Geopolitical Tensions in Digital Policy

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St.Gallen Endowment
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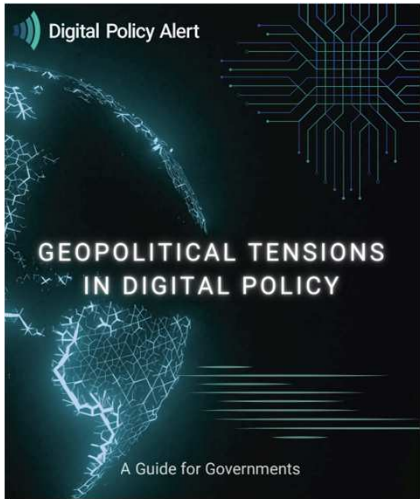
The Issue at Hand

- The US is pushing back against digital policy in tariff negotiations.
- Governments are reacting differently, including withdrawals and delays.
- In April, we outlined which digital policies cause tensions, and why.
- Now, we use the DPA database to take stock across four areas of digital policy.



Pressure from the US

A February 2025 memo stated that the US would scrutinise foreign digital policies and react with tariffs, including

- digital services taxes
- online content rules
- limits to cross-border data flows
- requirements to fund local productions

The pushback has since featured prominently in speeches and posts by senior officials.

Pushback is not new per se, but unprecedently intense and broad.

The Method for Analysing Reactions

To analyse whether this pressure “works“, we look at both direct and indirect effects

- Direct: Mentions of digital policy in tariff deals, press releases, and reports.

- Indirect: Digital Policy Alert database
  - Monitoring digital policy developments in 50+ countries since 2020, every day
  - Detailed tagging, enabling trend analysis across
    - 2328 entries in the 8 months since the memorandum was released
    - 2428 entries in the 8 months before that

Taxation: Basics

Digital services taxes are the focus of geopolitical tensions.

- Colombia, Kenya, Nigeria, and Malaysia, among others, recently joined Austria, France, Italy, Spain, Turkey, and the UK in imposing a DST.
- Several US administrations have addressed DSTs.
  - Trump I: Section 301 investigations into 11 DSTs and 25% tariff threat on selected products for 7
  - Biden: Transitional arrangements to delay/credit DSTs in view of the OECD/G20 Inclusive Framework, but also dispute settlement consultations against Canada's DST under USMCA
  - Trump II: Instruction to scrutinise DSTs through Section 301 and USMCA, and withdrawal from IF

Tensions concerning indirect taxes on the digital economy are more novel.

- Indirect taxes include value-added taxes (VAT), goods and services taxes, and sales taxes.
- The US is scrutinising "non-reciprocal" VAT regimes, such as the EU VAT in the digital age package.

Taxation: Effect?

Direct effect

- Canada rescinded its 3% DST in June to continue trade talks with the US.
- Pakistan suspended its 5% Digital Presence Proceeds Tax for foreign firms.
- The UK press release stated that “the Digital Services Tax remains unchanged as part of today’s deal”, while official US statements did not mention this.

Indirect effect

- The DPA documented 44% fewer direct and indirect tax developments in the past 8 months as compared to the previous 8 months (note: tax developments were unusually frequent inn that period).
- The drop for direct taxes was slightly stronger than for indirect taxes.

Data Flows: Basics

Countries rarely allow for “free data flows”.

- Most establish conditions for data transfers to be lawful
- Some require the localisation of certain data.

The US has long countered data flow restrictions abroad and continues to do so.

Notably, the US position has recently shifted at home and abroad:

- The US started restricting transfers of “bulk sensitive personal data and government-related data” to six “countries of concern”.
- In 2023, the US withdrew its support for commitments regarding data transfers and data localisation under the WTO JSI on E-Commerce.

Data Flows: Effect?

Direct effect

- “Indonesia will provide certainty regarding the ability to transfer personal data out of its territory to the United States.”
- Implementation? Indonesia’s new data transfer regime entered into force in October 2024 and is currently undergoing a constitutional challenge for being too lax.

Indirect effect

- The DPA documented 27% fewer data flow restrictions in the past 8 months as compared to the previous 8 months.
- The drop was similar for data transfer conditions and data localisation obligations.
- Binding rules decreased the most, as opposed to non-binding guidance.

Local Content Promotion: Basics

Governments support local media sectors by requiring digital service providers to

- maintain quotas of and/or invest a percentage of revenues in local content
- compensate the creators of certain content disseminated digitally (most frequent)

Industry pushback against content remuneration has been vocal for years.

- Salient examples include Australia’s News Media and Digital Platforms Bargaining Code and Canada’s Online News Act.
- Meta has removed news content on Facebook in Canada and started deprecating Facebook News in the UK, Germany, and France as well as the US.

The US government now also counters rules designed to “transfer significant funds”.

Local Content Promotion: Effect?

Direct

- Australia’s News Bargaining Incentive was reportedly reconsidered in view of tensions, despite a public consultation paper announced for “early 2025”.
- The Incentive would have created a levy for significant social media platforms and search engines that could be offset by payments to news companies (regardless of the prevalence of news content).
- Previously, Google and Meta had pushed back against the News Media and Digital Platforms Bargaining Code, experimented with removing news content, and entered into voluntary agreements with news companies to avoid designation under the Code. The Incentive was a reaction to Meta not renewing these agreements.

Indirect

- No effect (low figures, generally).

Online Content Rules: Basics

Governments regulate online content from two sides

- Content moderation obligations require platforms to remove certain content.
- User speech rights prevent platforms from removing certain content and facilitate redress.

On the international stage, the US administration has been exceptionally vocal against online content rules. It purports a “free speech” narrative, without acknowledging rules that uphold user speech rights.

Domestically, the US has adopted the TAKE IT DOWN Act (a rare occasion) and is pursuing enforcement action on online content. States are also active.

Online content rules were part of the Section 301 investigation launched into Brazil.

Online Content Rules: Effect?

Direct

- Switzerland delayed its platform regulation, originally meant to draw inspiration from the EU Digital Services Act, because “now the important things come first”.
- Notably, user speech rights were core to the proposal.

Indirect

- No drop in total numbers, but larger share of
  - user speech rights, as opposed to content moderation obligations
  - non-binding guidance, as opposed to binding policy
  - proposals, as opposed to adoptions and implementations

So What?

This was just the tip of the iceberg of tensions:

- Competition (rhetoric after EU DMA fines, delay of EU Google adtech fine).
- Customs duties on electronic transmissions (Indonesian deal)
- Network usage fees (EU deal)
- AI (framing of EU/China approach to promote AI stack, no "AI policy" in int. organisations)

Governments are caught between a rock and a hard place.

- Governments that resist may draw the ire of local providers affected by US tariffs.
- Governments that give in, e.g. removing DSTs, may upset taxpayers and local companies.

Weaponising digital policy, given the US services trade surplus, is short-sighted.

- Beyond eroding trust, governments would feed into the memo's narrative, providing legitimacy for tariffs (beyond IEEPA).

Thank you!