

CHAPTER 10

ELECTRONIC COMMERCE

Article 1
Objectives

The objectives of this Chapter are to:

- (a) promote electronic commerce among the Parties;
- (b) enhance co-operation among the Parties regarding development of electronic commerce; and
- (c) promote the wider use of electronic commerce globally.

Article 2
Definitions

For the purposes of this Chapter:

- (a) **digital certificates** are electronic documents or files that are issued or otherwise linked to a participant in an electronic communication or transaction for the purpose of establishing the participant's identity;
- (b) **electronic authentication** means the process of testing an electronic statement or claim, in order to establish a level of confidence in the statement's or claim's reliability;
- (c) **electronic signature** has for each Party the meaning set out in its domestic laws and regulations;

章节 10

电子商务

第一章
目的

本章的目的是：

- (a) 促进各方之间的电子商务；(b) 加强各方在电子商务发展方面的合作；以及 (c) 促进全球范围内电子商务的更广泛使用。

第二章
定义

对于本章的目的：

- (a) 数字证书是电子文件或文件，由电子通信或交易中的参与者签发或以其他方式链接，用于建立参与者的身份；
- (b) 电子认证是指测试电子声明或主张的过程，以便在声明或主张的可靠性方面建立一定程度的信心；
- (c) 电子签名对每一方具有其国内法律法规中规定的含义；

- (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 documents** 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; and
- (f) **UNCITRAL** refers to the United Nations Commission on International Trade Law.

Article 3
Transparency

- 1. Each Party shall publish as promptly as possible or, where that is not practicable, otherwise make publicly available all relevant measures of general application pertaining to or affecting the operation of this Chapter.
- 2. Each Party shall respond as promptly as possible to relevant requests by another Party for specific information on any of its measures of general application pertaining to or affecting the operation of this Chapter.

Article 4
Domestic Regulatory Frameworks

Each Party shall maintain, or adopt as soon as practicable, domestic laws and regulations governing electronic transactions taking into account the UNCITRAL Model Law on Electronic Commerce 1996.

- (d) 电子文档版本是指一个
一方规定的电子格式文档，包括通过传真传输发送的文档；
- (e) 贸易管理文件是指表格
由一方签发或控制的，必须由或为进口商或出口商在货物的进出口方面填写或使用的；和
- (f) UNCITRAL是指联合国国际贸易法委员会。

第3条 透明
度

- 1. 每一方应尽快公布，或者在实际上不可行的情况下以其他方式向公众提供所有与本章的运作有关或影响的具有一般适用性的措施。
- 2. 各方应尽快回应另一方就其一般性措施中与本章运行相关或影响的任何具体信息的请求。

第4条 国内监管框架

每一方应当维持，或尽快采纳，管理电子交易的国内法律法规，并考虑1996年联合国电子商务示范法。

Article 5
Electronic Authentication and Digital Certificates

1. Each Party shall maintain, or adopt as soon as practicable, measures based on international norms for electronic authentication that:
- (a) permit participants in electronic transactions to determine the appropriate authentication technologies and implementation models for their electronic transactions;
 - (b) do not limit the recognition of authentication technologies and implementation models; and
 - (c) permit participants in electronic transactions to have the opportunity to prove that their electronic transactions comply with the Party's domestic laws and regulations.
2. The Parties shall, where possible, endeavour to work towards the mutual recognition of digital certificates and electronic signatures that are issued or recognised by governments based on internationally accepted standards.
3. The Parties shall encourage the interoperability of digital certificates used by business.

Article 6
Online Consumer Protection

1. Subject to Paragraph 2, each Party shall, where possible, provide protection for consumers using electronic commerce that is at least equivalent to that provided for consumers of other forms of commerce under its relevant laws, regulations and policies.

第10章

1. 每一方应当维持，或尽快采纳，基于国际规范电子认证的措施，该措施包括：
- (a) 允许电子交易参与者确定其电子交易的适当认证技术和实施模型；(b) 不限制对认证技术和实施模型的认可；以及(c) 允许电子交易参与者有机会证明其电子交易符合一方的国内法律法规。
2. 各方应尽可能努力推动基于国际公认标准的、由政府签发或认可的数字证书和电子签名的互认。
3. 各方应鼓励商业使用的数字证书的互操作性。

第6条 在线消费者保护

1. 根据第2段，每一方应当，在可能的情况下，为使用电子商务的消费者提供至少与其相关法律法规和政策下为其他商业形式的消费者提供的同等保护。

2. A Party shall not be obliged to apply Paragraph 1 before the date on which that Party enacts domestic laws or regulations or adopts policies on protection for consumers using electronic commerce.

Article 7
Online Data Protection

- 1. Subject to Paragraph 2, each Party shall, in a manner it considers appropriate, protect the personal data of the users of electronic commerce.
- 2. A Party shall not be obliged to apply Paragraph 1 before the date on which that Party enacts domestic laws or regulations to protect the personal data of electronic commerce users.
- 3. In the development of data protection standards, each Party shall consider the international standards and criteria of relevant international organisations.

Article 8
Paperless Trading

- 1. Each Party shall, where possible, work towards the implementation of initiatives which provide for the use of paperless trading.
- 2. The Parties shall co-operate in international fora to enhance acceptance of electronic versions of trade administration documents.
- 3. In working towards the implementation of initiatives which provide for the use of paperless trading, each Party shall take into account the methods agreed by international organisations including the World Customs Organization.

2. 一方在制定国内法律或法规或制定电子商务消费者保护政策之前，不应当被强制适用第1段。

第7条 在线数据保护

- 1. 根据第2段，每一方应以它认为适当的方式保护电子商务用户的个人数据。
- 2. 一方在制定保护电子商务用户个人数据的国内法律或法规的日期之前，不应对第1段的规定承担责任。
- 3. 在制定数据保护标准时，每一方应考虑相关国际组织的国际标准和标准。

第8条 无纸化交易

- 1. 每一方应尽可能努力实施提供无纸化交易使用的倡议。
- 2. 各方应当在国际论坛上合作，以提高贸易管理文件电子版本的接受度。
- 3. 在推进旨在提供无纸化交易使用的倡议的实施工作中，每一方均应考虑国际组织（包括世界海关组织）所达成的协议方法。

4. Each Party shall endeavour to make electronic versions of its trade administration documents publicly available.

Article 9
Co-operation on Electronic Commerce

1. Recognising the global nature of electronic commerce, the Parties shall encourage co-operation in research and training activities that would enhance the development of electronic commerce. These co-operative research and training activities may include, but are not limited to:

- (a) promotion of the use of electronic versions of trade administration documents used by any other Party or Parties;
- (b) assisting small and medium enterprises to overcome obstacles encountered in the use of electronic commerce;
- (c) sharing information and experiences and identifying best practices in relation to domestic legal and policy frameworks in the sphere of electronic commerce, including those related to data protection, privacy, consumer confidence, cyber-security, unsolicited electronic mail, electronic signatures, intellectual property rights, and electronic government;
- (d) encouraging co-operative activities to promote electronic commerce including those that would improve the effectiveness and efficiency of electronic commerce;
- (e) exploring ways in which a developed Party or Parties could provide assistance to the developing Parties in implementing an electronic commerce legal framework;

4. 每一方均应努力将其贸易管理文件电子版向公众提供。

第九条 电子商务合作

认识到电子商务的全球性，各方应鼓励合作开展研究和培训活动，以促进电子商务的发展。这些合作研究和培训活动可包括但不限于：

- (a) 促进任何一方或多方使用的贸易管理文件电子版本的使用；
- (b) 帮助中小企业克服在使用电子商务时遇到的障碍；
- (c) 分享有关电子商务领域国内法律和政策框架的信息和经验，包括与数据保护、隐私、消费者信心、网络安全、未经请求的电子邮件、电子签名、知识产权和电子政府相关的内容，并确定最佳实践；
- (d) 鼓励合作活动以促进电子商务，包括那些可以提高电子商务有效性和效率的活动；
- (e) 探索发达国家或多方如何向发展中国家提供实施电子商务法律框架的协助的方式；

- (f) encouraging co-operation between the relevant authorities to facilitate prompt investigation and resolution of fraudulent incidents relating to electronic commerce transactions;
 - (g) encouraging development by the private sector of methods of self-regulation, including codes of conduct, model contracts, guidelines, and enforcement mechanisms, that foster electronic commerce; and
 - (h) actively participating in regional and multilateral fora to promote development of electronic commerce.
2. The Parties shall endeavour to undertake forms of co-operation that build on and do not duplicate existing co-operation initiatives pursued in international fora.

Article 10
Non-Application of Chapter 17 (Consultations and
Dispute Settlement)

Chapter 17 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.

- (f) 鼓励相关当局之间的合作，以促进迅速调查和解决与电子商务交易相关的欺诈事件；(g) 鼓励私营部门开发自我监管的方法，包括行为准则、示范合同、指南和执行机制，以促进电子商务；以及 (h) 积极参与区域和多边论坛，以促进电子商务的发展。
2. 各方应努力开展合作形式，这些合作形式应建立在现有合作倡议之上，且不重复在国际论坛中追求的合作倡议。

第10条 第17章（磋商和争端解决）的不适用

第17章（磋商和争端解决）不适用于本章产生的事项。