



**Asia-Pacific
Economic Cooperation**

2018/GOS/SYM/009

Digital Trade: Cross-Border Data Flows and Data Localization

Submitted by: United States



**Symposium on Services Trade
Singapore
30 May – 1 June 2018**

U.S. TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT



***Digital Trade:
Cross-Border Data Flows
& Data Localization***

Thomas Fine
Director, Services and Investment

May, 30, 2018

Digital Trade: Data Flows

McKinsey (2016): *Cross-border data flows increased world GDP by \$2.8 trillion in 2014, a larger impact on growth than trade in goods.*

Digital Trade: Airlines & Aircraft



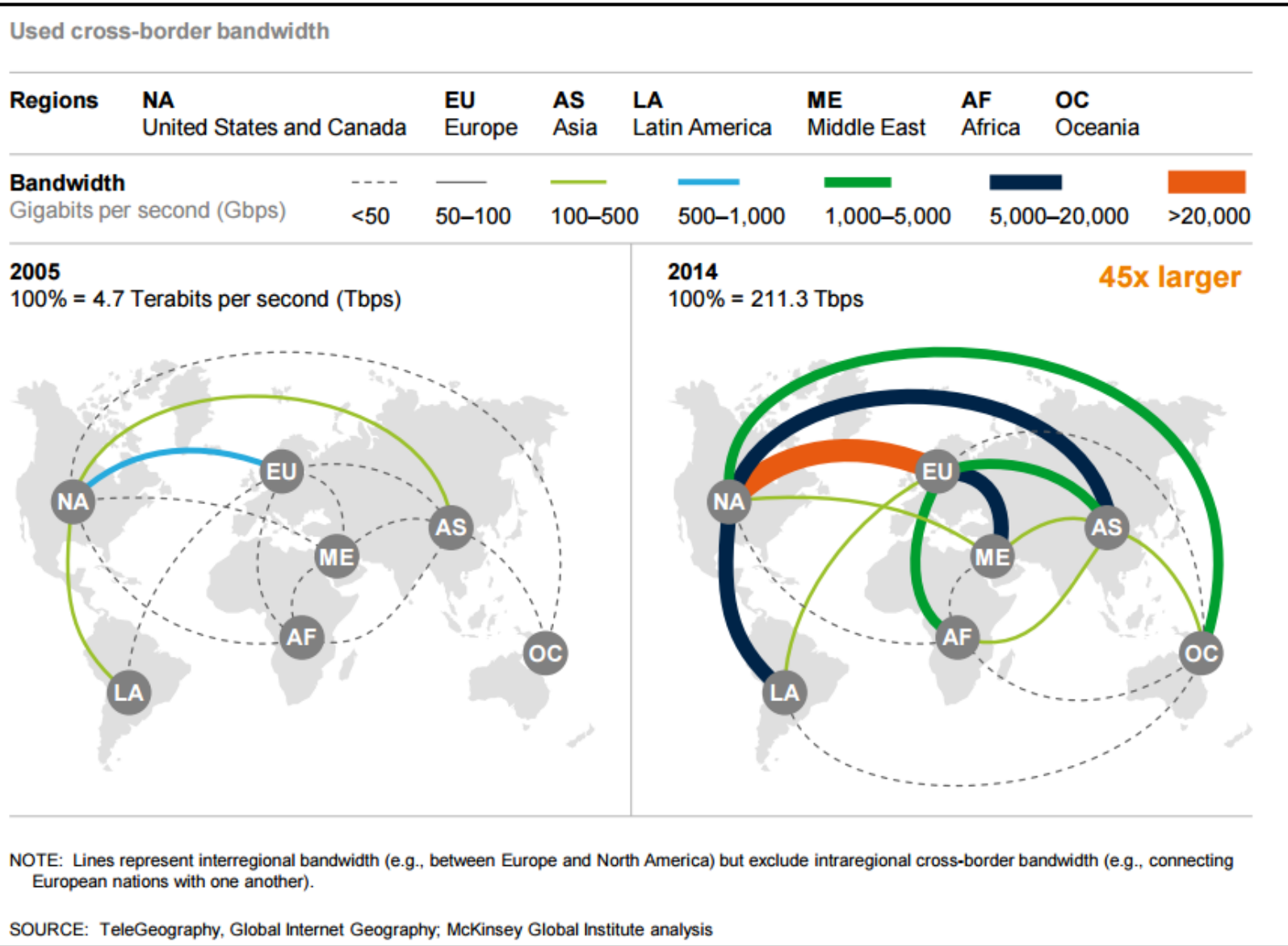
Digital Trade: Mining

Each day, Rio Tinto sends and receives around 30 gigabytes of laboratory, control system and mining data to and from each of its operations in over 40 countries.



Source: Information Technology and Innovation Foundation

Digital Trade: Data Flows



PT HM SAMPOERNA Tbk.

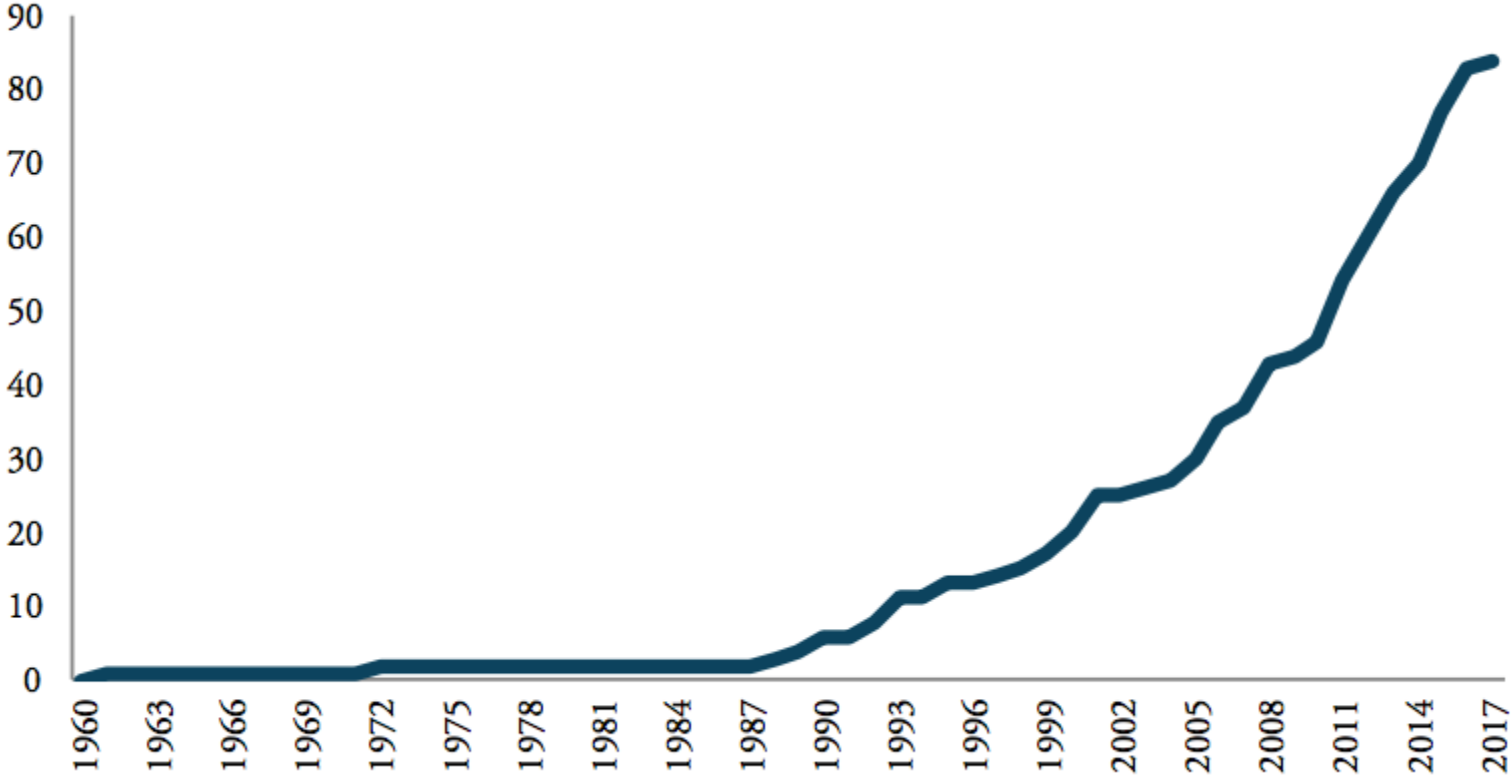


Advantages of Cloud Computing

Cloud computing allows...

- Ready access to best-in-class software
- Lower costs for data storage and processing
- Increased security of data and networks
- Promote access to foreign markets for all businesses – especially SMEs

Cumulative Restrictions on Cross-Border Data (1960-2017)



Source: European Centre for International Political Economy

Costs of Data Localization

Data localization measures...

- Restrict access to best-in-class digital services
- Raise costs for providers and customers of cloud services
- Inhibit growth of local enterprises, especially SMEs
- Undermine global competitiveness of local businesses
- Encourage retaliation and fragment the internet
- Increase cybersecurity risk

Costs of Data Localization

THE COST OF BARRIERS TO DATA FLOWS ARE SIGNIFICANT

- Causes prices for some cloud services in Brazil and the European Union to increase 10.5 to 54 percent.
- Reduces GDP by 0.7 to 1.7 percent in Brazil, China, the European Union, India, Indonesia, Korea, and Vietnam.
- If Brazil had enacted data localization as part of its “Internet Bill of Rights” in 2014, companies would have had to pay an average of 54% more to use cloud services from local cloud providers compared with the lowest worldwide price. Higher prices and displaced domestic demand would lead to consumer welfare losses of \$15 billion.

Sources: Brendan O'Connor, “Quantifying the Cost of Forced Localization” (Leviathan Security Group, June 2015); Matthias Bauer, HosukLee-Makiyama, Erik van der Marel, Bert Vershelde, “The Costs of Data Localisation: Friendly Fire on Economic Recovery” (European Centre for International Political Economy, March 2014); and Nigel Cory, “Cross Border Data Flows: Where Are the Barriers and What Do They Cost” (ITIF, 2017).

Why do Governments Require Data Localization?

- **Privacy?**
 - There are legitimate reasons to **condition** data flow, but not to **block** it!
- **Cybersecurity?**
 - The security of data depends on **technical measures**, not the location of the data!
- **Economy?**
 - The economic benefits of data localization are small, and **outweighed by the costs!**

Cross-Border Data Flows in U.S. FTAs

Cross-Border Transfer of Information by Electronic Means

“No party shall prevent the cross-border transfer of information by electronic means...”

- All firms need to move data globally to reach customers, run operations
- Rule ensures that data can flow freely across borders
- Subject to limited public-interest safeguards (e.g., security, privacy)

Data Localization in U.S. FTAs

Location of Computing Facilities

“No party shall require a covered person to use or locate computing facilities in that Party’s territory as a condition for conducting business...”

- All firms depend on efficient use of computer processing and storage facilities
- Rule ensures ability to locate data wherever efficient, cost-effective, and secure
- Subject to limited public-interest safeguards (e.g., security, privacy)