

DIGITAL TRADE AND DATA SOVEREIGNTY: NEW FRONTIERS FOR
INTERNATIONAL ECONOMIC GOVERNANCE

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Abstract. *This article explores the intersection of digital trade and data sovereignty, examining the evolving challenges of balancing open data flows with national control over information. Digital trade, driven by cross-border data flows, has become a key component of the global economy. However, the increasing trend toward data sovereignty, as countries assert control over data within their jurisdictions, raises complex questions in international economic governance. This paper delves into the theoretical and legal debates surrounding data sovereignty, highlighting the tensions between economic liberalization and regulatory autonomy. By examining recent developments in trade agreements and international forums, the article aims to provide insights into the future of digital trade governance.*

Keywords: *Digital trade, Data sovereignty, Cross-border data flows, International economic governance, Privacy protection, Regulatory autonomy.*

Introduction

Digital trade – the exchange of goods and services delivered digitally – has become a cornerstone of the global economy. Cross-border data flows are now the backbone of modern trade, facilitating everything from supply chains to cloud computing and e-commerce. The rise of digital trade promises efficiency and growth, but it also raises governance challenges. As data moves across borders, countries are asserting control over information, a trend known as “data sovereignty.” This push for sovereign control over data has sparked debates in international economic law. How can the free flow of data, essential to digital trade, be reconciled with nations’ desire to protect privacy, security, and economic autonomy? This article explores these debates and the emerging governance responses in trade agreements and international forums.

Digital trade encompasses online retail transactions, streaming services, and cloud computing. It enables global communication, powers supply chains, facilitates financial services, and connects buyers and sellers worldwide. The COVID-19 pandemic accelerated the reliance on digital trade, making cross-border data transfers critical. Studies indicate that the economic value of data flows may exceed that of physical goods. Digital trade enhances efficiency and innovation but also exposes regulatory gaps, as most trade rules were designed for a pre-digital era. Data, unlike goods or services, is intangible, can be replicated endlessly, and moves at the speed of light, complicating governance.

Governments are increasingly asserting data sovereignty, the principle that data is subject to the laws of the nation where it is collected. This is manifesting in regulations that localize data storage and restrict data from leaving national borders. By early 2023, nearly 100 data localization measures were in place across 40 countries. Countries pursue data sovereignty for privacy protection, national security, and economic development.

For example, some argue data sovereignty can protect citizens' privacy, while others fear that unrestricted data flow could lead to economic imbalances or "digital colonialism." However, the concept remains contested, with critics arguing it leads to protectionism and undermines the open Internet.

The clash between digital trade and data sovereignty is a critical tension in international economic law. Advocates for free data flow argue it drives innovation and efficiency, while proponents of data sovereignty stress that some restraints are necessary to protect privacy, security, and national interests. The debate centers on balancing regulatory autonomy with trade liberalization principles. Excessive data localization may hinder innovation, but unrestricted data flows could undermine privacy and security. In the WTO, discussions about rules on cross-border data flows have intensified, with the U.S. signaling a shift in position to prioritize domestic regulation over global data openness.

With multilateral consensus elusive, many countries are turning to regional and bilateral agreements to establish digital trade norms. Agreements like the CPTPP, USMCA, and RCEP contain provisions on data flows, often with exceptions for privacy and security concerns. New initiatives like the Digital Economy Partnership Agreement (DEPA) and OECD frameworks are emerging but remain fragmented. These developments reflect the ongoing tension between global trade rules and national sovereignty. As regional governance becomes more prevalent, global consensus remains a challenge.

Legal scholars are debating whether existing trade laws can address digital trade and data sovereignty or if new rules are needed. Some suggest that the General Agreement on Trade in Services (GATS) can apply to digital services, while others argue for new agreements tailored to data flows. A key debate is whether free data flow should be the default or if sovereignty should take precedence. Additionally, questions of fairness and power arise, with developing countries expressing concerns about being left behind in the digital economy. The goal is to find a balanced framework that respects both economic imperatives and sovereign interests.

Conclusion

Digital trade and data sovereignty present a major challenge for international economic governance. The debate between free flows and local control, global rules and national policies, is intensifying. Achieving a balance that fosters digital trade while protecting privacy and national interests will require innovative solutions, combining trade agreements, privacy protections, and international cooperation. As the international community grapples with these issues, there is hope that through dialogue and adaptive governance, digital trade and data sovereignty can coexist in a secure and inclusive digital future.

Sources

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