

# Global watch on culture and digital trade

## DIGITAL TRADE COOPERATION IN THE SHADOW OF PLATFORM EXPANSION

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Analytical report, December 2021

The December report begins with the discussions between the US administration and several Asia-Pacific governments toward the development of an Indo-Pacific digital trade framework. It also deals with the discussions within the World Trade Organization (WTO) toward the Moratorium on Customs Duties on Electronic Transmissions, as well as with new policy developments regarding the digital services tax and digital censorship laws. Then, the report turns to several cross-national activities of online platforms, emphasizing new business plans and economic partnerships developed by global platforms, such as Netflix, Apple Music, Spotify and Disney Plus, in Asia and Europe.

Regulation issues, digital trade and culture

### **Toward an Indo-Pacific digital trade framework?**

According to [Inside US Trade](#), early 2022, the US administration plans to launch a “formal process” in order to start developing an Indo-Pacific economic framework, which could deal with digital trade, supply chains, export control, interoperability or semiconductors, among other areas. US Commerce Secretary [Gina Raimondo](#) stated that the framework could be “flexible”, rather than structured like a typical free trade deal.




The goal is to launch a policy initiative that would be “more inclusive” than the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and that would allow the United States and its allies to take the leadership on shaping digital norms in the region. As such, a digital trade deal could serve as a first step “by sending a strong signal to US partners and competitors that America is back” in the region.

Over the last three months, the US administration had discussions with Australia, India, Malaysia, Singapore, New Zealand, South Korea, and Japan toward the development of an Indo-Pacific framework. According to Inside US Trade, the US administration seeks to develop this kind of framework, which could take the form of a non-binding trade deal. Over the past few years the countries in the Indo-Pacific region have become more interconnected through agreements that do not include the United States, as in the case of CPTPP or the Regional Economic Comprehensive Partnership. It is worth mentioning that, late September, China and Taiwan applied to join the CPTPP. In addition, the Singapore-Australia Digital Trade Agreement, as well as the Singapore-New Zealand-Chile Digital Economy Partnership Agreement (DEPA) could serve as a blueprint for establishing a new digital trade framework designed under the leadership of the US administration.

Finally, Dan Tehan, Australian minister for Trade, Tourism and Investment mentioned that “obviously the US is looking for a worker-centric trade policy and really want to make sure everything they do in the trade policy will generate jobs”. Indeed, the Biden administration should persuade, on one side, its allies in the Indo-Pacific region of the strategic and trade necessity of developing a framework dealing with digital economy, and, on the other side, figure out how to get the left wing of the Democratic party on board with digital deals focusing on cutting-edge technological questions.

### **Moratorium on Customs Duties on Electronic Transmissions**

A key issue to be taken up at the 12th WTO Ministerial Conference (MC12) due to start on November 29, but since postponed, is the moratorium on the imposition of customs duties on electronic transmissions. Since 1998, WTO members have agreed not to impose customs duties on electronic transmissions, in conformity with the WTO Moratorium on Customs Duties on Electronic Transmissions.



While the term “electronic transmissions” is not defined, it is commonly held to encompass anything from software, emails, and text messages to digital music, movies and videograms. The moratorium is not permanent. Every two years governments agree to extend the moratorium at the biennial WTO Ministerial Conference.


Mid-October 2021, a draft ministerial decision to extend the WTO moratorium until the next Ministerial Conference was put forward by nearly 20 WTO members, including Australia, Canada, Chile, Korea, New Zealand, Singapore, and the United Kingdom (UK). In addition, mid-November, the United States, the European Union, Japan, Mexico, and Brazil joined the draft decision. According to the US position, the moratorium “has supported the rapid growth of digital trade over the past two decades and the United States continues to believe that WTO Members should be ready to agree to a permanent moratorium”.

As in the previous ministerial conferences, India and South Africa expressed their concerns about the moratorium, raising issues about the scope of the moratorium, its interpretation and its effects on developing economies. According to a common communication, India and South Africa insisted that “since the moratorium is only applicable to the electronic transmission, Members would be able to put customs duties on the transmitted content”. They added that “customs duties have been resorted to by developed countries to provide protection to their industry and to enable them to become internationally competitive [...] it is only fair that the developing world be given a similar opportunity. Thus, retaining the policy space to impose customs duties becomes an important objective in itself”.

Finally, in November 2021, more than 70 industrial associations active across the globe released a global industry statement, urging WTO members to renew the moratorium until the 13th Ministerial Conference.

### **US, India and Turkey reach agreement on digital services tax**

The United States agreed to terminate its Section 301 investigations into the digital services taxes imposed by Turkey and India and affecting primarily large US tech corporations, such as Google or Facebook. This decision came after a deal to manage the transition to a new global tax regime for large highly profitable corporations.



In this sense, India and Turkey will get to keep their taxes in place until a new international framework negotiated within the Organization for Economic Cooperation and Development (OECD) is implemented – expected to occur sometime in 2023. It is worth mentioning that India and Turkey agreed to credit US companies if their tax payments during the transitional period exceed what they would have paid when the OECD deal will be in place. The United States concluded a similar agreement with France, the UK, Austria, Spain and Italy.

### **Digital Censorship laws**


End of October, Hong Kong legislators approved an amended law, which will allow film censorship on the basis of its National Security Law and Chinese security considerations, trying to bring Hong Kong further into line with China. Besides, the amended law, seeking to undermine a dynamic and long-established Hong Kong film culture, gives authorities retrospective powers. So far, the amended law does not cover the online screening of movies, however, the law could be subject to interpretation. In this sense, as the Hollywood Reporter mentioned, “the law calls into question the content held on internationally owned streaming platforms” that have, until now, operated freely in Hong Kong.

End of November, Russia’s public commissioner for protecting families accused the streaming company Netflix of violating the Russian law of “gay propaganda”, according to Reuters. The commissioner complained to the Interior Ministry that Netflix violated a 2013 law that bans disseminating “propaganda of non-traditional sexual relations” among Russians under the age of 18, when “broadcasting LGBT-themes with a 16+ label”. If Netflix is deemed to have broken the law, the service could be temporarily suspended.

### **Worldwide activities of online platforms**

#### **New economic plans and geographical expansion**

Following the global success of the non-English language show “Squid Game”, Netflix announced its plan to add 50 titles of Japanese film and TV content to its existing streaming catalogue, which currently contains 90 Japanese features. In this view, the renowned director Hirokazu Kore-eda has been signed on to direct a Netflix series and movie.




In addition, for a total of 214 million paid subscribers, Netflix reported 4.4 million subscriber net additions between July and September 2021, compared to 1 million additions in its second quarter, i.e., between April and June. Disney Plus, for its part, announced 2.1 million subscribers for this quarter, i.e., between July and September, down from 12.6 million added the previous quarter. In November, the Disney Plus streaming service launched in Hong Kong, South Korea and Taiwan, whereas Apple TV Plus launched also in South Korea early November. For Netflix, the Asia-Pacific region proved to be the largest contributor to subscriber growth, with 2.2 subscriber adds, followed by Europe, Middle East and Africa (1.8 million), Latin America (0.3), and US/Canada (0.07). Finally, as of October 2, Disney Plus had 118.1 million paid subscribers worldwide. Overall, Disney reported 179 million total subscriptions across Disney Plus, ESPN Plus and Hulu, up from 174.9 million in the previous quarter.

In addition, Spotify, the US-Swedish music and podcast streaming service, continues to be the largest music streaming platform in the world, having 381 million monthly active users in its latest third-quarter earnings report, up from 365 million monthly active users during the last quarter. The company reported having 172 million premium users who pay for the company's ad-free product, up from 165 million paid subscribers in the last quarter.

### **New partnerships and acquisitions**

End of November 2021, Netflix announced its first deal with a major player in the in-demand special effects industry, trying to expand its VFX (visual effects) footprint in a big way. As such, it is acquiring the special-effects company Scanline VFX, a Canada-based firm that has worked on several original shows from the global streamer, such as "Stranger Things" or "Cowboy Bebop", as well as on movies from Marvel and on "Games of Thrones". The company founded in 1989 in Munich operates several offices globally in Los Angeles, London, Vancouver, Montreal, Stuttgart and Seoul and it employs more than 1,100 people. According to Variety, Netflix, which is set to spend more than 17 billion USD this year in content costs, will operate Scanline VFX as a standalone business company. It is worth mentioning that in mid-November Weta Digital, a New-Zealand based special effects studio, co-founded by Sir Peter Jackson, has been sold for 1.625 billion USD to Unity Software, a US-based 3D game development platform.



In addition, in the UK, Pinewood Group extended its deal with Netflix, which will double its production hub at the Shepperton Studios from 14 stages to 31 stages. Netflix, which has spent one billion USD “making about 60 TV shows and films in the UK last year” including “Sex Education” and “The Crown”, will start using the expanded site on completion in 2023.

Finally, Apple Music and Tencent Music Entertainment, the online music subsidiary of Chinese tech company Tencent, reached an agreement on global streaming. Tencent announced that “record labels and artists that are part of its ‘Music Could’ program can now distribute their works through Apple Music”, allowing several Chinese musicians to stream their music on a global scale. Besides, Apple has been working on getting Apple music service on devices and platforms outside of its own. As such, the music streaming service is now available on LG TVs through the LG smart TV App Store. It is worth mentioning that Apple music app is also available on Samsung smart TVs since April 2020.

**Additional readings for the December report:**

- How big tech is changing who is in charge of our rights and freedoms, The Conversation, 16 November 2021, [Link](#).
- Defining what’s ethical in artificial intelligence needs input from Africans, The Conversation, 23 November 2021, [Link](#).

## Indicative sources

- Work Programme on Electronic Commerce, Draft Ministerial Decision, World Trade Organization, 21 November, [Link](#).
- Eyeing an Indo-Pacific framework: Waiting for more 'flesh on the bones', 24 November, [Link](#).
- US says new Indo-Pacific economic framework not typical trade deal, Reuters, 19 November, [Link](#).
- Raimondo: US aims to forge Indo-Pacific economic framework in 2022, Inside US Trade, 17 November, [Link](#).
- Moving to terminate India trade retaliation after digital services tax agreement, says US trade representative, The Times of India, 25 November, [Link](#).
- Hong-Kong Passes Censorship Law Banning Films Against China's National Security Interests, The Hollywood Reporter, 27 October, [Link](#).
- Netflix reveals huge expansion of Japanese Programming, Collider, 11 November, [Link](#).
- Disney Plus hits slowdown to add just 2.1 million subscribers, misses Wall Street expectations, Variety, 10 November, [Link](#).
- Spotify expects to have over 400M users by the end of the year, The Verge, 27 October, [Link](#).
- Netflix Adds 4.4M new subscribers in third quarter, surpassing projections, The Hollywood Reporter, 19 October, [Link](#).
- Netflix to double size of Shepperton Studios base in boost for UK output, The Guardian, 16 November, [Link](#).
- Apple Music expands Chinese music reservoir via Tencent deal, Techchurch, 9 November, [Link](#).

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