



Should DEPA serve as template for other future digital trade agreements?

Yes and No

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Let's talk about data and how it might inspire different approach to trade agreements

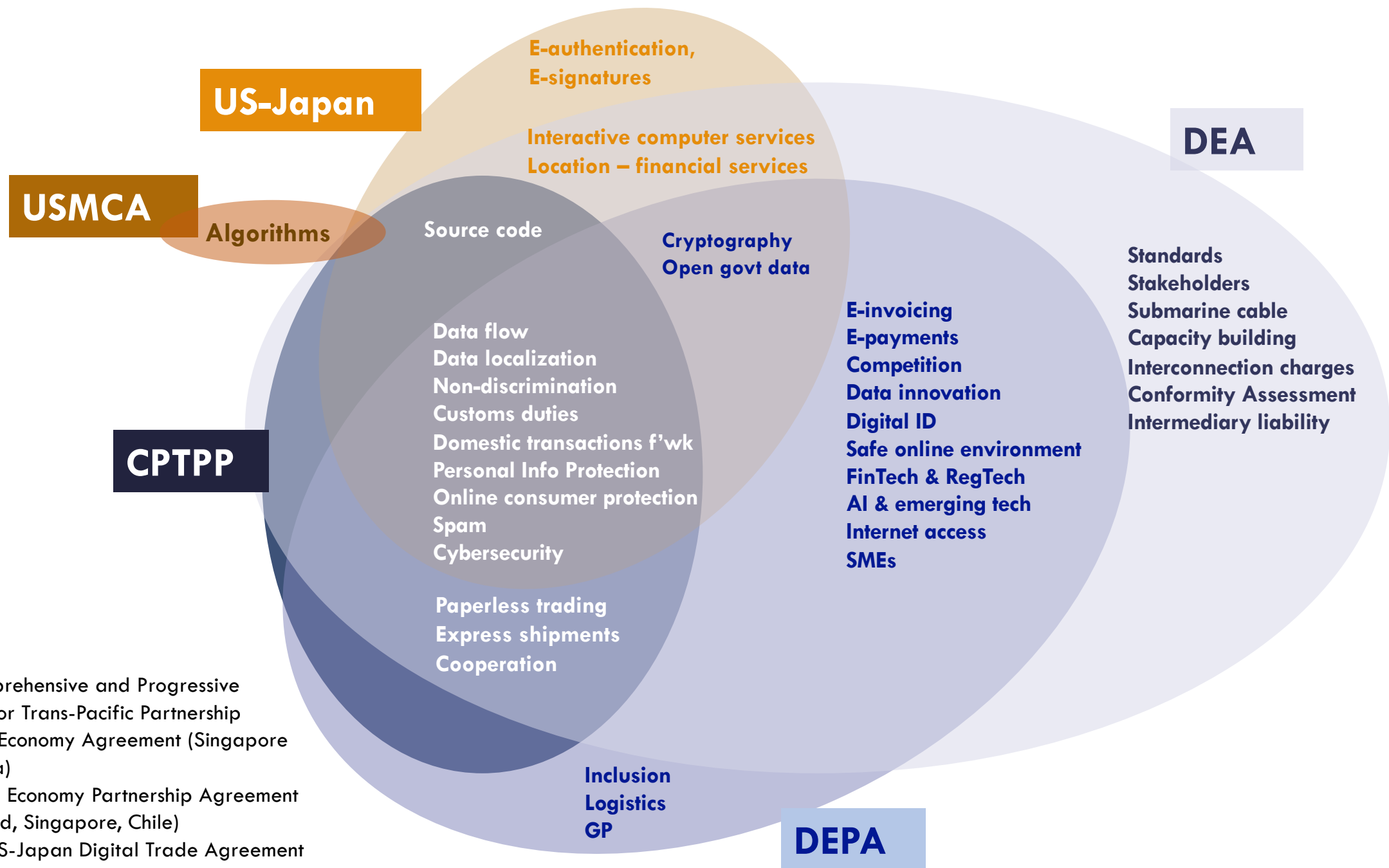
Easy/cheap to store, move across borders

Nonrival, easy to share, reuse but increasingly hoarded by governments and firms.

Can be simultaneously a commercial asset and public good.

Essential to national security and economic growth

Foundation of wide range of services yet no one knows how to govern it. .



DEPA's benefits

Module approach yields flexibility

DEPA can be updated

Focus on trust

Addresses to some extent new data driven technologies

Attracts other nations: UK, Canada, China

Complementary to JSI at WTO

What's missing in DEPA?

Does not focus on issues that undermine trust among users (e.g. internet shutdowns, malware, cross-border disinformation).

Process of trade negotiation (the how) remains 19th century, secretive—will not build trust

Does not address dual nature of data as both a commercial asset and a public good

Does not address sufficiently need for capacity building on data governance

Does not address information asymmetries and how it could hamper competition and innovation

Does not sufficiently address new data driven tech that may require new thinking as to what trade agreements should include.

Does not address new types of barriers such as internet shutdowns or malware. Forces countries to rely on exceptions

INFORMATION ASYMMETRIES

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Firms with more computing power better positioned to extract and use data.

Firms with more data and money better positioned to exploit big data set.

More data-more possible goods and services which in turn generate more data and more market power

Also applies across countries—data driven firms are concentrated in middle income and wealthy countries.

CURRENT TEMPLATE DOES NOT ADDRESS FUTURE BARRIERS

Future Barriers	Market trade effect	Disguised Restriction on trade	In trade agreement
Data-sharing rules	Violate MFN, national treatment	Maybe	No
<u>Algorithmic regulation</u> (“right to an explanation,” avoid discriminatory outcomes etc.)	Violate MFN, like-product national treatment	Maybe	No (protect public morals, social stability? w/exception?)
Competition policies	Violate MFN	Maybe	No
Policies to limit disinformation	Violate MFN, like product	Maybe	No
Privacy label for apps (as in Apple app store)	Violate MFN, like product	Maybe	No
Censorship	Violate market access, may affect internet stability	Maybe	No (US is investigating)
Cybersecurity rules	Impede market access	Maybe	Aspirational language encouraging cooperation



Current Template Does not adequately meet the Challenge of New Tech

State of Digital Economy and Role of AI

AI general purpose tech. from spellcheck to checking out our future mates.

Global market for AI huge and growing

2 countries--China and US -94% of all AI funding, 70% of researchers, 90% of the market capitalization of the world's largest digital platforms.

These platforms not only lead on AI, but control data collection through control of platform services, submarine cables and satellites, data storage and data analysis.

These firms often use open-source methods, but in general they rely on trade secrets to protect their algorithms and to control and reuse the data they analyze.

Dominance of these platforms  perception AI markets unfair

Where current rules do not address challenge of AI

May make it harder to set standards for “ethical” or trustworthy AI unless universal. Need an international set of principles/standards for what is trustworthy AI vs. AI that may need direct regulation.

Do not advance data sharing among societal entities internationally which could help solve wicked problems.

Do not incentivize shared approaches to competition policies

Do not encourage firms which hold bulk of data to share various types of data.

The process of making digital trade policy is not undemocratic but should be rethought to encourage broader participation.

The public is informed and given opportunities to comment, but the process is not collaborative.

Nations rely on firms and experts re. discussions of provisions and advisory groups.

Process does not build trust

Why not use crowd-sourcing for new ideas?

Why not diversify who gets heard?





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Thank you and I look forward to your comments.

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