



# International Cooperation in Privacy and Data Protection: A Look at Context

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# Not just a transatlantic issue



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“Emerging economies are counterparts on more than half of global trade flows.”

McKinsey Global Institute,  
*Digital Globalization: The  
New Era of Global Flows*  
(March 2016)

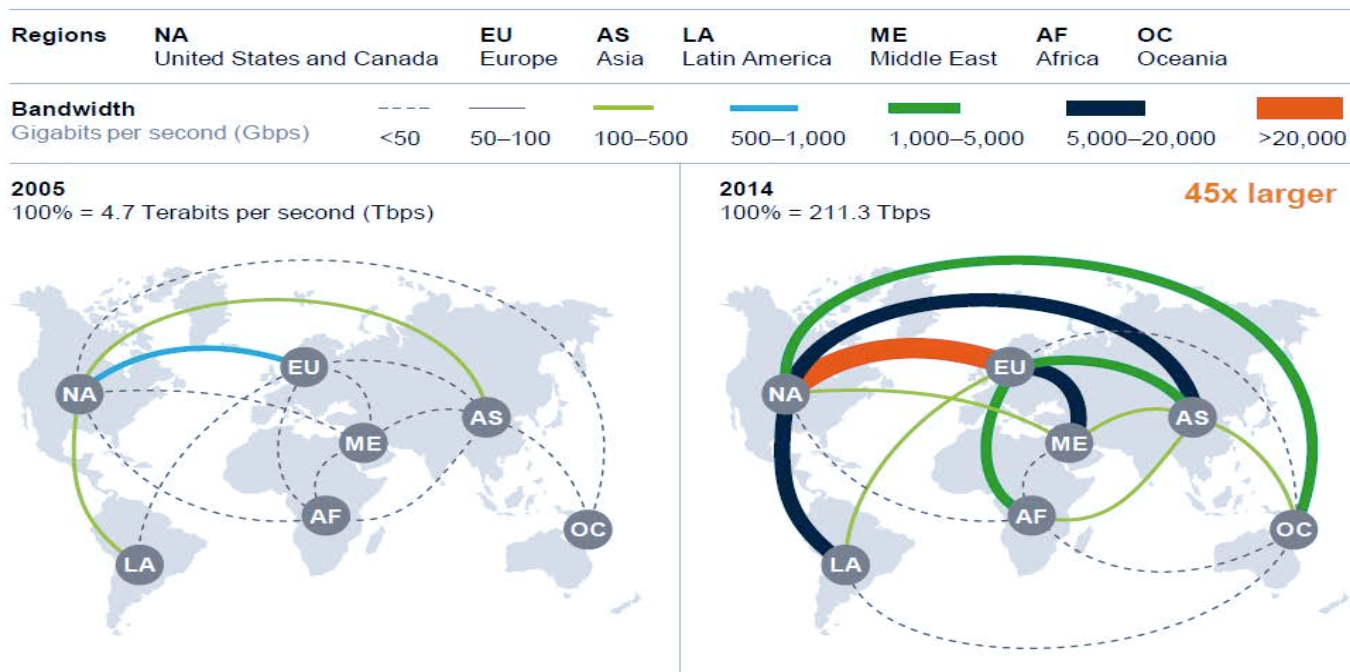
# “Cross-border data flows are surging and connecting more countries”

McKinsey Global Institute 2016

## Exhibit E2

Cross-border data flows are surging and connecting more countries

Used cross-border bandwidth



NOTE: Lines represent interregional bandwidth (e.g., between Europe and North America) but exclude intraregional cross-border bandwidth (e.g., connecting European nations with one another).

SOURCE: TeleGeography, Global Internet Geography; McKinsey Global Institute analysis



**“Cross-border data flows are surging  
and compelling more countries”**

McKinsey Global Institute 2016

What are the implications for  
international cooperation in privacy  
and data protection?

# Existing cross-border frameworks for commercial data

- European Union and European Economic Area
- Third-country adequacy
- Contract clauses and BCRs under EU law
- APEC Cross-Border Privacy Rules

# EU adequacy findings since 1995

- Europe: Andorra, Faeroe Islands, Guernsey, Isle of Man, Switzerland
- North America: United States (under Safe Harbor & Privacy Shield), Canada (under PIPEDA)
- Latin America: Argentina, Uruguay
- Middle East: Israel
- Asia-Pacific: New Zealand

# APEC Cross-Border Privacy Rules

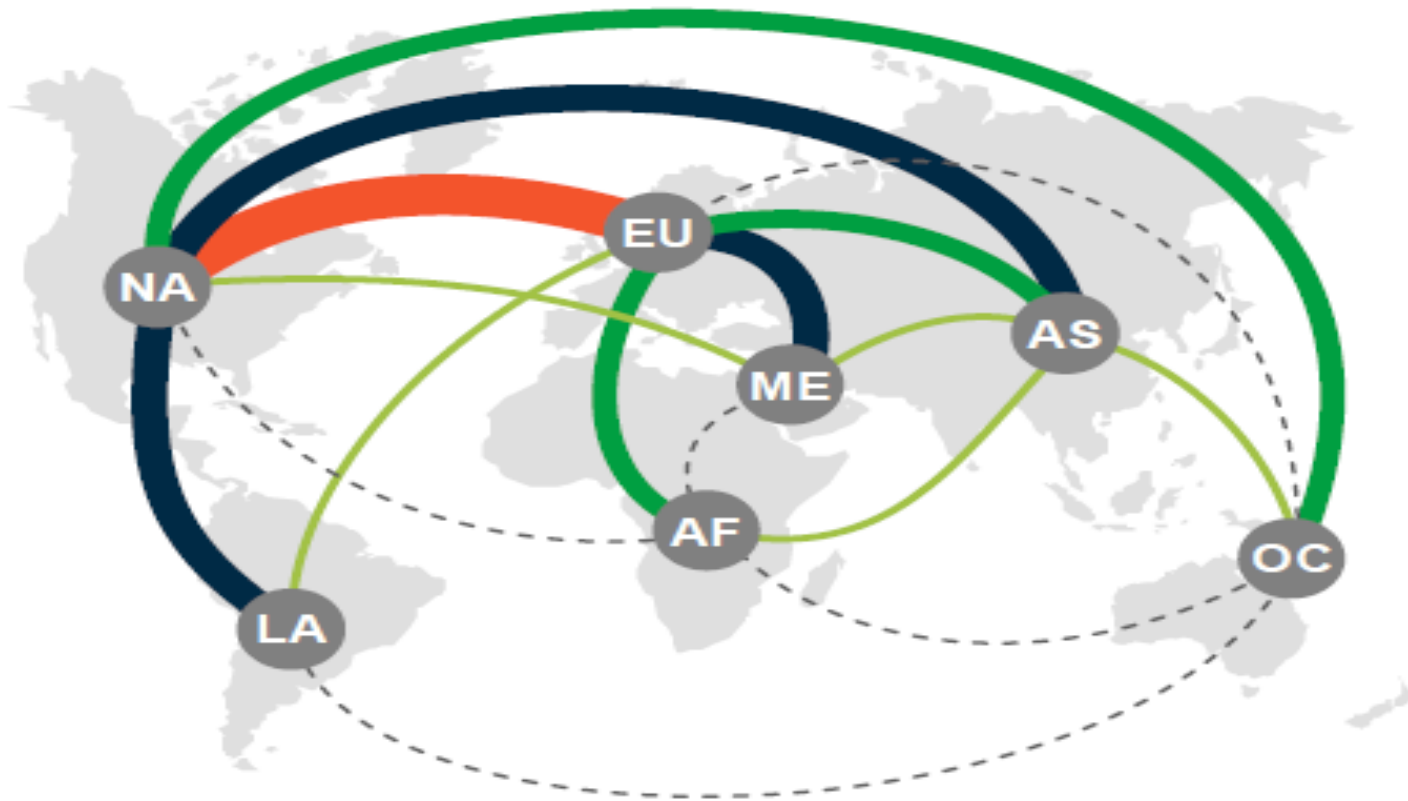
- Approved by APEC leaders in 2011
- Four member countries (out of 21) have implemented to date:
  - Canada
  - Japan
  - Mexico
  - United States
- 2014 APEC & Article 29 Working Party Referential



# Finding priorities and opportunities:

2014  
100% = 211.3 Tbps

45x larger



# Cross-border frameworks for government data

- SWIFT network
- Mutual legal assistance treaties (MLATs)
- US-EU Passenger Name Records and Umbrella Agreements
- US-UK draft law enforcement for cross-border data requests

# **New cross-border norms for government data?**

- President Obama's Presidential Policy Directive 28 (January 17, 2014): "All persons should be treated with dignity and respect, regardless of their nationality or wherever they might reside, and all persons have legitimate privacy interests in the handling of their personal information."
- German foreign surveillance law extends protections to EU citizens.