



## The Conflict Between Global Privacy Laws and Forensic Investigation: A Study of Regulatory Inconsistencies in Trade-Based Fraud

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### Abstract

As global trade has increased, financial crimes have become more complex. The biggest problem is trade-based fraud (TBF). Criminals in the country alter customs documents, invoices and financial records to hide illegal money laundering. Detecting and prosecuting this type of fraud requires robust forensic investigations, often requiring the collection, sharing, and analysis of sensitive data from different countries. However, this task is made difficult by global privacy laws. Laws such as the European Union's GDPR, the United States' industry-specific privacy rules, China's Data Protection Law, and Switzerland's Banking Secrecy Law are intended to protect personal and business data from misuse. However, these laws often clash with the needs of investigators. Due to different regulations in different countries, investigators face legal confusion and delays, which makes enforcement less effective. This study examines the conflict between data privacy protections and forensic investigation needs in trade-based fraud cases. It explains how regulations, such as keeping data within national borders, limiting data sharing across countries, and differing standards for admissibility of evidence, make it difficult to collect evidence and work together internationally. By comparing privacy laws in different countries, this study highlights the ethical challenges investigators face when trying to respect individual rights while ensuring financial transparency. The findings show that without common international rules, forensic investigations can become disorganized and less effective, potentially undermining global efforts to combat trade-based fraud. The study concludes that countries should develop secure and standardized data sharing systems and strengthen international cooperation. This will help protect privacy while allowing investigators to effectively detect fraud and comply with legal requirements.

**Keywords:** Privacy Laws, Forensic Investigation, Trade-Based Fraud, Data Protection, Cross-Border Compliance

### Introduction

Global trade has accelerated economic growth worldwide, but it has also created opportunities for sophisticated financial crimes such as trade-based fraud (TBF). Trade-based fraud is fraud in international trade. Fraudsters manipulate invoices, customs records, and trade documents to launder money, evade taxes, and transfer illicit funds across borders. These tactics help criminals hide illegal money, avoid paying taxes, and secretly transfer money from one country to another. Forensic investigations are conducted to detect and punish this type of fraud. Investigators examine financial records, business papers, and personal information from different countries. However, this task is difficult because many countries have strict privacy and data protection laws. These laws determine how data can be collected, used, and shared, especially across borders. However, privacy laws including the European Union's GDPR, China's data localization rules, the United States' sector-specific regulations, and Switzerland's banking secrecy often restrict data collection and cross-border sharing. These laws protect people and businesses, but they also make it difficult for investigators to obtain the evidence they need in international fraud cases. This results in a conflict between protecting privacy and fighting financial crime. Investigations often face delays and legal problems because evidence that is accepted in one country may not be accepted in another. Criminals take advantage of such differences in laws to hide their activities and avoid punishment in their home countries. As a result, trade-based fraud has

become more difficult to control in today's global economy. The lack of common rules for sharing data and for countries to work together undermines the global financial system. (S.ZDANOWICZ, 2009) Global privacy frameworks often conflict with the data requirements of trade-based fraud forensics. It discusses the legal differences, the challenges faced by investigators, and the real-world consequences. Success in cross-border forensics depends on establishing common data sharing rules and international collaboration frameworks that prioritize ethical safeguards. Finding a balance between privacy protection and effective investigation is essential to reducing trade-based fraud and protecting financial systems worldwide. Global trade has become the backbone of modern economies, enabling countries to access new markets, diversify resources, and accelerate development. However, despite these advantages, the complexity of cross-border transactions has created opportunities for trade-based fraud (TBF), a sophisticated form of financial crime where international trade is used to conceal illicit financial flows. Fraudsters exploit loopholes in documentation, pricing, and customs declarations to launder money, evade taxes, and secretly transfer funds across jurisdictions.

This undermines trust in global trade and destabilizes financial systems. Forensic investigations are essential to uncovering and prosecuting such crimes. But investigators rely on financial records, customs documents, and personal data to detect suspicious transactions. However, their work is complicated by privacy and data protection laws, which vary widely across countries. These laws, while important for protecting individual rights and national interests, often prohibit the sharing of sensitive information across borders. As a result, investigators face delays, incomplete evidence, and legal disputes, while criminals use these inconsistencies to remain undetected.

#### **Literature Review:**

(FATF & EGMONT GROUP, 2020), Views Trade-based money laundering (TBML) is a way criminals move illegal money by abusing trade transactions instead of normal bank transfers. They change invoices or shipping details to hide the money. The main problem is that government and private organizations do not share information properly.

(Dalei, 2025), Observes that in the India, the new Digital Personal Data Protection (DPDP) law aims to help the country develop by balancing people's privacy and the needs of the police. However, the study warns that India's specific data rules need to be carefully designed. If the rules for data retention in the country are too strict, it could actually make it harder to catch international online trade fraud.

(Milind Tiwari, 2024), Views The world is entering a new phase where countries are breaking away from each other and trying to work together. A recent study shows that forensic accounting can be a powerful tool in the fight against financial crime, but it is being suppressed.

#### **Objectives of the Study**

- To examine how criminals, use fake invoices and documents to hide illegal money.
- To analyze how different regulations, such as GDPR and banking secrecy, vary from country to country.
- To analyze key global privacy laws affecting forensic investigations.
- To find better ways for countries to share information and prevent crime.

#### **History of Global Privacy Law**

In the 1970s and 1980s, countries like Germany and France were among the first to recognize the importance of protecting personal data. They introduced laws that ensured that people's private information, including names, addresses, and financial details, was not misused by organizations and governments. By 1995, the European Union had taken a big step forward with the Data Protection Directive. This directive created a set of rules for all EU member states to ensure that personal data was collected and used in the same way. It was designed to give people confidence that their information was safe when it was shared with businesses and public institutions.

In 2018, Europe strengthened this protection with the General Data Protection Regulation (GDPR).

The GDPR gave individuals more control over their personal information. For example, people can ask companies to delete their data, demand transparency about how their information is used, and refuse consent if they do not want their data to be shared. This law is one of the strictest and most influential privacy laws in the world. (Team AMLEGALS, 2023)

The United States has taken a different approach by creating specific laws for different sectors. In 2018, California passed the California Consumer Privacy Act (CCPA), which gave businesses more control over how they collect and use consumers' personal data.

In Asia, countries have also begun to develop their own privacy frameworks. For example, Singapore introduced the Personal Data Protection Act (PDPA), which regulates how organizations handle personal data. Similarly, India is working on a Digital Personal Data Protection Act, which aims to protect citizens' information in a rapidly growing digital economy. (Muralinathan, 2025)

### **Conceptual Framework**

The conflict between privacy rules and forensic investigations in trade-based fraud can be understood through three interrelated dimensions: legal, investigative, and ethical. Together, these dimensions explain why detecting and prosecuting trade-based fraud is complex in a global economy.

### **Legal Dimension**

The legal dimension focuses on differences in privacy and data protection laws across countries. Each jurisdiction enforces its own rules governing data access, storage, and sharing. For example, the European Union's GDPR imposes strict limits on personal data processing, while China's data localization laws prohibit cross-border data transfers. In the United States, privacy regulation is sector specific, and Switzerland's banking secrecy laws provide strong financial secrecy. These legal differences create significant obstacles to gathering evidence and sharing information across borders. As a result, forensic investigators often face delays, limited access to records, and many challenges in making evidence legally admissible in court. Criminal networks exploit these inconsistencies by operating in jurisdictions with strong privacy protections, making it difficult for authorities to detect transactions and prove fraud.

### **The Investigation Dimension**

The Investigation Dimension highlights the practical challenges faced by forensic investigators. Detecting trade-based fraud requires access to trade documents, invoices, customs records, financial statements, and personal data of the parties involved. But privacy laws often restrict data sharing between financial institutions, regulators, and law enforcement agencies. These restrictions reduce transparency, making it difficult to follow money trails, identify shell companies, and detect false invoicing and mispricing in trade. Furthermore, evidence legally collected in one country may not meet the legal standards of another jurisdiction. This leads to fragmented investigations, where cases are not fully connected across borders, allowing fraudulent schemes to continue undetected and unpunished.

### **Ethical dimension**

The ethical dimension seeks to strike a balance between crime control and individual rights. Privacy laws exist to protect individuals and businesses from data misuse, surveillance abuse, and unauthorized disclosure of sensitive information. However, forensic investigations require a certain level of transparency and access to personal and commercial data. Ethical concerns arise when investigative powers are abused and data collection goes beyond what is necessary to detect fraud. Therefore, ethical safeguards such as proportionate data access, judicial oversight, and accountability mechanisms are essential. These safeguards ensure that investigations remain effective while respecting privacy rights and legal boundaries, and maintaining public trust in the institutions in place.

## Understanding conflict between privacy and forensic investigations



### Background of the Study

#### International Trade

International trade is the buying and selling of goods and services between different countries. For example, India exporting medicines to the US and importing oil from the Middle East is international trade. In recent years, international trade has increased significantly due to globalization, better technology, and fewer trade restrictions. Many businesses now operate in global supply chains. This means that products can be manufactured in different countries, use different currencies, and involve multiple banks and financial systems. (Ogburie, 2025) International trade involves many people and organizations such as exporters, importers, banks, customs officials, and shipping companies. And with so many parties involved, it becomes difficult to check whether all documents are correct and authentic. Another problem is that each country has different laws and regulations. Some countries have strict regulations, while others have weak monitoring systems. Criminals take advantage of these differences and move their illegal activities to countries where checks are not as strong.

#### Forensic Accounting

Forensic accounting is a special type of accounting used to detect fraud and financial crimes. Forensic accountants carefully examine financial records to see if someone has committed fraud, hidden money, or provided false financial information. In international trade, they help detect suspicious transactions, fake invoices, and illegal money movements between countries. To do their job, forensic investigators need access to many types of financial information. This includes bank records, invoices, contracts, emails, online transaction details, and customs documents. Today, they also use modern technology such as data analysis software, digital forensics, and artificial intelligence to find unusual patterns or hidden connections in large amounts of data. And different countries also have different legal rules about what evidence is admissible in court.

#### Case Study of Nirav Modi scam:

This study examines the multi-million-dollar financial scam involving diamond merchant Nirav Modi and Punjab National Bank. It describes how the jeweler used forged letters of undertaking to obtain large-scale loans from international banks without providing the necessary collateral. The text details the severe economic consequences of the scheme, including a decline in stock values, damaged credit ratings, and a complete ban on certain banking instruments. In addition, the source outlines important legal reforms triggered by the incident, such as the Fugitive Economic Offenders Act of 2018. Finally, it analyzes the extradition proceedings underway in the United Kingdom, focusing on legal challenges related to the defendant's human rights and mental health. (Mishra, 2024)

## Limitations

- **Limited Access to Confidential Data:** Trade-based fraud investigations often involve confidential financial records, banking data, and government intelligence. Such sensitive information is not publicly available.
- **Rapidly Changing Privacy Laws:** Global privacy regulations like GDPR and data protection laws are constantly updated. Because laws change over time, some legal interpretations in the study may become outdated in the future. (Singh, 2024)
- **Limited Judicial Case Analysis:** Not all trade-based fraud cases reach court, and some are settled privately. Therefore, available legal judgments may not reflect the complete picture.

## Findings

- Differences in global privacy laws create legal confusion and delays in forensic investigations.
- Strict data protection and localization rules limit cross-border evidence sharing.
- Criminals exploit regulatory inconsistencies to hide trade-based fraud activities.
- International cooperation is often slow and ineffective.
- Strong international cooperation and standardized data-sharing systems are needed for better fraud control.

## Suggestions and recommendation

- Privacy laws should include specific exceptions for serious fraud investigations.
- Secure systems should protect data while allowing investigators access.
- Global organizations should promote common privacy and investigation rules.
- Investigators should be trained to work effectively within a privacy framework.

## Conclusion

Global privacy laws are designed to protect personal and corporate information, yet they pose significant obstacles for forensic investigators. In cases of trade-based fraud, different legal standards in different nations delay and complicate the investigative process. Criminals exploit these regulatory gaps by moving funds and sensitive data to jurisdictions with more careless oversight, as demonstrated in the Nirav Modi case. Authorities often face difficulties accessing confidential documents, and cross-border cooperation remains uneven. To achieve a fair balance between data security and effective investigations, countries need to establish formal agreements, provide specific legal exemptions, and implement secure technological systems. Strong international cooperation is essential to address trade-based fraud while preserving privacy rights.

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