

CHAPTER 12
ELECTRONIC COMMERCE

第12章 电子商务

ARTICLE 12.1: PURPOSE AND OBJECTIVE

1. The Parties recognise the economic growth and opportunities provided by electronic commerce, the importance of avoiding barriers to its use and development, and the applicability of relevant WTO rules.
2. The objective of this Chapter is to promote electronic commerce between the Parties, including by encouraging cooperation on electronic commerce.
3. The Parties shall endeavour to ensure that bilateral trade through electronic commerce is no more restricted than other forms of trade.

ARTICLE 12.2: DEFINITIONS

For the purposes of this Chapter:

- (a) **digital certificates** are electronic documents or files that are issued or otherwise linked to a party to an electronic communication or transaction for the purpose of establishing the party's identity;
- (b) **electronic signature** means data in electronic form in, affixed to or logically associated with, a data message, which may be used to identify the signatory in relation to the data message and to indicate the signatory's approval of the information contained in the data message;
- (c) **electronic version** of a document means a document in electronic format prescribed by a Party, including a document sent by facsimile transmission;
- (d) **personal information** means information about an individual whose identity is apparent, or can reasonably be ascertained, from the information;
- (e) **trade administration documents** means forms issued or controlled by the Government of 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

第12.1条：目的和目标

1. 各方承认电子商务带来的经济增长和机遇，避免其使用和发展障碍的重要性，以及相关世界贸易组织规则的可适用性。
2. 本章的目标是促进各方之间的电子商务，包括通过鼓励电子商务合作。
3. 各方应努力确保通过电子商务进行的双边贸易不比其他贸易形式受到更多限制。

第12.2条：定义

本章中，

- (a) 数字证书是电子文件或文件，由电子通信或交易的当事人签发或以其他方式链接，用于确认该当事人的身份；(b) 电子签名是指以电子形式存在于数据消息中、附加到数据消息上或与数据消息逻辑关联的数据，可用于识别与数据消息相关的签名者，并表明签名者对数据消息中包含的信息的批准；(c) 电子文档版本是指一方规定的电子格式文档，包括通过传真传输发送的文档；(d) 个人信息是指从信息中可以明显看出或可以合理确定的个人身份的信息；(e) 贸易管理文件是指一方政府签发或控制的表格，进口商或出口商在进出口商品时必须填写或使用这些表格；(f) UNCITRAL是指联合国国际贸易法委员会；以及

- (g) **unsolicited commercial electronic message** means an electronic message (including a voice service) which is sent for commercial purposes to an electronic address without the consent of the recipient (including where consent has been explicitly refused or withdrawn) using an internet carriage service or other telecommunications service.

ARTICLE 12.3: CUSTOMS DUTIES

1. Each Party shall maintain its practice of not imposing customs duties on electronic transmissions between the Parties, consistent with paragraph 5 of the WTO Ministerial Decision of 7 December 2013 in relation to the Work Programme on Electronic Commerce (WT/MIN(13)/32-WT/L/907).
2. Each Party reserves the right to adjust its practice referred to in paragraph 1 in accordance with any further WTO Ministerial Decisions in relation to the Work Programme on Electronic Commerce.

ARTICLE 12.4: TRANSPARENCY

1. Each Party shall promptly publish, or otherwise promptly make publicly available where publication is not practicable, all relevant measures of general application which pertain to, or affect, the operation of this Chapter.
2. Each Party shall respond promptly to all requests by the other Party for specific information on any of its measures of general application within the meaning of paragraph 1.

ARTICLE 12.5: DOMESTIC REGULATORY FRAMEWORKS

1. Each Party shall maintain domestic legal frameworks governing electronic transactions based on the *UNCITRAL Model Law on Electronic Commerce 1996* and taking into account, as appropriate, other relevant international standards.
2. Each Party shall:
 - (a) minimise the regulatory burden on electronic commerce; and
 - (b) ensure that regulatory frameworks support industry-led development of electronic commerce.

- (g) 未经请求的商业电子信息是指未经接收者（包括明确拒绝或撤回同意的情况）的同意，使用互联网承载服务或其他电信服务发送的用于商业目的的电子信息（包括语音服务）。

第12章 电子商业 第12.3条：关税

- 各方可维持其不针对相互之间的电子传输征收关税的实践，与2013年12月7日世界贸易组织部长级决定（WT/MIN(13)/32-WT/L/907）中关于电子商务工作计划的第5段一致。
2. 各方保留根据有关电子商务工作计划的任何进一步世界贸易组织部长级决定调整第1段所述做法的权利。

第12条4款：透明度

1. 双方应及时公布，或在公布不可行时，以其他方式及时向公众提供与本章运营相关或影响的通用措施。
2. 每一方应迅速回应另一方就其第1段所述的任何一般适用措施提出的具体信息请求。

第12.5条：国内监管框架

1. 每一方应根据联合国国际贸易法委员会1996年电子商务示范法维持管理电子交易的国内法律框架，并适当考虑其他相关国际标准。
2. 每一方应：
 - (a) 最大限度地减轻电子商务的监管负担；以及
 - (b) 确保监管框架支持电子商务的行业主导发展。

ARTICLE 12.6: ELECTRONIC AUTHENTICATION AND DIGITAL CERTIFICATES

1. Each Party shall maintain laws regulating electronic signatures that permit:
 - (a) parties to electronic transactions to mutually determine the appropriate electronic signature and authentication methods; and
 - (b) electronic authentication service providers, including agencies, to have the opportunity to prove before judicial or administrative authorities that their electronic authentication services comply with the relevant legal requirements.
2. The Parties shall work towards the mutual recognition of digital certificates and electronic signatures.
3. Each Party shall encourage the use of digital certificates in the business sector.

ARTICLE 12.7: ONLINE CONSUMER PROTECTION

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

ARTICLE 12.8: ONLINE DATA PROTECTION

1. Notwithstanding the differences in existing systems for personal information protection in the territories of the Parties, each Party shall take such measures as it considers appropriate and necessary to protect the personal information of users of electronic commerce.
2. In the development of data protection standards, each Party shall, to the extent possible, take into account international standards and the criteria of relevant international organisations.

ARTICLE 12.9: PAPERLESS TRADING

1. Each Party shall accept the electronic versions 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

第12.6条：电子认证和数字证书

1. 各方应维持规范电子签名的法律，该法律应允许：
 - (a) 电子交易各方相互确定适当的电子签名和认证方法；以及 (b) 电子认证服务提供者，包括机构，有机会在司法或行政机关面前证明其电子认证服务符合相关法律要求。
2. 各方应努力实现数字证书和电子签名的相互认可。
3. 各方应鼓励在商业领域使用数字证书。

第12.7条：在线消费者保护

每一方应根据其可能性和认为适当的方式，为使用电子商务的消费者提供保护，其保护程度应至少相当于其各自法律、法规和政策下为其他形式商业的消费者提供的保护。

第12.8条：在线数据保护

1. 尽管各方的个人信息保护现有系统存在差异，每一方应根据其认为适当和必要的方式，保护电子商务用户的个人信息。
2. 在制定数据保护标准时，每一方应根据其可能性，考虑国际标准和相关国际组织的标准。

ARTICLE 12.9: PAPERLESS TRADING

1. 每一方应接受贸易管理文件的电子版本作为纸质文件的法定等效文件，除非：
 - (a) 存在与此相反的国内或国际法律要求；或

- (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 developing initiatives which provide for the use of paperless trading, each Party shall endeavour to take into account the methods agreed by international organisations.
4. Each Party shall endeavour to make all trade administration documents available to the public as electronic versions.

ARTICLE 12.10: COOPERATION ON ELECTRONIC COMMERCE

1. The Parties shall encourage cooperation in research and training activities that would enhance the development of electronic commerce, including by sharing best practices on electronic commerce development.
2. The Parties shall encourage cooperative activities to promote electronic commerce, including those that would improve the effectiveness and efficiency of electronic commerce.
3. The cooperative activities referred to in paragraphs 1 and 2 may include, but are not limited to:
- (a) sharing information about regulatory frameworks;
 - (b) sharing information about on-line consumer protection, including unsolicited commercial electronic messages; and
 - (c) further areas as agreed between the Parties.
4. The Parties shall endeavour to undertake forms of cooperation that build on and do not duplicate existing cooperation initiatives pursued in international forums.

ARTICLE 12.11: DISPUTE SETTLEMENT PROVISIONS

The provisions in Chapter 15 (Dispute Settlement) shall not apply to the provisions of this Chapter.

(b) 这样做将降低贸易管理程序的有效性。

2. 各方应在双边及国际论坛上合作，以提高贸易管理文件的电子版本接受度。
3. 在制定旨在提供无纸化贸易使用的倡议时，每一方应努力考虑国际组织商定的方法。
4. 每一方应努力将所有贸易管理文件以电子版本形式提供给公众。

第12条.10：电子商务合作

1. 各方应鼓励在研究和培训活动中进行合作，以促进电子商务的发展，包括分享电子商务发展的最佳实践。

2. 各方应鼓励合作活动以促进电子商务，包括那些旨在提高电子商务有效性和效率的活动。

3. 第1段和第2段所述的合作活动可包括但不限于：

(a) 分享关于监管框架的信息；(b) 分享关于在线消费者保护的信息，包括未经请求的商业电子信息；以及(c) 双方同意的其他领域。

4. 各方应努力开展合作形式，这些形式应建立在现有的国际合作倡议之上，而不是重复在国际论坛上追求的合作倡议。

ARTICLE 12.11: DISPUTE SETTLEMENT PROVISIONS

第12章（争端解决）的规定不适用于本章的规定。