

CHAPTER V ELECTRONIC COMMERCE

Article 5.1 Definition

For the purposes of this Chapter:

“electronic authentication” means the process of verifying or testing an electronic statement or claim, in order to establish a level of confidence in the statement's or claim's reliability;

“electronic document” means a document in which information is presented in electronic form with details allowing to establish its integrity and authenticity, which are confirmed by the use of certified electronic signatures using public keys of the person who signed this electronic document when verifying the electronic signature;

“electronic signature” means data in electronic form that is in, affixed to, or logically associated with an electronic data message that may be used to identify the signatory in relation to the data message and indicate the signatory's approval of the information contained in the data message⁵⁵;

“digital certificate” means electronic document which is signed by the authorized body, and contains information of the owner of the public key, information of the public key, information of the organization which issued the certificate, duration of the certificate and other information;

“document in electronic form” means information, data or electronic document created, transmitted, received or stored in electronic systems enabling electronic commerce;

“personal information” means any information about an identified or identifiable natural person; and

“trade administration documents” mean forms issued or

⁵⁵ For greater certainty, nothing in this provision prevents a Party from according greater legal effect to an electronic signature that satisfies certain requirements, such as indicating that the electronic data message has not been altered or verifying the identity of the signatory.

controlled by a Party which must be completed by or for an importer or exporter in relation to the import or export of goods.

Article 5.2 Scope and General Provisions

1. The Parties recognize the economic growth and trade opportunities that electronic commerce provides, and the importance of promoting and facilitating the use and development of electronic commerce between the Parties.

2. The purposes of this Chapter are to enhance cooperation between the Parties regarding the development of electronic commerce, contributing to creating an environment of trust and confidence in the use of electronic commerce and to promoting the wider use of electronic commerce globally.

3. The Parties shall, in principle, endeavor to ensure that bilateral trade in electronic commerce shall be no more restricted than comparable non-electronic bilateral trade.

4. This Chapter shall apply to measures adopted or maintained by a Party that affect electronic commerce.

5. This Chapter shall not apply to:

- (a) government procurement; or
- (b) information or data held or processed by governmental authorities and non-governmental bodies in the exercise of powers delegated by governmental authorities.

Article 5.3 Online Consumer Protection

Each Party shall, to the extent possible and in a manner considered appropriate, adopt or maintain measures which provide protection for consumers using electronic commerce that is at least equivalent to measures which provide protection for consumers of other forms of commerce.

Article 5.4 Online Personal Information Protection

Recognizing the importance of protecting personal information in electronic commerce, each Party shall adopt or maintain domestic laws and other measures which ensure the protection of the personal information of the users of electronic commerce.

Article 5.5 Unsolicited Commercial Electronic Messages

1. Each Party shall adopt or maintain measures regarding unsolicited commercial electronic messages that:

- (a) require suppliers of unsolicited commercial electronic messages to facilitate the ability of recipients to stop receiving such messages;
- (b) require the consent, as specified according to its laws and regulations, of recipients to receive commercial electronic messages; or

otherwise provide for the minimization of unsolicited commercial electronic messages.

2. Each Party shall provide recourse against suppliers of unsolicited commercial electronic messages who do not comply with its measures implemented pursuant to paragraph 1 of this Article.

3. The Parties shall endeavour to cooperate in appropriate cases of mutual concern regarding the regulation of unsolicited commercial electronic messages.

Article 5.6 Domestic Regulatory Framework

1. Each Party shall adopt or maintain a legal framework governing electronic transactions, taking into account the UNCITRAL Model Law on Electronic Commerce 1996, or other applicable international conventions and model laws relating to electronic commerce.

2. Each Party shall endeavour to avoid any unnecessary regulatory burden on electronic transactions.

Article 5.7 Customs Duties

1. Each Party shall maintain its practice of not imposing customs duties on electronic transmissions between the Parties, consistent with the WTO Ministerial Decision of 22 June 2022 in relation to the Work Programme on Electronic Commerce (WT/MIN(22)/32).
2. Each Party reserves 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 5.8 Transparency

1. Each Party shall publish as promptly as possible or, where that is not practicable, otherwise make publicly available, including on the internet where feasible, all relevant measures of general application pertaining to or affecting the operation of this Chapter.
2. Each Party shall respond as promptly as possible to a relevant request from the other Party for specific information on any of its measures of general application pertaining to or affecting the operation of this Chapter.

Article 5.9 Cyber Security

The Parties recognize the importance of:

- (a) building the capabilities of their respective competent authorities responsible for computer security incident responses including through the exchange of best practices; and
- (b) strengthening communication and conducting cooperation on matters related to cyber security.

Article 5.10 Electronic Authentication and Electronic Signatures

1. Unless in circumstances otherwise provided for under its laws and regulations, no Party shall deny the legal validity of a signature solely on the basis that the signature is in electronic form.

2. Each Party shall maintain domestic legislation and measures for electronic signature that permits:

- (a) participants in electronic transactions to determine the appropriate authentication technologies and implementation models for their electronic transactions; and
- (b) participants in electronic transactions to have the opportunity to prove that their electronic transactions comply with the Party's domestic laws and regulations with respect to authentication.

3. Following on paragraph 1 of this Article, in two years after entry into force of this Agreement, Parties shall start elaborating additional provisions with respect to the mutual recognition of digital certificates and electronic signatures.

The principles of mutual recognition of digital certificates and electronic signatures may include *inter alia* the following approaches:

- (a) mutual recognition of electronic signatures and digital certificates is based on equivalent levels of reliabilities;
- (b) equivalent level of reliability will be agreed by the Parties on the basis of institutional procedures;
- (c) Parties endeavour to create necessary legal basis for the mutual recognition of digital certificates, verification of electronic signatures with the usage of the agreed technologies.

4. Each Party shall encourage the use of digital certificates in the business sector.

Article 5.11 Paperless Trading

1. Each Party shall:

- (a) work towards implementing initiatives which provide for the use of paperless trading, taking into account the methods agreed by international organizations including the World Customs Organization;
- (b) endeavour to accept trade administration documents submitted electronically as the legal equivalent of the paper version of such trade administration documents;
- (c) endeavour to make trade administration documents available to the public in electronic form; and
- (d) endeavor to ensure the submission of documents related to trade transactions to the competent authorities of the Parties in the form of electronic documents with an electronic signature.

2. The Parties shall cooperate in international fora to enhance acceptance of electronic versions of trade administration documents.

Article 5.12 Network Equipment

1. Both Parties recognize the importance of network equipment, products related to e-commerce to the safeguarding of the healthy development of e-commerce.

2. Both Parties should endeavour to create beneficial environment for public telecommunications networks, service providers or value-added service providers to independently choose the network equipment, products and technological services.

Article 5.13 Cooperation on Electronic Commerce

1. The Parties agree to share information and experience on issues related to electronic commerce, including, *inter alia*, laws and regulations, rules and standards, and best practices.
2. The Parties shall encourage cooperation in research and training activities to enhance the development of electronic commerce.
3. The Parties shall encourage business exchanges, cooperative activities and joint electronic commerce projects.
4. The Parties shall actively participate in regional and multilateral fora to promote the development of electronic commerce in a cooperative manner.

Article 5.14 Non-Application of Dispute Settlement

No Party shall have recourse to dispute settlement under this Agreement for any matter arising under this Chapter.