

## CHAPTER 11 ELECTRONIC COMMERCE

### ARTICLE 11.1: 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 not more restrictive than other forms of trade.

### ARTICLE 11.2: DEFINITIONS

For the purposes of this Chapter:

**digital certificates** means 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;

**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;

**electronic version of a document** means a document in electronic format prescribed by a Party, in accordance with domestic laws, regulations and administrative rules including a document sent by facsimile transmission;

**personal data** means any information relating to a data subject who is an identified or identifiable individual, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that individual;

**personal information** means information about an individual whose identity is apparent, or can reasonably be ascertained, from the information; and

**trade administration documents** mean 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.

### **ARTICLE 11.3: CUSTOMS DUTIES<sup>1</sup>**

1. The Parties shall maintain its practice of not imposing customs duties on electronic transmissions between the Parties, consistent with the WTO Ministerial Decision of 13 December 2017 in relation to the Work Programme on Electronic Commerce (WT/MIN(17)/65 - WT/L/1032).
2. The Parties reserve the right to adjust its practice referred to in paragraph 1 of this Article in accordance with any further WTO Ministerial Decisions in relation to the Work Programme on Electronic Commerce.

### **ARTICLE 11.4: TRANSPARENCY**

1. The Parties 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. A 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 of this Article.

### **ARTICLE 11.5: ELECTRONIC AUTHENTICATION AND DIGITAL CERTIFICATES**

1. The Parties shall maintain laws regulating electronic signatures that allow:
  - (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. The Parties shall encourage the use of digital certificates in the business sector.

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<sup>1</sup> The inclusion of the provisions on electronic commerce in this article is made without prejudice to the Parties' position on whether deliveries by electronic means should be categorized as trade in services or goods.

#### **ARTICLE 11.6: ONLINE CONSUMER PROTECTION**

The Parties 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 11.7: ONLINE DATA PROTECTION**

1. Notwithstanding the differences in existing systems for personal information/data protection in the territories of the Parties, the Parties shall take such measures as they consider appropriate and necessary to protect the personal information /data of users of electronic commerce.

2. In the development of data protection standards, the Parties shall, to the extent possible, take into account international standards and the criteria of relevant international organisations.

#### **ARTICLE 11.8: PAPERLESS TRADING**

1. The Parties 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, the Parties shall endeavour to take into account the methods agreed by international organisations.

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

#### **ARTICLE 11.9: COOPERATION ON ELECTRONIC COMMERCE**

1. The Parties shall endeavour to share information and experience about regulatory frameworks, including laws, regulations, policies and best practices;
2. The Parties shall endeavour to undertake cooperative activities with the aim of promoting the effectiveness of electronic commerce, including electronic commerce business exchanges, project cooperation and joint study.
3. The Parties shall endeavour to explore innovative forms of cooperation that build on existing cooperation initiatives pursued in international forums.

**ARTICLE 11.10: DISPUTE SETTLEMENT PROVISIONS**

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