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Office of Digital Services Industries
International Trade Administration (ITA)
US Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Cross-Border Data for Sustainable Development

Dear colleagues,

We write regarding cross-border data for sustainable development. Comprising [25 companies](#) across [14 industry sectors](#) as well as BSA global member companies, the Global Data Alliance (GDA) engages with policymakers in dozens of countries to support policies that: (1) instill trust in the digital economy; (2) safeguard the responsible and secure movement of information across borders, and (3) avoid harmful data localization mandates that undermine many social and economic benefits.

Today, cross-border digital policy leadership by the United States is vital as developing countries face growing pressure to follow digitally protectionist and/or authoritarian policy models that:

1. [Impede economic development](#) abroad and [impair the effectiveness of US foreign assistance and other development programs](#);¹
2. [Undermine human rights](#), including economic and civic freedoms, as well as privacy and an open, secure and inclusive Internet;² and
3. [Harm US exports and job opportunities across US communities](#) – directly [contradicting the vision of worker-centric trade and economic policies](#).³

At a time of increasing cross-border data restrictiveness and fragmentation grounded in theories of digital authoritarianism and digital nationalism, the United Nations, the World Bank, the OECD, and many other organizations have underscored that sustaining economic development, expanding education, and raising global living standards depend on the cross-border exchange of knowledge, technical know-how, and scientific and commercial information across transnational IT networks, as well as access to digital tools and global market opportunities. For example, the United Nations Conference on Trade and Development (UNCTAD) has explained that:

Divergent “data nationalism” will be especially inimical to the interests of developing countries, including LDCs. First, it will result in suboptimal domestic regulations, especially in developing countries with low regulatory capacity, resulting in adverse consequences for privacy and security, and prejudicing the interests of domestic Internet users... Second, a fragmented Internet reduces market opportunities for domestic MSMEs [micro-, small-, and medium-sized enterprises] to reach worldwide markets, which may instead be confined to some local or regional markets. Third, divergent data nationalism reduces opportunities for digital innovation, including various missed opportunities for inclusive development that can be facilitated by engaging in data-sharing through strong international cooperation. Finally, a world of divergent data nationalism has only a few winners and many losers. Certain established digital economies may emerge as winners due to their advantageous market size and technological prowess, but most small, developing economies will lose opportunities for raising their digital competitiveness.⁴

The costs to developing countries of such data nationalism can be avoided or mitigated through greater US digital economic engagement with developing countries. As explained in the GDA's report, [Cross-border Data Transfers & Economic Development: Access to Global Markets, Innovation, Finance, Food, and Healthcare](#),⁵ cross-border data transfers and digital connectivity can help build momentum towards collective global efforts to meet UN Sustainable Development Goals (SDGs) by 2030. Data transfers and connectivity play an important role in ending poverty and hunger, ensuring health and education, promoting sustainable growth and protecting the environment, among other SDGs. These goals depend, in part, upon ensuring cross-border access to technology, knowledge, and data; safeguarding the ability to transfer data seamlessly and responsibly across borders; and building digital connectivity and inclusiveness through computer literacy, access to the Internet, and the availability of ICT equipment.

The United States has made reciprocal cross-border data and technology access commitments with only a small group of developed country partners – Canada, EU, Japan, and Mexico. As summarized below, most US Free Trade Agreement (FTA) and preference program partners do not receive these benefits.

	CA	EU	JP	MX	AU	CO	CL	CR	DR	GT	HN	JO	OM	NI	PA	PE	SG	SV	AGOA	GSP	CBI
Reciprocal commitment not to block cross-border access to knowledge & other information	✓ ⁶	✓ ⁷	✓ ⁸	✓ ⁷	✗ ⁹	✗	✗ ⁹	✗	✗	✗	✗	✗	✗	✗	✗	✗ ⁹	✗ ⁹	✗	✗ ¹⁰	✗ ¹¹	✗ ¹²
Reciprocal commitment not to mandate localization of knowledge & other information	✓	✓	✓	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗

Expanding US digital economic engagement beyond this small circle will not only support US strategic, economic, and worker interests, but also developing country interests. Disciplines that guarantee reciprocal cross-border access to knowledge, information, and digital tools offer real development benefits for marginalized communities at home and abroad – not only because they increase the availability of cross-border educational, health, and economic opportunities, but also because they facilitate cross-border collaboration by knowledge workers in areas of common concern. For example, increasing digital interaction between US and developing country partners increases opportunities for US knowledge and other workers to use their skills to help solve challenges and offer cross-border services needed by remote and underserved communities in partner economies.

We outline below several possible points of engagement:

- Reciprocal Commitments on Cross-Border Access to Data: Given the developmental benefits of cross-border access to knowledge, information, and digital tools, the United States should make reciprocal commitments with developing country partners to facilitate future access. Such commitments could help guarantee developing country cross-border access to information and digital tools that enable economic opportunity. These commitments could be coupled with provisions to build digital trust through support for privacy, consumer protection, and digital inclusion. Drawing on prior agreements, these provisions could be negotiated as updates to existing trade arrangements, in a future Indo-Pacific Economic Framework, or in other legal frameworks.
- Adapting the Cross-Border Data Privacy Rules (CBPR) Framework outside of APEC: The United States could also consider enhancing and updating the CBPR framework for application beyond APEC, thus opening new pathways for greater participation in the international digital economy by developing countries and MSMEs. An early place to test such a framework would be in the context of the proposed Indo-Pacific Economic Framework. Such an approach would allow the United

States work with like-minded allies to strengthen and broaden the appeal of the CBPR program for developing country partners and MSMEs, while supporting high data protection standards, reinforcing core principles of non-discrimination and interoperability among privacy frameworks, and building digital trust, responsibility and security in the cross-border digital environment.

- Support Cross-Border Digital Enablement through Preference Programs: Through US preference programs, such as the Generalized System of Preferences (GSP), the African Growth and Opportunity Act (AGOA), and the Caribbean Basin Initiative (CBI), the United States should bring greater focus to the developmental potential of cross-border access to knowledge, information, and digital tools. Doing so would lend greater support to development-enabling data policies, as well as efforts to grow digital trust through support for online privacy, consumer protections, and digitally inclusive ecosystems.
- Expanded US Capacity for Digital Engagement: There is growing demand abroad for US global digital policy engagement. Across several agencies, small teams of experts shoulder the heavy burden of managing an extremely demanding and complex policy portfolio in arguably the most contested global policy arena. Increasing staffing could help.
- Deeper Digital Engagement in International Organizations: There may also be room to increase attention to the role of cross-border data in aiding development in international organizations, including the International Telecommunication Union, the OECD, the World Trade Organization, and others.
- Closer Coordination with Development Agencies and Organizations: The United States may also benefit from greater intra- and inter-organizational coordination on the developmental implications of cross-border data policies. This could cover both engagement between US foreign assistance agencies and US trade and foreign policy agencies. It could also cover engagement with international development banks.¹³

We include below appendices relating to: (1) UN Sustainable Development Goals; and (2) development impacts of data localization. We look forward to working with you on these important matters and welcome any questions or comments that you may have.

Sincerely yours,

Joseph Whitlock

Joseph P. Whitlock

Appendix I

Digital Connectivity and Cross-border Data Transfers and the UN Sustainable Development Goals

Cross-border data transfers and connectivity can help address development-related challenges outlined in the UN Sustainable Development Goals, as outlined below.

- **SDGs 1, 8 and 10: End poverty in all its forms everywhere (SDG 1); Promote sustained, inclusive, and sustainable economic growth, full and productive employment and decent work for all (SDG 8); Reduce inequality within and among countries (SDG 10)**
 - Cross-border data transfers and digital connectivity can help reduce poverty, facilitate economic growth, and reduce inequality by: (1) spreading economic opportunities wherever digital networks can reach; (2) growing the ability of developing country farmers, entrepreneurs and MSMEs to participate in international commerce; and (3) extending the reach of development assistance agencies to remote and isolated regions.¹⁴
- **SDG 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture.**
 - Cross-border data transfers and digital connectivity can help promote sustainable agriculture, nutrition, and food security. Farmers are better positioned for success in planting, harvesting, and selling their agricultural products when they have (1) cross-border access to satellite and sensor-driven data that helps inform planting and harvesting decision-making; (2) access to information on sustainable crop development and protection techniques, weather and soil data; and (3) access to reliable cross-border data on sales opportunities and prospective purchasers. Cross-border data transfers also enable optimization of supply chains to ensure that food is distributed in a timely and efficient manner where it is needed most. Furthermore, by enabling small-scale farmers to connect directly to purchasers in export markets, cross-border access to technologies reduce opportunities for arbitrage, allowing farmers to retain more profits.¹⁵
- **SDG 3: Ensure healthy lives and promote well-being for all at all ages.**
 - Cross-border data transfers and digital connectivity help ensure healthy lives and well-being for all. They improve online healthcare education, patient diagnoses and treatments, pandemic response, and humanitarian medical assistance in many ways. These include, for example, the gathering and analysis of cross-border and cross-organization datasets that help define patterns and support medical research.¹⁶
- **SDG 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all**
 - With increasing dependence on remote learning due to the COVID-19 pandemic, the importance of cross-border data transfers and digital connectivity to inclusive and quality education is more apparent than ever. Cross-border access to remote learning platforms, online study materials, and scientific databases and resources can help support access to knowledge and remote learning.
- **SDG 5: Achieve Gender Equality and Empower All Women and Girls**
 - Gender divides persist in many economies.¹⁷ Improved connectivity and cross-border access to financial, health, educational, and occupational opportunities can help close those divides.¹⁸ This means remediating the divide in access to mobile and other ICT equipment and in cross-border access to online tools. Such access can help transcend gender barriers at home by connecting individuals to enabling resources and knowledge.

Cross-border data transfers and digital connectivity can help achieve SDG benchmarks in all of the areas above, reducing poverty and inequality, promoting sustainable and inclusive growth, and creating new economic opportunities.¹⁹

Appendix II

Impact of Data Localization and Data Transfer Restrictions on Economic and Policy Goals

- **Impact on Economic Development:** The World Bank's *2020 World Development Report* found that, "restrictions on data flows have large negative consequences on the productivity of local companies using digital technologies... Countries would gain on average about 4.5 percent in productivity if they removed their restrictive data policies, whereas the benefits of reducing data restrictions on trade in services would on average be about 5 percent."²⁰ Self-isolating data transfer restrictions hinder economic development, reduce productivity, deprive local enterprises of commercial opportunities, and depress export competitiveness.²¹ Such measures are estimated to reduce GDP by up to 1.7 percent in some implementing countries.²² As USAID has explained, "[m]any governments choose to adopt protectionist digital trade policies (e.g., data-localization, [etc.]). These policies, when combined with inefficient cross-border trade processes..., impair trade that contributes to economic growth."²³
- **Disproportionate Impact on Least Developed Countries (LDCs) and Smaller Developing Countries:** UNCTAD's *2021 Economic Development Report* describes the growth of export restraints on outbound data transfers in major economies including the EU, China, Russia, and India. India's policies have been styled as necessary to counter "data colonialism," while others have focused on "data sovereignty" or similar concepts. While some commentators and some relatively large digital economies believe that policies of data mercantilism are beneficial,²⁴ these policies will be particularly harmful to neighboring countries – imposing unnecessary costs and diverting resources from smaller developing countries, least developed countries (LDCs), and MSMEs. As UNCTAD explains,

Divergent "data nationalism" will be especially inimical to the interests of developing countries, including LDCs. First, it will result in suboptimal domestic regulations, especially in developing countries with low regulatory capacity, resulting in adverse consequences for privacy and security, and prejudicing the interests of domestic Internet users... Second, a fragmented Internet reduces market opportunities for domestic MSMEs to reach worldwide markets, which may instead be confined to some local or regional markets. Third, divergent data nationalism reduces opportunities for digital innovation, including various missed opportunities for inclusive development that can be facilitated by engaging in data-sharing through strong international cooperation. Finally, a world of divergent data nationalism has only a few winners and many losers. Certain established digital economies may emerge as winners due to their advantageous market size and technological prowess, but most small, developing economies will lose opportunities for raising their digital competitiveness.²⁵

- **Impact on Developing Country Industries, including Agriculture, Manufacturing, and Others:** Data transfer restrictions are damaging to industries, including agriculture, which accounts for up to 25 percent of GDP and 65 percent of the lower income population in some developing countries.²⁶ 75 percent of the value of cross-border data transfers is reported to accrue to industries including agriculture and manufacturing.²⁷ Cross-border access to information and digital tools help small-scale agricultural producers improve crop yields; mitigate crop risks (including losses from pests, disease, and weather-related events); reduce arbitrage by middlemen (up to 70 percent of smallholder production value is captured by intermediaries); and promote sustainability (agriculture accounts for 70 percent of water use, while one third of global food production is either lost or wasted).²⁸ Restrictions on cross-border access to knowledge, information, and digital tools undermine those potential gains.
- **Impact on Services Sectors:** The World Bank *2021 World Development Report* has noted that measures that "restrict cross-border data flows ... [may] materially affect a country's competitive edge in the burgeoning trade of data-enabled services."²⁹ A 2020 World Economic Forum study found that, "approximately half of cross-border [services] trade is enabled by digital connectivity[, which]... has allowed developing countries and micro, small and medium-sized enterprises (MSMEs) to export through greater visibility, easier market access and less costly distribution. ... Developing countries ... accounted for 29.7% of services exports in 2019."³⁰ Restrictions on cross-

border access to knowledge, information, and digital tools creates particular challenges for developing country services exporters.

- **Impact on Financial Inclusion:** There remain over 2.5 billion unbanked people worldwide, many living in remote locations lacking physical banking infrastructure.³¹ Technologies that leverage data transfers increase access – particularly as 95% of the world’s population is already covered by mobile broadband networks.³² USAID estimates that, by enabling digital financial services, the GDP of emerging economies could increase by more than \$3.5 trillion, or 6 percent, by 2025, and that e-commerce could increase international trade by up to \$2.1 trillion by 2030.³³ Restrictions on cross-border access to knowledge, information, and digital tools undermine these potential gains.
- **Impact on MSME Access to Global Markets:** Data transfers are critical to reducing the costs for MSMEs of reaching markets abroad.³⁴ One recent study estimates that digital tools help MSMEs across Asia reduce export costs by 82 percent and transaction times by 29 percent.³⁵ Cross-border access to e-commerce platforms, purchasers, suppliers, and other partners allows local MSMEs to engage in commerce and create jobs.³⁶ As the OECD has explained, “cross-border data flows are especially important for micro, small and medium-sized enterprises (MSMEs)... Better and faster access to critical knowledge and information also helps MSMEs overcome informational disadvantages, notably with respect to larger firms, reducing barriers to engaging in international trade and allowing them more readily to compete with larger firms.”³⁷ Restrictions on cross-border access to knowledge, information, and digital tools make it harder to achieve these benefits.³⁸
- **Impact on MSME Economic Viability:** The Indian Council For Research On International Economic Relations issued a 2019 Report that notes that, “MSMEs have been drivers of growth in the Indian economy. There are approximately 64 million MSMEs in India. The sector is the second largest creator of jobs in the country [contributing] ... 29 percent of India’s GDP and over 30 percent of Gross Value added (GVA) [, and] over 120 million [jobs].” The ICRIER Report includes findings that “for a micro enterprise... additional costs from data localisation could render the business unviable...” and cites studies indicating that “local companies would have to pay 30 – 60 percent more for their computing needs, in the event of a forced data localisation legislation.”³⁹
- **Impact on IoT Deployment:** As explained in a World Economic Forum report, data from “three developing regions (in South America, South-East Asia and Africa) indicates that data localization measures on IoT applications and M2M data could cut 59-68% of their productivity and revenue gains. Such losses of competitiveness also lead to reductions of \$4-5 billion in investments and 182,000-372,000 jobs...”⁴⁰
- **Impact on Cybersecurity:** Data localization mandates and cross-border data transfer restrictions are often advanced on the premise that such restrictions are necessary to ensure cybersecurity. However, *how* data is protected is more important to security than *where* it is stored, and transfer restrictions often result in *weaker*, not *stronger*, cybersecurity. Cross-border data transfers help improve cybersecurity because these transfers allow for cybersecurity tools to monitor traffic patterns, identify anomalies, and divert potential threats in ways that depend on global access to real-time data. Mandating data localization and restricting the ability to transfer and analyze data in real time creates unintended vulnerabilities.⁴¹
- **Impact on Privacy:** Data localization mandates and cross-border data transfer restrictions are often advanced on the premise that such restrictions are necessary to protect privacy. In fact, *how* organizations protect personal information is more important to privacy than *where* the information is stored. Organizations with operations abroad typically implement procedures to ensure that personal information is protected even when transferred outside of the country. To that end, organizations often rely on internationally recognized privacy best practices and an array of approved data transfer mechanisms.⁴² Furthermore, cross-border data policies support stronger privacy through cross-border access to privacy-enhancing technologies, support for more interoperable privacy frameworks across jurisdictions, and development of new transnational codes

of conduct and certification mechanisms. Unnecessary data restrictions undermine the value of privacy-enhancing technologies and interoperable privacy frameworks.

- **Impact on Inclusiveness:** Access to information and digital tools, among other digital policy measures, helps address inclusiveness challenges. ⁴³ UN Sustainable Development Goal No. 5.b sets a goal of “enhance[ing] the use of enabling technology, in particular information and communications technology, to promote the empowerment of women.”⁴⁴ According to the World Economic Forum, “despite having less access to technology, women use digital platforms to their advantage... [F]our out of five small businesses engaged in cross-border e-commerce are women-owned, while just one in five firms engaged in offline trade is headed by women.”⁴⁵ Data localization mandates and cross-border data transfer restrictions undermine these opportunities, and are often associated with measures that target racial, ethnic, religious, and other communities.⁴⁶
- **Impact on Healthcare:** Data transfers also aid in the delivery of remote health services for medically underserved populations and the search for medical treatments. Cross-border access to data and cloud-enabled technologies enable online healthcare education efforts and cross-border humanitarian assistance;⁴⁷ cross-border access to clinical testing to address not only globally prevalent, but also rare and neglected diseases; and consultations between remote providers in one country with specialists located at research facilities abroad. Cross-border consolidation of anonymized data sets from around the world also allows for real-time statistical tracking, analytics, and monitoring of aggregated anonymized data—resulting in a better grasp and more rapid response to emerging epidemics or localized disease outbreaks.⁴⁸ Without cross-border access to knowledge, information, and digital tools, many of these benefits cannot be realized.
- **Impact on Regulatory Compliance:** Some claim that data localization mandates and data transfer restrictions ensure governmental access to data for regulatory or investigatory purposes. The location of the data, however, is not the determining factor. On the contrary, “data localization requirements can increase ... operational risks, hinder risk management and compliance, and inhibit financial regulatory and supervisory access to information.”⁴⁹ Likewise, data transfers are critical to other public policy priorities, including financial fraud monitoring and prevention; anti-money laundering; anti-corruption; and other legal compliance objectives.
- **Impact on Innovation:** Some claim that data localization mandates and data transfer restrictions promote innovation. On the contrary, [innovation benefits](#) from an increase – not a decrease – in cross-border access to knowledge, technical know-how, scientific and commercial information, data, and digital tools.⁵⁰ The UN Sustainable Development Goals 9.b and 9.c stress support for “domestic technology development, research and innovation in developing countries, including by ensuring a conducive policy environment for, *inter alia*, industrial diversification and value addition to commodities,” as well as “increasing access to information and communications technology and strive to provide universal and affordable access to the Internet in least developed countries.”⁵¹ Data localization mandates and data transfer restrictions undermine innovation—from accessing global scientific and technical research databases, to [engaging in cross-border research and development \(R&D\)](#), to securing regulatory product approvals for new products and services.⁵²
- **Impact on Human Rights:** With the spread of digital authoritarian policies, data localization mandates and data transfer restrictions are increasingly used to limit human rights, suppress political dissidents, control minority or other populations, and deprive citizens of civic and economic freedoms without due process. This phenomenon caused [G7 Trade Ministers](#) in October 2021 to express their “concern... about situations where data localisation requirements are being used for protectionist and discriminatory purposes, as well as to undermine open societies and democratic values, including freedom of expression.”⁵³ USAID and others have also highlighted similar risks.⁵⁴
- **Impact on COVID-19 Recovery:** As governments seek to limit the spread of COVID-19, cross-border access to data and digital tools has become essential for countries seeking to sustain jobs, health, and education. This is particularly true for the [remote work](#), [remote health](#), [supply chain management](#), and [innovation](#)-related technologies that depend on cross-border access to cloud computing resources.⁵⁵ Data transfer restrictions complicate the economic recovery from COVID-19.

¹ See US Agency for International Development, Digital Strategy 2020-2024, p. 19 (2019) (hereinafter, “USAID Digital Strategy”), at: https://www.usaid.gov/sites/default/files/documents/15396/USAID_Digital_Strategy.pdf

² See generally, Senate Foreign Relations Committee – Minority Staff Report, *The New Big Brother – China and Digital Authoritarianism*, pp. 6, (July 21, 2020) (hereinafter “Democratic Staff SFR Report”), at: <https://www.foreign.senate.gov/imo/media/doc/2020%20SFR%20Minority%20Staff%20Report%20-%20The%20New%20Big%20Brother%20-%20China%20and%20Digital%20Authoritarianism.pdf>; House Ways & Means Committee – Minority Staff Report, *China Task Force Report*, p. 4 (Sept. 2020) (hereinafter “Republican Staff HWM Report”), at https://republicans-waysandmeans.house.gov/uploadedfiles/china_task_force_report.pdf; US-China Economic and Security Review Commission, 2020 Report to Congress, pp. 88, 96, 100, 110-111, (Dec. 2020) (hereinafter “USCC 2020 Report to Congress”), at: https://www.uscc.gov/sites/default/files/2020-12/2020_Annual_Report_to_Congress.pdf

³ See USTR, 2021 Trade Policy Agenda, p. 1-2 (2021), at: <https://ustr.gov/sites/default/files/files/reports/2021/2021%20Trade%20Agenda/Online%20PDF%202021%20Trade%20Policy%20Agenda%20and%202020%20Annual%20Report.pdf>

⁴ UNCTAD, Digital Economy Report 2021 (2021), <https://unctad.org/page/digital-economy-report-2021>

⁵ See Global Data Alliance, *Cross-border Data Transfers & Economic Development: Access to Global Markets, Innovation, Finance, Food, and Healthcare* (2021), at: <https://globaldataalliance.org/downloads/05062021econdevelopments1.pdf>

⁶ See e.g., United States-Mexico-Canada Agreement, Arts. 19.11, 19.12, 17.17, and 17.18, available at: <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/19-Digital-Trade.pdf> and <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/17-Financial-Services.pdf>

⁷ The US-EU Privacy Shield offered a pathway for responsible and protected transatlantic data transfers. After a judgment of the European Court of Justice led to the suspension of Privacy Shield in mid-2020, the US and the EU have been engaged in intensive efforts to improve and strengthen the resiliency and operation of the Privacy Shield. See US-EU Privacy Shield Framework, at: <https://www.privacyshield.gov/WELCOME>

⁸ See US-Japan Digital Trade Agreement, Arts. 11-13, available at: https://ustr.gov/sites/default/files/files/agreements/japan/Agreement_between_the_United_States_and_Japan_concerning_Digital_Trade.pdf

⁹ The United States negotiated data transfer and data localization commitments with TPP negotiating Parties, but the Trump Administration withdrew from the TPP at the beginning of its term.

¹⁰ Beneficiaries under the African Growth and Opportunity Act (AGOA) are: Angola, Benin, Botswana, Burkina Faso, Cabo Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Republic of Congo, Côte d'Ivoire, Djibouti, Eswatini (Swaziland), Ethiopia, Gabon, The Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, São Tomé and Príncipe, Senegal, Sierra Leone, South Africa, Tanzania, Togo, Uganda, and Zambia. See USTR, *List of AGOA Eligible and Ineligible Countries* (2021), at: <https://ustr.gov/sites/default/files/IssueAreas/Preference%20Programs/AGOA%20Eligible%20and%20Ineligible%20Countries%20-%202021.pdf>

¹¹ For a list of GSP beneficiaries, see USTR, *Countries Eligible for GSP* (2021), at: <https://ustr.gov/sites/default/files/gsp/GSPGuidebookcountries.pdf>

¹² CBI beneficiaries are: Antigua and Barbuda, Aruba, The Bahamas, Barbados, Belize, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago. See USTR, *Caribbean Basin Initiative* (2021), at: <https://ustr.gov/issue-areas/trade-development/preference-programs/caribbean-basin-initiative-cbi#:~:text=%20There%20are%2017%20CBERA%20beneficiary%20countries%3A%20,the%20Grenadines%2017%20Trinidad%20and%20Tobago%20More%20>

¹³ See e.g., World Bank, *World Development Report – Data For Better Lives* (2021), at: <https://openknowledge.worldbank.org/bitstream/handle/10986/35218/9781464816000.pdf>; USAID Digital Strategy, p. 19, at https://www.usaid.gov/sites/default/files/documents/USAID_Digital_Strategy.pdf; UNCTAD, Digital Economy Report 2021 (2021), <https://unctad.org/page/digital-economy-report-2021>

¹⁴ See Global Data Alliance, *Cross-Border Data Transfers & Remote Work* (2020), at: <https://globaldataalliance.org/downloads/10052020cbdtremotework.pdf>

¹⁵ See generally, https://software.org/wp-content/uploads/Every_Sector_Software_Agriculture.pdf

¹⁶ See e.g., Global Data Alliance, *Cross-Border Data Transfers & Remote Health Services* (2020), at: <https://globaldataalliance.org/downloads/09152020cbdtremotehealth.pdf>

¹⁷ COVID-19 has led to disproportionate impacts on many women globally. See e.g., United Nations, *The Impact of COVID-19 on Women* (April 9, 2020), at: <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf?la=en&vs=1406>

¹⁸ IFC, *COVID-19 and the Insurance Industry: Why a Gender-Sensitive Response Matters* (2020); Globally, women are 21 percent less likely than men to own a mobile phone - a key resource in many developing countries where phones provide access to safety, organizing networks, early warning systems, mobile health care, and money transfers. Global Fund for Women, *Technology Initiative*, at: <https://www.globalfundforwomen.org/initiatives/technologyinitiative/>

¹⁹ Data transfers and connectivity also support sustainable development in other areas, including:

- Innovation, industrialization, resilient infrastructure, and inclusive cities (SDGs 9, 11);
- Environmental protection and sustainability (SDGs 6-7, 13-15); and
- Transparent and inclusive systems of governance (SDG 16).

Data transfers support these SDGs in various ways, including by:

- Supporting transnational R&D efforts to find tomorrow's medical treatments and engineering innovations;
- Harnessing data analytics insights from global environmental data sets to improve outcomes in marine and terrestrial conservation and sustainability, as well as to take more effective action on climate change;
- Supporting open, secure, and inclusive digital ecosystems; and
- Providing citizens with access to information and counteract state efforts to repress individual rights and freedoms.

²⁰ World Bank, *World Development Report* (2020), at: <https://www.worldbank.org/en/publication/wdr2020>

²¹ See e.g., Ferracane et al., *The Costs of Data Protectionism*, VOX (2018); Ferracane et al., *Do Data Policy Restrictions Impact the Productivity Performance of Firms and Industries?* ECIPE Digital Trade Estimates Working Paper No. 1 (2019); Lund et al., *Defending Digital Globalization*, McKinsey Global Institute (2017). Access to foreign markets, innovation, education, and economic growth are all jeopardized by governmental measures that: (1) block cross-border access to information; (2) interfere with the circulation of technology, knowledge, and commercial data; (3) restrict connectivity to the Internet; (4) deny MSMEs and other local enterprises or citizens opportunities to engage with the technologies they need to engage with the economy. See <https://hbr.org/2017/07/60-countries-digital-competitiveness-indexed>

²² See Lee-Makiyama et al., *The Costs of Data Localization*, ECIPE Occasional Paper (2014), at: https://ecipe.org/wp-content/uploads/2014/12/OCC32014_1.pdf

²³ USAID Digital Strategy, p. 19, at https://www.usaid.gov/sites/default/files/documents/USAID_Digital_Strategy.pdf.pdf

²⁴ See e.g., India and South Africa, *The Moratorium on Customs Duties on Electronic Transmissions: The Need for Clarity on its Scope and Impact*, WTO Communication WT/GC/W833 (Nov. 8, 2021), at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/GC/W833.pdf&Open=True>

²⁵ UNCTAD, *Digital Economy Report 2021* (2021), <https://unctad.org/page/digital-economy-report-2021>

²⁶ World Bank, *Agriculture and Food* (2020), <https://www.worldbank.org/en/topic/agriculture/overview>

²⁷ See Global Data Alliance, *The Cross-Border Movement of Data: Creating Jobs and Trust Across Borders in Every Sector* (2020), at [https://www.globaldataalliance.org/downloads/\[\]everysector.pdf](https://www.globaldataalliance.org/downloads/[]everysector.pdf); See Global Data Alliance, *Jobs in All Sectors Depend Upon Data Flows* (2020), at [https://www.globaldataalliance.org/downloads/infographic\[\].pdf](https://www.globaldataalliance.org/downloads/infographic[].pdf); Global Data Alliance, *Cross-Border Data Transfers Facts and Figures* (2020), at [https://www.globaldataalliance.org/downloads/\[\]factsandfigures.pdf](https://www.globaldataalliance.org/downloads/[]factsandfigures.pdf)

²⁸ See e.g., Global Data Alliance, *Access to Global Markets, Innovation, Finance, Food, and Healthcare* (2021) (forthcoming); Every Sector Is a Software Sector: Agriculture, https://software.org/wp-content/uploads/Every_Sector_Software_Agriculture.pdf; World Bank, *Agriculture and Food* (2020), <https://www.worldbank.org/en/topic/agriculture/overview>; IDB Climate Smart Agriculture, *Thematic Paper: Climate-Smart Agriculture* (Revised Version), p. 5, <http://www.iadb.org/document.cfm?id=EZSHARE-1914875107-52>. The IDB explains the underlying challenge that cross-border access to technologies and export markets can help ameliorate: "Smallholders typically capture a low share of the final value of its products and encounter non-transparent commercialization markets and difficulties in buying inputs and selling their products at fair prices. On top of that, small farm holders typically face limited access to export to new markets and unfavorable prices in international trade, and they are particularly vulnerable to volatility in commodity prices."

²⁹ World Bank, *World Development Report – Data For Better Lives* (2021), at:

<https://openknowledge.worldbank.org/bitstream/handle/10986/35218/9781464816000.pdf>

³⁰ World Economic Forum, *Paths Towards Free and Trusted Data Flows* (2020).

³¹ USAID, US Global Development Lab website, available at: <https://www.usaid.gov/digital-development/digital-finance>

³² Ericsson. 2019. *Ericsson Mobility Report November 2019*, at <https://www.ericsson.com/en/mobility-report/reports/november-2019>

³³ USAID Digital Strategy, p. 9; see also See Global Data Alliance, *Access to Global Markets, Innovation, Finance, Food, and Healthcare* (2021), at <https://globaldataalliance.org/downloads/05062021econdevelopments1.pdf>

³⁴ Global Data Alliance, *Cross-Border Data Transfers and Supply Chain Management* (2021), at

[https://globaldataalliance.org/downloads/03182021\[\]primersupplychain.pdf](https://globaldataalliance.org/downloads/03182021[]primersupplychain.pdf)

³⁵ Micro-Revolution: The New Stakeholders of Trade in APAC, Alphabet, 2019. Likewise, the Asia Development Bank Institute estimates that electronic commerce platforms, which operate on the basis of cross-border data transfers, have helped some local firms reduce the cost of distance in trade by 60%. Asia Development Bank Institute, *The Development Dimension of E-Commerce in Asia: Opportunities and Challenges* (2016), at: <https://www.adb.org/sites/default/files/publication/185050/adbi-pb2016-2.pdf>

³⁶ USAID Digital Strategy, p. 37. As USAID has explained, "[d]igital ecosystems have the potential to equip informal merchants, women entrepreneurs, smallholder farmers, and MSMEs engaged in cross-border trade with access to markets, information, and

finance. These diverse users require trustworthy services that reflect their needs. ... [D]igital trade that spans borders depends on free data flows, digitized customs, and innovations in trade finance made possible by new approaches to lending.”

³⁷ OECD, *Mapping Approaches to Data and Data Flows* (2020), <http://www.oecd.org/trade/documents/mapping-approaches-to-data-and-data-flows.pdf>

³⁸ See Global Data Alliance, *Access to Global Markets, Innovation, Finance, Food, and Healthcare* (2021), at <https://globaldataalliance.org/downloads/05062021econdevelopments1.pdf>

³⁹ Indian Council For Research On International Economic Relations, *Regulatory Burden on Micro- Small- and Medium Businesses Due to Data Localisation Policies* (2019), at: <http://icrier.org/pdf/Regulatory-Burden.pdf> ICRIER urges Indian authorities to consider alternatives to mandatory data localisation. Recommendations and findings include: (1) "Consider data security audits and vulnerability assessments as an alternative to data localisation"; (2) "Data localisation might potentially hamper innovation"; (3) "Economic benefits of data localisation are better realized through market mechanisms"; and (4) "Increase awareness of MSMEs about data privacy and security" in lieu of mandating data localisation.

⁴⁰ World Economic Forum, *Paths Towards Free and Trusted Data Flows* (2020), at: https://www.imfri.gr.jp/content/files/Open/Related%20Information%20/WEF_May2020.pdf (citing GSMA, *Cross-border Data Flows – The Impact of Localization on IOT* (2021), at: https://www.gsma.com/publicpolicy/wp-content/uploads/2021/01/Cross_border_data_flows_the_impact_of_data_localisation_on_IoT_Full_Report.pdf)

⁴¹ Global Data Alliance, *Cross-Border Data Transfers and Data Localization* (2020), at <https://www.globaldataalliance.org/downloads/02112020GDACrossborderdata.pdf>

⁴² These data transfer mechanisms may include adequacy decisions, certifications, codes of conduct, Binding Corporate Rules (BCRs), and Standard Contractual Clauses (SCCs) that contain built-in data protection safeguards.

⁴³ UNCTAD, *Digital trade facilitation for women cross-border traders* (2020), at: <https://unctad.org/news/digital-trade-facilitation-women-cross-border-traders>; E-Trade for Women Website (2019), at: <https://etradeforall.org/et4women/>; United Nations Rwanda, *Closing the Gender Digital Divide - Boosting Africa's Economy* (2019), at <https://rwanda.un.org/index.php/en/7153-closing-gender-digital-divide-boosting-africas-digital-economy> ("According to the World Bank, a 10% increase in digital penetration could result in over 1% increase in GDP, while closing the gender digital divide could add up to 140 million USD per year to the mobile industry for the next 5 years."); UNESCO, *Overcoming the Digital Divide - Understanding ICTs and Their Potential for the Empowerment of Women* (2003), at: <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/SHS/pdf/Overcoming-Gender-Digital-Divide.pdf>; OECD, *Bridging the Digital Gender Divide* (2018), at: <https://www.oecd.org/digital/bridging-the-digital-gender-divide.pdf>; See also, Global Innovation Forum, *How women are leveraging digitally-enabled networks and how governments can help through COVID-19* (2020), at: <https://globalinnovationforum.com/wp-content/uploads/2020/06/2020-06-19-Power-of-a-Global-Network-Final-reduced-size-for-web.pdf>

⁴⁴ United Nations Department of Economic and Social Affairs, *The 17 Goals* (2021), at: <https://sdgs.un.org/goals>

⁴⁵ See World Economic Forum, *E-commerce is Globalization's Shot at Equality* (2021), at: <https://www.weforum.org/agenda/2020/01/e-commerce-sme-globalization-equality-women/> (citing statistics showing that, in Indonesia, women involved in online commerce generate more revenue than that contributed by those in traditional commerce, and that one in three Middle East start-ups is female-founded.)

⁴⁶ See Democratic Staff SFR Report, at pp. 6, 45; Republican Staff HWM Report, at pp. 4, 65; USAID Digital Strategy, at pp. 38; USCC 2020 Report to Congress, at pp. 100-101, 136-199.

⁴⁷ World Health Organization, *Long-Running Telemedicine Networks Delivering Humanitarian Services*, Bulletin of the World Health Organization (2012), <https://www.who.int/bulletin/volumes/90/5/11-099143.pdf>

⁴⁸ See Global Data Alliance, *Access to Global Markets, Innovation, Finance, Food, and Healthcare* (2021); Global Data Alliance, *Cross-Border Data Transfers and Innovation* (2021), at <https://globaldataalliance.org/downloads/04012021cbdtinnovation.pdf>; Global Data Alliance, *Cross-Border Data Transfers and Remote Health Services* (2020), at <https://globaldataalliance.org/downloads/09152020cbdtremotehealth.pdf>; *Cross-Border Data Transfers & Biopharmaceutical R&D* (2021), at <https://globaldataalliance.org/wp-content/uploads/2021/09/09092021cbdtbiopharma.pdf>

⁴⁹ See e.g., Monetary Authority of Singapore, *United States-Singapore Joint Statement on Financial Services Data Connectivity*, at: <https://www.mas.gov.sg/news/media-releases/2020/united-states-singapore-joint-statement-on-financial-services-data-connectivity>

⁵⁰ Data localization mandates and unnecessary data transfer restrictions hurt local innovation because a country that limits cross-border data transfers limits its own industries' access to technologies and data sources that are critical to growth and innovation, business operations, and the transfer of technology. These include: (a) productivity-enhancing software solutions; (b) scientific, research, and other publications; and (c) manufacturing data, blueprints, and other operational information. Faced with higher software costs and an unpredictable environment for R&D investments, local industries face challenges keeping technological pace with foreign competitors — threatening both domestic and export market sales. Furthermore, as data restrictions place an undue burden on industries operating in countries imposing them, they also undermine those countries' attractiveness as a destination for investment and R&D.

⁵¹ United Nations Department of Economic and Social Affairs, *The 17 Goals* (2021), at: <https://sdgs.un.org/goals>

⁵² See Global Data Alliance, *Cross-Border Data Transfers and Innovation* (2021), at <https://globaldataalliance.org/downloads/04012021cbdtinnovation.pdf>; Global Data Alliance, *Cross-Border Data Transfers & Biopharmaceutical R&D* (2021), at <https://globaldataalliance.org/wp-content/uploads/2021/09/09092021cbdtbiopharma.pdf>

⁵³ UK Department for International Trade, *G7 Trade Ministers' Digital Trade Principles* (Oct. 22, 2021), at: <https://www.gov.uk/government/news/g7-trade-ministers-digital-trade-principles>. The G7 Trade Ministers' Digital Trade Principles state in relevant part as follows:

We, the G7 Trade Ministers, are united in our support for open digital markets and in our opposition to digital protectionism and digital authoritarianism. Digital and telecommunications markets should be competitive, transparent, fair, and accessible to international trade and investment.

Digital trade – and international trade more generally – must be at the service of our people. It should be used to support jobs, raise living standards, and respond to the needs of workers, innovators, and consumers.

Digital trade should support entrepreneurialism and empower a full range of businesses to participate in the global economy, notably women entrepreneurs and micro, small, and medium-sized enterprises (MSMEs). As the bedrock of a thriving and innovative digital economy, the internet must be open, free, and secure.

Data free flow with trust

To harness the opportunities of the digital economy and support the trade of goods and services, data should be able to flow freely across borders with trust, including the trust of individuals and businesses.

We are concerned about situations where data localisation requirements are being used for protectionist and discriminatory purposes, as well as to undermine open societies and democratic values, including freedom of expression.

We should address unjustified obstacles to cross-border data flows, while continuing to address privacy, data protection, the protection of intellectual property rights, and security.

Personal data must be protected by high enforceable standards, including when it is transferred across borders. We recognise the importance of enhancing cooperation on data governance and data protection and identifying opportunities to overcome differences. We will cooperate to explore commonalities in our regulatory approaches and promote interoperability between G7 members.

Non-personal data should benefit from protection, including all applicable protection as intellectual property, such as the protection of trade secrets.

Achieving consensus on common principles for trusted government access to personal data held by the private sector will help to provide transparency and legal certainty. It will support the transfer of data between jurisdictions by commercial entities and result in positive economic and social impacts. We support the OECD's work on developing these principles, recognising the importance of legitimate access to protect citizens and safeguard national security.

⁵⁴ As USAID states in its Digital Strategy, “[b]ecause authoritarians can use digital technologies as tools of surveillance, discrimination, or social control, USAID will take care to support only digital systems and policies that promote the freedoms of expression and action, equal opportunity, and self-determination, values and rights enshrined in the US Constitution’s Bill of Rights and in the Universal Declaration of Human Rights.” See USAID Digital Strategy, at pp. 38, https://www.usaid.gov/sites/default/files/documents/USAID_Digital_Strategy.pdf. As UNCTAD has stated, “[i]n spite of the increased need for Internet use due to the pandemic, there were 155 documented Internet shutdowns in 2020. ... These Internet shutdowns have a disruptive effect on lives and livelihoods – damaging human rights, and hurting public health and safety – and affect the right to development.” UNCTAD, *Digital Economy Report 2021*, p.46 (2021), <https://unctad.org/page/digital-economy-report-2021>

⁵⁵ See *id.*, Global Data Alliance, *Cross-Border Data Transfers and Remote Work* (2020), at <https://globaldataalliance.org/downloads/10052020cbdtremotework.pdf>; See Global Data Alliance, *Cross-Border Data Transfers and Remote Health Services* (2020), at <https://globaldataalliance.org/downloads/09152020cbdtremotehealth.pdf>; Global Data Alliance, *Cross-Border Data Transfers and Supply Chain Management* (2021), at https://globaldataalliance.org/downloads/03182021_primersupplychain.pdf