

MODULE 1

INITIAL PROVISIONS AND GENERAL DEFINITIONS

Article 1.1: Scope

1. This Agreement shall apply to measures adopted or maintained by a Party that affect trade in the digital economy.
2. This Agreement shall not apply:
 - (a) to a service supplied in the exercise of governmental authority;
 - (b) except for Article 2.7 (Electronic Payments), to financial services;
 - (c) except for Article 8.3 (Government Procurement), to government procurement; or
 - (d) except for Article 9.5 (Open Government Data), to information held or processed by or on behalf of a Party, or measures related to that information, including measures related to its collection.

Article 1.2: Relation to Other Agreements

1. Recognising the Parties' intention for this Agreement to coexist with their existing international agreements, each Party affirms:
 - (a) in relation to existing international agreements to which all Parties are party, including the WTO Agreement, its existing rights and obligations with respect to the other Parties; and
 - (b) in relation to existing international agreements to which that Party and at least one other Party are party, its existing rights and obligations with respect to that other Party or Parties, as the case may be.
2. If a Party considers that a provision of this Agreement is inconsistent with a provision of another agreement to which it and at least one other Party are party, on request, the relevant Parties to the other agreement shall consult with a view to reaching a mutually satisfactory solution. This paragraph is without prejudice to a Party's rights and obligations under Module 14 (Dispute Settlement).¹

¹ For the purposes of the application of this Agreement, the Parties agree that the fact that an agreement provides more favourable treatment of goods, services, investments or persons than that provided for under this Agreement does not mean that there is an inconsistency within the meaning of paragraph 2.

Article 1.3: General Definitions

For the purposes of this Agreement, unless otherwise provided in this Agreement:

Agreement means the Digital Economy Partnership Agreement;

APEC means Asia-Pacific Economic Cooperation;

customs duty includes any duty or charge of any kind imposed on or in connection with the importation of a good, and any surtax or surcharge imposed in connection with such importation, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994;
- (b) fee or other charge in connection with the importation commensurate with the cost of services rendered; or
- (c) antidumping or countervailing duty;

days means calendar days;

enterprise means any entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association or similar organisation;

existing means in effect on the date of entry into force of this Agreement;

financial services is as defined in subparagraph 5(a) of the Annex on Financial Services in GATS;

GATS means the *General Agreement on Trade in Services*, set out in Annex 1B to the WTO Agreement;

GATT 1994 means the *General Agreement on Tariffs and Trade 1994*, set out in Annex 1A to the WTO Agreement;

goods means any merchandise, product, article or material;

Joint Committee means the joint committee established under Module 12 (Joint Committee and Contact Points);

measure includes any law, regulation, procedure, requirement or practice;

Party means any State or separate customs territory for which this Agreement is in force;

person means a natural person or an enterprise;

person of a Party means a national or an enterprise of a Party;

personal information means any information, including data, about an identified or identifiable natural person;

SME means a small and medium-sized enterprise, including a micro-sized enterprise;

WTO means the World Trade Organization; and

WTO Agreement means the *Marrakesh Agreement Establishing the World Trade Organization*, done at Marrakesh on April 15, 1994.