

September 4, 2024

The Honorable James Baxter of Australia  
The Honorable Atsuyuki Oike of Japan  
The Honorable Hung Seng Tan of Singapore  
World Trade Organization  
Centre William Rappard  
Rue de Lausanne, 154  
Geneva, Switzerland

Dear Co-Convenors of the Joint Statement Initiative (JSI) on E-Commerce:

We recognize your efforts in negotiating the “stabilized” text of a WTO Electronic Commerce Agreement (July 26, 2024). We also acknowledge the indication of support from some 80+ participants in the Joint Statement Initiative on E-Commerce. As negotiations on the stabilized text continue, we write to convey our recommendations on next steps.

The undersigned organizations—representing companies and workers across the Americas, APAC, and EMEA in a wide spectrum of goods and services industries—express strong support for the necessary ongoing JSI negotiations. The JSI negotiations represent an important opportunity for participants to update the WTO’s rulebook to meet the promise of an evolving digital economy in relation to international trade.

We value the digital trade facilitation and digital consumer protection provisions included in the text, and we congratulate Australia, Japan, and Singapore on negotiating these provisions.

At the same time, important work remains to ensure that the JSI negotiating outcomes are commercially meaningful and do not undermine the important objectives that the initiative originally set out to achieve.

As noted in our July letter to co-convenors, we recognize the value of new JSI digital trade facilitation provisions (electronic payment services, electronic authentication, e-signatures, e-contracts and e-invoicing, etc.); provisions on open internet access and open government data that stand to democratize access to technology and promote more accountable governance; and provisions on personal data protection (other than Article 25 as it currently stands), cybersecurity, and consumer protection that help promote trust in the digital economy. We also are highly encouraged by the achievement of more than a critical mass of support for the prohibition on customs duties on electronic transmissions. This achievement is tremendously important in building support for continuation of the WTO e-commerce moratorium at MC14.

We also understand that the United States and eight other JSI participants were not in a position to endorse the stabilized text. We believe that continued consultations with the United States and other non-participants are essential at this critical juncture to build on existing momentum to have a JSI negotiating outcome that truly facilitates digital trade. There is only a narrow window to complete such consultations prior to the text’s adoption by the WTO General Council. Achieving the support of these economies for the permanent moratorium and addressing their concerns regarding exceptions are vital to the success and durability of the stabilized text.

We believe it is particularly important that Article 25 of the stabilized text be revisited and adjusted to ensure it does not create new bases for restrictions that are unjustified or are not relevant to provisions under consideration. For example, the proposed broad exception in the current text could allow WTO members to adopt objectively unjustified data localization measures or discriminatory transfer mechanisms.

A WTO agreement that gives rise to trade barriers would erode industry support for WTO processes and divert attention to other fora. It is essential that the JSI outcome does not give license to JSI members to fracture trade-related data flows or suppress the free exchange of information, which are critical to trade in today's digital economy. We therefore strongly recommend that Article 25 be clarified, either by modifying its text or by using footnotes, to specify what it does or does not cover, including by specifying that objectively unjustified data localization or discriminatory transfer requirements are not within its scope.

We also recommend flexibility in approaching the institutional framework for the stabilized text. We understand co-convenors might pursue it as a standalone Annex 4 Agreement to be incorporated into the WTO legal framework. While this could be one avenue to be explored, given the probability that some WTO members will block this, it will be important to consider other options, including a standalone multilateral digital agreement.

Finally, we wish to reiterate the vital importance of continued negotiations on the core issues of cross-border data flows, data localization, source code, and non-discriminatory treatment of digital products. We strongly advocate for high standard outcomes in these areas, which will increase the impact, success, and durability of the JSI text over time.

The undersigned organizations have been, and remain, strong and consistent advocates for the JSI negotiations as a linchpin of WTO engagement on critical areas of digital trade and we look forward to continuing to work with the co-convenors to achieve a high standard, and a successful outcome.

#### UNDERSIGNED ORGANIZATIONS

ACT | The App Association  
BSA | The Software Alliance (BSA)  
Coalition of Services Industries (CSI)  
Computer & Communications Industry Association (CCIA)  
Consumer Technology Association (CTA)  
Engine  
Global Data Alliance (GDA)  
Technology Trade Regulation Alliance (TTRA)  
U.S. Chamber of Commerce  
World Innovation, Technology and Services Alliance (WITSA)