

November 27, 2013

The Honorable Michael Froman
United States Trade Representative
600 - 17th Street, N.W.
Washington, D.C. 20508

Dear Ambassador Froman:

Given the urgent stage of the Trans-Pacific Partnership (TPP) negotiations, we wanted to follow up on the letter we sent you September 26 and reiterate the importance of concluding an agreement with strong, binding obligations to keep markets open to cross-border data flows. This is a top priority for the undersigned associations and our members in these negotiations.

As you noted in your recent speech to the WTO, "the flow of data is as important as the movement of goods." For the TPP to truly be an agreement that addresses the future of trade, it must include provisions that: (1) allow parties in TPP countries to transfer, access, process or store information across borders; (2) prohibit countries from requiring the establishment or use of local servers as a condition of market access; and (3) ensure non-discriminatory treatment of digital products and services from TPP countries. Moreover, for these obligations to be meaningful, it is critical they be subject to dispute settlement under the agreement.

Equally important, the standards applied to measures countries may take to regulate cross-border data flows for legitimate policy reasons should be consistent with the well accepted standards under the general exceptions (Article XIV) of the General Agreement on Trade in Services. Applying a weaker standard for countries to meet to restrict digital trade would set a bad precedent that could be difficult to overcome in future trade agreements, including the Trade in Services Agreement and the Transatlantic Trade and Investment Partnership.

As always, we commend the strong efforts of US negotiators to achieve an ambitious, high-standard and market-opening TPP and stand ready to work with you to bring this agreement to a successful conclusion.

Sincerely,

BSA | The Software Alliance
Coalition of Services Industries
Emergency Committee for American Trade
Information Technology Industry Council
National Association of Manufacturers
National Foreign Trade Council
Software & Information Industry Association
TechAmerica
US-ASEAN Business Council
U.S. Chamber of Commerce

cc: Acting Deputy United States Trade Representative Wendy Cutler
Assistant United States Trade Representative Barbara Weisel