

ISSUE
BRIEF

DIGITAL TRADE: Unleashing Social Benefits and Economic Growth through Modern Trade Rules

Data-driven innovation enabled by cloud computing powers the global economy, and its role will be even more prominent in the future. Business of all sizes and from across industry sectors increasingly use data by utilizing software and cloud computing services to increase productivity, create jobs, and improve lives. Governments around the globe also use data-driven innovations to better serve their citizens and grow their economies. Modern trade rules are needed to ensure these benefits continue.

Technology has evolved tremendously in the years since most trade agreements were negotiated. The software industry has evolved from floppy disks and desktop computing to cloud-based solutions and smart devices. Innovation continues to move at a tremendous speed with the adoption of new technologies, including large-scale data analytics, artificial intelligence, and block chain.

International trade rules, however, have not kept up with these changes. For example, trade agreements currently in force lack enforceable obligations ensuring that governments will not prevent data from moving from one place to another, which is essential to the data economy. The Trans-Pacific Partnership (TPP) agreement is the first multilateral trade agreement to create a legal framework enabling the unrestricted movement of data across borders. Even without continued United States participation in TPP, the other 11 governments have made clear their intention to apply these strong data flow obligations when the agreement takes effect.

In addition, forward-looking governments are incorporating digital trade provisions in other multilateral and bilateral trade pacts they are pursuing. These agreements should include rules ensuring movement of data across borders, prohibiting data localization and forced technology transfer, promoting intellectual property protection, supporting cybersecurity, among others. For example, the United States, Canada, and Mexico are currently discussing modernizing the North American Free Trade Agreement along these lines.

In Europe, however, advocates of including digital trade provisions in the European Union's free trade agreements (FTAs) have confronted strong resistance, and this has led to a climate of uncertainty about the EU's commitment to free international data flows. A recent European Commission proposal to include in its FTAs a prohibition of data localization measures, for example, also contains a broad and unconstrained exemptions for privacy measures. As a result, the prospective EU trade rule against localization could actually be counterproductive to the objective of free data flows.

It is important that modern trade agreements include clear, binding, and forward-looking provisions on digital trade. This will allow data-driven innovation powered by cloud computing to continue improving lives and creating economic growth.