

HOW SHOULD USITC FRAME ISSUES OF DIGITAL PROTECTIONISM?

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Summary

ITC question: how does digital protectionism affect ability of US firms to supply digital goods and services.?

With colleagues in Indonesia, EU, Russia, Brazil examining if there are internationally shared norms, definitions, strategies to address digital protectionism:

But key findings:

US only nation to officially define, definition keeps changing. Without trade disputes and shared norms—could be problematic.

Why have other nations not developed these norms? They don't control many of the types of data

US does not have strategy on how to decide if protectionist and also no strategy on how to remedy. No other country does either!

US has defined,
but not others,

US definition
keeps growing

2014 USITC: “barriers or impediments to digital trade including censorship, filtering, localization measures and regulations to protect privacy.”

In 3/2017 fact sheet, USTR defines digital trade barriers as: restrictions and other discriminatory practices affecting cross-border data flows, digital products, Internet-enabled services, and other restrictive technology requirements.

In NAFTA US called for ban on government required disclosure of propriety algorithms: US approach clashes with EU “right to an explanation” of use of algorithms under GDPR and DSM.

Are there shared norms regarding trade distorting behavior?

Yes, in EU, Canada, Australia, re data localization, server location, as long as exceptions include privacy/data protection,

beyond that no shared definition and little clarity from WTO.

Several hypotheses:

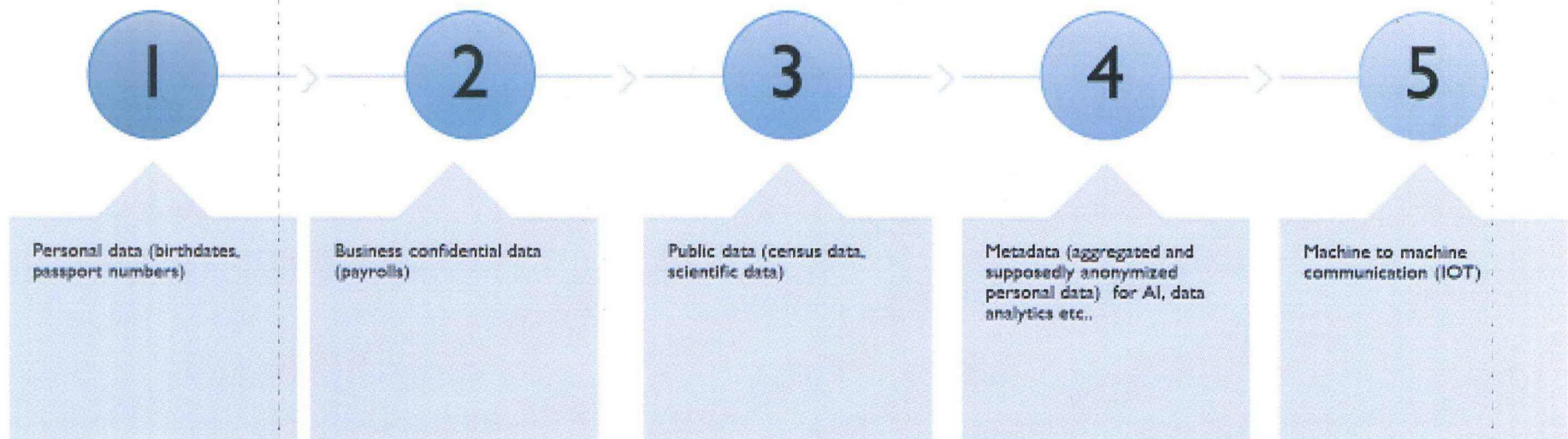
Many nations do not control data; they are transmission, processing points, or recipients of data.

They do not have a data strategy.

Policymakers see world dividing into three distinct data realms: US (built on trade policy), EU (built on DSM), and China realm (built on population).

Why no
shared
norms?


TRADE IN DATA: WHAT IS IT? DO THESE TYPES OF DATA NEED DIFFERENT RULES?



Expand strategy

US ITC currently examining barriers to trade in digital goods and services, but must also examine by type of data flowing across borders, because that is how other governments are starting to think about it.

Because based on the type of data, one can ask:

- ❖ Who owns the data?
 - ❖ Who controls the data?
 - ❖ Is control a function of where it is created?
 - ❖ Or where it is processed?
- 

We are defining digital protectionism, but who is deciding what to do about it? **USG does not have a strategy!**

Neither US nor EU has a regulatory strategy to assess

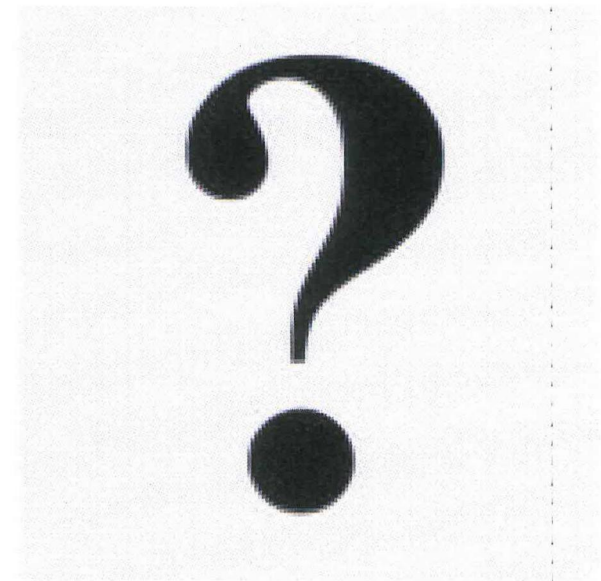
-if a policy is trade distorting, who is injured? How are they injured? **How to remedy?**

-how harmful are these policies to digital firms?

-how to compensate affected firms and workers?

What agency should decide?

Absence of shared global norms for digital protectionism, could undermine trust in US trade policies and internet providers.





תודה

Dankie Gracias

Спасибо

شكراً

Merci Takk

Köszönjük

Terima kasih

Grazie Dziękujemy Děkojame

Ďakujeme Vielen Dank Paldies

Kiitos

Täname teid

谢谢

Thank You Tak

感谢您

Obrigado

Teşekkür Ederiz

감사합니다

Σας ευχαριστούμε

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Bedankt

Děkujeme vám

ありがとうございます

Tack