Geopolitical Aspects of Digital Trade

Dennis Görlich & Niclas Poitiers
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2. Digital Services in Global Value Chains
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1. What is Digital Trade?
What is Digital Trade

• "Electronic Transmissions": goods or services?
  • Regulated in GATT or GATS?
  • Subject to tariffs?

• "Early" in the Discussion
  • WTO work program started in 1998 still ongoing
  • Digital chapters are starting to enter FTAs
    • EU Japan agreement
    • USMCA & US Japan agreement

• Role of data is key
The Role of Data in Trade

- Consumers do not pay *in specie* but with their data
  - Traditional trade exchange of good/service for currency
- Data is a “club good”
  - Non-rival in consumption but excludable
  - Excludability and control over data vital for their economic value
- Infinitesimal marginal costs → large returns to scale
  - Natural monopolies
- It’s high mobility challenges territorial regulation
What is Digital Trade II

• Digital technology reduces transaction costs and information asymmetries
  • Advantage or disadvantage for SMEs?

• Affects services in particular
  • Mode 1 instead of mode 4
  • Accelerated by COVID-19

• Trade restrictions at sectoral level becoming more important
2. Role of Digital in Global Value Chains
Europe in Digital Value Chains

Patent Publications in "ITC"

- China
- EU-27
- Japan
- Republic of Korea
- United States of America

Patent Publications in "Software"

- China
- EU-27
- Japan
- Republic of Korea
- United States of America

Source: World Intellectual Property Organization
Digital services trade

Growth in exports, 2005-2019, in percent

Change in trade balance, 2005-2019
Bilateral trade in services

Bilateral trade in digitally-deliverable services

Service trade growth by delivery type, 2010-2018
Digitally deliverable services

Growth in digitally-deliverable services, 20015-2015

Change in share for digitally-deliverable services, 2005-2015

Exports in total production
Foreign value added in exports
Foreign value added in 2005
Services in Value Added

Domestic services value added share of manufacturing exports, 2005-2016

USA: United States
CHN: China (People's Republic of)
IND: India
EU28: European Union (28 countries)

Domestic services value added embedded in manufacturing exports, 2015

EU28
USA
CHN
IND

00 05 10 15 20 25 30

all services
digital services
3. Philosophies and Objectives
United States: Powerful Laisser Fair

• Clear technological primacy
  • US technological dominance both tool and goal

• Priority for free flow of data
  • Privacy restrictions to be “proportionate to the risks presented”

• Trade policy objectives: Market access for US companies, IP protection, and liability limitations for US platforms

• Data ownership with data gatherer
  • Freedom of contract
Europe: Successful Referee?

• Privacy fundamental right
  • Schrems II: No trade-off between privacy and economic interests

• Relatively open to importing digital technologies

• Fragmented market for services
  • However European markets best placed in UNCTAD e-commerce index

• Lack of digital service “giants” a weakness?
China: The ”Great Firewall”

• “Great Firewall”
  • Chinese internet separated from it’s inception in 1994
  • Blocks access to foreign webpages and services

• Successful industry protection
  • Separate “universe” of digital services
  • Closeness impediment for exporting services?

• Digital seen as vital for economic & political future
  • Import substitution part of “Made in China 2025”
4. Topics in Digital Trade
Privacy

US, EU and Chinese approach incompatible:

• US negotiates privacy in FTAs
  • GDPR "alternative" CBPR largely unsuccessful
  • 31 companies registered vs >3000 in Privacy Shield

• For EU non-negotiable
  • Unilateral adequacy decisions

• Data for China of political importance
  • No interest in abandoning localization requirements
  • Privacy protection vis-à-vis companies, but not government.
Market Openness to Digital Services

- IP protection and forced technology transfer complain against China
  - Protection of source code
- Localization requirements for data
  - EU because of privacy
  - China & Russia for “national security” (surveillance) reasons
- Market access also sector specific
Digital Service Trade Restriction Index

Source: OECD
## Digital Trade Comparison

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Source: OECD STRI Heterogeneity 2019
“Artificial Intelligence”

• Strategic technology in “technological cold war”
• Many implications for political discourse & civil rights
  • Facial recognition, machine evaluation, deep fakes etc.
• US *laisser faire* strategy w.r.t. consumer rights
  • Local restrictions on e.g. facial recognition
• China
  • Large scale application of facial recognition
  • Lack of privacy an advantage for Chinese technology?
• EU
  • “Human-Centric Artificial Intelligence”
  • Right for non-automated decision making already in GDPR (art. 22)
Digital Tariffs and Taxation

• Moratorium on tariffs on electronic transmissions
  • Since 1998 renewed until next ministerial

• Loss of tariff revenue, in particular for developing countries
  • UNCTAD estimates developing countries loss around $5 Bn p.a. in tariff revenues, but significance contested

• Profit shifting endemic
  • Ireland, Luxembourg and Netherlands primary EU tax havens
  • US withdrawal from BEPS puts it on collision course with EU
5. Geopolitical Discussion
Challenges in Digital Geopolitics

• Trend of “nationalization” of the World Wide Web
• Territorial “fluidity” of data & services
  • Regulatory & tax arbitrage
• Technological dependencies
  • European sovereignty
  • Promotion of EU values in developing countries
• Cyber security
  • Not bound by physical proximity -- threat from China?
  • How to protect against foreign government surveillance?
Geopolitical Discussion

- Incompatibility of US, EU & Chinese strategies
  - Little prospect for ambitious WTO treaty
  - Extraterritorial laws incompatible (GDPR & US CLOUD act)
- Economic gains from trade in services requires regulatory compatibility
- Regulatory approach successful
  - Can achieve EU objectives w.r.t. to consumer rights
  - “Brussel’s Effect” allows for adequacy strategy
Strengthen Economic Sovereignty?

• Future of value added in services?

• Learning from Silicon Valley:
  1. Investment into research & development
     → Horizon Europe
  2. Access to (venture) capital
     → Capital markets union
  3. Market size matters
     → Single market for services

• No large employment effects
Policy recommendations

• Continue European regulatory approach
  • DSA & AI strategy
• Completing Single Market
• Investment into R&D
• Protection against surveillance & cyber terrorism
  • Prevention against gov. surveillance needs political solutions
• Digital connectivity strategy
Thank you for listening!