TECHNOLOGY CEO COUNCIL

June 24, 2009

Secretary Gary Locke
U.S. Department of Commerce
1401 Constitution Ave, N.W.
Washington, DC 20230

Ambassador Ron Kirk
United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Dear Secretary Locke and Ambassador Kirk:

In the spirit of finding "new approaches" to international trade and investment that the President has called for, we want to work with you to develop a comprehensive and integrated information technology trade, investment and regulatory strategy to deal with the wide-range of issues affecting the international competitiveness of our industry.

Open markets are essential to the information and communication technologies (ICT) industries and play a basic role in improving the competitiveness of American manufacturing and services companies. They are also central to achieving the President's economic and foreign policy objectives. Unfortunately, many countries are not moving forward to eliminate their trade, investment and regulatory barriers, and the current financial and economic crisis is, as reported by the World Bank and the World Trade Organization, creating a fertile environment for new barriers. At the same time, international negotiations to open markets have stalled.

The U.S. ICT industry is one of the largest U.S. exporters of goods and services, with more than 60 percent of revenues from leading American ICT companies now generated by overseas sales. While the U.S. continues to offer the largest single market for our products and services, foreign markets are—even in the current recession—our fastest growing markets. International revenues make it possible for U.S. information companies to grow, invest and innovate here at home. Without international trade and investment, the U.S. ICT industry would be substantially smaller—producing fewer jobs, less income, reduced research and development, and weaker long-term growth.

The success of our industry and its workers also depends on the right mix of domestic policies. International trade, investment and regulatory policies designed to make U.S. companies and workers competitive in world markets will only succeed if they are reinforced by domestic policies designed to promote innovation, competitiveness and investment in the United States: initiatives to support education; to provide for transitional adjustment when needed by workers, companies and communities; to promote R&D; to provide adequate health care; to secure energy independence and a cleaner environment; and tax policies that level the playing field with our foreign competitors.

<u>The Obama Administration has a unique opportunity to define a new approach to information and communications technology leadership in the global marketplace.</u> Specifically, we see an opportunity to define and negotiate *International Digital Economy Agreements* (IDEA Agreements) that reflect more effectively the convergence of goods, services and technology while appealing to a broad range of countries, thus creating a new negotiating dynamic. IDEA Agreements could facilitate the bundling of trade, investment and regulatory commitments that are critical to the continued growth of e-commerce, the electronic delivery of services on a national as well as cross-border basis, and the export of ICT products. IDEA Agreements would ensure mutually beneficial access to evolving ICT services and goods and enhance the development of e-commerce.

From a negotiating and a political perspective, advancing ICT and e-commerce markets is an area where the United States, other industrialized countries and developing countries should be able to find common ground. The United States has a strong competitive advantage in these areas, and developing countries are increasingly recognizing that they need access to the best ICT products and services if they are going to grow their economies and improve the quality of life of their citizens. As leaders of our country's ICT sector, we are committed to working with you in developing and pursuing these new approaches.

IDEA Agreements could be pursued bilaterally, regionally and multilaterally as part of traditional negotiating frameworks in the WTO or in FTAs or as stand-alone agreements under other umbrellas. They could be comprehensive or selective in scope, and commitments could be binding or best-efforts coupled with monitoring and transition periods. In this regard, industrialized countries might be required to make binding commitments while advanced developing countries could mix binding commitments with commitments subject to transition periods. The least-developed countries, which would likely need strong technical assistance, would be able to join an IDEA Agreement on a best-efforts basis. IDEA Agreements could also be comprehensive or be more focused depending on negotiating dynamics.

We believe it extremely important to move forward quickly. American ICT workers need both open markets and protection against discriminatory investment and regulatory practices. Additionally, as you know, the United States will host the 21 APEC ministers in 2011, creating a unique opportunity to move forward on these issues more effectively and at a faster pace if work is started soon. To help move the process forward we have attached a summary of a model IDEA Agreement.

We look forward to working with you to develop an International Digital Economy Agreement strategy, and we would be happy to meet soon to discuss this concept more fully.

Sincerely,

Mike Splinter
President & CEO
Applied Materials, Inc.
Chairman, TCC

Steve Appleton
Chairman & CEO
Micron Technology, Inc.

Greg Brown
President & Co-CEO
Motorola, Inc.

Michael S. Dell
Chairman & CEO
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Mark V. Hurd
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Paul Otellini
President & CEO
Intel Corporation

Samuel J. Palmisano
Chairman & CEO
IBM Corporation

Joseph Tucci
Chairman, President & CEO
EMC Corporation

International Digital Economy Agreement:
An IDEA for the Knowledge Economy

The "digital economy" is playing an expanding role in international trade. With the convergence of computing and communications in the product space, and information technology solutions increasingly delivered via networks as a service, an International Digital Economy Agreement (IDEA Agreement) could ensure access to advanced information and communications technologies, services, software and electronic commerce, just as the Information Technology Agreement facilitated access to computer hardware over a decade ago. An IDEA Agreement could also expand the availability of a range of ICT-enabled products and services to foster additional productivity enhancements, enable "green" business models and create a more modern services infrastructure.

An IDEA Agreement could include some or all of the following elements, which could be negotiated as a stand-alone agreement or included in a broader trade agreement on a bilateral, regional, plurilateral or multilateral basis or part of a readiness effort where countries could adopt provisions unilaterally as a means of creating an appropriate climate for ICT to be an economic enabler throughout their economies.

Advanced Information and Communications Products – ICT products continue to be the basic building blocks of the digital economy. To promote their availability and widespread deployment, participants in an IDEA Agreement should reaffirm compliance with the Information Technology Agreement (ITA) and eliminate any remaining customs duties on all ICT products, components and equipment. All new ICT items should also be subject to zero duties without prejudice to their customs tariff classification or how they are used (e.g., consumer electronics, automotive, telecommunications, gaming, process control or any other ICT-enabled application).

Trade Facilitation – Significant delays and costs can arise when products are imported into a country, whether due to onerous customs procedures or special documentation, licensing, certification or other compliance-related requirements. Participants in an IDEA Agreement should adopt trade facilitation procedures that foster objective customs classification and valuation practices; harmonization of import data elements; transparent rulemaking; use of international standards in border measures; targeted and speedy customs inspections; viable risk management-based compliance and enforcement; and removal of overreaching product certification, licensing, trade remedy or other special requirements or restrictions that act as disguised barriers to trade. These trade facilitation procedures should be implemented consistent with appropriate harmonized supply chain security measures.

Computer and Related Services – Traditional computer services, such as data center operations and custom software development, continue to play an important role in the digital economy, but these services are now complemented by Web-based applications, "cloud computing" and other advanced services. Parties should affirm that computer and related services commitments ensure coverage for all information technology services, even as these services evolve with changes in technology.

Telecommunications Services –Parties to an IDEA Agreement should ensure nondiscriminatory access to networks and implement the WTO Reference Paper on Basic Telecommunications. In addition, they should agree to the liberalization of basic telecommunications services and/or value-added services.

ICT-Enabled Services – Advanced information and communication services enable the cross-border delivery of many other services. Liberalization of a selection of ICT-enabled services, such as business process services, which facilitate efficient business operations, could be an important part of an IDEA Agreement.

Green Digital Services – In addition to enabling cross border delivery of "green" services generally, an IDEA Agreement should also remove any other trade, investment and regulatory barriers to the delivery of green digital services through the other modes of delivery.

Digital Products – New ground has been broken in recent trade agreements, including an understanding on the treatment of digital products. Such an approach would provide an important building block for cooperation and should be included in IDEA Agreements.

Zero Customs Duties on e-Commerce – In 1998, WTO ministers agreed not to apply customs duties to electronic transmissions (the "e-commerce moratorium"). While this agreement has been extended at subsequent ministerial meetings, it has not been made permanent. Parties to an IDEA Agreement should agree to a permanent prohibition on the application of customs duties to e-commerce.

Technical Barriers to Trade and Regulatory Transparency – Non-tariff barriers (NTBs), such as unique and discriminatory standards, are a growing concern for the ICT industry, and regulatory transparency is important for both goods and services. An IDEA Agreement should commit its participants to (i) establish principles and procedures for transparency, cooperation on and participation in the development of standards, technical regulations and conformity assessment affecting ICT; (ii) eliminate ICT NTBs; and (iii) implement a mechanism that allows enhanced monitoring and questioning by any party of suspected ICT industrial policies or NTBs. The elimination of ICT NTBs should be comprehensive, including, for example, encryption standards and regulations that favor specific technologies, limit market access or lead to forced transfer of intellectual property.