

**Global Data Alliance Recommendations on
the Institutional Arrangement for Partnership regarding
Data Free Flow with Trust**

The [Global Data Alliance](#) (GDA)¹ applauds the success of the G7 in advancing **Data Free Flow with Trust (DFFT)** through an **Institutional Arrangement for Partnership (IAP)**. Building on our prior filings on the same subject,² we submit the following recommendations to the G7 and the Secretariat of the Organization for Economic Cooperation and Development (OECD).

Background

The 2023 G7 Year has produced significant achievements in cross-border data policy. This includes:

- The G7 Digital and Tech Ministers’ [Statement on Operationalisation of Data Free Flow with Trust](#) and accompanying [Annex](#) (Dec. 1, 2023), which prioritize work on “data localization, regulatory cooperation, trusted government access to data, and data sharing.”³
- The [G7 Ministers Statement](#) (Oct. 9, 2023), which focuses on “high-standard rules to govern global digital trade, in order to facilitate DFFT and harness the opportunities of digital trade for workers, consumers, and businesses in both developing and developed countries.”⁴
- The [G7 Hiroshima Leaders’ Communiqué](#) (May 20, 2023), which aims to support “trustworthy cross-border data flows” and “identifying commonalities, complementarities and elements of convergence between existing regulatory approaches and instruments enabling [DFFT].”⁵
- The G7 Digital and Tech Ministers’ [Declaration made in Takasaki City](#) (April 30, 2023), which commits to “operationalize DFFT through principles-based, solutions-oriented, evidence-based, multistakeholder and cross-sectoral cooperation.”⁶

The work of the G7 economies are supported by the work of the [United Nations](#), [OECD](#), [World Trade Organization](#), and the [World Bank](#) and other development banks, which have all warned that digital fragmentation (particularly data localization mandates and data transfer restrictions) are harmful to economic development and digital trust.

The GDA shares this view. As reflected in the GDA’s [Cross-Border Data Policy Index](#),⁷ the ability to access technology and transfer data securely across digital networks is critical to both [economic](#) and other [policy objectives](#): Not only do restrictive cross-border policies fail to protect [privacy](#),⁸ but they also hurt [developing countries](#)⁹ and [small businesses](#);¹⁰ impede [financial inclusion](#);¹¹ undermine [cybersecurity](#);¹² slow [innovation](#);¹³ and impair various [health and safety](#),¹⁴ [environmental](#),¹⁵ and other [regulatory compliance](#) goals.¹⁶ Data transfers are critical to economies [across all sectors](#)¹⁷ and at [every stage of the value chain](#).¹⁸ Unfortunately, policies that undermine the ability to transfer data across digital networks continue to increase.

This increase in cross-border data restrictiveness is unsustainable. It is also irreconcilable with efforts to meet the 2030 Sustainable Development Goals and other challenges. Without the cross-border exchange of knowledge, information, R&D and technology, our collective ability to protect ourselves from a wide array of environmental, economic, health, safety, and security threats will be greatly diminished.

Recommendations

Our recommendations build on the December 1 [Annex](#), particularly its focus on the OECD Government Access Principles and enhancing transparency of policies and regulations on cross-border data transfers.

To promote “Data Free Flow with Trust,” we identify two major challenges to digital trust and offer two corresponding ways to advance data transfers with trust.

First, it undermines digital trust when governments do not adhere to democratic norms of procedural fairness and accountability in connection with their access to personal data held by the private sector. To address this challenge, **we recommend that the IAP serve as a repository for each country’s national legal frameworks that broadly implement the [OECD Declaration on Government Access to Personal Data Held by Private Sector Entities](#).**

We observe that public and private sector stakeholders have already undertaken extensive surveys of laws and practices around the world, given GDPR requirements to undertake Transfer Impact Assessments of third country laws in connection with their data transfers. This existing work may be leveraged to build out a repository of information on different country practices. Building such a repository would allow governments to learn from one another regarding best practices in safeguarding human rights (including rights or reasonable expectations of privacy) in connection with necessary governmental access to data.

Second, it undermines digital trust when economies adopt cross-border data restrictions in the name of cybersecurity, data security, or privacy, yet these policies do not advance these goals and instead only support economic protectionism or industrial policies. To address this challenge to digital trust, **we urge IAP participants to publicly commit that any domestic measures that may impact the international movement of data will:**

1. Achieve a legitimate public policy objective;
2. Be non-discriminatory;
3. Not constitute a disguised restriction;
4. Not impose restrictions on transfers greater than necessary to achieve the objective; and
5. Be designed to be interoperable with other countries’ legal frameworks.

We observe that these principles of governmental accountability and good governance are reflected agreements subscribed by almost all OECD members in (variously) the [Digital Economy Partnership Agreement](#) (DEPA), [Australia-Singapore Digital Economy Agreement](#) (DEA), [Australia-UK Free Trade Agreement](#) (FTA), [Japan-EU Economic Partnership Agreement](#) (EPA), [Japan-UK EPA](#), [Japan-US Digital Trade Agreement](#) (DTA), [Korea-Singapore DPA](#), [UK-NZ FTA](#), [UK-Singapore DEA](#), the [UK-Ukraine DTA](#), as well as the [USMCA](#), [CPTPP](#), and the GDA’s [model digital trade provisions](#).

We thank the OECD and the G7 for their continued and steadfast support for the DFFT Agenda. Should you have any questions regarding this submission, please feel free to contact the GDA’s Executive Director (Joseph Whitlock) at josephw@bsa.org.

¹ The Global Data Alliance is a cross-industry coalition of companies that are committed to high standards of data responsibility and that rely on the ability to transfer data around the world to innovate and create jobs. GDA member companies are active in the accounting, agriculture, automotive, aerospace and aviation, biopharmaceutical, consumer goods, energy, film and television, finance, healthcare, hospitality, insurance, manufacturing, medical device, natural resources, publishing, semiconductor, software, supply chain, telecommunications, and transportation sectors. GDA member companies have operations and support tens of millions of jobs across the globe. For more information, see <https://www.globaldataalliance.org>

² Global Data Alliance Recommendations To Japan's Digital Agency on Data Free Flow with Trust (Oct. 10, 2023), at: <https://globaldataalliance.org/wp-content/uploads/2023/10/10122023gdafreeflowtrust.pdf>; Global Industry Statement on An Institutional Arrangement for Partnership on Data Free Flow with Trust (2023), at: <https://globaldataalliance.org/wp-content/uploads/2023/04/04182023g7dfftglindustry.pdf>; Global Data Alliance, *GDA Comments on an Institutional Arrangement for Partnership on "Data Free Flow with Trust"* (2023), at: <https://globaldataalliance.org/wp-content/uploads/2023/04/04212023gdacmtsg7dfft.pdf>; Global Data Alliance, *GDA Comments on Japan's 2023 Cross-Border Data Policy Agenda* (2023), at: <https://globaldataalliance.org/wp-content/uploads/2023/02/02012023gdajpmeti.pdf>; World Economic Forum, *The Case for An Institutional Mechanism for Data Flows* (2023), at: https://www3.weforum.org/docs/WEF_From_Fragmentation_to_Coordination_2023.pdf

³ G7 Digital and Tech Ministers' Statement on Operationalisation of Data Free Flow with Trust (Dec. 1, 2023), at: https://www.digital.go.jp/assets/contents/node/basic_page/field_ref_resources/390de76d-d4f5-4f45-a7b4-f6879c30c389/0fbffe8a/20231201_en_news_g7_result_00.pdf

⁴ G7 Trade Minister's Statement (Oct. 29, 2023), at: <https://www.meti.go.jp/press/2023/10/20231029001/20231029001-a.pdf#:~:text=G7%20Trade%20Ministers%E2%80%99%20Statement%20Osaka-Sakai%2C%2029%20October%202023,on%20April%204%20and%20the%20G7%20Hiroshima%20Summit>

⁵ G7 Leaders' Communique (May 2023), at: <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/20/g7-hiroshima-leaders-communique/>

⁶ G7 Digital and Tech Ministers' Meeting, Declaration Made in Takasaki City (April 2023), at: <http://www.g7.utoronto.ca/ict/2023-declaration.html>

⁷ <https://globaldataalliance.org/resource/cross-border-data-policy-index/>

⁸ <https://globaldataalliance.org/issues/privacy/>

⁹ <https://globaldataalliance.org/issues/economic-development/>

¹⁰ <https://globaldataalliance.org/issues/small-businesses/>

¹¹ <https://globaldataalliance.org/sectors/finance/>

¹² <https://globaldataalliance.org/issues/cybersecurity/>

¹³ <https://globaldataalliance.org/issues/innovation/>

¹⁴ <https://globaldataalliance.org/sectors/biopharmaceutical-rd/>; <https://globaldataalliance.org/sectors/medical-technology/>; <https://globaldataalliance.org/sectors/healthcare/>

¹⁵ <https://globaldataalliance.org/issues/environmental-sustainability/>

¹⁶ <https://globaldataalliance.org/issues/regulatory-compliance/>

¹⁷ <https://globaldataalliance.org/wp-content/uploads/2021/07/GDAeverysector.pdf>

¹⁸ <https://globaldataalliance.org/wp-content/uploads/2021/07/infographicgda.pdf>