

## DATA LOCALIZATION AND BARRIERS TO CROSS-BORDER DATA FLOWS: TOWARD A MULTI-TRACK APPROACH

*Workshop 32 Internet Governance Forum 2017*

*Tuesday, December 19 • 15:00 - 16:30*

**Organizer:** William J. Drake; University of Zurich

**Moderator:** Richard Samans, Head of Global Agenda, Member of the Managing Board, World Economic Forum

**Participants:**

- Fiona M. Alexander, Associate Administrator, Office of International Affairs, NTIA, Department of Commerce, USA
- Vinton G. Cerf, Vice President & Chief Internet Evangelist, Google
- William J. Drake, International Fellow & Lecturer, U. of Zurich
- Raúl Echeberría, Vice President, Global Engagement, Internet Society
- Anriette Esterhuysen, Director for Global Policy and Strategy, Association for Progressive Communications
- Torbjörn Fredriksson, Head, ICT Analysis Section, Division on Technology and Logistics, UN Conference on Trade and Development
- Goran Marby, President and CEO, Internet Corporation for Assigned Names and Numbers
- Ricardo Meléndez-Ortiz, CEO, International Centre for Trade and Sustainable Development
- Marietje Schaake, Member of the European Parliament, the Netherlands
- Thomas Schneider, Vice-Director, Federal Office of Communications, Switzerland
- Lee Tuthill, Counsellor, Trade in Services Division, World Trade Organization
- Mary Uduma, Managing Director, Jaeno Digital Solutions, Nigeria
- Hong Xue, Professor and Director of the Institute for Internet Policy and Law, Beijing Normal University, China

**Rapporteur:** Adam Schlosser, Lead Digital Trade and Data Flows, World Economic Forum

The session started with a brief introduction, describing both the importance of data flows and the problems presented by the increasing rise of restrictions, including local storage requirements, restrictions on movement, requirements for local suppliers or local standards, and changes to network architecture.

The majority of people realize data flows is a key issue in promoting development and essential to an open, connected Internet, but policymakers are still grappling with how to maintain the global interoperable nature of the Internet while addressing key concerns on privacy and security. These policies present negative impact for government, business, civil society, and consumers and can reduce GDP.

The conversation then explored 2 questions:

Can Trade Rules Alone Suffice?

Trying to develop a solution through trade policy faces political issues, such as procedural concerns about transparency, as well as substantive concerns, such as about privacy and competition, and is very slow moving.

Most participants agreed that trade is one avenue to pursue but may not be enough alone to suffice. One participant said that trade is just a tiny part of the picture and while the WTO creates broad frameworks, it doesn't get to the same level of details as national laws. Another participant suggested that trade agreements can be used to integrate different national standards as a way to raise the bar, not to end up with diluted common rules. There was also a comment that a lot of rules already exist so it might be useful to figure out what could be done to complement what is already in place.

Several participants expressed the need to look at the issues from the perspective of developing countries. They might see an opportunity and then a threat from global monopolies. How can barriers for MSMEs be lowered. There is still a threshold infrastructure issue in most developing countries making localization impractical and more costly, if not entirely impossible.

Then the conversation turned to the second question:

#### Could a multi-track approach solve these issues?

A three tracked approach, with decentralized and parallel efforts, was suggested. These efforts would cross-pollinate concerns and proposals. The tracks include:

1. Non-binding intergovernmental process (such as in the G20):
2. Multistakeholder processes
3. Digital Trade processes

The participants suggested that some combination of tracks 1 and 3 is probably the best approach for results, with the need to engage in track 2 to socialize and strengthen efforts. One participant said that track 2 is necessary before getting to the real substance of 1 and 3. It was also suggested that all efforts would be very resource intensive so it was important to prioritize. It was pointed out that with every company a digital company, and technology so integrated into nearly every economic and social issue it makes little sense to create any standalone agreement or conversations.

One participant explained why the effects of localization are often the opposite of what is intended. It hinders security and makes it harder to get SMEs online. They asked that policymakers be very careful not to destroy how the internet works while trying to achieve some other objective.

Participants then shifted the conversation to raise a number of other digital related issues that are ripe for a joint trade-internet government community dialogue. These included net neutrality, IP, competition, and the fact that encryption technology is often subject to export controls. To be successful the relevant experts and regulators that need to be in the room for success, including tax, finance, privacy and data protection.

One participant said there needs to be a way of ensuring real consequences for bad actors as the only way to make norms stick, whether in binding or non-binding frameworks.

Even on data, the conversation could be broadened. Data can often be both a personal resource and a shared and interconnected resource. A participant asked why we talk about free flow of data without also asking about access to data, data ownership, and inclusion.

There is some current movement on the trade path. The recent WTO ministerial in Argentina had an statement on the need to prioritize work on digital trade and 27 developing countries signed. However, the WTO doesn't write specific rules or policies, it just sets frameworks. So it is important to think about separating and choosing where to place the issues. And a dynamic coalition on trade and internet governance was just launched at the IGF.

There were some worries about setting up unneeded layers as there is a lot of existing expertise and efforts. Perhaps a good approach is some effort to make the links and ensure various workstreams are complementary and mutually reinforcing.

In the end, the group agreed that continuing to build the relationship between trade and internet governance communities is worthwhile, but that relevant regulators should be added, and it would be beneficial to broaden the scope of the discussion.

### **Gender Reporting**

The number of participants in the room was about 60-80. A rough estimate is that about 40% were female. The session did not discuss gender equality and/or women's empowerment.