



**Asia-Pacific  
Economic Cooperation**

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## **Digital Trade Chapter of the United States-Mexico- Canada Trade Agreement - Experiences and Lessons Learned from the Negotiation**

Submitted by: Canada



**Free Trade Area of Asia-Pacific Capacity  
Building Workshop on E-Commerce  
Elements in Free Trade Agreements and  
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# **Digital Trade chapter of the USMCA (United States-Mexico-Canada Trade Agreement)**

Experiences and Lessons Learned from the Negotiation

*Nolan Wiebe*

*Senior Trade Policy Officer*

*Global Affairs Canada*



## CHAPTER 19: DIGITAL TRADE: WHAT'S OLD

- Customs Duties
- Electronic Transactions
- Authentication/E-Signatures
- Online Consumer Protection
- Personal Information Protection
- Principles on Access to and Use of the Internet for Digital Trade
- Paperless Trading



## CHAPTER 19: DIGITAL TRADE: WHAT'S MODIFIED

### –Non-Discriminatory Treatment of Digital Products

- Not subject to Annex reservations
- No broadcasting carve out

### –Cross-Border Transfer of Information

- Footnote 5: differential treatment for cross-border transfers

### –Location of Computing Facilities

- Reliance on General Exceptions
- Commitments on financial services



## CHAPTER 19: DIGITAL TRADE: WHAT'S MODIFIED (Continued)

### –Unsolicited Commercial Electronic Messages

- Focus on “prevention” and “consent”
- Applies to all electronic messages

### –Cybersecurity

- “Risk-based” approaches to protect against cybersecurity risks

### –Source Code

- Applies to all software source code and algorithms expressed in the source code
- Permits specific investigations, examinations, etc. by regulatory bodies or judicial authorities



## CHAPTER 19: DIGITAL TRADE: WHAT'S NEW

### –Interactive Computer Services

- Civil liability protections to Internet platforms for harmful user-generated content
- Does not apply to Intellectual Property measures, enforcement of criminal laws or lawful orders from enforcement authorities

### –Open Government Data

- Making available government information available to other actors (eg., private sector, academia) to advance social/economic objectives
- Parties determine which government information will be available in a machine-readable, open format



## CHAPTER 19: DIGITAL TRADE

### –Negotiating Challenges

- Data Localization and Privacy
- Interactive Computer Services

### –Implementation

- Canadian implementation legislation
- Canadian Parliament

### –Lessons Learned

- Consult, Consult, Consult!