

## TRADE AGREEMENTS: Trans-Pacific Partnership, Other New Efforts Present the Chance to Grow Economies by Facilitating Trade in Data

As global trade has evolved, the international agreements that govern such activity have evolved as well. As we fully enter the cloud computing era, the ongoing negotiations of the Trans-Pacific Partnership represent a timely opportunity for continued advancement, particularly in writing the first modern-day rules on cross-border data flows in a multilateral environment.

The TPP and other trade multilateral trade agreements that appear to be emerging in 2013 will build on work that has come before. In the World Trade Organization, for example, the General Agreement on Trade in Services established a framework of rules for computer services. That 1995 agreement, though, did not fully contemplate the Internet revolution or cloud technology. A more recent trade agreement, the US-Korea Free Trade Agreement, includes strong, relevant provisions on e-commerce. But it is limited to two countries.

Today, new multilateral rules are necessary to protect the free flow of data globally. The governments involved in the various negotiations should seize the opportunities they present. As a starting point, governments must work to establish a framework that is rigorous enough to meet individual countries' privacy concerns but flexible enough to ensure the free flow of cross-border data transfers.

To ensure the growth of cloud computing, the obligations in forward-looking trade agreements should:

- ➔ Explicitly prohibit restrictions on the provision of cross-border data services;
- ➔ Prohibit requiring the use of local computing infrastructure, such as servers, as a condition for providing, or investing in the provision of, cloud services in the country;
- ➔ Prohibit the use of standards and licensing requirements in ways that restrict trade; and
- ➔ Cover purchase by private businesses and consumers and government procurement, including by state-owned enterprises.