

CHAPTER 13

ELECTRONIC COMMERCE

Article 13.1: General

The Parties recognize the economic growth and opportunity that electronic commerce provides, the importance of promoting its use and development, and the applicability of the WTO Agreement to measures affecting electronic commerce.

Article 13.2: Relation to Other Chapters

In the event of any inconsistency between this Chapter and other Chapters, the other Chapters shall prevail to the extent of the inconsistency.

Article 13.3: Customs Duties⁴⁶

Each Party will maintain the current WTO practice⁴⁷ of not imposing customs duties on electronic transmissions.⁴⁸

⁴⁶ The inclusion of the provisions on electronic commerce in this Chapter is made without prejudice to the Parties' position on whether deliveries by electronic means should be categorized as trade in services or goods.

⁴⁷ The current practice will be maintained consistent with paragraph 5 of *Work Programme on Electronic Commerce of the Bali WTO Ministerial Decision* (WT/MIN(13)/32-WT/L/907).

⁴⁸ The Parties may reserve the right to adjust the practice, consistent with any changes to the WTO Ministerial Decision on this issue.

⁴ For greater certainty, for China, for any electronic signature to be certified by a third party to the electronic transaction, the authentication service must be provided by a legally established authentication service provider which shall be approved by an authority accredited in accordance with its domestic law. For greater certainty, for Korea, it may be required that the method of authentication meet certain performance standards or be certified, by an authority accredited in accordance with its domestic law.

Article 13.4: Electronic Authentication and Electronic Signatures

1. Neither Party may adopt or maintain legislation for electronic signature that would deny a signature legal validity solely on the basis that the signature is in electronic form.
2. Each Party shall maintain domestic legislation for electronic signature that permits:
 - (a) parties to electronic transaction to mutually determine the appropriate electronic signature and authentication method,⁴⁹⁵⁰ and
 - (b) electronic authentication agencies to have the opportunity to prove in judicial or administrative authorities a claim that their electronic authentication to electronic transaction comply with legal requirements with respect to electronic authentication.
3. Each Party shall work towards the mutual recognition of digital certificates and electronic signatures.
4. Each Party shall encourage the use of digital certificates in the business sector.

Article 13.5: Protection of Personal Information in Electronic Commerce

Recognizing the importance of protecting personal information in electronic commerce, each Party shall adopt or maintain measures which ensure the protection of the personal information of the users of electronic commerce and share information and experience on the

⁵ For greater certainty, for Korea, it may be required that the method of authentication meet certain performance standards or be certified, by an authority accredited in accordance with its domestic law.

protection of personal information in electronic commerce.

Article 13.6: Paperless Trading

1. Each Party shall endeavour to make trade administration documents available to the public in electronic form.
2. Each Party shall explore the possibility of accepting trade administration documents submitted electronically as the legal equivalent of the paper version of those documents.

Article 13.7: 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 13.8: Definitions

For the purposes of this Chapter:

electronic authentication means the process or act of providing authenticity and reliability verification for the parties involved in electronic signature to ensure integrity and security of electronic communication or transaction;

electronic signature means data in electronic form that is 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. **Data message** means information generated, sent, received or stored by electronic, optical or similar means; and

trade administration documents means forms a Party issues or controls that must be completed by or for an importer or exporter in connection with the import or export of goods.

Article 13.9: Non-Application of Dispute Settlement

Neither Party shall have recourse to Chapter 20 (Dispute Settlement) for any matter arising under this Chapter.