# Digital Trade and Data Protection:
## The Need for a Global Approach Balancing Policy Objectives

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## Abstract

In an increasingly data-driven global economy, this contribution analyses the ambiguous relationships between global trade, cross-border data flows, and online privacy. Free data flows and localization constitutes an essential driver for E-commerce and a pre-condition for its potential success. But legal and cultural differences between national, regional and international regimes on privacy and data protection, as well as variable public policy objectives pursued by governments, may constitute a new generation of non-tariff barriers to digital trade. This assessment makes more necessary a global approach balancing policy objectives, while enabling interoperability between differing national regimes and removing discriminatory trade barriers to cross-border data flows. For this purpose, any national privacy policy or international agreement should be based on the following three pillars: 1) adopting data protection principles and standards in accordance with OECD Privacy Guidelines; 2) setting up effective mechanisms for cooperation between national data protection commissions or authorities; and 3) providing for a "trade test" that ensures free flows and localization of data between countries, while recognizing that sometimes measures are necessary to achieve legitimate policy objectives and, in this case, such measures should be the least trade restrictive, non-discriminatory, and transparent.

**Keywords:** Digital Trade, Data Flows, Privacy, Public Policy Objectives, OECD Privacy Guidelines, WTO Principles.

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