

CHAPTER THIRTEEN

ELECTRONIC COMMERCE

Article 13.1: Scope of Application

1. The Parties confirm that trade conducted by electronic means is subject to the provisions of this Agreement, including those in Chapters Two (National Treatment and Market Access for Goods), Nine (Cross-Border Trade in Services), Ten (Financial Services), Eleven (Telecommunications), and Fourteen (Government Procurement). In particular, the Parties recognise the importance of Article 11.2 (Access to and Use of Public Telecommunications Transport Networks and Services) in enabling trade conducted by electronic means.

2. The Parties also confirm that this Chapter does not impose obligations on a Party to allow digital products to be delivered electronically, except in accordance with the commitments of that Party in other Chapters.

Article 13.2: General Provisions

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

2. Considering the potential of electronic commerce as a social and economic development tool, the Parties recognise 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, having regard to the interests of users, through initiatives such as industry guidelines, model contracts, and codes of conduct;
- (c) facilitating electronic commerce through interoperability, innovation, and competition;
- (d) ensuring that global and domestic electronic commerce policy takes into account the interest of all stakeholders, including business, consumers, non-government organisations, and relevant public institutions; and
- (e) facilitating the use of electronic commerce of small- and medium-sized enterprises and developing countries.

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 recognise the importance of avoiding unnecessary barriers to trade conducted by electronic means. Having regard to national policy objectives, each Party shall endeavour to prevent 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 13.3: Customs Duties

1. A Party shall not apply customs duties, fees, or charges on or in connection with digital products delivered electronically.
2. For greater certainty, this Chapter does not preclude a 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 consistent with this Agreement.

Article 13.4: Protection of Personal Information

Each Party shall adopt or maintain measures for the protection of the personal information of the users of electronic commerce. In the development of personal information protection standards, each Party shall take into account international standards of relevant international organisations.

Article 13.5: 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 those documents.

Article 13.6: Consumer Protection

1. The Parties recognise the importance of maintaining and adopting transparent and effective measures to protect consumers from fraudulent and deceptive commercial practices when they engage in electronic commerce.
2. To this end, the Parties should exchange information on their experiences in protecting consumers engaged in electronic commerce.

Article 13.7: Cooperation

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

- (a) working together to facilitate the use of electronic commerce by small- and medium-sized enterprises;
- (b) sharing information and experiences on laws, regulations, and programs pertaining to electronic commerce, including those related data privacy, consumer confidence, security in electronic communications, electronic 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 by encouraging 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 13.8: Relation to Other Chapters

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

Article 13.9: Definitions

For the purposes of this Chapter:

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

digital product means computer programs, text, video, images, sound recordings, or other products that are digitally encoded and produced for commercial sale or distribution;

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

telecommunications means the transmission and reception of signals by any electromagnetic means;

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

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