

10. Flexibility in the Choice of Technologies

Costa Rica may not prevent suppliers of public telecommunications services from having the flexibility to choose the technologies that they use to supply their services, subject to requirements necessary to satisfy legitimate public policy interests.

Annex 13.3

Rural Telephone Suppliers

1. A state regulatory authority in the United States may exempt a rural local exchange carrier, as defined in section 251(f)(2) of the Communications Act of 1934, as amended, from the obligations contained in paragraphs 2 through 4 of Article 13.3 and from the obligations contained in Article 13.4.
2. Article 13.4 does not apply to rural telephone companies in the United States, as defined in section 3(37) of the Communications Act of 1934, as amended, unless a state regulatory authority orders otherwise.
3. El Salvador, Guatemala, Honduras, and Nicaragua may designate and exempt a rural telephone company in its territory from paragraphs 2 through 4 of Article 13.3 and from Article 13.4, provided that the rural telephone company supplies public telecommunications services to fewer than two percent of the subscriber lines installed in the Party's territory. The number of subscriber lines supplied by a rural telephone company includes all subscriber lines supplied by the company, and by its owners, subsidiaries, and affiliates.
4. Nothing in this Annex shall be construed to preclude a Party from imposing the requirements set out in Article 13.4 on rural telephone companies.

Annex 13.4.5

Interconnection

1. For any Party that does not have an existing commitment under the GATS to ensure that a major supplier in its territory provides interconnection at cost-oriented rates, the obligation under Article 13.4.5 to ensure the provision of cost-oriented interconnection shall become effective:
 - (a) two years after the date of entry into force of this Agreement; or
 - (b) January 1, 2007, whichever is earlier.
2. During the transition period, each such Party shall ensure that major suppliers of public telecommunications services in its territory:
 - (a) do not charge interconnection rates above the rates charged on December 31, 2003; and
 - (b) proportionally reduce interconnection rates as necessary to ensure that a cost oriented interconnection rate has been achieved by the end of the transition period.

Annex 13.4.8

Access to Rights-of-Way

Article 13.4.8 shall apply with respect to El Salvador beginning when its law provides that poles, ducts, conducts, and rights-of-way constitute essential resources.

Chapter Fourteen

Electronic Commerce

Article 14.1: General

1. The Parties recognize the economic growth and opportunity that electronic commerce

provides, the importance of avoiding barriers to its use and development, and the applicability of WTO rules to measures affecting electronic commerce.

2. For greater certainty, nothing in this Chapter shall be construed to prevent a Party from imposing internal taxes, directly or indirectly, on digital products, provided they are imposed in a manner consistent with this Agreement.

Article 14.2: Electronic Supply of Services

For greater certainty, the Parties affirm that measures affecting the supply of a service using electronic means fall within the scope of the obligations contained in the relevant provisions of Chapters Ten (Investment), Eleven (Cross-Border Trade in Services), and Twelve (Financial Services), subject to any exceptions or non-conforming measures set out in this Agreement, which are applicable to such obligations.

Article 14.3: Digital Products

1. No Party may impose customs duties, fees, or other charges on or in connection with the importation or exportation of digital products by electronic transmission.

2. For purposes of determining applicable customs duties, each Party shall determine the customs value of an imported carrier medium bearing a digital product based on the cost or value of the carrier medium alone, without regard to the cost or value of the digital product stored on the carrier medium.

3. No Party may accord less favorable treatment to some digital products transmitted electronically than it accords to other like digital products transmitted electronically:

(a) on the basis that

(i) the digital products receiving less favorable treatment are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms outside its territory; or

(ii) the author, performer, producer, developer, or distributor of such digital products is a person of another Party or non-Party,

or

(b) so as otherwise to afford protection to the other like digital products that are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in its territory. (For greater certainty, this paragraph does not provide any right to a non-Party or a person of a non-Party).

4. No Party may accord less favorable treatment to digital products transmitted electronically:

(a) that are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in the territory of another Party than it accords to like digital products transmitted electronically that are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in the territory of a non-Party; or

(b) whose author, performer, producer, developer, or distributor is a person of another Party than it accords to like digital products transmitted electronically whose author, performer, producer, developer, or distributor is a person of a non-Party.

5. Paragraphs 3 and 4 do not apply to any non-conforming measure described in Articles 10.13 (Non-Conforming Measures), 11.6 (Non-Conforming Measures), or 12.9 (Non-Conforming Measures).

Article 14.4: Transparency

Each Party shall publish or otherwise make available to the public its laws, regulations, and other measures of general application that pertain to electronic commerce.

Article 14.5: Cooperation

Recognizing the global nature of electronic commerce, the Parties affirm the importance of:

- (a) working together to overcome obstacles encountered by small and medium enterprises in using electronic commerce;
- (b) sharing information and experiences on laws, regulations, and programs in the sphere of electronic commerce, including those related to data privacy, consumer confidence in electronic commerce, cyber-security, electronic signatures, intellectual property rights, and electronic government;
- (c) working to maintain cross-border flows of information as an essential element in fostering a vibrant environment for electronic commerce;
- (d) encouraging the private sector to adopt self-regulation, including through codes of conduct, model contracts, guidelines, and enforcement mechanisms that foster electronic commerce; and
- (e) actively participating in hemispheric and multilateral fora to promote the development of electronic commerce.

Article 14.6: Definitions

For purposes of this Chapter:

carrier medium means any physical object capable of storing the digital codes that form a digital product by any method now known or later developed, and from which a digital product can be perceived, reproduced, or communicated, directly or indirectly, and includes an optical medium, a floppy disk, and a magnetic tape;

digital products means computer programs, text, video, images, sound recordings, and other products that are digitally encoded; (For greater certainty, digital products do not include digitized representations of financial instruments).

electronic means means employing computer processing; and

electronic transmission or transmitted electronically means the transfer of digital products using any electromagnetic or photonic means.