

# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

November 8, 2021

The Honorable Joseph R. Biden  
President  
The United States of America

Dear President Biden:

We write to urge you to consider the strategic and economic benefits which an expanded digital trade agreement presents for the United States.

While we welcome U.S. Trade Representative Tai's initial comments on her agency's top-to-bottom review of trade policy toward China, much still rides on what tools the administration will bring to effectively counter Chinese economic statecraft.

Last November, you told the American people that, "[w]e need to be aligned with the other democracies ... so that we can set the rules of the road instead of having China and others dictate outcomes because they are the only game in town."<sup>1</sup>

We agree. But, so far, during your Administration, the United States continues to sit on the sideline. Our refusal to get into the game to set the rules for trade in the Indo-Pacific encourages potential partners to move forward without us and ensures China will hold the reins of the global economy.

China is quickly seizing the initiative for trade policy in the East—to the detriment of United States interests. Fifteen countries—comprising 30 percent of global Gross Domestic Product—have signed on to a trade deal that China backs: the Regional Comprehensive Economic Partnership (RCEP), an agreement that comports with China's interests, including weak rules on intellectual property rights, and none whatsoever on state-owned enterprises. Meanwhile, while the United States continues to disparage the Comprehensive and Progressive Transpacific Partnership (CP-TPP), the agreement that it helped negotiate, China now wants to join it.

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<sup>1</sup> News Conference, (Nov. 16, 2020)

That China could someday become an outsized member of both major trade blocs in Asia while the United States is party to neither, is a strategically unfavorable position to be in for the United States. If this challenge is left unanswered, China will continue to make headway in its strategy to build a China-centric economic order and displace the United States from its pre-eminent position in international affairs.

To reverse and prevent such an unfavorable development from happening, the United States must show effective leadership on trade; it must do so promptly; and it must do so *together* with the Administration and Congress working as one.

### **Set the Rules of the Road for Digital Trade**

To reestablish leadership in trade policy, the United States must—as a start—negotiate and conclude high standard rules for digital trade with our partners in the Indo-Pacific. This is an area of critical importance to the United States, and one in which the United States, and its Asian allies, are innovators and leaders. The digital economy contributes over \$2 trillion annually to the United States economy and supports 5 percent of employment.<sup>2</sup> The United States must pursue growth in a sector critical to its economic well-being and technological preeminence.

Our partners in the Indo-Pacific countries are setting their own rules, regulations, and standards to govern the digital economy. They are entering into their own bilateral and multilateral agreements without our participation, such as the Singapore-Australia Digital Trade Agreement, and the Singapore-New Zealand-Chile Digital Economy Partnership Agreement, which could put U.S. technology firms and consumers at a competitive disadvantage and ultimately erode our potential for innovation.

Foremost, digital rules must reflect American values, and directly confront China's abusive trade practices. These rules must ensure free flows of data, prohibit discriminatory measures, including duties and taxes, support consumer protection, promote cybersecurity, protect human rights, combat censorship, and preclude governments from forcing the transfer of proprietary source code and algorithms. United States negotiators should build on the digital trade chapter that was negotiated as part of the United States-Mexico-Canada Agreement to establish the type of high standard rules needed in the region.

### **Do it Now**

In August, Secretary of State Antony Blinken announced that trade deals must wait until sufficient domestic investment is made. We think that is wrong. Other countries, particularly China, are not waiting, and neither should the United States. Trade expansion itself is an investment in the American people—and a good one at that. As the Obama Administration's own analysis concluded, expanding exports means increased jobs, including jobs that pay on

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<sup>2</sup> Department of Commerce, Bureau of Economic Analysis, Updated Digital Economy Estimates (June 2021).

average 18 percent more than non-export oriented jobs.<sup>3</sup> There is no reason to deny American workers or businesses the opportunities that result from expanded market access.

A better approach is that outlined by Ambassador Katherine Tai in her October 4<sup>th</sup> speech. She said that the United States should work with allies to “shape the rules for fair trade in the 21st century and facilitate a race to the top for market economies and democracies” and that the core of the administration’s trade policy is “a commitment to ensuring we work with our allies to create fair and open markets.”

Ambassador Tai’s point is valid—and there is no reason to delay its fruition. Indeed, continuation of a passive approach to digital trade only allows China to further entrench its model of techno-totalitarian governance and promote its domestic technology champions, including those companies sanctioned by the U.S. government for their roles in supporting genocide in Xinjiang.

### **Do it Together**

A successful effort to write digital rules requires a close partnership between the Administration and Congress. We are prepared to be your partners in this endeavor. As you well know, the Constitution vests authority over international trade with Congress.<sup>4</sup> The founders were right to do so because Members of Congress are closest to individual citizens. In order to negotiate trade agreements successfully, Congress must be appropriately consulted, and have access to both U.S. and foreign negotiating proposals. Moreover, congressional participation must extend to the modalities for how to effectuate these rules, including whether to do a stand-alone digital trade agreement (on a bilateral basis or with multiple countries), or as part of a reengagement and modernization to the CP-TPP. Such a strong Executive partnership with Congress will ensure that the United States pursues outcomes that maximize benefits for the American people.

The Indo-Pacific is one of the world’s most dynamic, fastest-growing regions at the forefront of technology development and the center of global supply chains. For decades, Congress and the Executive branch have recognized that the security and prosperity of the United States is inexorably linked to a peaceful, prosperous Indo-Pacific region. Although we disagree on many issues, this particular issue is one that Republicans and Democrats have seen eye to eye on—and must continue to do so. While a digital trade agreement does not take the place of a comprehensive free trade agreement, it is a positive first step.

*To that end, we seek a dialogue so we can work together to move forward on a plan to ensure that the United States—not China—writes the rules for digital trade in the 21<sup>st</sup> Century.* As part of the discussions, we remain open and welcome the opportunity to discuss more broadly how to develop and advance an ambitious trade agenda for the United States.

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<sup>3</sup> Trade, Growth, and Jobs, U.S. Trade Policy in the Obama Administration, Cabinet Exit Memo (Jan. 7, 2017).

<sup>4</sup> U.S. Const. Art. 1, § 8.

Thank you for your consideration. We look forward to your prompt reply.

Sincerely,



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Mike Crapo  
U.S. Senator



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Ben Sasse  
U.S. Senator



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Chuck Grassley  
U.S. Senator



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Pat Toomey  
U.S. Senator



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Bill Cassidy, M.D.  
U.S. Senator



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John Barrasso, M.D.  
U.S. Senator



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Steve Daines  
U.S. Senator



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Rob Portman  
U.S. Senator



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Todd Young  
U.S. Senator



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John Thune  
U.S. Senator



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Richard Burr  
U.S. Senator



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James Lankford  
U.S. Senator



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Tim Scott  
U.S. Senate