

Trade Impacts of Forced Localization Measures

April 18, 2016

Japan Electronics and Information Technology Industries Association

About JEITA

- Serving the industry since 1948
- Founded in 2000 through the consolidation of EIAJ (Electronic Industries Association of Japan) and JEIDA (Japan Electronic Industry Development Association)
- Approx. 400 members comprising global ICT and electronics companies

Priorities and policy recommendations

- Trade
 - TPP, TiSA, ITA, FTAs ...
 - FLMs/DLRs, data flows, security regulations, technology transfer/disclosure, encryption (G7 and G20)
- Privacy/data protection
- Cybersecurity

Trilateral cooperation among



DIGITALEUROPE 



JEITA

Types of Forced Localization Measures

National security rules

- *National security standards*
- *National testing, evaluation and certification schemes*
- *Local encryption algorithm requirements*

Discriminatory measures

- *Preference for domestically manufactured goods (PMA)*
- *Use of indigenous IPR*

FLMs

Sensitive information disclosure/transfer

- *Source code requirements*
- *Sensitive design elements*
- *Encryption algorithms*

Localization requirements

- *Data localization*
- *Server localization*
- *Restriction of cross-border data flows*

Disadvantages of Localization Measures

- **Data innovation improves lives:**
 - Greater convenience in daily life
 - Urban and rural planning
 - Early prediction of natural disasters
 - Advances in medical technology, etc.
- **Restriction of data flows, data/server localization requirements hamper data innovation**
 - Entry barrier for foreign companies
 - Higher costs especially for SMEs
 - Negative impact on all sectors utilizing ICT services
 - Hampers the creation of innovative business
 - Consumers unable to enjoy cross-border cloud services

Reference: Cost of Data Localization

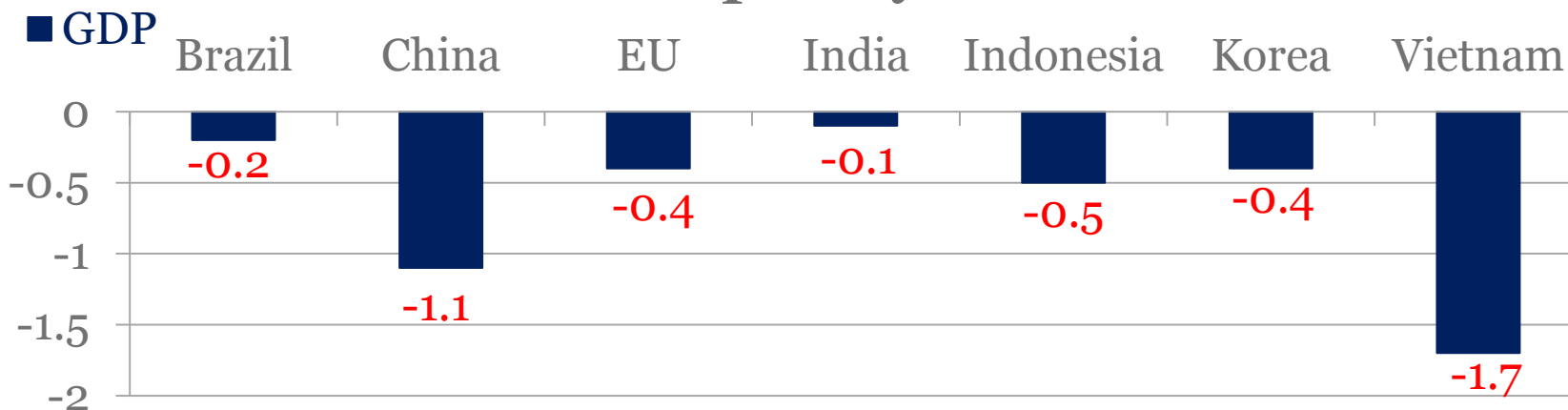
ECIPE (2014):

THE COST OF DATA LOCALISATION: FRIENDLY FIRE ON ECONOMIC RECOVERY

The report estimates that data localization has had the following economic impact on GDP for these seven countries/regions.

-> Brazil -0.2%; China -1.1%; EU -0.4%; India -0.1%;
Indonesia -0.5%; Korea -0.4%; Vietnam -1.7%

Economic impact by data localization



Reference: Cost for SMEs

- The cost for Japanese SMEs (approx. 40 million enterprises) of complying with EU data protection regulations may be as high as US\$15–34 billion.

* Estimate by MRI based on Kommerskollegium (2014): *No Transfer, No Trade – The Importance of Cross-Border Data Transfers for Companies Based in Sweden*

Disadvantages of Localization Measures

- **Disclosure/transfer of sensitive information, source code, encryption information, etc.**
 - Discourages foreign firms from setting up operations
 - Slows distribution of foreign products using the latest technologies

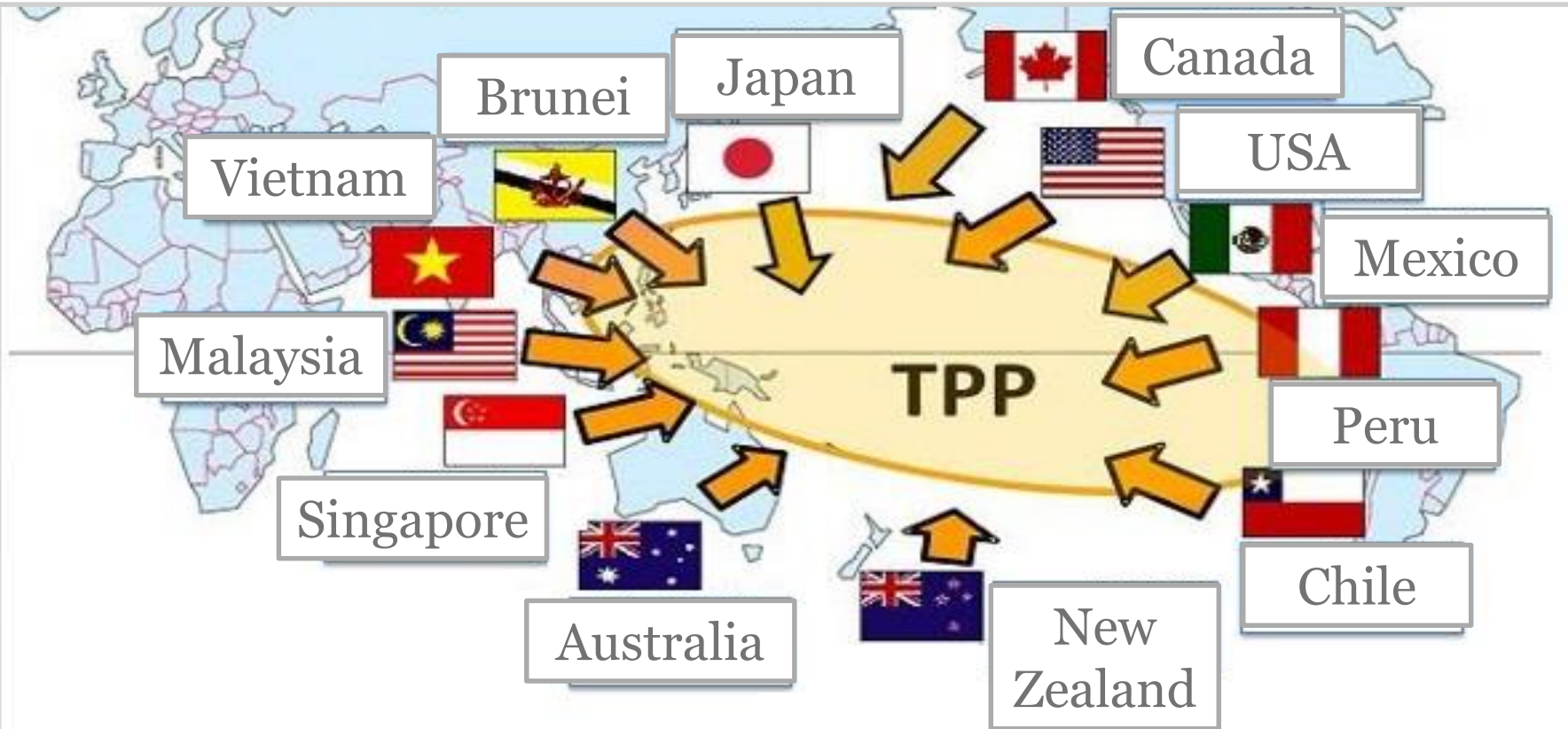


Impedes IT security

Seriously impairs the safety and reliability of IT systems

TPP

- ❑ 12 countries, economic scale of US\$28 trillion
- ❑ 40% of world economy
- ❑ 800 million people (10% of world population)



TPP and the Joint Recommendations

- **The e-commerce chapter of the TPP contains these provisions on preventing FLMs:**
 - ✓ Allow the free, cross-border flow of data including personal information
 - ✓ Ban localization requirements for computing facilities
 - ✓ Ban source code disclosure requirements
 - ✓ Ban encryption information disclosure and ban the mandating of specific cryptographic algorithms (TBT, Annex B)



Very similar to Joint Recommendations

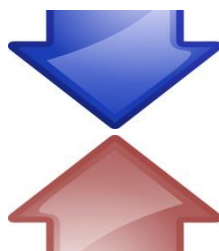
In the G7/G20 and Future Agreements

Our goals:

- **Have the concepts in the TPP E-commerce chapter adopted as global practice**
 - Reflect and adopt concepts in TPP E-commerce chapter / Joint Recommendations in the G7, G20, TiSA and future global agreements
- **Encourage governments of not only G7 and G20 member countries but also many emerging/developing countries to adopt same concepts**

Digital Agenda at 2016 G7 Summit

Cross-border data flows are vital for digital trade and sustained global economic growth



Digital protectionism pursued in the name of cybersecurity, privacy protection, and IPR protection ...

Expectation that the G7 Summit will agree to:

Enhance free cross-border data flows to promote innovation and address global issues through ICT



Achieving Our G7/G20 Goals

- Reach out to our respective governments
- US-EU-Japan public-private event in Tokyo on April 27 involving G7 senior officials
- G7 ICT Ministerial in Takamatsu, Japan on April 29
- G7 Summit in Ise-Shima, Japan on May 26-27
- G20 Summit in Hangzhou, China on September 4-5

THANK YOU!