

8. This Article does not preclude enforcement of a commitment, undertaking, or requirement between private parties, if a Party did not impose or require the commitment, undertaking, or requirement. For the purposes of this Article, private parties include designated monopolies or state enterprises, if such entities are not exercising delegated governmental authority.

Article 8.9: Non-Conforming Measures

1. Articles 8.3, 8.4, 8.7, and 8.8 do not apply to:
 - (a) an existing non-conforming measure that is maintained by:
 - (i) the national government of a Party, as set out in its Schedule to Annex I;
 - (ii) a sub-national government of a Party, as set out by that Party in its Schedule to Annex I⁷; or
 - (iii) a local government of a Party⁸;
 - (b) the continuation or prompt renewal of a non-conforming measure referred to in subparagraph (a); or
 - (c) an amendment to a non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not diminish the conformity of the measure, with Articles 8.3, 8.4, 8.7 and 8.8, as it existed immediately before the amendment.
2. Articles 8.3, 8.4, 8.7, and 8.8 do not apply to a measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities, as set out in its Schedule to Annex II.
3. A Party shall not, under a measure adopted after the date of entry into force of this Agreement and set out in its Schedule to Annex II, require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.
4. Articles 8.3 and 8.4 do not apply to a measure that is an exception to, or derogation from, the obligations under Article 16.6 (National Treatment) as specifically provided in that Article.

⁷ For the purposes of this Article, sub-national government does not include local government.

⁸ For Korea, local government means a local government as defined in the *Local Autonomy Act*.