Internet issues in trade agreements

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The rise of digital issues in trade agreements

- Factors influencing the rise of digital issues:
  - **Tariffs are already low**, biggest barriers are behind the border rules
  - Trade in **intangible goods and services** has become more prominent
  - **Tech industry** has acquired more political power domestically
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- This has resulted in moves towards **deeper integration of behind the border standards** such as intellectual property and e-commerce
Most Internet issues are considered trade issues
Trade agreements becoming the default global Internet policy tool

• Since intellectual property became a trade issue in TRIPS, trade has also engulfed:
  • Data localisation (TPP, TISA, TTIP)
  • Encryption standards (TPP, TISA)
  • Software source code disclosure (TPP, TISA)
  • Spam control (TPP, TISA)
  • Cyber-espionage (TPP, TTIP)
  • Even Internet domain name management (TPP)
Internet rules in the TPP

- **Copyright**
  - Life + 70 year terms
  - DRM anticircumvention
  - High criminal and civil penalties
  - DMCA-style takedowns

- **Trade secrets**
  - Criminal penalties for accessing secrets on a computer system

- **Domain names**
  - UDRP-style mediation
  - Public registration data

- **Investment**
  - IP claims included

- **E-commerce**
  - Data localization
  - No source code release mandates
  - Privacy laws not to be trade restrictive
  - Checkbox net neutrality
  - Checkbox anti-spam

- **Technical barriers to trade**
  - No crypto standard mandates

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TISA, TTIP and RCEP

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  • A WTO side agreement amongst more than 20 countries plus Europe
  • E-commerce chapter closely resembles that of the TPP
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• Regional Comprehensive Economic Partnership
  • Even more secretive than the TPP!
  • Japan and Korea pushing for TPP+ rules, India and China pushing back
New digital trade agenda at the WTO

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- Several countries have non-papers on a digital trade agenda
  - U.S. non-paper draws strongly on TPP and TISA
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• Consensus that it is impossible to exclude the Internet from global trade talks
• Likely to be significantly less ambitious than TISA