

Hearing on Expanding U.S. Digital Trade and Eliminating Barriers to U.S. Digital Exports

HEARING
BEFORE THE
SUBCOMMITTEE ON TRADE
OF THE
COMMITTEE ON WAYS AND MEANS
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Hearing on Expanding U.S. Digital Trade and Eliminating Barriers to U.S. Digital Exports

U.S. House of Representatives,
Committee on Ways and Means,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:04 a.m., in Room 1100, Longworth House Office Building, Hon. Dave Reichert [chairman of the subcommittee] presiding.

Chairman Reichert. The committee will come to order. Good morning. The subcommittee will come to order, and welcome to the Ways and Means Trade Subcommittee hearing on Expanding U.S. Digital Trade and Eliminating Barriers to U.S. Digital Exports. Before hearing from our witnesses, I would like to make a few points. Shocking. Huh? Politicians wanting to make a few points. We will all get an opportunity to do that.

The United States is far and away the world's leading exporter of digital goods and services. This is a great position for the U.S. to be in because digital trade is growing at a rapid pace. And this means more jobs and more opportunities for Americans across the country.

Our country is succeeding in digital trade because of the innovative spirit of the American people and American companies of all sizes. Our companies lead the world in creating digital products and content as well as in data storage and analysis. In fact, United States based Web sites represent more than half of the top 100 Web sites in every region of the world, except Europe.

In order to remain the global leader of digital trade, we must maintain access to the world's expanding digital markets. Digital trade, including the use of online platforms data flows, benefits both high tech companies and traditional companies in a wide range of industries like manufacturers, retailers, and service providers. These businesses depend on digital platforms to export goods and services. Small businesses, in particular, benefit from the opportunities that digital trade provides through global digital platforms, including e-commerce Web sites such as Amazon, search engines such as Microsoft Bing, and payment systems such as PayPal. And when our companies are successful because of digital trade, they grow and create more jobs here at home.

We must build on the great success of the United States companies. We need to do more to tear down barriers to U.S. digital exports so we can allow our job creators to grow. For example, too

many of our trading partners have imposed or threatened requiring the storage of data in country, which can make it impractical for U.S. companies in various industries to serve or even obtain customers in those markets.

Arbitrary blocking of cross-border Internet traffic, which effectively prohibits digital trade by U.S. companies, is another long-term problem in many countries throughout the world. China is a particularly extreme example. In addition, inadequate protection of intellectual property rights, such as digital piracy of media or software, hurts our innovative companies.

Trade agreements can be an effective tool to lower these and other barriers in open markets for America's digital products. Many of the problems our digital exporters now face arose after our existing trade agreements were negotiated years ago. And that is why Congress set forth important new and expanded principal negotiating objectives relevant to digital trade in goods and services and cross-border data flows in the bipartisan Congressional Trade Priorities and Accountability Act that became law last year. That was a mouthful.

Our future trade initiatives must reflect these priorities. In that regard, I believe TPP holds great promise to tear down barriers hurting digital trade. It would prohibit tariffs on digital goods, including software, video, and music. It would facilitate trade of both digital and physical goods by encouraging paperless trading and requiring the recognition of electronic signatures.

TPP also includes commitments to ensure the free flow of global information and data at the heart of digital economy. It would prohibit data localization measures, but I share the disappointment of many Members of Congress and the Financial Services Committee that financial services were excluded from this localization commitment.

I believe that the administration has heard our concerns, and I appreciate the administration is working constructively to address this issue. I welcome our continued work to create a clear and enforceable ban on localization requirements in this sector for all TPP countries. Resolving this issue and other outstanding issues, as well as developing implementation plans to assure that TPP will be fully implemented and enforced, is essential to getting congressional support for TPP.

Finally, the negotiation of a trade agreement with the EU and the trade and services agreement with 22 parties both hold great promise for digital exports as long as they are comprehensive, high-standard agreements that address the barriers faced by digital exporters and do not exclude import sectors such as financial services.

I will now yield to Mr. Rangel for his opening statement.

Mr. Rangel. Thank you, Mr. Chairman, for calling this hearing.

And I welcome all of our witnesses and look forward to hearing your testimony.

Gone are the days where trade simply meant reducing tariffs and limiting quotas for imported products. Trade policy now addresses much more difficult issues, as one can see from the length

of modern trade agreements. One of our biggest areas of expansion have been on issues related to digital trade. U.S. trade policy now addresses issues such as cross-border data flows, enforced localization policies that some countries have implemented to force companies to store data within their own borders. These digital trade policies have been endorsed by a wide range of stakeholders.

Not only have these provisions been applauded because of their commercial significance, but many NGOs, think tanks, and academies have also praised the revision because of the impact of maintaining a free and open Internet. This is one of the few areas in international trade policy where one can find very, very broad agreement. But we can't lose sight of the bigger picture. The public debate on trade today touches on a much broader range of issues and are much bigger and more controversial issues than the digital trade issues we will be discussing today.

These issues range from who actually benefits from trade in our trade agreements, and to whether we have the infrastructure and training programs in place to take advantage of the opportunities that may arise as the result of our trade agreements. We need to be much more focused than we have been on addressing these bigger picture issues if we want to begin and establish a consensus in bipartisanship on trade.

Mr. Chairman, there are some political questions as to whether or not the Congress is going to be dealing with the question of TPP. There is some political questions as to how many votes we will have. There are serious questions as to people being afraid that they are going to lose jobs. One way, in my opinion, that we can eliminate these fears would be to tie in the questions that we are raising today, and that is technology. Nobody can challenge the fact that, with TPP, we are going to have to have a workforce that is extremely talented in math, science, and technology.

And in addition to that, the greatest trade agreement in the world cannot be effective without a strong infrastructure. The Congress refuses even to discuss these issues. It would seem to me that if the President and the Congress could find some way to bring these issues together where the person on the street may not see an opportunity for him or herself, but certainly for their children to know that there will be jobs in infrastructure, the kids will be educated to meet the needs of the future, I think that in this administration we can get something done. Nevertheless, this is such an important part of a trade agreement that we don't discuss. And I welcome the opportunity to listen to the witnesses.

And I yield back the balance of my time.

Chairman Reichert. Thank you, Mr. Rangel. And we would agree, I think, on both sides of the aisle that trade agreements are normally a difficult process for us to work through. We want to get it right because it is about creating jobs across this country and having the ability to sell our products across the globe. And I do think you are correct in recognizing the importance of a highly educated force in our country and preparing them for especially the new jobs that will be supplied in the area of high tech, and especially as it relates to technology and trade.

And that is really the purpose of today's hearing, is to really expose and educate those who may not know how the world works today regarding technology and trade, and the benefits that it provides to Americans and jobs and how we must begin to prepare to enter in that sort of a market. So today, we are joined by five witnesses who will help us understand this issue a lot more. We will have lots of questions for you after your testimony.

The first witness is Mr. Robert Atkinson, president of Information Technology and Innovation Foundation. Our second witness is Mr. Christopher Padilla, vice president of Government and Regulatory Affairs of IBM Corporation. Our third witness is Mr. Michael Beckerman, president and CEO of Internet Association. Our fourth witness is Ms. Kavita Shukla, cofounder and CEO of Fenugreen. Finally, our fifth witness is Mr. Usman Ahmed, head of global public policy at PayPal.

Before recognizing our first witness, let me note that our time is limited. So please limit your testimony to 5 minutes, and a reminder to members to keep their questioning to 5 minutes.

Mr. Atkinson, you are recognized for your 5-minute statement.

STATEMENT OF ROBERT ATKINSON, PRESIDENT, INFORMATION TECHNOLOGY AND INNOVATION FOUNDATION

Mr. Atkinson. Thank you, Chairman Reichert, Ranking Member Rangel, and members of the committee. It is a pleasure to be here today to talk to you about this important issue.

I would like to make three main points. The first point is that as information technology has improved over the last decade, it has become increasingly easy for companies to share data across borders. And not just easy, but necessary. As we have global supply chains, and as U.S. firms, even big and small become more global, they need to be able to move this data across borders.

Companies that are doing this, though, as the chairman mentioned, are not just the high tech companies, some of who are on this panel, but firms in a wide array of industries: Agriculture, mining, retailing, banking. For example, consumer products companies like Proctor and Gamble, machinery companies like Caterpillar, retailers like Walmart, aerospace firms like Boeing, automobile manufacturers like Ford, and other manufacturers like GE for their aircraft engines, wind turbines, and industrial equipment, all of these companies rely on the ability to move data across borders for their competitive success.

Unfortunately, though, dozens of countries now have put in place barriers and prohibitions that limit the ability to move data across borders, china being perhaps one of the worst examples. They, for example, prohibit firms from processing or storing offshore financial and credit data on Chinese citizens. Malaysia's Personal Data Protection Act requires that all data on Malaysians has to be stored on local servers. And South Korea has the same kind of policy. And these are just a few of the restrictions. Increasingly, we are seeing more and more countries adopt these policies, either because they think they are going to get jobs and protect and defend their domestic companies, or misguided orientation beliefs on privacy.

This hurts the U.S. economy in three main ways. One is that data localization by definition means that economic activity that could be in the U.S. is now going to be overseas. You are not going to have a data center here if you have to put one in Brazil or Vietnam.

Secondly, these cross-border data restrictions increase costs and limit innovation for U.S. firms. U.S. firms use this data to figure out new ways to improve their products and services. They use this data to cut costs. And if they can't do that, there will be a problem.

And third, if they restrict U.S. firms from participating in these foreign markets, they are going to lose market share to these companies who are favored by the domestic countries.

And I think most importantly is there is really no policy justification for data nationalism. Some countries are just, frankly, naked mercantilists. They just do this because they think they can and they want the jobs. Other countries, either they say or they believe that this is necessary for privacy. But it really, fundamentally, as we have shown in work, there is really no advantage from a privacy or commercial security perspective of keeping data in the country.

To use an example, if a foreign company is in the U.S. providing healthcare services, they can't escape the requirements of HIPAA by storing the data somewhere else. They are subject to U.S. law. And anytime a U.S. company is in a foreign country doing business, they are subject to their privacy laws and their security laws. Where they put the data is irrelevant. It just has no effect.

In fact, you could argue that the ability to store data in the best data centers in the world, the most secure data centers in the world, is actually more privacy protective than having to put it in every little data center in every country in the world. That is why I think the decision by the administration to exempt the financial sector from NTTP -- from the relatively strong data localization prohibitions in TPP was ill advised. This rule which was at the insistence of U.S. financial regulators essentially sent a message that said something special about financial data. It is so important that you have to keep it local. In other words, it sent a message that moving data across borders was risky. And as we have shown, there really was no reason for that provision.

There are already provisions in a number of different trade agreements and other provisions that would have let financial regulators get access to that data. To their credit, USTR is attempting to fix that and has indicated that they would not put it in future trade agreements. So I think they deserve credit for the fix.

Lastly, this comes -- what do we do in the future? I think, first of all, any new trade agreement that U.S. is engaged in shouldn't have that provision in it. And in addition, we should make sure that any new agreements, TiSA or TTP, and ideally, frankly, a new multilateral data services agreement in the WTO should ensure that there are strong prohibitions against data nationalism.

And I will just close by saying with -- Congressman Rangel's point about the loss of faith in trade in the U.S., and we see that in the current politics today. In our view, one of the reasons there is a loss of faith is because of other countries manipulating the trading system and, frankly, cheating and hurting U.S. companies and U.S. jobs. And I think that is why making sure we

have these very strong prohibitions against data localization, data nationalization that are in the TPP and making sure that they extend to other agreements is going to be important, not just to help U.S. companies, but to restore faith in the trading system.

Thank you for having me.

Chairman Reichert. Thank you.

Mr. Padilla.

STATEMENT OF CHRISTOPHER PADILLA, VICE PRESIDENT, GOVERNMENT AND REGULATORY AFFAIRS, IBM CORPORATION

Mr. Padilla. Thank you, Mr. Chairman. A privilege to be here today on behalf of IBM.

And I would make one point, and that is to say this from IBM as a technology company, the digital trade is not a technology company issue. It is about every industry, because every industry and all consumers are becoming increasingly digital. And to illustrate that point, I would like to use an example, a hypothetical example.

Imagine that you as members of the committee were invited to Brussels by the European Parliament for an interparliamentary dialogue on trade. If you check in for an evening flight to Brussels via London, the minute you do so, the airline sends data ahead of you to Heathrow to facilitate the transfer of your baggage between flights, to send security and customs clearance information, and even to communicate your meal preferences for the next flight.

While you are flying, the engines on your aircraft are automatically transmitting data ahead of you to ground crews in London via a satellite link through a data center in the United States saying that they need some minor maintenance when the plane lands. When you land at Heathrow, you might take advantage of your layover to use your U.S. ATM card to get some local currency. You might post a few photos on your Facebook account. You might check The Weather Channel app on your iPhone to see if it will be raining in Brussels, which it probably will be. And you might even use the app on your device to look at the Wimbledon app and watch Serena Williams win another championship.

You are not even in Brussels yet, and in less than 12 hours you have created, caused, or benefited from literally scores of cross-border movements of data. Your flight information, your baggage count, your meal preferences, your banking transaction, your Facebook post, your weather inquiry, and even your sports fix would not have been possible or as easy if data were not permitted to flow freely in the cloud.

And at IBM we know this because we touched each one of those transactions through your airline reservation system, through engine maintenance systems, through banking networks all run and managed by IBM. Or the IBM Weather Channel app on your iPhone, which is the most downloaded app there is. Or if you watched Wimbledon on your Wimbledon app on your

device, that came too from IBM. And we supported it through data centers in Toronto; New York; San Juan, Puerto Rico; Melbourne; and London.

Now, imagine for a minute that your trip had proceeded, but there were onerous rules preventing your data from going ahead of you to Europe or if the data you generated while you were in Europe was required to stay there within the European Union. This is not a hypothetical risk. In fact, there was a very real possibility, just a few months ago, that transatlantic data flows might have been interrupted, absent a special US/EU privacy shield agreement signed just yesterday in Brussels to allow those flows to continue. There is continued pressure for digital protectionism from France to India to Brazil to China. Countless countries are seeking to restrict the flow of data or require that it be stored locally.

So the point is that this is not just an issue for companies like IBM. It affects countless industries: Airlines, express delivery firms, retailers, banks, engine manufacturers, and every one of us as a consumer. The simple fact is this: If data cannot flow freely, 21st century commerce cannot happen. I am happy that Congress and the administration recognize this with language in Trade Promotion Authority supported on a strong bipartisan basis that made clear that this should be a strong negotiating objective of the United States in future trade agreements.

And in TPP, the United States has negotiated the most far reaching, groundbreaking really, provisions regarding digital trade ever seen in a trade agreement. These protect the cross-border movement of data and prevent regulations that require data to be stored locally. They also set a vital precedent for every future agreement, particularly our current negotiations with the European Union.

American companies are leaders in digital trade, as you said, Mr. Chairman, and, therefore, we have the most to lose from digital protectionism or data nationalism. Data touches each of our lives every day. But by negotiating trade agreements and trade rules to keep that data flowing freely, not only do we protect commerce, but we protect the freedom of expression, as Mr. Rangel said. This is United States leadership, and we are once again leading toward a more prosperous, open, and interconnected future.

Thank you for the opportunity to be here.

Chairman Reichert. Thank you.

Mr. Beckerman.

STATEMENT OF MICHAEL BECKERMAN, PRESIDENT AND CEO, INTERNET ASSOCIATION

Mr. Beckerman. Thank you, Mr. Chairman and Ranking Member, members of the committee. I appreciate the opportunity to testify on digital trade.

My name is Michael Beckerman, and I am president and CEO of the Internet Association. Internet Association represents nearly 40 of the world's leading Internet

companies. And our mission is to foster innovation, promote economic growth, and empower people through the free and open Internet.

I will focus my testimony this morning on two key points. The first being that the importance of the effective digital trade policies will provide a frictionless access to global markets. And second, I will talk about the Internet Association's trade policy recommendations that I think will help grow the economy. And I ask that my full written testimony be submitted for the record.

Internet platforms are the global engine of the innovation economy. The Internet sector represents an estimated 6 percent of U.S. GDP in 2014, totaling nearly \$1 trillion and nearly 3 million American jobs. In addition to the economic contribution to the Internet industry, our member companies are transforming the way we do business at home and abroad by lowering barriers to entry and providing unprecedented growth opportunities for American businesses, large and small, and entrepreneurs.

The Internet, I believe, is the greatest American exporter of the 21st century, and cross-border trade is no longer only defined by shipping containers or freight lines. Today, trade is just as likely to be data flowing freely across borders or even a swipe of an app.

In addition to borne Internet industries, the Internet is yielding dramatic benefits for traditional industries that have nothing to do with technology at all. In a recent study, we found that more than 75 percent of the economic value that has been generated from the Internet is being captured by companies in traditional industries. Many of them are small businesses from agriculture to manufacturing and beyond. And it is no accident that many of the world's leading Internet companies have been born and are scaled here in the United States, something that we should be proud of and encourage.

But while the Internet has become a major driver of economic activity and global growth around the world, governments have continued to engage in harmful policies that we think need to be addressed. These include activities that block and censor content or mandate that data be stored locally. These activities directly threaten the free and open nature of the Internet and act as digital protectionism that stifles trade and investment.

The ability of Internet platforms to export innovative online services to new markets is also dependent on a foreign country's ability to promote balanced and equitable enforcement of intellectual property rights. Without adequate limitations and exceptions in copyright law, such as fair use, the Internet industry would face significant barriers to entry in foreign markets, and U.S. creators would lack sufficient freedom to create and distribute new works abroad. Outside the area of intellectual property, intermediary liability protections, reflected in section 230 of the Communications Decency Act, provide the backbone of Internet policy by enabling U.S. companies to host user-generated content without being held liable.

The Internet ecosystem flourishes when users and content creators are empowered through an open architecture that promotes free expression and unrestricted exchange of ideas and information. The Internet Association strongly supports including intermediary liability

protections and trade agreements like TiSA and others to promote e-commerce and democratic discourse.

Historically, pro-Internet policies have been absent from trade agreements. While we recognize there may be a diversity of views on TPP, we feel that the TPP does acknowledge the benefits of the full balance of copyright law, requiring countries to adopt innovation critical limitations and exceptions, as well as safe harbors to protect the basic functionality of the Internet. The TPP also promotes a more inclusive trade economy by supporting the ability of small businesses to use the Internet to serve customers and users in key markets globally by streamlining the customs process and increasing the de minimis limits for small businesses.

We believe that the true test of any trade agreement should be judged by its implementation. And we look forward to working with both the committee and the administration to ensure that digital trade provisions in TPP and other agreements thoughtfully are implemented.

And finally, as I close, we hope that the committee will continue to work closely with the Internet community to find ways to create a more inclusive system for negotiating trade agreements, such as creating a chief digital trade negotiator that will better reflect the realities of today's digital Internet economy.

And with that, I want to thank you for having me testify today. And I look forward to any questions the committee may have.

Chairman Reichert. Thank you.

Ms. Shukla, you are recognized.

STATEMENT OF KAVITA SHUKLA, FOUNDER AND CEO, FENUGREEN LLC

Ms. Shukla. Chairman Reichert, Ranking Member Rangel, and members of the committee, thank you so much for the opportunity to be here today and to share my story.

My name is Kavita Shukla. I am the founder and CEO of Fenugreen FreshPaper, which is a social enterprise taking on global food waste with a really simple innovation. FreshPaper actually began as my middle school science project. It was inspired by a trip to visit my grandparents in India. And when I accidentally drank some unfiltered tap water, my grandmother gave me a homemade mixture of spices as a remedy. And when I didn't get sick, I became really curious.

So back home in Maryland, I started tinkering around with different spices and jars of dirty pond water. And I started to observe that it seemed like some of the spices were slowing down the growth of bacteria and fungus. And one day, when I was at the grocery store with my mom and I saw some moldy strawberries, I began to wonder if perhaps I could apply my spice mixture to keeping food fresh.

And so to make a long story short, after spending most of my high school years meticulously rotting fruits and vegetables in my garage, I created FreshPaper, infused only with organic spices that can keep food fresh for up to two to four times longer.

Today, we lose more than 25 percent of our world's entire food supply to spoilage. FreshPaper poses a really simple and sustainable solution to the massive global challenge of food waste.

I was a senior in high school when I found out that I would be issued a patent for FreshPaper. It was a pretty unlikely outcome to my story, possible only in this country. I was aware, even at that age, that my grandmother, with all of her brilliance, she never had the opportunity to pursue her ideas. And here I was 17, I had a patent, and I was on my way to Harvard to pursue mine.

So as soon as I got to college, I set out to build a nonprofit. But what I really ended up learning is how hard it can be to give something away for free. And like many aspiring entrepreneurs, I started to believe that I would need more experience, more money, more resources, just more than I had and more than I was. And I stopped believing that I alone would ever be enough to bring my idea out into the world.

So it wasn't until the summer of 2011, nearly a decade after I first started working on my science projects, that I finally had the courage to take just one more step with my idea. And I decided to take it to my local farmers market in Cambridge, Massachusetts. I stayed up all-night and handmade a batch of FreshPaper in the kitchen of my tiny studio apartment. And early the next morning, my cofounder and I stood on the streets just handing out sheets to anyone who would stop by. Our hope, really, was to help our local community have greater access to fresh, healthy food.

But as the weeks went on, we were amazed by the response. What we really started to hear from people was that FreshPaper was making it possible for them to afford eating fresh, healthy food and feeding it to their families. And so I was inspired to think a little bit bigger.

I set up an online store, and on a whim we enabled international markets. In less than a minute, FreshPaper was available worldwide. And while we were only selling FreshPaper in one local store, the Harvest Co-op, we were shipping FreshPaper to places like Spain, Australia, Canada, the U.K., Indonesia, Japan, and Brunei. I now joke that we went global by accident. With just a few errant clicks, my farmers market stand had access to an almost infinite global market.

But, of course, at the time we had no idea how to ship globally. But at every roadblock we Googled our way out, and we discovered that there were digital tools to actually make this a reality. We found that PayPal could collect foreign payments, that Intuit QuickBooks could help us keep track of our earnings, and that UPS had a program, Mail Innovations, that really simplified customs.

So even though we had started with less than a thousand dollars, we had no outside funding, no marketing budget, and really no experience, within a few months, we were carting wheelbarrows of orders to our local post office and shipping our made-in-USA product to places I could have

never imagined. Those international orders helped us keep our fledgling business alive, giving us time to build our customer base locally.

Today, FreshPaper is on the shelves of some of the largest retailers in the world, from Whole Foods to Walmart. And we are working with international distributors to bring FreshPaper to more retailers, farmers, and families across the globe. And just recently, FreshPaper became the first product to be launched globally by Amazon as part of Amazon Launchpad, which made our simple idea available in 180 countries overnight. The Internet took my farmers market stand global.

But my story is not unique, and I don't believe that it should be. I have seen the power of international markets in an open global Internet. I am here because I believe we have to reduce barriers to unleash our country's entrepreneurial talents and to encourage small business owners to think global from day one.

Entrepreneurs live to work hard, to hustle, to spend sleepless nights figuring out how to make the impossible a reality, to push through resistance, the naysayers, and the doubt. And in the unlikely event of our success, share the benefits with our communities, to create American jobs, to build factories, and to design organizations that will outlive us. But we cannot do it alone. We need your help. Give us access. Help us reduce barriers to the spread of our ideas, and we will work hard to figure out the rest.

Thank you so much for the opportunity to be here.

Chairman Reichert. Thank you.

Mr. Ahmed.

STATEMENT OF USMAN AHMED, HEAD OF GLOBAL PUBLIC POLICY, PAYPAL INC.

Mr. Ahmed. Chairman Reichert, Ranking Member Rangel, and members of the subcommittee, I would like to thank you all for giving PayPal the opportunity to testify today on the important topic of digital trade and its impact on U.S. exports.

PayPal operates an open, secure, and technology agnostic platform that businesses use to transact with customers around the world. With our 170 million customer accounts and 14 million merchant accounts, PayPal is a truly global payments platform that is available to people in more than 200 countries, allowing customers to get paid in more than 100 currencies.

About 25 percent of the volume on PayPal is cross border. Our PayPal PassPort tool is a free online resource designed to educate and empower small businesses to expand their reach by uncovering new peak sales opportunities outside their own borders. PayPal's purchase protection program offers cross-border buyers peace of mind by reimbursing the full purchase price plus any shipping costs if there are any complaints. And this includes the purchases of services as

well as digital goods. We also offer a seller protection program, meaning that both the buyer and the seller can transact with confidence. This trust is essential to the digital marketplace.

Finally, PayPal's core innovation is security. PayPal does not expose the merchant or the consumer financial information, meaning that both sides of the transaction feel safe, particularly when transacting across borders. At PayPal we have sat at the center of the digital trade revolution since 1998. And this is a revolution that has profound impacts on the concept of trade as we know it. PayPal helps businesses like Home Depot, Uber, and Subway with their global transactions. But more importantly, we help hundreds of thousands of small businesses across the United States to go global.

Traditionally, international trade was solely the domain of the largest businesses. But a small business can now use the Internet in combination with a host of online services providers to engage in trade at a geographic scale similar to the largest businesses. This democratization of trade has tremendously positive development, inclusion, and growth implications.

Digital technology has helped business owners like Stan Carson from Wenatchee, Washington, who operates a sporting goods equipment store and employs 28 people, as well as Jamie Wankum from South Sioux City, Nebraska, who employs 10 people in his electronic business, to export their products to countries around the world.

Over 65 percent of U.S. merchants that use PayPal and operate in digital trade, of our top merchants, 65 percent operate in digital trade. Compare this with numbers from the U.S. Department of Commerce, which finds that less than 1 percent of America's companies export. When we surveyed 170 U.S. small- and medium-size enterprises that have an online presence, we found that those that engaged in digital trade had double the sales revenue of those who only sold domestically. These amazing developments, though, are tempered by the barriers that limit the benefits of digital trade.

In our survey of U.S. small businesses, we learned that shipping, regulatory compliance, and customs were the top barriers to small business cross-border commerce. Digital trade has also brought on a new wave of localization requirements, captured most poignantly by regulatory requests for digital companies to store data in country. Trade policy represents an opportunity to resolve some of these issues.

The U.S. Government has already taken important steps to enhance the environment. The Congress passed the Customs Reauthorization Act, making it easier to move small e-commerce shipments across borders. This is actually an export promotion issue because U.S. online businesses often struggle with retail returns. The U.S. International Trade Commission has sought to measure the value of international trade, and the Commerce Department's export.gov contains templates designed to educate small businesses on how to engage in digital trade. Moreover, the United States Trade Representative has been promoting important language on national treatment for cross-border financial services, as well as small business trade facilitation. But more can be done.

Customs and duties regimes can be simplified. De minimis levels can be raised, and a prohibition on data localization requirements can be expanded to cover cross-border financial services. The U.S. must continue to look for opportunities to open up the market for digital trade and create rules that provide certainty for small businesses and consumers that engage in the cross-border digital marketplace.

Thank you again for the opportunity to address this committee on this important issue. And I look forward to answering any questions.

Chairman Reichert. Thank you, all of you, for your testimony. Thank you for being here today. And we will have some questions for you, and I appreciate you staying for the questions. Like you were going to get up and leave anyway. Right?

Ms. Shukla, your testimony is inspiring in this committee and others. You know that, on the Ways and Means Committee, we have heard some pretty inspiring stories as we sit here and listen to the testimony of Americans who have realized the American dream, and still have dreams and hopes ahead. So congratulations on your success.

And thank you to all of you for your testimony again today.

You mentioned that selling on Amazon's global platform helped you make sales in export markets. Can you explain a bit more how Amazon has helped you make the most of your export opportunities?

Ms. Shukla. Sure. You know, when I first began, I really just was able to click a button and make my product available on a lot of international markets. But one of the most difficult things I realized was actually getting the product to the end customer. And there have been so many incredible digital tools that have helped us. But the time was still actually very, very long. It would sometimes take somebody in Switzerland 6 to 8 weeks to get our product. And that is obviously a very long time. And there were significant regulations that we had to work out.

So one of the amazing things about Amazon Launchpad -- and we are still in the very early stages. So we are just starting to see all of the traction that is coming out of that. But one of the amazing things is that they helped us go through the compliance for all of the markets that we are selling in. So it was made available in all of Amazon's countries that they sell to, which is over 180 countries, I believe. But it also made the time that it takes for the customer to receive it much more efficient. And for a small business like ours, that is incredible. We can't possibly have that kind of speed or that efficiency in getting the product to customers. And that, I think, really will unleash a whole new set of opportunities for us, because there are so many more people we can reach. As they get it more quickly there is a lot of other opportunities that come out of that, including repeat purchases, the ability to work with larger customers, and farmers as well.

Chairman Reichert. Are there any other digital platforms that you have used?

Ms. Shukla. So we have used Shopify and BigCommerce. We have used PayPal, of course, to help us do our payments. Every credit card company has been helpful in figuring out, from AmEx to Visa and MasterCard, they have all been very helpful in figuring out how to accept foreign payments. Because that was a challenge I certainly didn't foresee. Of course, it was easy to get an order, but then customers wanted to pay in different ways. We had to make sure if we needed to process a refund, there was a way to do that, if the product didn't show up or got caught in customs.

But I think the opportunity right now with Amazon simplifies kind of all of that because all we do now is ship it to one of their warehouses abroad or even domestically, and they will take it abroad. So I think we are excited to see what happens as we launch on Launchpad, because I think it will be a very different way of doing business for us. A lot less hassle, a lot more efficiency.

Chairman Reichert. Thank you.

Mr. Ahmed, in your testimony, you shared a great example of a small business from my district that benefited from selling its good internationally, businesses like Performance Equipment in Wenatchee, Washington. It is in the central part of the State. Kind of in a rural area of the State. They need a convenient, secure payment system in order to export. And this is true for businesses of all sizes, obviously.

Restrictions on cross-border data flows clearly would make it difficult to maintain an efficient payment network that is global in scope. Can you identify any other barriers that make it difficult or impossible for PayPal to operate in a certain market?

Mr. Ahmed. Cross-border data flows are certainly a central piece of the underlying certainty that businesses like ours need when approaching other markets. Other issues that are actually addressed in the Trans-Pacific Partnership that are quite important include the bar on duties for digital goods. It is an important provision, as you want digital goods to flow freely across borders and not be stopped at a border to collect duties. So that particular provision would be quite impactful and quite important.

Chairman Reichert. Has the United States had success in TPP or other negotiations in addressing such barriers?

Mr. Ahmed. Yes. Thank you, Chairman. The digital goods issue has been in previous free trade agreements, including the Korea Free Trade Agreement, and is now a part of the Trans-Pacific Partnership as well. And so that is an important protection.

Chairman Reichert. Could you describe how important it is to ensure that these commitments are enforced?

Mr. Ahmed. Certainly. The certainty comes from the enforceability of the agreement. There are many diplomatic negotiations that may occur. But the benefit of a trade agreement is that it is

enforceable and that countries that feel that the agreement has been violated can bring a dispute and get that dispute resolved in a binding form.

Chairman Reichert. All right. Thank you.

Mr. Rangel, you are recognized.

Mr. Rangel. Thank you, Mr. Chairman. And again, I thank you for bringing this exciting panel to us to hear their testimony. I wish I could staple them to every town hall meeting that I attended just so that you can shatter the fear and the ignorance of people not having the slightest idea as to where our country is going with trade, what are you up to when you talk about putting -- I remember when I came to Congress, I pulled up a friend of mine's name in the computer. He said, how could you possibly have my background in a computer? And you go to a foreign country people, don't want you to take their picture.

And quite frankly, there is a fear of what you don't know. And there is a feeling that you don't want people to know what you don't know. And privacy is a good thing. That is yours. And I just hope that there is some way for our country to take advantage of this competitive edge that we have, because to me, we are talking a new language.

We have been fortunate that the international community has adopted English in trade agreements. But it seems to me that technology is the new international language. And I would think that there are at least 100 Congressional districts that if you talked about science, technology, and trade, the first thing Americans say: What is in it for me? And if you are 60 years old, it is hard for us to have an imagination as to what could possibly be in it for them. Technology has just passed them by.

But, boy, if we knew that our kids and our grandkids would learn this new language, to see how easy it is for them to manipulate games and gadgets and how their minds are receptive, and to see how grandparents can learn so much from the younger people, if only we had an educational system that would allow everyone to see what trade with the European Union, what trade in the Pacific could mean to them.

Mr. Padilla, you talk about technology and your outfit like all America knows what is going on. But in our school system, they haven't the slightest idea as to the opportunities they have. It breaks racial barriers. It breaks cultural barriers. It makes you a potential successful citizen of the world. And yet when we talk about trade, people say: How many jobs are we going to lose this time?

So I don't know what question to ask you, except I wish that your testimony could be the preamble to TPP. I wish people could see the opportunities to TPP.

And the other bookend should be infrastructure. Because without communication, without transportation, I don't care what is in TPP, it just won't work.

And your message, especially you, Ms. Shukla, in breaking down the new world of technology to your grandmother and to your mother with things that everyone understands, and all of you have done a remarkable job there, leads me to believe that we in the Congress have to have a better way of interpreting what world trade and technology means for the future of our great Nation.

So, Mr. Chairman, I thank you for this illuminating panel, and yield back the balance of my time.

Chairman Reichert. Thank you.

Mr. Smith.

Mr. Smith. Thank you, Mr. Chairman. Thank you to our panel. Some inspiring stories obviously, Ms. Shukla. I am glad that your grandmother shared her intellectual property with you and that you have taken that globally. I am trying to think back if I could take any of my grandparents' intellectual property and pursue some economic opportunity.

But this is such an important topic. And what I like about technology, digital technology, is the opportunity it presents consumers through utilizing so much of the technological infrastructure that is out there, and market opportunities, but also an entry into the marketplace for the little guy. And it's just -- I mean, the stories are many. And I don't want to take up my time describing all of those, but it is just truly amazing what we can do, what the little guy can do, to access the world, as Ms. Shukla has certainly spoken very well about.

The empowerment of producers -- and when I say "producers," I happen to mean agriculture producers, as a representative of the largest agriculture district in America where producers themselves have been able to be more efficient for the world marketplace. And I think there are great examples of how utilizing resources more efficiently, whether it is water, land, or even chemicals, that there is economic opportunity associated with that as well.

Mr. Atkinson, could you discuss why digital trade is important to industries, such as agriculture, and maybe reflect a little bit on those uses?

Mr. Atkinson. I am sorry. Was the question about agriculture?

Mr. Smith. Agriculture, right.

Mr. Atkinson. So one of the things -- dynamics that is happening in agriculture is we are moving to smart agriculture, precision agriculture, both on sort of the biological side, but also on the IT side where farmers now are planting crops and the ability to know down to actually the square meter each part of land, does it need a little more water, a little less. And this notion of precision agriculture is critical. But to really maximize that benefit you have to have large data sets.

And one of the things that is going to happen with agriculture and many other industries is what is called machine learning or cognitive computing or artificial intelligence, where we not just learn from one farmer, but the ability to have a lot of farmers together. And again, the data would be anonymized, so there would be no risk to an individual farmer. But if we could know how, in general, all cotton farmers or all wheat farmers around the world, how this is working, that would really, really provide a lot of innovation and improvement. But again, if you have this requirement that the data can only be in one small place, you are giving up this big opportunity for machine learning and artificial intelligence to really advance the field.

Mr. Smith. Right. Very well. Thank you.

Mr. Beckerman, how do your companies help ag producers navigate the barriers and challenges of international trade?

Mr. Beckerman. Thank you for the question, Congressman. The Internet is all about reducing friction and connecting people around the world and connecting supply and demand in a seamless instantaneous way. And that happens in every single industry, including agriculture. Everything you see, what happens on the payment side from companies like PayPal and others. There are technology Internet companies like AgLocal that provide almost like an eBay for agriculture.

And what you see in every single industry, including agriculture, is our companies in the industry and digital trade, it is just making it easy cutting out the middleman and making -- you know, you can focus on farming and reach customers around the world.

Mr. Smith. All right. Very good. Thank you.

And again, I want to add emphasis to the fact that while Uber and Lyft might make our lives easier, what I find even more inspiring is that someone can pursue opportunity on the other end of that by being a driver or providing various services in the shared economy. It is certainly the way of the future, and I find it exciting and inspiring. And I am glad you are here today.

I yield back.

Chairman Reichert. Mr. Doggett.

Mr. Doggett. I am fortunate to represent Rackspace, which I believe, Mr. Beckerman, is one of the members of your association. And I would ask you, for them and for other members of your association, to just comment a little more about the importance of getting an agreement that can be fully implemented with Europeans on privacy.

Mr. Beckerman. Thank you. Rackspace is a terrific company. Europe is obviously a huge market and an incredibly important one. And we applauded the Privacy Shield Agreement that was just inked this week because it does help data flows across the Atlantic between Europe and the United States. And that is key for all of our companies, large and small, to be able to have customers in Europe. And our companies obviously take privacy and security of all the users

very seriously. And this agreement and being able to do business in Europe is critical for companies like Rackspace and others.

Mr. Doggett. If that agreement is fully implemented, you have referenced the TPP, of which there are some good provisions and some very troubling provisions, but what is to be gained in other parts of the world by having similar agreements to that that we have entered with the European Union?

Mr. Beckerman. Well, there are 3 billion Internet users around the world. And for most of our member companies, they have more users now and more people using the services abroad than they are in the United States. And so the more that we can have trade agreements globally around the world that take into account some of the policies I talked about on intellectual property, copyright, on intermediary liability, and generally having data be able to flow seamlessly across borders and not having forced localization of servers throughout the world, those provisions are going to be key in other markets too.

Mr. Doggett. Would you envision, and I think Mr. Ahmed may have referenced this as well, that we do this through the World Trade Organization to deal with these issues in one agreement for the entire world?

Mr. Beckerman. Well, there are certainly updates that will need to be made. The last time, I think, they did a WTO negotiation was back in the 1990s, and most of our member companies didn't exist.

Mr. Doggett. Right.

Mr. Beckerman. And we certainly wouldn't have a hearing like we are today and stories like we are hearing today back in the 1990s. And so we definitely need updates and improvements.

Mr. Doggett. Thank you very much.

Thank you, Mr. Chairman.

Chairman Reichert. Ms. Jenkins.

Ms. Jenkins. Thank you, Mr. Chairman, for holding this hearing. And we thank our experts for their testimony today. It has been very informative.

Last year, I had an opportunity to visit a small engine parts supplier in Basehor, Kansas, called R&S Equipment. They ship parts all over the U.S. and also sell parts globally. They shared with me that day some of the challenges with their products clearing customs shipment tracking when they sell internationally. But even with their challenges, they want to continue to grow their international customer base. So this testimony this morning has been very helpful to me.

My question maybe first is for Mr. Beckerman, kind of as a followup to Mr. Smith who has a district very similar to mine, a very rural district. Can you just tell us how your member

companies enable small businesses located in rural districts like mine to get online and begin exporting? And then what are the most significant barriers for these small businesses from our trading partner nations when they make their first sale overseas?

Mr. Beckerman. Thank you for the question. You know, I think stories like we heard about FreshPaper and others exist in every single one of your congressional districts in industries where you might not expect. And again, our companies are platforms that are helping to connect people around the world. And it is everything from on the payment side with what we are hearing from PayPal and Amazon. Amazon just had their Prime Day yesterday. And my guess is there are probably sellers and small businesses in every single State that were able to benefit from that and sell around the world.

The problem is it's -- typically, it has been very complicated with customs and duties and what you owe and currency and things like that, and Internet companies are just about reducing the friction, getting rid of the middleman, and making it easy for a constituent, with a click or a swipe, being able to sell around the world. And I think, you know, if we had this hearing back in the 1990s, you wouldn't have had small businesses talking about how easy it is to be a global seller or accessing a global market. And it is easy if you are a two-person business, you are able to access the Internet and be able to reach customers in any country almost.

Ms. Jenkins. Okay. Thank you.

Since I still have time, Mr. Ahmed, can you elaborate on what PayPal can do to help small exporters in rural areas like mine and some of the challenges facing your company?

Mr. Ahmed. Certainly. So to the example you just raised of the auto parts company, one of the solutions that we have is a product called PayPal PassPort, which addresses the issue of seasonality. So different product lines have different seasons in different countries where they are going to be purchased more likely. And so we provide that business with intelligence on where those products are going to be most likely to sell around the year so that they can have a steady income from global customers.

And then on the policy side, the issue that might most address the concern of R&S Equipment would be raising the de minimis level, and that is the level below which imports are not subject to duty. So I would imagine many of these auto parts are below \$800, for example. And that is the duty level that the Customs Reauthorization Act has raised the U.S. de minimis level to. And so the Customs Reauthorization Act encourages the United States Trade Representative to get other countries to raise their level as well. And if we can do that, that would probably really benefit a company like R&S Equipment accessing global markets.

[11:04 a.m.]

Ms. Jenkins. Thank you.

I yield back, Mr. Chairman.

Chairman Reichert. Thank you.

Mr. Kind.

Mr. Kind. Thank you, Mr. Chairman. Thanks for holding this hearing.

And I want to thank the witnesses for your testimony here today on such a crucial topic, as far as trying to break down or eliminating the barriers to digital trade.

We have an important trade agreement pending before Congress right now, Trans-Pacific Partnership. And sometimes, with all due respect to Mr. Padilla here and your testimony, sometimes these trade agreements are perceived as being done in the interest of the multinational, the Fortune 500 companies, but as we heard from you today, Ms. Shukla, the tremendous impact it has on new startups and small businesses.

And, Mr. Atkinson, I was struck by your testimony where you wrote that, if I got this right, 82 percent of the top grossing apps in the United States industry are created by small companies and startups. That is tremendous. So could you just take a minute and kind of explain the significance of making sure that we get cross-border data rules done right and the impact it can have on the startup community and small businesses throughout our country?

Mr. Atkinson. Yes. First of all, I would just have to reiterate the point, I do think sometimes we forget that large business still employs the majority of Americans. And they pay certainly a significantly higher average wage, they are more likely to provide benefits, they are more likely to be unionized, they are more likely to provide health care.

Mr. Kind. Right.

Mr. Atkinson. So I don't think we can -- I don't think we should dismiss the fact that if trade agreements help large companies, that is also helping American workers.

But clearly, one of the advantages of cross-border data flows and all of these Internet tools we have been hearing about is they give small companies tools that they couldn't otherwise have. IBM doesn't need any of these tools. They have got experts all around the world. They know how to do this. But for a small company it is quite difficult. And one of the challenges is that as more and more of the global economy becomes traded, in other words the ability to have competition for all of this, if we are not having the ability to get in those markets, it is going to come back. And it is not just that our small companies won't have the business, it will be that their small companies will have the business and it will be some FreshPaper from some other country that we are buying from rather than selling our FreshPaper. So that is why it is critical.

I think we have real advantages, being arguably the most entrepreneurial nation on the planet. This is really important for us for our small business community going forward.

Mr. Kind. In fact, the Trans-Pacific Partnership is something that hopefully we will have a chance to consider and vote on later this year. But, you know, we took a very serious run when it comes to cross-border data rules, the localization issue. I think we are going to have an announcement shortly on the landing zone as far as the financial services and the localization

issues that many of us have been working on. So I think it is a significant step in the right direction where we need to go with global digital trade. It literally is the lifeblood right now of the global economy.

Could you, Mr. Atkinson, speak to the consequences if somehow this Congress can't figure out a way to get TPP done and the agreement falters and falls apart?

Mr. Atkinson. Well, I think we are at a critical inflection point, at least with digital trade in the world, because at one level we are poised on a knife edge. We can go one of two ways. We can go the way of openness and globalization, and that inherently will advantage the U.S. because that is our core strength right now compared to other countries in the world. If we don't pass the TPP, with these very strong provisions to have digital openness and digital trade, I would predict that what we are going to see is the tipping point just going the other way to essentially a regime of digital nationalism, sort of a pre-World War II Balkanized digital economies. And that, first of all, that is going to be bad for the global economy, but in particular it is going to be bad for us. So TPP to me is a very important signal to get this right.

Mr. Kind. I think the other thing to consider here is TPP, in reality, is not going to just be limited to the 12 nations that are at the table negotiating, there are many others that are expressing interest in joining, including possibly at some time in the future, China. And if we can get the rules done right now embodied in this agreement, then that is something that China will have to adopt.

And I commend the administration's announcement today. They are taking another aggressive WTO action against China for illegal export subsidies on nine raw materials that are holding domestic manufacturers back in this country. That is 13 cases they have taken against China. We have won every single one of them. Twenty-two total through the WTO. We have won every single one of them. So it is not just important to get the rules done right in the agreement, it is the followup.

Mr. Ahmed, as you said, the enforceability of this is going to be very important as we move forward. Again, we thank you for your testimony today.

I yield back, Mr. Chairman.

Chairman Reichert. Thank you.

Dr. Boustany.

Mr. Boustany. Thank you, Mr. Chairman, for holding the hearing, and I want to thank all of you. This is a really important hearing.

And to Mr. Kind, I really appreciate your line of inquiry and the concerns you raised, because I fully agree with you here.

I have been struck by how getting digital trade and the rules of the road correctly crafted is so important because digital trade is the grand enabler for small businesses to really participate fully in a global economy, which plays to our strength in this country. And I was made aware of this report by Sandvine estimating that legitimate audiovisual and music services account for 70 percent, 70 percent of Internet bandwidth during peak hours. And the U.S. Chamber's Global IP Center looked into this connection between strong protection for copyright and the digital economy, and not surprisingly found a number of important correlations.

Economies with stronger copyright protection have greater access to digital technologies and creative content than economies with less favorable IP environments. Pretty intuitive. And also they have seen more than double the amount of online creativity than that of economies with weaker copyright environments.

So with regard to this, I mean, clearly copyright protections are vital as we go forward. And I just invite some commentary with regard to that.

Mr. Atkinson, if you want to --

Mr. Atkinson. Yeah. Well, thank you for that question. It is important to get the balance right. I think the U.S. has gotten the balance right with the Digital Millennium Copyright Act and section 230, and at the same time strong protection for copyright. We have done our own studies, for example, correlating strong copyright protection with strong innovation, as well as strong content production. And they are strongly correlated, as you rightly note.

So I would agree with Mr. Beckerman that trade agreements should include some kind of provisions like section 230 for intermediate liability protection. But also for safe harbor kind of on both sides, safe harbor and liability protection for if you are hosting content inadvertently from someone else. But at the same time, safe harbor if you take it down because you think it is infringing, you shouldn't have risk on that if you are doing it in good faith.

But I would caution the committee on one regard, and that is with regard to exporting fair use. Fair use is a really very specific term that is in U.S. jurisprudence around a number of cases that have evolved over the years. And the fair use provision evolves over time.

One of the challenges is really that one person's fair use is another person's piracy. And what we see in the countries, particularly in the TPP, very troubling rates of piracy. For example, software piracy rates in the U.S. are at 19 percent, but in Malaysia are 55 percent, Mexico 57, Chile 61, Vietnam 81. And so I would worry that if we just put fair use into that agreement or other agreements, that we are giving consensually these countries a get out of jail free card that they can justify already rampant levels of piracy just by, you know, saying, well, this is fair use, which it clearly isn't.

Mr. Boustany. Right. And I understand the Second Circuit has described fair use as one of the most troublesome concepts in copyright law. And it seems innocuous, two words, but hundreds and hundreds of cases, some 1,100 pages to explain what this means. So you are saying it is not advisable to use this concept going forward in --

Mr. Atkinson. Yeah, I wouldn't use this concept. It is really unique to the U.S. system. And other countries don't have the same kind of legal system that we have. I think it is important to recognize that USTR included provisions around exceptions and limitations in the TPP. This has been from what is called the Berne Convention over the years. And we can work to strengthen those. But I think sort of exporting fair use per se would be ill-advised.

Mr. Boustany. I appreciate that. And with regard to the Privacy Shield agreement that was just negotiated and completed, I would be certainly interested in understanding, as I look at this more closely, is this really state of the art? Is this what we need? Are there things missing that we need to consider as we continue to look at this very rapidly evolving field? If there is any commentary now, I would appreciate it.

Mr. Beckerman. I think the privacy shield is incredibly important, particularly for companies that are small or mid-size companies that want to be able to have data flows across the border to Europe. And we are happy it got done. And I think that was something that was probably in the way for getting other trade deals done.

And if I may, I would like to comment a second on the copyright conversation. Our members are on the front lines every day fighting piracy and copyright violations around the world. And what we have sought for in this trade agreement and in others is to have the same balanced copyright policy that we have here in the United States, with fair use exceptions limitations. That is the U.S. balance that I think works very, very well here for creators. We think that should be part of trade deals around the world, and we think it is an important component that needs to be included.

Mr. Boustany. Thank you.

Mr. Padilla. Mr. Boustany, if I could add on privacy shield, it is vitally important to every company engaged in transatlantic commerce, not just small- and medium-sized companies. But in fact, any business that moves data across the Atlantic can benefit from privacy shield. The administration has done a very good job in negotiating a successor to the Safe Harbor agreement that was in place for 15 years. This agreement is likely to be challenged in European courts again in the near future. And this issue won't go away. And it underscores why it is so important for us to move ahead with digital trade provisions in the TTIP negotiations with the European Union. We have to lock these things in, otherwise there will be uncertainty about whether or not commerce across the Atlantic, the single biggest trade relationship we have, can continue.

Mr. Boustany. Thank you. I yield back.

Chairman Reichert. Mr. Paulsen.

Mr. Paulsen. Thank you, Mr. Chairman, also for holding the hearing. And this has been great testimony and very helpful. And it was mentioned earlier about TPP now prohibiting the localization measures for data in all sectors except for financial services, of course, and government procurement, allowing those specific exceptions to achieve legitimate public policy

objectives. But, you know, I guess I am pleased that most of those localization measures would be prohibited under TPP. But I hope that clear and enforceable commitments are also made in that financial services sector, as was mentioned.

I am really encouraged that the administration and USTR have been moving forward with that fix addressing those deficiencies in TPP. But I think a lot of us, and myself in particular, are very interested in knowing and learning more to ensure that the proposed fix, that has been talked about, is actually going to be enforceable, that it is going to be operational in all 11 TPP countries because you have got four countries that are obviously not in the TiSA fix potentially that have to be addressed. And so we are going to be looking for that.

But we were just talking about the Atlantic and Europe, and so I just want to shift and ask a question here, because I do understand that progress has been made on digital, you know, digital issues. It has been a little slower in the TTIP discussions in general so far. And we have got to see really solid commitments there, if it is going to get, you know, my support, I think the support of others as those TTIP negotiations move forward. So here is the question. Can you just describe maybe what are some of the barriers right now that U.S. digital exporters face unique to the EU? Expand a little bit what our conversation was just going, but what are some of the unique barriers that we have right now as you look at trade with the European Union?

Mr. Padilla. I could give a real-time example, Congressman, actually just from yesterday. The biggest thing that we are seeing in Europe is demands to store data within the European Union. And as Rob mentioned, there is this view within Europe, particularly in the last few years that somehow if the data remains within Europe, that it is going to be more secure. That is just not true. The geographic location of the data doesn't really make a difference with regard to what privacy or security laws apply.

But IBM makes a software product that we sell to a Belgian bank. It is a cyber security product so that when people do their online banking, they are more secure. That data that in order to update malware and virus threats, we call on databases in the United States and in Israel. And just yesterday, we met with the Belgian data protection authority that said we don't want you to do that. We don't want you to get the updates on the malware from Israel because we don't trust Israeli surveillance laws. We don't trust American surveillance laws either, for that matter. And this is an increasing trend. You know, this doesn't just happen in China. This is an example from Belgium. And I would imagine that many companies are probably experiencing similar things.

Mr. Paulsen. Anyone else have any feedback in that area that -- is there any other progress being made?

Mr. Beckerman. I mean, I would agree with that. I think when you look at what forced localization is, it is nothing more than protectionism, really. And it hurts trade and investment. And the way the Internet works is the free flow of information across borders and not requiring companies to build data centers. And that is a perfect example of yours, and so that needs to be fixed.

Mr. Atkinson. So Mr. Padilla brought up the point of Israel. I just can't resist pointing out, I think it is ironic that the Europeans have gone after us with regard to safe harbor inadequacy. At the same time, they don't trust Israel, and yet Israel still has a safe harbor with Europe and has agreed to cut us off. So the Israelis cut us off. There are no cross-border data flows between Israel and the U.S. now under the new Israeli rule because they wanted to gain the favor of the Europeans, even though the Europeans don't trust the Israelis.

So if the Europeans want to be consistent about this, they shouldn't just be talking about us, they should be talking about all the other countries that they have agreements with and whether their security systems are adequate. And they have not done that. So from the outside it appears that the Europeans are singling out the U.S. perhaps for reasons because we are the dominant IT player in the world.

Mr. Paulsen. Thank you, Mr. Chairman.

Chairman Reichert. Thank you.

Mr. Pascrell.

Mr. Pascrell. Thank you, Mr. Chairman. And we certainly -- you have certainly selected a great panel, without exception.

Mr. Atkinson, the administration just didn't wake -- I can't picture this -- just didn't wake up one morning and say and come to the conclusion that within financial data or digital trade that we are going to protect financial communication. I mean, you were very specific about this. And I want you to tell me, as I ask many panelists on many different issues, what is the administration's position or why did they come to that position, do you think? And what specifically do you object to?

Mr. Atkinson. So I think the administration came to that position for several different reasons. One is, I don't think they had fully enough understanding of how digital trade -- trade in data work and the security systems involved. So I think there was that problem. The other more legitimate issue was that they were concerned about what is called resolution. If there is a U.S. bank and there is a problem with it and they have to resolve it and the data is perhaps in another country and the other country says, you can't have that data for some reason. That is a legitimate concern that financial regulators would have.

But the answer to that legitimate concern is to not prohibit Citibank or some other bank from storing data in Canada or some other country, it is to make sure that every country in the TPP agrees that when there is a resolution issue, that they will not block that data flow.

Mr. Pascrell. And how would that be resolved? How would that be -- what oversight could we have on that? We have a difficult, difficult time in carrying out what we place in these trade deals, regardless of what the product is, and bringing justice to bear. Why would this be any different? In fact, wouldn't it be more difficult to oversee those kinds of things, financial data?

Mr. Atkinson. Well, first of all, there are already some other -- and I apologize, we wrote a report on this and I didn't write the report, but there are other provisions in there that as well that would help them. And we already have a global financial system where we rely on other countries to do certain things. And we don't say that all finance has to be national. So I see this as relatively similar to many other financial issues.

Mr. Pascrell. You do?

Mr. Atkinson. Pardon me?

Mr. Pascrell. You do see the similarity. You say that this should be handled like everything else.

Mr. Atkinson. Well, my point was we do have an internationalization of the finance system, that Treasury and other regulators allow certain things to be international. That is because we have trust and we have global agreements. And I don't see that as any different. I just also see this as a relatively modest, low risk problem that if it were to occur -- and by the way, I would say, by the way, the fact that USTR is proposing a fix suggests that USTR at least has come to the realization that cross-border data flows here are viable.

Mr. Pascrell. From the latest numbers that we have, the size of this digital growth in cross-border data has been relatively -- was 45 times what it was in 2005. I mean, that is a huge number. We trade in goods. That has been relatively flat. This technological trade has been a boon to tech companies, no question about it. Many small- and medium-sized businesses that have been able to expand their market overseas in an unprecedented way. We know that the U.S. is by far the global leader in digital trade. Our companies lead the world in creating digital products and providing data storage. We are talking about \$400 billion in services that we have exported. Fascinating number.

So as this technology continues to innovate and become more and more integrated into our daily lives, the average American, which is very frequently forgotten in every trade deal, we want to make sure our trade agreements continue this expansion in a way that provides access and maintains security, privacy, and jobs by the way.

So I want to ask you this question as a followup. We have strong innovation protections built into U.S. laws, but we know that more U.S. companies now have a majority of users and consumers overseas. What do you think we can do through the TPP implementation to advance gold standard U.S. laws about copyright and about digital trade?

Can we get an answer on this, Mr. Chair? It will only take a few --

Chairman Reichert. If you could -- we are already over time -- if you could make your answer quick, please.

Mr. Pascrell. Thank you.

Chairman Reichert. Who are you asking?

Mr. Pascrell. Mr. Atkinson.

Mr. Atkinson. Well, I think the TPP agreement has struck a good balance with regard to the need for openness, the need for intermediaries to have some liability protection, and the need to protect copyright. I do think, though, that one of the challenges, and when we look at the global economy, there are many, many countries who are copyright scofflaws and who are just engaged in systemic stealing. And as a big producer of IP in content as the U.S. is, that directly hurts U.S. jobs.

Mr. Pascrell. Thank you very much.

Thank you, Mr. Chairman.

Chairman Reichert. You are welcome.

Mr. Kelly.

Mr. Kelly. Thank you, Mr. Chairman. I thank the panel for being here.

Ms. Shukla, I got to tell you, your story is one of those stories that people look at and say, you know what, this is an incredible thing that you have been able to do. And the fact that you were able to do it, I think, gives great encouragement to everybody.

Listen, last month I had an opportunity to go to a Transatlantic Legislators' Dialogue meeting at The Hague with Representatives Diaz-Balart and also Costa. And we had an opportunity then to talk about trade with some of the EU parliamenters. Angela was with me. And I think that when we look at how we try to form trade agreements, and then we look at the digital part of what it is that we are trying to do --

And, Mr. Ahmed, you talked about automobiles and how we are able to do things. I have got to tell you, this has changed completely the way everybody does business. And the access to global markets I think is the thing that is probably the most stimulating about this.

Mr. Atkinson, you talked about how this is growing and growing and growing, and every day we seem to find other markets that we can get into and we see other opportunities that are there that were never there before. And I got to tell you, from a guy who had operated a small town business in a little town of about 25,000 people, you can take that opportunity when it comes to parts or automobiles or anything -- I am an automobile guy -- you can sell that product almost anywhere right now globally -- for me it is the United States, I have to stay with that, I am not going to get shipping overseas -- but the other part of it is there for everybody.

But when it comes down to these agreements, and we talk about access to a global market, and we talk about -- and I think my experience with the EU was different, because I think it is the intent, if we are really going to do trade agreements, that they have to be fair. And so tell me,

and each of you, if you could, talk about the barriers that are put in place any time we try to put an agreement together.

And I think, Mr. Ahmed, you said something that was really good, you said certainty comes from enforcement. So all these things may be well intentioned as we talk about building these agreements and, you know, certainly, I look at the global opportunity, but I also look at we are the strongest economy in the world. So whenever it comes time for us to sit down and hammer out agreements, and USTR is trying to do those things right now, tell me, the digital -- in that market, the challenges are there and the barriers that actually exist for you that somebody may look at and say, no, I don't see that, but it is there.

If you can, just kind of run through it so we can explain how difficult it is to actually have a fair and balanced field. While the intent may be there, the actual final result is not. And I know we have had conversations about this already and the scope of the hearing is about how difficult it is. For you to compete globally, and for you to have trade agreements globally that are fair and balanced, tell me some of the things that can take place that the average person wouldn't see and how it is affecting your businesses.

Mr. Atkinson. Well, to be clear, I don't have -- actually, I do have a business. I have a business that employs 15 people, and we actually are global. We get some revenues overseas, if you will.

But I think the key issue here is twofold. One, TPP is an important agreement because it has enforceable provisions that are not in other agreements. One of the reasons China can get away with what it gets away with is because the WTO framework is still quite weak, particularly in these new areas. So that is number one.

Number two, I fully agree with your concern about enforcement. And we have long been on the record that we need to have more enforcement, we need USTR to do more in these spaces, they need more resources to do better enforcement. But you are right, trade agreements without enforcement are not worth as much.

Mr. Padilla. As a large company, the biggest barrier we face is every country we go to, we get the request to build a data center locally, even if it is not necessary. I mentioned the Wimbledon app, which we supported from five or six data centers around the world, it shows the global nature of it.

Mr. Kelly. Just to interrupt, isn't that the beauty of the Internet? You don't have to have bricks and mortars in the place that you are doing business.

Mr. Padilla. That is correct. You don't need to. We shouldn't have to have a data center in Brazil in order for a Brazilian to watch Serena Williams on the Wimbledon app, but there are regulations proposed that would require that.

Mr. Beckerman. It is a great question. And I think going back to also with what Mr. Pascrell was asking, he said why are the most innovative companies, the Internet companies that we represent, why have they been born here in the United States and grown here in the United States

and the lion's share of the value from the Internet sector, which has been the fastest growing part of our economy in the last few years, why has it happened here in the United States? And a lot of it is because of policy that people don't see and they take for granted every single day. And that is the balanced U.S. copyright laws that we have, that is the intermediary liability protections that we have here in the United States. Those are two of the most fundamental and key components of the Internet economy and why you have seen companies like Amazon and Facebook and Google and Etsy and PayPal, all the other great Internet companies that exist born in the United States, grown in the United States, and now serving 3 billion people around the world. And without exporting also those copyright policies, balance, including fair use and intermediary liability protections like we have in the U.S., CDA 230, those are key, and people don't see it, and they take it for granted every day.

Chairman Reichert. The gentleman's time has expired.

Mr. Kelly. Thank you. Ms. Shukla, I really would have liked to hear from you because this does make it possible for somebody your size to actually compete globally. It is a market that was never there before. I think the beauty of it all is the fact that you don't have to have large sums of capital to actually compete in a global economy. Thanks so much.

And I yield back.

Chairman Reichert. Mr. Neal.

Mr. Neal. Thank you, Mr. Chairman.

I just finished a really good book, *The Rise and Fall of American Growth*, by Robert Gordon, he is a professor at Northwestern University, in which he lays out a series of events that he argues occurred between 1870 and 1970, which he says is the great period of economic achievement in American history because of innovation. And he formulates a number of positions, including the combustible engine, including sanitation, including the radio, electricity and basic things, and he makes the argument in the post-1970 period that we have had some big achievements, but really nothing comes close in terms of what the polio vaccine did or penicillin.

But he also makes a pretty important argument that has been consistent with what you have offered today in which he says that our patent system was second to none, and that it was the rule of law that really gave us this elevated position in terms of achievement, innovation, and creativity. And he argues that as we have proceeded to a globalized economy, that is a lot harder to do. So for the panel, maybe discussing the nexus between intellectual property rights and digital trade, the whole notion of who has a proprietary interest in protecting their own achievement.

Mr. Atkinson. Well, thank you, Congressman. By the way, my sympathy for having to go through that 700-page book, which I have read myself. I just have to say I am not anywhere near as pessimistic as Bob Gordon is about our future. I think our future around innovation and productivity is still very bright. He is really very much of a pessimist. But you are right in the sense of his analysis linking intellectual property to growth.

This is, I think, important to the U.S. in particular because as the global innovation leader, innovation relies on intellectual property. And we just wrote something yesterday from a colleague of ours, Jason Potts, who is a professor in Australia, who has argued that what we are seeing essentially is gunboat intellectual property theft. In other words, it is not just companies that steal U.S. intellectual property, it is foreign nations. And they aid and abet the theft of U.S. intellectual property solely for competitive reasons, solely to gain advantage on us. And that is really a unique thing that hasn't really occurred before in the global economy, using IP strategically and illegally.

And again, I stress that that is why trade agreements have to have strong IP protections, because there are just so many jobs. I think it was the Department of Commerce report a few years ago that showed that something around 30 to 35 percent of U.S. jobs were IP-dependent. So this is a very important thing to get right in the trade agreements. And TPP does take important steps in that direction.

Mr. Padilla. If I could mention, Mr. Neal, one other provision of TPP that goes to this. IBM certainly believes in innovation. We are the largest recipient of U.S. patents for 23 years in a row. The newest way for people to steal intellectual property is through cybercrime, through breaking into people's systems and exfiltrating data rather than just through copying things, as used to be the way in the past. And interestingly, TPP has some good provisions in it that require cybersecurity cooperation between the signatories. That is an important new area. And as we talk about digital trade and all these benefits, ensuring security not only of data but of intellectual property online is essential. And I think TPP takes some initial steps in that positive direction.

Mr. Padilla. Thanks. I will have to check that book out also. It sounds good.

You know, the United States obviously has done something right that has allowed for these companies to grow and have all the benefits for creators around the world. And we think TPP is taking steps in the right direction in that regard. But obviously, for all future trade deals, this is going to need to be included, and we are going to have to look at what has the U.S. done right that has enabled such incredible innovation here for creators and everybody.

Ms. Shukla. Well, I certainly don't know much about intellectual property policy, but all I can speak to is my personal experience. I do feel like the benefit I had of getting a patent at that young age changed everything for me. It made it possible for me to actually even think about creating a business when I was ready. And today, I am able to use that business to get FreshPaper to people in the developing world, to do more with it based on my own personal mission. I think that has been incredibly valuable and gave me a chance.

Mr. Ahmed. I would say that one of the interesting additions in the Trans-Pacific Partnership is a chapter at the end called small business, the small business chapter. It is the first small business chapter. And it is designed to educate small businesses on how they can take advantage of the Trans-Pacific Partnership. And so provisions that are there to help them can now be, you know, made clear to them how they can take advantage of them. And so I think that is a very important provision that is new there.

Chairman Reichert. Mr. Meehan.

Mr. Meehan. Thank you, Mr. Chairman.

And I want to thank the panelists. It has been a terrific panel.

One of the realities of being the last to ask questions is we have been through a lot of territory here. So I don't want to be redundant, but I have certainly -- we have, many of us have worked together on things, from cybersecurity to other areas over the time. And I think there is just some recurring themes. And so my question would be to use it to either jump on any of these with something that you would like to communicate before you go or is there one particular thing we ought to be focused on in your ideas that would help us more effectively move?

When I see themes, the things that concern me the most are the inability for us to reach the kinds of agreements that create rules of the road in which we start to get common standards that serve as a check against the recalcitrant countries like China or Russia or others, that if we fail to create these agreements, they will step in. The second, of course, is the protectionism and the concern that what you are having is countries that may from time to time use data localization and other things as a way to sort of protect against the incursion of good new products coming into their -- they are worried about losing market share because of more innovative progress. So how much are we using these things as barriers that actually have another intention, which is to protect their own?

And, of course, the last is the protection of these properties once we go. If we have a system that is organized in a way in which people are respecting the data flow, we have standards, there is more of a system that is in place to protect the integrity of that information, both companies that may steal as well as nations that may steal.

So with that, what are your thoughts with respect to the overarching themes, or if there is some specific thing we ought to be focused on to assure that we create a safer world of opportunity for intellectual trade? Why don't I just go right across.

Mr. Atkinson. Well, thank you, Congressman. I don't have anything specific other than, I think, two broader general points. One is, a number of countries who are problematic in this space, they are doing it not out of malice but out of maybe ignorance, if you will. And that is why a TPP framework and expanding it into TiSA and others is important because it just sets the rules of the road that they know they have to do these things and it is the right thing to do. There are other countries who are doing it, they know quite well what they are doing, and they are doing exactly as you said, they are protecting domestic businesses, they are going after U.S. companies. And there it is important, again, to get these countries in trade agreements, but also really to focus more significantly than we have had in the past on enforcement. So I think these two things are critical.

Mr. Padilla. I would say, as you said, Congressman, much of the history of the post-war trading system has been about removing barriers that were already in place, particularly tariffs and things like that. These provisions are about preempting barriers, preventing them before they are

put in place, by and large. And that is why it is so important that we try to move ahead on TPP as quickly as possible and then replicate these provisions in other agreements. Because if we put this off 2, 3, 4 years, what we will be doing is trying to take down barriers that are already disrupting commerce rather than what we are trying to do today, which is to prevent them.

Mr. Meehan. Thank you.

Mr. Beckerman. Thank you. Specifically, when you are looking at China and Russia, obviously two major concerns are censorship and forced localization and ensuring that we have data flows. And just generally speaking, I think what we have heard from probably everybody is, you know, we don't want to see a Balkanization of the Internet and have different sets of policies in different countries. And we don't want to have --

Mr. Meehan. Because sometimes forced localization can also be termed forced utilization, in which you are required to go through portals or gates that they will set up with competitors of yours.

Mr. Beckerman. Exactly. So we just want to reduce friction, you know, connect supply and demand seamlessly. That is important.

Mr. Meehan. Thank you.

Mr. Ahmed. Well, first, thanks to Congressman Kelly, Congressman Kind, and others who have really raised the profile of this financial services data flows issue because that is a very important issue going forward to resolve. And then I would also add that in the Customs Reauthorization Act and in future trade agreements, addressing this issue of de minimis will be really impactful for small businesses because they are often dealing in, you know, low denomination items that can be tremendously benefited by raising de minimises around the world.

Mr. Meehan. Ms. Shukla, the closing comment is yours.

Ms. Shukla. I really appreciate the opportunity to be here. And I think it has been very inspiring for me to hear about everything that goes into making this opportunity for me possible and for all the entrepreneurs like me, everything that goes into making the opportunities that we have today here. And I think I would just encourage you to remember the millions of entrepreneurs across the United States who have these innovations and ideas, who have access to these incredible tools, and we just need a little bit of help being able to access global markets so that we can really unleash those energies. Thank you. I appreciate your help.

Mr. Meehan. Well said.

Mr. Chairman, I yield back.

Chairman Reichert. Thank you.

And thank you again to the witnesses for your attendance today and taking time out of your busy schedules to be here. Excellent testimony, as you heard from both sides of the aisle.

Mr. Rangel. Mr. Chairman?

Chairman Reichert. Yes, sir.

Mr. Rangel. Because their testimony was so important, I wonder whether any of you have any suggestions to how this panel could be more effective in getting this message out to our country. Because, believe me, between your lips and our constituents' ears there is a gap.

Chairman Reichert. How about one of you tackle that one?

Mr. Beckerman. I am happy to try.

Chairman Reichert. All right.

Mr. Beckerman. I mean, I think probably the best thing, as you know, Congressman, all politics are local. And I think there are multiple FreshPaper stories in every single congressional district, regardless of rural or urban or coast to coast, and there are many stories exactly like this. And that is, I think, what we want to tell, you know.

Mr. Rangel. Let me thank the panel. You have done a great job.

Chairman Reichert. Thank you, Mr. Rangel. As the ranking member knows and members of the panel know, there are national business organizations and employee organizations that are out there helping us get out the word about the positive effects of trade across the country. In fact, some businesses have taken -- I think Caterpillar has a sticker that they put on each one of their products as to which country they are headed to let the employees know that, you just made this piece of machinery and it is headed to Colombia, or wherever. There are other countries that put on their paychecks, X percent of your paycheck this week has been as a result of a trade agreement with country whatever. So there are those efforts ongoing, but I think sometimes that the rhetoric across the country overtakes the common sense and the reality of what trade really does for America.

Your testimony today, the hearing today was really designed in a way to help educate America. And we have to continue on with that process. And I am going to be looking forward to the next product that Ms. Shukla comes out with, because FreshPaper, some of the members up here were whispering whether or not that might work on our face rather than an apple or a peach. Mr. Kelly, he wasn't asking me that question. But anyway, thank you so much for your presence today and your excellent testimony and answers to our questions.

I am required to say please be advised that members will have 2 weeks to submit written questions to be answered later in writing. Those questions and your answers will be made part of the formal hearing record. Our record will remain open until July 27. And I urge interested

parties to submit statements to inform the committee's consideration of the issues discussed today.

With that, the committee stands adjourned.

[Whereupon, at 11:46 a.m., the subcommittee was adjourned.]

Public Submissions for the Record