

**ANNEX XIII**

REFERRED TO IN ARTICLE 3.21

ELECTRONIC COMMERCE



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Article 1

***Scope and General Provisions***

1. This Annex applies to measures by Parties affecting electronic commerce in goods and services.
2. The Parties recognise:
  - (a) the economic growth and opportunities that electronic commerce in goods and services provides, in particular for businesses and consumers, as well as the potential for enhancing international trade;
  - (b) the importance of avoiding barriers to the use and development of electronic commerce in goods and services; and
  - (c) the need to create an environment of trust and confidence for users of electronic commerce which covers, *inter alia*:
    - (i) protection of privacy of individuals in relation to the storage, processing and dissemination of personal data;
    - (ii) protection of confidentiality of individual records and accounts;
    - (iii) measures to prevent and fight deceptive and fraudulent practices or to deal with the effects of a default on contracts;
    - (iv) measures against unsolicited commercial electronic messages; and
    - (v) protection of public morals and young generations.

## Article 2

### ***Definitions***

For the purposes of this Annex:

- (a) “electronic signature” means data in electronic form which are attached to or logically linked with other electronic data and which are used for authentication of the signatory;
- (b) “trade administration documents” means forms 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 or by a service supplier in connection with trade in services;
- (c) “unsolicited commercial electronic messages” means electronic messages sent for commercial purposes without the consent of the recipient or against the explicit rejection of the recipient.

## Article 3

### ***Electronic Supply of Services***

Measures affecting the supply of a service delivered or performed electronically are subject to the rights and obligations contained in the relevant provisions of Chapter 3 (Trade in Services), which are subject to terms, limitations and conditions on market access and conditions and qualifications on national treatment set out in Annex XII (Schedules of Specific Commitments).

## Article 4

### ***Customs Duties***

The Parties confirm their current practice under the terms of the Decision of 13 December 2017 of the WTO Ministerial Conference in Buenos Aires<sup>1</sup> of not imposing customs duties on electronic transmissions.<sup>2</sup>

## Article 5

### ***Electronic Signatures and Certification Services***

1. No Party shall adopt or maintain domestic laws and regulations on electronic signatures that would prevent parties to an electronic transaction from having the

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<sup>1</sup> WT/MIN(17)/65.

<sup>2</sup> For greater certainty, nothing in this Article prevents a Party from imposing internal taxes, fees or other charges on electronic transmissions, provided that such taxes, fees or charges are imposed in a manner consistent with the Agreement.

opportunity to prove in court, or before juridical or administrative authorities, that their electronic transaction complies with applicable legal requirements with respect to electronic signatures.

2. A Party may require that, for a particular category of electronic transactions, the electronic signatures meet certain performance standards or are based on a specific electronic certificate issued by a supplier of certification services accredited or recognised in accordance with the Party's domestic laws and regulations provided that the requirement:

- (a) serves a legitimate policy objective; and
- (b) is substantially related to achieving that objective.

3. Each Party shall, in accordance with its domestic laws and regulations on electronic signatures and certification services, endeavour to facilitate the procedure of accreditation or recognition of suppliers of certification services which have already obtained accreditation or recognition under the legislation of another Party.

4. This Article shall not apply to a Party for any transactions which are not permitted to be made electronically under the domestic laws and regulations of that Party.

5. Subject to each Party's domestic laws and regulations, nothing in this Article shall prevent:

- (a) online consumers from choosing the appropriate method for giving their consent to a sales contract; and
- (b) online sellers from choosing an appropriate method to conduct their business activities when they require the consent of the consumers to electronic transactions or communications.

## Article 6

### ***Protection of Online Consumers***

1. The Parties recognise the importance of effective measures to protect consumers from fraudulent and deceptive commercial practices as well as measures conducive to the development of consumer confidence when they engage in electronic commerce.

2. The Parties shall endeavour to promote cooperation between their respective national consumer protection agencies or other relevant bodies on activities related to cross-border electronic commerce in order to enhance consumer confidence.

3. Each Party's national consumer protection agencies shall endeavour to cooperate with those of the other Parties, in cases of mutual concern and if appropriate, in the enforcement of their domestic laws and regulations related to consumer

protection in order to prevent or detain fraudulent and deceptive commercial practices in electronic commerce.

4. The Parties shall endeavour to exchange information and experiences on national approaches for the protection of consumers engaging in electronic commerce.

5. The Parties shall adopt or maintain measures requiring service suppliers to inform consumers about their rights and obligations.

#### Article 7

##### ***Personal Data Protection***

1. The Parties recognise the rights of consumers to an adequate protection of their personal data when engaging in electronic commerce. The Parties recognise that an adequate level of protection of personal data contributes to consumer confidence.

2. Each Party shall:

- (a) adopt or maintain a domestic legal framework that provides for the protection of personal data; and
- (b) exchange information with the other Parties on its experiences in protecting personal data.

#### Article 8

##### ***Unsolicited Commercial Electronic Messages***

1. Each Party shall adopt or maintain measures regarding unsolicited commercial electronic messages that:

- (a) require suppliers of unsolicited commercial electronic messages to facilitate the ability of recipients to stop such messages; and
- (b) require the consent of recipients to receive commercial electronic messages, as specified in each Party's domestic laws and regulations.

2. Each Party shall endeavour to provide recourse against suppliers of unsolicited commercial electronic messages who do not comply with its measures pursuant to paragraph 1.

Article 9

***Paperless Trade Administration***

1. Each Party shall endeavour to make all trade administration documents available to the public in electronic form.
2. Each Party shall endeavour to accept documents referred to in paragraph 1 submitted electronically as the legal equivalent of the paper version of those documents.
3. Each Party shall endeavour to encourage their relevant public and private entities to cooperate with other Parties' entities on the activities related to paperless trade administration.

Article 10

***Cooperation on Electronic Commerce***

1. The Parties may have a dialogue on regulatory issues raised by electronic commerce, which could, *inter alia*, address the following issues:
    - (a) liability of intermediary service providers with respect to the transmission and storage of information;
    - (b) treatment of unsolicited commercial electronic messages; or
    - (c) other issues relevant for the development of electronic commerce.
  2. Such a dialogue could include an exchange of information on the Parties' domestic laws and regulations on these issues as well as on the implementation of such laws and regulations.
  3. Recognising the global nature of electronic commerce, the Parties shall endeavour to encourage cooperation in research and training activities that may enhance the development of electronic commerce.
  4. The Parties shall endeavour to undertake appropriate forms of cooperation, taking into account existing cooperation initiatives pursued in international fora.
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