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Subject: International Data flows in Free Trade Agreements

Your Excellency,

We welcome the EU ambition to integrate free data flow provisions into free trade agreements (FTAs). Clear and predictable rules will facilitate data flows while protecting the security of personal data. Particularly in view of the rising threat of global protectionism, it is essential that data flow provisions in FTAs cannot be abused to disguise protectionist trade measures.

A predictable and open approach to international data flows is a key factor for economic growth and global competitiveness of European-based business. Trade relying on international data flows affects all sectors, not just the IT sector.

To reach the objective of integrating data flow provisions into FTAs, and to minimize the risk of circumvention of the rules that may result in unnecessary protectionism, we think that some clarifying amendments are needed in the provisions in the European Commission's Concept Paper:

- The anti-circumvention clause must not deviate from basic and well-established trade law principles for legitimate trade restrictions (e.g. proportionality, non-discrimination, and necessity, as reflected in GATS XIV).
- Differentiate between data that contains personal data, which legitimately could be subject to data protection rules, and data that does not contain personal data ("non-personal data").
- Amend the first paragraph to also include "accessing" i.e. read "accessing, transferring, processing or storing data".
- A prohibition against source code disclosure needs to be included to protect European businesses against new evolving trade barriers.

Yours sincerely,



Lena Johansson, Secretary General, ICC Sweden



Carola Lemne, CEO, Confederation of Swedish Enterprise



Maria Rankka, CEO, Stockholm Chamber of Commerce

Cc: Commissioners Malmström, Jourová, Ansip, Timmermans and Juncker:

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