Innovative Development of Trade in Services in Pilot Areas
Policy Update on Measures regarding Data | September 2020

The Ministry of Commerce of the People's Republic of China (**MOFCOM**) issued a **notice for stimulating innovative development** of **trade in services** in **pilot areas** on August 14, with a trial period of three years. The pilot areas consist of **28 provinces and cities/areas** including Beijing, Shanghai, Guangzhou, Shenzhen, Hainan, Xiong'an New District, Hebei Province, etc[1]. The notice entails an **Overall Plan,** describing the tasks, and is accompanied by a **Table**[2], specifying practical measures and responsible entities. From the documents, the provisions **regarding data** catch special attention.

What's the connection to existing regulations?

The Overall Plan generally proposes pilot programs for **security management of cross-border data transfer** in pilot areas, vaguely describing that those areas should encompass "relatively better conditions". Such pilot programs align with the principle of "**measures on a provincial level**" outlined in the **Data Security Law**.

What are the most relevant contents and implications?

The **Table** further puts forward **relevant measures**:

- **Cross-Border Data Transfer**
  - **Article 75:** A dedicated Internet data channel shall be opened in pilot areas. The **Ministry of Industry and Information Technology (MIIT)** will guide and formulate the policy.

  - **Article 76:** The pilot areas will explore a **classified supervision model for cross-border data flows** and launch pilot programs for the safety management of cross-border data transfer. The **Cyberspace Administration of China (CAC)** will guide and formulate this policy.

    Pilot areas are responsible for the implementation of the two measures above. **Beijing, Shanghai, Hainan, and Xiong'an New Area** are named as examples, estimated to be the forerunners.

  - **Article 79:** National laboratories for big data technology are expected to be built in the **Guangdong-Hong Kong-Macao Greater Bay Area, Beijing-Tianjin-Hebei, and Yangtze River Delta**, where big data flow mechanisms will thereby be explored. The **National Development and Reform Commission (NDRC), CAC, MIIT, and Hong Kong and Macau Affairs Office** will guide and formulate the policy.

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[1] The full list entails Beijing, Tianjin, Shanghai, Chongqing (21 municipal districts including Fuling District), Hainan, Dalian, Xiamen, Qingdao, Shenzhen, Shijiazhuang, Changchun, Harbin, Nanjing, Hangzhou, Hefei, Jinan, Wuhan, Guangzhou, Chengdu, Guiyang, Kunming, Xi'an, Urumqi, Suzhou, Weihai, Hebei Xiong'an New Area, Guizhou Gui'an New Area, and Shaanxi Xixian New Area.

[2] Full names of the two documents: *Overall Plan for Comprehensively Deepening Pilot Programs for Innovative Development of Trade in Service* and *Attached Table: Pilot Tasks, Specific Measures and Division of Responsibilities for Comprehensively Deepening Innovation and Development of Trade in Service*. The official notice can be found here.

- **Data Service Transactions and Supervision**

  - **Article 83:** The pilot areas will develop cross-border services such as data collection, de-sensitisation, application, trading, and supervision, based on the Industrial Internet. The **CAC, MIIT, MOFCOM, and China Securities Regulatory Commission (CSRC)** among others shall support and guide the implementation of pilot areas.

- **Data Security Management**

  - **Article 115:** With a focus on key fields, more comprehensive data security management mechanisms shall be established, consisting of **data protection capability certification, data circulation backup review, cross-border data flow and transaction risk assessment, etc**. The government encourages pilot areas to participate in **international cooperation** on digital rules and enhance the protection of data.

  - **Article 116:** At the **digital service export bases[3]**, pilot areas will strive for more strict and comprehensive supervision of trade in services involving key technologies, platform security, data security and personal privacy security, and institutionalise the results.

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[3] The **first batch of digital service export bases** are: Zhongguancun Software Park, Tianjin Economic-Technological Development Area, Dalian High-Tech Industrial Zone, Shanghai Pudong Software Park, China (Nanjing) Software Valley, Hangzhou High-Tech Zone (Binjiang) IoT Industrial Park, Hefei High-Tech Industry Development Zone, Xiamen Software Park, Qilu Software Park, Guangzhou Tianhe Central Business. The list was co-released on 2 April by the Ministry of Commerce, Cyberspace Administration of China and Ministry of Industry and Information Technology. The official notice can be found here.