

Chapter 15

Exceptions

Article 159: General Exceptions

1. For purposes of Chapter 3 (National Treatment and Market Access for Trade in Goods), Chapter 4 (Rules of Origin and Related Operational Procedures), Chapter 5 (Customs Procedures), Chapter 6 (Sanitary and Phytosanitary Measures) and Chapter 7 (Technical Barriers to Trade), Article XX of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*. The Parties understand that the measures referred to in Article XX (b) of GATT 1994 include environmental measures necessary to protect human, animal, or plant life or health, and that Article XX (g) of GATT 1994 applies to measures relating to the conservation of living and nonliving exhaustible natural resources, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in goods.

2. For purposes of Chapter 9 (Investment, Trade in Services and Temporary Entry of Business Persons), Article XIV of GATS (including its footnotes) is incorporated into and made part of this Agreement, *mutatis mutandis*. The Parties understand that the measures referred to in Article XIV (b) of GATS include environmental measures necessary to protect human, animal, or plant life or health, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services and investment.

Article 160: Security Exceptions

Nothing in this Agreement shall be construed:

- (a) to require a Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests; or
- (b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:
 - (i) relating to fissionable materials or the materials from which they are derived;
 - (ii) relating to the supply of services as carried out directly for the purpose of provisioning a military establishment;
 - (iii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

- (iv) taken in time of war or other emergency in international relations; or
- (c) to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for maintenance of international peace and security.

Article 161: Taxation

1. Except as set out in this Article, nothing in this Agreement shall apply to taxation measures.
2. Nothing in this Agreement shall affect the rights and obligations of any Party under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency. In the case of a tax convention between the Parties, the competent authorities under that convention shall have sole responsibility for determining whether any inconsistency exists between this Agreement and that convention.
3. Notwithstanding paragraph 2, Article 8 (National Treatment) and such other provisions of this Agreement as are necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article III of GATT 1994.

Article 162: Disclosure of Information

Nothing in this Agreement shall be construed to require a Party to furnish or allow access to confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

Article 163: Restrictions to Safeguard the Balance of Payments

Where a Party is in serious balance of payments and external financial difficulties or threat thereof, the Party may adopt or maintain restrictions to safeguard the balance of payments in accordance with the WTO Agreement and with the Articles of Agreement of the International Monetary Fund.

Article 164: Definitions

For purposes of this Chapter:

1. **Tax convention** means a convention for the avoidance of double taxation or other international taxation agreement or arrangement.
2. Taxation measures do not include:
 - (a) customs duties as defined in Article 5 (Definitions);

- (b) the measures listed in subparagraphs (b) and (c) to the definition of customs duties in Article 5 (Definitions).