



Cross-Border Data Policies under the Australia-Singapore Digital Economy Agreement

18 September 2020

The Global Data Alliance¹ congratulates the governments of Australia and Singapore on their recently signed bilateral Digital Economy Agreement (DEA) and welcomes the opportunity to provide supportive comments to the Joint Standing Committee on Treaties (JSCOT). The Alliance applauds both countries for negotiating the DEA which includes, among other digital trade rules, robust provisions that safeguard the ability to transfer data across borders and that prohibit data or infrastructure localization mandates.

I. Introduction

The Global Data Alliance is a cross-industry coalition of companies headquartered in different regions of the world that are committed to high standards of data privacy and security. Alliance companies rely on the ability to transfer data responsibly around the world to create jobs and make local industries more competitive.

Negotiating progressive data transfer rules is of paramount importance in any agreement designed to promote the growth of the digital economy. Cross-border data transfers are already estimated to contribute trillions of dollars to global GDP.² 60 percent of global GDP is expected to be digitized by 2022, with growth in every industry driven by data flows and digital technology.³ Furthermore, 75 percent of the value of data transfers accrues to traditional industries like agriculture, logistics, and manufacturing.⁴ Across every sector of the economy,

¹ The Global Data Alliance (globaldataalliance.org) is a cross-industry coalition of companies that are committed to high standards of data responsibility and that rely on the ability to transfer data around the world to innovate and create jobs. The Alliance supports policies that help instill trust in the digital economy while safeguarding the ability to transfer data across borders and refraining from imposing data localization requirements that restrict trade.

Alliance members include BSA members and American Express, Amgen, AT&T, Citi, ITB360, LEGO, Mastercard, Panasonic, Pfizer, Roche, United Airlines, Verizon, Visa, and WD-40 Company. These companies are headquartered across the globe and are active in the advanced manufacturing, aerospace, automotive, consumer goods, electronics, energy, financial services, health, supply chain, and telecommunications sectors, among others. BSA | The Software Alliance administers the Global Data Alliance.

² See Global Data Alliance, *Cross-Border Data Transfers Facts and Figures* (2020), at <https://www.globaldataalliance.org/downloads/gdafactsandfigures.pdf>.

³ *Ibid.*

⁴ *Ibid.*

and at every stage of the production value chain, data transfers enable the digital tools and insights that are critical to enabling entrepreneurs and companies of all sizes to create jobs, boost efficiency, drive quality, and improve output.⁵

The ability to transfer data across borders also directly contributes towards important policy objectives relating to the protection of privacy, security, and regulatory compliance.⁶

Australia and Singapore are strong regional partners and have proposed to establish ambitious and forward-looking provisions on core cross-border data transfer and data localization matters. Both countries are recognized global leaders in advancing technological innovation, in growing data-driven trade and prosperity, and in building trust in the digital economy.

II. Discussion

The DEA presents an important opportunity for both countries to enshrine their shared commitment to cross-border data transfers and open digital trade in an ambitious, high-standard agreement that meets or exceeds the standards of previous free trade agreements, such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the Australia-Hong Kong FTA.⁷

Australia should capitalize on this opportunity to reinforce the strong economic relationship with Singapore that leverages the benefits provided by the responsible free flow of data between both countries. Given the importance of digital tools in fostering growth and productivity across sectors, the DEA is a strong model agreement for Australia that would benefit Australian service providers, particularly small and medium-sized enterprises, as well as farmers, workers, and consumers. As a model, the DEA could also foster economic integration with Australia's major trading partners.

For the foregoing reasons, the GDA encourages Australia to explore agreements similar to the DEA with other partners across Southeast Asia and beyond. The Global Data Alliance particularly commends Australia for including digital trade provisions that:

- permit the cross-border transfer of data while protecting personal information; and
- prohibit data localization requirements as a condition for conducting business.

⁵ See Global Data Alliance, *The Cross-Border Movement of Data: Creating Jobs and Trust Across Borders in Every Sector* (2020), at <https://www.globaldataalliance.org/downloads/GDAeverysector.pdf> ; See Global Data Alliance, *Jobs in All Sectors Depend Upon Data Flows* (2020), at <https://www.globaldataalliance.org/downloads/infographicgda.pdf>

⁶ Global Data Alliance, *Position Paper on Cross-Border Data Transfers & Data Localization* (2020), at <https://www.globaldataalliance.org/downloads/02112020GDACrossborderdata.pdf>. The ability to move data across borders responsibly also contributes to: (1) a country's global connectivity and its access to the international marketplace and supply chains; (2) the ability of companies of all sizes to use software-enabled technologies, including cloud computing, data analytics, and digitally connected industrial processes, to create jobs, boost productivity, and reach new markets; (3) the workforce's ability to remain productive through teleworking, virtual collaboration, and online training, as well as remotely delivered health care and other services; (4) the ability of companies to comply with regulatory requirements in sectors ranging from transportation and logistics to financial services.

⁷ See Global Data Alliance, *Dashboard — Trade Rules on Data Transfers* (2020), at <https://www.globaldataalliance.org/downloads/gdadashboard.pdf> (containing a comparative analysis of the cross-border data transfer provisions in several recent digital trade agreements).

Free Movement of Data Across Borders

A key provision of the DEA is the assurance that each party will not prohibit or restrict the cross-border transfer of information by electronic means, which limits inconsistent measures as set forth in GATS Article XVI, and that parties shall not require the use or location of computing facilities in their own territory. The Alliance and its members strongly support these outcomes. The Alliance also notes that the DEA helpfully provides cross-border data flows and localization rules for the financial services sector that are substantially the same as the rules of general applicability. Furthermore, committing both government to open data flows at the same time as requiring a legal framework to protect personal data makes clear to the world that these objectives are not mutually exclusive and in fact are mutually reinforcing.

Financial Services

Rules specific to any specific sector, such as financial services, which have in past free trade agreements been addressed in separate chapters, must be substantially the same as the rules of general applicability on cross-border data flows and localization. The inclusion of financial services in the DEA is very forward looking and demonstrates the commitment of the Australian government to promoting strong digital trade in the region.

The DEA provides an important opportunity for digital trade between Australia and Singapore and for boosting the Australian digital economy. The GDA commends the DEA to the JSCOT and recommends its support.

III. Conclusion

The Global Data Alliance welcomes the opportunity to provide this submission regarding the DEA. Please do not hesitate to contact us with any questions. Should you have any additional questions or comments, please contact Mr. Joseph Whitlock (josephw@bsa.org), Director Policy.