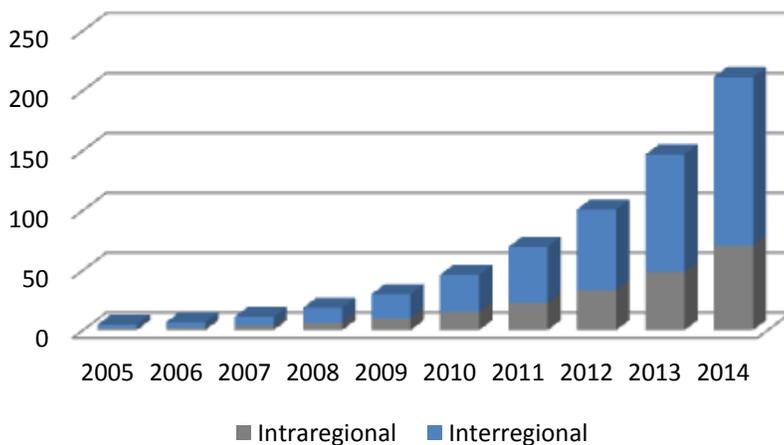


## The Trans-Pacific Partnership: Groundbreaking Opportunities for Digital Trade in the 21<sup>st</sup> Century

### “Digital Engine” of U.S. Competitiveness

The TPP is a leap forward in trade agreements, establishing new rules that reflect and facilitate the increasingly digital trade that characterizes 21<sup>st</sup>-century commerce. By establishing the first-ever enforceable trade rules on data flows in a multi-country agreement, the TPP ensures opportunities and growth for all sectors that rely on data innovation.

**Total Global Used Cross-Border Bandwidth  
(Thousands of Gigabits per Second)**



Source: [McKinsey Global Institute](#)

Information and data drives today's economies, a trend that is expected to accelerate in coming years. In the past, trade agreements included such “must have” obligations as disciplines on services, investment and intellectual property. Today that “must have” element includes rules on data flows and digital trade.

Data flows are the engines of the 21<sup>st</sup> century economy. Cross-border Internet traffic increased **18-fold** between 2005 and 2012, and could increase eight-fold again by 2025.<sup>1</sup> This traffic expands traditional data flows for goods, particularly for small businesses that are able to use Internet portals to sell across the world, and provides new commercial opportunities for digital trade in a wide range of services sectors.

The result is a digital revolution producing vast economic benefits. **According to the U.S. International Trade Commission, digital trade has increased U.S. GDP by 3.4 to 4.8 percent annually; removing foreign barriers to digital trade could boost U.S. GDP by as much as 0.3 percent.**<sup>2</sup>

### TPP Creates Even Newer Opportunities for Digital Trade

The TPP sets a new bar for ensuring that the United States can derive full advantage where it's most competitive in global markets, today and into the future – promoting the rule of law on data flows and combating digital protectionism. The TPP contains modernized obligations designed to promote the digital economy through a free and open Internet and commerce without borders.

<sup>1</sup> McKinsey Global Institute, *Global Flows in a Digital Age*, April 2014, [http://www.mckinsey.com/insights/globalization/global\\_flows\\_in\\_a\\_digital\\_age](http://www.mckinsey.com/insights/globalization/global_flows_in_a_digital_age).

<sup>2</sup> USITC, *Digital Trade in the US and Global Economies, Part 2*, August 2014.

The agreement's **Electronic Commerce** chapter contains groundbreaking provisions:

- Obligates all signatories to **permit the free flow of data across borders and prohibits local data storage requirements**. These obligations are written with tight, limited exceptions.
- Prohibits a requirement that software publishers disclose **source code** in order to do business with governments.<sup>3</sup>
- **Treats digital products transmitted online** (software, video, and e-books) as duty free.
- Obligates signatories to **protect e-commerce users' personal information**.
- Obligates signatories to **protect users from spam messages**.
- Obligates signatories to have laws for **online consumer protection**.
- Obligates signatories to recognize authenticated **electronic signatures**.
- Obligates cooperation on **cybersecurity**.

The TPP's chapter on **services** expands market access for cross-border digital trade:

- **Creates new opportunities for:** telecommunications, computer services, and other services delivered through the cloud.
- Prohibits **local presence** in order to offer such services.

The TPP eliminates **customs duties on technology products**, including software activation cards, mobile phones, game consoles, tablets, and laptops, thereby building on the existing rules which are the lifeblood of innovative industries.

Finally, the agreement includes horizontal commitments that will benefit technology-based companies. These include **protecting intellectual property** through provisions on government software, copyright, intermediary liability, and patents consistent with past agreements; providing new provisions **to protect trade secrets**; increasing the **transparency of regulation**; and **protecting investors** from arbitrary and discriminatory treatment.

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<sup>3</sup> This provision (and the rest of TPP) is subject to an overarching exception for measures relating to national security. It is also subject to a broader exception for software used in "critical infrastructure."