

cooperation and discussions to resolve, to their mutual satisfaction, a matter that might affect the operation of this Chapter.

Article 15.6: Dispute Settlement

An investor may not have recourse to investor-state dispute settlement under Article 10.19 (Investment – Claim by an Investor of a Party on Its Own Behalf) or Article 10.20 (Investment – Claim by an Investor of a Party on Behalf of an Enterprise) for a matter arising under this Chapter, except for a matter arising under Article 15.3(3)(a) or Article 15.4(2).

Annex 15.4

Country-Specific Definitions of State Enterprise

For the purposes of Article 15.4(3) “state enterprise” means, with respect to Canada, a “Crown corporation” within the meaning of the *Financial Administration Act*, R.S.C. 1985, c. F-11, a Crown corporation within the meaning of any comparable provincial law, or an equivalent entity that is incorporated under other applicable provincial law.

Chapter Sixteen: Electronic Commerce

Article 16.1: Definitions

For the purposes of this Chapter:

digital product means a computer program, text, video, image, sound recording, or other product that is digitally encoded; but does not include a digitized representation of a financial instrument;

transmitted electronically means to transfer a digital product by electromagnetic means, including by photonic means.

Article 16.2: General Provisions

1. The Parties recognize the economic growth and opportunities provided by electronic commerce and recognize that WTO rules apply to electronic commerce to the extent that they affect electronic commerce.

2. Considering the potential of electronic commerce as a social and economic development tool, the Parties recognize the importance of:

- (a) clarity, transparency, and predictability in their domestic regulatory frameworks in facilitating, to the maximum extent possible, the development of electronic commerce;
- (b) encouraging self-regulation by the private sector to promote trust and confidence in electronic commerce;
- (c) facilitating electronic commerce through interoperability, innovation, and competition;
- (d) facilitating the use of electronic commerce by micro-, small-, and medium- sized enterprises; and
- (e) protecting personal information in the on-line environment.

Article 16.3: Customs Duties on Digital Products Transmitted

Electronically

1. A Party may not impose a customs duty, fee, or charge, on or in connection with the importation or exportation of a digital product transmitted electronically.
2. For greater certainty, paragraph 1 does not preclude a Party from imposing an internal tax or other internal charge on a digital product transmitted electronically, provided that the tax or charge is not prohibited by this Agreement.

Article 16.4: Consumer Protection

1. The Parties recognize the importance of maintaining and adopting transparent and effective measures to protect consumers from fraudulent or deceptive commercial practices in electronic commerce.
2. To this end, the Parties should exchange information and experiences related to national approaches for the protection of consumers engaging in electronic commerce.

Article 16.5: Cooperation

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

- (a) working together to facilitate the use of electronic commerce by micro-, small-, and medium-sized enterprises;
- (b) sharing information and experiences on laws, regulations, and programs involving electronic commerce, including those related to data privacy, consumer confidence, security

in electronic communications, authentication, 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) fostering electronic commerce through the encouragement of the private sector to adopt codes of conduct, model contracts, guidelines, and enforcement mechanisms; and
- (e) actively participating in regional and multilateral fora to promote the development of electronic commerce.

Article 16.6: Transparency

Further to Article 20.3 (Transparency – Publication), each Party shall promptly publish or otherwise make publicly available its laws, regulations, procedures, and administrative rulings of general application, that pertain to electronic commerce.

Article 16.7: Relation to Other Chapters

In the event of an inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter prevails to the extent of the inconsistency.

Chapter Seventeen: Government Procurement

Article 17.1: Definitions

For the purposes of this Chapter:

in writing or written means a worded or numbered expression that can be read, reproduced and later communicated; it may include electronically transmitted and stored information;

limited tendering means a procurement method by which the procuring entity contacts a supplier of its choice and may, in the circumstances set out in Article 17.11(2), choose not to apply Articles 17.6, 17.7, 17.9, 17.10, 17.12 and 17.13;