

COVID-19, DATA LOCALISATION AND G20: CHALLENGES, OPPORTUNITIES AND STRATEGIES FOR INDIA

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Key Highlights

- India is the second largest exporter of IT/ITeS and has one of the largest numbers of start-ups globally.
- Yet it has chosen to be defensive in data related discussions in international forums, including the G20.
- India should have a comprehensive data protection and consumer privacy regulation and focus on mitigating infrastructure gaps.
- India should showcase its strengths in the G20 and build consensus for greater cross-border collaborations and investment in developing countries both to create digital infrastructure and to use technology for societal benefits and inclusive growth.

EXECUTIVE SUMMARY

With a large pool of engineers and scientists, the presence of over 9300 technology-based start-ups and its strengths in exports of information technology/information technology-enabled services (IT/ITeS), India is uniquely placed to become a global technology and innovation hub. Yet there is a fear that Indian companies may not be able to access and monetise data generated in India and there can be national security, governance, and privacy issues. The debate on “data localisation” has gathered momentum in the last five years as India tries to design its own regulations; globally, too, many countries have imposed some form of data localisation measures.

With the onset of the novel coronavirus (COVID-19) pandemic, services like healthcare, retail and education are online and there has been a change in data regulations in several countries to access and share sensitive patient data across borders for research/clinical trials. As the traditional model of trade, consisting of exchange of goods and labour mobility, stands disrupted, cross-border data flows are gaining traction. The Government of India has also

actively engaged in data sharing, public-private partnerships and joint research to tackle the pandemic.

Given this background, the paper presents the changing perceptions of stakeholders related to data localisation – before and during COVID-19. It assesses India’s strength in manufacturing of products for data centres and exports (goods and services). It analyses how the discussions on data localisation evolved in the G20 and identifies commonalities and differences across G20 countries. It identifies the challenges for India, makes recommendations for the upcoming G20 Saudi Presidency, and looks at how India can leverage its strengths as it takes over the G20 Presidency in 2022. The paper is based on secondary information analysis and a primary survey of 60 stakeholders.



KEY FINDINGS: SECONDARY DATA ANALYSIS

India signed the World Trade Organization's (WTO) Information Technology Agreement (ITA-1) in 1996, which requires countries to have zero import duties on select digital products. In 2015, India ranked 19th in exports (share was 0.1%) and 10th in imports (share was 2%) of ITA-1 products globally. After signing ITA-1, India's negative trade balance increased, raising concerns that India had not been able to develop its domestic manufacturing capacity. However, the Indian computer services industry has been a beneficiary of this agreement and India has a large positive trade balance in this sector.

Given India's desire to become self-reliant and develop its digital infrastructure through the creation of data centres, the paper analyses India's trade patterns in select equipment required to build data centres. India's trade in select equipment for data centres during 2010-19 (see Figure 1) shows that India has a large negative trade balance in this sector, which has increased over time. The analysis highlights that India is heavily dependent on China for its imports. It has limited export competitiveness and has not diversified its exports and the share of domestic value-addition in gross-imports is low (0.41 per cent). Thus, India in the past has not been able to build its manufacturing

capability or be part of the global supply chain. One of the objectives of the government, therefore, is to reduce the over-dependence on China and become self-reliant. Survey participants opined that it would take 5 years to change their global supply chains and networks.

PRIMARY SURVEY: PERCEPTION ON DATA LOCALISATION

While most stakeholders agree on the need for data governance for national security and consumer privacy, 96 per cent (see Figure 2) are against rigid on-soil data localisation measures and prefer data sharing with trust. Survey participants pointed out that rigid data localisation measures are likely to negatively affect software services exports and restrict innovation, enhance compliance costs for businesses and are difficult to implement during a global pandemic.

The proponents of data localisation are of the view that on-soil data localisation will lead to global investments in domestic manufacturing and infrastructure and it will also lead to domestic employment creation. However, a majority of survey participants pointed out that data centres are technology intensive and require specialised skills, some of which are in short supply in the country.

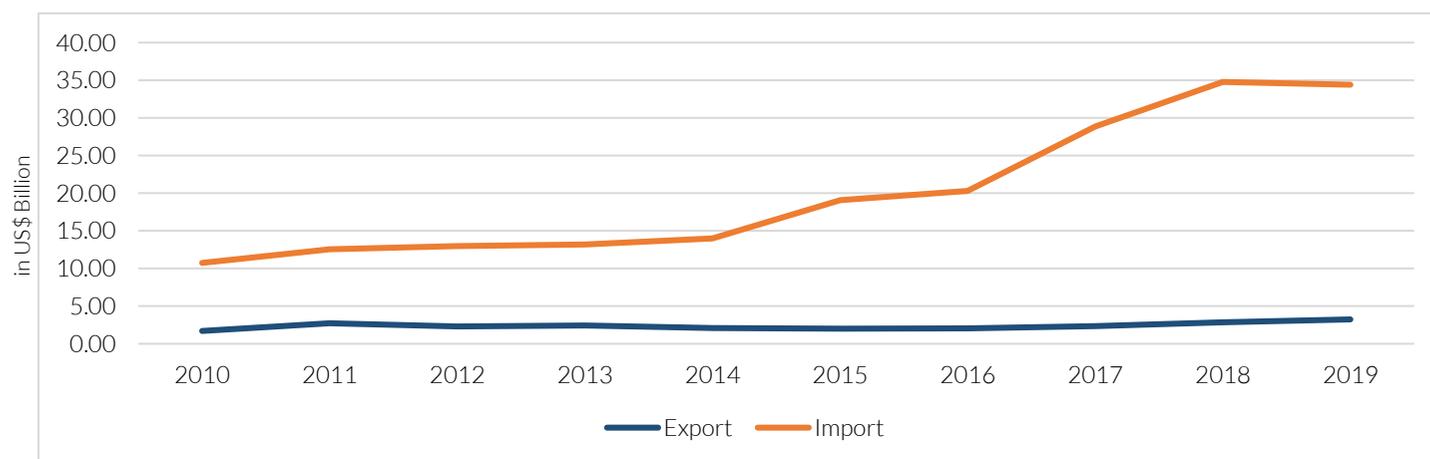
According to survey participants, if India wants to set up data centres in

the country, it needs to increase its expenditure on digital infrastructure at least five-fold, address infrastructure issues related to electricity, power supply and poor internet connectivity, and address its over-dependence on China for imports of raw materials and intermediaries. To attract investment, India should address the challenges that have inhibited the growth of manufacturing and the scaling up of start-ups.

GLOBAL DEVELOPMENTS IN DATA LOCALISATION AND THE G20

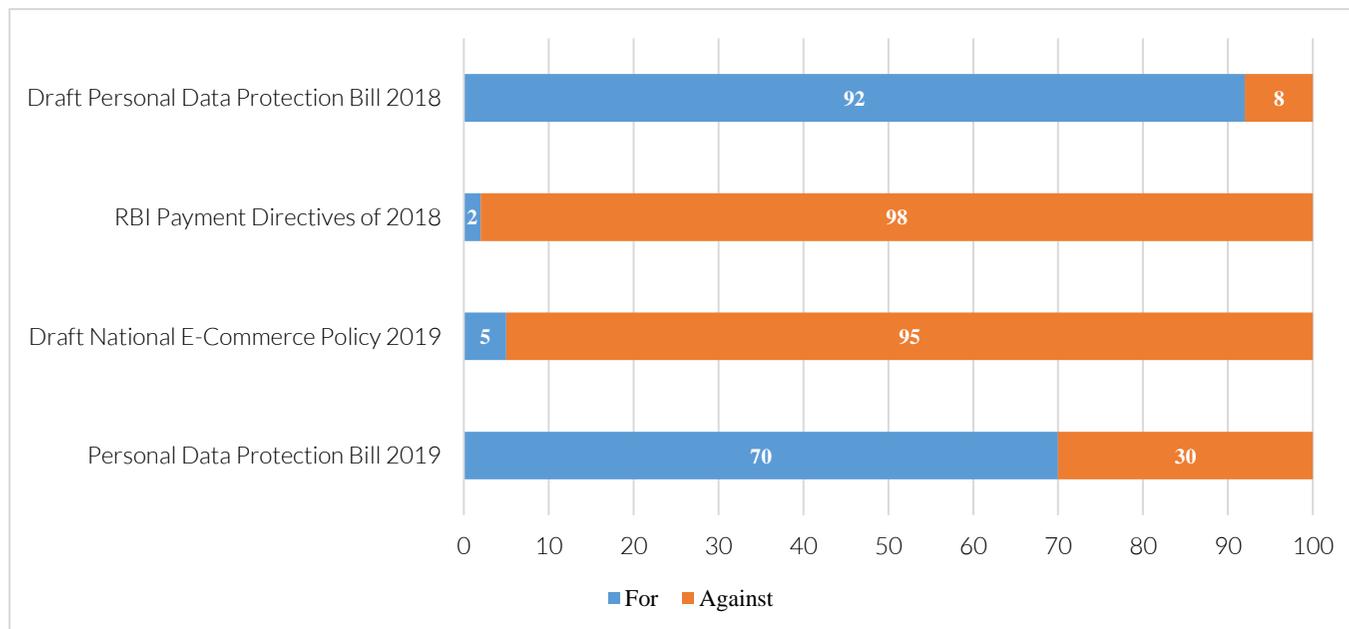
Data can be monetised, and a few large companies have control over data, which is an area of concern for developing countries like India. There are added concerns related to supply chain disruptions due to the COVID-19 pandemic and India's geo-political tensions with China. Regulations in India are evolving and there are infrastructure gaps. Piecemeal regulations without stakeholder engagement and research have been a concern for businesses as they want a predictable and transparent environment to thrive. Of late, India seems to have taken measures that are not compliant with WTO rules or its own commitments. Moreover, the country wants to stay away from international discussions on the subject and there is no clear roadmap on the position it should take as it takes over the G20 Presidency in 2022. Survey participants felt that the

Figure 1: India's Trade in Select Equipment Required for Data Centres (2010-2019)



Source: UNCOMTRADE available at <https://comtrade.un.org/data/> (last accessed June 27, 2020)

Figure 2: Stakeholder Perceptions about different Data Localisation Policies



Source: Primary Survey

country has neither clearly presented its strengths nor has it clearly articulated its concerns and continues to take a stand to stay away from any international discussions, some of which can be beneficial for the computer services industry.

In the G20 specifically, discussions on data protection have gained visibility in recent years. Comprehensive discussions on data protection have taken place only since the Hangzhou (China) Summit in 2016. Around 14 G20 countries have some form of data localisation measures. A majority of G20 countries supported the Osaka Track during the Japan presidency in 2019, which introduced the idea of “flow of data with trust”, while India, South Africa and Indonesia opposed it.

THE CURRENT SITUATION

The COVID-19 pandemic has created a need for data sharing in sensitive areas like health data. India is actively participating in cross-border data sharing and clinical trials. Saudi Arabia, which is hosting the G20 Presidency, has aligned itself to the broad objective of data sharing

with trust along with other G20 members. In G20, countries have to build consensus to take any agenda forward. There is broad consensus across G20 members on data sharing with trust. The next Presidency in 2021 will be held in Italy and, being an EU member country, Italy is expected to push the idea of data sharing based on the European Union’s (EU) General Data Protection Regulation (GDPR). Thus, among the G20 members, the EU, Italy and Germany will have the same views. The UK, despite its withdrawal from the EU, is GDPR compliant. Japan, Australia and a number of other countries are in favour of data sharing with trust. The US, given that it hosts the world’s largest technology firms, is in favour of free flow of data. Due to geo-political tensions, India today cannot align itself with China’s policies on data localisation. As of now, 17 G20 members support the idea of data sharing with trust, apart from India, Indonesia and South Africa. While South Africa’s position on the matter is unclear, Indonesia might sign the Regional Comprehensive Economic Partnership (RCEP) agreement soon, which will have a chapter on e-

commerce and provision for data sharing. Thus, Indonesia may change its position with regards to data localisation for its own Presidency in 2023. Given the ongoing pandemic and the positions likely to be taken by other G20 countries, India must carefully evaluate its strengths and address its weaknesses while developing a strategy for its own Presidency in 2022.

WAY FORWARD TO 2022: LEVERAGING INDIA’S STRENGTHS

India has a comparative advantage in technology and skilled manpower and can become a knowledge-based economy, which needs to be strengthened. India’s strategies in international forums should consider the country’s strengths in the IT/ITeS sector, export of high-skilled manpower and its technology start-ups. Further, a number of companies are planning to relocate from China and India can be an alternative destination. The Indian government has focused on skill development and training to meet the manpower requirements of the fourth industrial revolution not only in India but also globally. These strengths need to be showcased in G20 to get more

investment, which India needs for inclusive growth and to become a knowledge hub.

According to survey participants, India's focus should be to attract investment, technology and best practices for the creation of digital infrastructure and to use technology for societal benefits and inclusive growth. Since government funding is limited, it needs to play the role of a facilitator as it had done earlier for the IT/ITeS sector, so that the private sector is willing to invest and start-ups can get funding and grow. Forums such as the G20 can be used to foster more partnerships between government, academia, and the private sector. The government also needs to streamline its process of data collection, collation

and sharing so that there is access to data for research.

In the current geo-political situation and the COVID-19 pandemic, there is need for collaboration and co-operation among countries and G20 offers an excellent platform for such collaboration. It is important for India to develop a domestic consensus on data sharing as it prepares for its Presidency in 2022. It can use the G20 forum to draw attention to the needs and priorities of developing countries such as the need for investment in digital infrastructure. It can support greater engagement of developing countries in global trade through initiatives like joint start-up hubs.

The COVID-19 pandemic has created the need for data sharing and has fast-

tracked the adoption of data intensive services such as e-commerce, edu-tech, health-tech, etc. Globally, all countries have aligned their policies to the fast track adoption of the fourth industrial revolution. They should use forums like the G20 to engage in information sharing on best practices and regulatory frameworks. Large amount of data is being generated due to the adoption of technology and will continue to be generated in the future. India, too, must align itself to the new normal, frame a comprehensive data protection and consumer privacy regulation, and take a proactive stand in international forums. By doing so, India can realise the benefits of digital trade and accomplish its vision of being a data processing hub and knowledge-based economy.

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