



Written Testimony of Melinda St Louis, Global Trade Watch Director at Public Citizen, to the U.S. Trade Representative Hearing on its Section 301 Investigation of Acts, Policies, and Practices of Brazil Related to Digital Trade and Electronic Payment Services, etc.

September 3, 2025

Good morning and thank you for the opportunity to testify in today's hearing.

I am Melinda St. Louis, Global Trade Watch director of Public Citizen, a national consumer public interest organization with more than 500,000 members and supporters.

Our submission to the USTR on this matter is co-authored with Data Privacy Brasil, a São Paulo based non-profit organization that carries out research and advocacy related to data protection and digital rights.

For the sake of time, today I will focus on two points:

- (1) First, that the USTR should not misuse Section 301 as a fig leaf to implement politically motivated trade sanctions against Brazil.
- (2) Second, Brazil's General Data Protection Law, social media regulations, and digital payments regulations are not unjustified, unfair, unreasonable, or arbitrary, and they do not discriminate against U.S. companies.

Please see our full written submission for more details, including on Brazil's intellectual property laws, which provide adequate and effective protection under international obligations and should be respected to protect public health.

Section 301 Should Not Be Used to Further Political Goals

President Trump announced punitive tariffs on Brazil via a social media post on July 9, 2025. This was not motivated by any real economic or legal factors, but was instead an attempt to interfere in Brazil's domestic judicial processes on behalf of his long-time friend and ally, Jair Bolsonaro, while pushing the deregulatory agenda of Big Tech companies.

The President's letter to Brazil and his executive order made clear that the tariffs against Brazil were meant to punish the country over a domestic criminal case. The letter also claimed a U.S. trade deficit as justification for the "national emergency," when USTR's own data show a trade surplus with the country.

The current proceedings under Section 301 seem to be an attempt to provide the tariffs against Brazil some measure of *post hoc* legality, functioning as a fig leaf to cover the arbitrary and illegal imposition of tariffs on Brazil, for matters that are political in nature.

We caution the USTR against being used as a political tool. The Trade Act confers significant power to the executive to ensure that U.S. commercial interests can be protected when faced with genuine threats. The misuse of this power threatens the legitimacy of genuine investigations carried out by the USTR under this statute, which are an important tool to support U.S. jobs and industries.

Brazil's Digital Regulations Do Not Discriminate Against or Otherwise Unfairly Target U.S. Companies

Brazil, as a sovereign democratic nation, is well within its rights in implementing public interest regulation over companies providing services within the territory of Brazil. Needless to say, all multinational corporations are required to follow the domestic laws of the country they are operating within. The United States expects the same of all foreign companies operating within our territory.

The three specific digital regulatory policies named in the investigation –the General Data Protection Law, social media regulation, and e-payments regulations¹ –are not unjustified, unfair, unreasonable, or arbitrary, and they do not discriminate against U.S companies.

First, Brazil's **data protection law** aims to ensure that Brazilian privacy rights are respected, no matter where data is processed. Numerous countries implement some form of restrictions on cross-border data transfers. The United States itself implements a number of such measures, at both the federal and state levels, which are often stricter than those seen in Brazil's data protection law.²

Thus, any finding that Brazil's regulation of cross-border data transfers violates Section 301 would expose similar U.S. laws to trade challenges, thereby putting U.S. privacy rights and security interests at risk.

¹ Brazil's general data protection law is motivated by the constitutional mandate to protect the privacy rights of Brazilians, social media regulation is motivated by the need to limit online offences and ensure public order (including by limiting the spread of misinformation and hate speech), and digital payments regulation is motivated by the need to ensure competition in and the orderly development of the digital payments sector and to aid financial inclusion. Thus, it cannot be said that the policies/laws under question are "unjustifiable", so as to violate S 301, Trade Act.

² For example, at the federal level, the U.S. restricts foreign data transfers under the Protecting Americans' Data from Foreign Adversaries Act of 2024, Cybersecurity requirements for U.S Cloud Computing Contractors, and Executive Order 14117 – Preventing Access to Americans' Bulk Sensitive Personal Data and Government Related Data by Countries of Concern. At the state level, cross-border data transfers are restricted by laws such as Montana's Genetic Information Privacy Act, and the 2023 Amendment to California's Confidentiality of Medical Information Act.

Second, on **social media regulation**, there is an emerging global consensus of the urgent need to tackle issues such as online hate speech, misinformation, and violence against women and children, and further that intermediaries and digital platforms have a role in pushing back against the growth of such illegal content.

Countries around the world are increasingly moving away from legal frameworks that confer complete immunity to intermediaries for hosting illegal third-party content to frameworks where platforms are required to adopt appropriate content moderation and take-down processes. Here in the U.S., there is bipartisan, vigorous debate in the U.S. on the need to tackle the harms arising from social media, including through potential revision of Section 230 of the Communications Decency Act.³ Brazil is no different, and there is nothing to suggest that its new social media regulations are designed to target only U.S. companies.

Finally, on **e-payments regulation**, there is no basis for claims by U.S. companies that the Brazilian Central Bank discriminated against them by delaying approval for private sector licenses.⁴ Foreign participants in the e-payments market were merely required to satisfy regulators of their adherence to domestic regulations before they were allowed to go to market.

In addition, Pix, the payments system launched by the Central Bank of Brazil, serves several important public interest purposes. Not only has Pix enabled greater innovation and competition in the fintech sector, it has also enabled a huge jump in financial inclusion – leading to a number of broader social benefits, including the ability of the previously unbanked and underbanked to access formal financial services.

In conclusion, by carrying out this unjustified Section 301 investigation against Brazil, the USTR discredits this important tool, shakes global faith in the U.S. as a country governed by the rule of law, and weakens the case against adversary nations that take similarly illegal actions.

Public Citizen and Data Privacy Brasil believe that the current investigation does not hold up to legal scrutiny. We therefore urge the USTR to close its current investigation into Brazil's supposed illegal and unfair trade practices in the context of digital regulation and intellectual property without returning any findings suggesting a breach of Section 301 of the Trade Act by Brazil.

³ U.S. law also imposes additional content moderation and related obligations on intermediaries in certain contexts, for instance, concerning intellectual property violations (under the Digital Millennium Copyright Act, 1998) and in the context of child rights (Children's Online Privacy Protection Act, as well as statutes preventing the distribution of CSAM, etc.).

⁴ The actions of Brazilian regulators have focused on preventing digital wallet solutions developed by private sector multinational companies from allowing transactions outside the Brazilian legal financial system and central bank regulation. The Brazilian Central Bank has not discriminated against U.S. tech/payments companies in licensing processes, and has in fact, ensured open participation of the private sector, including US based multinationals, in rule-making around Pix.