(b) on the basis that the author, performer, producer, developer, or distributor of such digital products is a person of the other Party; or

(c) so as to otherwise afford protection to other like digital products that are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in its Area.

Note: Recognising the Parties' objective of promoting bilateral trade, the term "some digital products" in paragraph 1 refers solely to those digital products created, produced, published, contracted for, or commissioned in the Area of the other Party, or digital products of which the author, performer, producer, or developer is a person of the other Party.

2. Neither Party may accord less favourable treatment to digital products:

(a) created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in the Area of the other Party than it accords to like digital products created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in a non-Party; or

(b) whose author, performer, producer, developer, or distributor is a person of the other Party than it accords to like digital products whose author, performer, producer, developer, or distributor is a person of a non-Party.

3. Paragraphs 1 and 2 do not apply to:

(a) non-conforming measures adopted or maintained by a Party in accordance with Article 9.7 (Trade in Services - Non-Conforming Measures) or 14.10 (Investment - Non-Conforming Measures and Exceptions);

(b) the extent that they are inconsistent with Chapter 16 (Intellectual Property);

(c) government procurement;

(d) subsidies provided by a Party or a state enterprise including grants, government-supported loans, guarantees, and insurance; and

(e) services supplied in the exercise of governmental authority, as defined in Article 9.2 (Trade in Services – Definitions).

4. For greater certainty, paragraphs 1 and 2 do not prevent a Party from adopting or maintaining measures, including measures in the audio-visual and broadcasting sectors, in accordance with Article 9.7 (Trade in Services – Non-Conforming Measures) or 14.10 (Investment – Non-Conforming Measures and Exceptions).

Note: Nothing in this Article shall be construed as affecting rights and obligations of the Parties with respect to each other under Article 4 of the TRIPS Agreement.

Article 13.5
Domestic Regulation

1. Each Party shall ensure that measures it adopts or maintains do not unreasonably prohibit or restrict electronic commerce or its development.

2. Neither Party shall adopt or maintain measures regulating electronic transactions that:

(a) deny the legal effect, validity or enforceability of a transaction, including a contract, solely on the grounds that it is in the form of an electronic communication; or

(b) discriminate between different forms of technology,

unless such measures are provided for in its laws and regulations and are administered in a reasonable, objective and impartial manner.