



Telecommunications Industry Association

Director of Global Policy

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**Request for Public Comment
From the Office of the U.S. Trade Representative
on Negotiating Objectives for a U.S.-Japan Trade Agreement**

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Thank you for the opportunity to testify today. The Telecommunications Industry Association (TIA) represents some 250 manufacturers and suppliers of global communications networks in the United States and around the world. TIA is also an ANSI-accredited standards development organization.

In considering negotiating objectives for the proposed trade agreement with Japan, we believe it would be beneficial to draw upon a number of highly constructive provisions in the recently negotiated U.S.-Mexico-Canada Agreement (USMCA). In our view, the USMCA represents a major advance in trade rules, institutionalizing new norms that will facilitate expanded U.S. trade. We hope the administration will leverage key provisions in forthcoming negotiations with Japan.

Given time constraints, I will highlight today only selected sections of my written testimony.

Digital trade.

Data flows. Since TIA has discussed in our written comments the value of promoting cross-border data flows, I will not elaborate further here. However, on the data flows issue I would briefly highlight our recommendation that the two parties consider making permanent the prohibition on the imposition of tariffs, duties, and/or taxes on cross-border data flows and digital products.

IPR protections. The USMCA also offers important new IPR protections that we hope will be carried forward in future U.S. trade agreements. Notably, this includes a ban on government requirements for companies to disclose source code or algorithms in exchange for market access. The agreement also forbids governments from forcing companies to provide specific information about cryptography in commercial products as a pre-condition for market access.

In addition, the agreement provides criminal penalties for theft of trade secrets.

Promotion of risk-based cybersecurity approaches. The USMCA sets out an expectation that both partner countries and firms within their borders should use risk-based approaches based on consensus-based standards to deal with an evolving constellation of global cyber threats. The new language represents a helpful step forward in forging cyber norms. This is a timely development as more countries are wielding the specter of cyber threats as cover to undertake protectionist, trade-restricting policies.



Technical barriers to trade.

We would also like to highlight a chapter of the revised trade agreement that has received less attention but is of great value to the American ICT industry. The technical barriers to trade chapter is both robust and very comprehensive; it introduces a number of noteworthy precedents that we would urge USTR to carry forward into future free trade agreements.

Ban on requirements for in-country testing and certification. One especially important provision bans localization requirements for testing and certification (also known as conformity assessment). Government demands that firms use only testing and certification facilities on their home territory frequently collide with the complexities of ICT global supply chains, posing a substantial commercial burden to U.S. companies. The language marks an important effort to craft new norms in a commercially significant area of TBT.

Better disclosures on protection of IP in conformity assessment. A second important provision grants free trade partners the right to ask how confidential business information will be protected during conformity assessment procedures by government bodies. Amid a growing tendency of governments around the world to enact requirements for cyber-related testing, it is critical to provide better protections for American IP. The new USMCA language lays down an important marker in this respect.

Non-discriminatory standards setting. Worth highlighting too is the inclusion in USMCA of a commitment to non-discriminatory standards setting. New language in the trade agreement prohibits government preferences for standards developed in a way that disadvantages foreign standards-setting participants. While this may sound like a technical matter, the reality is that governments too often use the standards process as a backdoor for protectionist behavior that hurts U.S. industries.

Requirement to allow e-labeling. Another beneficial provision in the USMCA requires parties to allow regulatory information, such as that for electromagnetic compatibility and radio frequency, to be displayed electronically rather than by affixing physical labels to devices. This represents a considerable savings of both money and time for ICT companies. While Japan's Ministry of Internal Affairs and Communications allows e-labeling if it is easily and clearly displayed, we believe it would be helpful to affirm this in a free trade agreement.

Government procurement.

In some countries, governments constitute the biggest market for ICT products. Thus we value language in USMCA that maintains open, non-discriminatory and transparent market access in government procurement.

Summary.

To summarize, newly negotiated provisions in the USMCA set important and commercially significant new precedents that will help make U.S. telecom equipment suppliers more globally competitive. We hope the administration will further leverage these advances in its upcoming negotiations with Japan.