



GLOBAL DATA ALLIANCE

TRUST ACROSS BORDERS

UPDATES

AUGUST 19 to SEPTEMBER 2

RECENT POLICY DEVELOPMENTS

EMEA

EU-US Privacy Shield – On August 24, the GDA issued a [press statement](#) calling for enhanced Privacy Shield agreement. This statement is part of a wider Global Data Alliance Advocacy Strategy to build support for rapid conclusion of US-EU Privacy Shield negotiations, through communications, educational and Advocacy Publications and outreach activities. Please see August 23 email for additional details.

UK – Data Adequacy: On August 26, the UK Secretary of State for Digital, Culture, Media and Sport (DCMS) [announced](#) a number of significant data adequacy-related measures. This announcement included UK's non-exhaustive [list](#) of priority destinations for adequacy. Near-term priorities include Australia, Colombia, the Republic of South Korea, the Dubai International Finance Centre, Singapore and the United States. Longer-term priorities for data partnerships include fast-growing economies such as Indonesia, India, Brazil, and Kenya.

In addition, DCMS published a [suite of materials](#), including details of the processes to be followed for its assessments of the priority countries. The suite of materials includes a Mission Statement on the UK's approach to international data transfers; technical information on the process and criteria for UK Adequacy agreements; manual and guidance used to collect evidence about data protection laws and practices in a non-evaluative way.

Finally, the UK opened a [call for experts](#) to join a new International Data Transfers Expert Council. This group will be consulted on the program of ongoing and future work and will consist of leading experts from across the globe, drawn from academia, industry and civil society.

UK – ICO Consultation: On August 11, the UK Information Commissioner Office [released](#) draft plans and proposals pertaining to its approach to international data transfers, covering both legal interpretation and compliance matters. These documents included a draft Transfer Risk Assessment and tool (TRA); a draft model International Data Transfer Agreement (IDTA), including a draft set of standard data protection clauses, the adoption of model DTAs issued in other jurisdictions, and a transition from the EU SCCs towards the UK IDTA once the latter is adopted. The Global Data Alliance is preparing a response to the UK government consultation.

UK – Trade with India: On August 31, the GDA submitted [input](#) to the UK Department of International Trade (DIT) on "Trade with India," as DIT seeks stakeholders' views of future FTA negotiations between the two countries. DIT's information note is available [here](#).

APAC

China – On August 20, the National People's Congress of the PRC (NPC) officially released the approved version of the [Personal Information Protection Law](#) ("PIPL") which will take effect on November 1, 2021. The approved PIPL now includes a new provision under Article 38 which explicitly allows the cross-border transfer of personal information when treaties or international agreements are in place. At the same time, the final text also imposes a new requirement on personal information exporters to ensure data protection standards are met after transfer.

Japan – On September 1, the Government of Japan launched a new Digital Agency which will serve as the control tower for Japan's technology policy, driving various initiatives including the implementation of [National Data Strategy](#) ("Strategy"). Japan's commitment to materialize Data Free Flow with Trust (DFFT) is presented in the

“International Cooperation” section of the Strategy, with the aim to build trust in areas of digital trade, privacy, cybersecurity, trust service and etc., continuing to work in collaboration with G7 countries, in order to achieve concrete outcome by 2023, when Japan hosts the G7 Summit.

Singapore – The United States and Singapore announced the launch of the [US-Singapore Partnership for Growth and Innovation](#), which is intended to strengthen bilateral economic collaboration starting with the digital economy among other priorities. We will look to learn more about this Partnership and its relevance to the GDA in the coming weeks.

Vietnam – On July 7, the Ministry of Information of Communications (“MIC”) released a new draft decree amending Decree No. 72/2013/ND-CP on management, provision and use of Internet services and online information (as later on amended and supplemented by Decree No. 27/2018/ND-CP – collectively referred to as “Decree 72”) for public consultation till September 5. GDA will be submitting our comments on September 3.

AMERICAS

USTR Statements on Digital Trade: USTR Katherine Tai recently provided [comments on international rulemaking relating to digital trade](#). She stated, “[t]his is an area that we are actively working on with our partners to establish rules and have conversations that we need to establish mutually beneficial relationships and to figure out the best ways to create rules for our economic activity. This space has implications for more than just our economic values but both our political and societal values, and it is an area that we have been engaging robustly with a lot of our trading partners in Europe and in Asia-Pacific.”

US-EU Trade & Technology Council: The US-EU Trade & Technology Council (TTC) is scheduled to meet on September 29-30, 2021. Although the two governments have not committed to announcing any specific outcomes at that time, it is hoped that there will be some [announcement regarding the state of negotiations relating to the US-EU Privacy Shield](#).

US-India Economic and Digital Policy Dialogues: The United States offered a readout on August 23 from [US-India ministerial discussions on economic and digital policy issues](#). The readout noted ongoing bilateral discussions regarding the US-India CEO Forum, US-India Commercial Dialogue, and a (rescheduled) US-India High Technology Cooperation Group meeting. Discussions also covered bilateral technology collaboration and improving digital economy policies to strengthen that collaboration.

GLOBAL

APEC – The United States has offered to host the Asia-Pacific Economic Cooperation (APEC) in 2023, noting the importance of the large and dynamic Asia-Pacific market to the United States.

WTO Joint Statement Initiative on Electronic Commerce – The World Trade Organization recently [published an update on the status of the WTO JSI Negotiations on E-Commerce](#). That update indicated that the negotiating parties had broadly agreed to outcomes on spam, electronic signatures and authentication, and e-contracts, and virtually cleaned articles on open government data and online consumer protection. At the same time, additional work was needed on key issues, such as data flows and data localization. Australia’s ambassador noted that, “[t]hese are among the issues that are of most importance to business, and it’s crucial that we deliver good outcomes.”

MEDIA AND OTHER PUBLICATIONS

Covington & Burling, [Analyzing China’s PIPL and How It Compares to the EU’s GDPR](#)

FINRA, [Cloud Computing in the Securities Industry](#)

Fortune, [WhatsApp’s \\$267 million Irish privacy fine shows the GDPR is growing teeth](#)

International Investment, [Dubai International Financial Centre collaborates with UK on protection of international data transfers](#)

InfoSecurity Magazine, [Experts React to the UK's Planned Divergence from GDPR](#)

Jones Day, [China's New Data Security Law Restricts Cross-Border Transfers of All Data to Foreign Authorities](#)

Lawfare, [U.K.'s Post-Brexit Strategy on Cross-Border Data Flows](#)

Lexology, [Draft New Decree on Personal Data Protection in Vietnam](#)

National Law Review, [UK ICO Approves the First UK GDPR Certification Scheme Criteria](#)

National Law Review, [UK Unveils Plan to Diverge from GDPR](#)

Sidley Austin, [UK Government Publishes UK Approach to International Transfers, Including Data Adequacy](#)

SCMP, [What China's new data laws are and their impact on Big Tech](#)

SCMP, [With new privacy law, China could reshape cross-border data rules similar to Europe's GDPR](#)

SCMP, [China's privacy law borrows a page from Europe's GDPR but it goes further as Beijing shores up data security](#)

SIX-MONTH LOOK AHEAD

The table below includes anticipated developments/milestones in the coming months.

Country / Market / Organization	Policy Development / Milestone	Key Dates
APEC	APEC New Zealand Host Year	Dec. 2020 – Nov. 2021: In 2021 APEC (hosted by NZ, schedule here) will include meetings focused on cross-border data and other digital policy matters. Major meetings include SOM2 (May 18-June 4) , Trade Ministers' Meeting (June 4-5) , SOM3 (Aug 10-Sept. 3) , and the Economic Leaders' Meeting , APEC Ministers' Meeting , and the Concluding Senior Officials' Meeting (week of Nov. 8).
AUSTRALIA	Privacy Act Review	TBD (2021): In late October 2020, the Australian Government announced the commencement a review of the Privacy Act conducted by the Attorney-General's Department. To start the review, the Government has released an issues paper for public comment. The review process should continue throughout 2021.
EU	Evaluation of Adequacy Decisions	Ongoing: The European Commission is expected to complete its evaluation of adequacy decisions with 11 countries (all but Japan which follows a different calendar) in the coming months. This evaluation may lead to adjustments in the implementation of these adequacy decisions, in particular in view of the ECJ ruling.
EU-US	Negotiations on Privacy Shield replacement	Ongoing: It is hoped that both sides will provide an update on the negotiations at the launch of the US-EU Trade & Technology Council on September 29-30.
EU	Bilateral FTA negotiations	Ongoing: The EU is currently negotiating bilateral FTAs with Australia and New Zealand, both of which are tabling CP-TPP language on data flows. The EU also relaunched its FTA negotiations with India in May 2021, and launched a EU-India Connectivity Partnership .
G7	G7 UK Host Year	Jan. – Dec. 2021: The G7 (hosted by the UK) includes workstreams on digital trade , digital health , and digital technology (including data free flow with trust)(DFFT). Under DFFT, the G7 may address

		government access, regulatory cooperation on data protection, data sharing, and data localization. The G7 February Joint Leaders' statement addressed data transfers, as did the April 2021 Digital and Technology Ministerial Declaration . In addition to the regular G7 members, Australia, India and South Korea are participating as guests in 2021. The G7 Technology Ministerial took place on April 27 to May 1 , and the G7 Summit took place on June 11-13, 2021 .
G20	G20 Italy Host Year	Jan. – Dec. 2021: The G20 (hosted by Italy; schedule here) has a workstream focused on cross-border data flows (along with workstreams focused on digital transformation, measurement of data flows, the developing country connectivity gap, inclusive AI, etc). Digital Economy Task Force meetings took place on May 17 and August 4 . The Digital Economy Ministers' Meeting took place on August 5 . The next Trade & Investment Group meetings will take place on October 10-11 . The Trade Ministers' Meeting will be held on October 12 . The Leaders' Summit is scheduled for October 30-31, 2021 .
INDIA	Personal Data Protection (PDP) Bill	Summer/Fall 2021: The Joint Parliamentary Committee (JPC) got an extension to present its report on PDP by June or July 2021 during the monsoon session of the Parliament. Once the report is tabled, the updated Bill would have to be published and then passed by both houses. Given increase in COVID-19 cases across the country and general delay in submission of the report, the timeline for the completion of this policy process is unclear.
INDIA	Non-Personal Data (NPD) Governance Framework	Ongoing (2021): GDA submitted comments to the Committee of Experts on Non-Personal Data Governance Framework on January 29, 2021. The Committee will review the comments and is expected to submit the updated Framework to MeitY, but timing on this next step is unclear.
JAPAN	Consolidation of Personal Data Protection Laws	Ongoing (2021): Japan amended personal data protection law, consolidating the three laws (the Act on the Protection of Personal Information, the Act on the Protection of Personal Information Held by Administrative Agencies and the Act on the Protection of Personal Information Held by Incorporated Administrative Agencies) and centralizing jurisdiction under PPC. The amendments relevant to central government and incorporated administrative agencies will come into full effect by spring of 2022, and local governments by spring of 2023. The Government is aiming to achieve GDPR adequacy for academic and research sectors for personal data transferred from EU to Japan by applying requirements on security measures etc. to these sectors which had previously been excluded for use in academic studies. There are no indications that this consolidation would negatively impact cross-border data flows. The PPC plans to issue Cabinet Order, Enforcement Rules, and Guidelines for Administrative Organs and Incorporated Administrative Agencies by fall. The Cabinet Order and Enforcement Rules for local governments are planned to be drafted by this winter.
UK	Bilateral FTA negotiations	Ongoing (2021): In addition to the trade/economic partnership agreements concluded in 2020 with the EU, Japan, Kenya, Singapore, Turkey, and Vietnam the UK has proposed or launched FTA negotiations with Australia, India, EEA/EFTA, New Zealand, and the United States. Formal CPTPP accession talks were

		launched in June. Discussions on these agreements will continue throughout 2021.
US	Bilateral Digital Trade Negotiations	Suspended: The United States launched FTA negotiations with Kenya and the United Kingdom during the Trump Administration. It remains to be seen whether and how soon the Biden Administration will advance these negotiations.
WORLD TRADE ORGANIZATION	Various: Joint Statement Initiative (JSI) Digital Trade Talks; Committee and General Council Meetings; Public Forum; Ministerial Conference	Ongoing: Several WTO processes are potentially relevant to cross-border data flows and data localization measures. This includes the JSI digital trade negotiations, which include ongoing small group meetings, as well as plenary meetings in April and June 2021. Additionally, the 2021 WTO Public Forum is scheduled for September 28-30 , and the WTO's 12th Ministerial Meeting is Scheduled for the week of November 29 .