

CHAPTER 14

ELECTRONIC COMMERCE

ARTICLE 14.1: GENERAL

1. The Parties recognize the economic growth and opportunity that electronic commerce provides, the importance of avoiding barriers to its use and development, and the applicability of the WTO rules to measures affecting electronic commerce.
2. The Parties agree to promote the development of electronic commerce between them, in particular by cooperating on issues arising from electronic commerce under this Chapter.

ARTICLE 14.2: ELECTRONIC SUPPLY OF SERVICES

For greater certainty, the Parties affirm that measures affecting the supply of a service using electronic means are subject to the obligations contained in the relevant provisions of Chapters 9 (Investment), 10 (Cross-Border Trade in Services), and 11 (Financial Services), which are subject to any exceptions or non-conforming measures set out in this Agreement that are applicable to such obligations.

ARTICLE 14.3: DIGITAL PRODUCTS

1. Neither Party may impose customs duties, fees, or other charges¹ on or in connection with the importation or exportation of:
 - (a) if it is an originating good, a digital product fixed on a carrier medium²; or
 - (b) a digital product transmitted electronically.
2. Neither Party may accord less favorable treatment to some digital products transmitted electronically than it accords to other like digital product transmitted electronically
 - (a) on the basis that:
 - (i) the digital products receiving less favorable treatment are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in the territory of the other Party; or

¹ For greater certainty, paragraph 1 does not preclude a Party from imposing internal taxes or other internal charges on digital products, provided that the taxes or charges are imposed in a manner consistent with this Agreement.

² For greater certainty, a **digital product fixed on a carrier medium** is defined in Annex 14-A.

- (ii) the author, performer, producer, developer, or distributor of such digital products is a person of the other Party; or
- (b) so as otherwise to afford protection to other like digital products that are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in its territory³.

3. Paragraph 2 does not apply to any non-conforming measure described in accordance with Article 9.13 (Non-Conforming Measures), 10.6 (Non-Conforming Measures), or 11.9 (Non-Conforming Measures).

ARTICLE 14.4: ONLINE CONSUMER PROTECTION

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

ARTICLE 14.5: PERSONAL DATA PROTECTION

1. The Parties recognize the benefits of adopting or maintaining legislation for the protection of personal data of the users of electronic commerce in order to ensure their confidence in electronic commerce.
2. For this purpose, the Parties shall endeavor to share information and experiences on the protection of personal data in electronic commerce.

ARTICLE 14.6: PAPERLESS TRADING

1. Each Party shall endeavor to make trade administration documents available to the public in electronic form.
2. Each Party shall endeavor to accept trade administration documents submitted electronically as the legal equivalent of the paper version of those documents.

ARTICLE 14.7: COOPERATION

1. The Parties recognize the importance of cooperation mechanisms on issues arising from electronic commerce, *inter alia* to address the following:

³ For greater certainty, this paragraph does not provide any right to a non-Party or a person of a non-Party.

- (a) the protection of personal data;
- (b) the treatment of unsolicited commercial electronic messages;
- (c) the security of electronic commerce;
- (d) the protection of consumers in the field of electronic commerce; and
- (e) other issues of mutual concern relevant for the development of electronic commerce.

2. The Parties shall endeavor to share information and experiences on laws and regulations related to electronic commerce and shall endeavor to cooperate to help micro, small, and medium-sized enterprises overcome the obstacles they face in the use of electronic commerce.

3. Recognizing the global nature of electronic commerce, the Parties shall endeavor to actively participate in regional and multilateral fora to promote the development of electronic commerce and to exchange views, as necessary, within the framework of such fora on issues related to electronic commerce.

ARTICLE 14.8: RELATION TO OTHER CHAPTERS

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

ARTICLE 14.9: DEFINITIONS

For the purposes of this Chapter:

digital products means computer programs, text, video, images, sound recordings, and other products that are digitally encoded, regardless of whether they are fixed on a carrier medium or transmitted electronically⁴;

electronic transmission or **transmitted electronically** means the transfer of digital products using any electromagnetic or photonic means;

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

trade administration documents means forms that a Party issues or controls that must be completed by or for an importer or exporter in connection with the import or export of goods.

⁴ For greater certainty, digital products do not include digitized representations of financial instruments.

ANNEX 14-A
DIGITAL PRODUCT FIXED ON A CARRIER MEDIUM

A **digital product fixed on a carrier medium** means goods classified in the following subheadings:

HS 8523.21, 8523.29, 8523.41, 8523.49, 8523.51, 8523.59 or 8523.80.