ADVANCING DIGITAL TRADE:
An Agenda for Accelerating Economic Growth and Innovation

Forward-looking digital trade rules are critical to job creation, economic competitiveness, and software-enabled innovations such as cloud computing, artificial intelligence, smart devices, and other emerging technologies. Companies of all sizes and across all sectors — from agriculture and manufacturing to financial services and health care — rely on smart digital trade policies suited to today's innovation ecosystem, including the ability to move data across borders.

In ongoing and future bilateral, regional, and multilateral negotiations, updated rules on digital trade are critical. Relevant priorities include:

Trade Barriers

» **No Data Localization Requirements and Cross-Border Data Transfer Restrictions.** Governments should not impose data localization requirements or restrict cross-border data transfers as a market access barrier, and should promote interoperable frameworks to facilitate data transfers.

» **No Customs Requirements on Electronic Transmissions.** Governments should not impose customs requirements on software or data transmitted electronically.

» **International Standards.** Governments should support voluntary, internationally recognized standards, and should refrain from imposing conflicting national standards on market participants.

» **No Forced Technology Transfer.** Governments should not require or pressure companies to transfer or disclose their technology — such as source code or trade secrets, including algorithms — as a condition for market access.

» **State-Owned Enterprises.** Governments should not favor state-owned enterprises through discriminatory regulation or subsidies.

» **Investment and Export Restrictions.** Restrictions on the investment in, and exports of, digital technologies should be focused on safeguarding core national security objectives without undermining commercially oriented R&D or international trade.

» **Procurement.** Procurement rules should reflect the 21st century needs of governments, allowing them to use state-of-the-art technologies, including through access to domestic and foreign cloud computing services, and government agencies should use only legally acquired software.

» **Choice.** Companies should be free to use the technology of their choice and not be required to use local technology.

> BSA supports 21st century trade agreements that reflect the transformative role of software in advancing innovation, growing economies, and raising competitiveness across all sectors of the global economy.

Privacy and Security

» **Support for Privacy.** Governments should adopt legal frameworks that protect personal information without allowing for unnecessary or disguised restrictions on trade.

» **Protecting Security Through Encryption.** Governments should not undermine encryption in commercial products, and should not impose restrictions on security technologies used to safeguard against intrusions.

» **Protecting the Information Technology Supply Chain.** Governments and companies should increase their readiness to mitigate cyber and supply chain security threats, including through cyber and supply chain risk management and vulnerability disclosure processes that are based on internationally recognized standards.

» **Fair and Transparent Requests for Access to Data.** Governments should ensure that law enforcement requests to access information are procedurally fair and transparent, and include mechanisms for resolving differing legal requirements between jurisdictions.

Innovation

» **Machine Learning and Data Analytics.** Governments should ensure that commercial data analytics in the machine learning context is permitted.

» **Open Government Data.** Governments should commit to making non-sensitive government-generated data freely available to the public, on a non-discriminatory basis, and in machine-readable formats.

» **Limitations on Liability.** National laws should include appropriate limitations on liability for technology providers for legal claims arising from conduct by third parties.

Open and innovative economies are increasingly entering trade agreements to ensure their cross-border access to cutting-edge software and emerging technologies. And for good reason. These economies will be best positioned to compete and thrive in the global marketplace of tomorrow.

» **Copyrights.** Governments should ensure that copyright rules are aligned with international standards, including appropriate exceptions and limitations, such as safe harbors for online service providers that expeditiously remove infringing content upon receiving notification from a rightsholder.

» **Patents and Trade Secrets.** Governments should provide for nondiscriminatory software patent protection, and should protect trade secrets under civil and criminal law.

» **Research and Development.** Government should support R&D in artificial intelligence and other emerging technologies on a transparent and non-discriminatory basis, including through funding for basic research and support for public-private partnerships.

» **Technology in Government.** Governments should promote the use of innovative technology in public sector operations.

» **Electronic Signatures.** National laws should recognize electronic signatures in commercial transactions, including "smart" contracts.