

CHAPTER 14

ELECTRONIC COMMERCE

Article 14.1: Definitions

For the purposes of this Chapter:

computing facilities means computer servers and storage devices for processing or storing information for commercial use;

covered person¹ means:

- (a) a covered investment as defined in Article 9.1 (Definitions);
- (b) an investor of a Party as defined in Article 9.1 (Definitions), but does not include an investor in a financial institution; or
- (c) a service supplier of a Party as defined in Article 10.1 (Definitions),

but does not include a “financial institution” or a “cross-border financial service supplier of a Party” as defined in Article 11.1 (Definitions);

digital product means a computer programme, text, video, image, sound recording or other product that is digitally encoded, produced for commercial sale or distribution, and that can be transmitted electronically;^{2, 3}

electronic authentication means the process or act of verifying the identity of a party to an electronic communication or transaction and ensuring the integrity of an electronic communication;

electronic transmission or **transmitted electronically** means a transmission made using any electromagnetic means, including by photonic means;

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

¹ For Australia, a covered person does not include a credit reporting body.

² For greater certainty, digital product does not include a digitised representation of a financial instrument, including money.

³ The definition of digital product should not be understood to reflect a Party’s view on whether trade in digital products through electronic transmission should be categorised as trade in services or trade in goods.

第 14 章

电子商务

第 14.1 条 定义

就本章而言：

计算设施指处理或存储用于商用信息的计算机服务器和存储设备；

涵盖的人¹指：

- (a) 按第 9.1 条(定义)中所定义的一涵盖投资；
- (b) 按第 9.1 条(定义)中所定义的一缔约方的投资者，但不包括一金融机构的投资者；或
- (c) 按第 10.1 条(定义)中所定义的缔约方的服务提供者，

但不包括按第 11.1 条(定义)中所定义的“金融机构”或“一缔约方的跨境金融服务提供者”；

数字产品指电脑程序、文本、视频、图像、声音记录，或其他经数字化编码、生产用于商业销售或分销、可通过电子方式传输的产品；^{2,3}

电子认证指验证电子通信的一方或交易的一方的身份并保证电子通信完整性的过程或行为；

电子传输或通过电子方式传输指采用任何电磁形式进行的传输，包括光子形式；

个人信息指关于已识别或可识别的自然人的任何信息，包括数据；

¹ 对于澳大利亚，一涵盖的人不包括信用报告机构。

² 为进一步明确，数字产品不包括以数字化表现的金融工具，例如货币。

³ 数字产品的定义不得被理解为反映一缔约方对通过电子传输的数字产品贸易应被归入服务贸易或货物贸易的观点。

trade administration documents means forms issued or controlled by a Party that must be completed by or for an importer or exporter in connection with the import or export of goods; and

unsolicited commercial electronic message means an electronic message which is sent for commercial or marketing purposes to an electronic address, without the consent of the recipient or despite the explicit rejection of the recipient, through an Internet access service supplier or, to the extent provided for under the laws and regulations of each Party, other telecommunications service.

Article 14.2: Scope and General Provisions

1. The Parties recognise the economic growth and opportunities provided by electronic commerce and the importance of frameworks that promote consumer confidence in electronic commerce and of avoiding unnecessary barriers to its use and development.

2. This Chapter shall apply to measures adopted or maintained by a Party that affect trade by electronic means.

3. This Chapter shall not apply to:

- (a) government procurement; or
- (b) information held or processed by or on behalf of a Party, or measures related to such information, including measures related to its collection.

4. For greater certainty, measures affecting the supply of a service delivered or performed electronically are subject to the obligations contained in the relevant provisions of Chapter 9 (Investment), Chapter 10 (Cross-Border Trade in Services) and Chapter 11 (Financial Services), including any exceptions or non-conforming measures set out in this Agreement that are applicable to those obligations.

5. For greater certainty, the obligations contained in Article 14.4 (Non-Discriminatory Treatment of Digital Products), Article 14.11 (Cross-Border Transfer of Information by Electronic Means), Article 14.13 (Location of Computing Facilities) and Article 14.17 (Source Code) are:

- (a) subject to the relevant provisions, exceptions and non-conforming measures of Chapter 9 (Investment), Chapter 10 (Cross-Border Trade in Services) and Chapter 11 (Financial Services); and
- (b) to be read in conjunction with any other relevant provisions in this Agreement.

贸易管理文件指由一缔约方发布或控制的、必须由或为进口商或出口商填写的与货物进口或出口有关的表格；以及

非应邀商业电子信息指出于商业或营销目的，未经接收人同意或接收人已明确拒绝，通过互联网接入服务提供者或在每一缔约方法律法规所规定的限度内通过其他电信服务，向一电子地址发送的电子信息。

第 14.2 条 范围和总则

1. 缔约方认识到电子商务带来的经济增长和机遇及促进消费者对电子商务的信心和避免对其使用和发展造成不必要障碍的框架的重要性。
2. 本章应适用于一缔约方采取或维持的影响电子方式贸易的措施。
3. 本章不得适用于：
 - (a) 政府采购；或
 - (b) 缔约方或以其名义持有或处理的信息，或与该信息相关的措施，包括与信息收集相关的措施。
4. 为进一步明确，影响通过电子方式交付或提供服务的措施需遵守第 9 章(投资)、第 10 章(跨境服务贸易)和第 11 章(金融服务)相关条款所包含的义务，包括本协定中所列适用于这些义务的任何例外或不符措施。
5. 为进一步明确，第 14.4 条(数字产品的非歧视待遇)、第 14.11 条(通过电子方式跨境传输信息)、第 14.13 条(计算设施的位置)以及第 14.17 条(源代码)所包含的义务：
 - (a) 应遵守第 9 章(投资)、第 10 章(跨境服务贸易)和第 11 章(金融服务)的相关条款、例外和不符措施；及
 - (b) 应与本协定任何其他相关条款一同理解。

6. The obligations contained in Article 14.4 (Non-Discriminatory Treatment of Digital Products), Article 14.11 (Cross-Border Transfer of Information by Electronic Means) and Article 14.13 (Location of Computing Facilities) shall not apply to the non-conforming aspects of measures adopted or maintained in accordance with Article 9.12 (Non-Conforming Measures), Article 10.7 (Non-Conforming Measures) or Article 11.10 (Non-Conforming Measures).

Article 14.3: Customs Duties

1. No Party shall impose customs duties on electronic transmissions, including content transmitted electronically, between a person of one Party and a person of another Party.

2. For greater certainty, paragraph 1 shall not preclude a Party from imposing internal taxes, fees or other charges on content transmitted electronically, provided that such taxes, fees or charges are imposed in a manner consistent with this Agreement.

Article 14.4: Non-Discriminatory Treatment of Digital Products

1. No Party shall accord less favourable treatment to digital products created, produced, published, contracted for, commissioned or first made available on commercial terms in the territory of another Party, or to digital products of which the author, performer, producer, developer or owner is a person of another Party, than it accords to other like digital products.⁴

2. Paragraph 1 shall not apply to the extent of any inconsistency with the rights and obligations in Chapter 18 (Intellectual Property).

3. The Parties understand that this Article does not apply to subsidies or grants provided by a Party, including government-supported loans, guarantees and insurance.

4. This Article shall not apply to broadcasting.

Article 14.5: Domestic Electronic Transactions Framework

1. Each Party shall maintain a legal framework governing electronic transactions consistent with the principles of the *UNCITRAL Model Law on Electronic Commerce 1996* or the *United Nations Convention on the Use of Electronic Communications in International Contracts*, done at New York,

⁴ For greater certainty, to the extent that a digital product of a non-Party is a “like digital product”, it will qualify as an “other like digital product” for the purposes of this paragraph.

6. 第 14.4 条(数字产品的非歧视待遇)、第 14.11 条(通过电子方式跨境传输信息)和 14.13 条(计算设施的位置)中所包含的义务不得适用于依照第 9.12 条(不符措施)、第 10.7 条(不符措施)或第 11.10 条(不符措施)采取或维持的措施的不符方面。

第 14.3 条 海关关税

1. 任何缔约方不得对一缔约方的人与另一缔约方的人之间的电子传输，包括以电子方式传输的内容征收关税。
2. 为进一步明确，第 1 款不得阻止一缔约方对以电子方式传输的内容征收国内税、规费或其他费用，只要此类国内税、规费或费用以符合本协定的方式征收。

第 14.4 条 数字产品的非歧视待遇

1. 任何缔约方给予在另一缔约方领土内创造、生产、出版、订约、代理或首次商业化提供的数字产品的待遇，或给予作者、表演者、生产者、开发者或所有者为另一缔约方的人的数字产品的待遇，不得低于其给予其他同类数字产品的待遇。⁴
2. 第 1 款不适用于与第 18 章(知识产权)中的权利和义务出现任何不一致的情况。
3. 缔约方理解，本条不适用于一缔约方提供的补贴或赠款，包括政府支持的贷款、担保和保险。
4. 本条不得适用于广播。

第 14.5 条 国内电子交易框架

1. 每一缔约方应维持与联合国贸易法委员会《1996 年电子商务示范法》或 2005 年 11 月 23 日订于纽约的《联合国关于在国际合同中使用电子通信的公约》的原则相一致的管辖电子交易的

⁴ 为进一步明确，如一非缔约方的数字产品属于“同类数字产品”，则就本款而言，这一产品将被视为符合“其他同类数字产品”。

November 23, 2005.

2. Each Party shall endeavour to:
 - (a) avoid any unnecessary regulatory burden on electronic transactions; and
 - (b) facilitate input by interested persons in the development of its legal framework for electronic transactions.

Article 14.6: Electronic Authentication and Electronic Signatures

1. Except in circumstances otherwise provided for under its law, a Party shall not deny the legal validity of a signature solely on the basis that the signature is in electronic form.
2. No Party shall adopt or maintain measures for electronic authentication that would:
 - (a) prohibit parties to an electronic transaction from mutually determining the appropriate authentication methods for that transaction; or
 - (b) prevent parties to an electronic transaction from having the opportunity to establish before judicial or administrative authorities that their transaction complies with any legal requirements with respect to authentication.
3. Notwithstanding paragraph 2, a Party may require that, for a particular category of transactions, the method of authentication meets certain performance standards or is certified by an authority accredited in accordance with its law.
4. The Parties shall encourage the use of interoperable electronic authentication.

Article 14.7: Online Consumer Protection

1. The Parties recognise the importance of adopting and maintaining transparent and effective measures to protect consumers from fraudulent and deceptive commercial activities as referred to in Article 16.6.2 (Consumer Protection) when they engage in electronic commerce.
2. Each Party shall adopt or maintain consumer protection laws to proscribe fraudulent and deceptive commercial activities that cause harm or potential harm to consumers engaged in online commercial activities.

法律框架。

2. 每一缔约方应努力：
 - (a) 避免对电子交易施加任何不必要的监管负担；及
 - (b) 在制定电子交易的法律框架过程中便利利害关系人提出建议。

第 14.6 条 电子认证和电子签名

1. 除非其法律项下另有规定，否则一缔约方不得仅根据一签名是电子方式而否认该签名的法律效力。
2. 任何缔约方不得对电子认证采取或维持下列措施：
 - (a) 禁止一电子交易的当事方就该交易共同确定适当的认证方法；或
 - (b) 阻止一电子交易的当事方获得向司法或行政机关证明其交易符合有关认证的任何法律要求的机会。
3. 尽管有第 2 款，但是一缔约方可针对一特定交易类型，要求认证方法符合特定性能标准，或经一依照法律认可的授权机构的认证。
4. 缔约方应鼓励使用可交互操作的电子认证。

第 14.7 条 在线消费者保护

1. 缔约方认识到采取和维持透明和有效的措施以保护消费者在从事电子交易时免受如第 16.6.2 条(消费者保护)中所指的诈骗和商业欺诈行为侵害的重要性。
2. 每一缔约方应采用或维持消费者保护法，以禁止对从事在线商业活动的消费者造成损害或潜在损害的诈骗和商业欺诈行为。

3. The Parties recognise the importance of 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 welfare. To this end, the Parties affirm that the cooperation sought under Article 16.6.5 and Article 16.6.6 (Consumer Protection) includes cooperation with respect to online commercial activities.

Article 14.8: Personal Information Protection⁵

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

2. To this end, each Party shall adopt or maintain a legal framework that provides for the protection of the personal information of the users of electronic commerce. In the development of its legal framework for the protection of personal information, each Party should take into account principles and guidelines of relevant international bodies.⁶

3. Each Party shall endeavour to adopt non-discriminatory practices in protecting users of electronic commerce from personal information protection violations occurring within its jurisdiction.

4. Each Party should publish information on the personal information protections it provides to users of electronic commerce, including how:

- (a) individuals can pursue remedies; and
- (b) business can comply with any legal requirements.

5. Recognising that the Parties may take different legal approaches to protecting personal information, each Party should encourage the development of mechanisms to promote compatibility between these different regimes. These mechanisms may include the recognition of regulatory outcomes, whether accorded autonomously or by mutual arrangement, or broader international frameworks. To this end, the Parties shall endeavour to exchange information on any such mechanisms applied in their jurisdictions and explore ways to extend these or other suitable arrangements to promote compatibility between them.

⁵ Brunei Darussalam and Viet Nam are not required to apply this Article before the date on which that Party implements its legal framework that provides for the protection of personal data of the users of electronic commerce.

⁶ For greater certainty, a Party may comply with the obligation in this paragraph by adopting or maintaining measures such as a comprehensive privacy, personal information or personal data protection laws, sector-specific laws covering privacy, or laws that provide for the enforcement of voluntary undertakings by enterprises relating to privacy.

3. 缔约方认识到，各自国家级消费者保护机构或其他相关机构之间在与跨境电子商务相关的活动中开展合作以增强消费者福利的重要性。为此，缔约方确认根据第 16.6.5 条和第 16.6.6 条(消费者保护)寻求的合作包括关于在线商业活动的合作。

第 14.8 条 个人信息保护⁵

1. 缔约方认识到保护电子商务用户个人信息的经济和社会效益，及其对增强消费者对电子商务的信心所作贡献。

2. 为此，每一缔约方应采用或维持规定保护电子商务用户个人信息的法律框架。在制定其个人信息保护的框架时，每一缔约方应考虑相关国际机构的原则和指南。⁶

3. 每一缔约方在保护电子商务用户免受其管辖范围内发生的个人信息保护侵害方面应努力采取非歧视做法。

4. 每一缔约方应公布其为电子商务用户提供的关于个人信息保护的信息，包括：

- (a) 个人如何寻求救济；及
- (b) 企业如何符合任何法律要求。

5. 认识到缔约方可能采取不同法律方式保护个人信息，每一缔约方应鼓励建立促进这些不同体制之间兼容性的机制。这些机制可包括对监管结果的承认，无论是自主给予还是通过共同安排，或通过更广泛的国际框架。为此，缔约方应努力就其管辖范围内适用的此类机制交流信息，并探索扩大此类安排或其他适当安排的途径以促进各机制之间的兼容性。

⁵ 不要求文莱达鲁萨兰国和越南在其规定保护电子商务用户个人数据的法律框架实施之日前适用本条。

⁶ 为进一步明确，一缔约方可通过采取或维持措施以符合本款中的义务，例如全面保护隐私、个人信息或个人数据的法律、涵盖隐私的特定部门法律或规定执行由企业作出与隐私相关的自愿承诺的法律。

Article 14.9: Paperless Trading

Each Party shall endeavour to:

- (a) make trade administration documents available to the public in electronic form; and
- (b) accept trade administration documents submitted electronically as the legal equivalent of the paper version of those documents.

Article 14.10: Principles on Access to and Use of the Internet for Electronic Commerce

Subject to applicable policies, laws and regulations, the Parties recognise the benefits of consumers in their territories having the ability to:

- (a) access and use services and applications of a consumer's choice available on the Internet, subject to reasonable network management;⁷
- (b) connect the end-user devices of a consumer's choice to the Internet, provided that such devices do not harm the network; and
- (c) access information on the network management practices of a consumer's Internet access service supplier.

Article 14.11: Cross-Border Transfer of Information by Electronic Means

1. The Parties recognise that each Party may have its own regulatory requirements concerning the transfer of information by electronic means.

2. Each Party shall allow the cross-border transfer of information by electronic means, including personal information, when this activity is for the conduct of the business of a covered person.

3. Nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraph 2 to achieve a legitimate public policy objective, provided that the measure:

- (a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction

⁷ The Parties recognise that an Internet access service supplier that offers its subscribers certain content on an exclusive basis would not be acting contrary to this principle.

第 14.9 条 无纸贸易

每一缔约方应努力：

- (a) 以电子方式向公众提供贸易管理文件；及
- (b) 接受以电子方式提交的贸易管理文件作为与这些文件的纸质版具有同等法律效力的文件。

第 14.10 条 关于接入和使用互联网开展电子商务的原则

在遵守适用政策、法律和法规的前提下，缔约方认识到其领土内的消费者拥有下列能力的益处：

- (a) 在遵守合理网络管理的前提下，按消费者选择接入和使用互联网上可获得的服务和应用；⁷
- (b) 将消费者选择的终端用户设备接入互联网，只要该设备不损害网络；以及
- (c) 获得消费者的互联网接入服务提供者的网络管理实践的信息。

第 14.11 条 通过电子方式跨境传输信息

1. 缔约方认识到每一缔约方对通过电子方式传输信息可设有各自的监管要求。

2. 每一缔约方应允许通过电子方式跨境传输信息，包括个人信息，如这一活动用于涵盖的人开展业务。

3. 本条中任何内容不得阻止一缔约方为实现合法公共政策目标而采取或维持与第 2 款不一致的措施，只要该措施：

- (a) 不以构成任意或不合理歧视或对贸易构成变相限制

⁷ 缔约方认识到一互联网接入服务提供者对其用户独家提供特定内容属不违背这一原则的行为。

on trade; and

- (b) does not impose restrictions on transfers of information greater than are required to achieve the objective.

Article 14.12: Internet Interconnection Charge Sharing

The Parties recognise that a supplier seeking international Internet connection should be able to negotiate with suppliers of another Party on a commercial basis. These negotiations may include negotiations regarding compensation for the establishment, operation and maintenance of facilities of the respective suppliers.

Article 14.13: Location of Computing Facilities

1. The Parties recognise that each Party may have its own regulatory requirements regarding the use of computing facilities, including requirements that seek to ensure the security and confidentiality of communications.

2. No Party shall require a covered person to use or locate computing facilities in that Party's territory as a condition for conducting business in that territory.

3. Nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraph 2 to achieve a legitimate public policy objective, provided that the measure:

- (a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and
- (b) does not impose restrictions on the use or location of computing facilities greater than are required to achieve the objective.

Article 14.14: Unsolicited Commercial Electronic Messages⁸

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

⁸ Brunei Darussalam is not required to apply this Article before the date on which it implements its legal framework regarding unsolicited commercial electronic messages.

的方式适用；及

- (b) 不对信息传输施加超出实现目标所需限度的限制。

第 14.12 条 互联网互通费用分摊

缔约方认识到寻求国际互联网连接的一提供者应能够与另一缔约方的提供者在商业基础上进行谈判。这些谈判可包括就相关提供者设施的建立、运营和维护提供补偿开展的谈判。

第 14.13 条 计算设施的位置

1. 缔约方认识到每一缔约方对于计算设施的使用可设有各自的监管要求，包括寻求保证通信安全性和机密性的要求。
2. 任何缔约方不得要求一涵盖的人在该缔约方领土内将使用或设置计算设施作为在其领土内开展业务的条件。
3. 本条中任何内容不得阻止一缔约方为实现合法公共政策目标而采取或维持与第 2 款不一致的措施，只要该措施：
 - (a) 不以构成任意或不合理歧视或对贸易构成变相限制的方式适用；及
 - (b) 不对计算设施的使用或位置施加超出实现目标所需限度的限制。

第 14.14 条 非应邀商业电子信息⁸

1. 每一缔约方应对非应邀商业电子信息采取或维持下列措施：

⁸ 不要求文莱达鲁萨兰国在其实施有关非应邀商业电子信息的法律框架之日前适用本条。

- (a) require suppliers of unsolicited commercial electronic messages to facilitate the ability of recipients to prevent ongoing reception of those messages;
 - (b) require the consent, as specified according to the laws and regulations of each Party, of recipients to receive commercial electronic messages; or
 - (c) otherwise provide for the minimisation of unsolicited commercial electronic messages.
2. Each Party shall provide recourse against suppliers of unsolicited commercial electronic messages that do not comply with the measures adopted or maintained pursuant to paragraph 1.
3. The Parties shall endeavour to cooperate in appropriate cases of mutual concern regarding the regulation of unsolicited commercial electronic messages.

Article 14.15: Cooperation

Recognising the global nature of electronic commerce, the Parties shall endeavour to:

- (a) work together to assist SMEs to overcome obstacles to its use;
- (b) exchange information and share experiences on regulations, policies, enforcement and compliance regarding electronic commerce, including:
 - (i) personal information protection;
 - (ii) online consumer protection, including means for consumer redress and building consumer confidence;
 - (iii) unsolicited commercial electronic messages;
 - (iv) security in electronic communications;
 - (v) authentication; and
 - (vi) e-government;
- (c) exchange information and share views on consumer access to products and services offered online among the Parties;

- (a) 要求非应邀商业电子信息提供者提高接收人阻止继续接收这些信息的能力；
 - (b) 按每一缔约方的法律法规所规定的，要求获得接收人对于接收商业电子信息的同意；或
 - (c) 通过其他方式规定将非应邀商业电子信息减至最低程度。
2. 每一缔约方应规定针对未遵守根据第 1 款采取或维持的措施的非应邀商业电子信息提供者的追偿权。
3. 缔约方应努力就共同关注的适当案件中的非应邀商业电子信息监管进行合作。

第 14.15 条 合作

认识到电子商务的全球性，缔约方应努力：

- (a) 共同工作以帮助中小企业克服使用中的障碍；
- (b) 就有关电子商务的法规、政策、执行和遵守交流信息和分享经验，包括：
 - (i) 个人信息保护；
 - (ii) 在线消费者保护，包括消费者补偿和树立消费者信心的方法；
 - (iii) 非应邀商业电子信息；
 - (iv) 电子通信安全；
 - (v) 认证；以及
 - (vi) 电子政务；
- (c) 在缔约方之间就消费者获得在线提供的产品和服务交流信息和分享观点；

- (d) participate actively in regional and multilateral fora to promote the development of electronic commerce; and
- (e) encourage development by the private sector of methods of self-regulation that foster electronic commerce, including codes of conduct, model contracts, guidelines and enforcement mechanisms.

Article 14.16: Cooperation on Cybersecurity Matters

The Parties recognise the importance of:

- (a) building the capabilities of their national entities responsible for computer security incident response; and
- (b) using existing collaboration mechanisms to cooperate to identify and mitigate malicious intrusions or dissemination of malicious code that affect the electronic networks of the Parties.

Article 14.17: Source Code

1. No Party shall require the transfer of, or access to, source code of software owned by a person of another Party, as a condition for the import, distribution, sale or use of such software, or of products containing such software, in its territory.
2. For the purposes of this Article, software subject to paragraph 1 is limited to mass-market software or products containing such software and does not include software used for critical infrastructure.
3. Nothing in this Article shall preclude:
 - (a) the inclusion or implementation of terms and conditions related to the provision of source code in commercially negotiated contracts; or
 - (b) a Party from requiring the modification of source code of software necessary for that software to comply with laws or regulations which are not inconsistent with this Agreement.
4. This Article shall not be construed to affect requirements that relate to patent applications or granted patents, including any orders made by a judicial authority in relation to patent disputes, subject to safeguards against unauthorised disclosure under the law or practice of a Party.

- (d) 积极参与区域和多边论坛，以促进电子商务的发展；以及
- (e) 鼓励私营部门制定自律办法以促进电子商务繁荣，包括行为准则、示范合同、指南和执行机制。

第 14.16 条 网络安全事项合作

缔约方认识到下列各项的重要性：

- (a) 增强负责计算机安全事件应对的国家实体的能力；及
- (b) 利用现有合作机制，在识别和减少影响缔约方电子网络的恶意侵入或恶意代码传播方面开展合作。

第 14.17 条 源代码

1. 任何缔约方不得将要求转移或获得另一缔约方的人所拥有的软件源代码作为在其领土内进口、分销、销售或使用该软件或含有该软件的产品的条件。
2. 就本条而言，需遵守第 1 款的软件限于大众市场软件或含有该软件的产品，不包括用于关键基础设施的软件。
3. 本条中任何内容不得阻止：
 - (a) 在商业谈判合同中包含或实施与源代码的提供相关的条款和条件；或
 - (b) 一缔约方要求对软件源代码作出使该软件符合与本协定不相抵触的法律或法规所必需的修改。
4. 本条不得理解为影响与专利申请或已授予专利相关的要求，包括司法机关对专利争端发布的任何命令，但需防范未经一缔约方法律或实践授权的披露行为。

Article 14.18: Dispute Settlement

1. With respect to existing measures, Malaysia shall not be subject to dispute settlement under Chapter 28 (Dispute Settlement) regarding its obligations under Article 14.4 (Non-Discriminatory Treatment of Digital Products) and Article 14.11 (Cross-Border Transfer of Information by Electronic Means) for a period of two years after the date of entry into force of this Agreement for Malaysia.

2. With respect to existing measures, Viet Nam shall not be subject to dispute settlement under Chapter 28 (Dispute Settlement) regarding its obligations under Article 14.4 (Non-Discriminatory Treatment of Digital Products), Article 14.11 (Cross-Border Transfer of Information by Electronic Means) and Article 14.13 (Location of Computing Facilities) for a period of two years after the date of entry into force of this Agreement for Viet Nam.

第 14.18 条 争端解决

1. 对于现行措施，在本协定对马来西亚生效之日后 2 年期限内，对于其在第 14.4 条(数字产品的非歧视待遇)和第 14.11 条(通过电子方式跨境传输信息)下的义务，马来西亚不受第 28 章(争端解决)下的争端解决约束。
2. 对于现行措施，在本协定对越南生效之日后 2 年期限内，对于其在第 14.4 条(数字产品的非歧视待遇)、第 14.11 条(通过电子方式跨境传输信息)和第 14.13 条(计算设施的位置)下的义务，越南不受第 28 章(争端解决)下的争端解决约束。