

Pursuant to Articles 31.2 and 31.4 of the United States-Mexico-Canada Agreement (“USMCA”), the United States requests consultations with Canada with regard to Canada’s measure concerning the taxation of digital services (“DST”). This measure appears to breach Canada’s commitments under the USMCA, including under Chapter 15 (Cross-Border Trade in Services) and Chapter 14 (Investment).

1. Canada’s DST applies a 3 percent tax on the sum of revenues deemed connected to Canada from online marketplaces, online targeted advertising, social media platforms, and user data. The tax applies to companies or groups with annual global revenues of €750 million or more and Canadian digital services revenue of more than CAD20 million.

2. Canada’s DST is reflected in legal instruments that include the following, operating separately or collectively:

- (a) Bill C-59, *An Act to implement certain provisions of the fall economic statement tabled in Parliament on November 21, 2023 and certain provisions of the budget tabled in Parliament on March 28, 2023*, passed on May 28, 2024 and received royal assent on June 20, 2024, Part 2: Digital Services Tax Act;¹
- (b) Council of Governor Order of June 28, 2024, PC Number 2024-0856, published on July 3, 2024.²

3. Canada appears to have targeted its DST on U.S. companies providing Canadian digital services and to be discriminating against U.S. companies and in favor of Canadian companies providing those services.

4. Canada’s DST appears to be inconsistent with the following provisions of the USMCA:

- (a) Article 15.3.1 of the USMCA because Canada fails to accord to U.S. services or service suppliers treatment that is no less favorable than that it accords, in like circumstances, to Canadian services and service suppliers.
- (b) Articles 14.4.1 and 14.4.2 of the USMCA because Canada fails to accord to U.S. investors and their investments treatment that is no less favorable than that it accords, in like circumstances, to Canadian investors and their investments.

¹ Available at <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-59/royal-assent>.

² Available at <https://orders-in-council.canada.ca/attachment.php?attach=45961&lang=en>. The Order of the Council of Governor fixed June 28, 2024 as the date on which the Digital Service Tax Act came into force.