

## CHAPTER 12 ELECTRONIC COMMERCE

### ARTICLE 12.1: PURPOSE AND OBJECTIVE

1. The Parties recognise the economic growth and opportunities provided by electronic commerce, the importance of avoiding barriers to its use and development, and the applicability of relevant WTO rules.
2. The objective of this Chapter is to promote electronic commerce between the Parties, including by encouraging cooperation on electronic commerce.
3. The Parties shall endeavour to ensure that bilateral trade through electronic commerce is no more restricted than other forms of trade.

### ARTICLE 12.2: DEFINITIONS

For the purposes of this Chapter:

- (a) **digital certificates** are electronic documents or files that are issued or otherwise linked to a party to an electronic communication or transaction for the purpose of establishing the party's identity;
- (b) **electronic signature** means data in electronic form in, affixed to or logically associated with, a data message, which may be used to identify the signatory in relation to the data message and to indicate the signatory's approval of the information contained in the data message;
- (c) **electronic version** of a document means a document in electronic format prescribed by a Party, including a document sent by facsimile transmission;
- (d) **personal information** means information about an individual whose identity is apparent, or can reasonably be ascertained, from the information;
- (e) **trade administration documents** means forms issued or controlled by the Government of a Party which must be completed by or for an importer or exporter in relation to the import or export of goods;
- (f) **UNCITRAL** means the United Nations Commission on International Trade Law; and
- (g) **unsolicited commercial electronic message** means an electronic message (including a voice service) which is sent for commercial purposes to an electronic address without the consent of the recipient (including where

consent has been explicitly refused or withdrawn) using an internet carriage service or other telecommunications service.

#### ARTICLE 12.3: CUSTOMS DUTIES

1. Each Party shall maintain its practice of not imposing customs duties on electronic transmissions between the Parties, consistent with paragraph 5 of the WTO Ministerial Decision of 7 December 2013 in relation to the Work Programme on Electronic Commerce (WT/MIN(13)/32-WT/L/907).
2. Each Party reserves the right to adjust its practice referred to in paragraph 1 in accordance with any further WTO Ministerial Decisions in relation to the Work Programme on Electronic Commerce.

#### ARTICLE 12.4: TRANSPARENCY

1. Each Party shall promptly publish, or otherwise promptly make publicly available where publication is not practicable, all relevant measures of general application which pertain to, or affect, the operation of this Chapter.
2. Each Party shall respond promptly to all requests by the other Party for specific information on any of its measures of general application within the meaning of paragraph 1.

#### ARTICLE 12.5: DOMESTIC REGULATORY FRAMEWORKS

1. Each Party shall maintain domestic legal frameworks governing electronic transactions based on the *UNCITRAL Model Law on Electronic Commerce 1996* and taking into account, as appropriate, other relevant international standards.
2. Each Party shall:
  - (a) minimise the regulatory burden on electronic commerce; and
  - (b) ensure that regulatory frameworks support industry-led development of electronic commerce.

#### ARTICLE 12.6: ELECTRONIC AUTHENTICATION AND DIGITAL CERTIFICATES

1. Each Party shall maintain laws regulating electronic signatures that permit:

- (a) parties to electronic transactions to mutually determine the appropriate electronic signature and authentication methods; and
  - (b) electronic authentication service providers, including agencies, to have the opportunity to prove before judicial or administrative authorities that their electronic authentication services comply with the relevant legal requirements.
2. The Parties shall work towards the mutual recognition of digital certificates and electronic signatures.
3. Each Party shall encourage the use of digital certificates in the business sector.

#### ARTICLE 12.7: ONLINE CONSUMER PROTECTION

Each Party shall, to the extent possible and in a manner it considers appropriate, provide protection for consumers using electronic commerce that is at least equivalent to that provided for consumers of other forms of commerce under their respective laws, regulations and policies.

#### ARTICLE 12.8: ONLINE DATA PROTECTION

1. Notwithstanding the differences in existing systems for personal information protection in the territories of the Parties, each Party shall take such measures as it considers appropriate and necessary to protect the personal information of users of electronic commerce.
2. In the development of data protection standards, each Party shall, to the extent possible, take into account international standards and the criteria of relevant international organisations.

#### ARTICLE 12.9: PAPERLESS TRADING

1. Each Party shall accept the electronic versions of trade administration documents as the legal equivalent of paper documents except where:
  - (a) there is a domestic or international legal requirement to the contrary; or
  - (b) doing so would reduce the effectiveness of the trade administration process.
2. The Parties shall cooperate bilaterally and in international forums to enhance acceptance of electronic versions of trade administration documents.

3. In developing initiatives which provide for the use of paperless trading, each Party shall endeavour to take into account the methods agreed by international organisations.

4. Each Party shall endeavour to make all trade administration documents available to the public as electronic versions.

#### ARTICLE 12.10: COOPERATION ON ELECTRONIC COMMERCE

1. The Parties shall encourage cooperation in research and training activities that would enhance the development of electronic commerce, including by sharing best practices on electronic commerce development.

2. The Parties shall encourage cooperative activities to promote electronic commerce, including those that would improve the effectiveness and efficiency of electronic commerce.

3. The cooperative activities referred to in paragraphs 1 and 2 may include, but are not limited to:

- (a) sharing information about regulatory frameworks;
- (b) sharing information about on-line consumer protection, including unsolicited commercial electronic messages; and
- (c) further areas as agreed between the Parties.

4. The Parties shall endeavour to undertake forms of cooperation that build on and do not duplicate existing cooperation initiatives pursued in international forums.

#### ARTICLE 12.11: DISPUTE SETTLEMENT PROVISIONS

The provisions in Chapter 15 (Dispute Settlement) shall not apply to the provisions of this Chapter.