

# POLICY BRIEF

## Asia and Digital Economy Agreements: Necessity and Uncertainty

### Introduction

On 12 June 2020, Singapore, Chile and New Zealand signed a Digital Economy Partnership Agreement (DEPA). It was the first of its kind<sup>1</sup> and addressed issues arising from cross-border digitalisation, including the need for system interoperability. A similar arrangement has been established between Singapore and Australia in the form of a Digital Economy Agreement. This updated the existing bilateral trade agreement between the two countries to cover 'digital' issues such as e-commerce. Since then, Singapore has concluded negotiations on two more digital economy agreements, namely the United Kingdom-Singapore Digital Economy Agreement (UKSDEA) and the Korea-Singapore Digital Partnership Agreement (KSDPA).

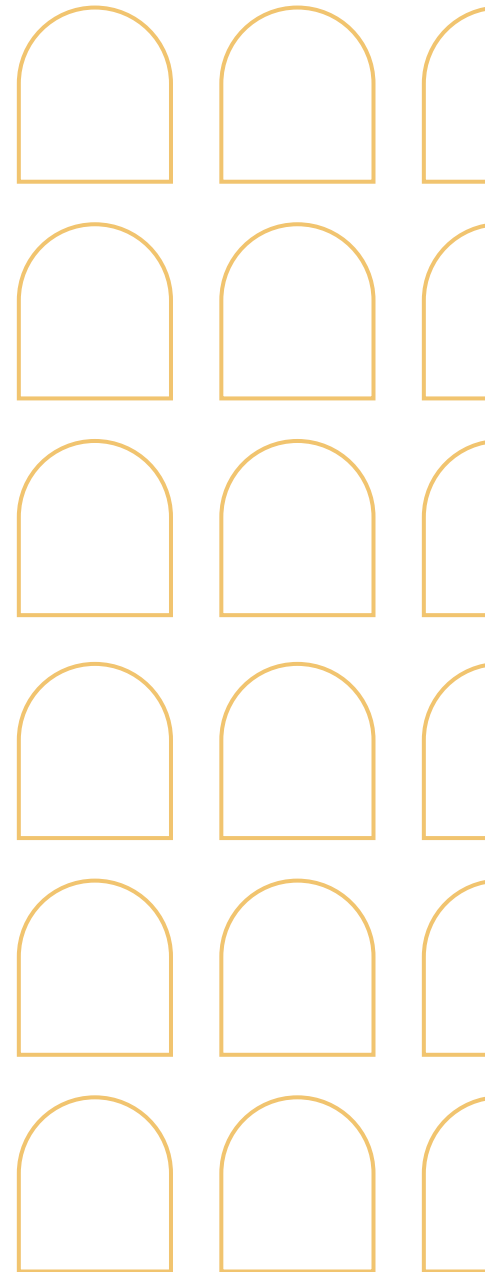
These digital economy agreements (DEAs) are to a certain extent bespoke, with differing details and processes when it comes to enforcing and enhancing them. For example, the Singapore-Chile-New Zealand DEPA establishes a joint committee comprising government representatives to consider matters related to implementation, amendments or further enhancements of the agreement. On the other hand, the Singapore-Australia Digital Economy Agreement (SADEA) relies more on broader FTA mechanisms that have been updated from previous FTA

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1 MTI. (2022). Digital economy partnership agreement (DEPA). Ministry of Trade and Industry Singapore. Available at <https://www.mti.gov.sg/Improving-Trade/Digital-Economy-Agreements/The-Digital-Economy-Partnership-Agreement#:~:text=The%20DEPA%20is%20a%20first,issues%20brought%20about%20by%20digitalisation.>

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**EU-Asia project**

Issue 2022/42

June 2022

agreements. Notwithstanding these differences, the structure of these agreements is largely similar and they contain many of the same features. Noteworthy articles in them include electronic authentication and signatures, electronic invoicing and payments, paperless trading, personal information protection, digital identities, cross-border transfers of information by electronic means, fintech and regtech cooperation, cybersecurity and artificial intelligence.<sup>2</sup>

In recent times, other regional trade agreements have been negotiated to address some of these ubiquitous digital issues. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)<sup>3</sup> includes commitments to facilitate digital trade<sup>4</sup> by enabling cross-border data flows in e-commerce and providing online consumer protection, among other things. The Regional Comprehensive Economic Partnership (RCEP) between all ten ASEAN member states and five<sup>5</sup> of its FTA partners contains an e-commerce chapter<sup>6</sup> addressing cross-border transactions, paperless trading and electronic authentication. These agreements show

the need to prioritise the fast-growing digital economy in order to facilitate business between countries.

More countries are trying to get on board these digital economy agreements. In November 2021, China officially filed an application<sup>7</sup> to join the Singapore-Chile-New Zealand DEPA. Canada,<sup>8</sup> Japan<sup>9</sup> and Britain<sup>10</sup> have also expressed interest in joining the DEPA. Meanwhile, Vietnam and Singapore have set up a joint technical working group on Digital Partnership<sup>11</sup> to examine the potential for developing a bilateral DEA. Singapore and France have a 'Digital and Green Partnership'<sup>12</sup> to co-develop products and services such as smart transport and education technology. Digital rules are beginning to be established at the bilateral and mini-lateral levels and the next steps will involve harmonising ideas at the regional level within ASEAN.

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2 ABTA. (2020, August). "Digital" Free Trade Agreements: Comparing DEA, DEPA and CPTPP. Asia Business Trade Association. Available at <https://static1.squarespace.com/static/59cb8dbe37c581113d249e01/t/5f4c87b5818ebd252249573f/1598850999601/ABTA+Issue+01-20+Digital+FTAs.pdf>

3 The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) is a free trade agreement (FTA) between Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, Peru, New Zealand, Singapore and Vietnam. DFAT. (n.d.). *Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)*. Department of Foreign Affairs and Trade. Available at <https://www.dfat.gov.au/trade/agreements/in-force/cptpp/comprehensive-and-progressive-agreement-for-trans-pacific-partnership>

4 WTO Center-VCCI. (2019, February 22). *Chapter 14: Electronic commerce. Center for WTO and International Trade, Vietnam Chamber of Commerce and Industry*. Available at <https://wtocenter.vn/upload/files/fta/174-ftas-concluded/175-cptpp-tpp11/177-full-text/14.-Electronic-Commerce-Chapter.pdf>

5 China, Japan, Korea, Australia and New Zealand

6 RCEP. (2020, November). *Chapter 12: Electronic commerce. Regional Comprehensive Economic Partnership*. Available at <https://rcepsec.org/wp-content/uploads/2020/11/Chapter-12.pdf>

7 MOFCOM. (2021, November 3). *China has submitted an official application to join the Digital Economy Partnership Agreement (DEPA)*. Ministry of Commerce, People's Republic of China. Available at <http://english.mofcom.gov.cn/article/newsrelease/significantnews/202111/20211103214781.shtml>

8 Global Affairs Canada. (2022, May 22). *Minister Ng announces Canada's request to join the Digital Economy Partnership Agreement*. Government of Canada. Available at <https://www.canada.ca/en/global-affairs/news/2022/05/minister-ng-announces-canadas-request-to-join-the-digital-economy-partnership-agreement.html>

9 Heisler, J. (2021, April 21). *Smaller economies see opportunities in digital trade pact*. VOA News. Available at [https://www.voanews.com/a/economy-business\\_smaller-economies-see-big-opportunities-digital-trade-pact/6204836.html](https://www.voanews.com/a/economy-business_smaller-economies-see-big-opportunities-digital-trade-pact/6204836.html)

10 Ibid.

11 Ng, E. (2021, June 22). *Singapore, Vietnam to work on digital economy agreements*. The Straits Times. Available at <https://www.straitstimes.com/asia/se-asia/singapore-vietnam-to-set-up-working-groups-to-develop-agreements-on-digital-economy>

12 Yu, E. (2022, March 14). *Singapore, France ink digital economy agreement that encompasses green tech*. ZD-Net. Available at <https://www.zdnet.com/article/singapore-france-ink-digital-economy-agreement-that-encompasses-green-tech/>

## ASEAN digital integration

Since the inauguration of the ASEAN Community, the group has made progress on economic integration, especially with the implementation of free trade agreements. As the world and ASEAN become more digitalised, the goal is for ASEAN to be a rules-based digital society founded on neutral interoperable standards-based systems.<sup>13</sup> However, its steps on the digital economy are relatively new and nascent.

The first ASEAN Digital Ministers' Meeting was held on 22 January 2021. It marked a shift from what was previously termed the ASEAN Telecommunications and Information Technology (IT) Ministers' Meeting. Information and communications technology (ICT) was no longer a standalone sector but was increasingly embedded in digital services that affect daily life. This was affirmed during the COVID-19 pandemic when the ASEAN countries recognised the role of "accelerating [an] inclusive digital transformation"<sup>14</sup> as a key focus of the ASEAN Comprehensive Recovery Framework (ACRF) and its Implementation Plan.

Multiple initiatives have subsequently been launched to guide digital cooperation in ASEAN. They include the Digital Master Plan 2025, an agreement on e-commerce and a consolidated strategy on the Fourth Industrial Revolution (4IR). The Bandar Seri

Begawan Roadmap<sup>15</sup> endorsed by the 20th ASEAN Economic Community Council on 18 October 2021 mentioned an ASEAN Digital Economy Framework Agreement (DEFA) by 2025. Singapore is poised to play a key role in these initiatives, with the country's Trade and Industry Minister alluding to the need to lay down rules in areas such as cross-border data transfers and cyber security.<sup>16</sup>

While ASEAN is forging ahead in the digital arena, there are internal challenges within the bloc given the diversity of its membership. The nature of digital issues means they are not limited to the economic space but span across the ASEAN 'pillars'<sup>17</sup> relating to society and security as well. The uneven digital infrastructure across the region is evident in less developed and rural areas in ASEAN,<sup>18</sup> where citizens have low broadband penetration and mobile coverage. In the more developed economies, the threat of hackers and cyber-terrorism is very real. In the short term, these factors will have a dampening effect on widespread adoption and use of digital technology until such a time when solutions to these issues are found. For these reasons, we foresee a complex dynamic interplay between ASEAN's development of its Digital Masterplan and the bilateral and mini-lateral efforts involving partners from outside the region.

Within ASEAN, Vietnam and Indonesia have adopted a more restrictive stance in the area of cross-border data flows.<sup>19</sup> While Indonesia relaxed its data

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13 MCI. (2021, September 9). *Speech by Senior Minister of State Dr Janil Puthuchery at Singapore Institute of International Affairs (SIIA) 13th Asean & Asia Forum on 9 Sep.* Ministry of Communications and Information. Available at <https://www.mci.gov.sg/pressroom/news-and-stories/pressroom/2021/9/speech-by-senior-minister-of-state-dr-janil-puthuchery-at-singapore-institute-of-international-affairs-13th-asean-and-asia-forum-on-9-sep>

14 ASEAN. (2021, August). *ASEAN Comprehensive Recovery Framework: Implementation plan.* Association of Southeast Asian Nations. Available at [https://asean.org/wp-content/uploads/2021/08/ACRF-Implementation-Plan\\_Pub-2020.pdf](https://asean.org/wp-content/uploads/2021/08/ACRF-Implementation-Plan_Pub-2020.pdf)

15 ASEAN. (2021, October 21). *ASEAN Economic Community Council endorses roadmap to accelerate economic recovery, digital economy integration.* Association of Southeast Asian Nations. Available at <https://asean.org/asean-economic-community-council-endorses-roadmap-to-accelerate-economic-recovery-digital-economy-integration/>

16 Choo, Y. T. (2022, March 23). *Singapore plays key role in digitalisation integration initiatives in Asean: Gan Kim Yong.* *The Straits Times.* Available at <https://www.straitstimes.com/business/singapore-plays-key-role-in-digitalisation-integration-initiatives-in-asean-gan-kim-yong>

17 The ASEAN Community consists of three pillars, namely the ASEAN Political-Security Community (APSC), the ASEAN Economic Community (AEC) and the ASEAN Socio-Cultural Community (ASCC).

18 World Bank. (2019). *The digital economy in Southeast Asia: Strengthening the foundations for future growth.* World Bank. Available at <https://documents1.worldbank.org/curated/en/328941558708267736/pdf/The-Digital-Economy-in-Southeast-Asia-Strengthening-the-Foundations-for-Future-Growth.pdf>

19 UNDP. (2021, February 11). *Enabling cross-border data flow: ASEAN and beyond.* United Nations Development Programme. Available at <https://www.undp.org/publications/enabling-cross-border-data-flow-asean-and-beyond>

localisation requirements<sup>20</sup> in 2021, restrictions are still in place for “public electronic systems operators” and the financial services and banking sector, which accounts for a large percentage of data storage. Similarly, Vietnam’s 2018 Cybersecurity Law requires providers of online services to store data locally, with foreign businesses obliged to “have branches or representative offices in Vietnam.”<sup>21</sup>

## Digital economy agreements – aims and requirements

With the onset of the 4IR and the accelerated pace of digitalisation due to the COVID-19 pandemic, the trajectory for DEAs appears to be one of growth. The aim of DEAs is to facilitate business deals, which are increasingly moving into the digital space. DEAs introduce new rules and norms for electronic transactions which cover issues related to locations where data should be stored, how online information is classified and protected depending on the level of sensitivity and reducing barriers to digital trade. DEAs also help to establish channels of co-operation in digital innovation and ensure that they remain open.

There are several underlying assumptions and requirements for DEAs. First, systems and digital platforms need to be able to ‘talk’ to one another. For example, in the move towards paperless invoicing, the systems in both countries party to a DEA need the ability to accurately recognise and verify trade-related certification. For a region like ASEAN, where the digital infrastructure – and the sophistication of corresponding digital systems – is diverse, meeting the requirements for system interoperability may be challenging. This is especially so as the digital economy covers a multitude of areas from trade to payments to ensuring the security and privacy of online personal data.

Benefits of DEAs <sup>22</sup>	
Facilitate seamless end-to-end trade	<ul style="list-style-type: none"> <li>· Develop safe and secure digital identities that are mutually recognised</li> <li>· Shorter invoice processing time, faster payment and cost savings when similar e-invoicing standards are adopted</li> <li>· Reduce time for document transit and cargo clearance, resulting in lower operating costs</li> <li>· Promote cooperation among companies in the FinTech sector and develop FinTech solutions for businesses</li> </ul>
Enable trusted data flows	<ul style="list-style-type: none"> <li>· Personal data protection</li> <li>· Open government data</li> <li>· Cross border data flows</li> <li>· Data innovation and regulatory sandboxes</li> </ul>
Build trust in digital systems and facilitate opportunities for participation in the digital economy	<ul style="list-style-type: none"> <li>· Promote the adoption of ethical AI governance frameworks which factor in principles that countries have agreed to in order to harness AI in a responsible manner</li> <li>· Capacity-building efforts such as a Digital SME Dialogue to promote information sharing and exchange</li> <li>· Adopt or maintain laws and regulations that guard against fraudulent, misleading or deceptive conduct that causes harm to consumers engaged in online commercial activities</li> <li>· Remove barriers to the digital economy and promote digital inclusion and participation</li> </ul>

20 Bartels, J. (2021, May 24). *Cross-border data transfers – an Indonesian law update*. Business Information Industry Association. Available at <https://www.biia.com/cross-border-data-transfers-an-indonesian-law-update/>

21 Economica. (2018, June 12). *Law on cybersecurity*. Economica. Available at <https://www.economica.vn/Content/files/LAW%20%26%20REG/Law%20on%20Cyber%20Security%202018.pdf>

22 IMDA. (2020). *Digital economy agreements*. Infocomm Media Development Authority. Available at <https://www.imda.gov.sg/-/media/Imda/Files/About/Media-Releases/2020/COS2020/Annex-H-COS-2020---Factsheet---Digital-Economy-Agreements.pdf?la=en&hash=7E04400587BF669413E56C1D360D1064>



Another underlying requirement is for parties to be like-minded in the area of information sharing. Countries that have more open data policies may meet resistance from counterparts that prefer to have control over their data citing security reasons. While open government data appears to benefit businesses and is expected to boost economic growth and innovation,<sup>23</sup> countries may not have the capacity, or a robust trust system, to enable a relaxation of data policies. This is a recurring problem in cross-border data flows, regarding which countries in the region may implement policies such as data localisation, which makes it more difficult for businesses with a regional presence to engage in smooth online transactions.

The protection of personal data needs to be embedded in these agreements to ensure trust and security. The EU has led the charge with its General Data Protection Regulation (GDPR), according to which organisations are obliged to safeguard the privacy of personal data and online users have more say in how their data is used. In ASEAN, Singapore and Thailand have adopted measures from the GDPR in their own privacy laws. Singapore's Personal Data Protection Act (PDPA) regulates the flow of personal data among organisations. Similarly, Thailand introduced a PDPA in 2019 and it came into force on 1 June 2022.

ASEAN is moving towards regionalising these data protection standards by providing an ASEAN Data Management Framework (DMF) and ASEAN Model Contractual Clauses (MCCs). The DMF supports cross border data flows by laying out clear guidelines for corporations, especially SMEs, on data management and risk assessment.<sup>24</sup> The MCCs provide model contractual terms that include binding legal agreements on personal data transfers between businesses across borders.<sup>25</sup>

## Geopolitical uncertainties in DEAs

Digital economy agreements represent a window of opportunity to start establishing trade rules at the bilateral and regional level. For Singapore, having a robust set of DEAs is complementary to its leadership role in the World Trade Organisation (WTO) as a co-convenor of the Joint Statement Initiative on E-Commerce (JSI) with Australia and Japan. However, the WTO has long been accused of not being able to keep up with evolving trade issues, especially in the area of digitalisation. The WTO's top dispute settlement administration has been weakened since the era of President Donald Trump in the US. In this context, DEAs will become more prominent as countries prioritise digital policy in order to grow and for strategic reasons.

While DEAs (and trade agreements more broadly) are made to provide win-win situations for all parties to benefit economically, some geopolitical issues are intertwined. For example, the TPP was initially viewed as a result of America's desire to pivot to Asia. After a series of events, the current CPTPP excludes the US while drawing interest from China, which has expressed a desire to join the trade pact. China's presence in the RCEP and its application to join the DEPA are moves towards positioning itself as a key player in the region and establishing greater influence while further strengthening ties with countries in the ASEAN region.

The ongoing talks revolving around who joins which trade/digital agreement also have to be seen in the light of the US Indo-Pacific strategy,<sup>26</sup> the ASEAN outlook on the Indo-Pacific (AOIP) and other mechanisms such as the APEC Cross-Border Privacy Rules system (CBPR). The 2019 AOIP was meant to assert ASEAN centrality and highlight the message of inclusivity in a Free and Open Indo-Pacific (FOIP), which was viewed as anti-China. The document highlights the need for cooperation on the digital economy including "sharing of experiences and expertise on ways to benefit from, and address

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23 Leviäkangas, P. & Molarius, R. (2020). *Open government data policy and value added – Evidence on transport safety agency case*. ScienceDirect. Available at <https://www.sciencedirect.com/science/article/pii/S0160791X19307420>

24 Wau, J. & Nambiar, R. (2022, June 1). *Charting ASEAN's digital future: Emerging policy challenges*. Singapore Institute of International Affairs. Available at <http://www.siaaonline.org/charting-aseans-digital-future-emerging-policy-challenges/>

25 Ibid.

26 The White House. (2022, February). *Indo-Pacific strategy of the United States*. The White House Washington. Available at <https://www.whitehouse.gov/wp-content/uploads/2022/02/U.S.-Indo-Pacific-Strategy.pdf>

challenges of, the digital revolution.”<sup>27</sup> More concretely, the ASEAN Digital Master Plan adopted in January 2021 includes an agreement on e-commerce and lays the groundwork for negotiating an ASEAN Digital Economy Framework Agreement in 2025.

In the US, the Biden administration formally introduced the long-awaited Indo-Pacific Economic Framework (IPEF)<sup>28</sup> on 23 May 2022, which included digital components. The framework includes a pillar on a ‘Connected Economy’ in which not only trade is emphasised but also “high-standard rules” were announced on the digital economy including standards on cross-border data flows and data localisation. However, a glaring gap in the IPEF is that it is neither a free trade agreement nor a security pact.

While seven<sup>29</sup> of the ten ASEAN countries have agreed to partner with the US on this framework, a common criticism is a lack of market access. The IPEF therefore only serves to provide principles to improve transparency and information sharing in the digital economy. It does not measure up to the CPTPP and the DEPA, which are ratified trade agreements that definitively address digital economy issues. The US instead has something more concrete in its US-Japan digital trade agreement, which encourages the free flow of cross-border data, promotes government-to-government collaboration and guarantees consumer privacy protection.

## Conclusion: multilateralism and like-mindedness

The need for digital economy agreements in their various forms (including partnership agreements) is evident in an increasingly digitalised world. More countries are prioritising digitalisation in their economic plans, which in effect pushes them towards bilateral, regional and multilateral agreements on digital issues. These DEAs provide both economic opportunities and a chance to expand influence in the process of framing the necessary rules on the digital economy. Newer regional agreements such

as the CPTPP and the RCEP already have e-commerce provisions to help provide regulatory clarity on digital trade. Singapore is proactively advancing these agreements with its DEAs and the US is emphasising the importance of digital rules in its Indo-Pacific Economic Framework.

There are also new needs for economic integration to address issues relating to sustainability and social equity. Climate concerns are weighing on policymakers’ minds and many economies are setting commitments to achieve net-zero targets. Increased connectivity might also mean more visibility of inequality and therefore more demands on governments for inclusive policies. The DEAs must consider how to address these challenges in relation to the digital economy.

For Singapore and its partners, these DEAs are the early stages towards what are likely to be more widespread agreements and avenues for cooperation. Countries will be forced to examine their practices and values in relation to digital trade and cross border data flows. Shaping these digital standards will only be able to move forward among like-minded countries. However, these DEAs are meant to improve interoperability and harmonisation, and counter the threat of bifurcation in the technology space due to Sino-American tensions. Discussions on these pertinent issues have begun through these DEAs and are poised to continue further.

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27 ASEAN. (2021, January). *ASEAN Outlook on the Indo-Pacific*. Association of Southeast Asian Nations. Available at [https://asean.org/asean2020/wp-content/uploads/2021/01/ASEAN-Outlook-on-the-Indo-Pacific\\_FINAL\\_22062019.pdf](https://asean.org/asean2020/wp-content/uploads/2021/01/ASEAN-Outlook-on-the-Indo-Pacific_FINAL_22062019.pdf)

28 The White House. (2022, May 23). *Fact sheet: In Asia, President Biden and a dozen Indo-Pacific partners launch the Indo-Pacific Economic Framework*. The White House, Washington. Available at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/23/fact-sheet-in-asia-president-biden-and-a-dozen-indo-pacific-partners-launch-the-indo-pacific-economic-framework-for-prosperity/>

29 Laos, Cambodia and Myanmar are the ASEAN countries that did not join the IPEF.

## The Global Governance Programme

The Global Governance Programme (GGP) is research turned into action. It provides a European setting to conduct research at the highest level and promote synergies between the worlds of research and policy-making, to generate ideas and identify creative and innovative solutions to global challenges. The Programme is part of the Robert Schuman Centre for Advanced Studies of the European University Institute, a world-renowned academic institution. It receives financial support from the European Commission through the European Union budget. Complete information on our activities can be found online at: [globalgovernanceprogramme.eui.eu](http://globalgovernanceprogramme.eui.eu)

## EU-Asia Project

The EU-Asia project is a research and educational initiative within the Global Governance Programme. It is designed to contribute to mutual understanding and exchange between Asia and Europe at a time of unprecedented change in international politics and global governance. The project also aims at an ambitious academic programme on EU and Asia, with a particular focus on Japan.

## Robert Schuman Centre for Advanced Studies

The Robert Schuman Centre for Advanced Studies (RSCAS), created in 1992 and directed by Professor Erik Jones, aims to develop inter-disciplinary and comparative research on the major issues facing the process of European integration, European societies and Europe's place in 21<sup>st</sup> century global politics. The Centre is home to a large post-doctoral programme and hosts major research programmes, projects and data sets, in addition to a range of working groups and ad hoc initiatives. The research agenda is organised around a set of core themes and is continuously evolving, reflecting the changing agenda of European integration, the expanding membership of the European Union, developments in Europe's neighbourhood and the wider world.

[www.eui/rsc](http://www.eui/rsc)



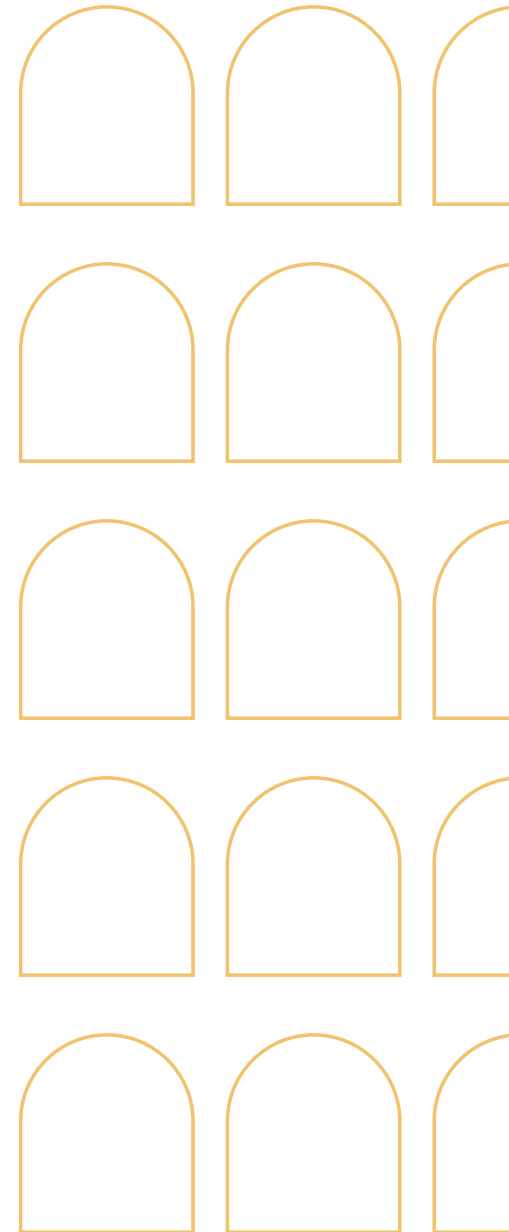
Co-funded by the  
Erasmus+ Programme  
of the European Union

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Editorial matter and selection © Simon Tay, Jessica Wau, 2022

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Published by  
European University Institute (EUI)  
Via dei Roccettini 9, I-50014  
San Domenico di Fiesole (FI)  
Italy



doi:10.2870/887824  
ISBN:978-92-9466-240-8  
ISSN:2467-4540  
QM-AX-22-042-EN-N