

# **Data Protection Regulations and International Data Flows: Implications for Trade and Development**

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## Why do the study?

- To map global landscape of data protection and privacy laws
- Primary objectives:
  - Have a single source of information on the global landscape
    - Contributions: AUC, APEC, Commonwealth Secretariat, CoE, EAC, ECOWAS, the EU; Consumer International, CCIA, ICC; Benin, Ghana, Mauritius, Niger, Uganda, United States
  - Explore relationship between trade and data protection laws
  - Consider policy options for international/regional organizations and countries that are developing data protection laws
  - Serve as a basis for continued global dialogue prioritizing compatibility between divergent frameworks



## Who are the Stakeholders?

- Civil Society; Individuals
  - Consumer protection, individual rights
    - ‘Perhaps the most significant challenge to privacy is that the right can be compromised without the individual being aware’ - Privacy International*
- Private Sector
  - Business opportunities, trade, innovation
- Government
  - eGovernment, national security, protection of privacy
- International organizations
  - Formulation of rules
  - Capacity building



## Why is Data Protection Important?

- Many social and cultural norms around the world include a respect for privacy; for some it is a fundamental right.
- In the information economy, large quantities of digitized information and data move across national borders
  - International flow of goods, services, and finance has increased global GDP by approximately 10 percent, or \$7.8 trillion in 2014.
  - Data flows represent an estimated \$2.8 trillion of this added value.



## Why Talk About it Now?

- New technological developments add urgency
  - Internet of Things : Value-added services will grow from around \$50 billion in 2012 to approximately \$120 billion in 2018
  - Cloud computing: Estimated global market value of the industry by 2017, from \$107 to \$127 billion.
  - Big Data and Data Analytics
  - 5G Networks
- Many opportunities, but also potential drawbacks and concerns



## Implications for International Trade

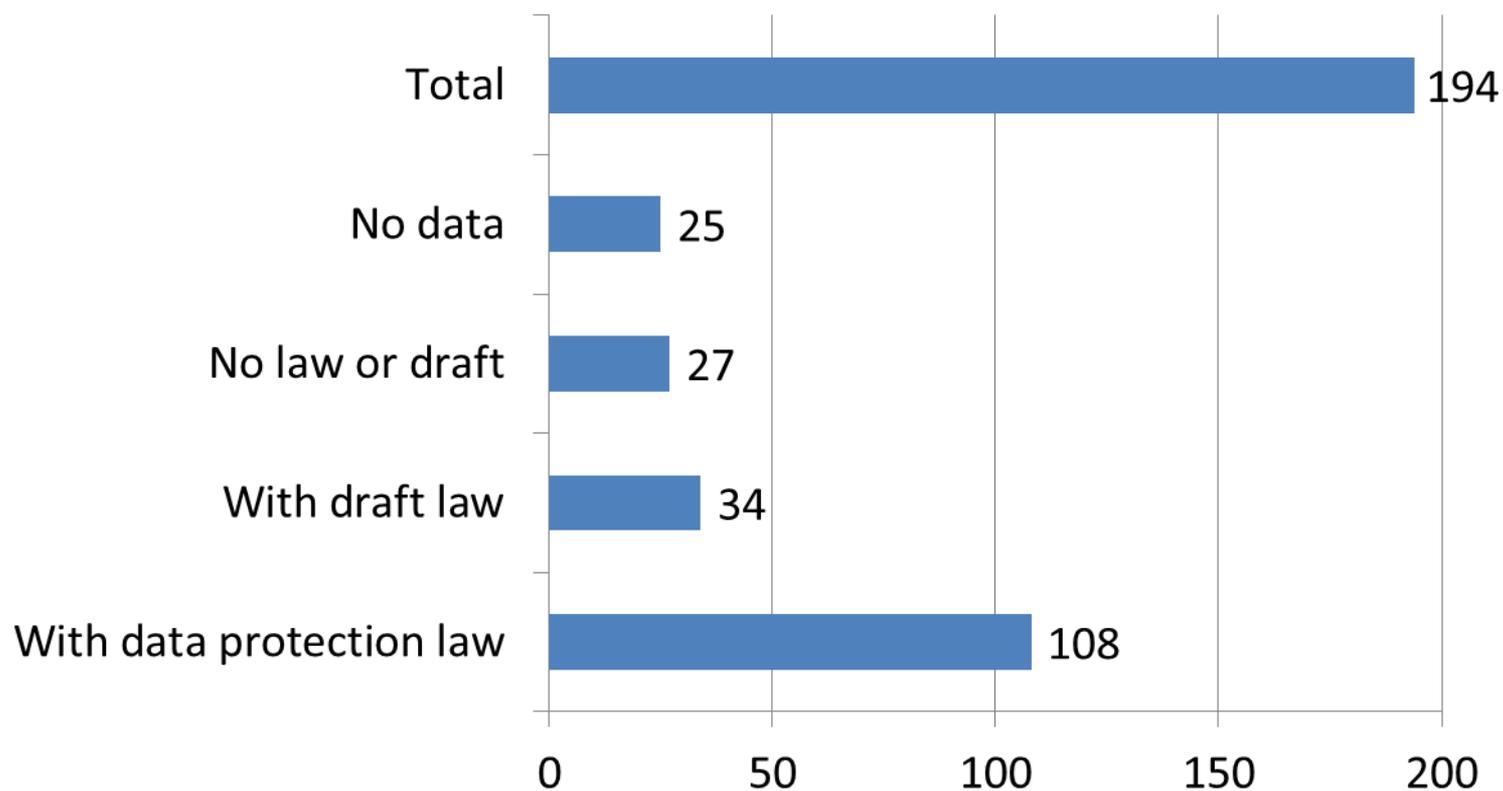
- Data protection is directly related to trade in goods and services in the digital economy
  - Too little protection can create negative market effects through affecting consumer confidence
  - Too much can overly restrict business activities and trade
- Ensuring that laws consider the global nature and scope of their application, and foster compatibility with other frameworks, is of importance for global trade

*Getting the balance wrong between data protection and data flows can have serious consequences for either the protection of fundamental rights or for international trade and development.*



# Global map of data protection laws 2016

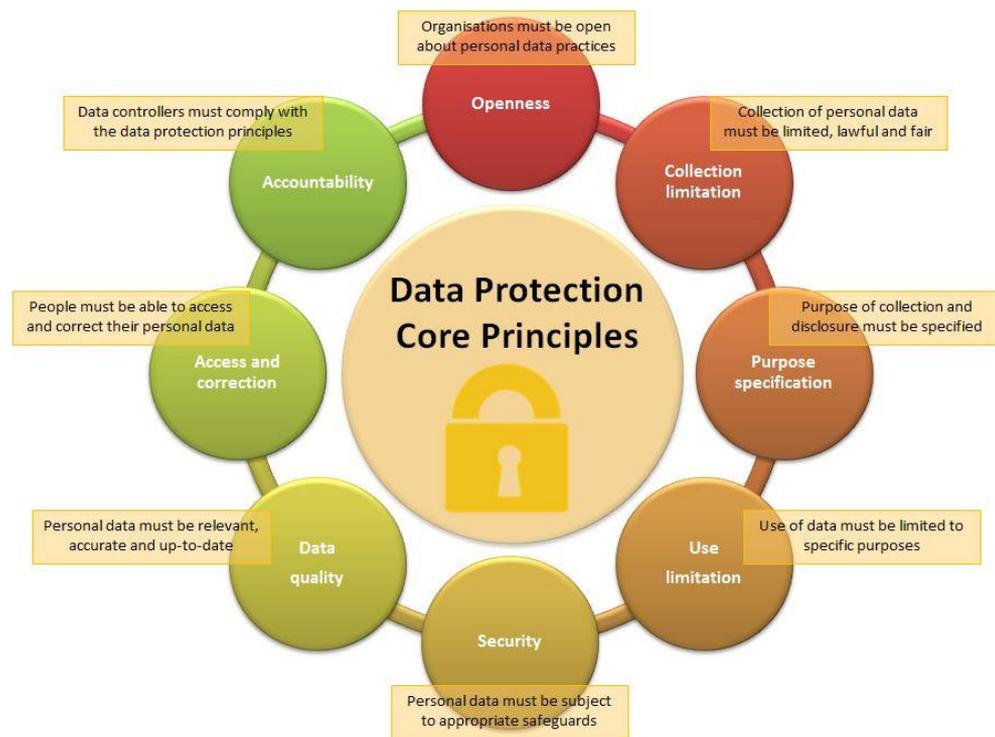
## *Number of countries*





## Observations in the study

- Core principles present in many frameworks
- Diverging implementation practices
- Global compatibility is a common goal
- Reflecting the global nature of data flows and the Internet





## Issues Concerning Global Compatibility

- Gaps in coverage
  - Significant “real world” impact to date of the CoE Convention 108
  - National gaps: no laws, partial laws or that contain broad exemptions
- Impact of new technologies
- Cross-border data transfers
  - Data localization requirements
- Balancing surveillance and data protection
- Enforcement of data protection laws
- Determining jurisdiction
- Compliance burdens

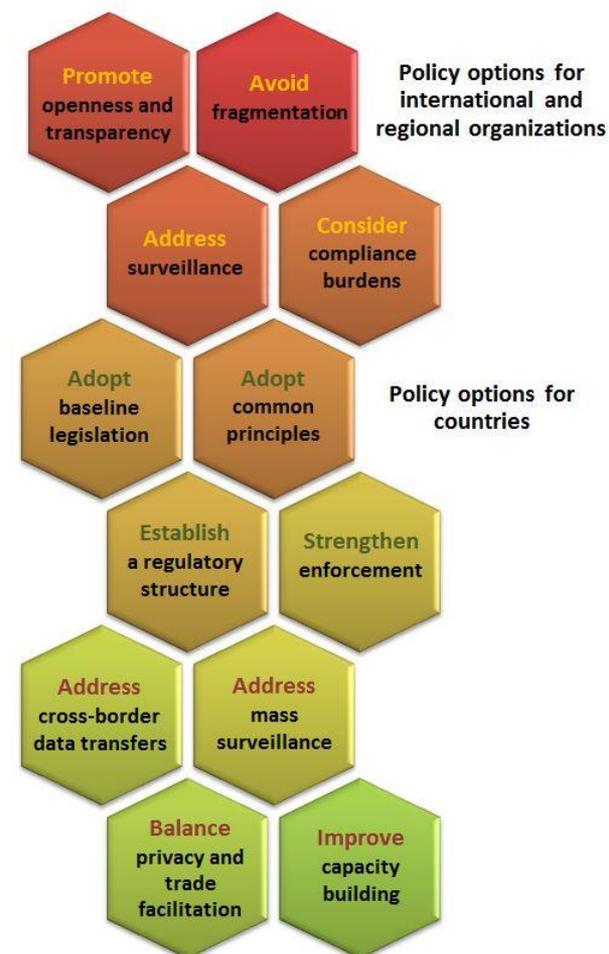
## CoE Convention 108 as the most promising international development

- Comprehensive coverage
- Core principles widely accepted
- Ability for any country can join
- Convention works through a collaborative open process
- Binding nature drives harmonization
- Has strong support from the other initiatives
- Faces possible challenges in accommodating very different national schemes (most importantly the U.S.)



## Selected Policy Options

- Adopt baseline legislation based on common principles
- Address gaps in global coverage and avoid fragmentation
- Adopt protection that does not unnecessarily hamper trade and innovation
- Give special attention to cross-border transfers
- Consider compliance burdens
- Establish a regulatory structure that ensures adequate enforcement
- Improve capacity building
- Multi-stakeholder involvement





**Thank you!**

**[unctad.org/Data-Protection-Study](https://unctad.org/Data-Protection-Study)**