

# Study on the potential impacts of a future EU-SINGAPORE DIGITAL TRADE AGREEMENT

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## \ OVERVIEW

The European Union (EU) and Singapore are currently negotiating a new EU-Singapore Digital Trade Agreement (EUSDTA). The EUSDTA builds on several existing trade arrangements between the EU and Singapore, including a bilateral free trade agreement, the investment protection agreement, which is pending ratification, and a negotiated set of digital trade principles. Negotiations for the EUSDTA have been taking place in the context of a growing web of digital commitments, for both Singapore and the EU. Hence, this study provides an overview of the context of EUSDTA negotiations, including a careful assessment of the bilateral EU-Singapore digital trade principles, Singapore's specific commitments in agreements that cover digital trade, and the broader context of digital trade agreements. As EUSDTA negotiations are ongoing at the time of drafting of this report, this document does not attempt to include confidential information from the EUSDTA rounds. The report instead surveys the original negotiating landscape, notes overlaps and gaps between existing and planned elements of digital trade arrangements, and endeavours to provide insights into consequences of likely outcomes for government, business, and civil society.

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# CHAPTER 1 BACKGROUND

The European Union (EU) and Singapore are longstanding economic partners with significant trade and economic ties. The first EU free trade agreement (FTA) with an ASEAN member, the EU-Singapore Free Trade Agreement (EUSFTA) was successfully negotiated with Singapore in 2012 and came into force after a long delay in 2019. Singapore and the EU have also successfully negotiated an EU-Singapore Investment Protection Agreement (EUSIPA) and EU-Singapore Partnership and Cooperation Agreement (ESPCA), neither of which are yet in force pending ratification by EU Member States.

The original negotiations for EUSFTA took place at a time when digital commitments anchored in a trade deal were just getting introduced. Hence, the EUSFTA does not include comprehensive rules for digital trade. However, over the past decade, both the EU and Singapore have been actively involved in designing, drafting, negotiating, and implementing new types of digital trade related arrangements.

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## Digital trade

The European Commission considers that, whilst there is no internationally recognised definition of digital trade, there is growing consensus that it encompasses all trade in goods and in services enabled by Information and Communication Technologies (ICTs). This includes a broad spectrum of transactions in which ICTs play a fundamental role. It covers in particular trade in goods and services that are ordered digitally and physically delivered (such as the online purchase of a physical book or the online booking of a holiday apartment), trade in goods and services that are ordered and delivered digitally (such as an e-book or software acquired online), or the use of digital technologies in a production or distribution process (such as the tracking of road cargo in real time).

A key aspect of digital trade concerns the cross-border flow of data. With the development of the digital economy, data has become a key factor of production that has been the basis for new services such as cloud computing or the internet of things. Different categories of data may be part of digital trade transactions, including data that can be used to identify natural persons, i.e. personal data.<sup>2</sup>

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The EU, for instance, explicitly included digital trade in its Indo-Pacific Strategy, noting the need to work more intensively on digital governance and partnerships with Japan, South Korea, and Singapore.<sup>3</sup> The EU has been an active member in ongoing work at the World Trade Organization (WTO) on the Joint Statement Initiative (JSI) on electronic commerce which should cover many of the same types of planned commitments envisioned in the Indo-Pacific Strategy.

The EU and Singapore started deepening their cooperation on digital matters with the formal launch of a non-binding Digital Partnership in February 2023. Both sides negotiated a comprehensive set of non-binding Digital Trade Principles as a key deliverable of the Digital Partnership.<sup>4</sup> The Digital Trade Principles helped clarify alignment on objectives and set the path for negotiations on a set of binding digital trade rules in the form of a EUSDTA.

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<sup>2</sup> <https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX%3A52023SC0085>

<sup>3</sup> [https://www.eeas.europa.eu/eeas/eu-indo-pacific-strategy\\_en?s=139#:~:text=The%20European%20Union%20and%20Indo,responsible%20coop-eration%20in%20international%20relations.](https://www.eeas.europa.eu/eeas/eu-indo-pacific-strategy_en?s=139#:~:text=The%20European%20Union%20and%20Indo,responsible%20coop-eration%20in%20international%20relations.)

<sup>4</sup> [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_22\\_7743](https://ec.europa.eu/commission/presscorner/detail/en/statement_22_7743)

On 27 June 2023, the Council of the European Union authorized the European Commission, on behalf of the Union, to open negotiations with Singapore for a Digital Trade Agreement (DTA).<sup>5</sup> On 20 July 2023, Executive Vice-President of the European Commission Valdis Dombrovskis and Singaporean Minister for Trade and Industry Gan Kim Yong launched the negotiations.<sup>6</sup> A first negotiation round took place in Singapore on 16–17 October 2023, a second one on 22–24 November 2023 in Brussels, a third round was held in Singapore from 6–8 February 2024 in Singapore, a fourth round was in 18–21 March in Brussels, and a fifth round ran from 6–8 May in Singapore.<sup>7</sup> The initial goal of both sides was to deliver a completed agreement by mid-2024. This ambitious goal was reflected in the accelerated negotiating schedule for both sides.

Talks for the EUSDTA have taken place in a rapidly evolving landscape of digital trade commitments. Singapore has been a world-leader in the development and execution of digital trade agreements. In addition to serving as a co-convenor of the e-commerce negotiations at the World Trade Organization’s (WTO) Joint Statement Initiative (JSI), including also the European Union as part of more than 90 participants,<sup>8</sup> Singapore has already concluded a range of regional and bilateral digital deals. These include:

- The 2020 Digital Economy Partnership Agreement (DEPA) between Singapore, Chile, New Zealand, and South Korea;<sup>9</sup>
- The 2020 Singapore-Australia Digital Economy Agreement (SADEA);<sup>10</sup>
- The 2022 Singapore-United Kingdom Digital Economy Agreement (UKSDEA);<sup>11</sup> and
- The 2022 Singapore-Korea Digital Partnership Agreement (KSDPA).<sup>12</sup>

Singapore has also been a leading force in the creation and implementation of digital elements in the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), the Regional Comprehensive Economic Partnership (RCEP), and the 2018 ASEAN E-Commerce Agreement. Singapore served as chair of the ASEAN Coordinating Committee on Electronic Commerce (ACCEC) and has been actively working on the negotiations within ASEAN to upgrade the E-Commerce Agreement into a Digital Economy Framework Agreement (DEFA). DEFA is meant to be the key deliverable for the 2024 Leader’s Summit in November. Singapore has also helped lead talks with ASEAN’s various dialogue partners in the upgrade arrangements for existing ASEAN FTAs, including the new digital elements in the recently concluded ASEAN-Australia-New Zealand (AANZFTA) upgrade.

While Singapore did not publish information on its objectives or its suggested arrangements for the EUSDTA, it was possible to determine elements that were likely to be tabled by Singapore based on a review of these past practices. Of course, Singapore’s objectives for the EUSDTA will take account of the specific context for negotiating parties. Hence, the inclusion of, for example, submarine cable commitments in one setting such as a bilateral DEA with Australia does not mean that a similar provision will be found in the final texts of agreements with other negotiating parties including the EU. Nevertheless, Singapore’s policy space is increasingly determined partially by the parameters of what it has agreed to do in digital trade with a growing array of partners.

<sup>5</sup> <https://data.consilium.europa.eu/doc/document/ST-8886-2023-INIT/en/pdf>

<sup>6</sup> [https://policy.trade.ec.europa.eu/news/joint-statement-launch-negotiations-eu-singapore-digital-trade-agreement-2023-07-20\\_en](https://policy.trade.ec.europa.eu/news/joint-statement-launch-negotiations-eu-singapore-digital-trade-agreement-2023-07-20_en)

<sup>7</sup> [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/singapore/eu-singapore-agreements/documents\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/singapore/eu-singapore-agreements/documents_en)

<sup>8</sup> [https://www.wto.org/english/tratop\\_e/ecom\\_e/joint\\_statement\\_e.htm](https://www.wto.org/english/tratop_e/ecom_e/joint_statement_e.htm)

<sup>9</sup> South Korea officially joined DEPA on 3 May 2024. <https://www.mti.gov.sg/Trade/Digital-Economy-Agreements/The-Digital-Economy-Partnership-Agreement>

<sup>10</sup> <https://www.mti.gov.sg/Trade/Digital-Economy-Agreements/The-Singapore-Australia-Digital-Economy-Agreement>

<sup>11</sup> <https://www.mti.gov.sg/Trade/Digital-Economy-Agreements/UKSDEA>

<sup>12</sup> <https://www.mti.gov.sg/Trade/Digital-Economy-Agreements/KSDPA>

## CHAPTER 2 EUSDTA ALIGNMENT WITH DIGITAL TRADE PRINCIPLES

The negotiations for the EUSDTA build on the EU-Singapore Digital Partnership and, as a key deliverable of the Partnership, the EU-Singapore Digital Trade Principles of February 2023. These non-binding Digital Trade Principles, set out in a 10-page document,<sup>13</sup> reflected the alignment between the EU and Singapore around a robust set of mutually agreed principles, and facilitated the process of negotiating the DTA.

The Digital Trade Principles divided these non-binding commitments into five broad categories, including digital trade facilitation, data governance, consumer trust, business trust, and cooperation. As noted further below, these broad areas of agreement reflected Singapore's experiences negotiating a range of digital economy instruments.

Under the digital trade facilitation heading, the EU and Singapore included a variety of topics such as a commitment to paperless trading by allowing online publication of relevant information and, wherever possible, online submission of trade documentation; crafting interoperable single window systems; maintaining legal consistency in documentation requirements in line with the UNCITRAL Model Law on Electronic Commerce (1996); allowing electronic signatures and authentication documentation to have equivalent legal force to paper-based documents; encouraging electronic invoicing; encouraging the use of electronic records transfer in line with the UNCITRAL Model Law on Electronic Transferable Records; a permanent ban on the application of customs duties for electronic transmissions; and cooperation on standards, technical regulations and conformity assessment procedures (STRACAP).

The Digital Trade Principles included two key elements under the heading of data governance. First, it presented the concept of "Data Free Flow with Trust", which has also been proposed by Japan in the context of the G7.<sup>14</sup> The EU and Singapore agreed that "data should be able to flow freely across borders with trust, based on instruments for cross-border data flows ensuring a high level of data protection and security." Second, it presented a commitment to include Open Government Data digitally available and open for public use, so long as such data are not restricted by domestic laws.

The two sides broke down "trust" principles into two sections, emphasising consumers and businesses. For consumers, key elements included three areas: the importance of maintaining online consumer protections equivalent to offline consumer protection; commitments to ensure that consumers were not receiving commercial electronic messages (also known as "spam") without an ability to consent to such messaging; and a broader commitment to provide online safety for consumers.

The business elements of trust included: a pledge to allow connection to the internet with clear and transparent network management practices; cooperation to limit cybersecurity risks; agreement to prevent the forced

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<sup>13</sup> <https://www.imda.gov.sg/resources/press-releases-factsheets-and-speeches/press-releases/2023/singapore-and-the-european-union-sign-digital-partnership>

<sup>14</sup> Japan has created an agency to manage DFFT. More information can be found at: <https://www.digital.go.jp/en/dfft-en>



or coerced transfer of source code or Information and Communication Technology (ICT) products as a condition for the import, distribution, sale, or use of that software, or of products containing that software or ICT; and a pledge to cooperate in developing regulations aimed at Artificial Intelligence (AI).

Finally, the Digital Trade Principles include a section on cooperation that covers areas of mutual interest like making sure digital benefits will be inclusively shared, including with micro, small and medium sized enterprises (MSMEs), and that “digital and telecommunications markets should be open, competitive, transparent, fair, and free of unjustified barriers to international trade and investment.”

The negotiations for the EUSDTA benefited from the robust set of agreed Digital Trade Principles. Typically, parties to a negotiation may have a brief set of anticipated outcomes which are often released as part of the press statement to start talks. Singapore and the EU, by contrast, indicated from the outset that the EUSDTA will be one aspect of increased bilateral work on digital trade, with negotiations expected to proceed quickly and start returning tangible deliverables even prior to the entry into force of the future agreement.

Of course, having comprehensive alignment at the outset in the form of the Digital Trade Principles does not automatically mean quick or non-contentious negotiations. At the level of principles, the parties may agree fully. However, once talks progress to the concrete legal provisions that will bind the parties, it is often the case that parties have different perspectives on the level of ambition, speed, or scale needed to implement and enforce any commitments made in agreement texts. The increasing number of digital commitments made in various settings can also, perhaps paradoxically, slow down negotiating progress since any new commitments need to be reviewed in the context of existing arrangements. Amongst other things, negotiations with the EU have coincided with Singapore’s role as a co-convenor of the JSI talks at the WTO. As that agreement nears the finish line, it has been challenging to find a package that suits more than 90 members.<sup>15</sup>

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<sup>15</sup> [https://www.wto.org/english/news\\_e/news24\\_e/ecom\\_02feb24\\_e.htm](https://www.wto.org/english/news_e/news24_e/ecom_02feb24_e.htm)

# CHAPTER 3 SINGAPORE'S DIGITAL TRADE PRACTICES

Singapore has long used a proactive strategy of engaging in bilateral and regional negotiations for trade agreements with its key trading partners. For an export-oriented and trade-dependent economy, it has been critical to ensure that these trade rules remain as consistent as possible. Singapore has been an active member of the World Trade Organization (WTO) and is a co-convenor of the Joint Statement Initiative on Electronic Commerce. The Singapore government has 27 different free trade agreements in force on a bilateral or regional basis, including one with the EU.<sup>16</sup> Singapore has also pursued, as already noted in this report, a range of digital-only agreements, and has also completed its first “Green Economy Agreement” or (GEA).<sup>17</sup>

All this activity can be challenging to coordinate and manage internally. For example, in parallel with EUSDTA negotiations, Singapore’s lean negotiating teams have also been heading JSI talks in Geneva and promoting alignment within ASEAN for the upcoming DEFA negotiations. Policy options tabled in the context of the EU need to be considered carefully for potential impact on these other activities to avoid jeopardizing progress in other settings.

Sections 5 and 6 shown below provide a review of specific digital commitments already made by Singapore. There are several interesting advancements in Singapore’s digital trade agreements that can provide a model for EUSDTA outcomes. Three aspects are particularly relevant here: the difference between a stand-alone digital economy agreement and one anchored to an existing free trade agreement (FTA); the overall level of ambition to be pursued with different partners; and the use of Memorandums of Understanding (MOUs) in conjunction with digital agreement commitments. Each is considered in turn below.

## 3.1 SINGAPORE'S STAND-ALONE DIGITAL AGREEMENT: DEPA

In general, Singapore has negotiated and signed two different types of digital agreements. One is intended to be a stand-alone agreement with sufficient internal institutional structures to allow commitments to be maintained using only the commitments contained in the agreement, while the second type is intended to fit within the overall framework of a prior negotiated FTA as a replacement for an older, existing chapter or as a new chapter to the original agreement. The differing structure of these arrangements is important, as it can affect the types of commitments that are included.

Under the former model, Singapore worked with Chile and New Zealand to draft and bring into force the Digital Economy Partnership Agreement (DEPA). All three countries had extensive experience negotiating trade deals together with two FTAs in place prior to the start of DEPA discussions in May 2019. The original collaboration began in 2003 when the three Asia Pacific Economy Cooperation (APEC) members opted to move ahead with the Trans-Pacific Strategic Closer Economic Partnership (now generally called the P4).<sup>18</sup> This agreement morphed into the Trans-Pacific Partnership (TPP) and expanded in membership once formal talks got underway in 2010. By the time of the entry into force of the agreement in 2018, the deal had changed

<sup>16</sup> [https://www.enterprisesg.gov.sg/grow-your-business/go-global/international-agreements/free-trade-agreements/find-an-fta#signature6\\_e=20](https://www.enterprisesg.gov.sg/grow-your-business/go-global/international-agreements/free-trade-agreements/find-an-fta#signature6_e=20)

<sup>17</sup> With Australia in 2022, details can be found at: <https://www.gea.gov.sg/>. For Singapore’s other trade arrangements, see <https://www.mti.gov.sg/Trade/Free-Trade-Agreements>

<sup>18</sup> Just before signing, Brunei joined the agreement to make four participating members. <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-in-force/trans-pacific-strategic-economic-partnership-p4/>

names again to become the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) with eleven members.<sup>19</sup>

Both the P4 and the CPTPP are comprehensive FTAs, with chapters covering topics such as trade in goods, services, intellectual property rights, trade facilitation, dispute settlement and more. The P4, which concluded in 2006, did not include a specific chapter on digital trade or electronic commerce. The CPTPP, by contrast, does include a specific Chapter 14 on electronic commerce.<sup>20</sup>

Thus, Chile, New Zealand and Singapore had an extensive history of working together on trade agreements, had two separate comprehensive agreements between them, and had agreed upon a set of digital trade rules. It may have appeared that there was little reason to come together again to create a digital-only agreement. However, the three parties recognized that, while the CPTPP contained commitments for electronic commerce, by 2019 the rules were relatively light, leaving scope for additional types of commitments. As the details in Sections 5 and 6 note, for example, CPTPP rules on digital trade facilitation or improving business and consumer trust were limited or non-existent. A digital agreement could provide an opportunity to build upon CPTPP's digital rules.

All three DEPA/CPTPP members also noted the evolution of the P4 to become an important trade agreement with 11 members and potential for further accessions by new members. The success of starting with a limited group of small countries could be replicated in other settings and provide a model for expansion into a larger agreement over time. Digital trade appeared to be an obvious candidate for this approach and was part of the rationale for launching three-way talks in 2019 for DEPA.

Although all three countries at the start of DEPA discussions were CPTPP members, officials from Singapore, New Zealand, and Chile were also conscious that getting others to participate in digital trade and upgrade their own domestic level commitments to support digital trade flows between members was an equally relevant objective. Not every potential DEPA member might be keen or able to join the ambitious and comprehensive CPTPP FTA.

It was therefore important to ensure that DEPA also appealed to such potential members that might not join the CPTPP. This observation led to an innovative approach in the DEPA talks. Commitments would not be listed as "chapters" like a traditional trade agreement.<sup>21</sup> They would be called "modules" instead. That would encourage members and even non-members to view the commitments as models for addressing specific digital trade issues that could be replicated in other agreements in whole or in part. This would facilitate the spread of consistent trade arrangements, even if not every country ultimately became a member of DEPA (or the CPTPP). For instance, countries could decide to slot the DEPA module on business and consumer trust, including articles on unsolicited commercial electronic messaging or online consumer protection, into their own domestic regulatory frameworks or add identical or similar provisions to their own free trade agreements.<sup>22</sup> This would allow alignment and consistency on a growing set of digital provisions through a potential "bottom up" approach.

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<sup>19</sup> CPTPP members include: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. The accession procedures for the United Kingdom are expected to be completed by mid-2024. The United States was a member of the original TPP, but pulled out prior to entry into force of the agreement. The difference between the TPP and CPTPP was suspension of 20 provisions in the TPP legal texts, clarifications for two provisions, and an additional four pages largely to account for the changed institutional structures of CPTPP (including dropping a direct reference to APEC membership for potential applicants).

<sup>20</sup> There were no changes made to Chapter 14 in the transition from TPP to CPTPP. <https://www.mfat.govt.nz/assets/Trade-agreements/TPP/Text-ENGLISH/14.-Electronic-Commerce-Chapter.pdf>

<sup>21</sup> <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-in-force/digital-economy-partnership-agreement-depa/depa-text-and-resources/>

<sup>22</sup> In theory, anyway. It's not clear whether, in practice, non-DEPA members have opted to slot in DEPA modules to other types of trade arrangements. It might also be too early to tell, as DEPA is still a relatively young agreement and many other trade negotiations were put on hold during the global Covid-19 pandemic.

Alternatively, DEPA might simply attract new members that might not already be connected to the group via any other existing (or future) trade arrangement. It was, therefore, necessary to provide some institutional structure within DEPA to include elements like management of the agreement, processes for accession or withdrawal, and a mechanism for handling potential disputes.<sup>23</sup> Nearly half of the final DEPA text covers institutional and dispute settlement provisions.

This institutional structure and the desire to attract a range of potential users of DEPA also had an impact on the types of commitments within the agreement. As noted further below, DEPA commitments were drafted to be flexible, with more soft law provisions and fewer hard law requirements. Accommodating different potential users beyond the original participants meant thinking harder about how to encourage alignment with others that were not (and might never become) full DEPA or FTA members. Additionally, having a stand-alone dispute settlement mechanism, not built into traditional FTA structures, also meant less certainty about the operating conditions for the arrangements in the future. In short, flexibility shown across DEPA is a feature, not a bug.

DEPA came into force during the Covid-19 pandemic. Because the DEPA does not specifically include, for example, market access commitments for goods or services, it is not immediately apparent how DEPA rules might foster trade in electronic commerce between members. Unlike FTAs like CPTPP, DEPA does not cut tariffs or provide rules for services operators. Instead, members are expecting that, as an example, the electronic submission of documents and the use of interoperable systems for customs declarations can improve the speed of border crossing for packages and may better facilitate trade flows for e-commerce where customers expect rapid delivery of goods orders. Past work on the value of trade facilitation suggests that moving practices online and eliminating paper can yield substantial economic savings.<sup>24</sup>

Because DEPA is still relatively new, it can be difficult to tease out information or even examples of how the agreement has specifically improved trade between members. With all three parties as members in two additional agreements, untangling the impact of DEPA is even harder as it could be that firms are using P4 or CPTPP provisions to improve trade without reference to DEPA commitments.<sup>25</sup>

Where DEPA could also make a difference is in potential alignment around policies for future digital topics. For instance, as governments work out the appropriate regulatory and legal frameworks to manage the risks and opportunities ahead from Artificial Intelligence (AI), it could be useful to have a coordinated approach between digital trade partners. Using a digital agreement like DEPA as a mechanism for achieving consistency and alignment could be easier than trying to coordinate policies in the absence of an agreement. DEPA already includes a range of institutional mechanisms, including commitments for regular government-to-government (G2G) engagement, that could be leveraged to discuss ongoing policy work in areas like AI.

In many instances, it can be easier to use trade agreement architecture to manage future policy discussions than to try to harmonize policies that have already been put into place. DEPA, for instance, does have its own dispute settlement mechanism to help support consistent enforcement. But as the system is untested, it is not clear how successful it might be at getting members to follow the rules and change existing policies that are found to be inconsistent with DEPA provisions. The crafting of new rules, by contrast, might be easier to coordinate with all parties benefiting from the opportunities to exchange views and best practices.

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<sup>23</sup> Two of the first three countries to step forward for membership were not CPTPP participants (China and South Korea).

<sup>24</sup> The UK, for instance, pegged the value of moving to digital trade practices at £225 billion in efficiency savings, £25 billion in SME trade growth and £1 billion new trade finance. See <https://iccwbo.uk/c4dti-launches-preparations-for-uk-trade-to-go-digital/>

<sup>25</sup> The recent addition of South Korea to DEPA as a member may make it easier to tease out the economic consequences of DEPA without CPTPP membership. However, South Korea, Singapore, and New Zealand are also connected through another FTA, the Regional Comprehensive Economic Partnership (RCEP) which also has digital rules as part of this comprehensive trade agreement. New Zealand and Singapore are further bound by ASEAN/Australia/New Zealand FTA (AANZFTA) and Singapore is part of Chile's Pacific Alliance. If this weren't complicated enough, Chile, New Zealand, and Singapore also have bilateral trade agreements in place.

The DEPA, like the P4, TPP, and CPTPP, had an accession clause which was intended to be used to expand the agreement. As noted, DEPA was designed to either add new members directly to the commitments or to spread via the application of DEPA modules inserted into other trade and digital economy arrangements. South Korea became the first country to complete Working Party negotiations in May 2024.<sup>26</sup> Working parties were started in August 2022 for Canada and China.<sup>27</sup> The extension of DEPA to include South Korea may make it easier to determine the impact of the digital commitments as these four APEC member partners are not yet connected via a regional FTA.<sup>28</sup>

## 3.2 DIGITAL AGREEMENT BACKED BY AN FTA: SINGAPORE'S DEAs

Singapore has also promoted a different type of digital arrangement, which has come to be called a “Digital Economy Agreement” (DEA). Three DEAs are now in force with Australia, the United Kingdom, and South Korea. DEAs are digital-only commitments that are legally attached to existing bilateral free trade agreements that the parties had in place, either as an addendum or addition to the existing FTA legal texts or as a replacement for earlier e-commerce chapters. As noted in Sections 5 and 6 below, although all three agreements involve Singapore, there are variations between them that consider the differences in the underlying bilateral FTA commitments and the interests of the parties to the agreement.

The presence of an existing FTA does several things to a DEA. First, it means that commitments can focus more squarely on “digital” elements of trade that were not addressed, or not thoroughly addressed, in the original FTA texts and schedules. The charts below provide additional information about the types of provisions included in the DEAs. In some instances, like trade facilitation, the DEA reinforces and extends existing commitments from the FTA by clarifying, for example, the clearance processes and timelines to facilitate e-commerce trade flows that depend on faster speed across borders. In other areas, like data flows or source code rules, the DEAs can include commitments that were not addressed in the underlying FTA.

Second, the existence of an FTA means that the DEA is likely to result in substantially greater benefits for trade. Having an FTA that allows market liberalization and greater access and protection to the movement of goods, services, and investment, for instance, means that the DEA need not address specific sectors to encourage growth in digital trade in goods, services, and investment. The DEA can support and accelerate the movement of goods, services, and investment by clarifying the conditions that apply to the digital elements of cross-border trade.

To see why this difference is important, one may consider, as an example, a firm that supplies covers for consumer electronic equipment, such as a phone case. The bilateral FTA already provided firms in Singapore and its partner with tariff reductions or elimination. The rules in the agreement opened up and provided protection for a range of necessary services for the delivery and sales of the phone case, including logistics, warehousing, and retail. The intellectual property embedded in the phone cover was addressed through the FTA. Hence, the DEA need not mention these benefits, but instead provides additional clarifications and protections, such as a commitment to allow the use of electronic invoicing or electronic authentication of documents. It could confirm that consumer protection rules are clearly extended to online situations for the firm and its overseas customers. It could lead to changes in electronic payments to make it easier for the company to sell in DEA markets using interoperable e-payments systems.

<sup>26</sup> <https://www.mti.gov.sg/Newsroom/Press-Releases/2024/05/Joint-Press-Release-on-the-successful-accession-of-the-Republic-of-Korea-to-the-Digital-Economy>

<sup>27</sup> Canada's is chaired by New Zealand, see <https://www.mti.gov.sg/Newsroom/Press-Releases/2022/08/Digital-Economy-Partnership-Agreement-Joint-Committee-commences-Accession-Working-Group-for-Canada> and China's is chaired by Chile, see <https://www.mti.gov.sg/Newsroom/Press-Releases/2022/08/Digital-Economy-Partnership-Agreement-Joint-Committee-commences-Accession-Working-Group-for-China>.

<sup>28</sup> Korea may opt to join the CPTPP at some point in the future. Korea is connected to New Zealand and Singapore via RCEP. Korea also has bilateral trade agreements in place with all three original DEPA members. Korea and Singapore, as noted below, are also members of a bilateral Digital Economy Agreement (DEA).

The rules of the DEA, like all trade commitments, are intended to apply just to the specific parties to the FTA. This means that both sides can choose to be ambitious in commitments made to one another. The DEA need not be drafted to appeal to future potential partners or to avoid alarming future parties. As a result, it can be a better fit for the parties to the FTA.

Finally, the DEA can take advantage of the institutional framework, including dispute settlement provisions, in the FTA. This is important because, although Singapore and its trading partners have not used dispute settlement in any bilateral FTA to date, the commitments in the FTA are likely to prove more robust and likely to be used than any other specific mechanism from a DEA. An FTA also includes a wide range of mandated meetings such as by goods or services committees as well as annual agreement sessions which may take place between senior economic officials, trade ministers, or leaders.

### 3.3 AMBITION VARIES BY AGREEMENT AND PARTNER

Singapore has proven adept at adjusting its trade and economic priorities to fit negotiating partners. When working with the 10 members of ASEAN,<sup>29</sup> for example, which includes a wide array of members at various levels of economic development, Singapore has been comfortable working on agreements with soft law, cooperation commitments, and significant built-in flexibilities for members. ASEAN itself works on an “ASEAN minus X” principle, which means that even full implementation of an agreement can include less than the full membership.<sup>30</sup> The organisation has limited enforcement capacity and a strong commitment to non-interference in domestic sovereign issues.

As a result, Singapore’s digital promises through ASEAN have been much less ambitious. The 2018 ASEAN E-Commerce Agreement is a good example of the types of flexible digital arrangements that Singapore has pursued.<sup>31</sup> Even articles that appear to have a binding nature, such as Article 5a that requires members to adopt or maintain measures to provide online personal information protection, can be undermined by the following paragraph 5b which says that the commitment applies only once an ASEAN member has enacted laws to protect the personal information of e-commerce users. In other words, if a member is in no particular hurry to enact laws or has a time-consuming internal process to do so, the ASEAN agreement obligations can be delayed.

This level of flexibility is not shown across all of Singapore’s commitments. While DEPA, as noted above, provides a mix of hard and soft law pledges to attract future members to the agreement, Singapore’s DEAs with advanced economies contain significantly more hard law language in the form of “members shall,” rather than “members shall endeavour” or “members recognize.” Singapore’s own domestic legal and regulatory levels are strong, which allows the country to match commitments with more ambitious digital partners. The tables shown in Section 6 highlight the range of commitments made by Singapore in different digital agreements.

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<sup>29</sup> The ten members of the Association of Southeast Asian Nations (ASEAN) are Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam. Timor Leste is currently working on accession.

<sup>30</sup> See, for example, the description of ASEAN Minus X for negotiations in trade in services at page 5, [https://www.asean.org/wp-content/uploads/2015/12/AFAS-Publication-\(2007.04\).pdf](https://www.asean.org/wp-content/uploads/2015/12/AFAS-Publication-(2007.04).pdf)

<sup>31</sup> <https://agreement.asean.org/media/download/20190306035048.pdf>

### 3.4 INNOVATIVE INSTITUTIONAL ARRANGEMENTS: THE USE OF MOUS

If digital laws and regulations are viewed as a continuum from limited policies in place for a range of digital issues to extensive commitments at the domestic level, Singapore is at the upper end of the spectrum. Officials are willing to wade into complex regulatory choices and are eager to try out new approaches to evolving issues. For example, Singapore's central bank, the Monetary Authority of Singapore (MAS), was an early proponent of using "sandboxes" as a mechanism for trying out new financial technology approaches under carefully controlled conditions.<sup>32</sup>

A sandbox approach, however, does not work for every situation. In some instances, Singaporean officials have recognized that issues may pose future legal or regulatory risks but, as an issue is nascent or evolving, it may not yet be ripe for regulation. For example, the use of Artificial Intelligence (AI) has been clearly identified as a promising set of technologies that also contain potential sources of risk or harm.<sup>33</sup> Yet, determining the "right" level of regulation remains unclear.<sup>34</sup>

Given domestic level of uncertainties, some issues that are clearly going to matter in the future are not yet ready for inclusion in a binding digital trade agreement. However, as parties to a trade negotiation are all likely to be grappling with determining new policy settings, it would be helpful to coordinate on approaches. This could reduce the risk of incompatible or inconsistent regulatory or legal approaches to new and evolving issues.

When Singapore and Australia met in October 2019 to start talks on the SADEA to accompany the bilateral FTA, both sides recognized a range of topics and issues that should be referenced in the DEA somehow. By the end of negotiations, both sides had identified seven areas that were important, but not ready for inclusion in the DEA text: artificial intelligence; electronic invoicing; digital identity; personal data protection; data innovation; electronic certification; and trade facilitation. An 8<sup>th</sup> topic, on unsolicited commercial messaging, was added in 2022.<sup>35</sup>

These two trade partners were already connected through a bilateral FTA; a regional ASEAN-Australia-New Zealand FTA (AANZFTA); CPTPP; and RCEP. Both were co-conveners of the ongoing Joint Statement Initiative on Electronic Commerce at the WTO. In short, they have had extensive experience negotiating and signing trade and digital commitments with one another. Both have similar levels of domestic regulation for digital issues.

Yet the two sides still recognized that these eight issues were not yet ready for legally binding commitments in the DEA. Leaving these topics off the agenda entirely was not a desirable option, as coordination matters. Hence, they developed an innovative approach to handling important but "unripe" topics: they were covered as part of attached Memorandums of Understanding (MOU) signed by both sides and attached to the SADEA (and, by extension, the FTA).

The format and content of the MOUs vary. The MOU on unsolicited commercial messaging, for example, promised cooperation between the two sides to help investigate, enforce, and research unsolicited commercial electronic messaging, unsolicited telemarketing, and scam telephone calls and SMS. It provided clarity on the process of notification and rendering assistance between signatory agencies. The MOU on electronic invoicing was largely about sharing information on domestic approaches to e-invoicing through coordinated

<sup>32</sup> <https://www.mas.gov.sg/development/fintech/regulatory-sandbox>

<sup>33</sup> For details on Singapore's approach to AI, see <https://www.pdpc.gov.sg/help-and-resources/2020/01/model-ai-governance-framework>

<sup>34</sup> Singapore rolled out a toolkit to help assess risks posed by generative AI in May 2024, called Project Moonshot. <https://www.straitstimes.com/singapore/s-pore-rolls-out-new-toolkit-to-test-gen-ai-safety-lays-out-plans-to-shape-global-conversations>

<sup>35</sup> <https://www.mti.gov.sg/Trade/Digital-Economy-Agreements/The-Singapore-Australia-Digital-Economy-Agreement>

activities like bilateral visits or workshops. The MOU on electronic certification committed both sides to a pilot program to provide an e-Cert for agricultural products traded between the parties.

Both sides have agreed to use MOUs to address a range of cooperation issues related to digital trade. These MOUs may continue with minimal change. New MOUs can be crafted, as the e-Cert commitment already indicates. MOUs could also be upgraded or incorporated directly as articles in the SADEA or FTA in the future, or they could be expanded to include additional topics or coverage within the MOU. By separating out issues into two approaches, Singapore and Australia were able to make mostly legally binding commitments for digital trade in the DEA while reserving the option of managing other issues via an MOU with greater flexibility.

Singapore has found the MOU-approach valuable. It was also incorporated into the DEA that Singapore signed with the UK.<sup>36</sup> UKSDEA has three MOUs including on cybersecurity cooperation; digital trade facilitation; and digital identities cooperation. Both parties also signed two side letters to support negotiations of a UK-Singapore Fintech Bridge and to explore interoperability of single window customs systems.

Finally, Singapore's third DEA, with South Korea, entered into force in January 2023.<sup>37</sup> It contains three MOUs: to support the exchange of electronic data to facilitate the DEA; to cooperate on AI; and to implement a Korea-Singapore Digital Economy Dialogue.

In short, Singapore has embraced the use of MOUs as a useful adjunct to DEA commitments. These MOUs can expand on promises made in the DEA (or FTA). They can be used as a platform for communication and cooperation between parties as circumstances evolve and change. They can provide greater clarity on processes to support the MOU and DEA outcomes, particularly for specific agencies. As digital MOUs, like the underlying DEAs, are a relatively recent phenomenon, it remains unclear at this point how they might ultimately support digital trade flows between parties. But they do provide a unique opportunity to align across important issues and will likely remain a feature of future Singaporean digital trade arrangements.

In the context of the EUSDTA negotiations, it is important to note the prior conclusion of the EU-Singapore Digital Partnership in February 2023. Like MOUs, the Partnership provides a framework for regulatory cooperation on a range of new topics, including Artificial Intelligence, and digital identities.

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<sup>36</sup> <https://www.mti.gov.sg/Trade/Digital-Economy-Agreements/UKSDEA>

<sup>37</sup> <https://www.mti.gov.sg/Trade/Digital-Economy-Agreements/KSDPA>



# CHAPTER 4 SINGAPORE'S DIGITAL ECONOMY

One reason why Singapore has been actively engaged in negotiating digital trade agreements is that the government increasingly recognizes the importance of the digital economy to future economic growth. Singapore has always been extremely trade-dependent, with a ratio of trade to GDP above 300%, as shown in Figure 1.



Figure 1: Singapore Ratio of Trade to GDP<sup>38</sup>

Estimating the size of the digital economy in any market can be challenging. Singapore's lead government agency on digital issues, Infocomm Media Development Authority (IMDA), procured a study in 2023 that showed that digital accounted for 17.3% of Singapore's GDP, with a compound annual growth rate (CAGR) of 12.9% since 2017.<sup>39</sup> The country has nearly doubled the value added from the digital economy to SG\$106 billion, up from SG\$58 billion over a five-year period.<sup>40</sup>

<sup>38</sup> <https://data.worldbank.org/indicator/NE.TRD.GNFS.ZS?locations=SG>

<sup>39</sup> <https://www.imda.gov.sg/-/media/imda/files/infocomm-media-landscape/research-and-statistics/sgde-report/singapore-digital-economy-report-2023.pdf>

<sup>40</sup> <https://www.edb.gov.sg/en/business-insights/insights/singapores-digital-economy-contributed-17-3-to-gdp-in-2022-up-from-13-in-2017-imda.html>

The Google, Temasek, Bain *e-Conomy 2023* report noted that Singapore's digital economy, as measured across just five sectors, should hit nearly SG\$30 billion by 2025.<sup>41</sup>

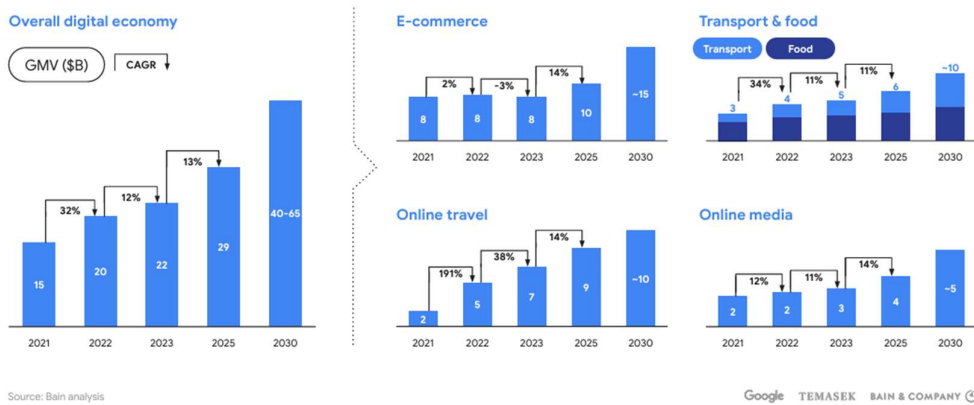
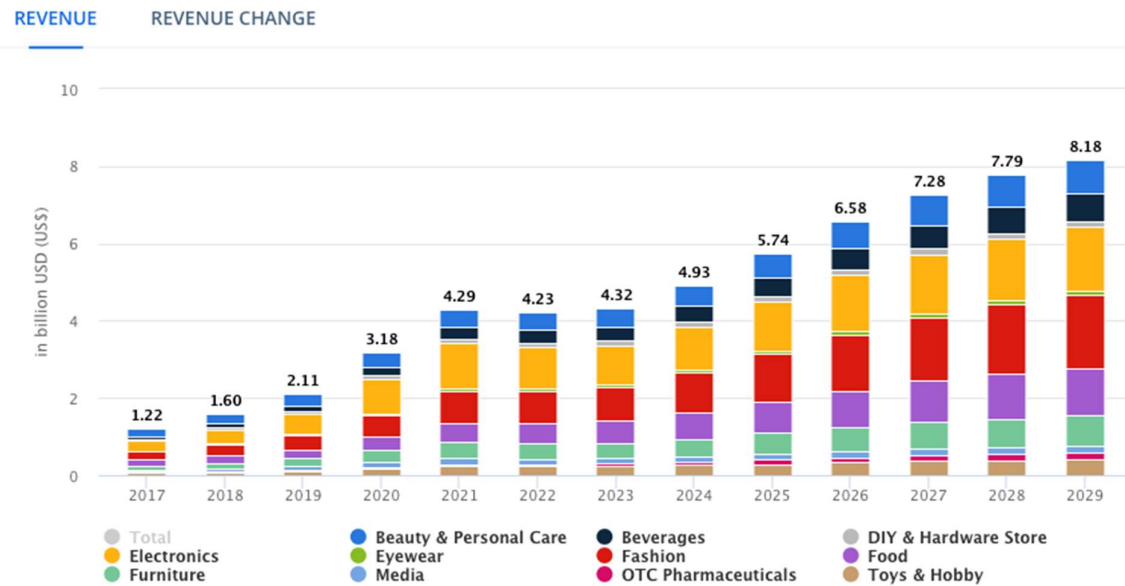


Figure 2: Singapore's Digital Economy Estimates<sup>42</sup>



Notes: Data shown is using current exchange rates and reflects market impacts of the Russia-Ukraine war.

Most recent update: May 2024

Source: Statista Market Insights

Figure 3: Revenue Growth in Singapore's E-Commerce Market<sup>43</sup>

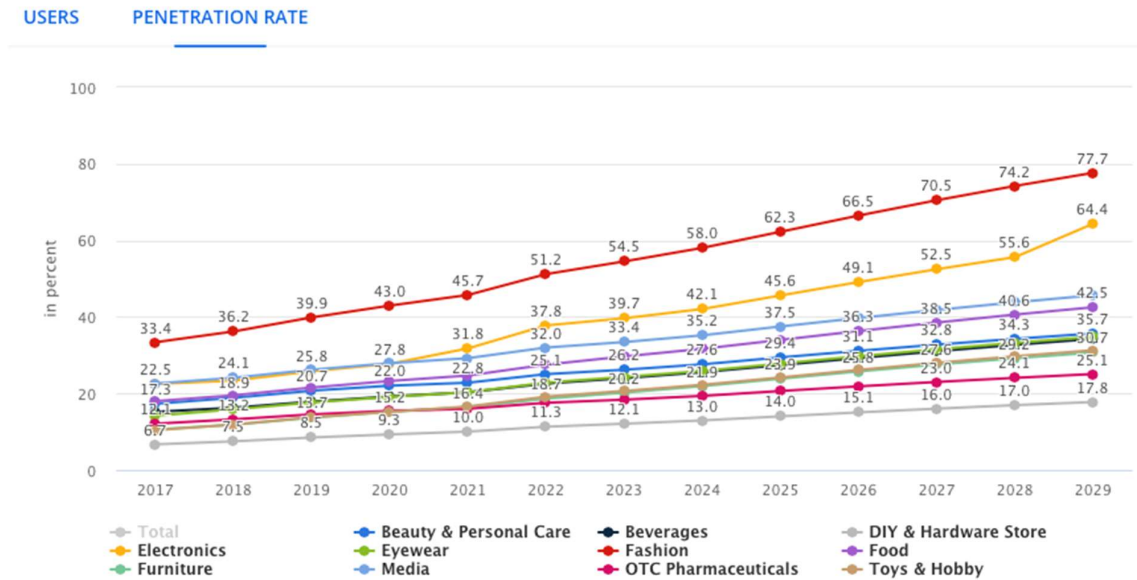
<sup>41</sup> <https://www.temasek.com.sg/content/dam/temasek-corporate/news-and-views/resources/reports/google-temasek-bain-e-conomy-sea-2023-report.pdf>

<sup>42</sup> E-Economy SEA 2023, page. 108, <https://www.temasek.com.sg/content/dam/temasek-corporate/news-and-views/resources/reports/google-temasek-bain-e-conomy-sea-2023-report.pdf>

<sup>43</sup> <https://www.statista.com/outlook/emo/ecommerce/singapore>

**Online Platforms**

Singapore's growing use of e-commerce, as shown in Figure 3, is bolstered by a wide array of digital platforms which provide services for the domestic market and allow e-commerce transactions across borders. For some sectors, like fashion, Singaporean consumers are purchasing more than three quarters of their products online. See Figure 4.



Most recent update: May 2024

Source: Statista Market Insights

Figure 4: User Penetration Rates for Singapore's E-Commerce Market<sup>44</sup>

Singapore's online consumer marketplaces showcase a diversity of sites. UNESCAP counted 191 business-to-consumer (B2C) marketplaces that experienced 862 million visits (against a total population of 5.6 million).<sup>45</sup> The top two B2C platforms in 2022 were Shopee and Carousell, which are locally-developed e-commerce marketplaces. While the online market is diverse, marketplaces shown in Figure 5 still captured 77% of total traffic. This top 10 ranking includes mostly online shopping malls, but also three classified sites, and one food delivery service.<sup>46</sup>

<sup>44</sup> <https://www.statista.com/outlook/emo/ecommerce/singapore>

<sup>45</sup> Lazada is listed as Singaporean but was set up from China's Alibaba group. <https://www.unescap.org/kp/2024/landscape-b2c-e-commerce-marketplaces-singapore>

<sup>46</sup> For details on their classification see page 8, <https://www.unescap.org/kp/2024/landscape-b2c-e-commerce-marketplaces-singapore>

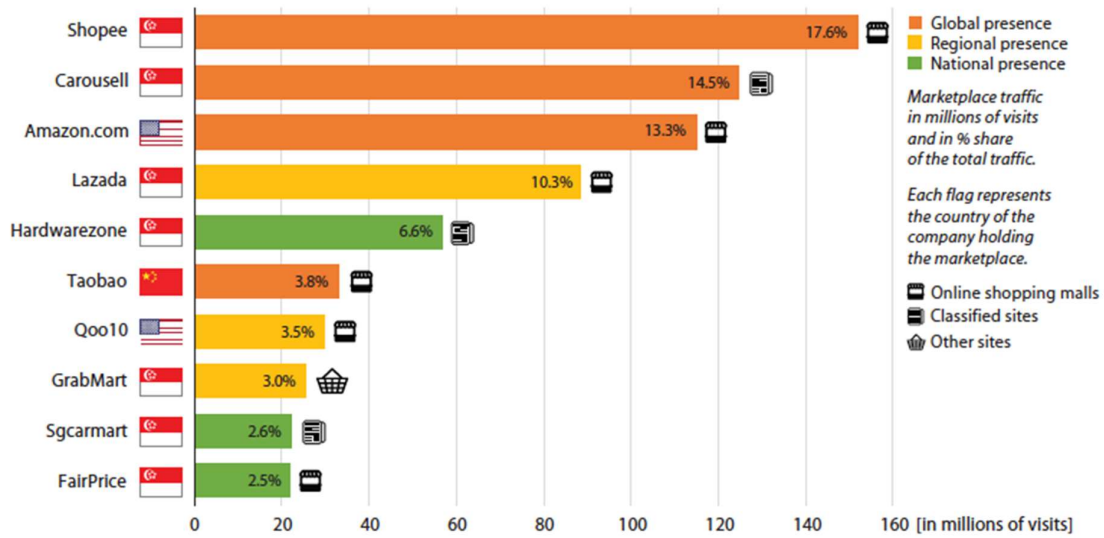


Figure 5: Singapore's Top B2C Marketplaces 2022<sup>47</sup>

Out of 191 B2C marketplaces tracked by UNESCAP, 84 were classified as “specialized.” The breakdown of the types of products sold on these platforms is shown in Figure 6 by the shares of purchases and traffic.

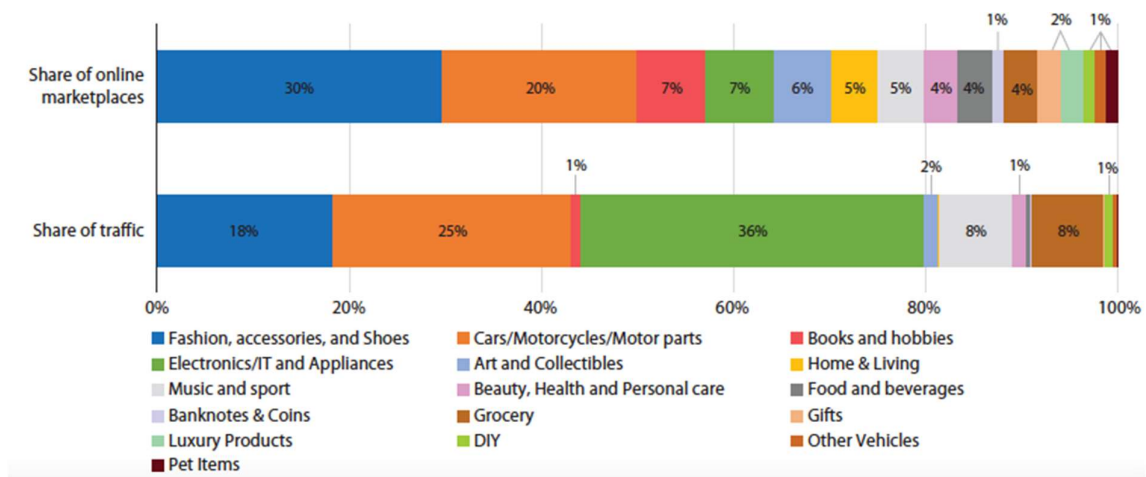


Figure 6: Singapore's Product-Specific Marketplaces 2022<sup>48</sup>

Cross-border e-commerce is also important, particularly in the B2C space. Singapore does not have customs duties applied at the border for nearly all products and the de minimis threshold is currently set at \$400.<sup>49</sup> Tracking cross-border e-commerce purchases can be difficult. PayPal has used payments data to show nearly a quarter of Singapore's US\$2.9 billion annual online spending went to cross-border purchases in 2020.<sup>50</sup> Products from China topped the list of source countries, followed by the US and South Korea.

<sup>47</sup> <https://www.unescap.org/kp/2024/landscape-b2c-e-commerce-marketplaces-singapore>

<sup>48</sup> <https://www.unescap.org/kp/2024/landscape-b2c-e-commerce-marketplaces-singapore>

<sup>49</sup> Singapore applies tariffs only for a handful of alcohol products. FTA partners, like the EU, are typically granted duty-free access to all tariff lines.

<sup>50</sup> Of these, 68 percent were made via mobile devices. See page 63, [https://www.paypalobjects.com/marketing/brc/shared/lead-nurture/pdf/PayPal-Borderless-Commerce-Report\\_SG.pdf](https://www.paypalobjects.com/marketing/brc/shared/lead-nurture/pdf/PayPal-Borderless-Commerce-Report_SG.pdf)

As shown in the 2022 PayPal Borderless Ecommerce Report, 79% of Singaporeans made cross-border purchases, accelerated by the Covid-19 pandemic disruptions to the local economy.<sup>51</sup> The primary reasons given for overseas purchases were cost, unavailability of items in the local market, and new products. Despite high levels of online purchasing activity, the Singaporean market still presents opportunities for growth.

### \ Data Centres

To support Singapore's ambition to serve as an anchor for global and regional digital trade activities, Singapore began looking for investments into the construction of data centres. Google, for example, purchased its first land parcel in 2011 and by the start of 2024 operated three centres with a total investment of US\$850 million.<sup>52</sup>

By 2023, the country served as home to 100 data centres, nearly 1200 cloud service providers, and 22 network fabrics.<sup>53</sup> The government imposed a moratorium on new construction of data centres in 2019, as centres were responsible for seven percent of Singapore's total energy consumption. However, the moratorium was lifted in 2022 given strong demand from industry. New centres were invited to apply under a pilot scheme.<sup>54</sup> In late May 2024, the government announced a significant upgrade in installed capacity on the horizon, moving from 1000 megawatts (MW) to 1300 MW, with the potential for an additional 200 MW in the near term.<sup>55</sup>

Investors like Amazon Web Services, Microsoft Azure, IBM Softlayer, and Google Cloud have been drawn to invest in Singapore by the presence of 24 submarine data cables. While the Economic Development Board (EDB) slowed its recruitment of new data centres, it continued to work with internet firms to develop hubs for research, successfully landing more investment from them, including a research lab from Alibaba and an AI training programme from Amazon Web Services.<sup>56</sup>

Overall, Singapore has sought to reflect a balanced approach for its tenders to allow foreign companies compete to build new data centres, allowing both US and Chinese providers in its market.<sup>57</sup> Whilst the US remains Singapore's largest investor, this balanced approach is generally consistently reflected in Singapore's overall economic policies.<sup>58</sup> Data centres are set to become more important than ever, particularly as data storage and computing demands driven by innovations like the growing use of AI tools accelerate.<sup>59</sup>

Investment in digital data storage and collection is governed by the Personal Data Protection Act (PDPA).<sup>60</sup> The PDPA, which is administered by the Personal Data Protection Commission, covers personal data stored in both electronic and non-electronic formats. The Act excludes: individuals acting in their personal or domestic basis; individuals acting in their capacity as an employee in an organization; public agencies; and business contact information such as individual names, positions, titles, business telephone numbers, business addresses, business emails, business fax numbers or similar information.

<sup>51</sup> See page 76, [https://filecache.mediaroom.com/mr5mr\\_paypal/184670/Borderless%20Commerce%202022\\_Report\\_SMB\\_EN\\_US.pdf](https://filecache.mediaroom.com/mr5mr_paypal/184670/Borderless%20Commerce%202022_Report_SMB_EN_US.pdf)

<sup>52</sup> <https://www.google.com/about/datacenters/locations/singapore/>

<sup>53</sup> Giulia Interesse, "Singapore's Data Center Sector: Regulations, Incentives, and Investment Prospects," ASEAN Briefing, 1 September 2023.

<sup>54</sup> See <https://www.datacenterdynamics.com/en/news/singapore-authorities-invite-applications-for-new-data-centers/>

<sup>55</sup> <https://www.businesstimes.com.sg/singapore/economy-policy/singapore-add-least-300-mw-data-centre-capacity-potentially-more-green-energy>

<sup>56</sup> For additional information on the types of incentive programs offered to the sector, see Giulia Interesse, "Singapore's Data Center Sector: Regulations, Incentives, and Investment Prospects," ASEAN Briefing, 1 September 2023.

<sup>57</sup> <https://www.hinrichfoundation.com/research/wp/tech/the-geopolitics-of-modern-data-centers/>

<sup>58</sup> <https://www.economist.com/asia/2024/05/08/singapore-has-achieved-astounding-economic-success>

<sup>59</sup> An excellent overview of the issues of geopolitical tensions for data centres can be found in Alex Capri's work at <https://www.hinrichfoundation.com/research/wp/tech/the-geopolitics-of-modern-data-centers/>

<sup>60</sup> <https://www.pdpc.gov.sg/overview-of-pdpa/the-legislation/personal-data-protection-act>

Data centres are also subject to the 2018 Cybersecurity Act, as centres are classified as Critical Information Infrastructures (CIIs).<sup>61</sup> The Act requires mandatory reporting of cybersecurity incidents to the Commissioner of Cybersecurity. The government says CSA applies a “light-touch approach to license only two types of service providers, namely penetration testing and managed security operations centre (SOC) monitoring.”

The growing importance of data centres and the escalating risks attached to hosting information has also driven updates to existing data storage practices. The Act was amended in May 2024 to expand the scope of covered entities and computer systems.<sup>62</sup> The list now includes foundational digital infrastructure (FDI) service providers, entities of special cybersecurity interest (ESCI) and systems of temporary cybersecurity concern (STCC).<sup>63</sup>

The data centres in Singapore manage more than Singapore’s domestic data storage needs. They have become a key element of the global and regional storage operations for firms, including those that operate cloud storage and companies that use cloud provider services. As such, Singapore has committed to allowing the free cross-border flow of data, starting with the clearest articulation in the Trans-Pacific Partnership (TPP) in Article 14.11. These rules, however, should be read in conjunction with Singapore’s regulations that may limit the transfer of information and data. On personal data for instance, the PDPA clarifies conditions for transfer.<sup>64</sup>

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<sup>61</sup> <https://www.csa.gov.sg/legislation/Cybersecurity-Act>

<sup>62</sup> [https://www.dataguidance.com/news/singapore-cybersecurity-amendment-bill-passed#:~:text=In%20particular%2C%20the%20bill%2C%20in,infrastructure%20\(CII\)%20it%20covers](https://www.dataguidance.com/news/singapore-cybersecurity-amendment-bill-passed#:~:text=In%20particular%2C%20the%20bill%2C%20in,infrastructure%20(CII)%20it%20covers).

<sup>63</sup> The FDI rules include provisions to ensure availability, latency, throughput and security measures. ESCI extends regulations to those that operate (but may not own) computer systems processing sensitive data. STCC clarifies times like high-key international events or pandemics, that might require additional scrutiny.

<sup>64</sup> [https://www.pdpc.gov.sg/-/media/Files/PDPC/PDF-Files/Advisory-Guidelines/the-transfer-limitation-obligation---ch-19-\(270717\).pdf](https://www.pdpc.gov.sg/-/media/Files/PDPC/PDF-Files/Advisory-Guidelines/the-transfer-limitation-obligation---ch-19-(270717).pdf)

# CHAPTER 5 COMPARING EXISTING COMMITMENTS

Despite Singapore’s active history in negotiating trade arrangements, the government does not release negotiating objectives, draft negotiating texts, or documents that may have been submitted by stakeholders in advance of negotiations. Whilst the EU published its proposals for the EUSDTA<sup>65</sup>, similar documents are not available for Singapore. Hence, the best way to assess likely negotiating outcomes for the EUSDTA is to compare Singapore’s existing digital commitments to the non-binding, bilaterally negotiated, EU-Singapore Digital Trade Principles text. This document reflects areas where both sides had an alignment of viewpoints at the start of the negotiations for the EUSDTA. Having agreed on a set of principles, however, does not mean that only items included as principles will end up incorporated into the final EUSDTA legal text. Nor does exclusion from the principles mean that the topic or a specific commitment or provision will not be present in the final document. It simply provides a handy reference point for comparison with Singapore’s existing digital trade commitments around a set of issues that are most likely to be found in the EUSDTA.

This paper reviews these materials in two ways: an overview of potentially overlapping coverage between agreements; followed by additional details in Section 6 of the specific provisions from existing texts that may apply to EUSDTA.

Table 1 shows a broad overview table, followed by more in-depth breakdowns in different areas of EUSDTA interest, including commitments for the facilitation of digital trade (Table 3), consumer and business trust (Table 4), and interoperability in data governance (Table 5). Reference is made to the specific provisions in the agreement where necessary, with a view to any carve outs made as well. As a review of Singapore’s existing trade agreements indicates, commitments range from legally binding provisions that are anchored in domestic legal and regulatory actions to cooperation promises between parties for specific topics. The list of potential topics for inclusion in a digital agreement by Singapore can be quite extensive, ranging from digital trade facilitation to e-payments to supply chain resilience and support for micro, small and medium sized enterprises (MSMEs). The comparison of Singapore’s existing trade agreements, nicely captured in a new tool developed by the World Economic Forum, highlights the flexibility that Singapore has shown in working on digital trade elements with a range of partners.<sup>66</sup>

*Table 1: Broad Comparison of Coverage by FTAs*

EU-Singapore Digital Trade Principles	Digital Economy Partnership Agreement (DEPA)	Regional Comprehensive Economic Partnership (RCEP)	Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)	Korea-Singapore Digital Partnership Agreement (KSDPA)	Singapore-Australia Digital Economy Agreement (SADEA)	United Kingdom-Singapore Digital Economy Agreement (UKSDEA)
Digital trade facilitation	✓	✓	✓	✓	✓	✓

<sup>65</sup> [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/singapore/eu-singapore-agreements/documents\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/singapore/eu-singapore-agreements/documents_en)

<sup>66</sup> See the ASEAN Digital Economy Agreement Leadership (DEAL) depository at: <https://www.asean-deal.org/depository>

EU-Singapore Digital Trade Principles	Digital Economy Partnership Agreement (DEPA)	Regional Comprehensive Economic Partnership (RCEP)	Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)	Korea-Singapore Digital Partnership Agreement (KSDPA)	Singapore-Australia Digital Economy Agreement (SADEA)	United Kingdom-Singapore Digital Economy Agreement (UKSDEA)
Data and Data free flow with trust <sup>67</sup>	✓	✓	✓	✓ (Art 14)	✓ (Art 26)	✓ (Art 8.61W)
Artificial Intelligence	✗	✓	✗	✓	✓ (Art 31)	✓ (Art 8.61R)
Digital Identity and electronic authentication	✓	✓	✓	✓	✓ (Art 29)	✓ (Art 8.61S)

## 5.1 VARYING COMMITMENTS AND EXCEPTIONS

It is important to carefully parse the legal language of these various texts across the three areas covered under the Digital Principles (facilitation of digital trade, consumer and business trust, and interoperability of data governance) and go beyond a simple count of whether or not a specific topic appears in an agreement as Table 2 shows. This is because there can be a world of difference between a text which reads “members shall do Y” and one which reads that “members shall endeavour to do Y” or one that reads “members agree to cooperate on Y.” While the topic “Y” appears in all three versions, the legal meaning is quite different and the practical consequences of all three variations can be substantial.

Singapore’s existing digital agreements, as noted earlier, have included partners at varying levels of economic and digital development. The three digital economy agreements (DEAs) have been signed with highly advanced economies while ASEAN’s arrangements including RCEP involve member states from advanced to least developed countries (LDCs).<sup>68</sup> It is perhaps not surprising that the specific content around topics such as online consumer protection will vary across these agreements. Particularly for members within ASEAN that do not have offline consumer protection in place, binding rules for consumer protection in the digital world would be impossible to deliver in the near term.

Just because a topic, like Artificial Intelligence (AI), has been added to the list of outcomes for any given trade arrangement does not automatically grant similar treatment to the topic. To see how these variations can matter, Table 2 provides a more in-depth look at three elements that are often seen in Singapore’s agreements. These three topics reveal substantial differences in treatment between them.

<sup>67</sup> Facilitation of cross-border data flows such as access to open government data.

<sup>68</sup> RCEP has 15 members including all 10 ASEAN members (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam) with ASEAN Dialogue Partners Australia, China, Japan, New Zealand, and South Korea. India was part of the negotiating process, but did not proceed to ratification stage.



Table 2: Examples of Varying Digital Commitments Made By Singapore

Topics	CPTPP	DEPA	SADEA	RCEP	ASEAN ECA <sup>69</sup>
Cross-border transfer of information by electronic means	Article 14.11 but exceptions to data flows noted in paragraph 3	Article 4.3 similar exceptions to CPTPP but whole commitment carved out twice: in Annex 14A and again in Annex I	Article 23 similar exceptions to CPTPP	Article 12.15 with exceptions similar to CPTPP although more narrowly defined “for the conduct of a business of a covered person” but also has footnote 12 that allows members sole right to decide on whether activities are considered legitimate public purpose	Article 4 commits members to “work towards” eliminating or minimizing barriers to trade
Online Consumer Protection	Article 14.7 says parties shall adopt or maintain laws for fraudulent or deceptive commercial activities that cause harm	Article 6.3 reflects CPTPP but adds examples of problematic conduct and requires laws that, at the time of delivery, goods and services provided to be of acceptable and satisfactory quality, consistent with the supplier’s claims regarding the quality of the goods and services; and (b) provide consumers with appropriate redress when they are not	Article 15 reflects CPTPP but with additional explanation and more cooperation elements added	Article 12.7 similar to CPTPP (footnote 6 grants CML70 timeline extension)	Article 7.3 similar to CPTPP (with CML extension)
Customs Duties	Article 14.3 prohibits customs duties on electronic transmission and content submitted electronically	Article 3.2 follows CPTPP	Article 5 follows CPTPP	Article 12.11 agrees to follow WTO practice	No provision on topic

<sup>69</sup> ASEAN’s E-Commerce Agreement, which is being upgraded with the negotiations for the Digital Economy Framework Agreement (DEFA). The ECA text can be found at: <https://agreement.asean.org/media/download/20190306035048.pdf>

<sup>70</sup> CML=Cambodia, Myanmar, and Laos. All three are Least Developed Country (LDC) members typically granted additional flexibility in commitments, including longer timelines for implementation.

# CHAPTER 6 MAPPING EXISTING COMMITMENTS AGAINST DIGITAL PRINCIPLES

Table 2 highlighted some of the variations that are present in Singapore’s existing digital trade arrangements. Singapore has been actively engaged in signing trade agreements to cover e-commerce and digital trade with provisions that range from legally binding rules to cooperation commitments and MOUs. Many of the existing agreements are also subject to review, with the potential for future adjustments. Implementation is also a critical factor, as even clear legal rules can be subject to variations in application and enforcement.

Like all trade agreements, EUSDTA will be structured to fit the needs, requirements, and interests of the negotiating partners. It is therefore useful to consider how Singapore’s existing digital agreements stack up in greater detail to the bilaterally agreed EU-Singapore Digital Trade Principles commitments. Of course, when comparing these arrangements, it should be taken into account that the Digital Trade Principles only entail non-binding principles, while the other agreements noted as part of the comparison can also include binding commitments. As a result, the types of commitment and level of details will likely differ. These commitments are divided into three areas of cooperation: facilitation of digital trade, consumer and business trust, and interoperability of data governance. Each is considered in turn below, starting with digital trade facilitation in Table 3.

Table 3: Digital Trade Facilitation

EU-Singapore Digital TRADE Principles (EUSDTP)	DEPA	RCEP	CPTPP	KSDPA	SDEA	UKSGDEA
<b>Paperless trading</b>	Materially Similar with EUSDTP					
<b>Single Window Systems</b>	Materially similar with EUSDTP	Silent		Materially similar with EUSDTP		
<b>Electronic Transactions and Electronic Contracts</b>	Similar, but all the other DEAs/DEPs provide that the legal framework should be consistent with the principles of the UNCITRAL Model Law on Electronic Commerce					
<b>Electronic Authentication and electronic signatures</b>	Limited	Materially similar with EUSDTP				
<b>Electronic invoicing</b>	Materially similar with EUSDTP	Silent		Materially similar with EUSDTP		
<b>Electronic Transferable Records and Freight Transport Information</b>	Similar with EUSDTP but provides for further compliance principles	Silent		Similar with EUSDTP but provides for further compliance principles		
<b>Customs duties</b>	Materially similar with EUSDTP					
<b>STRACAP</b>	Dissimilar	Silent		Materially similar with EUSDTP		

## 6.1 DIGITAL TRADE FACILITATION LEGAL ELEMENTS

In greater detail, the information in Table 3 includes:

### \ PAPERLESS TRADING

There is a general consensus shown across all of Singapore’s agreements that paper processes do not facilitate trade. In all respective DEAs and DEPs, parties agreed to accept similar principles to facilitate paperless trading. This entails two core commitments:

- Promote the acceptance of electronic versions of trade document as legally equivalent of the paper version of those forms; and
- Make trade documents publicly available online.

In essence, there is no material difference for this provision between the EUSDTP and Singapore’s previously signed DEAs/DEPs.

### \ SINGLE WINDOW SYSTEMS

Single Windows refer to digital measures that work seamlessly to facilitate paperless trading. These facilities enable traders to submit trade documents through a single agency, eliminating the need for multiple declarations and clearances from different authorities. As such, the commitment to develop such single window systems are often found under the “Paperless Trading” Article of most DEAs and DEPs.

The core commitment outlined in the DEAs/DEPs is the adoption or maintenance of single window systems among the parties. A notable distinction is that under the EUSDTP, parties commit to working towards implementing common standards provided by the World Customs Organization (WCO), a specification that is absent in other DEAs/DEPs signed by Singapore. The DEPA and KSDPA, on the other hand, make reference to the WTO Trade Facilitation Agreement (TFA) obligation to establish single trade windows.

Neither RCEP nor CPTPP explicitly address the matter. RCEP does provide for parties to implement initiatives provided by the World Customs Organization,<sup>71</sup> which could imply single window adoption.

### \ ELECTRONIC TRANSACTIONS AND ELECTRONIC CONTRACTS

In all DEAs/DEPs signed by Singapore, the legal framework for electronic contracts is to be governed by the principles of the UNICITRAL Model Law on Electronic Commerce (1996) to ensure international legal certainty and predictability.

However, the EUSDTP does not reference the UN Convention on the Use of Electronic Communications in International Contracts. While all other Singaporean DEAs/DEPs require the parties to adopt a framework that is consistent with either the UNICITRAL Model Law or the UN Convention, the EUSDTP only provides that it must be consistent with the UNICITRAL Model Law.

### \ ELECTRONIC AUTHENTICATION AND ELECTRONIC SIGNATURES

The common thread in all DEAs/DEPs concerning electronic authentication and signatures is that these will not be denied legal validity on the basis that they are in electronic form. The core commitment is to achieve

<sup>71</sup> Article 12.5(1)(a) RCEP

security and efficiency through mutual recognition of electronic identities to facilitate cross-border transactions.

Notably, most DEAs/DEPs<sup>72</sup> include prohibitions that prevent the parties from independently determining the appropriate authentication methods for their transactions.<sup>73</sup> These prohibitions are not explicitly provided for in the EUSDTP. The DEPA, however, provides that “parties shall endeavour to enable cross border authentication.”<sup>74</sup> Explicit details concerning electronic authentication may have been seen as unnecessary in light of DEPA’s provisions on “Digital Identities,” which would implicitly include cooperation in fostering electronic authentication.<sup>75</sup>

## \ ELECTRONIC INVOICING

Electronic invoicing is crucial to increase the efficiency and reliability of commercial transactions. RCEP and CPTPP are silent on the party’s positions towards electronic invoices.

All other DEAs/DEPs provide that measures adopted for electronic invoicing are to be based on an “international framework.” The EUSDTP, alongside the SADEA and UKSGDEA, explicitly recognise Peppol, an e-invoicing platform that operates between companies both within and outside the EU.<sup>76</sup>

The commitment is usually two-pronged: (a) sharing best practices on electronic invoicing framework between parties, and (b) ensuring implementation of measures related to electronic invoicing to support cross-border interoperability.

## \ ELECTRONIC TRANSFERABLE RECORDS AND FREIGHT TRANSPORT INFORMATION

The EUSDTP highlights the importance of enabling the use of electronic transferable records across borders, a commitment that works in tandem to promote paperless trading in e-commerce. While RCEP and CPTPP are silent on the matter, all of Singapore’s other DEAs/DEPs provide that the legal framework should be consistent with or adopted on the basis of the UNCITRAL Model Law on Electronic Transferable Records.

However, the DEPA, KSDPA, ASDEA and UKSGDEA go further and provide that such a framework ought to also be consistent with the UNICITRAL Model Law on Electronic Commerce (1996) or UN Convention on the Use of Electronic Communications in International Contracts.<sup>77</sup>

As the EU is not a signatory to this UN Convention, the Digital Trade Principles do not require either. Instead, the parties committed to further the development of electronic transferable records, seek to avoid imposing regulatory burden on electronic transactions, and facilitate the development of such frameworks.

## \ CUSTOM DUTIES

The prohibition of imposing custom duties on electronic transmissions is found across all DEAs/DEPs, as well as the EUSDTP, without a connection to the WTO’s moratorium on customs duties on electronic transactions.<sup>78</sup>

<sup>72</sup> CPTPP, KSDPA, ASDEA and UKSGDEA.

<sup>73</sup> CPTPP Art 14.6(2)(a), KSDPA Art 14.8(2)(a), ASDEA Art 9(2)(a), and UKSGDEA Art 8.61(2)(a).

<sup>74</sup> DEPA Article 2.7(2)(d).

<sup>75</sup> DEPA Art 7.1(1).

<sup>76</sup> EUSDP Principles, ASDEA Art 10(2) and UKSGDEA Art 8.61-A(2).

<sup>77</sup> DEPA Art 2.3(1), KSDPA Art 14.7(1), ASDEA Art 8(2) and UKSGDEA Art 8.60(1).

<sup>78</sup> [https://www.wto.org/english/news\\_e/news23\\_e/ecom\\_18jul23\\_e.htm](https://www.wto.org/english/news_e/news23_e/ecom_18jul23_e.htm)

In other words, Singapore has repeatedly committed to avoid customs duties on electronic transmissions regardless of whether the WTO moratorium stands or falls.

## \ STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT PROCEDURES (STRACAP)

STRACAP refers to standards, conformity assessment and technical regulations: procedures which parties often take in the context of the WTO Technical Barriers to Trade Agreement (TBT) to foster interoperability and compatibility of digital trade. Occasionally, it would also go by the name of “Conformity Assessment.”

STRACAP is addressed differently in the DEAs/DEPs. For instance, the EUSDTP, KSDPA, ASDEA and UKSGDEA include articles dedicated to the parties’ commitment in STRACAP development. The DEPA addressed STRACAP strictly in the context of imposition of STRACAP for products that use cryptography<sup>79</sup> and information sharing.<sup>80</sup> DEPA does not provide a “broad” provision to commit on the subject matter.

While DEAs/DEPs which have committed to the development of STRACAP are broadly the same, the ASDEA goes further and references the *Mutual Recognition Agreement on Conformity Assessment Between the Government of Australia and the Government of the Republic of Singapore*.

## 6.2 DETAILED LEGAL COMPARISONS: CONSUMER AND BUSINESS TRUST

The issue of creating trust in the digital world is important. The EUSDTA will include provisions to enhance trust and confidence for both consumers and businesses. To see what these provisions might include, it is helpful to refer to Table 4 for information on what Singapore and its past digital trade partners have included.

Table 4: Consumer and Business Trust

EU-Singapore Digital Trade Principles	DEPA	RCEP	CPTPP	KSDPA	SADEA	UKSGDEA
<b>Consumer Trust</b>						
<b>Online Consumer Protection</b>	More detailed than EUSDTP in suggesting regulatory frameworks		Materially similar with EUSDTP	More detailed than EUSDP in suggesting a regulatory framework		Materially similar with EUSDTP
<b>Unsolicited Commercial Electronic Messages</b>	More detailed than EUSDTP in suggesting regulatory frameworks; identical provisions				More detailed than EUSDTP in suggesting regulatory frameworks; Phrasing slightly differs	
<b>Safety Online</b>	More detailed than EUSDP	Silent		More detailed than EUSDP	Brief mention	More detailed than EUSDP
<b>Business Trust</b>						
<b>Open Internet Access</b>	Silent			Brief mention; Identical provisions		Brief mention
<b>Cybersecurity</b>	Materially similar with EUSDTP; identical to KSDPA, SADEA	Materially similar with EUSDTP; Identical provisions		Materially similar with EUSDP; identical to DEPA		Significantly more detailed than EUSDP and other FTAs
<b>Source Code</b>	Silent	Briefly mentioned	Less detailed than EUSDTP	More detailed than EUSDTP		

<sup>79</sup> DEPA Art 10.3.

<sup>80</sup> DEPA Art 3.4.

EU-Singapore Digital Trade Principles	DEPA	RCEP	CPTPP	KSDPA	SADEA	UKSGDEA
<b>ICT Products that use Cryptography</b>	More detailed than EUSDP; Identical with KSDPA, SADEA	Briefly mentioned	Same as EUSDP	Less detailed than EUSDP	EUSDP	More detailed than EUSDP
<b>Artificial Intelligence</b>	Different content from EUSDP	Silent		Substantially similar to DEPA	Very similar to KSDPA	Most comprehensive

## CONSUMER TRUST

### \ ONLINE CONSUMER PROTECTION

There is similarity between the digital trade agreements signed by Singapore that all include references to ensuring online consumer protection. The EUSDP does so as well but contains little detail on how to achieve this objective. Of course, negotiations in the EUSDTA could result in adjustments to the originally worded non-binding principle.

As it stands, the Digital Trade Principles document is more like the CPTPP and UKSGDEA which only articulates that there should be regulatory mechanisms in place as well as guidelines for online consumer protection. CPTPP, for example, has limited detail since some of the original negotiating partners did not have offline consumer protection at the time of talks, which made it difficult to get parties to agree on robust rules for online consumer protection. By contrast, DEPA, RCEP, KSDPA, and SADEA, all had domestic rules or regulations for online consumer protection, making it easier to craft more detailed provisions in the digital agreements.

Among DEPA, RCEP, CPTPP, KSDPA, SADEA, and UKSGDEA, the main commonalities are agreements to maintain:

- Regulations against deceptive, misleading, and fraudulent conduct to consumers;<sup>81</sup>
- Regulations that enable access to consumer redress;<sup>82</sup> and
- Regulations that ensure publication and accessibility of consumer protection laws and regulations.<sup>83</sup>

### \ UNSOLICITED COMMERCIAL ELECTRONIC MESSAGES

Provisions surrounding Unsolicited Commercial Electronic Messages are largely identical between the digital agreements for Singapore. Provisions are largely similar for:

- Regulation requiring suppliers of these messages to facilitate the ability of recipients to prevent ongoing reception of those messages;<sup>84</sup>
- Regulation requiring consent of recipients to receive commercial electronic messages;<sup>85</sup>
- Regulation providing the minimization of unsolicited commercial electronic messages;<sup>86</sup>
- Regulation that provides recourse against non-compliant suppliers of unsolicited commercial electronic messages;<sup>87</sup>
- Endeavouring to cooperate in appropriate cases of mutual concern regarding the regulation of unsolicited commercial electronic messages.<sup>88</sup>

<sup>81</sup> DEPA Art 6.3, CPTPP Art 14.7, KSDPA Art 14.21, ASDEA Art 15, UKSGDEA Art 8.61

<sup>82</sup> DEPA Art 6.3, RCEP Art 12.7, ASDEA Art 15, UKSGDEA Art 8.61

<sup>83</sup> RCEP Art 12.7, KSDPA Art 14.21, ASDEA Art 15, UKSGDEA Art 8.61

<sup>84</sup> DEPA Art 6.2, RCEP Art 12.9, CPTPP Art 14.14, KSDPA Art 14.20, ASDEA Art 19, UKSGDEA Art 8.61

<sup>85</sup> DEPA Art 6.2, RCEP Art 12.9, CPTPP Art 14.14, KSDPA Art 14.20, ASDEA Art 19, UKSGDEA Art 8.61

<sup>86</sup> DEPA Art 6.2, RCEP Art 12.9, CPTPP Art 14.14, KSDPA Art 14.20, ASDEA Art 19, UKSGDEA Art 8.61

<sup>87</sup> DEPA Art 6.2, RCEP Art 12.9, CPTPP Art 14.14, KSDPA Art 14.20, ASDEA Art 19, UKSGDEA Art 8.61

<sup>88</sup> DEPA Art 6.2, RCEP Art 12.9, CPTPP Art 14.14, KSDPA Art 14.20, ASDEA Art 19, UKSGDEA Art 8.61

DEPA, RCEP, CPTPP, KSDPA have identical provisions surrounding the regulation of unsolicited commercial electronic messages. The SADEA and UKSGDEA are substantially very similar to the other agreements, but differ in phrasing.

## \ ONLINE SAFETY

The RCEP and CPTPP are silent on express provisions surrounding online safety, while SADEA briefly mentioned the importance of online safety. DEPA, KSDPA, and UKSGDEA share identical provisions surrounding online safety.<sup>89</sup>

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## BUSINESS TRUST

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## \ CYBERSECURITY

EUSDTP is materially similar to the other agreements in agreeing to enhance cybersecurity regulatory frameworks and the development of an open and peaceful ICT community.<sup>90</sup> EUSDTP enunciates the ideals surrounding cybersecurity but did not detail areas of work or elaborate mechanisms needed to support it – which are found in the other agreements. These topics could be addressed in the EUSDTA negotiations.

The DEPA, KSDPA, and SADEA agreements have identical cybersecurity provisions surrounding incident response, collaborative mechanisms against malicious attacks, and workforce development.<sup>91</sup> The RCEP and CPTPP agreements have separate sets of identical provisions, which are less detailed and only recognise the importance of capacity building surrounding incident response, and the usage of existing collaboration mechanisms.<sup>92</sup> Notably, the UKSGDEA is significantly more comprehensive than the other FTAs, including provisions that support information-sharing, maintaining dialogues, and adopting a risk-based approach.<sup>93</sup>

## \ SOURCE CODE

DEPA does not have a provision on the protection against the forced transfer of software source code. The RCEP only briefly name-drops source code as a ‘current and emerging issue’ that should undergo dialogue with different stakeholders.<sup>94</sup> CPTPP had one of the first inclusions of the topic.<sup>95</sup> The KSDPA, SADEA, and UKSGDEA contain materially similar and more detailed provisions surrounding source code, although their provisions are not worded identically. Their main similarity is in protecting companies from parties to require access to and transfer of source code, but the specific exceptions to those rules differ (e.g. to allow for conformity assessment procures, judicial proceedings, etc).<sup>96</sup>

## \ ICT PRODUCTS THAT USE CRYPTOGRAPHY

CPTPP has an Annex 8B that protects against the forced access to and transfer of proprietary technology relating to cryptography. RCEP, KSDPA, and SADEA have identical provisions that focus on technical regulations and the manufacture, sale, distribution, import and use of ICT products with cryptography.<sup>97</sup> The UKSGDEA is substantially similar to the RCEP, KSDPA, and ASDEA, but includes more detail in listing exceptions to the article.<sup>98</sup>

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<sup>89</sup> DEPA Art 5.2, KSDPA Art 14.23, UKSGDEA Art 8.61-O.

<sup>90</sup> EUSDTP Art 49.

<sup>91</sup> DEPA Art 5.1, KSDPA Art 14.22, ASDEA Art 34.

<sup>92</sup> RCEP Art 12.13, CPTPP Art 14.16.

<sup>93</sup> UKSGDEA Art 8.61-L.

<sup>94</sup> RCEP Art 12.16.

<sup>95</sup> CPTPP Art 14.17.

<sup>96</sup> KSDPA Art 14.9, ASDEA Art 28, UKSGDEA Art 8.61-K.

<sup>97</sup> RCEP Art 3.4, KSDPA Art 14.18, ASDEA Art 7.

<sup>98</sup> UKSGDEA Art 8.61-J.

## ARTIFICIAL INTELLIGENCE (AI)

All the agreements signed by Singapore include elements regarding the development and maintaining AI governance standards. Whilst, the EUSTDP is relatively modest in its commitments, the EU-Singapore Digital Partnership already contains provisions that are not included by any other FTA. The Digital Partnership includes a unique agreement to cooperate on AI test-beds and testing, facilitation of cross-border access for AI technologies, and research collaboration on AI.<sup>99</sup>

Singapore's existing digital economy agreements for AI often include cooperation elements. DEPA, for instance, focuses only on AI governance regulation.<sup>100</sup> The KSDPA is substantially similar to DEPA in addressing AI governance. The ASDEA is almost identical to KSDPA except it adds provisions agreeing to share research and industry practices, the promotion of responsible use of AI technologies, and commercialization opportunities.<sup>101</sup> ASDEA includes a specific MOU on AI cooperation.<sup>102</sup>

The UKSGDEA has the most comprehensive agreement by Singapore to date on Artificial Intelligence. Besides the aforementioned provisions, it includes provisions to take into account guidelines of relevant international bodies, utilize risk-based approaches to regulation, and have regard for the principles of technological interoperability and neutrality.<sup>103</sup> It also emphasizes the importance of cross-collaboration in research and development opportunities, joint deployment and test-bedding opportunities that are not included in the other agreements.<sup>104</sup>

## 6.3 DATA GOVERNANCE LEGAL COMPARISONS

There are two points in particular that are covered in the Digital Trade Principles agreement: data free flow with trust and open government data.

Table 5: Data Governance

EU-Singapore Digital Trade Principles	DEPA	RCEP	CPTPP	KSDPA	ASDEA	UKSGDEA
<b>Data Free Flow with Trust</b>	Similar to EUSDTP but with exceptions	Similar to EUSDTP but with exceptions	Materially similar but with exceptions	Similar to EUSDTP	Similar to EUSDTP but with exceptions	Similar to EUSDTP but with exceptions
<b>Open Government Data</b>	Similar to EUSDTP	Similar to EUSDTP	Phrased differently but substantially similar	Similar to EUSDTP	Similar to EUSDTP	Similar to EUSDTP

## DATA FREE FLOW WITH TRUST

Whilst the EUSDTP appears similar to Singapore's other agreements, it is to be noted that the EU approach to data flows differs from the approach followed by CPTPP members. Whilst the CPTPP approach entails an open-ended legal commitment to cross-border data flows,<sup>105</sup> the EU approach entails a political commitment to data flows based on a clearly circumscribed list of prohibited data localisation restrictions. The EUSDTP aims to bridge the gap between the two approaches.

<sup>100</sup> DEPA Art 8.2.

<sup>100</sup> DEPA Art 8.2.

<sup>101</sup> ASDEA Art 31.

<sup>102</sup> <https://www.dfat.gov.au/sites/default/files/australia-singapore-mou-artificial-intelligence.pdf>

<sup>103</sup> UKSGDEA Art 8.61-R.

<sup>104</sup> UKSGDEA Art 8.61-R.

<sup>105</sup> With some exceptions, as noted in Chapter 14.



The CPTPP and RCEP provide for the free flow of data, with exceptions in paragraph 3 of their respective articles.<sup>106</sup> (Note, however, that RCEP also includes an extra carve out of the commitment to allow data to flow across borders in a footnote). DEPA allows for data to flow across borders without restrictions, although it does include significant exceptions, with carve outs in both Annex 14A and Annex I.<sup>107</sup> Singapore's Bilateral DEAs also have provisions that relate to the free flow of data, but these are much less extensive than the larger trade agreements concluded between more nations and generally follow the larger agreements in terms of their phrasing.<sup>108</sup>

Manging to straddle the differences between the EU's basic approach to data flows and internal data privacy legislation and Singapore's approach to the same topics is likely to prove more difficult in negotiations. At the level of principles, both sides agree that data should flow with trust. Getting agreement around a potentially binding set of rules, however, can be harder as the final text needs to reconcile two similar but not identical methods of achieving data free flow with trust.

### \ OPEN GOVERNMENT DATA

Singapore has signed a number of digital agreements that recognize that the use of open government data can support innovation and development objectives. The specific provisions vary, but all encourage the release of data to the public when possible, particularly in a format that is machine readable, searchable, and retrievable but also appropriately anonymised.

DEPA encourages governments to release data and calls on participants to cooperate in the identification, development, and use of data sets.<sup>109</sup> The DEAs with Australia and South Korea have nearly identical phrasing but include additional details on the formatting of data.<sup>110</sup>

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<sup>106</sup> CPTPP Art 14.11-3 (including exceptions), RCEP Art 12.15

<sup>107</sup> DEPA Art 4.3

<sup>108</sup> UKSGDEA Art 8.61 F-G, KSDPA Art 14.14-14.16, ASDEA Art 14.14-14.16

<sup>109</sup> DEPA 9.5.

<sup>110</sup> ASDEA, Annex A, Article 27; KSDEA 14.26.

## CHAPTER 7 STAKEHOLDERS' VIEWS

It is worth noting that all these digital agreements are relatively new. Most are only now coming into force. It is not clear how many of the existing commitments, particularly those made by Singapore and its partners, may be implemented on the ground or what implementation looks like. In many cases, officials are only now trying to sort out how to deliver legal commitments and to try to engage the business communities and civil society to utilise promises made in trade agreements.

Singapore does not publish written comments. Few stakeholders have put out information regarding the EUSDTA negotiations. Most business associations, companies, and research organizations with likely interests in a digital trade agreement outcome declined to participate in interviews. Not—all were at pains to state—because they worried about making comments or because they were uninterested in the outcomes. Instead, nearly all simply said that they have few issues of concern related to digital trade with Singapore that needed to be raised. The only topic that came up repeatedly was related to a specific domestic regulatory concern noted in greater detail in Section 8 below.

All interviewees expressed interest in having an EUSDTA, particularly as a mechanism for addressing future legal and regulatory issues. For example, all noted the importance of AI rulemaking and noted that the bilateral agreement could provide a useful platform for information sharing between both sides. The ability to meet regularly on digital trade could help narrow the risk of regulatory or legal divergence in approaches. This is true even for measures that are cooperative in nature, such as the elements that form part of the Digital Partnership.

The most extensive comments on EUSDTA have been provided by EuroCham members, as part of a 2023-24 Digital Economy Whitebook.<sup>111</sup> This Whitebook was referenced by most interviewees, even those that did not directly contribute to the project, as the most helpful resource available.

One important point raised in the Whitebook and by interviewees was the role of EUSDTA as a potential set of solutions to regional digital concerns. In other words, the bilateral could help provide a basis for dialogues, initiatives, or future negotiations with ASEAN or individual ASEAN member states. While Singapore's legal and regulatory frameworks for digital trade are largely coherent with EU rules, neighbours often do not align as cleanly with existing EU practices.

Firm level surveys conducted as part of the Whitebook noted particular interest in AI, digital identities, and e-invoicing. The sharing of best practices, the creation of regulatory sandboxes, and the use of specific test cases were observed as helpful initiatives for the digital infrastructure, digital finance initiatives, supply chain monitoring, and the use of regulatory standards. Surveys indicated that the most important elements for responding firms were commitments in paperless trading, e-payments, cross-border data flows, prohibitions on data localization, and cooperation on AI.<sup>112</sup>

All interviewees for this project made reference to Singapore's existing digital economy agreements. Many noted specific provisions in one or another of the agreements signed by Singapore and reviewed here in

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<sup>111</sup> <https://eurocham.org.sg/publication/digital-economy-whitebook-2023-2024/>

<sup>112</sup> See page 34 <https://eurocham.org.sg/publication/digital-economy-whitebook-2023-2024/>

Sections 4 and 5. This suggests that firms, associations, and researchers are paying close attention to legal and regulatory approaches taken by Singapore and are looking to these practices for future regulatory alignment in EUSDTA.

This project did not interview candidates directly that are involved in small and medium sized enterprises. However, one point that was made on their behalf was the growing complexity of managing inconsistent trade arrangements that could make it difficult for smaller firms to grow in the future. Most of the elements likely to be under discussion in EUSDTA may not present particular challenges, but other European initiatives in the digital space can be harder for Singapore-based firms trading with Europe to manage, partially because of a lack of understanding of the different regulatory environments.

## CHAPTER 8 WHAT IS NOT INCLUDED IN EUSDTA

Trade agreements and digital economy agreements alike can include significant flexibilities for negotiating members. In an FTA, as long as the final commitments do not conflict with existing global rules and are in alignment with commitments made to other FTA partners, members can opt to include or exclude a wide array of topics or sectors (subject to the broad commitment at the WTO that FTAs should include “substantially all trade”). As there are no WTO-level rules in place yet for electronic commerce and digital trade, the scope for digital agreements is even more wide open.

However, after more than a decade of negotiating various types of digital arrangements, there is a growing set of commonly included provisions. The various tables shown in Chapters 5 and 6 flag the types of commitments that have been made across a range of digital trade agreements.

At the same time, the EU and Singapore have a practice not to agree on provisions on two topics that have been addressed in other digital trade arrangements. The first is a broad exception to broadcast and audio-visual services. Exclusions for broadcast and audio-visual services have been found in other FTAs. On that basis, a clearly defined extension of the exceptions to these digitally delivered services will likely be part of EUSDTA.

While Singapore has included broadcast and audio-visual services into past FTAs and DEAs, the issue of illegal content and the possible misuse of information has become a growing concern to the government. For instance, the Protection from Online Falsehoods and Manipulation Act (POFMA) is an important new digital regulation that applies to information circulated in Singapore.<sup>113</sup>

Second, as the EU and Singapore have taken different approaches to personal data and privacy regulation, cross-border data flows rules in EUSDTA will likely be different from many of Singapore’s past FTAs. For example, as noted above, the CPTPP has an article that explicitly provides for an open-ended legal commitment to the free flow of data (subject to a broad range of exceptions), while the EU takes a different approach (a political commitment operationalised by a clearly circumscribed closed list of prohibited restrictions (subject only to the general exceptions). For EUSDTA, a clearly defined exception for measures to ensure privacy and personal data protection will likely be included. Whilst both sides have high levels of personal data protection and a growing system of laws and regulations in place to govern the cross-border transfer of information, the articulation of this commitment is likely to follow the language used in the WTO’s JSI negotiations, and provisions the EU used in its digital commitments with the United Kingdom and with Japan.<sup>114</sup>

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<sup>113</sup> <https://www.pofmaoffice.gov.sg/regulations/protection-from-online-falsehoods-and-manipulation-act/>

<sup>114</sup> <https://op.europa.eu/en/publication-detail/-/publication/600af4a1-95f9-11ee-b164-01aa75ed71a1/language-en>

In Singapore, personal data protection is regulated by the PDPC.<sup>115</sup> Singapore is a member of APEC's Cross-Border Privacy Rules (CBPR) and provides certifications to firms that meet Singapore's CBPR inclusion requirements.<sup>116</sup> The government has also joined the Global CBPR Forum as a founding member.<sup>117</sup> Singapore has also agreed to participate in ASEAN's voluntary model contractual clause scheme to support data transfers within ASEAN.<sup>118</sup> At the same time, most of the existing data centre operators and cloud service providers are likely to be already compliant with the EU's GDPR, as most service (or may service) EU-based clients. The PDPC also works with Singapore-based firms to help drive utilization of EU contractual clauses.<sup>119</sup>

No two trade or digital economy agreements are exactly alike. They are negotiated to best suit the needs and interests of the participants. This can mean that both more and less ambitious commitments can be made, depending on the specific circumstances surrounding each negotiation and on the requirements of the negotiating parties.

It may also be worth noting that trade agreements have been adjusted. Singapore, for example, has a long and growing history of upgrading existing trade agreements. The DEAs, in fact, started as an adjustment to existing FTAs, by adding new digital chapters or adjusting existing FTA e-commerce chapters. Whilst a similar approach could be taken for the EUSDTA to include new elements, upgrade existing pledges, and broaden or deepen coverage, it is likely that the EU and Singapore will be reluctant to be too prescriptive too early, leaving open the possibility that the evolution of a concept, topic, or sector might need to take place before reconsideration of the appropriate policies to be set down in a trade document.

Similarly, the EU and Singapore may also rely on regulatory cooperation to cover emerging issues, including in the framework of the EU-Singapore Digital Partnership. Indeed, the Digital Partnership follows a 'flexible and living architecture that supports a range of cooperation modalities' that will allow 'the EU and Singapore to jointly address new areas as they emerge, which is important given the rapidly evolving nature of the digital space.'<sup>120</sup>

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<sup>115</sup> For the rules on cross-border data transfers, see [https://www.pdpc.gov.sg/-/media/Files/PDPC/PDF-Files/Advisory-Guidelines/the-transfer-limitation-obligation---ch-19-\(270717\).pdf](https://www.pdpc.gov.sg/-/media/Files/PDPC/PDF-Files/Advisory-Guidelines/the-transfer-limitation-obligation---ch-19-(270717).pdf)

<sup>116</sup> <https://www.imda.gov.sg/how-we-can-help/cross-border-privacy-rules-certification>

<sup>117</sup> <https://www.imda.gov.sg/resources/press-releases-factsheets-and-speeches/press-releases/2022/singapore-welcomes-establishment-of-the-global-cross-border-privacy-rules-cbpr-forum>

<sup>118</sup> <https://www.pdpc.gov.sg/-/media/Files/PDPC/PDF-Files/Other-Guides/Singapore-Guidance-for-Use-of-ASEAN-MCCs.pdf?la=en>

<sup>119</sup> This guide provides a handy reference comparing ASEAN and EU clauses. See <https://www.pdpc.gov.sg/news-and-events/announcements/2023/05/joint-guide-to-asean-model-contractual-clauses-and-eu-standard-contractual-clauses-now-available>

<sup>120</sup> <https://digital-strategy.ec.europa.eu/en/library/eu-singapore-digital-partnership>

## CHAPTER 9 IMPACT OF EUSDTA

At the time of writing of this report, EUSDTA has not been concluded, so it can be difficult to assess its potential impact in advance. One of the key difficulties in understanding the implications of digital trade arrangements has been the relatively new nature of existing commitments. Singapore's oldest chapter on e-commerce, found in the 2010 ASEAN-Australia-New Zealand FTA, had 10 short articles.<sup>121</sup> Much of the language urged participants to deliver, "as soon as practicable," a set of limited commitments. Thus, while an agreement to, for example, provide online consumer protection can have significant consequences for businesses and consumers in the 12 parties, it remains unclear when such commitments might have taken effect in each participating member. This makes it especially hard to say with confidence how businesses may have adjusted their practices to reflect commitments made in AANZFTA to provide online consumer protection.

Similar challenges can be found across many existing digital arrangements. The most extensive legal rules are in the newest agreements, particularly the DEAs signed by Singapore. However, these have been in force for only a short time and much of that period has coincided with the Covid-19 pandemic which disrupted the delivery of many anticipated government initiatives and altered the business plans for many companies. It is therefore difficult to disentangle any changes made from pandemic response from those that might be relevant to a new trade agreement. Digital trade, after all, soared during and after the pandemic even in jurisdictions that made no commitments to trade partners during the period.

The type of commitments made in digital trade arrangements to date can also be challenging for companies and other stakeholders looking to utilize the provisions. What businesses, in particular, really want is a clear set of binding instructions on what sorts of digital trade activities are and are not allowed. Even apparently clear provisions in trade agreements are subject to specific interpretations of each word or clause and are further defined by the list of permitted exceptions that could be directly attached to an article or broader, general exceptions for the agreement as a whole. Trade arrangements that reduce uncertainty and lower risks are viewed more favourably by businesses than those which provide less business clarity and include greater flexibility for governments to quickly adjust policies.

Businesses value the ability of Singapore to engage in digital trade commitments with a broad range of negotiating partners. As some of Singapore's partners do not currently adhere to Singapore's high level of domestic regulation and legislation for digital activities, it can be especially useful to have commitments in a digital trade agreement to encourage alignment now and into the future. The flexibility shown by Singapore in accommodating the diverse needs of negotiating partners, however, can also make it difficult for companies to determine what sort of agreements offer which sort of direct benefits. Companies report some challenges in understanding exactly how Singapore has implemented its own commitments in a variety of agreements.

There is clearly an economic value in digital trade agreements, as they can help solve some business concerns and lead to greater regulatory certainty.<sup>122</sup> Lowering the risks of engaging in cross-border digital transactions should accelerate trade in the future, as increasingly all trade will have digital elements. Some current or future provisions could be particularly attractive to business stakeholders and consumers, including more robust commitments to uphold online consumer protection, manage cross-border e-commerce package returns, apply consistent regulatory frameworks to customs procedures, and so forth.

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<sup>121</sup> <https://aanzfta.asean.org/index.php?page=chapter-10-electronic-commerce/>

<sup>122</sup> [https://www.oecd-ilibrary.org/trade/of-bytes-and-trade-quantifying-the-impact-of-digitalisation-on-trade\\_11889f2a-en](https://www.oecd-ilibrary.org/trade/of-bytes-and-trade-quantifying-the-impact-of-digitalisation-on-trade_11889f2a-en)

The connection of EUSDTA and other digital economy agreements to an underlying FTA is especially helpful for businesses as the trade agreement provides market access to goods and services as well as a range of other commitments that also apply to digital trade. As digital trade continues to expand, having an institutional framework already in place to discuss challenges and opportunities can be a valuable component of a signed digital trade agreement.

However, when trade arrangements of any kind are signed between members that already apply similar levels of economic rulemaking and have broadly similar domestic regulations and legislation in place, and an existing FTA agreement, the immediate impact of signing a digital trade arrangement can be modest. Hence, the early figures on the economic benefits of an EUSDTA are likely to be small and difficult to quantify.

As the two sides move towards full implementation of electronic documentation, authentication, or online contracting, for example, the benefits to firms and consumers should rise. All will reduce compliance costs for firms moving goods and services across borders, which ought to lead to cost savings for companies and potentially lower prices for consumers. Teasing out what the exact economic consequences of these types of rules may be is especially difficult to do in advance, since it is not clear how quickly any such commitments might be fully implemented.

Having an EUSDTA in place will help prevent backsliding on commitments in the future, which is an important and potentially valuable benefit. Clearly, full implementation of the agreement will reduce costs through improved trade facilitation and increase business and consumer trust in cross-border digital trade. But perhaps the greatest potential benefit to EUSDTA is unknown: it will provide a platform for future dialogue, discussion, and commitments on digital technologies that have yet to be identified. For instance, with the rise of new technologies such as Artificial Intelligence, commitments on cross-border data flows that will facilitate the development of such technologies will only increase in their importance in the coming years. Given the speed at which digital trade is evolving, the future trajectory of EUSDTA is not certain but is likely to keep delivering new economic benefits.