

法規名稱：ARRANGEMENT BETWEEN THE ASSOCIATION OF EAST ASIAN RELATIONS AND THE INTERCHANGE ASSOCIATION FOR THE MUTUAL COOPERATION ON ELECTRONIC COMMERCE

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#### Article 1

THE ASSOCIATION OF EAST ASIAN RELATIONS and THE INTERCHANGE ASSOCIATION (hereinafter collectively referred to as "both Sides" and individually referred to as the "Side"), having regard to paragraphs 3(1) and 3(7) of the Arrangement between the Association of East Asian Relations and the Interchange Association for the Establishment of the Respective Overseas Offices of 26 December 1972, recognizing the economic growth and opportunities that electronic commerce provides, the importance of avoiding barriers to its use and development and the principle of technological neutrality in electronic commerce, shall cooperate with each other in order to obtain necessary consent from the relevant authorities with regard to the matters as contained in Articles 2 through 12 below.

#### Article 2

1. Nothing in this Arrangement shall be construed so as to affect the existing commitments that are effective in the Areas of both Sides under the General Agreement on Trade in Services in Annex 1B to the WTO Agreement (hereinafter referred to in this Article as "the GATS").
2. In case of any inconsistency between this Arrangement and the existing commitments that are effective in the Areas of both Sides under the GATS, the existing commitments under the GATS shall prevail.

#### Article 3

For the purposes of this Arrangement,

- (a) The term "digital products" means computer programs, text, video, images, sound recordings, and other products that are

digitally encoded and produced for commercial sale or distribution, regardless of whether they are fixed on a carrier medium including, but not limited to, an optical medium, a floppy disk, and a magnetic tape or transmitted electronically;

(b)The term "transmitted electronically" means transferred by any electromagnetic or photonic means;

(c)The term "electronic signature" means a measure taken with respect to information that can be recorded in an electronic record, that could be used with the intention of identifying the person who had performed such measure, and which fulfills both of the following requirements:

(i) that the measure indicates that such information was created by the person who has taken such measure; and

(ii) that the measure confirms that such information has not been altered;

(d)The term "trade administration documents" means forms the relevant authorities in the Area of either Side issue or control that must be completed by or for an importer or exporter in connection with the importation or exportation of products.

(e) The term "Area" means:

(i) with respect to the Interchange Association, Japan; and

(ii) with respect to the Association of East Asian Relations, Taiwan.

#### Article 4

Practice of not imposing customs duties on electronic transmission, as prescribed in the decision adopted at the WTO Ministerial Conference of December 2011, shall be maintained between the Areas of both Sides.

#### Article 5

1. (a) Treatment accorded to digital products of the Area of either Side within the Area of the other Side shall not

be less favorable than the treatment accorded to like digital products of the Area of the other Side.

- (b) Treatment accorded to digital products of the Area of either Side within the Area of the other Side shall not be less favorable than the treatment accorded to like digital products of any other countries or regions.
- 2. Whether a digital product is a digital product of the Area of either Side, of the Area of the other Side or of any other countries or regions shall be determined in a transparent, objective, reasonable and fair manner.
- 3. Each Side shall, upon request by the other Side, explain how the origin of a digital product is determined with a view to achieving mutual satisfaction.

#### Article 6

All measures affecting electronic commerce should be administered in a transparent, objective, reasonable and impartial manner, and should not be more burdensome than necessary to achieve the objectives of the measures.

#### Article 7

- 1. The following regulatory measures regarding electronic signatures shall not be adopted or maintained within the Area of either Side:
  - (a) those that would prohibit parties to an electronic transaction from mutually determining the appropriate electronic signature methods for that transaction; and
  - (b) those that would prevent parties to an electronic transaction from having the opportunity to prove in court or administrative authorities that their electronic transaction complies with any legal requirements with respect to electronic signatures.
- 2. Notwithstanding paragraph 1, for a particular category of electronic transactions the electronic signatures may be required to meet certain performance standards or be based on

a specific electronic certificate issued by a supplier of certification services accredited or recognized in accordance with the laws and regulations of the Area of each Side, provided that the requirement:

- (a) serves a legitimate policy objective; and
  - (b) is substantially related to achieving that objective.
3. In the Area of each Side, the procedure of accreditation or recognition of suppliers of certification services which have already obtained accreditation or recognition under the legislation of the Area of the other Side should be facilitated, in accordance with the legislation of the Area of the former Side on electronic signatures and certification services.

#### Article 8

Both Sides will encourage the relevant authorities in their respective Areas to endeavor to make all trade administration documents available to the public in an electronic form and to accept trade administration documents submitted electronically as the legal equivalent of the paper versions of such documents.

#### Article 9

Both Sides will encourage the relevant authorities in their respective Areas to recognize the importance of:

- (a) adoption and maintenance of transparent and effective measures to protect consumers from fraudulent and deceptive commercial practices when they engage in electronic commerce;
- (b) cooperation between the competent authorities in the Areas of both Sides in charge of consumer protection on activities related to electronic commerce in the context of their mutual trade in order to enhance consumer protection; and
- (c) adoption or maintenance of measures, in accordance with the respective laws and regulations of the Area of each Side, to protect the personal information of electronic commerce

users.

#### Article 10

1. For the purpose of encouraging Internet service providers to cooperate with right holders in protecting their rights against materials infringing intellectual property rights, both Sides shall request the relevant authorities in their respective Areas to provide measures, subject to the respective laws and regulations of the Area of each Side, to limit the liabilities of Internet service providers for the removal of materials on their Internet websites where a right holder claims to the Internet service provider that such materials infringe his or her intellectual property rights, provided that the Internet service provider complies with the procedures to be followed by the parties concerned.
2. Both Sides shall request the relevant authorities in their respective Areas to provide a mechanism where right holders, who have given effective notification to an Internet service provider with respect to materials that they claim with valid reasons to be infringing on their intellectual property rights, could obtain, in accordance with the requirement of the respective laws and regulations of the Area of each Side, from the Internet service providers information on the identity of the information sender.

#### Article 11

Recognizing the global nature of electronic commerce, both Sides will encourage the relevant authorities in their respective Areas to:

- (a) work together to overcome obstacles encountered by small and medium enterprises in using electronic commerce;
- (b) share information and experiences on laws, regulations, and programs pertaining to electronic commerce, including those related to personal information, consumer confidence in electronic commerce, cyber-security, electronic signatures,

- intellectual property rights, and electronic government or authority;
- (c) work to maintain information flows between the Areas of both Sides as an essential element for a vibrant electronic commerce environment;
  - (d) encourage the private sector to adopt self-regulation, including through codes of conduct, model contracts, guidelines, and enforcement mechanisms that foster electronic commerce; and
  - (e) cooperate in appropriate cases of mutual concern on fraudulent and deceptive commercial practices in electronic commerce.

#### Article 12

1. This Arrangement shall enter into force on the date that both Sides inform each other that their respective procedures have been completed.
2. Either Side may at any time request consultations with the other Side for the purpose of amending this Arrangement.
3. Either Side may, by giving one year's advance notice in writing to the other Side, terminate this Arrangement.

This Arrangement has been made in the English language. In witness whereof, the representatives of both Sides signed this Arrangement in Taipei, on November 5, 2013.

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