

Trade Governance in the Digital Age

WORLD TRADE FORUM



EDITED BY
Mira Burri and
Thomas Cottier

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TRADE GOVERNANCE IN THE DIGITAL AGE

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MIRA BURRI AND THOMAS COTTIER



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PREFACE

The World Trade Forum has existed since 1997 and has, year after year, established itself as the meeting hub for academia, policy makers, international organisations, and civil society representatives to discuss the new and unsettled questions of the global trading system and to look for future-oriented solutions. In 2010, the fourteenth World Trade Forum, held, as tradition goes, at the World Trade Institute in Bern, took up a particularly thorny topic that challenges not only trade regulation but also many other areas, and essentially all levels of governance.

Embracing the amazing advances in digital technologies, specifically the Internet's wide spread, its deep impact on the economy and continuing integration into the social and cultural fabric of society, a group of outstanding experts gathered together to ask whether international economic law, as created in the analogue/offline era, is capable of facing the reality of digital trade. The answers given and recommendations made differed, but all agreed that both swift responses and apt regulatory design are badly needed.

This book is the result of the contributions to the World Trade Forum, albeit now in a more distilled and succinct form. Needless to say, the volume is only the end product of an exceptional cooperative effort and would not have been possible without the dedicated input of many outstanding people. Particular thanks are owed to the conference participants for their intellectually stimulating presentations and excellent texts, and to those who spurred the debates by acting as discussants. We would like in this context to express our gratitude to Carsten Fink, Rohan Kariyawasam, John Palfrey, Amy Porges, Cyrill Rigamonti, Pierre Sauvé, Rolf Weber, and Sacha Wunsch-Vincent. It is only through the collaborative work of all participants that we could meet the challenge of linking the previously disconnected discourses of international trade, intellectual property and cyberlaw with all their specific and often overly technical issues in an attempt to offer a meaningful, forward-looking analysis of trade governance in the digital age.

We thank the Ecoscientia Foundation for its continued support of the World Trade Forum. We are grateful to the Swiss National Science Foundation as some of the papers emanate from the NCCR Trade Regulation. We also wish to thank Margrit Vetter and Gaby Hofer for the smooth organisation of yet another event and for making everyone feel welcome. This volume would not have been possible without the dedicated work of Susan Kaplan in reviewing the manuscripts. Finally, our heartfelt thanks are owed to Finola O'Sullivan and her excellent team at Cambridge University Press for their unfailing support and strong commitment to the World Trade Forum series.

Mira Burri and Thomas Cottier

ABBREVIATIONS

AANZFTA	ASEAN–Australia–New Zealand Free Trade Area
ABTS	Agreement on Basic Telecommunications Services
ACP	African, Caribbean and Pacific Group of States
ACTA	Anti-Counterfeiting Trade Agreement
ADP	automatic data processing
ADSL	asymmetric digital subscriber line
AGRA	Alliance for a Green Revolution in Africa
AIDS	acquired immunodeficiency syndrome
APEC	Asia-Pacific Economic Cooperation
API	application programming interface
ASEAN	Association of Southeast Asian Nations
ATM	asynchronous transfer mode
B2B	business-to-business
B2C	business-to-consumer
BEREC	Body of European Regulators for Electronic Communications
BOP	balance of payments
BSAC	British Screen Advisory Council
BTA	Basic Agreement on Telecommunications
CAFTA-DR	Dominican Republic–Central America Free Trade Agreement
ccTLD	country-code top-level domain
CEPT	European Conference of Postal and Telecommunications Administrations
CERN	Conseil Européen pour la Recherche Nucléaire; European Organization for Nuclear Research
CISG	Convention on the International Sale of Goods
CPC	UN Central Product Classification
CTS	Council for Trade in Services
DDA	Doha Development Agenda
DMCA	Digital Millennium Copyright Act
DoJ	U.S. Department of Justice
DPI	deep packet inspection
DRM	digital rights management
DSL	digital subscriber line