



# GLOBAL DATA ALLIANCE

## TRUST ACROSS BORDERS

### **Vietnam's Digital Trade Barriers:**

#### **Status in US-Vietnam Reciprocal Trade Negotiations**

The Honorable Scott Bessent  
US Secretary of the Treasury  
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The Honorable Jamieson L. Greer  
United States Trade Representative  
Executive Office of the President  
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The Global Data Alliance (GDA)<sup>1</sup> welcomes the efforts of the Office of the US Trade Representative and the Departments of Commerce and Treasury to resolve unfair and non-reciprocal trade barriers that hurt US strategic interests, US companies, and US workers. Building on our March 2025 submission, we offer the following updated information on Vietnam's progress in resolving digital trade barriers.

Notwithstanding ongoing negotiations, Vietnam continues to advance severe trade restrictions on US digital exports and US services market access. Not only has Vietnam failed to remove any of its onerous data localization mandates or cross-border data restrictions, it is moving quickly to bring into effect by June 2025 other restrictions. Furthermore, Vietnam has even introduced completely new restrictions — all while it continues to negotiate with the United States.

The collective effect of these measures is to undermine economic opportunity for American workers and American enterprises — making it more difficult for Americans to export digitally-enabled services and goods to Vietnam — affecting US services and manufacturing workers; US artists and creators; and US designers, engineers, programmers, and researchers.

Vietnam's actions run directly counter to the Administration's efforts to advance a "production economy" built on "robust and realist trade policy [that] can create jobs, promote innovation, strengthen the national defense, raise wages, and foster [a] manufacturing renaissance" in the United States.<sup>2</sup>

Vietnam's actions must match its words when it comes to resolving US concerns regarding Vietnam's non-reciprocal and unfair trade barriers. The United States should insist on satisfactory resolution of the concerns listed above. Please do not hesitate to reach out with any questions or comments.

Sincerely yours,

*Joseph Whitlock*

Executive Director

## Annex

The GDA is a cross-industry coalition of companies that support tens of millions of American jobs and that are active across all 50 US states in every sector of the US economy. The GDA shares the US government view that the United States should be a “production economy” — that is “oriented around the production of manufactured goods, agricultural products, services, and knowledge.”<sup>3</sup>

A strong production economy requires — first and foremost — access to knowledge, information, and data. Such access powers growth, innovation, jobs, and wage-growth for companies of all sizes — from small and medium-sized enterprises (SMEs) to large corporations. Such access also supports a strong cybersecurity posture, promoting threat visibility and the ability to detect security risks early. Such access is essential to the functioning of manufacturing plants, modern farms, and service providers in every sector,<sup>4</sup> including the agriculture,<sup>5</sup> automotive,<sup>6</sup> clean energy,<sup>7</sup> finance,<sup>8</sup> health,<sup>9</sup> logistics,<sup>10</sup> media,<sup>11</sup> pharmaceuticals,<sup>12</sup> and telecommunications<sup>13</sup> sectors.

Efforts to renew the US production economy have been increasingly undermined by barriers that restrict the ability of US companies to offer cross-border services, including restrictions on cross-border transfers of data. This challenge first emerged a decade ago with People’s Republic of China (PRC) digital policies purportedly aimed at advancing “Internet sovereignty.” The PRC relied on such policies to justify blocking the cross-border transfer of information, mandate data localization, close its digital market, and undermine online economic opportunities — particularly for foreign enterprises and persons. Unfortunately, these digitally protectionist measures have proven attractive to many economies across the globe.

Over the past several years, Vietnam has enacted, implemented, and proposed various measures that raise concerns from a cross-border data policy perspective. Remarkably, despite the strong and unified concerns raised by US industry groups, and despite the costs that they impose on US businesses and workers, Vietnam has:

1. Made no public effort to remove these cross-border data restrictions or data localization mandates;
2. Sought to enshrine in law — and bring into full force and effect — restrictions and mandates that hurt US workers and enterprises that were only proposed as of January 2025; and
3. Introduced wholly new restrictions and mandates that hurt US workers and enterprises — e.g., Decree 102 — that did not even exist in January 2025.

We outline below the range of restrictions in Vietnam that must be satisfactorily resolved in the course of US-Vietnam negotiations.

### **Cybersecurity**

On June 12, 2018, Vietnam’s legislative body, the National Assembly, enacted the Cybersecurity Law. The Cybersecurity Law went into effect in January 2019.<sup>14</sup>

The Cybersecurity Law raises serious concerns and will likely significantly impact the ability of many GDA members to provide software products and services in Vietnam. Its breadth far exceeds cybersecurity protection and extends to a broad regulation of the Internet generally. It also grants vast powers to authorities and imposes stringent requirements on software product and service providers to comply with local cybersecurity standards and regulations and to apply for certification by local agencies. In sum, the Cybersecurity Law is a significantly negative development in Vietnam’s market access environment for the software sector.

In August 2022, the Ministry of Public Security (**MPS**) published the final Decree No. 53/2022/ND-CP (**Decree 53**) that took effect from October 2022. Decree 53 is concerning because it requires domestic enterprises (potentially including domestic customers of foreign service providers) to store data within

Vietnam and it is not clear whether domestic enterprises include foreign-invested enterprises or subsidiaries of foreign or multinational corporations with head offices in Vietnam. While Decree 53 is silent on the transfer of data overseas, it requires affected enterprises to store data in Vietnam. This leads to market access issues if domestic enterprises are unable to use cloud-based services that do not or cannot store data in Vietnam as part of their services.

### **Decree 147**

Vietnam's Decree No. 72/2013/ND-CP (**Decree 72**) enacted in July 2013, originally mandated that all aggregated information websites, social media platforms, and online content and game providers maintain at least one server in Vietnam "serving inspection, storage, and provision of information at the request of competent state management agencies".

This requirement, initially vague and infrequently enforced, became increasingly burdensome and prescriptive after the 2018 Cybersecurity Law, which formally obligated both domestic and foreign service providers of personal and user-generated data to store such data in Vietnam and establish a local legal presence requirement. Under Decree 147/2024/ND-CP (**Decree 147**), effective December 2024, these localization rules were tightened: offshore platforms hosting Vietnamese users (e.g. social networks, app stores) that lease local data center space or receive at least 100,000 monthly visits must now notify regulators, localize personal data, verify user IDs via local credentials, and respond to takedown and data requests from Vietnamese authorities. These data localization mandates and cross-border controls impose disproportionate compliance burdens, stifle competition, increase infrastructure costs, and heighten risks from centralized data storage.

### **Personal Data Protection Law**

Vietnam's personal data protection regulations are currently set out in its PDP Decree (i.e., Decree 13/2023/ND-CP), which took effect on July 2023. However, Vietnam's National Assembly recently passed the Personal Data Protection Law (**PDP Law**) on June 26, 2025. The PDP Law will enter into force on January 1, 2026. The relationship between the PDP Decree and the PDP Law has not been clearly addressed, and it is likely that the PDP Decree will remain in effect until it is explicitly replaced by a new Decree issued under the PDP Law.

The PDP Decree imposes restrictive data transfer and data localization requirements on industries and businesses subject to it. In particular, there are burdensome requirements for personal data processors to register with the Personal Data Protection Commission (**PDPC**) for cross-border transfers of personal data with very detailed requirements for registration, and for the PDPC to carry out annual assessments or audit-like exercises on cross-border data transfers by data transferring entities. These obligations are impractical and may create new privacy and security concerns by forcing companies to store and access data they otherwise would not.

Vietnam's recently passed PDP Law introduces a large number of new restrictions on the ability to transfer data across borders in comparison to the PDP Decree. The PDP Law imposes obligations to conduct transfer impact assessments (although, helpfully, in the enacted PDP Law, this requirement no longer applies to entities using cloud computing services), make impact assessments available to government authorities, and face severe penalties (including cancellation of the authority to transfer data) for any violations.

The above obligations are further exacerbated by the broad definitional scope of "data transfers":

- Article 2(24) defines "overseas transfer" to include not only the act of transferring data, but also the act of accessing data from outside of Vietnam: (i.e., the "use of cyberspace, equipment, electronic means or other forms of transfer of personal data of Vietnamese citizens to a location outside the territory of the Socialist Republic of Vietnam or the use of a location outside the territory of the Socialist Republic of Vietnam for the processing of personal data.")

- Article 45 further defines transfers to include: (a) Sharing personal data with recipients outside [Vietnam]; (b) Sharing personal data at an overseas [or meeting]; (d) Publishing personal data in cyberspace that is received by persons outside [Vietnam]; (dd) Providing personal data to other organizations, enterprises and individuals for the purpose of carrying out business activities; and (e) Providing personal data on the fulfillment of legal obligations abroad or according to the laws of the host country.

The foregoing provisions imply that sharing personal information within Vietnam will be treated as a transfer if it is accessed by those outside of Vietnam, even if that was not the intention and even if that outcome was not foreseeable. Additionally, subparagraphs (c) and (dd) raise questions as to whether provision to a Vietnam-based subsidiary of a foreign enterprise or to a non-national in Vietnam would be deemed to constitute a “transfer” and thus restricted.

### ***Data Law and Draft Implementing Decree***

Vietnam’s Law on Protection of Consumer Data in the Digital Environment (**the Data Law**) was promulgated in 2023 and is expected to take effect in July 2025. It establishes a comprehensive legal framework governing the collection, processing, storage, and transfer of data in Vietnam, including special provisions for what it terms “important data” and “core data.” The Draft Implementing Decree for the Data Law (**Draft Implementing Decree**) imposes sweeping obligations on all businesses, both domestic and foreign. Notably, it requires companies that handle important or core data to conduct internal risk assessments, prepare cross-border data transfer impact assessment reports, and submit these reports to the Ministry of Public Security (**MPS**) or other designated authorities for approval. Further, businesses must include specific contractual terms with foreign data recipients and conduct self-assessments of their data transfer operations annually (for important data) or bi-annually (for core data), submitting those results to the government.

### ***Decree 102***

In May 2025, the Government of Vietnam issued a new data-related regulation (Decree No. 102/2025/ND-CP regulating Medical Data Management (“**Decree 102**”). Decree 102 will enter into full force on July 1, 2025. The Decree incorporates several restrictions on cross-border data transfers and international data access.

- Decree 102 has an **extra-territorial governing scope**, which can broadly apply to any entities directly involved in or related to digital medical data activities in Vietnam. Onshore and offshore companies collecting and processing medical data of their employees or customers in Vietnam could theoretically fall under Decree 102’s purview.
- Decree 102 imposes a **strict consent requirement** on the processing, exploitation, and use of personal medical data, with a narrow exemption granted to State authorities when acting in the public interest or for community health purposes. It is arguable that the broader consent exemptions under the Personal Data Protection Decree (e.g., contract performance) may not apply in this context, based on the rule of law application where regulations diverge.
- Decree 102 incorporates certain provisions of the **Data Law by reference**, such as those relating to **cross-border data transfers and risk assessments**. It remains uncertain whether these referenced provisions will apply directly to companies, or if their applicability depends on whether the entities first meet the threshold conditions outlined in the Data Law.

### ***Moratorium on Customs Duties on Electronic Transmissions***

Vietnam has committed in some of its regional trade agreements not to impose customs duties on electronic transmissions, yet its degree of support for the multilateral Moratorium on such customs duties remains uncertain. We urge the United States to ensure that Vietnam commits to support the US defense of the Moratorium, as reflected in the America First Trade Policy and other US policy documents.

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<sup>1</sup> The Global Data Alliance ([globaldataalliance.org](https://globaldataalliance.org)) is a cross-industry coalition of companies that are committed to high standards of data responsibility and that rely on the ability to transfer data around the world to innovate and create jobs. The Alliance supports policies that help instill trust in the digital economy while safeguarding the ability to transfer data across borders and refraining from imposing data localization requirements that restrict trade. Alliance members are headquartered across the globe and are active in the advanced manufacturing, aerospace, automotive, consumer goods, electronics, energy, financial services, health, supply chain, and telecommunications sectors, among others. The Business Software Alliance administers the Global Data Alliance. See Global Data Alliance, *About the Global Data Alliance* (2020), <https://www.globaldataalliance.org/downloads/aboutgda.pdf>

<sup>2</sup> USTR, 2025 Trade Agenda (March 2025), at: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2025/march/us-trade-representative-announces-2025-trade-policy-agenda>

<sup>3</sup> USTR, 2025 Trade Agenda (March 2025), at: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2025/march/us-trade-representative-announces-2025-trade-policy-agenda>

<sup>4</sup> Global Data Alliance, *The Cross-Border Movement of Data: Creating Jobs and Trust Across Borders in Every Sector* (2020), <https://globaldataalliance.org/wp-content/uploads/2021/07/GDAeverysector.pdf>

<sup>5</sup> Global Data Alliance, *GDA Website – Agriculture* (2022), at: <https://globaldataalliance.org/sectors/agriculture/>

<sup>6</sup> Global Data Alliance, *GDA Website – Automotive* (2022), at: <https://globaldataalliance.org/sectors/automotive/>

<sup>7</sup> Global Data Alliance, *GDA Website – Energy* (2022), at: <https://globaldataalliance.org/sectors/energy/>

<sup>8</sup> Global Data Alliance, *GDA Website – Finance* (2022), <https://globaldataalliance.org/sectors/finance/>

<sup>9</sup> Global Data Alliance, *GDA Website – Healthcare* (2022), <https://globaldataalliance.org/sectors/healthcare/>

<sup>10</sup> Global Data Alliance, *GDA Website – Supply Chain Logistics* (2022), <https://globaldataalliance.org/sectors/supply-chain-logistics/>

<sup>11</sup> Global Data Alliance, *GDA Website – Media and Publishing* (2022), <https://globaldataalliance.org/sectors/media-publishing/>

<sup>12</sup> Global Data Alliance, *GDA Website – Biopharmaceutical R&D* (2022), <https://globaldataalliance.org/sectors/biopharmaceutical-rd/>

<sup>13</sup> Global Data Alliance, *GDA Website – Telecommunications* (2022), <https://globaldataalliance.org/sectors/telecommunications/>

<sup>14</sup> *Vietnam National Assembly Passes the Law on Cybersecurity* (July 2, 2018) <https://globalcompliancenews.com/vietnam-law-cybersecurity-20180702/>