

Strengthening the Russian Digital Economy for Long Term Prosperity

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Abstract

As the Russian government seeks to improve its economic performance, it must pay greater attention to the role of technology and digitalization in stimulating the Russian economy. While digitalization presents many opportunities for the Russian economy, a few key challenges – cumbersome government regulations and an unequal playing field for foreign companies – restrict Russia’s potential in digitalization. In the future, how the Russian government designs its technology and regulatory policies will likely have significant impact both on the domestic front, as well as on their international initiatives and relationships. This paper provides an overview of recent Russian digital initiatives, the regulatory barriers for U.S. technological companies in Russia, and the intellectual property challenges for doing business in Russia. This paper also discusses recent digital initiatives from China, the United States, and other countries, and discusses what such programs mean for Russia. In this context, we also discuss Chinese and U.S. efforts to shape the future of global technological standards, alongside new programs from countries like Chile and Estonia, to attract foreign startup companies. Finally, this paper discusses the future challenges that the Russian government needs to address in order to improve its digital business environment. The paper concludes by providing some recommendations for designing market-friendly regulations, creating a level-playing field for foreign businesses in Russia, promoting Russian engagement with Western companies and governments, and undertaking more outreach efforts to make Russia’s digital business environment more inclusive.

1. Introduction

Bilateral U.S.-Russian relations continue to suffer from tensions after the United States, in concert with its European allies, imposed economic sanctions against Russia six years ago. Notwithstanding such tensions, Washington and Moscow have many reasons for pursuing limited strategic cooperation. Both countries share concerns about growing instability in the Middle East, transnational terrorism, and nuclear security. Consequently, although U.S.-Russia relations are still tense, an increasing number of policymakers are calling for a more pragmatic approach and a normalization of bilateral relations.¹ As the United States and Russia consider steps to pursue this, policymakers need to pay particular attention to economic relations between the two countries. In this context, the digital economy is especially important given the growing importance of technology to global economic growth.

Nevertheless, U.S. investment in the Russian technological sector suffers from a number of structural challenges, including political risks, divergence in U.S. and Russian privacy and data protection regulations, restrictions on foreign investment, and disagreements over free speech and intellectual property issues. For example, the February 2020 U.S. Trade Representative report highlights some of the challenges Washington must consider when working with its Moscow counterparts, “Russia maintains a cumbersome and opaque import licensing regime on products with cryptographic capabilities. It has begun to introduce a “track and trace” regime that will require an encrypted label on every product and raises the specter of a new tool to interrupt customs clearance.”² To improve bilateral relations in the digital economy, these challenges must be addressed in future trade and investment negotiations between Washington and Moscow. Unlike many traditional sectors, like oil and gas, trade in digital goods and services is likely to continue growing in importance for both the U.S. and Russian economies. This is why it is especially important to analyze U.S. technological investment in Russian markets and how policymakers can help facilitate closer commercial relations in this field.

The remainder of this paper is structured as follows. Section 2 provides an overview of recent Russian digital initiatives, regulatory barriers for U.S. technological companies in Russia, and intellectual property challenges for doing business in Russia. Section 3 discusses recent initiatives from China, the United States, and other countries, and what such initiatives mean for Russia. Section 3 discusses Chinese and U.S. efforts to shape the future of global technological standards, as well as new programs by countries, like Chile and Estonia, to attract foreign startup companies. Section 4 discusses future challenges that the Russian government needs to address to improve its digital business environment; this section provides some recommendations for designing market-friendly regulations, creating a level-playing field for foreign businesses in Russia, promoting Russian engagement with Western companies and governments, and promoting transparency about Russian laws and regulations related to the digital economy. Finally, Section 5 provides

¹ For instance, see Thomas Graham, *Let Russia Be Russia: The Case for a More Pragmatic Approach to Moscow*, *Foreign Affairs*, November/December 2019. <https://www.foreignaffairs.com/articles/russia-fsu/2019-10-15/let-russia-be-russia>; Eugene Rumer and Richard Sokolsky, "Thirty Years of U.S. Policy Toward Russia: Can the Vicious Circle Be Broken?" Carnegie Endowment for International Peace, Jun 20 2019. carnegieendowment.org/2019/06/20/thirty-years-of-u.s.-policy-toward-russia-can-vicious-circle-be-broken-pub-79323 .

² “2019 Report on the Implementation and Enforcement of Russia’s WTO Commitments.” United States Trade Representative. Feb 2020. https://ustr.gov/sites/default/files/2019_Report_on_Russia's_WTO_Compliance.pdf, at 4.

some reflections on the long-term policies that Russian leaders should pursue in light of the changing geopolitical circumstances.

2. Overview of Russia’s Digital Sector and U.S. Tech Presence in Russia

2.1 Defining the Digital Economy

Within the rapidly changing global digital economic landscape, there is lack of a generally accepted definition of what comprises the digital economy.³ The United States Bureau of Economic Analysis (BEA) defines the digital economy as the infrastructure required for an interconnected computer network, e-commerce transactions, and digital media.⁴ According to Deloitte, the digital economy comprises “economic activity that results from billions of everyday online connections among people, businesses, devices, data, and processes.”⁵ Per the Russian definition, the digital economy is characterized by “innovative [capabilities] like big data analysis, machine learning, machine vision, industrial Internet of things, virtual reality, augmented reality, three-dimensional modeling, three-dimensional printing, unmanned aerial vehicles and robotics” that enable businesses to utilize their resources more effectively.⁶ For purposes of this paper, we use a broad definition of the digital economy, which includes both economic activities based on new technologies and the physical infrastructure required to support digital economic activities.

2.2 Emerging Russian Digital Initiatives

Since the late 1990s, the Russian government has undertaken initiatives aimed at integrating Russia into the global digital economy. In 1999, the State Duma signed the “Strategy to Develop Russian Information Space” with the main aim of integrating Russia into the international information community.⁷ Furthermore, to improve Russia’s participation in the international digital economy, Moscow launched the Russia Digital Economy Program, with a budget of 1.63 billion rubles from 2019-2025.⁸ The main objectives of the program include the creation of an information society in Russia, formation of the digital economy, and strengthening of the role of the Russian Federation globally.⁹ Additionally, in 2019, President Putin mandated the development of a national A.I. strategy and to stimulate AI-related investments.¹⁰ These efforts

³ I. Kiyamov et al, “*Actual issues of digital transformation of the Russian economy in modern conditions*”, IOP Conf. Series: Materials Science and Engineering (July 2019) : 4

⁴ “*Digital Economy*,” Bureau of Economic Analysis, last modified October 16, 2019.

<https://www.bea.gov/data/special-topics/digital-economy>.

⁵ “*What is digital economy?*,” Deloitte, last accessed on May 1, 2020

<https://www2.deloitte.com/mt/en/pages/technology/articles/mt-what-is-digital-economy.html>.

⁶ I. Kiyamov et al, “*Actual issues of digital transformation of the Russian economy in modern conditions*”, IOP Conf. Series: Materials Science and Engineering (July 2019)..

⁷ Ageichev, “Law in a field of Internet Communications: Russian and International experience,” *Comparative Politics*, no. 2 (Winter 2016): 2 <https://cyberleninka.ru/article/n/zakonodatelstvo-v-sfere-internet-kommunikatsiy-rossiyskiy-i-mezhdunarodnyy-opyt/viewer>

⁸ “Budget of Digital economy national program for 2019-2025 is 1.63 trillion rubles” [Бюджет нацпроекта “Цифровая экономика” на 2019-2024 годы составит 1,63 трлн рублей], Tass, February 11, 2019 <https://tass.ru/nacionalnyye-proekty/6099697>.

⁹ “Digital Economy,” Improvement of the government management portal [Совершенствование государственного управления], n.d., last accessed May 12. <https://ar.gov.ru/ru-RU/typicalPage/typical-page/view/152>.

¹⁰ “Decree of the President of the Russian Federation on “Development of AI in Russian Federation,” 2019 <http://publication.pravo.gov.ru/Document/View/0001201910110003>

represent the increasing priority Moscow assigns to developing Russia's digital ecosystem. As a result, the World Bank has reported that "the country's ambitious vision for growth through breakthrough innovation, its investments into national broadband infrastructure, relative strengths in science and technology, a developed legislative and policy framework, and the global competitiveness of its cybersecurity industry position Russia to become a global digital leader."¹¹

Notwithstanding the Russian government's increased attention to the digital economy, the country suffers from critical weaknesses. According to the World Bank, "structural weaknesses in the digital transformation ecosystem, inadequate digital skills, restricted access to capital markets, and a lack of an open innovation culture constrain Russia's ability to achieve fundamental technological breakthroughs in the near term."¹² Russia's performance as a designer of smart and business-friendly regulations and ecosystem remain poor, in comparison to most European countries.¹³ The Brussels-based European Center for International Political Economy ranks Russia as the second most restrictive country in its Digital Trade Restrictiveness Index (the other four most restrictive countries include China, India, Indonesia, and Vietnam).¹⁴ In particular, the Russian government applies restrictive regulations on the "cross-border movement of data," technology professionals, "foreign investment, content access," and e-commerce, amongst others.¹⁵ In the long-term, the Russian government must address these challenges to improve the country's role as a leader in the global digital economy.

2.3 Regulatory Barriers for U.S. Technological Companies in Russia

Due to the size of the Russian market, the growing demand for electronics and digital services, and the presence of a highly educated workforce, Russia represents an attractive destination for many U.S. technological companies. Despite recent difficulties, U.S. firms have sought to maintain and expand their commercial presence in Russian markets. For example, Cisco, a San Jose-based networking hardware company, has sought to increase its presence in the Russian market since the early 2010s. As a result, Cisco experienced six percent growth in Russia over the last 10 years and now cites Russia as a key market for its revenue growth.¹⁶ Meanwhile, Apple has also seen "double-digit revenue growth in Russia, according to the company's Chief Financial Officer."¹⁷

¹¹ "Competing in the Digital Age," World Bank Group, September, 2018.

<https://openknowledge.worldbank.org/bitstream/handle/10986/30584/AUS0000158-WP-REVISED-P160805-PUBLIC-Disclosed-10-15-2018.pdf?sequence=1&isAllowed=y>.

¹² "Competing in the Digital Age," World Bank Group, September, 2018.

<https://openknowledge.worldbank.org/bitstream/handle/10986/30584/AUS0000158-WP-REVISED-P160805-PUBLIC-Disclosed-10-15-2018.pdf?sequence=1&isAllowed=y>.

¹³ Martina Francesca Ferrace, Hosuk Lee-Makiyama, and Erik van der Marel, "Digital Trade Restrictiveness Index," European Centre for International Political Economy, n.d.: 3-5

¹⁴ Martina Francesca Ferrace, Hosuk Lee-Makiyama, and Erik van der Marel, "Digital Trade Restrictiveness Index," European Centre for International Political Economy, n.d.: 3

¹⁵ Martina Francesca Ferrace, Hosuk Lee-Makiyama, and Erik van der Marel, "Digital Trade Restrictiveness Index," European Centre for International Political Economy, n.d.: 8

¹⁶ "Cisco Systems Russia Cisco Systems," TA Adviser, n.d., accessed April 30, 2020, [http://tadviser.com/index.php/Company:Cisco_Systems_Russia_\(Cisco_Systems\)](http://tadviser.com/index.php/Company:Cisco_Systems_Russia_(Cisco_Systems)).

¹⁷ April Joyner, "Factbox: U.S. companies with exposure to Russia," Reuters, August 9, 2018.

<https://www.reuters.com/article/us-usa-russia-sanctions-companies-factbo/factbox-u-s-companies-with-exposure-to-russia-idUSKBN1KU2L8>.

For instance, the annual revenues of Apple’s Russian subsidiary increased to “197.2 billion rubles” in 2018, representing a 30 percent increase from the previous year.¹⁸ While Apple lags behind Huawei in the Russian smartphone market and faces growing legal barriers, the Russian market nevertheless remains important to Apple.¹⁹ Even LinkedIn, which Roskomnadzor banned after LinkedIn’s refusal to store data of Russian users on Russian servers, saw an increase in its Russian business line by five percent in 2018.²⁰ As a result, five percent of the Russian population uses LinkedIn despite restrictive Russian laws.²¹

Notwithstanding some successes of firms like Cisco and Apple in Russian markets, foreign technological companies face increasing barriers to doing business in Russia. According to the International Trade Administration, such barriers include political uncertainty; Western sanctions, especially in the “energy, finance, and defense” sectors; and “restrictions on the labor market.”²² Furthermore, regulatory barriers also pose a crucial challenge for foreign businesses in the Russian technological sector. Due to such challenges, several Western companies, like U.S.-based Adobe and Splunk, have left the Russian market in 2014 and 2019, respectively. Although the two companies did not cite any official reasons for leaving, experts suggest that unfavorable Russian regulations played a key role in such departures.²³ That is why policymakers must pay attention to regulatory challenges, two of which are discussed below.

1. **Data localization:** In 2015, the Russian government introduced new data localization rules, whereby all organizations are obliged to store the personal data of Russian citizens in Russia.²⁴ More specifically, the law “requires ‘data operators’ to ensure that recording, systematization, accumulation, storage, refinement and extraction of personal data of

¹⁸ "Russia Apple of Apple Rus," TAdviser, n.d., accessed May 10, 2020, [tadviser.com/index.php/Company:Russia_Apple_\(Apple_Rus\)](https://tadviser.com/index.php/Company:Russia_Apple_(Apple_Rus))

¹⁹ "Russia Apple of Apple Rus," TAdviser, n.d., accessed May 10, 2020, [tadviser.com/index.php/Company:Russia_Apple_\(Apple_Rus\)](https://tadviser.com/index.php/Company:Russia_Apple_(Apple_Rus))

²⁰ Jeremy Bloom, “LinkedIn country-by-country audience visualized,” Thinknum Alternative Data, n.d., accessed April 30, 2020, <https://media.thinknum.com/articles/tracking-linkedin-growth-from-american-icon-to-global-player/>; Ingrid Lunden, "Russia says ‘nyet,’ continues LinkedIn block after it refuses to store data in Russia," Tech Crunch, March 7, 2017, <https://techcrunch.com/2017/03/07/russia-says-nyet-continues-linkedin-block-after-it-refuses-to-store-data-in-russia/>; Роскомнадзор [Roskomnadzor], “LinkedIn отказалась устранить нарушения российского законодательства” [LinkedIn Refuses to Remove Violations of Russian Law], March 7, 2017.

²¹ Jeremy Bloom, “LinkedIn country-by-country audience visualized,” Thinknum Alternative Data, n.d. accessed April 30, 2020, <https://media.thinknum.com/articles/tracking-linkedin-growth-from-american-icon-to-global-player/>; Ingrid Lunden, "Russia says ‘nyet,’ continues LinkedIn block after it refuses to store data in Russia," Tech Crunch, March 7, 2017, <https://techcrunch.com/2017/03/07/russia-says-nyet-continues-linkedin-block-after-it-refuses-to-store-data-in-russia/>; Роскомнадзор [Roskomnadzor], “LinkedIn отказалась устранить нарушения российского законодательства” [LinkedIn Refuses to Remove Violations of Russian Law], March 7, 2017.

²² “Information Technologies,” International Trade Administration, October 13, 2019. <https://www.trade.gov/knowledge-product/russia-information-technologies>.

²³ Jeff Stone, “Splunk to exit Russian market amid growing government scrutiny,” Cyberscoop, February 19, 2019. <https://www.cyberscoop.com/splunk-russia-exit/>; Jim Pedd, "Splunk leaves the Russian market for unclear reasons," TechZine, February 20, 2019. <https://www.techzine.eu/news/cloud/38960/splunk-leaves-the-russian-market-for-unclear-reasons/>

²⁴ Vera Shaftan, “Russian Data Localization law: Now with monetary penalties,” Norton Rose Fulbright, December 20, 2019. <https://www.dataprotectionreport.com/2019/12/russian-data-localization-law-now-with-monetary-penalties/>.

Russian citizens is done using databases located in Russia.”²⁵ Facebook and Twitter were fined for not following this law; LinkedIn is blocked in Russia for the same reason. Thus, the consequences of not abiding by the law have proved to be quite monetarily and operationally detrimental.²⁶

2. **Pre-installed software.** Recently signed Federal Law No. 425-FZ (02.12.2019) "On entering amendments into Article 4 of Federal Law on protection of customer rights" is expected to change the tech environment in Russia substantially.²⁷ This law obliges smartphone producers to preinstall software on the devices that they sell in Russian markets. While the law was under discussion, companies such as Intel and Microsoft voted against it; however, despite all objections, the law has been passed and will come into effect January 2021, which critics believe may force even more international companies to leave the market.²⁸ Another example of the impact of preloaded software is the notoriously named "Law Against Apple," named so because of the fact that it goes against Apple's internal policy to preload devices with external applications. Many experts are still forecasting the potential leave of Apple entirely from the Russian market because of this.²⁹ Thus, ethical dilemmas for companies continue and they will have to find balance in order to operate in emerging markets like Russia.

Complicating matters further is that recent laws on internet sovereignty seem to be vastly misinterpreted by companies and people alike. Initially, tech companies were not taking the laws very seriously, mainly, as many experts suggest, due to the small legal implications (fine of \$47) of violating them. As a result, after several warnings Facebook, LinkedIn, and Twitter were eventually all fined for not moving their user data to local Russian servers; they were then fined once again for continuing to not abide by the law after that initial fine was issued. The Russian government subsequently introduced new fines of up to \$50,000 for failure to comply with Russian data localization laws.³⁰

Alternatively, companies such as Cisco have established and solidified their government relations boards and have expressed high interest in participating and collaborating in local projects, such

²⁵ Vera Shaftan, "Russian Data Localization Law: Now With Monetary Penalties," *Norton Rose Fulbright*, December 20, 2019. <https://www.dataprotectionreport.com/2019/12/russian-data-localization-law-now-with-monetary-penalties/>.

²⁶ Minak, C. "Facebook and Twitter fined 4 million rubles for refusing to transfer servers to Russia [Facebook и Twitter оштрафовали на 4 млн рублей за отказ перенести серверы в Россию]," *Forbes*, February 13, 2020. <https://www.forbes.ru/newsroom/tehnologii/393067-facebook-i-twitter-oshtrafovali-na-4-mln-rublej-za-otkaz-perenesti>.

²⁷ "Putin has signed a law on pre installed software [Путин подписал закон о предустановке российских приложений на телефоны и гаджеты. Кому это нужно? Что будут устанавливать? Apple уйдет из России?]," *Meduza*, December 2, 2019. <https://meduza.io/feature/2019/12/02/putin-podpisal-zakon-o-predustanovke-rossiyskih-prilozheniy-na-telefony-i-gadzhety-komu-eto-nuzhno-chto-budut-ustanavlivat-apple-uydet-iz-rossii>

²⁸ "Law about the Pre-installed Software: what will change for the users?," *TASS*, March 31, 2020. <https://tass.ru/ekonomika/7181221>.

²⁹ Hamilton, "Apple will need to reckon with Russia in 2020, thanks to a new law forcing pre-installation of Kremlin-approved apps," *Business Insider*, January 3, 2020. <https://www.businessinsider.com/apple-reckoning-russia-2020-1>.

³⁰ Yuri Litvinenko, "The court fined Twitter and Facebook for refusing to transfer data to Russia [Суд оштрафовал Twitter и Facebook за отказ перенести данные в Россию]," February 13, 2020. <https://www.vedomosti.ru/technology/articles/2020/02/13/822980-twitter>.

as Skolkovo.³¹ Facebook also publishes its periodic Inauthentic Behavior Reports in an attempt to restore its image, after Cambridge Analytica increased its overhaul of data. That report is produced by stringently monitoring Facebook accounts, including ones of Russia, and has become the target of constant scrutiny.³² Apart from market-specific influence, tech companies remain highly affected by geopolitical games. Thus, a so-called “sense of powerlessness” and lack of action seem to be justified. However, many of the above-mentioned companies do actually have established “power” in the form of market outreach and service irreplaceability, which gives them more choice and freedom in action, allowing them to maintain their stance on Russian data laws.

Both Facebook and Twitter were accused by Russian authority, Roskomnadzor, for publishing content and advertisements on a “day of silence” during political elections and classified their actions as “intervening in internal policy and meddling in Russian elections”.³³ Additionally, Cisco’s business in Russia came under scrutiny for possibly violating the U.S. Foreign Corrupt Practices Act.³⁴

Beyond regulatory challenges, there are corporate governance concerns and general societal barriers that further plague foreign investment. As Mark McNamee states, in order to be “more accepted” in the Russian market, it is crucial to “localize”, implying that building local partnerships or/and investing in local companies is essential to success.³⁵ Additionally, there are gaps in the law, according to the Director of Founders Institute Dmitry Gordienko, that “make many of the private Russian companies uninvestable, particularly with regards to the options and/or minority shares (less than 25% of the equity),” as there are no solid protections of minority investors’ rights.³⁶

Ultimately, these challenges pit international companies attempting to conduct business in Russia with, at a minimum, political backlash from their home countries and, at worst, possible criminal sanctions under laws such as the Foreign Corrupt Practices Act. While domestic decisions may support certain initiatives, they may also inevitably create impediments to facilitating international digital trade in Russia.

2.4 Foreign Investment and Intellectual Property Protection

Foreign direct investment (FDI) in Russia is at a relatively low level, in comparison with FDI over the past decade.³⁷ According to Chairman of Goldman Sachs Russia Dmitri Sedov, the stability of the Russian economy attracts bond investors, but inhibited growth “dissuades” equity

³¹ “Visit to Cisco,” President of Russia. June 23, 2010. <http://en.kremlin.ru/events/president/news/8148>.

³² “Removing More Coordinated Inauthentic Behavior From Russia,” Facebook, October 30, 2019. <https://about.fb.com/news/2019/10/removing-more-coordinated-inauthentic-behavior-from-russia/>.

³³ Alexander Pyatin, “Google and Facebook respond to Roskomnadzor’s accusation of interfering in elections,” September 9, 2019. <https://www.forbes.ru/biznes/383201-google-i-facebook-otvetili-na-obvinenie-roskomnadzora-vo-vmeshatelstve-v-vybory>.

³⁴ Jim Duffy, “Cisco bypassed Russia sanctions to continue sales: report,” CIO, May 21, 2015. <https://www.cio.com/article/2925305/cisco-bypassed-russia-sanctions-to-continue-sales-report.html>

³⁵ Mark McNamee, “*Navigating the Complexities of Doing Business in Russia*,” *Harvard Business Review*, May 29, 2017. <https://hbr.org/2017/05/navigating-the-complexities-of-doing-business-in-russia>.

³⁶ Interview with Dmitry Gordienko, Director, Founders Institute. February 27, 2020

³⁷ “Russia Foreign Direct Investment,” CEIC Data, n.d., accessed May 12, 2020, <https://www.ceicdata.com/en/indicator/russia/foreign-direct-investment>

investors.³⁸ A complication of analyzing FDI within Russia is the fact that investments are often sourced through other countries.³⁹ An analysis of direct investments in the Russian Federation can be conducted by looking to the Bank of Russia and delving into “instrument and partner country operations.”⁴⁰ This analysis shows that most foreign direct investment comes from Bermuda, Cyprus, Switzerland, the United Kingdom, and the Netherlands. However, investment from Bermuda, Cyprus, and the Netherlands combined would still not comprise half of current FDI in Russia.

The outflow of FDI was exacerbated by sanctions, geopolitical tensions, and the regulatory scene, which, despite undergoing several improvements, does not help to attract more investors. Regulatory methods include a number of external and internal regulatory efforts. Russia is currently party to 81 double tax treaties and around 82 treaties on encouraging and mutually securing capital investments, including with the US.⁴¹ As for its internal legislative system, there are a number of laws that shape the regulatory scene when it comes to attracting and protecting foreign investments, including: the Federal Law on Foreign Investments in Russian Federation No. 160-FZ, Federal Law on Investment Activity in Russian Federation in the Form of Capital Investments No. 39-FZ, Federal Law on Special Economic Zones No. 116-FZ, and Federal Law dated 09 July 1999, No. 160-FZ On Foreign Investments in the Russian Federation (“Foreign Investment Law”). Overall, foreign investments are regulated both at a federal and regional level. Currently there are over 70 regulatory agreements that encourage and protect the rights of foreign investors in Russia.⁴² However, several issues remain in protecting investor rights. As the Doing Business Report 2020 shows, protecting minority investor rights remains a crucial issue.⁴³ The main challenges come from insufficient protection, the CEO being the sole person to have buy/sell decisions, an absence of independent experts in board meetings, and non-disclosure of compensation of individual managers. The key impediment in legislation, however, remains the fact that the approval of minority shareholders is not required to issue new shares. Because of this, a company may keep diluting its shares, thus affecting the stake of the minority stakeholder.

Digitalization efforts may also help entities manage their intellectual property assets advantageously for legal, tax, and transferability purposes.⁴⁴ However, a multitude of intellectual

³⁸ Ben Aris, “The Trouble With Investing Into Russia,” *The Moscow Times*, August 29, 2019. <https://www.themoscowtimes.com/2019/08/29/the-trouble-with-investing-into-russia-a67068>

³⁹ Leonid Bershidsky, “Where Russia’s Foreign Investment Really Comes From,” *The Moscow Times*, November 6, 2019. <https://www.themoscowtimes.com/2019/11/06/where-russias-foreign-investment-really-comes-from-a68055>

⁴⁰ “External Sector Statistics: Direct investments in the Russian Federation,” Bank of Russia, 2020. https://www.cbr.ru/statistics/macro_itm/svs/

⁴¹ Konstantin Dobrynin, “Investing in the Russian Federation,” *Thomson Reuters Practical Law*, n.d., accessed May 10, 2020, [https://uk.practicallaw.thomsonreuters.com/3-617-3173?transitionType=Default&contextData=\(sc.Default\)&firstPage=true&bhcp=1](https://uk.practicallaw.thomsonreuters.com/3-617-3173?transitionType=Default&contextData=(sc.Default)&firstPage=true&bhcp=1)

⁴² Andrey Danilov, “Regulations on foreign investments in Russia,” *Danilov Partners*, June 17, 2019. <https://danilovpartners.com/media-publications/regulation-of-foreign-investments-in-russia/>

⁴³ “Doing Business in Russia 2020,” *World Bank Group*, n.d.: 62-70. <https://russian.doingbusiness.org/content/dam/doingBusiness/country/r/russia/RUS.pdf>

⁴⁴ “Measuring the Digital Economy,” *International Monetary Fund*, February 28, 2018. <https://www.imf.org/en/Publications/Policy-Papers/Issues/2018/04/03/022818-measuring-the-digital-economy>

property considerations exist, including rule fairness, international agreements, and enforcement.⁴⁵ A report recently conducted by Santander points out that “intellectual property infringement” is one of the key sources of concern for foreign investors.⁴⁶ As experts continue to suggest that theft or infringement of intellectual property can vastly diminish the competitive advantage of organizations, this should be one of the key priorities in addressing challenges of the digital economy.⁴⁷

There is persistent concern that companies in Russia will not only infringe upon U.S intellectual property, but that the Russian government will take little action in terms of enforcement.⁴⁸ Aside from this, individual actors, such as those who were involved in the theft of trade secrets from General Electric, only serve to perpetuate fears that intellectual property will be stolen if business is conducted in Russia.⁴⁹

The challenge partly arises from the fact that intellectual property protection is still nascent in Russia, although “most global trends are reflected in Russian laws and practices”.⁵⁰ Regulations are still changing; therefore, a number of amendments are in place. IP rights expert Anton Bankovsky has expressed an overall positive outlook, stating that the “Russian legal framework in the area of intellectual property is generally in line with international standards, allowing Russian and foreign IP owners to effectively protect their intellectual property rights.” However, according to the Property Rights Alliance, Russia’s International Property Rights Index (IPRI) score only “increased by 0.099 to 4.989 placing it 16th in the Central Eastern Europe and Central Asia region and 86th in the world.”⁵¹ The index comprises the perception of intellectual property protection, patent protection, and rule of law. Russia has already taken action to centralize its intellectual property management and enforcement mechanisms.⁵² In addition, Russia has also adopted practices that afford it the right to issue preliminary injunctions and increased protections for copyright infringement on websites.⁵³ Moreover, practices such as parallel imports and consumption of pirated software diminish perceptions of Russia’s intellectual property

⁴⁵ “Intellectual Property and Development in the Digital Economy,” UNCTAD, April 10, 2019. [https://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=2054&Sitemap_x0020_Taxonomy=Intellectual%20Property%20\(IP\)](https://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=2054&Sitemap_x0020_Taxonomy=Intellectual%20Property%20(IP))

⁴⁶ “Russia: Foreign Investment,” Santander: Trade Markets, n.d., accessed May 12, 2020, <https://santandertrade.com/en/portal/establish-overseas/russia/foreign-investment>

⁴⁷ “These Countries Pose The Biggest IP Protection Threats, according to the U.S,” U.S. News and World Report, August 6, 2019. <https://wtop.com/news/2019/08/these-countries-pose-the-biggest-ip-protection-threats-according-to-the-u-s/>

⁴⁸ “These Countries Pose The Biggest IP Protection Threats, according to the U.S,” U.S. News and World Report, August 6, 2019. <https://wtop.com/news/2019/08/these-countries-pose-the-biggest-ip-protection-threats-according-to-the-u-s/>

⁴⁹ “Russian and Italian accused of trying to steal GE trade secrets,” CNBC, September 6, 2019. <https://www.cnbc.com/2019/09/06/russian-italian-accused-of-trying-to-steal-ge-trade-secrets.html>

⁵⁰ “The Intellectual Property Review: Russia,” The Law Reviews, August 2019. <https://thelawreviews.co.uk/edition/the-intellectual-property-review-edition-8/1196326/russia>

⁵¹ “2019 International Property Rights Index: Russia” Property Rights Alliance, <https://internationalpropertyrightsindex.org/country/russia>

⁵² Gerden, Eugene. “Situation With IP Rights In Russia Continues To Deteriorate.” Intellectual Property Watch, March 27, 2017, <https://www.ip-watch.org/2017/03/27/situation-ip-rights-russia-continues-deteriorate/>

⁵³ “Report on the protection and enforcement of intellectual property rights in third countries.” European Commission, January 8, 2020, https://trade.ec.europa.eu/doclib/docs/2020/january/tradoc_158561.pdf.

environment.⁵⁴ The latest data released by the Russian Ministry of Internal Affairs demonstrates that estimated levels of piracy in the Russian software industry were 64 percent in 2017, compared to 62 percent in 2013, indicating a negative trend. What these figures imply is that 64 percent of software in the Russian market might be pirated products.⁵⁵

We do not believe that the United States has a monopoly on what constitutes best intellectual property protections. The Russian Federation can implement best practices from other nations as well. China has often been cited for purportedly maintaining poor practice when it comes to protection of intellectual property, yet it has made much progress in the realm of international intellectual property protection.⁵⁶ China has gained a reputation for forced technology transfers and joint ventures, but this goes to show how actions of actors and industries can influence the perception of external investors.⁵⁷ Additionally, there are best practices to be learned from countries without traditionally “Western-style” rule of law and enforcement, for instance Singapore.⁵⁸ Singapore has demonstrated its suitability, in part because of its strict enforceability of intellectual property rights that serve to protect both domestic and foreign investment.⁵⁹ Lastly, India has also shown that the confidence of foreign investors can be increased with consistency between legal rhetoric and action.⁶⁰

Overall, protecting IP rights only at the local level is not enough. It is also crucial to show engagement and ongoing commitment by joining international and multinational treaties, especially in the field of IP.

3. Global Perspectives: Digital Landscape

3.1 Digital Initiatives in the United States

Compared to Russia, the United States has taken a more market-driven approach to spearheading digital initiatives and regulating the digital economy. In this context, the U.S. government employs a sectoral approach to regulating digitalization, rather than having any agency as the lead for establishing digital policy.⁶¹ Unlike China, Russia, and many European countries, the United States is alone in leveraging a market driven approach, rather than an overarching national digital

⁵⁴ Gerden, Eugene. “Situation With IP Rights In Russia Continues To Deteriorate.” Intellectual Property Watch, March 27, 2017, <https://www.ip-watch.org/2017/03/27/situation-ip-rights-russia-continues-deteriorate/>

⁵⁵ Eugen Gerden, “Situation With IP Rights In Russia Continues To Deteriorate,” Intellectual Property Watch, March 27, 2017. <https://www.ip-watch.org/2017/03/27/situation-ip-rights-russia-continues-deteriorate/>

⁵⁶ Huang, Yukon, and Jeremy Smith. “China’s Record on Intellectual Property Rights Is Getting Better and Better.” *Foreign Policy*. October 16, 2019, <https://foreignpolicy.com/2019/10/16/china-intellectual-property-theft-progress/>.

⁵⁷ Prud’homme, Dan. “3 Myths About China’s IP Regime.” October 23, 2019, *Harvard Business Review*, <https://hbr.org/2019/10/3-myths-about-chinas-ip-regime>.

⁵⁸ Prud’homme, Dan. “3 Myths About China’s IP Regime.”

⁵⁹ “Enforcing Trademarks and Copyright at the Border of Singapore.” International Trademark Association, February 15, 2019,

https://www.inta.org/INTABulletin/Pages/Singapore_Customs_Assistant_Head_Edward_Yue_Interview_7401.aspx

⁶⁰ Ross, Kelly. “Here are the Best and Worst Countries for Intellectual Property Protection.” Chief Executive, February 9, 2017, <https://chiefexecutive.net/best-worst-countries-intellectual-property-protection/>.

⁶¹ “Digital Trade and U.S. Trade Policy,” Congressional Research Service, May 21 2019, <https://crsreports.congress.gov/product/pdf/R/R44565>, at 9.

strategy, agenda, or program.⁶² More specifically, American policymakers view the digital economy as one that should be based on the “free flow of data, strong privacy and intellectual property protection, access to capital, and innovation.”⁶³ Recently, President Trump reiterated the American commitment to market-driven digitalization by stating at the 2019 G20 summit that the United States “opposes data localization and policies, which have been used to restrict digital trade flows and violate privacy and intellectual property protections.”⁶⁴ Most American policymakers view these policies as protectionist that can erect digital trade barriers and serve to damage trust in the underlying economy, which can result in the balkanization of the internet.⁶⁵

The United States has actively sought to influence and shape international standards in order to support global trade efforts. It has leveraged the National Institute of Standards and Technology (NIST) as the relevant standards-setting body for the digital economy and cloud computing.⁶⁶ Both NIST and the American National Standards Institute (ANSI), which helps oversee the development and use of standards by accrediting standard procedures in developing organizations, participate in relevant international standard setting processes. To that end, the United States currently chairs the top-level position in the Information and Communications Technology standards committee (JTC-1).⁶⁷ U.S. leadership within the digital ecosystem provides a significant advantage in shaping the future of the digital economy.

Additionally, the United States has sought diplomatic international engagement to influence the digital economy through partnership agreements and international forums. With respect to partnership agreements, the United States looks to embed digital provisions in its international agreements. For instance, U.S. trade agreements often include provisions for the “prohibition of customs duties, transparency, and cooperation” on “cross-border information flows.”⁶⁸ Furthermore, U.S. trade agreements often allow certain exceptions to ensure that each party is able to achieve legitimate public policy objectives, while protecting regulatory flexibility. Additionally, in international forums the United States will often seek to encourage “high-level, non-binding best practices and principles and align expectations.”⁶⁹ For example, through the Asia Pacific Economic Cooperation (APEC), the United States supports creating a Cross-Border Privacy Rules (CBPR) system. Although American engagement in these organizations has weakened under the current administration, the United States nevertheless remains committed to playing an active role in multilateral institutions to shape global technology policy.

⁶² “OECD Digital Economy Outlook 2017,” Organisation for Economic Co-operation and Development, 2017. <https://www.oecd-ilibrary.org/docserver/9789264276284-en.pdf?expires=1588306357&id=id&accname=guest&checksum=612704C00244FE6C9C59D7DF6EE9ADEE>, at 34.

⁶³ “Remarks by President Trump at G20 Leaders’ Special Event on the Digital Economy,” G20 Summit, Osaka Japan, June 28 2019, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-g20-leaders-special-event-digital-economy-osaka-japan/>.

⁶⁴ “Remarks by President Trump at G20 Leaders’ Special Event on the Digital Economy,” G20 Summit.

⁶⁵ “Digital Trade and U.S. Trade Policy,” at 10.

⁶⁶ “Country: United States,” The Software Alliance, 2018, https://cloudscorecard.bsa.org/2018/pdf/country_reports/2018_Country_Report_UnitedStates.pdf.

⁶⁷ “Country: United States,” The Software Alliance.

⁶⁸ Congressional Research Service, “Digital Trade and U.S. Trade Policy,” 35.

⁶⁹ Congressional Research Service, “Digital Trade and U.S. Trade Policy,” 36.

3.2 Chinese Digital Initiatives

Whereas the U.S. government largely encourages a market-based approach toward digitalization, the Chinese government relies heavily on a government-driven strategy to drive Chinese digital trade initiatives. Since the early 2000s, the Chinese government has undertaken a series of strategic initiatives that seek to establish China's digital infrastructure, improve trade relations, and position China as a leader in emerging digital technologies. More specifically, China aims to reach parity with other leading technology nations and by the decade's end establish itself as the primary innovation hub in the world for key A.I. advancements.

The importance of the digital economy to China's strategic objectives becomes evident in recent Chinese initiatives like the "13th Five Year Plan for Developing National Strategic and Emerging Industries", the Chinese government's blueprint for developing long-term social and economic policies.⁷⁰ This Five-Year Plan reflects the growing importance of digitalization and delineates 69 major tasks. Among these tasks, the top six strategic objectives include improving the internet network infrastructure, especially in rural areas; improving radio and television networks; promoting Internet Plus; implementing big data development projects; strengthening information and communications technology industries; and developing A.I.⁷¹ As part of the Internet Plus initiative, the Chinese government seeks to transform traditional industries prevalent in China through digitization efforts like big data and cloud computing.⁷² Beijing is also making a concerted effort to provide an overarching roadmap to guide advancements in digitalization within its borders that will have a magnified effect internationally with regards to digital trade and national security writ large. In addition to advancing Chinese leadership in emerging technologies, China also seeks to set the standards in global technology usage. By setting global technology standards, the Chinese government hopes to play a leading role in defining the rules of next-generation technologies.⁷³

In addition to helping define global technology standards, the Chinese government has also sought to set new technology standards and regulations for Chinese markets. Since 2015, China has issued hundreds of pieces of legislation defining national standards on technology-related issues.⁷⁴ These regulations have increased the complexity for export-oriented China-based companies, which have to adapt to international standards that are misaligned with their domestic protocols.⁷⁵ These domestic standards often lack clarity and thus create uncertainty for Chinese companies. For instance, under Chinese law, China-based companies are required to "undergo invasive product

⁷⁰ "Official 13th Five-Year Plan Outline Released," The US- China Business Council, n.d., last accessed April 20, 2020, <https://www.uschina.org/policy/official-13th-five-year-plan-outline-released>.

⁷¹ Jeffrey Ding, *Deciphering China's AI Dream: The context, components, capabilities, and consequences of China's strategy to lead the world in AI*, 9.

⁷² "Everything You Need to Know About China's 'Internet Plus' Future," China Telecom America, n.d., accessed April 29, 2020, <https://www.ctamericas.com/chinas-internet-plus-future/>.

⁷³ Emily de La Bruyere and Nathan Picarsic, *China Standards 2035: Beijing's Platform Geopolitics and 'Standardization Work in 2020'* (Horizon Advisory, April 2020), <https://www.horizonadvisory.org/china-standards-2035-first-report>, 4.

⁷⁴ Samm Sacks and Manyi Kathy Li, *How Chinese Cybersecurity Standards Impact Doing Business in China*, (Center for Strategic & International Studies, August 2018), https://csis-prod.s3.amazonaws.com/s3fs-public/publication/180802_Chinese_Cybersecurity.pdf?EqyEvuhZiedaLDFDQ.7pG4W1IGb8bUGF, at 2. (Note: From 2015 to publishing of paper in August 2018 there was upwards of 300 standards released).

⁷⁵ Samm Sacks and Manyi Kathy Li, *How Chinese Cybersecurity Standards Impact Doing Business in China*, at 12-13.

reviews where sensitive intellectual property (IP) and source code (even if not explicitly written) may be required as part of verification and testing.”⁷⁶ To address such difficulties, Beijing introduced the 2020 Foreign Investment Law (FIL),⁷⁷ which provides “swift collaborative protection mechanisms to facilitate the settlement of IP disputes, and for the protection of the IP rights of foreign investors”; it includes “prohibiting government officials from forcing foreign investors...to transfer their technology, and require authorities to take effective measures to protect the trade secrets of foreign investors.”⁷⁸ The FIL also seeks to provide clarity on corporate governance issues including “foreign investors' capital contributions, profit, capital gains, income from asset disposals, royalties from IP rights, etc.”⁷⁹ While the FIL has only recently gone into effect, this legislation reflects Beijing’s growing posture toward drawing foreign businesses into the country.

In this context, China views Russia as a strategic ally that can be leveraged to support its long-term goal of cementing itself as the leader in the digital economy. For instance, Chinese state-owned enterprises like Huawei are expanding their R&D efforts in Russia, providing access to top Russian engineering talents.⁸⁰ Additionally, Chinese companies are also actively seeking to expand into the Russian market. According to Alexander Gabuev, senior fellow and chair of the Russia in the Asia-Pacific Program at the Carnegie Moscow Center, “Chinese companies like Alibaba and Huawei are accommodating to the requirements of Russian regulations, including data storage policies, because they understand the perspective of Russian regulators. This provides Chinese companies with a competitive advantage, even if the products might not be superior to their American counterparts.”⁸¹ Such efforts demonstrate China’s latitude to adapt Russian requirements in order to further cement their technology in a growing market with deep engineering talent that may have significant long-term value.

3.3 European Digital Initiatives

In February 2020, the European Commission released a digital strategy designed to propel Europe into a top global digital position.⁸² As the strategy outlines, “over the next five years, the Commission will focus on three key objectives in digital: technology that works for people; a fair and competitive economy; and an open, democratic and sustainable society.”⁸³

The European Union is attempting to position itself to provide a structural foundation that upholds individual privacy, at the cost of greater control by government entities in order to create an environment that attracts both business and talent to the region. For instance, the European

⁷⁶ Samm Sacks and Manyi Kathy Li, *How Chinese Cybersecurity Standards Impact Doing Business in China*, at 1.

⁷⁷ “China Further Opens its Market with New ‘Foreign Investment Law’,” Jones Day, February 2020, <https://www.jonesday.com/en/insights/2020/02/chinas-new-foreign-investment-law>.

⁷⁸ “China Further Opens its Market with New ‘Foreign Investment Law’,” Jones Day.

⁷⁹ “China Further Opens its Market with New ‘Foreign Investment Law’,” Jones Day.

⁸⁰ Interview with Alexander Gabuev, Senior Fellow, Carnegie Moscow Center. April 30 2020; Robert Delaney, “Shutting the gates of academia: American universities cut ties to Huawei and Confucius Institute,” South China Morning Post, March 19, 2019, <https://www.scmp.com/news/china/diplomacy/article/3002218/shutting-gates-academia-universities-cut-ties-huawei-and>

⁸¹ Interview with Alexander Gabuev, Senior Fellow, Carnegie Moscow Center. April 30 2020.

⁸² Laura Kayali, Melissa Heikkila, and Janosch Deckler, “Europe’s digital vision, explained,” Politico, [Lhttps://www.politico.eu/article/europes-digital-vision-explained/](https://www.politico.eu/article/europes-digital-vision-explained/).

⁸³ “Shaping Europe's digital future: Commission presents strategies for data and Artificial Intelligence,” European Commission Press Release, February 20, 2020, https://ec.europa.eu/commission/presscorner/detail/en/ip_20_273.

Commission has considered circumstances that would permit the use of “remote biometric identification,” which today can only be used for exceptional cases in the region.⁸⁴ This stands in sharp contrast to China’s efforts, which have spanned everything from enforcing jaywalking to requiring new mobile phone purchases be registered with the individual’s face.⁸⁵ These diverging views create significant consequences as talent, businesses, and countries consider doing business within each of these regions.

In reality, the European Union has already served as the catalyst in reshaping the digital economy. In March 2018, the EU introduced the General Data Protection Regulation (GDPR), which introduced limits on how companies leverage personal data, and it enhances individuals’ ability to access data about themselves or have their data removed.⁸⁶ The GDPR does not include any “data residency or localization obligations,” rather it requires compliance for companies who use data from EU citizens.⁸⁷ In order to enforce compliance, the most significant breaches give rise to a penalty of four percent of a company’s global revenues.⁸⁸ While the GDPR’s long-term effects on European economies remain to be seen, a recent report suggests that GDPR increased impediments to business activities in Europe in the last four years. For instance, in deals involving only EU-based companies, a 12.1% and 28.1% reduction in the “average number of monthly EU deals” and the “per-deal dollar amount,” respectively was recorded.⁸⁹ Numbers on foreign investment are even worse. The “average number of monthly EU foreign deals” and “per-deal dollar amount,” dropped 22.2% and 21.9%, respectively.⁹⁰ While these numbers indicate some initial headwinds, it must be noted that customers, citizens, and other government organizations are taking note of these progressive measures and insisting that similar ones be taken elsewhere. One only needs to look at the U.S.’s most significant GDP producer to see the appetite for change, as the California Consumer Protection Act, for instance, was explicitly modeled after the GDPR.⁹¹ Ultimately, Europe’s actions have created significant momentum globally for digital privacy, which has simultaneously created pushback as companies seek to navigate compliance and exhibit the trust both the region and its citizens are calling for. As Moscow considers how to balance protection of their citizens’ data with data localization efforts, they must simultaneously consider how to mitigate implicit obstacles for foreign companies, who may otherwise be open to doing business in the region. Further, the push in Europe and elsewhere for greater control over personal data raises concerns on how central governments will

⁸⁴ “Shaping Europe’s digital future: Commission presents strategies for data and Artificial Intelligence,” European Commission Press Release, February 20, 2020.

⁸⁵ CK Tan, “Even in China, ubiquitous facial recognition begins to stir unease,” *Nikkei Asian Review*, December 6, 2019 13:08 JST, <https://asia.nikkei.com/Business/China-tech/Even-in-China-ubiquitous-facial-recognition-begins-to-stir-unease>.

⁸⁶ Matt Burgess, “What is GDPR? The summary guide to GDPR compliance in the UK,” *Wired*, March 24, 2020, <https://www.wired.co.uk/article/what-is-gdpr-uk-eu-legislation-compliance-summary-fines-2018>.

⁸⁷ Roy Kamp, “Data Residency: A Concept Not Found In The GDPR,” *Mcafee*, August 21, 2019, <https://www.mcafee.com/blogs/enterprise/data-security/data-residency-a-concept-not-found-in-the-gdpr/>.

⁸⁸ Matt Burgess, “What is GDPR? The summary guide to GDPR compliance in the UK.”

⁸⁹ Jian Jia and Liad Wagman, *The One-Year Impact of the General Data Protection Regulation (GDPR) on European Ventures*, (Data Catalyst, January 2020), <https://datacatalyst.org/reports/say-it-aint-so-gdpr-data-regulation-hurts-eu-economic-growth/>, at 3.

⁹⁰ Jian Jia and Liad Wagman, *The One-Year Impact of the General Data Protection Regulation (GDPR) on European Ventures*, at 3.

⁹¹ Andrei Gribakov, “Road to Adequacy: Can California Apply Under the GDPR?,” *Lawfare*, April 22, 2019 8:30 AM, <https://www.lawfareblog.com/road-adequacy-can-california-apply-under-gdpr>.

respect individual privacy. Moscow should be sensitive to these growing demands, as major economic hubs reassess the cost-benefit analysis of control versus data autonomy and increasingly come down on the side of the individual. These decisions abroad can ultimately drive foreign investors and corporations away if digital policies run counter to their core beliefs.

3.4 Notable Initiatives from Other Countries

In addition to the United States and China, several small and open economies have adopted regulations that enable them to benefit from digital trade more fully. One of the most well-known and successful initiatives to attract foreign entrepreneurs to a country is Estonia's e-residency program that embodies the concept of having a "country without a border".⁹² The program helps establish a company in Estonia from any part of the world, manage the company remotely, and enact a paperless reporting process. E-Residents have digital ID cards that include a chip, which they can use to sign documents, encrypt files, and use Estonian private and public services. From 2014 to 2019, Estonia's e-residency program helped to attract "nearly 58,000 e-residents, who have established over 7,200 companies since the launch of the program. Last year, the tax revenue collected from e-resident businesses was €8.73 million and since the introduction of the program, there was a total of €25 million in direct economic gain".⁹³

Another example is the Startup Chile program, which attracts foreign and local startups of different stages to Chile.⁹⁴ The program offers grants and provides visas and other legal assistance for new startup founders. Between 2010 and 2018, Startup Chile attracted hundreds of startups and saw a portfolio valuation of \$1.4 billion. Additionally, with a high 54.5 percent overall survival rate for Chilean business and over \$1 billion in funds raised, this program has played an important role in generating business and job opportunities for Chileans.

A growing number of multinational arrangements also seek to promote closer relations between different countries in promoting digital development. For instance, the Digital Five (D5) platform, which comprise Estonia, Israel, New Zealand, South Korea, and the United Kingdom, seeks to build "better digital government[s] faster and more efficiently through sharing and learning from each other."⁹⁵ According to the D5 charter, the principles of digital development as part of this consortium not only include transparency, open source content, and connectivity through developed infrastructure, they also include a commitment to help one another, teach children to code, and support economic growth through open markets.⁹⁶

A broader example is the 2019 "New Africa-Europe Digital Economy Partnership" designed to strengthen the "role of the private sector to create jobs", invest in education and skills, strengthen the business and investment environment, and "tap into the full potential of economic integration

⁹²"Start a Company," Republic of Estonia E-residency, Accessed April 30, 2020, <https://e-resident.gov.ee/start-a-company/>

⁹³ "e-Residency 2.0: Enhanced efficiency, security and convenience," E-estonia, accessed April 30, 2020, <https://e-estonia.com/e-residency-2-0-enhanced-efficiency-security-and-convenience/>

⁹⁴ "Startup Chile", <https://www.startupchile.org/>

⁹⁵ Amanda Sperber and Sharon Benzoni, "5 Countries Betting — Together — on the Digital Economy", innovations. Medium. July 31 2017. [innovationsjournal.net/5-countries-betting-together-on-the-new-digital-economy-2864ff19150e](https://www.innovationsjournal.net/5-countries-betting-together-on-the-new-digital-economy-2864ff19150e).

⁹⁶ "D5 Charter." Cabinet Office of Her Majesty's Government, D5 London, December 9, 2014. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/386290/D5Charter_signed.pdf.

and trade.”⁹⁷ Additionally, the “New Africa-Europe Digital Economy Partnership Report” highlights the necessary conditions to improve digital economies, including access to the internet, proper infrastructure, and education.⁹⁸ The overarching goal of Africa’s leadership is to “to create a Single Digital market in the continent” and to spur on the advancement of e-services, innovation, and digital entrepreneurs.⁹⁹

Most recently, Singapore has been spearheading multinational agreements with regards to the digital economy, including its existing agreement with New Zealand and Chile¹⁰⁰ and its developing agreement with Australia.¹⁰¹ Notably, the Singapore-New Zealand-Chile Digital Economy Partnership Agreement (DEPA) has helped facilitate digital trade, cross-border data flows, and adoption of multinational agreed-upon frameworks for operating within this new space. Another famous example of a multi-stakeholder multilateral agreement is the Paris Call for Trust and Security in Cyberspace that ensures joint efforts in supporting international cybersecurity. This agreement has garnered broad support from 78 states and 644 companies, including leading tech companies and numerous international organizations.¹⁰² By bringing together a variety of stakeholders across different geographies and industries, these efforts are seeking to create a clearer vision of the future of cybersecurity.

4. Future Challenges and Policy Implications

As Russia seeks to improve the performance of its digital economy, there are a number of areas that warrant significant consideration. First, how can Moscow make it easier for foreign entities to invest in Russia? Second, how can Russia attract talent and resources to boost their human capital? Third, how can Russia position itself to support both inflow and outflow of technological development through standardization alignment? Finally, what other actions can Russia embrace to enhance its image, both domestically and internationally, as an attractive environment to do business in?

⁹⁷ “The Africa-EU Partnership.”, The Africa-EU Partnership, accessed April 30, 2020, <https://www.africa-eu-partnership.org/en/africa-europe-alliance-0>.

⁹⁸ “New Africa-Europe Digital Economy Partnership.” <https://www.tralac.org/documents/resources/external-relations/eu/2865-new-africa-europe-digital-economy-partnership-report-of-the-eu-au-digital-economy-task-force-june-2019/file.html>.

⁹⁹ “New Africa-Europe Digital Economy Partnership.”

¹⁰⁰ “Singapore Substantially Concludes Negotiations for Digital Economy Partnership Agreement with Chile and New Zealand.” Jointly issued by the Ministry of Trade and Industry, Ministry of Communications and Information, and Information and Infocomm Media Development Authority. January 21, 2020.

https://www.sgpc.gov.sg/sgpcmedia/media_releases/mti/press_release/P-20200121-1/attachment/Joint%20press%20release%20-%20Conclusion%20of%20Digital%20Economy%20Partnership%20Agreement%20-%2021%20Jan.pdf.

¹⁰¹ Yu, Eileen. “Singapore, Australia to collaborate on digital economy initiatives.” By the Way. ZDNet. March 23, 2020. <https://www.zdnet.com/article/singapore-australia-to-collaborate-on-digital-economy-initiatives/>.

¹⁰² “Paris Call for trust and security in cyberspace.”, Paris call, accessed April 30, 2020, <https://pariscall.international/en/>.

4.1 Design Market-Friendly Regulations for Foreign Businesses

According to the World Bank's *Doing Business in 2020* report, which ranks countries on the basis of the ease of doing business, Russia ranked 28th out of 190 countries¹⁰³ Russia improved its position by three places on this ranking, due to its increased protection of minority investors, greater corporate transparency, and simplified tax payment processes.¹⁰⁴ Despite Russia's improvement in these areas, the country lags behind in designing business friendly regulations, an area in which Russia ranks 79th out of 140 countries, according to the World Bank.¹⁰⁵ To design better regulations for foreign businesses, Russia can consider taking several steps, some of which are discussed below. Russia must contemplate ways to:

- Reevaluate and consider amendments to investment law with a focus on regulations that protect the interests of minority stakeholders. As Dmitry Gordienko states, “investors in Russia are not defended enough in terms of laws that force some of the Russian companies to register in American or other English law jurisdictions.”¹⁰⁶
- Follow international standards (e.g. WIPO) where applicable. Different standards increase costs on international companies coming to the market and implicitly reduce the variety of available solutions and services on the market.
- Analyze the impact and implications of protectionist “data localization laws” and “laws on pre-installed software” and adjust accordingly to promote increased international cooperation.

4.2 Strengthening the Human Capital Engine

Apart from the legislative environment, it is important to strengthen human capital infrastructure to support continued long-term growth. This includes supporting not only recruiting efforts for international talent, but also eliminating barriers for foreign companies that would otherwise look to Russia as an attractive environment. Russia has historically been a challenging setting to operate in and is made even more difficult with organizations failing to understand that environment. Yandex, for example, holds the lion's share of the search market in Russia and one of the main advantages the company has is “knowledge of Russian culture.”¹⁰⁷ To address some of these barriers, actions ought to be taken to:

- Simplify the process of starting a new business by streamlining company registration processes for non-Russian entities and making Russian business registration processes more transparent. Russian federal and local governments should translate the company application service and instructions into English and create a system where foreign founders can start a business without knowledge of the Russian language.
- Introduce a new visa program to simplify visa application procedures for foreign entrepreneurs, who would like to start a business in Russia. For example, the UAE government introduced the Golden Visa system for professionals with entrepreneurial

¹⁰³ “Doing business 2020”, World Bank Group, 2020, accessed April 30, 2020,

<https://openknowledge.worldbank.org/bitstream/handle/10986/32436/9781464814402.pdf>. p.4

¹⁰⁴ “Doing business 2020,” World Bank Group, 2020,

<https://openknowledge.worldbank.org/bitstream/handle/10986/32436/9781464814402.pdf>. p.117

¹⁰⁵ Klaus Schwab, “The Global Competitiveness Index”, World Economic Forum, 2018, accessed April 30, 2020,

<http://www3.weforum.org/docs/GCR2018/05FullReport/TheGlobalCompetitivenessReport2018.pdf>. p.485

¹⁰⁶ Interview with Dmitry Gordienko, Director, Founders Institute. February 27, 2020.

¹⁰⁷ Interview with Dmitry Gordienko, Director, Founders Institute. February 27, 2020.

experience from around the world who plan to open businesses in the UAE.¹⁰⁸ Under this program, entrepreneurs can apply online and receive an answer within 30 days. The entrepreneur then receives a visa for six months, during which time they can explore the UAE and actually start the business. Establishing a similar program will go a long way toward increasing foreign investment in Russia.

- Create an e-resident program that will allow foreign individuals to establish a company in Russia from any part of the world. This type of program will allow foreign investors to create and manage Russian companies that may attract digital nomads, freelancers, and startup founders.
- Create special economic zones for foreign technology companies, which would allow foreign companies to invest in Russia at reduced corporate tax rates. For example, the UAE government created the Dubai Internet City Free Zone, which provides full exemption from personal income tax, corporate tax, and customs duty for foreign businesses.¹⁰⁹ Creating similar programs in Russia would help increase foreign investment to the Russian technology sector, but also bring additional human talent into the country.
- Expand efforts to increase companies that will provide services that are scarcely available in Russian markets. For instance, as Gabuev suggests, “the Russian government could capitalize on cloud computing, where global leaders that are American companies like Amazon or Microsoft have cutting edge technology solutions that no Russian competitor really has. Russian companies and businesses would benefit a lot from having access to this technology that can boost productivity and cut costs.”¹¹⁰
- Collaborate with foreign incubator and accelerator programs to attract more foreign startups to Russia and exchange best practices. For example, Russian companies can increase their participation in the Startup Exchange, a program that allows startup employees to work for a month with a partner accelerator from all over the world.¹¹¹ Such programs will give startups opportunities to discover more business opportunities in foreign markets.

4.3 Increase Engagement with the West

According to the Research Center on Global attitudes and trends, only 34 percent of people globally have a favorable view of Russia.¹¹² As Gabuev points out, “Russia’s image further suffered because of the scandal with the 2016 U.S. elections which created additional points of confrontation between the two countries.”¹¹³ Many business experts appear to agree that Russia suffers from a negative image, which has already weakened its economic ties with international partners.¹¹⁴ As Director of Kazan I.T Anton Grachev suggests, “this image is an overreaction

¹⁰⁸ “Golden Visa,” Government of United Arab Emirates, accessed April 30, 2020, <https://business.goldenvisa.ae/>

¹⁰⁹ “Dubai Internet City,” UAE Free Zones, accessed April 30, 2020, http://www.uaefreezones.com/fz_internetcity.html

¹¹⁰ Interview with Alexander Gabuev, Senior Fellow, Carnegie Moscow Center, April 30, 2020.

¹¹¹ “Startup Exchanges,” accessed April 29, 2020, <http://www.startupexchanges.com/>.

¹¹² Margaret Vice, “Publics Worldwide Unfavorable Toward Putin, Russia,” Pew Research Center, August 16, 2017, <https://www.pewresearch.org/global/2017/08/16/publics-worldwide-unfavorable-toward-putin-russia/>

¹¹³ Interview with Alexander Gabuev, Senior Fellow, Carnegie Moscow Center, April 30, 2020.

¹¹⁴ “Can Corporate Governance Be A Cure For Russia’s Epidemic of Investor Risk Perception?,” Deloitte, n.d., accessed May 9, 2020.

https://www2.deloitte.com/content/dam/Deloitte/ru/Documents/finance/can_corporate_governance_paul_ostling_eng.pdf

caused by the lack of awareness, while Russia’s opportunities are highly underestimated by the international community.”¹¹⁵

Part of the issue stems from a lack of Russian companies with an international presence, which implicitly removes opportunities for foreigners to interact with representatives of the country. The low participation rate results from language barriers, cultural fear of “going out”, and a lack of business and marketing skills.¹¹⁶ Further complicating the low Russian presence on the global business stage is the tendency of many successful Russian startups to register their companies in other countries, including in the U.S., in order to avoid the negative effect of having a Russian image, as it may substantially inhibit finding talent, clients, and investors.¹¹⁷ Given the fact that tech sector business models, products, and services are usually highly scalable, it is unfortunate that Russian promising tech startups do not often realize their full potential. Efforts to address Russia's international image will take repeated and consistent action and should consider both how those looking into Russia view the country and also the manner in which Russian companies are able to promote themselves internationally. Initiatives could seek to:

- Increase global engagement in setting ethical standards for artificial intelligence, privacy, and technology policies. To this end, the Russian government should consider playing a more prominent role in specialized organizations that set global standards, like the International Organization of Standardization. By collaborating with the United States and other Western countries in these institutions, Russia may become a key actor in the global conversation surrounding technology standards and ethics.
- Bring foreign business leaders and public policy experts to provide insights on the impact of digital regulations on their business. Such initiatives will help provide Russian leaders with international perspectives and with a means to dialogue openly with foreign leaders on digital technology-related issues.
- Enhance support directed to Russia-based startups and companies. Such support can range from providing tax incentives to forming partnerships that help promote Russian companies internationally to developing programs that address the apparent barriers in scaling up globally.
- Pursue increased research collaboration with the United States, EU countries, and other Western countries. As Gabuev suggests, “one of the key collaboration opportunities is mutual research. Such cooperation is potentially very fruitful, as Russia has the talent and research staff and the U.S. is very strong in its marketing and sales.”¹¹⁸ To this end, the Russian government should seek to pursue technology and trade cooperation agreements with Russia’s leading trading partners, like the United States, Germany, and France.

4.4 Promoting Government Regulation Transparency and Trust in the Russian Government

Recent polls in Russia suggest that only 40 percent of Russians trust Russian legal institutions and courts, suggesting widespread skepticism of Russian legal institutions.¹¹⁹ This situation has recently been further exacerbated by a number of controversial laws, like the “Yarovaya Laws” on

¹¹⁵ Interview with Anton Grachev, Director, IT park. March 3, 2020

¹¹⁶ Interview with Anton Grachev, Director, IT park. March 3, 2020

¹¹⁷ Interview with Dmitry Gordienko, Director, Founders Institute. February 27, 2020.

¹¹⁸ Interview with Alexander Gabuev, Senior Fellow, Carnegie Moscow Center. April 30, 2020.

¹¹⁹ “Governmental and social institutions: activity evaluations [Государственные и общественные институты: оценки деятельности],” VЦИОМ [ВЦИОМ], December 27, 2018. <https://wciom.ru/index.php?id=236&uid=9494>

data storage requirements.¹²⁰ This legislation “forces mobile and internet companies to log the text messages, phone conversations, and chat activity of customers for six months and to provide them to security services in the case of a court order,” which has increased discontent among the Russian public.¹²¹ Local government officials and tech companies have also claimed not to know how to execute “Yarovaya Law” and adapt their practices in accordance with the law.¹²² Collaboration of internet companies with government bodies, which resulted in a series of arrests, has further decreased trust of the public in both government and social media.¹²³

Part of the mistrust could be attributed to the vague language Russian lawmakers use to write these laws. The complexity and vagueness of such laws have led several experts from the Moscow-based Higher School of Economics to quip that “the ‘complexity index’ of laws written is higher than the texts of Immanuel Kant”, and that laws are becoming even more complicated in their language.¹²⁴ Furthermore, recent data suggests that currently the language of legal regulations is likely understood by no more than 5 percent of Russians.¹²⁵ At the same time, around 70 percent of Russians report that they have a poor understanding of Russian laws, even while 96 percent of Russians believe that it is crucial to understand them.¹²⁶ As a result, “this situation does not provide citizens an opportunity to enforce their rights, and creates conditions for corruption, increases the workload to administration, as well as provokes further wrongdoings.”¹²⁷ Consequently, it is important to create effective “bridges” to translate new legislation into language that ordinary Russians and businesses will understand. To achieve this, the Russian government can consider the following recommendations to:

- Create transparency around new law and regulations by creating explanatory materials, outlining potential implications for companies, and making such documents publicly available. The Russian government should use social media and appoint digital ambassadors to increase awareness of and compliance with Russian laws.
- Create active dialogue between Russian and foreign companies, civil society, and the government. The Russian government needs to work with technology companies to take

¹²⁰ The Moscow Times, "Russia's 'Big Brother' Law Enters Into Force," July 1, 2018, <https://www.themoscowtimes.com/2018/07/01/russias-big-brother-law-enters-into-force-a62066>

¹²¹ The Moscow Times, "Russia's 'Big Brother' Law Enters Into Force," July 1, 2018, <https://www.themoscowtimes.com/2018/07/01/russias-big-brother-law-enters-into-force-a62066>

¹²² Anastasia Babkina, “Internet-companies do not understand how to execute “Yarovaya Law” [СМИ: интернет-компании не понимают, как выполнять «закон Яровой»],” *Versiya Saratov* [Версия Саратов], July 31, 2018. <https://nversia.ru/news/smi-internet-kompanii-ne-ponimayut-kak-vypolnyat-zakon-yarovoy/>

¹²³ Olga Robinson, “The memes that might get you jailed in Russia,” *BBC News*, August 23, 2018. <https://www.bbc.com/news/blogs-trending-45247879>

¹²⁴ “Experts recognized Russian laws to be too complex. Even lawyers do not understand them [Эксперты признали российские законы слишком сложными. Их не понимают даже юристы],” *Obshaya Gazeta* [Общая Газета], March 18, 2020. <https://og.ru/ru/news/110484>

¹²⁵ Kirill Kudrin, “Language on which the laws are written, sometimes understood by only no more than 5 percent of Russians [Язык, на котором написаны законы, порой понимают не более 5% россиян],” *Izvestiya*, September 21, 2016.

<https://iz.ru/news/633346>

¹²⁶ “Majority of Russians know laws at a poor level, survey shows [Большинство Россиян плохо знают законы, показал опрос],” *RIA*, October 5, 2018. <https://ria.ru/20181005/1530045393.html>

¹²⁷ “Russian citizens do not understand the language of laws [Российские граждане не понимают языка, на котором пишутся законы],” *Regnum*, December 15, 2015. <https://regnum.ru/news/polit/2036286.html>

into account their concerns related to privacy and cybersecurity, before enacting new regulation and policy. At the same time, the Russian government should also consider the views of the Russian public, especially the Russian youth, to ensure that their views and concerns are taken into account when introducing new legislation related to data privacy and other cyber policy issues.

5. Conclusion

As Russian leaders seek to ensure a “high-tech future for Russia” and position the country as a leading economic power, Russian leaders must reform the country’s regulations and laws related to the digital economy.¹²⁸ As Russian leaders seek to accelerate the development of the digital economy, they face crucial questions, the answers to which will shape Russia’s future as an economic power. As a first option, Russia can take a protectionist approach to the development of digital businesses. It can continue imposing restrictions on foreign technological investment, cumbersome investment regulations, and protectionist data laws. While such measures will allow the Russian government to ensure a greater measure of technological sovereignty, it will ultimately detract from Russia’s long-term ability to emerge as a global economic force. Not only will such measures detract foreign technology companies from investing in Russia, but they will also affect the ability of Russian companies to compete globally. That is all the more likely if restrictive Russian laws result in greater divergence between the Western and Russian digital business landscape and regulatory environments.

Second, the Russian government can also pursue greater cooperation with China to protect Russia’s technological sovereignty.¹²⁹ To some extent, Moscow has already done so in the aftermath of sanctions following the 2014 Ukraine crisis.¹³⁰ Chinese companies, like Huawei and ZTE, have been willing to comply with Russian regulations that diverge from Western technological standards.¹³¹ However, Russian leaders should recognize that the size of the Chinese economy and its ability in technological innovation means that Russia will likely be a junior partner in any possible Sino-Russian bilateral relations on digital affairs.¹³² In other words, by relying on China as a technological partner, Russia risks becoming dependent on Chinese technology.¹³³ As a result, the Russian government should be wary of becoming over-reliant on Chinese technology, especially if Sino-Russian cooperation comes at the cost of Russia’s economic relations with Western countries and technology companies.

As a third option, the Russian government can adopt a more internationalist approach to developing Russia’s digital economy. As we recommend in this paper, the Russian government

¹²⁸ Benjamin Quenelle, "Putin's Toughest Challenge: A High-Tech Future For Russia," *World Crunch*, March 16, 2018, <https://worldcrunch.com/tech-science/putin39s-toughest-challenge-a-high-tech-future-for-russia>

¹²⁹ Valentin Weber, "The Sinicization of Russia’s Cyber Sovereignty Model," Council on Foreign Relations, April 1, 2020, <https://www.cfr.org/blog/sinicization-russias-cyber-sovereignty-model>

¹³⁰ Weber, "The Sinicization of Russia’s Cyber Sovereignty Model.”

¹³¹ Dmitri Simes, "Huawei finds allies in Russia as Kremlin cuts reliance on West," *Nikkei Asian Review*, March 11, 2020, <https://asia.nikkei.com/Business/China-tech/Huawei-finds-allies-in-Russia-as-Kremlin-cuts-reliance-on-West2>

¹³² For a longer discussion on how the Russian government has sought to avoid becoming a junior partner to China, see Ryan Nabil, “Evaluating Russia’s Pivot to Asia,” *Yale Journal of International Affairs* 15 (2020): 16-44.

¹³³ Simes, "Huawei finds allies in Russia as Kremlin cuts reliance on West”; Weber, "The Sinicization of Russia’s Cyber Sovereignty Model.”

should consider adopting business-friendly regulations, initiate special programs to attract investment from foreign technology companies and startups, and change protectionist laws related to investment and data governance. By adopting a global approach, Moscow can help attract much-needed foreign investment and address current challenges to the development of Russia's digital economy. Furthermore, by harmonizing regulatory approaches between Russia and its Western partners and reducing barriers to trade in digital services, the Russian government can also help Russian businesses develop a stronger global presence. Ultimately, for Russia to be a successful player in the global digital economy, Russia needs to develop a positive working relationship with the United States and Europe. While earlier resets of Russia's relations with the United States during the 1990s and 2000s fell short of expectations, Russian leaders can seek to pursue limited strategic cooperation with the United States and European Union in digital technology.¹³⁴ Ultimately, stronger economic ties between Russia and the West in the digital economy can pave the way toward a much-needed improvement in Russia's relations with the United States.

¹³⁴ Nabil, "Evaluating Russia's Pivot to Asia," 16-20.