EUROPEAN
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COM(2026) 486 final

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations for a digital trade agreement with Costa Rica

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The digitalisation of the economy changes the scale, scope and speed of international trade. It allows businesses to reach and sell goods and services to a larger number of customers around the world and greatly enhance consumer's choice. It also allows businesses to use new and innovative digital tools to overcome barriers to growth. In particular small and medium enterprises (SMEs) benefit from these opportunities and can become more integrated in global value chains.

Trade in goods and services enabled by electronic means ('digital trade'[1]) is growing in importance on a global scale. Digital trade encompasses both the physical delivery of goods and services the purchase of which is enabled digitally (such as the purchase of a book through an internet platform) as well as the digital delivery of goods and services (such as software, e-books or data flows), involving both business-to-business and business-to-consumer transactions. It has been estimated that Digital Trade accounts for around 25% of all international trade and has been growing at a faster pace than traditional trade. The EU is the world's leader in both exports and imports of digitally deliverable services, which amounted to EUR 1.7 trillion in 2024, or 58% of the EU's total trade in services.

In December 2024, 71 members of the World Trade Organization ("WTO") concluded negotiations for the Agreement on Electronic Commerce ("ECA"). On 28 March 2026, 67 WTO members, including the European Union and Costa Rica, confirmed their intention to implement the ECA as soon as possible, subject to the completion of their respective internal procedures. The participation of EU and Costa Rica signals the broad alignment on key issues relevant to digital trade as well as the shared support for a high-standard framework.

The EU and Costa Rica are close partners, with their economic relationship underpinned by the trade pillar of the EU–Central America Association Agreement, which has been provisionally applied since 1 October 2013 and entered fully into force on 1 May 2024. Costa Rica is one of the most digitally advanced and innovative economies in Latin America, with a strong services sector, a growing digital economy and a well-established ecosystem for high-value manufacturing and business services. Since the provisional application of the trade pillar, bilateral services trade has also grown rapidly, with EU exports of services to Costa Rica increasing by 280% and imports by 281% between 2013 and 2024.[2] Costa Rica has also become an attractive destination for European investment, particularly in information and communication technologies. Bilateral trade increasingly reflects Costa Rica's transition towards high-value manufacturing, with non-agricultural products accounting for about two-thirds of the country's exports to the EU in 2025.[3]

Negotiating ambitious digital trade rules with Costa Rica has significant potential to further facilitate cross-border digital trade between the EU and Costa Rica, reduce regulatory barriers, create new opportunities for EU businesses, notably micro, small and medium-sized enterprises, and strengthen consumer trust in the digital economy.

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1 Internationally often used interchangeably with 'e-commerce'.
2 Eurostat International trade in services (since 2010).
3 Eurostat EU trade since 1988.

This recommendation is submitted to the Council pursuant to Article 218 of the Treaty of the Functioning of the European Union (TFEU) so that the Commission receives authorisation to open bilateral negotiations with Costa Rica for a digital trade agreement, to provide negotiating directives, and to appoint the Commission as negotiator. The proposed recommendation and negotiating directives aim to ensure that the EU is in a position to engage in negotiations with Costa Rica on the digital trade issues proposed by these parties in the course of negotiations, in full respect of the EU acquis, including the framework for personal data protection, and the EU's policy choices in trade negotiations. The EU's objectives of the negotiations are to enhance bilateral digital trade, facilitate the operations of businesses, including micro, small and medium enterprises and to strengthen consumers' trust in the on-line environment.

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

The initiative builds on the Treaty on the European Union (TEU) that provides that the EU should 'encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade'.

This initiative is consistent with the EU Competitiveness Compass, which outlines strategies to diversify and fortify supply chains by developing a new range of clean trade and investment partnerships.[4]

It also aligns with the EU's Strategic approach to strengthen Europe's economic security, which emphasises the need to strengthen cooperation with like-minded partners worldwide, both bilaterally and multilaterally.[5]

The initiative is consistent with the International Digital Strategy that states that the ongoing global competition for technological supremacy, no individual nation excels in every aspect of the tech value chain. The landscape is constantly evolving due to innovation and competition. Therefore, international collaboration and trade with key partners and allies, alongside effective diversification and risk management strategies, are essential to advancing the EU's technology and digital objectives.[6]

It is consistent with and complements the EU–Central America Association Agreement, which already enhanced and liberalised bilateral trade relations between the European Union and Costa Rica, but which does not provide for comprehensive rules on digital trade.

The EU systematically puts forward ambitious regulatory disciplines on digital trade in its free trade negotiations. The negotiating directives proposed follow a consistent approach as the EU pursued for its recent DTA negotiations with Singapore and South Korea[7], and the ongoing negotiations with Canada[8]. Similarly, the negotiating directives proposed follow the approach pursued for digital chapters of FTA negotiations, including as most recently concluded with India in the EU-India FTA, Indonesia in the EU-Indonesia Comprehensive Economic Partnership Agreement (CEPA), with Australia, in the EU-Australia FTA, as well as with the United Kingdom in the EU-UK Trade and Cooperation Agreement, with Chile in

4 European Commission. Competitiveness compass. Competitiveness compass - European Commission.
5 JOIN(2025) 977 final (3.12.2025).
6 JOIN(2025) 140 final (5.6.2025).
7 COM(2023) 230 final 9 (14.4.2023).
8 COM(2025) 480 final (10.9.2025).

the EU-Chile Advanced Framework Agreement, and with New Zealand for the EU-New Zealand FTA.

The initiative is also consistent with the previous negotiations on e-commerce amongst WTO members and the resulting plurilateral Agreement on Electronic Commerce.[9]

- **Consistency with other Union policies**

The negotiating directives build on, and are fully in line with, the EU's internal market legislation in the area of digital trade. The proposed negotiating directives also confirm that any rule or commitment agreed upon by the EU should be in line with the EU legal framework and should preserve the policy space required to implement EU legislation. They are consistent with the Declaration on European digital rights and principles, signed by the European Parliament, the Council, and the European Commission on 15 December 2022, which the EU aims to promote in its international trade relations.[10] This is aligned with the objectives out by the EU's International Digital Strategy to guide Europe's digital transformation globally.

The disciplines proposed by the EU in bilateral negotiations build on, and are fully in line with, the EU's internal market legislation in the area of digital trade.

The proposed negotiating directives confirm that any rule or commitment agreed upon by the EU should be in line with the EU legal framework.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The procedural legal basis for the proposed decision to authorise the opening of negotiations of the envisaged agreement is Article 218(3) and (4) TFEU.

Article 218(3) of the Treaty on the Functioning of the European Union (TFEU) provides that, where the agreement envisaged does not relate exclusively or principally to the common foreign and security policy, the Commission shall submit recommendations to the Council. The Council shall adopt a decision authorising the opening of the negotiations and nominating the Union negotiator or the head of the Union's negotiating team.

Article 218(4) TFEU provides that the Council may address negotiating directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.

The Commission recommends to open negotiations between the European Union and Costa Rica for an international agreement relating to digital trade. The Commission is to be nominated as negotiator.

- **Substantive legal basis**

This act falls within the common commercial policy and hence the substantive legal basis is the first subparagraph of 207(4) TFEU.

9 https://www.consilium.europa.eu/media/39504/st08993-en19.pdf.
10 European Declaration on Digital Rights and Principles for the Digital Decade 2023/C 23/01, OJ C 23, 23.1.2023, p. 1-7.

- **Choice of negotiator**

Given that the agreement envisaged exclusively covers maters other than the common foreign and security policy, the Commission must be designated as the negotiator pursuant to Article 218(3) TFEU.

- **Union competence**

This act falls within the common commercial policy under Article 207 TFEU. It therefore falls within the exclusive competence of the Union in accordance with Article 3(1) 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. The common commercial policy is an area of exclusive competence of the Union under Article 3 of the TFEU.

- **Proportionality**

This initiative does not go beyond what is necessary to achieve the policy objectives at stake.

- **Choice of the instrument**

This recommendation for a Council decision is submitted in accordance with paragraphs 3 and 4 of Article 218 TFEU, which envisage the adoption by the Council of a decision authorising the opening of negotiations and nominating the Union negotiator. The Council may also address negotiating directives to the negotiator. There exists no other legal instrument that could be used in order to achieve the objective expressed in this recommendation.

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**

An impact assessment has not been carried out since it is particularly difficult to measure the economic impact of the initiative as compared to the existing situation, given that the digital trade rules envisaged will facilitate the bilateral trade relations that have already been liberalised and enhanced by the existing trade pillar of the EU-Central America Association Agreement. The trade pillar, which has applied with respect to Costa Rica already since 1 October 2013, already includes comprehensive provisions on market access for trade in both goods and services, but lacks provisions on digital trade. The initiative will thus primarily have an impact in terms of granting additional legal certainty to the operators engaging in digital trade in the liberalised sectors. Furthermore, the scope for alternative approaches is limited, as the intended disciplines for the negotiations are very similar to those already included in the Digital Trade Agreements with Singapore and Korea, and are currently being negotiated with Canada, as well as the WTO Agreement on Electronic Commerce.

Any additional substantive proposals that the other parties may make cannot be identified and assessed ex ante. The initiative does not include an implementation plan at this stage, as the specifics will only be clear upon conclusion of the negotiations.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

The initiative fully respects the Charter of Fundamental Rights of the European Union, and in particular Article 8 on the protection of personal data.

4. BUDGETARY IMPLICATIONS

The initiative does not have budgetary implications.

5. OTHER ELEMENTS

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

The negotiations are expected to span a period until 2028, after which the signature and conclusion of the agreements on digital trade rules may take place.

- **Explanatory documents (for directives)**

Not applicable.

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

The provisions aim to recommend the adoption by the Council of a decision authorising the opening of negotiations and nominate the Union negotiator. The Council may address directives to the negotiator.

Recommendation for a

COUNCIL DECISION

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

(1) The European Union and Costa Rica have a deep and dynamic economic relationship. Costa Rica is an important trading partner of the European Union in the Central American region. The Trade Pillar of the European Union–Central America Association Agreement has applied provisionally with respect to Costa Rica since 1 October 2013. While that Agreement provides a comprehensive framework for trade in goods and services between the Parties, it does not contain comprehensive rules on digital trade.

(2) In March 2023, the European Union and the Latin America and the Caribbean (LAC) region launched the EU–LAC Digital Alliance to strengthen cooperation across the full spectrum of digital and space-related issues. Within that framework, the European Union and Costa Rica have deepened their cooperation in areas including cybersecurity, digital innovation and human-centric artificial intelligence.

(3) Costa Rica has demonstrated a strong commitment to digital transformation and international digital governance, including during its Chairmanship of the OECD Ministerial Council in 2025.

(4) The European Union has successfully incorporated digital trade rules in several bilateral free trade agreements with third countries, as well as Digital Trade Agreements with Singapore and Korea. Furthermore, the negotiations on a plurilateral Agreement on Electronic Commerce in the WTO were completed in July 2024 and its Parties, including the European Union and Costa Rica, are currently taking the necessary steps to secure its provisional application pending its incorporation into the WTO legal framework.

(5) 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][11].

(6) Therefore, it is appropriate to authorise the Commission to open negotiations on binding digital trade disciplines that are coherent with these agreements and pursue the same objectives that the European Union intends to achieve in the ongoing negotiations,

[11] OJ C [...], [...], p. [...].

HAS ADOPTED THIS DECISION:

Article 1

1. The Commission is hereby authorised to negotiate, on behalf of the Union, a digital trade agreement ith Costa Rica.

2. The negotiations shall be conducted on the basis of the negotiating directives of the Council set out in the Annex to this Decision.

Article 2

The Commission is hereby nominated as the Union negotiator.

Article 3

The negotiations shall be conducted in consultation with the special committee provided for in the third subparagraph of Article 207(3) TFEU.

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President