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Splinternet Ahead? Africa's Digital Policy in the World of Regions

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by

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for the Degree of
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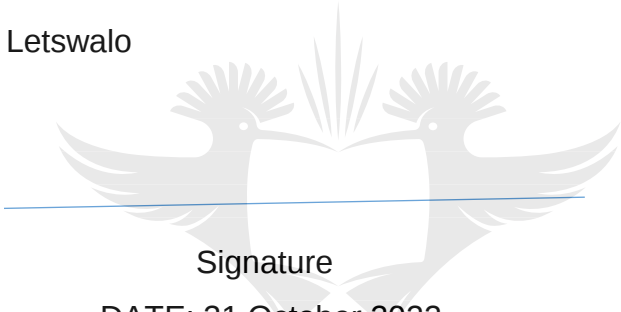
Supervisor: Professor Bhaso Ndzendze

DECLARATION

I, Neo Letswalo declare that,

1. The research presented in the thesis, except where otherwise indicated, is my original research.
2. This thesis has not been submitted for any degree or examination at another university.
3. The thesis does not contain other persons' data, pictures, graphs or other information, unless specifically acknowledged as being sourced from persons other than them.

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ABSTRACT

The eruption of digital technologies initially made the world more interconnected than before in a way that one could interact or purchase in a store through e-commercial platforms or marketplace globally. The recent differences in digital laws and regulations across regions has led to fears that it might be creating a 'splinternet,' which has the potential to create a world of regions where inter-regional interoperability is hampered by contradictory digital laws and hinders global digital trade. The European Union (EU), the Association of Southeast Asian Nations (ASEAN), and the United States-Mexico-Canada Agreement (USMCA) have or in Africa Union's context are in progress to implement their region-wide regional digital policy to facilitate digital trade. This has inspired the investigation on (1) how regional digital policies are being made, what role does regional leadership play in the digital policy being made in EU, ASEAN and USMCA?; (2) Are there differences in the digital policies among regions which are likely to lead the world into a world of digital region (splinternet)? And lastly, (3) what has been the nature of Africa's digital policy, has it been led by a handful of regional leaders and has it contributed to the splinternet phenomenon? Regional leadership played a decisive role in the creation, adoption and promulgation of EU (Germany) and USMCA (the US) digital policies. In ASEAN, Indonesia qualify as ASEAN's regional leader. However, it acted as a follower than a leader in terms of the creation, adoption and promulgation of ASEAN digital policies. Moreover, there are underlying differences and similarities among digital policies among EU's GDPR, ASEAN's framework on PDP and USMCA's chapter 19. It is interesting to note that the African Union is working on a digital policy as part of the developments surrounding the African Continental Free Trade Agreement (AfCFTA) on e-commerce. Finally, complex interdependence played a critical role in Africa's digital policy. Nigeria and South Africa played a critical role in the creation, adoption and promulgation of Africa's digital policies.

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DEDICATION

I dedicate this dissertation to my wonderful mother, Emishang Letswalo. Thank you for the aptitude to encourage me all the time. To my grandfather and grandmother, Sepadia Captain Letswalo and Peggy Malehu Letswalo, for giving me the strength, I honestly wouldn't be here if it was not for them. Even in the midst of their health complexities, they ensured that I go to school. To the rest of the Letswalo & Sefularo family, my appreciation for their support is beyond words.



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ACRONYMS AND ABBREVIATIONS

ACRONYMS

ABBREVIATIONS

4IR	Fourth Industrial Revolution
AANZTFTA	ASEAN-Australia-New Zealand free trade agreement
ACC	ASEAN Community Council
ACCEC	ASEAN Coordinating Committee on Electronic Commerce
AfCFTA	African Continental Free Trade Agreement
ACRF	ASEAN Comprehensive Recovery Framework
ADF,	African Development Forum
ADGMIN	ASEAN Digital Minister Meeting
AEC	African Economic Community
AEM	ASEAN Economic Ministry
AFAPDP	Association <i>Francophone des autorités de protection des données personnelles</i>
AFTA	ASEAN Free Trade Agreement
AI	Artificial Intelligence
AIC	ASEAN Industrial Complementation
AIIB	Asian Infrastructure Investment Bank
AIP	ASEAN Industrial Project
AISI	African Information Society Initiative
ALM	ASEAN Leaders' Meeting
AMM	Annual Meeting of Foreign Ministers
AMU	Arab Maghreb Union
ANC	African National Congress
APEC	Asia Pacific Economic Cooperation
APSA	African Peace and Security Architecture
APSC	ASEAN Political and Security Community
ARAPKE	African Regional Action Plan on the Knowledge Economy
ASC	ASEAN Security Community
ASCC	ASEAN Socio-Cultural Community
ASEAN	Association of Southeast Asian Nation
ASW	ASEAN Single Window

AU	African Union
AUC	African Union Commission
B2B	Business to Business
B2C	Business to Customer
BCR	Binding Corporate Rules
CAP	Common Agricultural Policy
CARICOM	Caribbean Community and Common Market
CBPR	Cross Border Privacy Rules
CEPT	Common Effective Preferential Tariff
CET	Common External Tariff
CFTA	Continental Free Trade Agreement
CIT	Complex Independence Theory
CIS	Commonwealth of Independent States
CISA	Comprehensive ICT Strategy for Africa
CITMC	African Union (AU) Minister of Communications and Information Technology
CLMV	Cambodia, Laos, Myanmar and Vietnam
CM	Common Market
CNDD	Council for the Defence of Democracy
COMESA	Common Market for Eastern and Southern Africa
COVID-19	Coronavirus
CPR	Committee of Permanent Representatives of ASEAN
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
CSO	Civil Society Organisations
CSR	Committee of Permanent Representation
CTPPP	comprehensive and progressive agreement for trans-pacific partnership
CU	Custom Union
CUSFTA	Canada-US Free Agreement
DIFAP	ASEAN Digital Integration Framework Action Plan
DPA	Data Protection Act 2012
DPA	Data Protection Authorities
DPD	Data Protection Directive
DSM	Digital Single Market
DTS	Digital Transformation Strategy 2020-2030
EAC	East African Community
ECA	United Nations Economic Commission for Africa
ECC	European Community Council
ECCA	Economic Community of Central African States

ECO	Economic Cooperation Organization
ECOWAS	Economic Community of West African States
ECSC	European Coal and Steel Community
EEC	European Economic Community
EECC	European electronic communication code
EU,	European Union
EURASEC	the Eurasian Economic Community
EURATOM	European Atomic Energy Community
FDI	Foreign Direct Investment
FMP	
FRODEBU	Front pour la democratie du Burundi
FTA	Free Trade Agreement
GATT	General Agreement on Tariff and Trade
GDP	Gross Domestic Product
GDPR,	General Data Protection Regulations
GNP	Gross National Product
HIPPSA	Harmonization of the ICT policies in sub-Saharan Africa
HLTF	High Level Task Force
HOS	Head of States
HST	Hegemonic Stability Theory
ICC	International Criminal Court
ICT	Information Communication Technology
IFI	International Financial Institutions
IMF	International Monetary Fund
ITA	Information Technology Agreement
ITU	International Telecommunication Union
LIBE	European Parliament Committee on Civil, Liberties, Justice and Home Affairs
MEP	Members of Parliament
MNC	Multinational Corporation
NAFTA,	North American Free Trade Agreement
NATO	North American Treaty Organisation
NBB	Notebooksbiliger.de
NCPF	National Cybersecurity Policy Framework
NEPAD	New Partnership for Africa's Development
NPCA	New Partnership for Africa's Development Planning and Coordination Agency
NSW	National Single Window
NTF	National Telecommunication Forum
OAU	Organisation of African Union
ODA	Official Development Assistance

PDP	Personal Data Protection
PDPA	Personal Data Protection Act
PIPEDA	Personal Information Protection and Electronics Document Act
PRIDA	Policy and Regulation Initiative for Digital Africa
PTA	Preferential Trading Area
RCEP	Regional Comprehensive Economic Partnership
RDP	Reconstruction Development Programme
REC	Regional Economic Communities
RQ	Research Question
RTA	Regional Trade Agreement
SAATM	Single African Air Transport Market
SACU	Southern African Custom Union
SADC	Southern African Development Community
SADPA	South African Development Partnership Agency
SAP	Structural Adjustment Programme
SEANWFZ	Southeast Asian Nuclear-Weapon-Free-Zone Zone Treaty
SEOM	Senior Economic Official Meeting
SES	Single Economic Space
SMME	Small, Micro, Medium Enterprises
SSA	State Security Agency
TCG	Tripartite Core Group
TPP	Trans-Pacific Partnership
UEMOA	West African Economic and Monetary Union
UMSCA	United States-Mexico-Canada Agreement
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNECA	United Nations Economic Commission for Africa
UNICTRAL	United Nations Commission on International Trade Law
WTO	World Trade Organisation
WWI	World War 1
WWII	World War 2
ZOPFAN	Zone of Peace, Freedom and Neutrality

CHAPTER ONE: INTRODUCTION

1.1 Introduction

The purpose of this chapter is to ground and provide an overview of the dissertation. The growth of digital trade and its concomitant regulations has attributed to an emergence of splinternet which has the possibility of creating a world of the regions in which inter-regional interoperability is hindered by conflicting digital laws and stalls global digital trade. Regional organisations such as the European Union (EU), the Association of Southeast Asia (ASEAN), and the United States-Mexico-Canada Agreement (USMCA) (NAFTA; North American Free Trade Agreement's successor) have passed their digital policies to lubricate digital trade. However, there are underlying clashes (splinternet), for example, the provision of cross-border data flows. Some regions have opted for free data flow whereas other opted for data localisation among other provisions or notions. Interestingly, African Union is in the process of completing its own digital policy under the African Continental Free Trade Agreement (AfCFTA) negotiation on e-commerce. The dissertation seeks to investigate which route will it take in its digital policy. Will it invoke either sides or create a new path that further splinters the existing clashes across digital provisions. This chapter will detail the problem statement, conceptualisation, research question, the rationale of the study, methodology, objectives, ethical consideration, summary of findings, and organization of the study.

1.2 Problem statement

In the past six decades, the need to provide solutions to Africa's political and economic surmountable problems led to the establishment of numerous regional integration programmes (RECs). When evaluating the membership of various RECs across Africa, there is an overwhelming majority of African states that belong to two or more sub-regional organizations (Fagbayibo, 2012: 64). Interestingly, Africa has recently adopted its plural regional integration trade policy which came into effect on the 1st of January 2021. The African Continental Free Trade Agreement (AfCFTA) policy aims to foster economic, social, and political integration within the continent (Mrrison and Foerster, 2021). Significantly, Perrigo (2020) states that digitalization is

regarded as one of the prerequisite factors to enable the African continental free trade agreement (AfCFTA). For example, the E-commerce Protocol to the AfCFTA requires a digital policy that would harmonize the use of digital technology (intra-African digital trade) to enable cross-border data flows, general digital transaction, protect personal data privacy, and derive value from sectoral data among African states and the rest of the world (Banga, 2021). The agreement holds the prosperous potential (growth of intra-African trade, regional interdependence, unity and, etc.) that is needed for the region to thrive. Therefore, Africa's digital policy is of utmost importance in enforcing the AfCFTA (Perrigo, 2020; Bloomberg, 2018). As a latercomer, Africa is formulating its policy in an environment where other regions such as the EU, NAFTA, and ASEAN have already promulgated their own. The fundamental conundrum is that Africa could promulgate a policy that is inconsistent or incompatible with other regions' digital policy creating a splinternet that will lead to a world of regions, or join in one, thus bolstering the so-called splinternet. Further still, different African regimes could be promulgating, different systems, thereby exacerbating the phenomenon. In other words, the phenomenon of contradictory or conflicting regional digital policies threatens to reverse globalization and diminish it into a world that is region-specific in a manner that many socioeconomic activities are restricted by regional digital policy from being inter-regional or global. Therefore, the politics of making, adapting, and promulgating regional digital policy will be investigated in this study.

1.3 Conceptualization

Collins (2009: 251) defines regionalism as a political process characterized by policy cooperation and integration, coordination, and possibly institutionalization in a variety of issue areas, including economics, politics, social issues, environmental issues, and security. Because the focus of this study is on the economic and political sort of regionalism¹, it will only look at regionalism from that aspect. The success of regionalism was predicated on the member states' geographical proximity, but Väyrynen (2003: 27) defines regionalism as any policy established and designed to reduce trade barriers between a subset of countries. When states voluntarily cede their sovereignty to carry out specific agreements in the hopes of reaching collective goals that they could not

¹ Economic aspect of regionalism will look into the digital trade and political aspect will look into the creation, adoption, and promulgation of digital policy at the regional level.

achieve separately or in isolation such as the necessary support in peace and security issues or trade (Kewir, 2015: 28). In other words, states join regional organisations to pursue the associated benefits such as security, diplomacy, economic and political gains. Since the 1980s, international relations experienced an explosion of such regional organizations, for example, the European Union (EU), African Union (AU), North America Treaty Agreement (NAFTA) which was updated to United States-Mexico-Canada Agreement (USMCA) and Association of Southeast Asia (ASEAN) etc. (Söderbaum, 2011: 1; Shafae and Naghdi, 2016: 149).

Howlet and Cashore (2014: 17) define digital policy as an official plan of action formulated by the government to guide the implementation and/or regulation of EU, AU, ASEAN and NAFTA/USMCA use of ubiquitous digital technologies and data to improve economic, political, and social aspects in a country or regional organisation. The same definition applies to regional digital policy however the only distinction is that policy is formulated at the regional level by an official regional organization for the betterment of the region rather than an individual state. These policies are shaped or influenced by regional leaders in the region. Regional leaders are in a sense sub-imperial countries that exert regional hegemony and play a significant intermediate role in the sphere of influence by dominating a region while commonly still being subordinate to major actors in the global political system. They therefore play a role in formulating digital policy (Väyryen, 1979: 350; Dos Reis, 2020: 447; Foster and Azmeh, 2020: 1253).

Interestingly, the use of ubiquitous such as digital technologies and data has urged the significance to harmonize the practices to adhere to personal privacy, religious belief in pro-Islamic state, national values and norms, security standards and economic interests of a particular country. However, conflicting norms, values, and interests around such harmonization of digitalization among and within regions' digital policy could lead to a splinternet, which refers to the fusion of the word 'split' and 'internet' is a compartmental version of the worldwide web fragmented by national or regional digital policies and regulations. In simple terms, splinternet (or sometimes referred to as cyber-balkanization) refers to cyberspace that is controlled, regulated, filtered, and manipulated by different countries to serve national interests such that there is no single Internet (Wright, 2019; Banerjee, 2021). At the regional level, opposing regional digital policies and regulations could lead to a world of the region-centric net that is limiting interregional economic or social engagements. In effect, this will also have a pejorative impact on globalization (Banerjee,

2021; Lemley, 2021: 1404). Today, the excessive government censorship or control of the internet on what can be viewed, shared, and with whom outside the country is evident in countries like China, North Korea, and Russia. Therefore, this study will investigate the making of the existing regional digital policies and regulations in the EU, NAFTA, and ASEAN in comparison with the making of Africa's digital policy and regulations and thereafter assess whether it will complement or contrast with the former leading to a splitting up of the internet into region-specific internet to preserve conflicting regional interest (Kapoor, 2021). Africa is one of the latest regions to seek regional integration which propels a comparison need because it does so in a context in which the other regions (namely the EU, ASEAN, and USMCA/NAFTA) have promulgated their own. Moreover, regional leaders are regarded as significant contributors to regional and generally global order. They ensure the desired stability and effective regional cooperation through economic integration in a world that is increasingly becoming complex to govern Destradi, Nolte, and Pry-Hansen, 2018: 1). Significantly, they play a central role in starring or using their role and material capabilities to influence member states of a particular regional organisations to invoke their aspirations. In this case, this dissertation will also explore the role of regional leaders' in the creation, adoption and promulgation of regional digital policy in Africa, Europe, North America, and Southeast Asia.

1.4 Research questions

The research questions of the study are as follows:

1. How has regional leadership played a role in digital policy being made in the EU, ASEAN, and the USMCA? This question is more broadly defined in chapter two and answered in chapter four.
2. Are there differences in the digital policies among regions which are likely to lead the world into a world of digital regional blocs ('the splinternet')? This question is more broadly defined in chapter two and answered in chapter five.
3. What has been the nature of Africa's digital policy, has it been led by a handful of regional leaders, and has it contributed to the splinternet phenomenon?

1.5 Rationale

Digitalization has been regarded as one of the prerequisite factors to enable the AfCFTA (Ighobor, 2020). In effect, digital trade has skyrocketed more than the traditional trade of goods. Secondly, the agreement holds prosperous potential (intra-African trade, regional interdependence, unity, and intra-African foreign direct investment) that is needed for the continent and its regions to thrive. Therefore, Africa's digital policy is of utmost importance in enforcing the AfCFTA. This study is interested in the making of the regional digital policy as an enabler of integration, compares it with other regional digital policies, and assess whether there are loopholes that have lead the world into a splinternet among regions. The existence and deepening of the splinternet would create a world of regions where cross-border trade is hindered by data protectionist regulations that hinder globalization. The study seeks to assess whether there has been a splinternet created by conflicting digital policies that hinder global interoperability, and what direction this might be taking. Regional leadership is important in this regard as different regions are led by different regional hegemon, whose goals and starting points differ. In some instances, by virtue of being more industrialised, they may be prime movers on new technologies and may then (intentionally or by 'osmosis') exporting their regulatory models to their neighbours. Such idiosyncrasy could be a decisive factor in generating competing regional policies.

1.6 Objective of the study

The study aims to explore the key role of a regional leader in digital policy-making mechanisms in the European Union (EU), North America, Africa, and the Asian region. In addition, the study will probe into the differences in digital policies among regions that are most likely to lead into a regional compartmented world created by a splinternet and the implications thereof. The aims of the study are to assess the following:

1. The pivotal role played by Africa's regional leader in comparison to other regions' regional leaders in their respective regional digital policy,
2. To evaluate the strategic position of regional leaders in both regional digital policy and latest regulation,

3. To find out whether indeed there is an emerging splinternet and its direction ahead on account of the differences that exist among the various regional policies to be reviewed in 1 and 2.

1.7 Overview of the literature review

The literature that will be reviewed in this study is on regional leadership, what makes a leader?, why do regional leaders lead as well as regional leadership and regional digital policy nexus. Lastly, the study will critically assess existing literature on a globalised or world of region, looking into the impact of whether the world is becoming more interconnected or fragmented into a world of region.

Regional leadership is often referred to as regional power or regional hegemony by Destrad (2008: 6) and Schmidt (2018). Some authors argue that such hegemonic states have adopted a coercive and sometimes benevolent attitude in their relations with their regional neighbors (Destrad, 2008: 6). Fonseca et al (2016: 55), and Oloruntoba and Gumede (2017: 19) on the other hand believe the dominant position at the regional level is through the need for recognition of leadership by the other players in the regional context. Prys (2010: 485) posits regional leadership as having two main assets that are relative preponderance and hegemony within a particular region. Moreover, Drenzer (2001: 3) highlights that “technological leadership is a linchpin of global and regional leaders”. States obtain this regional leadership status because they are the first to develop a cluster of technologies in leading sectors. In the 19th century, the increase of industrialization made England regional leaders because of the unique fleets that made it dominant in the seas. Subsequently, Germany became superior because of its railroads and was followed by global leaders or superpowers of the 20th century (the US and the Soviet Union) which both possessed industrial power and military power (nuclear arsenal) (Yilmaz, 2010: 195).

The significance of digital policy for growth and social development has been recognized both at the state-level and regional level. Regional economic forums and trade alliances saw the relevance of digital factors in their agendas. Regional digitalization has a non-pejorative multiplier effect in enforcing regional integration (Patino and Rojas, 2018: 35). Moreover, the European Union (EU)

is an excellent quintessence because of its creation of a single market that took place decades ago. The integration was facilitated by various norms, common laws, treaties, and institutions in place. Interestingly, although national protectionism or barriers to the single market has been alleviated in the physical world, there are challenges in the digital market (Patino and Rojas, 2018: 35).

The EU promulgated digital policy which regulates digital policy and practices. One is called Digital Service Act and another one is called the Digital Market Act (Perrigo, 2020). There are upcoming digital legislations in the EU to regulate digital practices, this includes, artificial intelligence (AI), machine learning, robots, and liability regulatory framework, the platform to business regulation (P2BR), European electronic communication code (EECC), and the Digital copyright (Morrison & Foerster, 2021).

Furthermore, these general data protection regulations (GDPR) are spearheaded and ratified by regional technological leaders under the guise of digital sovereignty in the EU namely, Germany, Italy, Hungary, and Netherlands, (Burwell and Propp, 2020: 10). On the other hand, modifications are made in the United States-Mexico-Canada Agreement (USMCA) known as the North American free trade agreement NAFTA 2.0 to incorporate digital policy and regulation on GDPR of digital traders, and management of data (Francoise, 2020; Greenwood and Trudeau, 2017).

Moreover, the same concerns concomitant with digitalization have been identified in Asia. Cross-cutting issues with digital trade (taxes to cross-border deliveries of digital products, cybersecurity, data management, and digital sovereignty) have led to the realization of the need to adopt harmonious digital regulation policies in Asia (Elms, 2021). Australia, Japan, New Zealand, and Singapore are in a process of designing and signing regional digital-only trade agreements that incorporate a range of rules and cooperation obligations, (Elms, 2021).

The ASEAN-Australia-New Zealand free trade agreement (AANZTFTA), the comprehensive and progressive agreement for trans-pacific partnership (CTPPP), and ASEAN are still under the process of implementing its agreement on electronic commerce in 2021 (Elms, 2021). In conclusion, the prevention of market failure through protectionist policies often leads to disruption in digital trade, thus hindering the opportunity to enhance economic growth (Gaillard et al, 2020: 30). This has resulted in scholarly debates on whether these harmonization measures taken by the regional organization would accelerate or decelerate globalization. Patino and Rojas (2018: 30) are with the contention that regional digital policies accelerate intra-regional trade, investment,

and development. Whereas Manyik et al (2016: 2) on the contrary, argue that the world has never been so deeply connected as it is today. Digital policies have accelerated globalization.

This thesis will therefore fulfill the knowledge gap in the existing literature by investigating the making, adoption, and promulgation of Africa's digital policy in comparison to other regions such as the EU, North America, and the ASEAN. The systematic comparison of the role played by regional leaders in the creation of region-wide digital policies and regulation in their respective region will objectively guide the assumption on whether there is a splinternet ahead? In other words, will the worldwide web be compartmentalized by a region-specific net of which is caused by conflicting region-centric interests that are inserted by regional leaders in their respective regions? If so, will Africa's digital policy and regulation aggravate the splinternet by inserting norms, values, and interests that contradict or compliment the above-mentioned regional counterpart digital policies? The study will add the knowledge vacuum in the existing scholarship by systematically reaching the conclusions of those questions.

1.8 Research methodology overview

The dissertation will employ a qualitative research design in the form of a case study approach to answer the research questions. Qualitative research design is an interpretive design that is deeply rooted in the hermeneutics style of investigating and answering a research question (Starman, 2013: 30). Its primary concern is in getting answers to why and how to obtain an emic perspective of particular phenomena being studied (Marxwell, 2008: 148). This design is characterized by an interpretative paradigm that is subjective rather than objective (quantitative) (Cardno et al, 2017: 69). On the other hand, a case study is a research approach that is often used to generate an in-depth, multifaceted understanding of a complex issue in its real-life context (Crowe et al, 2011: 1). It offers an opportunity for a holistic view of a process (Kohlbacher, 2006: 23). It provides a description and analysis of an individual, group, or phenomenon to identify variables, structures, forms, and orders of interaction between participants or to assess the performance of work or progress in development (Starman, 2013: 31).

Furthermore, there are various modus operandi of collecting data in a qualitative research study, for instance, this includes observation, documentary and visual analysis (books and videos clips)

or (structured, unstructured, and semi-structured) interviews, open-ended questionnaires, etc, (Gill et al, 2008: 291). This thesis will employ textual data and to some limited extent, it will use quantifiable data to supplement the qualitative findings. In other words, it is a desktop research, and therefore it will not make use of interviews or any form of interpersonal data collection (Bohnsack et al, 2010: 21). The specific methodology and data requirements of each question are discussed below in turn.

1.8.1 Methodology for RQ 1

The first question of this thesis will be answered through the process-tracing method. This type of qualitative method was developed two decades ago and recently gained prominence in Political Science research. The methods attempt to identify intervening causal processes between an independent and independent variables (Tansey, 2007: 2). In examining the role of regional leaders in promulgating regional digital policies, the study will make use of histories, archival documents, workshops, interview transcripts, press releases, etc, using three case studies of the EU, North America, and Asia vis-à-vis in the promulgation of region-wide digital policies (Tansey, 2007: 2). The extent to which the thesis will employ quantifiable data is when the paper operationalizes regional leaders in terms of GDP, internet penetration, and share of technological products in total exports by specific countries. Subsequently, the study will develop a descriptive typology of similarities and differences of regionally leading countries. Moreover, this thesis will sequentially employ case study analysis. This is because of reliance on the above type of data collected, the study will therefore be able to provide a thorough interrogation and analysis of each case study (Tansey, 2007: 3).

1.8.2 Methodology for RQ2

The second research question will be answered using textual analysis which “is a systemic procedure for reviewing documents both printed and in electronic format. Like any other method in qualitative research design, document analysis requires that data be examined and interpreted to elicit meaning, gain understanding and develop empirical knowledge” (Bowen, 2007: 27). The study will be an examination of the ACFTA treaty and protocols, Agenda 2063 (and its Ten Year Agenda 2063 Implementation documents), and the Africa Digital Transformation (AU) strategy;

side-by-side with the USMCA (specifically looking at the digital regulation and data regulations contained therein) as well as the EU's GDPR. This is a brief research methodology will be further discussed in depth in Chapter Three.

1.9 Ethical considerations

As mentioned above, the dissertation will be using a qualitative approach and will be purely desktop research. No interviews will be conducted; thus, no ethical approval will be needed. However, given that the research will be qualitative and using different sources, it is worth noting that all sources will be acknowledged at all times. All sources will be appropriately cited throughout the study.

1.10 Summary of findings

The findings of this dissertation have discovered that indeed regional leadership have played a decisive role in the creation, adoption and promulgation of regional digital policy in the EU and USMCA. Germany and the United States started and directly influenced the creation, adoption and promulgation of the EU General Data Protection Regulations and the USMCA Chapter 19 respectively. In ASEAN, Indonesia commensurate and qualify as ASEAN's regional leader. However, it acted as a follower than a leader in terms of the creation, adoption and promulgation of ASEAN digital policies. The Philippine, Thailand, Vietnam, Malaysia, and Singapore started and directly influenced the ASEAN digital policy during their chairmanship. Secondly, there are underlying differences among digital policies among EU's GDPR, ASEAN's framework on PDP and USMCA's chapter 19. In other words, there is a splinternet for example, in terms of provision of cross-border data. USMCA advances unrestricted data flow where as the EU and ASEAN advances data localisation. Moreover, Bipolarity played a critical role in Africa's digital policy. Nigeria and South Africa played a critical role in the creation, adoption and promulgation of Africa's digital policies. Africa does not have a region-wide digital policy in effect, the protocol on e-commerce under the AfCFTA which is in progress brings hope that it will get the required signature and ratification to come into effect once done. The AU Digital Transformation Strategy (2020-2030) encourages the ratification of the AU Convention on Cybersecurity which advances or invokes EU GDPR standards which contribute towards the splinternet.

1.11 Structure of the study

Chapter 2: Historical Background and Literature Review

This chapter will discuss the historical background of the making, adoption and promulgation of region-wide policies in European Union (EU), African Union (AU), North American Free Trade Agreement (NAFTA)/United State-Mexico-Canada Agreement (USMCA) and Association of Southeast Asian Nations (ASEAN) and literature review

Chapter 3: Theoretical and Conceptual Framework and Methodology

This chapter will present the theoretical and conceptual framework and methodology of the study.

Chapter 4: Case Study 1: Regional Leadership and Making of Regional Digital Policies

This chapter will elaborate on case study one (regional leaders and the making of regional digital policies) in European Union (EU), North American Free Trade Agreement (NAFTA)/United States-Mexico-Canada Agreement (USMCA) and Association of Southeast Asian Nations (ASEAN) Africa Union's (AU) digital policy

Chapter 5: Case Study 2: Splinternet?

This chapter will into Africa Union's (AU) digital policy in comparison or relation with regional digital policies in European Union (EU), North American Free Trade Agreement (NAFTA)/United States-Mexico-Canada Agreement (USMCA) and Association of Southeast Asian Nation's (ASEAN) (assessing the existence and trajectory of the splinternet)

Chapter 6: Discussion and Conclusions

This chapter will discuss the findings, comparing findings from two previous chapters and highlighting overall value added to the findings.

CHAPTER TWO: HISTORICAL BACKGROUND AND LITERATURE REVIEW

2.1 Introduction

The purpose of this chapter is to provide the historical background of regionalism and review the literature that underpins this dissertation, namely: regional leadership; why do regional leaders lead; regional digital policy and regional leadership nexus as well as a globalised or a world of regions. The sufficient information about the genesis of regionalism will provide the reader with a deeper comprehension, familiarity, and an overview of sequential or evolutionary events that led to the present regional entities in the contemporary world. The first part of the chapter will explore the historical background, specifically the formation of regionalism and the crucial role of regional leaders in the late nineteenth and early twentieth centuries when the concept emerged, as well as regionalism in the post-Cold War period. The second section of this chapter will explore and acknowledge the existing literature on this topic. The objective is to evaluate the existing scholarship on the topic, as well as the disputes and controversies surrounding it. The chapter will next explain how this research will fill a gap in the existing literature.

2.1.1 Historical background

The Second World War is frequently cited as a critical juncture in the formation of regionalism. However, there are historical attempts to build regional institutions prior to the war that deserve to be mentioned because they continue to provide institutional insight that informs the regional processes in modern times (Fawcett, 2012: 8). Regionalism, on the one hand, is not a new phenomenon; it has always existed in some form (Soderbaum, 2015: 7; Soderbaum, 2011: 3). Empires, spheres of influence, *Straatenbude*, *Bundesstaaten*, *Eidgenossenschaft*, leagues, commonwealths, unions, associations, councils, pacts, and confederations, or simply powerful states and their allies, have historically dominated indifferent international systems, albeit to a limited conceptual degree (Fawcett, 2004: 436; Soderbaum, 2015: 7; Mattli, 1999: 1). The problem was that most of them were built for defensive or military goals, and not all of them, unlike modern ones, were constituted out of the free accord. Independent sovereign states are currently volunteering to join a regional organization because of a variety of key political and economic benefits that will promote their national interests. Early in the nineteenth century in Europe, the first large voluntary regional integration programs were launched (Mattli, 1999: 1).

The second half of the 19th century was an early heyday of multilateral trade (Eichengreen and Frankel, 1995: 97). Countries incorporated clauses of most favored nations in their bilateral trade agreements, for example, the Anglo-French Commercial Treaty of 1860 (Mansfield and Milner, 1999: 596). The variant of regionalism in the nineteenth century was essentially a European phenomenon. This was a time when intra-European trade grew substantially and accounted for a significant share of global trade. Technology played a significant influence in promoting trade and interstate commerce (Mansfield and Milner, 1999: 596). The first industrial revolution aided the process of European regionalism where countries established customs unions and bilateral agreements to leverage the opportunity (Mansfield and Milner, 1999: 596). For example, the Prussian-led custom union with Hesse-Darmstadt, which was later followed by a Bavaria Wurttemberg Customs Union, the Middle German Commercial Union, the North German Tax Union (Mattli, 1999: 1), Austrian states custom union in 1850, Denmark in 1853, and Italy in 1860 (Mansfield and Milner, 1999: 596; Mattli, 1999: 1). In addition, nations such as Sweden and Norway, as well as Moldavia and Wallachia, created custom unions with each other (Mansfield and Milner, 1999: 596).

Moreover, regionalism has a long history in Africa. Its initial manifestation can be traced to the colonial period when the Southern African Customs Union (SACU) was established in Potchefstroom on the 29th of June 1910 (the world's oldest customs union to-date) (Otobo, 2009: 119). This custom union was signed by Lesotho, Swaziland and Botswana but the negotiation only involved South Africa and Britain. The agreement was renegotiated by the Apartheid government (National Party) which concluded in the revised 1969 Agreement (Kirk and Stern, 2005: 170). In the 1960s, the period that marked the 'wind of change in Africa' when many countries gained independence. The prime minister of Ghana Kwame Nkrumah lamented Pan-Africanism which planted a seed for immense African economic regionalism. He advocated for an African Continental Government or the United States of Africa. This Pan-African ideology gave birth to the formation of the current Regional Economic Communities (RECs) such as (Aniche, 2012: 6).

Importantly, although many actors played a critical role in facilitating the establishment of regionalism, regional leaders or power are the ones who play a central role in their creation. In other words, the presence of regional powers, emerging powers, or medium states with clear leadership traits within the region is necessary for the creation of regionalism in most

circumstances. The role of European regional leaders most notably Germany, Great Britain, and France in using their regional influence and resources to pursue their interests in a diversified manner and facilitating regionalism is evident (Riggirozzi and Tussie, 2012: 4).

In the era of the progressive bilateral agreement, Great Britain established bilateral commercial agreements with 46 states (Mansfield and Milner, 1999: 596) and an open-door policy with the Empire (Eichengreen and Frankel, 1995: 97). Germany followed suit by consolidating a free trade area of German Reich of 1870 with 30 states which begun as the Zollverein in 1833, and France also with 20 states consolidated free trade area. However, arrangements opened doors for the vast European integration and the broader international commercial system. However, the pace of regionalism or regional trade agreements evolution in the pre-World War I (WWI) era was pejoratively impacted by the eruption of the that 'Great War'. The post-war era regionalism resumed driven by political rivalries between Germany, Great Britain, and France in the 1920s and 1930s (Mansfield and Milner, 1999: 596).

The evolution of regionalism was disrupted by war as trade was mostly regulated by the government, which imposed rigorous bilateral quotas, exchange controls, and other trade restrictions. Recent rivals or opponents were filled with mutual suspicion and hatred (Baldwin, 2008: 1). Germany, after a terrible defeat in war, had to downplay its position and was subsequently replaced by France as the mainland continental leader of Europe (Kim and Schmitter, 2005: 11). Germany's geopolitical ambitions were suppressed but France invoked the regional establishments in an effort to influence Eastern Europe (Czechoslovakia, Romania, and Yugoslavia) competing with Britain (Eichengreen and Frankel, 1995: 97). Germany recuperated and reasserted itself in foreign affairs and this was followed by the adoption of economic bloc agreements in 1928 which consisted of the so-called Third Reich and countries to its east to escape the dependency on its potential enemies and achieve its geopolitical goals. This alarmed and encouraged France and Britain to form a regional economic bloc of their own. The United States, on the other hand, side-lined itself. Its stake in the development of European regionalism was minimal and its trade policies were driven mostly by domestic considerations than regional implications. In 1931, Germany proposed an Austro-German customs union which was blocked by France, Britain, and the US because Germany had a banking crisis and could not execute the custom union due to its lack of support. On the other hand, the Rome Agreement of 1934

established preferential trade agreements with Italy, Austria, Hungary, and Finland, among others. In 1938, Germany rejuvenated, and its commercial influence was reckoned with when it incorporated Austria in the Reich and annexed of Sudeten region of Czechoslovakia by Hitler in September. Across the Atlantic, the US saw the importance of regionalism and embarked on its bilateral preferential trade agreements with Latin American countries (Eichengreen and Frankel, 1995: 97; Mansfield and Milner, 1999: 597).

In the emergence and growth of regionalism, regional leaders play a crucial role (Sangiovanni, 2008: 3). Germany and France, in particular, played a pivotal role in the development of European regionalism (Kewir, 2015: 27). Since 1871, Germany has been Europe's central leader (Wallace, 1995: 162). The European experience shows that a duopoly of Germany and France is stronger at this integrating role. The evolution of European integration was headed by a possible hegemon, to lead the continent towards integration (Kim and Schmitter, 2005: 11). However, the evolution of regionalism was interrupted by World War II but grew even stronger in the post-war era where the evolution was characterized by two waves of regionalism. The significance of regional leaders prevailed in the post-war formation of regionalism most notably the US and USSR, and later by a multitude of regional leaders in the international system (Kewir, 2015: 29).

2.1.2 Regionalism in the post-World War II era

When the multilateral trading system was established after WWII, it was aided by the General Agreement on Tariffs and Trade (GATT), which allowed and encouraged the development of free trade zones and customs unions in a structured way. The first wave of regionalism evolved in the 1950s and 1960s. The evolution of the first wave of regionalism from a free trade agreement, customs union, common market, economic alliance, and political union (Matsushita, 2000: 26). The European Coal and Steel Community 1952 (Moon, 2021) after the signing of the Treaty of Rome, which established the European Economic Community (EEC) (Kang, 2016: 235). The treaty was to reduce trade protectionism which hindered the flow of trade among member states. In a similar vein, another major goal in an attempt to construct regionalism was the introduction of the Common Agricultural Policy (CAP) in 1961. The goal was to eliminate trade barriers within the Community, especially the barriers to the importation of some agriculture products (Bratiz and Ginsburg, 1993: 309). In essence, regionalism grew in prominence through time and evolved in

two distinct periods: the Cold War and the post-Cold War (Barbieri, 2019: 425). The first wave of regionalism began in the 1950s and petered out in the 1970s (Mulaudzi, 2006: 7). The bipolar struggle and ideological environment of the USSR-led Socialism and the USSR-led Capitalism characterized the Cold War period. The second wave began in the 1980s and was influenced and determined by a number of systematic causes and changes in the worldwide balance of power, including the disintegration of the Soviet Union and the shift of world power (Santander, 2018: 228; Dorucci, 2015).

The world was divided into two camps: capitalist and socialist, led by the two superpowers, the US and the USSR, respectively (Barbieri, 2019: 425). On the one hand, the Western bloc benefited from US economic help (the Marshall Plan) and other political stabilization measures. This laid the groundwork for economic cooperation among countries in the “capitalist” camp, all under the US banner and protection (Gordon, 1961: 234). The Eastern bloc, on the other hand, under the dominance of the USSR, responded by forming the CMEA in early 1949 and withdrawing from practically all international organizations. The Council served as a mechanism or instrument for the integration of socialist economies. However, as a regional organization, the CMEA achieved relatively little to promote economic regionalism or the development of its member nations. In most cases, the CMEA was essentially an apparatus used to promote propaganda to increase support for the Soviet Union or socialist doctrine, rather than living up to its aim of formulating and successfully implementing a regional economic integration agenda (Van Brabant et al., 1980: 17).

The Post-World War II first wave of regionalism was destabilized by the development discourse and the emergence of the Latin American structuralist approach. They critiqued the myopic prescribed steps of development “modernization” which fueled the dependency circle between the industrialized and developed core and the underdeveloped and marginalized periphery (Doidge, 2007: 4). The occasional negotiations conducted under the auspice of the General Agreement on Tariff and Trade (now World Trade Organization) and the proposed benefits and agreements led by industrialized countries were not entirely appreciated by politicians at the national sphere of governments. Most notably, the discourse of deregulation and trade liberalization was relentlessly criticized as not constituting a mutually beneficial outcome or exacerbating zero-sum game

relations between the Northern developed and Southern countries' least developed nations (Oxley, 2003: 169).

In response, the best way for developing countries to detach from the “exploitative international economy” that was formulated after the Second World War was for them to adopt policies that advance self-reliance. Evidently, subsequent to the Uruguay Round of negotiation, countries realized that gains can be secured through bilateral and regional agreements rather than in multilateral or international economic agreements (Oxley, 2003: 168). Activist states or regional leaders (those with greater influence than the rest of the region) in distinctive least developing countries (LDC) regions have facilitated the implementation of interventionist and protectionist policies that will safeguard structural impediments faced by LDC in the global economy (Doidge, 2007: 5). When the commodity prices plummeted in the 1970s, the proposed loans through the official Development Assistance and other financial regimes to stabilize export earnings in the LDC proven to be efficient, and in response, LDCs adopted Import Substitution Industrialization policy and fostered South-South regional initiatives centered around mutual protectionist development strategies, for example, Andean Pact: 1969: revived in 1991, Latin America Free Trade Area in 1960 which was revived in 1980 as the Latin American Integration Association as well as the Caribbean Community and Common Market (CARICOM) of 1973. In short, regionalism emerged as a systematic approach to protect regional interest within the globalized economy (Kučerová, 2014: 94). In conclusion, the envisioned South-South regionalism to be a solution for the struggle against unequal development in the 1960s and 1970s failed both in terms of implementation and in achieving the objective of industrialization through intra-regional trade, although they were resurrected or revived in the late 1980s and much more following the Cold War (Doidge, 2007: 6).

The Organization of African Union, the Organization of American States, the League of Arab States, the North Atlantic Treaty Organization, SEATO, ANZUS, and CENTO are among the organizations formed between the period of 1950 and 1980 (Fawcett, 2004: 437). The post-Cold War period experienced a rise in regionalism and integration programs. New regional organizations arose, and previous regional accords were relaunched after being rattled and molded by Cold War political and ideological framings, which hampered region-building activities in

Africa, Asia, Europe, and Latin America. The end of the Cold War coincided with a paradigm shift that allowed international entities to operate freely, fostering regional integration and collaboration (Santander, 2018: 231).

The attempt to construct a European community with a completed internal market by the end of 1992 sparked a new global wave of regionalism in the late 1980s, with the US-Canada free trade agreement and Mexico's inclusion in the North American Free Trade Agreement (NAFTA), ASEAN Free Trade Area was created in 1992, Asia Pacific Economic Cooperation (APEC) in 1989 and SADC in 1992. The inclusion of some former European socialist states in the Eastern through the EU bilateral agreements with Eastern Europe in 1994, and Central Europe, and the collapse of socialist regimes in Central Asia, the Mercosur customs union (Ethier, 1998: 1215). Numerous regionalisms emerged in the Eurasian world, for example, the Commonwealth of Independent States (CIS); the Economic Cooperation Organization (ECO); the Eurasian Economic Community (EURASEC or EEC); the Single Economic Space (SES); the Central Asia Regional Economic Cooperation Initiative, the Central Asian Cooperation Organization (CACO); The Special Programme for the Economies of Central Asia (SPECA) and the Shanghai Cooperation Organization (SCO) (Obydenkova, 2011:88). However, the Eurasian regionalism was very shallow and ineffective and often referred to as a Russian attempt to recreate the Soviet Union (Gast, 2017: 5). Since the late 1980s, subregional and microregional organizations were more common. Baltic Council of Ministers, the Visegrad Group, and the Shanghai Group (Väyrynen, 2003: 27) Over 100 regional agreements and arrangements were made in all (Ethier, 1998: 1215). The demise of the Soviet Union aided the resurrection of regionalism, but Väyrynen (2003: 27) points out that it was also a response to the pressures posed by economic globalization.

In the North American region, President Ronald Reagan passed the Trade and Tariff Act in 1984, a clause that permits the President to negotiate free trade agreements more quickly. In conjuncture, Canadian Prime Minister Mulroney invoke President Ronald Reagan's initiatives, and the United States-Canada Trade Agreement was eventually signed in 1988 and became into effect the subsequent year, 1989 (Sraders, 2019). Interestingly, when Reagan's successor George H.W Bush came into office, he embarked on the initiative to negotiate with Mexican President Salinas about the fruitful prospect of establishing a free trade agreement between the US and Mexico. This

agreement was part of President Bush's three-part plan known as the Enterprise for the Americas Initiative which advocated for debt relief programs (Sraders, 2019). The inclusion of a peripheral state such as Mexico into a free trade agreement was unprecedented (Chatzsky et al., 2020) and became Clinton's first major legislative victory as a successor (Glass, 2018). Opponents of this initiative were much more skeptical of the integration or inclusion of Mexico which only had a per capita income of just 30% of that of the US (Chatzky et al., 2020).

US Presidential Candidate Ross Perot in 1992 said that trade liberalization would lead to a "giant sucking sound" of US jobs fleeing across the border. Invokers of such an initiative refuted and remained resolute that the agreement would create more new jobs instead, while Mexican President saw this as an opportunity for economic development (Chatzsky et al., 2020). The North American Free Trade Agreement was signed in 1993 and came into effect in the subsequent year making it the world's largest free-trade zone (Glass, 2018) generating economic growth and helping to improve living standards for the people of all three member states (Global Affairs Canada, 2021).

The ASEAN was founded in 1967 by five states namely Indonesia, Malaysia, the Philippines, Singapore, and Thailand. It gradually expanded to include the other five states making a total of 10 member states. The five states to join the ASEAN in the later stage are Brunei, Vietnam, Laos, Myanmar, and Cambodia. Over the past 30 years, ASEAN has been known for its economic integration initiative. Significantly, when the international environment changed in the 1990s, the wave of regional economic integration that started in the EU and NAFTA, and China's economic reform policies led to China's FDI inflow growth. The Asia-Pacific Economic Cooperation was institutionalized in 1989. These environmental changes led to the launch of the ASEAN Free Trade Agreement in 1993 to advance a full-scale trade liberalization. The ASEAN vision 2020 was coined and adopted by its leaders in 1997, where the founding principles laid a foundation for the creation of the ASEAN Economic Community in 2015 (Shi and Yao, 2020: 153; Ishikawa, 2021: 26).

In the African region, since the wind of change when African countries began to attain independence from the 1950s onwards, the founding fathers of independence and prominent

pioneers of Pan-Africanism panegyrically lamented on the indispensability of Africa's economic integration (Mistry, 2000: 553; Rosi, 1974: 15; Ewing, 1967: 53). The latter Pan African thinking saw the barrier of withholding colonial border will pejoratively affect many African countries because they were too small to be economically viable, and additionally, to transform political into economic independence, unification was seen as a prerequisite. The Emperor of Ethiopia in his opening remarks to the summit conference at Addis Ababa in 1963 emphasized that "... if we do not achieve a total union from one day to the next; the union we are striving for can only be achieved gradually" (Rosi, 1974: 15). However, initiatives established to enhance intra-African trade, attract investment for development, promote cross-border infrastructure projects and move the cost and overlapping regional membership by harmonizing integration programs have been very slow and disappointing (Daniel and Nagar, 2014: 2; Marasinghe, 1987: 11).

Marasinghe (1984: 39) condescends that the starting point of regional economic integration in Africa is often cited from the signing of the "Agreement of Co-operation between the OAU and United Nations Economic Commission for Africa on the 15 November 1965 in New York. However, the Economic Commission for Africa a subset of the Economic and Social Council of the United Nation predates 1965 (Marasinghe, 1984: 39; Ewing, 1967: 63). By 1965, the Commission was fully established and had satellites in two countries beyond its headquarters in Addis Ababa (Marasinghe, 1985: 39). Additionally, *Union Africaine et malgache* is a REC attempt established in 1961 that had limited membership capacity but had explicit objectives and continued to maintain close relations among Francophone countries, and association with the European Common Market particularly France (Ewing, 1967: 53). The ECA has placed economic integration as an essential path for promoting economic development. The plummeting commodity prices and the insuperability of establishing a sustainable international commodity agreement have highlighted the importance of REC (Omotunde and Johnson, 1991: 1).

Significantly, Nigeria adopted the Lagos Plan of Action in April 1980 at a phenomenal session of the Head of States and Government of the OAU. The policy strategy placed the creation of regional unions as a nidus for Africa to develop. It articulates that "if the effective size of the domestic market is significantly increased, technological economies of scale can be exploited, and the area can be enlarged within infant industries will be given assistance and direct foreign investment able to earn profits". The Lagos Plan of Action and the ECA funded three main common market

arrangements in Sub-Saharan Africa, namely: the Economic Community of West African States (ECOWAS) treaty signed in 1975, the Economic Community of the Central African States 1983 (ECCAS), and the Preferential Trading Area for Eastern and Southern Africa, effective date 1981 (PTA) (Omotunde and Johnson, 1991: 1-2).

The subregional and microregional organizations were formed to enhance trade in the post-Cold War era. The Cross-Border Initiative in 1992, the Economic and Monetary Community of Central Africa in 1994, the Common Market for Eastern and Southern Africa in 1993, and entities that were established before the end of the Cold War include, the Southern African Customs Unions (SACU) in 1910, Economic Community of West African States (ECOWAS) established in 1975, Indian Ocean Commission 1984, Southern African Development Community (SADC) in 1980, Economic Community of West Africa in 1973, Economic Community of Countries of the Great Lakes 1976. The distinction is made from the evidence from some of the successes of Africa's integration efforts that are linked to the potential regional leadership role of strategic states in their respective sub-regions such as the above highlighted Nigeria's role in West Africa, Kenya in Eastern Africa, South Africa in Southern Africa, Algeria in North Africa, and the fragile conflict-afflicted Democratic Republic of Congo DRC in Central Africa Mistry, 2000: 553. The historical background showed the significant role of regional leadership in the formation of regionalism.

2.2 Literature review

There is an overwhelming plethora of existing regional leadership which will be explored under this subsection. Many contributions to this concept had been written over time, however, there has been conceptual contestation on the juxtaposition of regional leader, hegemon, and power. In systematically comparing regional organizations in terms of the role of regional leaders in the creation of region-wide policies, there are several critical questions that require research are identified to assist in attaining a knowledge base from existing scholarship in this research area. Firstly, what is regional leadership; what makes a leader in a region, and why do they lead will be studied (Nasber, 2010; Sarkar, 2012: 1; Kim and Schmitter, 2005: 7; Firjar, 2009: 5; Burfisher et al, 2004: 1; Myers, 2019: 10; Nolte, 2010: 887; Cook et al, 2014: 4; Destradi et al, 2018: 4; Choi and Park, 2014: 584; Oloruntoba and Gumede, 2017: 19; Pardo, 2017; Väyryen, 1979: 350; Kappel, 2011: 277). Secondly, the relationship between regional leadership and technological

advantage will be studied (Cepik, 202), and sequentially, the scholarly work that focuses on the relationship between regional leaders in the first regional digital policy; who initiate the policy; what is the implication on inter-regional exports; is the policy threatening the essence of globalization will be studied.

2.2.1 Regional leadership

The existing literature on regional leadership either conceptualizes the concept concerning the degree of security and political, and economic power in the regional context (Myers, 2019: 10; Nolte, 2010: 887; Cook et al, 2014: 4; Destradi et al, 2018: 4). Regional leadership is an evolving concept but has been most often centralized in the capabilities of the state to occupy a leadership position in a particular geographical region (Destradi et al, 2018: 4). Arguably, Destradi (2010: 903) and Krickovic (2015: 562) convey that regional leadership is synonymous with regional power or hegemon. Nabers (2010: 931) argue that “regional leadership is necessarily based on hegemony while hegemony can only be sustained through leadership”.

Mitchell (2016: 10) contends for minimal conception and argues that regional power heavily relies on material capability although it plays an elementary contribution, it cannot solely translate into the ability to influence and structure regional arrangements. Brute force can make other regional actors conform or make one win the support of others, but leadership requires that others accept the legitimacy of one’s lead and a willingness to invoke a putative leader’s actions (Mitchell, 2016: 10).

Pardo (2017) provides a full picture of what is to be referred to as regional leadership by pointing out important qualities that serve as a prerequisite for a state to occupy the regional leadership position. Regional leadership should first be part of a definable region within an identity of its own, sequentially, another imperative component is to exert a decisive influence on the geographic extension of the region as well as on its ideological construction. Further, regional leadership includes possessing a comparative high military, economic, demographic, technological, as well as political and ideological capabilities, (Pardo, 2017).

In addition, they should be well integrated into the region and be recognized and appreciated by other actors in the region and beyond. In other words, other actors should see its leadership as likely to be more stable and widely accepted (Choi and Park, 2014: 584; Oloruntoba and Gumedé,

2017: 19). In other words, Riggiorozzi and Tussie (2012: 4) argue that regional leaders have the ability to influence the creation of regionalism is dependent not only on their hegemony (wealth, military and technological capability, and ambition) but also on the support of their followers (small states). Regional leaders create regional efforts that provide win-win circumstances for followers (small states) to determine the cost of competing with or following leaders. Regional leaders are in a sense sub-imperial countries that exert regional hegemony and play a significant intermediate role in the sphere of influence by dominating a region while still being subordinate to major actors in the global political system (Väyryen, 1979: 350). However, this account of the hermeneutical contention is comprehended from neorealists and hegemonic stability scholarship which evaluate the behaviour of regional leadership and recruitment of other states as not willingness but duly motivated by the antagonistic, self-help, and insecure international system (Hulse, 2016: 12).

The readiness to employ military force to impose one's will is a central factor of coercive power and linked to the realist traditional assumption and analysis of international relations that place power or leadership through a military dimension. On the contrary, neoliberal and constructivist accounts pay much more attention to the soft power of ideas, values, and institutions that enhance the support and eagerness by other states to aspire to be a party to a leader's proposal or establishment in the region (Emmers, 2005: 646).

2.2.2 What makes a regional leader?

Väyryen (1979: 350) view military capabilities and economic power as the necessary precondition for a country to be regarded as a regional leader. Kappel (2011: 275) contends that regional leaders have economic fortune and military potential. These components were followed for centuries to trace the rise and fall of regional leaders. The Spanish-Austrian Hapsburg was vaunted as a regional leader in the 16th century using these components, France in the late 17th century, Britain in the 18th century, and Germany in the early 20th century (Doran, 1983: 421). Both are essential because possessing either one limits the country's excessive control or influence over the region. For instance, military power alone may create an interim zone of influence or control, but with the extension of economic power, the control can be more stable and permanent on one hand. On the other, economic control alone can be easily dismantled if there is no coercive military component therein. furthermore, numerous scholars agree that for a country to hold regional leader status,

having both strong economic and military capabilities in their respective region is essential (Destradi, 2010: 904; Pry, 2010: 485; Merran, 2016: 8; Väyryen, 1979: 351; Salimov, 2018: 4955).

Further, Doran (1983: 421) observation condescends regional leaders' national capabilities "... is composed of such elements as population size, gross national product, per capita income, territorial size, and military spending". A large population is a comparative strength of regional leaders. The prominent economist Thomas Malthus contended that the "power of population is so superior to the power of the earth to produce subsistence for man" (Cooney, 2019). Indeed, for premodern empires and kingdoms, a large population was a prerequisite for strength or power and economic dominance. The large population provided the government with the leverage to collect a relatively large revenue and more people to send off to war (Eberstadt, 2019). "The economic productivity and the capacity to raise revenue to raise revenue are essential ingredients in creating the military strength that is require to achieve attain the prospect of regional leader" (Martel, 1991: 668). Vuving (2020: 20) provides an important assertion that preserves technology as an enabling factor for regional leadership. Since the industrial revolution, technological progress is a determinant of a countries' transitions to modern economic and military superiority (Cooney, 2019).

Regional leadership positions could only be achieved if accompanied by military force and the significance of technology (Vuving, 2020: 20). Military superiority has been a priority basis to preserve and maintain superiority and influence within a region (Salimov, 2018: 4955). Historically, warfare has been a major arbiter of success in international relations. Regional powers and great leaders had to compete for advanced weaponry (chariot, composite bow, horse saddles, etc were some of the military weapons used in the agricultural age). The industrial age altered preconditional measures for military supremacy. The modernized military equipment like a nuclear warhead, cruise missile, combustion engine, and submarine required a combination of technological innovation, a robust economic base, and organizational prowess in a state for it to have a foothold on regional or world dominance (Vuving, 2020:20).

In the eighteenth century, rulers of Western Europe's major leaders competed in military technology. Technology, military, economic capabilities, and large population were essential factors. A large population was a critical power resource because it provided a base for taxes that would consequently fund the creation of military technological development (Nye, 1990: 179).

Great Britain dominated the European region and the world both geographically through the creation of the British Empire and technologically through the First Industrial Revolution technologies such as the steam engine. Industrialization had a multiplier effect on its military technology, trade, and industrial production. However, Great Britain's phenomenal performance warned of compromising its leadership regionally and globally in the era approaching the First World War (Vanham, 2019).

This race for military superiority required them to improve the artillery, firearms, fortifications, and armed ships deployed in their wars. For instance, King Philip II of Spain hired military technological pundits from Italy, France, and Germany. Sequentially, France hired British ironmaster William Wilkinson to acquire British technology for manufacturing cannons (Hoffman, 2004: 23). In the 19th century, the industrial and rail systems became a vital element that made mobilization possible. In the 1860s, Germany spearheaded the use of railways to transport armies to expedite victories. However, Russia had larger population resources in Europe, they faced complexities to mobilize. The subsequential development of rail systems in Western Russia in the early 20th century was one of the reasons Germany was threatened by Russia's rising power in 1914 (Nye, 1990: 179).

Germany technological development rests in the idea of List (1841) who developed a coherent plan and influential strategy for economic catch-up with Great Britain – which was undoubtedly a regional, and noteworthy technological leader with significant influence in the global sphere in the 19th century (Siebert and Stolpe, 2001: 7). In the period leading to the First World War, Germany and United States challenged the British global hegemonic influence. In the European region, Germany pulled level with Great Britain and greatly surpassed dominance in the early 20th century (Hugill, 2008: 2). Germany surpassed Britain in volume and value of industrial production because of its advancement in technology in the 1900 and 1910. In 1913, contributed 19.2% to Europe's Gross National Product (GNP) surpassing Britain that contributed 17.2% in the same year (Janos, 1996: 40; Nye, 2009: 57). In short, Germany surpassed Britain and became a regional leader before the conflict between the two erupted in 1914 (Nye, 2008: 57).

In the North American region, the United State occupied the leadership position because of the combination of its military, technological, economic, and soft power. The US leadership status was beyond the regional level in the 21st century. Following the Second World War, the US became

the dominant single power with an economic size of one-quarter share of the world output, military expenditure constituting almost half world military expenditure, leading to the information-based technological revolution and cultural prominence which constituted its soft power (Nye, 2008: 57).

Given the material capabilities that relatively scale a state to be a leader in its respective region is its willingness to lead and hegemonic influence often viewed from its foreign policy that direct regional policy-making (Ogunnubi, 2019: 1). Regional leaders shape or influence regional economic and security order in a manner that is consistent with its national interest. The acceptance of their preponderance is appreciated not only because of standalone material mightiness but their efforts in ensuring peace, stability, cooperation, and sustainable development in the region (Ogunnubi, 2019: 3). They initiate to address issues of common interest and value in the region, and this is the reason why they lead (Firjar, 2009: 5). Their leadership ability is drawn from soft power or what Antonio Gramsci calls hegemonic influence (Boothman, 2008: 205).

2.2.3 Why do regional leaders lead?

Vuving (2020: 20), Salimov (2018: 4955), Cooney (2019), and Väyryen (1979: 350) posit a traditional (hard power) factor that argues for military capability as a defining factor for a regional leader. However, today factors of technology (Siebert and Stolpe, 2001: 7; Hoffman, 2004: 23), education, and economic growth (Hugill, 2008: 2) are becoming more significant while geography, population, and raw material are somewhat becoming a less crucial factor in defining regional leadership (Nye, 1990: 154). Nye (1990) incorporates an essential element called soft power for regional leadership in his book *Bound to Lead*, he defines it as:

".... the ability to achieve desired outcomes in international affairs through attraction rather than coercion... Soft power can rest on the appeal of one's ideas or the ability to set the agenda in ways that shape the preferences of others. If a state can make its power legitimate in the perception of others and establish international institutions that encourage them to channel or limit their activities, it may not need to expend as many of its costly traditional economic or military resource" (Nye, 1990 cited in Gupta, 2013: 38).

Contrary to hard power, soft power rests on the ability to transform other perspectives. This is the ability what others want by just be attractive. The attractiveness lies in the combination of

resources such as culture, ideology, and institutions backed by the state's tangible capability (hard power). This could assist in legitimizing regional leaders' assertion to be greatly accepted in regional agenda setting. In addition, this ability could frame international agenda and set the rules of the game (Wang and Lu, 2008: 425-426).

The literature assessed on Shim and Flamm (2012: 7) study qualifies Brazil, China, India, and South Africa as regional leaders in the respective regions and the global South. They classify Iran, Mexico, Nigeria, and Japan as aspirant candidates. However, the conceptualization of regional leadership can in turn ostracize other states from the qualification, however, the study conducted highly value the element of soft power in defining regional leadership (Shim and Flamm, 2012: 7). Conversely, Kappel (2011: 277) findings conducted through several economic indicators and empirical observation with soft power included identified China, India, Brazil, South Africa, Mexico, Indonesia, Egypt, Saudi Arabia, and Turkey as a regional leaders as opposed to Israel, Iran, Pakistan, Thailand, Vietnam, Argentina, Venezuela, and Nigeria because they failed to meet some of the indicators, for example, they have a small area and small population, low growth, weakly developed industry, slow technological development, low regional trade integration and weak soft power that are needed for a country to be declared a regional leader in Kappel (2011: 277) definition.

Furthermore, Wilson (2008: 110) inserts an important observation on the ability of regional leaders to influence and advance their interest in the formulation of region-wide policy. Wilson (2008: 110) contends the significance of 'smart power' defined as the amalgamation of components of hard power and soft power in a manner that regional leader's interests are advanced effectively and efficiently in a regional policy (Wilson, 2008: 118).

2.2.4 Regional digital policy and regional leader nexus

The European Union is in the global frontier in setting rules for the digital sphere. In 2018, the EU passed the General Data Protection Regulation (GDPR) which is best comprehended as a refinement of the existing policy that was imposed by the Data Protection Directive in 1995 (Hoofnagle, van der Sloot and Borgesius, 2019: 65; Anderson and Mariniello, 2021). EU established a policy regime based on data protection as a fundamental human right and that seeks

to set a global standard of modern privacy protection in the global environment that is cast by ubiquitous technologies notably digital technologies (Blankertz and Jaursch, 2020).

The GDPR prioritizes personal data and placed it into a detailed regulatory regime that will influence personal data usages worldwide. The GDPR encourages enterprises especially those in the digital sector to promulgate and adopt information governance frameworks to inhouse data use and keep humans in the loop in their decision making (Hoofnagle, van der Sloot, and Borgesius, 2019: 65). Since its establishment, the GDPR inspired other regions to follow suit in making, adopting and promulgating their regional digital policy (Blankertz and Jaursch, 2020). The policy regulates ‘gatekeepers’ of the digital world by imposing restrictions on the behavior of tech giants such as Google, Facebook, Amazon, Apple, Microsoft, and SAP, among others (Anderson and Mariniello, 2021; Morrison Foerster, 2021). The GDPR has made a tremendous impact in Europe since its adoption. Its empirical effects can be traced in the court cases in most notably Germany and Italy (Teassian, 2021; Van Eecke and Phelp, 2020; Simmons-Simmons, 2021; Compliance Junction, 202; Craggio, 2021; Fouriezo, 2021; Lensdorf, Henric, Husch, and Shepherd, 2021; Bertuzzi, 2021; Kerry, 2021; Hodge, 2021).

In December 2019, the German Federal Commissioner for Data Protection and Freedom of Information fined l&l Telecom, a German telecommunication company €9.55 million. However, the Regional Court of Bonn cut the amount by 90% because the court deemed the amount inappropriate and reduced it to €900 000 (Ritzer and Filkina, 2020). On the 1st of October 2021, the Data Protection Authority of Hamburg officially announced that it had imposed on clothing retailer H&M Germany €35.2 million for data protection violations (Van Eecke and Phelps, 2020). H&M violated the GDPR by constantly monitoring employees. Immediately after their leave, employees are instructed to undertake a ‘return-to-work’ meeting, some of the meetings were recorded and the recordings were decentralized, meaning over 50 H&M managers had access to those recordings (Tessian, 2021). Further, an e-commercial company called Notebooksbiliger.de (NBB) was fined €10.4 million (approximately \$12.5 million) by the State Commissioner for Data Protection ‘Lower Saxony’ for data protection violations. The case concerned the use of CCTV to monitor employees in the warehouse for two periods (Simmons-Simmons, 2021).

In Italy, the Italian telecommunication operator TIM was found in breach of the GDPR and was fined €27.8 million which also included the previous contravention such as aggressive marketing strategy. Civilians were bombarded with promotional calls and unsolicited communications (Tessian, 2021). Compliance Junction (2021) findings convey that Italy fined the highest amount in GDPR financial penalties that stood at 58.16 million in the total amount of fines. United Kingdom took second place accounting for €43.9 million in GDPR fines. Italy and the UK's total figure of findings make up 59.5% of the total figures of GDPR. Italian Data Protection Authority a fine of €17 million on a telecommunication company called Wind because of unlawful marketing activities that breached the GDPR (Tessian, 2021).

Additionally, the Data Protection Authority issued a €3 million GDPR fine in Italy against an energy company that is also linked to telemarketing activities. However, the Italy Data Protection Authority was unsuccessful because it did not submit detailed guidance on the criteria for calculating the GDPR fine. The case would have been successful if they provided or submitted more detailed calculation criteria that a duplicate to German and Dutch privacy authorities (Craggio, 2021). Further, Vodafone Italia was fined €12.3 million for violation of alleged contravention of Articles 5, 6, 7, 16, 21, 25, 32, and 33 of the GDPR in November 2020 (Hodge, 2021; Tessian, 2021). Furthermore, Eni Gas e Luce (Eni) is an Italian gas and oil company telemarketing activities was also found in contravention of the GDPR and was fined €8.5 million duplicate to the Fastweb telecommunication was fined €4.5 million for its telemarketing activity that used “fraudulent” telephones numbers that were not registered with Italy’s Register of Communication Operators (Tessian, 2021).

Hoofangle, van der Sloot, and Borgesius (2019: 65) observation convey that the GDPR has exerted complexities for the information-intensive business model and further stringency on cross-border data transfer. It restricts the transfer of personal information from the EU to a state that does not have ‘adequate’ data protection laws or a state that has laws that are inconsistent with certain GDPR cross-border data provisions it invokes (Stewart, 2020). Rose Jackson, a director of the Democracy and Tech Policy Initiative at the Digital Forensic Lab praise the scope and range of the policy, conveying that it makes it more than just an EU regulation, it is a democratic standard that should be used to regulate digitalization globally (Fouriezo, 2021). The GDPR inspired other

regions to follow suit in making, adopting and promulgating their regional digital policy (Blankertz and Jaursch, 2020)

Consequently, The GDPR became a domino effect, in other words, other regions such as North American incorporated digital policy in the revised version of their free trade agreement. After an intense discourse among the three-member states of NAFTA that lasted for a year. A mutual consensus was reached on transforming the longstanding NAFTA with the United States-Mexico-Canada Agreement (USMCA). The new agreement which is informally called “NAFTA 2.0” by several scholars (Greenberg, 2018; Leon, 2021; Countryman, 2019; McGregor, 2018; Cassella, 2018; Bakas et al., 2013; Freehills, 2020; Gertz, 2018; Aiello, 2020; Swanson and Tankersley, 2020; Aaranson, 2018) made reforms in trade of automotive and dairy industries leaving wheat and grain industries largely unchanged. Interestingly, the UMCA or so-called ‘NAFTA 2.0’ added a new chapter on digital trade which stresses the significance of free trade in the digital world (Greenberg, 2018). The USMC/NAFTA 2.0 remains consistent with NAFTA, however, the revised provisions that were added include, trade issues such as digital trade, intellectual; property rights, and significantly cross-border data flows (Smith and Smith, 2019).

The USMCA Chapter 19 that stipulates digital trade highlights the imperativeness of moving towards modernization (Leon, 2021). The chapter includes a dispute settlement mechanism that allows states to seek remedies for breaching the rules. The mechanism is duplicate to a ‘trade court’ and makes it much easier to challenge another member state’s national policy (Countryman, 2019). The chapter forbids discrimination between foreign and domestic digital products (McGregor, 2018). Importantly, cross-border data flow is a significant and enabling factor of how the internet works. Data is the currency of the digital economy, for example, companies such as Facebook provides services to their users for free in exchange for personal information which is then packaged in meaningful ways for advertisers. In short, data is traded, and more recently cross-border data flow contributes to the global GDP than the trade in manufactured goods (Greenberg, 2018). Leon (2021) asserts that the comprehensive nature of the provision of Chapter 19 and its implications thereof, will benefit the US, for example, “Article 19.7 and 19.8 advocates for information (including personal) can be transferred in and out of USMCA countries (Article 17.17) electronically by companies for business purposes” (Estoup, 2019). Leon (2021) argues that these

provisions would satisfy the imperatives for modernization US demands and aspiration of de-institutionalization which allow US digital enterprises to flourish (Leon, 2021). Indeed, the US interest is to protect a global market share of Google, Apple, Facebook, and Amazon, and it did so in the USMCA (Banks, 2018).

Further, unlike the EU's GDPR that is more stringent on cross-border data transfer, the USMCA digital policy invokes the use of a system known as the Cross Border Privacy Rules (CBPR). The CBPR system is a valid cross-border transfer process that requires any new restrictions on cross-border transfer to be subjected to or based on a "legitimate public policy objective" (Stewart, 2020). "The adoption and recognition of CBPR system will enshrine a flexible approach that can accommodate additional requirements at the local level with fixed procedures for participation and recognition at the global level" (Harris, 2018). Any company that joins or aspire to join must commit to its data privacy protections. The criteria specifically require: "enforceable standards, accountability, risk-based protections, consumer-friendly complaint handling, consumer empowerment (access to data, right to correct), consistent protections (requiring the same baseline regardless of the legal regime, although may do more), and cross-border enforcement cooperation" (Stewart, 2020).

Furthermore, Asia is a diverse region with diverse views on how digital policy should be made, adopted, and promulgated. Few states continue to impose stringent rules on cross-border data flows. The need for a greater cooperation and harmonization to foster more digital trade in the region. (Pisa and Nwankwo, 2021). In effect, the recent Asian-Pacific Trade Agreements included digital clauses and provisions especially on data management and cross-border data flows (Goodman, 2021). For example, ASEAN signed the ASEAN on E-commerce in 2018, the Comprehensive and Progressive Partnership CPTPP was signed in 2018, The US-Japan Digital Trade Agreement in 2019, The Regional Comprehensive Economic Partnership (RCEP), and The Singapore-Australia Digital Economy Agreement, all of which includes provisions on cross-border flows, localization of data requirements, and treatment of personal information. Secondly, and includes similar provisions and clauses. However, others such as RCEP and CPTPP still have to be ratified (Mudd, 2021; Drake, 2018; McBride, Chatzky, and Siripurapu, 2021).

In retrospect, The Trans-Pacific Partnership (TPP) signed in 2016 consisting of 12 Asian-Pacific nations (Australia, Canada, Malaysia, Mexico, New Zealand, Peru, Singapore, Brunei, Chile, United States, and Vietnam) was a front leap towards a comprehensive treatment of cross-border e-commerce and data flows (Holleyman, 2021). The subsequent US-Japan Digital Trade Agreement signed in 2019 incorporated clauses and provisions of the TPP and some of the components that were added in the USMCA/NAFTA 2.0 (Holleyman, 2021). More recently, the 15 member Asian-Pacific trade pact, the Regional Comprehensive Economic Partnership (RCEP) agreement signed on the 15th of November 2020 which is expected to enter into force by early 2022 (Ohira and Ball, 2021). This trade agreement includes members of the ASEAN and five regional partners and is referred to as the largest free trade agreement in history. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) that was concluded in 2018 is the major free trade agreement signed in the Trump era. India and the US withdrew under Modi and Trump administration from the RCEP and CPTPP and left the free trade agreement discourse centered around Japan and China (Petri and Plummer, 2020).

In bilateral and multilateral forums, Beijing's diplomacy has been praised by its neighbors as a good partner, good listener, and regional leader (Shambaugh, 2004: 64) and was able to influence the agreed terms on the e-commercial chapter to reflect on its protective approach to data, particularly localization of data. RCEP and CPTPP include prohibitions on data localization of requirements with an exception on financial data and Vietnam excepted five years CPTPP and broad exception for RCEP (Goodman, 2021). RCEP For example, the chapter excludes any recourse to dispute to settlement. "In provisions that would limit forced localization of data, each member state can decide for itself whether it has a legitimate public policy interest in preventing the cross-border transfer of information by electronic means" (Holleyman, 2021).

Digitalization made more services tradable by enabling efficient and effective deliveries through ICT networks. The value of exports of services that are digitally deliverable amounted to approximately \$2.9 trillion in 2018. Although all regions experienced a substantial increment of such exports, Asia was a notable region in the developing world that experienced the highest growth of such exports (Kituyi, 2020). In December 2020, in the Joint Statement Initiative on E-commerce (JSI), the World Trade Organization (WTO) lamented the significance of establishing

a multilateral platform for the development of digital commerce rules. Notwithstanding the approximate 4.85% (in total) and 9.2% (in good trade) decrease in global trade compared to the pre-global level-pandemic in 2019, e-commerce has been one sector that boosted the present economic resilience and recovery especially in the developed region (Cepik, 2021).

2.2.5 A globalized world or a world of regions?

The government's digital policies can impede digital trade because of the difference in regulatory frameworks. As mentioned earlier, some advances legitimate or defence reasons like privacy, consumer protection, and national security, and other reasons such as less legitimate like protectionism or promotion of nascent businesses over foreign digital businesses. Due to the failure of the WTO to successfully advance a set of multilateral digital trade rules, countries have resorted to developing, adopting, and promulgating regional digital trade agreements that have provisions and clauses that seek to address digital trade among member states (Smeets, 2021: 217). Although there is an attempt by the WTO to establish a worldwide internet governance agreement known as the Information Technology Agreement (ITA). The WTO's ITA is a multilateral agreement that intended to treat the internet as a duty-free zone through eradicate tariff barriers on some computer, telecommunication and IT products. It was originally signed in December 1996 and invoked by senior politicians such as US President Bill Clinton. (Open to export, 2013).

The ITA was officially launched in 1997 and paved the way towards trade liberalisation of the sector causing a boon to global trade which grew from \$1.2 trillion before the ITA to more than \$5 trillion in 2016 (Durking, 2016). The multilateral Ministerial Declaration on Trade in Information Technology regarded the ITA as the largest tariff reduction deal since the GATT Uruguay Round because it was the first time that a large group of developed and developing states² reached a consensus on fully liberalising trade in a sector. The ITA also showed the WTO's aptitude to open markets without launching an official round of multilateral trade negotiations (Open to Export, 2013). Interestingly, in 1997, a signed committee was set up to advance the upgrading or expansion (known as the ITA-II) of the coverage of the ITA, the negotiations were suspended in 1998 and sequentially consultation resumed between delegations on the review

² This was mainly because developing and least-developed countries immensely depended on ICT imports from developed countries thus joining the ITA was imperative for them to expand access of digital apparatus in their countries and drive domestic productivity and economic growth (Durkin, 2016).

product coverage. This is where the implementation of the ITA had some underlying complexities (Open to Export, 2013). The original list of products covered under the ITA were 250 products which were mainly intended for business and professional use but this could not keep up with the pace of technological innovation. For instance, products such as printer carriages were not even included in the first list in 1997. The ITA-II intended to open up the market for new digital technological products but suffered immense critique from participating developing countries (Durkin, 2016). For example, the agreement was apprehended to harm workers and put constraint on the prospect of industrialisation for participating developing countries. “Trade unions and civil society advocated for the ITA-II negotiations in Geneva to focus on expanding the potential for decent jobs, they also warned an expanded ITA will likely benefit mainly multilateral enterprises that control patent monopolies and impede technology transfer” (International Trade Union Confederation, 2013). Interestingly, The ITA-II negotiation in Geneva collapsed in acrimony as a sign that “China was unwilling to liberalise its market to competition where it is most vulnerable” (Weisman and Mozur, 2014). According to the WTO (2022) the Nairobi Ministerial Conference in December 2015 ushered a consensus of over 50 members to expand the agreement in which 201 additional products were included in the coverage nonetheless. However, this agreement did not have digital policy regulations or directives regarding privacy, cross-border flows, cybersecurity or plurality, internet governance. It mainly focused on global free trade of digital apparatus notwithstanding that the extent to where the ITA was achieved, the absence of a clear agreement, regulations or directive in which WTO member states could ratify or base their digital policy on, states resorted to their respective regional organisations’ digital policies directives, agreements and directives and implemented them which included contradicting provisions across different regional organisations facilitating the emergence of an insurmountable global internet interoperability.

The rate of digital data localization policies has increased from 35 in 2017 to 62 in 2021. China, India, Russia, and Turkey are regional leaders that forcefully require data to be localized in their national digital policies. They use their influence in the region to guide regional digital policy to not advocate for compulsory cross-border data liberalization (Corry and Dascoli, 2021). Further, the above-discussed digital policies imply exports among regions (Peukert et al., 2020). Concurrently, Meltzer (2019) articulates that restriction on cross-border data flows, data localization requirements, and data transference or data trade with regions/countries that have

duplicate regional or national digital policies are undermining the economic benefits of digital trade and globalization, creating a world of regions (Meltzer, 2019).

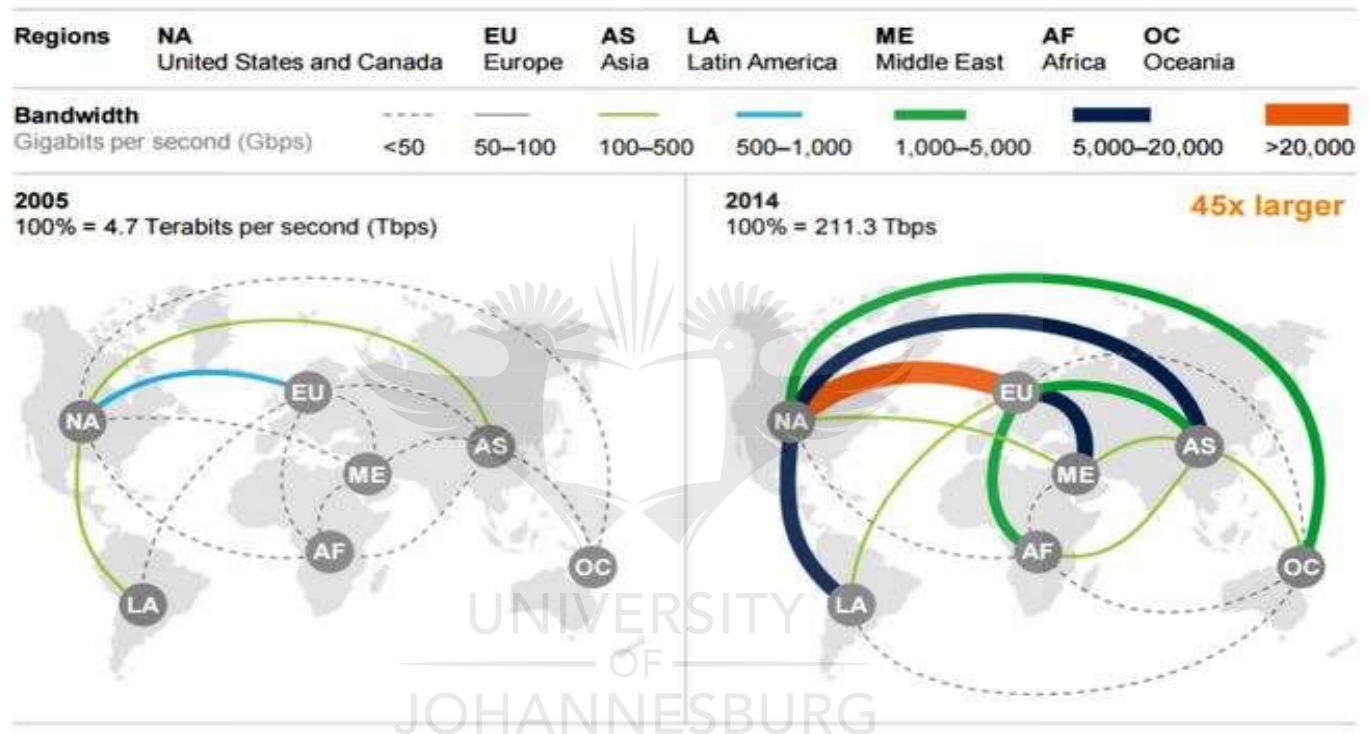
However, Collins (2010) argues that Regional Trade Agreements assist states to gradually adopt policies that are consistent with global trade regimes. In short, RTA facilitates globalization, in other words, RTA gradually works towards maintaining global trade by allowing countries to deregulate protectionist policies. But on the contrary, Lund and Bughin (2019) argue that the digital era regulations may reduce trade flows by transforming the actual content of what can be bought and sold across borders, and Brockman et al. (2020), Safanove and Buqiang (2017: 32) argues that the absence of international rules on cross-border data flows and internet-based activities are reversing globalization into a world of regions because the current sometimes contradicting RTA clauses on digitalization pose a challenge for digital-age trade, investment, innovation, and industry policy settings on the 21st century.

Every recent type of cross-border transaction has a digital component (Manyika, et al., 2016). Tyson and Lund (2017) argue that globalization has not retreated, it went digital. In the 20th century, globalization was characterized by rapid growth in the trade of goods. More recently, trade in goods has plummeted and superseded by digital trade. The same performance is applied to cross-border financial flows (Lund, et al., 2016). Digitalization is making the world more connected than ever before. For example, in the pre-digital era, companies had to possess enormous capital and resources before they could export their goods. More recently, digitalization has narrowed the barricade for small, medium enterprises, entrepreneurs, and ordinary civilians to expand and engage in a cross-border transactions through e-commercial and delivery services (couriers such as DHL) (Nitu, et al., 2019: 270). Map 1 below indicates the substantial 45 times increment of cross-border data flows from 2005-2014. Cross-border data flows which range from internet, social media, financial transaction has increased from only 500-100 Terabits per second in 2005 to approximately 20 000 in 2014. This is an indication that the world is becoming more interconnected (Manyika et al., 2016). However, the issue is that the new or modified regional digital policies have poses challenge for the reversal of globalization to the world of region. Globally, there are three main regulatory models for persona data; firstly, the model applied in the US which advocate for the advancement of open approach to transfer data and process data locally;

the model applied by the EU which is called ‘conditional transfers and processing and lastly; the model advanced by China which advances a framework that lurches towards autarky (Van der Marcel, 2021).

Cross-border data flows are surging and connecting more countries

Used cross-border bandwidth



NOTE: Lines represent interregional bandwidth (e.g., between Europe and North America) but exclude intraregional cross-border bandwidth (e.g., connecting European nations with one another).

SOURCE: TeleGeography, Global Internet Geography; McKinsey Global Institute analysis

Map 1: Cross-border data flows 2005 and 2014

All three countries who engage in three distinctive models are exercising geopolitical expansion by influencing other states to adopt similar models. They digitally trade with states that practice the same models, especially in their respective regions. The current preferential digital trade agreement will cloud the digitalization climate thus inserting a world of regions (Van der Marcel, 2021). This type of protectionist policies will negatively impact international trade, investment,

travel, and Ostry (2019) contends that historical events have shown that protectionist policies helped precipitate the collapse of international trade in the 1930s and was a seed of World War II (Feenstra, 1992; Dadush et al., 2011; Lincicome and Manak, 2021).

2.3 Conclusion

Africa has recently adopted its plural regional integration trade policy which came into effect on the 1st of January 2021. The African continental free trade agreement (ACFTA) policy aims to foster economic, social, and political integration within the continent (Morrison and Foerster, 2021). This thesis will therefore fulfill the knowledge gap in the existing literature by investigating the making, adoption, and promulgation of Africa's digital policy in comparison to the other region such as the EU, North America, and the ASEAN. The systematic comparison of the role played by regional leaders in the creation of region-wide digital policies and regulation in their respective region will objectively guide the assumption on whether there is an emergence of a splinternet ahead? In other words, will the worldwide web be compartmentalized by a region-specific net of which caused by conflicting region-centric interests that is inserted by regional leaders in their respective regions? If so, will Africa's digital policy and regulation aggravate the possibly emerging splinternet by inserting norms, values and interests that contradict or compliment with the above-mentioned regional counterpart digital policies? And how will this phenomenon lead to a world of region? the study will add the knowledge vacuum in the existing scholarship by systematically reaching the conclusions of those questions.

CHAPTER THREE: CONCEPTUAL AND THEORETICAL FRAMEWORK AND METHODOLOGY

3.1 Introduction

In this previous chapter, the historical background and literature review were provided. In this chapter, the conceptual and theoretical framework and methodology that underpin this dissertation will be discussed. Firstly, the conception of regionalism and its implication for globalization is explored. Notably some deem regionalism as a stumbling block for true globalisation, while some see it as a facilitator of globalization. The emergence of ‘splinternet’ in recent years seems to reverse the argument of regionalism being a facilitator of globalization. Secondly, regional leadership was conceptualized and understood in terms of how regional leaders project themselves, their role in the region, and how they are perceived by other states in the region. Additionally, the concept of regional leadership can be critically explained through hegemonic stability theory. Therefore, this section introduces hegemonic stability theory and its application in the regional system. The objective is to examine the role of regional leadership and regionalism. Finally, the section provides the *modus operandi* employed to answer the research questions posed in the study and how theory will inform the analysis.

3.2 Conceptual framework

This section will discuss the conceptual framework that underpins this study. The objective is to circumvent any conceptual ambiguities. The section will conceptualize regionalism and its implications on globalization, splinternet, and regional leadership.

3.2.1 Regionalism

In the 1980s and 1990s, there was a rapid creation and revival of international regionalism in Western Europe, North America, Latin America, Asia, and Africa. Regional organisations were formed and revived following the Uruguay Round of the GATT (Gibb and Michalak, 1996: 446). The creation of the GATT assisted in reducing several tariffs and trade barriers that were in place. The intention and objective were to reduce the cost of industrialization, and regionalism, and liberalize markets with each other to leverage the economies of scale (Pandey, 2021). For example, article XXIV of the GATT permitted the creation of free trade agreement (FTA) or customs unions

(CU) and preferential agreements (PA) to alleviate tariffs barriers and other trade protectionist measures in both developed and developing worlds. These kinds of provisions and clauses encouraged the proliferation of FTA, CU, and PA but the creation of WTO attempted to reverse this proliferation by forbidding the creation of regionalism (Vicard, 2009: 169). Sequentially and interestingly, the collapse of the USSR inspired and motivated countries to consider the possibility of regionalism. The paradigm shift from a bi-polar to a multipolar regime triggered the precipitation of regional arrangements in almost all world regions (Wu, 2009: 4). For example, the European Union (EU) established its monetary union in 1991, the Common Market of South American (MERCOSUR) in 1991, the Association of Southeast Asian Nations (ASEAN) established its free trade area in 1992, the Southern African Development Conference was also revived in 1992, and the North American Free trade agreement was signed in 1994 (Krapohl, 2019: 89). The characteristics of regionalism also altered from deep-rooted customs to an explosion of regional trade agreements which deepened, widened, or expanded to include other former USSR allies and ostracized states, and increased in numbers (Wu, 2009: 4). For example, in Europe, the European Union expanded its membership capacity to include countries such as Greece, Portugal, Spain, and other Central and Eastern European states. In Asia, the founding member states of the Association for South East Asian Nations have called for the formation of the Pacific Free Trade Area and Latin America, Argentina, Brazil, Paraguay, and Uruguay join forces to form the Southern Common Market (MERCOSUR). Distinctively, the US engaged in mostly bilateral trade agreements with Canada, Israel, Mexico, and other Latin American countries (Gene et al., 1995: 667). In 2005, about 158 RTA of which 125 were bilateral free trade agreements were in force and made preferential trade liberalization a cornerstone in the international trade system. However, the scope and range of these agreements differed in terms of trade flows, membership capacity, and harmonization policies. This section will provide the conceptual framework of regionalism to disambiguate any ambiguities that may blur the comprehension of the term and sequentially assess whether the world is leaning towards a world of regions by probing regionalism as a stumbling block or facilitator of globalization in the wake of accelerated digitalisation (Vicard, 2009: 168).

Ethier (1998: 1150) defines regionalism using components that are neither exhaustive nor universal but apply to the most contemporary regional arrangement. Firstly, regionalism is

conceptualized as the process whereby two or more states from the same geographical region forge economic integration to achieve increased trade and investment flows. Secondly, the coveted objective of the alignment is to dramatically move to free trade among themselves as members, in other words, reducing or alleviating tariff barriers or non-tariff barriers, quotas, and other protectionist measures among member states to allow intra-regional trade and investment flows and further deep integration. Regionalism is comprehended to be dependent on the 'region' as defined in terms of geographic proximity. Participants of a particular regional initiative or arrangement are geographically neighbors. In other words, member states that share geographical proximity (Murray, 2010: 21; Cochrane and Perrella, 2012: 835). However, Wu (2009: 6) disregarded geographical proximity in the conception and argue that regionalism may occur irrespective of whether member state physically forms part of a region or a particular sub-region, long as they are part of the policy that is designed to reduce trade barriers between a subset of countries usually member states, the geographical proximity does not constitute or define membership.

Concurrently, Wang (2020: 252) argues that there are two types of regionalism, old regionalism, and new regionalism. They both share similar characteristics highlighted in the above conception however, the latter is still evolving, and there are two distinctions in terms of scope and range. The new regionalism phenomenon is not only concerned with trade and investment integration but includes issues of environment and culture in the agenda. Secondly, new regionalism is not necessarily pan-regional in other words, the initiatives are not necessarily based upon integral geographical proximity. This new phenomenon focuses on inter-regional relationships and is often conceived as a camouflage of globalization (Wang, 2020: 252). Indeed, this conception that circumvents geographical proximity as a decisive factor is relevant in a subregional context that tends to have overlapping membership. However, the conception in the study is in support of geographical proximity because the researcher is fascinated by the holistic regionalism rather than sub-regionalism (Pandey, 2021). In addition, the conceptualization of region as a geographical phenomenon is contested across and within disciplines. For example, geographers conceptualize a region as a sub-state entity. In Political Science, a region is comprehended to entail an entire continent. Therefore, it is imperative to highlight this conceptual divergence because they lay a fundamental conceptual conundrum.

Further, Sarkar (2012: 1) conceptualize regionalism as the co-operative hegemony, and merger of national economies within a particular geographical proximities. The regional entity's member states share a common interest and value that they should advance as a group (Firjar, 2009: 5). Further, the increased economic cooperation is a prerequisite for political cooperation between two or more states which are relatively less likely to go to war because of their economic interdependence (Burfisher et al, 2004: 1; Sarkar, 2012: 1). Once nations-states make an obligation to form regional entity, they are however most likely to change their motive gradually for doing so. The initial mandate for regionalism may embark with security and geostrategic rationale (Western Europe did so) and then find other applications for their joint ventures such as economic prosperity and political unity (Kim and Schmitter, 2005: 7). The efficacy of regionalism is fundamentally marshaled through the creation of free trade agreements (FTA), custom unions (CU), common markets within a region and is a *modus operandi* used to stimulate intra-regional economic growth and development (Pandey, 2021).

While regionalism is a path to establish 'regional blocs' that are geographically constituted to promote and facilitate trade, multilateralism focuses on the alliance between multiple states in the global system (not necessarily within the confinement of similar geographical proximity) working towards a mandate of a liberalized global trading system. Multilateralism is an integral component of globalization. Therefore, it is significant to probe and evaluate whether regionalism is a stumbling block or facilitator of globalization. In other words, does regionalism reverse or promote globalization, whether the world is intensely becoming more globalized than ever because of regional initiatives or a fragmented world of regions as a result (Pandey, 2021).

3.2.1.1 Regionalism as a stumbling block or facilitator of globalization

Before embarking on the debate, it is equally important to conceptualize globalization because this concept is multifaceted and multidimensional. It has different types such as social, political, economic, and environmental globalization. This lied a foundation for a universal conceptual complexities in defining this phenomenon because one needs to locate it within a certain parameter of interest. For example, the definition of economic globalisation will not be the same as environmental globalisation. In this case, there is no universally acceptable definition of globalization, but the dissertation will at least provide a conceptual clarification of the term to

disambiguate or circumvent any ambiguities that are associated with this concept. The conceptualization will further lead the argument thus providing the essential comprehension of the attached dynamics to this debate (Omotola, 2010: 107).

Globalization refers to the interconnectedness of the national economies of countries in the global system to form a world economy. Although this phenomenon pre-dates the 1980s this succinct conceptual framework will be explored through three enabling processes that characterized the neoliberal paradigm traced from the 1980s to date. Firstly, the internationalization of markets by the technological revolution which blurred the concept of distance, location, and borders (Gul, 2003: 50), and importantly liberalization policies that were pursued by states that made the concept of a global economy feasible. International institutions created by global leaders played a significant role in advancing the liberalization agenda to alleviate obstacles to international trade and investment or the internationalization of markets (Amin, 2004; Gul, 2003: 50).

The internationalization of markets and liberalization policies are interdependent. The reduction of the significance of national borders towards all kinds of economic transactions was facilitated by a change in law, institutions, and practices that made the economic transaction in terms of goods, labor, services, and capital less exorbitant and easier across national borders. The establishment and expansion of membership in international regulatory institutions and agreements such as WTO and IFIs promoted a widespread adoption or ratification of neoliberal liberalization policies (such as deregulation and the privatization of parastatals including financial institutions) (Mills, 2009: 3). This achievement made the internationalization of the market (global trade and investment) feasible and generally facilitated the creation of a world economy. State-led development was replaced with market-led development. For example, the global marketplace is driven by MNCs (Pooch, 2006: 20). Further, the technological revolution cemented the process by dramatically reducing the cost of transportation and communication (Amin, 2004: 1101). The combination of technologies of the 1st, 2nd, and 3rd industrial revolution such as new electronic communication devices and the internet, made enterprises or firms operate globally or multinational with fewer regards for location, distance, and borders. For example, digital technologies such as social media have intensely connected people across the globe to communicate, interact as well as lobby against injustices such as #blacklivesmatter in US. These developments intensified the interconnectedness of the world economy and with the most recent

4th industrial revolution (or at least key technologies associated with it) in session, the world is anticipated to experience a further interconnectedness in economic relations (Gul, 2003: 50). However, the proliferation of regionalism from the 1980s onwards, sparked a debate on whether regionalism is a stumbling block or facilitator of globalization has captured International Relations scholarship. Oldenmeinen's (2010: 2) study points out the justification of those in support of regionalism as a facilitator of globalization. The argument is anchored in the perspective that sees regionalism as a 'safer' version of globalization, meaning that it is attractive to global economic actors that wish to benefit from the positive outcomes of globalization but fear the ramifications associated with this phenomenon. They have an opportunity to engage in international trade on a smaller scale enclosed to their respective regional parameters. They have an opportunity to leverage on the relatively less competitive and more secured regional environment. Further, regionalism is perceived as a preparatory stage for the open global economic climate. In other words, it is a viable stage for actors to reconcile or prepare for the intensifying pressures of the global capitalist competition for once they scale up. Therefore, it does not necessarily pose a challenge to globalization (Oldenmeinen, 2010: 2).

However, the increase of regionalism in the 1960s onwards has fueled a debate on whether regionalism is a stumbling block or a facilitator of globalization. Merchand, Boas, and Shaw (1998: 904) note that breakout to regionalism was a response to globalization, therefore it cannot facilitate. It is imperative to consider the uneven effects of globalization because some states especially those from the Global South resorted to regionalism to curb the shortcomings of globalisation whereas those in the Global North resorted to regionalism with the hope that it is a building block to globalisation. Lupel (2004: 159) contends that globalization lost the capacity to protect actors. Some countries were able to reap the trade, investment, and technological development benefits from globalization whereas others received nothing more than an exacerbation of marginalization and insecurity (Marchand, Boas, and Shaw, 1999: 904). Gul (2003: 50) furthers with a contention that concurs with the dependency theory scholarship which view globalization as a reincarnation of Western imperialism (Kaya, 2010: 3; Horvath and Grabowski, 1996: 11; Wallerstein, 1976: 462; van Humme and Pion, 2012: 67). Neoliberal globalization only benefits the core developed nations at the expense of the developing peripheral

nations. Therefore, the global south should detach from such obstacles for it to develop (Gul, 2003: 50).

Regional leaders in the developing world are pioneering regionalism as a means to respond or retaliate to the unfair distribution of wealth in the global system. They are using regionalism to confront and challenge the international trading setting that was designed and promoted by global leaders to achieve their strategic interests at the expense of the third world countries (Abida, 2013: 186-187). For example, in Latin America, regionalism was viewed regionalism as an alternative development model that seek to contest and reframe the neoliberal orthodoxy of the 1980s onwards (Riggiozzi, 2012: 22). Brazil used MERCOSUR to advance the agenda of free trade in Latin America. The creation came as a consequence of the collapse of multilateral trade negotiation precisely the Doha Round where talks stalled because of disagreements between developed and developing countries over issues on non-tariff barriers and agricultural subsidies (Brazil's sphere of interest). Regionalism became a viable avenue to open regional markets for its export destination. In effect, MERCOSUR countries combined their population and GDP of more than \$3 trillion a year. It became the fourth largest trading bloc in the world (Krickovic, 2015: 564). However, nationalism or state-led development has been a vital *modus operandi* for economic development (Munck, 2001: 15). Therefore, the establishment of regionalism has produced a new complex nationalist dynamic that incorporated nationalism facets such as regional protectionism which contradicts with the permeability of globalization (Munck, 2001: 15). MERCOSUR countries alleviated trade tariffs among themselves and adopted a common external tariff and custom policies. Consequently, this led to an increase in intra block trade from approximately \$10 billion in 1991 to over \$88 billion in 2010 (Krickovic, 2015: 565). Regionalism is a deliberate attempt to reverse the neoliberal policies dictated by the West in favor of protecting the interests of regional actors. The explosion of regionalism in the yesteryears attempts to replicate the old European economic protectionism of the 1840s which allowed European countries to develop each other economically. The policy did not allow foreign goods to penetrate or enter into competition with local European products. Consequently, regionalism poses a challenge to globalization in a manner that the constructed world economy will be replaced with particles of regional economic blocks which protect the regional market from exogenous forces of capitalism (Lupel, 2004: 159; Gul, 2003: 50).

Munck (2001: 12) argues that regionalism is not only a developing world or third world phenomenon. Almost all countries have resorted to regionalism. To show that regionalism is a facilitator of globalization, even powerful core countries that are regarded as winners or advancers of globalization and multilateral institutions invoke regionalism (Omotola, 2010: 107). The US facilitated the founding of NAFTA, France and Germany facilitated the establishment of the EU and the WTO invokes the establishment of regionalism, most favoured nations (MFN) treatment, and tariff reduction under article XXIV (Söderbaum, 2005: 228). However, Munck (2001: 12) highlights that the common rationale for the establishment of regionalism by countries is to curb the ramification of globalization. On the other hand, Abida (2013: 186) highlighted a crucial point that the recent global multipolar system has led the so-called winners of globalization to view regionalism as an opportunity to elevate and dominate the rest of the world. They establish RTAs and CUs intending to facilitate them to succeed so that they retain and attract a maximum number of states to be members. In this regard, they could penetrate and dominate a plethora of markets and eventually become a single global hegemon and control the global political economy (Abida, 2013: 186; Omotola, 2010: 107).

The current multipolarity increased competition thus placing the pre-existing pioneers of globalization in a vice. The reason for global leaders to resort to regionalism is to restructure their foreign trade and exploit regional markets which safeguard local firms from global competition. Rather than the global market, the regional market allows local firms to develop higher value-added production (Krickovic, 2015: 561). For example, every time the US experience immense competition from the world economy, it retreats to a nationalistic policy practice that contradicts what it preaches. Such behaviour can be historically traced to the early years during the fog mist of mercantilism, the liberal sunlight in the US-economic model failed to evaporate the blur when Alexander Hamilton submitted a report on protecting the US budding industries from their European counterparts. Similarly, such practice was also witnessed in the 1960s and 1970s. Although it was a superpower, it employed a protectionist policy to cultivate its competitive technologies such as information technology and semiconductors against Germany and Japan (Wang, 2020: 254). Therefore, regionalism and preferential trade is a vital destinations where it will forge an FTA alliance with regional partners that are not a deliberate threat but supporters of the attainment of its interests. As a regional leader in the RTA, it will influence and advance a new

set of standards that will protect its interest in the RTA rather than in the competitive global economic system (Roland-Holst and Mensbrugghe, 2002: 2).

However, Hettne and Söderbaum (2007: 113-114) dispute and mention that the 1950s and 1960s inward-protectionist versions of regionalism were regarded as a failure by contemporary economists. The apprehension that the 1980s new wave of regionalism will resurrect or revival a wave of protectionism and mercantilism is myopic. Instead, the current wave of regionalism is open regionalism rather than closed regionalism. It laments a market-driven, outward-looking integration in its agenda and reprimands members against policies that are non-neoliberal as the fundamental bottleneck for attaining regional economic development (Hettne and Söderbaum, 2007: 113-114). The ASEAN regionalism project is different from the European 1840 enclosed version of regionalism as articulated by Gul (2003: 50) and unique from the perception and response that rationalized the mandate of the existence of regional economic organizations in the global south (Mennon, 2021: 15). ASEAN is outward rather than inward-looking meaning it values inter-regionalism or extra-regional economic links (Mennon, 2021: 15). For example, the economic relationship between Europe and Asia was revived following the ASEM agreement in 1980. The trade relationship dates back to the early years of trading through the ancient silk route (the sea route discovered by Vasco de Gamma and Co. in the late 1400s). Asia supplied Europe with goods such as spice, silk, and porcelain and in turn, Asia received valued glass and metal goods made in Europe (McCormick, 2004: 233). The recent re-acquaintance under the auspice of the Asia Europe Meeting (ASEM) which became into effect in 1980 revived the inter-regionalism relations between the EEC and ASEAN thus contributing to the facilitating of globalization (McCormick, 2004: 235). ASEAN project is more market than government-driven, meaning it invokes neoliberal policies that lubricate the globalization process and has light institutions rather than heavy ones (Mennon, 2021: 15).

In a similar dialectic, Roland-Holst and van der Mensbrugghe (2002: 7) and Krapohl (2019: 89) contend that almost every state is a member of at least one regional economic organization and such organizations are governed by neoliberal policies such as liberalization or free trade which thus facilitate globalization through a combination of intra and inter-regional economic relations (Krapohl, 2019: 89). Regional treaty to enable regional free trade locks in a country's trade reforms and promotes trade liberalization. Such reforms may be justified to respond to nationalist domestic

pressure for a liberalization policy reversal. Policymakers may deter the burden of endogenous pressure on regional concerted liberalization which serves as an intrinsic element for a country to maintain participation in the regional agreement to access member states' markets (Hossain and Duncan, 1998: 4-5). Concurrently, Söderbaum (2005: 228) convey that regionalism has a linear succession to globalization. This argument compliments Oldenmeinen (2010: 2) remarks that regionalism is a preparatory stage for globalization. Söderbaum (2005: 228) conveys that the stages of sequential stages range from preferential trade areas, customs unions, common market, free trade area, economic and monetary union all of which are attributable to the advancement of globalization. In short, regionalism is an evolutionary stage towards globalization (Söderbaum, 2005: 228). Indeed, Freund and Ornelas (2010: 148) empirical findings evaluated 10 Latin American states from 1990 to 2001, a period where regionalism forces were strong. However, there are sectors that states regard as of strategic importance and therefore do not liberalize at a multilateral level but following the liberalization exposure of a sector in RTA or CU, states tend to reduce the multilateral tariff on a particular sector. In other words, when a country offers free access to another RTA partner in a sector it deems as significant where it applies a 15% multilateral tariff, the country would tend to sequentially reduce the external tariff by five or more percentage points.

On the other hand, Munck (2001: 15) argues that the liberalization policy of regionalism is limited to advancing 'internal' free trade. RTA are by nature discriminatory. The nature of its discrimination is formulated to mitigate the issue of free riding. Therefore, the public good is exclusively limited to those who are signatories or member states of a particular RTA (Bilal, 1998: 35). RTA only grant concessions and protectionist reductions to selected member states or trade partners (Most Favoured Nations). This type of discriminatory liberalization sends an invitation to RTA and CU opportunism. This is a situation where state values to enter into an RTA and CU than multilateral trade to reduce tariffs on each other through improving their terms of trade most favored nation (MFN) preferential treatment such as MFN tariff reduction. This leverage will lure countries to engage more in intra-group trade than international trade (Sheldon, Chow, and McGuire, 2018: 9). The Most Favoured Nations tariff reduction is adopted to improve intra-group flows, not international flows. Africa's sub-regional trade bloc made tremendous progress in reducing intra-group tariffs to enhance flows. For example, COMESA reduced the tariff rate from

18% between members in 1995 to 2004, and exports and imports were \$1.7 Billion and \$1.9 billion respectively. Following the tariff reduction from 18% to 12% from 2005 to 2014, intra-group trade increased to \$7.5 billion and 8.0 billion respectively (Ngepah and Udeghe, 2018: 1178). In effect, this inclination to FTA has increased for example the WTO has been receiving notification of which amounts to almost 500 RTA today. The number has dramatically increased from less than 100 in the year 2000 (Legge and Lukaszuk, 2021). The growth in RTA poses a challenge to the multilateral trading system. The failure of the multilateral trading system has encouraged states, more especially small countries to turn to regionalism because of the guarantees of market access of the regional group than at the global level (Abida, 2013: 184-185). This proliferation of RTA and bilateral opportunism reverses envisioned globalized free trade system (Legge and Lukaszuk, 2021). In short, regionalism is associated with a more filtered liberalization which is not desired by globalists or neoliberalists (Sheldon, Chow, and McGuire, 2018: 9). Consequently, the application of WTO article XXIV has fueled the urge to collectively establish regional protectionism which forbids inter-regional economic relations (Abida, 2013: 184). In direct response to earlier noted assertion by Hossain and Duncan (1998: 4-5) that regional treaty locks in a country's trade reform and promotes liberalization, Bilal (1998: 34) counters this with remarkable insertion that each country is free to set its trade policy with non-member state, the RTA based liberalization policy does not necessarily guarantee a general liberalization. Endogenous or national pressure groups can still urge and influence the government to impose non-FTA protectionism (Bilal, 1998: 34).

More recently, Legge and Lucaszuk (2021) convey that the current 'slowbalization' will further reinforce and entrench links within regional blocs. In Europe and Asia most trade is intra-regional, and their global share has been constantly increasing since 2011. Similarly, in North American region has advanced regional interdependence, and most of the supplies are sourced more from closer to home. Legge and Lucaszuk (2021) cited Martin Wolf's (2020) sentiments in the financial times article which reads that "the plausible future is not that globalization is going to die, but it is likely to become more regional and more digital". Indeed, trade is leaning towards a new paradigm influenced by the outbreak and intensity of digitalization. There is a growing change in digital production, exchange, and consumption of goods and services. The internet and cross-border data flows are becoming significant or even essential channels of trade because products are traded

online through websites, courier services, or e-commerce, and other online payment platforms and channels that intrinsically rely on digital connectivity (Azmeah et al., 2020: 671).

However, in the 1990s, during the booming days of ‘dot-com’ or worldwide web. Big tech companies leveraged the lax digital regulation in the world. Big tech companies enjoyed the unfettered freedom to design, operate, and exchange flows data without fear of any ramifications. This reinforced the interconnectedness of people through social media, e-commercial, stores, platforms, and services to boom globally (Kilic, 2021). For example, companies such as Google and Facebook promoted social and business connections and access to global information, whilst Amazon and eBay used the internet to generate e-commercial platforms to connect buyers and sellers across the globe (Meltzer, 2015: 90). This phenomenon facilitated globalization, the world was more deeply connected than ever before (Franc, 2019: 219). Digitalization refers to “the action of digitalizing, the conversion of analogue data (for example images, videos, and text) into digital form or the ability to turn existing products or services into digital variants” (Parviainen et al., 2017: 64). This phenomenon reduced barriers between markets and inventors through the application of novel digital technologies (Franc, 2019: 219). Additionally, it removed traditional and created new intermediaries in the supply chain (Parviainen, 2017: 64). The rise of such technologies as smart mobile devices, computers, and tablet computers altered the global flows in trade and migration thus reducing the cost and efficiency of travelling (Franc, 2019: 219). On the contrary and noteworthy, this technological change only gave technologically advanced countries an advantage thus exacerbating the global inequality ratio. “The inability of regulators to keep up with the pace of technological revolution made big tech giants unstoppable”, they infringed core aspects of democracy and national security abroad resulting in the need for a multilateral digital regulation to harmonize international trade that is currently led by digital products and services (Kilic, 2021).

Although there is an absence of a coherent multilateral policy harmonizing digitalization and digital trade in place at the global level, however, almost all recent regional free trade agreements and regional trade entities have incorporated their own digital clauses, chapters, agendas, and standalone policy documents that address the harmonization and regulations of digitalization and digital trade especially data regulation and management among their member states in the region

(Azmeah et al., 2020: 22). The issue is that regional digital policies take a different approach to regulating cross-border data flows, exporting consumer data, and protecting privacy. For example, USMC has developed a privacy framework that companies that collect and use data are expected to follow, combined with enforcement action for companies that fail to comply. Whereas European Union has developed a different approach that forbids EU members to export data to countries that have lower data privacy regulations and laws. These digital regulations create a ‘splinternet’ and serve as a new protectionist measure that enhances the stumbling block of intra-regionalism rather than international trade and globalization (Meltzer, 2015: 93-94).

3.2.2 Splinternet

Splinternet refers to the fusion of the word ‘split’ and ‘internet’ is a compartmental version of the worldwide web fragmented by national or regional digital policies and regulations. In simple terms, splinternet (or sometimes referred to as cyber-balkanization) refers to cyberspace that is controlled, regulated, filtered, and manipulated by different countries to serve national interests (Wright, 2019; Banerjee, 2021). As mentioned above, the internet was once a significant driving force of globalization (Boruch et al., 2012: 118). Indeed, in close to two decades, the world came connected than ever before thanks to the global internet. However, the world has recently explored the envisioned worldwide web being on a verge of splintering into smaller particles of national nets because of aggressive national and regional policies, trade disputes, censorship, privacy laws, and dissatisfaction with big tech companies (Shrestha, 2021). Splinternet simply means the coexistence of different internet networks based on different standards and technologies. Consequently, these distinctive standards forbid interoperability thus fragmenting the world wide web. In other words, terms such as ‘decoupling’ or bifurcation of the internet’ are synonymous with splinternet (Telecom Review, 2021). Countries continue to detach themselves from the world wide web with an idea that their national internets will save them from cyberwar that has occurred in recent years (Elgan, 2019). For example, “TikTok is still banned in India along with other apps on changes of transmitting user data in an unauthorized manner to serve locations outside India”. Similarly, in China, Facebook and Google are banned from operating (Telecom Review, 2021). Moreover, the US which dominated the internet since its inception has resorted to regulations and rules to guard against cybersecurity issues. The justification for adopting such policies in the digital

landscape has to common do with the fear of digital colonialization and privacy issues. These policies have recently become adopted in the regional sphere as digitalization has directly and indirectly influenced global flows. Regional trade agreements and organizations are increasingly adopting digital policies to harmonize trade, investment, and migration among member states (Johnson and Shute, 2019). Regional institutions and FTA such as the EU, ASEAN, and USMCA have promulgated their digital policies. Therefore, as Africa is the last region to adopt such policies it is imperative to assess whether it will create, adopt, and promulgate a policy that will complement or contradict the preexisting ones leading to a splinternet (Lemley, 2020).

3.2.3 Regional leadership

Regional leaders are regarded as significant contributors to regional and generally global order. They ensure the desired stability and effective regional cooperation through economic integration in a world that is increasingly becoming complex to govern (Destradi, Nolte, and Pry-Hansen, 2018: 1). The foundational framework of conceptualizing regional leadership seems to be uncontested in literature. These scholars concur that regional leaders should belong to the region, should possess superior material capabilities, and the largest share in operationalized in table 1. States with phenomenal and outstanding capabilities in these aspects assume regional leadership status and exercise some kind of influence on the region (Kewir, 2015: 30; Hulse, 2016: 23; Nolte and Schenoni, 2021; Destradi, 2010: 905). Although these foundational aspects in the framework are relevant to this study's conception there are limitations in terms of scope and range. For example, the hegemonic stability theory, realism, liberal hegemonic theory, and neo-Gramscianism studies have conceptualized regional leadership from a lens of material power as a single enabling factor. Whereas neorealism and world system theorists have conceptualized regional leadership as a direct consequence of the unequal distribution of power at the global level (Pry, 2010: 487). However, the thesis will extend the conceptual framework by conceptualizing regional leadership 'as a role' because the possession of material capability is nothing until one puts them to good use for the benefit of all states in the regional community. In other words, what do regional leaders provide in the region, secondly, how do they project themselves, and how are they perceived by others in the region?

Firstly, the definition of a regional leader focuses on the superiority in capabilities that are recognized and acknowledged by neighbouring states in the regional system (Nolte and Schenoni, 2021). The idea of leadership in integration is synonymous with hegemony. This idea was pioneered in International Relations by neorealism and hegemonic stability theory. Such leadership is traditionally dependent on the use of hard coercion (Destradi, 2008: 15) supported by their material dominance in the region (Hulse, 2008: 23; Kewir, 2015: 30). From a realist perspective, material dominance focuses on military power as a key factor. Military power is incorporate a country's economic and demographic capabilities. However, a broader conception of material dominance may potentially incorporate technology, competitiveness, geography, infrastructure, and human development factors. In this case, the political value rest on the ability of a country to convert all those material capabilities into military power because the assumption is that force is the ultimate ratio of international politics (Flemes, 2007: 12; Destradi, 2008: 15; Nolte and Schenoni, 2021). Realists often disregard the significance of economic capability as a precondition for human and social progress (Fleme, 2007: 12). Economic capability may be the central apparatus or a sufficient capability to influence the behaviour of other states. Regional leaders have the largest and most attractive regional economies which may fascinate followers who are desire to reap the benefits associated with following a leader (Krapohl, 2019: 93; Kewir, 2015: 28). More recently, power politics remain despite (or perhaps because of) emerging technologies. There are new sources of power in the information age, emerging technologies of the Fourth Industrial Revolution have opened a new source of power in political dynamics in the world beyond military and economical capabilities (Kim, 2019: 1).

Moreover, the traditional capabilities are necessary to successfully exercise a leadership role and status. However, a leader needs followers to lead and a benevolent or coercive leader who solely relies on material power especially military power to lead may face a relentless challenge because of their leadership style in other issue areas. Military power could be a viable choice as a statute to directly cease regional conflict-related issues, but an additional component of soft power is needed to supplement and remedy issue areas such as regionalism, in influencing the making, adoption, and promulgation of regional digital policy, and other related topics Destradi, Nolte and Pry-Hansen, 2018: 5). Soft power is the attraction based on non-material resources such as the culture of a nation, its innovation, technology, information knowledge, norms, values, and vision

articulated in its foreign policy (Flemer, 2007: 13; Kim, 2019: 1). Material power is essential in displaying the traditional conception of power politics which is “A making B to do something that B would not do” (Prys, 2010: 488). But the contemporary order requires a state to have the capacity to rather influence another state’s normative and cognitive belief through the ideational element (discourse, practices, symbols, narratives, collective memories, stories, and frames) requires a combination of hard and soft power (Carstensen and Schmidt, 2016: 32; Kappel, 2010: 12).

The current ongoing structural changes global caused by the impact of innovation which includes digitalization justify the need to explicitly add to the criterion to operationalizing capabilities of regional leaders (Zaborovskaia, et al., 2020: 3). More recently, regional leaders no longer invest in upgrading militarization but invest heavily in technological development. In the global south, they do so to easily adapt and catch up with global technological frontiers (notably regional leaders in the Global North like Germany and the US). Additionally, this is to substitute the reliance on commodity exports which is presently plummeting to exports that are tech exports. Generally, regional leaders are technological leaders in their respective regions. In turn, this has a non-pejorative multiplier effect on their competitiveness in general and share of tech export percentage in their respective regions (Kappel, 2010: 12). Additionally, the attractiveness of regional leaders lies in their internet penetration. The world is perceived through digital culture and digital platform has facilitated the intensity of this phenomenon (Zaborovskaia, 2020: 1). the thesis provides a framework to operationalize the capabilities of a regional leader in a region, see table 2.

On the other hand, the recent reality has proved that one hegemon or leader (as advocated by hegemonic stability theory) may be insufficient in the creation of regionalism. Instead, successful regionalism in recent years was developed through joint leadership – bipolarity or multipolarity regional system. Bipolarity and multipolarity is a circumstances where two or more states make and adopt policies to influence neighboring states. “These are necessary actors for the success of regional economic integration. They solve commitment and distributional problems of regional economic integration” (Krapohl, 2019: 92-93). In other words, regional leaders that coexist in one region have superior capabilities and influence other states to adopt, ratify, and support their shared goals, norms, principles, values, and interests often articulated in their foreign policies. The role of Germany, France United Kingdom, and Italy in Europe is the quintessence of a

multipolarity, see table 1 for other regional leaders and types of polarity in their respective regions (Draper, 2010: 11; Kewir, 2015: 28).

<i>Table: 1 Regional leader and polarity in regions</i>		
<i>Region</i>	<i>Regional leaders</i>	<i>Polarity</i>
Europe	Germany, UK, France, and Italy	Multipolarity
Sub-Saharan Africa	South Africa and Nigeria	Bipolarity
South Asia	India	Unipolarity
East Asia	China and Japan	Bipolarity
North Africa and the Middle East	Iran, Saudi Arabia, Egypt, and Israel	Multipolarity
North America	United States	Unipolarity
South America	Brazil	Unipolarity
Post-Soviet Union	Russia	Unipolarity
Source: Frazier and Stewart-Ingersoll (2010: 738)		

“Regional leaders traditionally exploited the size and resource gap with neighbours to project themselves as regional leaders and, by extension, global players” (Nolte and Schenoni, 2021). A state with superior material capabilities projects itself as a suitable candidate for holding leadership status or position. The regional hierarchy in material power and performance in factors indicated or articulated in table 1 gives esteem to lead or perceive itself as a leader (Wehner, 2015: 436). In other words, their relative superiority and competitiveness in material capability and institutional capacities in the regional system inspires them to assume such status and stare cohesion in the region by delivering one or more public goods, most commonly the regional free trade agreement and custom union (Nel and Stephen, 2016: 72). They are aware of their material dominance and willing to pay the cost of winning over other actors’ compliance in the region (Fleme, 2007: 11). For example, under the Southern African Customs Union. South Africa paid a sum of \$4 billion

in 2021 to cover the disproportionate share of outcomes of the CU. The sum is complex to justify given the country's budget deficit and other national socioeconomic issues. However, South Africa was paying the cost of maintaining membership, their compliance to free trade, and generally the price of being a leader in the region (Lalbahadur, 2015: 9). Regional leaders use their national foreign policy as a strategic apparatus to articulate the willingness and mission of providing leadership by driving public good objectives in the region (Nel and Stephen, 2016: 72). Common in the Global South, regional leaders notably Brazil, South Africa, and India advanced foreign policy which articulates on altering the unequal distribution of wealth generated by the global economy and enhance a more regional approach such as regionalism, maintaining economic ties and integration as a solution to development and mutually beneficial relation (Nel, 2010: 957). For example, Brazil's foreign policy aimed to strengthen its economic power through forging alliances with developing countries as a path to gain influence in the global political arena. The direct destination to gather such strength from South America as a sphere of interest, "the intention was to use the region as a platform for its competitive assertion in the global economy and its ambition" (Christensen, 2003: 273).

Regional leadership is conceptualized as a role rather than a material status (Nolte and Schenoni, 2021). Regional leaders play a pivotal role in representing regional interests and values in multilateral trade negotiations and management of peace and security matters in their respective regions (Vieira et al., 2011: 514). Essentially, the common role of regional leaders is an engine of growth and development in the region. They bring peace and stability (Prys, 2013: 269). Interestingly, peace and security is another paramount dynamic that regional leaders provide in a region, however, the aspect will not be thoroughly explored because of limitations such as China and Russia who are regional leaders in their respective regions refraining from providing humanitarian intervention which contravenes with their values, for example, the five principles of mutual coexistence in China's case. However, the regional leaders especially those belonging to the Western world (UK, US, etc.) see humanitarian intervention as an intrinsic component to restore or advance human rights and democracy camouflaged as human security. This dialectic is rather a perspective from Russia and China. Therefore, because of component is not plurally practised by regional leaders in the world, it will be exempt from the conceptual framework as a compulsory purposeful common to regional leadership (Krickovic, 2015: 570). In turn, regional leaders marshal and facilitate regional agreements by asserting notions and clauses that seek to

address critical matters that might hinder the realization of shared goals and aspirations in the region. Other small states in the region benefit from the regional leader's initiatives for example reliable and coherent systems of rules. As argued by hegemonic stability theory, regional leaders are regional stabilizers (Kappel, 2010: 11). The example of the European Euro crisis showed the role of regional leaders as stabilizers. France and Germany and France are regional leaders and were not severely impacted by the Euro crisis. Although the two states only suffered from pejorative externalities of the crisis. This instability put trade flows, foreign investments, and the common currencies at risk. Germany and France took the responsibility for stabilizing the environment by financially bailing out severely impacted countries and restoring the stability of the common currency (Krapohl, 2019: 95). In Asia, following the financial crisis, Japan established the Chiang Mai initiative in the interest of stabilizing the regional neighborhood. The initiative included a regional liquidity fund where China and Japan inserted imperative resources to stabilize their smaller neighbours (Krapohl, 2019: 96).

Further, regional leaders provide regional infrastructure to facilitate FDIs. For example, "South Africa was tasked with such responsibility at SADC" (Nagar and Malebang, 2016: 24). Similarly, China has taken a lead in advancing the establishment of the Asian Infrastructure Investment Bank (AIIB) which would finance infrastructural development in the Asia Pacific region. The AIIB aims to reduce or alleviate Asian countries' dependency on the World Bank. Additionally, Russia also established the Eurasian Economic Union with the intent to rescue member states financially during a crisis. Belarus has the beneficiary of this initiative, it received \$3 billion to recover from the Euro crisis. Similarly, the rationale and intention of this initiative are to cut dependency on the IMF. However, in comparison to the above two examples in East Europe and Asia. There is relatively ponderous progress with Brazil, but it intended to advance the establishment of a financial relief mechanism in Latin America. The Bank of the South is a regional monetary fund and lending institution that allows member states to borrow money and fund strategic infrastructure projects to attract investment. The intention is similar to cut the dependency of Latin American countries on the Bretton Wood institutions (Krickovic, 2015: 566).

Furthermore, regional leaders exercise control and influence. They wage sanctions on non-compliant, misbehaviours, or member states that tend to distort the direction towards the

attainment of shared values, norms, goals, and principles. Importantly, this order makes conflict and instability less likely in a region (Kappel, 2010: 11). Regional leaders coordinate and channel the mechanisms that would lead to a peaceful and stable regional system (Burgess, 2015: 195). Regional leaders play a hegemonic influence in the region. They make their influence felt by providing technical and developmental assistance to change the political balance in other countries, they grant contracts to foreign enterprises or exert pressure on the international organization to facilitate intervention or for countries to receive good deals. In summary, they represent their regional bodies and entities in global multilateral spaces for member states or neighbouring states to benefit in terms of security, development, and growth (Kappel, 2010: 12).

By having the comparative superior capabilities highlighted in table 2, such mightiness is recognized and acknowledged by other states in the region and beyond (Nolte and Schenoni, 2021). In turn, they are perceived as leaders by their followers, embraced, and accepted in the region. Regional leaders get followership because they fully comprehend the regional dynamics in terms of the values and outcries of their regional neighbourhood (Wu, Liao, and Wayne, 2021: 1). In the developing regions, the development assistance from dominating global leaders tends to have a dynamic that directly infringes on the internal sovereignty of other states, whereas regional leaders refrain from doing so. This is one advantage of how regional leaders retain followership in the region. They provide or propose to provide development assistance to their neighbours without infringing on internal affairs (Pry, 2010: 10). Subordinate states or followers in the region accept and participate in a leader's initiative because they receive benefits. They can finally have a voice and advance their domestic national interest in regionalism, something that is complex to do in globalization (Kappel, 2010: 11). Furthermore, regional hegemons can articulate and enforce the rule of interaction among member-states. If there is a single hegemon in a particular region, coordination might be easy. Subordinate states within a particular regional group who deem a dominant state as significant to the group than any other state will find it in their ultimate interest to follow the dominant state's preference and policies. A regional leader may serve a pivotal role in coordinating rules, regulations, and policies in the region (Yoshimatsu, 2006: 121). Moreover, small states praise regional leaders as opposed to global leaders. They have reduced their economic dependence on regional leaders rather than global leaders. Regional leaders provide the same aid,

trades, and investment benefits as global leaders. However, they do not violent sovereignty or infringe on the internal affairs of small states like global leaders (Gvalia et al., 2013: 103).

3.3 Theoretical framework

The section will discuss the Hegemonic Stability Theory (HST) and Complex Interdependence Theory (CIT) which will constitute the theoretical framework of the study. The Hegemonic Stability Theory is an International Relations theory that comprehends the stability and prosperity of the global system through the divine role played by a hegemon in fostering and maintaining stability in the global system that is deemed anarchic (Min, 2003: 30). A hegemon is a state that is willing to utilize its economic, military, and political capabilities to create a stable global environment through public good and the establishment of international regimes, and institutions that include norms, values, and principles that will enhance a secure global order. The rules of the game are formulated to deliberately reflect and advance the principles and interests of the predominance hegemonic state in the global system. Although the theory is traditionally understood for preemptive prominence in advancing stability at a global level, in this section of this study, the theory will be employed to explain the regional dynamics that the study seeks to explore (Sotirios, 2007: 8). This theory provides a successful explanation of the creation, adoption, and promulgation of regional digital policy. The theory undoubtedly explains the significance of hegemon(s) in influencing or starring 'public good' policy and establishment of a regional institution that will harness and enhance stability in their respective region. The theory will provide a more appropriate and accurate analysis of the systematic role of hegemons(s) in luring regional followers in the creation, adoption, and promulgation of region-wide digital policy in each selected case of the study. The section will firstly explain the traditional approach of HST and sequentially explore its application in regionalism and regional hegemony. In turn, the section will further explore the HST and the creation, adoption, and promulgation of regional digital policy (Sotirios, 2007: 8).

Secondly, this section will discuss the complex interdependence theory (CIT) of International Relations. "This theory was developed by Robert O Keohane and Joseph S Nye in the late 1970s. It challenged the assumptions of traditional and structural realism which primarily focused on military and economic capabilities to explain state behaviour" (Rana, 2015: 290). The proponents

of the CIT viewed the transforming international order as characterised by interdependence than status, power and conquest. This is a relevant to the dissertation because it shows how regional interdependence is an important aspect of cooperation. State behaviour to adhere or support regional policies is to safeguard what is at stake (politically, security, economically) for them at the regional level which align with their national interests.

3.3.1 Hegemonic stability theory

Hegemonic stability theory offers the most accurate and relevant explanation of dynamics in regionalism most notably the creation, adoption, and promulgation of regional policies. The early protagonist of HTS was primarily fascinated by the world economy's stability and openness and saw the creation of regionalism as a form of depreciating globalization (Haggard and Simmons, 1987: 500). One of the advocates of HTS was an American economic historian Charles Kindleberger was a pioneer and immensely published about this theory in the 1970s. He focused on the role of leading states, for instance, Great Britain in the 19th century and the United States in the 20th century. The assumption of the theory conveys that the dominance of a hegemon or one major country is intrinsic to the existence of an open and stable world economy (Milner, 1998: 113). In simple terms, a well-functioning world economy is dependent on a political structure that is dominated by a single actor (hegemon) which maintains global peace and public good (such as a stable currency and an open global trading system) to make effective and efficient (Grunberg, 1990: 431; Bussmann and Oneal, 2007: 88). Hegemony is derived from the Greek word *Hēgemonía* which simply means leadership and rule (Schmidt, 2018). The conception of hegemony is comprehended only on the difference in power and "the consequent controlling relationship among asymmetric actors". In short, "it reveals the one-to-many relationship among asymmetric countries" (Min, 2003: 30). "As Kindleberger puts it, for the world economy to be stabilized, there should be a stabilizer, one stabilizer" (Gowa, 1989: 309). The proponents of the theory convey that hegemonic changes or transitions of hegemons in the international sphere will have a direct effect on the behaviour of other states. Consequently, the structure which is determined by a hegemonic leader or power will alter as the power shift or transit to the successor. In short, whenever the structure scheme is changed, it will change the international system (Purwanti, 2020).

Significantly, Kinshleberger laments on leadership refers to the importance of ideas for hegemons “phrased as a vision for the particular international political economy. (Burges, 2008: 69). “Ideas are not, of course, enough” they need to be backed by material resources to create, execute and disseminate the vision (Burges, 2008: 69). The common vision is to establish free trade in the international economy. However, the aptitude of a hegemon to execute the vision and maintain international order through stability and leadership is based on its material dominance (Kohout, 2003: 65). They actively apply preponderance by setting norms of economic transactions and openness to trade to secure its investment abroad and export destinations. Additionally, “they can abrogate existing rules or prevent the adoption of rules that it opposes and play a dominant role in constructing rules that would govern the international economic transaction” (Liu and Ming-Te, 2011: 406). However, subordinate states in the international system support hegemons because they benefit from their actions, for example, the maintenance of the status quo constitutes mutual beneficiary relations and the absence of violence in the global arena (Kohout, 2003: 65). In short, such a hegemon plays a significant role in coordinating and maintaining discipline of other states so that each could be protected and “feel secure” to liberalize markets (Milner, 1998: 113). Interestingly, Kohout (2003: 65), Webb and Krasner (1989: 187) argue that a hegemon must be relatively powerful in the systems to perform such functions. This version of hegemonic stability theory mainly focused on the capabilities and level of development of an actor which constituted its power to occupy hegemon status. On the contrary, Milner (1998: 114) argues that “a possession of superior resources by a nation does not translate automatically into great influence or beneficial outcomes for the world”.

As mentioned earlier, Great Britain became a hegemon in a wake of globalization of markets, liberalization of international trade, capital movement which characterized at least the whole of Europe in the 19th century. The eruption of the First World War brought an end to Great Britain’s hegemony and the first wave of globalization. The aftermath was characterized by increasing protectionism, the formation of regionalism, a decline of capital movement, economic instability, and depression. In short, the foundation of the global economy was disrupted by World War I (Milner, 1998: 114). This experience deliberately showed that the hegemonic status of a particular state gradually declines after a time marked by strains in the system, for example, in the interwar periods and the present day (Grunberg, 1990: 431). This tragedy was left at the United State

doorstep, a promising actor to fill the hegemonic status because of its capabilities and possessions mostly notably its economic power. However, the US at first refused to occupy the vacuum left by Great Britain and practised isolation. In effect, this led to the infamous Smoot-Hawley Tariff of the 1930s where the average tax on US imports increased by approximately 40 per cent. The unwillingness of the US to coordinate the global economy through its monetary and currency policies with other states exacerbated the pejorative unstable global economic circumstance (Milner, 1998: 114). However, the US policymakers realized after World War II the perils of isolationism (the Truman Doctrine) and assumed a leadership role by creating an open international system anchored on the GATT and a stable monetary system founded on the Bretton Woods System (Milner, 1998: 114). The US behaved as a hegemon and coordinated the stabilizing and liberalizing mechanism. But it was until the 1970s that the US lost its power that constituted hegemonic status or the enabling capability components that were required to successfully execute hegemonic functions. Other states such as the Soviet Union, West Germany, and Japan increased both military and economic capabilities faster than the US had (Webb and Krasner, 1989: 189). The international system that is dominated by a single country is most conducive to the development of strong international regimes whose rules are relatively precise and well obeyed. However, the decline of hegemonic structures of power can be expected to presage a decline in strength and corresponding international economic regimes” (Keohane, 1980: 132 cited in Liu and Ming-Te, 2011: 406).

Kohout (2003: 65) explains that international systems become under threat when there is uneven through of power among nations. However, the unevenness does not necessarily be economical, it covers a variety of aspects such as changes in terms of transportation, communication, technology, population, and military capabilities. Contestants may arise in pursuit of becoming dominant actors who maintain the status quo because of their superior possession in one or more aspects of the above-mentioned capabilities (Haggard and Simmons, 1987: 500). Hypothetical analysis developed in Ogunnubi (2017: 4) study conveys the coexistence of dominant states, the hegemon, and stability. Without the presence of the hegemon, conflict is the order of the day. Significantly, a hegemon provides leadership by ensuring the public good in its preponderance and establishing international economic structures that would propel international stability (Ogunnubi, 2017: 4). Kindleberger considers a liberal trading order in the global system as a “public good” because it

results in global economic prosperity, harmony, and cooperation as liberalist Immanuel Kant once conveyed in his thesis that liberal democracies do not go to war with one another (Grunberg, 1990: 442). By this assumption, one must not juxtapose or confuse the HST as an extension of classical liberal theory. Admittedly, this explanation is drawn less economically mercantilist and draws its line closer to the liberal economy than the realism school of thought (Hausken and Plumper, 1996: 276). One of the reasons was the intense interdependence created by international trade and investments which constituted public good (Grunberg, 1990: 442). Therefore, hegemons are viewed to have the capability to exercise power or preponderance to lure non-hegemonic states to adopt liberalization policies and agendas for such “public good” to globally occur (Grunberg, 1990: 442).

However, Hausken and Plumper (1996: 276) and Grunberg (1990: 442) critically argue that the openness or non-exclusivity of public goods perpetuates protectionism as all parties could enjoy a free ride on liberalization of markets without deliberately committing to the notion. In a similar breath, this conundrum or dilemma may require the word ‘public’ to be omitted from the phrase if those who do not practice do not benefit (free riders) from the conducive ‘good’ that is created by hegemons in the global economic system. In short, Grunberg (1990: 442) suggests that the phrase should be changed to ‘private goods’ if certain arrangements of reciprocity will be put in place to limit free-riding. In other words, if regimes or international institutions will be established to cast out goods that were meant to be enjoyed publicly by all actors in the international system and in turn, be limited to the exclusive number of actors then the assumption of this theory needs to be revised (Hausken and Plumper, 1996: 276). Evidently, in the formative stage, as mentioned earlier, Great Britain during the nineteenth century attempted to foster public good by repealing its Corn Laws and its use of carrots and sticks to open the formerly closed economic systems. When its hegemonic power waned during the interwar period and was replaced by the US in 1945 which sequentially lost the strength to force compliance of its rules in the WTO especially the Doha round of negotiation which led to a proliferation of regionalism (Ikenberry and Nexon, 2019: 401- 402).

3.3.1.1 Hegemonic stability theory and regionalism

It is an undeniable reality that regionalism is a phenomenon that has recently occurred in almost every part of the world. The significance of regionalism to this theoretical application is premised from Firjar (2009: 5) conceptual contribution which connotes that regionalism has a regional order or distinctive structure that intentionally captures the hegemonic stability school of thought to explore and evaluate the mechanism that leads to its integral formulation and its sustainability, stability, and security thereof. Regionalism is a type of regime that has significant implications such as purposeful strategies, intentions, norms, and order that are echoed by a leader to mobilize membership. In other words, a regional hegemon(s) which are often initiators of regionalism transcendently exert influence to lure other regional states to buy-in by becoming members of its initiatives and complying with rules and regulations that are essential to reap the potential collective benefits such as free trade, peace and security, and development. Therefore, given these attached dynamics concomitants with regionalism, HST can be applied to explain regionalism (Alvarez, 2021: 56). Hegemonic stability theory is suitable to explain the role of regional leadership in regionalism. Regionalism is governed and created by the principles, interests, and values of regional hegemons. In short, regional order and stability are maintained through the rules and norms set by a regional hegemon (Kewir, 2015: 28). The HST basic assumptions such as structural power, hegemony, stability, public good, and the creation of institutions which are often applied at the global level, will be applied to explain the regional system (Grunberg, 1990: 442).

The HST is embedded in the assumption that free trade is a public good and a dominant state should ensure that it maintains public good provisions through order and preventing free-riding. The idea that free trade is a public good is justified by the notion that trade protectionism would benefit dominant states than smaller states. Therefore, it is prescribed for dominant actors to invoke and pursue the best policy of free trade within a regional group. Traditional dominant states or hegemons like the US have driven the efforts to form regionalism either through bilateral or plurilateral approaches with small vulnerable states to be their partners in the trade agreements. For example, NAFTA with Canada or Free Trade Area of the Americas with Chile. However, this notion has been critiqued for not constituting the public good. The open trading system does not constitute a public good but an opportunity for hegemons to leverage on the smaller states. Given their technological advancement, regional leaders forge this free trade pact to exploit smaller states

and to advance their strategic interests of imposing their trade policies and clearing the path for the destinations for their heavy technological exports in the region (Wu et al., 2016: 2). Refutably, an open trading system allocates resources more feasible and efficient. Smaller states in the region could benefit from the capital-intensive exports from regional leaders. The possible transfer of knowledge and technological spillover give infant industries in smaller states an opportunity to imitate and reverse engineer products from the regional leader and eventually leapfrog and catch up with regional leaders. This mechanism can only be attained in an open trading system and constitute a public good outcome for all member states in the regional trade agreements or arrangements led by regional leaders (Krasner, 1976: 320).

Interestingly, Lupembe (2019: 20) argues that for global hegemonies to stabilize an international system, they rely on the support of the middle power – the regional hegemonies. Regional hegemonic leaders can destabilize the global environment when they default on their role or when seeking to attain global hegemonic status by contesting global hegemon(s). In this regard, it is important to highlight that in many instances, regional hegemonies or leaders do not have the capabilities of channelling or starring the international system by themselves. The presence of powerful and most advanced states in the global arena forbids developing and quasi-advanced states in the Global South to exert their influence in a wider geographical area, their power is limited to their respective regions of existence. In this case, a regional hegemon can only exert power or influence its neighbours but not the entire international system. Interestingly, regional hegemonic nations are applauded by their neighbours for representing their voices of the marginalized states in global discourse or multilateral forums. In short, they are supported for their negotiation capabilities and aptitude to mobilize other states for joint action and mutually beneficial relations (Owa et al., 2020: 483). However, apart from China, there is no other regional hegemon that seeks to assume a global hegemon. They focus on exercising power closer to home, becoming a regional hegemon is a less expensive power-building strategy for emerging states in a regional setting. This is an accumulative platform for states to generate capabilities that will eventually qualify them to contest for further expansion to the global arena (Krickovic, 2015: 562).

Further, the significance of applying the HTS at the regional level is the comprehension of the role played by the regional hegemonic power in ensuring economic development, innovation, and political stability in the regional arrangements (Mat Yazid, 2015: 68). The HST scholarship agrees

that a regional leader or stabilizer has the motivation and capability to influence other states' national policy to be consistent with its aspiration such as liberalization, integration, and harmonization (McKeown, 1983: 74). In short, such adherences and stability are developed and influenced by centers of strength and consequently making regional hegemon(s) the relevant and adequate candidates to maintain such stability (Elistrup-Sangiovanna, 2007: 3). Conversely, economic and political integration may require the presence of a powerful leader that has an interest and willingness to use its capability and capacity to facilitate and promote the mechanism of regional integration (Jennings, 2012: 5). Historically, regional communities have been headed by regional hegemons, for example, in the Global North, Germany's played a pivotal role in the European Community, the US in NAFTA, and in the Global South, India played a pivotal role in the South Asian Association for Regional Cooperation, Nigeria in the Economic Community of West Africa, and Brazil in MERCOSUR (Elistrup-Sangiovanna, 2007: 3; Jennings, 2012: 4). However, while regional leaders play a pivotal role in economic, political, and social integration, they are often favored by such integration(s) (Elistrup-Sangiovanna, 2007: 3). "The role of hegemons in a regionalism can be viewed as offering a framework for macroeconomic discipline underpinned by an incentive for continued membership in participatory supranational agencies of restraint" (Jennings, 2012: 5) thus leading to the creation of regionalism with neighboring states through advancing notions, principles, and values of public good to be adopted region-wide for the betterment of reaping the desired outcomes for all states in the region (Owa et al., 2020: 483). Hegemons as leaders retain followship through inserting and establishing material rewards to its subordinate states. Such adherence is achieved because hegemons and subordinate states share common norms, interests, and values. In this case, it is easier for a hegemon to influence subordinate states' national policies to achieve common interests. More recently, rather than using hard capabilities as a direct coercive tool to impose compliance, followship and adherence. Regional leaders commonly provide trade facilitation, economic assistance such as loans, developmental assistance, and relief funds as a prepaid incentive or reward of being a member-state to its regionalism initiative (Destradi, 2010: 15).

3.3.2 Complex interdependence theory

As highlighted briefly above, the Complex Interdependence Theory (CIT) was developed by Keohane and Nye who advanced the significance of interdependence in the international system which rapidly changed how one should view world politics (Isiksal, 2004: 4). “The changing international regimes and institutions eroded the traditional military capabilities and the new importance of welfare and trade in foreign policy matters compared to status and security issues. CIT is a sub component of neoliberalism and has been wide utilised in analyses of international relations to comprehend the willingness of states to form cooperative alliance with each other under the condition of anarchy and dependence” (Rana, 2015: 290). Indeed, interdependence largely affects the behaviour of states and government actions. The global political economy scholarship conceptualise interdependence as the rapidly increasing level on connectivity with costly consequence between national economies generated by high cross-border flows of goods, services, people and money to name a few. Interestingly, such connectivity is a significant aspect of interdependence, for example the global financial interdependence. States behaviour is largely influenced by the ramification cost of being ostracised (through sanctions) and losing the concomitant benefits and opportunities of such connectivity (Oatley, 2019: 957). According to Isiksal (2004: 139), the proponents of the theory conceptualise interdependence as “a situation of mutual dependence where loss of autonomy creates reciprocal costly effects”. The post Cold War period was inaccurately analysed by traditional IR theories such as structural realism and this left the CIT proponents to develop a theoretical framework that could easily explain the change in international politics to show the reality of interdependence. For example, in terms of security, the Western European security interdependent system after the World War II was done with liberal intentions to establish a new stable and cooperative Europe. After the war no one could envision Europe’s traditional competitors namely France, Germany and the United Kingdom would wage military conflict against which other again. The European interconnectedness environment which was reinforced by non-state actors had also established deep interdependence and gain relative power to effective influence and guide national foreign policies of these countries (Mija and Teosa, 2014: 172). The main actors that are pioneering such phenomenon or change are non-territorial actors such as multinational corporations, international organisations and transnational social movements. “Transnational actors became mutually dependent, vulnerable to each other’s actions and sensitive to each other’s needs” (Rana, 2015: 291).

3.3.2.1 Complex interdependence theory and regionalism

The application of CIT in the regionalism setting is best analysed by Simionov (2017: 121) in terms of maximising the benefits of mutual dependence generated by trade or what HST scholarship label as public good. Indeed, the establishment of regional free trade agreement and the increasing interconnectedness which came as a result of immense regional economic integration aspiration have enhanced interdependence at the regional level (Simionov, 2017: 121). Regional economic interdependence has exerted political relations between states at the regional and subregional level. For example, the European Union became more interdependent which was mainly facilitated by liberal idealism such as democracy and free market economies. The EU members intended to remove trade protectionist measures between them and form a 'common market' as well as free movement of people. This brought EU transnational more interconnected and significantly, made them vulnerable to each other's action and sensitive to each other's needs (Valeriu, 2013: 141). The complex interdependence theory is reminiscent of Immanuel Kant's description that liberal democracies do not go to war with one another because they have heavily invested in each other's market and ultimately because of they engage in immense trade. Therefore, going to war would be disruptive and costly for either side. In the CIT context, transnational actors such regional organisation facilitate and reinforce the stance to ensure such catastrophe does not occur, instead, they opt to cooperate and work together (Oatley, 2019: 960). Significantly, the liberalised intra-regional economic ties made the creation, adoption and promulgation of regional digital policy feasible because of interdependence. The growth of digital trade has explained in the previous chapter demonstrate that member state of specific regional organisations adhere to such policies to avoid the concomitant benefits and cost of invoking or not invoking such policies in their economic stake. Therefore, state invoke regional digital policies to leverage on and further reinforce the connectedness of regional interdependence.

3.4 Methodology

This thesis employs a qualitative design and case study approach to answer the research questions. Qualitative research method is an interpretive design that is deeply rooted in the hermeneutics style

of investigating and answering a research question (Starman, 2013: 30; Niie and Asimairan, 2014: 35). Its prime concern is in getting answers to ‘why’ and ‘how’ to obtain an emic perspective of a particular phenomenon being studied (Marxwell, 2008: 148). Contrary to the quantitative research method, the qualitative method assumption is that empirical reality is extremely complex and intertwined to be quantitatively observed and understood (Bradley, 1993: 432). The quantitative methodology follows a positivist or natural scientist tradition which employs a wide range of mathematical or statistical data and techniques to describe and answer the research question. In pursuit of answering the question, the researcher employs deductive and objective observation in testing the hypothesis of causality. The method strictly uses numerical data. The most common method of data collection is a close-ended questionnaire and survey, statistics, sampling, observation checklist, and other quantifiable data (Osborne, et al., 2008: 215). The method is widely used in fields that use a mathematical model to investigate phenomena such as probability theory, descriptive statistics, calculus, and game theory (Sylvan, 1991: 265-266; Srivastava and Thomson, 2009: 73; Kelly, 2017: 5). There are plenty of research problems in the natural science (physical science and engineering) discipline that requires a rigorous quantifiable method to investigate. However, the quantitative method has been widely used and regarded as a viable choice in social science research. But many problems arising in social sciences disciplines especially policy analysis requires qualitative method (Strauch, 1976: 123). Qualitative methodology preserves the understanding of a participant’s perception (Sylvan, 1991: 270). The qualitative method assists in gaining emic understanding and knowledge about the processes involved in the co-constructions of meaning, lived experiences, and cultural practices such as rituals (Atkinson, 2017: 65; Drisko, 2008: 85). The argument is that the empirical reality is inseparable from the individual including the researcher who knows that reality (Bradley, 1993: 432). People are deemed as the main source, (either directly or indirectly) of qualitative data. Directly when a researcher physically interacts with them through consensual in-depth interviews or asks them to fill open-ended questionnaires, and indirectly when the researcher examines the products of people’s activities and engagement such as documents, citations, newspapers, and artefacts (Bradley, 1993: 440).

Noteworthy, the thesis minimally employs a quantitative approach to operationalize and identify regional leaders based on their phenomenal appraisal in table 2. Quantifiable measurements are employed to operationalize regional leader capabilities in the region. The above-listed countries in

understanding of a complex phenomenon is this thesis to answer the research question: research question; how will regional formulation of regional policy? Second research question; are there differences to lead us into a world of digital region (Misko, 2008: 87).

[illegible][illegible]

(Rank)										
Share of tech exports in % (Rank)										
Sources:										

3.4.1 Methodology for RQ1

The present study used process tracing to systematically examine the diagnostic evidence in light of (Chapter Four) the first research question; how will regional leadership play a role in the creation, adoption, and promulgation of Africa's digital policy? This *modus operandi* is essential in probing the temporal sequence of events or phenomena (Collier, 2011: 824). This design is because it does beyond identifying correlations between X and Y. For example, a causal relationship was found between democracy and peace. Process tracing ambition is to trace the process of this causality. This design unpacks the causal relationship between the independent variable (democracy) and dependent viable (peace), the causal mechanism and mechanism that lead to these concepts to be a positive correlative outcome (Beach and Pedersen, 2019: 1). In this case, the study seeks to unpack the causal relation between 'regional leaders having a determining, crucial, and decisive role in regional policy making mechanism' articulates in Benz et al (1999), Wegener (2001), Liesbet and Keating (1994), Sotarauta (2016), Rattanasevee (2014), Onuki et al. (2016), Zwarties et al. (2012), Dent (2010), and Lutz (1987) studies. The thesis will further this hypothesis to investigate and trace the causal inference mechanism between regional leadership (independent variable) and the creation, adoption, and promulgation of Africa's regional-wide digital policy (dependent variable).

Process tracing is a suitable and logical method to use when evaluating the hypotheses about the causes and specific outcomes in a particular case. In other words, it is a significant tool to test the causal inference in qualitative and case study research. It seeks to probe whether X was a cause of Y in case Z (Mahoney, 2012: 2-3). This method is vital for theory testing and theory building. A

theory from existing literature could be deduced and tested to prove whether its causal mechanism is present in a given case. If the causal mechanism functioned as predicted in a case were present and had a similar conclusion across the cases studied (Beach and Pedersen, 2019: 3). “Process tracing can be used for both cases that aim to gain a greater understanding of the causal dynamics that produced the outcomes of a particular case and to shed light on generalizable causal mechanisms linking causes and outcomes within a population of casual similar cases” (Beach, 2017). Moreover, process tracing is an ideal method for researching the regional policy-making mechanism and the causation therein. It allows scholars to examine the incentives generated by an influential actor to enhance a particular choice and agreements among the actors involved (Jacobs, 2015: 12). Kay and Barker (2015: 2) explicitly articulate about the advantage of employing causal process tracing in policy studies is to comprehend the causality from within case account of policymaking while allowing comparability between multiple case studies. This applies in the aspiration to probe the role of the identified regional leaders in determining the creation, adoption, and promulgation of Africa’s regional policy in comparison with other regions specifically in Europe, North America, and Asia.

The present study used a historical review using case study analysis. Case study analysis allows the investigation of many aspects and examines them with each other. It is open to the use of theory or conceptual framework that will guide the research and analysis of data (Meyer, 2001: 330-331). Each case will consist of testing the hegemonic stability theory to probe the causal mechanism between regional leadership in determining regional policy in Africa, Europe, Asia, and North America. Multiple cases will follow a duplicate approach across all cases to find similarities or perhaps differences therein (Noor, 2008: 1604). All facts will be gathered from various sources and conclusions are drawn on those facts (Tellis, 1997: 2). The study will rely on qualitative data such as workshops, press releases, media, and official documents to investigate the making of regional policy and the role of regional leaders therein (Keen and Packwood, 1995: 445).

3.4.2 Methodology for RQ2

The study used documentary analysis in case study 2 (Chapter Five) to examine the nature and scope of regional digital policy in Africa, North America, Europe, and Asia. This is in light of the second research question; Are there differences in the digital policies among regions which are

likely to lead us into a world of digital regional blocs ('the splinternet'). The implications thereof? In this case, the study will examine documents such as the African continental free trade agreement (ACFTA) treaty and protocol, Agenda 2063 (Ten Year Agenda 2063 Implementation documents), Africa's Digital Transformation; side by side with the United States, Mexico, Canada Agreement (USMCA) (specifically on digital and data regulations) and the European Union's GDPR as well as ASEAN's free trade agreement. The objective is to develop a typology of similarities and 'differences' that might lead to an inter-regional splinternet and elaborate on the implication thereof (Park, 2021: 93).

Documentary analysis was chosen because it can easily contribute to comparative studies of policymaking, adoption, and promulgation. Public policy documents are materials that researchers and civilians can access even when the policy is relatively new, they are made available to the public and free to access through institutional websites. Policies are easy to compare than structures, processes, and outputs of organizations. Policy documents are efficient and there are few if any, ethical dilemmas associated with accessing such data (Shaw, et al., 2004: 260; Sleeman, et al., 2021: 3).

3.5 Conclusion

This chapter has discussed a broad conceptual and theoretical framework and methodology that underpins this study.

CHAPTER 4: CASE STUDY 1: (REGIONAL LEADERSHIP AND THE MAKING OF DIGITAL REGIONAL POLICIES); AFRICA'S DIGITAL POLICY VERSUS EUROPE, NORTH AMERICA AND SOUTHEAST ASIA

4.1 Introduction

A conceptual and theoretical framework, and methodology that underpins this study were discussed in the previous chapter. The underlying paradigm for conceptualizing regional leadership appears to be unchallenged in the assessed literature. These scholars agree that regional leaders should be from the region, have superior material capabilities, and have the highest share, as shown in table 2. States with remarkable capabilities in these areas are elevated to regional leadership positions and exert influence in the region. (Kewir, 2015: 30; Hulse, 2016: 23; Nolte and Schenoni, 2021; Destradi, 2010: 905). Noteworthy, in terms of material supremacy, this chapter uses methodological aspects to identify a regional leader in a region. Because there are deteriorative events that could cause a country to lose its status as a regional leader in its respective region or be replaced by another country, examples of regional leaders in table 1 will be ignored. For instance, war, protracted social conflict, corruption, and poor leadership, all of which contribute to political and economic instability, could immensely affect the given regional leaders in table 1 to lose their regional leadership position by the time this of writing. As a result, table 2 will be used to operationalize regional leaders. To put it another way, they will be determined based on their relatively large proportion in aspects listed in table 2 in a respective region.

Moreover, the hegemonic stability theory (HTS) analysis will supplement the role of regional leadership. Because the possession of material capability is nothing until one puts them to good use like to benefit all states in the regional community. The theoretical framework is specifically employed to analyse the systematic role of regional leaders in exerting hegemony to create, adopt, and promulgate a region's digital policy. In other words, hegemon(s) are vested with the aptitude to stare and make a 'public good' policy, which is a regional digital policy. Therefore, what do they provide in the region, how do they project themselves, and how are they perceived by others in the region to successfully determine the creation, adoption, and promulgation of region-wide digital policy in each selected case of the dissertation?

Following the systematic approach to identifying the regional leader in a region, the role of that regional leader(s) in determining the making of region-wide digital policy. The chapter will arrive at a comparative conclusion on how regional leadership has played a role in the digital policy being made in the European Union (EU), Association of East Asian Nations (ASEAN), and the United States-Mexico-Canada Agreement (UMCA) vis-à-vis the making of Africa's digital policy.

This dissertation has made the choice of continental regionalism. In other words, the region-wide organization in Europe, North America, Southeast Asia, and Africa. There is a multitude of rationales behind the choice, but the most central one is that these are regions that have formulated and promulgated a digital policy that would enhance their Free Trade Agreements.

4.2 Case study 1

4.2.1 European Union (EU) as regionalism

The European Union (EU) is a form of European regionalism. It is a political and economic union between European states that sets policies concerning member states' economics, societies, laws, and to some extent, security. The EU embarked as the European Coal and Steel Community (ECSC) in 1951 which consisted of six members: Belgium, West Germany, Luxembourg, France, Italy and the Netherlands. After the signing of the Treaties of Rome in 1957, member states reached a consensus in establishing the European Atomic Energy Community (EURATOM) and the European Economic Community (ECC). The members intended to remove trade protectionist measures between them and form a 'common market'. In the same year, three regional entities

emerged to form a single Commission, a single Council of Ministers and the European Parliament. Finally, in 1992, the Treaty of Maastricht inaugurated the EU by adding new forms of cooperation between member states (Wilde, 2020; Gabel, 2022; Wooster et al., 2008: 167). The EU is an advanced regional organization with a common currency, single market and free flow of capital, people, and labour. The EU is home to five of the most industrialized nations in the world (Kappel, 2014: 343).

“This has intensified intra-EU relations and liberalisation among member states. For example, the EU Single Market and the Maastricht Treaty have deepened integration agreement in a manner that member states cannot impose restrictions on EU goods and services at the border (all border measures including anti-dumping and countervailing duties are excluded) or by means of domestic health, safety and environmental standards and significantly, standards that are mutually recognised. Member states cannot restrict intra-EU capital and labour movements or firms from EU nations. Significantly, member states cannot freely choose their state-aids policy, competition policy or indirect taxation (VAT) rates. All regulations are supervised by the European Commission and enforced by the European Court of Justice. Moreover, prospective nations joining the EU Monetary Union will no longer control their monetary policy”. In short, this also addresses how the EU pioneered intra-regional liberalisation to facilitate regional trade and investment (Baldwin, 1997: 868).

For example, Buzdugan (2013: 930) explains “that over the period between 1960 to 2000 intra-EU trade grew by an impressive 1200% in real terms (6.7% per annum) compared with a more moderate 730% growth of the EU countries’ trade with the rest of the world”. Indeed, the EU is arguably the gigantic trading power in the world and it manages an unrivalled, numerous network of preferential trade agreements. For example, the EU has custom unions, free trade agreements and partnership agreements with over 80 non-member states that are either completely or in progress. This includes the recent agreement with Japan and the MERCOSUR (Brazil, Argentina, Paraguay, Uruguay). Additionally, the EU is pursuing trade agreement negotiations with another 20 countries (Zimmermann, 2019: 27). In short, this indicates how the EU is a stepping stone or facilitator of globalisation because of its commitment to further establish extra-regional agreements, partnerships and custom unions. This notion was argued by the EU chief negotiator in the Ministerial Meeting of the World Trade Organisation (WTO) in Doha in 2001 that regional

trade agreements could play a significant role in facilitating further liberalisation and expansion of trade. The negotiator argued that “regionalism can lead to a competition of liberalisation effort and thus boost the process of multilateral liberalisation also in other forums (Dür, 2006: 7).

On the contrary, Kappel (2014: 343) and Söderbaum and Sbragia (2010: 572) argue that the EU is a closed regionalism, most of its external trade and investment partners are advanced nations, which overwhelm most of its foreign direct investment (FDI) stocks and trade equilibrium (Kappel, 2014: 343). For example, in 2008, the EU was the world’s most significant trading bloc with a share of approximately 40%, followed by North America at an estimated 16%, and East and Southeast Asia at approximately 20%. However, intra-EU trade is pivotal to the EU, out of the 40% share, 25% of the trade was internally done among European countries, especially in sectors such as manufacturing products, food, and services (Kappel, 2011). More recently, in 2020, the UNCTAD (2021) report highlighted that intra-regional trade was most pronounced in Europe. About 68% of all European exports were to trading partners on the same continent. This shows that a major share of trade and investment in Europe is done internally which constitutes the EU as a stumbling block to globalisation rather than a facilitator. This is attributable to the EU Common External Tariff (CET) which third party face exporting to the EU. They are subjected to a CET of an average of 6.7% plus an additional administrative burden of 2% of the transaction values which results in a total cost of 8.7% for exporting to the EU (Thompson and Harari, 2013: 5).

According to Golub (2003: 99), there are underlying issues in Europe with regard to the policies towards inward FDIs. There are underlying differences in restrictions and the EU has not made significant strides to facilitate a unified policy in terms of inward FDI. Although substantial harmonisation and intra-EU liberalisation occurred but there are countries with less and more stringent regulations on inward FDIs. Countries with lax restrictions are Ireland, the Netherlands, Germany, Denmark, Belgium and Italy whereas those with the highest stringent restrictions are Norway, Finland and Spain among others. Interestingly, Iceland is the country with the highest restrictions of them all. However, restriction in most EU member states is below the average of the OECD countries. Golub’s (2003: 99) study argues that much preference is granted to intra-EU investment rather than extra-EU investment. Concurrently, the EU emerged as a significant investor in 1990 but the major portion of its investments was done internally. In other words, 85%

of the EU investments were intra-EU FDI (Kappel, 2011). Notwithstanding the immense EU liberalisation in the past two decades, there is still significant restrictions in the service sector that foreign investors face especially from China with aspirations to invest in the EU market (Dadush and Sapir, 2021).

Furthermore, in recent years, the EU have recognised the significance of digital trade in their economic development. It has adopted ambitious provision on digital trade in its PTAs to create a stringent level playing field for e-commerce enterprises to alleviate injustices or abuse of personal data. Electronic commerce provision in EU PTAs are either included as standalone chapters or as part of the trade in services chapter. Significantly, there are differences found in the clauses of its EU PTAs. For example, in EU-Canada Comprehensive Economic and Trade Agreement (CETA), there are objectives of encouraging electronic commerce, acknowledging that states have the obligation to allow any form of delivery by electronic means unless it is in accordance with the obligation of the PTA. On the other hand, the Digital Trade Chapter in EU-Mexico globalised and the EU-UK Trade and Cooperation Agreement (TCA) includes a provision on recognising the parties have a right to regulate to achieve “legitimate public policy objective” (Mishra, 2022: 88). Inter-regional digital trade is more difficult than conventional trade in a sense that the current norms and regulations impact effective relation between countries of different regions. For instance, EU General Data Protection Regulation (GDPR) applies to all member states and the UK making intra-regional digital trade more effective and easily feasible. The law also applies to companies that are doing business in EU countries. In other words, if a company collect data from the EU, it is mandated to comply with the GDPR. Multinational companies that are headquartered outside the EU but operating in the EU face stringent rules to company with GDPR. For example, Google, has to adjust its regulations to comply with region-specific digital policies such as EU GDPR and United States-Mexico-Canada Agreement (USMCA) chapter 19 (Sixfifty, 2022).

4.2.2 EU regional leadership

Germany’s regional leader status in the EU is attributable to its material power. It is the most populous country in Europe and has been one of the forerunners in the process of regional integration (Bulmer and Paterson, 2010: 1056). Germany has the largest share of gross domestic product in the EU from 2011 to 2020. For example, in 2017 share of GDP accounted for

approximately a quarter (24.7%), followed by France at 20.5%, Italy (15.4%) and Spain (10.4%) (EuroStat, 2018). Germany's economic might is attributable to its highly industrialized and diversify (Germany Trade & Investment, 2022), which made it an export-oriented country with special exportation of high-tech products (see table 3). Germany has consistently been the EU's largest high-tech exporter from 2011 to 2020. For example, the share of its high-tech exports in 2016 accounted for approximately 18.1% of the EU's total high-tech exports (Ellyat, 2021). On the international stage, Germany holds third place in exports (only surpassed by China and the United States) and reports one of the highest trade surpluses worldwide (O'Neill, 2022). Moreover, in 2020, Germany was not the country with the highest number of internet users in the EU. The figure stood at approximately 79.1 million as of December 2020, about 89.8% (15th rank) of the entire population (Johnson, 2021). Iceland has consistently held the first position from 2011-2020. Moreover, in terms of high-tech exports, Germany is relatively lagging terms of percentage as opposed to amount. Over the period of 2011-2020, Germany has been below the top 10 of EU countries that produce high-tech exports. The enormous mighty performance across quantifiable measures, especially on the share of GDP which relatively surpasses all EU member states depicts Germany's material power which quantifies it to be regarded as a regional leader in the EU (Pry, 2010: 487). However, based on the reviewed literature and the previously discussed conception of a regional leader in Chapter Three. A country can qualify to be a regional leader based on its material capabilities but refuse to assume the regional leadership position. Secondly, regional leadership should be assessed based on the 'role' because the possession of material capability is nothing until one puts them to good use, in other words, to benefit all states in the regional community. Specifically, assess what regional leaders provide in the region, how they project themselves, and how others perceive them (Hulse, 2016: 12).

Table 3: EU Regional Leader's Quantifiable Measure

Operationalizing Regional Leadership (Quantifiable measures)	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Share of GDP in the Region in %	4.3 (1st)	4.0 (1st)	4.1 (1st)	4.2 (1st)	3.9 (1st)	3.9 (1st)	3.9 (1st)	4.0 (1st)	3.8 (1st)	3.9 (1st)

(Rank)										
Internet Penetration in the region (% of the population) (Rank)	81.2 (12th)	82.3 (14th)	84.1 (14th)	86.1 (13th)	87.6 (13th)	85.1 (18th)	84.3 (18th)	87 (13th)	88.1 (13th)	89.8 (15th)
Share of tech exports in % (Rank)	16.3% (15th)	17.2 (13th)	17.3 (13th)	17.2 (13th)	17.8 (13th)	18.1 (12th)	15.8 (14th)	15.7 (15th)	16.4 (14th)	15.5 (13th)

Sources: https://www.theglobaleconomy.com/rankings/gdp_share/European-union/;

https://www.theglobaleconomy.com/rankings/Internet_users/Europe/;

https://www.theglobaleconomy.com/rankings/High_tech_exports_percent_of_manufactured_exports/Europe/

Hillebrand (2019), Speck (2014) and the above findings in table 3 allude to the required material capabilities which quantify Germany to be a regional leader in the EU, but Paterson (2011) labels Germany a reluctant regional leader. In other words, it has the capability to possess a regional leadership position but is willing to assume that position and lead (Hillebrand, 2019). However, in light of the conceptual analysis, Nel and Stephen (2016: 76) convey that regional leaders use their national foreign policy as a strategic apparatus to articulate the willingness and mission of providing leadership by driving public good objectives in the region (Nel and Stephen, 2016: 72). Evidently, the old West Germany's foreign policy focused on cultural restraint, but the contemporary German foreign policy changed to become more self-assertive (Kappel, 2014: 346). The transition was motivated by mainly but not exclusively the weakening of the US interest in Europe. The US's investment and strategic engagement in Europe plummeted in early 2011 onwards. Secondly, France on the other hand discontinued being Germany's symmetric partner because the latter has started to emerge and dominate. Similarly, Russia lost its dominance, influence, and interest in European affairs (Kappel, 2014: 346). Interestingly, despite its weak spots in military might (Hillebrand, 2019), Germany's economic strength (consistent GDP growth) has motivated the formulation of a self-assertive foreign policy which showed that Germany is willing to take responsibility to lead the EU and projects its own national interest in Europe. As a result, Germany emerged as the most significant and influential power in Europe, no important decision is taken without Germany or against Germany (Kappel, 2014: 346).

The pivotal role played by Germany during the European financial crisis, migration crisis and security crisis. It provided leadership in restoring order and stabilizing the situation in the European Union (Gaskarth and Oppermann, 2021: 91). Germany played a dominant role in mitigating the Eurozone crisis since May 2010. However, the EU commission vehemently cautioned about the Greek public debt crisis and its contaminative domino effect on the rest of the EU member states. Germany in particular was very vocal in echoing to the Greek government to deal with the ‘national problem’. In the same breath, removing Greece from the Eurozone was an option and Grexit became a popular word for that motion (Schieder and Guarner, 2019). Germany provided leadership by taking a position and responsibility to assist Greece and save it from being expelled from the Eurozone. In turn, Germany used the Eurozone crisis as an advantage to reshape and exert influence on the EU’s economic model to best suit its strategic interests. Germany approached its affected Eurozone neighbours with stringent and non-negotiable demands which were prerequisites to receive Germany’s contribution to any rescue or relief scheme (Schieder and Guarner, 2019; Tshabunn, 2017).

In line with the theoretical analysis in the previous chapter, it is accurate to refer to Germany as a hegemony. A well-functioning regional economy is dependent on a political structure that is dominated by a single actor (hegemon) which maintains regional peace and public good (such as a stable currency and an open regional trading system) to make effective and efficient (Grunberg, 1990: 431; Bussmann and Oneal, 2007: 88). Moreover, in 2015, Germany played a pivotal role in the migration crisis in Europe. Asylum seekers and migrants fleeing from the Syrian War went to Europe through Turkey, the Mediterranean Sea and the Balkan route in hundreds of thousands, Germany unilaterally opened the door to them when Southern European countries refused (Maull, 2018: 96). On the other hand, Germany is the largest net contributor to the EU budget and provides an additional large portion of funding (Heinrick, 2016). For example, contributed about €7.836 billion to the EU coffers in 2008 (Bulmer and Paterson, 2010: 1056).

Furthermore, in March 2014, an unforeseen circumstance emerged in Europe which blurred the EU illusion that the region has reached a point where military conflict and conquest are past occurrences and shall never resurface again (Koeth, 2016: 101). Russia embarked on the annexation of Ukraine following a state failure and political instability in Ukraine. A pro-Russian leadership in Kiev were caught in a dilemma created by conflicting pressures from Russia and the

EU. In turn, the public revolted against the Ukraine government and was replaced by a pro-liberal government. Russia reverted to the crisis by annexing Crimea invoking the secessionist movement in Eastern Ukraine (Maull, 2018: 97). In response, German President Angela Merkel took a decisive approach in influencing the EU to reach a consensus on imposing a sanction against Russia for disregarding international law and destabilizing peace and security (Lough, 2021).

Lastly, Germany has been applauded and followed by many EU member states for its leadership role in stabilizing the EU and ensuring there is a public good. For example, Germany enjoyed followership from countries in northern Europe during the Eurozone crisis, ‘many of them were more German in their policies than the German government itself’ (Cunha, 2018). Stokes, Wike, and Manevich’s (2017) findings indicate that a large majority (seven of nine EU nations surveyed) view Germany as “favourably”, meaning they are in favour to invoke Germany and that reflects a positive correlation to Germany’s followership in the EU (Stokes, Wike, and Manevich, 2017).

This is a clear indication that Germany’s foreign policy is not rhetoric. It projects itself as a regional leader hence the position it took to play critical roles during the Eurozone crisis, migration/refugee crisis, and peace and security crisis in the European Union (EU) empirically supplements and shows the determination and willingness to lead. Interestingly, the next section will investigate the role of Germany in the creation, adoption, and promulgation of EU digital policy. The policymaking process in the European Union takes place across four critical regional institutions namely the European Commission, the European Parliament, the Council and the European Court of Justice. The European Commission is an institutional entity of the EU which mainly acts as an executive organ and is also responsible for the day-to-day business of the EU. The Commission also has legislative functions such as proposing new laws for the European Parliament and a Judicial function, for example, it finds legal solutions to business and trade issues between countries within the EU as well as upholds the EU treaties. The Commission comprises 33 Directorate Generals departments covering a wide range of areas such as research and innovation, health, environment and budget. This is overseen by a College of 28 Commissioners each from a respective member state and elected by its national government to serve for a period of 5 years (Jones, 2021). The Commission played a pivotal role in the EU policymaking process. It submits a legislative proposal to the European Parliament. The European Parliament is a legislative assembly of the EU. It was inaugurated in 1958 as the common assembly and made up of 751

members (MEPs) elected to represent constituencies in the 28 member states of the EU. The number of MEPs per country is determined by the population of a member state. For example, Germany, France and Italy have more than 70 members each whereas countries such as Malta, Cyprus and Estonia have less than 7 MEPs (Britanica, 2022). After receiving the proposal from the Commission, the European Parliament undergoes a first reading of the proposal and examines and determines whether it will adopt or amend the proposal. Thereafter, the process is passed over to the Council of the European Union which is made up of representatives of national governments of the 28 member states. Significantly, the representatives of each national government sitting in the Council is the minister who represents a relevant portfolio to the topic being discussed. For example, in the case of GDPR, representatives who were there were from the ministries concerned with digital, information and technologies. Many proposals were adopted by the Council, during its first reading the council examine and may decide to accept the European Parliament's position on the legislative act and in that manner, the act will be adopted. On the other hand, the Council may disagree with the Parliament and return it to the parliament for second reading. In such circumstances, the Parliament examines the Council's position and proposes amendments and returns it to the Council for second reading, if it is rejected, the process ends, in other words, the act will not enter into force.

Moreover, in the second reading of the proposal to the Council, it examines the Parliament's position and either accepts all the amendments which means the legislative act will be adopted and if it does not approve the Parliament's position or necessary amendments it made, this leads to the convening of the Conciliation Committee. This committee is comprised of an equal number of representatives of the Council and the Parliament. It is also co-chaired by the respective presidents of the Council and the Parliament (Konig et al., 2007: 281). This entity thrives to reach a consensus on a joint text. If this is unsuccessful, the legislative act will not enter into effect and the procedure ends. If there is a consensus on the joint text, it will be passed over to the Parliament and the Council for third reading. Further, The Parliament examines the joint text on their third reading and votes in plenary. It cannot alter the wording of the joint text and if it disapproves or fails to act on it, the act will not be adopted and the procedure ends. If it is approved by the Parliament and the Council, the act will be adopted. Similarly, the Council receives the joint text for the third reading and cannot alter any wording of the text and if it does not agree with the joint text, the act will not enter into effect and the procedure ends. If approved by both Parliament and the Council,

the act will be adopted. Significantly, once both the Parliament and the Council have accepted or approved the final text of the legislative act, it will be jointly signed by the Presidencies and Secretary Generals of both institutions. After the signatures, the text will be published in the official journal and become official. The legislative act will either be a regulation, directive, and decision. In this case, the legislative act will be a regulation which means it will be binding throughout the EU as of the date set down in the official journal.

4.2.4 Germany's role in the creation of the European Union digital policy

European Union's digital policy is General Data Protection Regulation (GDPR) which was enacted on 25 May 2018 (John, 2018: 1). Its immediate predecessor was the Data Protection Directive (DPD) which was adopted in 1995. A proposal for the latter was submitted by the Commission in 1990 (Chase, 2019: 2). At that time, each European Economic Community (EEC) (now the EU) member state were required to implement data protection into their domestic laws. However, the foundational conundrum was that member states enacted domestic laws that were different, especially in terms of processing of personal data which pejorative impacted the free flow of data throughout EEC (Ell-Gazzar and Stendal, 2020: 238). The underlying dilemma was that multinational corporations operating throughout Europe would encounter different norms and standards of data protection in every country regarding how they should process or store data which will impact trade and investment inflows on the one hand. Secondly, the traditional method of the Data Protection Directive would result in inconsistency where some member states have lower or no data protection regulation in place to attract an influx of FDIs and trade while putting the fundamental privacy and other personal data rights of their citizens at stake (Ross, 2006: 103). Therefore, the transition to the EU incorporated a digital policy known as GDPR to eliminate the dilemma and controversy. The draft of the GDPR was approved by the European Commission in January 2012 (Victor, 2013: 513). Both policies are intended to relentlessly strengthen the personal data protection of individuals in the EU (John, 2018: 1). But the GDPR intended to reshape the European data protection framework in a harmonious way. In other words, its prime objective is to serve as a normative framework that ensures every member state adopts a similar policy or uniformity through exact ratification, or simply 'cut and paste' into their domestic laws to ensure that the EU population enjoy the same level of protection for their personal data (Voss, 2012: 1).

However, the creation of EU DPD and GDPR can be traced to Germany's history and interest in data protection.

The gruesome and heinous personal data breach can be traced in large part to German history. In the 1930s, national census workers collected data from the overall German population, specifically outlining personal information such as where they reside, nationalities, native language, religion, and profession. The data or responses which were compulsory filled by citizens and non-citizens were processed by a Hollerith machine (Deutsche Hollerith Maschinen Dehomag) that was manufactured by IBM's German subsidiary (Waxman, 2018). The data was effectively used to execute Nazi Holocaust. Additionally, the company was also involved in the trains that transported the incarcerated Jews to the concentration camps. This indicated the ramification of data stored by companies could holistically or partly contribute to the execution of the most heinous activities. Secondly, following the Second World War, the partition of Germany occurred, and the East German population suffered from state surveillance, and personal invasion carried out by East German special or secret police known as the Stasi. The officials had the authority to search peoples' residents, bug, or torture anyone they suspect could be invoking capitalism or plotting to execute treason in their own conception and instinct (Waxman, 2018).

On the other side of the partition, West Germany's government responded by prioritizing personal data protection in 1970. In 1977, The Federal Data Protection Act also known as the *bundesdatenschutzgesetz* became the first law in the world promulgated by the Federal Republic of Germany to specifically protect personal data and information (Smolaks. 2015). Further. In 1983, the German Constitutional Court ruled on the right to information self-determination which later became one of the EU's values that inspired the creation of digital policy. The Court conveyed that "[...] the protection of the individual against unlimited collection, storage, use, and disclosure of his/her personal data is encompassed by the general personal rights in the German constitution. This basic right warrants in this respect the capacity of the individual to determine in principle the disclosure and use of his/her personal data. Limitation to this informational self-determination is only allowed in case of an overriding public interest", according to Schastlivtseva (2018). Moreover, following the reunification of Germany in 1990 (the end of the Cold War), all German citizens were entitled to informational self-determination (Waxman, 2018).

Furthermore, the constant and rapid emergency of information technology fuelled the need to create a standard policy to protect personal information and data in the EU (Golden Data Law, 2019). In 1981, on the 28th of January, the treaty regarding the protection of individuals with regards to automatic processing of personal data was signed as Council of Europe Convention 108 and went into effect on the 1st of October 1985. All member states ratified the policy except for Turkey (Wihelm, 2016). Sequentially, after the Cold War, cross-border data transfer throughout Europe in the 1990s and the ambition to establish a single market also contributed to the need to respect and protect personal data and information (Waxman, 2018). A study on The Free Library (2019) analysed all flows in 28 EU member states from 1990-to 2015 and found that the largest flow in Europe was and still is, data that is motivated by immense integration and intra-European exchange (people, trade, investment, etc.) (The Free Library, 2019). Therefore, the EU enacted the DPD on the 24th of July 1995. The document was in line with and incorporated some of the Federal Data Protection Act clauses. Legal pundits articulated some of the clauses which reflected Germany's position on the DPD for example in the fields of marketing and advertising, technical standards for telecommunication, databases on personal computers, and monitoring and storage of facsimile transmission (Gasellsaft fur Detenshute and Datensicherung, 1995: 15).

These standards were not decorative nor rhetoric but were practised even after the reunification. For example, in July 2005, the Federal Constitutional Court or the *Bundesverfassungsgericht* (*BVerfG*) issued a judgment against a law promulgated by the German state Lower Saxony regarding governing police surveillance which breached the Federal Data Protection Act that guaranteed basic privacy rights. The state police used telephonic surveillance on suspects or potential criminals who might commit the most heinous. The Constitutional Court ruled this as a breach of basic liberties and conveyed that state officials overstepped in distinguishing between preliminary crime prosecution and crime prevention and stated the definition and that the underlying assumption of the matter contravened with the constitution (DeSimone, 2010: 297-298).

Furthermore, as mentioned, data protection regulation has been a vital policy for Germany. Germany played a pivotal role in the creation of the EU GDPR. On the 22nd of June 2011, the European Parliament Committee on Civil, Liberties, Justice and Home Affairs (LIBE) under the

leadership of German member Axel Voss adopted a proposal on ‘A comprehensive approach to personal data in the EU’ as a reaction to the communication from the European Commission on the future of European Data Protection Policy. The key discussion topic was to amend the existing DPD 95/46/EG (Wihelm, 2016). This is in a nutshell the proposal that introduced the GDPR because the lamentation of the proposal was to change the “directive” from the DPD to “Regulation” in order for the policy to become uniform and binding to all EU member states (Cividane et al., 2012). The argument was that as opposed to a directive, a regulation constitutes a single text for all member states and is more binding than the former (Koromo, 2014). In other words, the comprehensive approach was to harmonize the data protection policy in the EU. The DPD exacerbated controversy and dilemma in a sense that is bound to suffer from inconsistency in ratification and conflicting interests between protecting data and information and creating data havens (reducing or eliminating data policies) as a result of attracting big corporations to trade and invest swiftly by disregarding implication for data protection in a country (Cividane et al., 2012).

Sequentially, on the 17th of November 2011, the German Association for Data Protection and Security (GDD) held its 35th Privacy Conference in Cologne, Germany. A non-profit organization that was founded in 1976 that stands for effective data protection. The organization works hand-in-glove with government officials, data protection entities, pundits and other personal data and information protection associations in the world (Kruth, 2011). At the opening of the 35th GDD, Paul Nemitz, a Director for Fundamental Rights and Citizenship of the European Commission conveyed that the European Council plans to adhere to the ‘A comprehensive approach to personal data in the EU’ proposal (Wihelm, 2016). “The GDD states that the principle of ‘self-control’ by corporate data protection officers would be implemented EU-wide [...] these companies would be required to undertake a privacy impact assessment regarding their use of IT, the Commission hopes that this would lead to economic growth and EU competitive advantage, the Commission will present ‘EU Regulation on January 25, 2012’” (Kruth, 2011). Indeed, on the 25th of January 2012, the European Commission proposed a comprehensive reform of the EU’s 1995 Data Protection Directive to the General Data Protection Regulation (5853/12) (Wihelm, 2016).

Sequentially, three months later German member of the EU Parliament Jan Philip Albrecht and Committee on LIBE was officially appointed as rapporteur of the Parliament for the GDPR. Subsequently, the EU Parliament published a study titled ‘Reforming the Data Protection’ in

October 2013 which provides multiple amendments and increased stringent measures in areas of sanctions, extended territorial scope, third-country data transfer, limits on profiling and data protection officers. The revised draft was widely accepted by 49 in favour and three abstentions of the LIBE committee which gave the newly appointed Rapporteur to negotiate the draft with the council of the EU. The EU Parliament approved and invoke the reformed proposal or the GDPR immensely. The voting plenary was 621 votes in favour, 10 against and 22 abstentions in March 2014. Interestingly, the progressed of the GDPR went through when the EU Council reached a partial general approach on Chapter IV on controller and processor. The approach includes the comprehension that nothing is agreed until everything is agreed, (2) it is without prejudice to any horizontal questions (3) “it does not mandate the presidency to engage in informal trilogue³ with the EU Parliament on the text. The trilogue embarked on 15 June 2015 with the intention of reaching a consensus on the GDPR, and on the 24 June 2015 representatives from the trilogue convened with the aim of finalising the wording of the GDPR in mutual agreement. Furthermore, Giovanni Buttarelli, European Data Protection Supervisor submitted his recommendation to the EU co-legislators who were negotiating the final text of the GDPR and also launched a mobile app that was used to compare the latest texts from the Commission, the Parliament and the Council on more easily on tablet and smartphones. Germany being the initiator of the reform of EU data directive to data regulation for harmonisation released a moving picture ‘democracy – Im Rausch der Daten’ which showed the elbow-grease by Viviane Reding, Jan-Phillipp Albrecht, Ralf Bendrath and other in conducting, coordinating and ensuring the attainment of the dream of revised data protection framework for the EU (Wihelm, 2016).

4.2.4 Germany's role in the adoption of the European Union digital policy

The EU Parliament Committee on LIBE adopted the outcome of the trialogue negotiation on GDPR with the majority voting in favour and the LIBE approving the GDPR text including provisions on clear and affirmative consent, children on social media and right to be forgotten as well as the penalty of up to 4% of firms' total worldwide annual turnover on 15 December 2015 following a long legal-linguistic review of the text. Two days later the Permanent Representative Committee confirmed the outcomes of the votes and announced issued the likelihood of the GDPR coming into force in 2018. Indeed, in January 2018, the 47 countries of the Council and other EU

³ A meeting from the representatives from EU Parliament, Council and Commission.

institutions, agencies and bodies celebrated the 10th annual European Data Protection Day, and in 25 March 2018, the GDPR came into effect (Wihelm, 2016).

4.2.6 Germany's role in the promulgation of the European Union digital policy

Interestingly Greece, Hungary, Ireland, Italy, Latvia, Lithuania Poland, Portugal, Romania, Slovakia, Spain, Luxembourg, Malta, Germany, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, The Netherlands, Sweden, Bulgaria, Austria, and the UK⁴ adopted the GDPR (Sixfifty, 2022). However, “Germany was the first EU member state to adopt a national law implementing the GDPR in the form of the BDSG which entered into force on 25 May 2018 and which also implement the Data Protection Directive with Respect to Law Enforcement (Directive EU 2016/680) and amends a number of other deferral laws all listed in the BDSG. Data protection in Germany is primarily government by the General Data Protection Regulation (EU 2016/679) and is supplemented by the Federal Data Protection Act 30 June 2017 (implementing the GDPR) (BDSG)” (Appt, 2017).

4.3 Case study 2

4.3.1 North American Free Trade Agreement (NAFTA)/United States Mexico Canada Agreement (USMCA) as regionalism

In retrospect, President Ronald Regan passed the Trade and Tariff Act in 1984 which allowed the President to negotiate free trade agreements more quickly. The negotiation between Canadian Prime Minister Mulroney and US President Ronald Regan began and resulted in the signing of the Canada-US Free Agreement (CUSFTA) in 1988 which came into effect a year later. Regan's successor H.W Bush convened the Mexican President Salinas on establishing a free trade agreement. This was part of President Bush's Enterprise for the Americas Initiative which advocated for debt relief programs. The inclusion of a relatively marginalised state in the agreement became Clinton's legislative success when he took office. He continued with H.W

⁴ The United Kingdom is an outlier. Although the UK has left the EU as of January 2020, the GDPR was adopted before its departure and is considered good UK law (Sixfifty, 2022).

Bush's initiative and enforced it. In 1993, the North American Free Trade Agreement (NAFTA) was signed and came into effect the following year, making it the world's largest free trade zone (Sraders, 2019; Chatzsky et al., 2020; Glass, 2018; Global Affairs Canada, 2021). This ultimately encouraged other EU member states to make the necessary reforms and adopt the GDPR.

The NAFTA was replaced by the United States-Mexico-Canada (USMCA) agreement on July 2020 (Amadeo and Anderson, 2022). Over the years, NAFTA made significant strides to ensure the economic integration of three North American countries. Its primary objective was to make NAFTA member states, most notably serving the US interest by eradicating protectionist barriers on goods and services within 15 years. Other aims and objectives were to eliminate constraints on the movement of capital investment and establish provisions for the protection of intellectual property rights, patents, copyrights and trademarks. The inclusion of Mexico in NAFTA was a way to seize the opportunity of the growing export market to the South as well as to restore the troubled relationship between Mexico and the US. The US also used NAFTA as an apparatus to ensure democratic processes in Mexico and to remedy the chronic migration pressure (Sehgal, 2010: 310).

Baldwin (1997: 868) classifies NAFTA as a shallow regional integration or regionalism. This is because it is still governed by the Canada-US Free Trade Agreement (CUSFTA) which managed to alleviate bilateral tariffs by 1998 and some of the restrictions on government procurement and cross-border direct investments. However, trade in services is not liberalised, there are existing restrictions that barricade the smooth trading in services. Similarly, NAFTA has achieved tremendous liberalisation of protectionist measures. Its investment component goes beyond those agreed in World Trade Organisation (WTO) Uruguay Round. However, trade in financial and telecommunication services is not substantially liberalised (Baldwin, 1997: 868). For example, "NAFTA excludes free competition in basic telecommunications but includes enhanced telecommunication services (advanced data-processing services)" (Langhammer, 1992: 8). Moreover, the financial sector was a battlefield in NAFTA negotiations. On the one hand, Canada was more interested in gaining greater access to the US financial institutions whereas the US on the other hand was interested in Mexico's financial sector. Moreover, Mexico's protectionist position was on the oil and energy sector given in the conventional history of nationalisation of

the sector. It managed to fend off the US interest in the sector and keep control of their oil and energy supplies (Jones, 2007).

Furthermore, withstanding the shallow or open nature of NAFTA, the interesting lens is that it managed to increase regional integration in the region through trade. Intra-regional trade increased from 33.6% in 1980 to 49.2% in 1996 and 55.7% in 1997 (Rugman, 2004). FDI in NAFTA grew significantly since 1993. Canada experienced an enormous gain, US and Mexican investment in Canada tripled with the US investments accounting for more than half of Canada's FDI stock from \$70 billion in 1993 to approximately \$368 billion in 2013 (Chatzky et al., 2020). Trade in sectors such as automotive, chemical and steel products and manufacturing increased and dominated the intra-regional trade. However, as mentioned, barriers to trade in services withstand and this has facilitated more FDI in services than trade (Rugman, 2004).

Moreover, Panagariya (1999: 40) contend that NAFTA is a closed version of regionalism and draws the argument from its closed membership admission. The Canada-US free trade agreement which was established in 1988 managed to extend its membership to Mexico in 1993. Other states more specifically, Chile attempted to join NAFTA but faced serious resistance. Panagariya (1999: 40) argue that countries in Africa and South Asia should be able to be admitted to the EU and NAFTA to show openness and until that happens, the world trading system will not be fragmented into an of the world of regions. However, in 2005, the World Bank reported that NAFTA external tariffs were lower than any existing regional organisation in the world including the most liberal one Asian Free Trade Agreement. In other words, this indicates how NAFTA was a building block or facilitator of globalisation as it encouraged extra-regional trade (Menon, 2021: 5).

More recently, US President Donald Trump announced that one of his priorities was to reduce large bilateral US trade deficit with several countries. He opts for renegotiating NAFTA as he proclaimed it as "the worst trade deal ever". This sentiment was encouraged by the US bilateral deficit with Mexico in 2016 which amounted to \$63 billion which was relatively less than with China but slightly similar with Japan and Germany. However, trade with Canada was close to balance than with Mexico. The Trump administration was ready to withdraw from NAFTA if the renegotiation were to fail and would have collapsed the North American regionalism in manner that Mexico's most-favoured nations (MFN) tariffs on imports from US would then average 7.4% from their zero level under NAFTA (Bergsten, 2017: 3-4). Further, on the 11th of May 2017, the

Trump administration send an official notice to Congress which seeks to renegotiate amendments to NAFTA. Robert Lightizer, the US trade representative conveyed that the renegotiation aims to make improvements that would invoke and accelerate economic growth and better-wage jobs in the US (Davis, 2017). Canada, Mexico and the US reached a consensus on the renegotiation and as of July 2020, NAFTA was replaced by USMCA nicknamed 'NAFTA 2.0' which updated version that incorporated few new rules most notably in areas of labour provisions, environmental standards, intellectual property protections and the digital trade provision (Kirby, 2020).

Interestingly, as Martin Wolf (2020) cited in Legge and Lucaszuk (2021) mentioned trade is leaning towards a new paradigm influenced by the outbreak and intensity of digitalisation. The internet and cross-border data flows are becoming essential channels of trade because products are traded online through websites, courier services or e-commerce platforms and other online payment platforms that heavily rely on digital connectivity (Azmeah et al., 2020: 671). Interestingly, in 2019, digital trade between three North American economies could be worth approximately more than \$250 billion. The US is the largest country with a digital market in the world thus far with a \$9.5 trillion in total business-to-customer (B2C) and business-to-business (B2B) – online sales of goods and services. Canada's online sales amounted to C\$336 billion placing it just short of the top 10 in the world and Mexico took the 14th place in the world only a few spots behind Canada with \$31 billion B2C online sales in 2019. Significantly, USMCA incorporates chapter 19 which deals with digital trade provisions to form a basis for the US, Canada and Mexico in integrating their digital markets and addressing underlying issues that may hinder digital trade to flourish in North America. Further, the chapter is regarded as the most advanced among existing free trade agreements in terms of liberalising digital trade between members. In other words, it commits to the liberalisation of digital trade and does not require regulatory barriers to both member states and non-member states. For example, the chapter prohibits the imposition of customs duties on digital transactions, however domestic taxes on digital trade may apply but long as they do not act as a protectionist barrier or discriminate against firms from other USMCA parties. Secondly, the chapter does not localisation of data. Cross-border data transfer including personal data is encouraged to liberalise digital trade. In short, this still commits USMCA to facilitate globalisation rather than being a stumbling block through the liberalisation of digital trade (Leblond, 2022).

4.3.1 NAFTA/USMCA's regional leader

The United State (US) is still the largest economy in the world but it no longer as powerful as it once was before. In 1945, the US accounted for approximately 45% of the global economy and 59% of the world's gold reserves. More recently in 2022, the US is still the largest economic and holder of global gold reserves but it has become a debt-ridden super economy (Yugui, 2022). Although in terms of the material capabilities to appraise a regional leader, The US regional leadership status is attributable to perhaps its role rather than material power. Table 4 below contains data from the US but with the exception of the GDP share in the region, the quantifiable indicators used to operationalize regional leadership appraise the US in a relatively underperforming status in terms of material capability in NAFTA/USMCA. Retrospectively, the only indicator that the US has consistently held leadership status is the GDP share of the region. In other words, the US GDP share of the region has been consistently the highest in the region from 2011 to 2018, followed by Canada and Mexico respectively. Further, in 2020, the US GDP was the highest in the world accounting for 15.8% (O'Neill, 2021). The GDP is both high in North America and NAFTA, for example, in 2013, the average GDP percentage of North America based on 26 countries was 0.9%, and the US had the highest percentage of 18.6%.

Interestingly, in terms of innovation, the US appears to have lost its grip on leading the region. For example, Canada has been consistently leading in terms of internet penetration from 2011 to 2020 with the US taking second place throughout the period. For example, in 2019, 96.5% of the Canadian population were internet users whereas 89.4% of the population in the US and 70% of the population in Mexico were internet users. Canada experienced an average year-on-year growth of 1.63% from 2011 to 2017 whereas the US experienced the lowest year-on-year growth of -0.36% for the same period.

More, in terms of the share of tech export percentage in the region, Mexico has been the highest except for 2014, 2015, and 2016. The US was the highest in this period accounting for 20.4%, 21.3%, and 22.4% respectively. But the US high-tech export declined from 22.4% in 2016 to 19.2% in 2017 while Mexico increased and regained its status as the leading high-tech exporter in

the region from 20.6% in 2016 to 21.1% in 2017. Canada consistently took the last place share of high-tech exports from 2011 to 2020 in the NAFTA/USMCA.

Table 4: NAFTA/USMCA Regional Leader's Quantifiable Measures

EU Regional Leader's Quantifiable Measure	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Share of GDP in the Region (Rank)	17.9 (1st)	18.5 (1st)	18.6 (1st)	18.9 (1st)	21.2 (1st)	21.4 (1st)	21 (1st)	20.8 (1st)	21.4 (1st)	21.6 (1st)
Internet Penetration in the region (% of the population) (Rank)	69.73 (2nd)	74.7 (2nd)	71.4 (2nd)	73 (2nd)	74.55 (2nd)	85.54 (2nd)	87.27 (2nd)	88.5 (2nd)	89.43 (2nd)	90.9 (2nd)
Share of tech exports in % (Rank)	20.6 (2nd)	20.1 (2nd)	20.1 (2nd)	20.4 (2nd)	21.3 (1st)	22.4 (1st)	19.2 (2nd)	18.4 (2nd)	18.6 (2nd)	19.4 (2nd)
Sources: https://www.theglobaleconomy.com/rankings/gdp_share/North-America/ https://www.theglobaleconomy.com/rankings/Internet_users/NAFTA/										

However, in line with the conceptual framework of the dissertation, regional leadership should be assessed based on the 'role' because the possession of material capability is nothing until one puts them to good use for the benefit of all states in the regional community (Hulse, 2016: 12). In this case, according to table 4, the material dominance of the US is only witnessed in its share of GDP in the region. Perhaps that material capability alone is the inspiration for it to assume such status and share cohesion in the region by delivering one or more 'public good' as seen in Chapter 2 'historical background' where the US played a central part in the establishment of the regional free trade agreement known as NAFTA and its successor USMCA (Nel and Stephen, 2016: 72). In assessing its role as a regional leader, the conceptual framework guides that one should look into what regional leaders provide in the region, how they project themselves, and how are they perceived by others in the region (Hulse, 2016: 12).

LeoGrande (1995) refers to the US as a ‘friend in need’. The pivotal role played by the US in providing stability in the North American region includes financial aid, peace and security, and the establishment of free trade in the region (public good) (LeoGrande, 1995). One of the objectives of former President Bill Clinton’s (1993-2001) foreign policy was to contain ongoing civil conflicts or accelerate peaceful resolutions to several ongoing conflicts in the world (Evans, 1996: 24). He vehemently uttered Immanuel Kant’s quote that “democracies do not attack each other” therefore, the US will ensure durable peace and security through the advancement of democracy in the world. In turn, democratization became the third pillar of his foreign policy (Owen, 1994: 87). In retrospect, Nel and Stephen (2016: 76) convey that regional leaders use their national foreign policy as a strategic apparatus to articulate the willingness and mission of providing leadership by driving public good objectives in the region (Nel and Stephen, 2016: 72). The US perceive itself as a global leader. The articulated pillar of former President Bill Clinton’s foreign policy extensively refers to the ‘world’ or ‘elsewhere’, meaning such public good is not only limited or barricaded for the enjoyment of the North American region but the rest of the world (Owen, 1994: 87; LeoGrande, 1995). However, given the assurance of such public good for the world, the Americas region excessively enjoyed it because according to the conceptual framework, global leaders or powers are de facto, regional leaders in their respective regions (Milner, 1998: 113; Grunberg, 1990: 442; Hausken and Plumper, 1996: 276; Wu et al., 2016: 2). Similarly, Clinton’s successor George W Bush (2001-2009) altered his foreign policy following the 9/11 incident to ensure a war on terrorism not only in the US but in the world. Apart from the war on terror, Bush’s foreign policy advanced promoting good health in the world and committed war against HIV/AIDS in the world as well as peace and security and democracy (Mwende, 2021).

Moreover, his successor Barack Obama became the 44th US president in 2009-2017 and promised ‘hope’ and ‘change’ because many people in America and the globe were overwhelmed by the Bush-era which advanced and advocated for wrong wars or at least wars gone wrong and as well as the decline of US economic power during his era (Keller, 2008). Obama’s foreign policy focused on ‘renewing American leadership’ (Ondrejcsak, 2009: 150). In pursuit of such renewal, he advanced a policy which could retain American global hegemony

Furthermore, Barack Obama’s successor Donald Trump, during his campaign expressed and lambasted foreign policy elites for their pursuit of an agenda that ripped off the American people.

Trump administration advanced a “Making America Great Again” and “America First” foreign policy which invokes an ethnonationalism mandate which ultimately rejected and opt to reverse the universal applicable liberal ideas such as globalism and transnationalism. It was against globalisation and the notion of the US playing a superpower or global leadership role in providing world order and stability. He argued that such has cost the US dearly, therefore, America will look at bettering and stabilising its people which is its core interest (Restad, 2020: 7-9).

Significantly, In line with Chapter three of the dissertation, regional leaders use their national foreign policy as a strategic apparatus to articulate the willingness and mission of providing leadership by driving public good objectives in the region (Nel and Stephen, 2016: 72). In this case, the US is a global hegemon or global leader and as highlighted above, a global leader is by de facto, regional leaders or hegemons. Interestingly, the foreign policy of three erstwhile US Presidents Clinton, Bush and Obama have articulated and shown US’s willingness to accept its role as a global leader and commitment to maintaining public good, peace and security and order. However, US President Donald Trump is the only one that has resorted to nationalism in his foreign policy, he prioritised national interests and prosperity and threatened pre-existing agreements that did not serve America’s nationalistic interests. For example, he threatened to leave NAFTA if member states did not renegotiate terms to circumvent US trade deficit with NAFTA.

Furthermore, in line with Chapter 3 of the study, regional leadership is conceptualized as a role rather than a material status (Nolte and Schenoni, 2021). Regional leaders play a pivotal role in representing regional interests and values in multilateral trade negotiations and management of peace and security matters in their respective regions (Vieira et al., 2011: 514). Essentially, the common role of regional leaders is an engine of growth and development in the region. They bring peace and stability (Prys, 2013: 269). The Clinton administration played a pivotal role in remedying and stabilising the Mexican Peso crisis of 1994 known as the “Tequila Crisis”. The crisis embarked a year after NAFTA went into effect. This was one of the worst banking crisis in Mexican history, the major currency depreciation in one year, the Peso dropped from 5.3 pesos per dollar to over 10 pesos per dollar between 1994 and 1995, and concomitantly, its GDP dropped over 6% in 1995, the severe recession in over a decade (Musacchio, 2012: 5). Foreign investors lost confidence in the value of the Peso and withdrew their funds. The Mexican government did not have the foreign currency reserves needed to support the Peso (Sehgal, 2010: 310). The US

congress under the Presidency of Clinton passed the Mexican Debt Disclosure Act of 1995 which provided billions of dollars in financial aid for swap facilities and securities guarantees and coordinated additional assistance from the International Monetary Fund (IMF). Although the Mexican government were required to make certain structural adjustment in its fiscal and monetary policies to receive the sizable bailout. It also had to maintain its obligations under NAFTA and suffered a severe recession and hyperinflation in the years following the Tequila crisis (Chen, 2021). But the US heavily traded and invested in Mexico as a result of its liberalisation commitment and this had a positive outcome on economic development of Mexico. For example, US exports to Mexico increased from \$28 billion to \$111 billion and the US annual flow of direct investment to Mexico increased from \$1.3 billion in 1994 to \$15 billion in 2001. In 2005, the US also extended the investment opportunity by injecting \$20 million in 2005 in programmes and technical exchanges to aid Mexico in addressing production, distribution and marketing-related issues which came as a result of moving to free and open trade (Sehgal, 2010: 311).

Furthermore, under US President George Bush (2001-2009) Schaefer, et al. (2009: 52) contends that between 2001 to 2006, US financial assistance to Mexico was designated mostly for counterterrorism and counter-narcotics measures, more on technological aid, and relatively less for institution building to curb corruption or maladministration. In total, the US allocated approximately \$400 million to Mexico to invoke some of the aforementioned programs. The foreign assistance amounted to between an estimated \$60 million and \$70 million a year with the majority allocated for counterterrorism, counter-narcotics and technological aid in Mexico (Schaefer et al. (2009: 47). Additionally, US former President Gorge Bush asked for \$550 million for the Mérida Initiative that would supplement financial assistance for neighbouring countries' national security. In that \$550 million budget request, \$500 million was preserved for Mexico and \$50 million for Central America (Cuellar et al., 2008: 2). The first stage of the funding was focusing on strengthening law enforcement agencies with technological aid such as helicopters and surveillance aircraft, scanners and canine units for Mexican customs (Schaefer et al., 2009: 53).

Moreover, manifest how they project themselves through the exercise of control and influence. They wage sanctions on non-compliant, misbehaviours, or member states that tend to distort the direction towards the attainment of their shared values, norms, goals, and principles (Kappel, 2010:

11). The recent manifestation of how the US project itself as a regional leader was during US President US Trump proposed to renegotiate NAFTA deal or collapse it if the administration did not get the desire concessions. Member states looked through the benefits of such North American regionalism and invoked US negotiation terms and conditions irrespective of whether it interfered with national interest or what, they simply desired to keep NAFTA afloat. Consequently, this led to the new negotiated USMCA which was approved in July 2020 to update NAFTA (Floyd, 2020).

Significantly, is it imperative to assess how regional leaders are perceived as leaders by their followers, whether they are embraced, and accepted in the region as leaders. In line with the conceptual framework of the study, regional leaders get followership because they fully comprehend the regional dynamics in terms of the values and outcries of their regional neighbourhood (Wu, Liao, and Wayne, 2021: 1). Moreover, subordinate states or followers in the region accept and participate in a leader's initiative because they receive benefits. They can finally have a voice and advance their domestic national interest in regionalism, something that is complex to do in globalization (Kappel, 2010: 11). A regional leader may serve a pivotal role in coordinating rules, regulations, and policies in the region (Yoshimatsu, 2006: 121). In this case, there is a good relation between US and Canada. Firstly, Canadian Prime Minister Jean Chrétien and US President Bill Clinton were both synchs and complimented each other for their diplomatic consensus and US-Canada relations. Clinton's charismatic and seductive persona was popular in Canada and Mexico as he was in the rest of the world. However, tension and clash occurred between Chrétien and George W Bush when he succeeds Clinton and proposed a plan to depose Iraq's dictator Saddam Hussein. However, the relationship grew after 9/11 and Canada agreed to troops to fight against the Taliban in Afghanistan. Interestingly, Bush did not mention Canada when he was thanking countries that assisted the US after the attack. However, notwithstanding the minor squabbles that were there over Iraq War and Chrétien's spokesperson who was caught calling Bush "a moron" the bond between the two countries remained strong. Moreover, Chrétien's successor, Stephen Harper embraced the US and invoked Bush's foreign policy approach, he lamented in the first summit with Bush that "A threat to the US is a threat to Canada, to our trade, to our interests, to our values, and to our common civilization. Canada has no friend among America's enemies and America has no better friend than Canada". He reiterated the same sentiments at the news conference with Bush's successor, Barack Obama (Troy and McDonalds, 2011).

4.3.2 The role of the United State in the creation of USMCA's digital policy

As highlighted above, the US is a leader in e-commerce and is also home to the most globally competitive suppliers of digital goods and services. For example, the four global influential tech companies name Amazon, Microsoft, Google and IBM are from the US. They are the top provider of cloud computing services in the world. Many small and medium tech service providers are able to leverage these companies' services to provide services around the world. More recently, both consumers and businesses became largely dependent on e-commerce and they directly use services offered by these four aforementioned companies. Perhaps the reason behind the incorporation of chapter 19 in USMCA which advances digital trade liberalisation is to ensure that there are no hindering barriers to these companies to prosper (Huddleston and Vara, 2020).

As highlighted above, the rapidly growing volume of digital trade flows in the NAFTA has opened the door for the renegotiation of the free trade agreement to incorporate digital policy and rules that would govern and enhance greater harmonization and cooperation among member states (Enoch, 2017). Ultimately, the transition from NAFTA to USMCA is not completely drastic. The main difference is that USMCA includes a chapter on digital trade and regulations (Rinehart, 2018). More, the incorporation of digital policy in the USMCA was imperative for the US because digital trade immensely contributed to jobs and growth. In 2014, the US International Trade Commission's report connotes that digital trade contributed approximately 2.4 million jobs and boosted production across sectors and industries (Enoch, 2017).

Notwithstanding the tremendous progress of NAFTA in the last two decades. It suffered from scrutiny from both the left and right-wing cronies in the US. The parties criticised the FTA for declining employment rate and holding back wage growth in manufacturing industries. Former US President Donald Trump conveyed that NAFTA is "the worst trade deal in the history of the country" (Partington, 2018). In turn, the president opts to exit or modify NAFTA (Thrust, 2018). The process of renegotiating and incorporating digital policy in NAFTA embarked in the US (Aleem, 2017). In effect, on the 11th of May 2017, the Trump administration send an official notice to Congress which seeks to renegotiate amendments to NAFTA. Robert Lightizer, the US trade representative conveyed that the renegotiation aims to make improvements that would invoke and accelerate economic growth and better-wage jobs in the US (Davis, 2017).

In July 2017, the US trade representative released an 18-pages document that stipulated America's initial negotiation priorities and objectives to modify NAFTA (Tapp, 2018; Soergel, 2017). Among other objectives, the Trump administration inserted the significance of removing digital trade barriers in its objectives for the NAFTA renegotiation (Chander, 2017). The argument was that NAFTA was negotiated in the early 1990s, before the explosion of the internet and smartphone usage, and before the internet became a pivotal apparatus for businesses and commerce in North America. The issue of cross-border data flows and the trade of digital products remains unaddressed in NAFTA. Therefore, the inclusion of digital trade and policy to regulate data management was a cornerstone for US NAFTA renegotiation objectives (Wilson, 2017). The US was seen as inserting or pushing for the Trans-Pacific Partnership Plus (TPP+) provision with some additional modifications that it failed to achieve when it was part of TPP+ (Geist, 2018).

Further, the representative from three member states, the US trade representative, the minister of foreign affairs in Canada and the secretary of foreign affairs in Mexico embarked on NAFTA renegotiation in August 2017 (Soffen and Cameron, 2017). Much of what the US proposed in terms of digital policy was already part of TPP (where the US has withdrawn) to which Canada and Mexico had already agreed upon (Hirsh, 2018). Moreover, "in negotiating objectives, The Office of the United States Trade Representative conveyed that it opts to 'establish rules to ensure that NAFTA countries do not impose measure that restrict cross-border data flows and do not require the use or installation of local computing facilities' (McGregor, 2017). The US sought to alleviate measure that were detrimental or that could stall free digital trade in NAFTA (Huddleston and Varas, 2020).

This effort to eliminate laws that are barriers to digital trade predates the renegotiation of NAFTA. In 1995, the World Trade Organization (WTO) General Agreement in Trade in Services obliged to liberalizing trade in services and among others was to advance cross-border data flows. In 2001, the US embarked to incorporate digital issues and e-commerce chapters in its bilateral trade agreements (Chander, 2017). The Barack Obama Administration made tremendous progress in lobbying a handful number of the TPP to alleviate digital trade barriers such as extreme data localization laws (McBride et al., 2021). However, TPP permitted data localization because of the lack of alternatives to it (Chander, 2017).

4.3.2 United States role in the adoption of USMCA's digital policy

The agreement on adopting the provision of digital policy that was proposed by the US in its NAFTA renegotiation objective was a less exhaustive or easy pillar as all parties have pre-existing national provisions (Malcolm, 2017). For example, Mexico and Canada have pre-existing comprehensive privacy laws. Mexico passed its privacy law in 2010, the Federal Law on Protection of Personal Data Held by Private Parties or (Ley Federal de Protección de Datos Personales en Posesión de los Particulares). The law basically intends to regulate the collection, transfer, storage, processing, and usage of personal data. Similarly, Canada passed its privacy law in 2004 known as the Personal Information Protection and Electronics Document Act (PIPEDA). Likewise, PIPEDA regulates similar aspects as the one in Mexico (Stewart, 2020). However, the US is the first to pass privacy laws in North America. Its privacy laws dates to 1974 at the height of powerful microprocessors, database, the emergence of personal, networked computers and easy-to-use software expanded the US digital space. Congress passed the US Privacy Act of 1974 which contained rights and restrictions on data held by US government agencies (Green, 2021; Atkinson, 2021).

Indeed, the fifth round of negotiation of reforming NAFTA which looked at digital policy was uncontroversial and Mexican Trade Minister Idefonso Guajardo confirmed that there was progress and digital policy chapter could be closed sooner as parties agrees on many aspects of the provisions (Malcolm, 2017). In short, the round of negotiation was based on aspects that parties agree and commensurate with, for example, though the objective was proposed by the US (Hirsh, 2018). The Canadian American Business Council established a task force to produce a digital framework for USMCA. The report included recommendations that stipulated that the chapter should secure cross-border data flows, growing the digital infrastructure in the continent, and create new markets for digital trade (Greenwood and Trudeau, 2017). Lastly, For the first time, the USMCA has a full chapter on free digital trade and policy. The chapter forbid import duties and other measures on electronically transmitted digital products, discriminatory treatment of cross-border data transfers, and forced data localization (Tran, 2020).

The USMCA is the first US trade agreement that incorporated a data localization ban. As highlighted above, the motion of alleviating data localization was inserted by the US when it was still party to the TPP. However, it withdrew and the modified version of TPP known as the

Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) incorporated clauses that ban data localization. This motivated the Trump administration to assert similar motions in its new bilateral trade agreement, for example, in the US-Japan trade deal negotiated in 2019, the US-EU and US-Kenya Data trade deal includes provisions on data localization ban (Huddleston and Varas, 2020).

4.3.3 United States role in the promulgation of USMCA's digital policy

Interestingly, Mexico became the first country to ratify the USMCA which incorporated the digital policy in June 2019. The US Democrats on Capitol Hill refused to sign on to the deal without changes, especially on the enforcement of labour provisions, and stronger environmental protection regulations. In response, the Democrats formed a working group to work on meeting the demands. In December 2019, the House Democrats conveyed that they have reached a consensus with the Trump administration on updating the USMCA trade deal and incorporating their demands. Sequentially, the USMCA passed the House with a vote of 385 to 41 and the senate approved the USMCA in January 2020. In the same month, President Trump signed the USMCA which signalled one of the greatest achievements during his administration as he heads into the 2020 US Presidential elections. Lastly, Canada ratified the agreement in March 2020 and the USMCA went into force on the 1st of July 2020, becoming the first agreement in North America to incorporate the digital policy outlined in Chapter 19 (Kirby, 2020).

4.4 Case study 3

4.4 Association of East Asian Nations (ASEAN)

After the Second World War, many Southeast Asian countries became independent from colonial rule. At that time, they had nothing in place to bind them together in solidarity. However, economic development was a priority to newly independent countries, external regional links were in relation to economic gains. Many maintained links with highly industrialised countries or former colonizers on the basis and idea that they supplied them with aid and security (Hussey, 1991: 87).

Significantly, the Cold War perpetuated the division and distrust between communist and non-communist Southeast Asian countries. In short, the Southeast Asian region became a sphere of

influence and cooperation was largely hindered by the power politics of the Cold War (Hack and Wade, 2009: 441). After four decades of independence, five countries of the Southeast Asian region achieved regional cooperation through the creation of the Association of Southeast Asian Nations (ASEAN). The ASEAN was founded in August 1967 by the five founding member states namely Indonesia, Malaysia, the Philippines, Singapore, and Thailand (Shimizu, 2021: 1). Burma declined to be a party to ASEAN and Laos and Cambodia were declined by the organization to participate because of their military aggression in Indochina. Brunei joined after obtaining independence in 1984 (Hussey, 1989: 87).

In the fog mist of the Vietnam War, hostility and protracted conflicts in the Southeast Asian region. The founding member states formed the ASEAN to accelerate political cooperation, and regional solidarity and to mitigate security issues in the region (Shimizu, 2021: 1). However, Hussey (1991: 87) contends that ASEAN has three founding objectives which are to promote and facilitate intraregional economic development, to foster social and cultural progress, and ensuring peace and stability in the region. Indeed, Shimizu (2021: 1) refutably contends peace and security were of utmost paramount at the times, and the interest to forge economic regionalism or economic cooperation and integration embarked following the 1976 Declaration of ASEAN Concord (Shimizu, 2021: 1).

In light with the conceptual framework, regionalism evolves from addressing security issues to incorporating economic cooperation as a primary goal because the notion is that by achieving economic cooperation and integration, others simultaneously follow. This addresses Immanuel Kant's assertion that 'democratic countries do not go to war with one another', the closer economic ties, interdependency, and interrelations contain countries from resorting to conflict or violence because of what is at stake. Moreover, the efficacy of regionalism is marshalled by free trade agreements (FTA), common market (CM) and custom agreements (CU) (Burfisher et al., 2004: 1; Sarkar, 2012: 1; Kim and Schmitter, 2005: 7; Pandey, 2021). Initially, the ASEAN economic ties were advanced through three projects which are, the ASEAN Industrial Project (AIP), the ASEAN Industrial Complementation (AIC), and the ASEAN Preferential Trade Agreement (PTA) (Shimizu, 2021: 1).

Significantly, the ASEAN foreign ministers signed the agreement on ASEAN PTA in 1977 (Park, 1999: 391). The ASEAN PTA was an initial attempt of regionalism that was envisioned to narrow

the growing disparities among member states and accelerate trade liberalization (Devan, 1987: 197; Ishikawa, 2021: 25). This was done through long-term quantity contracts, preferential terms for financing imports, preferential imports by government agencies, preferential tariffs rates, and the liberalization of non-tariffs to trade (Park, 1999: 391). However, the results were disappointing, the agreements failed to attain the objective mainly because but not limited to the 'protectionist developmentalism' spirit among five member states (Artner, 2017: 9). Although all member states joined the across-the-board tariff cut in 1980 (Park, 1999: 392). The leaders of the five member states advanced the notion of collective import substitution in heavy and chemical industries which stringently restricted extra-regional imports and foreign direct investments (FDIs). In turn, the 'collective' mercantilist approach impacted the feasibility of the ASEAN PTA (Artner, 2017: 9). On the one hand, the intra-ASEAN trade grew in the 1970s and 1980s, by 1990 the level was about to 15% of total ASEAN member state trade (Hass, 1997: 332). On the other, after two decades of promulgation, the ASEAN PTA managed to reduce 5% of trade between the six member states. The Philippine President Corazon Aquino and the Indonesian foreign minister expressed concerns about the outcomes and performance of the ASEAN PTA (Hass, 1997: 332).

Moreover, the factor that contributed to intra-ASEAN growth in 1980 is the fall of import substitution *modus operandi* or strategy to industrialize. The model of import substitute industrialization became outdated because it was used everywhere in the developing world. Southeast Asian countries were opened to utilize the new approach marked by the paradigm shift of 1980. The spread of neoliberal policies which was pioneered by international financial institutions mainly by the World Bank and International Monetary Fund (IMF) which used assisted indebted developing countries on the basis of ideas of the Washington Consensus. Recipient countries were required to make structural adjustments that are align with neoliberal economic model to obtain loan or financial assistance from either or the two Bretton Wood financial institutions (Artner, 2017: 11). As many countries at the international stage more especially the developing world were switching from mercantilist approaches to neoliberal approach, ASEAN countries felt the need to change and reformed their economic policy. In short, ASEAN countries disposed of the import substitution strategy and pursued liberalization, an export-oriented approach and an FDI-dependended strategy to industrialize. This switch towards neoliberalism in ASEAN was made clear in the Third ASEAN Summit (Manila) in 1987. Exogenously, the creation of the North American Free Trade Agreement (NAFTA) and the European Union (EU) in the early

1990s raised the ASEAN community's eyebrows on how will ASEAN exporters reach the US and EU market. Secondly, the collapse of the Uruguay Round of negotiation on the global trading regime fuelled the concern about the future of liberalization and international trade (Park, 1999: 393; Artner, 2017: 11)

In turn, ASEAN resorted to regionalism or deeper economic integration which were articulated in the Framework Agreement on Enhancing ASEAN Economic Cooperation at the Fourth Summit in Singapore in 1992. The summit had a positive outcome in promoting greater liberalization by reducing tariffs within the region. Among others, parties reached a consensus and signed the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme as a mechanism to achieve the ASEAN Free Trade Agreement (AFTA). Sequentially, although, intra-ASEAN trade liberalization was drastic as the one in NAFTA, the signing of the CEPT by member states paved a way for a gradual tariff reduction in protected industries more especially manufacturing industries (Artner, 2017: 12). Significantly, the summit endorsed the AFTA and was officially launched in 1993 by Indonesia, Malaysia, the Philippines, Singapore, Brunei, and Thailand as parties of the AFTA, and by after on incorporated Vietnam, Laos, Myanmar, and Cambodia (Calvo Pardo et al., 2009: 1; Ishikawa, 2021: 27).

Moreover, the AFTA was initially established to alleviate tariffs which hinder the growth of intra-ASEAN trade within the 15 years but the time frame was shortened to 10 years. The primary objectives of the AFTA was to prepare for liberalization to that will attract FDIs, and that will ensure that ASEAN do not lose the significance of economic integration and establish strong regionalism similar to NAFTA and the EU. In short, it was prepared for intra-regional trade and investments. The concern was that China's economic reforms in 1990s would attract most Asia's FDIs (Ishikiawa, 2021: 27). Indeed, the "Invest China" boom had strong effects on Southeast Asia, for example, ASEAN share of investment plummeted from 48% to 28% from the 1989 to 1994 (Hass, 1997: 332). Therefore, the AFTA was designed to attract and retain FDIs to the ASEAN community (Ishikawa, 2021: 27).

In response, the mission was to make the AFTA attractive and more comprehensive. In the same breath, the AFTA reduced tariffs across all manufactured goods including capital good and processed agricultural products (Sukegawa, 2021: 43). The agreement on the common effective preferential tariff (CEPT) scheme connoted that tariff levied on products that were traded within

the ASEAN region should be reduced from 0-5%. This applied to all products that had at least 40% ASEAN origin or content. In effect, over 99% of the products in the CEPT inclusion list of ASEAN-6 and 80% of the products from the additional members (Cambodia, Laos, Myanmar and Vietnam) were moved to the CEPT inclusion list (Hapsari and Mangusong, 2006: 5). Although, member states were initially allowed to exclude agricultural products from tariffs reduction. It fell under HS codes 01-24 category and that were items that were excepted from liberalization. In December 1995, agricultural products were included in the list and were subjected to tariff reduction. The agenda of elimination of protectionist measures in the agricultural sector such as subsidies and tariffs was high contested by the developing world in the Uruguay Round of the General Agreement on Tariffs and Trade in 1993. In turn, the ASEAN community considered the inclusion of the agenda in the AFTA and reached a consensus at the 26th ASEAN Economic Minister Meeting in 1995. Sequentially, Vietnam, Laos and Myanmar, and Cambodia's agreement to this mandate concurred with their accession or affiliation to the ASEAN in 1995, 1997 and 1999 respectively (Sukegawa, 2021: 43).

In May 1997, the East Asian countries experienced a contagious financial and economic crisis. The crisis included the collapse of many of region's currencies, companies, and fuelled economic and political instability (Narine, 2002: 179). It was expected that the financial crisis would have precarious implication of the ASEAN economic integration and the AFTA would die as a result of the resurrected action of mercantilism for recovery amid the crisis. However, the ASEAN countries reacted in solidarity and exerted more commitment to attain liberalization to retain FDIs that had left the region. The tariff reduction was moved from 0-5% to total tariff alleviation. The schedule of tariff alleviation was decided at the 3rd Informal ASEAN Summit in 1999 by five years to three years in 2010 and 2015 respectively (Sukegawa, 2021: 49). Moreover, interestingly, the commitment reduced tariffs significantly in comparison to other major FTA namely NAFTA. AFTA tariff reduction was lower than NAFTA's. "On average, ASEAN members had 96% of their tariff lines at 0% by 2017 (Menon, 2021: 5). Sequentially, the AFTA was completed in 2018, the target was reached and became an FTA of high standards internationally with intensive alleviation of intra-regional tariffs or higher liberalization levels which superseded that of the transpacific partnership (TPP) (Sukegawa, 2021: 42).

However, the AFTA is not stumbling block but a facilitator of globalization. FTA are established to enhance intra-regional trade through alleviating tariff rates amongst member states but does not constitute nor oblige member states to execute the same mandate with external parties or non-member states. Member states could retain their independence or protectionist measures in making trade policies with non-member states (Lai et al., 2019: 4). However, as highlighted in the previous chapter, the ASEAN regionalism project is different from other enclosed version of regionalism as articulated by Gul (2003: 50) and unique from the perception and response that rationalized the mandate of the existence of regional economic organizations in the global south. The ASEAN is outward rather than inward-looking meaning it values inter-regionalism or extra-regional economic links (Mennon, 2021: 15). The growth of intra-ASEAN trade was equally accompanied by growth with robust extra-regional trade with non-ASEAN countries more specifically with China, Japan, Republic of Korea, and India. The AFTA minimalised discriminatory policies with external parties. It facilitated relations with non-member states thus facilitating globalization (Chen, 2018: 19).

More recently, digital trade is growing at an unprecedented rate in Asia. This is the use of digital technologies to facilitate and engage in the international purchase of goods and services (González, 2019: 12). Legge and Lucaszuk (2021) cited Martin Wolf's (2020) sentiments in the financial times article which reads that "the plausible future is not that globalization is going to die, but it is likely to become more regional and more digital". Indeed, trade is leaning towards a new paradigm influenced by the outbreak and intensity of digitalization. There is a growing change in digital production, exchange, and consumption of goods and services. The internet and cross-border data flows are becoming significant or even essential channels of trade because products are traded online through websites, courier services, or e-commerce, and other online payment platforms and channels that intrinsically rely on digital connectivity (Azmeah et al., 2020: 671).

In 2019, Asia accounted for approximately 60% of the world's online retail sales (González, 2019). The ASEAN internet economy grew by 5% between 2019 and 2020. The COVID-19 pandemic intensified the demand for digitalisation (Natalegawa and Bismonte, 2021). Companies rapidly transformed their business model to incorporate digital means as an essential component to stay afloat amid the pandemic. The containment restriction facilitated the high demand for digital services and transactions in Southeast Asia. The high internet penetration in the region facilitates

the growth and government continue to invest in several areas that still need improvements such as digital infrastructure, cyber security and effective digital policy (Zaman, 2022).

The country with the highest e-commerce share of GDP is Indonesia which accounted for 6.3% followed by Malaysia, Thailand, and Vietnam which all fell within the same parameters of approximately 4% (Lee, 2021). Southeast Asian countries and the ASEAN are pursuing cross-country collaboration such as the “Go Digital ASEAN” which would boost the digital economy and collaborative infrastructure (Zaman, 2022). Interestingly, in terms of digital norms and agenda-setting, Southeast Asian countries are advancing two paths. On the one hand, some are advancing an open, accessible and standardized collaboration with other countries, on the other hand, some are advancing a more localized and protectionist system. For example, Singapore pursued a more open, accessible, and standardized collaboration that is expressed in its agenda on Digital Economy Partnership Agreement with Chile, New Zealand, and the Singapore-Australia Digital Economy Agreement (Natalegawa and Bismonte, 2021). Whereas, Vietnam, on the other hand, advance a more protectionist digital agenda which restricts cross-border data flows as expressed in its 2018 Cybersecurity Decree (Natalegawa and Poling, 2022). Moreover, the AFTA has included a digital policy which might possibly only enhance internal interoperability and fuel an emergence of an inter-regional splinternet which lay a foundation for a restrictive region-based digital trade.

4.4.1 ASEAN's Regional leadership

Espea and Gill (2020), Heiduk (2016: 7), Putra, (2015: 190) and Rattanasevee (2014: 5) contend that Indonesia is a leader in the ASEAN. The argument is drawn from its supremacy in material capability and the role it played to the establishment of ASEAN. For example, Heiduk (2016: 7) argue that “Indonesia’s general image as a regional leader and primus inter pares was never challenged outright during Suharto’s era. However, Putra (2015: 190) convey that the ramification of the Asian financial crisis of 1997/1998 had reduced Indonesia’s material power which preserves its influence and power towards ASEAN. Concurrently, Kurlantazick (2019) lamented that the Indonesia’s material dominance in the ASEAN plummeted following the transition from authoritarianism to democracy in the late 1990 and early 2000 and lost the regional leadership

mantle but it later regained stability through economic growth and political stability in the mid-2000 and became dominant actor again in the ASEAN.

The dissertation has employed quantifiable measures to operationalize the material dominance of Indonesia vis-à-vis the ASEAN region. The table below appraises the material dominance of Indonesia in the ASEAN region from 2011 to 2020. In terms of Indonesia's GDP share in the region has been consistently the highest from 2011 to 2018. Indonesia has been having the highest share in ASEAN GDP consistently from 2011 to 2018. In terms of share of tech exports (% of manufactured exports), Indonesia has struggled to outperform the ASEAN member states in that division from 2011 to 2020. Indonesia remained in the 6th position in 2011, 2012, 2014, 2018, 2019, and 2020 see the figures below. Its position deteriorated to 7th in 2013, 2015, and 2016 and 8th position in 2017 and 2019 respectively.

In this regard, Indonesia is not the highest in terms of share of high tech exports in the ASEAN region. Singapore and the Philippines leading interchangeably over the years. Moreover, in terms of internet penetration, Indonesia is lacking behind consistent performing below average in the region. For example, in 2011 and 2012, the average was 30,1% and 33,1% respectively, Indonesia consistently took 7th position at 12,2% and 14,5% respectively see below. In short, Indonesia took at 7th position throughout, it was only in 2014 and 2015 that it went to 6th position at 22% and 25,4% respectively. Interestingly, Singapore was the country with the highest internet penetration from 2011 to 2015 and was surpassed by Brunei in 2016 to 2019 which was in turn surpassed by Malaysia in 2020. Finally, it is evident that Indonesia's material capability or supremacy is GDP which reflects its dominance in economic power in the ASEAN community. Although economic capability may be the central apparatus or a sufficient capability to influence the behaviour of other states. Regional leaders have the largest and most attractive regional economies which may fascinate followers who are desire to reap the benefits associated with following a leader (Krapohl, 2019: 93; Kewir, 2015: 28). But more recently, power politics remains despite (or perhaps because of) dominance in innovation and emerging technologies (Kim, 2019: 1) and in terms of the technological and digital mighty, Indonesia seems to fall behind the anticipated position as a regional leader.

However, material power is not only sole determinant factor to appraise regional leadership. Although "regional leaders traditionally exploited the size and resource gap with neighbours to

project themselves as regional leaders and, by extension, global players” (Nolte and Schenoni, 2021; Wehner, 2015: 436). But significantly, the ‘role’ is relatively more significant than material status. Some state qualifies to become a regional leader in the region but fail to fulfil the role that is expected from them (Nolte and Schenoni, 2021). In other words, a country might have the capability to possess a regional leadership position but is not willing to assume that position and lead (Hillebrand, 2019). However, in light of the conceptual analysis, Nel and Stephen (2016: 76) convey that regional leaders use their national foreign policy as a strategic apparatus to articulate the willingness and mission of providing leadership by driving public good objectives in the region (Nel and Stephen, 2016: 72). In this case, Indonesia has been a pioneer in ASEAN since its foundation and inception (Espea and Gill, 2020).

Table 5: ASEAN Regional Leader’s Quantifiable Measure

Operationalizing Regional Leadership (Quantifiable measures)	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Share of GDP in the Region (Rank)	1.03 (1 st)	1.05 (1 st)	1.01 (1 st)	0.96 (1 st)	1.0 (1 st)	1.07 (1 st)	1.09 (1 st)	1.05 (1 st)	-	-
Internet Penetration in the region (% of the population) (Rank)	12.2 (7 th)	14.5 (7 th)	14.9 (6 th)	17.1 (6 th)	22.0 (6 th)	25.4 (7 th)	32.4 (7 th)	39.9 (7 th)	47.6 (6 th)	53.7 (6 th)
Share of tech exports in % (Rank)	11 (6 th)	11 (6 th)	10 (7 th)	9.28 (6 th)	9.0 (7 th)	8.0 (7 th)	8.45 (7 th)	8.21 (6 th)	8.09 (7 th)	8.43 (6 th)

Sources: https://www.theglobaleconomy.com/rankings/gdp_share/ASEAN/;
https://www.theglobaleconomy.com/rankings/High_tech_exports_percent_of_manufactured_exports/ASEAN/;
https://www.theglobaleconomy.com/rankings/Internet_users/ASEAN/

The willingness of Indonesia to lead the ASEAN area can be traced back to the General Suharto government in late 1965. Suharto's foreign policy, unlike that of his predecessor Jakarta, did not focus on combating imperialism and neo-colonialism in the region, but rather on regional stability and cooperation as its cornerstone or prime objective. Through this manner, Indonesia was able to

gain support from its neighbours and move the formation of ASEAN forward (Heiduk, 2016: 7). However, Indonesia's role as a regional leader will be thoroughly assessed through what it provides in ASEAN, how it projects itself in the ASEAN, and how it is perceived by other members of the ASEAN (Hulse, 2016: 12).

Indonesia demonstrated its ASEAN leadership by providing conflict resolution services that helped to maintain regional peace and security. It was a critical player in two key crises and flashpoints in Southeast Asia. To embark, on the territorial dispute between Thailand and Cambodia over the Preah Vihear temple, as well as the South China Sea conflict between China and other ASEAN members. The conflict over the Temple of Preah Vihear began in 1958 when Thailand claimed territorial control over the temple, which was designated as part of Cambodia by the French government in 1907 (Putra, 2015: 191). Despite the international court of justice's acceptance of Cambodia's claim to the temple, the flashpoint resurfaced and worsened in 2008 after the temple was declared a UNESCO World Heritage site which overlapped with the territory of Thailand. Thailand and Cambodia deployed thousands of soldiers in the region and military clashes and hostility lasted from 2008 to 2011 (Putra, 2015: 191).

However, in 2011 when the flashpoint was about to escalate into a fully fleshed conflict, Indonesia stepped in and took a leadership approach than other ASEAN members. Indonesian Foreign Minister Marty Natalegawa convened and negotiated with the leaders of both conflicting parties during the Indonesian-led ASEAN informal foreign ministerial meeting in Jakarta on the 22nd of February 2011. Interestingly, the intervention of Indonesia has led to both parties agreeing to the deployment of Indonesian military and civilian observers aimed at monitoring the ceasefire agreement. In other words, Indonesia exerted its influence and found a diplomatic solution to the hostility between Thailand and Cambodia that could have adversely escalated into a peace and security threat in the ASEAN region (Putra, 2015: 191).

Further, the claim disputes over the China South Sea reflected an over-greater security concern for Indonesia (Putra, 2015: 192). The dispute emanated from four ASEAN member states, China and Taiwan. However, Indonesia's efforts to stabilize the potential widespread conflict in the South China Sea can be traced back to 1990 when it inserted several formulations of the Code of Conduct in the South China Sea (Drajat, 2018: 144). In retrospect, the conflict embarked when China claimed the island which overlaps areas that are originally Vietnam, the Philippines, Brunei,

Malaysia and to a small extent, Indonesia (Natuna Islands). It embarked on seizing three islands by expanding its military presence in the area (Putra, 2015: 192). However, Indonesia regarded itself as a non-claimant in the China-South Sea dispute, in that manner, it played a role of a mediator and facilitated talks and negotiations over the tension (Drajat, 2018: 144).

In 2002, Indonesia led the ASEAN declaration of Code of Conduct which included among others, “(i), reaffirming the commitment towards the 1982 UNCLOS, (ii) Parties to undertake to resolve their territorial dispute without resorting to the use of force, and (iii) Parties to refrain from actions that would escalate the dispute”. Sequentially, the declaration was signed by 10 ASEAN member states and China’s Vice Minister of Foreign Affairs. However, the declaration did not solve the issue and placed ASEAN to take further steps to settle the dispute (Putra, 2016: 192). In response, Following the 2012 ASEAN Ministerial Meeting which failed to issue a joint communique on the China-South Sea dispute, Indonesia took a sole approach to mitigate the issue and this was seen when foreign minister Marty Natalegawa diplomatically convened Cambodia, Vietnam, and the Philippines which resulted in the ASEAN Six-Point Principle on South China Sea being agreed upon and signed by all ASEAN member states through their foreign ministries (Drajat, 2018: 145).

Moreover, Indonesia played a crucial role in the creation of peace and security institutions which would maintain and sustain peace in Southeast Asia. It established the Zone of Peace, Freedom and Neutrality (ZOPFAN) and the Southeast Asian Nuclear-Weapon-Free-Zone Zone Treaty (SEANWFZ) in 1971 and 1995 respectively (Heiduk, 2016: 11). Its successful transition from authoritarianism to democracy motivated it to exert its leadership role in ASEAN to advance democracy in the region through the establishment of various organizations that are aligned with human rights and democracy. It established the ASEAN Political and Security Community (APSC) in 2015, and the ASEAN Intergovernmental Commission on Human Rights. The argument was drawn from the inspiration from the practice that “democracies do not go to war with one another”, therefore, it is intrinsic for ASEAN members to uphold democratic standards and norms in their countries to avoid hostile confrontation in the region (Putra, 2015: 192).

Islam (2011: 39) argue that Indonesia translated its internal reform or transition to democracy as an agenda for ASEAN’s democratisation in a declaratory sense. Foreign minister Natalegawa conveyed that Indonesia will advance ASEAN community in a global community of nations and

mentioned three major tasks for Indonesia the ASEAN chair in 2011, these includes; make tangible progress toward an ASEAN community, to establish a dynamic equilibrium between ASEAN and major powers; and to ensure that ASEAN can be a peacemaker in a complex world. Indonesia took numerous ASEAN-related initiative such as effort to resolve the Thai-Cambodian border dispute and offered ASEAN membership to Timor Leste and secure a change in Western attitude towards Burma. Leadership efforts to mediate and stabilise ASEAN region placed Indonesia on a spotlight. Timor Leste was given membership by Indonesia, a Southeast Asia's newest state which became independent in May 2002 following of year of intense struggle and conflict with Indonesia. Interestingly, Indonesia pledged that it will assist Timor Leste in areas such as infrastructure and oil exploitation and sectors where China acquired a dominant position. Moreover, the Philippines and Thailand invoked the membership admission for Timor Leste where Singapore was against enlarging ASEAN at that stage (Islam, 2011: 41).

Moreover, Indonesia was in a dilemma to stabilise the circumstance in Burma. On the one hand, it wanted to push and invoke democratic transition in the country and on the other hand, it had to stick with ASEAN conservative stance on the relations with neighbours by not interfering with its domestic affairs. Interestingly, Indonesia was criticised by many Western countries who expected it to take a position against the ruling of Junta prior to the 2010 Burma elections. In response, Indonesia mobilised ASEAN member states to pressure the Junta regime to release the Nobel Peace Laureate and democratic activist Aung Sun Suu Kyi and urging the need for national reconciliation in Burma. Further, Indonesia also invoked the call for lifting of Western sanctions against Burma. Indonesia's Foreign Minister Natalegawa conveyed that "lifting of sanctions and reconciliation in Burma should go hand in hand", according to Islam (2011: 41). Similarly, and more recently, ASEAN capacity to spearhead a collective respond to a regional catastrophe or instability was tested in ASEAN Leaders' Meeting (ALM) in Indonesia on the 24 April following the military coup in Myanmar. The ASEAN was conflicted whether to invite Myanmar's military junta leader General Min Aung Hlaing to the ALM or not. Stakes were high for ASEAN to reach a united stance on Myanmar's unacceptable behaviour. It was Indonesia which provided leadership and made the five-point consensus possible and Myanmar was rejected (Drajat, 2021).

The APSC was the Indonesian agenda for the ASEAN during its chairmanship in 2003. In 2004, Indonesia was tasked with a duty to prepare a list of measures and scope to be taken by the APSC

and among others, Indonesia came with the creation of an ASEAN peacekeeping force, a regional counter-terrorism centre, and what is referred to as 'ASEANization' that advocated for the military-to-military cooperation between member states (Heiduk, 2016: 11). Further, Indonesia contributed immensely to maintaining peace and security in the Southeast Asian region. The region's military arm known as Katibah Nusantara is led and manned mainly in Indonesia (Singh, 2016).

Furthermore, with regard to financial assistance, Indonesia suffered immensely from 1997/1998 Asian Financial Crisis and subsequent insurgence against authoritarianism in the country fuelled domestic political and economic instability in the country. However, as outlined above, it managed to recuperate in the early 2000s followed the transition to democracy and portrayed the significance of democracy in the region and used its leadership position to influence member states to adhere to and adopt liberal practices. Significantly, Indonesia respected the notion of non-interventionism in the domestic affairs of other countries but the Indonesian Director-General for ASEAN cooperation of the Ministry of Foreign Affairs of Indonesia Kemlu conveyed that Indonesia is more open and flexible because of the democratisation process. Its openness to the region was seen when the catastrophic event of the Nargis cyclone in Myanmar in 2008. The cyclone precariously left approximately 120 000 to 200 000 people died and a further 800 000 displaced. The Myanmar government did little to nothing to mitigate and curb the ramification of the Nargis cyclone. It initially refused international assistance personnel to operate in Ayeyarwady Delta area while the death toll was rapidly increasing. In response, Indonesia applied diplomatic means to persuade Myanmar to reverse its position to allow international assistance. Sequentially, Myanmar agreed to allow international support and Indonesia together with other ASEAN members established the Tripartite Core Group (TCG) where three of the seven officials that served on the TCG were Indonesian. Indonesia was the first country to deliver assistance to Myanmar and the amount was the highest after Thailand and Singapore (Roberts and Widyaningsih, 2015: 266-267).

Amid Indonesia's pilgrimage to economic and political stability, the global financial crisis occurred and caused major economic impediments for many countries. Indonesia was of course not immune to such devastation caused by the 2008 global financial crisis, its export growth plummeted significantly during 2008-2009. Nonetheless, the impact of the crisis on Indonesia was relatively less dire compared to other ASEAN members including Singapore, Malaysia, and

Thailand. In other words, Indonesia suffered less in comparison during the 1997/8 Asian Financial Crisis (Basri, 2013: 1). Indonesia and Vietnam were the only countries with the highest growth among ASEAN countries during the crisis. This is because Indonesia rely on donors' economic support which was evident during the two financial crises (Budiono, 2009: 312).

Indonesia did little to play a leadership role in the bailout of financially distressed countries during the 2008 global financial crisis. In 2013, President Yudhoyono proposed four initiatives at the 22nd ASEAN Summit, firstly, to double ASEAN GDP by 2030 from \$2.2 trillion to 4.4 trillion, secondly, to eradicate poverty and the post-2015 ASEAN vision. The vision included consolidating the ASEAN community, stronger regional leadership, and promotion of regional prosperity (Roberts and Widyaningsih, 2015: 273). More, Indonesia advanced the establishment of the ASEAN Development Fund which placed the Agreement for Establishment of an ASEAN that was signed in 1994. "Under the ADF, each member state was obliged to contribute \$1 million and is at liberty to voluntarily contribute more additional funds. The annual funds for approved projects would be determined based on the availability of funds which is subject to the decision of the Committee of Permanent Representation (CSR) upon recommendation of the ASEAN secretariat" Cuyvers (2013: 14). However, Indonesia is not the highest contributor to ASEAN. ASEAN gets most of its funding from external actors especially Japan, South Korea, Germany, Australia and the United States. South Korea, Germany and the United States have specific policies that convey in detail their priorities and programs to invoke peace, stability, economic and development in Southeast Asia (Ingram, 2020: 12). Japan is the largest donor to Southeast Asia as outlined in Official Development Assistance (ODA) portfolio (Ingram, 2020: 21).

Indonesia was mostly fear by its neighbouring countries in the Southeast Asian region. This occurred before the establishment of ASEAN during 'Indonesian President Sukarno's konfrontasi policy', a policy which threatened the planned establishment of the Federation of Malaysia. Indonesia spread propaganda attacks through slogans such as 'Crush Malaysia'. "It was not until Suharto's 'new order' government that Indonesia started a peaceful engagement in relations with the Southeast Asian region, assuring that Indonesia's great power will not be abused to undermine the peace of Southeast Asia" (Putra, 2015: 190). Moreover, Jakarta's behaviour during and after ASEAN's establishment has been shaped by a covets to win back the trust of its neighbours through showing them self-restraint. Indonesia portrayed a peaceful, moderate and reliable partner

in the region and Suharto administration also prioritised security component in region as a gesture to show its neighbours to ease the fear and suspicion (Heiduk, 2016: 7). Finally, President Suharto's administration enhanced the acceptance of Indonesia's regional leadership in the region. The active and successful contribution toward ASEAN stability and turning flashpoint and battlefield into a peaceful environment and domestic economic development provided Indonesia the essential credibility and support it needed from ASEAN members (Rattanaseevee, 2014: 14).

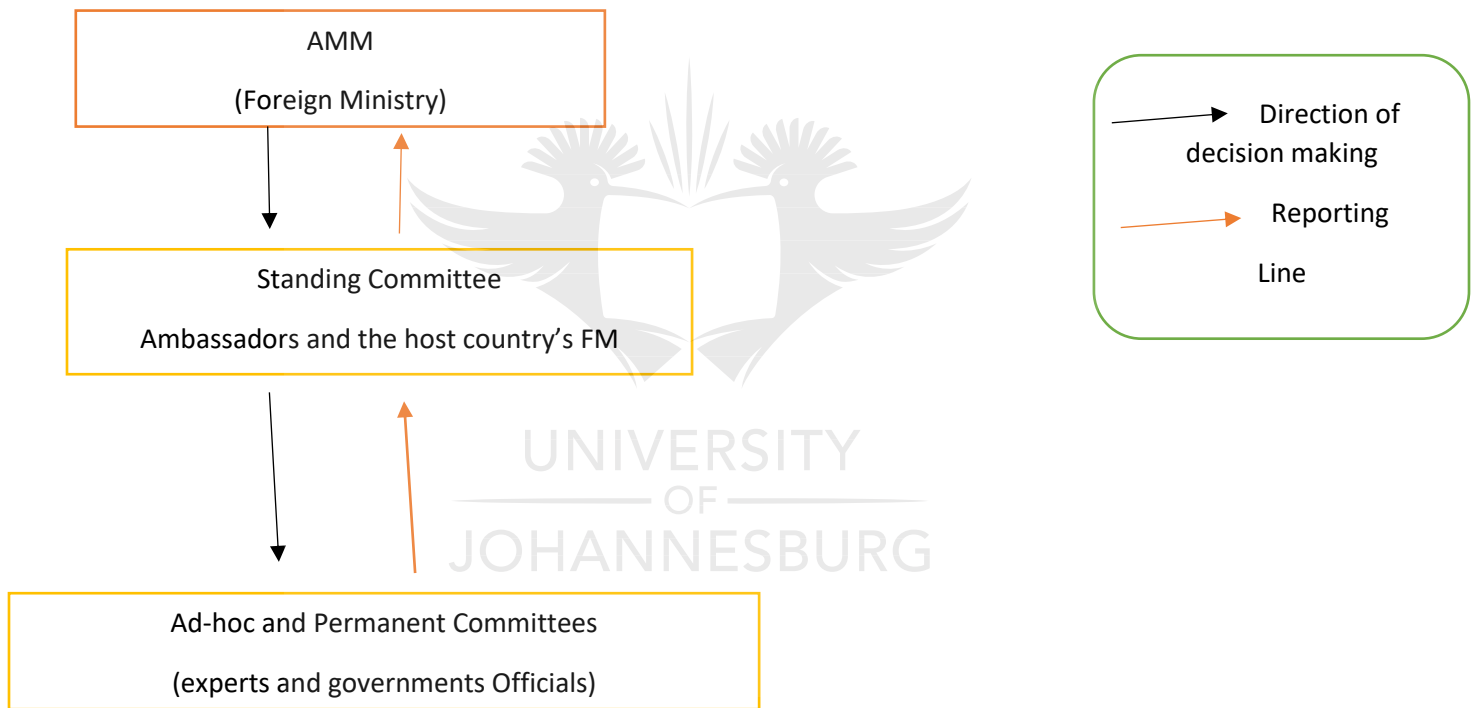
Indonesia is often regarded as the natural leader of the ASEAN because of artificial and natural phenomena that enhanced contributed to its immense material power such as its geographical dimensions, large population, strategic position and natural resources relative to other nations in the region. Indonesia always felt a sense of entitlement to a position of leadership in ASEAN and has been gloried and acknowledged by other ASEAN leaders as first among equals. Indonesia has been acknowledged and accepted as a leader of ASEAN because it provided a panacea to regional issues. In that respect, as highlighted above, Indonesia succeeded in exercising leadership in the region (Guido and Abdullah, 2011: 39). The enormous commitment that Indonesia has shown and continues to show towards regional peace, security, and stability has earned the country recognition by other member states as a 'primus inter pares' or first among equals. However, the 1997/8 East Asian Financial Crisis and the subsequent domestic insurgencies crippled Indonesia and spectators assumed that the incident marked the end of ASEAN but Indonesia rose again and actively led the region towards greater economic growth, democratic values and stability (Roberts and Widyaningsih, 2015: 264).

ASEAN policy-making process was guided by the ASEAN Charter in 2007 which came into effect the following year. The ASEAN has successful regional integration and cooperation in the third world and is arguably second only to the European Union, in this case, because it was formulated by loose a grouping of five Southeast Asian countries in 1967. They intended to promote and advance regional stability and integration through the declaration of intent rather than a charter, or matrix of policymaking structures and bylaws that binds members. During that time, policies were created, adopted, and promulgated on a voluntary basis (Hernandez, 2007: 9). Founding member states held a hybrid of formal and informal meetings to address regional matters. In other words, member states volunteered to invoke and advance the policies proposed, and there were no ramifications for non-compliance and the proposed regional policies were non-binding. However,

they reached harmonious conclusions using the principles and values of consensus, consultation, and compromise in motions and the agendas posed before them (Seah, 2009: 199).

“The ASEAN founding document consisted of an Annual Meeting of Foreign Ministers (AMM), Standing Committee which is chaired by the foreign minister of the host country and consisting of member states ambassadors to the host country tasked to carry out the work of the ASEAN between AMM, committees, and a national secretariat within each member state that would ‘service’ the first two groups. The powers and function of the AMM’s and the role of standing committees were not outlined” (Feraru, 2016: 30).

Diagram 1: ASEAN Policy Creation Diagram



Source: extracted from Feraru (2016: 31)

The adoption of the ASEAN Charter on the 20th of November 2007 which came into effect in 2008 altered ASEAN institutional framework and its policy-making mechanism. The charter formalized the association and made it a remarkable intergovernmental entity. The high level task force (HLTF) which was responsible for drafting the charter confirmed the ten mandate received from ASEAN which focused on codifying existing regional values and rules of behaviour, reaffirming the principles and ideals that incorporated key pre-existing ASEAN agreements and changes which enhanced the regional institutional framework and the decision-making mechanism. The charter

recognises nine categories of ASEAN organs namely the ASEAN Summit, ASEAN Coordinating Council (ACC), three ASEAN Community Councils (ASEAN Political Security Community, (APSC), ASEAN Economic Community (AEM), and the ASEAN Socio-Cultural Community (ASCC). Moreover, the charter recognises 37 ASEAN Sectoral Ministerial Bodies, the Committee of Permanent Representatives of ASEAN (CPR), the ASEAN Regional Human Rights Body, the Secretary-General of ASEAN and the ASEAN Secretariat, ASEAN National Secretariats and the ASEAN Foundation (Feraru, 2016: 32).

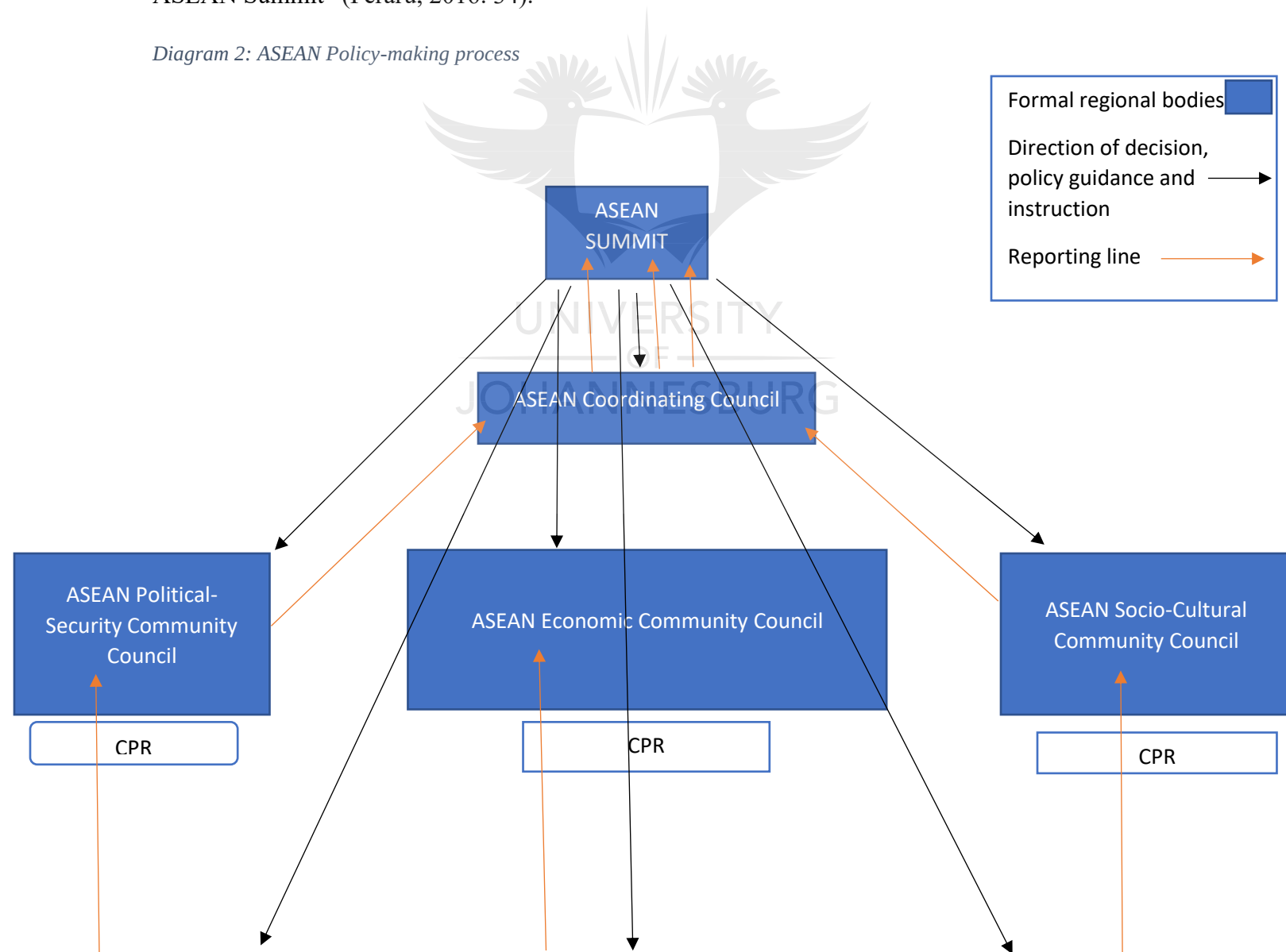
As highlighted above, the ASEAN previously relied on a hybrid system of formal and informal meetings to deliberate and take decisions on how to address crucial ASEAN issues. The ASEAN charter formalized policy-making process through placing the ASEAN summit under article 7 as the highest or supreme policy-making body. The Summit consists of the head of state/government (HOS/G) or governments who are empowered to engage, insert policy guidance and take decisions and resolutions on ASEAN issues. “The Summit acts as the final arbiter on matters related to the failure to reach a consensus and settlement of disputes between member states. Article 7.3(a) connotes that the Summit meeting shall be held twice a year and hosted by a member state that is holding the chairmanship. The ASEAN Summits were held in 1976, 1977 and 1987. Subsequently, the member states continued with an amalgamation of formal and informal meetings until the 7th ASEAN Summit in 2001 where the hybrid meeting system was abolished (Seah, 2009: 202).

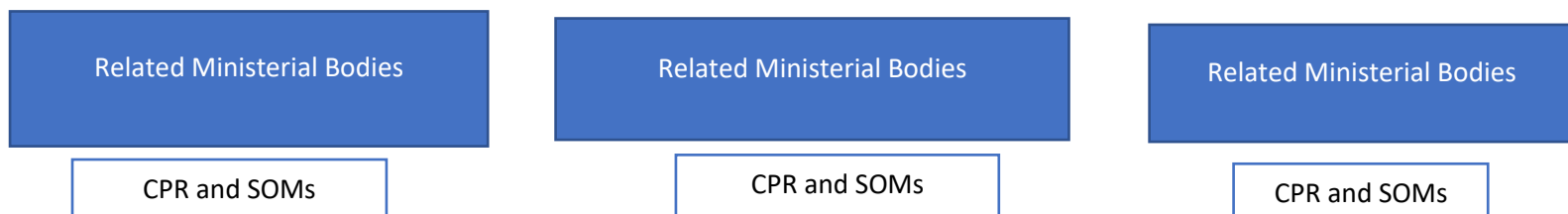
Furthermore, under Article 8, the ASEAN Coordinating Council is mandated to play a facilitative role in the policy-making process. The council meet twice a year and is assigned by the ASEAN Summit to coordinate with the ASEAN Community Councils to enhance policy coherence, cooperation and execution. Article 9(1) connotes that the ASEAN Community Council (ACC) shall consist of three community councils namely the APSA, AECC, and the ASCC. These community councils meet twice a year and are mandated to ensure the execution of the relevant decisions made by the ASEAN Summit. Additionally, they are also mandated to coordinate and cooperate with resolving intersectoral issues which cut across other community councils (Seah, 2009: 202). Noteworthy, the ASEAN charter vested the Summit with the power to provide policy guidance and is responsible for taking regional decisions. The remaining ASEAN organs are responsible for coordinating, and supervising the execution of the Summit’s decisions through intergovernmental meetings under the purview and report back to the Summit. Similar to the

relationship between the Summit and related ministerial bodies, the latter is tasked with implementing the decisions made at the Summit and reporting back to their leaders see the illustration below (Feraru, 2016: 33).

Moreover, “the ASEAN Coordinating Council is an organ comprising the ASEAN Foreign Minister where the ASEAN Foreign Minister meets at least twice a year. It prepares the meeting the meetings of the ASEAN Summit; coordinate the implementation of agreement and decision of the ASEAN Summit, the report of the ASEAN Community Council to the ASEAN Summit; coordinate with the ASEAN Community Council to strengthen policy coherence, efficiency and cooperation among them; consider the reports of the Secretary-General; approve the appointment and termination of the Deputy Secretaries-General; and undertaken other tasks assigned by the ASEAN Summit” (Feraru, 2016: 34).

Diagram 2: ASEAN Policy-making process





Source: Feraru (2016: 31).

4.4.3 The role of Indonesia in the creation of ASEAN digital policy

The history of ASEAN digital policy can be traced back to 2000 when member states reached a consensus on the e-ASEAN Framework Agreement which invoked and solidified the decision made on the e-ASEAN initiative was endorsed at the 31st ASEAN Economic Ministers in September 1999 in Singapore. At the 3rd Informal Summit in November 1999 under the chairmanship of the Philippines the initiative was officially launched⁵. The initiative aimed at establishing “a free trade area for goods, services, and investment for the info-comm industries” (E-ASEAN Framework Agreement, 2001: 515).

Sequentially, on 28th November 2000 in Singapore, the e-ASEAN Framework Agreement was signed and entered into effect as a legal foundation for the e-ASEAN initiative. The Agreement focused on mitigating the digital divide among member states and cooperation between the private and public sectors towards the realisation of an e-ASEAN society (E-ASEAN Framework Agreement, 2001: 515; Dai, 2007: 416). To ensure its successful implementation, the Senior Economic Official Meeting (SEOM) was responsible to supervise, coordinate, and review of the implementation of the framework. The SEOM had to report back to the AEM (Dai, 2007: 416).

⁵ The chairman President Joseph Ejercito Estrada expressed that “the Head of States/Government (HOS/G) are pleased with the launching of the e-ASEAN as a new initiative during the 31st ASEAN Economic Ministers Meeting in Singapore in October 1999. This decision will help ASEAN improve its competitiveness in the global market. The HOS/G noted that Mr. Roberto R. Romulo had been designated to lead the high-level Public-Private Task Force on e-ASEAN which will be developing an action plan to implement the above-cited recommendations and to foster an active collaboration between the private and public sectors with the objective of evolving an ASEAN e-space” according to ASEAN (2012).

Furthermore, there are various digital policies which followed thereafter such as the 2005 Agreement to Establish and Implement the ASEAN Single Window (ASW) (Rillo, 2022). This was a regional initiative that member states reached a consensus upon at the 9th ASEAN Summit in October 2003 in Bali, Indonesia (ASEAN, 2006). Member states agreed and signed the Bali Concord II, the declaration of the ASEAN Community which aimed at establishing initiatives that would integrate new member states or (CLMV) Cambodia, Laos, Myanmar and Vietnam in the economic integration process to avoid a two-tier ASEAN. The Community ultimately aimed at achieving three vital elements of making ASEAN a peaceful, prosperous and caring region. In turn, it adopted three pillars that were vital for the realisation of the aspiration namely the ASEAN Economic Community (AEC), ASEAN Security Community (ASC) and the ASEAN Socio-Cultural Communities (ASCC) by the year 2020 (Caballero-Anthony, 2006: 37). The ASW was a leapfrog towards the realisation of the ASEAN Economic Community (AEC) which focused on the component of expediting electronic trade between member states thus facilitating the aspiration of further regional economic integration (ASEAN, 2006). In short, the basic function of an ASW was to ensure that national single window portals of member states be integrated into a single regional portal that obliterates the need for every member state to transact with each other separately (McMaster and Nokwak, 2006: 12). The idea was pioneered during Indonesia's chairmanship where its leadership theme was essentially marked by promoting new political ideas mainly human rights and democracy as well as peace and security in the region under the Bali Concord II (Wirajuda, 2014: 120). The same Concord endorsed the AEC, although Rianne (2003: 39) argues that Singapore's prime minister Goh proposed the vision of an AEC 2020 in November 2002 as the engine for driving free trade of goods, technology, services and skilled manpower within ASEAN and formally proposed it in the 9th Summit. But imperatively the summit gave birth to the creation of the ASW for greater economic integration (Soesastro, 2007: 47).

In 2004, the ASEAN economic ministers met and agreed to form the ASEAN Inter-Agency Task Force made by representatives across all member countries to design a relevant model for the proposed ASW (McMaster and Nokwak, 2006: 12). Sequentially, in December 2005, the ASEAN leaders met at the 11th ASEAN Summit and discussed further on how to expedite the implementation of the AEC from 2015 to 2020 (ASEAN, 2006). The ASEAN Economic Ministers signed the agreement to establish and implement the ASW and subsequently its Protocol (ASEAN, 2006). However, at that time, only a few member states had single-window portals meaning there

was not much that can be synchronized or integrated. In fact, only Singapore and Malaysia had the existing single windows portal and the Philippines already had a long experience with automated customs and Thailand was already planning to establish its own. (McMaster and Nowak, 2006: 12).

At the 9th High-Level Task Force meeting on ASEAN Economic Integration in Singapore discussed and reported back to the ASEAN Economic Ministers (AEM) on how to accelerate the process. The ASEAN Secretariat was tasked with the duty to operationalise the blueprint for advancing the AEC by 2015-2020 in a manner that is consistent with the Bali Concord II and set implementation deadlines and targets (of course, with cognizance of the natural catastrophic incidents that occurred in Cambodia, Laos, Myanmar, Vietnam at heart (Soesastro, 2007: 47).

Concurrently, due to the uneven level of e-readiness and catastrophic incidents in the region, the Summit approved the 2008 deadline for Indonesia, Malaysia, Thailand, the Philippines, and Singapore. However, as highlighted others already had or plotted to create their own with the exception of Indonesia. The rest member states (Cambodia, Laos, Myanmar and Vietnam) were given until 2012 to create or develop their own (McMaster and Nowak, 2006: 12). Interestingly, the issue under the implementation of ASW was on ideas of harmonising standards, procedures, documents and IT infrastructure which in turn required legislative adjustments for intra-regional interoperability which is a prerequisite for facilitating trade. McMaster and Nowak, 2006: 12). But Tsen (2011: 21) contend that “only four ASEAN countries namely Indonesia, Thailand, Brunei, and the Philippines essentially called for the Single Window requirements to be integrated with the existing Custom system”. In this case, it will alleviate the potential impediment of divergent custom norms and values.

More recently, there were efforts to reform the ASEAN regional regulatory framework and the promotion of the digital economy at the 27th ASEAN Summit in November 2015 hosted in Kuala Lumpur in Malaysia under the chairmanship of Malaysia (Lim and Council, 2021: 13). Under its theme of “our people, our community, and our vision” has noted that ICT is vital for regional development but could be weaponised in a manner that is inconsistent with peace and security. Malaysia led the agreement to improve regional stability and reduce risk in these areas through intensifying our efforts to strengthen information-sharing, incident response, capacity-building and other practical cooperation (Chairman’s statement, 2015). One of the vital agreements reached

was the ASEAN Economic Community Blueprint 2025 which acknowledged and prioritised the embracement of digital technologies to enhance trade and investment in the region. Significantly, the Summit endorsed the need to create measures to protect personal data through the creation of a comprehensive framework for personal data protection in the advancement of ICT and e-commerce (Lim and Council, 2021: 13).

At that time, Indonesia did not have any specific regulations concerning the protection of personal data or data privacy. Its provision of data protection was derived from the human rights rules under the constitution. This was largely influenced by the rapid development of ICT and the concomitant mass advertising techniques which collected personal data without clear regulations. In addition, the prime reason for Indonesia to develop its coherent data privacy policy was under a regional obligation, Indonesia could not define privacy in their legislation (Rosadim 2016: 82). However, the AEC Blueprint established the 2016 ASEAN Framework on Personal Data Protection which was created to guide the implementation of national and regional personal data protection policies (Benjelloun et al., 2012). But only four ASEAN members (Malaysia, the Philippines, Singapore, and Thailand) had a specific policy concerning personal data protection regulations (Nasution, 2021: 14). However, it is imperative to note that the 2016 ASEAN Framework on Personal Data Protection did not legally bind member states to ratify the policy at the national level. It only reflected or shows members' commitment to protecting personal data from being misused by corporations (Surtiwa and Gultom, 2021: 722). Malaysia enacted the 2010 Personal Data Protection Act (PDPA), the first data protection regulation in the ASEAN region, followed by the Philippines 2012 Data Protection Act, Singapore 2012 Personal Protection Data Act and lastly, Thailand's Personal Data Protection Act B.E. 2562 of 2019. Other member states have scattered data protection regulations, for example, Indonesia's data protection laws are not comprehensive and fall short of the principle of ASEAN Personal Data Protection principles. Interestingly, in this case, there is no assumption that could invoke that the 2016 ASEAN Framework on Personal Data Protection was Indonesia's invention or in other words, played a pivotal role in its creation (Nasution, 2021: 14-16).

In 2018, Singapore assumed the ASEAN chairmanship and inserted a ASEAN theme of "resilience and innovation". The Singaporean foreign minister Vivien Balakrishnan articulated Singapore's ASEAN priorities in its chairman tenure. He conveyed that the aspiration is to drive

e-commerce and regional connectivity, develop an ASEAN smart cities network, step up cooperation on cybersecurity threats and bolster business opportunities for small and medium enterprises (SMEs) (Gnanasagaran, 2017). Interestingly, At the 32nd Summit in April 2018, the chairman's statement connoted that the Head of States/Government agreed on the initiative to create the ASEAN Digital Integration Framework⁶ to monitor the progress of regional digital integration (Minister of Foreign Affairs Singapore, 2018).

Subsequently, the ASEAN head of states' gathered in Bangkok for the 34th ASEAN Summit on 23rd June 2019 under the chairmanship of Thailand (ASEAN, 2019). Among other aspects, Thailand's key priority areas under the economic deliverable were "the ASEAN Declaration on Industry Transformation to Industry 4.0, the ASEAN Digital Integration Framework Action Plan (DIFAP) 2019-2025" (Cari ASEAN Research and Advocacy, 2019). Subsequently, the ASEAN Economic Council executed the ASEAN Digital Integration Framework Action Plan (DIFAP) 2019-2025 which is in line with the AEC Blueprint 2025 at the 18th AEC meeting in October 2019 (Majumdar, Sarma and Majumdar, 2020: 64). At the 51st AEC meeting in Thailand, the Thai Minister of Commerce Sontirat Sontjirawong who was chairing the AEC conveyed during his keynote speech that "Thailand has carefully chosen our priority economic deliverables for the ASEAN chairmanship, recognizing the importance of the 4IR, this topic features prominently in our priority economic deliverables with five out of 12 deliverable focusing on this issue alone". Additionally, Thailand pushed for the DIFAP (Sagar, 2019). Significantly, the DIFAP incorporated objectives that were similar to the ASEAN ICT Masterplan 2020, the Master Plan on ASEAN Connectivity 2025, the ASEAN Framework for Personal Data Protection and the ASEAN Strategic Action Plan for SME Development 2025. The DIFAP focused on assisting ASEAN to mitigate digital integration such as digital connectivity, overcoming the digital divide, facilitating e-commerce and cross-border trade, and lastly the financial ecosystem (Majumdar, Sarma and Majumdar, 2020: 64).

Furthermore, the Socialist Republic of Vietnam assumed the chairmanship in 2020 and has lamented on the significance of combatting the pandemic and economic recoveries. It inserted a

⁶ Which Ministry of Trade and Industry Singapore (2022) conveyed that it was one of its chairmanship goal to enhance innovation and e-commerce in the region.

theme called ‘cohesive and responsive’ (Uy et al., 2021). On November 2020, the HOS/G proposed at the 37th ASEAN Summit, the ASEAN Comprehensive Recovery Framework (ACRF) and its implementation plan which prioritized the acceleration of digital transformation through increasing the use of digital technologies to boost the economy and revitalize the ASEAN society in the post-COVID-19 era and achieve long-term resilience (ASEAN, 2021).

4.4.4 The role of Indonesia in the adoption of the ASEAN digital policy

The e-ASEAN initiative was endorsed under the leadership of the Philippines and its adoption was promoted by Singapore subsequently when it assumed chairmanship in 2000 at the 4th Informal Summit. Singapore chaired the e-ASEAN Framework Agreement which was signed and entered into effect as a legal foundation for the e-ASEAN initiative. The Agreement focused on mitigating the digital divide among member states and cooperation between the private and public sectors towards the realisation of an e-ASEAN society (E-ASEAN Framework Agreement, 2001: 515; Dai, 2007: 416). The Framework lamented on bringing about required changes for e-commerce in the following manner; member states were required to adopt an e-commerce legislative framework that solidifies trust and confidence for consumers and facilitates the rapid transformation of businesses towards the establishment of an e-ASEAN society. To ensure this, among other aspects, member states are required to promulgate national laws and policies relating to e-commerce transactions based on international norms and standards. Secondly, facilitate the establishment of mutual recognition of digital signature frameworks, and to take measures to promote personal data protection and consumer privacy policies and laws (ESCAP, 2004: 83). To ensure its successful implementation, the Senior Economic Official Meeting (SEOM) was responsible to supervise, coordinating, and reviewing the implementation of the framework. The SEOM had to report back to the AEM (Dai, 2007: 416).

Moreover, the framework consisted of an e-commercial legal and regulatory infrastructure. Subsequently in 2001, the ASEAN established the e-ASEAN Reference Framework for e-Commerce Legal Infrastructure which gave member states who did not have any e-commerce policies or laws at that time to embark on drafting their own, for those who already had e-commercial laws and policies to shape theirs in a way that it allows interoperability such as cross-border e-commerce, cross-recognition/cross-certification of digital certificates/digital signatures.

Interestingly, Indonesia at that time did not have any digital or e-commercial policy or law in place. The e-ASEAN Reference Framework for e-Commercial Legal Infrastructure was developed by experts from Singapore (Electronic Transaction Act), Malaysia (Digital Signature Act), the Philippines (Electronic Commerce Act), Draft Electronic Transactions Bill) and Brunei (Electronic Transaction Order) based on their existing policies and laws in these countries. Additionally, the outcome was largely based on the laws of the UNICITRAL Model Law on Electronic Commercial and the Draft Model on Electronic Signature and e-commerce signature laws of the United States (US) and European Union (EU) more especially Germany (Sengpuya, 2019: 103-104; Secretariat, 2009: 1). It was until 2004 to 2009 that Indonesia, Vietnam, Brunei and Myanmar implemented their own digital policy or e-commerce laws. The policies were aligned with the UNICITRAL model and in 2012, Lao PDR joined and established its own digital policy on electronic transactions, Cambodia was the only ASEAN member that was the last to adopt an e-commercial policy or law (Sengpuya, 2019: 106).

Indonesia had internal insurgencies which destabilize the promotion and eminent adoption of the e-ASEAN framework. The cabinet minister of foreign minister Jose Hota conveyed that “East-Timor affects the political priority given to information society. He inserted that he would like ASEAN membership within five years, although a recent reworded ASEAN communique dropped references to East Timor’s intention to apply for full membership and mentioned ASEAN is prepared to engage East Timor in the long term and welcome the intention to become an observer to ASEAN”. Moreover, ASEAN members seemed to have given up on a collective approach as a regional block, some countries were going alone, for example, Singapore coined its ‘Singapore Connected’ which intended to position Singapore as a “digital exchange and trading hub where all digitalised information can be traded through Singapore which strengthens its reference market in Asia. Further, others focused on strengthening their e-security or cybersecurity as the global war on terrorism highlighted and enforced the fear of cyber terrorism could add money to internet funds (Rianne, 2003: 37-39).

Further, in retrospect, the 11th ASEAN summit gave Indonesia, Malaysia, Thailand, the Philippines and Singapore the 2008 deadline to adopt the 2005 Agreement to Establish and Implement the ASEAN Single Window (ASW) and its 2006 Protocol on Legal Framework on the Implementation of ASEAN Single Window in 2015 and the rest were given until 2012 to develop and adopt their

own (Rillo, 2022; McMaster and Nowak, 2006: 12; Arrifin et al., 2020: 1). All members signed the Agreement to Establish and Implement the ASW in 2005 during the Summit. Indonesia ratified both the Agreement and its Protocol at the end of 2009. It embarked to “implement the Agreement at the end of 2008 through the system of Indonesia Single Window in order to improve the smooth flow of goods and the performance of export-import services” (Arifin, 2020: 1). Singapore is the first ASEAN member to have a National Single Window (NSW). It developed its NSW called TradeNet in 1989 and went through several modifications to best suit world standards. In 2012, it developed its latest version 4.1 which met the international standards and included the modified ASEAN tariff codes under the ASEAN Harmonised Tariff Nomenclature 2012/1 (Benjelloun, Pantastico and Wong, 2012: 8). Significantly, However, “by the end of 2015 all ASEAN members adopted the legal framework on cross-border and ran several pilot projects to test their respective National Single Window’s (NSW) connectivity across the subset of member countries, the region-wide project could not be launched due to the lack of technical coherence across the eligible NSWs” (Arifin et al., 2020: 8).

The issue under the adoption and implementation of ASW was on ideas of harmonising standards, procedures, documents and IT infrastructure which in turn required legislative adjustments for intra-regional interoperability which is a prerequisite for facilitating trade. McMaster and Nowak, 2006: 12). But Tsen (2011: 21) contend that “only four ASEAN countries namely Indonesia, Thailand, Brunei, and the Philippines essentially called for the Single Window requirements to be integrated with the existing Custom system”. In this case, it will alleviate the potential impediment of divergent custom norms and values. In this case, Indonesia, Thailand, Brunei and the Philippines managed to iron out their differences by the end of 2015 and linked their NSW to constantly exchange data on certificate-of-origin called form D25. Similarly, Brunei and Vietnam also tested their connectivity and will subsequently join others to exchange data. Cambodia and the Philippines were given until 2017 to link their NSW. Whereas Lao and Myanmar faced complexities in both setting up their respective NSW and linking with other member states. Although the AEC 2025 has set a new timeline for 2018 to operationalise a harmonised ASEAN Single Window, it is evident that it is likely to occur only among a subset of member states (Arifin et al., 2020: 9).

Furthermore, as highlighted above, Indonesia is the largest economy in Southeast Asia. It is the fourth populous country in the world, as of January 2020, it had 338.2 million mobile connections, 175.4 million internet users and approximately 160 million social media users. However, Indonesia did not have a coherent or comprehensive law and policy that address personal data protection in place (Firdaus, 2020: 1). Personal data protection was addressed in about 30 sectorial laws in the constitution such as Health Law, Population Administration Law, Electronic Transaction Information Law, and Public Information Disclosure Laws (Setiawati et al., 2020: 97). Although the 2016 ASEAN Framework on Personal Data Protection did not legally bind member states to ratify the policy at the national level. It only reflected or shows members' commitment to protecting personal data from being misused by corporations (Surtiwa and Gultom, 2021: 722).

In 2016, the Indonesian government embarked on the pilgrimage to establish a personal data protection policy (PDP). It initiated the Draft Bill on PDP which was prepared by the Ministry of Communication and Informatic as the Priority National Legislative Program. Subsequently, on the 24th of January 2020, the final bill was submitted by President Joko Widodo to the Chairperson of the Indonesian House of Representatives. Indonesia became the fifth ASEAN member state to implement a comprehensive policy on PDP (Firdaus, 2020: 2). The Philippines is one of the only four ASEAN member states that had a comprehensive PDP law. It was responsible for the four initiatives called the ASEAN Data Protection and Privacy Forum. The prime objectives of the initiatives were to ensure the harmonization of the legal landscape among the Southeast Asian countries and additionally, to ensure the development and adoption of best practices (Surtiwa and Gultom, 2021: 722). At the 0th [sic] ASEAN Economic Council Meeting: an interface between the AEC council and the ASEAN Digital Ministers in October 2021, Indonesian Minister of Communications and Informatics Johnny Gerard Plate encouraged member states to establish and adopt regulations concerning cross-border data flows to ensure the protection of personal data. He also encouraged intimate cooperation among ASEAN members for conducting digital transformation in the region as 'digitalization can be used to drive faster and inclusive economic recovery' (Antara, 2021).

Furthermore, the ASEAN member states have a common interest in leveraging the regional digital economy. They signed the ASEAN Digital Integration Framework Action Plan at the 34th ASEAN Summit led by Thailand (Heng, 2020). The Summit designated the ASEAN Coordinating

Committee on Electronic Commerce (ACCEC) as the coordinating body for this framework. The framework was subsequently adopted at the 51st AEM meeting in September 2019 (ASEAN, 2018). The meeting was chaired by Jurin Laksanawisit, the Deputy Prime Minister and Minister of Commerce in Thailand. In 2021, the ACCEC presented a report on the ASEAN Digital Integration Index using six pillars (Digital Trade and Logistics, Data Protection and Cybersecurity, Digital Skills and Talent, Innovation and Entrepreneurship, Institutional and Infrastructural Readiness) outlined in the DIFAP 2019-2025. Indonesia's performance is modest with few of its pillars superseding the regional average. Thailand, Malaysia and Singapore did exceptionally well relative to other member states (ASEAN, 2021: 39-63).

Brunei assumed chairmanship under the theme of “recovery, digitalization, and sustainability”. On the 22nd of January 2021, the ASEAN ministry hosted its 1st ASEAN Digital Minister Meeting (ADGMIN) which adopted the ASEAN Digital Masterplan 2025 that thrived to transmogrify ASEAN as a digital leading community and economic block and encompassed 37 enabling action to attain that aspiration. Additionally, it endorsed the Implementation Guideline for the ASEAN Data Management Framework and ASEAN Cross Border Data Flows Mechanism which builds on the norms and values of the ASEAN Framework on Personal Data Protection and ASEAN Framework on Digital Data Governance to harmonise data management and cross-border data flows in the ASEAN region (ASEAN, 2021).

4.4.5 The role of Indonesia in the promulgation of ASEAN digital policy

In light with the 2000 e-ASEAN framework Agreement, among other aspects, member states were required to adopt and promulgate national laws and policies on e-commerce transactions, digital signature framework, and personal data protection (ESCAP, 2004: 83). The e-commerce transaction regulation in Indonesia is found in Act No.11 of 2008 on Information and Electronic Transaction which was promulgated after the e-ASEAN framework and is in line with the UNICITRAL Model Law as required by the framework (Rohendi 2015: 1). The bill was signed by President and enacted on the 21st of April 2008. It was highly accepted because it incorporated a number of significant provisions that altered how certain existing provisions in other laws were interpreted (Balfas, 2009: 202). Further, in light with the ASEAN Single Window (ASW), “the Indonesian government promulgated the Presidential Regulation number 44 of 2018 (National

Single Window Management) into enactment from the 31st of May 2018. The government revoked the Presidential Regulation No.10 of 2008 regarding the Electronic System on Indonesian National Single Window as lastly amended in 2012 and Presidential Regulation No.76 of 2016 on the Manager on Indonesia National Single Window Portal. Moreover, there is also Minister of Finance Regulation No.63/pmk. 1/2018 concerning amendment of Minister of Finance Regulation No.132/pmk.01/2008 concerning guideline and concepts in the framework for development and implementation of Indonesia National Single Window” (Arifin et al., 2020: 2). Furthermore, interestingly, as highlighted above, Indonesia became the fifth ASEAN member state to have Personal Data Protection policy. In 2016, the Indonesian Minister of Information and Technology established a regulation No.20 of 2016 regarding Protection of Personal Data set on the 7th of November 2016 and promulgated and effectively from the 1st of December 2016 (Setiawati et al., 2020: 98). This became one of the 21 ministerial regulations and was followed by the directives of government regulation (PP) No.71/2019 on the implementation of electronic systems and transactions which was promulgated and valid on 10 October 2019 (Silafiani, 2021: 149).

4.5 Case study 4

4.5.2 Africa Union's (AU) as a regionalism

Ikome (2004: 49-50) note that the pilgrimage to Africa's regionalism took five phases which embarked from the first phase of 1957 during the 'supranational Pan-Africanism' which spanned from Ghana's independence and the formation of the Organization of African Unity in 1963. The second phase was marked by the modification of pre-independence regional cooperation and integration arrangements. The third phase was efforts to establish sub-regional initiatives among independent states which took place during the 1970s and 1980s. The fourth phase is marked by the establishment of the historic Lagos Plan of Action in 1980 and its concomitant Full Act of Lagos of 1981 which eventually led to the signing of the Abuja treaty which inaugurated the African Economic Community (AEC) in 1991 (Ikome, 2004: 49-50). Lastly, the fifth phase was the embarking of the Abuja Treaty through the Constitutive Act of the African Union to the emergence of the New Partnership for Africa's Development (NEPAD) (Ikome, 2004: 49-50).

The Organization of the African Union (OAU) meeting of the Head of States/Government (HOS/G) adopted the treaty that established the African Economic Community (AEC) in Abuja,

Nigeria on the 3rd of June, 1991. The treaty is also known as the Abuja Treaty and came into effect after the requisite ratification of members in May 1994 (Aniche, 2012: 10). The founding principles that established the AEC in Abuja were to consolidate economic self-reliance, promote an endogenous and self-sustained development, and increase the living standards of living of Africans and facilitate economic development on the continent. The AEC seek to promote economic, social, and cultural development and the integration of African economies. Secondly, to establish a framework for the development, mobilization and utilization of the continent's human and material resources, promote cooperation among member states and cooperate and harmonize policies among existing and future sub-regional economic communities (Richard et al., 1995: 56-57).

More, the AEC aspired to establish an African Common Market through trade liberalization or the abolishment of customs duties on imports and exports and other concomitant protectionist measures among member states (Kwaku, 1995: 42). The AEC also advocated the establishment of customs unions and adoption of a common external tariff (Awad and Yussof, 2017: 45). In short, the AEC intended to create a free trade area in each and trade synchronization among four regional economic communities of the UMA, ECOWAS, ECCAS, COMESA and the SADC (Kwaku, 1995: 42).

Regionalism has a long history in Africa. Its initial manifestation can be traced to the colonial period when the Southern African Customs Union (SACU) was established in Potchefstroom on the 29th of June 1910 (the world's oldest customs union to-date) (Otobo, 2009: 119). This custom union was signed by Lesotho, Swaziland and Botswana but the negotiation only involved South Africa and Britain. The agreement was renegotiated by the Apartheid government (National Party) which concluded in the revised 1969 Agreement (Kirk and Stern, 2005: 170). In the 1960s, the period that marked the 'wind of change in Africa' when many countries gained independence. The prime minister of Ghana Kwame Nkrumah lamented Pan-Africanism which planted a seed for immense African economic regionalism. He advocated for an African Continental Government or the United States of Africa. This Pan-African ideology gave birth to the formation of the current Regional Economic Communities (RECs) (Aniche, 2012: 6).

In the 1970s, several RECs emerged but a handful of them remain the main sub-regional free trade agreements, the Arab Maghreb Union (AMU), the Economic Community of West African States

(ECOWAS), the Economic Community of Central African States (ECCAS), the Southern African Development Community (SADC) and the Common Market for Eastern and Southern Africa (COMESA). Each has subset arrangements that were responsible to execute free trade albeit, with overlapping membership, for example, the East African Community (EAC) membership split to the COMESA and the SADC. The West African Economic and Monetary Union (UEMOA) contain members of ECOWAS, the Economic Community of the Great Lakes Countries (CEPGL) are a subset of ECCA, SACU is contained within SADC and the Inter-Governmental Authority on Development and the Indian Ocean Commission are subsets of COMESA (Borgstrom, 2007: 140). These organizations were created and perceived as building blocks for region-wide economic regionalism that ought to reverse the fragmentation of the continent and facilitate economic development through market integration and intra-regional trade liberalization (Ndulo, 1993: 103).

Interestingly, although there are only a few successes, but ultimately, these RECs failed to meet coveted expectations because of the myriad of issues such as the inadequate financial resources in most countries to establish systems that lubricate trade, political and economic instabilities in many African countries and numerous sub-regional groupings, and slow implementation of policies that alleviate tariff and non-tariff barriers pejoratively hindered the realization of regionalism in Africa under RECs (Jordaan, 2014: 515). For example, the UEMOA has a customs union that has implemented a common external tariff (CET) with four rates in the range of 0-20%. But free trade remains stagnant as not all tariff and non-tariff barriers have been alleviated. Similarly, ECOWAS has an FTA in place but not with fully implemented liberalization schemes. Additionally, COMESA implemented an FTA by 2000 and a customs union until 2004 but none of these requirements was achieved (Borgstrom, 2007: 141).

Moreover, many African countries are unable to produce the types of manufactured goods that they demand. In 2011, only 8% of Africa's demand for machinery, electrical and electronic equipment, vehicles and ships/boats was met from African suppliers. In the same year, 75% of Africa's total exports consisted of four hard commodities and only 6% were absorbed regionally. These are the underlying issues that hinder intra-African trade. Further, "One of the most recent measures to promote intra-African trade is the renewed political commitment by African leaders at the African Union summit in January 2012 to boost intra-African trade and to fast-track the establishment of a continental free trade area. However, progress has been pejorative hinder by

soft and hard infrastructural impediments (more specifically poor or non-existent of inter-state road and rail networks); proliferation of non-tariff barriers such as rules of origins and regulatory policies, lengthy customs clearance procedures at border posts; slow implementation of regional agreements and as highlighted above, overlapping of memberships in the RECs and limited role of the private sector as well as member states' pursuing national priorities that are in conflict or contradict with regional ones. Consequently, this stalled the progress or implementation of some of the regional commitments", according to Kayizzi-Mugerwa (2014: 2-6).

African Union is a shallow type of regionalism because of the aforementioned issues which also hinder deep economic integration in the African continent. The majority of the trade is done externally for example trade between African countries is about 10-12% as opposed to other regions such the European Union where intra-regional trade at about 72% of total trade. In response, the AU took a significant step towards deeper economic integration in 2012 when it launched the African Continental Free Trade Agreement which was part of the broader vision of AU Agenda 2063 "the Africa We Want" mandate for political, economic, societal transformation. Interestingly, the AfCFTA is the largest trade areas though terms of number of countries which may impede reaching consensus on numerous matters but interestingly, that was not the case. The agreement was swiftly and unanimously accomplished. It received the number of ratifications required to enter into force and received fastest agreement to obtain a largest number of signatories to effect its launch in the history of the AU. The agreement was enacted on 30 March 2019 with 22 ratifications and by the end of July the same year, the AfCFTA had 27 ratifications. This granted a greenlight for member states to embark on the negotiations and on 7 July 2019, AU member states convened in Republic of Niger at the 12th extraordinary session of the Assembly of the AU to engage on African "internal market". The first phase of negotiation was on Trade in Goods and Services and on Dispute Settlement which commenced on 1st January 2021 which was delayed by the Coronavirus (COVID-19) pandemic which plummeted the global economy and also had severe impact on the African continent as well in terms of trade in goods and services (Manboah-Rockson, 2021: 306). The AfCFTA is an aspiration trade agreement to form the world's largest free trade areas by creating a single market for goods and services of almost 1.3 billion people across the African continent and cementing the economic integration of Africa. The trade areas could have a combined GDP of approximately \$3.4 trillion, but reaching this objective depends on significant

policy reforms and trade facilitation measures across African member states or rather signatories (Thomas, 2022).

In February 2020, AU HOS/G Assembly made a decision to include e-commerce in the third phase of the negotiation of the AfCFTA. The E-commerce Protocol (also referred to as the Protocol on Digital Trade) intends to promote the emergence of African-owned e-commerce platforms at national, regional and continental levels. This protocol also intends to curb pre-existing issues across the continental such as the low level of internet penetration, the exorbitant cost of e-commerce deliveries, poor digital literacy and digital infrastructure. Additionally, this protocol aspires to remove pre-existing tariff barriers that have a pejorative multiplier effect, especially in increasing the cost of digital trade in the continent and establishing more efficient digital payment solutions (Centurion Law Group, 2022). Moreover, the AfCFTA is regarded as the path that will stare Africa to the promotion of a harmonised digital economy by addressing the aforementioned challenges, trade negotiations relating to e-commerce get more complex as it is enabled and affected by many areas of law such as consumer protection, data protection, online payment, postal infrastructure intellectual property rights, competition policy and tax-related issues (Sasi, 2022).

Significantly, the existing e-commerce provisions and obligations have been taken in trade agreements under three main categories. Firstly, market access (addresses customs duties, treatment of digital products, cross-border information flows, and electronic supply of services). Secondly, rules and regulations (this category addresses consumer protection, protection of personal information, unsolicited commercial e-mails, and domestic electronic transactions framework). The third category is facilitation (which addresses paperless trade administration, cooperation, transparency, and electronic authentication), according to Banga et al. (2021: 10-11).

In 2017, over 260 e-commerce start-ups were operating in Africa and by 2020, the International Trade Centre identified about 630 business-to-consumer (B2C) e-commerce marketplace operating on the continent. However, only 1% of the e-commerce marketplace in Africa is responsible for approximately 60% of the marketplace traffic on the whole continent, and 11% of the marketplace websites enable financial transactions. According to the UNCTAD B2C e-commerce index in 2018, three countries namely South Africa, Nigeria and Kenya accounted for 50% of active online shoppers in Africa. However, the measurements of e-commerce in Africa tend to only focus on trade in physical goods through electronic channels or marketplace within

national economies. Therefore, it is significant to include the trade of person-supplied services such as tutoring or design as well as digital goods and services such as software, games, content and payments accounting for national and cross-border flows. Significantly, there are other forms of measurement besides B2C e-commerce, which include business-to-business (B2B), government-to-consumer (G2C) and government-to-business (G2B) among others. Moreover, the outbreak of the COVID-19 pandemic and its associated social distancing regulations to contain the spread and further infection attributed to the increase of digitalisation in the continent. Notwithstanding the digital disparities but the reliance on e-commerce platforms increased dramatically. In response, there have been calls for the AfCFTA e-commerce protocol. This became an important component of the AfCFTA, especially taking into consideration that e-commerce in many African countries is still at an infancy stage, therefore, it causes curiosity on what are the issues and approaches that will be considered in this e-commerce phase of negotiation (Ogo, 2020). This is recognition of the growing significance of digital trade in the African continent, will the regulations or rules of digital trade contribute towards globalisation that Martin Wolf's (2020) cited in Legge and Lucaszuk (2021) speaks about?

4.5.3 Africa's regional leadership

Flemes (2007), Prys (2009), Ogunnubi and Akinola (2017), Qobo (2017), Alden and Schoeman (2015: 239), and Alden and Soko (2005) acknowledge and perceive South Africa as a dominant actor and a regional leader in the African Union. This conviction is drawn from South Africa's material dominance (most notably economic power and military might) and its preponderance role which is guided by its foreign policy since 1994 to lead and facilitate regional stability (Qobo, 2017: 17; Prys, 2009: 193; Flemes, 2007: 32). However, Hulse (2016: 14) contend that Nigeria is relatively more powerful in terms of material dominance. For example, from 1980 to 2014, South Africa's material power in terms of Gross Domestic Product (GDP) and the National Material Capabilities Index (NMCI)⁷ plummeted over time whilst Nigeria's share remained stagnant or experienced an increase in relation to the region (Hulse, 2016: 14). However, this dissertation has

⁷ "The National Material Capabilities Index amalgamates six indicators of material capability: military expenditure, military personnel, energy consumption, iron and steel production, urban population, and total population" (Hulse,

employed quantifiable measures to operationalize the material dominance of South Africa vis-à-vis the African region. In this respect, according to table 6, the material dominance of South Africa is only witnessed in its highest share of GDP albeit not consistent (only dominated the African region in 2011, 2017 and 2018).

Table 6: AU Regional Leader's Quantifiable Measure

Operationalizing Regional Leadership (Quantifiable measures)	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Share of GDP in the Region (Rank)	0.53 (1st)	0.5 (2nd)	0.45 (2nd)	0.41 (2nd)	0.4 (2nd)	0.37 (3rd)	0.47 (1st)	0.41 (1st)	0.39 (2nd)	0.35 (3rd)
Internet Penetration in the region (% of the population) (rank)	34 (5th)	41 (4th)	46 (3rd)	49 (3rd)	52 (3rd)	54 (3rd)	56 (4th)	62 (4th)	68 (3rd)	-
Share of tech exports in % (Rank)	6.2 (8th)	6.6 10th	6.5 (7th)	6.6 (9th)	7.4 (10th)	6.6 (11th)	5.7 (14th)	5.2 (13th)	4.9 (13th)	5.6 (4th)

Sources: https://www.theglobaleconomy.com/rankings/High_tech_exports_percent_of_manufactured_exports/Africa/;
https://www.theglobaleconomy.com/rankings/Internet_users/Africa/;
https://www.theglobaleconomy.com/rankings/gdp_share/Africa/

2016: 14). Nigeria surpasses South Africa in terms of military personnel, population and urban population while South Africa dominates Nigeria in terms of military expenditure, in steel production and energy consumption (Omoruyi et al., 2020: 150).

Sidiropoulos (2007: 2) labels South Africa as a reluctant hegemon. She conveys the dilemma of being a country with the largest regional economy and that has a regional vision on the one hand, and its reluctance to use its material might that could establish the perceptions of it as a regional hegemony or a bully on the other hand. However, in line with Chapter 3 of this dissertation, Nel and Stephen (2016: 76) convey that regional leaders use their national foreign policy as a strategic apparatus to articulate the willingness and mission of providing leadership by driving public good objectives in the region (Nel and Stephen, 2016: 72). Evidently, following the political dispensation to democracy in South Africa in 1994, the newly elected government under President Nelson Mandela's administration (1994-1999) reformed South Africa's foreign policy from the isolationism which was practised by the Apartheid government to pursue more involvement and engagement with the African region (Tétényi, 2014: 4). Ogunnubi (2015: 5) argue that "Nelson Mandela was unwilling to claim the country's leadership in Africa, pointing rather to the importance of Africa to South Africa's foreign policy agenda". But Kagwanja (2006: 30) disagree that Nelson Mandela was passionate to lead Africa even before becoming president he emphasized that "South Africa cannot escape its African Destiny if we do not devote our energies to this continent, we too fall victim to the forces that brought ruin its various parts" (Nelson Mandela, 1993: 89 cited in Kagwanja, 2006: 30). In other words, South Africa cannot develop and prosper with the rest of the continent living in instability and severe destitution. In that manner, South Africa thrived to ensure that there is stability in its neighbouring countries through enhancing peace and security and commitment to human rights and democratic values. This was seen as a panacea for neighbouring countries to have the opportunity to prosper to avoid an influx of immigration to South Africa. Therefore, South Africa prioritised the South African Development Community (SADC), the South African Customs Union (SACU) as well as strengthening relations with the Organization of African Unity (OAU) (which was later replaced by the African Union) in its foreign policy under President Nelson Mandela (Tétényi, 2014: 4).

More, President Thabo Mbeki's administration (1999-2008) resumed the stance of prioritizing and willing to lead Africa in its foreign policy (Habib, 2009: 148). Before he became President he shared similar sentiments as his predecessor, he contended that "there are expectations from Africa that South Africa should make significant contributions towards peace and development on the continent" (Scholvin, 2013: 140). Therefore, his foreign policy highlighted significant commitment and promotion of human rights and democracy, justice and international law in the

conduct of relations between nations and internationally accepted means of conflict resolution. More explicitly, it indicated the commitment to preserve Africa's interests in international affairs and to achieve economic development through regional and international cooperation (Nathan, 2005: 362).

Interestingly, his first initiative to demonstrate dedication and commitment to leading Africa was the launch of the African Renaissance, a cornerstone of his foreign policy which advocated for regenerating Africa's potential for social and economic development based on African reform efforts. Through this initiative and approach, South Africa led the establishment of the African Union which succeeded the OAU and contained stronger institutions such as the African Peace and Security Architecture (APSA) that promoted and safeguarded democracy, peace and security, as well as development in the African region (Burgess, 2012: 6). The Department of Foreign Affairs, prioritized the realization of the African Renaissance by invoking the mission and goals of the African Union and its economic and social development organ, the New Partnership for Africa's Development (NEPAD) (Nathan, 2005: 362).

Furthermore, President Jacob Zuma's administration (2009-2018) foreign policy resumed the willingness to lead Africa by carrying on Mbeki's African dream albeit with less enthusiasm (Fabricius, 2021: 8). The policy was guided by 'African advancement' – an agenda that became a cornerstone of President Zuma's foreign policy. The agenda was similar to Mbeki's 'African Agenda', it prioritized the AU and its organs and enhanced the political and economic integration of SADC (Landsberg, 2014: 5-6). Similarly, his successor President Cyril Ramaphosa followed a duplicate policy orientation of willing to lead the African continent by ensuring stability. He conveys that South Africa cannot resort to isolation when its economic development and security are linked to the continent's stability (Amao, 2019: 101).

South Africa's foreign policy demonstrated its willingness to lead regional stability in the African continent. However, it is imperative for regional leadership to be assessed based on the 'role' because, on the one hand, possession of material capability is nothing until one puts them to good use, in other words, to benefit all states in the regional community. On the other hand, a regional leader should pragmatically execute its foreign policy to showcase its willingness to lead the region. Therefore, South Africa's role will be assessed through what it provides in the region, how

does project itself, and how is it perceived by other neighbouring states in the African continent (Hulse, 2016: 12).

In terms of maintaining peace and security, South Africa has made significant strides in ensuring stability. For example, following the immense destabilization and heinous human rights violations by the apartheid government, the political dispensation of democracy in South Africa under the Presidential administration of Nelson Mandela took a position to advocate for political stabilization in the African region. It took a pilgrimage to advance such stability through its active involvement in ensuring peace and security and peacemaking in the region (Zondi, 2012: 18). South Africa undoubtedly made an enormous impact in areas of peace-making, the promotion of good governance and post-conflict reconstruction. These efforts were empirically seen in Burundi, the Central African Republic, Comoros, the Democratic Republic of Congo, Ethiopia/Eritrea, Guinea-Bissau, Ivory Coast, Lesotho, Liberia, Madagascar, Rwanda, Mali, Sao Tome and Principe, Somalia, Sudan, and Zimbabwe. African leaders and rebel leaders have cut deals with South Africa being a mediator of the settlements (Van Nieuwkerk, 2014: 40; Tétényi, 2014: 4).

For example, South Africa played a regional leadership role in restoring political contestation in Burundi and the DRC. It has channelled both countries to run successful elections by bringing both combatant parties to the negotiation table (Sidiropoulos, 2007: 8). In Burundi and generally the Great Lake region, the post-colonial climate was marked by constant episodes of protracted social conflicts. This is mainly because state formation was embedded in exclusionary politics, ethnicity, patronage, militarism and dictatorship. The underlying cleavages of Burundian society were embarked since it gained independence in 1962 but one of the historic atrocities was the 1972 genocide which resulted in approximately 250 000 people dead with the Hutu tribe constituting the majority of the population and Tutsi tribe minority. The former was ostracized in major political and economic structures (as an embodiment of the colonial legacy of separate development among endogenous ethnic groups). In the 1993 multiparty election, President Malchoir (from the Hutu ethnic group) of the Front pour la démocratie du Burundi (FRODEBU) was victorious and sequentially assassinated which led to about 2000 people dead (predominately Tutsi). The United Nations (UN) and the OAU attempted to remedy the situation by deploying small monitoring and mediation team led by Mauritanian foreign minister Ahmedou Old-Abdallah who managed to secure an agreement between President Cyprien Ntaryamira, a Hutu

representative who headed a multiparty cabinet government was selected and in which Tutsi were able to gain 40% seats. Significantly, this agreement did not mitigate or eradicate the violence between the two groups. It was until South Africa's President Nelson Mandela who succeeded President Julius Nyerere of Tanzania as a facilitator and managed to convince conflicting parties to sign the Arusha Peace and Reconciliation Agreement⁸ in 2000, signed by the Government of Burundi, the National Assembly and 17 political parties consisting of G10 (Tutsi based parties) and G7 (Hutu based parties), including the National Council for the Defence of Democracy (CNDD) and the Palipehutu but not their armed wing hence the ceasefire agreement in 2002, 2003, and 2006 led by Jacob Zuma and the later Charles Nquakula was imperative (Hendricks, 2015: 14-16).

Moreover, South Africa also directly intervened to restore stability in African nations, for example, on the 22nd of September 1998, South Africa intervened in Lesotho to ensure regional stability (Vines, 2013: 99). Violent unrest took place in Lesotho following the elections and an army mutiny – soldiers revolted against the government and refused to intervene against the protesters. The duplicate incident occurred in 1994 when unrest in the army had led to the arrest and assassination of a cabinet minister. The 1998 situation became dire and insurmountable for the Lesotho government to stabilize for several weeks until it called SADC for help (Scholvin, 2013: 139). South Africa sent 600 troops which were backed by 200 from Botswana as part of SADC mandated operation Boleas to contain a coup in Lesotho. The crisis resulted in 8 South Africans and 58 Basotho troops dead in what was called a 'splendid little war' (Kagwanja, 2006: 33; Zondi, 2012: 18).

Under Thabo Mbeki's presidency, South Africa has played a determinant key role in the evolution of a more effective regional institutional framework with the African peace and security architecture (APSA). It assisted in the conceptualisation of the term 'security' to include the issue of national sovereignty. Further, it played a leadership role in leading negotiation settlements in key flashpoints areas in Africa such as the Great Lakes. Additionally, it further deployed peace-

⁸ "Put an end to the root causes underlying the recurrent state of violence, bloodshed, insecurity, political instability, genocide and exclusion, which is inflicting severe hardship and suffering on the people of Burundi, and seriously hampers the prospects of economic development and attainment of equality and social justice [...] and to shape a political order and system of governance [...] founded on the values of justice, democracy, good governance, pluralism, respect for fundamental human rights and freedoms of the individual, unity, solidarity, mutual understanding, tolerance and cooperation amongst the different ethnic groups ..." (Arusha Peace and Reconciliation Agreement 2000 cited in Hendricks, 2015: 16).

keeping troops under UN or AU mandate in numerous cases of tension and conflict in Africa (Sidiropoulos, 2007: 4). For example, South Africa engaged in a peace-making process in Cote d'Ivoire and provided peacekeeping troops for mission in Darfur and Comoros (Burgess, 2012: 7). Moreover, South Africa hosted the Sun City Peace talks which resolved the civil warfare known as 'Second Congo War' in 2003 and facilitated the first democratic elections since 1960 in 2006. Additionally, Mbeki mediated the Zimbabwe crisis between President Robert Mugabe and opposition leader Morgan Tsvangirai which resulted in a power-sharing deal known as 'the Government of National Unity' in 2008 (Fabricius, 2021: 8).

Moreover, Fabricius (2021: 8) contends that President Zuma resumed Mbeki's dream for Africa albeit not enthusiastically. President Zuma focused more on leading the SADC region than the rest of the continent. Concurrently, Zuma's administration was confronted with two major conflicts in Cote d'Ivoire and Libya⁹. The former was centred on the outcomes of the October/November 2010 elections which were envisioned to bring an end to the pre-existing conflict which separated the country into two. The Electoral Commission and the UN representatives announced that Alassare Ouattara won the second round with 54.1% against Laurent Gbagbo (the incumbent president). On the contrary, the Constitutional Council announced that the winner was Laurent Gbagbo (51.4%) against Alassare Ouattara (48.5%). This led to both candidates being sworn in as President of Cote d'Ivoire. In response, ECOWAS sent leaders of Cape Verde, Sierra Leone and Benin to convince Gbagbo to relinquish power but he refused. In turn, ECOWAS and the AU suspended Cote d'Ivoire from the organizations. The last resort was to forcefully remove Gbagbo from power but President Zuma refused and conveyed that this is a counterproductive move. He lamented that the issue requires national reconciliation and unity. This ultimately exposed Zuma's support for Gbagbo and the matter was later resolved by France which intervened on Ouattara's side and arrested Gbagbo and sent him to the International Criminal Court (ICC) (Miti, 2012: 38).

Furthermore, Ramaphosa's administration was aware of the incurred declination of South Africa's leadership role in the African continent. It has committed to restoring the trust and confidence of South Africa in the continent which deteriorated during Zuma's administration. In turn, the administration established the Ministerial Review Panel led by the Minister of International

⁹ South Africa failed to play a regional leadership role by mobilizing a continental resolution for the Libya crisis in 2011 but instead voted for western intervention in Libya. It firmly voted for the UN Security Council resolution that invoked the US-led invasion of Libya in 2011 (Ogunnubi and Akinola, 2017: 11).

Relations and Cooperation, Lindiwe Sisulu in 2018. The report in 2019 connoted that “the country has not sufficiently played the role it was expected to play, or should have played in engaging a number of international issues and that there have been missteps which have reversed earlier gains that the country registered. As a result, strategic opportunities were missed resulting in the decline of South Africa’s influence regionally, continentally and globally”. Ramaphosa’s administration decided to return South Africa to its African Renaissance mandate and lead stability in the continent (Hendricks and Majozi, 2021: 74 and 75). However, this fell short of the expectation. In 2019, his administration was confronted by instability in DRC when elections were clearly rigged. Ramaphosa and other African leaders vehemently advocated against the incident but later slipped back in line by accepting Flix Tshisekedi’s victory as a *fait accompli*. Moreover, Ramaphosa’s presidency failed to address the elephant in the room in Zimbabwe when economic denigration was clearly impacted by the style of leadership in the country. Instead, he joined the regional chorus of blaming Zimbabwe’s immense economic decay on a few remaining Western sanctions (Fabricius, 2021: 8).

South Africa ensured regional stability by providing financial assistance to the African countries and institutions. Despite being the largest foreign investor in the Southern African region, it also paid dividends to nations that experienced financial instability¹⁰. It plays a phenomenal dual role as a recipient of external financial aid and provider of financial aid in the continent. It was ranked among the developing countries as an ‘emerging donor’. Mbeki’s administration increased its contributions to UN development agencies and financially supported the realization of Africa’s political and economic aspirations under the banner of the African Renaissance and extended financial support to International Cooperation Fund (ASF). Additionally, South Africa subsidized its low-income neighbouring countries and provided technical assistance and training programs as well as humanitarian relief within and beyond the African continent. Similarly, Zuma’s administration made an immense effort to provide development assistance in Africa. The efforts were empirically witnessed through the establishment of the South African Development

¹⁰ In recent years, South Africa became a largest foreign investor in Sub-Saharan Africa. Its FDIs in 13 SADC member states surpassed \$5.4 billion by 2000. Sequentially in 2001, its investment in the region was approximately \$14.8 billion. This emanated from the \$20 million deal by state-owned airways, South African Airways for its stake in Tanzania, the \$6 billion Inga dam project in DRC, the \$56 million deal by Sun International in its hotel in Zambia, the Vodacom deal in Tanzania which amounted to \$142 million and the \$139 million investment in DRC. Additionally, South African companies invested heavily in Zimbabwe, a \$53 million and \$860 million investment by BHP Biliton, the IDC and Mitsubishi (Alden and Le Pere, 2009: 153).

Partnership Agency (SADPA) and the Partnership Fund for Development which embarked to be incrementally implemented from 2013. For example, South Africa's financial aid to Africa increased from approximately \$1.3 billion in 2002 to \$1.6 billion by 2004. The constant increase was seen a decade later to further implement its foreign policy which committed to the responsibility of providing regional stability. Significantly, South Africa's financial support in Africa ranges from its foundational values of foreign policy since 1994 namely peacekeeping, electoral reform and post-conflict reconstruction. Additionally, financial aid is starred towards the implementation of Africa's regional and continental institutions such as NEPAD, SADPA, ASF, African Development Bank etc. and bilateral development assistance in SADC countries and post-conflict impacted countries in Africa (Vickers, 2012: 535-537).

Ogunnubi and Amao (2016: 300) contend that neighbouring countries, especially in the Sub-Saharan region often regard South Africa as a regional leader that could lift the continent to greater heights. This is attributable to its superior material power and its ability to bargain for Africa at the international fora. Concurrently, this is commensurate with former President Thabo, before he became President, Mbeki's utterance in 1995 emphasised that "there are expectations from Africa that South Africa should make significant contributions towards peace and development on the continent" (Scholvin, 2013: 140; Alden and Schoeman, 2015: 239). In South Africa especially during Mandela and Mbeki's administration assumed the regional leadership position as two potential candidate countries namely Nigeria and Egypt focused more on stabilizing national complexities and lacked interest in leading the African continent. South Africa projected itself as a hegemon and embarked on imposing its will and dominating the discourse of African politics (Ogunnubi and Amao, 2016: 306).

Although Nelson Mandela was initially hesitant to project South Africa as a regional leader in Africa. The foreign minister, Alfred Nzo reiterated the stance and denied South Africa's aspiration to project itself as a regional leader but an advocator of human rights who would not shy away from pushing idealist values to all corners of the world (Ogunnubi, 2015: 5). But in its pursuit to push for idealist values, South Africa projected itself as a leader and acted in a hegemonic manner to ensure that neighbouring countries uphold democratic principles. The first instance of South Africa's hegemonic behavior was witnessed when President Mandela took on Nigeria in the mid-1990s. The African National Congress (ANC) perceived Nigeria as a powerful nation which it

envisaged working intimately with once in power. However, the instability commenced in Nigeria when General Ibrahim Babangida nullified the election results which confirmed the victory of opposition leader Moshood Abiola. Babangida's successor General Sani Abacha took the autocratic matter to the next level and incarcerated Abiola in 1994 on treason charges. President Mandela defied pressure from the West and an appeal from Wole Soyinka and led a campaign for economic sanction and diplomatic isolation of Abacha's administration. In response, Abacha executed prominent Ogoni minority human rights activists in 1995. Mandela withheld the campaign to ostracize Nigeria from the international community but released a statement conveying that Abacha was sitting on a volcano and he is going to explode it under him. Further, Mandela embarked on another campaign to remove Lagos from the commonwealth and urged the West and UN to intervene against the authoritarian regime in Nigeria. He recalled South Africa's High Commissioner to Nigeria which made it the only developing country to take on Nigeria in that manner (Kagwanja, 2006: 65).

Furthermore, South Africa's foreign policy was the most illustrative aspect of how it positioned itself as a regional leader on the African continent. The peaceful transfer of power from the Apartheid government to the democratic government led by the ANC in 1994 encouraged the latter to position itself as a leader and impart this method of power transfer to other African nations, which led South Africa to believe that there is nothing to learn from Africa other than avoiding using violence and war to settle differences (Vale and Maseko, 1998: 283). The Mbeki administration demonstrated not just its readiness to lead Africa but also its commitment to making sacrifices and investing in the continent's stability (Mutenje, 2018: 85). The African Renaissance was an assertive stance that South Africa took to showcase to perceive itself as a leader that could lead Africa to utopia (Vale and Maseko, 1998: 283). Additionally, how other countries perceived South Africa also gave it esteem to project itself as a regional leader. For example, Former Director General of Foreign Affairs Jackie Selebi conveyed that "South Africa has experienced time and again how countries, organizations and people have looked to us to provide leadership, new ideas and break-through in deadlock situations" (Selebi 1999 cited in Shoeman, 2000: 354).

Moreover, his successor former President Jacob Zuma shared the sentiments during the 10th anniversary of South African peacekeeping in Africa that South Africa's economic development

is linked to that of the continent. Therefore, ensuring stability in the African continent is of utmost paramount importance to South Africa for collective economic growth and development (Scholvin, 2013: 140). In other words, South Africa projected itself as a regional leader to secure its national interest in the continent. As highlighted above, over the years, South Africa heavily invested in the continent. In this case, Bohler-Muller (2012: 9) contends that “South Africa proclaimed itself both as the leader and bridge-builder on the continent”. Its membership in Brazil, Russia, India, China and South Africa alliance (BRICS) bridged the investment and trade barricade in Africa (Bohler-Muller, 2012: 9). Ramaphosa’s administration acknowledged that South Africa suffered a blow to its reputation and soft power in the continent (Ishaku and Onyekwena (2018: 4). However, notwithstanding his AU chairmanship in 2020, Ramaphosa has not showcased a situation where South Africa projected itself as a regional leader during his administration thus far (Kapur, 2022: 80).

As highlighted in the conceptual framework of this dissertation, regional leaders are often embraced and welcomed by neighbouring states (followers) in the region, and their followers view them as leaders. Because they are thoroughly aware of the regional dynamics in terms of the values and concerns of their region that is how regional leaders are able to attract followers (Wu, Liao, and Wayne, 2021: 1). However, there are mixed perceptions of South Africa as a regional leader in the African continent. For example, during Mandela’s administration in South Africa, Scholvin (2013: 32) argue that neighbouring African nations rejected South Africa's hegemony because its support for democracy and human rights imperilled many of those nations' national sovereignty. As a result, South Africa's neighbours did not want its leadership since they saw it as a bully. Evidently, the OAU scrutinized Mandela in the mid-1990 for pushing for Nigeria to be sanctioned. The OAU and other African leaders shared the sentiments of what Mandela did was ‘un-African’ emphasizing that ‘Africans do not turn against each other in international fora’. Mandela was criticized on the continent and even at home, the ANC reminded the president of the role played by Nigeria in assisting the ANC during its struggle for liberation (Kagwanja, 2006: 58). Moreover, Adebajo and Lansberg (2003: 174) contend that South Africa’s foreign policy faced immense opposition from its neighbours like Lesotho and DRC. For example, Mandela was criticized by neighbouring states for militarily intervening in Lesotho in 1998 under operation boras which the continent perceived as violating the sovereignty of Lesotho and acting as a benevolent hegemon in the region (Fabricius, 2021: 7). Additionally, Sudan People’s Liberation Army (SPLA) leader

John Garang opposed Nelson Mandela's integrity in intermediating the talks of peace when South African weapons were found in the hands of the rebel group and the Sudanese government in 1997. Nigeria's minister of information Walter Ofonagoro called Nelson Mandela 'a black president of a white state' because his actions were reminiscent of the apartheid regime (Vale and Maseko, 1998: 273).

Mbeki and Zuma's administration changed South Africa's foreign policy to be more appealing to neighbouring states. They placed national sovereignty at the centre of their foreign policy to pursue a more acceptable path to resolve instability in the continent (Scholvin, 2013: 42). For example, Mbeki's presidency chose to resort to quiet diplomacy toward Zimbabwe and criticized the use of sanctions to oust President Mugabe in the early 2000s as a means to appease its fellow African peers and retain followership (Graham, 2006: 126). Mbeki's advocacy of the African Renaissance which was implemented through quiet diplomacy rather than public reprimand and scrutiny of African leaders changed the perception of South Africa and increase its demand to provide leadership in the continent. Mbeki worked well with Nigeria's President Olusegun Obasanjo despite issues of autocracy and human rights violations and managed to transform OAU into AU in 2002, mobilized support and established the NEPAD in the G-20 and the UN as a programme to realise the African Renaissance. Mbeki was applauded and accepted as an African leader and this gave South Africa the prestige to be regarded as a regional leader (Maseng and Lekaba, 2014: 401). Some African countries accepted South Africa as a regional leader while others were resistant and fearful of its promotion of free market democracy and a right to intervene to stop human rights abuses similar to the 1994 Rwandan genocide (Burgess, 2012: 1). For example, the Libyan leader Muammar Qadhafi rejected NEPAD and characterised it as a project of the former colonisers and racists (Olivier, 2003: 822).

Interestingly, South Africa is often portrayed and perceived as a regional leader by its peers at the global stage such as Brazil and India more than at home on the African continent. The US, Europeans and Asian great powers negotiated trade disputes with South Africa at the World Trade Organization (WTO) in Cancun accepted and perceived South Africa as an activist and advocate of the developing world more especially of Africa. The invitation of President Mbeki to the G-8

summits and the World Economic Forum meetings in Switzerland was an acceptance of South Africa's leadership role by the great powers of the international system (Flemes, 2009: 149).

Furthermore, in terms of Africa's digital policy-creation, adoption and promulgation in the AU the Assembly, Executive Council and the Commission played a role. According to AU (2000: 8) the Constitutive Act entails the Assembly of the Union as the highest decision-making and supreme organ which is composed of Head of States and Governments (HOS/G) or their duly accredited representatives. It meets once a year on ordinary sessions. However, extraordinary sessions are subject to any member state request and on approval of a two-thirds majority of the member states. The office of the chairman of the assembly is held for a period of a year by a HOS/G that is elected after consultation among the member states (AU, 2000: 8). As the supreme organ of the AU, the assembly determines the policies of all organs and monitors the implementation of policies and decisions by its organs. The Assembly takes decisions on reports and recommendations from its organs such as the specialised technical committees created under article 5(1) like the AU Ministers in charge of Communication and Information Technologies which are inter-alia, and responsible to prepare and oversee AU projects but lack any original decision making powers. The assembly then directs the Executive Council and other related organs to oversee the adoption and promulgation of the policy (Aneme, 2018).

The AU Executive Council is an organ that is central to monitoring the implementation of the assembly policy. The Council is composed of a minister of foreign affairs or other ministers or authorities designated by member states to take decisions on policies in common areas of interest. However, relative to the assembly, the council has limited powers in monitoring the implementation of AU policies, decisions and compliance. The assembly is vested with much strength and enforceable powers within the AU and externally among member states (Olivier, 2015: 524). Moreover, the AU Commission (AUC) is composed of the chairman, his or her deputies and the commissioners. The function, structure and regulations of the commission is determined by the Assembly (Union, 2000: 14).

4.5.4 South Africa's role in the creation of Africa's digital policy

Although under the banner of the AU, the pilgrimage of creating regional policy and regulatory regimes on telecommunication or ICT and cybersecurity did not commence until after 2008 (Orij, 2018: 96). Interestingly, the Organization of African Unity (OAU) era already had Africa's digital vision and agenda through the African Information Society Initiative¹¹ (AIS). This initiative was launched in 1996 from a resolution (812-XXXI) adopted by the United Nations Economic Commission for Africa (ECA) 22nd Conference of Ministers requesting the Commission to "constitute a high-level work group to develop an action plan on ICT to accelerate socio-economic development in Africa". The Ministers saw the initiative as a means to salvage pejorative socioeconomic complexities in the continent and accelerate greater economic development through unlocking opportunities in education, trade, health care, food security and job creation thus improving the standard of living in Africa (United Nations Economic Commission for Africa, 2008: 1). The AIS was endorsed by the African Regional Telecommunication and Development Conference in 1996 which culminated to its further endorsement by the OAU at its Summit in July 1996. "When it was formally inaugurated in Midrand, Pretoria (organised and hosted by South Africa) in May 1996 at the Information Society and Development Conference, the initiative reached its highest peak of awareness and promotion" (Amonoo, 1997: 2). Indeed, the OAU Council of Ministers in Yaounde in 1-5 July took a resolution CMRES 676 LXIX which urges all African States to take immediate measures to implement AIS (Thapisa and Birabwa, 1998: 53). Interesting, the reader would have picked that the initial AIS did not advocate for harmonization of digital policies but rather for African states to create, adopt and promulgate digital policies at the national level. The steps taken to conduct a regional telecommunications regulatory harmonization embarked on the era of the African Union (AU). This was witnessed in the Division of Information Society, the Reference Framework for the Harmonization of Telecommunications and ICT Policies and Regulations in Africa (2008), and the Comprehensive Continental ICT Strategy for Africa as well as the New Partnership for Africa's Development (NEPAD) Protocol

¹¹ The AIS was essentially not a regional plan but a vision to make African policymakers aware of the significance of technology for development and for them to embark on crafting national policies, plans and strategies to leverage the opportunities brought by the formation age. Its concomitant action framework urges for implementation of national ICT plans involving the department of institutional frameworks, human, information and technological resources in all African countries and the pursuit of priority strategies, programs and projects that could assist in the realisation of the sustainable build-up of an information society in African states. The vision prognosticated the attainment of a sustainable information society in Africa by the year 2010 (Hafkin, 2002: 108).

on High-Level Policy and Regulatory Framework Broadband ICT Infrastructure for Eastern and Southern Africa (the Kigali Protocol of 2006) (Okoli, 2020: 4).

The Constitutive Act of the AU has vested its institutions with the power to create region-wide policy and regulatory regimes on issues of common interest and in this case, digital policy. However, unlike other regional organisations in the world, Africa was a latecomer in its creation of a harmonised digital policy and the delay is attributable to the snail's pace of digitalization in the region. The process of formulating a harmonised digital policy commenced in 2008 with an AU Draft Report on a Study of the Harmonisation of Telecommunication, and Information Communication Technology Policies and Regulation¹² (Orji, 2018: 96).

Subsequently, South Africa through the Department of Communication hosted the Extraordinary Session of the African Union (AU) Minister of Communications and Information Technology (CITMC) in November 2009. The conference was preparing for the AU HOS/G summit in the following year, the theme was 'Information and Communication Technologies in Africa: Challenges and Prospects for Development'. The intention was to consolidate all ministries in charge of communication, and information technologies in member states to unite and advocate for a common view on ICT development in Africa. Significantly, the objective of the Conference was for member states to reach a consensus on harmonising policy, legal and regulatory framework at regional and continental levels to create an enabling environment to attract investment and foster sustainable development of competitive ICT markets in the continent (Government of South Africa, 2009).

The Director General (DG) of the Department of Communication, Republic of South Africa Ms Mamodupi Mohlala delivered a welcoming remark in the opening of the CITMC conference in 2019. In her utterance, she conveyed that the conference is an explicit manifestation of South Africa's commitment to invoke the use of ICTs for Africa's development. Crucially, "she urged

¹² "The Draft Report identified that at the continental level, there is no framework for telecommunications/ICT policy and regulatory framework approved by the states. However, the International Telecommunication Union (ITU) study titled 'Forum on Telecommunications Regulations in Africa' proposed the creation of an African Telecommunication Regulators Association to provide inputs to the policy making process at the continental level. Instead of an Association, an African Telecommunication Regulator's Network was created, according to the Union (2008: 36).

member states and experts to draft strong recommendations to be considered by Ministers to be submitted to the 2010 Session of the Assembly on ICT in Africa. Significantly, she expressed the willingness of sharing South Africa's guideline on ICTs during the deliberations" (African Union, 2009). The CITMC adopt a set of declarations referred to as the Oliver Tambo Declaration. This declaration directed the AU to work collaboratively with the United Nations Economic Commission for Africa under the AISI, to establish a convention on cyber legislation embedded in the continent's needs which adheres to regulatory requirements on electronic transactions, cybersecurity, and personal data protection. Finally, it recommended the AU member states to adopt the Convention by 2012 (Orji, 2014: 131). More, "the Executive Council decided on the adoption of the Oliver Tambo Declaration as a mechanism to accelerate and monitor the implementation of the African Regional Action Plan on the Knowledge Economy (ARAPKE), the Reference Framework for Harmonization of Policies and Regulations on Telecommunication and ICTs in Africa, the Strategies and Action Plan for the Development of Postal Sector in Africa"¹³ (Union, 2010).

Subsequently, the African Union Assembly convened on the 14th Ordinary Session in Addis Ababa, Ethiopia on 31 January 2010. HOS/G took a declaration known as the Addis Ababa Declaration that committed to "... making the ICT sector as a priority in our development programs and therefore encouraging member states and partners to consider telecommunication and ICT infrastructure and services as a basic public utility infrastructure". Significantly, the symposium requested the African Union Commission (AUC) to "set in collaboration with Regional Economic Communities, the United Nations Economic for Africa, the International Telecommunication Union, higher education and research institutions and the ICT-sector specialized institutions in Africa, an African digital agenda identifying the main stages towards the establishment of a harmonized African ICT market by 2020. Secondly, "to develop a coherent and integrated approach as well as a coordination mechanism involving the key African stakeholders and development partners for the implementation and follow-up of this declaration". Interestingly the Assembly requested the AUC to appeal to development partners 'especially

¹³ This decision was expressed and approved by the AU HOS/G 14th Ordinary Session of the Assembly in Addis Ababa, Ethiopia on 31 January and from 1-2 February 2010. The assembly adopted the Addis Ababa declaration on Information and Communication Technologies in Africa: Challenges and Prospects for Development (Union, 2010) (Union, 2010).

financing institutions to invoke the implementation of this Declaration and integrate telecommunications and ICT into priorities by granting them financing conditions similar to those of other basic public utility infrastructures' (African Union, 2010: 2-4).

Sequentially, in August 2010, the AU 3rd Conference of Ministers in charge of Communication Information Technology (CITMC-3) met in Abuja, Nigeria (Calandro et al., 2013: 19). The Minister of State, Information, and Communication of the Federal Republic of Nigeria, H.E. Mr Laran Maku conveyed the opening remarks where he lamented digital disparities between Africa and the rest of the world and that the continent is a collective challenge that African must meet to accelerate economic development and good governance. He added that "[...] Africa at this moment is the development of the Broadband Infrastructure adding that this Conference was an opportunity to create a pathway forward". Subsequently, Minister of Information and Communications of the Federal Republic of Nigeria, H.E Prof Dora Nkem Akunuyili drew the attention of the conference to the significance of the role of the CITMC as the highest policy-making organ in the continent for the ICT sector and went on to articulate the complexities faced by Nigeria during its chairmanship. She stressed the need to formulate the ICT into a broader policy framework and coordinate with different programmes at both the national and continental level. The vice President of the Federal Republic of Nigeria H.E ARCH Mohammed Namadi was also a keynote speaker at the conference. The vice President articulated the status of ICT sector in Nigeria and urged participants to focus the engagement on the harmonisation of telecommunication policies and regulations and on building a strong broadband infrastructure to solidify the African Internet Network (African Union, 2010). The outcome of the CITMC-3 was the adoption of the Abuja Declaration which among others, requested the AU Commission to work collaboratively with the International Telecommunication Union (ITU) and development partners to resume activities on the harmonisation of policy and regulations in Africa based on the platform created by Support for harmonization of the ICT policies in sub-Saharan Africa (HIPPSA) project¹⁴ in order to implement

¹⁴ "The HIPPSA initiative intended to establish a harmonized policy, legal and regulatory framework at the regional and continental level to create an enabling environment that will attract investment and foster the sustainable development of competitive African Telecommunication/ICT regional markets, infrastructure and to increase access [of its people to the related services]". However, it was not a region-wide or continental initiative. The HIPPSA came as a result of the request by sub-regional economic organizations and their associated regulators to the ITU and the European Commission to help with harmonizing ICT policies and regulations in sub-Saharan Africa. The Oliver Tambo Declaration adopted the HIPPSA with the intention to execute it at the region-wide or continental level through

the outstanding components of the Reference Framework for Harmonization of Telecommunication and ICT Policies and Regulation in Africa that was adopted at the CITMC-2 (Calandro et al., 2013: 19; AU, 2009: 3).

Further, in retrospect, the Oliver Tambo declaration led by South Africa's request to the AUC was fulfilled in 2011 when AU and UNECA collaborated and developed a draft on cybersecurity called the Draft Convention for the Establishment of a Credible Legal Framework for Cybersecurity in Africa¹⁵. However, the declaration advised AU member states to adopt the convention by 2012 but the creation of the policy was delayed. The AU Expert Group on Cyber adopted the Draft Convention in 2012 which was followed by the approval by the 22nd Ordinary Session of the AU Executive Council in the following year. Thereafter, the Convention was prepared to be submitted for legal validation by the AU Justice Ministers Conference in 2013 and sequentially was supposed to be submitted for adoption by the 2014 AU Summit. But could not be presented for the 2014 AU Summit because of technical delays most notably opposition from civil society and academia. The former mobilized several petitions and the latter submitted the petition to the AU Commission to prevent the adoption of the first Draft Convention because of distorted provisions which may harm the right to privacy and freedom of expression (Orji, 2015: 109). This resulted in the creation of the second draft of this policy in 2013 which had slightly modified and also renamed to the African Union Convention on the Confidence and Security in Cyberspace. The objective of this broad convention was to harmonise national policies and regulations in Africa on a number of ICT topics. Significantly, the Convention focused on three main digital issues namely, electronic transactions, personal data protection and cybercrimes. It incorporated the three main AU declarations of harmonising digital policies and regulations, the Oliver Tambo Declaration of 2009, the Abuja Declaration 2010 and the Addis Ababa Declaration of 2012 (Makulilo, 2015: 81).

Moreover, the Department of Infrastructure and Energy of the AUC collaborated with the Sudanese government to host the CITMC-4 in Khartoum in September 2012. One of the objectives of this expert session was to review the report on the harmonization of policies and regulations

the Reference Framework for Harmonization of Policies and Regulations on Telecommunication and ICTs in Africa (International Telecommunication Union, 2007; Union, 2010).

¹⁵ This was the first draft convention which intended to harmonise Africa's cybersecurity policy (Makulilo, 2015: 81).

(AU, 2012). Significantly, The President of Sudan, Omar Al-Bashir expressed his confidence in the conference to provide a clear roadmap to reaching the desired ICT aspiration in the continent. He lamented that the conference should focus on the development of ICT policies and legislation, ICT security and the establishment of the African. Ministers from Algeria, Burundi, Burkina Faso, Egypt, Gabon, Gambia, Guinea, Nigeria and Zambia provided a ministerial statement which highlighted the achievements and challenges in the ICT sector at the national and continental level. They stressed the need for coordination and mobilization of finance to pursue a collective action to accelerate the development and use of ICTs for socio-economic development and integration of the African continent. Ministers adopted the 2012 Khartoum Declaration (AU, 2012). Among others, the Declaration requested the AUC to “submit the Draft African Union Cyber-Security Convention for adoption according to AU rules of procedures”. Secondly the Declaration also requested the AUC, NEPAD Planning and Coordination Agency (NPCA), Regional Economic Communities (RECs), Specialised Institutions, African Development Bank (AfBD) and United Nations Economic Commission for Africa (UNECA) to develop an updated, integrated and coherent Communication Information Technologies framework for Africa taking into account existing frameworks of all African CIT stakeholders, and coordinate the convening of an ICT investment forum (AU, 2012: 3).

The AU Executive Council took a decision [Ex.CL/Dec.XXII] on its 22nd Ordinary Session in Addis Ababa in January 2013 which invokes the 2012 Khartoum Declaration and urged AU member states and the RECs to participate and invoke the AUC for accelerating the implementation of the Declaration outlined (AU, 2013). Consequently, the 5th Meeting of the Heads of ICT units in AUC, NPCA, RECs and Association of Regulators on Harmonisation and Coordination of Regional Continental Programmes, Projects and Activities in Balaclava, Mauritius, adopted the Comprehensive ICT Strategy for Africa (CISA) which was envisioned to guide the development of the ICT sector on the continent until 2024 (African Union, 2014).

4.5.5 South Africa's role in the adoption of Africa's digital policy

As noted above, the objective of the AISI was to accelerate digitalization in the continent by promoting and encouraging African states to create, adopt and promulgate national enabling policies and regulations (Adam and Gillwald, 2007: 5-6). Before the AISI, only six African states

had developed their ICT policies, the number increased when the United Nations Commission for Africa embarked on implementing its work programme and in the run-up to the 1999 African Development Forum (ADF99). Thirteen African states developed or were developing their policies either through the help of ECA or the International Development Research Centre (IDRC) under the AISI framework in 1999 (Chavula and Chekol, 2011: 265). By 1999, 13 countries developed their e-strategies, and the number increased to 16, 25 and 32 countries by 2002, 2004 and 2006. However, countries took different routes in developing their ICT strategies, for example, Rwanda, Gambia, Ghana, Malawi and Swaziland followed the AISI model (which advocated for an elaborative policy framework and implementation plan through a consultative process), whereas Botswana, Mauritius, South Africa and Tunisia and Morocco followed an organic approach which focused on incremental development of policies such as national educational capacity, infrastructure, public sector service delivery through ICT. This was an emergence of a splinternet within the continent where individual countries' developed their own distinct ICT strategies without any obligation to follow a regional model or a harmonised framework. For example, Tunisia identified the ICT sector as a new economic pillar. In other words, it was a sector that was seen as vital for economic development. In 2006, only Eritrea, Equatorial Guinea, Liberia, Somalia and Togo did not create nor adopt any broader ICT policy in place because of several reasons but commonly historical and political turmoil in these countries (Adam and Gillwald, 2007: 5-6).

The discourse on ICT policy and information society in South Africa can be traced to the 1994 ANC election manifesto, its macro socio-economic policy Reconstruction Development Programme (RDP) and later Growth Employment and Redistribution document. The RDP stated that ICT is a key feature in meeting basic needs. By 1995, the concept of information society dominated South African political discourse. Then-President Mandela and his deputy President Mbeki pioneered this concept in the country and took it beyond generic conceptions of telecommunications. Mbeki's speech to the G7 Conference in Brussels and Mandela's speech at the International Telecommunication Union's Telecom Conference in Geneva and at the General Meeting of the Union of National Radio and Television Organisation of Africa in Johannesburg inspired the creation of the 1996 Telecommunication Act (Singh, 2010: 213).

However, South Africa is not the first African state to adopt or to have a pre-existing ICT policy as required by the AISI. Ghana was the first country to develop an ICT policy which came as a consequence of adopting the World Bank and International Monetary Fund Structural Adjustment Programmes (SAPs) in 1980 which advocated for the liberalisation reform of the telecommunication sector. In effect, Ghana adopted the Telecommunication Accelerated Development Plan in 1993 to liberalise and revamp the telecommunication sector to create a private sector-led information society in Ghana (Chvula and Chekol, 2011: 268). South Africa only took part in the development of ICT policies and regulations in 1996 when the National Telecommunication Forum (NTF) which consisted of labour, business, civil society and government initiated the promotion and development of telecommunication-related legislation. Participants convened with the presence of the erstwhile Minister of then-Department of Posts, Telecommunications and Broadcasting Pallo Jordan and formulated a discussion paper which later became the Green Paper on Telecommunication and culminated in the 1996 Telecommunication Act (Singh, 2010: 214).

The first African multilateral legal framework that was directed to address personal data privacy protection was the ECOWAS5 Supplementary Act A/SA./01/10 on Personal Data Protection within ECOWAS which was adopted in Abuja in February 2010. This was subsequently followed by the AU adoption of the Convention on Cybersecurity and Personal Data Protection in Malabo, Equatorial Guinea on 27 June 2014. The crucial factor to highlight the ECOWAS5 Supplementary Act A/SA./01/10 is to draw the attention of the discussion to the fact that although the Convention imposed member states to establish legal, policy and regulatory measures to invoke cybersecurity governance and control cybercrime, the ECOWAS5 Supplementary Act A/SA./01/10 played a crucial role in the establishment and adoption of pre-existing national personal data protection policies before the Convention (Alinge, 2019: 40; Orji, 2018: 92).

The AU Convention requires at least 15 countries to be ratified and take effect. Only 14 member states out of 55 have signed the Convention and only 13 ratified it by the time of writing¹⁶.

¹⁶ List of countries that have ratified the Malabo Convention; Angola, Cape Verde, Congo, Ghana, Guinea, Mozambique, Mauritius, Namibia, Niger, Rwanda, Senegal, Togo, and Zambia. List 14 of AU member states that have signed the AU; Congo, Chad, Benin, Guinea-Bissau, Mozambique, Mauritania, Rwanda, Sierra Leone, Sao Tome and Principe, Togo, Tunisia and Mozambique. (AU, 2022).

Interestingly, South Africa has not yet signed nor ratified the AU Convention (Malatji et al., 2020: 4). South Africa adopted a National Cybersecurity Policy Framework (NCPF) in 2012 (Sutherland, 2017: 84). The objective of the policy is to provide the government with appropriate guidelines to effectively respond to cyberterrorism, cybercrime, cyber vandalism and cyber sabotage and other attacks against the country (Malatji et al., 2020: 3). The NCPF is drawn from sources such as the EU, the North Atlantic Treaty Organisation (NATO) and the “US. The South African government used some foreign experiences and texts raising questions effectiveness of its adaption to the legal and political systems and culture, and the degree to which it has designed something it had the administrative and technological skills to deliver” (Sutherland, 2017: 87).

Importantly, Makulilo (2015: 79-80) contends that many privacy policies and regulations in Africa emerged in the 1960s and 1970s during the struggle for decolonization. Whichever form of these struggles took place either constitutional negotiations, armed struggle or an amalgamation of both, independent African states were required to have independent constitutions. The legacy of colonialism lingered as many of these ‘independent’ constitutions were influenced by former colonizers because new independent African states inherited some of the provisions and clauses in the constitutions which were meant to protect minority White settlers and foreign companies in the colonies after independence. Noteworthy, one of the dominant features of these constitutions was the incorporation of the Bill of Rights. With the exception of countries such as Kenya and Zimbabwe, the protection of privacy was one of the vital rights enshrined in the Bill of Rights. Although some countries such as Tanganyika (later known as Mainland Tanzania) did not have a Bill of Rights in their constitutions. The exclusion of privacy laws was because firstly, “the provision of privacy in the African constitutions at the eve of independence neither reflected the value to privacy in the African context nor could it in any way influence privacy consciousness”. Secondly, the autocratic and dictatorial African government immediately after independence did not value the Bill of Rights. Thirdly, the snail’s pace of technological development in Africa did not influence the value of privacy consciousness at a level that could lead to policy and regulatory response. But in subsequent years, constitutional privacy provided the normative foundation for the adoption of data privacy policies and regulations nonetheless (Makulilo, 2015: 79-80).

More, in retrospect, South Africa hosted the Extraordinary Session of the AU Conference of Ministers in charge of Communication and Information Technologies which adopted a resolution in the Oliver Tambo Declaration which advocated and committed to establishing mechanisms that will accelerate the implementation of the African Regional Action Plan on Knowledge Economy (ARAKE), and significantly, the Reference Framework for Harmonization for Telecommunication ICT and Policy Regulation and the Strategies and Action Plans for the development of the Poster Sector in Africa (Calandro et al., 2013: 19). However, harmonisation of national data protection laws in Africa more especially at the continental level is a phenomenon that recently occurred. Harmonisation of policies embark at the sub-regional level whereby RECs took the lead in advancing such initiative. Additionally, it was the ITU that invoked the harmonisation of the ICT policies in Sub-Saharan Africa (HIPPSA) project that supported the development of data protection policies. Adoption of data regulations was also invoked by UNCTAD's e-commerce and law reform programme that took place in EAC for mostly Francophone countries to invoke and develop and adopt the Association *Francophone des autorites de protection des donees personnelles* (AFAPDP) (Makulilio, 2015: 80).

4.5.6 South Africa's role in the promulgation of Africa's digital policy

South Africa promulgated the Protection of Personal Information Act 4 of 2013 (POPI) in Gen 912 GG 37067/26-11-2013. The policy was scheduled to come into effect the following year in accordance with the 115 of POPI by the President (Luck, 2014: 44). However, the law only came into effect in July 2021 (McKenzie, 2022). The promulgation of the NCPF of South Africa was relative snail-paced and not assisted by President Zuma's cabinet reshuffles. The Minister of Communication published a detailed cybersecurity policy draft which took two years to be approved by Parliament and an additional three years to be published and only in two official languages, Afrikaans and English. The Minister of State Security and the State Security Agency (SSA) was responsible for implementing the policy, roadmap and strategy. The Department of Communication retained significant responsibility (Surtherland, 2017: 87). South Africa only passed or promulgated the policy of Cybercrime and Cybersecurity Act 2020 was promulgated in June 2021 and came into effect in December 2021 (McKenzie, 2022). Ghana is the first African state to have data protection regulation under the Data Protection Act 2012 (DPA) and Article 17(2) of the 1992 Constitution which ensures the egalitarian right to privacy. Although it went

through some of the amendments to incorporate recent provisions. Ghana is also in talks with other regulators in African states to consolidate and harmonise data protection laws. This is because of data sovereignty, economization and data localisation that are emerging and would further threaten the interoperability between or among Africa states (Mckenzie, 2022).

4.6 Conclusion

This chapter has discussed the systematic approach to identifying the regional leader in a region, the role of that regional leader(s) in determining the making of region-wide digital policy. The chapter will arrive at a comparative conclusion on how regional leadership has played a role in the digital policy being made in the European Union (EU), Association of East Asian Nations (ASEAN), and the United States-Mexico-Canada Agreement (UMCA) vis-à-vis the making of Africa's digital policy. Regional leadership played a decisive role in the creation, adoption and promulgation in the EU and USMCA. Interestingly, in ASEAN, Indonesia was more of a follower than a initiator of ASEAN's digital policies. Singapore, Malaysia, the Philippines, Thailand and Vietnam played a decisive role in the creation, adoption and promulgation of ASEAN digital policies during their ASEAN chairmanships. In Africa, Nigeria and South Africa played a bipolar regional leadership role in the creation, adoption and promulgation of Africa's digital policy. However, implementation of such policies were relatively snail paced in comparison to other regions.

Chapter 5: Case study 2 Splinternet

5.1 Introduction

This chapter will employ documentary analysis to examine the nature and scope of regional digital policy in Africa, North America, Europe, and Asia. This is in light of the second research question; Are there differences in the digital policies among regions which are likely to lead us into a world of digital regional blocs ('the splinternet'). The implications thereof? In this case, the study will examine documents such as the African continental free trade agreement (ACFTA) treaty and protocol, Agenda 2063 (Ten Year Agenda 2063 Implementation documents), Africa's Digital Transformation; side by side with the United States, Mexico, Canada Agreement (USMCA) (specifically on digital and data regulations) and the European Union's GDPR as well as ASEAN's Framework on Personal Data Protection. The objective is to develop a typology of similarities and 'differences' that might lead to the emergence of an inter-regional splinternet and elaborate on the implication thereof (Park, 2021: 93).

5.2 European Union

The then-European Community Council (ECC) passed the right to privacy in 1950 as part of its European Convention on Human Rights which conveyed that "Everyone has the right to respect for his private and family life, his home and his correspondence". The EU built from that basis and ensured the protection of this right through legislation. The rapid technological revolution led to the discovery of the internet and the EU realised the urgent need for modern regulations to protect the privacy of individuals. In response, it passed the European Data Protection Directive in 1995 to provide minimum data privacy and security standards upon which each member state had to base its own implementing law. At the time, the internet was already harvesting personal data, in 1994, the first banner advertisement appeared online and by 2000 many financial institutions migrated to offer their services online, sequentially Facebook opened to the public and by 2011, Google sued companies for scanning its emails. In response, the European data protection authority conveyed that the "EU needed a comprehensive approach on personal data protection" and embarked to work on how to update the 1995 directive. In 2016, the European Parliament passed

the General Data Protection Regulation (2016) which was scheduled to become effective on 25 May 2018 (Wolford, 2020).

5.2.1 General Data Protection Regulation (GDPR)

One EU commission survey found that about 92% of EU citizens were anxious that mobile apps that collect their data without consent and believe that majority of companies are secretly misusing their data. Indeed, many enterprises were secretly collecting personal information or data for profit and influence. For example, the Facebook-Cambridge Analytica scandal is one of the prominent evidence of this activity. Other online companies such as Uber, Google, Apple, Amazon etc. have systematically invaded privacy of many people. This occurred either directly by a company intending to make profit or gain influence or indirectly through having inefficient and ineffective personal data protection norms in place. For instance, major online companies have suffered a data breach. They were either hacked or leaked personal data of its customers. Small and medium enterprises are the most vulnerable to cybercrime, hacking, and espionage because they relatively tend to have a weaker defence system. Interestingly, the findings states that the rate of cyberattacks increases annually with about 400 new threats every minute, therefore, the GDPR is enacted to contain that by ensuring the protection of personal data of the EU population (GDPR.EU, 2022).

The GDPR comprises 11 chapters and 99 articles that entities need to implement in the EU and external entities who trade with the EU countries. Chapter 1 entails the general provisions of the GDPR, it has article 1–4. Chapter 2 entails the principles of the GDPR with 5-11 articles Chapter 3 is the rights of data subject with articles from 12-23, Chapter 4 (article 24-43) entails controller and processor, Chapter 5 connotes transfer of personal data to third countries or international organisation (article 44-50), Chapter 6 covers independent supervisory authorities (article 51-59), Chapter 7 (article 60-76) entails cooperation and consistency, Chapter 8 (article 77-84) covers remedies, liability and penalties, Chapter 9 (article 85-91) entails provisions relating to specific processing situations, Chapter 10 entail delegated acts and implementing acts (article 92-93), and finally Chapter 11 entails the final provisions from article 94-99. (Gullker, 2017: 28). In short, the scope of the GDPR is to protect data from the EU population. It extends this guarantee by incorporating the ‘extra-territorial effect’ which applies to EU and non-EU entities that handles EU data (Klar, 2020: 108).

5.3 United States-Mexico-Canada-Agreement (USMCA)

In North America, the North American Free Trade Agreement (NAFTA) was replaced by the USMCA on 1 July 2020. One of the crucial provisions that modernised USMCA from its predecessor was the inclusion of chapter 19 which focus on digital trade (Alvarez, 2021: 59). Corporations are increasingly using ubiquitous technologies such as Big Data analytics, Blockchain, Artificial Intelligence (AI), Robotic process automation and Internet of things (IoT) to improve their competitiveness, efficiency and resilience. It was perceived that the more companies make use of these innovations in the North American region, the more digital trade increases rapidly. Therefore, the US, Canada, and Mexico came to a consensus on how to incorporate this aspect of trade to safeguard against the shortcomings such as violation of individual privacy and cybersecurity while facilitating smooth digital trade among parties. Secondly, the parties also considered the significance of cementing North American integration in the digital era (Leblond, 2022). This is portrayed as one of the clearest reasons why NAFTA had to be upgraded (Cory, 2021).

5.2.1 USMCA Chapter 19

The USMCA document consist of 34 chapters structured in the following respect. Initially is the preamble, (1) initial provisions and general definitions, (2) national treatment and market access for goods, (3) agriculture, (4) rules of origins, (5) original procedures, (6) textiles and apparel, (7) customs and trade facilitation, (8) recognition of Mexico's right to hydrocarbons, (9) sanitary and phytosanitary measures, (10) trade remedies, (11) technical barriers to trade, (12) sectoral annexes, (13) government procurement, (14) investment, (15) cross-border trade in services, (16) temporary entry, (17) financial services, (18) telecommunication and, as highlighted above, significant to this dissertation (19) digital trade. Moreover, chapter (20) looks at intellectual property, (21) competition policy, (22) state-owned enterprises, (23) labour, (24) environment, (25) small and medium-sized businesses, (26) competitiveness, (27) anticorruption, (28) good regulatory practices, (29) publication and administration, (30) administration and institutional provisions,

(31) dispute settlement, (32) exceptions and general provisions, (33) macroeconomic policies and exchange rate matters and finally (34) final provisions.

In sum, chapter 19 which focuses on digital consists of 19 Articles and annex 19-A. This chapter provides some of the significant regulations that demonstrate the parties' commitment to liberalising digital trade between them. For instance, the chapter has a provision that prohibits the imposition of customs duties on digital transactions, however, it does permit domestic taxes on digital trade as long as they do not discriminate or act as a protectionist measure against entities from other USMCA parties. The chapter also prohibits restrictions on cross-border data transfer including personal data (Leblond, 2022; Gantz, 2020). Further, the USMCA limits the ability of governments to require companies to disclose source codes and proprietary algorithms and invokes open access to public information (Gagne and Rioux, 2022: 104).

5.4 Association of East Asian Nations (ASEAN)

The ten ASEAN member states made by of some of the world's most rapid growing economies have an objective of economic integration. In that respect, they established a ASEAN Economic Community (AEC) in 2015 which has e-commerce among other objective to lubricate the mechanism further strong regionalism in Southeast Asia. The e-commerce development pillar was scheduled from 2016-2025 and one of a mandate was to develop a coherent and comprehensive framework for personal data protection including regional data protection and privacy principles. It was identified that the region lags behind in terms of protecting online privacy in which some member states do not even have privacy enshrined as a basic right of persons in the constitutions. Meanwhile, the digital economy on the other hand was rapidly growing in rate that is expected to reach a worth of \$200 billion by 2025. In this manner, the regional bloc realised the need to prioritise the value of digital rights. Significantly, the ASEAN region reached a milestone in 2012 when it adopted a regional declaration on human rights which contained provision concerning data privacy as one of the cornerstones of the inalienable rights of individuals. This paved a way for the adoption of the ASEAN Framework on Personal Data Protection in 2016 which sets a guideline on the implementation of data protection at the domestic and regional levels (Shamsuri, 2019: 33-34).

5.4.1 ASEAN framework on personal Data Protection

This framework was adopted in 2016 to be utilised as a guideline for ASEAN member states to develop their domestic laws based on the principles outlined in the framework. “The goal of the framework was to facilitate and coordinate a closer comprehension of personal data protection among member states as well as information sharing, exchange of good practice, joint activities and cooperation in ASEAN in accordance with domestic laws, policies and regulation of ASEAN member state to propel ASEAN towards a digitally-enabled economy that is sustainable and transformative”. Interestingly, the framework imposes a voluntary-based obligation. In strengthening data protection in the region, the ASEAN recognised that it could promote growth of intra-regional trade and flow of information in the digital era (GSMC, 2018: 13; Khumon, 2020: 55; Lim and Council, 2021: 3).

The ASEAN framework on PDP provides the scope on personal data protection in principle 6 which specifically intend to guide ASEAN member states to adopt laws their domestic laws or legislation. The principle covers the framework on (1) consent, notification and purpose; (2) accuracy of personal data; (3) safeguard security; (4) access and correction; (5) retention of data and finally (6) accountability.

5.5 African Union

African Union explains their digital policy aspiration in three different documents namely, African Continental Free Trade Agreement, AU Digital Transformation 2020-2030, and AU Agenda 2063. This will be discussed below.

5.5.1 African Continental Free Trade Agreement Treaty and Protocol

The African Union Assembly proposed the African Continental Free Trade Agreement (AfCFTA) in June 2015 in Johannesburg, South Africa, and scheduled its passage in 2017. However, the AfCFTA could not be put into effect until July 2019, when the HOS/G decided to operationalize it at its 12th extraordinary session of Assembly in Niamey, Niger. The AfCFTA did not become active until the first of January 2021, however, as a result of the Coronavirus (COVID-19) pandemic that occurred at the end of 2019 and the beginning of 2020 (Manboah-Rockson, 2021: 301). The AfCFTA is an aspiration trade agreement to form the world's largest free trade areas by creating a single market for goods and services of almost 1.3 billion people across the African continent and cementing the economic integration of Africa. The trade areas could have a combined GDP of approximately \$3.4 trillion, but reaching this objective depends on significant policy reforms and trade facilitation measures across African member states or rather signatories (Thomas, 2022).

The AfCFTA builds on the negotiations of the Tripartite Free Trade Areas which was composed of the Southern African Development Community (SADC), the Common Market for Eastern and Southern Africa (COMESA) the East African Community (EAC). In accordance with the regional aspiration, article 3 of the agreement outlines the general objective of the AfCFTA to: (1) create a single market for goods and services, facilitate by the movement of people; (2) contribute to the movement of people and capital to facilitating investment; (3) create a continental customs union; (4) expanding intra-African trade; (5) resolve the challenges of overlapping membership in the Regional Economic Communities (RECs); (6) promote sustainable and inclusive economic development; (7) boosting industrial development and (8) enhancing competitiveness. The AfCFTA also intends to build on the integration structure that was achieved by the pre-existing RECs which were always viewed as building blocks toward consolidating continental free trade (Onuka and Udegbumam, 2019: 4; Abrego et al., 2020: 17).

The AfCFTA phase I negotiation focused on Trade in Goods and Services and on Dispute Settlement and commenced on the 1st of January 2021. The second phase of negotiation focused on the facilitation of intra-African investment, intellectual property and competitiveness. Phase III of negotiation was scheduled to embark subsequent to the previous phase and significant to this dissertation will focus on e-commerce. However, there were discussions which advocated for this theme to be included in phase II. The AfCFTA document is divided into the following parts, the

introduction, AfCFTA background and its protocol; the trade facilitation within AfCFTA, the hallmark of AU and ECA in Africa's development; the transformation Act from OAU to the AU, the issues, risks and challenges, and the analysis part of the paper and conclusion. Importantly, this subsection of the dissertation will only focus on the nature and scope of the AfCFTA treaty and protocols that are specifically on or related to digital trade and data regulations) (Manboah-Rockson, 2021: 306).

5.5.1.1 AfCFTA Protocol on E-commerce

In 2017, over 260 e-commerce start-ups were operating in Africa and by 2020, the International Trade Centre identified about 630 business-to-consumer (B2C) e-commerce marketplace operating on the continent. However, only 1% of the e-commerce marketplace in Africa is responsible for approximately 60% of the marketplace traffic on the whole continent, and 11% of the marketplace websites enable financial transactions. According to the UNCTAD B2C e-commerce index in 2018, three countries namely South Africa, Nigeria and Kenya accounted for 50% of active online shoppers in Africa. However, the measurements of e-commerce in Africa tend to only focus on trade in physical goods through electronic channels or marketplace within national economies. Therefore, it is significant to include the trade of person-supplied services such as tutoring or design as well as digital goods and services such as software, games, content and payments accounting for national and cross-border flows. Significantly, there are other forms of measurement besides B2C e-commerce, which include business-to-business (B2B), government-to-consumer (G2C) and government-to-business (G2B) among others. Moreover, the outbreak of the COVID-19 pandemic and its associated social distancing regulations to contain the spread and further infection attributed to the increase of digitalisation in the continent. Notwithstanding the digital disparities but the reliance on e-commerce platforms increased dramatically. In response, there have been calls for the AfCFTA e-commerce protocol. This became an important component of the AfCFTA, especially taking into consideration that e-commerce in many African countries is still at an infancy stage, therefore, it causes curiosity on what are the issues and approaches that will be considered in this e-commerce phase of negotiation (Ogo, 2020).

In February 2020, AU HOS/G Assembly made a decision to include e-commerce in the third phase of the negotiation of the AfCFTA. The E-commerce Protocol (also referred to as the Protocol on Digital Trade) intends to promote the emergence of African-owned e-commerce platforms at national, regional and continental levels. This protocol also intends to curb pre-existing issues across the continental such as the low level of internet penetration, the exorbitant cost of e-commerce deliveries, poor digital literacy and digital infrastructure. Additionally, this protocol aspires to remove pre-existing tariff barriers that have a pejorative multiplier effect, especially on increasing the cost of digital trade in the continent and establishing more efficient digital payment solutions (Centurion Law Group, 2022). Moreover, the AfCFTA is regarded as the path that will stare Africa to the promotion of a harmonised digital economy by addressing the aforementioned challenges, trade negotiations relating to e-commerce get more complex as it is enabled and affected by many areas of law such as consumer protection, data protection, online payment, postal infrastructure intellectual property rights, competition policy and tax-related issues (Sasi, 2022). Significantly, the existing e-commerce provisions and obligations have been taken in trade agreements under three main categories. Firstly, market access (addresses customs duties, treatment of digital products, cross-border information flows, and electronic supply of services). Secondly, rules and regulations (this category addresses consumer protection, protection of personal information, unsolicited commercial e-mails, and domestic electronic transactions framework). The third category is facilitation (which addresses paperless trade administration, cooperation, transparency, and electronic authentication), according to Banga et al. (2021: 10-11).

In pursuit of a harmonised digital economy that has a positive multiplier effect in facilitating economic development through intra-African trade in e-commerce, different authors propose some of the crucial aspects that should be considered when negotiating the e-commerce protocol of the AfCFTA (Abimbola et al., 2021: 12). Sasi (2022) proposes the consideration of four provisions namely electronic trade facilitation, digital business taxation, data protection and privacy and cross-border data flow and data storage. For example, in terms of data protection and privacy, the AfCFTA does not have any specific provisions addressing data protection and privacy. However, the Protocol on Trade in Service which is adopted in relation to the General Agreement on Trade in Service (GATS) reiterates the general exception of GATS under Article 15(c)(ii) which connotes that the commitments in trade in services shall not prevent signatories from adopting measures in relation to national law on data protection and privacy as long as they are not

implemented as camouflage to restrict cross-border trade (Banga et al., 2021: 13; Osakwe and Adeniran, 2021: 18). Moreover, according to the United Nations Conference on Trade and Development (UNCTAD) Global Cyberlaw Tracker, only 27 of 54 African countries have national legislation on data protection and privacy, 9 have draft legislation while 13 have no legislation in place (Sasi, 2022).

Further, Ogo (2020) proposes that the AfCFTA State Parties should formulate a clear definition of e-commerce that outlines the scope of coverage such as the classification of various digital products and platforms to be accounted for e-commerce under its protocol. Ogo (2020) adds that the protocol needs to determine how its provisions will blend in with existing policies and laws at national and regional levels. In the same breath, the protocol needs to also invoke other protocols on investment, intellectual property and competition to circumvent discrepancies or illogicality.

5.5.2 African Union's Digital Transformation for Africa 2020-2030 (AU DTS)

On 9 February 2020, the African Union adopted the Africa Digital Transformation Strategy (DTS) to harness and transmogrify African societies and economies through digital technologies and innovation. The strategy also intends to promote the continent's integration, accelerate economic growth, create employment opportunities, alleviate poverty and the digital divide and ensure Africa's ownership of modern tools of digital management. The strategy is built on pre-existing initiatives and frameworks such as the African Continental Free Trade Agreement (AfCFTA), Policy and Regulation Initiative for Digital Africa (PRIDA), the African Union Financial Institutions (AUFIs), the Single African Air Transport Market (SAATM) and the Free Movement of Persons (FMP) to invoke the development of a Digital Single Market (DSM) as an integral part of the integration that the AU prioritises (Engels-Van Zyl, Haffeejee, 2021; Lemma et al., 2022: 31; Abimbola et al., 2021: 12).

The scope of the AU DST is based on foundational pillars such as enabling environment (policy and regulations, digital infrastructure, digital skills and human capacity, digital innovation and entrepreneurship), critical sectors (digital industry, digital trade and financial services, digital government, digital education, digital health, and digital agriculture) to drive digital transformation and cross-cutting themes (digital content and application, digital ID, emerging technologies, cybersecurity, privacy and personal data protection as well as research and development) to invoke the digital ecosystem. Significantly, the DST includes policy recommendations and action under

each foundational pillar, some of which were highlighted in the African Union-European Union Digital Economy taskforce report (Union, 2020: 6).

As highlighted in the scope above, the AU DST includes digital and data regulations strategies that are orchestrated for African states to execute at the national level. Importantly, two foundational pillars namely the enabling environment and regulations and the cross-cutting theme outline crucial aspects and strategies that should be implemented by African countries at the national level (Ogo, 2020). Firstly, the policy recommendation and proposed actions under the first foundational pillar of the policy invoke the development and implementation of national and sectorial digital strategies; the development and implementation of regional and continental digital strategies; the development and implementation of data protection and privacy policy and regulation in line with the Malabo Convention among others (Union, 2020: 8).

Interestingly, the AU DST has committed to advancing data protection and privacy policy and regulation in line with the Malabo Convention which sets out norms, values, principles and action prescribed for AU member states to execute in areas of e-commerce, electronic contract, personal data protection, electronic advertising and security of electronic transactions. However, the outstanding conundrum is that the Convention is not immediately binding, it requires 15 ratifications by the AU member states to become effective and binding and at this time of writing the dissertation only 14 countries have signed the Convention while only 8 have ratified it (Ogo, 2020).

Interestingly, the policy recommendation and proposed actions under the foundational pillar of cybersecurity, privacy and personal data protection laments the need to modify the Malabo Convention to be consistent with the General Data Protection Regulation (GDPR) to promote the competitiveness of African companies outside the continent. This indication highlights the emergence of splinternet ahead as the policy only regard the GDPR while neglecting some of the conflicting provisions or possible inconsistencies in the USMCA chapter 19 and ASEAN framework on PDP vis-à-vis the GDPR. Moreover, the proposed actions advocate for the adoption of legislation that advances the localisation of data with respect to the privacy of African citizens and residents at the national level. At the regional and continental levels, the proposed actions highlight the significance of establishing a framework for data policy and management in Africa

as well as addressing the hurdles related to cybersecurity, interoperability of systems and persistency of information (Union, 2020: 47).

5.5.3 Agenda 2063 (Ten Year Agenda 2063 Implementation documents)

In 2003, the African Union Assembly requested the elaboration of a forward-looking 50-year continental framework namely the Agenda 2063 to facilitate the realisation of “an integrated, prosperous, and peaceful Africa, driven by its own citizens and representing a dynamic force in the international arena”. The AUC took a people-oriented approach in developing Agenda 2063 in collaboration with United Nations Economic Commission for Africa (UNECA), the African Development Bank (AfDB), Regional Economic Communities organised private sector (OPS), civil society organisations (CSO) and the New Partnership for Africa’s Development Planning and Coordination Agency (NEPAD-NPCA) and adopted it in 2015 at the 24th AU assembly of HOS/G (Union, 2015: 10; Aniche, 2020: 5). The Agenda is based on the eight priorities outlined in the 50th Anniversary Solemn Declaration such as African identity and renaissance, continued struggle against colonialism and the right to self-determination, and agenda for social and economic development among others (Ndizera and Muzee, 2018: 148). The AU Agenda 2063 consists of 7 aspirations that are interrelated and interdependent to attain ‘the Africa we want’. This includes: “(1) A prosperous Africa based on inclusive growth and sustainable development; (2) An integrated continent, politically united and based on the ideals of Pan-Africanism and the vision of Africa’s Renaissance; (3) An Africa of good governance, democracy, respect for human rights, justice, and the rule of law; (4) A peaceful and secure Africa; (5) an Africa with a strong cultural identity, common heritage; share values and ethics; (6), An Africa whose development is people driven, relying on the potential of African people, especially its women and youth and caring for children and lastly; (7) Africa as a strong, united and influential global player and partner” (Ndzendze and Monyae, 2019: 11).

The Agenda 2063 ten-year implementation plan comprises seven chapters which firstly discusses an introduction that covers the background, purpose, and foundation of the document. Second is the goals and priority areas which look at the present development situation in the seven aspirations of the Agenda. The third chapter discusses the plan framework and outlines each of the 7 aspirations specifically the goals and priority areas and targets for 2023 for national, regional and

continental. It also discusses some of the achievements thus far towards 2023. The fourth chapter is the implementation plan of the ten-year implementation, while the remaining chapters entail the monitoring and evaluation, financing, and partnerships to be leveraged to realise the ten-year implementation plan (AUC, 2015: 2).

Interestingly, the first ten-year document of the Agenda 2063 does not lament much about the harmonised digital policy for Africa. The second aspiration only highlights the significance of digital policy (albeit at the national level) under goal 10 ‘world-class infrastructure crisscrosses Africa’ and its first priority area which focuses on communications and infrastructure connectivity. The indicative strategies to achieve coveted targets such as 100% mobile penetration by 2020 and doubling the ICT penetration and its contribution to the GDP. The Agenda commended the development and implementation of a comprehensive harmonised e-strategy and policies for a digital economy and policies that outline the harmonisation/coordination of key ICT institutions at the national level. At the continental level, the policy lamented the promotion of Think Tanks for ICT and energy and implement Dot Africa by 2023 (AU, 2015: 43).

The AfCFTA forthcoming protocol on e-commerce, the AU DST and the Agenda 2063 (ten-year implementation plan) could take lessons from existing digital policies from the United States-Mexico-Canada Agreement (USMCA) chapter 19, the European Union (EU) General Data Protection Regulations (GDPR) and the Association of East Asian Nations (ASEAN) framework on personal data protection especially, in common areas or scope of interests highlighted namely personal data protection and privacy, cross-border data flows and cybersecurity.

5.6 Personal Data protection and privacy

The USMCA article 19.8 extends to the protection of the personal information of users in digital trade. Significantly, it states that “each party adopt or maintain a legal framework that provides protection for such information and suggests that they should use the Asia-Pacific Economic Cooperation (APEC) Privacy Framework and the Organisation for Economic Co-operation and Development (OECD) Recommendation of the Council concerning Guidelines governing the

Protection of Privacy and Transborder Flows of Personal Data”.¹⁷ Additionally, it also states that “each Party should encourage the development of mechanisms to promote compatibility between these different regimes”. This indicates the interoperability between these two organisations and the USMCA in terms of personal data protection regulations and significantly, cross-border data flows (Smith and Beaumont-Smith, 2020: 36).

The key principles to include that are in light with the APEC privacy framework and OECD Recommendation of the Council concerning Guidelines governing the Protection of Privacy and Transfer Flows of Personal Data are (1) limitation on collection; (2) choice; (3) data quality; (4) purpose specification; (5) use limitation security safeguards; (6) transparency; (7) individual participation; and (8) accountability. The first principles on ‘limitation on collection’ connotes that “there should be limits on the collection of personal data and any data should be obtained by lawful and fair means and where appropriate with the knowledge or consent of data subject” (OECD, 2013). Concurrently, principle 6a(i) of the ASEAN framework and GDPR article 5.1(a) and 7(1) highlight the similar principle or values of rights of individual/data subjects.

Moreover, the third principle on data quality on the USMCA article 19.8(3) pose that “personal data should be relevant to the purpose for which they are to be used, and to the extent necessary for those purposes, should be accurate, complete and kept up-to-date” (OECD, 2013). This concur with the GDPR article 5.1(b) which convey that “personal data shall be accurate and where necessary, kept up-to-date” (GDPR, 2018). This is also similar with the ASEAN framework on PDP principle 6(c) which state “that personal data should be accurate and complete to the necessary for the purpose(s) for which the personal data is to be used or disclosed” (ASEAN, 2012: 3).

Furthermore, the fourth principle on purpose specification connotes that “the purposes for which personal data are collected should be specified not later than at the time of data collection and the subsequent use limited to the fulfilment of those purpose or such others as are not incompatible with those purposes and as are specified on each occasion of change of purpose”. (OECD, 2013).

¹⁷ The APEC endorsed its rule-based Privacy Framework as a crucial apparatus in the development of appropriate privacy protection and ensuring the free flow of information in the Asian Pacific region. Significantly, the Privacy Framework has consistent values as the OECD’s 1980 Guideline on Protection of Privacy and Transborder flows of Personal Data. The OECD guidelines represent the international consensus on what constitutes honest and trustworthy treatment of personal formation, according to Cooperation (2005: 4).

The exceptional activities where data could be used for the other purposes other than the above-mentioned is when individuals gives consent or is required by the law. This commensurate or similar to GDPR article 5.1(a) which convey that “personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes” (GDPR, 2018). Similarly, the ASEAN framework on PDP also requires “entities to collect, use or disclose personal data about an individual only for purposes that a reasonable person would consider appropriate in the circumstances” (ASEAN, 2012: 3).

The principle on security safeguard which USMCA parties should take into account when developing a legal framework that protect personal information is similar to the GDPR article 5.1(f) and ASEAN framework on PDP principle 6(d). They all connote that personal data should be protected against loss, unauthorised access, modification, destruction, use and disclosure. This provision requires entities to put the necessary security safeguards in place to ensure such protection of personal information (OECD, 2012; GDPR, 2018, ASEAN, 2012: 3). In terms of transparency or openness, both USMCA and GDPR share similar provision which specifically advocate for entities in question should be open in their general policy about how personal data will be used, for what purposes, and the necessary practices in principle 6 of the APEC privacy framework and OECD Recommendation of the Council concerning Guidelines governing the Protection of Privacy and Transfer Flows of Personal Data and GDPR article 5.1(a) and article 12(1). However, the ASEAN framework on PDP does not have a direct principle or provision specifically addressing the transparency or openness. Moreover, the principle of individual participation is in congruence or similar to GDPR article 15, 16 and 17 and principle 6(e) of the ASEAN framework on PDP. This provision laments that individual/data subjects should have the right to: (1) to obtain confirmation from a data controller on whether they possess personal data of them. (2) to obtain a copy of the personal data that will undergo processing. Although entities/controller in question are permitted to charge a minimal or reasonable amount and if necessary. However, the GDPR (article) outline the remedy in which data subjects/individuals are denied the right to 1 and 2, they need to be given reason why and are able to challenge such denial. However, the ASEAN framework does not articulate on the remedy situation when individuals are denied 1 and 2. But articulates clearly in principle 6(e)ii together with GDPR (article 17) in terms of individual/data subjects having the right to have their data erased, rectified, and amended. Finally, in terms of accountability, there is similarities across all cases in terms of ensuring that

controllers are accountable for complying with the above-mentioned norm, values and principles (OECD, 2013; ASEAN, 2012; GDPR, 2018).

5.7 Cross-border data flows

Daigle and Khan's (2020: 8) research connotes that article 5 was the most frequently cited violated article in the GDPR. It covers the 'general principles relating to the legal processing of personal data', "it was cited in 33 of 72 instances across the European Union where the data protection authorities (DPA) issued the fine with identifiable article-level explanations for judgement". Interestingly, Chapter 5 (Article 44 – 50) of the regulation covers the 'transfer of personal data to third countries or international organisations. The GDPR has a strong regulatory framework for the transfer of data, the transfer is allowed when there are the following measures, (i) adequacy, (ii) binding corporate rules (BCRs), (iii) standard contract clauses (SCCs), (iv) explicit consent (v) derogation. This is the scope that only permits the transfer of personal data to third countries (Mondeschein and Monda, 2019: 64).

For example, in terms of adequacy, the European Commission evaluate and finds the third countries' personal data protection regulations appropriate. The third countries' can obtain the Commission's approval when they have updated their national data protection regime to a level that is almost as protective as the GDPR. In terms of model contract clauses, data could be transferred to an organisation that is based in a non-EU country for which there is no adequacy decision, this will only be allowed when the organisation in question contractually agree and guarantees that it will uphold the duplicate standards of data protection as the GDPR. In short, data transferred to an organisation in a non-EU country will still be under a duplicate level of protection as when they would have stayed on EU territory (Hoofnagle et al., 2019: 84).

Furthermore, the BCRs refer to the GDPR consistent corporate data protection policies and regulations which facilitate within company transfer from the enterprise established in the EU to any of its subsidiaries, satellites, affiliates or branches in the world. SCCs refer to the requirement of duplicate levels of protection, oversight and access for individuals as would be the case within the EU and also facilitate data transfer for companies established in the EU. Additionally, the code of conduct by entities that represent controllers or processors approved by the European Commission and monitored and enforced within the EU is another way to show compliance and

consistency to the GDPR standards and thus allow cross-border data transfer. Lastly, approved certification mechanisms with their accurate data protection seals and marks that show GDPR compliance can be used by enterprises outside the EU as a basis for data transfer outside the EU (Pasadilla et al., 2020: 11).

Similarly, the ASEAN framework on PDP advances the duplicate standard as the EU GDPR under its principle 6(f) which states that “before transferring personal data to another country or territory, the organisation should either obtain the consent of the individual for the overseas transfer or take reasonable steps to ensure that the receiving organisation will protect the personal data consistently with these principles”. In other words, receiving country or overseas entity in question should guarantee the duplicate standards as outlined in the ASEAN framework to allow the transfer of data (ASEAN, 2012: 3). Whereas the USMCA on the other hand maintains a different and less stringent regulation in terms of cross-border data flows. It invokes the notion that free cross-border data flow will enhance and facilitate free trade in the North American region. As outlined in article 19.11 (1) provision for cross-border transfer of information by electronic means, “no party shall prohibit or restrict the cross-border transfer of information, including personal information, by electronic means if this activity is for the conduct of the business of a covered person”. It further states in article 19.11 (2) that parties can only adopt or maintain a measure that is inconsistent with paragraph 1 only with the intention to achieve legitimate public policy objectives, provided that the intention is not orchestrated to indicate unjustifiable discrimination nor a disguised restriction on trade; and does not impose insurmountable restriction against the transfer of data than necessary to achieve such policy objectives (Burri, 2021: 231).

5.8 Cybersecurity

In terms of cybersecurity, the USMCA directly addresses cybersecurity issues under article 19.15 and supports and encourages entities to comply with and use best industry practices to keep networks and services secure. Article 19.15 states that “Parties commit to developing the capabilities of their respective national agencies responsible for responding to cybersecurity incidents. In addition, they commit to cement existing collaboration mechanisms to cooperate in identifying and mitigating malicious industries or dissemination of malicious code that affects electronic networks and to share information for awareness and best practices”. Moreover, article 19.15(2) states that “each party to encourage enterprises within its jurisdiction to use risk-based

approaches that rely on standards and best practices to identify and protect against cybersecurity risks and detect, respond to and recover from cyber security events” (Gilbert, 2020). Whereas in accordance with the EU GDPR, cybersecurity issues are addressed in numerous articles. In other words, there is no standalone article specifically addressing cybersecurity issues, instead, it is addressed in articles 5, 24, 32, and 33. In a nutshell, article 5 upholds entities to ensure the data protective measures against unauthorised and unlawful access, loss or damage, article 24 requires entities to showcase measures that are enforced to protect data, and article 32(2) provides an extension to article 5 by requiring entities to provide steps they have taken to ensure data protection against external threats of lawful access, disclosure or loss and article 32(4) connotes the steps an entity has taken to protect against data abuse and finally, article 33 states or rather checks if an entity in question could notify any personal data breach to the supervisory authority competent within 72 hours after becoming aware of it (Huntsman, 2019). Similarly, principle 6(d) ‘security safeguards’ of the ASEAN framework on PDP is in congruence with article 32(2) of the GDPR. It requires member states to develop policies that have a clause that requires entities to ensure the protection of personal data against loss, unauthorised access, collection, use, disclosure, copying, modification, destruction or similar risks (ASEAN, 2012: 3).

Table 7: Typology of similarities and difference across the EU, USMCA and ASEAN digital policies

Typology	Similarities	Differences
Personal data protection and privacy	EU GDPR, USMCA and ASEAN framework on PDP are in congruence with the to the basic principle of national application under international body namely the OECD Guideline on the Protection of Privacy and Transfer Flow of Personal Data.	There are no major differences, the ASEAN framework on PDP does not have a direct principle specifically addressing the transparency or openness while the two others EU and USMCA do and are in congruence regarding personal data protection/privacy. The GDPR provides mechanisms on how to enforce these rules as well as the concomitant penalties, liabilities and fines in a situation of breach whereas USMCA and ASEAN does not.

		The GDPR on what is expected from data controllers and processors and has designated authorities to ensure that they comply with the personal data protection and privacy whereas ASEAN and USMCA does not.
Cross-border data flows	the ASEAN framework on PDP advances the duplicate standard as the EU GDPR under its principle 6(f) which states that “before transferring personal data to another country or territory, the organisation should either obtain the consent of the individual for the overseas transfer or take reasonable steps to ensure that the receiving organisation will protect the personal data consistently with these principles”.	Whereas the USMCA on the other hand maintains a different and less stringent regulation in terms of cross-border data flows. It invokes the notion that free cross-border data flow will enhance and facilitate free trade in the North American region
Cyber security	the USMCA and ASEAN directly addresses cybersecurity issues under article 19.15 and principle 6(d) respectively. principle 6(d) ‘security safeguards’ of the ASEAN framework on PDP is in congruence with article 32(2) of the GDPR and article 19.15 (1a) of USMCA. It requires member states to develop policies that have a clause that requires entities to ensure the protection of personal data against loss, unauthorised access, collection, use, disclosure, copying, modification, destruction or similar risks (ASEAN, 2012: 3).	the USMCA directly addresses cybersecurity issues under article 19.15. There is no standalone chapter/article specifically addressing cybersecurity issues, instead, it is addressed in articles 5, 24, 32, and 33. Unlike the ASEAN and USMCA, the GDPR goes to an extent to require entities in question to provide or showcase the measures that are enforced to protect data, and article 32(2) provides an extension to article 5 by requiring entities to provide steps they have taken to ensure data protection against external threats of lawful access, disclosure or loss and article 32(4) connotes the steps an entity has taken to protect against data abuse.
Source: Author’s compilation based on variety of sources		

The differences in the examined regional digital policies highlighted in table 5 constitute a splinternet between the EU, USMCA and the ASEAN regions. The existing differences propel a conundrum is that Africa could promulgate a policy that is inconsistent or incompatible with other regions’ digital policies creating a splinternet that will lead to a world of regions, or join in one,

thus bolstering the so-called splinternet. The splinternet has pejorative implications on digital trade, investment and generally in globalisation because it put more constraint on international businesses to adopt to different and region-specific digital and data regulations.

The growth of digitalisation that is attributed to COVID-19 pandemic has inaugurated dramatic changes in the production, exchange and consumption of goods and services. It has also shifted and modified some of the conventional sectors with emerging new products and services based on digital technology. Over the few years, this has made the concept of digital trade significant because recently numerous trade flows are immensely facilitated by the role of the internet. In short, one can comprehend digital trade as digitally enabled trade in goods or services, whether digitally or physically delivered. This is driven by processes including e-commerce (where transactions, purchases, and logistics are mainly handled by digital platforms or marketplaces). This phenomenon has altered the conventional trade in goods and services from physical to digital forms in numerous sectors or industries such as entertainment, software, music, financial services and publishing among others. As digital trade became an important process by which trade is undertaken, personal data is a central aspect which needs to be protected from malicious use and violation by entities (Azmeh et al., 2020: 673).

The digital trade has immensely contributed towards the explosive growth of cross-border data flows. Since 2000, the cross-border internet traffic has increased rapidly and it is assumed that at this extraordinary pace, by 2025 it will expand by 580-fold. Goods that were conventionally traded physically such as books, magazine and movies are now shipped or transferred in a digital format through the internet with no distribution or logistical costs. However, most of the digital goods are immensely consumed in the local market where the product was produced but there is a growing share of foreign consumers as opposed to local consumers. For instance, Netflix is a US-based company that provides movies and television shows online internationally. Interestingly, by the end of 2014, one-third of the streamers were foreign consumers outside the US market. Moreover, e-commerce platforms or marketplaces have facilitated the growth of global digital trade. Online platforms for production, exchange and consumption, for example sites such as Amazon and Alibaba which provides individual and small, micro, medium enterprises (SMMEs) with the opportunity to reach global markets have opened a new dimension of globalisation which further

solidify the interconnectedness of the world economy. Significantly, these platforms have enabled a new form of global flows thus increasing the cross-border data flows (Lund and Manyika, 2016).

More, many digital companies rely on and collect large amount of data on their users. In response, regional organisations have responded to privacy concerns, especially following the Snowden and Cambridge Analytica scandals. Specifically, the EU GDPR is one of the digital policy that provides extensive and stringent privacy and data regulations of which companies have to obliged and comply to safeguard the data of EU population. As highlighted in table 5, together with the ASEAN framework on PDP, it advances a provision on data localization which impose restriction on cross-border data flows as opposed to USMCA which advocate for free cross-border data flows. Although Stallkamp (2021: 2) contend that data protection and localisation is not merely discriminatory against foreign companies because it equally applies to domestic companies. On the contrary, Yakoleva (2019: 467) argue that given the emergence of digital trade, such practice is portrayed as disguised protectionist or non-tariff barriers in conventional trade terms which stall international trade. They create entry barriers and makes it more exorbitant for foreign companies to operate because they have to comply with a complex array of different region-specific/country-specific data and privacy regulation (Stallkamp, 2021: 2; Yakovleva, 2019: 467; Hetler, 2022).

For example, the extent to which the GDPR regulates companies have found many US-based tech corporations at breach regarding its privacy and data consent requirements. Google was fined \$56.6 million in 2019 due to how the company provided notice to its users and how it requested their consent for personalised advertising and other types of data processing. Although the penalty was made before the promulgation of the USMCA chapter 19, this serves as evidence on how the difference in data regulations requires companies to adopt and comply to country-specific regulation for them to not find themselves in a vice (Tessian, 2022). Another instance that is quintessential and invokes the GDPR and USMCA splinternet was seen in the recently when GDPR fined Amazon, a US based tech company which is largely provides e-commercial services internationally. It was fined \$877 million however the full reason has not yet been confirmed but it is commonly found in a vice because of cookie consent. For example, in late 2020, France fined amazon €35 million on basis of allegedly failing to get cookie consent on its website. The company made opting out of cookies a complexity as opposed to accepting the cookies. In other words, it strategically coerces its users to agree to cookies for it to collect as much personal data as possible.

This stringent regulatory measure makes companies sceptical to expand their operation to overseas and this might hinder not only international trade but investment opportunities in a region, specifically Africa, if it promulgates a digital policy that contradict with either or neither of the existing provisions in EU, ASEAN and USMCA. (Tessian, 2022).

In terms of investment opportunities, the existing differences in the examined digital policies above creates constraints for businesses from penetrating new foreign markets through investment. This had a dual pejorative implication for both the businesses and prospect new foreign market itself. Firstly, for instance, if a company or business from the USMCA region in pursuit of expansion or wants to offer products and services in a country or region where data is strictly localised as in the case of the EU and ASEAN. It has to adjust and comply with the different regulation in which sometimes, this might disadvantage it in relation to local competitors. Firstly, it has to create data centres as opposed to transferring the data to be processed in home country because of regulation disparities. It also has to go through compliance procedure such as in the context of the EU, it either needs to comply with prerequisite terms and conditions of transferability of EU data such as adequacy, binding corporate rules (BCRs), standard contract clauses (SCCs), explicit consent, and derogation. Secondly, the difference in regulations or splinternet pejoratively impacts the prospect of a foreign country or region where the company aspires to expand it. The country will lose out on the associated benefits of foreign investment such as employment opportunities, economic growth and contribution towards the overall development of the country (Hill, 2020).

Furthermore, the differences in the examined digital policies (splinternet) have negative implications on globalisation. In the case of the ASEAN framework on PDP, although countries have adopted the framework the fundamental issue is that it is not binding. In other words, member states are not essential obliged to follow the pattern. They might create extensive or lenient regulations. Moran (2015) argues that member states of respective regions are likely to intentionally further promulgate extensive regulatory obstacles that will favour locally based corporations while disadvantaging international competitors all in the name of ‘protecting personal information and privacy’. This will further splinter the existing splinternet explained in Table 5.

5.9 Conclusion

This chapter has employed documentary analysis to examine the nature and scope of regional digital policy in Africa, North America, Europe, and Asia. This is in light of the second research question; Are there differences in the digital policies among regions which are likely to lead us into a world of digital regional blocs ('the splinternet'). Indeed, the current discrepancies or differences between the regional digital policies currently in place in the European Union (EU), the United States-Mexico-Canada Agreement (USMCA), and the Association of Southeast Asian Nations (ASEAN) are shown in Table 7 in the preceding chapter show the splinternet. These differences suggest the emergence of a splinternet that may revert globalization into a world of regions. This has pejorative implication for Africa on how its digital policy under AfCFTA will be made and a dilemma on which approach to invoke or invent a new approach that will further splinter the net. The hardship of advancing trade liberalisation is being threatened by digital policies that act as protectionist barriers which encourage intra-regional interconnectedness as opposed to global interconnectedness. The splinternet has pejorative implications for multinational companies, they all need to adhere to different regulations which will discourage investor confidence in other regions. Africa has to create a digital policy that will retain all investors and companies in order to inherit the necessary technological flow and associated development. However, with this splinternet in progress, its position is more critical on which approach to take and at what stake to advocate for data localisation as opposed to free data flow for example.

CHAPTER 6: DISCUSSION OF FINDINGS & CONCLUSION

6.1 Introduction

Moran (2015) argues that member states of respective regions are likely to intentionally further promulgate extensive regulatory obstacles that will favour locally based corporations while disadvantaging international competitors all in the name of ‘protecting personal information and privacy’. The emergence of such camouflaged protectionist barriers poses a threat to replacing the interconnectedness of the world economy with the world of regions. In short, it acts as a stumbling block to globalization. The current discrepancies between the regional digital policies currently in place in the European Union (EU), the United States-Mexico-Canada Agreement (USMCA), and the Association of Southeast Asian Nations (ASEAN) are shown in Table 7 in the preceding chapter. These differences suggest the emergence of a splinternet that may revert globalization into a world of regions. Operable interregional digital trade and investment could provide an insurmountable challenge to transnational businesses. Businesses must abide by region-specific rules and regulations, or in the case of the ASEAN framework on personal data protection (PDP), by member state-specific digital laws and regulations. Because the framework is not legally binding, member states are free to utilize it as a reference without being bound by it. It's interesting to note that one of the reasons why the EU changed its digital policy from a directive to a regulation was to avoid contradictions and encourage compulsion and uniformity, the EU Data and Privacy Directive (DPD) was revised into an EU General Data Protection Regulation (GDPR).

On the other hand, the USMCA advances a digital policy outlined in Chapter 19 that aims to stimulate or assist globalization in a way that makes inter-regional or inter-state cross-border data flow and digital commerce and investment relatively operable. Such phenomena are subject to severe controls from the EU and ASEAN, which places restrictions on multinational or transnational businesses. This conclusion is significant because it demonstrates that there is an emerging splinternet that poses a threat to reverse globalization and give rise to a world of regions.

This chapter will provide the main findings that underpin the purpose of this study. This is followed by an analysis and discussion of the findings of the various research questions of the study. Moreover, the chapter will provide the overall conclusions and findings. Furthermore, this chapter the general recommendation and recommendations for future studies.

6.1.1 How has regional leadership played a role in the digital policy being made in the EU, ASEAN, and the USMCA?

In line with the literature reviewed in this dissertation, Riggiorozzi and Tussie (2012: 4) contend that regional leaders have the ability to influence the regional organisation and that is not dependent on their hegemony (wealth, military and technological capability, and ambition) but also on the support of their followers (small states). In the European Union, Germany prevalent country to commensurate with the study's framework to appraise and identify regional leadership in Europe. In other words, Germany has the attributes of a regional leader. Firstly, in terms of its material attributes, Germany has been the country with the highest GDP from 2011-2020. However, in terms of share of tech-export percentage and internet penetration, it has been lagging behind compared to other countries in the region such as Iceland. Iceland has consistently taken the first position in terms of internet penetration from 2011-2020.

Paterson (2011) nevertheless describes Germany as a reluctant regional leader. In order to demonstrate its desire to assume the duty of leading the EU and projecting its national interest in Europe, Germany has been pushed by its consistent GDP growth to give up its old West German foreign policy, which was rooted in cultural restraints to a more self-assertive foreign policy. Since then, it has grown to be a considerable force in Europe, and no important decisions have been made with or against Germany (Kappel, 2014: 346). Interestingly, in terms of regional leadership, Germany has been instrumental in stabilizing the EU and making significant contributions to its founding. By stabilising the European financial crisis (2010), the migrant crisis (2008), and the security crisis (2014) in Europe, it served as a regional leader (Gaskarth and Oppermann, 2021: 91).

This helped it gain prominence, acceptance and a large following across Europe. Germany was lauded as a regional leader by EU members (Stokes, Wike, and Manevich, 2017). This was a positive multiplier effect for Germany to influence and play a decisive and determining role in the creation, adoption, and promulgation of the EU's digital policy. Germany is the first country to pass a data protection law in the world in 1983 and that was largely influenced by the heinous violations by Nazi Germany. In short, data protection policy or digital policy has been a vital policy for Germany (Smolaks. 2015; Schastlivtseva, 2018). In 2011, the European Parliament Committee on Civil, Liberties, Justice and Home Affairs (LIBE) under the leadership of German member Axel

Voss adopted a proposal on ‘A comprehensive approach to personal data in the EU’ as a reaction to the communication from the European Commission on the future of European Data Protection Policy. This was the proposal that altered the EU DPD to the current digital policy EU GDPR. German representatives in the EU parliament, particularly Jan-Philip Albrecht, were the ones who advocated for the mandate. Significantly, Germany published a photo titled "democracy - Im Rausch der Daten" after the EU Commission, Parliament, and Council approved the proposal. It recognized and applauded Viviane Redding, Jan-Phillipp Albrecht, Ralf Bendrath, and others for leading, coordinating, and ensuring the realization of the dream of a revised data protection framework for the EU (Wihelm, 2016). More recently, Greece, Hungary, Ireland, Italy, Latvia, Lithuania Poland, Portugal, Romania, Slovakia, Spain, Luxembourg, Malta, Germany, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, The Netherlands, Sweden, Bulgaria, Austria, and the UK¹⁸ adopted the GDPR (Sixfifty, 2022). But “Germany was the first EU member state to adopt a national law implementing the GDPR in the form of the BDSG which entered into force on 25 May 2018 and which also implement the Data Protection Directive with Respect to Law Enforcement (Directive EU 2016/680) and amends a number of other deferral laws all listed in the BDSG (Appt, 2017).

It played a decisive and determining role in the creation, adoption and promulgation of EU’s digital policy. In line with the reviewed literature, the GDPR has made a tremendous impact in Europe since its adoption. Its empirical effects can be traced in the court cases in most notably Germany and Italy (Teassian, 2021; Van Eecke and Phelp, 2020; Simmons-Simmons, 2021; Compliance Junction, 202; Craggio, 2021; Fouriezo, 2021; Lensdorf, Henric, Husch, and Shepherd, 2021; Bertuzzi, 2021; Kerry, 2021; Hodge, 2021). Germany did not only become the first to promulgate the law but also has cases against businesses. In December 2019, the German Federal Commissioner for Data Protection and Freedom of Information fined 1&1 Telecom, a German telecommunication company €9.55 million (Ritzer and Filkina, 2020). In addition, on the 1st of October 2021, the Data Protection Authority of Hamburg officially announced that it had imposed on clothing retailer H&M Germany €35.2 million for data protection violations (Van Eecke and Phelps, 2020).

¹⁸ The United Kingdom is an outlier. Although the UK has left the EU as of January 2020, the GDPR was adopted before its departure and is considered good UK law (Sixfifty, 2022).

Furthermore, United State (US) was prevalent country to commensurate with the study's framework to appraise and identify regional leadership in North American Free Trade Agreement (NAFTA). In other words, the US has the attributes of a regional leader. Firstly, in terms of quantifiable material capabilities, the US has been the country with the highest GDP consistently from 2011-2020. However, in terms of share of tech-export percentage over the period of 2011-2020 only took the first position in 2015 and 2016, the rest it was surpassed by Mexico and in terms of internet penetration, the US consistently took the second position from 2011-2020 surpassed by Canada which took consistently took the first rank over the same period. However, in line with the conceptual framework of the dissertation, there may be countries with superior capabilities but unwillingness to lead the region. The US articulated its willingness to lead the world in its foreign policies. US Presidents Bill Clinton's (1993-2001), George W Bush (2001-2009) f, and Barack Obama's 2009-2017 foreign policies alluded to the US willingness to lead not only the North American region but the world. In short, served to provide the necessary public good, order and stability across the world (LeoGrande, 1995; Owen, 1994: 87; LeoGrande, 1995; Mwende, 2021; Keller, 2008; Ondrejcsak, 2009: 150). However, President Donald Trump's (2017-2021) foreign policy took a different route and prioritised a nationalistic approach which intended to "Make America Great Again" and "Put America First". It viewed the assertion of being a global hegemon and ensuring public good in the world as an exorbitant move for the US and therefore was more than prepared to cut the cost at all costs (Restad, 2020: 7-9).

Furthermore, in line with the conceptual framework, regional leadership should be equally assessed based on the 'role' because the possession of material capability is nothing until one puts them to good use for the benefit of all states in the regional community (Hulse, 2016: 12). The first three US Presidential administrations played a pivotal role in ensuring public good, stability and order in North America. Canada and Mexico were immediate beneficiaries of the US's foreign policy. The US assisted Mexico to overcome the Peso "Tequila" Crisis, and Drug War and assisted both countries in combating terrorist threats (Cuellar et al., 2008: 2; Schaefer et al., 2009: 47; Sehgal, 2010: 311). The first three above-mentioned Presidential administrations had good relations and were praised by NAFTA member states. However, the Trump administration was in hostility to NAFTA member states, especially Mexico over the immigration crisis and the threat to build a wall. It projected itself as a leader applied hegemonic influence to make member states agree to renegotiate the NAFTA deal to USMCA which incorporated Chapter 19 'digital policy'.

Trump threatened to collapse the NAFTA deal if member states refused to renegotiate what he referred as “the worst trade deal ever”. Member states had to fulfil US interests for them to keep economic relations with the US (Huddleston and Vara, 2020; Enoch, 2017; Rinehart, 2018).

In effect, on the 11th of May 2017, the Trump administration send an official notice to Congress which seeks to renegotiate amendments to NAFTA. Robert Lightizer, the US trade representative conveyed that the renegotiation aims to make improvements that would invoke and accelerate economic growth and better-wage jobs in the US (Davis, 2017). Among other, this included the incorporation of digital policy in Chapter 19. Member states agreed to it given the reality that they already had digital policies in their domestic laws. Interestingly, Mexico was the first to promulgate the digital policy, followed by the US and lastly Canada. USMCA went into force on the 1st of July 2020 (replacing NAFTA) and became the first agreement in North America to incorporate the digital policy outlined in Chapter 19 (Kirby, 2020).

Furthermore, Indonesia was a prevalent country that commensurates with the study’s framework to appraise and identify regional leadership Association of Southeast Asian Nations (ASEAN). In other words, Indonesia has the attributes of a regional leader. Firstly, in terms of quantifiable material capabilities, Indonesia has been the country with the highest GDP consistently from 2011-2020. In terms of share of tech exports, Indonesia has struggled to outperform the ASEAN member states in that division from 2011 to 2020. Indonesia remained in the 6th position in 2011, 2012, 2014, 2018, 2019, and 2020. Singapore and the Philippines leading interchangeably over the years. Moreover, in terms of internet penetration, Indonesia is lacking behind consistently performing below average in the region. For example, in 2011 and 2012, the average was 30,1% and 33,1% respectively, and Indonesia consistently took the 7th position. In short, Indonesia took 7th position throughout, it was only in 2014 and 2015 that it went to 6th position. Interestingly, Singapore was the country with the highest internet penetration from 2011 to 2015 and was surpassed by Brunei from 2016 to 2019 which was in turn surpassed by Malaysia in 2020. Nolte and Schenoni (2021) explained in their literature that some state qualifies to become a regional leader in the region but fail to fulfil the role that is expected from them. In this case, Indonesia used its material capability in GDP and willingness to lead to playing a pivotal role in ensuring public good, stability and order in ASEAN. It played a decisive role in the founding and inception of the ASEAN (Espea and Gill, 2020).

The cornerstone or primary goal of Suharto's foreign policy, in contrast to that of his predecessor, was regional stability and cooperation rather than battling regional imperialism and neo-colonialism. By doing this, Indonesia was able to win the backing of its neighbours and advance the foundation of ASEAN (Heiduk, 2016: 7; Hulse, 2016: 12). Indonesia played a pivotal leadership role in ensuring stability and public good in Southeast Asia. It stabilised the territorial dispute such as the conflict over the Temple of Preah Vihear and the South China Sea conflict between China and other ASEAN members. It assisted Myanmar in 2008 to overcome the Nargis cyclone. However, Indonesia did little to bailout financially distressed countries during the 2008 global financial crisis, it facilitated the establishment of regional institutions and initiatives under the post-2015 ASEAN vision to advance regional growth and development (Roberts and Widyaningsih, 2015: 273). Interestingly, Indonesia is regarded as a natural leader of the ASEAN because of its artificial and natural phenomena that enhanced its immense material power such as its geographical dimension, large population, strategic position and natural resources relative to other nations in the Southeast region.

However, regional leadership in ASEAN did not necessarily play a decisive role in terms of the creation of regional digital policy. In fact, Singapore, the Philippines, Malaysia, Vietnam and Thailand played a pivotal role in the creation of ASEAN digital policies. It was under the chairmanship of these countries that digital policies were created. Indonesia focused much on human rights, democracy and peace and security aspects. In digital policy, it acted as a follower than a leader. It expediently adopted digital policies and initiatives that were proposed by these countries. For example, the 27th ASEAN Summit in November 2015 hosted in Kuala Lumpur in Malaysia under the chairmanship of Malaysia (Lim and Council, 2021: 13). Under its theme of “our people, our community, and our vision” has noted that ICT is vital for regional development but could be weaponised in a manner that is inconsistent with peace and security. Malaysia led the agreement to improve regional stability and reduce risk in these areas through intensifying our efforts to strengthen information-sharing, incident response, capacity-building and other practical cooperation (Chairman’s statement, 2015). One of the vital agreements reached was the ASEAN Economic Community Blueprint 2025 which acknowledged and prioritised the embracement of digital technologies to enhance trade and investment in the region. Significantly, the Summit endorsed the need to create measures to protect personal data through the creation of a comprehensive framework for personal data protection in the advancement of ICT and e-

commerce (Lim and Council, 2021: 13). The AEC 2025 established the ASEAN framework on personal data protection which was a directive for member states to implement their national digital policy. At that time, Indonesia did not have any specific regulations concerning the protection of personal data or data privacy. Its provision of data protection was derived from the human rights rules under the constitution. This was largely influenced by the rapid development of ICT and the concomitant mass advertising techniques which collected personal data without clear regulations. In addition, the prime reason for Indonesia to develop its coherent data privacy policy was under a regional obligation, Indonesia could not define privacy in their legislation (Rosadim 2016: 82). only four ASEAN members (Malaysia, the Philippines, Singapore, and Thailand) had a specific policy concerning personal data protection regulations (Nasution, 2021: 14). Indonesia adopted the mandate in 2016 to create its own and became the 5th country to have data protection regulation in ASEAN in 2019.

6.1.2 Are there differences in the digital policies among regions which are likely to lead the world into a world of digital regional blocs ('the splinternet')?

Prior to the advent of the internet, businesses needed a significant amount of capital and resources in order to export their products. More recently, digitalization has made it easier for small and medium-sized businesses, individuals, and everyday people to expand and conduct cross-border business through e-commerce and delivery services (couriers such as DHL) (Nitu, et al., 2019: 270). The significant 45-fold increase in cross-border data transfers from 2005 to 2014 is shown in Map 1. Internet, social media and financial transactions all involve cross-border data flows, which have surged from 500 to 100 Terabits per second in 2005 to around 20 000 in 2014. This demonstrates how interconnected the world is getting (Manyika et al., 2016). However, the globe is likely to transition into a world of digital regional block because different regions have different digital regulations which impede interoperability. Regional organisations specifically the EU, ASEAN and USMCA have resorted to creating, adopting, and promulgating regional digital trade agreements with provisions and clauses that attempt to address digital trade among member states as a result of the WTO's failure to successfully establish a set of multilateral digital trade standards (Smeets, 2021: 217).

Although the World Trade Organization (WTO) emphasized the importance of creating a global framework for the development of digital commerce standards in the Joint Statement Initiative on E-commerce (JSI) in December 2020. It acknowledges that e-commerce has been a sector that has assisted the post-COVID-19 economic resilience and recovery, notably in the developed world, despite the approximate 4.85% (in total) and 9.2% (in good trade) decline in worldwide trade compared to the pre-global level pandemic in 2019 (Cepik, 2021). But the absence of international regulations on cross-border data flows and internet-based activities is reversing globalization into a world of regions, according to Brockman et al. (2020), Safanove and Buqiang (2017: 32), and Lund and Bughin (2019), who contend that regulations for the digital age may reduce trade flows by changing the actual content of what can be bought and sold across borders. Every type of cross-border transaction has a digital component (Manyika, et al., 2016). The study used documentary analysis to evaluate regional digital policy in the EU¹⁹, USMCA²⁰, and ASEAN²¹ and discovered that there are fundamental disparities that create a splinternet explained in table 5. The investigated policies demonstrate that the aforementioned regional organizations adopted a distinct policy approach when regulating cybersecurity, cross-border data flows, and personal data protection and privacy.

In terms of personal data protection and privacy, there are no major or significant distinctions. The ASEAN framework does not have a direct principle addressing transparency and openness whereas the USMCA chapter 19 and GDPR. While USMCA and ASEAN lack enforcement tools for these regulations together with the corresponding liabilities, fines, and penalties in the event of a violation, the GDPR does. In terms of cross-border data flow, the ASEAN framework on PDP advances the duplicate standard as the EU GDPR under its principle 6(f) which states that “before transferring personal data to another country or territory, the organisation should either obtain the consent of the individual for the overseas transfer or take reasonable steps to ensure that the receiving organisation will protect the personal data consistently with these principles”. On the other hand, the USMCA preserves a distinct and less onerous rule on cross-border data flows. It raises the idea that improved and facilitated free commerce in the North American region will result from free cross-border data movement. Leon (2021) argues that these provisions would

¹⁹ General Data Protection Regulations (GDPR)

²⁰ USMCA Chapter 19

²¹ ASEAN Framework on Personal Data Protection (ASEAN DPD)

satisfy the imperatives for modernization US demands and aspiration of de-institutionalization which allow US digital enterprises to flourish. Indeed, the US interest is to protect a global market share of Google, Apple, Facebook, and Amazon, and it did so in the USMCA (Banks, 2018). Whereas, Hoofangle, van der Sloot, and Borgesius (2019: 65) observation convey that the GDPR has exerted complexities for the information-intensive business model and further stringency on cross-border data transfer. It restricts the transfer of personal information from the EU to a state that does not have 'adequate' data protection laws or a state that has laws that are inconsistent with certain GDPR cross-border data provisions it invokes (Stewart, 2020). The GDPR policy regulates 'gatekeepers' of the digital world by imposing restrictions on the behaviour of tech giants such as Google, Facebook, Amazon, Apple and Microsoft among others (Anderson and Mariniello, 2021; Morrison Foerster, 2021).

Finally, in terms of cybersecurity, the GDPR extends article 5 by requiring entities to provide steps they have taken to ensure data protection against external threats of lawful access, disclosure, or loss, and article 32(4) denotes the steps an entity has taken to protect against data abuse. In contrast to ASEAN and the USMCA, the GDPR goes as far as to require entities in question to provide or showcase the measures that are enforced to protect data. As mentioned above, the internet was once a significant driving force of globalization (Boruch et al., 2012: 118). Indeed, in close to two decades, the world came connected than ever before thanks to the global internet. However, the world has recently explored the envisioned worldwide web being on a verge of splintering into smaller particles of region-specific nets because of differences in regional digital policies which will lead to a world of regions (Shrestha, 2021). Interestingly, the existing differences propel a conundrum for Africa which does not have a digital policy in effect. It could promulgate a policy that is inconsistent or incompatible with other regions' digital policies creating a splinternet that will lead to a world of regions, or join in one, thus bolstering the so-called splinternet. The splinternet has pejorative implications on digital trade, investment and generally in globalisation because it puts more constraint on international businesses to adapt to different and region-specific digital and data regulations. The GDPR has made a tremendous impact in Europe since its adoption. Its empirical effects can be traced in the court cases in most notably in Germany and Italy (Teassian, 2021; Van Eecke and Phelp, 2020; Simmons-Simmons, 2021; Compliance

Junction, 202; Craggio, 2021; Fouriezo, 2021; Lensdorf, Henric, Husch, and Shepherd, 2021; Bertuzzi, 2021; Kerry, 2021; Hodge, 2021).

6.1.3 What has been the nature of Africa's digital policy, has it been led by a handful of regional leaders, and has it contributed to the splinternet phenomenon?

In African Union, South Africa is a more prevalent country to commensurate with the study's framework to appraise and identify a regional leader in the African continent. In other words, South Africa has the attributes of a regional leader most notably in terms of role because its material capabilities as operationalised in the study have been falling behind relative to other countries. For example, in terms of GDP, South Africa only took the first position in 2011, 2017 and 2018 from a period of 2011 to 2020. In other years, the country has been in the 2nd and 3rd rank interchangeably. In terms of internet penetration, South Africa has been rumbling, the highest peak was when it took 3rd rank in 2014, 2015, 2016 and 2019. In terms of high-tech export, the highest rank was 4th place in 2020.

Hulse (2016: 14) contend that Nigeria is relatively more powerful in terms of material dominance, however, South Africa's preponderance and willingness to lead Africa's public good and stability is articulated in its foreign policy since 1994. Indeed, although Sidiropoulos (2007: 2) labels South Africa as a reluctant hegemon but its foreign policies from President Nelson Mandela, Thabo Mbeki, Jacob Zuma and Cyril Ramaphosa (albeit, to a lesser extent) have shown South Africa's willingness to lead the African continent. South Africa took strides to maintain peace and security although failed on numerous occasions but it was committed to intervening. Interestingly, South Africa is often portrayed and perceived as a regional leader by its peers at the global stage such as Brazil and India more than at home on the African continent. It is essential for other actors to see its leadership as likely to be more stable and widely accepted (Choi and Park, 2014: 584; Oloruntoba and Gumede, 2017: 19)

Riggiorozzi and Tussie (2012: 4) argued that regional leaders have the ability to influence the creation of regionalism is dependent not only on their hegemony (wealth, military and technological capability, and ambition) but also on the support of their followers (small states). In other words, for a regional leader should be widely accepted and supported by small states in the region to be able to influence the creation and adoption of a regional policy. This was one of the

hindering factors that impact South Africa from luring ‘followers’ to create, adopt and promulgate regional digital policy.

South Africa and Nigeria’s co-regional leadership cooperation is largely influenced by complex interdependence. These are regional leaders that coexist in one region have superior capabilities and influence other states to adopt, ratify, and support their shared goals, norms, principles, values, and interests often articulated in their foreign policies. They both have the operationalised material capabilities and the ability to influence their followers. Their cooperation was to avoid factional support from their sphere of influence within the AU which would result in divergent intra-regional digital policies thus exacerbating economic complexities for them. The two hegemons are vulnerable to each other’s action and therefore sensitive to each other’s needs and this was expressed and demonstrated in their cooperativeness in the creation, promulgation and promulgation of AU digital policies. South Africa and Nigeria played a central role in the creation, adoption and promulgation of Africa’s digital policies. South Africa influenced the creation of the Oliver Tambo Declaration in 2009. This declaration directed the AU to work collaboratively with the United Nations Economic Commission for Africa (UNECA) to establish a convention on cyber legislation embedded in the continent’s needs which adheres to regulatory requirements on electronic transactions, cybersecurity, and personal data protection. Finally, it recommended the AU member states to adopt the Convention by 2012 (Orji, 2014: 131). On the other hand, Nigeria influenced the creation of the Abuja Declaration in 2010. this requested the AU Commission to work collaboratively with the International Telecommunication Union (ITU) and development partners to resume activities on the harmonisation of policy and regulations in Africa based on the platform created by Support for harmonization of the ICT policies in sub-Saharan Africa (HIPPSA) project²² in order to implement the outstanding components of the Reference

²² “The HIPPSA initiative intended to establish a harmonized policy, legal and regulatory framework at the regional and continental level to create an enabling environment that will attract investment and foster the sustainable development of competitive African Telecommunication/ICT regional markets, infrastructure and to increase access [of its people to the related services]”. However, it was not a region-wide or continental initiative. The HIPPSA came as a result of the request by sub-regional economic organizations and their associated regulators to the ITU and the European Commission to help with harmonizing ICT policies and regulations in sub-Saharan Africa. The Oliver Tambo Declaration adopted the HIPPSA with the intention to execute it at the region-wide or continental level through the Reference Framework for Harmonization of Policies and Regulations on Telecommunication and ICTs in Africa (International Telecommunication Union, 2007; Union, 2010).

Framework for Harmonization of Telecommunication and ICT Policies and Regulation in Africa that was adopted at the AU 2nd Conference of Ministers in charge of Communication Information Technology (CITMC-2) (Calandro et al., 2013: 19; AU, 2009: 3).

The Oliver Tambo Declaration influenced the creation of the AU Convention on Cybersecurity. However, there has been a snail's pace in terms of adoption and ratification by member states. Even South Africa has not yet signed the AU Convention. The policy requires at least 15 countries to be ratified and take effect. Only 14 member states out of 55 have signed the Convention and only 13 ratified it by the time of writing (Malatji et al., 2020: 4). Instead, South Africa adopted a National Cybersecurity Policy Framework (NCPF) in 2012 (Sutherland, 2017: 84). The promulgation of the NCPF of South Africa was relative snail-paced and not assisted by President Zuma's cabinet reshuffles. The Minister of Communication published a detailed cybersecurity policy draft which took two years to be approved by Parliament and an additional three years to be published and only in two official languages, Afrikaans and English. The Minister of State Security and the State Security Agency (SSA) was responsible for implementing the policy, roadmap and strategy. The Department of Communication retained significant responsibility (Sutherland, 2017: 87). South Africa only passed or promulgated the policy of Cybercrime and Cybersecurity Act 2020 was promulgated in June 2021 and came into effect in December 2021 (McKenzie, 2022).

Furthermore, African Union explains their digital policy aspiration in three different documents namely, African Continental Free Trade Agreement (AfCFTA), AU Digital Transformation Strategy 2020-2030 AU DTS, and AU Agenda 2063. The nature and scope of the AfCFTA protocol of e-commerce is yet to be done. However, this policy is created in an environment where other regional organisations namely in USMCA, EU and ASEAN have their own. This create a dilemma for the AU on which of the aforementioned difference should it invoke or contribute towards the splinternet by creating its own distinct approach. Moreover, the AU DST has committed to advancing data protection and privacy policy and regulation in line with the Malabo Convention which sets out norms, values, principles and action prescribed for AU member states to execute in areas of e-commerce, electronic contract, personal data protection, electronic advertising and security of electronic transactions. Although the AU Convention is yet to come

into effect after the required number of ratification by AU member states. Interestingly, the AU Malabo Convention is consistent with the General Data Protection Regulation (GDPR) to promote the competitiveness of African companies outside the continent. This indication highlights the emergence of splinternet ahead as the policy only regard the GDPR while neglecting some of the conflicting provisions or possible inconsistencies in the USMCA chapter 19 and ASEAN framework on PDP vis-à-vis the GDPR. Moreover, the proposed actions advocate for the adoption of legislation that advances the localisation of data with respect to the privacy of African citizens and residents at the national level. At the regional and continental levels, the proposed actions highlight the significance of establishing a framework for data policy and management in Africa as well as addressing the hurdles related to cybersecurity, interoperability of systems and persistency of information (Union, 2020: 47). In short, the AU DST encourage the ratification of AU Malabo Convention which only invoke the approach of the GDPR. The policy contributes towards the splinternet in manner that it ignores the different approaches or provisions under USMCA chapter 19 and ASEAN framework on PDP. Finally, AU Agenda 2063 ten-year implementation document does not have any provision on digital policy thus not contribution towards any splinternet.

6.2 Recommendations

The digital policy harmonisation in Africa is significant. Member states have promulgated national digital policy which are sometimes in conflict with each other. The lack of regional digital policy in effect contribute towards the intra-African splinternet. With the AfCFTA protocol on e-commerce in progress, it is significant for policy makers to observe the emerging splinternet and incorporate provisions that would encourage inter-regional operability in across all regions. Any divergent or distinct approach will further splinter the net thus creating a world of regions or reversing globalisation. The Malabo Convention should revise the provision on invoking the clauses of the GDPR because this might impact the trade relation with USMCA and most recent dominant partner, China. A neutral approach on data localisation and free cross-border data flow should be inserted with no discrepancies. The Africa's digital policy should invoke both CBPR approach and more draconian EU approach to win both sides. This will non-pejorative encourage AU member states to leverage on the opportunities of digital trade with other countries as well as

penalties from big-tech companies that will contribute towards government revenue to execute other developmental means for their people.

6.2.1 Recommendation for further studies

- The emerging splinternet might delay the ratification of the AfCFTA e-commerce protocol because some of the clauses or provisions might contradict with interests of member states' strategic partners.
- Secondly, there is an emerging intra-regional splinternet in Africa as a result of the type of government and external influence more notably the US, China and the European Union.



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