



March 17, 2021

The Honorable Katherine C. Tai
Ambassador
United States Trade Representative
600 17th Street NW
Washington, D.C. 20006

Dear Ambassador Tai:

Our coalition of technology, manufacturing, services, and business organizations congratulates you on your confirmation as U.S. Trade Representative. We look forward to working with you as you begin crafting and executing an ambitious U.S. trade agenda that supports the U.S. economy and its workers and consumers. We hope that you will prioritize strategic international engagement and open, rules-based digital trade commitments as a means of promoting U.S. economic leadership and innovation. We believe doing so will enable a U.S. trade agenda that supports high-paying jobs across all sectors of the U.S. economy, empowers U.S. small businesses, and advances U.S. global economic competitiveness and recovery.

In that spirit, we want to share with you the attached document that was developed on digital trade priorities for the first 180 Days of the Biden-Harris Administration. These recommendations identify a set of specific, early actions the administration can take to maximize the benefits of technology and digital trade for economic growth, market inclusivity, job creation, and addressing pressing societal challenges. We highlighted the need for these actions to address recent policy approaches taken by key U.S. trading partners that promote digital protectionism, harm U.S. exports, and threaten the entire innovation ecosystem.

Our groups recommend that the Biden-Harris Administration:

- Prioritize strategic engagement with U.S. trading partners by ensuring continued protected transatlantic data flows, combatting digital policies targeted at American companies in countries like China and India, addressing digital and technology trade barriers through the establishment of a U.S.-EU Trade and Technology Council, broadening U.S. engagement and leadership in the Asia-Pacific region and closer to home in Latin America, and providing capacity-building assistance to the African Union.
- Promote U.S. competitiveness through leadership on digital trade by countering unilateral, targeted digital taxes, building acceptance of state-of-the-art digital trade commitments, promoting workforce development initiatives globally, and more.
- Reassert U.S. multilateral leadership by strengthening and leveraging engagement in global forums such as the WTO, OECD, United Nations, G20, G7, APEC, and others, and by expanding existing plurilateral trade agreements.

Working with allies, the U.S. government has pioneered the development and international promotion of digital trade rules that ensure the benefits of international commerce accrue across all sectors of the economy. The recent proliferation of damaging barriers to digital trade that U.S. trade provisions are specifically designed to counter fundamentally threatens U.S. global competitiveness. These policies harm U.S. jobs and economic growth while also decreasing the availability of innovative services at home and abroad. Given these global policy challenges and the importance of strengthening U.S. innovation leadership, the Biden-Harris Administration should make the promotion of open, rules-based digital trade a top priority for the realization of its domestic and global economic goals.

Our organizations and industries appreciate your attention to these critical issues and again congratulate you on your confirmation as U.S. Trade Representative. We stand ready to work with you and look forward to an open and meaningful dialogue with you and your new team.

Sincerely,

ACT | The App Association

BSA | The Software Alliance

Coalition of Services Industries (CSI)

Computer and Communications Industry Association (CCIA)

Computing Technology Industry Association (CompTIA)

Consumer Technology Association (CTA)

Electronic Transactions Association

Engine

Information Technology Industry Council (ITI)

Internet Association (IA)

National Association of Manufacturers (NAM)

National Foreign Trade Council (NFTC)

Semiconductor Industry Association

Software & Information Industry Association (SIIA)

TechNet

Promoting U.S. Global Leadership and Innovation: Digital Trade Priorities for the first 180 Days

Our associations represent the world's most innovative companies operating across the manufacturing, agriculture, digital, automotive, life sciences, financial services, logistics, retail, and technology sectors. We share a goal to support policy environments that enable innovation and maximize the benefits of technology for economic growth, job creation, fostering economic inclusivity, combating climate change, and addressing other pressing societal challenges.

The United States is a global leader in the innovation and delivery of data-driven products and services and benefits greatly from technological innovation and digital trade. American digital services exports are now \$517 billion per year, generating a U.S. digital trade surplus of \$220 billion that is shared by small and large firms and workers far outside the traditional 'digital sector.'¹ One in three small and medium-sized businesses report that they would not have survived the pandemic without digital tools, and two-thirds of small business employers say that technology can help them overcome export barriers. In all, the internet has directly and indirectly contributed nearly 20 million American jobs.² These jobs, across all sectors, are the engine of the U.S. economy, pay well, are inclusive, and are geographically diverse.

Working with allies, the U.S. government has pioneered the development and international promotion of digital trade rules that ensure the benefits of international commerce accrue across all sectors of the economy. These rules provide certainty to small and large businesses, facilitate access to productivity-enhancing information and communication technology (ICT) goods and services, and promote the global competitiveness of all U.S. firms that leverage technology to conduct their day-to-day business operations.

However, key U.S. trading partners are developing or have already enacted policy approaches, including agendas that promote digital protectionism, that detrimentally impact not only U.S. exports but the entire global innovation ecosystem. The recent proliferation of precisely the kinds of damaging barriers to digital trade that U.S. trade provisions are designed to counter fundamentally threatens U.S. global competitiveness. These policies harm U.S. jobs and economic growth while also decreasing the availability of innovative services at home and abroad.

Given these global policy challenges and the importance of strengthening U.S. innovation leadership, the Biden-Harris Administration should make open, rules-based digital trade a top global economic priority. We recommend the below actions that the Biden-Harris Administration can take during its first 180 days in office to prioritize digital trade as a means of promoting U.S. global economic leadership and innovation. We believe these initial actions will lay meaningful groundwork for advancing a robust digital trade agenda and ensuring the United States' role as a global innovation leader through bilateral, regional, and multilateral engagement. We stand ready to partner with the incoming Administration and Congress to achieve these recommendations and actively support an inclusive and global U.S. trade and innovation agenda.

¹ <https://apps.bea.gov/iTable/iTable.cfm?reqid=62&step=6&isuri=1&tablelist=357&product=4>

² <https://internetassociation.org/publications/measuring-us-internet-sector-2019/>

Prioritizing Strategic Engagement with U.S. Trading Partners

- *Ensure continued protected transatlantic data flows in support of the largest bilateral commercial relationship in the world by expeditiously reaching agreement with the European Commission on a successor arrangement to the EU-U.S. Privacy Shield, and secure an enforcement moratorium in the interim in order to avoid major disruption to transatlantic businesses of all sizes.*
- *Establish a U.S.-EU Trade and Technology Council that would enable regular, structured, bilateral discussion of digital trade and digital policy matters of interest to both parties, with a view to addressing existing and emerging market access barriers, securing binding commitments on digital issues, facilitating the free flow of data, and enabling transparent, non-discriminatory, compatible, and innovation- and trade-facilitative approaches to digital policy bilaterally and globally.*
- *Engage China and prioritize digital and technology issues, including as part of assessing implementation of the Phase One trade deal and benchmarks for a phased rollback of tariffs.*
- *Broaden U.S. leadership in the Asia-Pacific region by comprehensively assessing potential opportunities, including through existing international mechanisms such as the Asia-Pacific Economic Cooperation Forum (APEC), for expanding acceptance of state-of-the-art rules-based commitments that are global and interoperable, eliminating barriers to trade, facilitating the open flow of data, and elevating regulatory compatibility as a matter of strategic importance with key partners in the region.*
- *Engage India and establish a regular trade dialogue for the promotion of an open digital ecosystem, including the free flow of data, full implementation of the Information Technology Agreement (i.e., eliminating and/or maintaining at zero all ICT goods tariffs), avoidance of discriminatory digital regulations such as forced data localization, and appropriate testing and certification requirements for technology products.*
- *Support and provide capacity building assistance to the African Union as part of efforts to include a robust digital trade chapter in upcoming African Continental Free Trade Area (AfCFTA) negotiations.*

Promoting U.S. Competitiveness through Leadership on Digital Trade

- *Counter the proliferation of unilateral, targeted digital taxes that threaten the U.S. tax base and promote principled and non-discriminatory approaches to taxation policy through active engagement in the Organisation for Economic Co-operation and Development's (OECD) project to address the tax challenges arising from the digitalization of the global economy. Also explore opportunities for multilateral engagement through other forums, such as the World Trade Organisation (WTO) and G20.*
- *Update existing U.S. trade agreements to include digital trade commitments and pursue rigorous enforcement of U.S. commitments related to digital trade and trade facilitation, including digital-specific provisions in the United States-Mexico-Canada Agreement (USMCA), as well as other trade agreement provisions for non-discriminatory market access for U.S. goods and services. This will ensure the United States' ambitions for 21st century trade policy benefit from consistent and thorough implementation while building confidence in the efficacy of U.S. trade agreements.*

- *Advance U.S. values globally by fostering a group of like-minded digital trade partners to challenge digital restrictions on a plurilateral basis, and counter global pressure towards internet balkanization while promoting digital regulatory alignment and interoperability among allied countries.*
- *Build acceptance of state-of-the-art digital trade commitments through bilateral, regional, and multilateral trading partner engagement, including but not limited to binding rules to: enable the free flow of data across borders; prohibit data localization; facilitate the movement of low-value shipments; prohibit application of customs duties to cross-border electronic transmissions; prevent discriminatory approaches to digital regulation; prioritize the development of shared risk-based approaches to cybersecurity; address potential market access barriers related to platform governance while enabling effective content moderation practices; promote sustainability and economic inclusion; and facilitate the compatibility of emerging regulatory approaches to strengthen the privacy and security of innovative technologies and internet services across jurisdictions.*
- *Develop data-driven strategies to understand and overcome export barriers faced by U.S. small businesses and develop a collaborative initiative between the federal government and the private sector to increase U.S. small business access to digital tools for exporting.*
- *Promote workforce development initiatives so that countries around the world can benefit from technology and digital economy, including through partnership opportunities with the private and non-profit sectors.*
- *Leverage existing and/or new mechanisms to conduct a comprehensive review of global digital restrictions and 'hot spots' of digital protectionism that negatively impact U.S. companies and workers, and bolster resources for digital trade at all levels of the Office of the U.S. Trade Representative (USTR), including through the addition of three full-time negotiators for ICT Services and Digital Trade to USTR's Offices of Services and Investment.*

Reasserting U.S. Multilateral Leadership

- *Reassert U.S. leadership at the WTO, including by quickly facilitating agreement on a new Director General, constructively driving WTO reform efforts and resolving procedural impasses at the WTO, and underscoring the United States' continuing commitment to advancing commercially meaningful digital trade and trade facilitation rules through active leadership in WTO negotiations on E-Commerce.*
- *Assess opportunities to strengthen, expand, and enforce existing plurilateral agreements, including the Information Technology Agreement (ITA) and the ITA expansion, and proactively explore opportunities for new plurilateral market access openings, including for environmental goods and services.*
- *Leverage engagement in global fora including the OECD, United Nations, the G20, the G7, and APEC to articulate and advance a cooperative vision for ensuring the transparent, non-discriminatory, interoperable, and responsible approaches to digital and fiscal regulation.*