

APPENDIX 6

NEW CHAPTER 15 (ELECTRONIC COMMERCE)

CHAPTER 15 ELECTRONIC COMMERCE

ARTICLE 1 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 authentication** means the process or act of providing authenticity and reliability verification for the parties involved in electronic signature to ensure the integrity and security of the electronic communication or transaction;
- (c) **personal information** means any information, including data, about an identified or identifiable individual; and
- (d) **trade administration documents** means forms issued or controlled by a Party that must be completed by or for an importer or exporter in connection with the import or export of goods.

ARTICLE 2 General Provisions

1. The Parties recognise the economic growth and opportunities provided by electronic commerce and the importance of frameworks that promote consumer confidence in electronic commerce and of avoiding unnecessary barriers to its use and development.
2. This Chapter shall apply to measures adopted or maintained by a Party that affect trade by electronic means.
3. In the event of any inconsistency between this Chapter and other Chapters, the other Chapters shall prevail to the extent of the inconsistency.

ARTICLE 3 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.

ARTICLE 4

Electronic Authentication and Electronic Signatures

1. Except in circumstances otherwise provided for under its laws and regulations, a Party shall not deny the legal validity of a signature solely on the basis that the signature is in electronic form.
2. Each Party shall maintain or adopt, as soon as practicable, measures for electronic authentication that:
 - (a) permit participants in electronic transactions to determine the appropriate authentication technologies for their electronic transactions;
 - (b) permit participants in electronic transactions to have the opportunity to prove before judicial or administrative authorities that their electronic transactions comply with the Party's domestic laws and regulations with respect to authentication.
3. Notwithstanding paragraph 2, a Party may require that, for a particular category of transactions, the method of authentication meets certain performance standards or is certified by an authority accredited in accordance with its laws and regulations.
4. The Parties shall work towards the mutual recognition of digital certificates and electronic signatures.
5. The Parties shall encourage the use of interoperable electronic authentication and digital certificates.

ARTICLE 5

Customs Duties

1. Each Party shall maintain its practice of not imposing customs duties on electronic transmissions between the Parties, consistent with the WTO Ministerial Decision of 18 December 2017 in relation to the Work Programme on Electronic Commerce (WT/MIN(17)/65).

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 6 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 7 Online Consumer Protection

1. The Parties recognise the importance of adopting and maintaining transparent and effective consumer protection measures for electronic commerce as well as measures conducive to the development of consumer confidence.

2. Each Party shall, to the extent possible, provide protection for consumers using electronic commerce that affords a similar level of protection to that provided for consumers of other forms of commerce under its relevant laws, regulations and policies.

3. The Parties recognise the importance of cooperation between their respective competent authorities in charge of consumer protection on activities related to electronic commerce in order to enhance consumer protection.

ARTICLE 8 Personal Information Protection

1. The Parties recognise the economic and social benefits of protecting the personal information of users of electronic commerce and the contribution that this makes to enhancing consumer confidence in electronic commerce.

2. Each Party shall adopt or maintain measures that protect the personal information of users of electronic commerce. In the development of such measures, each Party shall, to the extent possible, take into account international standards and the criteria of relevant international organisations, to promote mutual compatibility between their regimes.¹

¹ For greater certainty, a Party may comply with the obligation in this paragraph by adopting or maintaining measures such as comprehensive privacy, personal information or personal data protection laws, sector-specific laws covering privacy, or laws that provide for the enforcement of voluntary undertakings by enterprises relating to privacy.

3. Recognising that the Parties may take different legal approaches to protecting online personal information, the Parties shall endeavour to exchange information on their respective regimes to promote compatibility between them.

ARTICLE 9 Paperless Trading

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 10 Cooperation on Electronic Commerce

1. The Parties agree to work together to assist small and medium-sized enterprises to overcome obstacles to the use of electronic commerce.

2. The Parties agree to share information and experience on issues related to electronic commerce, including, *inter alia*, laws and regulations, rules and standards, and best practices.

3. The Parties shall encourage cooperation in research and training activities to enhance the development of electronic commerce.

4. The Parties shall encourage business exchanges, cooperative activities and joint electronic commerce projects.

5. The Parties shall actively participate in regional and multilateral *fora* to promote the development of electronic commerce in a cooperative manner.

ARTICLE 11 Non-Application of Dispute Settlement

Neither Party shall have recourse to Chapter 12 (Dispute Settlement) for any matter arising under this Chapter.