EUROPEAN
COMMISSION

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2026/0191 (NLE)

Proposal for a

# COUNCIL DECISION

## on the conclusion of the Agreement on Electronic Commerce

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# EXPLANATORY MEMORANDUM

## 1. CONTEXT OF THE PROPOSAL

### • Reasons for and objectives of the proposal

At the 11th Ministerial Conference of the World Trade Organization ("WTO") in December 2017, a group of 71 WTO members, including the European Union, agreed to initiate exploratory work towards future WTO negotiations on trade-related aspects of e-commerce.

In January 2019, 77 WTO members, including the European Union, confirmed in a joint statement their intention to commence these negotiations, agreeing to seek to achieve a high-standard outcome that builds on existing WTO agreements and frameworks with the participation of as many WTO members as possible.

In December 2024, after five years of negotiations, 71 WTO members circulated a communication which included the agreed text of the Agreement on Electronic Commerce (the "Agreement") and indicated their shared objective of seeking a decision at the WTO General Council to incorporate the Agreement into Annex 4 to the Agreement Establishing the World Trade Organization (the "WTO Agreement").

The WTO General Council was unable to reach a consensus on incorporation in its sessions of February and December 2025. Therefore, on 28 March 2026, a Joint Declaration was issued representing 67 WTO members, including the European Union, confirming their intention to implement the Agreement on Electronic Commerce, as soon as possible, subject to the completion of their required internal procedures. To that end, an Interim Arrangements Annex, including an Appendix on Appeal Arbitration Procedures, was added to the Agreement to allow for its application on an interim basis. The participants to the Agreement will continue to seek a decision to add the Agreement to Annex 4 to the WTO Agreement. The Agreement will apply on an interim basis pursuant to the Interim Arrangements Annex, up to the date on which the Agreement is added to the WTO Agreement.

The Agreement will establish the first ever global set of rules on digital trade, and it will set a regulatory base upon which a broad set of countries can work to develop their digital economies and promote in-country and cross-border digital trade.

The Agreement includes:

- Trade facilitation disciplines that can lead to more seamless digital trade both within countries and across borders (e.g., provisions on paperless trading, electronic contracts, electronic authentication and electronic signatures).
- Provisions to improve trust in the digital trade environment for both consumers and businesses (e.g., provisions on unsolicited commercial electronic messages, online consumer protection, cybersecurity, or open internet access).
- Provisions leading to a more reliable international digital trade environment, ensuring that consumers and companies continue to access the internet and electronic services at affordable prices (e.g., provisions on electronic payments or telecommunications services).
- A prohibition of customs duties on electronic transmissions.
- A development component, aiming to enable and facilitate the participation of consumers and companies from developing countries in digital trade.
- A horizontal exception for measures for the protection of personal data and privacy.

In accordance with Article 29 of the Agreement on Electronic Commerce, acceptance of the Agreement shall take place by deposit of an instrument of acceptance with the Director-General of the WTO. The Agreement on Electronic Commerce shall enter into force, for those members of the WTO that have accepted it, on the 30th day following the date of deposit of the 45th instrument of acceptance.

- **Consistency with existing policy provisions in the policy area**

The negotiations were conducted in close consultation with the Trade Policy Committee Services and Investment as provided for by Article 218(3) TFEU. The formal conclusion of the negotiations by the Council is one of the necessary steps under Article 218(6) TFEU to give legal effect to the negotiated outcome.

- **Consistency with other Union policies**

The Agreement is fully consistent with European Union policies.

## 2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Substantive legal basis**

Article 207 of the Treaty on the Functioning of the European Union (TFEU) provides for the negotiation and conclusion of trade agreements as part of the Union's common commercial policy.

The Agreement covers international rules on digital trade.

Given that the main objective and component of the Agreement is to promote digital trade with WTO members, the substantive legal basis is Article 207 TFEU.

- **Procedural legal basis**

Given that Article 207 TFEU is the substantive legal basis, the Council is to adopt the decision concluding the agreement after obtaining the consent of the European Parliament, in accordance with Article 218(6), second subparagraph, point (a).

Therefore, the procedural legal basis for the proposed decision on concluding the agreement is Article 218(6), second subparagraph, point (a) TFEU.

- **Union competence**

Digital trade forms part of the Union's common commercial policy under Article 207 TFEU, which is an area of exclusive Union competence pursuant to Article 3(1)(e) TFEU.

- **Subsidiarity (for non-exclusive competence)**

According to Article 5(3) of the TEU, the subsidiarity principle does not apply in areas of exclusive EU competence.

- **Proportionality**

Not Applicable

- **Choice of the instrument**

This proposal for a Council decision is submitted in accordance with Article 218(6) TFEU, which envisages the adoption by the Council of a decision concluding the agreement. There exists no other legal instrument that could be used in order to achieve the objective pursued by this proposal.

## 3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not Applicable

- **Stakeholder consultations**

Not Applicable

- **Collection and use of expertise**

Not Applicable

- **Impact assessment**

Not Applicable

- **Regulatory fitness and simplification**

The Agreement is not subject to REFIT procedures.

- **Fundamental rights**

The proposal does not affect the protection of fundamental rights within the European Union.

## 4. BUDGETARY IMPLICATIONS

The Agreement is not expected to have a financial impact on the EU budget.

## 5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not Applicable

- **Detailed explanation of the specific provisions of the proposal**

The Agreement establishes the first ever set of global baseline rules on digital trade. It is an economy-wide agreement covering goods, services, and information. Government procurement, government services and government-held information are excluded from the Agreement's scope. Its key provisions are as follows:

**Article 4 on Electronic Transactions Framework** provides for commitments that encourage the adoption of legal frameworks that treat electronic and paper-based information equally and grant legal recognition to electronic transactions and processes. It also encourages legal use and recognition of electronic transferable records.

**Article 5 on Electronic Authentication and Electronic Signatures** establishes that electronic signatures, seals, time stamps and registered delivery services are not to be rejected purely because they are in electronic form. However, some methods of authentication or electronic signature may need to meet certain performance standards or require certification by an accredited authority recognised by the party. It also facilitates interoperable electronic authentication and encourages cooperation on the mutual recognition of electronic signatures between the parties.

**Article 6 on Electronic Contracts** ensures that electronic contracts are not denied validity and legal enforceability because they have been made by electronic means. Any exceptions must be set out in legislation or regulations.

**Article 7 on Electronic Invoicing** provides that electronic invoices are legally valid. Any exceptions must be set out in legislation or regulations. It also seeks to establish common principles and cooperation on interoperability of e-invoicing frameworks that can prevent party-specific standards from becoming a trade barrier.

**Article 8 on Paperless Trading** seeks to ensure that the vast majority of the forms necessary for the import, export or transit of goods are available and accepted electronically.

**Article 9 on Single Windows Data Exchange and Electronic System Interoperability** facilitates the adoption of electronic single windows.

**Article 10 on electronic payments** regulates electronic payments between the parties and fosters the adoption of international standards.

**Article 11 on Customs Duties on Electronic Transmissions** prohibits the imposition of customs duties on electronic transmissions between a person of one party and a person of another party, while not precluding the application of internal taxes, fees, or other charges on such transmissions. The Agreement provides for the parties to review this Article after five years and consider whether any amendments are appropriate.

**Article 12 on Open Government Data** facilitates public access to government data to foster economic and social development, competitiveness, and innovation.

**Article 13 on Access to and Use of the Internet for Electronic Commerce** recognises the importance of access to and use of the internet for e-commerce.

**Article 14 on Online Consumer Protection** requires the parties to put in place legal frameworks that protect online consumers from misleading, fraudulent, and deceptive commercial activities. It also promotes access to and awareness of consumer redress or recourse mechanisms.

**Article 15 on Unsolicited Commercial Electronic Messages** requires each party to put in place measures to minimise unsolicited commercial electronic messages.

**Article 16 on Personal Data Protection** locks in a commitment from parties to put in place legal frameworks that provide for the protection of personal data and encourages compatibility between different data protection regimes.

**Article 17 on Cybersecurity** facilitates cooperation, the development of national cybersecurity capabilities and risk-based approaches to cybersecurity with a view to reducing potential trade barriers.

**Article 18 on Transparency** requires parties to promptly publish or make publicly available all measures of general application in the area of digital trade.

**Article 19 on Cooperation** sets out a framework to intensify cooperation between parties in specific areas of mutual interest.

**Article 20 on Development** establishes mechanisms to support developing economies, including least-developed countries, in the implementation of the Agreement. Those mechanisms include extended implementation deadlines, technical assistance and capacity building.

**Article 21 on Telecommunications** establishes commitments on telecommunications regulatory authorities and it also encourages parties to carry out a process of assigning frequencies in an open, transparent, and non-discriminatory way for all users, relying on market-based approaches.

**Articles 22 to 26 on Exceptions** incorporate the general and security exceptions from the GATT and the GATS, as well as the GATS provision on prudential measures into the Agreement. They also establish a personal data protection exception and the possibility of more favourable treatment for indigenous peoples.

**Articles 27 to 38 contain the institutional arrangements and final provisions**, including: the establishment of Dispute Settlement procedures (Article 27) and the creation of a Committee on Trade-related aspects of Electronic Commerce (Article 28).

**Article 35 on Review** sets out a pathway for parties to periodically review commitments to ensure the Agreement stays up to date and relevant.

The **Interim Arrangement Annex** contains provisions governing the application of the Agreement up to the date of its incorporation into Annex 4 of the WTO Agreement, including those relating to interim dispute settlement. The **Appendix on Appeal Arbitration Procedures** establishes interim appeal procedures.

The deposit of the Union's instrument of acceptance would permit the entry into force of the Agreement on an interim basis for those members of the WTO that have accepted it, on the 30th day following the date of deposit of the 45th instrument of acceptance and when added to Annex 4 to the WTO Agreement.

- **Text of the Agreement and notifications**

The text of the Agreement is submitted to the Council together with this proposal.

In accordance with the Treaties, it is for the Commission to proceed to deposit the Union's instrument of acceptance provided for in Article 29 of the Agreement, in order to express the consent of the Union to be bound by the Agreement.

2026/0191 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the conclusion of the Agreement on Electronic Commerce**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4), first subparagraph, in conjunction with Article 218(6), second subparagraph, point (a)(v) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament[1],

Whereas:

(1) At the 11th Ministerial Conference of the World Trade Organization ("the WTO") in December 2017, a group of 71 WTO members, including the Union, agreed to initiate exploratory work towards future WTO negotiations on trade-related aspects of e-commerce.

(2) In January 2019, 77 WTO members, including the Union, confirmed in a joint statement their intention to commence these negotiations, agreeing to seek to achieve a high-standard outcome that builds on existing WTO Agreements and frameworks with the participation of as many WTO members as possible.

(3) In December 2024, after five years of negotiations, 71 WTO members circulated a communication which included the text of the Agreement on Electronic Commerce ("the Agreement") and indicated their shared objective of seeking a decision at the WTO General Council to incorporate the agreement into Annex 4 to the Agreement Establishing the World Trade Organization ("the WTO Agreement)".

(4) The WTO General Council was unable to reach a consensus on incorporation of the Agreement into Annex 4 to the WTO Agreement at its sessions of February and December 2025.

(5) On 28 March 2026, a Joint Declaration was issued representing 67 WTO members, including the Union, confirming their intention to implement the Agreement, as soon as possible, subject to the completion of their required internal procedures. To that end, an Interim Arrangements Annex, including an Appendix on Appeal Arbitration Procedures, was added to the Agreement to allow for its application on an interim basis pending its incorporation into Annex 4 of the WTO Agreement. The parties to the Agreement should continue to seek a decision to add the Agreement to Annex 4 to the WTO Agreement[2]. The Agreement should apply on a provisional basis in

[1] OJ C [...], [...], p. [...].

[2] The position to be adopted on the Union's behalf within the General Council of the WTO shall be to join the consensus, in the event it is reached among WTO members, to incorporate the Agreement into Annex 4 to the WTO Agreement pursuant to Council Decision (EU) 2025/915 of 25 May 2025.

accordance with the Interim Arrangements Annex, up to the date on which the Agreement is added to the WTO Agreement.

(6) The Agreement will establish the first ever global set of rules on digital trade, and it will set a regulatory base upon which a broad set of countries can work to develop their digital economies and promote in-country and cross-border digital trade.

(7) The Council conclusions at the start of the 14th Ministerial Conference of the WTO of 26 March 2026[3] support progress towards the implementation as soon as possible of the Agreement, including through its application on a provisional basis.

(8) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on [date of the opinion][4].

(9) In accordance with Article 29 of the Agreement, acceptance of the Agreement should take place by deposit of an instrument of acceptance with the Director-General of the WTO.

(10) The Agreement should be approved,

HAS ADOPTED THIS DECISION:

*Article 1*

The Agreement on Electronic Commerce ('the Agreement') is hereby approved. The text of the Agreement is attached to this Decision.

*Article 2*

This Agreement shall not be construed as conferring rights or imposing obligations which can be directly invoked in courts of the Union or the Member States.

*Article 3*

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

*For the Council*
*The President*
*[...]*

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3 ST 7777/2026.
4 OJ C [...], [...], p. [...].