
ENABLING CROSS-BORDER DATA FLOWS WITHIN BBINS (BANGLADESH, BHUTAN, INDIA, NEPAL, SRI LANKA) TOWARDS REGIONAL INTEGRATION

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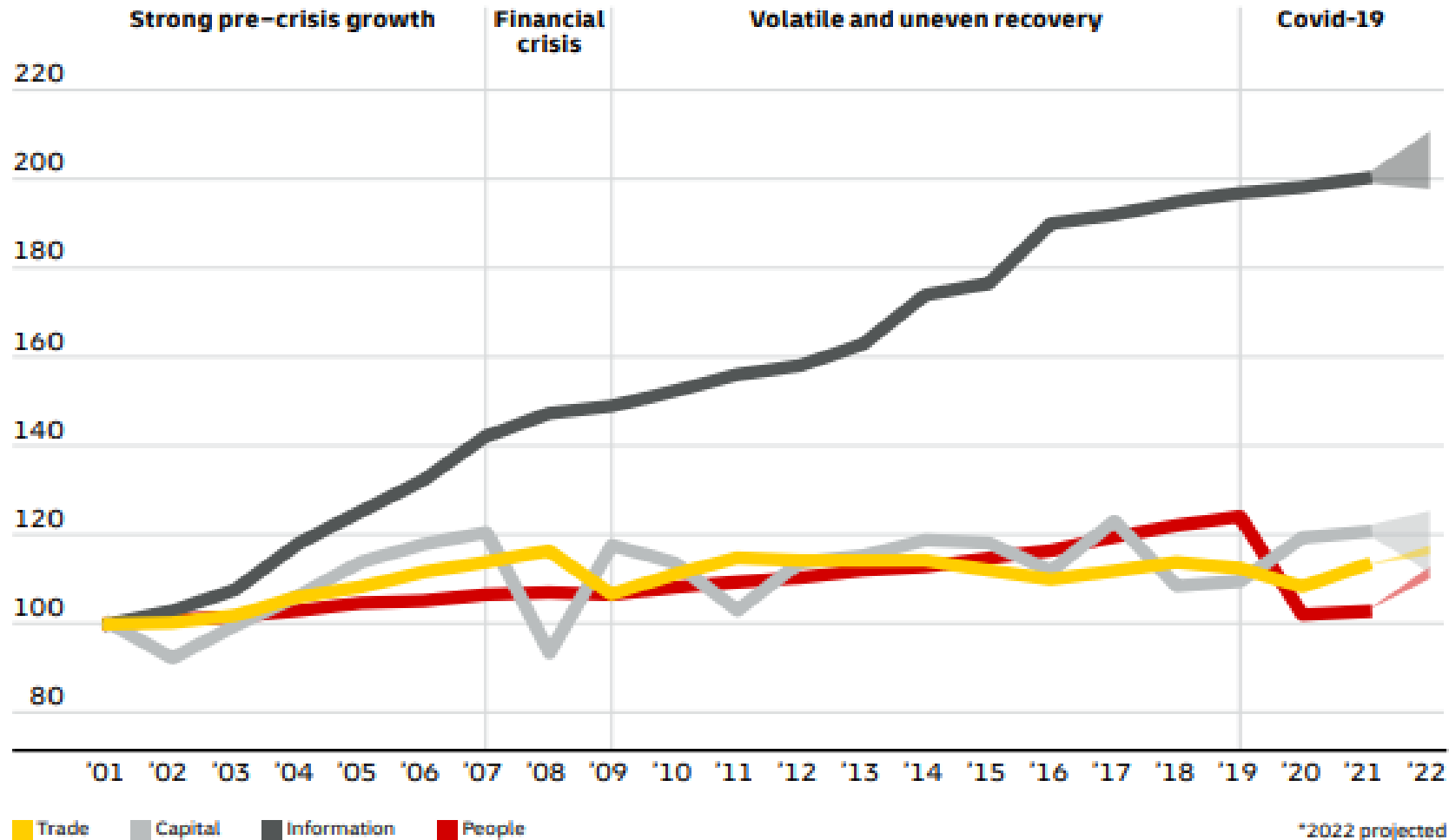
FLOW OF PRESENTATIONS

- Key Trends
- Opportunities for Collaboration
 - Digital Payments
 - Telemedicine
 - E-Commerce



KEY TRENDS

GLOBALISATION INCREASINGLY BEING DRIVEN BY CROSS-BORDER FLOW OF INFORMATION



While flow of data has doubled, other pillars have grown in the range of 3- 20 per cent during the period 2001- 2022

Source: DHL Global Connectedness Index, 2022

COUNTRY-WISE RESTRICTIONS ON CROSS-BORDER FLOW OF DATA

Global Data Alliance – Cross Border Data Policy Index

- Require data to stay in-country;
- Impose unreasonable conditions on transferring data abroad;
- Prohibit the transfer of data abroad;
- Require the use of domestic data centres or other equipment;
- Require data centres to be owned or operated by nationals;
- Prohibit the application of non-national laws to digital infrastructure;
- Impose import or export duties or other restraints on data transfers as they traverse digital networks.



ECONOMIC IMPLICATIONS OF RESTRICTIONS ON CROSS-BORDER DATA FLOWS

- ❖ Data localization and barriers to data flows decreased total factor productivity (TFP) reducing GDP by 0.1 percent in Brazil, 0.55 percent in China, 0.48 percent in the EU and 0.58 percent in South Korea (Bauer et al., 2016)
- ❖ The Leviathan Security Group (2015) has also examined the cost of data localization by comparing the cost of building data centers across countries. Local companies would pay 30 - 60 percent more for their computing needs in the event of a forced data localization legislation (Leviathan Security Group 2015)
- ❖ Cross-border data flows positively impacted India's trade by an estimated 12 per cent between 2016-17 and 2017-18 (ICRIER 2019)
- ❖ Cross-border data flows lowers MSME export costs by 82 per cent (Access Partnership 2018)
- ❖ 30 per cent reduction in developing country trade costs (OECD Service Trade Restrictiveness Index 2023)

DIGITAL ECONOMY AGREEMENTS ARE THE RESPONSE

Partnerships	Participants	Description
Asia Pacific Economic Cooperation	Australia, Canada, Japan, the Republic of Korea, Mexico, the Philippines, Singapore, Chinese Taipei, and United States.	Certification based mechanism to demonstrate compliance with internationally-recognized data privacy protections.
G20 Osaka Leaders' Declaration (2019)	Argentina, Australia, Brazil, Canada, China, France, Germany, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, South Korea, Turkey, United Kingdom, United States, European Union (with notable exception of India).	Included statement to initiate negotiations on achieving international cooperation on cross-border data flows – Data Free Flow with Trust.
Indo-Pacific Economic Framework	Australia, Brunei, Fiji, India, Indonesia, Japan, Republic of Korea, Malaysia, New Zealand, Philippines, Singapore, Thailand, Vietnam and United States.	Economic framework between 13 Asian countries and the United States, which includes commitments on digital trade and cross-border data flows.
WTO's Digital Economy Partnership Agreement	Open to all WTO members – Chile, New Zealand and Singapore have already signed it	Includes business and trade facilitation, new and emerging technologies, digital inclusion, etc.

*ASEAN considering its on digital economy agreement – Digital Economy Framework Agreement

THREE MAIN CATEGORIES OF RESTRICTIONS – WHERE ARE COUNTRIES IN THE BBINS

Category	Explanation and Examples
Open (OP)	Entities engaged in cross-border data transfers self-regulate and are subject to ex-post accountability. Cross-border data transfers may also be regulated by trade agreements and plurilateral or bilateral arrangements. Certain countries are categorised under this model due to an absence of domestic regulations for data protection. Examples: US, Canada, Pakistan, Chile, Namibia. Among the BBINS - only Bhutan is open
Conditional (CO)	Involves fulfilment of ex-ante conditions by entities involved in cross-border data transfers, including ensuring the adequacy of the recipient country, data subject consent, codes of conduct, standard contract clauses etc. Such countries regard personal data protection as a fundamental right. Examples: EU, Australia, Brazil, Mexico and Thailand. Among the BBINS - India, Nepal and Sri Lanka fall within this category.
Control (GC)	Involves strict restrictions on cross-border data flows, including explicit bans, requirement of government authorisation, data localisation rules and ex-ante security assessment. This model is common among countries where the concept of the right to privacy is fairly nascent. Examples: China, Russia and Indonesia. Among the BBINS – Bangladesh falls within this category

ASPECTS OF DPDPA, 2023 RELATING TO CROSS-BORDER DATA FLOWS

- Black listing - S.16 permits the transfer of personal data to any country not notified by the Government of India.
- Non-override clause -The Act does not override other Indian laws, leaving space for the application of other sectoral regulations (for eg. RBI guidelines).
- Conditionality - Data transfers are subject to consent and notice requirements.
- Forthcoming rules under Act are awaited, may prescribe procedure for cross-border data transfers.

IMPORTANT SECTORAL LEGISLATIONS (ALSO IN THE MAKING)

Draft Health Data Management Policy, 2022	<p>Section 26.6: No personal data shall be stored beyond the geographical boundaries of India, subject always to the provision of applicable laws. However, currently, the 2020 version of this policy is in place which has no provisions related to health data localisation</p>
Digital Information Security in Healthcare Act, 2018 (abandoned)	<p>Section 22: Proposed the creation of a National Electronic Health Authority that would have the power to enact protocols for the exchange of digital healthcare data with other countries. No specific localization requirement.</p>
Draft Drugs and Cosmetics (Amendment) Rules, 2018	<p>Section 67K(3) provision for data localisation: “The E-pharmacy portal shall be established in India . . . and shall keep the data generated localised.” Data are not to be “sent or stored . . . outside . . . India. “</p>
Directive on Storage of Payment System Data, 2018	<p>Advises all payment system providers to ensure that all data relating to payment systems operated by them is stored in a system only in India. For cross-border transaction data, consisting of a foreign component and a domestic component, a copy of the domestic component may also be stored abroad, if required.</p>
Master Directions on Prepaid Payment Instruments (PPIs), 2021	<p>PPI issuer shall put a Vendor Risk Management framework in place whereby vendors must adhere to the relevant legal and regulatory requirements relating to the geographical location of infrastructure and movement of data out of borders.</p>



OPPORTUNITIES FOR INCREASING DIGITAL TRADE IN BBINS

CURRENT CHALLENGES

- Lack of harmonisation in laws and regulations
- Lack of political will
- Lack of economic opportunities
- Tariff and trade policy barriers
- Lack of infrastructure and logistics infrastructure
- No clear guidelines on cross –border transfer of data (especially related to health data)
- Differences in technology sophistication

ONGOING INTEGRATION OF UPI AND RUPAY CARDS

Country	UPI Payments		RuPay Cards
	Outflow from India to partner country	Outflow from partner country to India	
Bhutan	Payments accepted	NA	Accepted and Issued
Nepal	Official commencement of operations pending; Payments accepted	Official commencement of operations pending; Payments accepted	Accepted
France	Payments accepted	NA	Accepted
Mauritius	Payments accepted	Payments accepted	Accepted
Singapore	Payments accepted	NA	Accepted
Sri Lanka	Payments accepted	NA	NA
United Arab Emirates (UAE)	Payments accepted		Accepted

Operational Agreements include

- a) Common agreement on technology standards
- b) Thresholds
- c) Transaction fee
- d) Flow of transaction
- e) Dispute Resolution

Consider regionalisation of payments rather than bilateral agreements with partner countries in BBINS

OPPORTUNITIES IN CROSS-BORDER TELEMEDICINE

Enhancing Digital Trade

Strengthen existing networks - SAARC Telemedicine e-Network Project, , South Asia and South-East Asia: JIPMER-BIMSTEC Telemedicine Network (JBTN), etc.

Leverage WHO expertise for creating a regional trust network to facilitate secure & seamless sharing of personal health records (PHR) across the BBINS region

Harmonise fragmented national regulations pertaining to telemedicine and propose a framework that comprehensively deals with

- data management aspects of cross-border telemedicine (APEC privacy guidelines, HIPPA , etc.)
- mutual recognition of health providers and a registry of authorised health professionals,
- portability of health insurance (sandbox the possibility of providing regional health insurance)
- trusted mechanism for digital payments across borders

Digitalisation to enhance trade and cooperation

Anonymisation and exchange of health data for collaborative research between third parties in the BBINS region on a need-basis using a consent driven framework.

Establishment of a health database for common diseases in the BBINS region and robust platform for real-time tracking, information sharing & efficient management of outbreaks, especially in border areas.

RECOMMENDATIONS FOR INTEGRATION OF E-COMMERCE

Enhancing digital trade

Building an online channel for traditional exports that go through the physical route

A regional platform for promotion of e-commerce – consider leveraging the ONDC platform

Digitalisation to enhance trade and cooperation

Digitalisation of customs, logistics to facilitate e-commerce and physical trade

Use data from e-commerce and digitalisation of trade facilitation to identify new opportunities for economic cooperation



THANK YOU!
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