

POLICY BRIEF



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Digital Trade and Geopolitics: Asserting Policy Autonomy in the Global Majority

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Dr Burcu Kilic, Senior Fellow, CIGI (US)
Dr Sandra Makumbirofa, Senior Economist, Research ICT Africa (South Africa)



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Trade and
Investment

Abstract

Digital trade has become a key battleground in global economic and geopolitical competition. As governments seek to regulate digital technologies and markets, tensions arise between their policy autonomy and the limitations imposed by digital trade rules. The US, the EU, and China continue to shape competing digital governance models, influencing digital trade rules and regulatory frameworks.

'Big tech' companies exploit trade agreements and digital trade rules through lobbying and investment. The debate over digital trade barriers often masks deeper struggles over sovereignty, regulatory authority, and corporate power. The global majority faces pressure to align with these dominant frameworks, often with limited policy space in shaping the rules that govern their digital economies. This dynamic reinforces existing power imbalances and market concentration, deepening infrastructural dependencies on a few dominant players.

The authors draw on the adoption of the African Continental Free Trade Area (AfCFTA) Protocol on Digital Trade (the Protocol), marking Africa's first digital trade agreement and years of empirical evidence in other regions. While the Protocol aims to create a harmonised regulatory environment for digital trade in Africa, without autonomy to shape policies that benefit Africans, the Protocol risks reinforcing Africa's position as a rule-taker in North-South relations rather than a rule-maker in the contested global digital trade space. Moreover, its opaque negotiation process raises concerns about transparency, democratic participation, and the prioritisation of corporate interests over Africa's digital sovereignty and human rights.

South Africa's G20 presidency presents a propitious opportunity to address the geopolitical and economic asymmetries in digital trade by advocating for more inclusive governance frameworks that empower the global majority to shape digital trade rules rather than passively adopt them. By fostering multilateral cooperation and rallying support for policies that promote transparency, accountability, and the right to regulate, the G20 can mitigate the risks of regulatory capture by dominant global powers, ensuring that digital trade contributes to sustainable, equitable, and inclusive economic development. The policy brief will argue for alternative models of digital trade governance rooted in transparency, accountability, participatory decision-making, and economic justice.

Keywords: Digital Trade, Geopolitics

Diagnosis

The Protocol

The African Continental Free Trade Area (AfCFTA) Protocol on Digital Trade was negotiated in secret, with information disparities and no public access to the negotiating text. Examination of the Protocol¹ showed it adopted digital rules developed by the US closely aligned with the interests of Big Tech companies. It was no coincidence that Google co-hosted the AU Summit and celebrated the Protocol as a groundbreaking policy framework.² These much-celebrated rules were designed to remove so-called non-tariff trade barriers. In practice, such barriers often include a variety of domestic regulatory measures, including privacy protections, anti-monopoly policies, consumer protection laws, and rules ensuring fairness and non-discrimination.

These rules were long championed by the US Trade Representative (USTR), which later withdrew support under the World Trade Organization's (WTO) Joint Statement Initiative (JSI) on E-commerce to clear a path for Congress and the Biden administration to exercise more direct control over the governance of the digital economy. The USTR at the time, Katherine Tai, explained:³

The crosscutting nature of these issues means that if we're going to lead using trade rules at a time when there is no consensus but massive amounts of debate and questioning then I, as USTR, am committing massive malpractice and probably committing policy suicide by getting out ahead of all of the other conversations and decisions that we need to make as a country.

¹ Rens, Makumbirofa, and Gillwald, 'Alignment Problems: The AfCFTA Digital Trade Protocol and AI'.

² Bhatia, 'A Look Ahead at the AU Summit and Africa Business Forum'.

³ Whittle, 'US'.

These contentious provisions included data free flows, server localisation requirements, non-discrimination obligations, and the protection of trade secrets related to source code and algorithms. They can have significant implications for various tech-related policies, including privacy, antitrust, democracy, and artificial intelligence policy. Ultimately, they aim to create an environment conducive to surveillance capitalism, where minimal domestic regulations provide tech companies with significant operational freedom, often at the expense of democratic and social interests.

While the US debated whether these US-made rules truly served the interests of US workers, citizens, and small businesses, African negotiators embraced them in the Protocol. By doing so, external actors have strategically captured Africa's emerging regulatory landscape, pre-empting Indigenous governance processes and constraining the continent's ability to fully implement its AU Data Policy Framework prescriptions, which serve its unique developmental priorities.

Of particular note is the Protocol's relationship to eight⁴ critical annexes covering essential aspects of digital trade. While these annexes were formally adopted at the 2025 Assembly of AU Heads of State, completing the legal model framework, member states have five years to align their national legislation with these requirements. This extended adaptation window provides a crucial opportunity for intervention, as the actual ratification process remains ongoing across individual member states. This timing creates space for the G20, under South Africa's leadership, to influence how these digital trade provisions are interpreted, implemented, and potentially amended before they become fully entrenched in domestic policy frameworks across Africa.

⁴ The eight are: 1) Rules of Origin, 2) Cross-Border Digital Payments, 3) Cross-Border Data Transfers, 4) Criteria for Determining Legitimate Public Reasons for Disclosure of Source Code, 5) Digital Identities, 6) Financial Technology, 7) Emerging and Advanced Technologies, and 8) Online Safety and Security.

Competing digital governance models

Since 2019, more than 90 countries have been negotiating a new rulebook for digital trade under the WTO JSI. Although the JSI operates outside the formal WTO framework due to the lack of a WTO negotiation mandate, it still aims to establish global rules that will shape digital trade. Several participants submitted proposals, but most reflect the dominant and competing EU, China, and US governance models.

The EU model

The EU, through the EU General Data Protection Regulation, Digital Services Act, Digital Markets Act, and the Artificial Intelligence Act,⁵ imposes substantial obligations on digital platforms, with punitive financial deterrents. The EU approach aims to export its regulatory standards globally through the “Brussels Effect”, leveraging market access to enforce compliance with European norms. The EU digital trade policy has traditionally followed a neoliberal approach, promoting tech-driven globalisation while remaining detached from broader EU policy priorities. While privacy stands out as a key exception, which is protected as a fundamental right in the EU free trade agreements, EU trade negotiators have largely championed digital trade rules that align with the interests of tech companies, reinforcing surveillance capitalism.

The Chinese model

China presents a fascinating paradox: a dynamic, advanced digital economy operating within a strict regulatory framework. This “double-bind regulatory state” approach separates economic regulation (relatively decentralised to foster innovation) from political regulation (centralised under the Cyberspace

⁵ James, ‘EU Digital Trade Rules: Undermining Attempts to Reign in Big Tech’.

Administration of China). China's model emphasises digital sovereignty and security, creating a unique alternative to Western frameworks that appeals to many developing nations wary of US digital hegemony. Building on this governance model, China approaches digital trade with caution, prioritising digitally enabled commerce while preserving regulatory space for maintaining societal control and imposing additional restrictions on foreign businesses.

The US model

The US approach⁶ centres on freedom of expression anchored in First Amendment protections. This value extends not only to individual speech but also to corporate liberty, creating an environment where platform rights often supersede user protections. The US system grants corporations significant advantages through several mechanisms: aggressive lobbying, operation in legal grey zones, strategic hiring of former government officials, and mobilisation of user bases against regulatory efforts. The US model historically focused on minimising barriers to data flows and platform operations, reinforcing surveillance capitalism, and enabling US tech giants to maintain their global dominance. Under the Biden administration, however, trade negotiators stepped back, recognising the limits of traditional trade rules in addressing data and emerging technologies and deferring the greater control to Congress and the executive branch. It is still unclear what approach the Trump administration will take. Given President Donald Trump's disparate relationship with the Big Tech' companies and his commitment to dismantling the neoliberal global trade system, it remains uncertain whether the US will revert to a "what is good for Big Tech is good for America" approach. Time will tell.

⁶ Kilic, 'Digital Trade Rules'.

The resulting geopolitical asymmetries

This global contest over digital governance reveals profound power asymmetries, with each model attempting to export their regulatory frameworks globally. For the global majority, this dynamic creates a form of regulatory imperialism.⁷ Rather than developing indigenous approaches to digital governance that reflect local priorities and challenges, many developing nations are pressured to adopt prefabricated regulatory frameworks that may not serve their interests.

For instance, after the US withdrew its support for controversial digital-trade rules, JSI was restructured around 'digitally enabling' commerce measures. Still, 20 countries,⁸ including G20 members Indonesia, Mexico, Brazil, Türkiye, and Russia, opted out, citing issues from customs duties to national-security exceptions. Their departure highlights that a take-it-or-leave-it approach may not always resonate broadly.

As more countries grow increasingly critical of such prefabricated frameworks, the G20, under the South African presidency, is uniquely positioned to address these imbalances and power asymmetries.

Recommendations

Below are a few key recommendations to support this vision.

1. Create a G20 joint working group on digital trade under the digital economy and the trade and investment working groups

⁷ Kelsey, 'Re-Thinking the Pacific's E-Commerce Strategy: Putting Cooperation, Digital Sovereignty and Development at The Core'.

⁸ Third World Network, 'Trade: JSI E-Com Co-Convenors Issue 'Stabilized' Text, but No Deal in Sight'.

South Africa's G20 presidency presents a timely opportunity to launch a joint multistakeholder task force on digital trade to break down silos and foster sustained dialogue. It serves as a corrective platform to rethink the global trade system and shape global digital norms grounded in democratic oversight, public interest, and developmental justice. It would promote rights-preserving and context-appropriate alternatives that uphold regulatory autonomy and digital sovereignty.

Key priorities would include assessing the alignment of the Protocol with national digital policies and the AU Data Policy Framework, and recommending interpretative declarations, opt-outs, or renegotiations of problematic clauses before full ratification. The task force would complement the work of the Digital Economy and Trade and Investment Working Groups by addressing the growing intersection of digital economy policies and global trade regimes.

2. Endorse transparency and meaningful stakeholder engagement in trade negotiations

The AU Commission, national trade ministries, and the G20 under South Africa's leadership should enforce mandatory transparency and meaningful stakeholder engagement frameworks in regional and national digital trade negotiations. Core principles should include public access to draft negotiating texts, minimum country proposals, and structured stakeholder consultations (especially with civil society, academia, digital rights groups and small and medium-sized enterprises). Member states should be encouraged to apply these principles across bilateral, plurilateral, and multinational trade negotiations to democratise trade policymaking, prevent regulatory capture, and ensure that agreements reflect African interests.

3. Establish a strategic forum to bridge competing digital governance models

The G20 can serve as a neutral platform to bridge competing regulatory models and explore pathways for inclusive, equitable, and pluralistic global digital governance. It should reject the one-size-fits-all template of contemporary digital trade agreements, challenge the prevailing narrative that frames domestic tech regulations as non-tariff barriers, and affirm countries' 'right to regulate'. Through targeted capacity-building workshops, pilot policy labs, and a dedicated G20 Technology Roadmap, the forum can help countries revisit and recalibrate the global trade system and preserve policy space for diverse development goals and human rights standards.

The Protocol's ratification window, South Africa's G20 presidency, and growing global debates on digital rights offer a strategic opportunity. These policy recommendations represent initial steps to address the power imbalances and asymmetries in digital trade frameworks and enable transparent and meaningful digital protocols that serve a just and sustainable digital future for the people and the planet.

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For publication enquiries, please contact t20@t20southafrica.org

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