

117TH CONGRESS
2D SESSION

S. RES. 727

Expressing the sense of the Senate that the United States should negotiate strong, inclusive, and forward-looking rules on digital trade and the digital economy with like-minded countries as part of its broader trade and economic strategy in order to ensure that the United States values of democracy, rule of law, freedom of speech, human and worker rights, privacy, and a free and open internet are at the very core of digital governance.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2022

Mr. YOUNG (for himself, Mr. CARPER, Mr. CARDIN, Mr. CRAPO, Mr. CORNYN, and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on Finance

RESOLUTION

Expressing the sense of the Senate that the United States should negotiate strong, inclusive, and forward-looking rules on digital trade and the digital economy with like-minded countries as part of its broader trade and economic strategy in order to ensure that the United States values of democracy, rule of law, freedom of speech, human and worker rights, privacy, and a free and open internet are at the very core of digital governance.

Whereas over half of the world's population, totaling more than 5,000,000,000 people, use the internet;

Whereas the digital economy encompasses the economic and social activity from billions of online connections among people, businesses, devices, and data as a result of the internet, mobile technology, and the internet of things;

Whereas the Bureau of Economic Analysis found that the digital economy contributed nearly 10.2 percent of United States gross domestic product and supported 7,800,000 United States jobs in 2020;

Whereas the technology-commerce ecosystem added 1,400,000 jobs between 2017 and 2021, and served as the main job-creating sector in 40 States;

Whereas United States jobs supported by the digital economy have sustained annual wage growth at a rate of 5.9 percent since 2010, as compared to a 4.2 percent for all jobs;

Whereas, in 2020, United States exports of digital services surpassed \$520,000,000,000, accounting for more than half of all United States services exports and generating a digital services trade surplus for the United States of \$214,000,000,000;

Whereas digital trade bolsters the digital economy by enabling the sale of goods on the internet and the supply of online services across borders and depends on the free flow of data across borders to promote commerce, manufacturing, and innovation;

Whereas digital trade has become increasingly vital to United States workers and businesses of all sizes, including the countless small and medium-sized enterprises that use digital technology, data flows, and e-commerce to export goods and services across the world;

Whereas digital trade has advanced entrepreneurship opportunities for women, people of color, and individuals from otherwise underrepresented backgrounds and enabled the formation of innovative start-ups;

Whereas international supply chains are becoming increasingly digitized and data driven and businesses in a variety of industries, such as construction, healthcare, transportation, and aerospace, invested heavily in digital supply chain technologies in 2020;

Whereas United States Trade Representative Katherine Tai said, “[T]here is no bright line separating digital trade from the digital economy—or the ‘traditional’ economy for that matter. Nearly every aspect of our economy has been digitized to some degree.”;

Whereas industries outside of the technology sector, such as manufacturing and agriculture, are integrating digital technology into their businesses in order to increase efficiency, improve safety, reach new customers, and remain globally competitive;

Whereas the increasing reliance on digital technologies has modernized legacy processes, accelerated workflows, increased access to information and services, and strengthened security in a variety of industries, leading to better health, environmental, and safety outcomes;

Whereas the COVID–19 pandemic has led to increased uptake and reliance on digital technologies, data flows, and e-commerce;

Whereas 90 percent of adults in the United States say that the internet has been essential or important for them personally during the COVID–19 pandemic;

Whereas United States families, workers, and business owners have seen how vital access to the internet has been to daily life, as work, education, medicine, and communication with family and friends have shifted increasingly online;

Whereas many individuals and families, especially in rural and Tribal communities, struggle to participate in the digital economy because of a lack of access to a reliable and affordable internet connection;

Whereas new developments in technology must be deployed with consideration to the unique access challenges of rural, urban underserved, and vulnerable communities;

Whereas digital trade has the power to help level the playing field and uplift those in traditionally unrepresented or underrepresented communities;

Whereas countries have negotiated international rules governing digital trade in various bilateral and plurilateral agreements, but those rules remain fragmented, and no multilateral agreement on digital trade exists within the World Trade Organization;

Whereas the United States, through free trade agreements or other digital agreements, has been a leader in developing a set of rules and standards on digital governance and e-commerce that has helped allies and partners of the United States unlock the full economic and social potential of digital trade;

Whereas Congress recognizes the need for agreements on digital trade, as indicated by its support for a robust digital trade chapter in the United States-Mexico-Canada Agreement;

Whereas other countries are operating under their own digital rules, some of which are contrary to democratic values shared by the United States and many allies and partners of the United States;

Whereas those countries are attempting to advance their own digital rules on a global scale;

Whereas examples of the plethora of nontariff barriers to digital trade that have emerged around the globe include—

- (1) overly restrictive data localization requirements and limitations on cross border data flows that do not achieve legitimate public policy objectives;
- (2) intellectual property rights infringement;
- (3) policies that make market access contingent on forced technology transfers or voluntary transfers subject to coercive terms;
- (4) web filtering;
- (5) economic espionage;
- (6) cybercrime exposure; and
- (7) government-directed theft of trade secrets;

Whereas certain countries are pursuing or have implemented digital policies that unfairly discriminate against innovative United States technology companies and United States workers that create and deliver digital products and services;

Whereas the Government of the People's Republic of China is currently advancing a model for digital governance and the digital economy domestically and abroad through its Digital Silk Road Initiative that permits censorship, surveillance, human and worker rights abuses, forced technology transfers, and data flow restrictions at the expense of human and worker rights, privacy, the free flow of data, and an open internet;

Whereas the 2020 Country Reports on Human Rights Practices of the Department of State highlighted significant human rights issues committed by the People’s Republic of China in the digital realm, including “arbitrary interference with privacy; pervasive and intrusive technical surveillance and monitoring; serious restrictions on free expression, the press, and the internet, including physical attacks on and criminal prosecution of journalists, lawyers, writers, bloggers, dissidents, petitioners, and others as well as their family members, and censorship and site blocking”;

Whereas the United States discourages digital authoritarianism, including practices that undermine human and worker rights and result in other social and economic coercion;

Whereas allies and trading partners of the United States in the Indo-Pacific region have urged the United States to deepen economic engagement in the region by negotiating rules on digital trade and technology standards;

Whereas the digital economy has provided new opportunities for economic development, entrepreneurship, and growth in developing countries around the world;

Whereas negotiating strong digital trade principles and commitments with allies and partners across the globe enables the United States to unite like-minded economies around common standards and ensure that principles of democracy, rule of law, freedom of speech, human and worker rights, privacy, and a free and open internet are at the very core of digital governance;

Whereas United States leadership and substantive engagement is necessary to ensure that global digital rules re-

flect United States values so that workers are treated fairly, small businesses can compete and win in the global economy, and consumers are guaranteed the right to privacy and security;

Whereas the United States supports rules that reduce digital trade barriers, promote free expression and the free flow of information, enhance privacy protections, protect sensitive information, defend human and worker rights, prohibit forced technology transfer, and promote digitally enabled commerce; and

Whereas the United States supports efforts to cooperate with allies and trading partners to mitigate the risks of cyberattacks, address potentially illegal or deceptive business activities online, promote financial inclusion and digital workforce skills, and develop rules to govern the use of artificial intelligence and other emerging and future technologies: Now, therefore, be it

1 *Resolved*, That it is the sense of the Senate that—

2 (1) the United States should negotiate strong,
3 inclusive, forward-looking, and enforceable rules on
4 digital trade and the digital economy with like-mind-
5 ed countries as part of a broader trade and economic
6 strategy to address digital barriers and ensure that
7 the United States values of democracy, rule of law,
8 freedom of speech, human and worker rights, pri-
9 vacy, and a free and open internet are at the very
10 core of the digital world and advanced technology;

11 (2) in conducting such negotiations, the United
12 States must—

1 (A) pursue digital trade rules that—

2 (i) serve the best interests of workers,
3 consumers, and small and medium-sized
4 enterprises;

5 (ii) empower United States workers;

6 (iii) fuel wage growth; and

7 (iv) lead to materially positive eco-
8 nomic outcomes for all people in the
9 United States;

10 (B) ensure that any future agreement pre-
11 vents the adoption of non-democratic, coercive,
12 or overly restrictive policies that would be ob-
13 stacles to a free and open internet and harm
14 the ability of the e-commerce marketplace to
15 continue to grow and thrive;

16 (C) coordinate sufficient trade-related as-
17 sistance to ensure that developing countries can
18 improve their capacity and benefit from in-
19 creased digital trade; and

20 (D) consult closely with all relevant stake-
21 holders, including workers, consumers, small
22 and medium-sized enterprises, civil society
23 groups, and human rights advocates; and

24 (3) with respect to any negotiations for an
25 agreement facilitating digital trade, the United

1 States Trade Representative and the heads of other
2 relevant Federal agencies must—

3 (A) consult closely and on a timely basis
4 with the Committee on Finance of the Senate
5 and the Committee on Ways and Means of the
6 House of Representatives about the substance
7 of those negotiations and the requisite legal au-
8 thority to bind the United States to any such
9 agreement;

10 (B) keep both committees fully apprised of
11 those negotiations; and

12 (C) provide to those committees, including
13 staff with appropriate security clearances, ade-
14 quate access to the text of the negotiating pro-
15 posal of the United States before presenting the
16 proposal in the negotiations.

○