

Managing Cross-Border Data Flows

Policy Discussion at AmCham

August 16, 2023

Agenda

- 1 Introducing World Bank's Digital Development Engagements in the Philippines
- 2 International Experiences of Cross-Border Data Flows
 - Cross-border data flows and essential services to citizens
 - Regulatory approaches to cross-border data flow
 - Impact of data protectionism for low to middle income countries

World Bank's Digital Engagements in the Philippines

"Digitalization is the call of today; not the call of the future – but of the present. It is here. It is needed, and it is needed today."



Massive investment in infrastructure open up opportunities and spread economic activities

Without digitization we cannot change the form of governance in a country

Policy lending programs (with DOF, various agencies): pro-competition telecom policies, digital finance, e-commerce, e-governance, skills for digital economy

Digital Infrastructure Investment (with DICT): National Broadband Plan, last-mile connectivity in far-flung areas, cybersecurity, government cloud

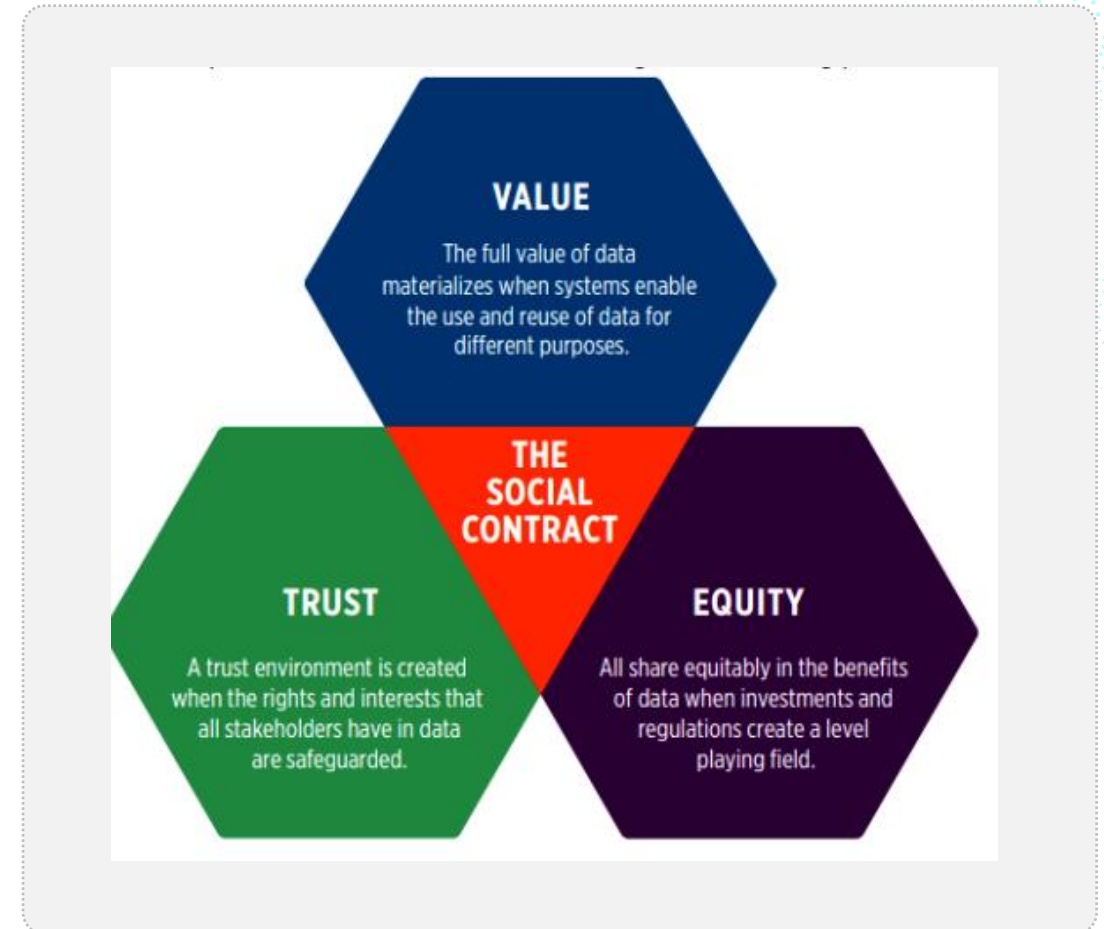
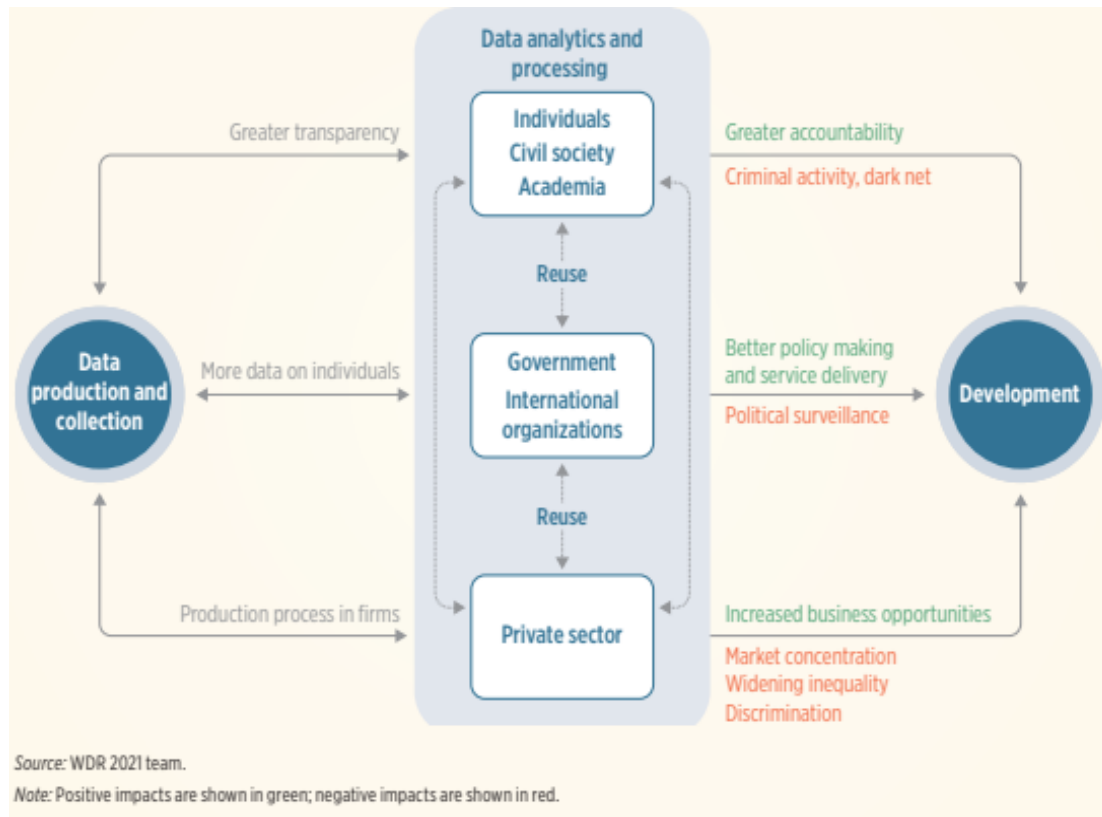
Assistance to National ID program (with PSA, DSWD, etc): advising on PhilSys Act, technical design, inclusive registration strategy, integration to services

Advisory and analytics (national counterparts, regional bodies e.g. ASEAN): Digital transformation, regional cooperation on data flows, ID, cybersecurity

Taking a Step Back... Why Data Needs to Flow (even within national borders)

To get more value out of data while protecting people against harm and ensuring access and representation. Different data-creating and data-using parties need to safely collaborate.

Three pathways along which data can foster development



Source: World Bank (2021), *World Development Report: Data for Better Lives*

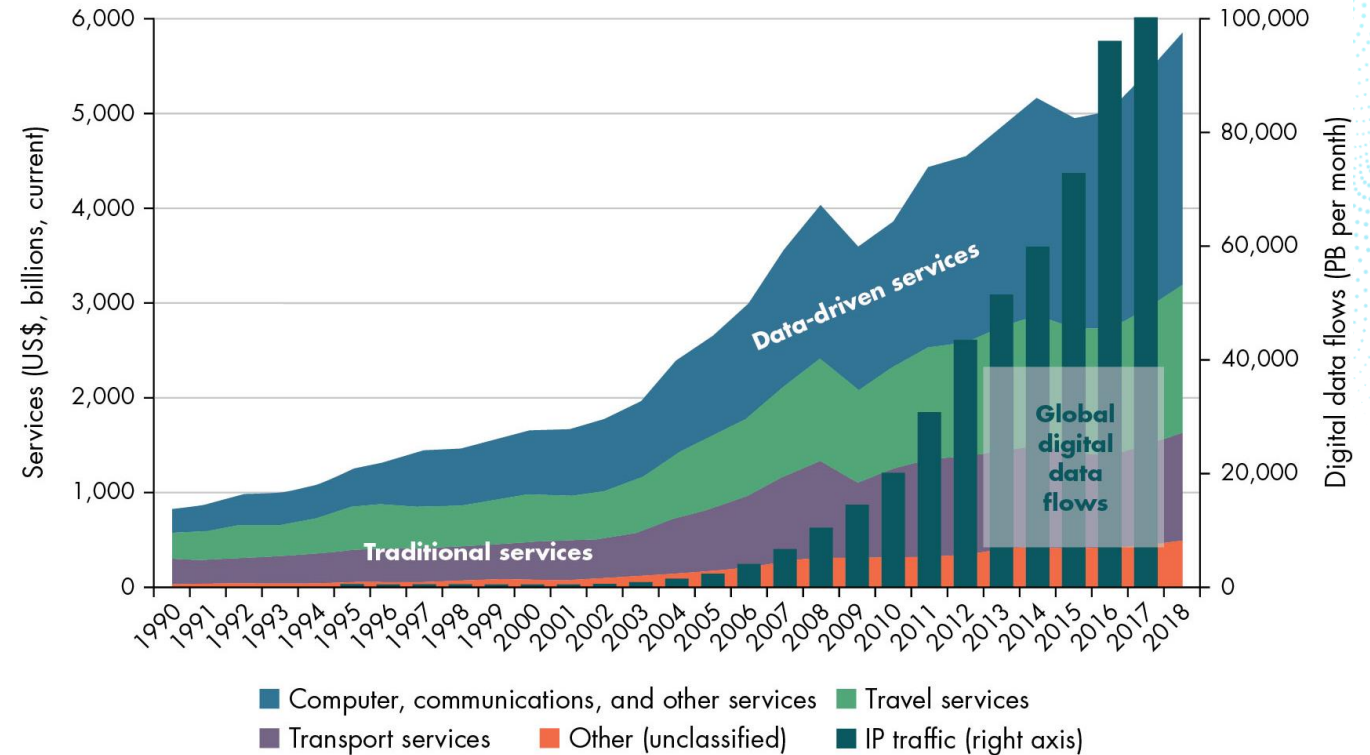
Digital Technologies are Transforming Digital Trade

Fastest growing segment of international trade – digital services

Since 1990, the global trade in data-driven services has grown substantially and now constitutes half of trade in services

Digital trade is the fastest-growing area of global trade over the past decade, growing 5.4% per year on average.

Digital data is the actual medium for the provisions of cross-border services



Source: WDR team calculations, based on World Bank, WITS (World Integrated Trade Solution) database, <http://wits.worldbank.org/WITS/>. Data at http://bit.do/WDR2021-Fig-7_4.

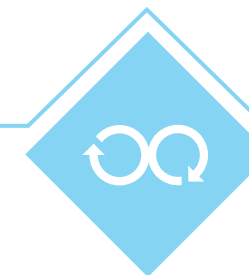
Note: IP = Internet Protocol; PB = petabyte.

Why is enabling cross-border data flows an important policy objective?



Data is the foundation of the modern digital economy and a core input for all sectors. In SEA, 75% of the population is online – rising digital economic activity has led to a boom in both data generation and consumption.

At the same time, **increasing data flows have fueled concerns about the misuse of data**, promoting governments to introduce restrictions on data transfers overseas



Cross-border data flows are essential to securing a range of benefits from digital trade, within firms, between firms and at an industry level. The ability to use, share and access data across borders is vital for innovation and economic growth and to leverage technologies such as IoT and AI.

Government restrictions on cross-border data transfers have been justified to protect personal data, national security, for law enforcement purposes or even to promote local innovation ecosystems



Cross-border Data Flows and Access to Services



Free flow of services, goods, and skilled labor, enabled by cross-border data flows



Use of hyperscale cloud enabled the national ID registration to scale up to up to 300,000 per day

Three Architypes of Regulatory Approaches to Cross-Border Data Flows

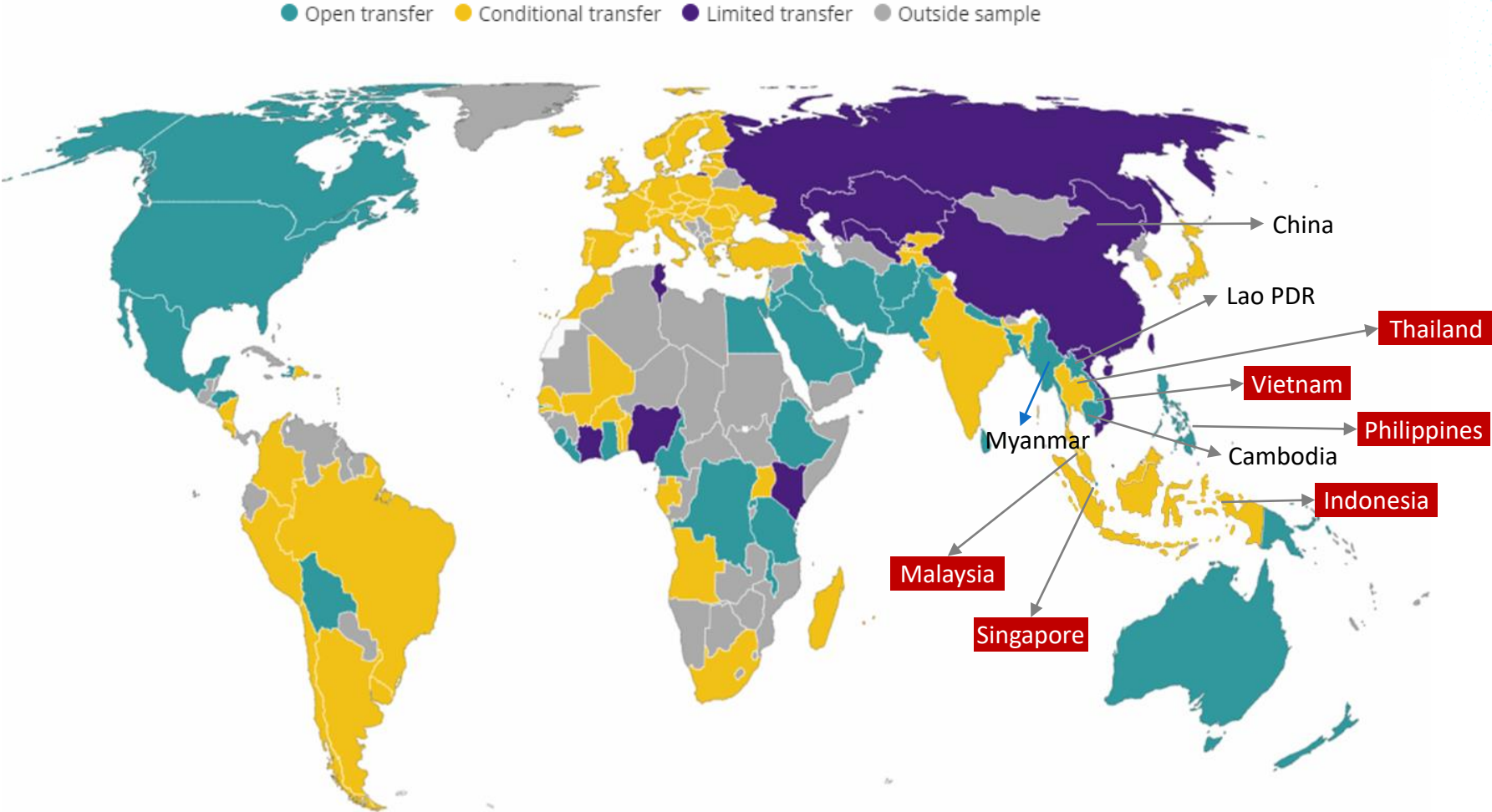
In seeking to balance the policy trade offs to enable data transfers in a manner that supports the social contract on data, countries have taken different approaches to regulating cross-border data transfers:

	Open Transfers	Conditional Transfers	Limited Transfers
Key Features	<ul style="list-style-type: none">• Private information management standards.• No mandatory requirements, conditions or approvals for data transfers.	<ul style="list-style-type: none">• Whitelisting of recipient countries• Incorporation of standard contractual clause• Adoption of domestic certification schemes• Consent	<ul style="list-style-type: none">• Explicit regulatory approval• Localization (including local storage and/or processing of data)
Examples	<ul style="list-style-type: none">• Singapore• Philippines	<ul style="list-style-type: none">• Malaysia• Thailand• Indonesia	<ul style="list-style-type: none">• Vietnam

Source: World Bank (2023), *Enabling Cross-Border Data Flows in Southeast Asia*

Regulatory approaches across SEA-6 countries are increasingly fragmented

Our review of the data transfer regulations in SEA-6 jurisdictions reveals a significant degree of divergence, even within a relatively small subset of countries.



Source: World Bank (2023), *Enabling Cross-Border Data Flows in Southeast Asia*

Estimated Economic Impact of Restrictive Policy Shifts

Figure 1 Summary of country-level trade and GVA impacts

Country	Trade impacts Scenario 1	Trade impacts Scenario 2	GVA impacts Scenario 1	GVA impacts Scenario 2
UK	-8.6%	-4.6%	-2.3%	-1.2%
China	-3.6%	-2.7%	-0.9%	-0.7%
India	-7.1%	-5.9%	-1.8%	-1.5%
Japan	-7.3%	-6.4%	-1.8%	-1.6%
South Korea	-6.5%	-5.8%	-1.6%	-1.5%
Mexico	-8.1%	-7.9%	-2.0%	-2.0%
US	-8.8%	-6.9%	-2.2%	-1.7%
France	-7.1%	-3.8%	-1.8%	-0.9%
EU	-6.7%	NA	-1.7%	NA

Source: Frontier Economics (2022), *The Extent and Impact of Data Localization*

Effects of data localization modeled on seven countries – more “liberal” countries affected more (trade, gross value-added)

Scenario 1: countries and their trade partners move from current policy to mandate local data storage and prohibit cross-border transfer

Scenario 2: from the above fully restricted settings, countries and EU agree on reciprocal arrangements that allow bilateral free flow of data, including personal data via EU’s adequacy determination

- ✓ China, currently taking “Limited Transfers” approach, faces limited incremental losses under scenario 1 as data flows from/to China are already highly restricted
- ✓ Two countries with “Open Transfers” approach, US and Mexico, are most exposed to losses due to data localization requirements. Philippines likely similar

Recommendations: How can policymakers and regulators encourage interoperability?

There is no one-size-fits-all solution - but different enabling mechanisms and measures can be leveraged

Enhance regulatory predictability through transaction-level measures by supporting regulatory predictability and reducing compliance complexity/costs through:

- ❖ **Achieve better interoperability across data protection regimes:**
 - **Increase the uptake and use of** the ASEAN Model Contractual Clauses (MCCs)
 - **Adopt accountability-based mechanisms** such as joining the APEC/Global CBPR
- ❖ **Develop capacity and raising awareness** for organizations and MSMEs on data governance, use of MCCs, APEC/Global CBPR
- ❖ **Consider technical and organizational measures** to enable controlled data use, including cross-border “dataspaces” and “data sandboxes”

Certification & code of conduct considered **most** effective Transfer mechanism by firms

Contractual Safeguards considered as **2nd most** effective transfer mechanism by firms

Recommendations: How can policymakers and regulators encourage interoperability?

There is no one-size-fits-all solution - but different enabling mechanisms and measures can be leveraged

Foster institutional collaboration and development to support a harmonized governance framework for cross-border data flows that (a) supports economic growth and unlocks the benefits of digital trade, while (b) ensuring that personal data is appropriately protected:

- ❖ **Engage in multi-stakeholder cooperation** at the national (between regulators), regional (ASEAN) and global levels - intergovernmental (G20), multilateral (OECD, World Bank), and bilateral level through trade agreements (e.g., EU-UK Trade and Cooperation Agreement, the proposed ASEAN-Digital Economy Trade Agreement, RCEP).
- ❖ **Strengthen institutional capacity** through providing data protection regulators with the appropriate human capacity, financial resources, support in skills and knowledge development
- ❖ **Establish a regional platform** for greater regulatory coordination and cooperation (e.g., ASEAN Data Protection and Privacy Forum)

THANK YOU

We welcome your inputs and feedback to help us shape our analysis and recommendations

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