

PART IV

GENERAL EXCEPTIONS

ARTICLE 97

General exception clause

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 international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by either Party of measures:

- (a) necessary to protect public morals;
- (b) necessary to protect human, animal or plant life or health;
- (c) relating to the importation or exportation of gold or silver;
- (d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII of the GATT, the protection of patents, trademarks and copyrights, and the prevention of deceptive practices;
- (e) relating to the products of prison labour;
- (f) imposed for the protection of national treasures of artistic, historic or archaeological value;
- (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;
- (h) undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the GATT Contracting Parties and not disapproved by them or which is itself so submitted and not so disapproved;⁵
- (i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilisation plan; Provided that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination; or
- (j) essential to the acquisition or distribution of products in general or local short supply; Provided that any such measures shall be consistent with the principle that the Parties are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of this Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist.

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The exception provided for in this sub-paragraph extends to any commodity agreement which conforms to the principles approved by the Economic and Social Council in its resolution 30 (IV) of 28 March 1947.

ARTICLE 98

Security exceptions

1. Nothing in this Agreement shall be construed to:
 - (a) require either Party to furnish any information the disclosure of which it considers contrary to its essential security interests; or
 - (b) prevent either 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 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; or
 - (iii) taken in time of war or other emergency in international relations; or
 - (c) prevent either Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.
2. The Trade and Development Committee shall be informed of measures taken under paragraphs 1(b) and (c) and of their termination.

ARTICLE 99

Taxation

1. Nothing in this Agreement, or in any arrangement adopted under this Agreement, shall be construed to prevent either Party from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.
2. Nothing in this Agreement, or in any arrangement adopted under this Agreement, shall be construed to prevent the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements or domestic fiscal legislation.
3. Nothing in this Agreement shall affect the rights and obligations of either 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.