



# **GDA TESTIMONY ON SUPPLY CHAIN RESILIENCE**

## **USTR SOLICITATION OF COMMENTS ON *PROMOTING SUPPLY CHAIN RESILIENCE***

May 3, 2024

### **GDA Testimony on Promoting Supply Chain Resilience (Docket Number USTR–2024–0002)**

The Global Data Alliance (GDA)<sup>1</sup> appreciates the opportunity to testify at today’s hearing organized by the Office of the US Trade Representative (USTR) to discuss supply chain resilience.

The GDA is a cross-industry coalition of companies, headquartered in the United States and allied nations, that are committed to high standards of data responsibility and that rely on the ability to access and transfer information across borders to innovate and create jobs in the United States. GDA member companies are active in many sectors of the economy and support millions of jobs across all 50 US states.

The GDA welcomes USTR’s recognition that the United States must maintain close and productive economic relationships with its trusted allies to achieve supply chain resilience. The GDA focuses its comments on the critical importance of maintaining cross-border access to knowledge, ideas, and information as a core feature of a deliberate US government approach to supply chain resilience.

USTR’s efforts to collaborate with allied partners and to engage in near-shoring and friend-shoring will only succeed if the United States and its allies trust one another and work together. This requires – among other things – a posture of openness and a willingness not to impose cross-border data restrictions on one another for arbitrary, discriminatory, disguised, or unnecessary reasons. To permit trusted US allies to impose such restrictions on the United States would be antithetical to the notion of collaboration on supply chain resilience.

The GDA welcomes a deliberate Administration effort to advance supply chain resilience through collaboration and information exchange with allies. For example, in the Indo-Pacific region, this approach should be aligned with the whole-of-government commitment reflected in: (1) the US Indo-Pacific Strategy goals of a “free and open Indo-Pacific” that include norms to “govern our digital economies and cross-border data flows according to open principles”; (2) the White House IPEF promise to achieve “high-standard rules of the road in the digital economy, including standards on cross-border data flows and data localization”; and (3) the IPEF [Ministerial Statement](#) aim to “enhance access to online information and use of the Internet; facilitate digital trade; address discriminatory practices,” and “work to promote and support... trusted and secure cross-border data flows.”<sup>2</sup>

This whole-of-government commitment is important because the exchange of knowledge, ideas, and information with our trusted US allies – not only in the Indo-Pacific, but also across the Americas, Europe, Africa, and the Middle – supports the stated goals of the supply chain resilience Federal Register Notice. This includes:

- Improving cybersecurity, data security, and privacy;
- Combatting corruption, money laundering, terrorist financing, and financial fraud;
- Growing economic opportunity and financial and digital inclusion for all Americans
- Supporting human rights and labor rights – while combatting digital authoritarianism;
- Promoting science and innovation;
- Supporting transparency and good regulatory practices;
- Protecting the environment via better carbon tracking and improved climate change mitigation; and
- A wide array of other core US government interests relating to supply chain resilience.<sup>3</sup>

Conversely, permitting US allies to impose arbitrary, discriminatory, disguised, or unnecessary cross-border data restrictions on the United States would undermine US supply chain resilience for several reasons:

First, cross-border access to data and digital tools supports the resilience of the US workforce and the US supply chain, which increasingly depends on the integration of AI- and other software-based tools necessary to compete globally and support well-paid jobs in advanced manufacturing, precision agriculture, and skilled services. These tools – used in sectors including the automotive, aerospace, clean energy, civil engineering, construction, farming, film production, telecom, transport, and many other sectors – depend upon cross-border access to information used to enhance US-based R&D, market forecasting, manufacturing, sourcing, logistics, sales, and service processes. For example, so-called “Digital Twins” technology, which is particularly cross-border data-dependent, allows US companies to build, simulate, and measure performance in a virtual setting of their US factories, products and services, significantly enhancing the competitive position of these production sites vis-à-vis overseas peers. In this and many other contexts, without reliable access to such data, the US workforce will be a significant competitive disadvantage, frustrating efforts to grow American manufacturing and service jobs.

Second, foreign cross-border data restrictions hurt US workers (and families and communities) that depend upon digitally-enabled or digitally-delivered exports from the United States.<sup>4</sup> Some 40 million US jobs depend on international trade; 16 million US jobs are in software-related fields; and roughly 4 million new US manufacturing jobs are anticipated in the coming years.<sup>5</sup> US supply chain resilience is also threatened by trading partner imposition of customs duties on US digital exports. The impacts of such restrictions would be borne not only by American workers in semiconductors, pharmaceuticals, and other integrated supply chains, but also by artists, musicians, performers, writers, photographers, software coders, and many other creators in the graphic arts, film, music, publishing, and software sectors.<sup>6</sup>

Third, such restrictions also undermine efforts to increase diversity in resilient supply chains – harming diverse communities across the United States and beyond. As the United Nations has stated, “regulatory fragmentation in the digital landscape...is most likely to adversely impact ... less well-off individuals, and marginalized communities the world over, as well as worsen structural discrimination against women.”<sup>7</sup>

Fourth, and more broadly, macro- and micro-economic analyses performed by the WTO, World Bank, IMF, OECD, and independent economists show that foreign cross-border data restrictions also harm GDP (minus 0.7-1.7%); investment flows (minus 4%); productivity (4.5% loss); small business (up to 80% higher trade costs); and the US tax base.<sup>8</sup> As the World Bank has noted, “[r]estrictions on data flows have large negative consequences on the productivity of local companies.”

Fifth, US supply chain resilience – and US national security – depend heavily on agreeing with allies on cross-border data norms. This perspective is articulated clearly and explicitly in the National Security Strategy and the National Cybersecurity Strategy. Failure to agree on such norms with US allies brings risk: If the United States doesn’t set

such rules with its allies, then US adversaries will fill the vacuum. Those governments will be free to replace norms that include the United States, US values, and US law with new agreements that exclude the United States and hurt American interests and citizens.<sup>9</sup>

For the foregoing reasons, it is critical to US supply chain resilience that USTR reengage and negotiate with its allies to – among other things – safeguard US and allied cross-border exchange and mutual access to knowledge, information, and data. Thank you for the opportunity to testify today. I look forward to your questions.

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<sup>1</sup> GDA member companies are active in the accounting, agriculture, automotive, aerospace and aviation, biopharmaceutical, consumer goods, energy, film and television, finance, healthcare, hospitality, insurance, manufacturing, medical device, natural resources, publishing, semiconductor, software, supply chain, telecommunications, and transportation sectors. GDA member companies have operations and support millions of jobs across all 50 US states. For more information, see <https://www.globaldataalliance.org>

<sup>2</sup> See generally, Global Data Alliance, *Cross-Border Exchange of Information with US Allies under the Indo-Pacific Economic Framework*, Submission to White House (Dec. 5, 2023), at: <https://globaldataalliance.org/wp-content/uploads/2023/12/12052023gdawhitehouseipef.pdf>

<sup>3</sup> See generally, Global Data Alliance website, *GDA Issue Briefs on Cybersecurity, Data Analytics, Economic Development, Environmental Sustainability, Innovation, Regulatory Compliance, Privacy, and Small Business* (2024), at: <https://globaldataalliance.org/issues/>; See also Global Data Alliance website, *GDA Sector Briefs on Agriculture, Automotive, Biopharmaceutical R&D, Energy, Finance, Healthcare, Media & Publishing, Medical Technology, Supply Chain, and Telecommunications* (2024), at: <https://globaldataalliance.org/issues/>, at: <https://globaldataalliance.org/sectors/>; Global Data Alliance, *Cross-Border Access to Information and Data Transfers Support US Government Priorities* (2023), at: <https://globaldataalliance.org/wp-content/uploads/2023/11/11212023gdaustrback.pdf>

<sup>4</sup> See generally, Global Data Alliance, *GDA Comments on Worker-Centered Trade Policy* (2023), <https://globaldataalliance.org/wp-content/uploads/2023/09/09252023gdaworktradepolicy.pdf>

<sup>5</sup> See e.g., Business Roundtable, *Trade Supports over 40 Million American Jobs* (2020), at: <https://www.businessroundtable.org/new-study-trade-supported-over-40-million-american-jobs>; Software.org – The BSA Foundation, *Software – Supporting US Through COVID* (2020), at: <https://software.org/wp-content/uploads/2021SoftwareJobs.pdf>; National Association of Manufacturers, *US Manufacturing Could Need up to 3.8 million workers* (2024), at: <https://nam.org/study-manufacturing-in-u-s-could-need-up-to-3-8-million-workers-30626/>; US Chamber of Commerce, *How US Workers and Companies Benefit from Digital Trade* (2024), at: [https://www.uschamber.com/assets/documents/USCC\\_Digital-Trade-Report.pdf](https://www.uschamber.com/assets/documents/USCC_Digital-Trade-Report.pdf)

<sup>6</sup> See Global Data Alliance, *WTO Moratorium on Customs Duties on Electronic Transmissions – Statistical Summary* (2024), at: <https://globaldataalliance.org/wp-content/uploads/2024/02/02222024gdawtostatsum.pdf>; BSA | The Software Alliance, *Customs Duties on Software and Other US Digital Exports – A Threat to Growth & Innovation* (2019), at: <https://www.bsa.org/files/policy-filings/10182019wtomoratoriumus.pdf>

<sup>7</sup> See id.

<sup>8</sup> See generally, Global Data Alliance, *Cross-Border Data Policy Index* (2023), at: <https://globaldataalliance.org/resource/cross-border-data-policy-index/>

<sup>9</sup> This is no longer a hypothetical concern as reflected in a recent China State Council announcement that capitalizes on the United States' lack of trade policy engagement with US allies on cross-border data policy matters. The State Council announcement is indicative of the cross-border data policy vacuum created by US inaction on digital trade. The announcement calls for the exploration of pilot projects for cross-border data transfers members of the Digital Economy Partnership Agreement (i.e., among Chile, New Zealand, Singapore and South Korea and possibly future DEPA members (e.g., Canada and Costa Rica). The aim is to accelerate the establishment of mechanisms for cooperation regarding cross-border data transfers with the aforementioned economies, and to promote the construction of a multi-level global digital cooperation partnership network with these and other economies. The State Council also calls for the “active promotion of accession to the CPTPP and DEPA”, including the “signing of FTAs with more countries and regions, and expand the network of high-standard free trade areas open to the world.” These initiatives build upon the negotiation of cross-border data policies in the Regional Comprehensive Economic Partnership (RCEP) that broadly support an authoritarian digital governance

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model. This RCEP model adopts a self-judging approach to governmental conduct in the digital environment, giving license for Parties to the Agreement to impose arbitrary, discriminatory, disguised, or unnecessary cross-border data restrictions at will. See [https://www.gov.cn/zhengce/content/202403/content\\_6940154.htm](https://www.gov.cn/zhengce/content/202403/content_6940154.htm)