

CHAPTER 15 ELECTRONIC COMMERCE

Article 15.1 Purpose

The purpose of this Chapter is to promote electronic commerce between the Parties and the wider use of electronic commerce globally. To this end, the Parties recognise the economic growth and opportunities provided by electronic commerce, the importance of avoiding barriers to its use and development and, where relevant, the applicability of the WTO Agreement to measures affecting electronic commerce. The Parties also recognise the importance of ensuring that bilateral trade through electronic commerce is, to the extent possible, less restricted or no more restricted than comparable non-electronic bilateral trade.

Article 15.2 Electronic Supply of Services

The Parties affirm that measures affecting the supply of a service delivered or performed electronically are subject to the obligations contained in the relevant provisions of Chapter 8 (Trade in Services) and its Annex on Financial Services and Chapter 9 (Telecommunications Services), subject to any exceptions set out in this Agreement that are applicable to such obligations.

Article 15.3 Definitions

For the purposes of this Chapter:

- (a) **digital certificates** means electronic documents or files that are issued by a certification authority or otherwise linked to a party to an electronic communication or transaction for the purpose of establishing the party's identity;
- (b) **electronic authentication** means the process of verification of an electronic statement or claim, in order to establish a level of confidence in the statement's or claim's reliability;
- (c) **electronic transmission** means transmission made using any electromagnetic or photonic means;
- (d) **electronic version of a document** means a document in electronic format prescribed by a Party, including a document sent by facsimile transmission;
- (e) **trade administration document** means forms issued or controlled by a Party which must be completed by or for an importer or exporter in relation to the import or export of goods;

- (f) **UNCITRAL** means the United Nations Commission on International Trade Law; and
- (g) **unsolicited commercial electronic message** means an electronic message which is sent for commercial purposes to an electronic address without the consent of the recipient using an Internet carriage service or other telecommunications service.

Article 15.4 Customs Duties

1. Neither Party shall impose customs duties on electronic transmissions between the Parties.
2. Nothing in paragraph 1 shall preclude a Party from imposing internal taxes, fees or other charges on content transmitted electronically, provided that such taxes, fees or charges are imposed in a manner consistent with this Agreement.

Article 15.5 Domestic Regulatory Frameworks

1. Each Party shall maintain laws and regulations governing electronic transactions based on the *UNCITRAL Model Law on Electronic Commerce 1996*.
2. Each Party shall:
 - (a) minimise the regulatory burden on electronic commerce; and
 - (b) consult, as appropriate, with industry in the development of electronic commerce regulatory frameworks.

Article 15.6 Electronic Authentication and Digital Certificates

1. Each Party shall maintain measures for electronic authentication that permit Parties to electronic transactions to:
 - (a) determine the appropriate authentication technologies and implementation models for their electronic transactions, and do not limit the recognition of such technologies and implementation models; and
 - (b) have the opportunity to prove that their electronic transactions comply with the Party's laws and regulations.
2. Each Party shall work towards the mutual recognition of digital certificates at government level based on internationally accepted standards.
3. Each Party shall encourage the interoperability of digital certificates in the business sector.

Article 15.7
Online Consumer Protection

Each Party shall, to the extent possible and in a manner considered appropriate by each Party, provide protection for consumers using electronic commerce that is at least equivalent to that provided for consumers of other forms of commerce under its laws, regulations and policies.

Article 15.8
Online Personal Data Protection

1. Each Party shall establish or maintain legislation or regulations that protect the personal data of the users of electronic commerce.
2. In the development of personal data protection standards, each Party shall take into account the international standards and criteria of relevant international organisations.

Article 15.9
Paperless Trading

1. Each Party shall accept the electronic format 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 implementing initiatives which provide for the use of paperless trading, the Parties shall take into account the methods agreed by international organisations.
4. Each Party shall endeavour to make all trade administration documents available to the public in electronic form.

Article 15.10
Unsolicited Commercial Electronic Messages

1. Each Party shall adopt or maintain measures to minimise unsolicited commercial electronic messages.
2. The Parties shall, subject to their respective laws and regulations and mutual interest, cooperate bilaterally and in international forums regarding the regulation of unsolicited commercial electronic messages. Areas of cooperation may include, but should not be limited to, the exchange of information on technical, educational and policy approaches to unsolicited commercial electronic messages.