

**Congress of the United States**  
**Washington, DC 20515**

December 13, 2013

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

Dear Ambassador Froman:

On behalf of the Congressional High Tech Caucus, we are writing to highlight the important issue of cross-border data flows in U.S. trade negotiations and raise concerns with recent efforts by some in multiple countries in Europe, Asia and elsewhere to promote protectionist data flow policies. These policies threaten to harm American and international businesses, global customers, and the successful development of cloud technologies and services, both here and abroad.

We commend the United States Trade Representative's (USTR) efforts to ensure the global free flow of data and to eliminate barriers to cross-border data flows. Data is the lifeblood of the 21st century economy and a vital source of innovation and competitive advantage for all sectors. Data is critical, not only to information technology (IT) companies, but also to companies across all sectors, as it enables them to compete fairly in the global economy. The Trans Pacific Partnership (TPP), Transatlantic Trade and Investment Partnership (TTIP), and Trade in International Services Agreement (TISA) provide unique opportunities to create new, common international rules to establish cross-border data flow policies that support global innovation, trade and enhance economic growth.

Unfortunately, some governments are seeking to erect new barriers to cross-border data flows and disadvantage U.S. companies. Some European Union (EU) officials are calling for discriminatory, protectionist policies that will undermine the ability of U.S. companies to compete fairly in Europe, such as an EU only cloud or an EU IT conglomerate along the lines of Airbus in aviation.

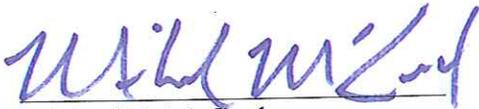
This EU activity is of great concern. The transatlantic economy is the largest and wealthiest market in the world, accounting for over 54% of world GDP in terms of value, 40% in terms of purchasing power, and generating close to \$5 trillion in total commercial sales a year. The EU is the world's biggest trader, accounting for 20 percent of global imports and exports. Companies headquartered in EU Member States have invested \$1.6 trillion in the United States and directly employ more than 3.5 million Americans. Similarly, U.S. firms have invested \$2.1 trillion in the EU—a sum representing more than half of all U.S. investment abroad. This mutually beneficial relationship would not be possible without constant streams of data between the EU and the U.S. For global trade to succeed and grow, access to data outside of the country is essential to the farmer, miner, shipper, or travel agent, and halting cross-border data flows will, by many measures, simply stifle cross-border trade.

Regrettably, this challenge is not limited to the EU. Brazil's President is involved in an effort to force data localization requirements into legislation and has issued a Presidential Decree

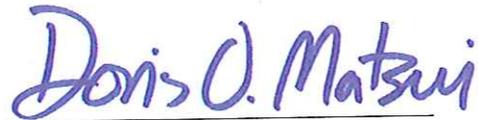
requiring that federal government agencies use only telecommunications and IT services provided by state organs or agencies. Meanwhile, some German officials have called on the EU to review Safe Harbor, the only mechanism through which U.S. and European companies can exchange information in compliance with the laws of the nations in which they conduct business. Canada has increased the number of federal government Requests for Proposals (RFPs) invoking a "national security exemption" and requiring IT vendors who bid for projects to keep all or portions of data within Canada. In other countries, the National Information Security Center is driving new procurement guidance that will also include data localization requirements for a wide range of data.

We encourage USTR to be vigilant in responding to all of these efforts and to remind our trading partners around the world that all governments and all segments of the economy benefit from cross-border data flows. Protectionist data flow policies will only frustrate the development of cloud-based technologies and services, and deny consumers and businesses around the world the potential benefits of the cloud. For this reason, we ask that the USTR to continue to prioritize cross-border data flows as a key topic in TTIP, TPP, and other trade negotiations, and recognize the high-priority the High Tech Caucus places on the inclusion of free flow of data in any future trade agreements.

Sincerely,



Michael T. McCaul  
Co-Chair  
Congressional High Tech Caucus



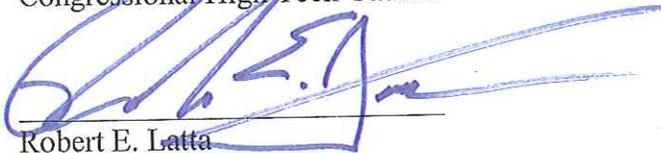
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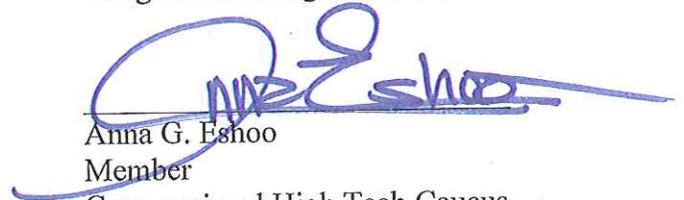
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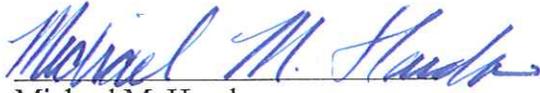
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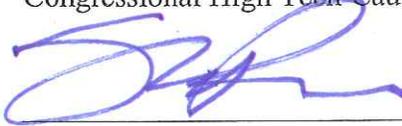
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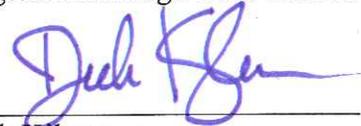
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