

SECTION B – DATA FLOWS AND PERSONAL DATA PROTECTION

ARTICLE 11.5 – Cross-border data flows

1. The Parties are committed to ensuring cross-border data flows to facilitate trade in the digital economy. To that end, a Party shall not restrict cross-border data flows between the Parties by:
 - (a) requiring the use of computing facilities or network elements in the Party's territory for processing, including by imposing the use of computing facilities or network elements that are certified or approved in the territory of the Party;
 - (b) requiring the localisation of data in the Party's territory for storage or processing;
 - (c) prohibiting storage or processing in the territory of the other Party;
 - (d) making the cross-border transfer of data contingent upon the use of computing facilities or network elements in the Party's territory or upon localisation requirements in the Party's territory; or
 - (e) requiring the approval prior to the transfer of data to the territory of the other Party.¹
2. The Parties shall keep the implementation of paragraph 1 under review and assess its functioning within three years after the date of entry into force of this Agreement. A Party may at any time propose to the other Party to review the list of restrictions specified in paragraph 1. That request shall be accorded sympathetic consideration.
3. If a Party undertakes commitments to refrain from adopting or maintaining restrictions of cross-border data flows between that Party and a third country, in addition to the commitments specified in paragraph 1, in an existing or future bilateral or multilateral trade agreement with a

¹ For greater certainty, point (e) of paragraph 1 does not prevent a Party from:

- (a) subjecting the use of a specific transfer instrument or a particular cross-border transfer of data to approval on grounds relating to the protection of personal data and privacy, in accordance with Article 11.6 (Personal information protection);
- (b) requiring the certification or conformity assessment of information and communication technology products, services and processes, including Artificial Intelligence, before their commercialisation or use in its territory, to ensure compliance with laws and regulations consistent with this Agreement or for cybersecurity purposes, in accordance with Article 23.1 (General exceptions), Article 23.2 (Security exceptions), Article 9.69 (Measures for prudential reasons) or Article 11.6 (Personal information protection);
- (c) requiring that re-users of data protected by intellectual property rights or confidentiality obligations resulting from domestic laws and regulations consistent with this Agreement, respect such rights or obligations when transferring the data across borders, including with regard to access requests by courts and authorities of third countries, in compliance with Article 23.4 (Treatment of information).

third country, the Parties may review the restrictions in paragraph 1 with a view to incorporating such commitments into this Article.

ARTICLE 11.6 – Personal information protection

1. Each Party recognises that natural persons have a right to the protection of personal data and privacy and that high standards in this regard contribute to trust in the digital economy and to the development of trade.
2. Nothing in this Agreement shall prevent a Party from adopting or maintaining any measure to protect personal data and privacy,¹ including with respect to cross-border data transfers, provided that the law of the Party provides for instruments enabling transfers under conditions of general application² for the protection of the data transferred.
3. Each Party shall inform the other Party about any measure referred to in paragraph 2 that it adopts or maintains.

¹ For greater certainty, such measures include measures relating to credit information, or related personal information, of a natural person.

² For greater certainty, "conditions of general application" refer to conditions formulated in objective terms that apply horizontally to an unidentified number of economic operators and thus cover a range of situations and cases.