(f) requiring the approval of the Party prior to the transfer of information to the territory of the other Party[1].

3. Nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraphs 1 and 2 to achieve a legitimate public policy objective[2], provided that the measure:

(a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade; and

(b) does not impose restrictions on transfers of information that are greater than necessary to achieve the objective.[3]

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[1] For greater certainty, subparagraph 2(f) does not prevent a Party from:
(a) subjecting the use of a specific transfer instrument or a particular cross-border transfer of information to approval on grounds relating to the protection of personal data and privacy, in compliance with paragraph 4;
(b) requiring the certification or conformity assessment of ICT 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 compliance with paragraphs 3 and 4, and Articles 1.5, 8.3 and 8.65; or
(c) requiring that re-users of information 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 information across borders, including with regard to access requests by courts and authorities of third countries, in compliance with Article 8.3.

[2] For the purposes of this Article, "legitimate public policy objective" shall be interpreted in an objective manner and shall enable the pursuit of objectives such as the protection of public security, public morals, or human, animal or plant life or health, or the maintenance of public order or other similar objectives of public interest, taking into account the evolving nature of digital technologies.

[3] For greater certainty, this paragraph does not affect the interpretation of other exceptions in this Agreement and their application to this Article, and the right of a Party to invoke any of them.

4. Nothing in this Article shall prevent a Party from adopting or maintaining measures on the protection of personal data and privacy, including with respect to cross-border transfers of information, provided that the law of the Party provides for instruments enabling transfers under conditions of general application[1] for the protection of the information transferred.

5. This Article does not apply to cross-border transfer of information held or processed by or on behalf of a Party.

6. A Party may at any time propose to the other Party to review the measures listed in paragraph 2.".

ARTICLE 4

The following Article shall be inserted after Article 8.81 of the Agreement:

"ARTICLE 8.82

Protection of personal data

1. The Parties recognise that individuals have a right to the protection of their personal data and privacy as provided for by the laws and regulations of each Party and that high standards in this regard contribute to trust in the digital economy and to the development of trade. Each Party recognises the right of the other Party to determine the appropriate level of the protection of personal data and privacy, to be provided for by their respective measures.

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[1] For greater certainty, in line with the horizontal nature of the protection of personal data and privacy, "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.