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Digital trade integration: Global Trends

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Abstract

Recent initiatives devoted to mapping digital trade policies warn against rising regulatory divergence in crucial policy areas for the digital economy, including data policies, content access and telecom infrastructure. Evidence-based analysis on the impact of digital regulatory heterogeneity and on the ability of digital policies to achieve their desired policy objective should inform the design of new initiatives to foster a predictable and safe regulatory environment for the digital economy.

Introduction

The metaverse, blockchain, 3D printing... These are some of the buzzwords that reflect how international trade is turning more and more digital. As digital connectivity increases and

more services become tradable online, the regulatory environment to facilitate digital trade becomes a central aspect of trade policy. This is even more the case in a historical moment in which geopolitical tensions risk erecting walls in the online world¹. The mapping and monitoring of legal and regulatory developments in connection with digital policies represents an important first step for negotiations towards a transparent and predictable regulatory environment for the digital economy.

Digital trade integration: global trends

International organisations, think-tanks and academic institutions have recently shown great interest in mapping regulatory policies in digital trade. These initiatives all point towards a raising regulatory heterogeneity and restrictiveness around digital trade².

¹ Drake, W. J., et al. (2016), "Internet Fragmentation: An Overview", *World Economic Forum*; Evenett, S. and J. Fritz (2022), "Emergent digital fragmentation: The perils of unilateralism", *CEPR Press*, June 2022.

² Ferracane, M.F., et al. (2018), "Digital Trade Restrictiveness Index", *European Center for International*

Political Economy, May 2018; Ferencz, J. (2019), "The OECD Digital Services Trade Restrictiveness Index", *OECD Trade Policy Papers*, No. 221, *OECD Publishing*; Evenett, S. and J. Fritz (2022), "Emergent digital fragmentation: The perils of unilateralism", *CEPR Press*, June 2022.

The first inventory of digital economy policies was published in 2018 by the European Centre for International Political Economy (ECIPE)³. The inventory covers 64 countries and focuses on regulatory restrictiveness and the costs connected to rising barriers to digital trade in 13 main policy areas: tariffs and trade defence; taxation and subsidies; public procurement; foreign investment restrictions; intellectual property rights measures; competition policy; business mobility; data policies; intermediary liability; content access; quantitative trade restrictions; standards; and online sales and transactions.

The main findings of the inventory and the related Digital Trade Restrictiveness Index are that: (i) Relatively small, open, and services-oriented economies generally show openness towards digital trade and embrace the global digital transformation with a long-term perspective. The most open economies towards digital trade are: New Zealand, Iceland, Norway, Ireland, and Hong Kong; (ii) Countries that are relatively bigger and emerging tend to respond with scepticism and significant restrictions to digital trade. In fact, the Top 10 countries that most restrict digital trade, account for nearly half of the world population. The most restrictive countries found in the analysis are China, Russia, India, Indonesia, and Vietnam.

More recently, the Global Trade Alert and the Digital Policy Alert have released a report based on an inventory of over 15,000 policy and regulatory developments on digital trade registered between 2020 and 2022⁴. The inventory shows that the regulatory machines across the globe have been exceptionally active over the past two years. Together, European and G20 governments took 1,731

legal and regulatory steps since the start of 2020⁵. 55% of those steps have already translated into state action, while 41% are in the pipeline⁶. The three most active regulatory areas found in the report are data governance, online content moderation, and competition law enforcement – reflecting the increasing role of data and digital platforms in today's economy. The analysis also shows that resort to regulation is accelerating. The first quarter of 2020 saw 71 regulatory developments, while the first quarter of 2022 saw 217⁷.

The initiative shows that regulatory heterogeneity is growing, posing a risk of digital fragmentation. Particular concerns arise in relation to rules on the storage, use, and transfer of data, given that China, the European Union (EU), India, Russia, and the United States (US) are going off in different directions.

According to Evenett and Fritz, the lack of multilateral initiatives on digital regulation is leading to “burgeoning unilateral state action in the digital domain [that] remains uncoordinated, stokes trade tensions on topics from corporate taxation through to competition law enforcement, and chills cross-border corporate deployment of digital technologies”⁸.

The latest initiative mapping regulatory interventions on digital trade is the Digital Trade Integration (DTI) database, a joint initiative by academic institutions and international organisations coordinated by the European University Institute. The DTI database, which will be released in October 2022, lists legal and regulatory developments affecting digital trade integration in 100 countries world-wide⁹.

³ Ferracane, M.F., et al. (2018), “Digital Trade Restrictiveness Index”, *European Center for International Political Economy*, May 2018.

⁴ Evenett, S. and J. Fritz (2022), “Emergent digital fragmentation: The perils of unilateralism”, *CEPR Press*, June 2022.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.* p.5

⁹ For more information, visit the following webpage: <https://globalgovernanceprogramme.eui.eu/digital-trade-integration/>

The DTI database confirms the findings of the previous initiatives. Small service-oriented economies are found to be creating a policy environment open to regional and global integration through digital trade. Countries with a regulatory framework exceptionally open to such integration can be found in Asia, Latin America, and Africa. Nevertheless, great heterogeneity is found within each of these regions, showcasing champions of digital trade integration but also countries imposing high restrictions. In particular, large emerging economies tend to show a regulatory framework less likely to foster integration through digital trade. Less regulatory heterogeneity is found in Europe and North America, showing high levels of digital trade integration. However, countries still diverge in several policy areas.

From the DTI database, it also stems that those areas that show lower levels of digital trade integration include both traditional policies such as telecom regulation but also more recent issues such as data flows, content access and domestic data processing.

Conclusion

Small and medium firms are more likely to be affected by emerging regulatory fragmentation on digital trade because they will need to face high compliance costs connected to these measures.

The main challenge ahead for the regulation of digital trade lies in reconciling the views of major trade partners, who must find interoperable solutions for domestic policies that affect digital trade integration, while managing the delicate interlinkages between trade, technology, and security.

Yet, the picture is not all doom and gloom. While we are witnessing raising regulatory

heterogeneity, there has also been an increasing effort to create plurilateral and multilateral platforms for cooperation on digital trade that are leading to greater alignment on crucial issues such as data flows, data protection, electronic signatures, and consumer protection¹⁰.

Digital trade agreements and digital economy agreements offer a way forward to develop interoperable standards to overcome regulatory fragmentation. These enable small and medium businesses to offer their services worldwide, while also addressing privacy and security concerns connected to the digital economy. New alternative setups for negotiations, such as the Indo-Pacific Economic Framework and the EU-US Trade and Technology Council, represent additional venues for finding a common ground to align digital policies.

These initiatives, including the on-going plurilateral negotiations on e-commerce at the World Trade Organization, should strive to be inclusive and take into account the concerns of those economies (especially emerging and developing countries) that are wary of potential negative implications of digital trade. By doing so, new countries would be more likely to adopt the proposed standards and would avoid the risk of a spaghetti-bowl of digital commitments. Evidence-based analysis on the impact of digital regulatory heterogeneity and on the ability of digital policies to achieve their desired policy objective should inform the design of new (ideally multilateral) initiatives to foster a predictable and safe regulatory environment for the digital economy.

¹⁰ Nemoto, T. and López González, J. (2021), "Digital Trade Inventory: Rules, Standards and Principles", OECD Trade Policy Paper No. 251, *OECD*; Burri, M., Vasquez Callo-Müller, M. and Polanco, R. (2022), "TAPED – Trade

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