

# Policy Agenda for the Americas

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August 2020



Promoting Innovation Worldwide

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## Promote a Pro-Digital Trade Policy

ITI supports regional efforts to promote rules-based trade commitments that counter digital protectionism and that facilitate trade by streamlining customs regulations and procedures, getting goods – especially technology products – to market faster and at lower prices for consumers. As digital protectionism advances around the world, Latin American countries are poised to lead in embracing a more digital trade-facilitative approach. Additionally, realizing a comprehensive and forward-looking digital agenda would be a remarkable achievement benefitting companies, employees, and small business owners operating in the region who want to expand their reach, as well as consumers availing themselves of the socioeconomic benefits provided through those services. By reducing regulatory obstacles, eliminating tariffs and data localization policies, maintaining and rendering permanent duty-free access for electronic transmissions (including through support of the WTO E-Commerce duty moratorium extension), combating counterfeit products in E-Commerce, and creating an optimal environment for businesses of all sizes to export their services and products, pro-digital trade policies will stimulate innovation, trade, investment, and economic growth.

## Advance Emerging Tech Trends for Digital Transformation

Global companies are preparing for and developing new technologies, such as quantum computing and 5G, that will reshape the global economy and enhance job creation, economic development, and global integration. Yet deploying these innovative technologies successfully, securely, and at scale requires free movement of data and international cooperation. As such, countries throughout Latin America should seek to implement policies that expand and invite innovation in these fields, rather than risk stifling or restricting it. ITI encourages governments to ensure flexible, dynamic regulatory environments that adapt to quickly evolving technologies, and they should avoid creating unique standards or certifications that would stymie the deployment of innovative technologies across the economy. As the needs for and uses of data increase via these connected systems, including smart cities, ensuring that cross-border flows of data are not restricted is critical for success. Because all data-centric technology relies on connectivity, ITI supports expanded broadband access throughout the hemisphere as an integral part of national development strategies.

## Avoid Localization Barriers

In an effort to spur domestic production of information and communications technology (ICT) goods and services, countries have frequently enacted measures requiring global companies to manufacture and develop technology products locally, to store data locally, or to source products from local suppliers. These discriminatory policies, which can appear in regulations focused on cybersecurity, data protection, procurement, online services, testing

and conformity assessment, or standards and regulatory policies, undermine the ability of companies to innovate, grow, and operate their global supply chains effectively. ITI supports the growth of domestic ICT industries through the implementation of policies that stimulate innovation, open markets, and spur job growth in the sector.

## **Ensure a Fair and Principled Approach to the Evolving International Tax System**

ITI members rely on clear and established international tax rules to innovate and grow their operations. A primary objective for ITI is to ensure a functioning and dependable international tax system and accordingly, ITI encourages all countries to continue their work toward meaningful solutions through the Organisation for Economic Co-operation and Development (OECD). ITI strongly discourages the application of targeted, unilateral taxes, which stand to undermine a functioning international tax system and compromise the predictability that such a system has afforded to companies to conduct business globally. Instead, ITI recommends that governments focus on simplifying existing tax regimes and implement tax regimes where global consensus has been reached, such as, for example, adhering to the OECD's best practices for the application of value-added taxes (VAT) to non-resident supplies of electronically supplied services through a simplified VAT registration model.

## **Align Both Cybersecurity and Privacy Measures with Global Best Practices**

There are expanded efforts to govern cybersecurity and data protection across the region. Industry supports the responsible protection of information, and we urge governments to think holistically about these important and intersecting topics. For cybersecurity and privacy measures to be relevant and effective in today's environment, they must be interoperable, technology-neutral, risk-based, ensure accountable cross-border flows of information, and protect consumers while allowing for the benefits of e-commerce. Similarly, ITI advocates in favor of rules that prohibit requiring the transfer of, or access to, a source code of software, an algorithm expressed in the source code, or proprietary cryptographic information as a condition for the import, distribution, sale or use of that software or good, or of products containing that software, in its territory.

## **Promote Fair and Open Competition for Government IT Transformation and Procurement**

ITI members seek to work with governments and agencies in transforming citizen services using cloud-based solutions. Digital transformation can best be done when there is fair and open competition between numerous cloud providers that all seek to compete on quality, cost, and innovation in a transparent manner. Governments around the globe are being called upon to transform citizen services to web-based and secure interactions during the pandemic, and open competition will lead to the best innovative services being offered at the best price to citizens.

## Adopt International Standards

ITI advocates for single conformity assessment, also known as One Standard-One Test, Supplier's Declaration (1-1SDoC), as the way for ICT companies to deliver safe and legal products to market. We have seen some country regulations that diverge from this position, where countries are rejecting test reports based on internationally accepted standards from accredited labs or asking for testing to be done in-country. ITI encourages all countries to align testing and certification requirements with international standards. Specifically, we strongly encourage countries to adopt IEC 62368-1:2018 (3rd Edition) as the safety standard for ICT equipment, avoiding national deviations to every extent possible. Another example is the e-label standard ISO/IEC 22603, which is in the final draft stages, and we encourage all countries to adopt the final standard by reference.

## Align Environmental Packaging Policies

ITI advocates for alignment of environmental packaging and waste regulations amongst countries in Latin America. Regulatory discussions and standards should line up with existing internationally recognized requirements. Regulatory framework and requirement proposals should leverage internationally recognized standards, rather than challenge or oppose. The ICT industry supports efforts to minimize environmental impacts of packaging across the product life cycle.

# Argentina

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## Trade Issues and Import Licenses

The government of Argentina has taken several actions to make importation of ICT goods more difficult. Resolution 1/2020 requires a non-automatic import license for many products, including some ICT goods. The government is also reportedly looking at increasing tariffs and import taxes on these products. ITI companies have already begun experiencing delays in import license approvals and flow of goods at the border. As companies saw in past years in Argentina, these delays at the border result in significant costs and lack of choice, resulting in damage to local industry, local consumers, and Argentina's competitiveness. ITI appreciates the severe economic situation in Argentina and hopes to be a partner to the Government of Argentina in its effort to stem capital flight and dissolve macroeconomic pressures, while also ensuring that trade in goods and services continues to flourish.

## ITA Accession

Under the WTO Information Technology Agreement (ITA), 82 signatory countries have agreed to fully eliminate tariffs on hundreds of ICT products. By reducing their costs, the ITA leads to increased use of ICT goods, which spurs productivity and economic growth in signatory nations. ITI encourages Argentina to join the ITA and its expansion, enabling Argentina to tap into global ICT supply chains and position itself as a leader in the region on forward-looking tech policy. According to a study by the Information Technology and Innovation Foundation (ITIF), joining the ITA would bolster Argentina's economic growth by an estimated 1.52 percent over ten years or \$12.72bn.<sup>1</sup>

## Privacy Bill

In 2017, the Government of Argentina published a draft of the new Data Protection Law, and the Argentine Congress will likely debate it. ITI will continue to work with the Argentine DPA to ensure interoperability of global privacy regimes and frameworks that are technology neutral and that ensure accountable cross-border flows of information while both protecting consumers and allowing for the benefits of e-commerce. ITI hopes that Argentina's data protection regime looks at other global best practices for ensuring data protection without restricting cross-border flows of data.

## E-Waste and Circular Economy

ITI encourages Argentina to develop an e-waste framework that aligns industry principles, enables design flexibility, and considers shared responsibilities as opposed to aggressive targets on producers. ITI hopes to enable the concept of a circular economy through industry participation and transparency.

<sup>1</sup> <https://itif.org/publications/2017/05/22/how-joining-information-technology-agreement-spurs-growth-developing-nations>

# Brazil

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## Cybersecurity

In February 2020, Brazil's national security cabinet (GSI) issued a decree instituting E-CIBER, the national cybersecurity strategy, which focuses on cybersecurity, cyber defense, critical infrastructure, and information security. In March 2020, GSI issued Normative Instruction 4, which lays out cybersecurity requirements for 5G networks, including security audits, registration requirements, and inspection mandates. At the same time, ANATEL launched a public consultation about minimum cybersecurity requirements in the country, including appropriate encryption methods and usage. ITI's main concern is that Brazilian policymakers may seek to develop a unique security standard or localization requirement that isolates Brazil and makes it more difficult for companies to do business there. As detailed in our comments<sup>23</sup> to the Brazilian government, ITI encourages Brazil to look at global best practices, voluntary, industry-driven international standards, and utilize public-private partnerships as models for the development of its national framework and minimum cybersecurity requirements for telecommunications networks and equipment, including the adoption of internationally developed security best practices and techniques.

## IoT Security Initiatives

Brazil is considering several proposals regarding cybersecurity in Internet of Things (IoT) devices. ITI recommends that Brazil support IoT security industry best practices that provide voluntary baseline capability for consumer devices, while aligning with global norms and global value chains. ITI recommends looking at the NISTIR 8259 and 8259A, IoT Device Cybersecurity Capability Core Baseline. This document establishes a set of voluntary core capabilities that will help to ensure device security and is an example of a successful multi-stakeholder process in which global consensus helped to drive the outcome. In addition, we also highlight the importance of referencing international standards and encourage Brazil to participate in the ISO/IEC 27402 IoT security discussion that is currently in progress.

## U.S.-Brazil Trade Talks

ITI is supportive of the talks between the United States and Brazil towards a bilateral trade agreement, especially including digital trade provisions. The current bilateral environment provides a unique opportunity to advance discussions on commercially meaningful outcomes and rules-based commitments. Given Brazil's active domestic digital policy agenda, its acceptance of modern digital trade commitments would be particularly consequential and would have a significant positive impact on the broader international acceptance of such commitments, including in the context of ongoing negotiations at the WTO. Similarly, Brazilian commitment to apply state-of-the-art Good Regulatory Practices (GRPs) in respect of emerging technology policy initiatives would be meaningful

<sup>2</sup> <https://www.itic.org/policy/2019.10.22ITI-CommentstoGSI-CPCyberStrategy%5BENG%5D%5B1%5D.docx>

<sup>3</sup> <https://www.itic.org/policy/2020.05.15ITICommentstoCP13Anatel-MinimimCyberRequirementsTelecomNetworkfinal.pdf>

in facilitating acceptance of broad stakeholder input, promoting reliance on global, industry-driven, voluntary consensus standards, and ensuring that measures are targeted, proportionate, and developed in a fit-to-purpose manner. We are encouraging both sides to consider strong rules-based commitments (including digital trade commitments).

## Data Localization

In March 2018, Brazil's national security cabinet (GSI) issued an executive order mandating local data storage for public data stored in the cloud. The executive order lists three different definitions of public data: I. General Information: data, treated or not, that may be used for the production or transmission of knowledge, contained in any means, support or format; II. Classified information: proprietary information, to which a secrecy level is attributed, according to specific procedures of classification established in the existing law; and III. Proprietary information: information submitted to restriction of public access due to its indispensability to the safety of the society or State. There appears to be a requirement for data localization that applies to those specific types of data, though its application is unclear. ITI remains concerned that this could both disadvantage firms that wish to provide services to the Brazilian public sector but do not have the capacity to store data in Brazil, or it could create a de facto data localization requirement for cloud services in Brazil, spreading outside of just public cloud. ITI encourages Brazil to avoid any data localization measure that is not for a specific, discrete, and appropriate purpose.

## Privacy Law Implementation and DPA Creation

In 2018, Brazil adopted a General Personal Data Protection Law (LGPD), applicable both to the private and public sectors, that ITI believes strikes an appropriate balance between protecting the data subject's rights and enabling innovation and access to information. ITI supports a privacy framework that gives individuals controls while providing flexible, multiple legal basis for processing. We further encourage the framework to adopt non-discriminatory, interoperable approach, and account for principles and guidelines of relevant international bodies. As Brazil will now create regulations to implement the LGPD, as well as establish its data protection authority (DPA), ITI encourages Brazil to leverage global best practices in setting up its DPA as an independent body and a resource to companies of all sizes that use data in Brazil. We are also closely watching both Provisional Measure 959 that would delay entry into force of the LGPD until May 2021, as well as Congressional efforts to delay both implementation of the law and application of sanctions until August 2021. These issues are critical for companies that do business in Brazil, and we encourage clarity and predictability for companies that will need to comply with the new rules.

## ITA Accession

Brazil's foreign trade secretary has made several comments indicating that Brazil intends to join the WTO Information Technology Agreement (ITA), alongside the 82 signatory countries that have agreed to fully eliminate tariffs on hundreds of ICT products. By reducing their end costs, the ITA leads to increased production and use of ICT goods, which spurs productivity

and economic growth in signatory nations. ITI encourages Brazil to join the ITA and its expansion, enabling Brazil to tap into global ICT supply chains and position itself as a leader in the region on forward-looking tech policy. According to a study by the Information Technology and Innovation Foundation (ITIF), such a step would spur GDP growth by \$19.5bn or an additional 0.82% over ten years.<sup>4</sup> ITI encourages accession to the ITA, or a significant reduction in ICT tariffs at a minimum, as part of these trade discussions.

## De Minimis Threshold

Brazil's de minimis threshold (the level below which no tax or duty is charged on imported items) of USD \$50 remains applicable only to consumer to consumer transactions and does not apply for business to business or business to consumer transactions. Brazilian regulation also limits the de minimis to postal shipments, not applying to express delivery. This differentiated treatment of the threshold by transaction type and shipment modality, in addition to the low de minimis threshold, creates unnecessary barriers to trade by increasing transactional costs for businesses and restricting consumer choice and competition in the market. ITI encourages the improvement of this barrier to trade by extending the de minimis threshold to both business to business and business to consumer transactions, by increasing the threshold, and by allowing express delivery shipments. We believe these modifications are compatible with existing Brazilian legislation (Decree 1804/1980) and could be implemented by the Executive branch without need for Congressional approval.

## OTTs and Video on Demand

Brazil has contemplated measures to apply ill-fitting or cumbersome regulations to value added services, such as video on demand streaming or other OTTs. Recent consultations by both ANATEL and ANCINE question how to regulate these services under existing frameworks, without due consideration of specific market and service characteristics, as well as the technical feasibility of the requirements on these services. ITI encourages Brazil to take an approach rooted in good regulatory practices that considers the innovative nature of internet-based business models and the overall consumer welfare, incentivizing less prescriptive regulations across all services and avoiding any potentially overly burdensome rules that would limit access to these services. ITI also encourages the prohibition of permanent customs duties for digital products and electronic transmissions to ensure that added cost does not impede the flow of music, video, software, games, or information.

## Digital Services Tax

We understand there are several proposals – both as standalone measures and as part of broader tax reform – under consideration that would seek to implement new taxes on certain digital activities. One proposal, CIDE-Digital, would apply at a progressive rate of one to five percent (on the basis of global revenue) on revenue generated in connection with the three narrowly defined sets of digital services. The draft legislation shares characteristics with the French Digital Services Tax enacted in July 2019, many of which contravene long-standing international taxation principles and present significant burdens for companies

<sup>4</sup> <https://itif.org/publications/2019/03/25/assessing-how-brazil-would-benefit-joining-ita>

in the tech sector as well as the companies that rely on these services. In the Ministry of Economy's tax reform proposal, the Ministry proposes establishing the Social Contribution on Transactions with Goods and Services (CBS), a federal contribution similar to the Value Added Tax (VAT) that would introduce significant new obligations for online service providers and marketplaces. ITI urges the Brazilian government to refrain from introducing any tax measure that is discriminatory in nature, and to recommit to reaching a multilateral solution to the tax challenges arising from the digitalization of the global economy. Additionally, any tax changes intended to reflect the digitalization of the economy should be pursued through global consensus, not unilaterally.

## Digital Transformation Agenda

In 2019 the Ministry of Economy's Secretary of Digital Government (SGD) launched a Digital Transformation agenda to create guidelines and improve coordination across government for simplifying citizen-oriented services. SGD's intention is to enhance the quality of public services, to improve governance, and to promote government's use of digital channels. SGD is also seeking to clarify acquisition of ICT tools by the government and to improve the efficiency of public budget expenditures on ICT. ITI welcomes this initiative and encourages Brazil to look at global best practices of implementation and federal tech acquisitions, such as the OECD, in order to ensure Brazil is providing the highest level of fairness, transparency, and inclusion of ICT providers.

## Spectrum for Wi-Fi Use

Wi-Fi is an essential technology for Brazil's digital transformation, playing a vital part in citizens' lives at home, at work, and at leisure. Wi-Fi supports communications, web browsing, e-commerce, access to news and entertainment, and plays an important role in hospitals, industrial facilities, and transportation hubs. ANATEL is considering the use of 6 GHz band for Wi-Fi. Unlicensed operations in this band would play a critical role in supporting the development of innovative wireless devices and technologies that offer consumers valuable new services. ITI supports providing additional spectrum in the 6 GHz band for unlicensed use by Wi-Fi as an effective way to mitigate the risks associated with spectrum crunch, meet demand, and multiply the economic value Wi-Fi provides.

## International Testing and Certification

Generally, product safety testing must be performed at in-country labs, unless the necessary capability does not exist in Brazil. Industry finds in-country testing problematic, both logistically and from a cost perspective. If testing has already been completed at a laboratory accredited to internationally accepted standards, the requirement to undertake similar testing at an additional in-country (local) lab duplicates the testing itself and increases the number of samples required and testing costs, all the while delaying the placement of products on the Brazilian market. INMETRO is a signatory to the Mutual Recognition Arrangement (MRA) of the International Laboratory Accreditation Cooperation (ILAC), which can facilitate acceptance of test results from participating labs in signatory countries. We would encourage INMETRO to utilize this MRA to consistently accept

international test reports. ITI encourages the Brazilian government to implement the Inter-American Telecommunication Commission (CITEL) mutual recognition agreement with respect to the United States. Doing so would allow for recognition of testing done in the U.S., easing the time and cost of exporting to the Brazilian market. ANATEL's Resolution 323 of 2002 is particularly onerous in that it requires producers of telecommunications equipment to test virtually all of their products in country before they can be placed on the market, increasing price and delaying the time it takes for the products to be available to Brazilian consumers. By allowing international mutual recognition agreements, Brazil can avoid having multiple, duplicative testing requirements that delay products to market and increase costs for Brazilian consumers.

### Good Regulatory Practices

Brazil took a significant step towards Good Regulatory Practice when the Brazilian Foreign Trade Council (CAMEX) published Resolution 90 in 2018, thereby establishing good practices for the preparation and review of regulatory measures affecting foreign trade. The resolution encourages Brazilian regulatory bodies to develop regulatory agendas, conduct regulatory impact analysis, evaluate regulatory alternatives, use international standards, conduct transparent public consultations of a minimum of 60 days for all regulations with international trade effects, ensure all regulations comply with Brazil's international trade commitments, notify regulations to the WTO via the inquiry point, use evidence-based decision making, coordinate with other relevant regulators to ensure coherence and compatibility with other regulations, and review and manage regulatory stock. Despite this development, however, recent consultations notified by ANATEL through the WTO TBT inquiry point included very short timeframes for response. We appreciate ANATEL extending the deadlines for comments on a case-by-case basis, but we encourage all agencies in Brazil to notify consultations with a minimum 60-day comment period. Agencies are also encouraged to consider the regulatory impact imposed by requirements and whether the benefits are commensurate with the impacts. For example, the recent operational procedures published for Resolution No. 715 contain a number of submission procedures and additional bureaucratic steps that increase burden to industry without providing additional assurance of conformity. ITI encourages ANATEL to consider the impacts of regulations in comparison to the benefits provided and to provide an explanation of these benefits in any proposed regulation.

### National AI Strategy

Brazil is currently reviewing and restructuring its national Artificial Intelligence (AI) strategy at the federal level, and several bills of law governing AI have been introduced in the Congress. ITI is concerned that some policymakers have taken positions on these initiatives that could isolate Brazil with unique standards, onerous certification or localization requirements, or heavy-handed regulations. ITI advocates the adoption of a flexible and diversified regulatory approach that encourages strong public-private collaboration and responsible development of AI. Further, to promote innovation, ITI encourages the facilitation of data sharing, advancement of structured and standardized AI R&D, and support for STEM-informed workforce development.

## Fake News/Intermediaries Bill

ITI is concerned about a proposed measure that would severely impact the ability of internet and other tech companies to do business in Brazil. The recently proposed fake news bill, PL 2630, would put into place a set of requirements that are nearly untenable for internet companies (including email and cloud providers), such as intermediary liability and a local presence requirement. The measure would require companies to verify all accounts with a local phone number or passport, retain, trace, and monitor messages and content for three months, grant remote access to Brazilian law enforcement to any data stored outside Brazil, prevent certain messages from being shared by a given number of users and also establishes high sanctions.

## Canada

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### PIPEDA/Privacy Law Reform

Prior to the last election, Canada initiated a process to reform PIPEDA, its privacy law. ITI submitted detailed comments<sup>56</sup> to this effort, emphasizing our support for a balanced and principles-based approach to a privacy law modernization as long as it remains transparent and technology and business sector neutral. As this initiative moves forward in a broader, whole-of-government form, including through the February 2020 consultation on privacy and artificial intelligence, ITI will continue to monitor and engage on this important set of issues and encourage a framework that remains interoperable with other global privacy rules and accounts for the global nature of data flows and companies in all sectors.

### Digital Services Tax

Canada has contemplated introducing a French-style digital services tax that would impose a 3 percent levy on advertising services and digital intermediation services with global revenue over C\$1 billion (USD\$755 million) and Canadian revenue over C\$40 million (USD\$30.4 million). Industry is concerned that this approach would purposely target, and almost exclusively impact, U.S.-based companies. Furthermore, unilateral proposals that depart from stable, predictable international tax policies increase the likelihood of global tax policy fragmentation and undermine multilateral efforts to address the tax challenges arising from the digitalization of the global economy. ITI instead encourages Canada to continue participating in the ongoing discussions at the Organisation for Economic Co-operation and Development (OECD).

# Chile

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## Privacy Bill

In 2017, two Data Protection bills were introduced in the Chilean Congress, and we expect a combination bill to emerge for vote in 2020. ITI encourages privacy regulations that allow consumers and companies to benefit from the use of data in a secure and privacy-respectful way. For privacy laws to be relevant and effective in today's environment, ITI advocates for the interoperability of privacy regimes and frameworks that are technology neutral and that ensure accountable cross-border flows of information while both protecting consumers and allowing for the benefits of e-commerce. ITI encourages Chile, a key APEC member, to consider the CBPR model as a best practice.

## ITA Accession

Under the WTO Information Technology Agreement (ITA), 82 signatory countries have agreed to fully eliminate tariffs on hundreds of ICT products. By reducing their costs, the ITA leads to increased use of ICT goods, which spurs productivity and economic growth in signatory nations. ITI encourages Chile to join the ITA and its expansion according to its commitment under the CPTPP, enabling Chile to tap into global ICT supply chains and position itself as a leader in the region on forward-looking tech policy. According to a study by the Information Technology and Innovation Foundation (ITIF), accession could boost Chile's GDP growth by an additional \$920mn or additional 0.23% over ten years.<sup>7</sup>

## Labeling

The Government of Chile is regulating the testing and certification for safety for an increasing number of electronics and ICT products. There are also requirements for Chile-specific labeling of electronics and for certain safety or alert systems that differ from industry standards. For example, Resolution 1179 changes processes for labeling, testing, and registering cell phones in the country. Similarly, Resolution 16677/2017 and protocol PE-8/8 require that all power adaptors for smartphones be certified by SEC (Chilean Safety Regulator) and be displayed with the product that contains the charger. ITI urges the U.S. Trade Representative (USTR) to encourage the Chilean Government to adopt international standards without adding any Chile-specific requirements, and to accept existing international documentation issued by international bodies under the IECCE CB scheme.

<sup>5</sup> <https://www.itic.org/dotAsset/52bfc86a-c93d-41b4-ac41-ab5a11ba7797.pdf?random=26499>

<sup>6</sup> <https://www.itic.org/members/documents/ITAC-ITIPIPEDAreformconsultationFINALDRAFTFORAPPROVAL.docx>

## E-Waste

As Chile focuses on e-waste and circular economy, ITI encourages the alignment of transboundary movement of waste and EPR with the Basel Technical Guidelines, especially on the waste versus non waste definitions. E-waste and packaging developments should also encourage design flexibility and avoid ecolabels to minimize product impacts. ITI supports industry participation and transparency through public consultation and open feedback.

# Colombia

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## Cybersecurity

Colombia is undergoing a review of its national cybersecurity plan (CONPES). ITI was very engaged in this process in the past, and we submitted comments to the consultation for this CONPES. As the process advances, ITI encourages Colombia to consider global best practices, such as the NIST Framework, and to ensure a risk-based, flexible, and collaborative approach to identifying and mitigating cyber threats.

## Product Labeling Requirements

Recently, the Superintendency of Industry and Commerce (SIC), the consumer protection authority in Colombia, has sought to amend its "Circular Única", requiring all mobile phone manufacturers and retailers to include a specific label indicating the device's compatibility with all mobile networks (e.g. 2G, 3G, 4G and 5G). The label is required for all phones, even those that operate in all bands. If enacted, this labelling system would create challenges and increase costs for companies that must adopt the Colombia-specific requirement, thereby disrupting global supply chains and increasing consumer costs. ITI urges Colombia to avoid the creation of these country-specific label requirements, and rather find a more effective and non-trade-restrictive way to alert the Colombian consumer about a smartphone's functionalities.

## OTTs and Video on Demand

Colombia is in process of implementing the prominence requirement for Video on Demand services that was included in the 2019 National Development Plan. The measure requires VOD services to include a section dedicated to Colombian works that is accessible for users. ITI urges clarity, consideration of technical feasibility, and flexibility in this dynamic and multi-faceted space.

<sup>7</sup> <https://itif.org/publications/2017/05/22/how-joining-information-technology-agreement-spurs-growth-developing-nations>

# Mexico

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## ITA Accession

Under the WTO Information Technology Agreement (ITA), 82 signatory countries have agreed to fully eliminate tariffs on hundreds of ICT products. By reducing their costs, the ITA leads to increased use of ICT goods, which spurs productivity and economic growth in signatory nations. ITI encourages Mexico to join the ITA and its expansion according to its commitment under the CPTPP, enabling Mexico to tap into global ICT supply chains and position itself as a leader in the region on forward-looking tech policy. Considering the vast benefits of a potential accession, ITI fully supports and encourages this process.

## Certification Requirements and Equivalency

In 2019, the Mexican Government changed the Standards Annex (anexo de normas) of the general rules for trade, altering requirements for self-use, prototypes, and samples. This change makes it necessary for exporters to provide documentation of certification for all products in scope of NOM 019 and NOM 001. ITI member companies have seen a significant adverse impact on trade of the affected products, causing delays and even preventing import in some cases. ITI encourages the Mexican government to leverage equivalency arrangements to provide relief, or to otherwise use mutual recognition agreements to avoid delays caused by these certification requirements. We also encourage the active and accurate use of databases to facilitate the passing of products across borders.

## New Testing and Labeling Requirements

The Mexican telecom regulator (IFT) has proposed a series of new guidelines and requirements, including those related to homologation, specific absorption rate (SAR) testing, and conformity assessment. ITI encourages these new guidelines to avoid requirements for local testing or certification, to align with global standards and methods, and avoid obligations to share testing reports with the regulator that may jeopardize confidential business information in order to avoid delays to market, higher costs, or isolation of Mexican suppliers or industries. For one local SAR testing requirement that takes effect February 2021, there are currently no labs equipped to perform this testing, and companies lack the legal certainty and preparation time that is necessary to adjust complex global supply chains.

<sup>8</sup> <https://www.itic.org/policy/2019.10.30ColombiaCONPESDigitalSecurityCommentsITI.pdf>

## OTTs

ITI has been tracking a number of legislative proposals in Mexico targeting OTT services. The Mexican Senate is considering a measure that would introduce local content quotas for music or video streaming services of 30%, as well as impose a new registration requirement with the telecom authority, IFT. As a result of this registration, OTT services would be regulated under the Federal Telecommunications and Broadcasting Law and likely forced to comply with its mandates for restricted audio/video services. These requirements would create a significant barrier to ITI members in Mexico and raises questions under Mexico's trade obligations, especially under the U.S.-Mexico-Canada Agreement (USMCA).

## USMCA Implementation

ITI believes that USMCA includes some of the most forward-thinking and comprehensive digital trade, trade facilitation, and other commitments of a modern trade agreement, and we celebrated its entry into force on July 1, 2020. We continue to work with U.S. and Mexican officials to ensure that Mexico's de minimis rules, telecom requirements, equivalency agreements, and other implementing measures align with the commitments taken in the agreement negotiations.