

## A North American Digital Economy

### C26+ Digital Economy Working Group

#### Introduction

The USMCA entered into force amid a pandemic, in which consumers rapidly adopted and enjoyed the benefits of the **digital economy**. The use of digital trade and services skyrocketed, whether for work, finance, education, entertainment, or health. Companies that were ready to go digital blossomed, being the fintech sector the best example in the Americas.

In Mexico, **digitalization** has been limited to certain portions of the population. Companies of all sizes and sectors continue to face **regulatory barriers** to achieve a greater degree of digitalization in line with today's needs. The **digital economy** is one of the key pillars for a more competitive North American region. There is an opportunity to update the domestic regulation and to improve and expand connectivity.

The **C26+ Digital Economy Working Group** met in August 2021 to discuss and create *actionable recommendations* for policy makers and the private sector towards seizing digitalization in North America, particularly in Mexico, increasing the region's competitiveness.

#### An evaluation on the main issues

The internet and the digital ecosystem have been essential during the pandemic, the USMCA provides an institutional framework on digital exchanges through Chapter 19:

- **USMCA's implementation:** one year after its entry into force, the adoption of the agreement's provisions and rules has been complex.
  - Governing bodies and agencies in Mexico and the U.S. are not coordinated in the how and when to implement the agreement, holding back the competitiveness.
  - Claiming national security issues, Mexico and the U.S. have *de facto* stopped the harmonization of principles in which the digital economy needs to work on.
  - Article 19.17 "Interactive Computer Services" might face local legislation burdens in the future.
    - On the U.S. side, there have been discussions to reform or revoke the Section 230 Communications Decency Act (DCMA).
    - On the Mexican side, since there was no previous regulation, a 3-year probation period was given for Mexico to adopt a legal framework that complies with this provision. Consultations with government agencies and the private sector led by the Ministry of Economy are underway.
- **Insufficient understanding, interest & communication:** the digital economy operates, by definition, with intangible goods and services. Some lawmakers and government officials in Mexico are indifferent on the benefits of these new-generation exchanges.
  - In Mexico, at the federal level, only the Ministry of Foreign Affairs and the Ministry of Economy have made efforts towards the establishment of a digital economy agenda. In contrast, the judiciary and some local governments have adopted technologies with different levels of success.
  - Most of the digital industry in Mexico is not organized and there is a lack of institutional coordination, standards, best practices, and indicators. Moreover, it is needed a National Digital Vision with set objectives and a clear strategy for developing a digital public policy package for developing the Mexican digital economy.

- **Regulation and strategy:**
  - USMCA’s Articles 17.18 and 19.12 “Location of Computing Facilities” are not being enforced. Mexico’s data localization requirements in the financial sector are a burden for the free flow of data across North America.
  - Mexico lacks a comprehensive view for digitalization; the strategy recently published in the Federal Official Gazette (DOF, in Spanish) has no provisions for a digital economy and innovation other than increasing connectivity.

## Recommendations

North America, and Mexico in particular, need a roadmap for implementing USMCA’s data liberalization and the Chapter 19 provisions created by stakeholders from government, private sector, and civil society.

### *Building awareness*

- Create groundwork that defines the value proposition of the digital economy while establishing indicators to measure performance. Informed consumers and decision makers can attract better policies.
- Give informed advisory to sensitize lawmakers and stakeholders and work with local governments that are interested in improving their digitalization processes.
- Use the provision in Chapter 19.14 related for the parties to exchange information by hosting a multistakeholder forum that promotes digital economy’s development, cooperation, and access in the region.

### *Leveraging digitalization*

- Work in four pillars to take advantage of USMCA’s Chapter 19:
  - **Digital foundations:** provide an inclusive access to digital economy by having the right infrastructure and prices, fostering digital literacy among consumers, and assuring the security of data.
  - **Digital government:** build a citizen-centered platforms that avoid red tape and bureaucracy and encourage paperless processes.
  - **Regulation and logistics:** improve the local rules regarding fintech and infrastructure in order to make easily available the financial services for Mexicans to take advantage of the North American digital economy
  - **Digital society:** promote the use of these tools for civic engagement (e.g. crowdsourcing for NGOs) and political participation.

### *Data localization*

- Facilitate discussions on free flow of data and its intersection of competition, privacy, democracy, security, and the right of access to information
- Create a public-private group that comes up with minimum standards of security and privacy that can settle governments’ concerns to effectively implement the principle established in Articles 17.18 and 19.12, that: “No Party shall require a covered person to use or locate computing facilities in that Party’s territory as a condition for conducting business in that territory”.

## Recommendations

### *Push for a regional strategy for digital economy*

- Encourage the establishment of a multistakeholder mechanism and/or committee regarding the digital economy and competitiveness using provisions in Chapter 19 and Chapter 26 to work together on a regional agenda.
- Define which technologies the region wants to compete in to create an agenda for talent. Investment will head to the communities and cities that can satisfy the growing demand for high-qualified workers.
- Use the 19.14 provisions to develop regional data market and to promote collaboration between local government and agencies through international cross-border initiatives.
- Use the 19.18 provision on open government data as a channel to push Mexico and the U.S. be more open in their data and interpretative standards.
- Digital businesses should engage with a grassroots organization and level their standards regardless of the company-size and product/service they provide. SMEs and global companies should work together and alongside civil society and governments.

## Conclusion

The pandemic brought to reality the discussion on digital transformation that has been around for several years, the internet and the digital ecosystem have been both essential during this period and rapidly adopted. The USMCA provides an institutional framework for Digital Economy through Chapter 19. The definition of a digital agenda in Mexico will help to improve and seize digitalization in North America. The private sector and civic leaders should work with Governments to discuss the relevance of developing an agenda on digital economy for the region.

This paper contains the insights and recommendations of the C26+ Digital Economy Working Group, a community of Mexican and American stakeholders with expertise and knowledge on the sector, eager to support and help further U.S.-Mexico collaboration.

**Alberto Rodríguez**, New America

**Alberto Saracho**, McKinsey & Company

**Alfredo Pacheco**, CANIETI

**Bernardo Bazua**, Coppel

**Cristina Martínez**, PIT Policy Lab

**David Jiménez**, Softek

**Enrique Perret**, U.S.-Mexico Foundation

**Guillermo González King**, AMPROFON

**Maria Elena Estavillo**, Centro-i para la Sociedad del Futuro

**Mónica Lugo**, Prodensa

**Natalia Saldade**, GBM

**Pablo Tortolero** (on behalf of Amanda Jacobson), Oyster

**Sean Randolph**, Bay Area Council Economic Institute

**Sissi De La Peña**, ALAI (Latin American Internet Association)

**Valeria Moy**, IMCO

The work of **C26+ Group** is a multi-stakeholder forum where ideas, initiatives and interests converge to 1) make policy recommendations and proposals that contribute to the implementation of USMCA by the U.S, Mexico, and Canada governments through the next five years, after which the first review of the agreement is set to occur; 2) advance binational and trinational initiatives that foster competitiveness in the region and; 3) create a trinational community on innovation, entrepreneurship & technology.

*For any additional questions, please contact [info@usmexicofound.org](mailto:info@usmexicofound.org)*