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Edmonton • Toronto • Ottawa • Montréal

November 25, 2013

The Honourable Ed Fast
Minister of International Trade
Foreign Affairs, Trade and Development Canada
125 Sussex Drive
Ottawa, ON K1A 0G2

Dear Minister Fast:

Subject: Negotiations towards a Trans-Pacific Partnership agreement

The Information Technology Association of Canada (ITAC) has followed with interest the progress made in strengthening Canada's trade ties with key markets. We were particularly pleased with the announcements last month regarding negotiations on a Comprehensive Economic and Trade Agreement with the European Union.

I understand that negotiations regarding the Trans-Pacific Partnership (TPP) are also progressing well, though much remains to be done. A key concern for ITAC and its members is that the resulting agreement reflects the realities of the digital economy as well as traditional trade in goods and services. In particular, we believe that the TPP agreement must include strong rules that enable and support the legitimate flow of data across national borders.

Commerce in the 21st century is not only global, it is digital. Companies large and small, and in all economic sectors, now rely upon their ability to transfer and access information, digital products and digital services across borders. Indeed, accelerating the adoption of digital technology throughout Canadian business is a key aspiration of Canada's digital economy strategy.

Canadian ICT companies with multinational operations or customer bases need the certainty of clear trade rules to ensure that they can transfer and access digital products and services across borders, as do companies in finance, manufacturing and other sectors. Trade agreements can provide the clarity that companies need, for example, in locating servers where they make the most logistical and economic sense and where the efficiencies and benefits of cloud computing can be maximised.

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Unfettered flows enable organizations and entrepreneurs to innovate, create new products and services, enhance productivity, enable cost-savings, improve efficiency, protect consumers, facilitate trade and create jobs. Furthermore, actions to restrain data flows will have an impact on the services available to consumers.

ITAC, therefore, seeks a strong and commercially relevant TPP agreement that includes provisions that:

- Allow parties in TPP to transfer, access, process or store information across borders;
- Prohibit countries from requiring the establishment or use of local servers as a condition of market access; and
- Ensure non-discriminatory treatment of digital products and services from TPP countries.

We believe that it is important that these provisions be clearly articulated in a binding e-commerce chapter of TPP, signalling a strong commitment to reflect modern business practices.

We recognize that there are legitimate areas where exceptions may arise, such as national security, public safety and the protection of personal information. However, these exceptions should not be used to create unwarranted barriers to cross-border data flows.

I wish you every success in concluding a TPP agreement that opens new markets for Canada and establishes sound rules for global trade. I will be pleased to speak with you or your officials should you seek clarification or further discussion of the points raised in this letter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Karna Gupta', with a horizontal line underneath.

Karna Gupta
President and CEO