



Ivane Javakhishvili Tbilisi State University
Faculty of Law

Journal of Law

№1, 2020



უნივერსიტეტის
გამომცემლობა

Fostering E-commerce in the light of the Deep and Comprehensive Free Trade Area (DCFTA): A Case Study of Georgia

E-commerce by constituting a revolutionary shift from a traditional business model to an Internet-based economic structure has influenced the way commerce is done in the 21st century. While e-trade promotes an economic enhancement by offering unlimited access to global markets with less operational costs and increased productivity, state legislators find it difficult to align their policies with ever-changing technologies. Although applying laws to e-commerce transactions is to certain degree settled in the developed world, developing countries are considerably lagging behind in their experiences.

To address this deficit, the present paper analyzes the e-commerce structure, its deployment strategies, and the legal implications thereof. It argues that e-commerce serves as a strong basis for macro and micro economic growth and, therefore, it should be thoroughly embraced by third countries¹ especially in the aftermath of the Covid-19 pandemic when the governments are trying to preserve its economy by switching businesses to online platforms. Nevertheless, the adoption and implementation of e-trade should occur in a systemic manner with corresponding legal ramifications at national and international levels. In order to enrich the paper with some practical insights, this research introduces a case-study of Georgia as a part of Eastern Partnership countries. It presents relevant provisions of the Association Agreement concluded between the European Union and Georgia, as an underlying basis for e-commerce deployment in the country. Where applicable, the paper also looks at the national legislation and further uncovers issues that are likely to emerge for Georgia in the course of adopting a new framework.

Key words: *Europeanisation, E-commerce, digital platform, business, Association Agreement, developing countries, Eastern partnership, directive, regulation, GATS, GATT.*

1. Introduction

The hasty proliferation of Information and Communication Technologies (ICT) has given rise to electronic commerce (hereinafter e-commerce), which encourages enterprises and individuals to engage in digital trade. Internet-based economic structure is the new business reality. It eases the

* Doctoral Student at Ivane Javakhishvili Tbilisi State University, Faculty of Law, LL.M KU Leuven, Invited Lecturer.

¹ A country that is not a member of the European Union as well as a country or territory whose citizens do not enjoy the European Union right to free movement, as defined in Art. 2(5) of the Regulation (EU) 2016/399 (Schengen Borders Code).

purchase of goods and services from different venues by one click on “add to cart” button followed by instructions upon order confirmation. Notably, this process leads to mutual satisfaction. On the one hand, there is a blissful seller who had set up a company with limited investment (capital, time) or expenditures on physical infrastructure² and went global practically overnight avoiding further barriers to trading activities. On the other hand, there is a delighted customer who received the product of his/her choice without spending much time in a physical shop in exhausting ques.

The benefits that e-commerce may confer to economies ranges from unlimited access to purchasers and providers internationally at any given time, increasing business productivity due to the global reach and immediacy of the internet, eliminating financial constraints of having a fixed place of business, to instant payment transactions through offline methods. Such “rewards” ultimately serve as a strong basis for macro and micro economic growth by creating a new playing field for competition where companies are operating with increased efficiency and decreased costs in world markets.³

Nevertheless, most developing countries are far from experiencing the e-commerce socio-economic enhancement. Although it is widely accepted that electronic trade (hereafter e-trade) should be embraced by developing countries thoroughly, there are many factors that hinder e-commerce from flourishing.⁴ First and foremost, acquiring the benefits is excluded as a result of a huge gap in the e-readiness including adoption rates, implementation and use of e-commerce between developed and developing countries, the latter lagging behind to a considerable extent.⁵ The local problems even wide the disparities. The state restrictions, inadequate telecommunication and payment facilities serve as a hindrance to these countries in their quest for economic success via e-trade. Apart from the logistical problems, the lack of a regulatory base is acting as one of central barriers increasing the use of electronic businesses in developing countries. Similar to traditional trade, e-commerce activities also require some standardization, compliance with rules and regulations and guidance by responsible authorities so that enterprises are able to compete globally.

To address this deficit, the paper provides an overview of the legal ramifications for e-commerce deployment in third countries. The potential scope comprises many acts and regulations. This thesis, nonetheless, limits its scope to Georgia from Eastern Partnership countries (EaP)⁶ in European Union’s (EU) neighborhood. In doing so, the paper scrutinizes the corresponding provisions of Deep and Comprehensive Free Trade Area (DCFTA) which are an integral part of the EU-Georgia Association Agreement (AA)⁷ and invites additional comparative analysis with the AAs between the

² *Alyoubi A. A.*, E-commerce in Developing Countries and How to Develop them During the Introduction of Modern Systems, 65 ICCMIT, 2015, 479.

³ *Marzangou A., Ghorbani M., Vandi S. R., Khodami S., Saadati S., Aminian M.*, E-commerce in a digital economy, the challenges and advantages, 4 International J. Soc. Sci. & Education, 2014, 6.

⁴ *Alyoubi A. A.*, E-commerce in Developing Countries and How to Develop Them During the Introduction of Modern Systems, 65 ICCMIT, 2015, 479.

⁵ *Ibid*, 482.

⁶ Eastern Partnership, Communication from the Commission to the European Parliament and to the Council, Brussels, 3/12/2008, COM (2008), 823 final, 13.

⁷ The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, entering in force on 01/07/2016. Moldova and Ukraine are two more additional countries with DCFTAs with the European Union. Apart

EU and Moldova and Ukraine. Where applicable this paper will assess the domestic legal framework of Georgia concerning e-commerce activities. By the same token, it will also provide an impetus for the future e-commerce legislation harmonization processes in the country. Ergo, the paper is structured to address the following *research questions*: 1. What legal obligations for electronic commerce arrangements does the DCFTA with Georgia impose on a state and what economic benefits may the country get by undertaking these commitments? 2. Which further legal steps are there for Georgia to take in order to develop its e-commerce industry?

2. E-commerce: Digital Opportunities and their Impact in Shaping Developing Countries' Future

The rapid alteration pace of international trading activities in recent years has created difficulties for national governments. They have had to evolve their policies in order to protect their interests in the new economic environment. Although the growth of ICT has provided immense opportunities for states' economies to flourish, it must be noted that opportunities have not been equally shared both legally and economically. Therefore, in legal education nowadays information technology-based trade is the main actor that experiences changes the most and requires more scrutiny from law scholars.⁸

2.1. General Overview of E-commerce and Digital Economy

Increasing use of the e-commerce has forced businesses to become more familiar with the complexities of the digital economy,⁹ which converges computation, communication and information. It has played a significant role in transition from industrial based approach to information and services economy, exploiting ideas more than materials.¹⁰ Although the basics for the digitalization routes comprise gaining access to the networks and distributing the Internet, more requirements come up at governmental, societal and economical level while starting trading operations.

Electronic commerce is generally defined by the WTO to cover “the production, distribution, marketing, sale or delivery of goods and services by electronic means.”¹¹ Due to its complex nature, the scholars divide the concept into a narrow and a wide definition. Its narrow meaning involves buying and selling commodities and services through the Internet, while the wide definition includes the interchange of business information, upholding business dealings, and steering business

from Georgia, Moldova and Ukraine, EaP also includes Armenia, Azerbaijan and Belarus. For more information on Eastern Partnership Initiative, see: The European Union External Action, 'Eastern Partnership (EaP)', <https://eeas.europa.eu/diplomatic-network/eastern-partnership/419/eastern-partnership_en> [07.05.2020].

⁸ *Nirmal B. C., Singh R. K.*, Contemporary Issues in International Law, Springer Singapore, 2018, 22.

⁹ *Kennedy M. D.*, Key Legal Concerns in E-Commerce: The Law Comes to the New Frontier, 2001, 18 T.M. Cooley L. Rev., 18-19.

¹⁰ *Gangopadhyay A.*, Managing Business with Electronic Commerce: Issues and Trends, Baltimore, Maryland, USA, 2001; *Gupta J. N. D., Sharma S. K.*, Cyber Shopping and Privacy, Ball State University, USA, 2001, 235-249.

¹¹ WTO Work Programme on Electronic Commerce, WT/L/274, 01/03/1998.

transactions by means of ICTs.¹² Therefore, any commercial transaction that take place in or is supported by the Internet can be classified as e-commerce.¹³

Above and beyond, the differences should be made on the basis of presence of the enterprises involved in e-trade. At this stage, only a small number of companies, mostly locally concentrated, can be classified as genuine “bricks and mortar” businesses.¹⁴ The majority of the enterprises have integrated e-commerce at different levels of their operations, therefore, constituting “bricks-clicks and mortar” or solely “clicks and mortar”¹⁵ because of their foremost Internet presence, the latter having less in common with traditional models of conducting business.

Throughout the development of e-commerce four main types have been evolved: *Business-to-Consumer (B2C)*, *business-to-business (B2B)*, *consumer-to-consumer (C2C)* and *consumer-to-business (C2B)*.¹⁶ Moreover, from time to time new categories are added involving not only private sector, but also public governance. All these models have their unique characteristics, however, discussing them in details goes beyond the scope of this research.

Adding points to general analysis, e-commerce takes on two major roles. Firstly, it is an “effective conduit and aggregator of information” and secondly, the potential substitute to many economic activities. It is fair to say that e-commerce leads to revolution of global trade in many respects, particularly in terms of customer’s “personalization.”¹⁷ Since the e-commerce captures contact information, the physical presence of the customer makes no difference in terms of individualized offer. Therefore, there are more opportunities for businesses to easily “scale up” than physical retailers in the same circumstances.¹⁸ E-commerce intensifies competition and produces benefits to consumers and retailers by decreasing the costs and prices while reaching out to all chains.¹⁹ The efficient logistics allow entrepreneurs to respond to the market trends promptly. It is simpler to get customer insights through tracking and analytics that give inputs for user experiences, marketing and pricing strategies. Ultimately, the e-commerce businesses result in efficiency enhancements, improvements in asset utilization, reduction in time consumption and better customer services.²⁰

¹² Slavko D., *Electronic commerce*, 4 (2) *Economics*, 2016, 3.

¹³ Ho S., Kauffman J. R., Liang T., *Internet-based Selling Technology and E-commerce Growth: A Hybrid Growth Theory Approach with Cross-model Inference*, 12 *Inf Technol Manag*, 2010, 409-429.

¹⁴ Kennedy M. D., *Key Legal Concerns in E-Commerce: The Law Comes to the New Frontier*, 18 *T.M. Cooley L. Rev.* 2001, 18-19.

¹⁵ Pappas W. C., *Comparative U.S. and EU Approaches to E-Commerce Regulation: Jurisdiction, Electronic Contracts, Electronic Signatures and Taxation*, 31 *Denv. J. Int'l L. & Pol'y*, 2002, 327.

¹⁶ *Ibid*, 326.

¹⁷ Nuray T., *The Impact of E-commerce on International Trade and Employment*, 24 *Procedia Social and Behavioral Sciences*, 2011, 746.

¹⁸ It is due to the fact that this model is not bound by physical limitations like inventory storage, space or office hours; See Khurana A., ‘Advantages and Disadvantages of Ecommerce,’ (2018), <<https://www.thebalancesmb.com/e-commerce-pros-and-cons-1141609>> [20.04.2020].

¹⁹ Bernardes E. S., *The Socio-Economic Impacts of E-commerce: A review of Understanding the Digital Economy*, In: Brynjolfsson E., Kahin B. (ed.), *Data, tools, and research*, Cambridge, MA: MIT Press, 2000.

²⁰ Nuray T., *The Impact of E-commerce on International Trade and Employment*, 24 *Procedia Social and Behavioral Sciences*, 2011, 746.

2.2. Digital Link for Developing Countries: Two Sides of the Same Coin

Through the ability to sell online many businesses have made themselves viable and profitable. Nevertheless, the rapid movement to electronic model of performing commercial functions has its own advantages and disadvantages. As the research focuses on more specific legal issues, this subchapter will only provide a general outlook of e-commerce development gains and barriers.

2.2.1. Development Gains from E-commerce and Digital Platforms

The unique feature of the e-trade for economic prosperity of the state is that business transactions can be made whenever and wherever, nationally or internationally, by use of the Internet.²¹ Without any conclusive evidence, the advantages of e-business would indicate that developing countries engaging in e-commerce are on the right track, though, there is still a rocky road to go. As *Mansel* points out, there is a “missing link” for developing economies in the global e-commerce share.²² Due to the differences in IT infrastructure, the usage and adoption of technologies, the developing world cannot embrace e-commerce opportunities thoroughly.²³

The gains from “technological leapfrogging” in trade is, firstly, associated with productivity improvement.²⁴ According to *Mansel*, industrialized countries endure the difficulties in raising already high levels of productivity, whereas developing countries take the advantage of progress.²⁵ Therefore, e-commerce tends to eliminate the gaps in productivity and output between these two actors in world economy. However, this result is hard to achieve without transitional period for adoption and learning of ICTs,²⁶ in as much as developing countries will need to circumvent the “highly predictable stages of development.”²⁷

Secondly, the most important consequence that developing countries’ presence causes in the global trade order is the “price equalization effect.”²⁸ This particular economic theory by *Samuelson* (1948) suggests that when free trade among countries equalizes the output of goods, then the prices of

²¹ WTO Secretariat highlights potential trade gains from electronic commerce, See WTO Declaration on Global Economic Commerce, WT/MIN 02/12/1998.

²² *Mansel R.*, Digital Opportunities and The Missing Link for Developing Countries, 17 (2) Oxford Review of Economic Policy, 2001, 284.

²³ *Molla A., Heeks R.*, Exploring E-Commerce Benefits for Businesses in a Developing Country, 23 (2) The Information Society, 2007, 95-108.

²⁴ *Bhagavan M. R.*, Technological Leapfrogging by Developing Countries, Encyclopedia of Life Support Systems, see: *Reddy P. (ed.)*, Globalization of Technology, EOLSS Publishers Co Ltd., Research Policy Institute, Lund University, Sweden, 2009.

²⁵ *Mansel R.*, Digital Opportunities and The Missing Link for Developing Countries, 17 (2) Oxford Review of Economic Policy, 2001, 284.

²⁶ *Steinmueller W. E.*, Possibilities of Leapfrogging to Higher Value-Added Production for Developing Countries as a Result of New Information and Communication Technologies, 140 (2) International Labour Review, 2001.

²⁷ *Rostow, W. W. (ed.)*, The Stages of Economic Growth, Cambridge University Press, 1962, 30.

²⁸ *Samuelson P. A.*, International Trade and the Equalization of Factor Prices, LVIII Economic Journal, 1948 163-184.

identical factors of production (e.g. labour, capital) will also be equalized among those countries. Following this theory *Mansel* asserts that the long-run equilibrium arising from international trade will lead to the wage rates equalization between industrialized (high wage) and developing (low-wage) countries.²⁹ It does not necessarily mean that industrialized countries will suffer and wages will fall, but developing countries will try to “bid up” because of a high demand on their services.

Losing personal touch with physical retailers constitutes the main disadvantage of e-commerce. E-commerce creates new challenges and competition for regional retailers when trading activities are outsourced from a region. This can create the “social isolation” leading to less trading activities performed by the people in their region.³⁰ This makes clear that domestic businesses may struggle to survive in the highly competitive market. Moreover, security and credit card fraud also present huge risks. E-commerce requires fully functioning “reverse logistics. Delaying product deliveries, relying solely on websites, limiting availability of merchandise (i.e. some goods cannot be sold online) and need of permanent internet access are also seen as obstacles for e-commerce deployment, especially for countries lacking e-infrastructure and investments in e-learning.

Therefore, developing countries should aim to avoid unjustified trade barriers. In particular, they should address the lack of trust in e-trade, payment system disparities, logistical and infrastructural problems, digitalization implications on taxation systems and lack of regulations at the national and international level. Thus, developing countries will have to offer sufficient protection and structure for e-businesses and consumers to compete on both local and cross-border levels.

3. Legal Framework for Fostering E-commerce Activities in Third Countries

Living in the era in which e-commerce continues to proliferate rapidly has been quite challenging for state legislators willing to catch up with the constantly changing technology.³¹ A new wave of commerce facilitated by ICTs has transformed the global economic shares by enabling SMEs from developing world to engage in universal trade without any footprint on the territory together.³² In order to fully benefit from global e-commerce industry, developing countries will, however, need to cope with certain legal challenges.

This chapter will provide an overview of global e-commerce regulations with the main focus on the EU and World Trade Organization (WTO) endeavors. More importantly, it will assess Georgia’s current e-commerce legal framework in the light of EU-Georgia AA and outline some further developments.

²⁹ *Mansel R.*, Digital Opportunities and The Missing Link for Developing Countries, 17 (2) *Oxford Review of Economic Policy*, 2001, 284.

³⁰ *Gershuny J.*, *Changing Times. Work and Leisure in Postindustrial society*, 2000, Oxford University Press, 1.

³¹ *Cirstea A.*, Implications of Electronic Commerce Law in Romania, 3 (1), *Perspectives of Business Law Journal*, 2014, 139.

³² *Bieron B., Usman A.*, Regulating E-commerce through International Policy: Understanding the International Trade Law Issues of E-commerce, 46 (3) *Journal of World Trade*, 2012, 545.

3.1. Global E-commerce Regulation in a Nutshell

The emergence of e-commerce has been perceived to be linked with the development of the Internet. However, the first roots of shifting from traditional commerce can be seen in the 20th century in the US.³³ The innovative approaches evolved by the US' enterprises (American Airlines launched a control system of sold, canceled and free seats on flights, the First Interstate Bank in the US started to adopt a Home Banking system operated by personal computers and the first travel reservation system was introduced by Sabre Travel Network in 1985) stimulated the legislative talks that are until now under discussion.

3.1.1. The EU Approach to Regulate E-commerce: From Guiding Principles to Legal Acts and Comparative Analysis with US E-trade Arrangements

Trade policies governing e-commerce transactions vary from state to state. The goal is to reach the ideal form of consumer protection and enhance the trust in this new method of trade that will increase the amount of e-commerce transactions and promote economic growth.³⁴ Since many vendors use the Internet as a mean of avoiding day to day regulations and laws, it is crucial to adopt global and state-oriented e-commerce legal framework.

Today, most countries, influenced by the US, are attempting to implement "*laissez-faire*" philosophy in domestic e-commerce regulatory framework. This theory constitutes an economic system in which transactions between private parties are free from governmental intervention.³⁵ According to *Magaziner*, they build up their national framework on the basis of the following principles: (1) The private sector should be the driving force; (2) Governments should avoid unjustified and undue restrictions on e-commerce; (3) The only interference from the government is allowed if it aims to support and enforce a predictable, consistent, and simple legal environment for e-commerce; (4) Facilitating domestic e-commerce on a global level.³⁶ All these criteria allow the market to generate innovation, broaden variety of services and push engagement in e-trade. Further to this, the main goal is to exclude outdated provisions which do not accompany the technological evolution.³⁷

The EU has been the main actor in the global e-commerce regulatory arena since 1988 when the Commission launched TEDIS (Trade Electronic Data Interchange Systems). It aimed at promulgating an appropriate level of protection for the increased use of Electronic Data Interchange (EDI). Two

³³ *Capisizu L. A.*, EU acquis on E-commerce, Challenges of the Knowledge Society, Internetul, București: Prietenii Cartii, 2008, 379.

³⁴ *Felicity G., Berova N.*, The Rule of Online Law: Treating Data Like the Sale of Goods: Lessons for the Internet from OECD and CSIG and Sacking Google as the Regulator, 30 Computer Law and Security Review, 2014, 473.

³⁵ *Reidenberg J. R.*, E-Commerce and Trans-Atlantic Privacy, 38 Hous. L. Rev., 2001, 717-718.

³⁶ *Magaziner I. C.*, Creating a Framework for Global Electronic Commerce, 1997, <<http://www.pff.org/issues-pubs/futureinsights/fi6.1globeconomiccommerce.html>> [05.05.2020].

³⁷ *Ibid.*

e-commerce key directives are: Directive 1999/93/EC³⁸ on electronic signatures and Directive 2000/31/EC³⁹ on e-commerce. In aftermath, the Member States (MS) started to create the normative base on a domestic level so that similar situations in the Union would not be dealt differently. The key objective of the EU regulation was to establish an integrated European internal market for e-commerce.⁴⁰ The regulations concerning safety standards, labeling, and liability for goods, by contrast, were left to MS.⁴¹

Since 2015, the EU works on a new policy strategy called “Digital Single Market (DSM)” in which e-commerce is one of the cornerstones. A DSM, consisting of sixteen specific initiatives,⁴² ensures conditions of fair competition, consumer, copyright and data protection, as well as, removing geo-blocking for online activities.⁴³ The main goal of legislative bodies is to foster digital services and reveal the companies which are hiding behind websites in an attempt to escape their responsibilities.⁴⁴ Secondly, official statistics show that the DSM builds opportunities for startups and allows existing companies to reach the market of over 500 million people.⁴⁵ Therefore, the EU intensively pushes to realize the full potential of e-commerce by revising Payment Services Directive⁴⁶ and consumer protection rules.⁴⁷ It also adopts new rules on cross-border parcel delivery services and unjustified geo-blocking. Lastly, it will introduce new VAT provisions for online sales of goods and services entering in force in 2021.

While the goal can be different, as a free-market economy, the US minimalistic and hands-off approach to regulate e-commerce, parallel to the desires of the EU.⁴⁸ The first attempts to administer the e-trade in the US was hard-pressed by the corporate powers that is now known as “big tech’s influence.” This influence was later on reflected on the WTO agenda.

In the absence of any substantive outcomes from the US and later on the EU pressure on WTO, it should also be noted that both the EU and US are now inclined to manage the cross-border

³⁸ Council Directive 1999/93/EC of 13 December 1999 on a Community framework for electronic signatures [1999] OJ L 013 19/01/2000.

³⁹ Council Directive 2000/31/EC of 8 June 2000 on certain legal aspects of information society services, [2000] OJ L 178 17/7/2000.

⁴⁰ Ibid, 7-9.

⁴¹ Pappas W. C., Comparative U.S. and EU Approaches to E-Commerce Regulation: Jurisdiction, Electronic Contracts, Electronic Signatures and Taxation, 31 Denv. J. Int'l L. & Pol'y, 2002, 331.

⁴² Ibid.

⁴³ Shaping the Digital Single Market, <<https://ec.europa.eu/digital-single-market/en/policies/shaping-digital-single-market#Moredocuments>> [05.05.2020].

⁴⁴ Cirstea A., Implications of Electronic Commerce Law in Romania, 3 (1) Perspectives of Business Law Journal, 2014, 140.

⁴⁵ Ibid.

⁴⁶ Council Directive 2007/64/EC of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, [2007] OJ L 319, 5.12.2007.

⁴⁷ See, New EU Rules on E-commerce, <<https://ec.europa.eu/digital-single-market/en/new-eu-rules-e-commerce>> [05.05.2020].

⁴⁸ Eichengreen B., Globalizing Capital: A History of the International Monetary System, 2nd ed., Princeton University Press, 1996.

e-commerce transactions through free trade agreements (FTA)⁴⁹ containing provisions on e-commerce. These provisions largely transpose the general principles of trade agreements (e.g. removing tariffs, national treatment and most-favored nation (MFN) principles) to the realm of e-commerce.⁵⁰ By the same token, they also reflect obligations on legal harmonization in their neighborhoods with the general focus on “important protections for the digital economy (e.g. no geo-blocking, digital taxes, transparency in regulation, and free flow of information).” One of the apparent examples of regulating e-commerce through FTA chapters are the DCFTA provisions on e-commerce between the EU and EaP countries, Georgia, Ukraine and Moldova, the US-Korea and US- Jordan FTAs (one of the first containing e-commerce chapter).⁵¹

Although some similarities between the EU and the US approaches may exist, it is notable that the EU is more concerned with internal market, consumer protections and MS sovereignty,⁵² while the US tries to get hegemonic position in the international e-commerce market.⁵³

3.1.2. UN and WTO on E-commerce Regulation

From the viewpoint of multilateral arrangements on e-commerce, the responsible bodies have been struggling a lot to regulate the area. The main hardships in this regard are associated with the aspiration of states to keep the Internet open, conflicting opinions on the regulatory framework and the overall fear of creating barriers to trade.⁵⁴ Nevertheless, the move towards a unified e-commerce structure must be noted. A substantial contribution to the development of global e-commerce regulation was made in 1997 by the International Chamber of Commerce adopting the General Usage for International Digitally Ensured Commerce (GUIDEC) - specific guidelines for ensuring the trustworthiness of digital transactions done via the Internet.⁵⁵ Another clear example is the United Nations (UN) Convention on the Use of Electronic Communications in International Contracts (CUECIC) in 2005, however, it is not very powerful as only eighteen states are parties to the convention.⁵⁶ It should be noted that the UNCITRAL Model laws on Electronic Commerce⁵⁷ and

⁴⁹ *Bieron B., Usman A.,* Regulating E-commerce through International Policy: Understanding the International Trade Law Issues of E-commerce, 46 (3) Journal of World Trade, 2012, 547-548.

⁵⁰ The Digital 2 Dozen, Office of the United States Trade Representative, <<https://ustr.gov/about-us/policy-offices/press-office/reports-and-publications/2016/digital-2-dozen>> [05.05.2020].

⁵¹ *Chander A.,* Exporting DMCA Lockouts, 54 Clev. St. L. Rev. 205, 2006, 212.

⁵² *Trimble M.,* Geo-blocking, Technical Standards and the Law, Scholarly Works Paper, № 947, 2016, 55.

⁵³ *Capisizu L. A.,* EU acquis on E-commerce, Challenges of the Knowledge Society, Internetul, București: Prietenii Cartii, 2008, 379.

⁵⁴ *Bieron B., Usman A.,* Regulating E-commerce through International Policy: Understanding the International Trade Law Issues of E-commerce, 46 (3) Journal of World Trade, 2012, 546.

⁵⁵ *Capisizu L. A.,* EU acquis on E-commerce, Challenges of the Knowledge Society, Internetul, București: Prietenii Cartii, 2008, 380.

⁵⁶ *Rowley K. A.,* Meanwhile, on the UNCITRAL Front, Commercial Law, (2010) <<http://ucclaw.blogspot.com/2010/06/meanwhile-on-uncitral-front.html>> [05.05.2020].

⁵⁷ UNCITRAL Model Law on Electronic Commerce (1996) with additional article 5 bis as adopted in 1998.

Signatures⁵⁸ seem to be “popular” among the states across the globe to create the basic regulatory standards on national levels.

Currently, the WTO is in quest of including e-commerce provision in agreements during the Doha Round, but due to the slow progress of Doha Development Agenda (DDA) the WTO Members have not been able to reach any fruitful decisions on the substantive aspects of e-commerce regulation.⁵⁹ Even though, e-commerce is paramount of the “new issues” now scheduled for WTO negotiations, it faces some resistance from majority of developing countries.⁶⁰ They assert that before accommodating new issues, the asymmetries in the existing WTO agreements need to be addressed.

Historically, the need for the e-commerce regulation emerged within the WTO shortly after its creation. As some members were already able to see the upcoming digital revolution, the first efforts to regulate e-commerce are rooted in the second Ministerial Conference in 1998, when the Members adopted the “Declaration on Global Electronic Commerce”. The Declaration has recognized the “new opportunities for trade” and referred to the General Council to “establish a comprehensive work programme to examine all trade-related issues for global electronic commerce”.⁶¹

Nonetheless, it is up until now controversial whether electronic transmissions should fall under General Agreement on Tariffs and Trade (GATT) or General Agreement on Trade in Services (GATS) or there should be a new agreement amending the missing link for e-commerce in WTO system. Theoretically, all options have their right to exist, however, they may render different outcomes, especially for developing countries.⁶² If e-commerce is solely governed by GATT, it is likely to end up by WTO Members committing themselves to realize free trade in all transactions conducted via Internet, therefore, impose National treatment and Most-favoured Nations (MFN) treatment obligations on themselves and cannot discriminate against Internet imports by introducing domestic taxes. On the opposite side, a search for an entirely new agreement might be quite demanding considering how difficult it is to reach multilateral decisions in WTO. Further to this, time constrains should also be considered: it will take too long to start negotiations and there will be no immediate effect on regulations. And, lastly, the rules to regulate e-commerce can still be found either in GATT or GATS.⁶³

The best solution lies in applying GATS to all Internet trade. Firstly, in the absence of the new disciplines, the main provisions of the e-commerce under the existing WTO legal framework can be found in the GATS Telecom Annex, which sets out the basic rights of access to and use of public

⁵⁸ UNCITRAL Model Law on electronic signatures (2001).

⁵⁹ *Gao H.*, Regulation of Digital Trade in US Free Trade Agreements: From Trade Regulation to Digital Regulation, 45 (1) Legal Issues of Economic Integration, 2018, 50.

⁶⁰ *Kelsey J.*, How a TPP-Style E-commerce Outcome in the WTO would Endanger the Development Dimension of the GATS Acquis (and Potentially the WTO), 21 Journal of International Economic Law, 2018, 274.

⁶¹ WTO Declaration on Global Electronic Commerce, WT/MIN (98)/DEC/2, [1998].

⁶² *Panagariya A.*, E-Commerce, WTO and Developing Countries, 2 Policy Issues in International Trade and Commodities Study Series, Geneva, 2000, 3.

⁶³ *Ibid.*, 3.

telecommunications transport networks and services by e-commerce suppliers.⁶⁴ Secondly, while some activities could arguably be classified as trading in goods according to “technology-neutrality” principle,⁶⁵ mostly they are similar to trade in services.⁶⁶ Therefore, the adoption of the “across-the-board definition” will automatically minimize the possibility of disputes about the classification differences (as intangible goods or as services) of electronic transmissions among WTO Member. Thirdly, the choice of GATS is beneficial in terms of liberalization. The obligations under GATS follow “positive listing” approach, meaning that WTO Members only commit themselves if they have included a given e-commerce activity in their schedule of specific commitments. Finally, the legitimate policy reasons, “General Exceptions” clause enables a WTO Member to deviate from trade obligations.⁶⁷ The latter is beneficial to developing countries that may have different concerns as highly industrialized states.

Howbeit, applying GATS to all Internet trade also raises the efficiency shortcomings and challenges from the regulatory outlook.⁶⁸ To start with the classification issues, the first problem arises in terms of finding a place for e-commerce activities in the commitment schedule. Classification lists are based on the United Nations Provisional Central Product Classification (CPCprov),⁶⁹ which is quite obsolete for electronic transmissions to be involved in it.

As far as obligations under schedules concern, apart from the commitments for applying MFN principle, the WTO Member may choose the level of market access⁷⁰ and national treatment⁷¹ that wishes to introduce for other Members. These commitments are subject to sector and mode specific limitations. In this regard, the first problem is ambiguity in sectoral coverage. E-commerce activities are predominantly inclined to interpretive uncertainties due to the classification difficulties mentioned above.⁷² The second problem is associated with modes of supply, which is very difficult to distinguish for e-commerce activities in cyberspace.⁷³ The solution to this may be seen either in a set of

⁶⁴ WTO, Annex on Telecommunications, in General Agreement on Trade in Services, [1994], Marrakesh Agreement Establishing the World Trade Organization, Annex 1B, The Legal Texts: The Results of The Uruguay Round of Multilateral Trade Negotiations 284, 1999, 1869 U.N.T.S. 183, 33 I.L.M. 1167, 1994.

⁶⁵ The principle of technological neutrality states that provisions related to trade in services do not distinguish between the different technological means through which a service may be supplied. The GATS is in this sense technologically neutral. See WTO Council for Trade in Services, Work Program on Electronic Commerce: Progress Report to the General Council, adopted by the Council for Trade in Services on 19 July 1999, S/L/74, 27 July 1999, at para. 4.

⁶⁶ Gao H., Regulation of Digital Trade in US Free Trade Agreements: From Trade Regulation to Digital Regulation, 45 (1) Legal Issues of Economic Integration, 2018, 51.

⁶⁷ GATS, art. XVI: Market Access; GATS, art. XIV.

⁶⁸ Willemyns I., The GATS (in)consistency of Barriers to Digital Services Trade, European Society of International Law (ESIL) Conference, UK, 2018, 4.

⁶⁹ United Nations, Provisional Central Product Classification, 1991.

⁷⁰ GATS, art. XVI.1.

⁷¹ GATS, art. XVII.1.

⁷² Gao H., Regulation of Digital Trade in US Free Trade Agreements: From Trade Regulation to Digital Regulation, 45 (1) Legal Issues of Economic Integration, 2018, 55.

⁷³ Wunsch-Vincent S., Hold A., ‘Towards Coherent Rules for Digital Trade: Building on Efforts in Multilateral Versus Preferential Trade Negotiations,’ in: Burri M., Cottier T. (ed.) Trade Governance in the Digital Age: World Trade Forum, Cambridge University Press, 2012, 182.

scheduling guidelines for e-commerce activities, avoiding future complications, or forming a set of minimum regulatory standards for e-trade. By suggesting the latter, Telecommunications Reference Paper⁷⁴ can be seen as a good model.

To compound the entire puzzle around the WTO e-commerce regulations, the current structure does not perfectly match the e-trade challenges. However, there is a great potential in the system to keep up with the regulatory tasks. If the WTO is still striving to be the leader on global e-commerce regulatory platform, it needs to come up with new approaches dealing with key issues such as classifications, commitments and exceptions. Before making the shift happen, the solution that is seen to achieve uniformity in this global reality lies in bilateral and multilateral FTAs, which lead states to adopt e-commerce guiding principles for the facilitation of trade.⁷⁵ However, it is crucial for the WTO, as an international trade agenda setter, to strike a fair balance between the states interests and the deployment of e-commerce regulations.

3.2. The EU's Eastern Neighborhood: Georgia and E-commerce Regulation

It is no longer a fresh word that the EU's interests to build "a common area of shared democracy, prosperity, stability and increased cooperation"⁷⁶ go beyond the physical borders of its MS. This tendency became particularly remarkable in the aftermath of 2004 with so-called "big-bang" enlargement.⁷⁷ It served as an impetus to pursue the revitalized cooperation between the EU and its eastern neighborhood: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. However, due to political reasons,⁷⁸ only three out of six EU's eastern target countries reached the pre-final stage and in 2014 the EU concluded Association Agreements with Georgia, Moldova and Ukraine.⁷⁹ These AAs are unique in their legal nature for the countries mentioned, in as much as they create rights and obligations enabling the parties to benefit from the EU internal market regulatory regime, enjoy free trade arrangements (e.g. elimination of customs duties on export and import)⁸⁰ and trade-related institutional improvements.

Standing at the crossroads of accession to the EU, Georgia tries to succeed in the EU's conditionality policy and to follow the legal obligations articulated in the AA. However, there is still a long way to go. This particular subchapter does not aim to scrutinize the general trade arrangements

⁷⁴ WTO, Negotiating Group on Basic Telecommunications, Telecommunications Services: Reference 24/04/1996.

⁷⁵ *Weber H. R.*, International E-Trade, 41 Intl. L. 51, 2007, 845.

⁷⁶ Eastern Partnership, <https://eeas.europa.eu/diplomatic-network/eastern-partnership/419/eastern-partnership_en> [05.05.2020]. The 2004 enlargement of the EU was the largest single expansion of the European Union when the accession of the following countries, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, extensively increased the territorial scope and population of the EU.

⁷⁷ Ibid.

⁷⁸ *Verdun A., Chira G.*, The Eastern Partnership: The burial ground of enlargement hopes?, 9(4) Comparative European Politics, United Kingdom, 2011, 448–466.

⁷⁹ *Gylfason Th., Artínez-Zarzoso I., Magnus Wijkman P.*, Free Trade Agreements, Institutions and The Exports of Eastern Partnership Countries, 53 JCMS, 2015, 1215.

⁸⁰ Article 28 and Article 29 of the AA.

and its implementation in domestic legal framework. Rather, it will narrow down its focus to Georgia's legal obligations and future prospects with respect to e-commerce regulations under DCFTA.⁸¹

3.2.1. Digital Environment in Georgia: “Matching” or “Missing” Link?

In the aftermath of the AA's very ambitious and far-reaching plans have been set out in Georgia, according to which both parties have to discover the untapped areas of cooperation, ensure mutual benefits and deepen the level of integration.⁸² However, it is arguable whether Georgia is in the position to acquire all the benefits from digitalization ranging from economic prosperity to creation of a competitive environment for both public and private sectors.⁸³

To start with the recent past, the 2000s were challenging for Georgia a former Soviet country, which had to fight for its independence and statehood. No one could have dreamed of creating even basics of modern ICT infrastructure in the country due to the limited national resources and growing social problems. However, now the developing pace of Georgia's digitization has been remarkable.⁸⁴ Recently, Georgia has introduced the Trade Facilitation System (TFS). It ensures the electronic flow of information among chief players in international trade (i.e. traders, customs brokers, freight forwarders, shipping lines and other) through a single-entry point.⁸⁵

At this stage it should be noted that the electronic communication market in Georgia is quite attractive and diverse. This is clear from the amount of Internet-based companies, their revenues and effectiveness, Internet users, numbers of websites and applications as well as e-commerce income for Georgian enterprises. According to the survey, the companies in Georgian market are very much open to offer innovative approaches in terms of services, supply, logistics, distribution and supporting activities like purchase, accounting and calculating systems.⁸⁶ There are a high number of entrepreneurial activities taking place in the digital space of the country. More companies are introducing new technologies for popularization of their products (e.g. new advertising methods, image brands, customer cards, etc.) and a new medium for product installation and selling (e.g. franchises or distribution certificates, exclusive retail selling, direct sales, new approaches to product presentation, etc.).⁸⁷

⁸¹ According to Article 7 of the Law of Georgia on ‘Normative Acts’ and Article 6 of the Law of Georgia on International Treaties,’ the AA becomes an inherent part of the Georgian legal system as duly ratified by the Parliament of Georgia, 4. Law of Georgia on Normative Acts, LHG, № 33, 22/10/2009; 3. Law of Georgia on International Treaties, Parliamentary Gazette, 44, 16/10/1997.

⁸² *Andguladze A.*, Digital Economy: New Opportunity for a Greater Integration with European Union, ISFED, Tbilisi, 2007, 1 (in Georgian).

⁸³ Ibid.

⁸⁴ *Abuladze R., Gigauri I.*, Ecosystem of Digital Economy in Georgia, Tbilisi, 2017, 5-9 (in Georgian).

⁸⁵ Ibid. This system mainly concerns the information about logistics, shipping and transport industries.

⁸⁶ *Abuladze R., Gigauri I.*, Ecosystem of Digital Economy in Georgia, Tbilisi, 2017, 3 (in Georgian).

⁸⁷ National Statistics Office of Georgia, <http://www.geostat.ge/?action=page&p_id=2290&lang=geo> [01.04.2020].

All the above, indicates that there can be a “matching link” for Georgia to benefit from prospects of digital economy. The infrastructural developments undertaken by the country, innovative approaches and the e-readiness of the enterprises show a huge potential to develop Internet-based economic system which is promising in terms of strengthening the microeconomic environment and improving country’s competitiveness in global market.

3.2.2. Georgia’s Path in E-commerce Regulation

The pressure on the Georgian legislator to regulate e-commerce has reached particularly higher levels in the aftermath of the AA. Specifically, the legal obligations on e-commerce that stem from the Art. 76 of Chapter 6 of the DCFTA. While the latter is regarded as a general provision that stipulates the need of “cooperation on electronic commerce,”⁸⁸ Section 6 of the Agreement requires a higher degree of legal approximation promoting Georgia’s involvement in online trade activities.⁸⁹ As both, the EU and Georgia, recognize the boost that e-commerce provides to trade, Georgia is attempting to fulfil its legal obligations. However, it is very hard for a country with no technical expertise in e-commerce to create a framework without any external support. Therefore, harmonization of the national legislation with the ‘EU *acquis*’ play an important role in setting today’s e-commerce legal agenda in Georgia.⁹⁰

3.2.2.1. Zooming in on E-commerce Legal Obligations under DCFTA: Overview of the National Framework

The legal approximation is one of the cornerstones of the DCFTA. Already in 2006 Georgia has “celebrated” a fundamental and unilateral liberalization of its external trade policies in 2006.⁹¹ Therefore, the provisional application of DCFTA is merely perceived as the EU’s action to catch up and finalize the free trade area with its tariff liberalization for Georgia.

According to “Harmonization of the digital markets in the Eastern Partnership” study report, the protection of consumer rights and e-logistics represent the weakest areas in the e-commerce implementation process in Georgia.⁹² Moreover, the considerably less engagement of domestic enterprises in this particular sector in comparison to foreign-owned companies creates an impression

⁸⁸ Article 76 (1) of the EU-Georgia AA: “The Parties, reaffirming their respective commitments under the WTO Agreement hereby lay down the necessary arrangements for the progressive reciprocal liberalization of establishment and trade in services and for cooperation on electronic commerce.”

⁸⁹ Article 127 (1) of the EU-Georgia AA: “The Parties, recognizing that electronic commerce increases trade opportunities in many sectors, agree to promote the development of electronic commerce between them, in particular by cooperating on the issues raised by electronic commerce under the provisions of this Chapter.”

⁹⁰ *Andguladze A.*, Digital Economy: New Opportunity for a Greater Integration with European Union, ISFED, 2017, 5.

⁹¹ *Emerson M., Kovziridze T. (eds.)*, Deepening EU-Georgian Relations What Why and how? Second edition, Centre for European Policy Studies, Rowman & Littlefield International, Brussels, 2016, 31.

⁹² Harmonisation of the Digital Markets in the Eastern Partnership, Study Report, 2015, see <<https://europa.eu/capacity4dev/hiqstep/document/harmonisation-digital-markets-eastern-partnership-study-report>> [05/05/2020].

that today Georgia is not able to export its digital services in the EU market.⁹³ Therefore, for the time being, an update to the DCFTA Services Annex XIV to contain more specific components of DSM legislation like e-commerce is not envisaged.⁹⁴ However, it does not prevent the country from the obligations under DCFTA to address the e-commerce regulatory shortcomings domestically according to international standards. Even more, Georgia's first target should be the enactment of attractive and business-supportive e-commerce laws that will ultimately lead to the development of exporting opportunities.

The Articles 127-128 of the EU-Georgia AA impose obligations on the state in regard to its e-commerce legal framework. Firstly, paragraph 127 (1) expects from the parties that they promote electronic commerce as a mean of trade. Secondly, "development of electronic commerce must be compatible with the international standards" with the special emphasis on data protection (Art 127 (2)). Although, the agreement does not explicitly refer to the implementation of the corresponding EU e-commerce regulations and directives, the process of Europeanization⁹⁵ in Georgia is irreversible. Therefore, paper argues that "international standards" should indicate on the WTO provisions (GATS as discussed above) and the EU legal *acquis*.

The first legal document, in which these basic EU principles are applied, is the *Law of Georgia on Electronic Documents and Electronic Trust Services* adopted in 2017. It "sets forth the legal grounds for using electronic documents, electronic signatures and electronic trust services."⁹⁶ The Georgian legislator tried to create a mixture of Electronic Signatures Directive 1999/93/EC and Regulation (EU) No 910/2014 (i.e. trust services for electronic transactions)⁹⁷ and at the same time followed the UNCITRAL Model Law on Electronic Signatures (2001) with country-specific modifications. Therefore, the law of Georgia does not contain provisions that are relevant to the EU internal market,⁹⁸ issues concerning the MS recognition and liability. All these significantly narrows down its scope of application. While the EU may have an all-embracing and complex approach to regulating trust services for electronic transactions, Georgia is introducing basic principles and does not provide detailed rules. Therefore, it leaves ample room for practice to complement further improvements.

Beyond that, up until now there is only a pending version of the draft law awaiting for the detailed scrutiny and approval by competent authorities. The idea to adopt an e-commerce framework according to the UNCITRAL Model Law on Electronic Commerce and the EU Directive on electronic

⁹³ Emerson M., Kovziridze T. (eds.), *Deepening EU-Georgian Relations What Why and how?* Second edition, Centre for European Policy Studies, Rowman & Littlefield International, Brussels, 2016, 84.

⁹⁴ Ibid, 85.

⁹⁵ Radaeli defines Europeanization as 'the incorporation of formal and informal rules, procedures, policy paradigms, styles, ways of doing things, shared beliefs and norms, which are first defined and consolidated in the making of EU public policy.' Featherstone K., Radaelli, C., *The Politics of Europeanization*, Oxford University Press, 2006, 27.

⁹⁶ Law of Georgia on Electronic Documents and Electronic Trust Services, LHG, № 639-IIS, 21/04/2017, Article 1(1).

⁹⁷ Council Directive 1999/93/EC of 13 December 1999 on a Community framework for electronic signatures [1999] OJ L 013 19/01/2000.

⁹⁸ No market access and internal market principles (article 3 and 4 of the directive).

commerce was firstly introduced by the MoESD and emphasized on e-commerce advantages, namely, simplified reach to the global market conferred to SMEs and increased competitiveness in the range of products and services. In absence of the consolidated version of the law, it is hard to assess its scope of application, legal impacts or shortcomings.

Yet there are number of unresolved issues. For instance, what about consumer and data protection, intellectual property rights (IPR), the basic principles of electronic contracts, legal rights and obligations, e-logistics? What happens in the case of a dispute between the consumer and these digital platforms? How can an average person protect themselves from an abuse of power by those huge vendors? Should the basic principles of contract law apply, or should there be a *lex specialis* governing the e-commerce transactions? Although there is no simple answer to these questions, it is supposed that the basic contractual norms will be governing this type of disputes. Nonetheless, the state should start to fulfil its positive obligation and adopt the legislation which will increase consumer's trust and ensure full enjoyment of fundamental rights as soon as possible. This article looks at the legislative changes optimistically due to the fact that it is drafted in the ambit of the EU Directive capturing the best experiences of the EU Member States. However, a simple 'copy-paste' approach of harmonising national law does not suffice for a successful legal harmonisation. It is crucial that the national circumstances, corresponding markets and participants are taken into consideration when transposing the Directive into national order.⁹⁹

Bringing Georgia's e-commerce legislation in line with the EU standards is an ambitious project. Speaking of similar examples, Moldova has passed the law on e-commerce already in 2004 regulating the main aspects of the Internet transactions and introducing the electronic contracts.¹⁰⁰ Ukraine has enacted the final version of e-commerce law in 2015 that fully legalized e-contracts and facilitated the use of e-money.¹⁰¹ Accordingly it is clear, that both Moldova and Ukraine have adopted the e-commerce laws before concluding the AAs with the EU. However, the DCFTAs still contain e-commerce facilitation and its regulatory aspects, which are equivalent to the provisions of Georgia's DCFTA with only one exception. The agreements with Ukraine and Moldova explicitly refer to the obligation of approximation with the EU e-commerce directives.¹⁰² Therefore, it can be assumed that while Georgia is drafting its legislation according to the EU legal *acquis* on e-commerce, Moldova and Ukraine have to rearrange already well-established framework. This may rise more concerns from the market participants about their already well-established business operations.¹⁰³

⁹⁹ See *Samkharadze I.*, *Europeanization of Georgia: The Key Legal Aspects of EU Membership*, 5 *J. Justice and Law*, 2015, 41.

¹⁰⁰ Moldova E-commerce, <<https://www.export.gov/article?id=Moldova-eCommerce>> [13.04.2020].

¹⁰¹ Ukraine Enacts E-Commerce Law, Legalizes E-Contracts <<https://www.bna.com/ukraine-enacts-n57982059078/>> [05.05.2020].

¹⁰² Article 139, 140 of the EU-Ukraine AA (DCFTA); Article 99 (c), 202 (1), 254, 255 of EU-Moldova AA (DCFTA). Article 139, 140 of the EU-Ukraine AA (p. 1741); EU-Moldova AA (p. 410-411).

¹⁰³ *Legal Issues with Regard to Business Operations and Investment in Ukraine*, OECD Policy Brief, 2004 <<https://www.oecd.org/countries/ukraine/34514482.pdf>> [05.05.2020]; *Emerson M., Cenuşa D. (eds.), Deepening EU-Moldovan Relations What Why and how?* 2nd ed., Centre for European Policy Studies, Rowman & Littlefield International, Brussels, 2016.

It is fair to conclude that fully structured e-commerce framework cannot be reached solely by providing and improving the above-mentioned regulations. As e-commerce activities are highly interlinked with other disciplines, it is crucial to address deficiencies in specialized legal fields. Therefore, it is recommended that Georgia takes further steps towards revising and adopting legal outlook with regard to custom's regulations (e.g. procedures and duties on returned goods), IP law (e.g. businesses subject to IP infringements, copyrights, domain grabbing), data protection (e.g. cross-border data transfer, customer protection), sales law and consumer information principles (e.g. product labeling, website content rules). Most importantly, Georgia should introduce also digital economy taxation regime, that will facilitate the country to expand economically and legally.

5. Conclusion

This article illuminates that the rise of the digital economy has added further challenges to state legislators in developing countries. However, the huge potential that e-commerce offers to those fragile economies, undoubtedly, prevails over any challenge. This paper advanced the idea that building up sound policies and strategies on e-commerce deployment for a better economic environment is of vital importance. It is believed to benefit not only a state or two, but the whole international community. It will particularly facilitate e-businesses in reaching the global markets, expanding their activities and diversifying the production range.

By the same token, this paper concluded that there are a number of factors that act as a hindrance to e-commerce deployment in developing countries. *Inter alia*, infrastructural, logistical and regulatory barriers take the lead, the latter being scrutinized thoroughly in the course of the paper. Although the ongoing changes in legal environments are promising, the WTO finds it complicated to accommodate all the needs in its e-commerce structure. However, as an international trade agenda-setter, the WTO is under the obligation to address this deficit and include "new issue" in its system regardless the high opposition from the developing countries. This paper suggests that in the given circumstances they must be fully embraced by GATS.¹⁰⁴

Since no practical solutions are foreseen on international regulatory arena, countries tend to secure e-commerce deployment by bilateral measures. This practice has posed shortcomings, such as fragmentation and mismatches in the global legal order. In the absence of international consensus, concluding FTAs has been widely embraced by developed countries, who seek to export their norms internationally. In this regard, the paper examined the EU-Georgia Association Agreement and its impact on country's e-commerce legal framework. Taking recent developments in Georgia's e-commerce regulations into account, the country is ready to align its domestic legislation with the EU *acquis*. However, a simple 'copy-paste' approach does not suffice for a successful legal harmonization. Alongside with specific e-commerce laws Georgia needs to revise the existing legislation or adopt new standards in the fields that have particular links with e-commerce deployment.

¹⁰⁴ Gao H., Regulation of Digital Trade in US Free Trade Agreements: From Trade Regulation to Digital Regulation, 45 (1) Legal Issues of Economic Integration, 2018.

Meanwhile, while the world is coping with the outcomes of Covid-19 pandemic, the e-commerce is gaining its momentum. Ergo, it is strongly recommended Georgia to enact its e-commerce legal base in a very short time span to secure electronic transactions and guide online businesses and consumers. This revolutionary shift of entrepreneurial activities will not remain untouched after the pandemic but will attract more and more consumers and companies worldwide.

Bibliography:

1. Constitution of Georgia, Parliamentary Gazette, 31-33, 25/08/1995.
2. Council Directive 1999/93/EC of 13 December 1999 on a Community framework for electronic signatures [1999] OJ L 013 19/01/2000.
3. Council Directive 2000/31/EC of 8 June 2000 on certain legal aspects of information society services, [2000] OJ L 178 17/7/2000.
4. Council Directive 2007/64/EC of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, [2007] OJ L 319, 5/12/2007.
5. Council Directive 2016/1164 of 12 July 2016 on laying down rules against tax avoidance practices that directly affect the functioning of the internal market, [2016] OJ L 193 19/7/2016. Eastern Partnership, Communication from the Commission to the European Parliament and to the Council, Brussels, 3/12/2008, COM (2008), 823 final, 13.
6. GATS: General Agreement on Trade in Services, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1B, 1869 U.N.T.S. 183, 33 I.L.M. 1167, 1994.
7. GATT 1994: General Agreement on Tariffs and Trade 1994, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 U.N.T.S. 187, 33 I.L.M. 1153, 1994.
8. Law of Georgia on Electronic Documents and Electronic Trust Services, LHG, № 639-IIS, 21/04/2017.
9. Law of Georgia on International Treaties, Parliamentary Gazette, 44, 16/10/1997;
10. Law of Georgia on Normative Acts, LHG, № 33, 22/10/2009;
11. The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, 01/07/2016.
12. UNCITRAL Model Law on Electronic Commerce 1996 with additional article 5 bis as adopted in 1998.
13. UNCITRAL Model Law on electronic signatures, 2000.
14. United Nations, Provisional Central Product Classification, 1991.
15. WTO Agreement: Marrakesh Agreement Establishing the World Trade Organization, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144, 1994.
16. WTO Council for Trade in Services, Work Program on Electronic Commerce: Progress Report to the General Council, adopted by the Council for Trade in Services on 19 July 1999, S/L/74, 27 July 1999, at para. 4.
17. WTO Declaration on Global Electronic Commerce, WT/MIN (98)/DEC/2, [1998].
18. WTO Guidelines for the Scheduling of Specific Commitments Under the GATS, Adopted by the Council for Trade in Services S/L/92, 2001, 41-49.

19. WTO Secretariat highlights potential trade gains from electronic commerce, See WTO Declaration on Global Economic Commerce, WT/MIN 02/12/1998.
20. WTO Work Programme on Electronic Commerce, WT/ L/274, 01/03/1998.
21. WTO, Annex on Telecommunications, in General Agreement on Trade in Services, [1994], Marrakesh Agreement Establishing the World Trade Organization, Annex 1B, The Legal Texts: The Results of The Uruguay Round of Multilateral Trade Negotiations 284, 1999, 1869 U.N.T.S. 183, 33 I.L.M. 1167, 1994.
22. WTO, Negotiating Group on Basic Telecommunications, Telecommunications Services: Reference 24/04/1996.
23. *Abuladze R., Gigauri I.*, Ecosystem of Digital Economy in Georgia, Tbilisi, 2017, 5-9 (in Georgian).
24. *Alyoubi A. A.*, E-commerce in Developing Countries and How to Develop Them During the Introduction of Modern Systems, 65 ICCMIT, 2015, 479.
25. *Andguladze A.*, Digital Economy: New Opportunity for a Greater Integration with European Union, ISFED, 2007, 1 (in Georgian).
26. *Andguladze A.*, Digital Economy: New Opportunity for a Greater Integration with European Union, ISFED, Tbilisi, 2017, 5.
27. *Bernardes E. S.*, The Socio-Economic Impacts of E-commerce: A review of Understanding the Digital Economy, in: *Brynjolfsson E., Kahin B. (eds.)*, Data, tools, and research, Cambridge, MA: MIT Press, 2000.
28. *Bhagavan M. R.*, Technological Leapfrogging by Developing Countries, Encyclopedia of Life Support Systems, *Reddy P. (eds.)*, Globalization of Technology, EOLSS Publishers Co Ltd., Research Policy Institute, Lund University, Sweden, 2009.
29. *Bieron B., Usman A.*, Regulating E-commerce through International Policy: Understanding the International Trade Law Issues of E-commerce, 46 (3) Journal of World Trade, 2012, 545-549.
30. *Capisizu L. A.*, EU acquis on E-commerce, Challenges of the Knowledge Society, Internetul, București: Prietenii Cartii, 2008, 379-380.
31. *Chander A.*, Exporting DMCA Lockouts, 54 Clev. St. L. Rev. 205, 2006, 212.
32. *Cirstea A.*, Implications of Electronic Commerce Law in Romania, 3 (1), Perspectives of Business Law Journal, 2014, 139-140.
33. *Eichengreen B.*, Globalizing Capital: A History of the International Monetary System, Second edition, Princeton University Press, 1996.
34. *Emerson M., Cenușa D. (eds.)*, Deepening EU-Moldovan Relations What Why and how? Second edition, Centre for European Policy Studies, Rowman & Littlefield International, 2016, Brussels, 31, 84.
35. *Featherstone K., Radaelli C.*, The Politics of Europeanization, Oxford University Press, 2006, 27.
36. *Felicity G., Berova N.*, The Rule of Online Law: Treating Data Like the Sale of Goods: Lessons for the Internet from OECD and CSIG and Sacking Google as the Regulator, 30 Computer Law and Security Review, 2014, 473.
37. *Gangopadhyay A.*, Managing Business with Electronic Commerce: Issues and Trends, Baltimore, Maryland, USA, 2001.
38. *Gao H.*, Regulation of Digital Trade in US Free Trade Agreements: From Trade Regulation to Digital Regulation, 45 (1) Legal Issues of Economic Integration, 2018, 50.

39. *Gershuny J.*, Changing Times. Work and Leisure in Postindustrial Society, Oxford University Press, 2000, 1.
40. *Gupta J. N. D., Sharma S. K.*, Cyber Shopping and Privacy, Ball State University, USA, 2001, 235-249.
41. *Gylfason Th., Artínez-Zarzoso I., Magnus Wijkman P.*, Free Trade Agreements, Institutions and The Exports of Eastern Partnership Countries, 53 JCMS, 2015, 1215.
42. *Ho S., Kauffman J. R., Liang T.*, Internet-based Selling Technology and E-commerce Growth: A Hybrid Growth Theory Approach with Cross-model Inference, 12 Inf Technol Manag, 2010, 409-429.
43. *Kelsey J.*, How a TPP-Style E-commerce Outcome in the WTO would Endanger the Development Dimension of the GATS Acquis (and Potentially the WTO), 21 Journal of International Economic Law, 2018, 274-277.
44. *Kennedy M. D.*, Key Legal Concerns in E-Commerce: The Law Comes to the New Frontier, 18 T.M. Cooley L. Rev. 2001, 18-19.
45. *Mansel R.*, Digital Opportunities and The Missing Link for Developing Countries, 17 (2) Oxford Review of Economic Policy, 2001, 284.
46. *Marzangou A., Ghorbani M., Vandi S. R., Khodami S., Saadati S., Aminian M.*, E-commerce in a Digital Economy, the Challenges and Advantages, 4 International J. Soc. Sci. & Education, 2014, 6.
47. *Molla A., Heeks R.*, Exploring E-Commerce Benefits for Businesses in a Developing Country, 23 (2) The Information Society, 2007, 95-108.
48. *Nirmal B. C., Singh R. K.*, Contemporary Issues in International Law, Springer Singapore, 2018, 22.
49. *Nuray T.*, The Impact of E-commerce on International Trade and Employment, 24 Procedia Social and Behavioral Sciences, 2011.
50. *Panagariya A.*, E-Commerce, WTO and Developing Countries, 2 Policy Issues in International Trade and Commodities Study Series, Geneva, 2000, 3.
51. *Pappas W. C.*, Comparative U.S. and EU Approaches to E-Commerce Regulation: Jurisdiction, Electronic Contracts, Electronic Signatures and Taxation, 31 Denv. J. Int'l L. & Pol'y, 2002.
52. *Reidenberg J. R.*, E-Commerce and Trans-Atlantic Privacy, 38 Hous. L. Rev., 2001, 717-718.
53. *Rostow W. W. (ed.)*, The Stages of Economic Growth, Cambridge University Press, 1962.
54. *Samkharadze I.*, Europeanization of Georgia: The Key Legal Aspects of EU Membership, 5 J. Justice and Law, 2015, 41.
55. *Samuelson P. A.*, International Trade and the Equalization of Factor Prices, LVIII Economic Journal, 1948 163-184.
56. *Slavko D.*, Electronic commerce, 4 (2) Economics, 2016, 3.
57. *Steinmueller W. E.*, Possibilities of Leapfrogging to Higher Value-Added Production for Developing Countries as a Result of New Information and Communication Technologies, 140 (2) International Labour Review, 2001.
58. *Trimble M.*, Geo-blocking, Technical Standards and the Law, Scholarly Works Paper 947, 2016, 55.
59. *Verdun A., Chira G.*, The Eastern Partnership: The Burial Ground of Enlargement Hopes? 9 (4) Comparative European Politics, United Kingdom, 2011, 448-466.
60. *Weber H. R.*, International E-Trade, 41 Intl. L. 51, 2007, 845.
61. *Willemyns I.*, The GATS (in)consistency of Barriers to Digital Services Trade, European Society of International Law (ESIL) Conference, UK, 2018, 4.

62. Shaping the Digital Single Market, <<https://ec.europa.eu/digital-single-market/en/policies/shaping-digital-single-market#Moredocuments>> [05.05.2020].
63. Eastern Partnership, <https://eeas.europa.eu/diplomatic-network/eastern-partnership/419/eastern-partnership_en> [05.05.2020].
64. Harmonisation of the Digital Markets in the Eastern Partnership, Study Report, 2015, <<https://europa.eu/capacity4dev/hiqstep/document/harmonisation-digital-markets-eastern-partnership-study-report>> [05/05/2020].
65. *Khurana A.*, Advantages and Disadvantages of E-commerce, 2018, <<https://www.thebalancesmb.com/ecommerce-pros-and-cons-1141609>> [20.04.2020].
66. Legal Issues with Regard to Business Operations and Investment in Ukraine, OECD Policy Brief, 2004 <<https://www.oecd.org/countries/ukraine/34514482.pdf0>> [05.05.2020].
67. *Magaziner I. C.*, Creating a Framework for Global Electronic Commerce, 1997, <<http://www.pff.org/issues-pubs/futureinsights/fi6.1globaleconomiccommerce.html>> [05.05.2020].
68. Moldova E-commerce, <<https://www.export.gov/article?id=Moldova-eCommerce>> [13.04.2020].
69. National Statistics Office of Georgia, <http://www.geostat.ge/?action=page&p_id=2290&lang=geo> [01.04.2020] (in Georgian).
70. New EU Rules on E-commerce, <<https://ec.europa.eu/digital-single-market/en/new-eu-rules-e-commerce>> [05.05.2020].
71. *Rowley K. A.*, Meanwhile, on the UNCITRAL Front, Commercial Law, 2010, <<http://ucclaw.blogspot.com/2010/06/meanwhile-on-uncitral-front.html>> [05.05.2020].
72. The Digital 2 Dozen, Office of the United States Trade Representative, <<https://ustr.gov/about-us/policy-offices/press-office/reports-and-publications/2016/digital-2-dozen>> [05.05.2020].
73. The European Union External Action, 'Eastern Partnership (EaP)', <https://eeas.europa.eu/diplomatic-network/eastern-partnership/419/eastern-partnership_en> [07.05.2020].
74. Ukraine Enacts E-Commerce Law, Legalizes E-Contracts, <<https://www.bna.com/ukraine-enacts-n57982059078/>> [05.05.2020].