CHAPTER 10

ELECTRONIC COMMERCE

Article 1
Objectives

The objectives of this Chapter are to:

(a) avoid restrictions to trade between the Parties being introduced as a result of the use of electronic commerce ("E-commerce") transactions;

(b) minimise the extent to which E-commerce transactions are subject to particular requirements, tariffs or other limitations or costs which are additional to other transactions;

(c) encourage where possible the treatment of E-commerce transactions by the Parties as equivalent to corresponding paper transactions; and

(d) promote the use of E-commerce to assist the timeliness and reduce the cost of commercial transactions.

Article 2
Promotion of E-Commerce

1. The Parties agree to:

(a) cooperate in promoting with respect to the use of E-commerce:

(i) the maintenance of an open trading environment for the free flow of information and services;

    (ii)   the minimisation of transaction costs for business;

    (iii) the international alignment of laws;

    (iv) effective regulatory coordination; and

    (v)   interoperability of infrastructures, such as secure electronic authentication and payments;

(b) promote the efficient functioning of E-commerce domestically and internationally by, wherever possible, developing domestic regulatory frameworks which are open, avoiding undue restrictions and costs on E-commerce and, as appropriate, ensuring that relevant processes are compatible with evolving international norms and practices;

(c) ensure a predictable and simple legal environment for E-commerce, taking into account the UNCITRAL *Model Law on Electronic Commerce 1996* and other model law(s) on E-commerce as may be adopted or revised by UNCITRAL or other such international organisations from time to time, that supports the maintenance of a secure infrastructure, enables public key infrastructure solutions to develop, and includes laws to facilitate the use of electronic methods in meeting statutory requirements;

(d) ensure that regulations and the development of regulations affecting E-commerce are transparent;

(e) endeavour to ensure that policy responses in respect of E-commerce:

    (i)   are flexible and take account of developments in a rapidly changing technology environment; and

(ii) do not impose unnecessary restrictions on the conduct of E-commerce;

(f) work to build consumer and business confidence to support the fullest economic and social benefits from E-commerce by:

(i) maintaining privacy protection laws and consumer laws relating to E-commerce;

(ii) encouraging the use of electronic signatures and electronic certification in order to ensure authenticity, integrity and confidentiality, and prevent fraud; and

(iii) promoting self-regulatory codes based on international norms and standards;

(g) protect intellectual property rights in a way that is supportive of the application of E-commerce and business innovation; and

(h) ensure that their regulatory regimes support the free flow of services, including the development of innovative ways of developing services, using electronic means.

2. For the purposes of this Article, UNCITRAL means the United Nations Commission on International Trade Law.

Article 3
E-Government Initiatives

The Parties agree that E-government initiatives should seek to:

(a) reduce compliance costs and enhance the general level of transparency of government regulations;

(b) deliver efficiency in administration (for example, paperless trading); and

(c) reduce technical barriers to trade.

Article 4
Consultations

At the request of either Party, the Parties agree to consult each other concerning:

(a) the development of policy for the conduct of E-commerce; and

(b) any policies or decisions which may impact adversely on E-commerce aspects of trade between the Parties.

Article 5
Non-Application of Dispute Settlement

Neither Party shall have recourse to any dispute settlement procedures under this Agreement in respect of any issue arising from or relating to this Chapter.