



November 16, 2018

The Honorable Robert E. Lighthizer  
United States Trade Representative  
600 17th Street, N.W.  
Washington, DC 20508.

## Protecting U.S. Digital Trade from Improper Customs Requirements

Dear Ambassador Lighthizer,

We are writing to raise serious concerns regarding the improper imposition of customs requirements on U.S. digital exports – a development that would directly impact America’s most innovative industries, including software and cloud computing services; music, film and publishing; and beyond.

Since 1998, World Trade Organization (WTO) Members have maintained a moratorium on customs duties on electronic transmissions. However, earlier this year, Indonesia issued Regulation No.17/PMK.010/2018 (Regulation 17), which amends the Indonesian Harmonized Tariff Schedule to add Chapter 99: “[s]oftware and other digital products transmitted electronically.”<sup>1</sup> These new tariff lines would cover many U.S. digital exports – potentially everything from subscription services for music, film, and publications; to cloud and other remote software services; to data used in manufacturing plants; and a broad catch-all category of “other digital products.” Although Indonesia currently maintains a duty of zero percent under Regulation 17, its actions set a dangerous precedent, raise international legal concerns, and threaten U.S. exports and jobs.

Unfortunately, other countries appear to be following Indonesia’s path. Some countries are working to undermine support for the WTO e-commerce moratorium by pushing a work program at the World Customs Organization to impose customs requirements on electronic transmissions.

The United States has a critical window of opportunity to address this issue. We commend USTR’s efforts to advance digital trade priorities and urge USTR to deploy all appropriate

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<sup>1</sup> Regulation 17 purports to cover a wide array of categories, classified in Indonesia’s tariff schedule between subheadings 9901.10.00 to subheading 9901.90.00, including “multimedia (audio, video or audiovisual)”; operating system software; application software; “support or driver data, including design for machinery system”; and a broad catch-all category covering “other software and digital products.”

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tools of trade policy, including under the Generalized System of Preferences, to ensure that U.S. digital exports are not subject to improper customs requirements.

Sincerely,

ACT – The App Association  
Association of American Publishers  
BSA | The Software Alliance  
Coalition of Services Industries  
Computer and Communications Industry Association  
Computer Technology Industry Association  
Entertainment Software Association  
Internet Association  
Information Technology Industry Council  
Motion Picture Association of America  
National Foreign Trade Council  
Recording Industry Association of America  
Semiconductor Industry Association  
Software and Information Industry Association  
Telecommunications Industry Association  
US Chamber of Commerce  
US Council for International Business