
Enhancing the European Union's Trade Position Through Digital Standards Externalization

Jules Borgetto

McGill University

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Abstract:

Following the accelerated growth of global digital trade post-COVID-19, the European Union (EU) has actively projected its domestic digital regulations globally. Moving beyond traditional interpretations that view EU digital policies as purely normative or defensive, this paper demonstrates that digital standards externalization serves as a strategic tool of economic statecraft to bolster European trade influence. Utilizing state-level regulatory power through trade agreements and firm-level conditional market access, the EU leverages its market size to compel foreign governments and tech giants to adopt its frameworks. Case evidence reveals that this strategy levels the playing field for European businesses, reduces technological service dependencies on the United States, and strengthens the EU's leverage in international trade negotiations with global powers like China.

Keywords: Digital trade, conditional market access, technological sovereignty, data imperialism

Introduction

The COVID-19 pandemic has brought significant and lasting changes to the world's working habits. Before 2020, Canadian employees' share of total hours worked from home was below 5%, while this number has hovered around 25% post-pandemic (Statcan 2021). By deepening the reliance on remote jobs and communication services, the shock has boosted the importance of digital goods and services in global trade (UNCTAD 2021). Digital trade encompasses digitally-enabled trade transactions in goods and services that can be digitally or physically delivered (López González and Jouajean 2017, 2). Witnessing the increasing weight of this sector over the years, prominent actors in international trade have tried to capture some of its benefits. The European Union (EU) has established regulatory frameworks to encourage participation in digital trade from consumers and businesses, a method known as regulatory power (Bradford 2021, 7). The EU also uses market access and strategic control over entry into its market to assert power in global trade. Recently, various pieces of digital regulation implemented in the EU have been adopted by other countries and international corporations. Examples include the General Data Protection Regulation (GDPR) in 2018, the Digital Markets Act (DMA), and the Digital Services Act (DSA), both implemented in 2022. In our era, the abundance of apps and online services emphasizes the importance of examining digital policies. Given the EU's role in shaping digital trade standards, this research seeks to address the following critical question: Why has the European Union externalized its digital standards?

"Digital standards externalization" refers to the strategic process by which the EU projects its domestic digital regulations onto other actors. Exploring the motivations behind the EU's digital policies offers insights into the benefits of influencing international norms. Indeed, the actor's recent emerging position in digital trade standards, alongside China and

the United States, marks a significant evolution in regulatory frameworks. This evolution is partly due to a phenomenon coined by Anu Bradford, known as the Brussels effect (Bradford 2019, 25). The effect entails no coercion by the EU, which takes advantage of its market size to implement norms adopted by foreign firms operating in European territory. The paper will explain the EU's externalization of digital standards by presenting these policies as an efficient strategy to enhance its global influence and position in international trade. The argument will be illustrated through the following sections. Firstly, an exploration of the theoretical foundations that justify the EU's approach to externalizing its digital standards will be undertaken, focusing on the interplay between regulatory power and market access. Secondly, an analysis of the positive effects of digital policies on the EU's influence in international trade will be presented, highlighting evidence of its negotiating power and independence. Finally, an examination of the criticisms directed at the EU's behaviour - often denounced as protectionist and imperialist - will be conducted, using these concerns as illustrations of European power. All in all, the research demonstrates the pivotal role that the worldwide adoption of digital standards plays in sustaining the European Union's influence in global trade.

The Literature on the EU's Digital Policies

Scholars have devoted considerable attention to the motivations underpinning the EU's digital policy agenda. One group in particular focuses on the ethical and normative dimensions. These authors portray digital policies as an extension of the EU's internal values, aimed at encouraging a more ethical and rights-based approach to digital trade. For instance, some authors present how political regimes such as democracy can influence digital policy in the EU (Carlsson and Rönnblom 2022, 12). The Union, which is composed of democracies, is likely to promote digital policies aligned with individual rights and transparency. The authors

analyze EU data governance from an ethical perspective, in which European culture and values play a central role (Eke and Stahl 2024, 5). The EU's emphasis on the ethical aspects of digital technology stems in large part from the common European culture of fundamental rights and consumer protection. Such scholars also emphasize that the content of digital regulations, such as the GDPR, positions the individual as the primary focus of institutional decision-making (10).

However, the ethical and normative rationale overlooks the role of strategic considerations, namely that establishing an extensive framework of digital regulation aligns with the growing significance of digital trade. Recent regulations implemented by the EU underscore a willingness to broadcast European values and to strengthen the Union's position within the international trade regime. The literature focused on ethical and normative aspects depicts the EU as an actor whose democratic character influences its policy. Conversely, the EU is also conceived as an autonomous block, governed by strategic actors focused on reinforcing the Union's global standing. By establishing itself as a norm entrepreneur in ethics, the Union sets the standard and extends its influence over states with similar values.

Moreover, transparency and consumer protection create a trustworthy digital environment that attracts investors, establishing the EU as a reference in global exchanges. Indeed, corporate social responsibility is now a powerful driver of trade agreements, and partners are more inclined to engage with actors that favour this aspect (Peels and Echeverria Manrique 2016, 9). Thus, the EU's ethical commitments in digital policy should be understood not only as normative principles, but also as a strategic tool that enhances its position in international trade.

The study of the EU's digital policies is also fueled by theses surrounding European digital autonomy and sovereignty. Certain scholars frame the Union's adoption of a digital

agenda as a strategy to reduce dependence on non-EU technologies and platforms such as Google or Baidu's cloud. The power dynamics between states and tech giants have proven to be a significant concern, particularly with massive use of tracing apps external to the EU during the COVID-19 pandemic (Floridi 2020, 369). Concomitantly, there is a growing willingness in Europe to tackle misinformation and promote media literacy by regulating and surveilling networks (De Cock Buning 2018, 11). As a result, Europe's digital policies are presented as antitrust policies against US tech companies, formulated to investigate anti-competitive behaviours and violations of EU data protection (Mayer 2020, 4).

This argument that the EU's digital policies represent a push for digital autonomy in response to the influence of China and the US underestimates the strategic dimensions involved. First, an in-depth analysis should acknowledge the economic benefits associated with digital autonomy and sovereignty. By setting strict standards within the EU, policymakers enhance the power of European firms over Chinese or American ones. The latter suffer from compliance costs associated with the GDPR when adapting to EU legislation due to differences in data protection practices in other parts of the world. As detailed by this category of scholarly literature, the primary goal of these regulations was to reduce the EU's dependence on foreign digital corporations.

Nevertheless, a direct consequence from these is the creation of European businesses that are able to compete worldwide. For example, a Swedish company emerged as one of the leaders in the music streaming industry: Spotify. EU regulation partly influenced its rise, as seen with a recent law enabling Spotify to provide in-app purchases without paying Apple a 30% commission (Seitz, 2024). This law, part of the EU's Digital Markets Act, specifically targeted gatekeeper platforms like Apple to reduce their ability to enforce restrictive practices on app developers. By allowing Spotify to offer in-app

purchases directly, the regulation lowered costs for the company and improved consumer access to more competitive pricing.

Additionally, the policy sent a strong signal to other tech firms about the EU's commitment to dismantling anti-competitive practices. This regulation established a framework that favoured consumer choices by curbing monopolistic practices and promoting fair competition. These policies positioned the EU as a global leader in setting standards for digital market fairness, thereby enhancing its influence on the international stage. Moreover, the policies protect European businesses against foreign competition and illustrate a strategic goal to exercise influence in international trade. As a digital trade leader, the EU can ensure digital sovereignty over its territory with more extensive bargaining power. Although these policies were initially aimed at reducing dependence on foreign digital companies, their primary function is to allow European companies entry into the global market, thus strategically positioning the EU as a dominant force in the digital economy.

Revealing the Theoretical Framework Behind the EU Agenda

The EU externalizes its digital standards using different forms of power stemming from its structure. Before delving into the pertinent case studies and efficiency analysis of digital policies, this section presents the strategies undertaken by the EU to assert its position in digital trade.

Regulatory power is central to understanding the EU's success in digital governance. One important note is that regulatory power is only adequate if an actor has a considerable market size and, thus, bargaining power to defend its regulations. The EU accounted for around 14% of global trade by 2021 and was the second largest actor behind China (Eurostat, 2021). Thus, the total of the 27 countries grouped within the Union holds

significant power to promote its standards. However, policymakers must direct this power toward addressing specific issues and drafting policies in response to this. In the early 2000s, the EU witnessed the fast-paced growth of technological advancements such as the internet, e-commerce, and streaming platforms. From this observation came the identification of an issue: new technologies guaranteed no consumers' data privacy (Lessig, 1999, 160). Consequently, European administrative bodies drafted and adopted specific policies for privacy protection, free expression, and creating a single e-commerce market. The EU designed digital legislation to align with its values as early as possible, mainly by engaging with the Internet Corporation for Assigned Names and Numbers (Leib, 2002, 168). In 2017, before the GDPR came into force, Vera Jourova—the Commissioner for Justice in charge of data protection—announced, "We want to set the global standard." (Scott and Cerulus, 2018).

Taking advantage of multilateral trade agreements is a strategy related to regulatory power that can externalize the standards governing the use, operation, and trade of digital goods and services. As a key participant in numerous trade agreements, the EU leverages these cooperative opportunities to assert its position and shape policies on digital trade. Additionally, the EU can project its influence by negotiating the agreements' provisions for this specific sector. While the size of multilateral agreements entails varied interests, there are almost no hurdles preventing the prominent actor from exercising his power in bilateral agreements. For example, the EU promoted personal data and privacy standards in trade discussions with Japan (Suda, 2020, 519). The country's domestic politics also resonate with these issues since Japan passed the Act on Improvement of Transparency and Fairness in Trading on Specified Digital Platforms in 2021 (METI, 2024).

The EU strengthens the Brussels effect through standard setting in digital trade. Its regulatory power requires no coercion or external assistance to influence trade partners and their domestic law (Bradford, 2023, 326). As more governments adopt the standards, the EU's direct involvement diminishes, and digital externalization continues in a feedback loop. The network effect benefits the EU since its digital standards "are becoming the norm in most parts of the world" (Greenleaf, 2012, 77). After a certain point, third-party states' non-adoption of the EU model will be significantly costly because it would isolate them from economic opportunities in the EU.

The concept of market access represents a vital component of the EU's strategy to externalize digital standards. While regulatory power's use was centred on states, market access is directed at foreign firms seeking to conduct business in the EU. As depicted by Bradford, "Meta recorded 407 million monthly active users in Europe in the second quarter of 2022." and "Google's share of the search market is over 90 percent in most EU member states" (Bradford, 2023, 328). Thus, European consumers represent an enormous stake for tech giants, and they cannot afford to lose access to the region. The EU uses this large consumer base as leverage under the argument that access to its market is contingent upon compliance with its digital regulations. Trade becomes a threat when the EU makes it clear that non-compliance with digital regulations could result in the exclusion from one of the significant consumer bases in the world. For foreign firms, the cost-benefit analysis of either not operating in the EU or operating with specific regulations has a clear answer. Although agreeing to the standards includes costs like altering their business models, firms face no conflicting regulations in other parts of the world.

The wide use of data collection by the GAFAM (Google, Apple, Facebook, Amazon, Microsoft) was a significant motivation for the EU to regulate its consumers' rights in the digital sphere. It must be noted that firms implemented in the EU before the regulations will be hesitant to accept the transition towards an ethical digital sphere. Courts in Europe consider foreign companies with a presence in the EU to comply with European digital regulations such as the GDPR. As a result, national authorities play an essential role in implementing EU regulation, as evidenced by Luxembourg's fine of 746 million euros to Amazon for violating the GDPR (Daigle and Khan, 2022, 4). The risk of receiving these sanctions from the remaining Union member states should compel firms to adopt European standards in the long run. Thus, the EU complements conditional market access with economic sanctions to ensure large firms adopt its standards.

Illustrating Digital Policies as an Effective Tool for the European Position in Global Trade

The following section will present case studies of the European Union's externalization of digital standards and analyze the impact on the actor's power in international trade. To support the argument, we will observe the gradual increase of EU influence in international trade stemming from the digital policies undertaken in recent years.

The EU has engaged with various Asian countries, representing some of the world's fastest-growing digital sectors, through trade agreements and partnerships. For instance, the EU-Japan Economic Partnership Agreement signed in 2019 emphasized the free flow of data and consumer protection in its digital section (European Commission, 2019). Launched the same year, the EU-Singapore Free Trade Agreement demonstrates an additional step in

the EU's collaboration in the digital era (ibid). While comprehensive, these agreements allow potential for further collaboration on digital trade by the EU in Asia (Wu, 2017, 25). Also, the EU advocates for its digital regulations by participating in forums like the Asia-Europe Meeting (ASEM) or maintaining ASEAN-EU dialogues. During ASEM13, the EU affirmed the necessity for an open and secure digital environment (EU Cyber Direct, 2021). Given the extensive promotion through agreements and organizations, Asian countries gradually adopted EU digital standards. Telling examples are the recent "GDPR-inspired bills" signed in India, Japan, and Singapore, amongst more (Bentotahewa et al., 2022, 183).

Gaining power in the digital sphere has enhanced the EU's negotiating power in international trade. From the 2000s to the early 2010s, China shaped regional trade dynamics and limited EU economic activities in Asia. Due to China's colossal exports, the state represented a competitive threat to other regional actors (Lall, Albaladejo, 2004). Moreover, China's influence was global, as is evident by the EU suffering from a trade deficit of 169 billion euros in 2008 with China (Fox, Godement, p45, 2009). The negotiating power was in the hands of the Chinese government, and European investors faced barriers, such as the joint venture policy, in implementing their activities abroad. This policy stated that foreign investors were required to share ownership of their business with Chinese partners (Harris, 2022). However, after establishing its regulatory framework in several Asian states, the EU benefited from increased negotiating power when negotiating issues with major players such as China. The 2020 EU-China Comprehensive Agreement on Investment (CAI) is a testament to the EU's negotiating power in recent years. The agreement secured fairer market access for European investors and eased joint ventures in the financial sector (Grieger, 2021, 2). Thus, the externalization of digital standards increased the power of the EU in international trade

and thus reflected a newly-found ability to engage with significant economies while protecting its interests.

In recent years, the EU has set an agenda to regulate the practices of tech giants towards European citizens. As explained in a previous section, legislative bodies support digital policies through rulings and fines directed at the companies. The GDPR had a resounding impact and has shaken up the established order of different market regulations. Setting strict data protection standards forced businesses worldwide to adapt their practices to comply with EU requirements, reshaping how data privacy is approached globally. Many firms based in Silicon Valley lobby for the California Consumer Privacy Act (CCPA) to align with the GDPR (Gunst, 2021, 447-448). This activism is observed because Californian firms wish to save compliance costs and acknowledge the European model to be widespread. Tim Cook called for new rules that closely followed the GDPR (Time, 2019). Whether for economic or ethical reasons, this statement demonstrates the dominance of the EU model in digital regulation. Also, the Digital Markets Act (DMA) enhanced the competitiveness of European firms. The legislation promotes fair competition by punishing abusive companies using self-preferencing for their search engine. While the DMA's effects are yet to be observed through precise case studies, it is part of the EU's strategic agenda to enhance the European tech sector.

A significant consequence of the EU's regulatory policies is the reduction of dependency on a single digital service market, reinforcing the region's attractiveness and position as a global digital hub. In the early 2000s, the US and China outpaced Europe's digital infrastructure and innovation landscape. America's "Big Tech" was an influential assemblage of networked platforms in the European digital space. This technological prominence led to a large trade surplus in digital services for the US since it exported \$23

billion dollars to the EU while importing only \$7.1 billion dollars in 2014 (US International Trade Commission, 2024). The trade dependency was uncontrolled by the EU political bodies since businesses in Europe heavily relied on imported technologies. In recent years, the EU reduced its dependency on US digital exports and asserted its influence in world trade thanks to a growing technological sector. European technology sales have grown by 84% in seven years (Esser et al., 2022). To support its technological industry, the actor launched funding of 156 million \$ directed at artificial intelligence companies (European Commission, 2020). The internal positive dynamic directly impacted international trade since the US trade surplus in digital services with the EU dropped to 6.9 billion \$ in 2022, i.e. a decrease of 9 billion \$ in eight years (US Department of Commerce, 2022). During the same period, the EU's imports in digital services almost doubled with worldwide partners like India, China, and Japan (Köhler-Suzuki 2023, 8-10). As a result, this strategic reduction in dependency on US digital services elevated the EU as the key player in the global digital economy. The standards externalization shifted the power dynamics within the digital trade relationship with the US, demonstrating the EU's influence in international trade.

While the previous explanations present the EU's negotiating power with China and its reduced dependency on the US, it is essential to understand that these two dynamics can be interchanged, given the specific case. For example, the EU increased its negotiating power with the US when the CJEU invalidated the U.S.-EU Privacy Shield Framework, finding that it failed to meet EU data protection standards (Lobato and Cervantes, 2020, 602). The EU model has no established strategy concerning each of the other blocs and deploys its standards uniformly on a global scale.

Criticisms Emphasizing the EU's Dominant Role

Although it proved efficient at enhancing its position in international commerce, the EU's behaviour in digital trade is not immune to criticism. European legislation has been accused of hindering free trade and violating states' sovereignty. We will subsequently observe the basis of such arguments and explore their contribution to strengthening the EU's role in global trade.

First, the EU's digital policies are depicted as barriers to market entry and protectionist measures. Large firms such as the GAFAM were already implemented in the EU before the regulatory shift and will continue to be part of the market with the measures. However, some non-EU emerging businesses require assistance to reach the European market as the cost of compliance with European data within Europe might be too high (Azmeah et al., 2020, 682). Thus, regulations like GDPR are a form of economic protectionism since they erect substantial barriers for external digital entities attempting to penetrate the EU's market. There is a thin line between "technological sovereignty", a goal presented by Ursula von der Leyen before her introduction to the head of the Commission, and digital protectionism (Von der Leyen, 2019, 13). The current situation is such that it is complex to measure the direct effects of policies on foreign businesses. Although the European Center for International Political Economy (ECIPE) created an index presenting digital trade restrictiveness, the report demands additional evidence on specific cases (ECIPE, 2018). European nations like France and Germany exhibit levels that are above the average, yet they need to approach highly restrictive countries such as China and Russia. This outcome suggests that the EU's policies are not fully restrictive for any business but only block firms from respecting the regional legislation. The WTO's 2023

World Trade Statistical Review shows that the EU is still the largest importer of digitally delivered services (WTO, 2023).

The EU's targeted protectionism can be seen as a strategic threat by the American government and lead to retaliation. Specifically, the EU's proposal of the Digital Services Tax (DST) in 2019 is considered a crossed boundary by the US. For example, France imposed the tax to target revenues generated by digital companies operating within its territory (Bunn and Asen, 2022). The US criticized this unilateral move, arguing that France arbitrarily set the tax to discriminate against American-imported online services. However, policymakers are now discussing the issue at the OECD, and taxes have been suspended (Bilotta, 2020, 9). The EU's engagement in such protectionism supports our argument about its increased position in global trade. The tax initiative first demonstrates the power of maneuver and the liberties taken by France against a great power like the United States. The action violated the WTO principle of national treatment and imposed customs duty, while members have agreed on a moratorium against imposing customs duties on electronic transmission (Lee-Makiyama, 2018, 20-21). Moreover, it impacted international tax practices and illustrates the EU's capability to raise trade issues with the world. The active debates on the subject at the OECD are partly due to EU countries taking the initiative, leading discussions as a major player in trade would do. Finally, the EU's influence is confirmed by Canada's adoption of a digital services tax two years after the EU, monitoring a 3 percent rate like the EU (Enache, 2023).

Secondly, the EU has been accused of regulatory imperialism and compelling foreign institutions to adopt its regulations. Anu Bradford presented this idea in her newest book, "Digital Empires," in which she argues that some states may feel their sovereignty is violated when they must change their domestic laws to match foreign standards in data protection (Bradford, 2023, 354-355). As countries adopt EU-like regulations to maintain

access to the EU market, they may lose the ability to govern and regulate their markets according to local needs and priorities. Since the companies of these countries cannot hold European policymakers accountable for decisions with which they disagree, it challenges their political self-determination. Particularly, when this situation is observed in developing countries and framed by a former colonial power, many denounce "data imperialism" (Scott and Cerulus, 2018).

Even though criticised, the European influence on foreign digital regulation reinforces the actor's authority. In essence, the regulatory power only stems from the EU setting rules on its territory. Foreign companies voluntarily adopt the standards, an indirect process by which foreign governments change their legislation. This indirect, subtle persuasion, devoid of overt pressure, is at the heart of the EU's increasing power. Various states gradually implemented protective legislation for citizens' digital rights. For example, research has found similarities between the GDPR and South Africa's Protection of Personal Information Act (Netshakhuma, 2020, 69). The EU is South Africa's largest trade partner, and their legislation ratified in 2020 "must not conflict with GDPR" (ibid.). Moreover, India adopted in 2019 the Digital Personal Data Protection Bill, which is "considered equivalent to the GDPR because of similar rules and regulations" (Maurya and Prasad, 2022, 2). These regulations are equivalent to the European framework, and their appearance shortly after the GDPR (2018) demonstrates the EU's leadership. The value of Indian exports to the EU is expanding, and both actors are engaged in negotiations to implement a Free Trade Agreement between their economies (European Parliament, 2021). Thus, the EU bolsters its status as a pivotal global trade partner by enhancing trade and investment flows and ensuring compatibility with emerging markets like India.

Conclusion

The European Union has been the most active player in digital regulation in recent years, as the actor constituted a binding legal framework around its market. Strategically leveraging conditional access to the European market, the EU gradually influenced foreign states and companies to comply with its regulations. This process increased its regulatory power, contributing to the automatic spread of standards, also known as the Brussels Effect. Throughout the research, results have confirmed our argument: digital standards' externalization was an efficient strategy to enhance the EU's position within the international trade regime. The analysis demonstrated an increased negotiating power towards significant actors. As evidence, we observed the EU-China Comprehensive Agreement on Investment granting favourable terms for European investment in China. Moreover, the EU's digital influence enhanced the region's attractiveness and reversed trade dependency with the US. The research finally addresses criticisms by refuting the EU's supposed protectionism and imperialism. European digital regulation applies uniformly to all companies, whether American or European. Legitimately, the EU can decide to regulate the activities on its territory, with no specific goal of influencing foreign legislation.

The EU's regulatory approach should be understood as a case study presenting the effective use of soft power in trade negotiations. As standards in different areas become new trade barriers, regulatory power is strategically essential in securing commercial partners' interests. While the results revealed that the EU's digital policies aimed to establish its leadership in international trade, this analysis also indicates the current impact of the EU's digital agenda on future trade agreements. The rising awareness about digital rights will render digital trade provisions critical in agreements, regardless of the partners involved.

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