ARTICLE 8.72

Customs duties

The Parties shall not impose customs duties on electronic transmissions.

ARTICLE 8.73

Source code

1. A Party may not require the transfer of, or access to, source code of software owned by a person of the other Party[1]. Nothing in this paragraph shall prevent the inclusion or implementation of terms and conditions related to the transfer of or granting of access to source code in commercially negotiated contracts, or the voluntary transfer of or granting of access to source code for instance in the context of government procurement.

2. Nothing in this Article shall affect:

(a) requirements by a court, administrative tribunal or competition authority to remedy a violation of competition law;

(b) requirements by a court, administrative tribunal or administrative authority with respect to the protection and enforcement of intellectual property rights to the extent that source codes are protected by those rights; and

(c) the right of a Party to take measures in accordance with Article III of the GPA.

3. For greater certainty, nothing in this Article shall prevent a Party from adopting or maintaining measures[1] which are inconsistent with paragraph 1, in accordance with Articles 1.5, 8.3 and 8.65.

ARTICLE 8.74

Domestic regulation

Each Party shall ensure that all its measures of general application affecting electronic commerce are administered in a reasonable, objective and impartial manner.

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[1] For greater certainty, "source code of software owned by a person of the other Party" includes source code of software contained in a product.

[1] Those measures include measures to ensure security and safety, for instance in the context of a certification procedure.