“Chapter 7A
Electronic Commerce

Article 96A
Scope

1. This Chapter shall apply to measures by a Party affecting electronic commerce.

2. This Chapter shall not apply to government procurement.

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

Article 96B
Definitions

For the purposes of this Chapter:

(a) the term “computing facilities” means computer servers and storage devices for processing or storing information for commercial use ;

(b) the term “covered person” means:

(i) “investments”, as defined in subparagraph (f) of Article 58, of an investor of the other Party in the Area of a Party;

(ii) an “investor of the other Party” as defined in subparagraph (h) of Article 58; or

(iii) a “service supplier”, as defined in subparagraph (q) of Article 77, of a Party,

but does not include a “financial service supplier” or a “public entity” as defined in subparagraph 2(a) (ii) and (iii) of Section 1 of Annex 7, and a financial institution;

(c) the term “measure” means any measure, whether in the form of a law, regulation, rule, procedure, decision, administrative action or any other form; and

(d) the term “personal information” means any information, including data, about an identified or identifiable natural person.

Article 96C
Online Consumer Protection

1. The Parties recognize the importance of adopting and maintaining transparent and effective measures to protect consumers from fraudulent and misleading practices when they engage in electronic commerce.

2. For the purposes of this Article, fraudulent and misleading practices refers to those fraudulent and misleading practices that cause actual harm to consumers, or that pose an imminent threat of such harm if not prevented, for example:

(a) a practice of making misrepresentations of material fact, including implied factual misrepresentations, that cause significant detriment to the economic interests of misled consumers;

(b) a practice of failing to deliver products or provide services to consumers after the consumers are charged; or

(c) a practice of charging or debiting consumers’ financial, telephone or other accounts without authorization.

3. Each Party shall adopt or maintain domestic laws and regulations to provide protection for consumers using electronic commerce against fraudulent and misleading practices that cause harm or potential harm to such consumers.

4. The Parties recognize the importance of cooperation between their respective competent authorities in charge of consumer protection on activities related to electronic commerce in order to enhance consumer protection.

Article 96D
Personal Information Protection

1. The Parties recognize the economic and social benefits of protecting the personal information of users of electronic commerce and the contribution that protecting such personal information makes to enhancing consumer confidence in electronic commerce.