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#### NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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Subject:	Negotiating directives for the inclusion of provisions on cross-border data flows in the Agreement between the European Union and Japan for an Economic Partnership

Delegations will find attached the negotiating directives for the inclusion of provisions on cross-border data flows in the Agreement between the European Union and Japan for an Economic Partnership.

## **NEGOTIATING DIRECTIVES FOR THE INCLUSION OF PROVISIONS ON CROSS-BORDER DATA FLOWS IN THE AGREEMENT BETWEEN THE EUROPEAN UNION AND JAPAN FOR AN ECONOMIC PARTNERSHIP**

### *Nature and Scope of the provisions*

The provisions to be negotiated and included in the Agreement between the European Union and Japan for an Economic Partnership (the Agreement) will exclusively concern cross-border data flows between the European Union and Japan, in line with Article 8.81 of the Agreement, which instructs the Parties to reassess the need for such inclusion.

### *Proposed content of the data flows provisions*

In the context of the increasing digitalisation of trade and the importance of international transfers of data flows for cross-border trade and investment, the European Union approach in these negotiations should be coherent with the approach followed in this area in relation to bilateral and multilateral trade and investment agreements. In particular, the negotiations should result in rules covering cross-border data flows addressing unjustified data localisation requirements, while neither negotiating nor affecting the EU's personal data protection rules and should be in line with the EU legal framework, notably on the protection of personal and non-personal data and cybersecurity. The rules should not prevent the European Union and its Member States from regulating economic activity in the public interest, to achieve legitimate public policy objectives such as the protection and promotion of public health, social services, public education, safety, the environment, public morals, social or consumer protection, privacy and data protection and the promotion and protection of cultural diversity.