

CHAPTER 24
GENERAL EXCEPTIONS

Article 1
General Exceptions

1. For the purposes of this Agreement, Article XX of GATT 1994 and its interpretive notes and Article XIV of GATS (including its footnotes) are incorporated into and made part of this Agreement, *mutatis mutandis*.
2. The Parties understand that the measures referred to in Article XX(b) of GATT 1994 and Article XIV(b) of GATS 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 non-living exhaustible natural resources.
3. For the purposes of this Agreement, subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where like conditions prevail, or a disguised restriction on trade in goods or services and investment, nothing in this Agreement shall be construed to prevent the adoption or enforcement by a Party of measures necessary to protect that Party's works or specific sites of historical or archaeological value, or to support creative arts¹⁶ of significant value to that Party as a whole.

¹⁶ "Creative arts" include: the performing arts – including theatre, dance and music – visual arts and craft, literature, film and video, language arts, creative on-line content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid art work, including those that use new technologies to transcend discrete art form divisions. The term encompasses those activities involved in the presentation, execution and interpretation of the arts; and the study and technical development of these art forms and activities.

Article 2

Security Exceptions

For the purposes of this Agreement, Article XXI of GATT 1994 and its interpretative notes and Article XIV bis of GATS are incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 3

Measures to Safeguard the Balance of Payments

1. Where a Party is in serious balance of payments and external financial difficulties or under threat thereof, it may:
 - (a) in the case of trade in goods, in accordance with GATT 1994 and the WTO *Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994*, adopt restrictive import measures;
 - (b) in the case of services, in accordance with GATS, adopt or maintain restrictions on trade in services on which it has undertaken commitments, including on payments or transfers for transactions related to such commitments; and
 - (c) in the case of investments, adopt or maintain restrictions with regard to the transfer of funds related to investment, including those on capital account and the financial account.

2. Restrictions adopted or maintained under subparagraph 1 (b) or 1 (c) shall:
 - (a) be consistent with the *Articles of Agreement* of the International Monetary Fund;
 - (b) avoid unnecessary damage to the commercial, economic and financial interests of the other Party;
 - (c) not exceed those necessary to deal with the circumstances described in paragraph 1 of this Article;
 - (d) be temporary and be phased out progressively as the situation specified in paragraph 1 of this Article improves; and
 - (e) be applied on a national treatment basis and such that the other Party is treated no less favourably than any non-Party.
3. In determining the incidence of such restrictions, the Parties may give priority to economic sectors which are more essential to their economic development. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular sector.
4. Any restrictions adopted or maintained by a Party under paragraph 1 of this Article, or any changes therein, shall be notified to the other Party within 14 days from the date such measures are taken.
5. The Party adopting or maintaining any restrictions under paragraph 1 of this Article shall commence consultations with the other Party within 45 days from the date of notification in order to review the measures adopted or maintained by it.

Article 4
Prudential Measures

Notwithstanding any other provisions of this Agreement, a Party shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of the Agreement, they shall not be used as a means of avoiding the Party's commitments or obligations under the Agreement.

Article 5
Taxation Measures

1. Except as provided in this Article, nothing in this Agreement shall apply to taxation measures.
2. This Agreement shall only grant rights or impose obligations with respect to taxation measures:
 - (a) where corresponding rights or obligations are also granted or imposed under the WTO Agreement; or
 - (b) under Article 13 (Expropriation) of Chapter 12 (Investment).
3. Nothing in this Agreement shall affect the rights and obligations of the Parties under any tax agreement relating to the avoidance of double taxation in force between the Parties.

4. In the event of any inconsistency relating to a taxation measure between this Agreement and the *Agreement Between the New Zealand Commerce and Industry Office and the Taipei Economic and Cultural Office in New Zealand For the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Income*, done at Auckland on 11 November 1996, the latter shall prevail. Any consultations between the Parties about whether an inconsistency relates to a taxation measure shall include representatives of the competent authorities of the aforesaid latter agreement.
5. Nothing in this Agreement shall be regarded as obliging a Party to extend to the other Party the benefit of any treatment, preference or privilege arising from any existing or future agreement on the avoidance of double taxation or from the provisions on the avoidance of double taxation in any other international agreement or arrangement by which the Party is bound.

Article 6

Treaty of Waitangi

1. Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Party or as a disguised restriction on trade in goods and services, nothing in this Agreement shall preclude the adoption by New Zealand of measures it deems necessary to accord more favourable treatment to Māori in respect of matters covered by this Agreement including in fulfilment of its obligations under the Treaty of Waitangi.

2. The Parties agree that the interpretation of the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement. Chapter 21 (Dispute Settlement) shall otherwise apply to this Article. An arbitral tribunal established under Article 7 (Establishment of an Arbitral Tribunal) may be requested by Chinese Taipei to determine only whether any measure (referred to in paragraph 1 of this Article) is inconsistent with its rights under this Agreement.