

CHAPTER 14: ELECTRONIC COMMERCE

Article 14.1

Definitions

For the purposes of this Chapter:

digital products means computer programmes, text, video, images, sound recordings and other product that are digitally encoded, regardless of whether they are fixed on a carrier medium or transmitted electronically¹⁴⁻¹;

carrier medium means any physical object capable of storing 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, but is not limited to, an optical medium, a floppy disk, or a magnetic tape;

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

using electronic means employing computer and digital processing.

Article 14.2

Scope

1. The Parties recognise the economic growth and opportunity provided by electronic commerce the importance of avoiding unnecessary barriers to electronic commerce and the applicability of WTO rules to electronic commerce.
2. This Chapter does not apply to measures affecting the electronic transmission of a series of text, video, images, sound recordings, and other products scheduled by a content provider for aural and/or visual reception, and for which the content consumer has no choice over the scheduling of the series.

Article 14.3

Electronic Supply Of Services

For greater certainty, the Parties affirm that measures related to the supply of a service using electronic means fall within the scope of the obligations contained in the relevant provisions of Chapters 9 (Cross-Border Trade in Services), 10 (Investment) and 12 (Financial Services), and, subject to any exceptions applicable to such obligations and except where an obligation does not apply to any such measure pursuant to Articles 9.6 and 10.9.

¹⁴⁻¹ For greater clarity, digital products do not include digitised representations of financial instruments.

Article 14.4

Digital Products

1. Each Party shall not apply customs duties or other duties, fees, or charges on or in connection with the importation or exportation of a digital product of the other Party by electronic transmission¹⁴⁻².
2. Each Party shall determine the customs value of an imported carrier medium bearing a digital product in accordance with the Customs Valuation Agreement.
3. A Party shall not accord less favourable treatment to a digital product than it accords to other like digital products:
 - (a) on the basis that:
 - (i) the digital product receiving less favourable treatment is created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in the territory of the other Party; or
 - (ii) the author, performer, producer, developer, or distributor of such digital product is a person of the other 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.
4. Paragraph 3 does not apply to any non-conforming measure described in Articles 9.6 and 10.9.

CHAPTER 15: COMPETITION

Article 15.1

Purpose And Definitions

1. The purpose of this Chapter is to contribute to the fulfillment of the objectives of this Agreement through the promotion of fair competition and the curtailment of anti-competitive practices.
2. For the purposes of this Chapter, anti-competitive practices means business conduct or transactions that adversely affect competition, such as:
 - (a) anti-competitive horizontal arrangements between competitors;
 - (b) misuse of market power;
 - (c) anti-competitive vertical arrangements between businesses; and
 - (d) anti-competitive mergers and acquisitions.

¹⁴⁻² Paragraph 1 does not preclude a Party from imposing internal taxes or other internal charges provided that these are imposed in a manner consistent with this Agreement.