

STATEMENT ON THE FREE FLOW OF INFORMATION AND TRADE IN NORTH AMERICA

Background

The Security and Prosperity Partnership of North America (SPP) seeks to increase the competitiveness of North America and the security of its people. Under the SPP, Ministers for the Department of Industry Canada, the Ministry of the Economy of the United Mexican States and the Department of Commerce of the United States of America signed “*A Framework of Common Principles for Electronic Commerce*” (Framework) in June 2005 to serve as a catalyst for the development of electronic commerce and online business in North America. The Framework was also intended to serve as a tool to identify barriers to information flows, which impede online trade, cross border business processes and commerce. Consistent with the goals of the SPP and the Framework, the co-chairs of the SPP Working Group on E-Commerce and ICT (the “Parties”) agree that all possible steps should be taken to ensure that electronic information flows freely in support of a growing and efficient North American market, within a framework of security and privacy protection.

International trade depends on seamless and uninterrupted information flows across companies, jurisdictions and borders. Networks function as conduits, channelling business information, processing data to carry out business processes and operations. The Internet has revolutionized advanced production and distribution activities, creating global supply chains that operate across virtually all sectors of the economy. It has digitized global economic activity. Further, global sourcing of business processes has become an invaluable tool for improving corporate productivity and efficiency and achieving economic gain in many economic sectors, thus enhancing competitiveness for North America.

Cross-border data flows are an important underpinning of all international trade transactions. Financial services, such as banking and insurance, are heavily dependent on data flows as are traditional industries which increasingly rely on cross-border technical support services supplied via the Internet. Services contracts to provide technical support for medical diagnostic equipment, for example, often require that the vendor access databases maintained by the client. When this activity takes place across national boundaries, it is important that countries work together to ensure differing regulatory regimes don't hinder cross-border data flows and international trade.

Issue

Sustained economic growth within North America is therefore heavily dependent on a transparent legal, policy and regulatory environment that permits the free flow of information across borders and facilitates its use for the conduct of trade and commerce. The essential elements of such an environment would include:

1. Expanded or enhanced regulatory cooperation in areas that have an impact on cross-border data flow, notably in relation to the enforcement of rules for the protection of personal privacy. This effort would correspond directly with the broader goal of trilateral regulatory cooperation,

already identified as a priority under the SPP and supported by the August 2007 Report of the North American Competitiveness Council entitled *Building a Secure and Competitive North America: Private Sector Priorities for the Security and Prosperity Partnership of North America*.

2. Identify, monitor, and address impediments to the free flow of information that unnecessarily impede cross-border trade or impose an unreasonable burden on the business community.
3. The application of transparent and non-discriminatory policy, legislative and regulatory measures in cross-border trade in North America notably in relation to the global sourcing of business processes across North America.

The Parties believe that it is possible to reconcile important public values regarding the privacy and the security of information with the goal of promoting prosperity for business and consumers through online trade and commerce.

To this end, and in consultation with the business community, the Parties will establish a trilateral committee to identify data flow stoppages, review their respective policy frameworks that have an impact on information flows as a result of this research and design solutions to mitigate impediments to seamless North American data flows that negatively affect economic growth and development. The committee's work will complement existing work in multilateral forums, i.e., APEC and OECD, and endeavour to implement common solutions to regional problems in the most mutually beneficial manner possible.

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