

November 7, 2023

Mr. Jacob Sullivan
Assistant to the President for
National Security Affairs
Director, National Security Council
The White House
Washington, DC 20500

Dr. Lael Brainard
Assistant to the President for
Economic Policy
Director, National Economic Council
The White House
Washington, DC 20500

Dear Directors Sullivan and Brainard:

On behalf of the undersigned associations, we wish to express our profound concern and disappointment that the Office of the United States Trade Representative (USTR) has withdrawn its support for proposed World Trade Organization (WTO) disciplines that protect cross-border data flows; prohibit data localization mandates; preclude discrimination against American made digital products; and safeguard sensitive source code from forced disclosure mandates that enable malicious cyberactivity.

These are core disciplines that advance U.S. innovation and competitiveness, fuel economic growth, and support the exchange of knowledge and information necessary to address climate, health, and other global challenges. They also form a breakwall against the rising tide of global digital protectionism, particularly the egregious digital measures imposed by authoritarian regimes.

U.S. leadership in the digital economy has for decades:

- Facilitated more effective access to international markets for American farmers, ranchers, service providers, and manufacturers, who rely on the global reach of a range of U.S. services and technology providers to succeed;
- Acted as a critical tool for startups and small and medium-sized businesses to launch, grow, scale up, and access new markets;
- Enhanced collective efforts to include women and underserved communities in the global marketplace;
- Advanced the export of digital services, which as of 2022, accounted for more than 67% of all U.S. services exports and 20% of all U.S. exports; and
- Supported efforts to simplify customs procedures and make education and health care more available to underserved communities.

Indeed, strong digital trade rules have been U.S. law for several years after they won overwhelming support in Congress upon passage of the U.S.-Mexico-Canada Agreement (USMCA), which includes these high-standard rules.

USTR has historically been a strong, consistent voice demanding the highest standards and accountability from our trading partners. This was true as recently as May 2022 when the Administration launched the Indo-Pacific Economic Framework (IPEF) negotiations. At the time, the White House made clear that it would “pursue high-standard rules of the road in the digital economy, including standards on cross-border data flows and data localization.”

USTR’s October 25, 2023 announcement is a complete reversal. It signals to U.S. trading partners worldwide that the Administration will not confront measures that discriminate against American companies and their workers. It will further legitimize digital protectionism across the globe and advance the interests of our adversaries, harming American companies of all sizes and across sectors.

When trading partners restrict cross-border digital access to American-made books, films, music, software, machinery, aircraft, and vehicles, they hurt American workers. When they restrict cross-border access to knowledge and information, they undermine human rights, freedom of expression, scientific progress, and the ability to solve shared health, climate, and economic challenges.

On behalf of our collective memberships, the undersigned organizations urge the Administration to reverse this harmful decision. We further implore you take steps that would return the U.S. to its traditional role as the global leader in writing rules for the rules-based trading system that benefit American workers and business, align with American priorities and values, and will empower the government to push back on the regulatory overreach of authoritarian regimes.

Sincerely,

ACT | The App Association
AdvaMed
American Apparel & Footwear Association
American Chemistry Council
American Council of Life Insurers
American Property Casualty Insurance Association (APCIA)
Association of American Publishers (AAP)
Autos Drive America
Biotechnology Innovation Organization (BIO)
Business Roundtable

BSA | The Software Alliance
Chamber of Progress
Coalition of Service Industries (CSI)
Computer & Communications Industry Association (CCIA)
Consumer Technology Association (CTA)
CTIA – The Wireless Association E-Merchants Trade Council
Entertainment Software Association
Enterprise Cloud Coalition
Express Association of America (EAA)
Global Business Alliance
Independent Film & Television Alliance
Information Technology Industry Council (ITI)
International Intellectual Property Alliance
Motion Picture Association
National Association of Manufacturers
National Foreign Trade Council (NFTC)
National Retail Federation
NetChoice
PASS Coalition (Protect America's Small Sellers)
Pharmaceutical Research and Manufacturers of America (PhRMA)
Recording Industry Association of America
Reinsurance Association of America
Retail Industry Leaders Association
Securities Industry & Financial Markets Association (SIFMA)
Semiconductor Industry Association (SIA)
Small Business and Entrepreneurship Council
Software and Information Industry Association
Technet
Technology Trade Regulation Alliance (TTRA)
Telecommunications Industry Association (TIA)
The Global Data Alliance
The Global Innovation Forum
U.S. Chamber of Commerce
US Council for International Business

cc: The Honorable Katherine Tai, United States Trade Representative
The Honorable Gina Raimondo, Secretary of Commerce
The Honorable Antony Blinken, Secretary of State

The Honorable Janet Yellen, Secretary of the Treasury

Members of the Senate Committee on Finance

Members of the House Committee on Ways and Means

The Honorable Chuck Schumer, Majority Leader, United States Senate

The Honorable Mitch McConnell, Republican Leader, United States Senate

The Honorable Mike Johnson, Speaker of the U.S. House of Representatives

The Honorable Hakeem Jeffries, Democratic Leader, U.S. House of
Representatives