TRADE

What is trade policy and why does it matter to startups?

Sound digital trade policy is a vital part of promoting domestic technology entrepreneurship—lowering trade barriers unlocks markets for U.S. startups to expand, compete, and find success. Startups have flourished with the growth of digital trade, enabling them to reach users, facilitate transactions, and empower communications across borders and around the globe. However, tariff and non-tariff barriers create burdens for startups looking to serve new markets. For instance, the flow of data across borders underpins global trade and enables startups to serve users in other countries with minimal additional investment, but restrictions on data flows, or data-localization measures, have continued to proliferate around the world and harm the ability of startups to grow and compete globally. In addition, trade-related conflicts and fractured regulatory regimes inject uncertainty and inhibit startups' ability to enter new markets abroad.

KEY TAKEAWAYS:

- Sound digital trade policy is a vital part of promoting domestic technology entrepreneurship—lowering barriers to trade unlocks markets for U.S. startups to expand, compete, and find success.
- Trade policy should seek to facilitate cross-border data flows, reduce regulatory burdens, lower tariffs, and promote stability to ensure that startups are well positioned to prosper.
- Exporting American laws will increase opportunities for growth, innovation, and the international competitiveness of American startups.

Where are we now?

CHANGES TO U.S. TRADE POLICY: In October 2023, the Biden administration signaled a sharp departure from longstanding U.S. trade policy by withdrawing support for key digital trade provisions enabling cross-border data flows, opposing data localization, protecting source code, and ensuring anti-discrimination. These policies have fostered the growth of digital trade and abandoning them is likely to lead to increased barriers for U.S. startups.

WTO MINISTERIAL: The World Trade Organization's 13th Ministerial Conference will be held in Spring 2024. The moratorium on imposing customs duties on electronic transmissions, a foundational policy that has enabled digital trade without tariffs, will expire unless it is renewed at MC13. Also at MC13, a smaller group of countries may reach a digital agreement as part of the Joint Initiative on e-commerce, though that will be less ambitious and less helpful for U.S. startups given the recent changes to U.S. policy.

INDO-PACIFIC: In 2022, the Biden administration launched the Indo-Pacific Economic Framework with a group of countries in the region. Negotiations over the trade portion of the framework are held up by labor and digital trade issues, and a robust, startup-beneficial outcome seems unlikely.

EUROPE: The European Union has advanced several tech policy initiatives that will impact U.S. startups operating there and the broader tech regulatory environment. The General Data Protection Regulation sets strict rules around personal data. The Digital Markets Act addresses competition but could have the consequence of increased costs for basic services relied upon by startups. The Digital Services Act addresses content moderation online, adding new requirements for startups that will increase the costs of entry and operation in the EU. The Artificial Intelligence Act will regulate AI, impacting AI development and deployment in the EU and beyond. The Data Act will govern 'non-personal data,' and will impact the cross-border flow of such data. Finally, the EU-U.S. Data Privacy Framework is thankfully now active, restoring certainty to transatlantic data transfers needed for U.S. startups to serve EU customers.