

CHAPTER FIFTEEN

ELECTRONIC COMMERCE

Article 15.01: Definitions

For purposes of this Chapter:

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

digital product means a computer program, text, video, image, sound recording or other product that is digitally encoded; and

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

Article 15.02: Scope and Coverage

1. The Parties confirm that this Agreement, including Chapter 2 (National Treatment and Market Access for Goods), Chapter 9 (Investment), Chapter 10 (Cross-Border Trade in Services), Chapter 11 (Telecommunications), Chapter 12 (Financial Services), Chapter 16 (Government Procurement) and Chapter 23 (Exceptions) applies to electronic commerce. In particular, the Parties recognize the importance of Article 11.03 (Telecommunications - Access to and Use of Public Telecommunications Transport Networks or Services) in enabling electronic commerce.
2. Nothing in this Chapter imposes an obligation on a Party to allow a product to be delivered electronically, except in accordance with the obligations of that Party under another Chapter of this Agreement.

3. For greater certainty, a Party's reservations set out in its Schedule to Annex I, II or III apply to electronic commerce.

Article 15.03: General Provisions

1. The Parties recognize 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 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) 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) interoperability, innovation and competition in facilitating electronic commerce;
- (d) 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
- (e) sharing information and experiences on laws, regulations and programmes in order to facilitate the use of electronic commerce by micro-, small- and medium-sized enterprises.

3. Each Party shall endeavour to adopt measures to facilitate electronic commerce that address issues relevant to the electronic environment.

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

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

Article 15.04: Customs Duties on Digital Products Delivered Electronically

1. A Party shall not apply a customs duty, fee or charge on a digital product delivered electronically.

2. For greater clarity, paragraph 1 does not prevent a Party from imposing an internal tax or other internal charge not prohibited by this Agreement on a digital product delivered electronically.

Article 15.05: Relation to Other Chapters

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