

Hearing Testimony regarding the USMCA Six-Year Review

December 5, 2025

Thank you for the opportunity to testify today on the operation and future of the United States-Mexico-Canada Agreement. My name is Joseph Whitlock, and I am speaking on behalf of the Business Software Alliance as well as our sister initiative, the Global Data Alliance, which is a cross-industry coalition of companies committed to responsible data practices and dependent on the ability to transfer data securely across borders to innovate, compete, and create jobs.

As you consider the USMCA's six-year review, the Alliance urges the United States to preserve the digital trade disciplines contained in Chapters 17 and 19, particularly Articles 19.11 and 19.12 and their corresponding financial-services provisions. These provisions remain foundational to U.S. economic leadership, supply chain resilience, national security, and technological competitiveness. Much has been said about these provisions. I'd like to address some of the myths that have cropped up in that discussion.

MYTH 1: "Cross-border access to data doesn't benefit the United States."

FACT: Cross-border access to information strengthens the U.S. economy and American workers across virtually every sector. International trade supports 40 million U.S. jobs, and over \$1 trillion in U.S. digitally enabled exports rely on cross-border data flows. Cross-border data restrictions imposed by foreign governments – including in some cases our North American neighbors – harm U.S. workers and enterprises that design, produce, and deliver high-value exports—from aircraft and vehicles to semiconductors, creative content, and financial services. Such restrictions also erode the U.S. tax base when companies are forced to localize operations abroad.

MYTH 2: "Trade rules on cross-border data undermine U.S. leadership on artificial intelligence."

FACT: The opposite is true. U.S. innovation and AI competitiveness depend on cross-border access to data. Companies of all sizes—and the U.S. government itself—need access to global data sets to train, deploy, and monitor AI systems effectively. Without such access, the United States and its allies cannot maintain their technological edge. Nor will the Administration's AI Action Plan be a success.

MYTH 3: "Cross-border data rules harm national security and limit government authority."

FACT: The USMCA contains an absolute self-judging national security exception. The U.S. retains full discretion to restrict or block data transfers when necessary for essential security interests—including under the Justice Department's Data Security Program and the FTC's authority under the Protecting Americans' Data from Foreign Adversaries Act of 2024 – which restrict (for national security purposes) data broker sales and other bulk data transfers to China. Indeed, in its final regulations, the Justice Department itself specifically rejected the contention that USMCA-style data transfer and data localization norms conflicted with the DOJ's Data Security Program. Any suggestion of such a conflict is entirely inaccurate. The real national security risk is in retreating from these USMCA data transfer norms. Doing so would signal American weakness and a lack of confidence in its own interests, creating a vacuum for adversaries to fill – by shaping new data rules contrary to U.S. interests and values.

MYTH 4: “Cross-border data rules undermine democracy and human rights.”

FACT: Leading civil-society organizations—including the ACLU and Freedom House—warn that arbitrary or discriminatory data restrictions harm democratic access to information and enable digital authoritarianism. These groups argue that the United States must champion the flow of information across borders while ensuring strong privacy and security protections. BSA wholeheartedly agrees with and endorses that perspective.

MYTH 5: “Cross-border data rules undermine competition, or only benefit large technology companies.”

FACT: There is no conflict between antitrust policy and cross-border data norms. Data localization mandates actually harm small and medium-sized enterprises the most, raising barriers to entry and strengthening foreign incumbents and state-backed monopolies. SMEs—representing 97% of U.S. digital exporters—depend heavily on cross-border access to data to compete and grow. Meanwhile, millions of U.S. jobs in sectors such as agriculture, automotive, clean energy, finance, healthcare, logistics, and telecom all benefit directly from stable data-transfer rules.

MYTH 6: “Trade rules prevent Congress from legislating on AI or privacy.”

FACT: Nothing in the USMCA restricts Congress from enacting new AI rules, consumer privacy legislation, or sector-specific data protections. The United States already maintains strong federal privacy laws and numerous state privacy statutes—all fully consistent with cross-border data norms. Furthermore, the USMCA contains broad public policy exceptions allowing each party to legislate to advance legitimate public policy goals.

MYTH 7: “U.S. leadership on cross-border data rules is no longer necessary.”

FACT: The Trump Administration negotiated these core provision in the USMCA. These principles mirror US law and reflect our strategic economic and security interests. It is critical that we maintain these high standards across the North American region. Abandoning them now would concede the field to authoritarian models.

Conclusion

For these reasons, we urge the United States to preserve the USMCA’s cross-border data provisions without change in the six-year review. These commitments strengthen U.S. competitiveness, safeguard national security, support democratic values, and deliver economic opportunity to businesses and workers across North America.

Thank you, and I look forward to your questions.