

THE PRESIDENT'S EXPORT COUNCIL

WASHINGTON, D.C. 20230

June 19, 2014

President of the United States of America
The White House
Washington, DC 20500

Dear Mr. President,

Last year, the President's Export Council raised concerns about a troubling trend that threatens the ability of U.S. companies to compete fairly in the global economy. In key markets around the world, American companies of all sizes are facing new localization barriers to trade. Specifically, governments are implementing a wide range of protectionist policies to support local industries and national champions by discriminating against foreign companies.

Last year, to counter this growing challenge, your Administration launched an interagency task force, chaired by the Office of the United States Trade Representative, to develop a more comprehensive strategy to counter localization barriers to trade. Thanks to your Administration's efforts, we have already been successful in reversing a number of very problematic localization barriers in key international markets, including India and Brazil.

As we continue to partner with your Administration to open up markets overseas, we wish to bring to your attention a specific challenge related to localization barriers that impact American companies of every size – namely restrictions to the Internet and the free flow of data across borders for legitimate commerce. Data is the lifeblood of the global economy and a vital source of innovation and competitive advantage for the United States. American companies rely on communication networks to deliver services and coordinate global accounts, run manufacturing and internal operations, promote and develop a global workforce, and manage global supply chains. Today's global economy cannot function without constant streams of data across borders, which has been made possible by the explosive growth of the global Internet.

Most importantly, the Internet facilitates the export of U.S. goods and services and enables companies, including small- and medium-sized enterprises (SMEs), to participate in the global economy. Access to digital products and services, such as cloud applications, provides companies with cutting edge services at competitive prices, enabling them to participate in global supply chains and directly access customers in foreign markets.

Unfortunately, as part of the wider trend of localization barriers to trade, we are facing new policies that amount to "digital protectionism." Certain governments are using privacy and alleged national security concerns to justify new restrictions on the Internet and the free flow of data across borders for legitimate commerce. These include requiring in-country processing and storage of data or placing onerous restrictions on

transfers of data out of the country. Such restrictions will impose significant costs and barriers to entry on U.S. companies which will impair their ability to compete in the global economy.

To be clear, we fully embrace the notion that global companies must do business in a manner that respects the privacy rights of individuals and complies with the laws of the countries in which we do business. But we believe that this can be accomplished within existing legal frameworks without the need for artificial restraints on the free flow of information.

If left unchecked, this form of protectionism will lead to a fragmentation of the global digital economy and severely undermine the growth and competitiveness of the U.S. economy. Businesses that do not have the resources or capabilities to meet restrictive data and server localization requirements – SMEs in particular – will be shut out of global markets, undermining our efforts to boost the exports of goods and services under the President’s National Export Initiative.

We advise your Administration to take the steps necessary to defeat digital protectionism and other localization barriers to trade. This should include taking aggressive positions against government policies that impose unfair Internet and data flow restrictions. We also urge the United States Trade Representative to ensure that all future U.S. trade agreements, including the Trans-Pacific Partnership, the Trade in International Services Agreement, and the Transatlantic Trade and Investment Partnership, include robust commitments to protect legitimate digital trade, including binding rules permitting cross border data flows for legitimate commerce and a prohibition on local server requirements.

Thank you again for the leadership your Administration has taken to protect American workers. The President’s Export Council, its members and our partners stand ready to work with you to ensure that America’s workers can continue to compete and win in the global economy.¹

Sincerely,

A handwritten signature in black ink, appearing to read "Jim McNerney". The signature is fluid and cursive, with the first name "Jim" and last name "McNerney" clearly distinguishable.

Jim McNerney

¹ Please note this letter was prepared by the private sector appointed members of the PEC.