

# ***China's Accession to the Digital Economy Partnership Agreement: Assessing International and Domestic Prospects***

**Hailin Jiang<sup>1,a,\*</sup>**

<sup>1</sup>*Beijing University of Chinese Medicine, No. 11 Bei San Huan Dong Lu, Chaoyang District, Beijing 100029, P.R. China*

*a. helenjiang2024@163.com*

*\*corresponding author*

**Abstract:** The COVID-19 pandemic has greatly affected the real economy. In contrast, the era of the digital economy has come. The global digital economy and trade are booming and in the ascendant. In order to respond to the needs of the times, China formally applied to join the Digital Economy Partnership Agreement (DEPA) in 2021. China should strongly advocate joining DEPA because it will help China gain more international discourse power and establish a tripartite pattern of international digital economic and trade rules. At the same time, it can also bring economic and international trade opportunities for the digital transformation of Chinese small and medium-sized enterprises (SMEs). Nonetheless, China faces a potential challenge in its journey toward DEPA endorsement due to its unique digital regulation framework, which could pose obstacles when bridging its national digital ecosystem with the international digital sphere. This article introduces the background of the current era of digital economy and trade and expounds on the reasons why China should join the DEPA from the perspectives of establishing a strong international digital economy and trade rules and facilitating the digital transformation of Chinese SMEs and analyzes the difficulties and solutions of joining the agreement at the current stage.

**Keywords:** Digital Economy Partnership Agreement, China, digital economy

## **1. Introduction**

The COVID-19 pandemic has had a major impact on countries all over the world and has also greatly affected the international trade pattern. Some scholars have shown that the trade restrictions and embargoes caused by the global spread of the epidemic have directly undermined the international free trade rules system under the WTO framework. Trade rules have serious trade-damaging effects.[1] However, the pandemic also brought new opportunities for digital trade, as the world in lockdown can only buy necessities using the internet. This change significantly increased the pace of global digital transformation.

At present, the rule-making in the field of global digital economy and trade is developing at different levels, with digital trade as the core. From a national perspective, governments are formulating and improving their own digital trade-related rules, such as consumer privacy rules and electronic transmission of cross-border products. At the same time, the World Trade Organization (WTO) is also working hard to formulate a set of rules on digital economy and trade, but the negotiation process is struggling to move forward. Based on this, many WTO members have

incorporated digital trade rules into free trade agreement arrangements. For example, the Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPP) has an entire chapter on e-commerce, and the United States-Mexico-Canada Agreement (USMCA) has also developed a set of Digital Rules [2]. In addition, some governments have also begun to devote themselves to creating special rules for digital trade, as evidenced by the signing of the ASEAN Agreement on Electronic Commerce (AAEC) and the U.S.-Japan Digital Trade Agreement (UJDTA), including the DEPA signed by Chile, New Zealand, and Singapore.

On November 1, 2021, the Minister of Commerce of China formally submitted an application to join the DEPA on behalf of China. On August 18, 2022, China's accession to the DEPA working group was formally established and the negotiations were comprehensively advanced. On June 1, 2023, the spokesperson of the Ministry of Commerce of China stated that some projects have made positive progress. China's accession to DEPA has good expectations, and joining DEPA will also bring many benefits to China. Therefore, we should strongly support the promotion of relevant content to reach an agreement and implement the signing of the agreement as soon as possible.

## **2. A tripartite international digital economic and trade rule pattern**

In the context of the era when the world is accelerating into the digital economy, the development and potential of digital trade have attracted widespread attention. However, what is not commensurate with it is that the current regulatory measures and rules on global digital trade have not yet been finalized.

Although the WTO has also made a series of attempts to build global digital economic and trade rules, such as the "Declaration on Electronic Commerce" signed by 132 member states in May 1998 and the Electronic Commerce Working Group established in the same year, due to the fact that the WTO has many member countries, and the level of digital infrastructure and technological development among member countries is quite different, the development plan for the digital industry is not consistent. As a result, a dedicated multilateral agreement could not be reached. The "Joint Statement on E-Commerce" signed by 76 WTO member states in 2019 only reached a consensus on basic issues such as electronic contracts, electronic signatures and certifications, online consumer protection, and government data disclosure, which is far from meeting the needs of the current digital economy and trade. Overall, the WTO lags behind the rapid development of digital trade in terms of digital trade governance.

Although negotiations on multilateral digital trade rules are difficult to reach a consensus on, regional rules on digital trade have achieved more results. The number of regional trade agreements around the world continues to grow, and provisions involving digital trade rules continue to increase. As of February 2021, a total of 326 regional trade agreements have been notified to the WTO are effective [3]. Before DEPA came into effect, the representative digital trade rule structure formed around the world included regional trade agreements such as the European Union (EU), the CPTPP, the USMCA, and the Regional Comprehensive Economic Partnership Agreement (RCEP). Although there is some controversy, academic circles roughly divided the digital trade rules structures into the American model represented by the United States, the European model represented by the European Union, and the RCEP rules represented by China [4]. These three models are difficult to reconcile differences in many ways.

Digital information technology originated in the United States. For a long time, the United States has tended to use its position in the international economic system to promote its digital economy and trade policies through international institutions such as APEC, WTO, and GATT. When the WTO negotiations were deadlocked, in order to safeguard its own interests, the United States began to tend to sign free trade area agreements with surrounding countries to expand the scope of influence of its own digital trade terms. On the whole, the American model encourages the free flow of data, opposes

server localization and data localization, and advocates the principle of technology neutrality. Among them, the system that best reflects the openness of the American model is the negative list system[5]. Compared with the positive list system, the negative list system expands the scope of application of information technology products and is more suitable for the free trade era of continuous technological innovation and development.

Unlike the U.S. model, the EU places greater emphasis on safeguarding human rights. The EU tends to adopt different trade policies according to the different development situations of different countries and put more emphasis on privacy, intellectual property rights, and consumer protection. The most characteristic of these is the principle of cultural exception, as written in Article 95.2. of the Chilean-European Community Association Agreement [6]. This shows that the European Union believes that cultural products do not fully comply with market laws due to their specific cultural attributes, so the principle of free trade does not apply. The main differences between the American-style model and the European-style model lie in data localization, free flow of cross-border data, personal privacy rights in data transmission, and responsibility determination of intermediary network intermediary service providers [7]. The above issues are also the core issues that distinguish different paradigms.

China has always placed greater emphasis on digital sovereignty and national security. Some domestic laws and regulations in China embody policies such as paperless trade, localization of computing facilities, and localization of data storage. These propositions are also reflected in the RCEP. However, China's participation in digital rule-making also faces some challenges. China's comparative advantage in the field of digital trade is cross-border goods trade based on the Internet. Therefore, compared with data flow, China pays more attention to rules that can facilitate cross-border service trade under Internet conditions, such as tariffs, consumer privacy protection, and cross-border e-commerce. commercial dispute settlement mechanism, etc [8]. At the same time, China has relatively strict restrictions on digital access to cultural products and Internet security reviews. The above phenomenon shows that there are large and irreconcilable contradictions between Chinese rules and American and European models.

Against this backdrop, the DEPA was born. This is the world's first rule specifically for digital trade governance, and it is a new model of digital trade governance beyond the above three paradigms. This mode of rules is highly innovative and discusses original issues such as industry standards and digital identities in emerging technology fields [9], and pay special attention to the cooperative development of small and medium-sized enterprises. In May 2019, Singapore, Chile, and New Zealand launched tripartite talks, which will take effect in each of the above countries in 2021. The purpose of the DEPA is to build an intergovernmental digital economy and trade cooperation framework, which involves almost all core issues in the field of digital economy and trade. The agreement has a total of 16 modules. Governments of various countries can directly integrate with the agreement, or they can flexibly choose and apply all or part of the modules. The DEPA strikes the right balance between consumer protection and maintaining corporate competitiveness. While building a sound digital environment and regulatory framework for the digital economy, it also has a dispute settlement mechanism similar to a free trade agreement. On the whole, the DEPA is relatively loose, especially in the fields of government data opening and SME innovation, mainly frame clauses and less restrictive rules. It is foreseeable that the acceptance of DEPA among countries will be greatly improved based on its flexible and loose characteristics, which will help expand the influence of this paradigm.

The characterization of mastering the definition of the global digital economy and trade lies in the internationalization of the demands and rules of core member states. China believes that the new paradigm of digital trade governance led by the DEPA is forward-looking and will lead the formulation of the global digital economy and trade rules. Applying to join the DEPA means that

China is trying to take the lead in formulating digital economy and trade rules, and gain more international discourse power in the field of digital economy and trade. At the same time, since China has a huge volume in the digital economy that cannot be ignored, joining the DEPA will greatly enhance the influence of the agreement. This will make the new digital trade rule enough strength to compete with the “American model” and “European model”, which is conducive to the establishment of a tripartite international digital economic and trade rule pattern.

### **3. Economic opportunities for Chinese SMEs**

Before China applied to join the DEPA, it signed the RCEP with 14 other countries, which took effect in 2022. Compared with the RCEP that has come into effect, the DEPA applied for this time has deepened in the field of digital economy and trade, although there are differences in details. The economic size of the three sponsors of the DEPA determines that the DEPA is bound to be more conducive to the development of small and medium-sized enterprises. Therefore, joining the DEPA is expected to bring more opportunities for economic development and international cooperation for Chinese SMEs.

China, as a developing country, is characterized by a predominance of SMEs within its economic landscape. In today's booming global digital economy and trade, SMEs are extremely looking forward to using the power of the digital economy to drive their own economic development and create more profits. The opportunity for the digital transformation of small and medium-sized enterprises lies in optimizing the supply chain and information transmission efficiency and applying digital technology for innovation on the premise of establishing basic digital capabilities.[10] Making full use of the international digital economy and trade will enable Chinese SMEs to have more trading opportunities, which is a huge opportunity for enterprises. Therefore, China is actively promoting the signing of agreements related to the digital economy and trade. Chapter 14 of the RCEP and Module 10 of the DEPA both involve regulations on cooperation in the digital economy for small and medium-sized enterprises. A horizontal comparison between the two shows that the DEPA has detailed and supplemented the terms of cooperation between small and medium-sized enterprises in the field of digital economy. It can be seen that compared with the RCEP that China has already joined, joining the DEPA can more effectively increase trade and investment opportunities between small and medium-sized enterprises and other contracting countries, and establish an international trade platform. Accelerating the financing process of SMEs, improving the efficiency of information exchange and the adaptability of the digital economy will help accelerate the process of digital transformation of SMEs. At the same time, international trade with contracting countries will also stimulate the continuous development and innovation of Chinese small and medium-sized enterprises. With the updated and iterative digital technology, the highly changing digital trade market will continue to burst into new vitality from within the enterprise.

### **4. Challenges and Prospects**

Although China has a strong willingness to join the DEPA and continue to negotiate, there are still some difficulties for China at this stage. Regardless of the attitudes of Singapore, Chile, and New Zealand towards China's accession to the agreement, the biggest dilemma lies in the differences between China's key issues in the field of digital trade and the DEPA.

First, China is conservative about the flow of data across borders. Supervision measures for cross-border data flow are redundant and complex, with strict review standards and many mandatory requirements. At the level of personal information protection, more emphasis is placed on domestic supervision at the non-exit stage, which is different from the strategy of the DEPA, which emphasizes international post-event cooperation supervision [11]. Secondly, the “Data Export Security

Assessment Measures” are distinguished based on the scale of data processing rather than the nature of the data itself, which is different from Article 15.2 (b) of the DEPA. The most serious difference lies in the emerging field of digital trade governance. The DEPA puts forward the concepts of data protection trust mark [12] and data supervision sandbox [12]. These two mechanisms are very foreign to China. Whether it is the mutual trust and mutual recognition of data protection trust marks, or the unregulated free flow model of the data regulatory sandbox, it is not a small challenge for China. It may even conflict with the current three methods of data export security assessment, personal information security certification, and personal information export standard contract, making it difficult to implement.

In the face of the above difficulties, China should actively overcome them. In order to better connect with the DEPA, China should improve relevant supporting measures on the basis of existing laws and regulations, strengthen the top-level design of digital governance, and build an all-round digital economy and trade governance system. In terms of the specific interface between China’s existing system and DEPA, the experimental function of China’s Pilot Free Trade Zones can be fully utilized to carry out small-scale pilot projects in the corresponding regions to implement policies that are more in line with international practices, with the intention of potential expansion into broader sectors following their demonstrable effectiveness [13]. At the same time, international cooperation in cross-border data flow and other aspects should be strengthened, so that international rules can affect domestic systems, so as to promote China to gradually adapt to international rules and make fine-tuning that is more suitable for China’s national conditions. In terms of digital economy and trade rules, developing countries have similar needs in some fields based on similar development stages. China should make full use of the construction of the Belt and Road, unite the strength of the vast number of developing countries, join hands with countries along the route to jointly build a digital silk road, and seek common development in the field of digital economy and trade [7].

## 5. Conclusions

China should join the DEPA. Joining the DEPA is very beneficial to China and has a high probability of expectation. If China can successfully join the DEPA, then at the international level, China will gain higher international influence as a third-party camp of the international digital economy and trade rules; at the domestic level, it can vigorously promote the digital transformation of small and medium-sized enterprises to obtain more economic development. Looking at the laws and regulations related to China’s domestic digital economy and trade, there are still differences in key strategies and issues with the DEPA, which may affect the connection issues after the agreement takes effect. However, this issue is likely to be improved in subsequent supporting legislation. At the same time, China can also adopt methods such as piloting free trade zones and strengthening cooperation along the Belt and Road to solve corresponding problems.

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