



**Mexican
Services Coalition**



For immediate release

November 21, 2011

Financial Leaders Working Group and Global Services Coalition Statement: Cross-Border Data Flows and Trade in Services

Global cross-border trade in services has grown strongly in recent years, reaching \$3.3 trillion in 2009, bringing with it new jobs and wealth-creation across markets. This has been made possible by the Internet, which has allowed worldwide electronic delivery of previously untraded services. In the current global economic climate it is more essential than ever for this growth to be sustained.

The Financial Leaders Working Group (FLWG) and the Global Services Coalition (GSC) – together covering a network of thousands of services businesses worldwide – are therefore calling for new agreements to protect and facilitate cross-border data flows, which are essential to international trade in services. Both organizations recognize that if rapid growth in electronic delivery is to continue, cross border data flows will be increasingly important in creating high quality new jobs in all countries. Globalisation of data processing has also brought major advantages in terms of synergy and economies of scale through shared infrastructure and technology platforms, with plentiful scope for further benefits.

“The ability to send and receive information over reliable networks is essential to data flows as a key component of cross-border trade in services. Given that cross-border services trade is, at its essence, the exchange of data, unnecessary restrictions on international data flows have the effect of creating barriers to trade in services,” the FLWG and GSC said.

The growth in cross border data flows that has accompanied burgeoning services trade has raised concerns on the part of many governments, some of which are imposing, or considering, restrictions on cross-border data flows for a variety of reasons. For example, governments may have concerns about data privacy, or data accessibility for regulatory purposes. While these concerns are understandable, they do not justify harmful restrictions on data flows. Such restrictions, regardless of their intent, could

endanger the robust growth in global services trade at a time when the global economy needs more, not fewer, opportunities for growth. In particular, requirements to host data on servers within a home jurisdiction negate the benefits derived from these data flows, without making any compelling demonstration that localized storage is either necessary or effective to enhance protection of data.

“Governments may make cross-border services market access commitments in trade agreements,” the two groups explained, “but those commitments would be undermined and would provide no demonstrated benefit if data flows are unnecessarily blocked or severely restricted. While governments have the right to regulate, they should rely on market forces, voluntary best practices and public-private partnerships whenever possible. When regulation is necessary, it should be done in the most narrowly tailored and least-trade-restrictive way possible to redress a specific and demonstrable policy concern and respect any intellectual property rights in the data subject to the regulation.

New agreements are needed to safeguard and guarantee cross-border data flows, the groups said, pointing out that there are a wide range of potential mechanisms to enable such flows. While including data flow provisions in new trade agreements is one option, a variety of other mechanisms might be used to address cross-border data flow issues, including binding and non-binding agreements carried out through various bilateral, regional, and multilateral channels.

“It is essential to create an environment of trust and confidence on the Internet, and avoid unnecessary restrictions on cross-border data flows. The benefits of growing trade in services need to continue to be available to the global economy. Without satisfactory agreements, these essential data flows could be restricted, services trade diminished, and the related benefits reduced. There must be arrangements, inside or outside of formal trade agreements, that balance concerns over data-privacy and data-accessibility with safeguarding the right to move data,” the groups said.

The issue of cross-border data flows was addressed during the July 20, 2011 Global Services Summit in Washington, DC. For a copy of the proceedings, click here: http://uscsi.org/images/files/2011-GSS/ICT_Panel_Summary.pdf

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