



May 14, 2018

The Honorable Robert E. Lighthizer
United States Trade Representative
Executive Office of the President
600 17th Street, NW
Washington, DC 20508

Dear Ambassador Lighthizer,

BSA | The Software Alliance welcomes the Administration's effort to complete a revised North American Free Trade Agreement (NAFTA). Updating this important agreement to include key issues for the software industry would promote economic growth and jobs, and improve U.S. terms of trade in the region. As negotiations progress towards completion, we therefore wish to reiterate the key priorities of the software industry.

The software industry is an important driver of the U.S. economy, contributing over \$1.1 trillion to U.S. GDP, supporting more than 10.5 million high-paying jobs, and investing more than \$63 billion in R&D each year. It contributes substantially to the services trade surpluses that our country currently maintains with Canada (\$24 billion in 2016) and Mexico (\$7.5 billion). A revised NAFTA would further strengthen these U.S. trade surpluses.

We applaud the Administration's determined effort modernize NAFTA for the 21st century North American digital economy by establishing gold-standard rules for an integrated North American digital economy. Specifically, binding obligations by governments would enable unrestricted cross-border data flows, strictly limit data localization requirements, and preclude forced transfer of, or access to, software source code or algorithms. The benefits of such rules would flow to all U.S. service providers, as well as manufacturing, agriculture and every other industry across the economy, which all rely on data analysis, artificial intelligence, and cloud computing services to grow their businesses.

We also urge the Administration to reach agreement on a modernized chapter on intellectual property. IP protection is core to our industry's competitiveness. At the same time, the products and services that BSA member companies provide have evolved in the decades since NAFTA was originally negotiated. The U.S. software sector now leads the world in the development of artificial intelligence, leveraging important flexibilities in U.S. copyright law in ways that make our devices smarter, our businesses more competitive, and the delivery of government services more efficient. A modernized NAFTA IP chapter should reflect the key features of U.S. law that have fueled innovation and our leadership in the development of artificial intelligence and other cutting-edge technologies, so that U.S. companies can leverage their innovation and export their services to global markets.

Finally, looking to the future, modern NAFTA digital trade and intellectual property chapters in turn can be an example for all the other countries actively considering developing their own digital trade rules. The United States can and should work with like-minded governments, in Asia and elsewhere, to incorporate NAFTA's level of ambition into future free trade agreements.

Robust consultation among the Administration, Congress and the business community will be essential in the drive towards completion and approval of a revised NAFTA agreement. Maintaining the current NAFTA during this final phase of work would enable thoughtful consideration of new and revised provisions.

Thank you for your consideration of our views and we look forward to working with you on this important agreement.

Yours sincerely,

A handwritten signature in black ink that reads "Victoria A. Espinel". The signature is written in a cursive, flowing style.

Victoria A. Espinel
President and CEO