

CHAPTER FIFTEEN

ELECTRONIC COMMERCE

Article 1501: Scope and Coverage

1. The Parties confirm that this Agreement, including Chapter Nine (Cross-Border Trade in Services), Chapter Two (National Treatment and Market Access for Goods), Chapter Eight (Investment), Chapter Fourteen (Government Procurement), Chapter Eleven (Financial Services), Chapter Ten (Telecommunications), and Chapter Twenty-Two (Exceptions) applies to trade conducted by electronic means.¹ In particular, the Parties recognize the importance of the access and use provisions of Chapter Ten (Telecommunications) in enabling trade conducted by electronic means.

2. Nothing in this Chapter imposes obligations on a Party to allow products to be delivered electronically, except in accordance with the obligations of that Party in other Chapters of this Agreement.

Article 1502: General Provisions

1. The Parties recognize the economic growth and opportunities provided by electronic commerce and the applicability of WTO rules to electronic commerce.

¹ For greater certainty, the application of this Agreement to trade conducted by electronic means includes the application of the reservations or exceptions taken by a Party as set out in its schedule to Annex I, II, or III.

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) interoperability, innovation and competition in facilitating electronic commerce;
- (c) ensuring that global and domestic electronic commerce policy takes into account the interest of all stakeholders, including business, consumers, non-government organizations and relevant public institutions; and
- (d) facilitating the use of electronic commerce of micro, small and medium sized enterprises.

3. Each Party shall endeavour to adopt measures to facilitate trade conducted by electronic means by addressing issues relevant to the electronic environment.

4. The Parties recognize the importance of avoiding unnecessary barriers to trade conducted by electronic means. Having regard to its national policy objectives, each Party shall endeavour to guard against measures that:

- (a) unduly hinder trade conducted by electronic means; or,
- (b)# have the effect of treating trade conducted by electronic means more restrictively than trade conducted by other means.

Article 1503: Customs Duties

1.# Neither Party may apply customs duties, fees, or charges on or in connection with the importation or exportation of digital products by electronic means.

2.# For greater clarity, this Article does not preclude either Party from imposing internal taxes or other internal charges on digital products delivered electronically, provided that such taxes or charges are imposed in a manner that is not inconsistent with this Agreement.

Article 1504: Transparency

Pursuant to Article 1901 (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 1505: Consumer Protection

1.# The Parties recognize the importance of maintaining and adopting transparent and effective measures to protect consumers from fraudulent and deceptive commercial practices in electronic commerce.

2.# To this end, the Parties should exchange information and experiences on national approaches for the protection of consumers engaging in electronic commerce.

Article 1506: Paperless Trade Administration

1. Each Party shall endeavour to make trade administration documents available to the public in electronic form.
2. Each Party shall endeavour to accept trade administration documents submitted electronically as the legal equivalent of the paper version of such documents.

Article 1507: Protection of Personal Information

- 1.# The Parties recognize the importance of the protection of personal information in the on-line environment.
2. To this end, each Party should:
 - (a) adopt or maintain legal, regulatory and administrative measures for the protection of personal information of users engaged in electronic commerce; and
 - (b) exchange information and experiences regarding their domestic regimes on the protection of personal information.

Article 1508: Cooperation

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

- (a)# working together to facilitate the use of electronic commerce of micro, small and medium sized enterprises;

- (b)# sharing information and experiences on laws, regulations, and programs in the sphere of 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 1509: Relation to Other Chapters

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

Article 1510: Definitions

For purposes of this Chapter:

authentication means the process or act of establishing the identity of a party to an electronic communication or transaction or ensuring the integrity of an electronic communication;

delivered electronically means delivered through telecommunications, alone or in conjunction with other information and communication technologies;

digital products means computer programs, text, video, images, sound recordings and other products that are digitally encoded;

personal information means any information relating to an identified or identifiable natural person;

telecommunications means “telecommunications” as defined in Article 1014 (Telecommunications - Definitions);

trade administration documents means forms that a Party issues or controls that must be completed by or for an importer or exporter in connection with the import or export of goods; and

trade conducted by electronic means means trade conducted through telecommunications, alone or in conjunction with other information and communication technologies.