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DIGITAL TRADE, BIG TECH, & THE FUTURE OF NATIONAL DATA

INDONESIA FOR GLOBAL JUSTICE

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INTRODUCTION

The advancement of the digital era has profoundly transformed the way people live, interact, work, and participate in economic activities. Despite the convenience and opportunities offered by digital capitalism, significant challenges and social dynamics continue to emerge alongside the rapid expansion of technology. Digital trade, cross-border data flows (CBDF), artificial intelligence (AI), and the growing dominance of Big Tech corporations have become central arenas of political and economic contestation that transcend national borders.

The Indonesian Digital Sovereignty Bulletin, published by Indonesia for Global Justice (IGJ), is intended as an effort to document, reflect upon, and critically examine developments in global digital trade policies between 2022 and 2026. Through a collection of articles, publications, and policy monitoring reports, this bulletin seeks to demonstrate that digital issues cannot be viewed merely as technical matters. Rather, they encompass urgent concerns related to the protection of citizens' rights and personal data, digital data governance, digital economic justice, and the future of national economic development.

The articles featured in this bulletin examine a range of strategic issues in digital trade, including the liberalization of digital trade under the Indonesia–European Union Comprehensive Economic Partnership Agreement (I-EU CEPA), the WTO E-Commerce Moratorium, the growing threat of digital monopolies by Big Tech corporations, and the implications of international trade policies for Indonesia's data sovereignty.

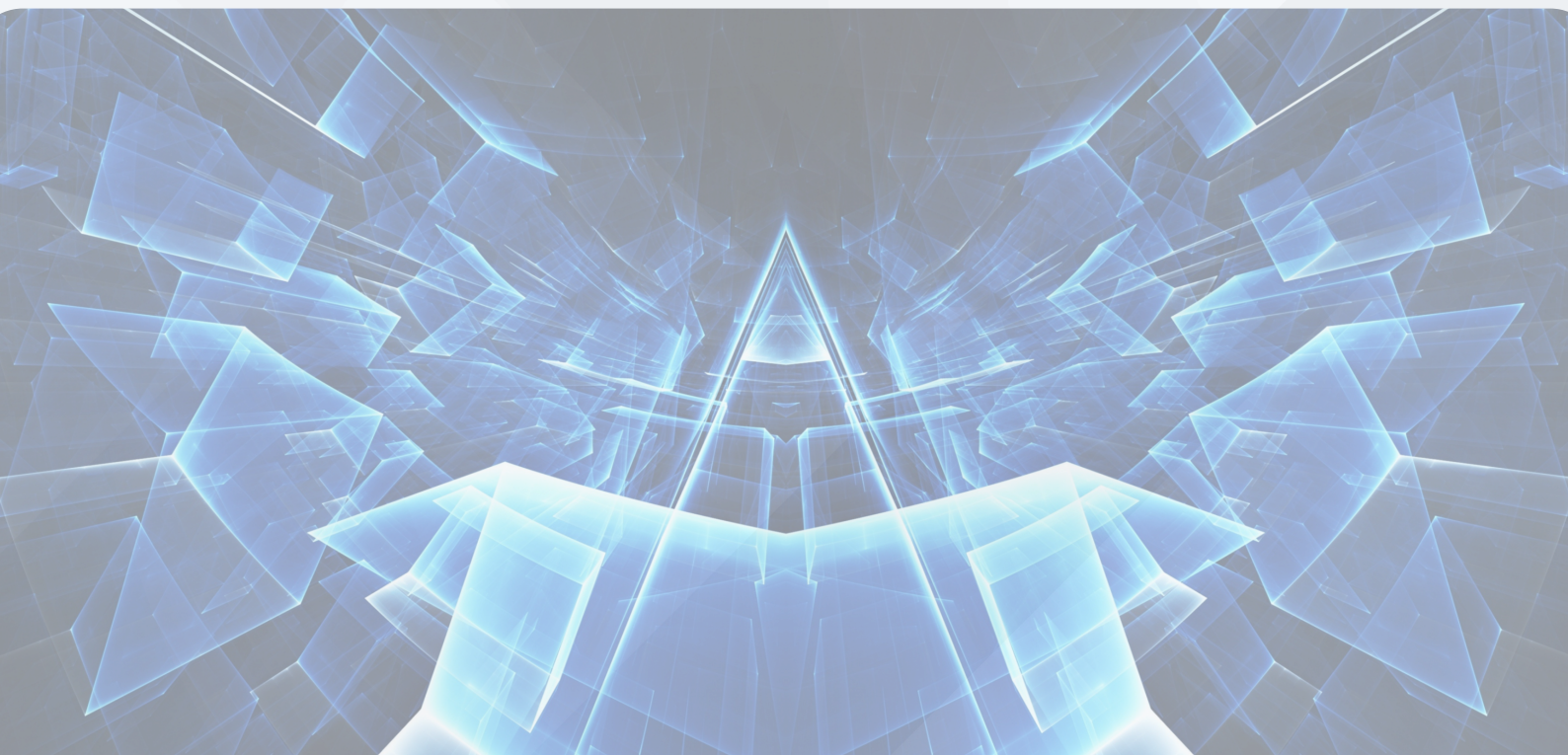
Through this publication, IGJ invites readers to take a more critical view of developments in international digital trade, particularly the impact of digital trade agreements on Indonesia. Debates surrounding data sovereignty and data protection are not merely technical issues; rather, they reflect broader questions about which actors have the power to control data, who ultimately benefits from digital trade agreements, and how states can ensure that digital transformation advances in accordance with the principles of justice, democratic governance, and the public interest.

Finally, we hope that this bulletin will serve as a valuable source of information, reference, and reflection for academics, policymakers, civil society organizations, students, and the wider public affected by developments in digital trade and personal data protection.

"Indonesia should not be reduced to a mere market and data provider for the global digital economy. Instead, it must assert its position as a sovereign actor with the capacity to shape and govern its own digital future."

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The Risks of Digital Trade Liberalization in Indonesia

By Indonesia for Global Justice Editorial Team

The eleventh round of negotiations for the Indonesia–European Union Comprehensive Economic Partnership Agreement (I-EU CEPA) commenced on 8 November 2021. Indonesia for Global Justice (IGJ) considers recent developments in the Digital Trade chapter to warrant careful consideration, particularly with regard to provisions on Cross-Border Data Flows and Source Code. Given the lack of transparency surrounding the negotiation process, civil society organizations find it necessary to remind the government of the importance of conducting a comprehensive impact assessment before committing to any agreements on digital trade issues. Such an assessment is essential to ensure that Indonesia’s policy space, digital sovereignty, and public interests are adequately protected.

According to IGJ, recent proposals concerning digital trade within the I-EU CEPA framework raise serious concerns. Rather than creating opportunities for Indonesia’s micro, small, and -

medium-sized enterprises (MSMEs) to benefit from digital technologies, these provisions could instead hinder their development and further marginalize them in the digital economy. One of the underlying reasons is the state’s slow response in anticipating technological changes and establishing regulatory frameworks capable of protecting both society and economic activities that increasingly rely on digital platforms and infrastructure.

The rapid expansion of internet connectivity across Indonesia has given rise to new forms of economic activity that rely on internet-based telecommunications. This trend is reflected in the significant growth of digital infrastructure and internet access, particularly in major urban centers throughout the country. At the same time, the I-EU CEPA negotiations seek to establish rules governing the use of digital technologies in the trade of services and digital goods, making the regulatory framework for the digital economy an increasingly important area of policy discussion.

The rapid expansion of internet connectivity across Indonesia has given rise to new forms of economic activity that rely on internet-based telecommunications. This trend is reflected in the significant growth of digital infrastructure and internet access, particularly in major urban centers throughout the country. At the same time, the I-EU CEPA negotiations seek to establish rules governing the use of digital technologies in the trade of services and digital goods, making the regulatory framework for the digital economy an increasingly important area of policy discussion.

Digital trade encompasses not only the exchange of goods and services through digital platforms, but also the telecommunications systems that form an integral part of the use of digital technologies and intangible digital products. As a result, issues such as Cross-Border Data Flows (CBDF) and Source Code have emerged as essential areas requiring effective regulation. However, the concept of intangible digital goods itself still lacks a clear and universally accepted definition, making -

comprehensive regulation particularly challenging. Moreover, many critical aspects of digital trade including e-commerce, industrial systems, commercial services, and digitalized manufacturing remain insufficiently regulated. These fundamental issues should be adequately addressed before the I-EU CEPA negotiations are concluded. Indonesia must ensure the protection of its citizens' data, including personal data as well as other forms of data that are vital to the public interest. The rapid expansion of digital business models has intensified market competition while simultaneously increasing the risk of monopolization by a small number of large technology corporations, often referred to as Big Tech. In the long term, such concentration of market power may marginalize micro, small, & medium-sized enterprises, particularly in developing countries.

A report by the Transnational Institute identifies six key differences between the digital trade chapter of the Regional Comprehensive Economic Partnership (RCEP), to which Indonesia is a signatory, and the proposed provisions under the I-EU CEPA. Provisions on Online Consumer Protection and Personal Information Protection under the I-EU CEPA provide only partial safeguards compared to those contained in the RCEP framework. In contrast, provisions concerning the Non-Disclosure of Software Source Code and Related Algorithms, Prior Authorization, and Electronic Public Procurement are included in the I-EU CEPA but are absent from RCEP. Furthermore, the principle of Non-Discrimination Against Digital Products is applied more broadly under the I-EU CEPA than under RCEP, which retains a number of regulatory limitations and exceptions. Taken together, these differences indicate that the I-EU CEPA pursues a more extensive liberalization of digital trade. The agreement also adopts a broader definition of digital trade, extending beyond digitally facilitated commerce to include intangible digital -

products as tradable goods subject to commercial regulation.

The key issues emerging from the chapters under negotiation can be summarized as follows:

- **Cross Border Data Flow**

E-commerce, digital trade, and the digital economy cannot be understood merely as the use of digital technologies. They are also intrinsically linked to telecommunications systems and Information and Communication Technologies (ICT), which together form an integrated and inseparable foundation of the digital ecosystem. Consequently, regulatory frameworks governing digital trade inevitably extend to the use of telecommunications technologies and the broader impacts they generate. The global and cross-border nature of ICT development has created numerous consequences and challenges that, in many cases, remain insufficiently anticipated by policymakers. The ability to communicate and transfer data across borders facilitates the large-scale circulation of data alongside economic activities. Digital liberalization measures, particularly those promoting unrestricted Cross-Border Data Flows (CBDF), do not operate in isolation; they are often accompanied by provisions that restrict governments from imposing requirements related to local presence, local servers, data localization, data protection measures, and other domestic regulatory frameworks. These issues are also among the provisions currently being negotiated under the EU-CEPA framework. Developments in digital trade negotiations concerning cross-border data regulations could generate significant risks for both society and the state.

Large-scale extraction and transfer of citizens' data may become increasingly feasible, despite data being one of the most valuable and strategic resources in the digital economy. At the same time, the enforcement of domestic laws may become more difficult, weakening the effectiveness of public protection mechanisms, particularly in cases involving criminal activity or regulatory violations. Ensuring national capacity to manage and govern data domestically is therefore essential to prevent excessive dependence on, and domination by, global technology corporations. The concentration of digital infrastructure and data governance in the hands of a small number of multinational technology companies presents a growing challenge that Indonesia must anticipate. Strong, effective, and adaptive regulatory oversight is required to safeguard data security, prevent excessive concentration of data power, and respond to the rapidly evolving nature of ICT. Such measures are crucial to mitigating the potential adverse effects of digital trade liberalization while ensuring that digital transformation serves the broader public interest.

- **Source Code**

Many people tend to view this issue solely through the lens of efficiency and convenience the easier and more user-friendly an application is, the better it is perceived to be. However, the issue extends far beyond functionality. Source code, which is protected under Intellectual Property Rights (IPR), constitutes the core architecture of digital systems and can enable activities that are difficult to detect or scrutinize, including data extraction, discriminatory practices, fraudulent conduct, monopolistic behavior, regulatory violations, and even criminal activities. As a result, restrictions on access to source code may hinder the

effective enforcement of laws and regulations, potentially causing harm to individuals, local businesses such as Micro, Small, and Medium-Sized Enterprises (MSMEs), and the state more broadly. Another critical concern relates to the difficulty of monitoring and enforcing taxation measures within digital systems, including value-added tax (VAT), digital transaction taxes, and other forms of taxation that may be applicable to digital economic activities. For these reasons, limitations on access to source code should continue to be carefully assessed to ensure that adequate safeguards exist against potential negative consequences. Where necessary, an independent and credible institution should be established or empowered to oversee, audit, and investigate digital systems in order to ensure transparency, accountability, and compliance with national laws and regulations.

Conclusion

The Government of Indonesia should carefully and comprehensively assess the ongoing I-EU CEPA negotiations, particularly the Digital Trade chapter, with close attention to the long-term implications that the agreement may have for Indonesia's national economy and trade policy. The agreement should not be concluded hastily. A precautionary approach is necessary, given that many of the commitments made under such agreements may be difficult to revise or reverse once negotiations are finalized and legally binding. The European Union's proposed text suggests a push toward liberalization that extends beyond digitally facilitated trade to include a broader range of intangible digital products. This reflects the EU's relatively advanced regulatory -

framework and stronger institutional capacity to protect its citizens and regulate the digital economy. Indonesia, however, remains in a different position. While certain provisions appear balanced and democratic such as the recognition of each party's right to regulate domestically the practical outcomes may be highly unequal if Indonesia lacks adequate legal and regulatory safeguards. In such circumstances, European businesses could potentially gain extensive access to data and information originating from Indonesia, while Indonesian actors may not enjoy comparable benefits or protections. Indonesia must therefore strengthen its domestic regulatory framework as a matter of urgency. The continued delay in the enactment of comprehensive personal data protection legislation further weakens Indonesia's position in international digital trade negotiations and risks leaving the country increasingly behind in addressing the challenges of the digital economy. Effective legal protections, regulatory capacity, and institutional preparedness are essential prerequisites before undertaking far-reaching commitments in digital trade agreements.

The Indonesian government must accelerate the development of a comprehensive regulatory framework capable of protecting society amid the rapid expansion of digital technologies and digital economic activities. Without adequate safeguards governing data-related activities particularly in the context of technological competition and digital markets Indonesia risks undermining its economic strength and national sovereignty. Effective governance of the digital economy requires not only the protection of personal data, but also broader protections for public, strategic, and nationally significant data. For this reason, a thorough assessment of the Digital Trade chapter of the I-EU CEPA is essential before any commitments are finalized. Indonesia must ensure that its regulatory institutions, legal frameworks, and policy instruments are sufficiently prepared to address the challenges posed by digital trade liberalization. Only through such preparedness can the country safeguard its public interests, maintain its policy space, and ensure that the benefits of digital transformation are distributed fairly and sustainably.





Why Do Developing Countries Want to End the E-Commerce Moratorium?

by: Muhamad Aryanang Isal - Program Manager on Digital Issues Indonesia for Global Justice

On July 18 2023, several southern countries such as India, South Africa, Turkey, Argentina, and Indonesia openly pushed for changes and lifting of the moratorium of import duties on electronic transmissions (E-Commerce Moratorium). In contrast to a group of developed countries such as the United States (US), Australia, and the European Union (EU) which insists on maintaining the E-Commerce Moratorium. All three developing countries (India, Indonesia, and South Africa) issued a statement strongly, that the moratorium must end at the 13th Ministerial Conference which will take place in Abu Dhabi in February 2024¹

Since 1998, the World Trade Organization (WTO) has adopted a global electronic trade declaration at the 2nd MC session held in Geneva 1998. WTO member countries agreed to implement a moratorium on the imposition of tax rates on electronic/digital transmissions, known as the E-Commerce Moratorium,² This has happened consecutively until now.

Moratorium on e-commerce is the postponement of tax rates in electronic/digital commerce which includes: production, distribution, marketing, sales, and delivery of goods and services via electronics. In short, electronic transmission encompasses technologies such as 3D printing, which enables the electronic commerce of goods and services, and even encompasses content, audiovisual or streaming, via digital platforms such as Netflix and Spotify which is considered part of E-Commerce³

The E-Commerce Moratorium Declaration is a response to the rapid development in the field of electronic commerce, the main reason for WTO members to impose the moratorium is to provide space for the growth and innovation of electronic commerce without excessive obstacles through taxes and increased public consumption of digital shopping needs, increasing Gross Domestic Product and increasing the stability of electronic transmission prices⁴

However, the Moratorium means WTO members cannot implement taxes on electronic transmissions which results in significant losses for developing countries. Quoting UNCTAD's research report entitled "Growing Trade in Electronic Transmission: Implications for the South" In 2019, it was estimated that the moratorium resulted in developing countries losing US\$8 billion in revenue in 2017, while developed countries only lost potential revenue of US\$212 million⁵

Ministerial Conference 12th Decision Concerning E-Commerce Moratorium

On June 17 2022, the WTO held the 12th KTM which took place in Geneva. The MC meeting resulted in a decision regarding the moratorium and E-Commerce work program Members agreed to maintain the E-Commerce moratorium practice, by not imposing import -

¹ <https://www.twn.my/title2/unsd/2023/unsd230910.htm>, accessed on 5 february 2024.

² <https://www.telefonica.com/en/communication-room/blog/moratorium-of-e-commerce-the-tax-debate-on-e-commerce/>, accessed on 5 february 2024

³ Ibid.

⁴ <https://ecipe.org/publications/moratorium/>, accessed on 6 february 2024

⁵ <https://www.cnbcindonesia.com/tech/20220616132629-37-347644/gertak-wto-moratorium-pajak-impor-e-commerce-bikin-ri-rugi>, accessed on 6 february 2024.

duties on electronic transmissions until the MC 13th. Currently, several countries are developing to discuss the E-Commerce Moratorium intensively and analyze the impact of the import duty moratorium on electronic transmissions.⁶

Those supporting the moratorium seem to only put forward repeated arguments without providing concrete evidence, as argued by India. The United States and the EU stated that the moratorium has helped countries affected by the COVID-19 pandemic and is considered successful. The two members and developed country allies are trying to push for a permanent moratorium within the Plurilateral Joint Statement Initiative (JSI) group regarding digital trade.⁷

At the same time, Indonesia together with India, South Africa, and Pakistan sharply questioned the logic of members supporting the moratorium, such as India which called for an end to the moratorium at the MC 12th meeting, Pakistan which stated that the moratorium is not regulated in the General Agreement on Tariffs and Trade (GATT) and the General Agreement on Trade in Services (GATS) and Indonesia submitted a detailed study at the meeting, pointing out that the Indonesian Customs Law has stipulated that customs duties are imposed on digital goods (software, electronic data, and multimedia, etc.) sent via electronic transmission, namely the internet. Some opponents of the Moratorium argue that it is a market access issue and insist that continuing the moratorium would harm the interests of developing countries.⁸

Though The E-commerce moratorium has been widely rejected by members from developing countries, the WTO is still determined to liberalize trade by launching a draft regulation which could ultimately lead to the E-Commerce moratorium being reimposed and changed to permanent for the MC 13th February 2024.⁹

E-Commerce Moratorium Harms Developing Countries

Article XIX of the GATS has emphasized that the process of liberalization of trade in services “shall take place with due regard for the national policy objectives and the level of development of each member, both as a whole and in individual sectors.”

The US is intensively campaigning for a permanent moratorium on electronic transmission, even though the E-Commerce moratorium violates GATS principles, the US is adamant that this moratorium can have a positive impact on the growth and innovation of the digital economy.¹⁰

In reality, the “positive impact” discussed by the US is a false impact, this is because the E-Commerce moratorium only benefits developed countries that have large technology companies (Big Tech). As is known, Big Tech is owned by many developed countries, so it is easy for developed countries to exploit developing countries, including Indonesia, which currently does not have a conducive digital industry so it should still not be able to compete competitively with global capitalism.

With the E-Commerce moratorium still in effect, developing countries experience a loss of tax revenue that should be received through digital trade, thereby reducing budgets for public services and infrastructure development, while developed countries gain benefits through the development of Big Tech in their respective countries.

⁶ <https://www.twi.my/title2/wto-info/2023/ti230416.htm>, accessed on 6 february 2024.

⁷ *Ibid.*

⁸ *Ibid.*

⁹ <https://www.politico.com/newsletters/weekly-trade/2024/02/05/wto-draft-text-takes-up-e-commerce-moratorium-00139533>, accessed on 6 february 2024.

¹⁰ <https://www.twi.my/title2/wto-info/2023/ti230710.htm>, accessed on 6 february 2024.



The Threat of Digital Monopoly Through I-EU CEPA Negotiations

by: Muhamad Aryanang Isal - Program Manager on Digital Issues Indonesia for Global Justice

The negotiations for the Indonesia–European Union Comprehensive Economic Partnership Agreement (I-EU CEPA) have now entered their eighteenth round, held in Brussels on 13 May 2024. Across several negotiating chapters, the Government of Indonesia should carefully evaluate the proposals contained in the agreement, particularly those under the Digital Trade chapter.

Indonesia for Global Justice (IGJ) argues that the Digital Trade provisions proposed under the I-EU CEPA could pose significant risks to Indonesia's data sovereignty, weaken the country's ability to oversee and regulate data flows, and facilitate digital data extractivism through the large-scale exploitation of data by Big Tech corporations.¹¹ The lack of transparency in the negotiation process has prompted civil society organizations to urge the Indonesian government to reassess the potential implications of the I-EU CEPA proposals, particularly those concerning Cross-Border Data Flows (CBDF) and Source Code¹²

It is undeniable that technological advancement has brought profound changes to economic development and the way people engage in economic activities.

The rapid growth of digital technologies has created new forms of economic participation, particularly within the digital economy. As digital technologies become increasingly integrated into commercial activities, they have emerged as an important area of regulation in international trade negotiations. In this context, the I-EU CEPA seeks to address these developments through its Digital Trade chapter.

To date, negotiations under the Digital Trade chapter continue to address key issues, including the definition, scope, and objectives of Cross-Border Data Flows (CBDF); No Prior Authorization requirements; Customs Duties on Electronic Transmissions (the E-Commerce Moratorium); Electronic Trust and Authentication Services; and provisions governing access to or transfer of Source Code. Indonesia and the European Union have reportedly reached agreement on Electronic Trust and Authentication Services, while discussions on other provisions remain ongoing.¹³

Digital liberalization promoted through global trade and regulatory frameworks has increasingly enabled Big Tech corporations to transfer and process data across national borders with fewer restrictions. While such measures are often justified as facilitating innovation and economic efficiency, they may also create significant risks for society when adequate safeguards are absent. One notable example is the Facebook–Cambridge Analytica scandal in the United States, in which data from approximately 50 million Facebook user profiles were harvested without users' consent and subsequently utilized for political purposes, including efforts to influence electoral outcomes.¹⁴

¹¹ Big Tech, or Giant Tech, refers to the largest and most influential IT companies in the technology industry. Originally, Big Tech referred to the five largest companies in the U.S. (Alphabet (Google), Amazon, Apple, Meta, and Microsoft), but it now includes Chinese companies such as Baidu, Alibaba, Tencent, and Xiaomi. Read: <https://www.tni.org/files/2023-04/Digital%20capitalism%20is%20a%20mine%20not%20a%20cloud.pdf>

¹² <https://igj.or.id/2021/12/02/bahaya-indonesia-melakukan-liberalisasi-perdagangan-digital/>
¹³ Report of the 18 th round of negotiations for a Comprehensive Economic Partnership Agreement between the European Union and Indonesia. 13 to 17 May 2024. Brussels. Read: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/indonesia/eu-indonesia-agreement/documents_en

¹⁴ <https://www.theguardian.com/news/2018/mar/17/cambridge-analytica-facebook-influence-us-election>

The Indonesian government should carefully assess the implications of I-EU CEPA negotiations, particularly the provisions relating to CBDF and Source Code. Prior to the adoption of the Digital Trade chapter, Indonesia should strengthen its governance of data flows by establishing a clear and comprehensive regulatory framework governing cross-border data transfers. Although the Ministry of Communication and Information Technology has expressed its commitment to improving data governance¹⁵ progress toward developing a coherent regulatory framework remains limited.¹⁶

This challenge is reflected in Indonesia's Personal Data Protection Law, enacted in 2022. Although the law establishes several categories of personal data, including general and specific personal data, it still requires clearer implementation mechanisms and comprehensive secondary regulations. Further clarification is needed regarding data classification, protection standards, and enforcement procedures¹⁷

To date, Indonesia has yet to establish a sufficiently comprehensive and effective data governance framework, leaving the country vulnerable to the influence of global digital capitalism, particularly by dominant Big Tech corporations. Over the past several years, major technology companies have increasingly consolidated their influence within the e-commerce sector through extensive lobbying efforts aimed at deregulating global digital governance under the banner of "digital trade." Digital Trade chapters have consistently appeared in trade agreements proposed by major economies such as the United States, the European Union, Canada, and Japan. Many of these provisions reflect policy agendas originally promoted by large U.S. technology corporations. Critics argue that such rules may facilitate the expansion of digital platforms while limiting governments' ability to protect data sovereignty, ensure fair competition, & safeguard the public interest¹⁸

In practice, digital trade agreements have increasingly been viewed as instruments through which Big Tech corporations seek to respond to growing regulatory pressures. Technology companies have utilized digital trade negotiations as a means of challenging or circumventing domestic regulatory frameworks, thereby reducing governments' ability to oversee and regulate digital markets effectively. Such developments may pose significant risks to privacy, human rights, competition, social and economic justice, and sustainable development. Critics argue that digital trade provisions can constrain governments' policy space by limiting their ability to adopt regulations aimed at protecting citizens, addressing market concentration, promoting fair competition, and ensuring that the benefits of digital transformation are distributed equitably across society¹⁹

Big Tech corporations have consistently sought to advance the liberalization of digital trade by promoting policy agendas that align with their commercial interests. One of the strategies often highlighted by critics is the provision of funding and support to academic institutions, think tanks, non-governmental organizations, and civil society groups in major policy-making centers such as Washington and Brussels. Through these channels, technology companies are able to influence public discourse and policy debates surrounding digital governance, data regulation, and international trade.²⁰

It is therefore important for the Indonesian government to remain vigilant regarding the risk of digital monopolization facilitated through trade negotiations. Such developments could threaten citizens' privacy rights and exacerbate economic inequality through the irresponsible manipulation and exploitation of data.



The Indonesian government should take serious steps to protect national personal data by establishing robust regulations governing cross-border data flows. Unrestricted and unlimited data transfers not only strengthen Big Tech's dominance over global data resources but may also widen economic inequalities, threaten user privacy, and reduce developing countries to the role of consumers rather than active participants in the digital economy²¹

Indonesia must urgently strengthen personal data protection through improvements to its legal and regulatory framework. Greater attention should be given to protecting public data, which frequently becomes exposed due to weaknesses in governance and cybersecurity.

Before finalizing any commitments under the Digital Trade chapter of the I-EU CEPA, the government should first ensure that adequate protections are in place for its citizens' data rather than rushing into agreements whose benefits for Indonesia remain uncertain.²²

[²¹] https://www.kominfo.go.id/content/detail/42377/siaran-pers-no-236hmkominfo062022-tentang-menkominfo-indonesia-tunjukkan-komitmen-tata-kelola-data-di-dewq-g20/0/siaran_pers

[²²] <https://mediaindonesia.com/ekonomi/548913/regulasi-aliran-data-lintas-batas-indonesia-perlu-diperjelas>

[²³] Section 4 of Law No. 27 of 2022 on the Protection of Personal Data.

[²⁴] Deborah James. Rigging the Rules: How Big Tech Uses Stealth "Trade" Agreements and How We Can Stop Them. <https://projects.iftorchange.net/state-of-big-tech/rigging-the-rules-how-big-tech-uses-stealth-trade-agreements-to-undermine-and-prevent-digitalization-in-public-interest-and-how-we-can-stop-them/>

[²⁵] <https://eu.boell.org/en/2021/05/19/digital-trade-rules-big-techs-end-run-around-domestic-regulations>

[²⁶] <https://www.nytimes.com/2020/12/14/technology/big-tech-lobbying-europe.html>

[²⁷] <https://www.citizen.org/wp-content/uploads/crossborder-data-flows-privacy.pdf>

[²⁸] <https://nasional.kompas.com/read/2022/11/17/06381631/data-publik-masih-bocor-kominfo-dan-bssn-dinilai-perlu-berperan-atasi-meski>





The Implications of Trump's Tariff Policies for Digital Sovereignty and the Future of Indonesia's Digital Economy

by: Muhamad Aryanang Isal - Program Manager on Digital Issues Indonesia for Global Justice

In recent years, the global trade landscape has undergone significant transformation as a result of unilateral tariff policies adopted by the United States (U.S.) under the administration of President Donald Trump. Characterized by a protectionist approach and the “America First” doctrine, these policies have intensified asymmetries in trade relations between developed and developing countries, including Indonesia. One of the most visible consequences has been the unequal tariff treatment applied to U.S. products and Indonesian exports.

Indonesia has entered into a bilateral trade arrangement with the United States concerning the imposition of 19% tariff on Indonesian -

products entering the U.S. market. The policy emerged from direct negotiations between President Donald Trump and Indonesian President Prabowo Subianto. The agreed tariff rate represents a reduction from the initial 32 percent tariff announced in April 2025. Following discussions between the two leaders in July 2025, conducted through a telephone conversation, both governments agreed to the revised tariff rate of 19%.

The outcome of these negotiations may prove detrimental to Indonesia, particularly given the obligations imposed on the country as part of the agreement. The implications extend beyond traditional trade sectors and into the realm of digital trade. A release issued by the White House entitled “Joint Statement on Framework for United States–Indonesia Agreement on Reciprocal Trade” indicates that Indonesia is expected to commit to eliminating barriers to digital trade and to support a permanent moratorium on customs duties on electronic transmissions at the World Trade Organization (WTO), commonly referred to as the “e-commerce moratorium.” The statement further suggests that Indonesia would provide assurances regarding cross-border transfers of personal data to the United States, including recognition of the United States as an eligible destination for such transfers.

“The United States and Indonesia will finalize commitments on digital trade, services, and investment. Indonesia has committed to eliminate existing HTS tariff lines on “intangible products” and suspend related requirements on import declarations; support a permanent moratorium on customs duties on electronic transmissions at the World Trade Organization (WTO).. Indonesia will provide certainty regarding the ability to move personal data out of its territory to the United States through recognition of the United States as a country or jurisdiction..”

The tariff policies pursued by the Trump administration therefore extend beyond manufacturing and physical exports. They carry profound implications for Indonesia's digital sovereignty and the future governance of its digital economy. In an increasingly interconnected global economy shaped by digital trade and cross-border data flows, tariff arrangements and commitments to a permanent e-commerce moratorium may function as new instruments of economic hegemony that constrain Indonesia's regulatory autonomy.

One of the most concerning consequences of the evolving Indonesia-U.S. digital trade relationship is the potential transfer of Indonesian citizens' personal data to the United States. Digital trade agreements often include provisions that discourage governments from requiring foreign technology companies to store and process data domestically. Such commitments not only weaken national control over strategic data resources but also create opportunities for the exploitation of citizens' data by foreign corporations with limited oversight from Indonesian regulators.

Beyond privacy concerns, dependence on foreign-owned data infrastructure may undermine Indonesia's ability to develop a robust and sovereign national data ecosystem. Data has increasingly become a strategic asset and a central source of economic value in the digital economy. Yet control over these resources remains concentrated among a small number of global technology corporations, despite the fact that data should be governed and protected in ways that serve the public interest.

Digital trade rules promoted by developed countries within the WTO frequently include restrictions on data localization measures, requirements for disclosure of source code, and the auditing of algorithms used by foreign digital platforms. If Indonesia is compelled to accept such provisions, the state's ability to -

regulate its domestic digital environment could be permanently diminished. The government may face difficulties in implementing policies aimed at protecting strategic data, strengthening domestic technology industries, and overseeing foreign digital companies operating within its jurisdiction. Digital sovereignty, therefore, is not merely a technical concern; it is an essential component of national sovereignty, economic independence, and national security in the data-driven economy.

Indonesia also remains engaged in negotiations surrounding the WTO e-commerce moratorium, a commitment that prevents member states from imposing customs duties on digital products transmitted electronically across borders. As one of the principal advocates of a permanent moratorium, the United States has consistently pushed for the indefinite continuation of this arrangement. Such a commitment would effectively prevent Indonesia from imposing tariffs on imported digital products, including software, music, films, and streaming services delivered electronically.

Efforts to terminate the moratorium were discussed during the Twelfth and Thirteenth WTO Ministerial Conferences in Geneva. However, due to substantial disagreements among WTO members, the moratorium was extended until the Fourteenth Ministerial Conference. In the midst of rapid digitalization, Indonesia has potentially lost billions of dollars in tax revenue due to the duty-free importation of foreign digital products, while domestic businesses remain subject to taxation and regulatory compliance requirements. This situation creates an uneven playing field and contributes to an expanding deficit in Indonesia's digital trade balance.

Trump administration appears committed to securing a permanent e-commerce moratorium, a move that could deprive-

developing countries of important policy tools for regulating digital services. For many developing economies, the ability to impose customs duties on digital imports represents one of the simplest and most effective mechanisms for managing cross-border digital commerce. The growing sophistication of artificial intelligence (AI) technologies further complicates the debate, as unrestricted digital imports may generate significant national security risks and regulatory challenges.

The elimination of tariffs on imported digital products, combined with unrestricted access for foreign digital services and platforms, may deepen Indonesia's dependence on technologies controlled by major Big Tech corporations. Domestic digital industries—including startups, digital Micro, Small, and Medium Enterprises (MSMEs), and local software developers—will face increasing difficulty competing against dominant global platforms operating under relatively liberal regulatory conditions. As a result, Indonesia's digital economy may fail to develop in an inclusive manner, while domestic innovation and technological self-reliance are progressively weakened.

The Indonesian government must not underestimate the implications of Trump's tariff negotiations and the pressures associated with digital trade commitments. Digital sovereignty, personal data protection, and the right to impose digital taxes should be recognized as strategic issues directly linked to state sovereignty and public welfare in the digital era. Indonesia must therefore strengthen its bargaining position in negotiations with the United States and ensure that any commitments undertaken are aligned with national interests, rather than sacrificing long-term regulatory autonomy and economic development objectives for short-term economic gains.





Big Tech Behind Trade Agreements: The Wto E-Commerce Moratorium And The Threat To Indonesia's Data Sovereignty

by: Muhamad Aryanang Isal - Program Manager on Digital Issues Indonesia for Global Justice

Over the past two decades, the global digital economy has experienced significant growth. Products that were previously traded through conventional means such as books, music, films, games, and software, once sold in physical formats are now distributed digitally through electronic transmissions. However, this rapid technological advancement has not been accompanied by an equitable distribution of economic welfare at the global level. On the contrary, digital transformation has further deepened inequalities between developed countries as producers of digital capitalism and developing countries as consumer markets, sources of data, and sites of value extraction for Big Tech.

One clear manifestation of this inequality is the policy to eliminate customs duties on electronic transmissions at the World Trade Organization (WTO), commonly known as the e-commerce moratorium. Since 1998, WTO members have agreed not to impose tariffs on goods and services delivered digitally. Initially, this policy was intended as a temporary measure to support the growth of the internet and the digital industry. However, after more than two decades, the moratorium has effectively become a permanent arrangement that sustains the dominance of digital capitalism in developed countries²³



On the one hand, the expansion of global digital markets shows that the growth of e-commerce disproportionately benefits a small number of large corporate actors. Data indicates that major technology companies such as Alphabet (Google's parent company), Apple, Microsoft, and NVIDIA have become the most dominant firms globally since 2025, each generating profits exceeding USD 100 billion. This dominance is closely tied to the structure of the global trade regime, which enables Big Tech to expand their markets without digital tariff barriers through the WTO e-commerce moratorium²⁴

²³ World Trade Organization (WTO), E-commerce and the WTO, Available on: https://www.wto.org/english/tratop_e/ecom_e/ecom_briefnote_e.htm

²⁴ Visual Capitalist, Ranked: The World's Most Profitable Companies in 2025, available on: <https://www.visualcapitalist.com/ranked-the-worlds-most-profitable-companies-in-2025/>

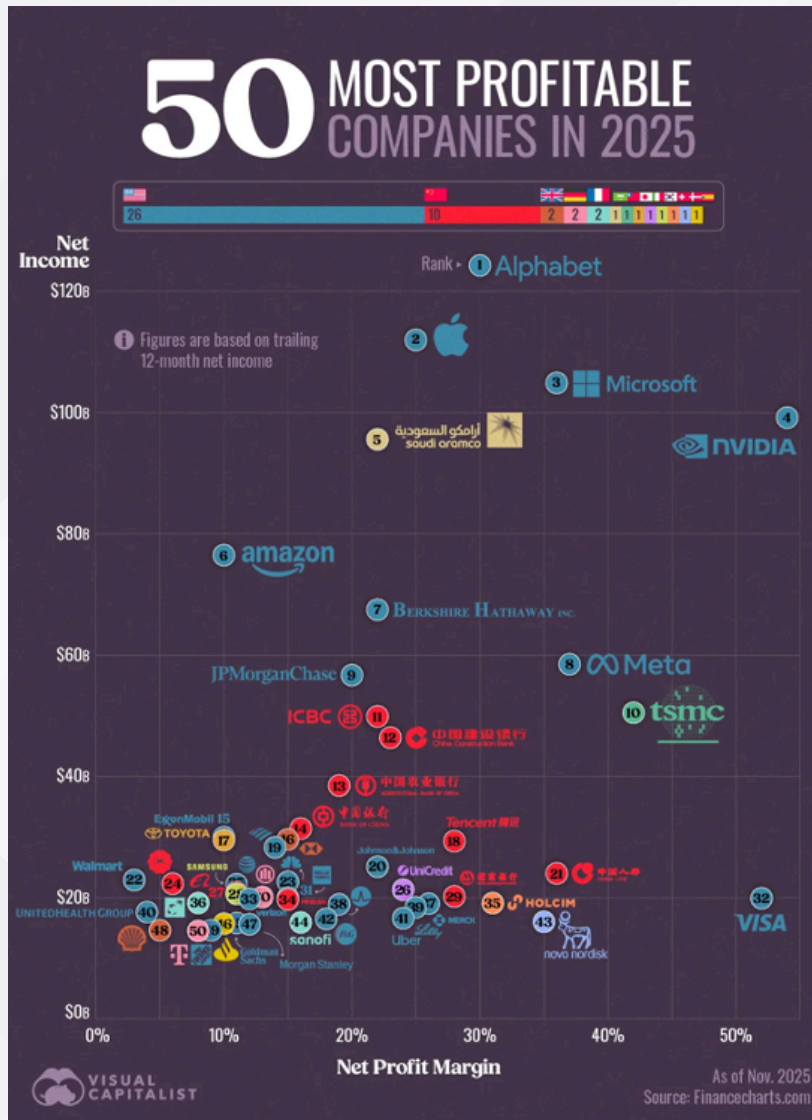


Figure 1: List of the 50 Most Profitable Companies in 2025 (source: Visual Capitalist, 2025).

The dominance of Big Tech has even surpassed traditional economic sectors that have long served as the backbone of global economic growth, such as the oil and gas industry. Big Tech companies are now able to generate profits exceeding those of major energy corporations like Saudi Aramco, whose profit margins reach approximately USD 95 billion, significantly lower compared to Big Tech firms, which can surpass USD 100 billion in profits. This phenomenon reflects a structural shift in the accumulation of global capitalist wealth, from the exploitation of natural resources to the extraction and control of data, digital platforms, services, and technological infrastructure.

Rank	Company Name	Industry	Net Income TTM (USD)	Net Profit Margin TTM (%)
1	Alphabet	Technology (Internet & Digital Advertising)	USD 124,3 Billion	30.1%
2	Apple	Technology (Devices & Software)	USD 112,0 Billion	24.8%
3	Microsoft	Technology (Software & Cloud)	USD 104,9 Billion	35.7%
4	NVIDIA	Technology (Semiconductors & AI)	USD 99,2 Billion	53.7%
5	Saudi Aramco	Energy (Oil & Gas)	USD 95,6 Billion	21.7%
6	Amazon.com	Technology (E-commerce & Cloud)	USD 76,5 Billion	9.8%
7	Berkshire Hathaway	Finance (Investment & Insurance)	USD 67,5 Billion	22.0%
8	Meta Platforms	Technology (Social Media)	USD 58,5 Billion	36.7%
9	JPMorgan Chase & Co	Finance (Banking)	USD 56,7 Billion	20.1%
10	Taiwan Semiconductor	Technology (Semiconductors)	USD 50,5 Billion	41.6%

Table 1: List of the 10 companies with the highest global profits over the past 12 months (TTM) since 2025; the data shows that the most profitable companies are dominated by the technology and semiconductor sectors, which have the highest profit margins (Source: Visual Capitalist, 2025).

By contrast, while Big Tech corporations based in developed countries—particularly those headquartered in the United States continue to enjoy unprecedented growth in profits and market power, developing countries face the prospect of substantial revenue losses as a result of the continued extension of the WTO e-commerce moratorium. The moratorium has been maintained through successive postponements of its expiration, including its extension from the Thirteenth WTO Ministerial Conference (MC13) in Abu Dhabi in 2024 until the upcoming Fourteenth Ministerial Conference (MC14) in Cameroon. Research conducted by the United Nations Conference on Trade and Development (UNCTAD) suggests that if imported digital products were subject to customs duties in the same manner as physical goods, developing countries could collectively generate approximately USD 10 billion in additional annual revenue. These findings highlight a growing disparity between countries in the Global North and those in the Global South. While major technology corporations from developed economies continue to accumulate hundreds of billions of dollars in profits, developing countries are deprived of critical fiscal space that could otherwise be utilized to finance digital and technological infrastructure, strengthen data protection frameworks, support domestic industries, and enhance national economic capacity. The continuation of the e-commerce moratorium therefore raises broader concerns regarding distributive justice in the global digital economy. It reinforces an international system in which the economic benefits of digitalization are disproportionately concentrated among a small number of multinational technology firms, while many developing countries bear the costs associated with reduced policy flexibility, constrained revenue-generation capacity, and increased dependence on foreign digital platforms and infrastructure.

Group Country	Average Tariff Rate (%)	Digital Product Imports (USD Billion)	GATS Mode 1 Services Imports (USD Billion)	Estimated Tariff Revenue Losses (USD Billion)
Developing Countries (non- Least Developed Countries/LDC)	12.6%	USD 79,96 Billion	USD 705,63 Billion	USD 10,08 Billion
High-Income Developed Countries (21 Countries)	2.0%	USD 144,57 Billion	USD 1.822,18 Billion	USD 0,29 Billion
Sub-Saharan Africa	46.4%	USD 5,67 Billion	USD 62,92 Billion	USD 2,63 Billion
Middle East and North Africa	18.9%	USD 5,37 Billion	USD 66,01 Billion	USD 1,02 Billion
Least Developed Countries/LDCs (31 Countries)	50.3%	USD 3,00 Billion	USD 46,23 Billion	USD 1,51 Billion

*Table 2: Estimated Tariff Revenue Losses from Digital Trade
(Source: UNCTAD Research Paper No. 47, 2020)*

This disparity reflects a fundamental injustice in the governance of the global digital economy, whereby developed countries, as the home base of Big Tech, enjoy significantly greater capital accumulation compared to developing countries (non-LDCs), which face potential revenue losses of up to USD 10 billion. In contrast, developed countries incur losses of only around USD 0.2 billion. This imbalance demonstrates that the structure of digital trade systematically benefits developed countries that host Big Tech, while simultaneously constraining the fiscal space of developing countries such as Indonesia in the long term²⁵

Furthermore, the liberalization of data in digital trade through the e-commerce moratorium encourages the removal of national control and regulatory mechanisms designed to protect personal data. The free flow of cross-border data (Cross-Border Data Flow or CBDF), in the absence of robust data protection frameworks, risks undermining national data sovereignty. Under Indonesia's Law No. 27 of 2022 on Personal Data Protection (PDP Law), data is not merely an economic commodity but also concerns citizens' fundamental rights and national security. When data can be easily transferred to foreign jurisdictions without strict oversight, it increases the risk of data misuse and weakens Indonesia's bargaining position vis-à-vis multinational technology companies. Therefore, the issue of the e-commerce moratorium is not merely a matter of taxation in the digital space, but also concerns the governance of data protection in a manner that is more just and respectful of citizens' fundamental rights.

Rather than functioning as a neutral policy, various global trade regimes have effectively constrained the policy space of developing countries such as Indonesia through both bilateral and multilateral agreements. Initiatives such as the Joint Statement Initiative (JSI) on E-commerce at the WTO, the OECD's digital taxation framework, I-EU CEPA & I-CA CEPA, as -

^[25] United Nations Conference on Trade and Development (UNCTAD), What is at Stake for Developing Countries in Trade Negotiations on E-commerce? (Research Paper No. 47, 2020), available on: https://unctad.org/system/files/official-document/ser-rp-2020d6_en.pdf.

well as the Agreement on Reciprocal Trade (ART), have increasingly pressured Indonesia to accept and implement a permanent e-commerce moratorium. This condition weakens Indonesia's bargaining position in building a sustainable digital industry, even before the WTO MC14 negotiations began, due to the country's position having already been "locked in" through legally and politically binding commitments in trade agreements such as the ART.

Indonesia's policy constraints become even more significant following its ratification of the Agreement on Reciprocal Trade (ART) with the United States. Under Article 3.5 of the ART, Indonesia is required to eliminate tariffs on electronic transmissions and to fully support the establishment of a permanent e-commerce moratorium at the World Trade Organization (WTO). These commitments substantially narrow Indonesia's policy space to regulate digital trade and to utilize tariff measures as instruments of industrial and digital economic development. This development suggests that the ART should not be viewed merely as a conventional trade agreement. Rather, it may function as a strategic mechanism through which the United States seeks to preserve and expand the influence of its digital economy within developing-country markets. By institutionalizing rules that facilitate unrestricted digital trade and cross-border digital transactions, the agreement risks reinforcing the dominance of large technology corporations while limiting the regulatory flexibility of partner countries. Unless approached with careful scrutiny and adequate safeguards, these commitments could deepen Indonesia's dependence on foreign digital platforms and Big Tech corporations. In the long term, such dependence may weaken the government's ability to protect domestic digital industries, regulate emerging digital markets, safeguard national data resources, and pursue an independent digital development strategy. Consequently, the implications of the ART extend beyond trade policy and touch upon broader questions of digital sovereignty, economic resilience, and national development in the digital age.

What is the E-Commerce Moratorium?


The WTO e-commerce moratorium is an international agreement in place since 1998, which prohibits member states from imposing customs duties or other charges on imports transmitted electronically (electronic transmissions or ET). With the adoption of this policy, digital transactions, whether goods or services delivered electronically such as software, music, video games, and other digital services, cannot be subjected to import tariffs by the receiving country. Unlike conventional trade, where tariffs are applied to imported goods, digital products remain tariff-free in order to promote the growth of the digital economy, a principle that continues to this day. However, the term "electronic transmissions" itself remains contested, with its definition still under debate.

In practice, there are two main approaches to understanding electronic transmissions: a broad definition and a narrow definition. The broad approach interprets electronic transmissions as encompassing not only the means of delivery through electromagnetic networks but also the digital content transmitted through those networks. This approach is largely promoted by developed countries with dominant Big Tech industries, as it helps avoid corporate obligations to pay import duties. In contrast, the narrow approach limits electronic transmissions to the medium or process of data transmission, excluding the content itself. This interpretation allows states to impose tariffs on digital content. Several developing countries, including Indonesia, tend to support this approach as it creates fiscal space to generate revenue from digital goods and content consumption.²⁶

^[26] Public Citizen, Fact Sheet: WTO Moratorium on Customs Duties on Electronic Transmissions, tersedia di: <https://www.citizen.org/article/fact-sheet-wto-moratorium-on-customs-duties-on-electronic-transmissions/>

Comparison of Offline and Online Trade in Game Commodities (Source: Public Citizen)

Offline:



A game seller from Country A intends to sell to consumers in Country B.




The game is produced in physical form (Bluray disc) and exported to Country B.




The physical game reaches consumers in Country B, and the government of Country B can impose import tariffs.


Online:



A game seller from Country A distributes its games through digital platforms and services



The game is downloaded by consumers in Country B



Country B cannot impose import tariffs on the product due to the moratorium policy

In practice, there are two principal approaches to understanding the concept of electronic transmissions: the broad interpretation and the narrow interpretation. The broad approach views electronic transmissions as encompassing not only the means of delivery through electromagnetic networks, but also the digital content transmitted through those networks. This interpretation has generally been promoted by developed countries, particularly those hosting major Big Tech corporations, as it effectively exempts digital content from customs duties and other import-related charges. By contrast, the narrow approach limits the definition of electronic transmissions to the medium or process through which data is transmitted, rather than the content itself. Under this interpretation, governments retain the authority to impose customs duties on digitally delivered products and content. A number of developing countries, including Indonesia, have tended to support this approach because it preserves policy space and creates opportunities to generate public revenue from the growing consumption of digital goods and services²⁷

^[27] Public Citizen, Fact Sheet: WTO Moratorium on Customs Duties on Electronic Transmissions, tersedia di: <https://www.citizen.org/article/fact-sheet-wto-moratorium-on-customs-duties-on-electronic-transmissions/>

Table 3: Comparison of “Electronic Transmission” (ET) Definitions in the WTO
(Source: TWN)

Aspect	Narrow Definition	Broad Definition
Core Meaning	Covers only the transmission process (network/platform)	Covers both transmission and content
Scope	Data transfer through networks (excluding content as a tariffable object)	All digital content, including software, games, films, music, and digital services
Tariffable Object	Digital content can be subject to customs duties	Digital content cannot be subject to tariffs
Policy Implications	Provides policy space for developing countries to impose digital tariffs	Eliminates tariff Instruments
Impact on Developing Countries	Protects fiscal space and domestic industrial policy	Leads to revenue loss and reduced policy control in the digital space
Supporting Countries	Indonesia, India, South Africa, etc.	United States, European Union, Japan, South Korea, Singapore, etc.
Underlying Argument	ET refers only to the transmission process	ET encompasses both transmission and content (including digital goods and services)
Policy Examples	Indonesia leaves open the possibility of imposing tariffs on digital goods	<i>CPTPP/FTAs prohibit tariffs on all digital content</i>

Constitutional Mandates in Safeguarding National Data Sovereignty

Amid the rapid technological acceleration within the global digital trade regime, policies on e-commerce, data transfers, and personal data protection must not be treated merely as technical issues. In the context of the digital economy, data has evolved into a new strategic resource whose value can shape the direction of national development. Therefore, data governance and Personal Data Protection (PDP) cannot be separated from the state's constitutional mandate, particularly as enshrined in Article 33 paragraphs (2) and (3) of the 1945 Constitution of the Republic of Indonesia. These provisions require that the utilization of public data should not benefit only a handful of global actors, but must also serve the interests and welfare of the Indonesian people.

Article 33(2) and (3) of the 1945 Constitution of the Republic of Indonesia provide that:

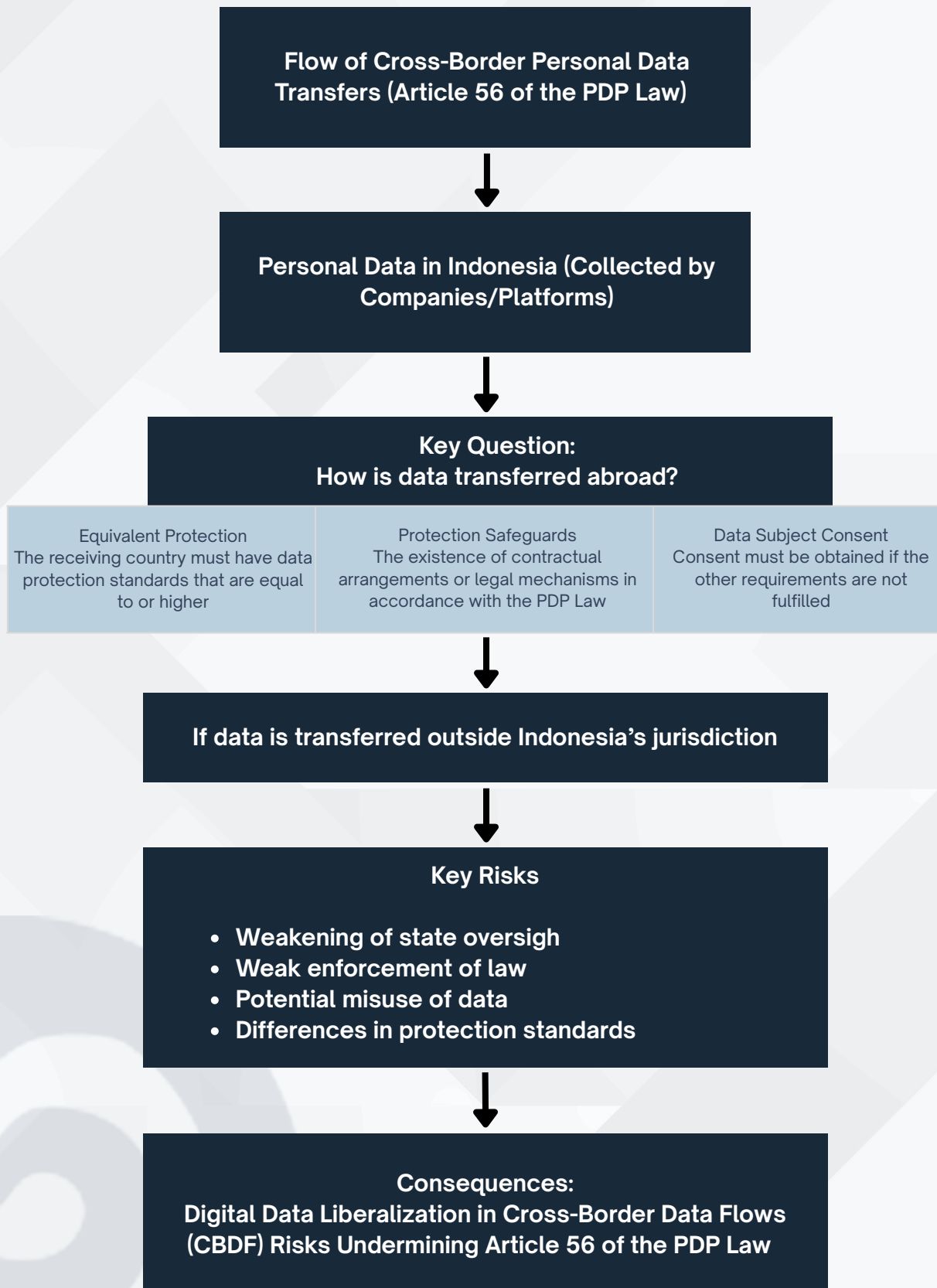
- (2) ***“Sectors of production that are vital to the state and affect the livelihood of the people shall be controlled by the state.”***
- (3) ***“Land, waters, and the natural resources contained therein shall be controlled by the state and utilized for the greatest possible prosperity of the people.”***

Article 33 of the 1945 Constitution of the Republic of Indonesia explicitly outlines the state's role in managing digital data as a strategic resource. The phrase “branches of production” in this article should not be narrowly understood as referring only to traditional sectors such as natural resources, but rather as encompassing all sectors that have broad societal impact. Meanwhile, the phrases “of importance to the state” and “affecting the livelihood of the public” emphasize that the defining criterion of a strategic resource lies in its significance and its impact on the public at large. In today's digital economy, data, digital platforms and services, as well as technological infrastructure clearly meet these criteria, as they form the foundation of the modern economy and shape virtually all aspects of social life.

Furthermore, paragraph (3), particularly the phrase “natural resources contained therein,” while textually referring to natural resources, carries a broader principled mandate. It implies that any resource with strategic value must fall within the framework of state control and be utilized for the prosperity of the people. In the context of the modern economy, data can be understood as a form of “new wealth” that is intangible yet possesses economic value comparable to, or even exceeding, that of national natural resources. Therefore, the governance of digital data, including its storage, processing, and distribution, should fall under the framework of state control as mandated by the Constitution.

Article 56 of the Personal Data Protection (PDP) Law further stipulates that the transfer of personal data outside Indonesia's jurisdiction may only take place under specific conditions, namely that the receiving country provides a level of legal protection equal to or higher than that of Indonesia's PDP framework, or based on the explicit consent of the data subject. This provision underscores the central role of the state in regulating cross-border data flows (CBDF) and in ensuring that citizens' personal data is not misused or arbitrarily exploited by corporations and digital platforms.

Analytical Diagram of Article 56 of the Personal Data Protection (PDP) Law



In the data transfer process illustrated in the diagram above, the transfer of data abroad is not automatic, but instead follows a structured and sequential assessment. This process begins with the existence of data within the domestic jurisdiction, followed by a decision on whether the data may be transferred, with the consent of the data subject serving as a last resort. This structure underscores that data protection is treated as a prerequisite, not a consequence, of cross-border data flows (CBDF).

When such data flows occur and personal data can be easily transferred to other jurisdictions, this creates vulnerabilities, including weakened state oversight and law enforcement, as well as the potential misuse of data due to differing standards of personal data protection.

Within this framework, the PDP Law serves as a legal instrument that affirms the role of the state in regulating and protecting data as a strategic national asset. In particular, Article 56 of the PDP Law governs the transfer of personal data abroad by requiring that the receiving country provide an equivalent or higher level of data protection, that adequate safeguards be ensured through binding legal instruments, and that the consent of the data subject be obtained if these conditions are not met. These provisions demonstrate that CBDF is not unrestricted, but operates within a framework of strict legal control and accountability aimed at protecting citizens.

In line with these provisions, data localization policies are further reinforced by Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions (PP PSTE). Specifically, Article 21 of this regulation requires Electronic System Operators (ESOs) to ensure the effectiveness of government oversight over the electronic data they manage. This provision establishes a legal basis for the state to demand accountability regarding the placement of data within national jurisdiction, particularly data related to public interests.

The regulatory framework governing ESOs reflects the state's role not merely as a passive manager of citizens' data, but as an active authority ensuring that data remains within the reach of national legal jurisdiction. This aligns with the constitutional principle under Article 33 of the 1945 Constitution, in which data can be understood as a "new resource" that must be managed for the greatest prosperity of the people. Accordingly, data localization is not merely a technical policy, but a constitutional imperative to safeguard citizens' rights, ensure effective and efficient law enforcement, and prevent the manipulation and misuse of public data for private gain.

Big Tech's Agenda in Global Digital Liberalization

The active role of digital corporations (Big Tech) in pushing for a permanent e-commerce moratorium can be seen in the Global Industry Statement on the WTO Moratorium on Customs Duties on Electronic Transmissions, coordinated by the International Chamber of Commerce (ICC). In this statement, 209 global business associations openly called for the extension and eventual permanent adoption of the e-commerce moratorium. The industry strongly supports the continuation of the moratorium on the grounds that its removal would disrupt the global digital economy²⁸

Furthermore, in the document *Business Mobilisation Grows to 189 Chambers and Associations Backing WTO Reform and Moratorium Renewal*, released by the ICC on 5 March 2026, there is a call to extend the moratorium to avoid market uncertainty, rising prices of digital products, and constraints on the role of e-commerce in enabling Micro, Small, and -

^[28] International Chamber of Commerce (ICC), *Global Industry Statement on the WTO Moratorium on Customs Duties on Electronic Transmissions* (2024), tersedia di <https://iccwbo.org/wp-content/uploads/sites/3/2024/02/2024-02-26-Global-Statement-on-WTO-Moratorium.pdf>.

Medium Enterprises (MSMEs) to access global markets. The business sector also emphasizes that imposing tariffs on electronic transmissions would increase the cost of digital services such as cloud computing, software, and digital platforms, ultimately burdening MSMEs and consumers, particularly in developing countries.²⁹

Companies such as Google (Alphabet), Amazon, Meta, Microsoft, and Apple have actively engaged in lobbying efforts related to trade agreements. Through business associations such as the ICC, the Computer & Communications Industry Association (CCIA), and Business at OECD (BIAC), these Big Tech firms have played a direct role in international policy advocacy to support a permanent moratorium and broader data liberalization. Data indicates that these five companies collectively spend more than USD 70 million annually lobbying the U.S. government on issues related to e-commerce, cross-border data flows (CBDF), and global technology policy³⁰

Even in recent developments, Big Tech companies such as Meta, Amazon, and Google have been identified as the largest actors financing these lobbying efforts, each spending millions of dollars per quarter to influence national and international policies that shape digital business models. This involvement demonstrates that the push for a permanent e-commerce moratorium is far from neutral and is deeply embedded in the interests of digital corporations.

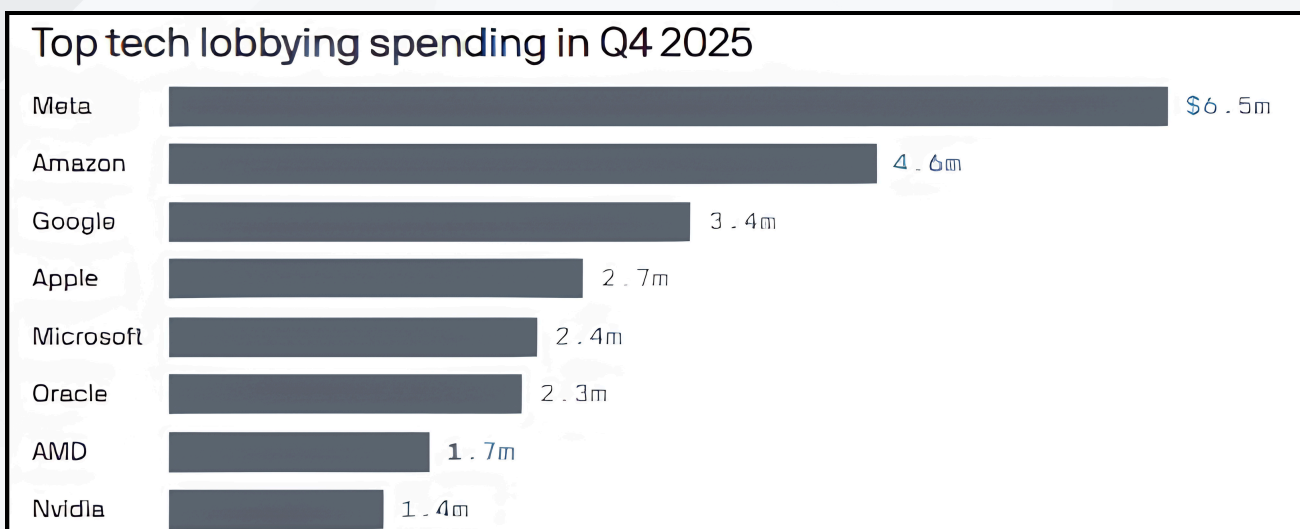


Figure 1 Largest Lobbying Expenditures in the Technology Sector (Source: Axios.com)

Analysis by Public Citizen shows that the agenda of global digital liberalization is not driven solely by trade efficiency, but also reflects a systematic effort by Big Tech to weaken domestic regulations across countries. The study reveals that more than 100 policies in 45 countries have become targets of pressure from the technology industry, including regulations on personal data protection, restrictions on cross-border data flows (CBDF), digital taxation, and data localization policies. This mapping indicates that the more countries become targets of deregulation, the greater the pressure to liberalize markets without limits, ultimately benefiting digital platforms owned by U.S. corporations.³¹

^[29] International Chamber of Commerce (ICC), MC14 Global Business Statement: Business Mobilisation Grows to 189 Chambers and Associations Backing WTO Reform and Moratorium Renewal (5 March 2026), tersedia di: <https://iccwbo.org/wp-content/uploads/sites/3/2026/03/MC14-Global-Business-Statement-05-March-DESIGN.pdf>

^[30] OpenLobby, Tech Lobbying: Big Tech Lobbying Data, tersedia di: <https://www.openlobby.us/tech-lobbying>.

^[31] Axios, Meta tops Big Tech lobbying spending once again, tersedia di: <https://www.axios.com/2026/01/21/meta-big-tech-lobbying-spending-q4>

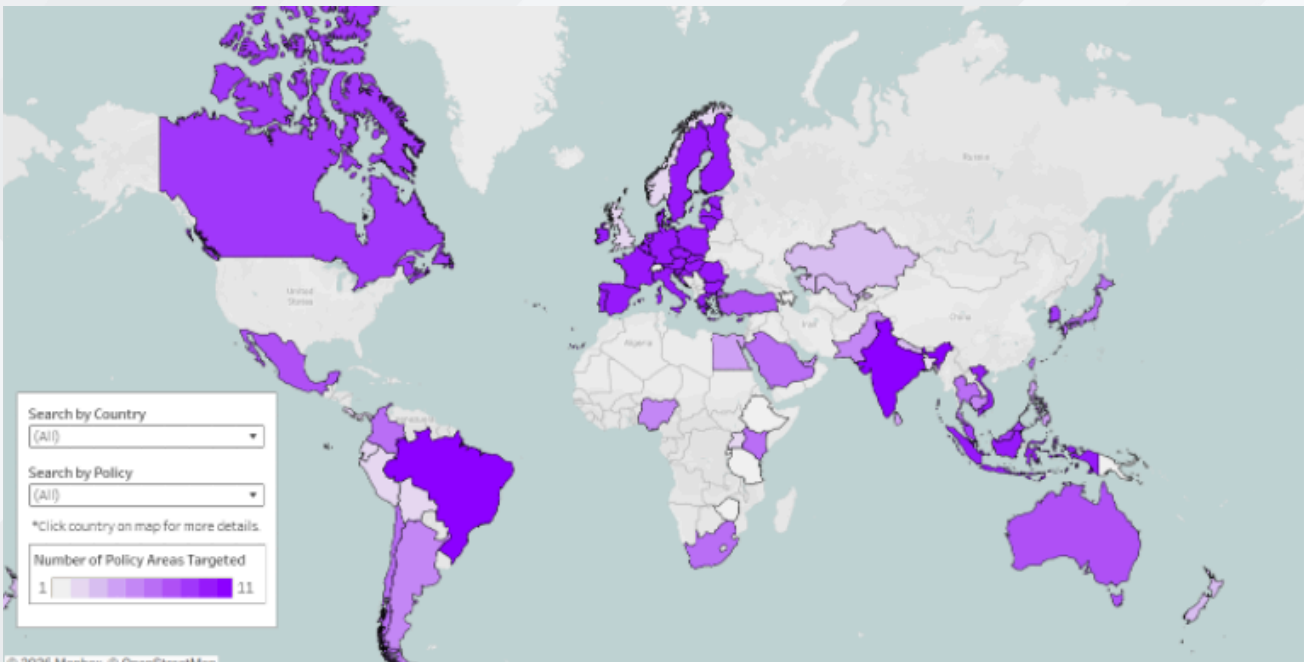


Figure 1 Digital Deregulation Targets under Trump's Trade Policy Agenda. Purple indicates a higher number of digital policies targeted for deregulation, while white indicates no policies targeted by the United States (Source: Public Citizen).

Furthermore, various investigations by international media reveal that Big Tech does not rely solely on direct lobbying, but also utilizes networks of organizations, think tanks, and business associations to shape policy discourse. Politico reported that Google, Amazon, and Meta allegedly used intermediary organizations to lobby EU policies. Members of the European Parliament, including Paul Tang, René Repasi, and Christel Schaldemose, have suspected that Big Tech companies, through such networks, misled EU lawmakers during negotiations on two key pieces of digital legislation, namely the Digital Markets Act (DMA) and the Digital Services Act (DSA). In these cases, Big Tech actors were said to operate behind the façade of lobbying groups that appeared to represent small and medium-sized enterprises (SMEs), effectively disguising themselves as SME advocates while advancing corporate interests.³²

In addition, other reports highlight the close relationship between Google and U.S. trade policymakers, with the company actively seeking to shape international policies in line with its business model. These practices demonstrate that the economic dominance of Big Tech extends beyond market control, reaching deeply into global political networks.³³

Behind the Pretext of Supporting MSMEs: Who Really Benefits?

Narratives centered on maintaining price stability and supporting MSMEs are often used to legitimize the liberalization of trade through the ecommerce moratorium. However, in reality, several studies have shown that these benefits are not evenly distributed and tend to be concentrated among large corporate actors. UNCTAD emphasizes that while digitalization has the potential to create opportunities for MSMEs, significant disparities persist in practice. Developing countries continue to face structural constraints, including limited infrastructure, skills gaps, and restricted market access, which hinder their ability to participate effectively in digital economic activities.³⁴

^[32] Public Citizen's Global Trade Watch, Mapping Big Tech's Global Deregulatory Demands for the Trump Trade Agenda, tersedia di: <https://gtwaction.org/mapping-big-techs-global-deregulatory-demands-for-the-trump-trade-agenda/>.

^[33] Politico Europe, Big Tech companies face potential EU lobbying ban, tersedia di: <https://www.politico.eu/article/big-tech-companies-face-potential-eu-lobbying-ban>

^[34] New York Post, Google emails with US trade reps reveal cozy ties as tech giant pushed to "hijack policy", tersedia di: <https://nypost.com/2024/10/14/business/google-emails-with-us-trade-reps-reveal-cozy-ties-as-tech-giant-pushed-to-hijack-policy/>

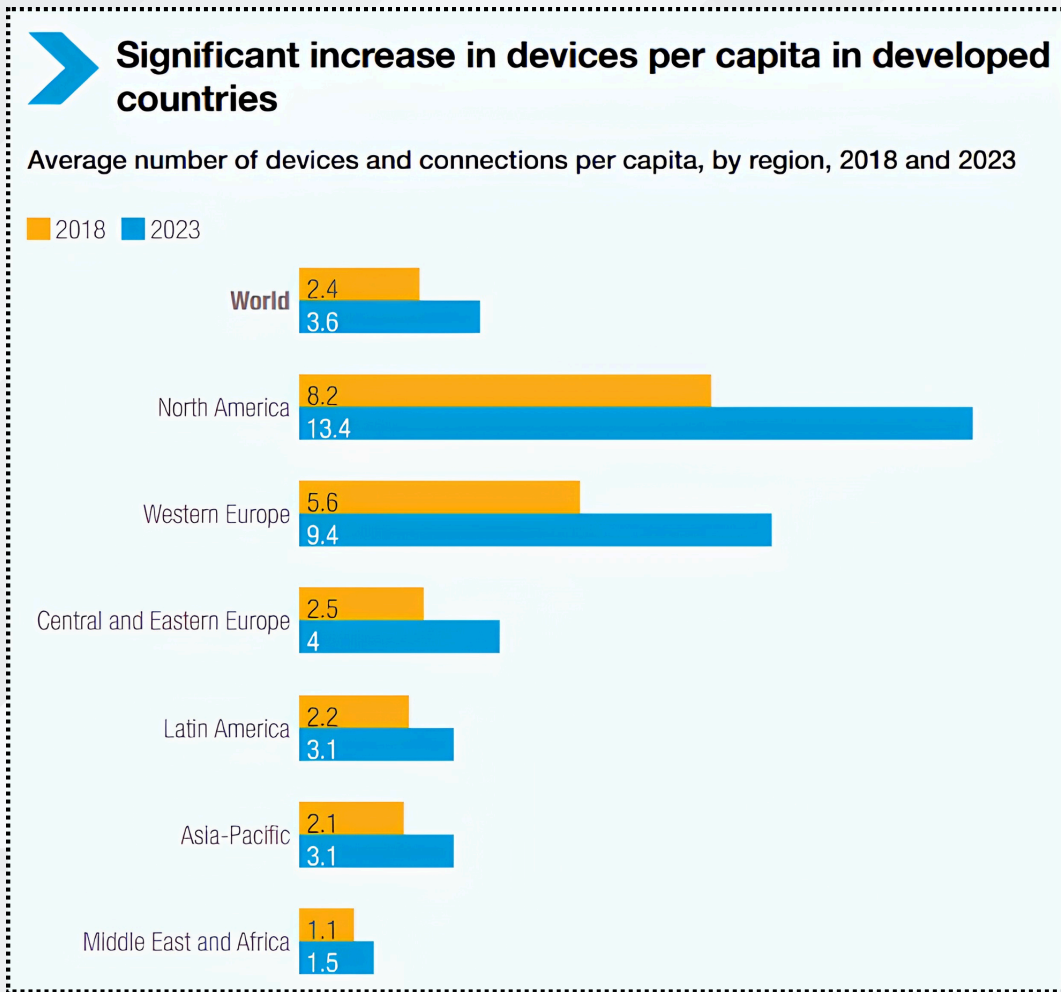


Figure 1 Comparative Data on the Number of Devices and Global Connectivity per Capita, 2018–2023 (Source: UNCTAD)

UNCTAD data shows that there is a significant disparity in the number of devices and connectivity per capita between developed and developing countries. In 2023, the average number of devices in North America rose to 13.4, far exceeding the global average of 3.6. For instance, only 35% of people in least developed countries (LDCs) used the internet in 2023, compared to the global average of 67%. Furthermore, the economic value generated within the global digital ecosystem is highly concentrated among major digital platforms, particularly Big Tech, resulting in an unequal distribution of benefits. The dominance of global digital platforms also risks disadvantaging MSMEs in developing countries through monopolistic practices and increasing dependence on these platforms, which ultimately weakens their bargaining position within the digital value chain.³⁵

Big Tech's claim that the moratorium reduces the price of digital goods for consumers, due to the elimination of physical production and distribution costs, does not fully hold in practice. Empirical findings from the gaming industry show that digital and physical products are often priced similarly at launch, typically following the manufacturer's suggested retail price (MSRP) set by global publishers. For example, AAA games such as Elden Ring, Hogwarts Legacy, and Star Wars Jedi: Survivor were released at identical prices in both digital formats (Steam and PlayStation Store) and physical formats (Blu-ray), ranging from USD 59.99 to USD 69.99.

^[35] United Nations Conference on Trade and Development (UNCTAD), Making E-commerce and Digital Economy Work for All, tersedia di: <https://unctad.org/news/making-e-commerce-and-digital-economy-work-all>.

*Table 4: Comparison of Launch Prices (MSRP) for Digital and Physical Games
(Source: compiled from Steam and PlayStation Store websites)*

Game Title	Digital Price	Physical Price (MSRP)	Publisher
Elden Ring (2022)	USD 59.99	USD 59.99	Bandai Namco
Hogwarts Legacy (2023)	USD 69.99	USD 69.99	Warner Bros Games
Star Wars Jedi: Survivor (2023)	USD 69.99	USD 69.99	EA
Final Fantasy VII Rebirth (2024)	USD 69.99	USD 69.99	Square Enix

Note: Prices are based on the Manufacturer's Suggested Retail Price (MSRP) at launch in the U.S. market; actual prices may vary depending on region, discounts, and retail distributors.

In addition, pricing dynamics between physical and digital products show significant differences once they enter the market. Prices of physical games in retail markets tend to be more flexible and competitive due to market competition, discount strategies, and consumer demand. In contrast, digital game prices on platforms such as Steam and the PlayStation Store tend to remain relatively rigid and do not decline over time, except during specific periods such as seasonal sales that are directly controlled by the platforms. This condition contributes to a market structure in which digital distribution is concentrated in the hands of a few dominant platforms. UNCTAD, in its Digital Economy Report 2019, notes that market concentration in the digital economy enables firms to maintain control over pricing and product distribution. As a result, the digital market does not necessarily generate benefits for consumers; instead, it reinforces price control by dominant platforms, in contrast to the more competitive nature of physical retail markets.

Agreement Reciprocal Trade: Data Liberalization and Threats to Digital Sovereignty

Provisions on digital trade within the Agreement on Reciprocal Trade (ART) should not be viewed merely as technical policy measures. The push to make the e-commerce moratorium permanent reflects a broader policy shift toward deeper data liberalization. This development has the potential to affect Indonesia's digital sovereignty. In this context, the elimination of tariffs on electronic transmissions is not only about trade efficiency, but also concerns state control over data flows, the digital economy, and the protection of citizens' data.

Within this framework, a commitment to a permanent moratorium under the ART risks locking in Indonesia's position even before multilateral negotiations at the WTO MC14 reach a final agreement. Rather than serving as an open space for negotiation, such commitments bind Indonesia both legally and politically to align with U.S. interests. In fact, tariffs can serve as a strategic bargaining tool in bilateral negotiations between Indonesia and other countries, as demonstrated by Trump's reciprocal tariff policies. This contradiction highlights a double standard in trade policy, where tariffs are maintained as a strategic instrument by the United States, yet eliminated for developing countries, particularly Indonesia, in the digital sector.

Furthermore, U.S. claims that the e-commerce moratorium has generated positive outcomes and benefits for all countries, both developed and developing, are not supported by sufficient empirical evidence. On the contrary, UNCTAD findings indicate that developing countries face potential revenue losses amounting to billions of dollars. In addition, the definition of “electronic transmissions” used to justify the moratorium remains problematic, as it encompasses all electromagnetic transmissions along with their content. This ambiguity creates broad entry points for digital technologies, including software and AI, which may threaten national digital sovereignty and domestic markets by entering Indonesia without adequate oversight or tariff instruments.

Differences in personal data protection (PDP) regulatory approaches between Indonesia and the United States reveal serious risks in the implementation of digital trade provisions under the Agreement on Reciprocal Trade (ART). Indonesia, through its PDP Law, adopts principles aligned with the European Union’s General Data Protection Regulation (GDPR), which treats personal data as a fundamental right that must be strictly protected, including through restrictions on cross-border transfers and strengthened control over domestic data storage and processing (data localization). In contrast, the United States does not have a comprehensive federal legal framework comparable to the GDPR, but instead relies on a sectoral regulatory approach that tends to treat data as an economic commodity that can be monetized. ART provisions, particularly Article 3.4(1), which promote the removal of data localization measures and the expansion of cross-border data flows (CBDF), risk making it easier for Indonesians’ personal data to be transferred to jurisdictions with weaker data protection standards³⁶



Furthermore, statements by the government, particularly through the Ministry of Communication and Digital Affairs (Komdigi), asserting that cross-border data transfers (CBDF) are entirely safe and do not threaten data sovereignty, must be critically examined. The claim that data transfer is merely a technical activity overlooks the fact that data flowing across national borders does not stop at functional use, but becomes part of a broader data economy ecosystem, where it is exploited for commercial purposes, analytics, and the development of technologies such as artificial intelligence (AI). In this context, citizens’ data is at risk of being monetized and even traded outside national jurisdiction without effective state control.³⁷

^[36] United Nations Conference on Trade and Development (UNCTAD), Digital Economy Report 2019, tersedia di: <https://unctad.org/publication/digital-economy-report-2019>.

^[37] Draft Agreement, Agreement on Reciprocal Trade between Indonesia and the United States, khususnya Article 3.4 (Market Entry Conditions).

^[40] Kontan, Kementerian Komdigi Mengklaim Transfer Data Pribadi ke AS Aman, tersedia di: <https://nasional.kontan.co.id/news/kementerian-komdigi-mengklaim-transfer-data-pribadi-ke-as-aman-ada-landasan-hukum>.

Table 5: Comparison of Personal Data Protection Systems between Indonesia and the United States (Source: PDP Law and FTC)

Aspect	Indonesia	Amerika Serikat (AS)
Legal Framework	UU PDP	the absence of comprehensive regulations regarding data protection which are fragmented in sectoral regulations: HIPAA, COPPA, CCPA, dll)
Underlying Philosophy	Personal data as a fundamental right of citizens	Data as an economic asset and Commodity
Protection Approach	Rights-based (individual rights-oriented)	Market-based (business-oriented)
Sensitive Data Categories	Health, biometric, genetic, financial data, etc.	Protected under specific sectoral regulations, such as HIPAA for health data
Data Localization	Supports localization of strategic data domestically	Opposes mandatory data localization
CBDF	Strictly regulated under Article 56 (adequacy, safeguards, and consent)	Supports free data flows
International Data Transfer Standards	Requires equivalent data protection guarantees	Does not require strict adequacy Standards
Supervisory Authority	Regulated under the PDP Law, but the Data Protection Authority has not yet been formally established	No single national authority; oversight spread across agencies such as the FTC, HHS, and FCC

The argument that normalizes CBDF as a “common practice” does not automatically legitimize its safety. The ruling in the Schrems II case by the Court of Justice of the European Union (CJEU) in 2020 demonstrates the opposite, where the CBDF mechanism between the United States and the European Union under the Privacy Shield framework was declared invalid for failing to provide a level of protection equivalent to EU standards. This ruling underscores that differences in data protection regimes can threaten citizens’ privacy rights and must not be disregarded in the name of “facilitating digital trade.” Therefore, if Indonesia adopts a liberal approach to CBDF without maintaining data localization policies, it risks weakening the state’s capacity to ensure the security and sovereignty of national data.

CONCLUSION

The rapid development of the digital economy can no longer be separated from shifts in business structures dominated by Big Tech. In this context, a moratorium that was initially intended to be “temporary” has instead become an instrument that deepens global economic inequality for developing countries. The erosion of fiscal space for developing countries to strengthen their economies through digital tariffs opens new pathways for the expansion and consolidation of digital capitalism without meaningful barriers. Data shows that Big Tech companies generate profits reaching hundreds of billions of dollars, while developing countries such as Indonesia face losses through foregone digital revenue. This condition reflects a structural injustice in the governance of global digital trade, where Big Tech actively operates as a corporate actor accumulating capital, while Indonesia remains in a passive position, reduced to a consumer market whose access is exploited. This situation fosters dependency on global digital platforms and weakens Indonesia’s bargaining position within global economic value chains.





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