

DIGITAL TRADE PRINCIPLES:

Guidance for Trade Negotiators



ENABLE THE FREE FLOW OF DATA:

Companies must be able to move data securely across borders and should not be forced to localize data or infrastructure as a condition of doing business. Trade agreements must include specific provisions protecting (1) the movement of data across borders and (2) the ability of companies to operate without requiring them to use local infrastructure or build expensive and redundant data centers.



PROTECT SOURCE CODE AND ALGORITHMS & PROHIBIT FORCED TECHNOLOGY TRANSFERS:

Companies should not be forced to share source code and algorithms or transfer technology as a price for doing business. Trade Agreements must protect innovation by prohibiting Parties from requiring companies to hand over source code and algorithms or transfer their technology, IP, trade secrets, production processes, or other proprietary information as a condition for accessing the market.



ENSURE TECHNOLOGY CHOICE AND ENCOURAGE OPEN DIGITAL ARCHITECTURES:

Innovative companies should be able to utilize the technology that works best and suits their needs. The use of closed architectures prevent interoperability and competition, limiting the ability of companies to use the most cost-effective, secure, and innovative technologies. Trade agreements should encourage the widespread use of open architectures to drive innovation in key technologies, including cloud computing, Artificial Intelligence and 5G telecommunications and ensure companies can choose their suppliers of choice, irrespective of where they are headquartered. Parties should accord non-discriminatory treatment to the services, service suppliers, and digital products of the other Party, including for new and innovative digital products and services.



FOSTER INNOVATIVE ENCRYPTION PRODUCTS:

Encryption is a critical tool to protect privacy and security in the digital ecosystem. Trade agreements should protect innovation in encryption products to meet consumer and business demand for product features that protect security and privacy while allowing law enforcement access to communications consistent with applicable law.



PROHIBIT DIGITAL CUSTOMS DUTIES:

Trade agreements should prohibit all customs duties for digital products. This will ensure that customs duties do not impede the flow of software, information and digitally-enabled services that drive innovation for companies and consumers.



ENCOURAGE CROSS-BORDER DATA PROTOCOLS TO ACCELERATE PANDEMIC RESPONSE AND MEDICAL RESEARCH DURING GLOBAL PUBLIC HEALTH CRISES:

Data is vital to accelerate the development of medicines and digital innovations to respond to global public health crises. Trade agreements should foster negotiation of protocols that encourage the safe and secure sharing of medical data, such as vaccine and research data, to accelerate medical research and data-driven innovations that can save lives and further promote public health before, during or after a global health crisis. Emerging data privacy and security technologies, such as anonymization, tokenization and blockchain, should be leveraged to the fullest extent possible to facilitate the exchange of sensitive health-related data in a safe, secure, and trusted manner.



PROMOTE A “REASONABLE CARE” APPROACH TO PROMOTE SAFETY, SECURITY AND WELFARE ONLINE:

Blanket liability protection for internet platform companies—which was developed at a time when the internet was in its infancy—has come under increasing scrutiny as governments around the world consider the best frameworks for reducing harmful and illegal content. National governments should modernize their laws to ensure consumer-focused internet platform companies take greater responsibility for what is posted on their websites. A “reasonable care” standard provides strong incentives for companies to limit illegal and illicit behavior online, while also being flexible enough to promote continued innovation. Trade agreements should encourage governments to work together to develop such standards.



PROMOTE TRUST IN ARTIFICIAL INTELLIGENCE AND EMERGING TECHNOLOGY:

Trust in technology is essential to ensure the safe and secure adoption of emerging technologies such as AI. Trade agreements should encourage governments to develop reasonable and balanced regulations that prioritize risk-based frameworks to govern particular uses of AI. This approach can help provide assurance to businesses and consumers that the use of emerging technologies are transparent, explainable and fair.



PROMOTE OPEN ACCESS TO GOVERNMENT-GENERATED PUBLIC DATA:

Large government data sets can enable innovation in commercial applications and services for companies and consumers. Trade agreements should encourage governments to share data sets in machine-readable and accessible forms for use by the public.



ENGENDER GREATER CONSUMER TRUST IN THE DIGITAL ECONOMY BY ENHANCING PRIVACY AND CYBERSECURITY:

Trade agreements should require Parties to adopt legal frameworks to protect personal information and promote industry best practices, international standards and other cooperative mechanisms to strengthen privacy and data protection. In parallel, agreements should encourage Parties to strengthen cybersecurity capabilities through international cooperation and adoption of risk-based approaches to cybersecurity regulation.