Comparison of selected Digital Trade Provisions in the United States-Mexico-Canada Agreement (USMCA) and the Trans-Pacific Partnership (TPP)

How is USMCA Stronger than TPP?	USMCA Digital Trade Chapter	TPP/CPTPP E-Commerce Chapter
1. The USMCA increases predictability for American consumers and businesses by declaring the APEC CBPRs framework a "valid mechanism" to facilitate cross-border data transfers. TPP did not provide this recognition.	1. **TPP Plus:** Includes provisions on Personal Information Protection that are more detailed that TPP. USMCA reflects OECD and APEC norms and recognizes APEC CBPRs as a "valid mechanism" to permit cross-border data transfers while protecting privacy. TPP did not recognize APEC CBPRs.	1. Includes limited provisions on Personal Information Protection, without referencing the OECD privacy principles or APEC CBPRs.
2. The USCMA aligns the legal framework for digital trade exceptions in the USMCA with the corresponding framework in WTO agreements, thereby increasing certainty regarding the legal application of this framework.	2. **TPP Plus:** Requires Parties to permit cross-border data transfers, and limits exceptions to those necessary to achieve legitimate public policy goals. TPP was less clear.	2. Requires Parties to permit cross-border data transfers, and limits exceptions to those required to achieve legitimate public policy goals;
3. The USMCA helps the US banking sector in foreign markets by extending to financial services the prohibition on cross-border data transfer restrictions. TPP did not provide those same protections to financial services.	3. **TPP Plus:** Includes a general restriction on data localization requirements without a specific exception, relying instead on the general exception (no TPP carve-out for the financial services sector);	3. Includes a general restriction on data localization, and limits exceptions to those required to achieve legitimate public policy goals. Also includes a carveout for financial services companies (i.e., US financial services did not receive benefits of the data localization restriction);
4. The USMCA strengthens IP protection for American software by extending to algorithms the prohibition on forced transfer or disclosure of software source code. TPP did not do so.	4. **TPP Plus:** Prohibits forced transfer or disclosure of software source code or algorithms. TPP did not cover algorithms.	4. Prohibits forced transfer or disclosure of software source code;
5. The USMCA reflects the US legal framework of liability and safe harbors for certain digital service providers, as defined in US law.	5. **TPP Plus:** Includes a new provision on interactive computer services related to non-IP liability and safe harbors, consistent with section 230 of the Communications Decency Act. TPP did not contain this provision.	5. No provision on interactive computer services;
6. The USMCA is designed to bolster America's competitive edge in artificial intelligence and data analytics, by promoting access to government-generated public data.	6. **TPP Plus:** Includes a provision to promote open government data. TPP did not contain this provision.	6. No provision on open government data;
7. The USMCA will bolster America's cyber defense, while deterring other countries from citing cybersecurity as a pretext for disguised trade restrictions and market access barriers.	7. **TPP Plus:** Expands cybersecurity provisions by using stronger language and calls for a "risk-based approach" to cybersecurity drawn from NIST's Cybersecurity Framework, rather than "prescriptive regulations." TPP's provisions were more limited.	7. Includes limited provisions on cybersecurity without reference to the NIST Cybersecurity Framework.