Before the
Office of the United States Trade Representative
Washington, D.C.

In re Request for Comments on the Operation of the Agreement between the United States of America, the United Mexican States, and Canada	Docket No. USTR-2025-0004

COMMENTS OF

THE COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION (CCIA)

REGARDING THE OPERATION OF USMCA

November 2, 2025

In response to the request for comments issued by the Office of the United States Trade Representative (USTR) and published in the Federal Register at 90 Fed. Reg. 44,869 (September 17, 2025),[1] the Computer & Communications Industry Association (CCIA)[2] submits the following comments on matters relevant to the operation of the Agreement between the United States of America, the United Mexican States, and Canada (USMCA).

CCIA's comments focus on digital trade and services issues. Concurrently with this submission, CCIA is requesting to testify at the hearing.

I. Introduction

For most CCIA members, international markets are typically the source of over half of their revenues. Accordingly, strong, enforceable trade rules are critical to their ability to export to and invest in markets where their customers are located. This is particularly the case for Canada and Mexico, the United States' two most important trading partners, and a major source of revenue and growth for CCIA members and a foundation for the U.S. jobs they support. According to the most recent statistics for the Bureau of Economic Analysis (BEA), U.S. exports of digitally-enabled services to these two countries were approximately $75 billion in 2024, amounting to over 9 percent of total goods and services exports and representing an 18 percent increase since 2022.[3] While barriers in both markets persist (described below), this unparalleled success of U.S. exporters is strongly enhanced by the robust rules, particularly in the digital arena, contributing to U.S. digital firms' continued growth and prosperity and the millions of U.S. jobs these export support. Accordingly, as USTR reviews the operation and effectiveness of USMCA, the primary goal should be to preserve what has proven to be the highest standard set

[1] Office of the U.S. Trade Representative, Request for Public Comments and Notice of Public Hearing Relating to the Operation of the Agreement Between the United States of America, the United Mexican States, and Canada, 90 Fed. Reg. 90 44869 (Sept. 17, 2025), https://www.federalregister.gov/documents/2025/09/17/2025-18010/request-for-public-comments-and-notice-of-public-hearing-relating-to-the-operation-of-the-agreement.

[2] CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms. For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than $100 billion in research and development, and contribute trillions of dollars in productivity to the global economy.

[3] U.S. Bureau of Economic Analysis. (2025, July 3). *U.S. Trade in ICT Services and Digitally Deliverable Services, by Country or Affiliation*. BEA Data. https://apps.bea.gov/iTable/?reqid=62&step=6&isuri=1&tablelist=359&product=4.

of rules for industries that are key to the United States' global competitiveness and its long-term ability to innovate. To use just one example, if the Administration is to deliver on its promise of facilitating the ability of U.S. firms to export the AI technology stack,[4] rules pioneered in USMCA will be critical to that effort.

To the extent that a major renegotiation of the agreement would entail a protracted process of bargaining and trade-offs that could result in a weakening of these core rules, the United States' interests would not be well-served. Accordingly, changes to existing text, if necessary, should be minimized, and changes to the Digital Trade Chapter (Chapter 19) in particular should be avoided. With that caveat, if there is an opportunity to address outstanding issues or weaknesses in the existing commitments, CCIA would propose a limited set of additions that could improve market access opportunities and that merit consideration. Examples of such discrete improvements include dedicated provisions on AI and the treatment of subsea cables. In several other cases (investment restrictions in Canada), these changes could be achieved through unilateral commitments by a trade partner, obviating the need to amend chapter text.

II. Preserving the Time-Tested Benefits of USMCA

Despite some detractors' criticisms that digital trade rules have unduly constrained the so-called "policy space" that policymakers and regulators may need in navigating responses to economic and technological change, USMCA commitments have proven both remarkably durable and sufficiently flexible to address the evolution of markets and the need to make policy adjustments through changes in domestic law. The fact that many of the core commitments (*e.g.*, broad market access commitments, prohibition on customs duties on digital products, safeguarding cross-border data flows, preventing localization mandates, constraining forced disclosure of computer source code) have gained traction in subsequent agreements, negotiated independently among third parties, suggests that there is a growing consensus on both the utility and adaptability of these important additions to traditional rules. No credible evidence has

[4] White House. (2025, July 23). *Promoting the Export of the American AI Technology Stack*. https://www.whitehouse.gov/presidential-actions/2025/07/promoting-the-export-of-the-american-ai-technology-stack/

emerged that reasonable legal or policy changes in the United States, enacted or proposed, would be constrained by these existing rules, and using such pretexts to do so would undermine the stability and predictability that helps further trade and investment in this sector—including investment into the United States, an Administration priority.

This same principle extends to foundational provisions such as non-IPR limitations on liability for third-party conduct ("Interactive Computer Services", or Article 19.17) and the analogous the intellectual property "safe harbors" (Article 20.88) that provide the necessary liability framework for online services to cooperate with rightsholders and act in good faith to address copyright infringement.

While there have been periodic proposals targeting related domestic legislation, the USMCA rules already incorporate significant flexibility, and, importantly, the fundamental principles are sound: a broad swath of internet-enabled services would simply not exist if they had to monitor all user-generated content and be held liable for harms caused by third parties, to the detriment of free expression online. To the extent that trade rules should support U.S. firms' ability to extend their services into foreign markets, this is a critical principle to preserve.

Following the maxim of 'do no harm,' USTR should resist attempts to change time-tested rules, given the inevitable unintended consequences of such action, and the certainty that such changes would impair U.S. ability to address barriers in foreign markets.

On the goods side, a similar need to maintain stable trade with USMCA partners is obvious: at a time when the U.S. government has initiated multiple Section 232 actions, global commodity tariffs continue to erode duty-free and MFN benefits across markets. The European Union, Japan, and Korea have all secured U.S. commitments to cap the application of future Section 232 tariffs, and both Mexico and Canada successfully negotiated related priorities in the original USMCA talks. Achieving comparable assurances in future negotiations would strengthen North American supply chain resilience and ensure that regional partners can remain preferred sources of imports, competing on an equal footing with these other partners.

III. Considerations for the Agreement as a Whole

A. Promoting end-to-end encryption

A key benefit of USMCA is its inclusion of rules protecting U.S. firms' ability to use encryption in their products—critical to protecting privacy, confidentiality, and against cybersecurity threats generally (Annex 12-C). The importance of this provision has only grown, as governments have increasingly sought to weaken encryption to facilitate governmental access to data. Although the most concerning efforts in this regard are from authoritarian states, U.S. allies have not been immune from such efforts, with both Australia[5] and the UK[6] advancing measures designed to weaken encryption. Although the UK appears to have backed off efforts to create "backdoors" in devices, the threat remains, and trade rules could provide a useful constraint on such efforts.

This issue is particularly relevant with respect to firms' growing practice of using end-to-end encryption, which results in the device maker or service supplier being unable to access encrypted content—even when pressured to do so. The value of such a technology with respect to authoritarian states seeking such access cannot be overstated. The importance of this technology, as a guard against cyberattacks, has been recognized by this Administration, both in an Executive Order on cybersecurity[7] (focusing on government systems) but also as best practices recommendations for all users, from the Federal Bureau of Investigation (FBI) and Cybersecurity and Infrastructure Security Agency (CISA).[8] Accordingly, the United States

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[5] CCIA. (2025). *Comments of the Computer & Communications Industry Association Regarding Foreign Trade Barriers to U.S. Exports for 2026 Reporting*.
https://ccianet.org/wp-content/uploads/2025/10/CCIA-Comments-for-the-2026-USTR-National-Trade-Estimate-Report.pdf#page=29.

[6] *Ibid*.
https://ccianet.org/wp-content/uploads/2025/10/CCIA-Comments-for-the-2026-USTR-National-Trade-Estimate-Report.pdf#page=247.

[7] White House. (2025, June 6). *Sustaining Select Efforts to Strengthen the Nation's Cybersecurity and Amending Executive Order 13694 and Executive Order 14144.*
https://www.whitehouse.gov/presidential-actions/2025/06/sustaining-select-efforts-to-strengthen-the-nations-cybersecurity-and-amending-executive-order-13694-and-executive-order-14144/.

[8] Cybersecurity and Infrastructure Security Agency. (2024). *Mobile Communications Best Practice Guide*.
https://www.cisa.gov/sites/default/files/2024-12/joint-guidance-mobile-communications-best-practices_v2.pdf.

should consider whether enhancing encryption provisions to explicitly address threats to the use of end-to-end encryption could be achieved. This is particularly relevant with respect to Canada, as it is in the process of considering an expansion of governmental access to private systems in a provision of recently introduced legislation, Bill C-2[9] (Part 14).

Recommendation: USTR should consider amending Annex 12-C to include a prohibition on compelling a person of a Party to alter hardware or software in a device with the intent or effect of weakening end-to-end encryption.

B. Promoting export of the AI stack

As the Administration looks to implement its AI action plan,[10] based on its January 2025 Executive Order "Removing Barriers to American Leadership in Artificial Intelligence,"[11] it should consider instituting a cooperative framework to facilitate the growth and development of AI systems, services, and products among the three partner nations.

Recommendation: Negotiate an Annex for the Promotion of Artificial Intelligence. Such an Annex should:

1. Institute a trilateral forum for aligning AI policies and deepening cooperation, through, *inter alia*, sharing best practices in identifying risks and instituting mitigation;

2. Commit the three Parties to, specifically:

    a. Refrain from mandating disclosure of AI model weights as a condition for marketing an AI application;

[9] *An Act respecting certain measures relating to the security of the border between Canada and the United States and respecting related security measures* [House of Commons, Canada] Bill C-2. (2025). https://www.parl.ca/documentviewer/en/45-1/bill/C-2/first-reading.
[10] Office of the President of the United States. (2025). *Winning the Race: America's AI Action Plan.* https://www.whitehouse.gov/wp-content/uploads/2025/07/Americas-AI-Action-Plan.pdf.
[11] White House. (2025, January 23). *Removing Barriers to American Leadership in Artificial Intelligence.* https://www.whitehouse.gov/presidential-actions/2025/01/removing-barriers-to-american-leadership-in-artificial-intelligence/.

b. Refrain from disadvantaging models in policy recommendations based on whether a model's weights or source code are open or closed;

c. Ensure that any mandatory requirements are risk-based, utilizing reasonable metrics of risk and avoiding arbitrary numerical thresholds of user base or compute power to disadvantage specific suppliers;

d. Ensure that obligations imposed on AI systems or applications distinguish between developers and deployers;

e. Ensure that exceptions and limitations of national copyright legislation support the ability of AI developers to train models without incurring copyright liability, based on fair use, fair dealing, or text and data mining exceptions;

f. Where available, rely on open, industry-developed, consensus standards, including standards developed through international standardization bodies, when incorporating technical requirements into any measure targeting AI systems or applications;

g. Where conformity assessment for an AI system or application is required, institute mutual recognition for the acceptance of the results of conformity assessment conducted in the other party's territory;

h. Where standards have yet to be developed, share results of testing and research conducted by authorities of the Parties;

i. Confirm applicability of core rules of other Chapters to AI systems and applications, in particular Digital Trade, Investment, Cross-border Services, and Technical Barriers to Trade.

C. Rules of Origin

USMCA trade partners, and particularly Mexico, play a pivotal role in the global ICT supply chain, serving as a primary hub for the production and assembly of critical inputs for data

centers (*e.g.,* server racks) that are subsequently exported to the United States.[12] Much of this production and assembly represents "friendshoring," a long-term trend motivated by a desire to limit risks associated with production in less trustworthy jurisdictions. As demand for data and data centers continues to surge, reliable sourcing is critical to the United States' ongoing efforts to lead in this sector, with implications both for the competitiveness of AI development and for cloud-based services generally.

Moreover, Mexico in particular is increasingly well-positioned to serve as a key location for the future assembly of smart devices, from consumer electronics and connected home technologies to advanced industrial IoT hardware, which are essential complements to next-generation cloud, edge, and AI infrastructure. Being able to rely on expanded manufacturing capacity in Mexico would enable U.S. firms to shorten supply chains, respond more quickly to market demand, and accelerate the deployment of connected devices across North America.

Maintaining and even expanding Mexico's production capacity will be essential to meeting surging U.S. demand,[13] both to ensure the timely supply of key infrastructure and to meet the Administration's goal of reduced reliance on countries of concern. If the United States is going to maintain its leadership in expanding computing capacity, essential to AI and the applications that are expected to emerge, ensuring broad access to such production is essential. In particular, Mexico's proximity, integrated trade relationship with the United States under USMCA, and manufacturing expertise make it a far more viable and resilient alternative to China and other offshore markets. Strengthening Mexico's role in this sector not only bolsters North American supply chain security but also supports broader strategic objectives of diversifying away from single-market dependencies while advancing the competitiveness of U.S.

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[12] Mexico is the largest import hub of finished servers. Historically, 75%-80% of servers were imported from Mexico. Patel, D. et al. (2025, April 10). *Tariff Armageddon? | GPU Loopholes, Mexico Supply Chain Shift, Wafer Fab Equipment Vulnerabilities, Optical Module Pricing Surge, Datacenter Equipment*. Semi Analysis. https://semianalysis.com/2025/04/10/tariff-armageddon-gpu-loopholes/.

[13] See: https://www.mckinsey.com/industries/technology-media-and-telecommunications/our-insights/ai-power-expanding-data-center-capacity-to-meet-growing-demand

digital infrastructure. However, prematurely altering existing USMCA rules of origin could jeopardize this transition, since firms are only now starting to meet existing rules of origin, and the capacity to further localize in Mexico faces real practical constraints.

Recommendation: The United States should exempt ICT equipment (*e.g.,* HS Chapters 84 and 85) from any changes to existing USMCA rules of origin.

D. Subsea Cables

Submarine telecommunications cables are a vital component of national, regional, and global connectivity, underpinning the digital economy and enabling the cross-border flow of data and services. The sector is attracting significant investment from U.S., Canadian, and Mexican industries, yet operators increasingly face policy and regulatory barriers that complicate cable landing, repair, maintenance, surveying, and the operation of specialized vessels. Given the strategic importance of this infrastructure and the proliferation of such obstacles worldwide, USMCA would benefit from incorporating dedicated provisions that provide clear, proactive guidance to support the efficient deployment and operation of subsea cable systems.

Recommendation: Negotiate, as an Annex to the Telecommunications Chapter, an Annex on subsea cables. Such an annex should ensure that submarine cable operators can freely choose suppliers for installation, maintenance, and repair services, including from foreign providers, while guaranteeing that any permitting requirements are transparent, objective, and non-discriminatory; and and that subsea vessels used for inspection and repair be exempt from tariffs or other regulatory requirements applicable to permanent imports, regardless of whether the vessel qualifies as a USMCA product. Such text could further establish clear obligations for governments to publish permitting procedures, apply criteria based on legitimate regulatory concerns (e.g., safety and environmental standards), and issue permits in a timely, fair, and cost-based manner. By embedding principles like supplier choice, transparent regulation, and non-preferential treatment, it could mirror the high-standard language the United States sought

under IPEF, which emphasized open markets, predictable permitting, and non-discriminatory access for cross-border submarine cable operations.

E. Network Usage Fees

A pervasive issue in many markets is attempts by policymakers to institute mechanisms for local internet access providers to extract payments from content and applications providers (CAPs) serving the internet access providers' customers, over and above the connectivity fees those customers have already paid. Given U.S. suppliers' success in internet-enabled services, payments would be extracted disproportionately from U.S. suppliers. The United States has steadfastly opposed such efforts over the past decade, and recently obtained a commitment from the European Union to abandon this ill-conceived regulatory approach.[14] Unfortunately, Mexico is not immune from such efforts, with both an incumbent telecommunications provider (America Movil) and the regulator, the Digital Transformation and Telecommunications Agency[15] (ATDT), floating proposals to effectuate such revenue transfers. While this is a Mexico-specific problem, an agreement-wide rule would be appropriate and would help solidify a global consensus against such extractionary policies.

Recommendation: The United States should use the occasion of the review of USMCA to propose additions to the Telecommunications Chapter, amending Article 18.14 (Conditions for the Supply of Value-added Services). Specifically, the United States should target three key forms that network usage fees proposals have taken, by adding prohibitions on: a) explicit fees charged to CAPs (or a subset thereof) based on volume of traffic delivered to end-users;[16] b) extension of telecommunications universal service fees to value-added service supplies; and c) mandatory arbitration, subject to regulatory supervision, for the resolution of disputes over

[14] See item 17, European Commission. (2025, August 21). *Joint Statement on a United States-European Union framework on an agreement on reciprocal, fair and balanced trade.* https://policy.trade.ec.europa.eu/news/joint-statement-united-states-european-union-framework-agreement-reciprocal-fair-and-balanced-trade-2025-08-21_en

[15] Valverde, D. (2025, February 14). Mexico Wants Digital Platforms to Fund Telecom Infrastructure. *Mexico Business News*. https://mexicobusiness.news/tech/news/mexico-wants-digital-platforms-fund-telecom-infrastructure.

[16] This is an explicit sender-party-pays fee akin to telecommunications termination rates. Korea currently implements this between ISPs, and French policymakers have proposed extending such fees to large content and application suppliers.

sharing network costs between telecommunications operators and CAPs (or to use the USMCA term, value-added service suppliers).

F. Facilitating E-Commerce and Empowering Small and Medium-sized Enterprises (SMEs)

The rapid growth of e-commerce has been a significant benefit to North American consumers and businesses, particularly small and medium-sized enterprises (SMEs) that utilize online marketplaces. A key component of this success was the USMCA's incorporation of robust *de minimis* rules, which facilitate the low-cost, efficient movement of small parcels by reducing red tape and duties for originating goods.

The combination of recent policy changes and existing gaps in the agreement creates significant barriers for SMEs. The recent elimination of *de minimis* thresholds, applicable globally but also for shipments from USMCA partners, harms the competitiveness of North American e-commerce and disproportionately affects the small businesses and consumers the agreement was intended to support. This is compounded by a current tariff classification system, which, having been designed for new bulk goods, creates unnecessary complexity and cost for the "re-commerce" of used, returned, or previously-owned consumer goods. Furthermore, complex and difficult-to-access duty drawback programs often prevent SMEs from recovering duties on goods that are subsequently re-exported.

Recommendation: USTR should restore and enhance the provisions for e-commerce to better support SMEs. This comprehensive approach should include:

1. Restore a commercially meaningful *de minimis* framework for e-commerce (*e.g.,* with a threshold of at least $200) that facilitates trade conducted by SMEs, subject to applicable rules of origin);

2. Create simplified customs procedures, potentially including a unique tariff classification, for previously-purchased consumer goods to facilitate re-commerce;

3. Implement a duty drawback solution with low administrative barriers, enabling SMEs to more easily reclaim duties and enhance their international competitiveness;

4. Institute, through the SME committee, annual assessments and publicize findings regarding trade barriers that specifically impact SMEs, ensuring these issues are a recurring priority.

H. Establishing a Trilateral Stakeholder Dialogue on Digital Trade

While the USMCA review process provides a periodic opportunity for public comment, digital trade barriers often emerge rapidly and unexpectedly. To ensure the agreement's digital trade provisions remain effective, the Parties need a more agile and persistent mechanism for identifying and addressing new barriers.

Although the agreement includes an SME Dialogue, a dedicated forum focused on the high-tech barriers faced by the digital ecosystem would be beneficial. This would allow for timely, expert-level consultation on complex new measures, such as discriminatory regulations, data localization rules, or threats to encryption, and would help governments develop effective policy responses before barriers become entrenched.

Recommendation: USTR should propose the creation of a formal Tri-Party Digital Trade Stakeholder Dialogue. This forum, composed of government officials and industry experts from all three countries, should meet regularly to proactively identify, discuss, and seek resolution to emerging operational barriers hindering digital cross-border trade.

IV. Party-Specific Trade Policy Considerations

A. Canada

1) Discrimination in favor of Canadian news and audiovisual content

Extractive Payments for News: One of the more egregious interventions by the government of Canada against U.S. service suppliers has been its effort to force specific digital suppliers to subsidize news organizations through a "link tax" — an inter-industry revenue transfer imposed on a narrow subset of digital services involved in the indexing, linking, and

forwarding of news stories that Canadian news organizations voluntarily make available on the internet.[17] The mechanism for this intervention was the Online News Act, passed on June 22, 2023.

In fact, the indexing and linking of such content (or, allowing news sites to create dedicated pages on the infrastructure of specific U.S. suppliers to promote their content) has been a major benefit to these organizations, allowing them to reach a broader audience, help drive traffic to their own sites, and thus increase their revenues. The negative effects of this intervention are already clear, with one major supplier choosing to exit the news market rather than facing arbitrary and unbounded claims for compensation.

Recommendation: The United States should use the occasion of the review of USMCA to obtain a commitment from Canada to repeal the Online News Act. If that proves impractical, the United States should obtain a commitment from Canada that U.S. firms will not be designated under this measure, or otherwise compelled to enter into negotiations with news organizations for compensation envisaged by this law.

Audiovisual and Audio Content and Service: Like the Online News Act, but capturing a much broader set of suppliers, Canada's Online Streaming Act similarly functions as an inter-industry revenue-transfer mechanism, obliging streaming audio and video suppliers, overwhelmingly American, to fund Canadian content developers. The law also requires unrelated entities to file unnecessarily broad financial disclosures since funding obligations are determined through various criteria, including revenues, performance, and the market served—capturing not only companies offering subscription audio and video service but also companies that simply enable the transmission of content. These unjustified requirements create a significant financial exposure through administrative monetary penalties triggered by an inability to file annual returns or comply with CRTC orders. This legislation was also passed in 2023, but is only now being implemented.

[17] CCIA. (2022). *CCIA White Paper on Canada C-18, the Online News Act*. https://ccianet.org/library/2022-09-06-ccia-white-paper-on-canada-bill-c-18-the-online-news-act/.

CCIA estimates that payments and purchasing obligations of the Online Streaming Act could cost U.S. suppliers up to $7 billion by 2030 if not repealed or reformed.[18] CCIA has documented both the negative effects of this legislation as well as its inconsistency with core USMCA rules (non-discriminatory treatment of digital products, investment performance requirements, and discriminatory treatment of U.S. service suppliers).[19] While USTR may recognize that Canada is entitled to invoke its cultural industries exception under the terms of the USMCA to defend these measures, the United States is nonetheless explicitly entitled to take compensatory action of equivalent commercial value. This latter step could be deemed necessary if Canada remains unconvinced of the negative impact of this measure and declines to remove or significantly alter it.

Separately, Canada has also reserved the right under USMCA to impose cultural industries-related performance requirements on U.S. investors in the audiovisual sector, through a specific Non-conforming Measure (Reservation C-1.9 and 10).[20] Canada should remove or adjust this reservation to encourage investment in the sector (to the benefit of both U.S. and Canadian suppliers). Currently, Canada uses its discretion under this reservation to impose unreasonable requirements on U.S. firms seeking to invest in the sector, mainly to force purchases of Canadian content and services even when not justified based on commercial or artistic grounds. As a result, this measure disincentivizes investment in the sector by curtailing the necessary flexibility firms need to maintain their brand, artistic independence, and the commercial viability of production in Canada.

Recommendations: USTR should:

1. Initiate a proceeding, pursuant to Article 32.6.4 of USMCA, to determine appropriate compensation for the commercial harms generated by the Online Streaming Act;

[18] CCIA. (2025). *Costs of Canada's Online Streaming Act*. https://ccianet.org/library/cost-of-canadas-online-streaming-act/.
[19] CCIA. (2022). *CCIA White Paper on Canada C-18, the Online News Act*. https://ccianet.org/library/2022-09-06-ccia-white-paper-on-canada-bill-c-18-the-online-news-act/.
[20] Office of the United States Trade Representative. (n.d.). *Annex I – Canada: Schedule of Canada*, in Comprehensive and Progressive Agreement for Trans-Pacific Partnership. https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/NCM_Annex_I_Canada.pdf#page=4.

2. Seek to obtain a commitment from Canada to repeal the Online Streaming Act; and

3. Seek to remove Articles 9 and 10 of Reservation I-C-1 of Canada's Annex I to subject cultural industries to the general C$1 billion threshold, below which discrimination is proscribed. If Canada refuses to entertain this proposal, it should, at a minimum, limit the discretion accorded by this reservation to cases involving an acquisition of an existing supplier in the cultural industries sector.

4. Consider requesting that Canada table a Non-Conforming Measure with respect to Cultural Industries analogous to what was negotiated in the Trans-Pacific Partnership, to clarify the scope of measures Canada can take without needing to avail itself of the Cultural Industries exception. Specifically, Canada could clarify that financial contributions must be non-discriminatory, vis-a-vis both service suppliers and any content being supplied. This would complement, not substitute for, the existing Cultural Industries exception and its rebalancing rights (Article 32.6.4).

2) Digital Services Taxes

On June 30, 2025, the day Canada's 3% digital services tax (DST) was set to take effect, Canada took the welcome step of rescinding one of the world's most burdensome DSTs.[21] As designed, it would predominantly affect U.S. firms while sparing Canadian rivals in both online and offline industries, and, through its retroactive application to January 2022, the measure was projected to cost U.S. companies an estimated $3 billion in 2025 alone.[22] Despite this positive step, some companies that made payments pursuant to this law have yet to receive refunds, and despite the recission, the law remains on the books, as of the time of this filing.

Recommendation: In addition to continuing to press Canada to both refund payments and repeal its DST, USTR should consider adding an explicit prohibition of such measures as a way

[21] Department of Finance Canada. (2025, June 29). *Canada rescinds digital services tax to advance broader trade negotiations with the United States*. https://www.canada.ca/en/department-finance/news/2025/06/canada-rescinds-digital-services-tax-to-advance-broader-trade-negotiations-with-the-united-states.html.
[22] CCIA. (2024). *Impacts of Canada's Proposed Digital Service Tax on the United States*. https://ccianet.org/research/reports/impacts-canada-proposed-digital-service-tax-united-states/

to future-proof USMCA. Such a provision could prohibit any tax narrowly scoped to digital service with the effect of burdening predominantly non-Canadian USMCA firms. A safeguard to allow for any future multilateral reform of international tax rules affecting digital suppliers would also be appropriate.

B. Mexico

1) Discrimination against U.S. cloud computing companies

Mexico's 2020 financial sector cloud regulations, administered by the Central Bank and the National Banking and Securities Commission, impose burdensome requirements on electronic payment companies and financial service providers that use third-party cloud providers. Provisions such as Articles 49 and 50 establish discretionary authorization processes, require secondary infrastructure providers with in-country facilities or different jurisdictional ownership, and subject foreign providers to longer approval timelines than local firms. These measures create de facto data localization obligations (in either Mexico or a third country) and risk forcing U.S. (and Mexican) financial services firms to rely on inexperienced domestic vendors or untrusted foreign suppliers. Since, based on this measure, the back-up provider to a U.S.-based primary provider cannot be American, the effect of this measure is clearly discriminatory. A comprehensive review of USMCA's financial services, cross-border services, and digital trade chapters could determine whether this measure is inconsistent with USMCA or whether supplementary provisions are required to ensure that U.S. cloud providers are not disadvantaged in Mexico's market.

Recommendation: If USTR concludes that disciplines on location of computing facilities (Article 17.18 in the Financial Services chapter, and Article 19.12 in the Digital Trade chapter) are insufficient to address Mexico's discriminatory measure, USTR should consider using the review as an occasion to seek the removal of this measure, and/or a separate, actionable commitment to constrain such policies going forward—e.g., prohibiting localization based on the jurisdiction of the headquarters of supplier of a Party. Addressing this market distortion would

set an important global precedent in countering the growing trend of data localization requirements.

2) Reciprocal Treatment of ICT Goods shipped for R&D

Mexico's restrictions and limitations on the importation of uncertified ICT devices being used for development, testing, and research create an unnecessary trade barrier. The Administration should use the occasion of this review to seek removal of this barrier barriers and promote reciprocal treatment for product testing and development, which is critical to technological advancement with the USMCA region.

Recommendation: Ensure reciprocal treatment of products by ensuring that Mexico will allow the import of uncertified devices if used exclusively for development, testing, and research.

3) Laws Unfairly Targeting Technology Companies

The new Mexican Telecom Act, passed this year (Ley en Materia de Telecomunicaciones y Radiodifusión,[23] the "Act") imposes sweeping content restrictions on digital service advertising, exposing technology companies to vague rules and potential regulatory overreach. It bans foreign government advertising, propaganda, and information—with only narrow exceptions for cultural, athletic, or sporting content—burdening platforms that act as mere conduits. In addition, by folding digital services into a telecom regulatory framework without definitional boundaries to limit regulatory reach, the Act legitimizes the extension of rulemaking, historically limited to communications companies, to a broader category of suppliers, in a manner likely to hinder innovation. This undermines the essentially deregulatory goals articulated in Article 18.14, "Conditions for the Supply of Value-added Service".

In addition to the Act, the Mexican legislature has aggressively pursued enhanced oversight of digital service providers via tax-driven measures that are not only contrary to global

[23] *LEY EN MATERIA DE TELECOMUNICACIONES Y RADIODIFUSIÓN* [Mexico]. (2025). https://www.diputados.gob.mx/LeyesBiblio/pdf/LMTR.pdf.

practice but unfairly discriminate against technology companies. The current Tax and Budget Package for 2026 (set for vote by 31 October 2025) (the "Budget Bill"), imposes real-time communications channel requirements for operators and tax authorities and assigns operator criminal liability for content posted by users.

Recommendation: The USTR should use the occasion of the review of USMCA to seek amendments to the Act that ensure platform immunity from user content violation of law or injury and set appropriate telecommunications classifications in line with global regulatory standards.

Conclusion

USMCA anchors one of the most vibrant and mutually-beneficial trading relations in the world and must be preserved. The review should look to renew the agreement for the maximum term possible. At the same time, there are a number of discreet areas outlined above where the agreement could be improved. Separately, the review should provide the occasion to address several specific irritants in both Mexico and Canada, which these parties can and should unilaterally address.

CCIA appreciates the opportunity to comment on these important issues and would be happy to provide any further information as needed.

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