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Hon. Mary Ng, P.C. M.P
Minister of International Trade, Export Promotion, Small Business and Economic
Development
Canada-United States-Mexico Agreement (CUSMA) Consultations
Global Affairs Canada
Trade Negotiations – North America
John G. Diefenbaker Building
111 Sussex Drive
Ottawa, Ontario
K1N 1J1

Re: Consulting Canadians on the operation of the Canada-United States-Mexico Agreement (CUSMA)

Dear Minister Ng:

The Consumer Technology Association (CTA) welcomes the opportunity to submit comments in response to the Government of Canada’s consultation on the operation of the Canada-United States-Mexico Agreement (CUSMA). We sincerely appreciate your consideration of our input and contribution to this important issue.

CTA represents over 1,300 companies from every facet of the consumer technology industry and relies on broader supply chains built upon strategic arrangements with trusted Canadian trading partners. We also own and produce CES®, the world’s most powerful technology event and in 2024, attracted more than 145,000 people, including 50,000-plus international visitors, among which 3,761 from Canada.¹ Throughout its 100-year existence, CTA has remained steadfast in its mission to promote North American innovation and the adoption of new technologies that address significant global challenges.

We and our members recognize the CUSMA as an essential framework for fostering North American trade, competitiveness, and innovation. Since its entry into force in 2020, CUSMA has enabled stable trade relations among its partners, thereby facilitating growth in the consumer technology industry. As consumer technology supply chains

¹ CES 2024 Attendance Audit Summary,
https://cdn.ces.tech/ces/media/pdfs/2024/attendeeauditsummary_2024.pdf.

diversify in response to geopolitics, CUSMA continues to provide the requisite predictability and certainty for companies to source from within North America. North America's seamless trade and investment environment plays a critical role in enabling companies to shift production, mitigate risks, and maintain competitiveness.

In 2023, the agreement supported over CA\$ 302 billion in technology trade among Canada, the United States, and Mexico, directly benefiting CTA members as they seek to expand operations and invest in developing, manufacturing, and deploying emerging technologies across the continent.² As we look to the future, full implementation and enforcement of CUSMA's provisions will further enable supply chain resilience and drive economic growth in the tech sector.

In the remainder of this letter, CTA outlines our recommended issues for inclusion during the first joint review of CUSMA in 2026 and priorities for 2025, including Canada's chairing of the fifth CUSMA Free Trade Commission meeting. We urge Canada to work closely with the United States and Mexico to continue CUSMA and avoid termination or any other disruption of the agreement.

In our view, the review is an opportunity for all three Parties to re-emphasize the essential economic nature of the North American trading block, renew endorsement of each trading partner, and improve the implementation and adherence to the enforcement provisions of the agreement. We hope Canada, the United States, and Mexico, re-center a rules-based international trade regime with the rule of law at its foundation. Renegotiation of CUSMA is neither desirable nor necessary.

Digital trade

Digital trade is a cornerstone of the modern economy, so CTA strongly supports maintaining the high-standard digital trade rules enshrined in CUSMA. These rules protect cross-border data flows and prohibit forced data localization, so they are crucial for fostering innovation and ensuring the seamless operation of digital services across North America. Weakening these provisions, or even questioning their efficacy would undermine the competitiveness of the technology sector, hinder growth, and disrupt the integrated digital marketplace that CUSMA has helped create.

As digital trade continues to expand, the Parties must preserve the agreement's robust framework to support the growth of North American businesses and their global leadership in cutting-edge technologies. More, Canada, Mexico, and the U.S. should work together on including the CUSMA provisions on digital trade in other agreements

² Based on numbers from the USA Trade® Online data tool (<https://usatrade.census.gov/>) provided by the U.S. Census Bureau. Technology trade is defined by CTA to include consumer technology products and components, semiconductors, semiconductor manufacturing equipment, and batteries.

they are negotiating, including the Indo-Pacific Economic Framework (IPEF), and advocate for them at the World Trade Organization (WTO).

Investor/Investment Protections and Investor-State Dispute Settlement (ISDS) Mechanism

CTA underscores the importance of healthy investor and investment protections to support the diversification of supply chains across North America. Should the three Parties choose to revisit the Investment Chapter of CUSMA, we favor stronger investment and investor protections.³ In addition, CTA hopes Canada and the United States make greater use of state-to-state dispute settlement provisions in CUSMA to address investment problems in Mexico.

Cybersecurity

We suggest strengthening cybersecurity provisions to ensure growth in emerging technologies and a thriving North American, principled-based, economy. CTA urges Canada to ensure that cybersecurity standards, certifications, and frameworks are non-discriminatory, aligned, and set a global standard for allowing businesses to operate in markets that share baseline values.

Policies that run counter to these principles prevent governments and consumers from accessing services that are best-in-class and undermine cybersecurity more broadly. CTA also encourages the CUSMA Parties to establish a formal mechanism for industry and governments to collaborate and cooperate on cybersecurity policies, best practices, and threat information sharing relevant for cross-border business operations.

Rules of Origin

CTA expects that the review of CUSMA may prioritize adjustments to the Rules of Origin (ROOs). We implore the three CUSMA Parties to avoid increasing the restrictiveness or complexity of the requirements. Specifically, higher regional value content thresholds could impose undue burdens on the consumer technology industry. More restrictive ROOs may lead companies to opt for paying Most-Favored-Nation (MFN) duties, as this would be less burdensome and potentially less costly. Increasing tariffs for goods traded among the three Parties would defeat the purpose of CUSMA in promoting regional trade and integration. We encourage policymakers to maintain a balanced approach to ROO that supports the industry's competitiveness and aligns with the agreement's original intent as well as respecting the enforcement and adjudicative mechanisms already in place.

³ CUSMA – Chapter 14 – Investment, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/14.aspx?lang=eng>.

Full Implementation of CUSMA Chapters to Accelerate Supply Chain Diversification

CTA advocates for the full implementation of key chapters of CUSMA, which will play a critical role in accelerating the diversification of supply chains across North America.

- **Chapter 7 on Customs Administration and Trade Facilitation:** Streamlining customs procedures and enhancing transparency are essential for reducing delays and improving efficiency in cross-border trade, particularly for time-sensitive tech products.
- **Chapter 11 on Technical Barriers to Trade (TBTs):** Ensuring that technical standards are consistent and non-discriminatory will reduce unnecessary costs and barriers for the technology industry, allowing companies to operate seamlessly across borders.
- **Sectoral Annex 12-C on Information and Communication Technology (ICT):** Full implementation of this annex will promote regulatory cooperation and interoperability, making it easier for tech products to move freely across the region and fostering innovation in the ICT sector.
- **Chapter 28 on Good Regulatory Practices:** Ensuring good regulatory practices across all Parties is essential for transparency, predictability, and the avoidance of unnecessary barriers to trade. This will create a more favorable environment for companies looking to diversify supply chains away from concentrated markets, such as China.

By advancing these priorities, CUSMA can remain a powerful tool for fostering a resilient, diversified, and innovative North American supply chain.

Trade remedies

CTA urges the USMCA Parties to tread lightly in creating disparate trade remedies among the three parties. Imposing such measures can undermine the agreement's core objective of fostering seamless trade within North America. By ensuring that trade remedies are rarely used against CUSMA partners, the region can continue to promote economic integration, support supply chain diversification, and enhance the competitiveness of our industries. We encourage a balanced approach that protects domestic industries while maintaining the spirit of cooperation and mutual benefit enshrined in the CUSMA agreement.

Quantitative restrictions

CTA advocates for maintaining the integrity of CUSMA by avoiding any additional side letters that impose new quantitative restrictions beyond what is already included in the

agreement. Introducing further limits on trade volumes could disrupt market access and undermine the benefits that CUSMA provides for the consumer technology industry. Any new restrictions could hamper supply chain efficiency, raise costs for businesses, and ultimately reduce consumer choice. We encourage all Parties to uphold the existing commitments under the agreement and avoid measures that may impose unnecessary limitations on trade.

Canada's Digital Services Tax Act (Bill C-59)

CTA urges Canada to reverse its digital services tax (DST), a measure inconsistent with Canada's commitments under the Cross-Border Trade in Services and Investment chapters of CUSMA.⁴ Reversal would avoid the need for dispute settlement proceedings under the agreement. Instead, Canada should seek alternative approaches that align with CUSMA's goal of promoting innovation and economic growth.

While U.S. firms may comprise a large share of negatively affected companies, the structure of the DST as a tax on revenue means that these costs will ultimately be passed on to Canadian consumers in the form of higher prices. By raising prices for Canadian consumers and imposing costs on U.S. firms, the DST poses a barrier to the export of U.S. digital services to Canada.⁵

This tax policy undermines the spirit of the CUSMA by unfairly burdening technology companies, creating barriers to digital trade, and disrupting the free flow of services across borders. Resolving this issue is critical to preserving the integrity of CUSMA's digital trade provisions and maintaining a cooperative trade relationship between Canada, the United States, and Mexico.

Canada's Artificial Intelligence and Data Act (AIDA) (Bill C-27)

CTA applauds the Government's thoughtful framework set out in the AIDA, but the framework should be amended to reflect industry standards. In addition, and in alignment with Article 11.4 of CUSMA, Canada should explicitly balance the risk of over-regulating against the benefits of innovation in the emerging AI markets.⁶ Aligning with

⁴ CUSMA – Chapter 15 – Cross-border Trade in Services, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/15.aspx?lang=eng>; CUSMA – Chapter 14 – Investment, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/14.aspx?lang=eng>.

⁵ "Canada's Digital Services Tax Act: Issues Facing Congress," Congressional Research Service, August 1, 2024, <https://crsreports.congress.gov/product/pdf/IN/IN12399>.

⁶ CUSMA – Chapter 11 – Technical barriers to trade, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/11.aspx?lang=eng>.

the U.S. framework would ensure a more proportionate and effective regulatory environment, fostering innovation while addressing potential risks associated with AI.⁷

Canada's Online Streaming Act (Bill C-11)

CTA advocates for the reversal of Canada's Online Streaming Act, which is inconsistent with Article 15.3 of CUSMA that requires equal treatment of both U.S. and Canadian services and service suppliers.⁸ While the Act aims to promote Canadian content and support local creators, it risks imposing excessive burdens on streaming services that could stifle competition and limit consumer choice. Repealing this legislation would help ensure a more competitive digital marketplace, allowing both Canadian and international platforms to thrive and better serve consumers. We encourage policymakers to reconsider the Act's implications for industry dynamics and consumer access, and instead seek to foster an environment that prioritizes innovation and fair competition in the digital economy.

Canada's EnerGuide Label

CTA supports Canada's commitment to energy efficiency through its EnerGuide label, which helps consumers make informed decisions about the energy consumption of appliances and electronics. We suggest that any CUSMA review discussions on regulatory cooperation prioritize energy efficiency, as expressed in Article 12.D.4 of CUSMA.⁹ To that end, we recommend that Canada work with the U.S. and Mexico to align approaches to create consistent energy efficiency standards across North America, benefitting both business and consumers by simplifying compliance. As energy efficiency standards evolve, the Parties must ensure that the requirements for labeling do not impose excessive costs or burdens on manufacturers, particularly in the consumer technology sector.

By harmonizing these efforts, we can ensure that energy-efficient technologies are more widely adopted, contributing to environmental sustainability and economic resilience in the region. CTA encourages the Canadian government to continue refining the EnerGuide program in a way that promotes innovation, energy efficiency, and market accessibility across North America.

⁷ National Institute of Science and Technology, AI Risk Management Framework, (rel. Jan. 23, 2023), <https://nvlpubs.nist.gov/nistpubs/ai/NIST.AI.100-1.pdf>.

⁸ CUSMA – Chapter 15 – Cross-border Trade in Services, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/15.aspx?lang=eng>.

⁹ CUSMA – Chapter 12 – Sectoral annexes, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/12.aspx?lang=eng>.

Canada's proposed amendments to the Cross-Border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations

CTA urges the Canadian government to reassess its proposed amendments to the Cross-Border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations and instead ensure that any potential changes align with obligations under the Basel Convention.¹⁰ CTA suggests Canada take concerted steps with its CUSMA partners on this issue, taking note of the CUSMA Market Access and Environment chapters.¹¹

Although the proposed amendments intend to address environmental concerns, they can hinder responsible recycling efforts and the circular economy in many core areas, including battery technology. Many businesses in the consumer technology industry rely on the ability to move used electronics across borders for proper refurbishment, recycling, and disposal in facilities equipped to handle these tasks. Aligning Canada's regulations with international standards on e-waste management and transportation would facilitate more efficient and environmentally sound recycling practices while ensuring that valuable materials are recovered and reused. This would benefit both the environment and the consumer technology industry by reducing waste and promoting sustainability.

Mexico's judicial reforms

While the Mexican government has the sovereign right to amend its constitution, some of the proposed changes risk damaging the long-standing trade and investment relationship between Canada, Mexico, and the United States, as well as the rights of North American companies under CUSMA.¹² If enacted, these amendments could introduce significant uncertainty into our commercial relations and jeopardize the upcoming CUSMA discussions.

Given the rapid pace at which these constitutional reforms are moving, we respectfully urge Canada to raise these concerns in 2025 and recommend that the Sheinbaum administration adopt a more deliberate and thoughtful approach. We are particularly concerned with the proposal to remove all judges and replace them through popular

¹⁰ "Canada Gazette, Part I, Volume 157, Number 39: Regulations Amending Certain Department of the Environment Regulations," September 30, 2023, <https://canadagazette.gc.ca/rp-pr/p1/2023/2023-09-30/html/reg2-eng.html>.

¹¹ CUSMA – Chapter 2 – National Treatment and Market Access for Goods, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/02.aspx?lang=eng>; CUSMA – Chapter 24 – Environment, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/02.aspx?lang=eng>.

¹² Industry letter to U.S. Secretary of State Antony Blinken," August 19, 2024, <https://subscriber.politicopro.com/f/?id=00000191-7b03-d7ad-a591-7ba73f220000>.

election, which poses serious risks to the rule of law and the administration of justice in Mexico. Without fair and predictable legal recourse for Canadian investors, the enforcement of CUSMA may face additional challenges in the Investment chapter.¹³

Mexico's possible accession to the WTO Information Technology Agreement

CTA recognizes that the review of CUSMA is an opportunity for all three Parties to make new commitments to each other. Canada and the United States both participated in the 1997 WTO Information Technology Agreement and its 2015 expansion, while Mexico does not. During the review, Canada should work with the United States to secure a commitment by Mexico to join both agreements. Mexico's involvement would not only align its trade policies with its North American partners but also accelerate the diversification of supply chains away from China.

By embracing these agreements, Mexico, together with Canada and the United States, can enhance its individual and collective competitiveness in the global technology market, promote innovation, and create a more resilient economic framework that benefits businesses and consumers alike. This step would further solidify the region's collaborative approach to trade and technology, advancing growth and stability across North America.

Mexico's failure to fully implement the CUSMA Intellectual Property Rights

CTA expresses concern over Mexico's delay in implementing necessary regulations under Chapter 20, the Intellectual Property Rights (IPR) chapter of CUSMA.¹⁴ This lack of enforcement creates uncertainty for North American businesses relying on strong intellectual property protections, particularly in the technology sector, where innovation is key. Without clear regulations, companies face heightened risks of intellectual property theft and diminished confidence in the market.

We urge Canada to take note of Mexico's delay and recommend Canada and the United States together encourage Mexico to promptly address this gap by introducing robust regulations that align with CUSMA's IPR standards, ensuring a level playing field for businesses and fostering innovation across North America.

Mexico's measures resulting in de facto data localization for financial services

CTA expresses concern with Mexico's 2021 regulation that requires electronic payment fund institutions to either 1) follow a multi-cloud approach with at least two cloud service providers from two different country jurisdictions, or 2) have an on-premise data center

¹³ CUSMA – Chapter 14 – Investment, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/14.aspx?lang=eng>.

¹⁴ CUSMA - Chapter 20 - Intellectual Property Rights, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/20.aspx?lang=eng>.

in the country that doesn't depend on the primary (foreign) cloud service provider. This requirement is a de facto data localization measure. In addition, offshore cloud infrastructure companies must spend more time and resources to provide services than their domestic cloud infrastructure counterparts. We call for CUSMA to address this issue in Article 17.18 in the Financial Services chapter.¹⁵

Conclusion

CTA is pleased to provide the above specific recommendations on issues for inclusion during the first joint review of CUSMA in 2026 and priorities for work being undertaken in 2025. We look forward to serving as a resource for the Government of Canada during the CUSMA review.

Sincerely,



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Consumer Technology Association



Michael Petricone
Senior Vice President of Government Affairs
Consumer Technology Association

¹⁵ CUSMA – Chapter 17 – Financial Services, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/17.aspx?lang=eng>.