intermediary plat-
form enabled or digitally delivered”.

The Aus-
tralian Department of Foreign Affairs and
Trade (DFAT) notes that the scope of digital
trade goes beyond just online trading of
goods and services to include cross-border
data transmission and considers digital trade
to fundamentally bank on digital technolo-
gies to enhance overall trade and productiv-
ity.

Given Singapore’s exceptional global con-
nectivity and its determined march towards
a SMART nation (i.e. digital economy, digital
so-
ciety, and digital government), it has partic-
ularly been in the vanguard of a creation of
a borderless digital world as a means of en-
hancing growth and competitiveness.

Why Digital Economy Agreement?

Even though many countries have embraced
digital transformation, there are several regu-
latory hurdles facing the stakeholders con-
cerning issues such as digital identities, data
privacy, and the governance of AI. In the ab-
sence of global agreements, many countries
have taken it upon themselves to devise their
own rules and regulations that apply to cross-
border digital trade in goods and services
(such as imposition of taxes on digital serv-
ices, levying customs duties on digital down-
loads, or data localisation). Such arbitrary reg-
ulations are likely to increase the costs of
compliance for smaller firms in a dispropor-
tionate manner.

Further, the recent ad hoc regulations
intended to regulate a country’s digital sovereign-
ty (largely as a fallout of the US-China trade war) have, in some cases, also
given rise to “technology wars” which pre-
vent firms from reaping the benefits of a bor-
derless digital world.

This is where Digital Economy Agreements
(DEAs) come into play to try and prevent the
balkanisation of data governance, reduce bar-
riers to digital trade in goods and services, and
spur cross-border digital transactions
(through paperless trading, e-invoicing, elec-
tronic payments etc). DEAs offer a platform
for countries to establish international rules
and standards for cross-border trade in areas
pertain-
ting to cross-border digital transactions with the aim of facilitating unrestricted cross-
border digital trade through a transparent and trusted digital system.

DEAs can also be used as policy commitments to deal with a wide spectrum of technology issues. These may entail standards to establish interoper-
ability in areas including digital identities, the ethical use of AI, rules about data privacy,
protection, and data localisation, all targeted to-
wards promoting a safe and secure digital ecosystem.

Current approaches to DEAs

Several approaches have been taken by coun-
tries towards DEAs. At the bilateral level, since January 2019, there has been an ongo-
ing Joint Initiative (JI) negotiation on e-com-
merce under the auspices of the WTO, which
now involves 86 countries across the world.

However, as with most other multilateral
trade initiatives, the e-commerce JI negotia-
tions have hit several roadblocks. For in-
stance, countries like China, which are part of
the JI, continue to impose their own domestic
requirements about data storage and disclos-
ure. These requirements are generally in-
consistent with the objectives of a multilater-
al DEA which aims to promote unhindered
cross-border digital trade flows. More gener-
ally, the multilateral stalemate reveals an
inherent conflict of interest between two sets of
countries: those that advocate data sover-
egignty to prevent “data colonialism”, versus
those promoting “free cross-border flows of
data with trust”.

Given the markedly slow pace of progress at the multilateral level, countries have taken to bilateral and plurilateral routes to tap into the opportunities provided by DEAs. Some major FTAs concluded in recent years, such as the Comprehensive and Progressive Asia-
Pacific Partnership (CPTPP) and Regional Comprehensive Economic Partnership
(RCEP), have specific chapters that cover pro-
visions on digital trade. The scope of cover-
age in the CPTPP is far more ambitious and
comprehensive than what has been included
under the RCEP. The United States-Mexico-
Canada Agreement (USMCA) (which replaced
Nafta) builds upon the CPTPP and goes far-
ther in expanding commitments for digital fi-
nancial services.

Apart from these formal agreements, other
informal bilateral FTAs have strengthened e-commerce cap-
abilities, including the recent Comprehensive Ec-
nomic Partnership Agreement (CEPA) signed
between the United Arab Emirates (UAE) and
India, which came into force on May 1, 2022.

Apart from incorporating and strengthen-
ing digital chapters within conventional FTAs,
countries are also bilaterally negotiating stan-
dard-free DEAs with key trading partners. Sin-
papore has been a trailblazer in this area, having
already completed three bilateral agreements
with South Korea, Australia, and most recent-
ly, the United Kingdom. The country is active-
ly exploring more such DEAs with other coun-
tries and regions such as China and the EU.

In addition to these bilateral agreements, in
February 2020, Singapore, along with Chile and New
Zealand, also created the first plurilateral
trade agreement, the Digital Economy Part-
nership Agreement (DEPA). While the scope and coverage of the DEPA does not seem to be more ambitious than the CPTPP, it has clearly caught global attention with other countries such as Canada and Chi-
a looking to join the agreement. (Though
China’s possible accession could be challeng-
ing given its unilateral actions on digital sov-
erignty even leaving aside geopolitical com-
plexities). Singapore has also actively pro-
- moted the process of digital integration with-
in Asia, although the regional development
disparities will inevitably limit the scope of
intra-regional digital integration.

Moving towards a globally harmonised sys-
tem of governance regulating cross-border
digital flows would ensure that the digital
transformation revolution would contribute to
shared global prosperity in the post-
pandemic world. However, given that a global
consensus for a Digital Birtan Woods type
treaty is unlikely to be reached anytime in
the foreseeable future, a pragmatic ap-
proach is to negotiate bilateral and smaller
plurilateral DEAs as building blocks to cre-
ating mega-regional digital agreements, if not a
multilateral framework.

In the interim, though, as more countries
look to jump onto the DEA bandwagon as a
means of facilitating seamless cross-border
digital trade and promoting trust in digital systems, care must be taken to ensure a de-
gree of standardisation among agreements. A
patchwork of incompatible agreements may result in fragmenting rather than harmonis-
ing digital governance.

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