



An Overview of the Principles Established by the APEC Privacy Framework

Tony LAM

**Acting Privacy Commissioner for Personal Data
Hong Kong, China**

**APEC Technical Assistance Seminar:
Domestic Implementation of the APEC Privacy Framework
1-2 June 2005, Hong Kong, China**

The Case for a Regional Standard



- **Privacy: an international issue**
 - Technological convergence + global economy
- **New electronic trading environment**
 - Increasing cross border data flows
- **Dynamic forces of global e-commerce**
 - Privacy protection a key factor of success
- **Free flow of information**
 - A prerequisite for a free economy



“In the context of e-commerce development, trans-border data flow becomes an issue which every economy has to deal with sooner rather than later”

International Privacy Framework



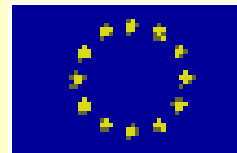
1980



OECD Guidelines

Represent international consensus on the basic rules governing the protection of personal data and privacy

1995



Europa

**EU Directive
95/46/EC**

Ensure the free movement of personal data between Member States in the European Community

2004



APEC Privacy Framework

Promote a consistent approach to information privacy protection as a means of ensuring the free flow of information in the Asia Pacific region

International Privacy Framework

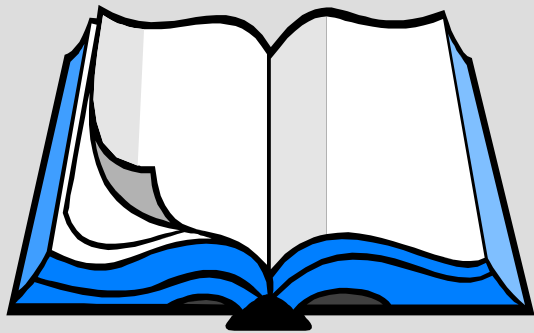


A Common Theme

“.... were very aware of the impact of automatic data processing (new technologies) upon personal data privacy and of the need to sustain the economic value of information by ensuring the transfer of data”



APEC Privacy Framework: Development



1998 APEC Blueprint for Action on Electronic Commerce

“The potential of electronic commerce could not be realized without government and business cooperation to develop and implement technologies and policies, which build trust and confidence in safe, secure and reliable communication, information and delivery systems, and which address issues including privacy, security and consumer protection.”

APEC Privacy Framework: Milestones



1998 APEC Ministers endorsed Blueprint

1999 ECSG established

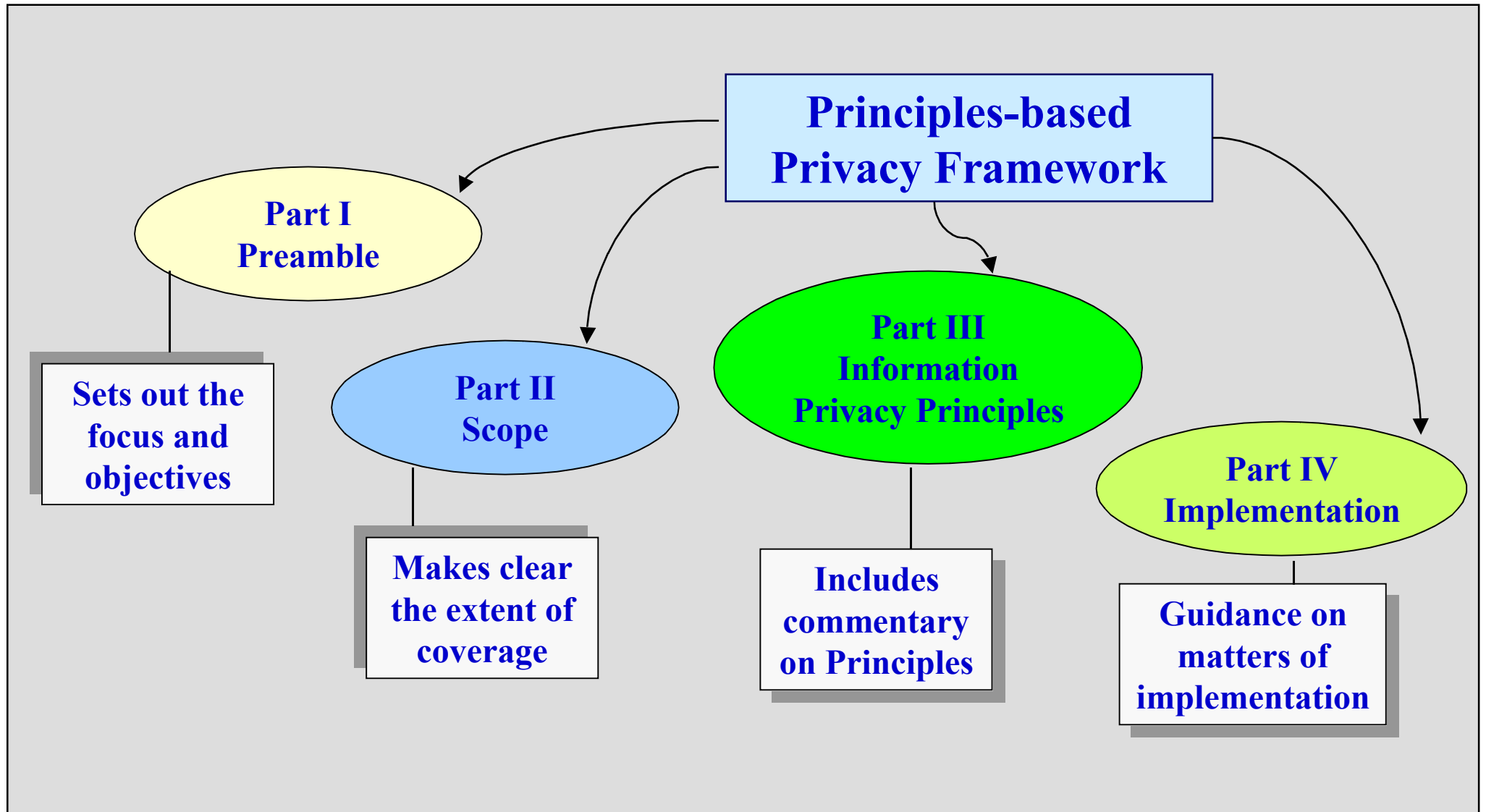
2002 Mapping exercise on data protection approaches

Feb 2003 Data Privacy Subgroup established

Mar 2004 Consultation draft Framework released

Nov 2004 APEC Leaders endorsed Framework

APEC Privacy Framework



APEC Privacy Principles: Focus



“APEC economies realize the key part of efforts to improve consumer confidence and ensure the growth of electronic commerce must be cooperation to balance and promote both effective information privacy protection and the free flow of information in the Asia Pacific region”

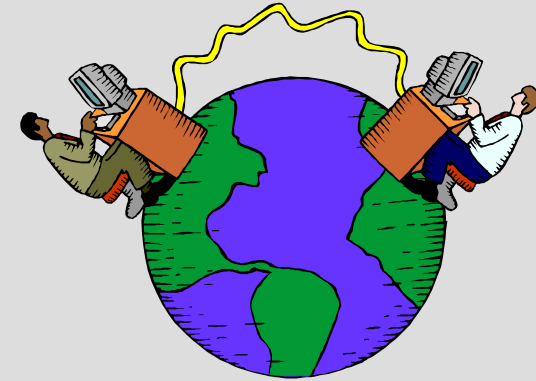
..... Part I - Preamble

“The perceived value and benefits of e-commerce has become the driving force behind the quest to seek compatibility in privacy development”

APEC Privacy Principles: Objectives

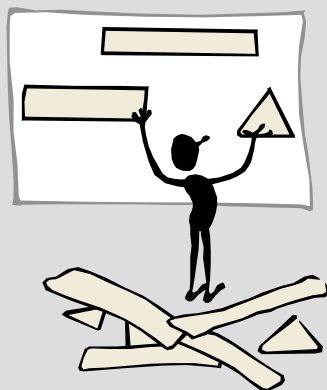


- To develop appropriate privacy protections for personal information
- To prevent the creation of unnecessary barriers to information flows
- To enable multinational businesses to implement uniform approaches to the collection, use and processing of data
- To facilitate both domestic and international efforts to promote and enforce information privacy protections



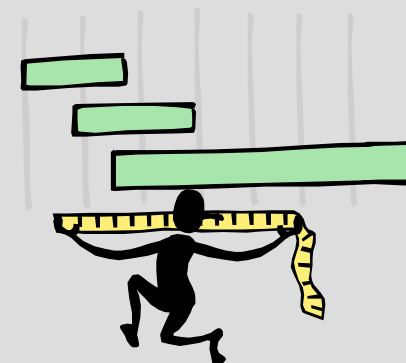
“It encourages compatibility yet it respects the different cultural, social, economic requirements that exist within member economies”

APEC Privacy Principles: Scope



- **The principles should be interpreted as a whole rather than individually as there is a close relationship among them**

- **Balancing privacy rights and the public interest**
 - **Not intended to impede governmental activities authorized by law**
 - **Allow exceptions to the principles that suit particular domestic circumstances**



APEC Privacy Principles: Application



- **Applies to information about living individuals**
 - Personal information in connection with domestic affairs are excluded
 - Limited exclusion to “publicly available information”
- **Applies to persons or organizations in the public and private sectors**
 - who control the collection, holding, processing or use of personal information
 - Organizations acting as agents for others are excluded from compliance

APEC Information Privacy Principles



1 Preventing Harm

2 Notice

3 Collection Limitation

4 Use of Personal Information

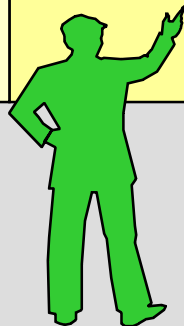
5 Choice

6 Integrity of Personal Information

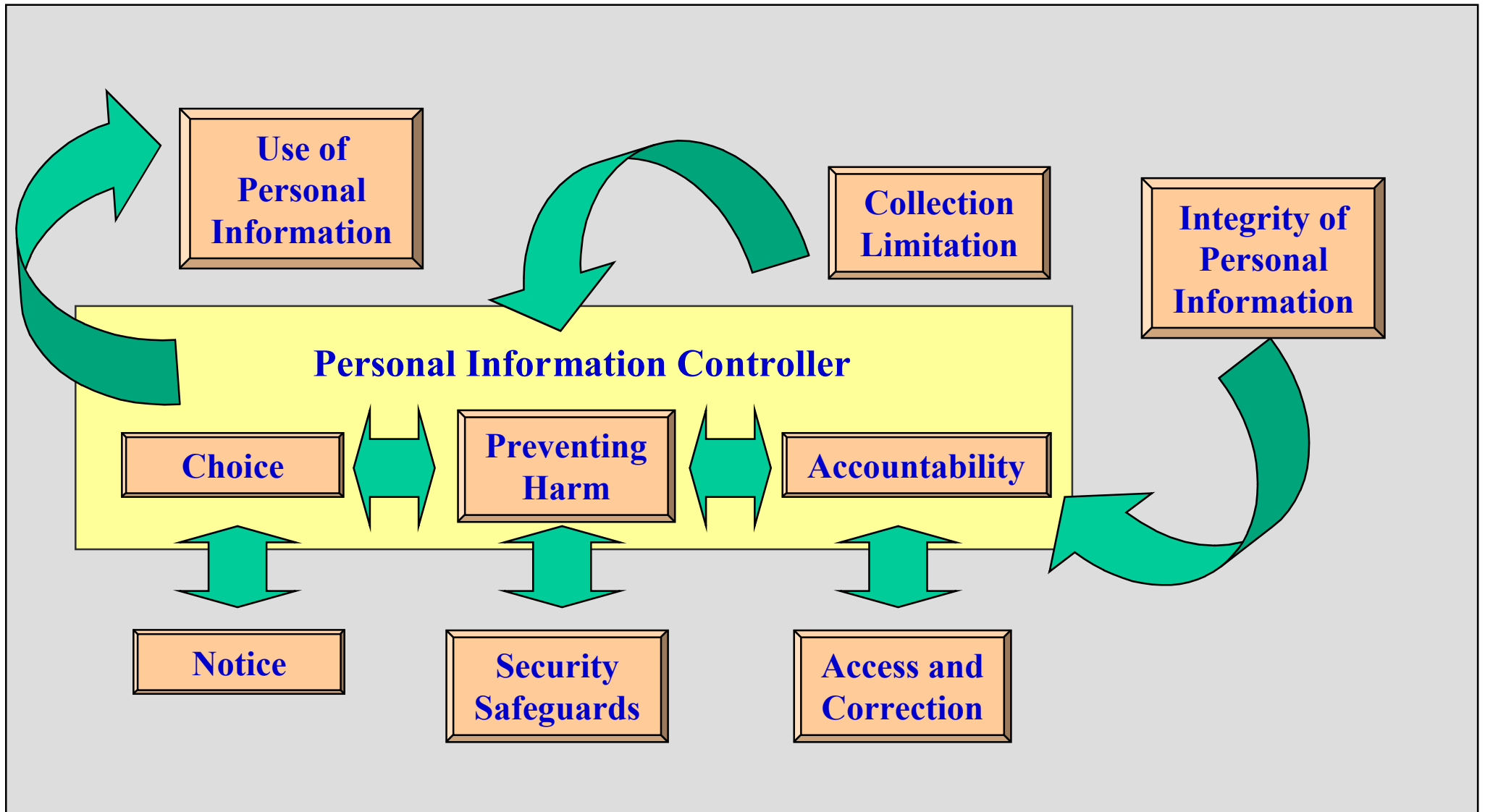
7 Security Safeguards

8 Access & Correction

9 Accountability



APEC Privacy Principles: Relationship

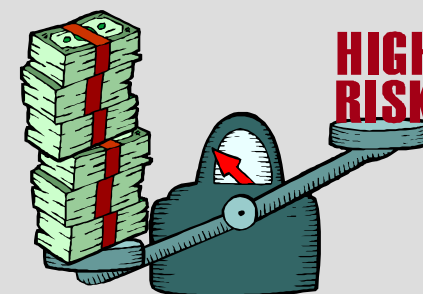


APEC Information Privacy Principles



Principle 1 – Preventing Harm

- This provides that privacy protections be designed to prevent harm to individuals from wrongful collection or misuse of their personal information and that remedies to privacy infringements are proportionate to the likelihood and severity of the risk of harm.



Principle 2 – Notice

- This provides for the information a personal information controller must include in the notice to individuals when collecting their personal information and requires that all reasonably practicable steps be taken to provide the notice either before or at the time of collection, otherwise, as soon after as is practicable.



APEC Information Privacy Principles



Principle 3 – Collection Limitation



- This provides for the lawful and fair collection of personal information that is relevant to the purposes of collection, and where appropriate, with notice to, or consent of, the individual concerned.

Principle 4 – Use of Personal Information

- This limits the use of personal information to fulfilling the purposes of collection and other compatible or related purposes.



Principle 5 – Choice

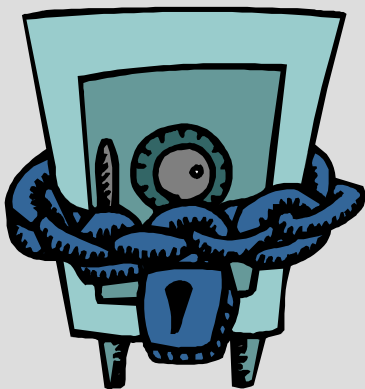
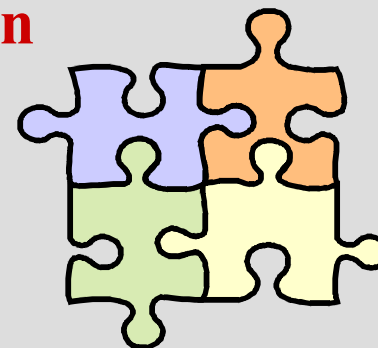
- This provides, where appropriate, for individuals to be provided with mechanisms to exercise choice in relation to the collection, use and disclosure of their personal information.

APEC Information Privacy Principles



Principle 6 – Integrity of Personal Information

- This provides that personal information should be accurate, complete and kept up-to-date to the extent necessary for the purpose of use.



Principle 7 – Security Safeguards

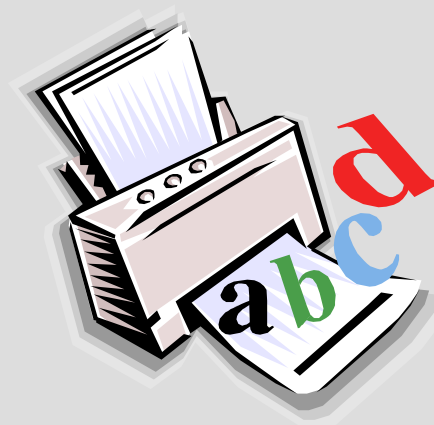
- This requires appropriate security safeguards to be applied to personal information that are proportional to the likelihood and severity of the harm threatened, the sensitivity of the information and the context in which it is held.

APEC Information Privacy Principles



Principle 8 – Access and Correction

- This provides for individuals to have rights of access to their personal information, to challenge the accuracy of the information and, as appropriate, to request correction of such information.



Principle 9 – Accountability

- This requires a personal information controller to be accountable for complying with measures that give effect to the Principles. When transferring personal information, reasonable steps should be taken to ensure recipients protect the information in a manner consistent with these Principles.

Concluding Remarks

- Observations presented reflect our understanding in the course of Subgroup discussions
- Agreements are reached by open dialogue and consensus
- A credible instrument that honours cultural diversities and accords due regard to regional differences – an essential ingredient in ensuring broad-based acceptance and lasting utility
- More work to be done

