November 3, 2025

The Honorable Jamieson L. Greer
United States Trade Representative
Office of the United States Trade Representative
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Comments on the Operation of the USMCA (Federal Register Notice: 2025-18010)

Dear Ambassador Greer:

The Global Data Alliance (GDA) appreciates the opportunity to submit comments on the ongoing operation of the United States-Mexico-Canada Agreement (USMCA). We urge you to maintain the USMCA's Chapter 17 and Chapter 19 provisions on cross-border data and data localization. These rules are a cornerstone of US economic and national security strategy. These rules – negotiated by the first Trump Administration and approved with overwhelming bipartisan support in both chambers of Congress – embody the principles of an America First Trade Policy that prioritizes US technological leadership as well as US economic and national security interests.

GDA is a cross-industry coalition of companies who are committed to high standards of data responsibility and rely on the ability to transfer data across borders to innovate, compete, and create jobs. Our members operate across the North American economy—including automotive and advanced manufacturing; agriculture and food systems; logistics and e-commerce; energy and clean technology; cloud computing and software; financial services and fintech; healthcare, biopharmaceutical research, and medical technology; media and creative services; semiconductors and electronics; and professional and technical services.

As the Parties undertake the USMCA's six-year review, GDA urges the United States to preserve—unchanged—the core digital trade disciplines in Chapter 19, in particular Article 19.11 (Cross-Border Transfer of Information by Electronic Means) and Article 19.12 (Location of Computing Facilities) and corresponding provisions in Chapter 17 (Articles 17.17 and 17.18) on financial services data (collectively "the USMCA cross-border data provisions.") These provisions are foundational to US competitiveness, supply chain resilience, cybersecurity posture, and innovation capacity. They support millions of American jobs by enabling lawful, responsible, and secure data flows that underpin modern manufacturing, just-in-time logistics, regional financial risk management, clinical research collaboration, and AI-enabled quality and safety systems.

The USMCA cross-border data provisions are also aligned with the Administration's efforts to strengthen the United States' capacity to be a "production economy" — that is "oriented around the production of manufactured goods, agricultural products, services, and knowledge."[1] A strong production economy requires — first and foremost — access to knowledge, information, and data. Such access powers growth, innovation, jobs, and wage-growth for companies of all sizes — from small and medium-sized enterprises (SMEs) to large corporations. Such access also supports a strong cybersecurity posture, promoting threat visibility and the ability to detect security risks early. Such access is essential to the functioning of manufacturing plants, modern farms, and service providers in every sector,[2] including the agriculture,[3] automotive,[4] clean energy,[5] finance,[6] health,[7] logistics,[8] media,[9] pharmaceuticals,[10] and

telecommunications[11] sectors. The accompanying Appendix provides evidence of the benefits of USMCA's cross-border data provisions.

The USMCA cross-border data provisions are critical to efforts to renew the US production economy – efforts that are threatened by foreign trade barriers that restrict the ability of US companies and US workers to export digitally-enabled good or services, including up and down the AI export stack. Today, many governments are advancing policies of data mercantilism and digital protectionism that hurt American exports and jobs.[12] Foreign governments engaged in these practices take steps aimed at blocking the cross-border transfer of information to the United States, mandating data localization, closing digital markets to US exports, interfering with the free flow of accurate information and ideas from the United States, and undermining online economic opportunities to the detriment of US workers and companies.

Thanks to the strong USMCA cross-border data provisions, all three North American economies are a rare success story in combatting the worst forms of digital protectionism. Keeping North American markets open for US AI exports, services exports, and digitally-enabled goods exports should remain a top Administration priority.

Finally, the USMCA's cross-border data provisions have been effective in large part due to provisions negotiated by the first Trump Administration that ensure the United States is allowed to take any action that it deems necessary to protect US essential security interests – up to and including restricting or blocking data transfers.[13]

GDA respectfully recommends that the United States advocate a no-reopening, no-regression approach to the cross-border data provisions of Chapter 19 in the six-year review, reaffirming Articles 19.11 and 19.12 and corresponding Chapter 17 provisions exactly as negotiated. GDA appreciates your leadership and stands ready to support USTR in advancing an ambitious digital trade strategy that strengthens US competitiveness, security, and democratic values.

APPENDIX

Evidentiary Support for Cross-Border Data Commitments

There is widespread evidence of the benefits of the USMCA's Chapter 19 commitments on cross-border data transfers and data localization. We summarize some of that evidence below.

Data Transfers & Economic Growth: Cross-border data transfers — valued in the trillions of dollars[14] — benefit regional economic growth. The World Bank's 2020 *World Development Report* found that, "[c]ountries would gain on average about 4.5 percent in productivity if they removed their restrictive data policies, whereas the benefits of reducing data restrictions on trade in services would on average be about 5 percent."[15] Local enterprises rely on data flows to drive quality, reach international customers, achieve economies of scale, and improve output,[16] often benefiting from cross-border access to tailored data-enhanced analytics and insights.[17] Cross-border data commitments can promote economic growth and job creation among USMCA economies.

Data Transfers & Manufacturing: Cross-border data transfers are especially beneficial to manufacturing industries, which depend on access to international supply chains, and which increasingly integrate Internet-of-Things (**IoT**) technologies on the shop floor and across assembly lines. It has been estimated that 75% of the value of data transfers accrues to manufacturing and other industries.[18] Conversely, data restrictions are harmful in this area. For example, a 2021 GSMA study conducted in three developing regions (in South America, South-East Asia and Africa) indicates that data localization measures on IoT applications and machine-to-machine (**M2M**) data processing could result in: (a) loss of 59-68% of their productivity and revenue gains; (b) investment losses ranging from $4-5 billion; and (c) job losses ranging from 182,000-372,000 jobs.[19] Cross-border data commitments can promote manufacturing across the region.

Data Transfers & Services: As services are increasingly enabled by digital means, cross-border data transfers have increased in importance. A 2020 World Economic Forum study found that, "approximately half of cross-border [services] trade is enabled by digital connectivity[, which] … has allowed developing countries and micro, small and medium-sized enterprises (MSMEs) to export through greater visibility, easier market access and less costly distribution. … Developing countries ... accounted for 29.7% of services exports in 2019."[20] Cross-border data commitments can help support the growth of services across the region.

Data Transfers & Trade Facilitation: Cross-border technology access and data transfers also reduce supply chain-related transaction costs.[21] One recent study estimates that digital tools helped MSMEs across Asia reduce export costs by 82% and transaction times by 29%.[22] Likewise, the Asia Development Bank Institute estimates that electronic commerce platforms, which operate on the basis of cross-border data transfers, have helped some local firms reduce the cost of distance in trade by 60%.[23] Cross-border data commitments in the USMCA promote these efficiencies.

Data Transfers & Sustainable Agriculture: Cross-border access to green technologies, satellite-based data, and other information helps small-scale agricultural producers improve crop yields; mitigate crop risks (including losses from pests, disease, and weather-related events); reduce arbitrage by middlemen (up to 70 percent of smallholder production value is captured by intermediaries); and promote sustainability (agriculture accounts for 70 percent of water use, while one third of global food production is either lost or wasted).[24] Cross-border data commitments can help promote uptake of sustainable agricultural practices and technologies across the region.

Data Transfers & Sustainable Economic Development: Analyses by development banks consistently show that cross-border access to technology and data transfers promote sustainable economic growth. For example, there remain over 2.5 billion unbanked people worldwide, many living in remote locations lacking physical banking infrastructure.[25] The US Agency for International Development (USAID) estimates that, by enabling digital financial services that leverage cross-border data, the GDP of emerging economies could increase by more than $3.5 trillion, or 6 percent, by 2025.[26] Unfortunately, some economies are erecting costly data transfer restrictions vis-à-vis one another.[27] As UNCTAD has explained, such "digital fragmentation reduces market opportunities for domestic MSMEs to

reach worldwide markets, [and] ... reduces opportunities for digital innovation, including various missed opportunities for inclusive development that can be facilitated by engaging in data-sharing through strong international cooperation. ... [M]ost small, developing economies will lose opportunities for raising their digital competitiveness."[28] Economic development depends upon cross-border access to knowledge, digital tools, and commercial opportunities. Cross-border data commitments in the USMCA help promote such access.

Data Transfers & Privacy: Some argue that data localization requirements and cross-border data restrictions are necessary for privacy reasons – i.e., to ensure that companies process and use data consistent with a country's data protection laws. This argument is incorrect. Cross-border restrictions are not necessary to protect privacy and can undermine data security. In lieu of such restrictive policies, countries with robust data protection frameworks often adhere to the accountability principle and interoperable legal frameworks that protect data consistent with national standards, even as the data is transferred across borders. Organizations that transfer data globally typically adopt a set of best practices and internal controls to ensure that the data is protected even when transferred outside of the country. To that end, organizations often rely on various approved data transfer mechanisms, as discussed above.[29]

Data Transfers & Cybersecurity: Some argue that cross-border data restrictions are necessary to ensure cybersecurity. However, *how* data is protected is more important to security than *where* it is stored, and transfer restrictions often result in *weaker*, not *stronger*, cybersecurity. Cross-border data transfers help improve cybersecurity because these transfers allow for cybersecurity tools to monitor traffic patterns, identify anomalies, and divert potential threats in ways that depend on global access to real-time data. Stronger cybersecurity is enabled by cross-border data analytics an assertive cyber-defense posture coordinated across IT networks and national boundaries.[30] When governments mandate localization or restrict the ability to transfer and analyze data in real-time, they create unintended vulnerabilities.

Data Transfers & Regulatory Compliance: Some claim that cross-border data restrictions ensure government access to data for regulatory or investigatory purposes. The location of the data, however, is not the determining factor. On the contrary, "data localization requirements can increase … operational risks, hinder risk management and compliance, and inhibit financial regulatory and supervisory access to information." Accordingly, regulatory authorities in many countries actually encourage the responsible transfer of data across borders. Likewise, data transfers are critical to other public policy priorities, including anti-money laundering; anti-corruption; and other legal compliance objectives.[31]

Data Transfers & Fraud Prevention: Prohibitions on cross-border data transfers in respect of financial data can have significant negative impacts on the effectiveness of fraud prevention and mitigation tools. Effective fraud mitigation as provided by banks, card networks and other players in the financial services sector demands sophisticated monitoring and rapid detection at the time of transaction to interpret and weigh the risk of fraud of each payment transaction as weighed by the facts of that payment transaction as against norms for all payment transactions and that account. Fraud detection models are typically built on global transaction data or transaction data collected from multiple countries since fraud patterns are not limited by national boundaries. Fraud trends which appear in one region or country may apply in others as cardholders travel to different countries, cardholders transact online with merchants in different countries, and the perpetrators of fraud do not respect any national boundary lines. Thus, to build effective fraud models and to gain the necessary insights into fraudulent activity in order to help prevent them, these models must be built off of global or multi-country data sets, based both on the location of the merchant and the location of the cardholder.

Data Transfers & Innovation: Some claim that cross-border data restrictions promote innovation. On the contrary, data localization mandates and data transfer restrictions undermine beneficial innovation processes — from accessing global scientific and technical research databases, to engaging in cross-border research and development (R&D), to securing intellectual property rights for new inventions, and regulatory product approvals for new products and services.[32]

Data Transfers & Healthcare: Healthcare R&D, the submission of health-technology-assessment and regulatory filings, and the provision of services in the life-science industries are increasingly cross-border endeavors which rely on the responsible and secure flow of large volumes of data. These transfers can support the adoption of data analytics and machine-learning technologies, and processing of data from

multi-country clinical studies and other research activities. Supporting cross-border data transfers, in a way that is compatible with the best practices in ensuring patient and customer privacy, is essential for the innovation of healthcare products and services, collaboration across multiple public and private research organizations, and the early detection of regional or global health risks. Restricting such data transfers will undermine the ability to identify new treatments and improve healthcare delivery, to the ultimate detriment of patients in those countries that restrict transfers.[33]

Data Transfers & Tech Policies: From artificial intelligence to 5G to the cloud, government tech policies can help coordinate public-private dialogue, support investment, and maximize the benefits of technologies across the economy. Cross-border data restrictions often undermine these polices. For example, the benefits of a "cloud first" policy are most likely to arise in a cross-border context that allows for elastic and scalable delivery of computing resources, rapid load balancing, and ready access to best-in-class technology from all over the world. Using data localization mandates and transfer restrictions to ban cross-border access to cloud computing infrastructure and technology would deprive local enterprises (including MSMEs) and users of:

- Cross-border access to IT resources hosted abroad;
- Cross-border collaboration and communication with foreign business partners;
- Foreign transactions and business opportunities; and
- Improved resiliency resulting from data storage across multiple geographical locations.

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[1] USTR, 2025 Trade Agenda (March 2025), at: https://ustr.gov/about-us/policy-offices/press-office/press-releases/2025/march/us-trade-representative-announces-2025-trade-policy-agenda

[2] Global Data Alliance, The Cross-Border Movement of Data: Creating Jobs and Trust Across Borders in Every Sector (2020), https://globaldataalliance.org/wp-content/uploads/2021/07/GDAeverysector.pdf

[3] Global Data Alliance, *GDA Website – Agriculture* (2022), at: https://globaldataalliance.org/sectors/agriculture/

[4] Global Data Alliance, *GDA Website – Automotive* (2022), at: https://globaldataalliance.org/sectors/automotive/

[5] Global Data Alliance, *GDA Website – Energy* (2022), at: https://globaldataalliance.org/sectors/energy/

[6] Global Data Alliance, *GDA Website – Finance* (2022), https://globaldataalliance.org/sectors/finance/

[7] Global Data Alliance, *GDA Website – Healthcare* (2022), https://globaldataalliance.org/sectors/healthcare/

[8] Global Data Alliance, *GDA Website – Supply Chain Logistics* (2022), https://globaldataalliance.org/sectors/supply-chain-logistics/

[9] Global Data Alliance, *GDA Website – Media and Publishing* (2022), https://globaldataalliance.org/sectors/media-publishing/

[10] Global Data Alliance, *GDA Website – Biopharmaceutical R&D* (2022), https://globaldataalliance.org/sectors/biopharmaceutical-rd/

[11] Global Data Alliance, *GDA Website – Telecommunications* (2022), https://globaldataalliance.org/sectors/telecommunications/

[12] Global Data Alliance, GDA Cross-Border Data Policy Index (2023), https://globaldataalliance.org/resource/cross-border-data-policy-index/

[13] The United States – like every other country – retains absolute discretion to act in its national security interest. Accordingly, the USMCA contains a blanket exception that allows for national security-based data restrictions, such as those contained in the Justice Department Regulations to Prevent Access to US Sensitive Data by Countries of Concern and the Protecting Americans' Data from Foreign Adversaries Act of 2024. Moreover, US agreements provide broad latitude to regulate in the public interest.

[14] Global Data Alliance, *Cross-Border Data Transfers - Facts and Figures* (2020), at: https://globaldataalliance.org/wp-content/uploads/2021/07/gdafactsandfigures.pdf

[15] World Bank, World Development Report (2020), at: https://www.worldbank.org/en/publication/wdr2020 . Conversely, the World Bank also found that, "restrictions on data flows have large negative consequences on the productivity of local companies using digital technologies..."

[16] Data localization mandates and unnecessary data transfer restrictions hurt local innovation because a country that limits cross-border data transfers limits its own industries' access to technologies and data sources

that are critical to growth and innovation, business operations, and the transfer of technology. These include: (a) growth-enhancing software solutions; (b) scientific, research, and other publications; and (c) manufacturing data, blueprints, and other operational information. Faced with higher software costs and an unpredictable environment for R&D investments, local industries face challenges keeping technological pace with foreign competitors — threatening both domestic and export market sales. Furthermore, as data restrictions place an undue burden on industries operating in countries imposing them, they also undermine those countries' attractiveness as a destination for investment and R&D.

[17] Local enterprises face competitive harm if they are deprived of the insights that come from consolidating local data sets within larger regional or global data sets for purposes of data analysis. *See generally,* BSA, *Understanding Artificial Intelligence* (2017), at: https://www.bsa.org/sites/default/files/2019-03/BSA_2017UnderstandingAI.pdf ; BSA, *What's the Big Deal with Data* (2017), at: https://data.bsa.org/; BSA, *Artificial Intelligence in Every Sector* (2019), at: https://www.bsa.org/sites/default/files/2019-03/BSA_2018_AI_Examples.pdf.

[18] See Global Data Alliance, *The Cross-Border Movement of Data: Creating Jobs and Trust Across Borders in Every Sector* (2020), at https://www.globaldataalliance.org/downloads/GDAeverysector.pdf ; See Global Data Alliance, *Jobs in All Sectors Depend Upon Data Flows* (2020), at https://www.globaldataalliance.org/downloads/infographicgda.pdf; Global Data Alliance, *Cross-Border Data Transfers Facts and Figures* (2020), at https://www.globaldataalliance.org/downloads/gdafactsandfigures.pdf

[19] GSMA, Cross-border Data Flows – The Impact of Localisation on IOT (2021).

[20] World Economic Forum, Paths Towards Free and Trusted Data Flows (2020). Conversely, the World Bank 2021 *World Development Report* has noted that measures that "restrict cross-border data flows ... [may] materially affect a country's competitive edge in the burgeoning trade of data-enabled services." World Bank, *World Development Report – Data For Better Lives* (2021), at: https://openknowledge.worldbank.org/bitstream/handle/10986/35218/9781464816000.pdf

[21] Global Data Alliance, *Cross-Border Data Transfers and Supply Chain Management* (2021), at https://globaldataalliance.org/downloads/03182021gdaprimersupplychain.pdf

[22] Micro-Revolution: The New Stakeholders of Trade in APAC, Alphabeta, 2019.

[23] Asia Development Bank Institute, *The Development Dimension of E-Commerce in Asia: Opportunities and Challenges* (2016), at: https://www.adb.org/sites/default/files/publication/185050/adbi-pb2016-2.pdf

[24] See e.g., Global Data Alliance, *Access to Global Markets, Innovation, Finance, Food, and Healthcare* (2021); Every Sector Is a Software Sector: Agriculture, https://software.org/wp-content/uploads/Every_Sector_Software_Agriculture.pdf; World Bank, *Agriculture and Food* (2020), https://www.worldbank.org/en/topic/agriculture/overview; IDB Climate Smart Agriculture, *Thematic Paper: Climate-Smart Agriculture* (Revised Version), p. 5, http://www.iadb.org/document.cfm?id=EZSHARE-1914875107-52. The IDB explains the underlying challenge that cross-border access to technologies and export markets can help ameliorate: "Smallholders typically capture a low share of the final value of its products and encounter non-transparent commercialization markets and difficulties in buying inputs and selling their products at fair prices. On top of that, small farm holders typically face limited access to export to new markets and unfavourable prices in international trade, and they are particularly vulnerable to volatility in commodity prices."

[25] USAID, US Global Development Lab website, available at: https://www.usaid.gov/digital-development/digital-finance

[26] See US Agency for International Development, Digital Strategy 2020-2024 (2020), at: https://www.usaid.gov/sites/default/files/documents/15396/USAID_Digital_Strategy.pdf; *see also See* Global Data Alliance, *Access to Global Markets, Innovation, Finance, Food, and Healthcare* (2021). Technologies that leverage data transfers help increase access – particularly as 95% of the world's population is already covered by mobile broadband networks and as new low-earth orbit satellite technologies bring connectivity to previously unserved communities. *See e.g.,* Ericsson, *Ericsson Mobility Report* (November 2019), at: https://www.ericsson.com/en/mobility-report/reports/november-2019; Global Data Alliance, *Cross-Border Data Transfers & Telecommunication Network Technologies* (2021), at: https://globaldataalliance.org/wp-content/uploads/2021/10/10042021cbdttelecom.pdf

[27] See e.g., USTR, *2021 National Trade Estimate Report on Foreign Trade Barriers* (March 2021), at: https://ustr.gov/sites/default/files/files/reports/2021/2021NTE.pdf

[28] UNCTAD, *Digital Economy Report* (2021), at: https://unctad.org/system/files/official-document/der2021_en.pdf

[29] For additional information, *see* https://www.globaldataalliance.org/downloads/02112020GDAcrossborderdata.pdf

[30] See generally, BSA, *Moving to the Cloud – A Primer on Cloud Computing* (2018), at https://www.bsa.org/files/reports/2018BSA_MovingtotheCloud.pdf. Cloud services delivered across-borders provide security advantages over alternative IT delivery approaches (on-premises or local cloud services):

- Physical Security: Certified personnel can carefully monitor servers 24/7 to prevent physical breaches and can apply consistent protocols over a small number of locations.
- Data Security: CSPs can ensure data integrity through use of state-of-the-art encryption protocols for data at-rest and in-transit. CSPs can establish redundant backups of data in geographically dispersed data centers, mitigating risk of loss in the event of power outages or natural or manmade disasters.
- Advanced Threat Detection: CSPs leverage state-of-the-art enhanced security intelligence They use regular penetration testing to simulate real-world attacks and evaluate security protocols against emerging threats.
- Automated Patch Deployment: Automated and centralized patch deployment and real time updates to network security protocols work to protect systems from newly identified vulnerabilities.
- Incident Management and Response: CSPs maintain global teams of incident response professionals to respond and mitigate the effects of attacks and malicious activity.
- Certification: CSPs are typically certified to international security standards and go through regular audits to maintain their certifications.

[31] See e.g., United States-Singapore Joint Statement on Financial Services Data Connectivity, at: https://www.mas.gov.sg/news/media-releases/2020/united-states-singapore-joint-statement-on-financial-services-data-connectivity

[32] See Global Data Alliance, *Cross-Border Data Transfers and Innovation* (2021), at https://globaldataalliance.org/downloads/04012021cbdtinnovation.pdf

[33] Global Data Alliance, *GDA Website – Healthcare* (2022), https://globaldataalliance.org/sectors/healthcare/; Global Data Alliance, *GDA Website – Biopharmaceutical R&D* (2022), https://globaldataalliance.org/sectors/biopharmaceutical-rd/