NEW RENAISSANCE international scientific journal
ResearchBib IF - 11.01, ISSN: 3030-3753, Volume 3 Issue 8

LEGAL AND REGULATORY GOVERNANCE OF DIGITAL FOREIGN TRADE AT THE INTERNATIONAL AND NATIONAL LEVELS

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https://doi.org/10.5281/zenodo.22117659

Abstract. *The rapid dematerialisation of cross-border commerce has outpaced the treaty architecture designed for a paper-based trading order. This article examines how digital foreign trade is regulated across two interacting tiers – the international and the national – and asks whether the emerging instruments cohere into a workable legal order or fragment into competing regional blocs. Employing doctrinal and comparative-legal methods, the study analyses the World Trade Organization (WTO) Work Programme on Electronic Commerce and the moratorium on customs duties on electronic transmissions, the plurilateral track that culminated in the 2024 Agreement on Electronic Commerce, and the harmonising model laws of the United Nations Commission on International Trade Law (UNCITRAL). Against this backdrop it evaluates the national framework of the Republic of Uzbekistan, centred on the 2022 redaction of the Law on Electronic Commerce and the country's advanced accession to the WTO. The findings indicate that functional-equivalence norms have diffused widely and durably, whereas the tariff and data-governance questions remain contested and institutionally unsettled; the collapse of the multilateral moratorium in 2026 marks a structural inflection point. The article argues that for a small, digitising, WTO-acceding economy such as Uzbekistan, alignment with UNCITRAL model instruments offers the most reliable route to legal predictability, while the tariff question must be navigated as a sovereign fiscal-strategic choice rather than a settled multilateral commitment.*

Keywords: *digital trade; electronic commerce; WTO; UNCITRAL Model Law; electronic transferable records; moratorium on electronic transmissions; cross-border data flows; Uzbekistan; functional equivalence; WTO accession.*

1. Introduction

The transformation of international trade from a physical to a digital modality constitutes one of the most consequential structural shifts of the past three decades. Contracts once concluded on paper and evidenced by hand-signed instruments are now formed through automated exchanges of data messages; goods once carried under paper bills of lading increasingly move under electronic equivalents; and entire categories of tradable value – software, streamed media, digital services – cross borders without ever assuming material form.

This dematerialisation exposes a foundational tension: the treaty and statutory architecture of the world trading system was engineered for a tangible, documentary order, whereas the objects and transactions it now must govern are informational and instantaneous.

The regulatory response to this tension has developed along two interacting tiers. At the international level, the WTO has served since 1998 as the principal forum for trade-related electronic commerce, primarily through its Work Programme on Electronic Commerce and the associated moratorium on customs duties on electronic transmissions [1]. Running parallel and often ahead of the multilateral process, UNCITRAL has produced a suite of harmonising model laws – the Model Law on Electronic Commerce (1996), the Model Law on Electronic Signatures (2001), and the Model Law on Electronic Transferable Records (2017) – that supply the private-law scaffolding on which cross-border digital transactions rest [2; 3].

At the national level, states translate, adapt, and occasionally diverge from these international templates through domestic legislation, producing a patchwork whose degree of convergence varies sharply by subject matter.

This article addresses a specific analytical question: to what extent do the international and national instruments governing digital foreign trade cohere into a workable legal order, and where do they fragment? The question carries particular salience for the Republic of Uzbekistan, a landlocked, rapidly digitising economy that adopted a substantially revised Law on Electronic Commerce in 2022 and, as of early 2026, stands at the threshold of WTO accession [4; 5]. For such a state, the design of the international legal environment is not an abstraction but a set of constraints and opportunities that will shape its integration into global digital markets.

The study proceeds in the conventional IMRAD sequence. The remainder of this introduction states the research problem and objectives; the Methods section specifies the doctrinal and comparative approach and the corpus of primary instruments examined; the Results section reconstructs the international architecture and the Uzbek national framework; the Discussion interprets the findings, situating Uzbekistan's position within the wider tension between multilateral harmonisation and regional fragmentation; and the Conclusion distils the principal implications. The central argument advanced is that the norms of functional equivalence and technological neutrality have diffused into a durable transnational consensus, whereas the fiscal question of tariffs on electronic transmissions and the governance of cross-border data flows remain unsettled and increasingly fragmented – a divergence with direct consequences for acceding economies.

2. Methods and Materials

This study employs the doctrinal (black-letter) legal method combined with a comparative-legal analysis. The doctrinal method involves the systematic identification, interpretation, and internal reconciliation of authoritative legal sources – treaties, ministerial decisions, model laws, and national statutes – to reconstruct the operative rules governing a given field. The comparative dimension juxtaposes the international templates against a single national implementation, that of Uzbekistan, in order to assess the fidelity, gaps, and divergences of transposition.

The corpus of primary materials comprises three tiers. The *multilateral tier* consists of WTO instruments: the 1998 Declaration on Global Electronic Commerce, the successive Ministerial Decisions extending the moratorium (notably the MC13 Decision of 2024), and the disposition of the moratorium at the Fourteenth Ministerial Conference [1; 6]. The *harmonising tier* comprises the three UNCITRAL model laws and their Guides to Enactment, together with the plurilateral Agreement on Electronic Commerce concluded in 2024 by approximately seventy WTO members [2; 3; 7]. The *national tier* is constituted by the Law of the Republic of Uzbekistan “On Electronic Commerce” (No. ORQ-792 of 29 September 2022) and the associated accession record before the WTO Working Party [4; 5].

Secondary and contextual materials – notably the UNCTAD Digital Economy Report series on cross-border data flows – are used to situate the doctrinal analysis within the empirical and policy debate on data governance and the digital divide [8]. The temporal scope extends from the inception of the WTO Work Programme in 1998 to the post-MC14 landscape of 2026, allowing the trajectory of each instrument to be traced across its full institutional life.

The analysis is confined to publicly available, verifiable primary and institutional sources; where a specific pinpoint reference could not be physically verified, this is indicated rather than supplied speculatively.

Two methodological limitations warrant acknowledgement. First, doctrinal reconstruction captures the law as enacted, not the law as enforced; the gap between formal transposition and effective implementation – acute in transition economies – lies largely beyond the reach of black-letter analysis and would require empirical socio-legal study. Second, the single-country comparative design privileges depth over breadth: conclusions about Uzbekistan's framework are not automatically generalisable to other acceding or transition states, though the structural pressures identified are broadly shared.

3. Results

3.1. The multilateral architecture: the WTO track and the moratorium

The WTO's engagement with electronic commerce began at the Second Ministerial Conference in May 1998, where members adopted the Declaration on Global Electronic Commerce. This instrument performed two functions that have structured the field ever since.

First, it instructed the General Council to establish a Work Programme to examine all trade-related issues arising from electronic commerce, spanning goods, services, intellectual property, and development. Second, it committed members to the practice of not imposing customs duties on electronic transmissions – the so-called moratorium – pending the next Ministerial Conference [1].

The defining feature of this settlement was its provisionality. The moratorium was never cast as a permanent obligation but as a rolling commitment requiring periodic renewal at each Ministerial Conference. Between 1998 and 2024 members repeatedly extended it, though with mounting friction as developing economies questioned the fiscal revenue foregone and contested whether the moratorium's scope covered the content of transmissions or merely the carrier medium [1]. The most recent extension in this sequence was agreed at the Thirteenth Ministerial Conference (MC13) in Abu Dhabi in 2024, where members maintained the practice of not imposing customs duties on electronic transmissions until the Fourteenth Ministerial Conference (MC14) or 31 March 2026, whichever came earlier, and simultaneously undertook to reinvigorate the Work Programme with periodic reviews [6].

The MC13 Decision proved to be a terminus rather than a way-station. Its text specified that both the moratorium and the Work Programme would expire on the stipulated date. At MC14, despite concerted diplomatic effort, members were unable to adopt a decision to extend either instrument, and the multilateral moratorium consequently lapsed [1]. This lapse is structurally significant: for the first time since 1998, no multilateral prohibition constrains the imposition of customs duties on electronic transmissions, restoring to individual members a sovereign fiscal latitude that had been suspended for a quarter-century.

The multilateral impasse gave rise to a plurilateral response. A subset of members – approximately seventy – pursued the Joint Statement Initiative on electronic commerce launched at Buenos Aires in 2017, which culminated in the Agreement on Electronic Commerce concluded in 2024. This instrument establishes baseline rules for digital trade, aiming to facilitate electronic commerce, secure an open environment for digital trade, and promote trust; notably, it incorporates a commitment to a permanent moratorium on customs duties on electronic transmissions among its parties [1; 7].

The plurilateral route thus preserves, for a coalition of the willing, the very commitment that the multilateral consensus could not sustain – a paradigmatic instance of the fragmentation that characterises contemporary trade governance.

3.2. The harmonising architecture: UNCITRAL model laws

Where the WTO track governs the public-law and fiscal dimensions of digital trade, the private-law foundations were laid by UNCITRAL through a succession of model laws built on a common conceptual core. The UNCITRAL Model Law on Electronic Commerce (MLEC), adopted on 12 June 1996 with an additional article 5 bis in 1998, was the first legislative text to articulate the three principles that have since become the founding elements of electronic-commerce law worldwide: non-discrimination against electronic means, technological neutrality, and functional equivalence [2]. The principle of functional equivalence – that information shall not be denied legal effect solely because it is in the form of a data message – resolved the foundational obstacle that statutory writing and signature requirements posed to paperless commerce, by treating electronic and paper-based information as equivalent for legal purposes [2]. The reach of the MLEC has been extensive: legislation based on or influenced by it has been enacted in dozens of states across well over a hundred jurisdictions, making it among the most widely diffused instruments of transnational commercial law [2].

The MLEC was complemented by the Model Law on Electronic Signatures (2001), which elaborated the reliability standards for attributing electronic signatures, and – most consequentially for foreign trade – by the Model Law on Electronic Transferable Records (MLETR), adopted on 13 July 2017 [3]. The MLETR addresses the category of instruments that had remained resistant to dematerialisation: transferable documents and instruments such as bills of lading, bills of exchange, promissory notes, and warehouse receipts, whose legal function depends on the singular possession of a unique original. Extending functional equivalence to these instruments required a further doctrinal step – the concept of “control” as the electronic analogue of possession – allowing an electronic transferable record to be treated as functionally equivalent to its paper counterpart [3]. Built on the same principles of non-discrimination, functional equivalence, and technological neutrality, the MLETR is deliberately model-neutral: it may be implemented through registries, token-based systems, or distributed ledgers, and its Explanatory Note is regarded as an early legislative accommodation of blockchain technology [3].

The significance of the MLETR for digital foreign trade is difficult to overstate.

Transferable documents are the connective tissue of trade finance and logistics; their persistence in paper form has been a principal bottleneck to fully paperless trade. By supplying an internationally harmonised template for their electronic use and cross-border recognition, the MLETR provides a key enabler of digital trade financing [3]. Its diffusion, however, remains at an early stage relative to the MLEC: adoption has been recorded in only a small number of jurisdictions to date, indicating that the harmonising consensus, though normatively settled, is still institutionally immature in this domain [3].

3.3. The data-governance dimension

A third regulatory dimension – the governance of cross-border data flows – cuts across both the multilateral and harmonising architectures without being fully domesticated in either.

Successive UNCTAD Digital Economy Reports have documented the exponential growth of cross-border data traffic and the emergence of divergent national and regional approaches to its regulation, ranging from liberal free-flow models to data-localisation regimes and rights-based frameworks [8]. The reports emphasise that these divergences risk a fragmentation of the digital space and that the prevailing silo approach to data governance is ill-suited to the interdependence of the global data economy, calling instead for a more holistic and coordinated global response [8]. Because data flows implicate not only trade but also privacy, security, and human rights, they resist the functional-equivalence solution that resolved the contractual layer, and remain the least settled dimension of the entire architecture.

3.4. The national framework: the Republic of Uzbekistan

Uzbekistan's regulation of digital foreign trade illustrates the transposition of international templates into a transition-economy setting. The governing instrument is the Law “On Electronic Commerce” (No. ORQ-792), signed on 29 September 2022, which replaced the earlier 2004 law (itself substantially revised in 2015) and was developed within the framework of the “Digital Uzbekistan – 2030” strategy [4]. The 2022 redaction reflects a clear reception of UNCITRAL principles. It establishes a defined procedure for the conclusion of electronic contracts, under which contractual terms are agreed and formalised as an electronic document through the confirmation of electronic documents or messages; critically, it provides that electronic documents in electronic commerce are equated with documents executed on paper and signed by hand – a direct enactment of the functional-equivalence principle [4].

The Law's treatment of authentication is notably technology-neutral and accommodating of contemporary practice: alongside the qualified electronic digital signature, it recognises electronic confirmation methods such as SMS codes and biometric identification (“Face-ID”) as valid expressions of the signatory's consent, provided they permit identification and authentication [4]. The statute further delineates the categories of market participants – sellers, buyers, electronic-commerce operators (including telecommunications providers and document-storage service providers), and trading-platform operators – and specifies the primacy of international treaties: where an international agreement of the Republic establishes rules different from those in the domestic electronic-commerce legislation, the treaty rules prevail [4]. This supremacy clause is significant, for it renders the national framework structurally receptive to whatever international commitments Uzbekistan assumes through accession.

That accession is now imminent and constitutes the second pillar of the national framework. Uzbekistan's WTO Working Party, established in December 1994, remained largely dormant until the reform period after 2017 reactivated the process. By early 2026 the negotiations had reached an advanced stage: Uzbekistan had completed bilateral market-access negotiations with thirty-three of thirty-four engaged members, conducted more than forty rounds of bilateral talks, and brought a substantial body of legislation into conformity with WTO requirements, with the stated goal of finalising membership at MC14 [5]. Because accession will bind Uzbekistan to the WTO's disciplines on trade in goods and services – the very frameworks within which the electronic-commerce debate is conducted – and because the domestic law already cedes primacy to international commitments, the accession outcome will directly condition the future regulatory environment for digital foreign trade in the country.

4. Discussion

The results reveal a regulatory landscape of markedly uneven consolidation. Along the private-law axis, the norms of functional equivalence and technological neutrality have achieved something close to a transnational consensus. Originating in the 1996 MLEC and propagated through hundreds of jurisdictions, these principles now furnish a shared conceptual vocabulary that national legislators – including those of Uzbekistan – reproduce with striking fidelity [2; 4].

The equation of electronic and paper documents is no longer contested at the level of principle; the debate has migrated to matters of implementation, reliability standards, and the technological means of authentication. In this domain the international and national tiers cohere well, and the direction of legal development is convergent.

Along the public-law and fiscal axis, by contrast, the architecture is fragmenting. The lapse of the WTO moratorium at MC14 is the sharpest expression of this divergence. For twenty-six years the moratorium supplied a predictable baseline: whatever their disagreements, members knew that electronic transmissions would not be tariffed. Its expiry dissolves that baseline and bifurcates the field. Parties to the 2024 plurilateral Agreement on Electronic Commerce remain bound, among themselves, to a permanent prohibition on such duties; non-parties recover full sovereign discretion to tax electronic transmissions [1; 7]. The result is not a single rule but two regimes, membership of which is optional – the structural signature of fragmentation. This outcome vindicates the long-standing developing-country critique that the moratorium's costs and benefits were distributed unevenly, while simultaneously demonstrating that the plurilateral route can entrench a contested norm for a subset of states without multilateral assent.

For Uzbekistan, these two trajectories generate a differentiated strategic calculus. On the harmonisation axis, the path is clear and low-risk: the 2022 Law already embodies UNCITRAL principles, and the logical next step is accession to the MLETR framework, which would extend functional equivalence to the transferable instruments – bills of lading, warehouse receipts – that underpin the trade finance on which a landlocked, commodity-exporting economy depends [3; 4]. Because the MLETR is technology-neutral and model-neutral, its adoption would position Uzbekistan to participate in paperless-trade corridors without prematurely committing to any single technological platform. Here alignment with the international template is unambiguously in the national interest, and the principal obstacle is institutional capacity rather than policy choice.

On the fiscal axis, the calculus is genuinely open. The collapse of the multilateral moratorium means that Uzbekistan, whether or not it accedes to the WTO in 2026, will not inherit a binding multilateral obligation to refrain from taxing electronic transmissions. Whether it should nonetheless forgo such duties – to signal openness to digital-services investors and align with the plurilateral coalition – or preserve the fiscal instrument as a revenue and policy-space reserve is a sovereign strategic decision rather than a settled legal requirement. The domestic supremacy clause ensures that any commitment Uzbekistan does assume, through the Agreement on Electronic Commerce or otherwise, will be given direct effect in national law [4].

This places a premium on deliberate treaty design at the point of accession, since the choice made will be difficult to reverse.

The data-governance dimension compounds this uncertainty. As the UNCTAD analysis makes clear, no harmonised international standard yet governs cross-border data flows, and the field is polarising between free-flow, localisation, and rights-based models [8]. A small economy legislating in this vacuum faces a dilemma: premature commitment to any one model risks foreclosing options, while indefinite abstention risks exclusion from data-dependent value chains. The prudent course is to preserve interoperability – to legislate in a manner compatible with more than one emerging model – pending the coordinated global approach that UNCTAD advocates but that remains, for now, aspirational [8].

These findings align with, and extend, the broader scholarly characterisation of digital-trade governance as a field where private-law harmonisation has outrun public-law cooperation.

The novelty of the present moment lies in the MC14 rupture, which converts a latent tension into a manifest structural fact: the era in which the multilateral system could be assumed to hold the fiscal line on electronic transmissions has ended. For acceding economies, the practical lesson is that the international environment they are joining is less a finished edifice than a construction site, in which the durable elements (functional equivalence) must be embraced and the contested elements (tariffs, data) navigated with retained flexibility.

5. Conclusion

This article set out to determine the extent to which the international and national instruments governing digital foreign trade cohere into a workable legal order. The analysis yields a bifurcated answer. The private-law foundations – the functional equivalence of electronic and paper documents, technological neutrality, and non-discrimination – have consolidated into a durable transnational consensus, transmitted from the 1996 UNCITRAL Model Law on Electronic Commerce through the 2017 Model Law on Electronic Transferable Records and reproduced faithfully in national statutes including Uzbekistan's 2022 Law on Electronic Commerce. Along this axis, the international and national tiers cohere, and the trajectory is convergent.

The public-law and fiscal foundations, by contrast, are fragmenting. The expiry of the WTO moratorium on customs duties on electronic transmissions at the Fourteenth Ministerial Conference, following the failure to renew it beyond the MC13 deadline, dissolves the multilateral baseline and leaves a bifurcated order in which a plurilateral coalition maintains a permanent prohibition while non-parties recover sovereign fiscal discretion. The governance of cross-border data flows remains the least settled dimension of all, polarised between competing regulatory models and awaiting a coordinated global framework that has not yet materialised.

For the Republic of Uzbekistan, poised for WTO accession, three implications follow.

First, alignment with the UNCITRAL harmonisation instruments – and in particular adoption of the Model Law on Electronic Transferable Records – offers a low-risk, high-value route to legal predictability and integration into paperless-trade corridors. Second, the tariff question on electronic transmissions must now be approached as a deliberate sovereign choice at the moment of treaty design, not as a settled multilateral commitment inherited by default. Third, in the unsettled domain of data governance, the country's interest lies in preserving interoperability across competing models rather than premature alignment with any single one.

More broadly, the Uzbek case demonstrates that for small digitising economies the international legal environment for digital trade is best understood not as a completed order to be joined, but as an evolving and internally contested architecture within which durable norms are to be embraced and contested ones navigated with retained strategic flexibility.

Future research should extend the doctrinal reconstruction offered here into empirical socio-legal territory – examining the gap between the formal transposition of these norms and their effective enforcement in transition economies – and should broaden the comparative frame beyond a single national case to test whether the strategic calculus identified for Uzbekistan generalises across the wider class of WTO-acceding states.

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