

How Barriers to Cross-Border Data Flows Are Spreading Globally, What They Cost, and How to Address Them

Data-localization policies are spreading rapidly around the world. This measurably reduces trade, slows productivity, and increases prices for affected industries. Like-minded nations must work together to stem the tide and build an open, rules-based, and innovative digital economy.

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Description:

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Vision

An open, rules-based, and innovative digital economy

Mission

To stem the spread of data-localization policies around the world

Values

Data

Openness**Trust**

Innovation: Data-driven innovation and digital trade are only going to become more central to the global economy.

Rules: Governments need to update laws to address legitimate data-related concerns that arise, but this should be done in a considered way so that people, firms, and governments can maximize the enormous societal and economic benefits of data and digital technologies. Restricting the movement of data does nothing to help improve societal or economic outcomes.

Reciprocity: The recommendations show how like-minded countries can develop shared governance arrangements that can work across legal systems, create reciprocity and nondiscrimination, and build-in independent redress and oversight, all the while allowing data flows.

Nondiscrimination

Cooperation: Meanwhile, digital protectionists and scofflaws such as China and Russia refuse to support digital free trade or join global efforts to improve law enforcement cooperation on cybercrime.

Resources: What is particularly crucial is that countries that support shared digital governance need to dedicate far more resources to help the many “swing states” that have not enacted localization and have not yet decided to follow the EU or China’s model of restrictions and control.

Integration: The success or failure of this engagement and these new agreements and legal mechanisms will go a long way toward shaping the Internet of the future and whether it remains open, integrated, and innovative or closed, fragmented, and based on state control.

Productivity

1. Data Governance

Work together to build an open, rules-based, and innovative global digital economy

Stakeholder(s)

Former Japanese Prime Minister Abe :

Former Japanese prime minister Abe deserves a lot of credit for putting data governance and localization on the global agenda with his concept for “data free flow with trust,” which is a vision wherein openness and trust exist in symbiosis, not as contradictions. However, it is still conceptual and has not been defined.

Cooperating Countries :

Countries that support this goal will need to work together to develop new norms, rules, cooperation mechanisms, and agreements to address legitimate concerns raised by cross-border data flows while supporting the free flow of data. These initiatives can then form the foundation for broader debate, adaptation, and adoption to expand to more issues and countries. It will be challenging to develop a common agenda, even among core countries such as Australia, Canada, Chile, Japan, New Zealand, Singapore, the United Kingdom, and the United States.

Australia

Canada

Chile

Japan

New Zealand

Singapore

United Kingdom

United States

Digital Protectionists :

It will be difficult, if not impossible, to make meaningful progress in any forum that involves China, Russia, and others that support digital protectionism and control.

China

Russia

Europe :

It’s hard to include Europe given its inability to genuinely engage and collaborate with counterparts unless its privacy preferences prevail over everyone else’s.

Building an open, rules-based, and innovative global digital economy will depend on a small group of proactive and ambitious countries working together. This path ahead reflects the fact that there is no global forum for cooperation and progress on data issues—and nor should there be at this stage.

1.1. Personal Data

Provide multiple mechanisms to transfer personal data

Governments should provide multiple mechanisms for the cross-border transfer of personal data. These mechanisms should be accessible to firms of all sizes. Countries should explicitly mention acceptable frameworks and standards for transfers.

Stakeholder(s):

Governments

Countries

1.2. Consumer Trust

Encourage firms to improve consumer trust through greater transparency about how they manage data

Governments should encourage businesses to improve transparency on how they manage data, including on a global basis, such as by regularly disclosing information about government requests for data.

Stakeholder(s):

Firms

Consumers

1.3. Data Standards

Support the development of global data-related standards

Governments should support global, market-led, voluntary, and consensus-based efforts to develop and use data and digital technology standards, such as via multi-stakeholder forums and intergovernmental forums (e.g., OECD).

Stakeholder(s):

Governments

Intergovernmental Forums

Multi-Stakeholder Forums

OECD

1.4. Government Data & Services

Protect cloud-based government data and services

Governments should protect cloud-based government data and services by ensuring that cloud providers are audited and certified against national and international standards, sector-specific regulations (such as health care and financial), national certifications (e.g., U.S. FedRAMP, Germany C5, Australia IRAP), and global accreditations (e.g., ISO 27001 and ISO 27018).

Stakeholder(s):

Governments

Cloud Providers

1.5. Developing Countries

Provide more assistance to developing countries to help with digital economy policy

Developed economies should provide technical assistance and capacity-building assistance to developing economies to help them build their data governance framework.

Stakeholder(s):

Developing Countries

Developed Economies

2. Digital Trade

Support digital free trade

Digital free trade: Policymakers should support rules that protect data flows, prohibit data localization, and only allow narrow exceptions to these provisions at e-commerce negotiations at the World Trade Organization (WTO). Policymakers should also create new tools to enact retaliatory measures against countries that enact data localization and other digital protectionist rules. Policymakers should encourage national and global bodies to conduct surveys about the firm-level impact of data localization. Trade negotiators should develop transparency and good regulatory practices provisions to ensure opaque regulatory rulemaking can't be used to enact barriers to data flows and digital trade.

2.1. Rules

Support rules that protect data flows, prohibit data localization, and only allow narrow exceptions to these provisions at e-commerce negotiations at the World Trade Organization (WTO).

Support an ambitious outcome on data flows at the e-commerce negotiations at the WTO, including an explicit prohibition on data localization and narrow and detailed exceptions. The United States and others should exclude China and Russia and others that do not support ambitious outcomes. A weak result may be worse than no deal at all.

Stakeholder(s):

World Trade Organization

2.2. Retaliatory Tools

Create new tools to enact retaliatory measures against countries that enact data localization and other digital protectionist rules

To create reciprocity, policymakers from digital free-trade countries should develop new countermeasures against countries that enact data localization and other digital protectionist measures. Firms from digital protectionist countries shouldn't benefit from open digital markets.

Stakeholder(s):

Digital Free-Trade Countries

Firms

Digital Protectionist Countries

2.3. Surveys

Encourage national and global bodies to conduct surveys about the firm-level impact of data localization.

Policymakers should encourage national, regional, and global organizations to conduct detailed surveys about the impact of data localization and other barriers to cross-border data transfers.

Stakeholder(s):

Policymakers

Global Bodies

National Bodies

Firms

2.4. Transparency & Regulatory Practices

Develop transparency and good regulatory practices provisions to ensure opaque regulatory rulemaking can't be used to enact barriers to data flows and digital trade.

Digital free-trade countries should advocate for transparency and good regulatory practices as part of trade agreements, such as allowing parties to request the publication of impact assessments to ensure that digital regulations are appropriate, proportionate, and effective.

Stakeholder(s):

Trade Negotiators

Administrative Information

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