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Economic Cooperation**

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Session VII

E-Commerce Chapter

Submitted by: Mexico



**Capacity Building Workshop on Negotiations of
Services Chapters Under Free Trade Agreements
with a Negative List Approach**
Lima, Peru
19-21 August 2016

**CAPACITY BUILDING WORKSHOP ON NEGOTIATION OF SERVICES
CHAPTERS UNDER FTAS WITH A NEGATIVE LIST APPROACH**

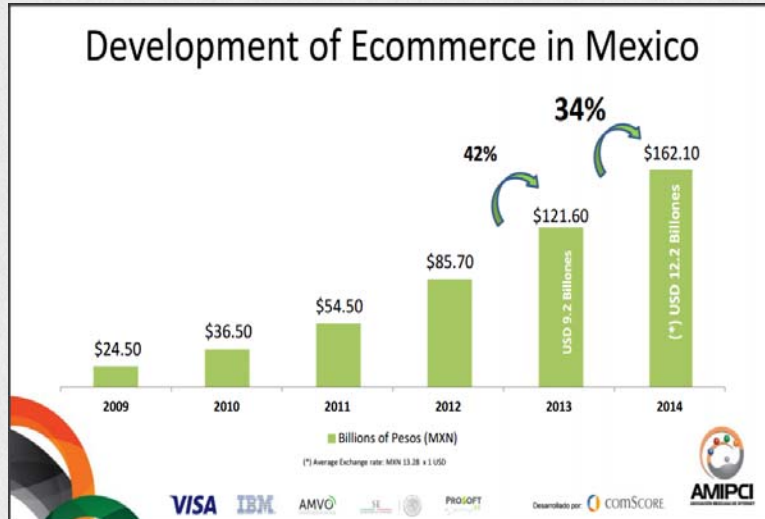
E-Commerce

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August 21, 2016 – Lima, Peru
APEC SOM III



Estimated market value of e-commerce in Mexico 2015



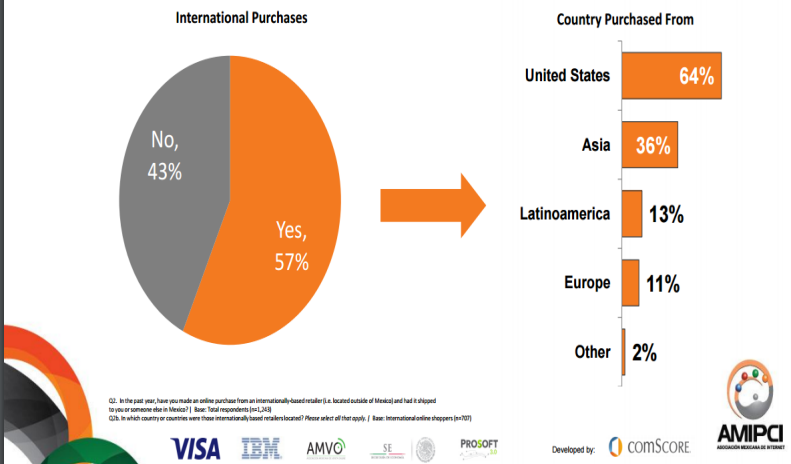
E-Commerce is growing in Mexico, in 2014 grew 34%:

- Three-quarters of online Mexicans are online purchasers based on reported purchase activity from January to March 2015.
- Consumers aged 18 to 34 years bought more digital content than those of 35 years or more.

Source: Asociación mexicana de internet (AMIPCI), Study of E-commerce in Mexico 2015.
https://amipci.org.mx/estudios/comercio_electronico/Estudio_de_Comercio_Electronico_AMIPCI_2015_version_publica.pdf

ONLINE SPENDING

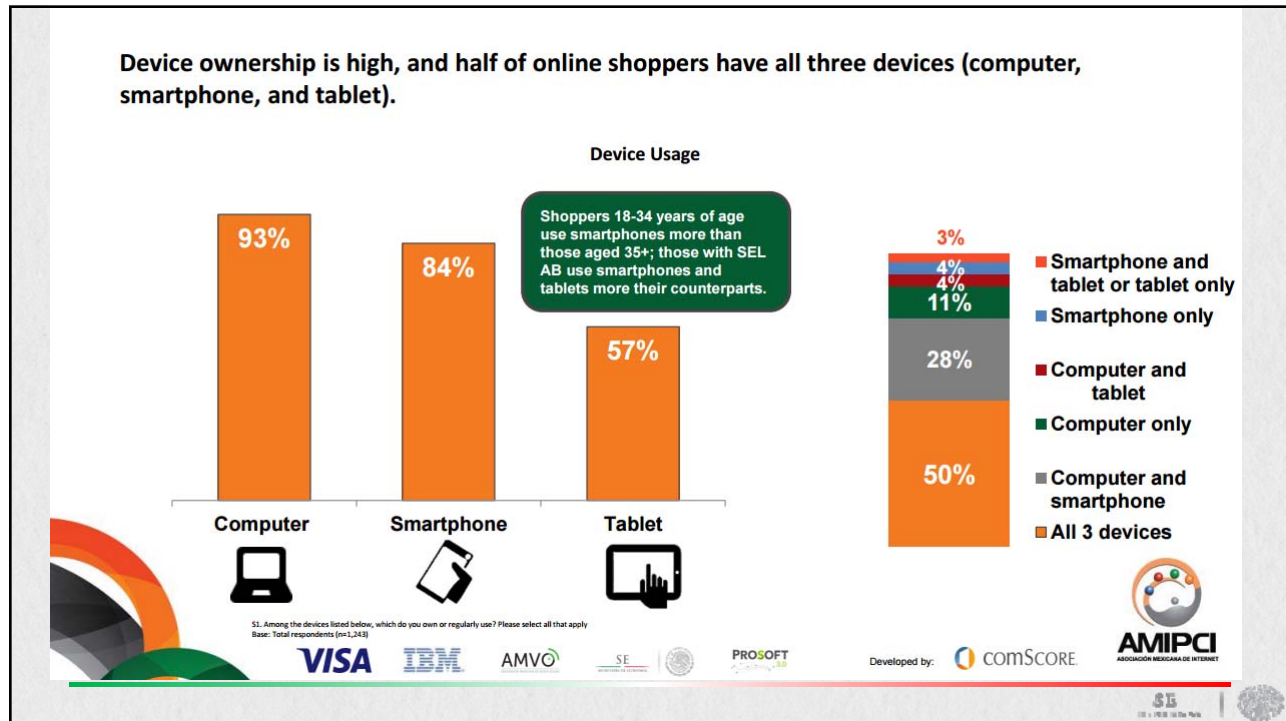
Over half of shoppers purchased from an international retailer, with the U.S. being the top source for imported items.



The three top categories purchased online were Apparel & Accessories, Digital Downloads, and Event Tickets (excluding travel).

Average quarterly spending across all devices and non-travel categories was USD \$300 dollars approximately USD \$100 dollars spent online per month.

Source: Asociación mexicana de internet (AMIPCI), Study of E-commerce in Mexico 2015.
https://amipci.org.mx/estudios/comercio_electronico/Estudio_de_Comercio_Electronico_AMIPCI_2015_version_publica.pdf



Evolution of E-commerce in Mexico

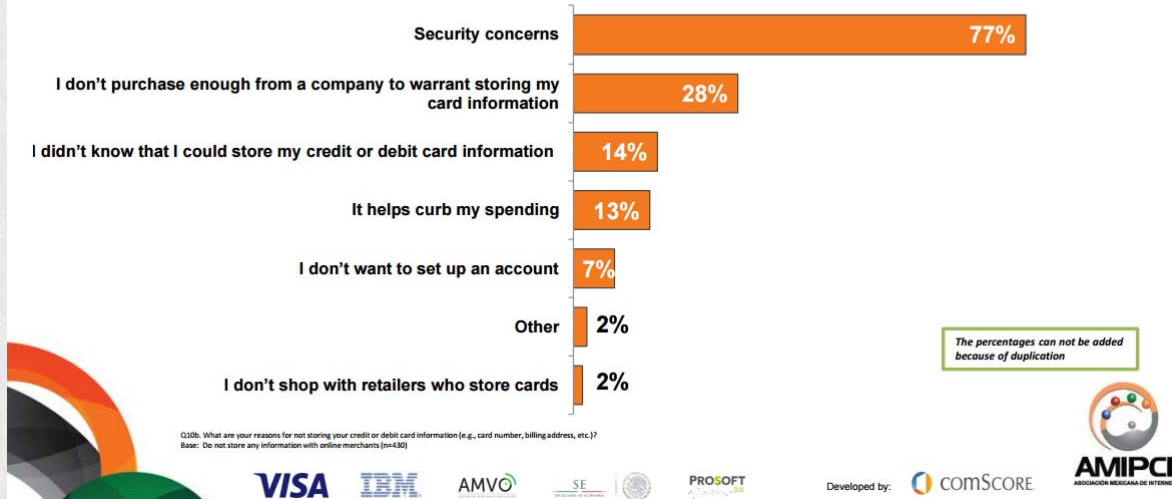
- Funding payments from a bank account (Credit Card, Debit Card, PayPal, MercadoPago, SafetyPay and Bank Transfer) are the most used in Mexico.
- Buyers are highly satisfied with shopping both online and in a physical store.
- Security concerns are the leading reason for not storing information with online retailers.
- Seven out of ten e-tails have some type of risk analysis/prevention tool or service.

Source: Asociación mexicana de internet (AMIPCI), Study of E-commerce in Mexico 2015.
https://amipci.org.mx/estudios/comercio_electronico/Estudio_de_Comercio_Electronico_AMIPCI_2015_version_publica.pdf

AMIPCI
ASOCIACIÓN MEXICANA DE INTERNET

Security concerns are the leading reason for not storing information with online retailers.

Reasons for Not Storing Credit/Debit Information with Online Merchants



Source: Asociación mexicana de internet (AMIPCI), Study of E-commerce in Mexico 2015.

https://amipci.org.mx/estudios/comercio_electronico/Estudio_de_Comercio_Electronico_AMIPCI_2015_version_publica.pdf



GENERATION AGREEMENTS

According to Mexico's National Plan of Development 2013-2018 (PND), policies and programs should be based on a close and modern government for the Mexicans. For that purpose, the government has established a **National Digital Strategy** (EDN, as per its acronym in Spanish) to promote the adoption and development of ICTs, transparency, accountability and to increase the digitization of Mexico.

Benefits of National Digital Strategy

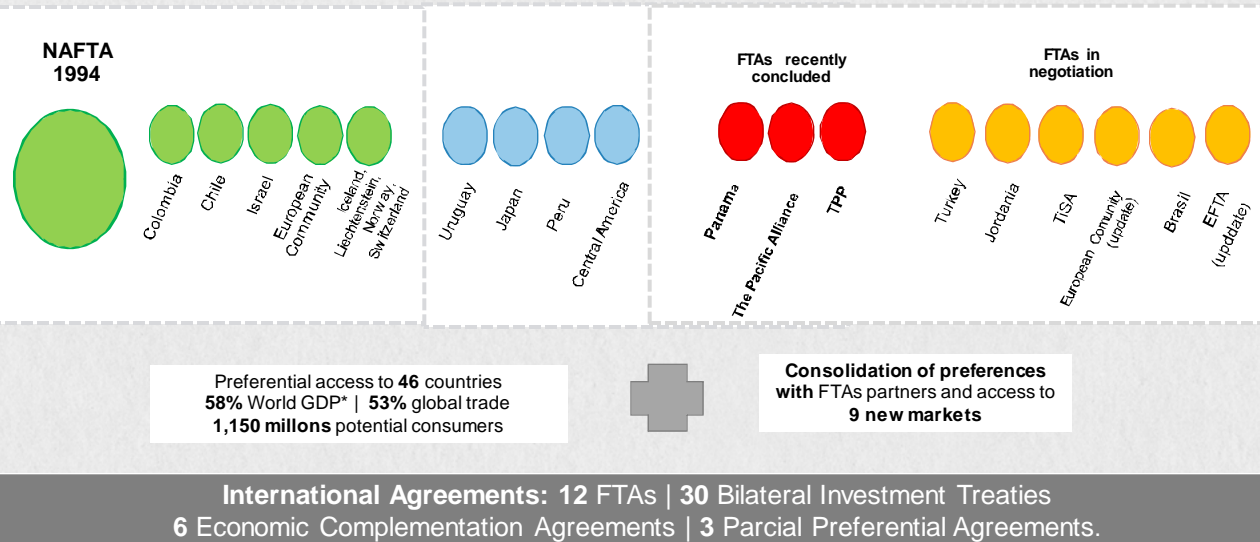


- It is consistent with new generation agreements on E-commerce.
- It supports and promotes digital innovation, quality banking services and logistics for e-commerce companies.
- It contributes to the growth of SMEs and promotes their internationalization through e-commerce and the use of ICTs.
- It seeks to boost investment and financing in e-commerce, e.g. The National Institute of Entrepreneurship (INADEM for its acronym in Spanish) has a fund for entrepreneurs to encourage innovation initiatives in strategic sectors.

To know more about National Digital Strategy <http://www.gob.mx/mexicodigital/>

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MEXICO: At the forefront of trade policy



* Source: WTO (International Trade and Market Access Database, abril 2015) & FMI (World Economic Outlook abril 2015).

Mexico Trade Agreements Network

FTAs: Chapters of services and related to them	NAFTA	Mexico -Chile	Mexico Colombia	Mexico European Union	México EFTA	Mexico- Central America	Mexico - Uruguay	Mexico - Japón	Mexico- Peru	The Pacific Alliance	Mexico – Panama	TPP*
Cross-Border Trade In Services	■ C	■ C	■ C	■ C	■ C	■ C	■ C	■ C	■ C	■ C	■ C	■ C
Financial Services	C		C	C	C	C		C	C	C	C	C
Telecommunications	C	C	C			C	C			C	C	C
Temporary Entry for Business Persons	C	C	C			C	C	C	C		C	C
Maritime Transport				C	C					C		
Air Transport		C										
E-Commerce						C				C	C	C

Source: Ministry of Economy.-Mexico;
<http://www.gob.mx/se/acciones-y-programas/comercio-exterior-paises-con-tratados-y-acuerdos-firmados-con-mexico?state=published>

Notes:
 "C" means that the FTA contains a **chapter**.
 The EU has to date 28 Member States
 EFTA is conformed by Norway, Switzerland, Iceland and Liechtenstein;
 FTA with Central America: conformed by Guatemala, Honduras, El Salvador, Costa Rica and Nicaragua;
 The Pacific Alliance: is conformed by Chile, Peru, Colombia. And Mexico
 TPP pending to entry into force.
 • Means that the FTA contains an annex of professional services.

Main areas of negotiation: **Co-existence NAFTA - TPP**

Existing in NAFTA	NAFTA enhanced	Additional to NAFTA
1. Agriculture measures	1. Investment provisions	1. E-Commerce
2. Industrial goods	2. Financial Services	2. SMEs
3. Rules of origin	3. Telecommunications	3. Competitiveness
4. Trade remedies	4. Intellectual Property	4. Regulatory coherence
5. Textile and Apparel goods	5. Environment provisions	5. Development
6. Sanitary and Phytosanitary measures	6. Labour provisions	6. Anti-corruption provisions
7. Technical barriers to trade		7. Trade facilitation
8. Cross-Border Trade in Services		8. State-Owned Enterprises (SOEs)
9. Temporary Entry for Business Persons		
10. Institutional arrangements and transparency provisions.		
11. Government procurement.		



New Generation Chapters

Electronic Commerce

<http://www.gob.mx/tpp>

http://www.gob.mx/cms/uploads/attachment/file/113236/14._Electronic_Commerce.pdf



ELECTRONIC COMMERCE

Chapter objectives:

- To avoid unnecessary barriers for the use of e-commerce.
- To establish frameworks that promote consumer confidence in electronic commerce.
- To preserve the integrity of confidential information and security of online transactions.
- To work on long-term cooperation between countries to exchange information and share experiences on regulations, policies and compliance regarding electronic commerce.

Objectives of Mexico

- To ensure conditions that allow e-commerce to remain as a source of opportunities for the development of the digital economy, innovation and the creation for SMEs.
- To promote the development of e-commerce.



Source: Ministry of Economy

http://www.gob.mx/cms/uploads/attachment/file/113236/14._Electronic_Commerce.pdf

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Selected provisions:

- 1) Non-discriminatory treatment of digital products.
- 2) Non-imposition of customs duties on electronic transmissions, including electronic content.
- 3) Personal information protection.
- 4) Principles on access to and use of the Internet for e-commerce.
- 5) No restrictions on transfers of information.
- 6) No restrictions for the location/establishment of computing facilities.



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Digital Product Definition*

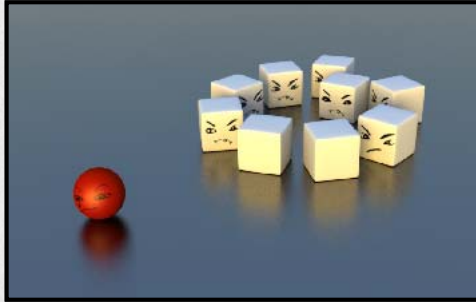


Means a computer programme, text, video, image, sound recording or other product that is digitally encoded, produced for commercial sale or distribution, and that can be transmitted electronically.

* A digital product doesn't include digitized representation of a financial instrument, including money.

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Non-Discriminatory Treatment of Digital Products



No country shall accord less favourable treatment to digital products:

- created,
- produced,
- published,
- contracted for, commissioned or first made available on commercial terms in the territory of another country.

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NO IMPOSITION OF TARIFFS ON ELECTRONIC TRANSMISSIONS

Customs Duties

- No country shall impose customs duties on electronic transmissions, including content transmitted electronically, between a person of one country and a person of another country.
- **Electronic transmission or transmitted electronically** means a transmission made using any electromagnetic means, including by photonic means;



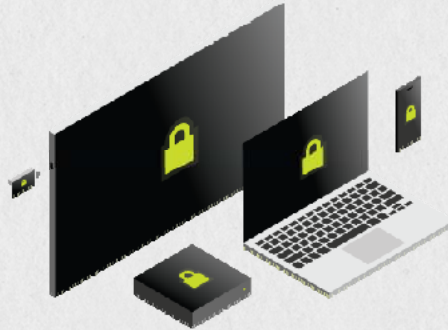
However, it is permissible for a country to impose internal taxes, fees or other charges on content transmitted electronically, provided that such taxes, fees or charges are imposed in a manner consistent with TPP.



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Online consumer protection

- Each Party shall adopt or maintain consumer protection laws to proscribe fraudulent and deceptive commercial activities that cause harm or potential harm to consumers engaged in online commercial activities.
- Cooperation between consumer protection agencies.



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Personal information protection

- Each Party shall adopt or maintain a legal framework that provides for the protection of the personal information of the users of electronic commerce. In the development of its legal framework for the protection of personal information, each Party should take into account principles and guidelines of relevant international bodies.
- Each Party should publish information on the personal information protections it provides to users of electronic commerce, including how:
 - (a) individuals can pursue remedies; and
 - (b) business can comply with any legal requirements.
- Recognising that the Parties may take different legal approaches to protecting personal information, each Party should encourage the development of mechanisms to promote compatibility between these different regimes.



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Principles on Access to and Use of the Internet for Electronic Commerce



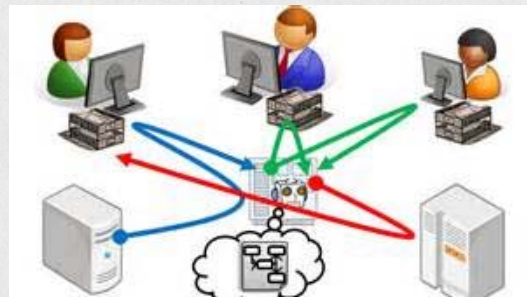
Subject to applicable policies, laws and regulations, countries recognize the following benefits for the consumers:

- access and use services and applications of a consumer's choice available on the Internet, subject to reasonable network management;
- connect the end-user devices of a consumer's choice to the Internet, provided that such devices do not harm the network; and
- access information on the network management practices of consumer's Internet access service supplier.

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Cross-Border Transfer of Information by Electronic Means

- Each country may have its own regulatory requirements for the transfer of information by electronic means.
- Each country shall allow the cross-border transfer of information by electronic means, including personal information, when this activity is for the conduct of the business of a covered person.
- **Exception:** Countries may adopt or maintain measures inconsistent to achieve a legitimate public policy objective, provided that the measure is not a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade.



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No restriction on the location of computing facilities



Location of Computer Facilities

- Each country may have its own regulatory requirements for the use of computer facilities, including the requirements that seek to ensure the security and confidentiality of communications.
- No country shall require a covered person to use or locate computing facilities in that country's territory as a condition for conducting business in that country.
- **Exception:** idem
- **Covered person** means:
 - a covered investment as defined in Article 9.1 (Definitions);
 - an investor of a Party as defined in Article 9.1 (Definitions), but does not include an investor in a financial institution; or
 - A service supplier of a Party as defined in Article 10.1 (Definitions),

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CONCLUSIONS

- The E-commerce chapters sets rules that will support the development of the digital economy for years to come.
- New generation e-commerce chapters sets provisions and procedures for trade in goods and services carried by the Internet and other electronic means.
- Although certain provisions of e-commerce chapters impose obligations on the countries, while others merely require countries to endeavor to adopt or implement them; through the last negotiations, countries have agreed to a set of rules that will facilitate economic growth and trade opportunities through the use of e-commerce.

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