

## Initiatives of METI's International Office to Accelerate the Implementation of DFFT Concept

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### 1. Introduction

At the Davos Forum in January 2019, Prime Minister Abe proposed the concept of "DFFT: Data Free Flow with Trust" for free and fair, secure data flow. Although the Japanese government has continued to include DFFT in relevant documents, 3 years have passed without much publicity abroad.

This year, however, the concept was discussed at the OECD and included in the Declaration and Action Plan at the Digital Ministerial Meeting in May, and the situation has changed dramatically, attracting considerable attention from overseas experts.

In this report, I interviewed Ms. Maiko Meguro, Acting Director, Office of International Strategy and Affairs, Commerce and Information Policy Bureau of METI, with whom we have been collaborating on the CBPR certification system, and who is a key person in promoting the DFFT. I asked her about current initiatives and future efforts to implement DFFT concept.

### 2. DFFT after Davos (CY2019 - 2021)

Prime Minister Abe attended the World Economic Forum (WEF) Annual Meeting in Davos, Switzerland, for the first time in five years, since 2014, and delivered a speech titled "Toward a New Era, an Economy Generated by Hope" (\*1-2). In his remarks on DFFT, he emphasized that we must continue to innovate in order to achieve the 4th Industrial Revolution and Society 5.0, that the foundation for this is data, and that DFFT "free data distribution based on trust" is indeed the foundation for innovation.

Prime Minister Abe's presence was conspicuous, partly because top officials from the U.S. and China did not participate. Furthermore, his efforts to establish new rules for data distribution, for which there had been no rules up to now, drew worldwide attention.

(\*1) Ministry of Foreign Affairs (English) [https://www.mofa.go.jp/ecm/ec/page4e\\_000973.html](https://www.mofa.go.jp/ecm/ec/page4e_000973.html)

(\*2) YouTube (corresponding section) [https://www.youtube.com/watch?v=HIE8oc\\_ClBm&t=736s](https://www.youtube.com/watch?v=HIE8oc_ClBm&t=736s)

After that, until the G20 Osaka Summit Declaration (June 2019), where Japan held the G20 Presidency, the media often focused on the "DFFT. Since the G20 Osaka Summit, however, the keyword "DFFT" has been seen less frequently in Japan.

The reaction of foreign countries after the Davos Forum and the G20 Osaka Summit was as follows. At that time, the DFFT concept did not gain the support of other countries, and it seemed difficult to successfully develop it globally.

- Europe claims that the Trust in DFFT is exactly GDPR.
- China said that promoting DFFT is government control of data (Data localization, government access, etc.)
- U.S. fears that promoting DFFT will accelerate China's data localization

### **3. Discussion of DFFT in the OECD (April 2022)**

In the latter half of 2021, the environment surrounding the DFFT concept underwent a radical change.

On October 8, 2021, Prime Minister Kishida's policy speech included the phrase "realization of DFFT," and this brought it back into the spotlight.

DFFT was also included as an agenda item at the Privacy-related Working Group (DGP) under the OECD CDEP (Committee on Digital Economy Policy) in April 2022 and was presented by Ms. Meguro of METI, on April 8, 2022. The main points are as follows;

- METI launched an expert panel to study the actual situation of cross-border data transfer and discuss specific measures that the government and related parties should take to realize DFFT.
- As an international policy, the implementation of DFFT should respect the regulatory needs of each country, such as privacy, security, and copyright protection, as regulations are established based on each country's situation.
- The expert group has developed recommendations on the implementation of the DFFT, focusing on an evidence-based approach is very important.

### **4. G7 Digital Ministerial Declaration (May 2022)**

At the G7 Digital Ministerial Meeting held in Germany under the theme of "Strong together," DFFT (Data Flow Free and Trustworthy) was discussed as 1 of the 6 areas of discussion.

In order to implement the DFFT concept proposed by Japan at the G20 Osaka Summit in 2019, the Japanese government, in collaboration with the G7, presented a pragmatic, problem-solving proposal based on an evidence-based approach and taking into account the reality of cross-border data transfers.

In particular, he emphasized the importance of cooperation not only among government but also among industry and all other stakeholders involved in the data

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utilization, in order to further advance the concrete implementation of the DFFT. Based on these discussions, the G7 Digital Ministerial Declaration was adopted, and an annex, "G7 Action Plan for the Promotion of DFFT," was also created. (\*3)

(\*3)[https://bmdv.bund.de/SharedDocs/DE/Anlage/K/g7-praesidentschaft-final-declaration.pdf?\\_\\_blob=publicationFile](https://bmdv.bund.de/SharedDocs/DE/Anlage/K/g7-praesidentschaft-final-declaration.pdf?__blob=publicationFile)

Furthermore, the inclusion of DFFT in the Digital Ministerial Declaration was described by an analyst from a foreign data protection authority as "DFFT is a new data protection and privacy concept that we are about to learn about and a very positive development that will facilitate data flow." I assume that this has triggered a renewed appreciation of DFFT in foreign countries.

I believe that these revival efforts of the DFFT since the latter half of last year are not coincidental and are due in no small part to the efforts of Ms. Meguro, Acting Director in charge of DFFT promotion in the International Office since August 2021. I interviewed her about the initiative and describe it below.

## 5. Interview with Ms. Meguro, Acting Director of METI

Q: When Prime Minister Abe made his speech at the Davos meeting in January 2019, DFFT was adopted as the keyword, but I remember that the details had not been decided at that time?

A: I arrived at my current organization last August and have been involved with DFFT ever since. Before that, I think we were really at the stage of understanding the concept of DFFT globally, and now that the concept of DFFT has been popularized, we are trying to discuss specific methods and create a system that will be useful for companies and universities who want to utilize data through cross-border transfers. In that sense, it is easy to imagine that at the time of 2019, we will probably not be discussing specific methods and other details.

Q: At the time of the G20, the "Trust" was defined as (1) security, (2) privacy, (3) data protection, and (4) protection of intellectual property rights. Why has no specific clarification been made since then?

A: The "Trust" is not limited to these 4 categories, and as new regulations are introduced due to future technological developments, the meaning of the "Trust" will change accordingly. The number of categories may increase or decrease in the future.

Q: What was the difficulty in developing the DFFT concept overseas at the time of 2019 because of lack of support from other countries?

A: I myself am not aware of any circumstances in which we could not gain the support of the G7 or the G20. At this present time, I am not opposed to the DFFT itself, although I have talked with the US and the EU individually at the G7 and G20 meetings. Of course, the DFFT itself is a concept that allows for the same concept, and how the "Trust" is viewed differs, but I am not aware of any conflict. Also, on an ongoing basis, DFFT is being discussed at the G20. For example, a DFFT

roadmap was adopted at the G7 in the UK in 2021, and an action plan for DFFT was adopted at the Digital Ministerial in Germany this year.

Q: In May 2021, the Cabinet Secretariat's IT Strategy Office clearly stated in the G7 DFFT Roadmap that it aims to achieve results with a view to the 2023 G7 meeting in Japan. What about the fact that the implementation of the DFFT was also included in Prime Minister Kishida's October 2021 policy speech?

A: I think it is very significant that the Japanese government as a whole has prioritized the promotion of DFFT. This is not an IT strategy in particular, but DFFT is also mentioned in the growth strategies of other government agencies. In that mean, I do not think that we were singled out for those opportunities. I recognize that we are clearly describing DFFT in the documents of the last few years, with a firm prioritization of both, taking over the Osaka Track policy in everything, reviewing the trade rules of DFFT, and making them more concrete.

Q: In the G7 Digital Ministerial Declaration of May 2022, the promotion of DFFT was again explicitly mentioned and a G7 Action Plan for DFFT was further developed as an annex. What are the main reasons for this?

A: The difference between 2021 and this year is that trade had a strong special nature until 2021. Of course, the DFFT roadmap was created in the digital track as well, but it was basically positioned as a complement to the main focus on trade. At the time of the Osaka Track, it was basically recognized as the WTO's e-commerce and trade world. However, I think the major difference in the implementation of DFFT is that in addition to the trade rules, what can be done to utilize data was discussed in meaning at the G7 digital track, and this has gradually evolved.

Fundamentally, this year's results are more general in scope, and this is largely due to the fact that we have steered away from "Trade" to "Digital track", and the main discussion is about where we should stay after steering the wheel. For Japan, we would like to negotiate the specific contents of the system starting next year based on the results of Germany's steering away from "Track" this year.

Q: Were there any particular challenges or innovations in the G7 Digital Ministerial Declaration?

A: At the Digital Ministerial meeting in Germany in May of this year, the data strategy was first included in Germany's first G7 agenda submission. They also launched a DFFT roadmap in the UK in the previous year, which showed a strong commitment to promoting DFFT. This was the year before Japan became the chair country, and I insisted that Germany highlight this year's meeting with regard to DFFT, including some specific action plans and results. I did not negotiate and forcefully include it in the document, especially as the Japanese government's position was to continue to include what was described in the Osaka Track.

Of course, the DFFT has its own "Same floor different dream" in various countries. As with any topic, there is conflict, coordination is needed as a point of agreement, and I believe that the significance of the DFFT concept and its inclusion in the

document is the result of our hard work together as one, as it has been taken over not only in Germany but in the UK as well.

The OECD CDEP is also working on a project on data strategy, and we hope to reflect the results of that project in the G7. Germany has its own DFFT, and the EU has the idea of an Internet data space.

Q: How do you plan to consider the implementation of the DFFT in the future?

A: For example, companies are faced with a lack of regulatory transparency or too many regulations that they do not know how to comply with. In addition, when actually transferring data to a third country, it is perceived as difficult to first confirm that the laws and regulations of the other country maintain the same level of protection as those of the source country, and then to confirm that the data governance and systems used by the company to which the data is being transferred are secure, to begin with. In addition, companies are asking for effective measures to reduce compliance costs.

In order to respond to such needs, the "DFFT Study Group" is in the process of conducting evidence-based discussions on what international institutions, global cooperative frameworks, and some kind of policy measures should be. Based on these needs, the DFFT Study Group has started a joint study with the OECD on a specific international system that could truly address such issues. Also in Japan, the next DFFT Study Group is scheduled to start in June, where we will discuss with experts and compile proposals in close cooperation with the Digital Agency, the Ministry of Internal Affairs and Communications, and other related ministries and agencies.

Q: What steps will be taken to materialize DFFT?

A: As a 1st step, we started with a solid understanding of the needs of companies, data cross-border transfers, and what kind of lifecycle data is being handled in the first phase of the DFFT study group up until last year. We concluded that, as a practical matter, the right direction is to consider some measures to bridge the gap between the laws and regulations of the 2 parties, rather than focusing on the laws and regulations of the destination country.

In the 2nd phase, we plan to conduct a joint study with the OECD to further extend globally the results discussed in the first phase of the DFFT study group. We understand the current situation of cross-border transfer of data around the world and examine whether the results of the DFFT Study Group are effective globally. In addition, at the same time, the Digital Agency, the MIC, and METI are working together to promote DFFT in Japan. Based on the results of the DFFT study group and the OECD study results, the Japanese government has just started discussions on what could be proposed at the G7.

The 3rd step is for the G7 to decide on the establishment of a system for coordinating measures to ensure a smoothly cross-border transfer of data, even between different laws and regulations and various governance in different countries. We expect that to be around May 2023.

I believe that we can create an effective system for stakeholders by examining in more detail what the problem is with the regulations whether it is the substance of the regulations, or the lack of transparency in the regulations, the lack of understanding by the regulators of the realities of the business. We feel that it is possible to find an effective method of cross-border data transfer without going into that area, which is the feeling we have gained through our joint research with both the DFFT study group and the OECD.

I believe that it is important to set the direction for the concrete implementation of the DFFT, and as the next chair of the G7 and the country that proposed the concept of DFFT, Japan is willing to cooperate to the utmost.

## 6. In closing

I believe that the shared understanding of the DFFT concept and how to make it concrete is a highly challenging global issue, and I'm keenly interested to follow the progress of DFFT implementation to what extent it has been achieved by May 2023. Finally, I would like to express my deepest gratitude to Ms. Meguro and other members of METI's International Affairs Office for taking their busy schedules to respond to my interview and review this report.



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Involved in issues such as the balance between privacy and data utilization, cross-border data flows, cybersecurity, Responsible AI, etc.

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