

ETNO Reflection Document on the European Commission's proposal for text on Data Flows in Trade Agreements

Brussels, April 4 2018

ETNO members support the inclusion into Trade Agreements of provisions to ensure the flow of data across international borders as well as to prevent forced data localisation. In June 2017 we published a Reflection Document¹ on this matter, highlighting the three objectives that shall be pursued by such provisions:

- to allow the flow of data with commercial partners;
- to avoid protectionist measures that could hamper the flow of data and to ensure the elimination of any forms of barriers, either data or physical infrastructure localisation obligations;
- to ensure that EU trade partners take a serious commitment applying the highest standards in the protection of personal data, respecting the other partner's privacy framework.

ETNO very much welcomes the fact that the European Commission has finally put forward a text on this matter. Companies of all sizes across industry and services sectors benefit from cross-border data flows, which are essential to modern global trade.

The benefits from enabling and facilitating both way cross-border data flows between the EU and its trading partners – as reflected in EC's proposed Article A – will prove to be sound. It is also important to ensure a framework that fosters consumers' trust on online services and to this extent, setting up high standards on the protection of personal data and privacy – as expressed in Article B – is essential. It confirms that data protection rules cannot be subject of negotiations in a free trade agreement.²

ETNO understands that this text is now subject to further discussion. We urge the Commission to ensure that these proposed articles comply with the abovementioned objectives, strengthening and ensuring that data can flow inwards and outwards, in a reciprocal way and that as a consequence, workable data transfer mechanisms are provided in data protection regimes of the other parties, which are comparable to those offered by the GDPR.

The EU must play a leading role promoting new global rules in the area of cross-border data flows and privacy. The new text by the Commission is a significant step forward in setting up a framework that ensures a modern and stable approach to the flow of data between the EU and our trading partners, in line with the GDPR.

¹ ETNO Reflection document on Data Flows in Trade Agreements ([pdf file](#))

² ["Exchanging and Protecting Personal Data in a Globalised World" COM/2017/07](#)