COALITION OF SERVICES INDUSTRIES

Services and Digital Trade Are Key to American Technological Innovation and Competitiveness

Services and digitally-enabled services bolster U.S. technology leadership and promote the competitiveness of U.S. manufacturing, agriculture, and sectors across the economy. The U.S. is a global leader in creating and exporting highly innovative services and digitally-enabled services — boasting $1.0 trillion in cross-border exports in 2023 — with a longstanding services trade surplus. Services account for a significant share of value in American goods exports and manufacturers are the second largest U.S. exporter of services, after the financial services sector. Think not only of robotics and advanced manufacturing, but also cutting-edge financial services in banking, electronic payments and insurance, as well as logistics.[1]

Rising barriers to services and digital trade continue to threaten the U.S. competitive advantage in services and digital trade, as well as U.S. leadership on key technologies like artificial intelligence. These barriers include limits on cross-border data flows, data localization requirements, and discriminatory regulation and standards. Restrictions on foreign direct investment and the narrowing of investor protections are another hurdle for U.S. services companies. To gain access to foreign markets, U.S. services suppliers not only often require proximity to customers, but typically are mandated to invest local capital and open local offices—especially in highly regulated sectors such as financial services and telecommunications. The services these foreign affiliates provide can't be nearshored. If they ceased to exist so would their U.S. market share, as well as the U.S. capital flows and jobs they support.

CSI recommendations on how to address these barriers and support U.S. tech innovation and competitiveness:

1. *Reassert U.S. leadership in digital trade*

Prioritize the roll out of revamped digital trade policies and pursue digital trade provisions in trade agreements, modeled after the high standards set in USMCA and the U.S.-Japan Digital Trade Agreement.

2. *Pursue a sectoral digital services agreement with like-minded countries*

Pursue a sectoral digital services agreement with like-minded countries that focuses on core digital trade priorities, incorporates issues critical for U.S. leadership in the development of AI, and ensures that digital trade provisions extend to all relevant sectors including financial services.

3. *Engage with priority markets and forums to eliminate barriers to services and digital trade and stop the proliferation of discriminatory digital regulations that impede U.S. technology leadership.*

Europe: Ensure the implementation of existing digital policies, including the EU's Digital Markets Act, Digital Services Act, and Data Act, does not discriminate against or unfairly burden U.S. providers. Prevent adoption of an internet levy and additional regulations that are scoped to target U.S. technology leaders and infrastructure through thresholds based on revenue, number of users, or sovereignty requirements. Develop a constructive trade and technology agenda

[1] *Jennifer Bruner and Alexis Grimm, A Profile of U.S. Services Traders, 2006—2022 (Washington, DC: U.S. Bureau of Economic Analysis, May 31, 2024),* https://apps.bea.gov/scb/issues/2024/05-may/0524-profile-services-traders.htm.

with the EU based on trusted and transparent businesses and innovation.

Canada and Mexico: Engage constructively in the USMCA review process and prioritize enforcement of USMCA commitments, including by removing Canada's digital services tax and other inequitable requirements targeting U.S. online streaming services. With respect to Mexico, it is critical for Mexico to address ongoing barriers with respect to the retroactive collection of VAT from insurers, recent draft telecom bill, erosion and elimination of independent regulators, and unfair treatment of U.S. electronic payments services providers

Korea: Address discriminatory cloud policies, network segregation, and data localization restrictions such as restrictions on the use of geospatial location, reinsurance, and financial services data. Ensure that Korea does not move forward with legislative proposals that target and disadvantage U.S. digital platform providers. Use the Financial Services Committee to assist Korea in finalizing their KORUS implementation for insurance by completing its sandbox approval process to allow U.S. insurers and reinsurers to be able to utilize their global data and compliance platforms, without localization.

Brazil: Prevent adoption of discriminatory competition legislation, artificial intelligence regulations, and internet levies, which threaten U.S. technology and AI leadership.

Australia: Stop proposed investment obligations that discriminate against U.S. online streaming providers.

India: Any bilateral agreement that the US negotiates with India should have meaningful disciplines and market access commitments on services and digital trade. It should also include a commitment that India will support extension of the WTO ecommerce moratorium

Indonesia: Ensure that commitments to allow U.S. reinsurers access to Indonesia are fully implemented.

Turkey: Prevent adoption of discriminatory competition legislation targeting U.S. technology leaders.

Americas: Address threats to eliminate pension plans in Chile and potential expropriatory impact on US firms. Suspend efforts to eliminate existing investor protections in existing FTAs including Honduras CAFTA-DR.

China/Asia Pacific: Work with partners to combat discriminatory Chinese services and digital policies and regulations and counteract China's influence in the Asia-Pacific region. Enforce China's obligations from Phase One, including those contained in the financial services chapter on electronic payment services market access.

APEC: Continue to pursue work on implementation of APEC cloud principles and efforts to develop guidelines/best practices on services standards.

WTO: Ensure the continuation of the WTO e-commerce moratorium at MC14. Re-engage in the e-commerce Joint Statement Initiative to promote the highest possible level of ambition. The JSI negotiations contain commercially important provisions on trade facilitation, electronic payments and the permanent e-commerce moratorium. Urge its expansion to cover cross-border data flows, data localization prohibitions, source code and non-discriminatory treatment of content.

GSP/AGOA: Align digital trade provisions as part of updated criteria for reauthorizing both programs.

G20: Partner with industry to develop priorities for the U.S. host year of G20.

4. *Recognize and seek to avoid the real-world collateral damage resulting from blanket use of tariffs.*

Any new duties should be employed as a targeted trade tool given the economic risks of over-broad use of tariffs -- especially when they are used to address political concerns as well as trade barriers. Adverse impacts from excessive reliance on tariffs include economically destabilizing supply chain disruptions and harm to US export growth and competitiveness, particularly in services and digital trade. Tariffs should be implemented in a transparent manner allowing for stakeholder and Congressional input and consultation, with a goal to avoid harmful retaliatory tariffs. A well-run exclusion/exemption process is vital to minimize unintended harm.

5. *Prevent disruptions to EU-US commercial data flows.*

The Data Privacy Framework, which ensures that personal data from the EU can be legally transferred to the US, effectively bridges differing privacy governance systems in the two markets. It facilitates commercial transactions with one of our biggest trading partners and is essential for US exports of goods and services to the EU.

Maintaining the framework is a prerequisite to bolstering U.S. export competitiveness.

6. *Stop foreign governments from obstructing U.S. AI innovators and deployers.*

In order to win the AI race, U.S. companies must be able to compete and scale globally. Governments are implementing AI regulatory frameworks and holding up U.S. AI investments in ways that weaken U.S. market access, reduce sales of U.S. AI products and services abroad, and erode our advantage in digital services trade. It is critical that the U.S. government stand up for the U.S.-preferred risk-based and innovation-friendly approach to AI and push back on alternative regulatory models, including those led by China and the EU that harm the ability of US innovators to compete with aggressive foreign technology companies.

7. *Fully enforce services and digital disciplines and market access commitments in existing FTAs.*

Revamp enforcement engagement process with U.S. trading partners to ensure they do not discriminate against U.S. exports in violation of their own commitments.

8. *Set guardrails to address national security concerns.*

Recognizing the importance of addressing national security challenges with adversaries, we recommend pursuing a balanced and targeted approach to national security concerns that seeks to maximize multilateral cooperation and minimize unintended consequences, particularly to American goods and services exports, foreign direct investment, and small businesses across the economy. U.S. technology leadership is a critical component of national security, which is why it also critical to stop foreign governments from obstructing U.S. technology companies.

9. *Initiate trade negotiations with critical trading partners.*

From 2017-2020, the U.S. launched high-standard bilateral negotiations with the United Kingdom and Kenya. We recommend exploring re-starting those negotiations, which were ended by the Biden Administration as well as exploring other bilateral and sectoral negotiations on services and digital issues with other key trading partners such as Australia and Singapore.

10. *Pursue strategic, well-planned customs and trade policy that promotes global trade.*

Remove impediments to the flow of consumer and supply chain goods such as onerous regulation and self-inflicted cost increases. Preserve the de minimis threshold for imported goods.