



September 10, 2020

The Honorable Robert Lighthizer
U.S. Trade Representative
Executive Office of the President
Washington, DC

The Honorable Ernesto Araujo
Minister
Ministry of Foreign Affairs
Brasilia

Dear Ambassador Lighthizer and Minister Araujo:

Our organizations represent all corners of the U.S. and Brazilian economies, including the technology, manufacturing, automotive, financial services, and life sciences sectors. Our member companies are substantial contributors to economic activity, job creation, and innovation in both economies, and most of our companies, in one form or another, choose to call both the United States and Brazil home.

We recognize that recent bilateral trade engagement between both governments under the auspices of the Agreement on Trade and Economic Cooperation (ATEC) is taking place amidst unique circumstances, including challenges stemming from the global pandemic and sensitivities around these and other ongoing trade talks. We further acknowledge the economic and broader policy benefits that stand to be derived from the advancement of state-of-the-art disciplines governing good regulatory practices, anti-corruption, and customs and trade facilitation, including commitments on the elimination of red tape through the establishment of compatible, electronically-enabled Single Windows and commercially meaningful *de minimis* thresholds.

However, we believe that in order to successfully seize the unique bilateral opportunity that the enhanced ATEC provides, as well as to resolve specific trade issues faced by all sectors that leverage digital technologies and the movement of data across borders, agreement on strong digital trade commitments must form part of any near-term outcome. Therefore, should the United States and Brazil continue to advance bilateral trade discussions under the ATEC, we strongly encourage the incorporation of the essential foundational principles of digital trade, in particular those that:

- *Enable cross-border data flows, embrace cloud technologies, and avoid data localization requirements;*
- *Proscribe tariffs and customs formalities on electronic transmissions and enshrine non-discriminatory treatment of digital products;*
- *Ensure protection of personal data, taking into account best international practices for privacy and interoperability of regulatory frameworks;*



- *Strengthen and expand good regulatory practices for digital trade, in accordance with OECD principles, as a means to promote new technologies like Artificial Intelligence (AI), machine learning and additive manufacturing;*
- *Promote governmental cooperation and risk-based approaches to cybersecurity;*
- *Proscribe requirements to disclose source code, algorithms, and proprietary information relating to cryptography;*
- *Establish limitations to liability for users and suppliers of interactive computer services to support and safeguard digital supply chains;*
- *Encourage a multilateral, consensus-based solution to tax challenges arising from the digitalization of the economy and refrain from adopting unilateral digital taxation measures that contravene international taxation principles;*
- *Complement and give effect to rules-based digital commitments through market access liberalization for services and ICT goods;*
- *Facilitate access to and use of open public data in accessible, machine-readable formats to spur adoption of AI and other emerging technologies; and*
- *Enshrine acceptance of electronic contracts, signatures and authentication.*

At a time when barriers to digital trade are proliferating and a wide range of economies – including both the United States and Brazil – are engaged in the negotiation of digital trade commitments at the World Trade Organization (WTO), the need for common agreement on strong digital trade disciplines in this bilateral context is more urgent than ever. Moreover, robust approaches to cross-border digital commerce will further enable collaborative responses to the current pandemic. As your teams move forward in their discussions, we strongly encourage the development of strong, rules-based commitments necessary to deepen the U.S.-Brazil bilateral trade and investment relationship and ensure its resilience in the modern, data-driven economy.

We greatly appreciate your consideration of our perspectives and look forward to opportunities for further engagement on this matter.

Sincerely,

Brasscom
 Brazil-U.S. Business Council (U.S. Section)
 BSA | The Software Alliance
 Computer & Communications Industry Association
 U.S. Chamber of Commerce
 Internet Association
 Information Technology Industry Council
 National Foreign Trade Council
 Semiconductor Industry Association