

## **CHAPTER 10 ELECTRONIC COMMERCE**

### **Article 10.1 : General Provisions**

The Parties recognize the economic growth and opportunity that electronic commerce provides, and the importance of promoting electronic commerce between the Parties, enhancing cooperation between the Parties regarding the development of electronic commerce, and promoting the wider use of electronic commerce globally.

### **Article 10.2 : Customs Duties**

1. A Party may not impose customs duties on electronic transmissions in compliance with any agreement relating to electronic commerce under the WTO, to which both Parties are party.
2. For greater certainty, nothing in paragraph 1 shall preclude a Party from imposing internal taxes, fees, or other internal charges on content transmitted electronically.

### **Article 10.3 : Electronic Authentication, Electronic Signatures and Digital Certificates**

1. Each Party shall endeavor to adopt or maintain legislation for electronic authentication that would:
  - (a) permit parties to an electronic transaction to mutually determine the appropriate authentication technologies and implementation models for their electronic transactions;
  - (b) permit parties to an electronic transaction to have the opportunity to prove that their electronic transaction complies with the Party's domestic laws and regulations in respect to electronic authentication; and
  - (c) not limit the recognition of authentication technologies and implementation models.
2. The Parties shall, where possible, endeavor to work towards the mutual recognition of digital certificates and electronic signatures that are issued or recognized by them based on internationally accepted standards.
3. The Parties shall encourage the interoperability of digital certificates used by business.

### **Article 10.4 : Domestic Regulatory Frameworks**

Each Party shall endeavor to adopt or maintain its domestic laws and regulations governing electronic transactions taking into account the *UNCITRAL Model Law on Electronic Commerce 1996*.

#### **Article 10.5 : Online Consumer Protection**

1. The Parties shall endeavor to adopt or maintain transparent measures to protect consumers from fraudulent and deceptive commercial practices when they engage in electronic commerce.
2. Each Party shall, where possible, provide protection for consumers using electronic commerce that is at least equivalent to that provided for consumers of other forms of commerce under its relevant domestic laws, regulations and policies.<sup>1</sup>

#### **Article 10.6 : Personal Data Protection**

1. Each Party shall endeavor to adopt or maintain legislative measures which ensure the protection of the personal data of the users of electronic commerce. In the development of personal data protection standards in electronic commerce, each Party recognizes the importance of taking into account the international standards and the criteria of relevant international organizations.
2. Each Party recognizes the necessity of taking an adequate level of safeguards for the protection of personal data of the users of electronic commerce that is transferred between the Parties.

#### **Article 10.7 : Paperless Trading**

1. Each Party shall endeavor to make electronic versions of its trade administration documents publicly available.
2. Each Party shall endeavor to accept trade administration documents submitted electronically as the legal equivalent of the paper version of those documents.<sup>2</sup>
3. Each Party shall, where possible, work towards the implementation of initiatives which provide for the use of paperless trading.

#### **Article 10.8 : Cooperation on Electronic Commerce**

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<sup>1</sup> A Party shall not be obliged to apply this paragraph before the date on which that Party enacts its domestic laws or regulations or adopts policies on protection for consumers using electronic commerce.

<sup>2</sup> For Viet Nam, the obligation may be applied, where possible, in compliance with its domestic laws and regulations on respective sectors.

1. Recognizing the global nature of electronic commerce, the Parties shall maintain mechanisms on cooperation, including research and training activities, which would enhance the development of electronic commerce. These may include, but are not limited to:

- (a) the electronic signatures and the electronic authentication;
- (b) the security of electronic commerce, including protection of personal data and online consumers and facilitation of prompt investigation and resolution of fraudulent incidents;
- (c) the promotion of the use of electronic versions of trade administration documents used by either Party;
- (d) exploring ways to provide assistance between the Parties in implementing an electronic commerce legal framework; and
- (e) actively participating in regional and multilateral fora to promote development of electronic commerce.

2. The Parties shall endeavor to share information and experiences on laws and regulations relating to electronic commerce and to assist small and medium enterprises to overcome the obstacles encountered in the use of electronic commerce.

3. Each Party shall, to the extent possible, make cooperative efforts with competent authorities when personal data transferred across its borders are leaked.

4. The Parties recognize the importance of cooperation between their respective national consumer protection authorities on activities related to cross-border electronic commerce in order to enhance consumer welfare.

## **Article 10.9 : Definitions**

For the purposes of this Chapter:

**digital certificates** means electronic documents or files that are issued or otherwise linked to a participant in an electronic communication or transaction for the purpose of establishing the participant's identity;

**electronic signature** means data in electronic form in, affixed to or logically associated with, a data message, which may be used to identify the signatory in relation to the data message and to indicate the signatory's approval of the information contained in the data message; and

**trade administration documents** means forms issued or controlled by a Party which must be completed by or for an importer or exporter in relation to the import or export of goods.