Sovereignty or Market:
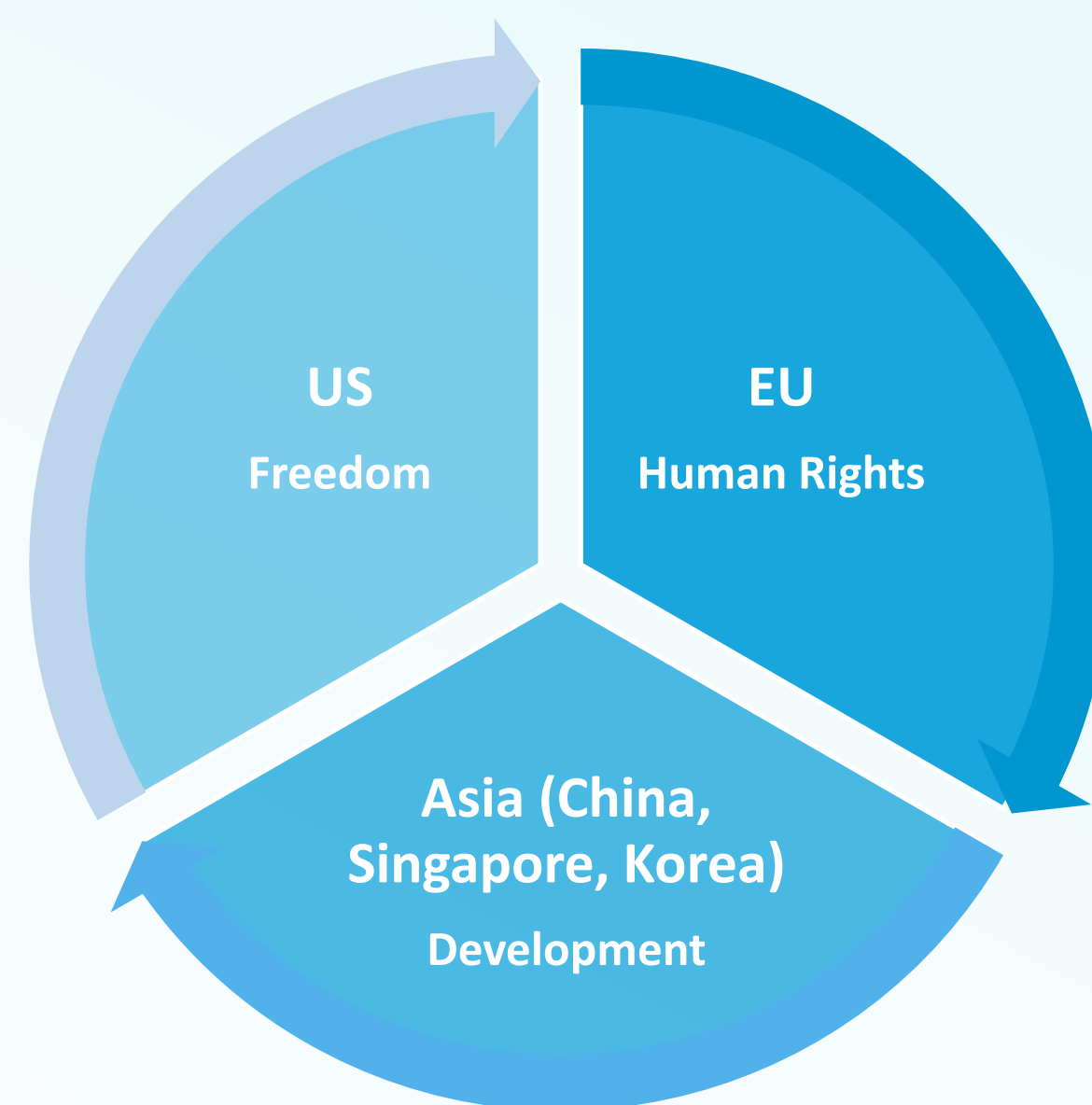# The Transnational Legal Regulatory Model of AI

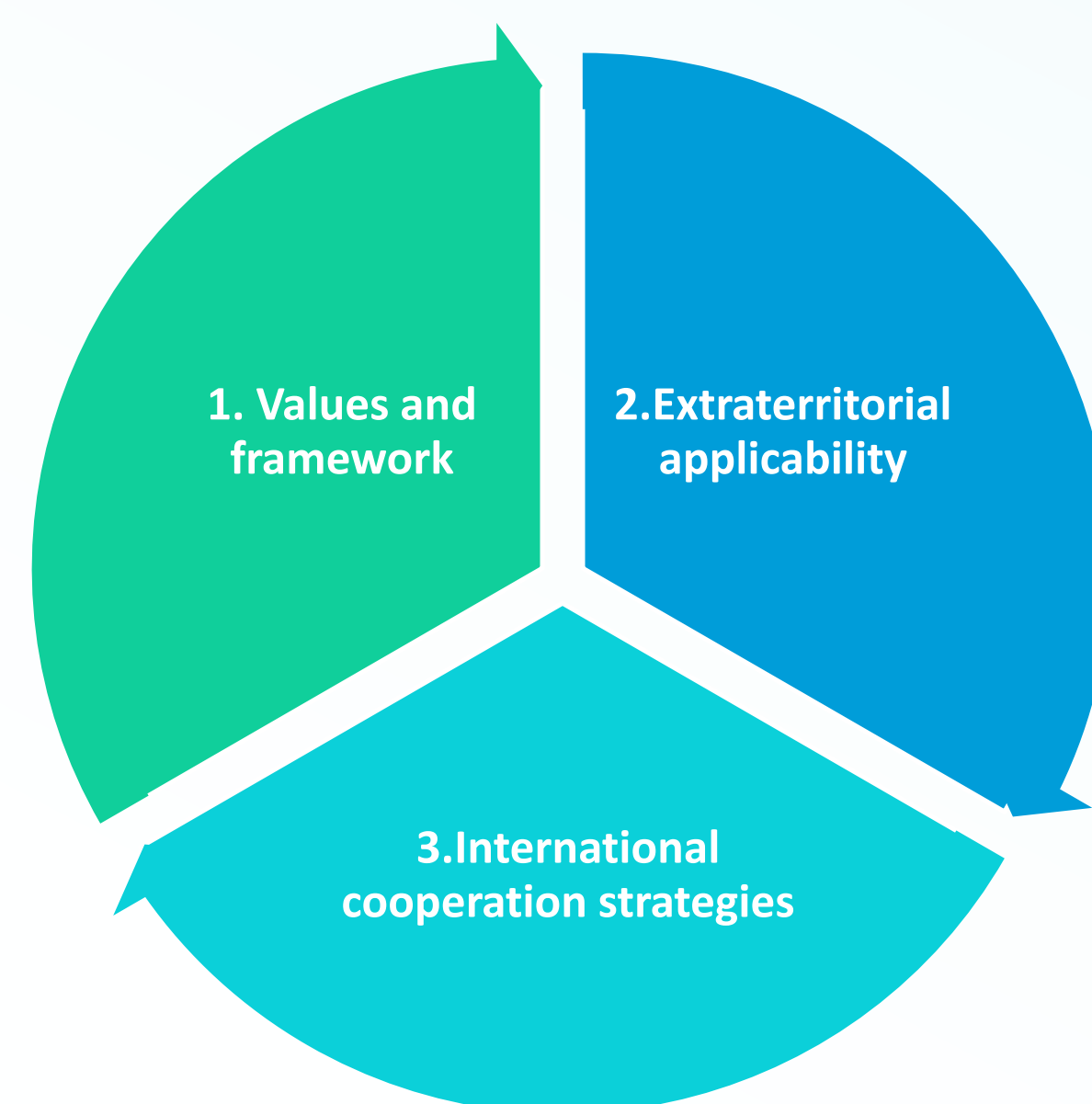Jianzhi Zeng, Associate Professor

NingboTech University

Question

AI-related data, algorithms, and outputs may all cross borders

States' Cyber Sovereignty, Digital Sovereignty, Sovereign AI

How to regulate borderless AI activities in the world composing of sovereign state?

Transnational AI domestic regulatory models

Three Leading Forces

- US — Freedom
- EU — Human Rights
- Asia (China, Singapore, Korea) — Development

Three Key Aspects of Transnational AI Regulation

1. Values and framework
2. Extraterritorial applicability
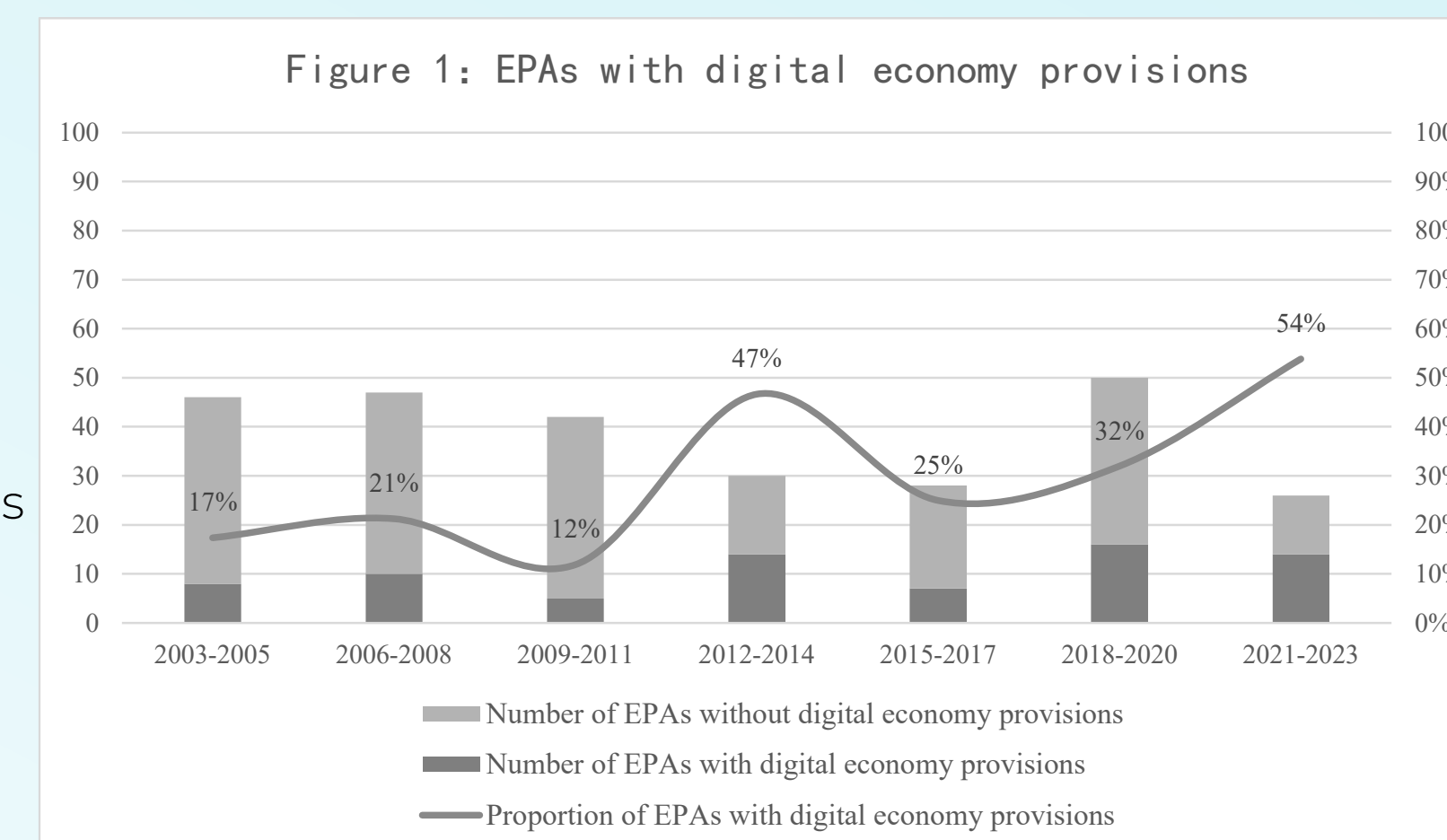3. International cooperation strategies

AI rules in international economic partnership agreements

Data and Methodology

- All 496 economic partnership agreements (EPAs)
- Computational legal analysis
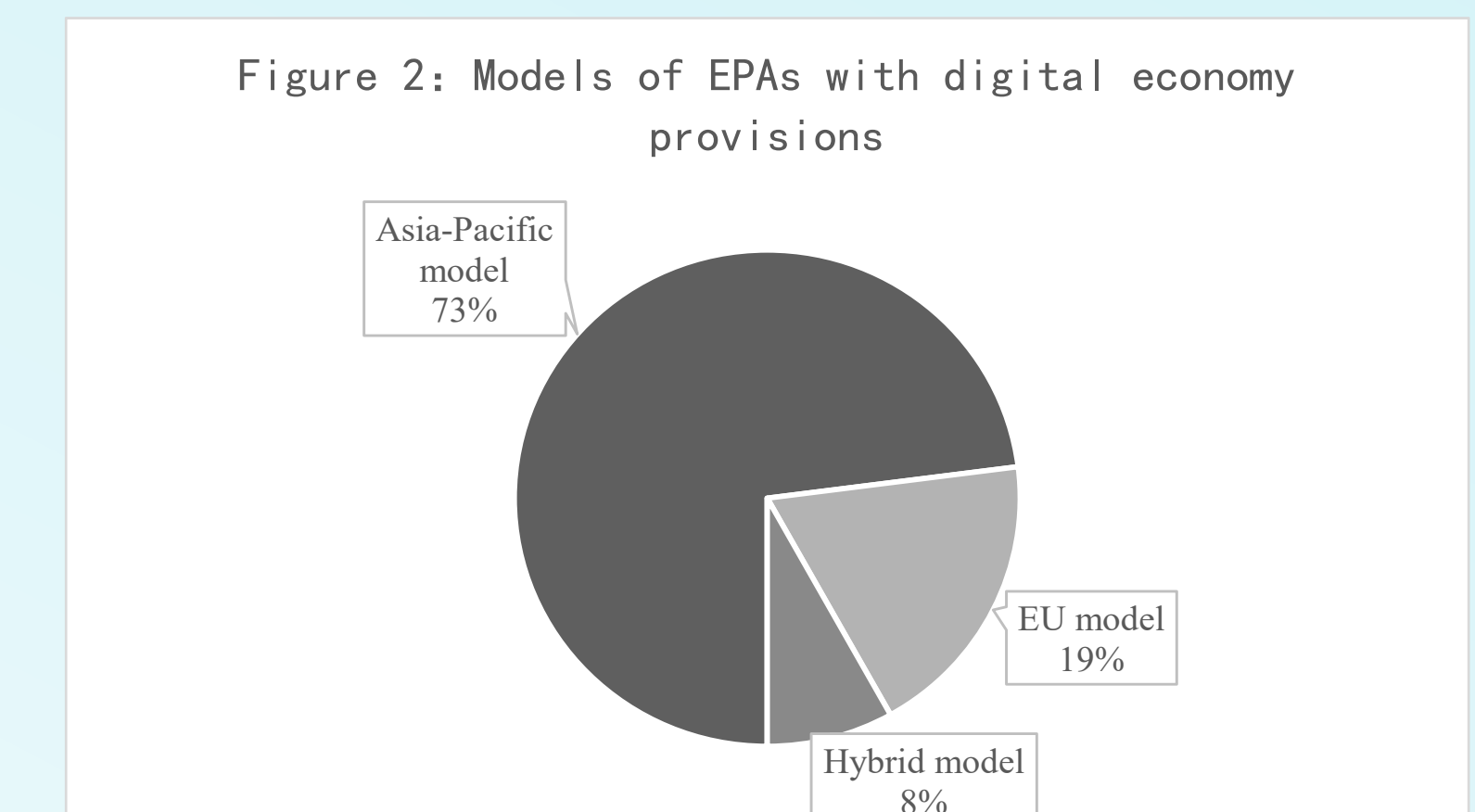- Text-as-Data: Python BeautifulSoup and regular expressions (re)

Trends

- 28% of EPAs contain digital economy provisions
- The number of EPAs with digital economy provisions significantly increased over the past 20 years
- 2.8% of EPAs contain standalone AI provisions
- Recently, there has been an increasing trend in the number of EPAs containing AI provisions (accounting for 78%)

Figure 1: EPAs with digital economy provisions

- Number of EPAs without digital economy provisions
- Number of EPAs with digital economy provisions
- Proportion of EPAs with digital economy provisions

Composition and Effect of Rules

CPTPP

Ch.14 Electronic Commerce

- Article 14.3: Customs Duties
- Article 14.4: Non-Discriminatory Treatment of Digital Product
- Article 14.11: Cross-Border Transfer of Information by Electronic Means
- Article 14.13: Location of Computing Facilities
- Article 14.17: Source Code
- Article 14.18: Dispute Settlement

EU-Vietnam FTA

Ch.8 Liberalisation of Investment, Trade In Services and Electronic Commerce

- Article 8.50. Objective and Principles
- Article 8.51. Customs Duties
- Article 8.52. Regulatory Cooperation on Electronic Commerce

UK-Singapore FTA

2022 DEPAs

- Before: EU Models
- DEPAs updated digital economy chapter
- Now: Asia-Pacific Models
- Article 8.61-R. Artificial Intelligence and Emerging Technologies

Models

- Asia-Pacific model accounts for the highest proportion, which is the first to have a separate chapter on the digital economy in FTAs
- EU model: until 2010 that the FTAs signed by the EU contained the chapters on investment, trade in services and e-commerce
- Hybrid mode: started with the UK's post-Brexit FTAs with Asia-Pacific countries

Figure 2: Models of EPAs with digital economy provisions

- Asia-Pacific model 73%
- EU model 19%
- Hybrid model 8%

Conclusion

- The development, deployment and use of AI are inherently transnational.
- The domestic laws of the U.S., the EU, and China have taken the lead in constructing three major models of AI regulation: market, rights, and development.
- It is necessary for countries to construct relevant rules for the data, algorithms, and output involved in the cross-border provision of AI through EPAs.
- The regulatory model for inclusive development of AI should be strengthened.