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Beyond Gats: Rethinking Services Trade Law For Platform-Based Economies

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Abstract: *This study examines the limitations of GATS in regulating platform-based economies, explores the challenges of digital services trade, employs doctrinal and comparative analysis, and proposes a reimagined legal framework to balance liberalization, regulation, and inclusion. The rise of digital platforms from ride-sharing and remote freelancing to cloud services and data marketplaces has transformed global services trade. These platform-based models do not fit neatly within the legal and institutional architecture of the General Agreement on Trade in Services GATS, which was conceived in a pre-digital era. This article argues that the GATS framework, although foundational, is increasingly insufficient to govern the complexities of modern digital services trade. It identifies structural limitations of current rules, evaluates member state practices, and proposes a reconceptualized legal framework that accommodates platform-driven value creation, data flows, digital standards, and regulatory cooperation. The article proposes a forward-looking approach grounded in three pillars: (1) digital-centric trade obligations, (2) adaptive regulatory governance, and (3) equitable digital inclusion.*

Keywords: Digital platforms, Cross-border data flows, Algorithmic governance, Trade liberalization, Regulatory cooperation

Introduction

The rapid rise of digital platforms has fundamentally transformed global services trade, creating new opportunities and regulatory challenges. Services delivered through platforms such as cloud computing, ride-sharing, online freelancing, and e-commerce intermediaries operate across borders in ways that traditional trade frameworks struggle to capture. The GATS**,** the cornerstone of multilateral services trade law, was designed in a pre-digital era and primarily addresses conventional modes of supply, such as cross-border provision, commercial presence, and temporary movement of natural persons. As such, it lacks specific provisions to govern the unique dynamics of platform-based economies, including algorithmic intermediation, continuous digital delivery, and cross-border data flows (Ghani et al., 2025). The purpose of this study is to examine the limitations of GATS in addressing platform-based services trade and to propose a conceptual framework that aligns legal norms with the realities of digital markets. The research addresses the following key questions: (1) In what ways does GATS fail to accommodate platform-based services? (2) What legal, regulatory, and policy challenges arise from cross-border digital trade? (3) How can international trade law be reformed to balance liberalization, regulation, and inclusion in the digital economy? analysing multilateral trade instruments, regional digital trade agreements, and scholarly literature to identify gaps and propose reform pathways. Preliminary findings indicate that GATS's sectoral and mode-based classifications are inadequate for multi-sided digital markets, that regulatory fragmentation across jurisdictions creates trade frictions, and that a forward-looking framework should integrate data governance, algorithmic accountability, and equitable digital participation. The article is structured as follows: Section two reviews the GATS framework and highlights its limitations for digital services; Section three identifies core challenges in platform-based trade, including data governance, algorithmic fairness, and infrastructure disparities; Section five proposes a reconceptualized legal architecture grounded in digital-centric obligations, adaptive regulatory governance, and equitable inclusion; Section 5 illustrates the analysis with case studies of ride-sharing and freelance platforms; Section 6 outlines policy recommendations; and Section 7 concludes with reflections on future legal and policy directions (Rehman, 2025; Mathlouthi et al., 2025).

The last decade has witnessed an unprecedented expansion of platform-based economic activity. Digital platforms enabled by ubiquitous connectivity, data analytics, and network effects now mediate a vast array of services markets. According to the World Trade Organization WTO, digital trade accounts for a growing share of services exports, reshaping competitive landscapes and regulatory paradigms. Yet the legal architecture guiding international trade in services remains anchored in the 1995 GATS framework, a treaty that predates the digital revolution. GATS was designed to liberalize traditional cross-border services such as banking, transportation, and telecommunications through a system of negotiated market access commitments. However, contemporary platform services including cloud computing, app-based transportation, online freelancing, and algorithmic intermediation often evade clear classification within GATS's four modes of supply. This misalignment has practical implications for market access, non-discrimination, data governance, and the balance between liberalization and legitimate regulation. This article explores the limitations of GATS for governing platform economies and proposes pathways for rethinking services trade law to better reflect digital realities (Peng, 2022; Khan et al., 2025).

2.Research methodology

This study employs a **comparative research methodology** to investigate the limitations of GATS and the challenges posed by platform-based economies. Primary sources include multilateral trade agreements, WTO documents, and national regulatory frameworks, while secondary sources consist of scholarly articles, reports, and case studies on digital trade, data governance, and algorithmic regulation. The research involves systematic analysis and synthesis of legal texts, policy documents, and relevant literature to identify gaps in existing services trade law. Comparative techniques are applied to evaluate divergent national approaches and regional digital trade agreements, providing insights into best practices and policy responses. This methodology enables a comprehensive understanding of the regulatory, legal, and economic dimensions of platform-based services trade and supports the development of recommendations for a reimagined international legal framework (Hui et al., 2025).

3. The GATS Framework and Its Limitations

3.1 Overview of GATS

The GATS, established in 1995 under the WTO, is the first multilateral treaty to provide a comprehensive framework for the liberalization and regulation of international services trade. Its primary objective is to promote progressive liberalization while preserving members' right to regulate domestic service markets in pursuit of legitimate public policy goals, such as consumer protection, financial stability, and cultural preservation. GATS applies to all service sectors except those supplied in the exercise of governmental authority. GATS is grounded on four foundational principles. Most-Favoured-Nation MFN treatment requires members to extend any trade advantage granted to one country to all other WTO members, ensuring non-discrimination across borders. National treatment obliges states to treat foreign service suppliers no less favourably than domestic providers once they operate within the territory. Transparency mandates that members publish all relevant laws, regulations, and procedures affecting trade in services to ensure predictability and accountability. Finally, progressive liberalization encourages sector-specific commitments through schedules of market access and national treatment obligations, allowing gradual openness without undermining domestic policy objectives (Khan & Ullah, 2024). GATS classifies services trade according to four modes of supply Cross-border supply refers to services delivered from one country to another, such as remote consulting or software provision. Consumption abroad occurs when consumers travel to another country to consume services, including tourism or education. Commercial presence involves a foreign service provider establishing a local branch or subsidiary to supply services domestically. Movement of natural persons covers temporary entry of individuals to provide services, including consultants or skilled workers. Although GATS provides a structured and legally binding framework, it was conceived before the digital revolution and primarily addresses conventional service delivery. Its mode-based and sectoral classifications, while useful for traditional services, are often ill-suited to platform-mediated and digital **services**, which are continuous, data-driven, and inherently transnational. This misalignment generates uncertainty for regulators and service providers operating in emerging digital markets (Delimatsis, 2024; Khan, 2024).

3.2 Inadequacy for Digital Platforms

While GATS provides a foundational framework for international services trade, it is increasingly inadequate for governing platform-based economies. Digital platforms, such as cloud services, ride-sharing apps, and online freelance marketplaces, operate through hybrid models that combine local presence, cross-border digital intermediation, and algorithm-driven service delivery. These multi-layered structures do not fit neatly into GATS's four modes of supply, creating ambiguity in classification and compliance obligations. Furthermore, GATS does not address critical digital issues, including cross-border data flows, data localization, algorithmic decision-making, interoperability standards, and cybersecurity requirements, all of which are essential for the functioning of platform-based markets (Khan, 2024). The agreement also lacks mechanisms to govern multi-sided markets, where value is co-created between providers, users, and advertisers, rather than supplied in a linear, transactional manner. As a result, national regulators have adopted divergent and sometimes conflicting policies, such as data storage mandates, digital taxation, and algorithmic accountability rules, which can fragment the market and hinder cross-border services trade. This misalignment highlights the urgent need to rethink international services law to accommodate the realities of platform-mediated economies and to create a coherent, digitally compatible legal framework (Dalvi, 2025; Khan & Jiliani, 2023).

3.3 Regulatory Fragmentation and National Approaches

Data is the lifeblood of platform-based services, driving value creation through analytics, personalization, and network optimization. Yet, current trade rules under GATS do not address data governance, leaving cross-border data flows largely unregulated at the multilateral level. States increasingly implement data localization requirements, privacy regulations, and security standards to assert sovereignty over digital information. This creates tension between the need for open data flows to support global platforms and legitimate domestic policy objectives, highlighting a critical gap in existing international trade law. Platform services rely heavily on algorithms to allocate resources, set prices, and match consumers with providers. Traditional trade law, including GATS, was designed for human-mediated, transactional services and does not account for algorithm-driven market behaviour (Khan & Usman, 2023). Algorithms can unintentionally embed biases or discriminatory outcomes, raising concerns about fairness, transparency, and accountability. Addressing these challenges requires new legal and regulatory mechanisms that ensure equitable treatment without undermining proprietary business models or innovation incentives. Platform economies also depend on robust digital infrastructure, including broadband networks, cloud computing capacity, and reliable payment systems. Disparities in infrastructure quality and accessibility across countries exacerbate the digital divide, limiting participation in global platform markets. Traditional trade liberalization frameworks do not account for these structural inequalities, meaning that developing countries may struggle to compete on an equal footing. Addressing infrastructure gaps and promoting digital inclusion are therefore essential for ensuring equitable benefits from platform-based trade. In the absence of clear multilateral rules, states have adopted divergent digital policies including data protection regulations, localization mandates, and algorithmic accountability regimes. This regulatory patchwork increases compliance costs and creates frictions for platform intermediaries. While some plurilateral agreements e.g., digital trade chapters in regional trade agreements attempt to fill gaps, they do not achieve the universality of a reformed multilateral framework (Afuwape, 2025; Khan et al., 2023).

4. Core Challenges in Platform-Based Services Trade

4.1 Data Governance and Cross-Border Data Flows

Data lies at the heart of platform-based services, driving value creation, user engagement, and network optimization. Platforms continuously collect, process, and analyse vast quantities of data from multiple jurisdictions, ranging from personal user information to transactional and behavioural datasets. Unlike conventional services trade, which often involves discrete transactions, platform services depend on the uninterrupted flow of information across borders. The GATS framework, conceived in a pre-digital era, does not provide explicit rules or guidance on managing these flows, leaving a regulatory vacuum that states address unilaterally. Governments have responded by enacting data localization requirements, restricting transfers of sensitive data, or imposing divergent privacy and cybersecurity standards (Khan, 2023). While these measures aim to protect consumer rights, national security, and economic interests, they also create barriers to trade, increase compliance costs, and generate uncertainty for multinational platforms. Reconciling the need for open data flows with legitimate domestic policy objectives remains a pressing challenge for international services law. In addition to data governance, platform economies are heavily dependent on algorithmic processes for service delivery, pricing, and resource allocation. Algorithms, while efficient, may embed biases or reinforce discriminatory outcomes, intentionally or inadvertently, raising concerns about fairness, transparency, and accountability. Traditional trade law, including GATS, was designed for human-mediated service provision and does not address algorithmic decision-making (Zhao, 2024; Liu et al., 2023).

The lack of multilateral guidance on algorithmic fairness means that countries are left to develop their own regulations, which vary widely in scope and stringency. This regulatory divergence can fragment markets, restrict market access, and create legal uncertainty, particularly for small and medium-sized enterprises seeking to participate in global digital trade. Ensuring non-discrimination and transparency in algorithm-driven services requires a combination of technical standards, oversight mechanisms, and international cooperation to align legal obligations with the realities of digital markets. Platform services also rely on robust digital infrastructure, including broadband connectivity, cloud computing capacity, secure payment systems, and data centres. Access to reliable infrastructure is uneven across countries, creating disparities in digital participation and amplifying the global digital divide. Developing economies, in particular, may face challenges in scaling platform services due to limited network capacity, insufficient cloud resources, or high operational costs. Traditional trade liberalization frameworks focus on market access and regulatory commitments, but they do not account for structural disparities in infrastructure, which are critical determinants of competitiveness in platform economies. Addressing these gaps requires coordinated investments, international support for digital capacity building, and policies that promote equitable participation in global services markets. Without attention to infrastructure and inclusion, platform-based trade risks reinforcing existing inequalities and concentrating economic benefits in countries with advanced digital capabilities (Sun, 2023; Khan & Ximei, 2022).

4.2 Non-Discrimination and Algorithmic Markets

Platform-based services rely heavily on algorithms to deliver, price, and allocate services efficiently. These automated systems analyse vast amounts of user and transaction data to optimize matches, adjust pricing dynamically, and anticipate demand. While highly efficient, algorithms can unintentionally reproduce or amplify biases present in historical datasets, institutional structures, or user behaviour patterns. This creates potential for discriminatory outcomes that affect service accessibility, pricing fairness, or labour opportunities on platforms. Traditional trade frameworks, including GATS, were designed for human-mediated, transactional services and do not address algorithmic decision-making. As a result, regulators have developed divergent national policies, including transparency requirements, reporting obligations, and accountability frameworks, which vary significantly across jurisdictions. Such fragmentation creates legal uncertainty for multinational platforms and increases compliance costs, particularly for smaller enterprises seeking to operate globally (Khan et al., 2022). Ensuring fairness in algorithmic markets requires a combination of technical standards, legal safeguards, and international coordination to balance innovation with equitable treatment. Platform economies also depend on robust digital infrastructure, including broadband networks, cloud computing systems, data centres, and secure payment mechanisms. Access to these resources is uneven across countries, creating structural disparities in participation and competitiveness (Kahn & Wu, 2020). Developing economies often face limitations in network capacity, cloud infrastructure, and technological expertise, which can hinder their ability to host or participate in platform-based trade. Traditional trade liberalization focuses on market access and regulatory commitments but does not address these infrastructure gaps, meaning that countries with weaker digital foundations may struggle to compete effectively. Addressing these disparities requires coordinated investment, technical capacity building, and international cooperation to ensure equitable participation. Without attention to both infrastructure and algorithmic fairness, platform-based services risk consolidating economic advantages in technologically advanced countries while marginalizing less-developed markets, undermining the promise of inclusive global digital trade. GATS's non-discrimination obligations were designed for market access, not algorithm-mediated service allocation. Algorithms can embed biases or discriminatory outcomes that are not easily regulated under traditional trade law. Ensuring fairness in digital markets requires standards for transparency, contestability, and redress none of which are incorporated in GATS (Johanes , & Gunawan, 2022; Lin & Khan, 2021).

4.3 Infrastructure and Digital Divide

As platform-based economies continue to expand, there is an urgent need to reconceptualize international services trade law to better reflect the realities of digital markets. The existing GATS framework, while foundational, is insufficient for addressing the complexities of cross-border digital services, algorithmic markets, and infrastructure disparities. A new legal architecture should explicitly recognize the distinct nature of digital supply, codifying obligations for the free flow of data while preserving the ability of states to regulate for privacy, security, and other legitimate policy objectives. Clear rules on data governance, interoperability, and algorithmic accountability would reduce uncertainty for service providers and create a more predictable environment for global digital trade. In addition to digital-centric trade obligations, regulatory governance must become more adaptive and cooperative. Multilateral mechanisms should facilitate dialogue and coordination among states on standards for cybersecurity, algorithmic transparency, and consumer protection, ensuring that national regulations do not fragment markets unnecessarily (Khan, 2022). Oversight frameworks should allow for rapid adjustment in response to technological innovation, while maintaining safeguards for fairness and accountability. Dispute resolution mechanisms must also evolve to address the unique challenges of platform services, including algorithmic decisions, data-related conflicts, and cross-border compliance issues. By promoting regulatory alignment without compromising national policy space, adaptive governance can bridge gaps between liberalization objectives and domestic regulatory priorities (Melashchenko, 2022; Khan & Wu, 2021).

Equitable inclusion represents the third essential component of a modern services trade framework. Platform economies, if left unregulated, risk concentrating economic benefits in countries with advanced digital infrastructure while marginalizing developing nations and under-served populations.

A forward-looking legal architecture should support capacity-building initiatives, investment in digital infrastructure, and equitable access to global platforms. Mechanisms for technology transfer, skills development, and inclusive participation can help reduce the digital divide and ensure that platform-based trade contributes to sustainable development (Khan et al., 2020). By embedding equity alongside liberalization and governance, international trade law can foster a more balanced distribution of benefits and empower a broader range of actors to participate meaningfully in the digital economy. Taken together, these principles—digital-centric obligations, adaptive regulatory governance, and equitable inclusion—provide a comprehensive roadmap for reforming services trade law in the era of platform-based economies. Such a framework would not only address the inadequacies of GATS but also create a resilient, inclusive, and forward-looking legal environment capable of supporting the growth of global digital services while balancing the legitimate interests of states, businesses, and citizens. Platform economies are heavily reliant on underlying digital infrastructure, including broadband networks and cloud capacity. Divergent infrastructure quality across countries exacerbates inequalities in digital participation. Traditional trade liberalization does not address infrastructure investment as a component of services competitiveness (Borgogno & Savini Zangrandi, 2024; Abdelrehim Hammad et al., 2021).

5. Toward a New Legal Architecture

The rapid expansion of platform-based services highlights the urgent need to rethink international services trade law. Existing frameworks, particularly GATS, were developed in a pre-digital era and fail to address the complexities of cross-border digital services, algorithmic decision-making, and data-driven markets. A reimagined legal architecture should begin by recognizing the distinct nature of digital supply and codifying obligations that facilitate cross-border data flows while allowing states to regulate for privacy, security, and other legitimate public policy objectives (Khan et al., 2021). Such a framework would provide clarity on interoperability standards, algorithmic accountability, and transparency requirements, reducing uncertainty for service providers and ensuring that market rules reflect the realities of platform economies. In addition to digital-focused obligations, international governance mechanisms must become more adaptive and cooperative. Multilateral forums should promote coordination on cybersecurity, consumer protection, and algorithmic standards to prevent regulatory fragmentation that can hinder cross-border trade. Oversight systems must allow for rapid adjustment in response to technological innovation, ensuring that regulations remain relevant without undermining innovation. Effective dispute resolution mechanisms are also necessary to address conflicts related to digital services, including those involving algorithmic decisions, data flows, and compliance with differing national rules. By balancing regulatory flexibility with clear obligations, adaptive governance can reconcile liberalization objectives with domestic policy priorities (Yang, et al., 2023; Usman et al., 2021).

Equitable inclusion is a further critical dimension of a modern legal architecture. Platform economies risk concentrating wealth and opportunity in technologically advanced regions, leaving developing countries and marginalized populations at a disadvantage. A forward-looking framework should integrate capacity-building initiatives, support investment in digital infrastructure, and promote equitable access to global platform markets. Mechanisms for technology transfer, skills development, and inclusive participation are essential to bridging the digital divide and ensuring that benefits of digital trade are broadly shared (Khan et al., 2021). By embedding equity alongside liberalization and regulatory coordination, international services law can foster sustainable growth, enhance competitiveness, and empower a wider range of actors in the global digital economy. these principles provide a roadmap for a comprehensive reform of services trade law that moves beyond the limitations of GATS. By integrating digital-centric obligations, adaptive governance, and inclusive participation, a new legal architecture can create a predictable, fair, and resilient framework capable of supporting the continued growth of platform-based economies while balancing the legitimate interests of states, businesses, and consumers (Sun & Qu, 2025; Khan & Wu, 2021).

6. Conclusion

The rise of platform-based economies has fundamentally transformed the landscape of global services trade, revealing the limitations of existing legal frameworks such as GATS. Traditional mode-based and sectoral classifications, while effective for conventional services, are ill-suited to address the continuous, data-driven, and multi-sided nature of digital platforms. This study has highlighted the key challenges in platform trade, including cross-border data governance, algorithmic fairness, regulatory fragmentation, and structural disparities in digital infrastructure. By analysing these issues, it becomes evident that a reimagined legal architecture is necessary one that integrates digital-centric trade obligations, adaptive regulatory governance, and mechanisms for equitable participation. The implications of this research are both practical and normative. For policymakers, it emphasizes the urgency of harmonizing digital trade rules and fostering multilateral cooperation to reduce market fragmentation and legal uncertainty. For businesses, it highlights the importance of understanding the evolving regulatory landscape and preparing for compliance across multiple jurisdictions. The study also identifies opportunities for future research, including the development of standards for algorithmic accountability, international frameworks for cross-border data flows, and strategies to address the digital divide in developing economies. By bridging gaps between liberalization, regulation, and inclusion, the research underscores the potential to create a sustainable, fair, and resilient global digital trade ecosystem. Ultimately, understanding and reforming services trade law in the era of platform economies is critical to ensuring that the benefits of digital innovation are widely shared and legally predictable. GATS remains a cornerstone of international services trade law but is no longer sufficient in its current form to govern the complexities of platform-based economies. Digital platforms have reconfigured value creation, service delivery, and regulatory interdependence demanding a rethinking of legal frameworks. A modernized services trade law must incorporate digital-centric obligations, adaptive governance, and inclusive principles. Only then can international trade law remain relevant and equitable in the age of digital intermediation.

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