

Digital Trade and Data Localization

Background and Rationale

Cross border data flows (CBDF) have transformed the way world operates and benefited consumers and businesses across the board. Consumers have more information, connectivity, and choices, while businesses leverage data flows to enter new markets, operate at low cost, innovate, and consolidate research and development.

India is a world leader in Information Technology (IT) and Information Technology enabled services (ITES). An estimation by Ministry of Information and Technology shows that the country's digital sector would grow from US\$413bn in 2016-17 to US\$1tn by 2025.¹ IT and ITES contribute more than 60% of US\$413bn, and within IT and ITES, more than 80% constitute digital exports. In addition to enabling factors such as developing physical infrastructure, availability of relevant skilled workers, and suitable policy environment, CBDF has been the bedrock of this growth, primarily driven by digital exports. Specifically, for Indian businesses it is a foundation to achieve cost and business practice efficiencies, enter new markets, and support management of global supply chains.²

As data is at the epicentre of digital economy, concerns with data privacy and protection, national security, foreign surveillance, access to law enforcement agencies, and aid to promote local innovation and research have become prominent. Identically, India, among other developing countries, boycotted Osaka track at G20 summit meant to facilitate plurilateral negotiations on digital trade including data flows, data localization,

and cloud computing.³ The concerns of boycotting countries stems from the difference of digital industrialization between developed and developing countries. Accordingly, policymakers around the world are eager to control and leverage data citing these concerns and put in place regulation barriers on cross border data flows to aid domestic growth.

In India, Reserve Bank of India has already mandated that all data relating to payments shall be stored only in India.⁴ Likewise, the draft Personal Data Protection Bill, 2018⁵ requires companies to store critical personal data and a serving copy of personal data within the territory of India. This approach to restrict data flows is called as data localization (DL). Specifically, it will place conditions and restrictions on data moving out of India. As a result of these measures, digital exports to destination countries would have an adverse impact, together with non-tariff barriers against India, could trickle down to the overall digital economy.

Therefore, given the position of India as a world leader in IT & ITES and proposed data localization measures; it is necessary to study and analyse the nuances and regulatory provisions of data localization and its impact on country's economic growth and digital economy. Any trade-offs as a result of implementation of data localization need to be assessed holistically. In the long run, it is pivotal for India to conceive policy alternatives which are sustainable and beneficial for the country in the global digital economy.

1 <https://pib.gov.in/PressReleaselframePage.aspx?PRID=1565669>

2 <https://hinrichfoundation.com/media/hinrich-foundation-and-all-india-management-association-aima-launch-new-digital-trade-report-digital-trade-could-create-a-%E2%82%B93331-thousand-crore-economic-opportunity-for-india-by-2030/>

3 <https://www.livemint.com/news/world/india-boycotts-osaka-track-at-g20-summit-1561897592466.html>

4 <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/153PAYMENTEC233862ECC4424893C558DB75B3E2BC.PDF>

5 https://meity.gov.in/writereaddata/files/Personal_Data_Protection_Bill,2018.pdf

Objective

To comprehensively understand and analyse -

1. Importance of digital exports for India's GDP and economy.
2. Impact of data localization barriers on Indian exports of digital goods and services.

Methodology

The study would entail –

Regulatory Framework Analysis: Through an extensive literature review and research, to establish a working definition of digital exports, regulations, and experiences of countries with data localization and non-tariff barriers across the globe.

Descriptive Data Analysis: Through secondary research, to review literature on relationship between digital exports and macro-economic indicators such as GDP, employment, income, and investment, etc. in addition to state level economic indicators. The strength of relationship between digital exports and macro-economic indicators at country and state level would be analysed. The data would be collected and collated using sources from government, trade bodies, and industry organizations.

Econometric Analysis: Two models of analysis would be employed – one would study the contribution of ICT exports to India's GDP. The second model would

analyse the hypothesis that a trade barrier such as data localization would impact ICT exports and to what extent.

Key Informant Interviews/Case Study Analysis:

Through primary research using semi-structured in-depth questionnaires, to holistically understand industry's point of view. Respondents would include IT/ITES companies across sectors involved in digital exports.

Regulatory Impact Analysis: All of these parts of study would be analysed using relevant elements of the regulatory impact analysis framework.

Envisaged Output

- White paper on the impact of data localization on digital exports for the Indian economy.

Envisaged Outcome

- The study would build detailed and holistic understanding of the economic implications of proposed data localization barriers on India's digital exports.
- The study would inform trade-offs of data localization as a policy and help build alternatives towards any negative effect.
- The study would help policy makers in India and around the world to take an informed and appropriate stand on data localization.

