

CHAPTER 16

GENERAL PROVISIONS AND EXCEPTIONS

ARTICLE 16.1: DISCLOSURE AND CONFIDENTIALITY OF INFORMATION

1. Nothing in this Agreement shall require a Party to furnish or to allow access to confidential information, which is designated as confidential under its domestic legislation or 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.

2. Unless otherwise provided in this Agreement, where a Party provides written information to the other Party in accordance with this Agreement and designates the information as confidential, the other Party shall maintain the confidentiality of the information. Such information shall be used only for the purposes specified, and shall not be otherwise disclosed without the specific permission of the Party providing the information, except where such use or disclosure is necessary to comply with legal or constitutional requirements or for the purpose of judicial proceedings.

ARTICLE 16.2: GENERAL EXCEPTIONS

1. For the purposes of Chapter 2 (Trade in Goods), Chapter 3 (Rules of Origin and Implementation Procedures), Chapter 4 (Customs Procedures and Trade Facilitation), Chapter 5 (Sanitary and Phytosanitary Measures), Chapter 6 (Technical Barriers to Trade), Chapter 7 (Trade Remedies) and the Annexes to the Chapters abovementioned, Article XX of GATT 1994, including its interpretative notes, is, incorporated into and made part of this Agreement, *mutatis mutandis*.

2. For the purposes of Chapter 8 (Trade in Services) and its Annexes, Article XIV of GATS, including its footnotes, is incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 16.3: SECURITY EXCEPTIONS

For the purpose of this Agreement, with respect to security exceptions, Article XXI of GATT 1994 and Article XIV *bis* of GATS are incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 16.4: TAXATION

1. For the purposes of this Article, the item “taxation measures” shall not include any customs or import duties.

2. Unless otherwise provided in this Article, nothing in this Agreement shall apply to taxation measures.

3. This Agreement shall only grant rights or impose obligations with respect to taxation measures where corresponding rights or obligations are also granted or imposed under the Article III of GATT 1994.

4. Notwithstanding paragraph 3, nothing in this Agreement shall:

- (a) oblige a Party to apply any most-favoured-nation obligation in this Agreement with respect to an advantage accorded by a Party pursuant to any tax convention;¹
- (b) apply to :
 - (i) a non-conforming provision of any taxation measure that is maintained by a Party on the date of entry into force of this Agreement;
 - (ii) the continuation or prompt renewal of a non-conforming provision of any such taxation measure; or
 - (iii) an amendment to a non-conforming provision of any such taxation measure to the extent that the amendment does not decrease the conformity of the tax measure with the Agreement, as it existed before the amendment;
- (c) prevent the adoption or enforcement by a Party of any taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes; or
- (d) prevent the adoption or enforcement by a Party of a provision that conditions the receipt, or continued receipt of an advantage relating to the contributions to, or income of, a pension trust, superannuation fund, or other arrangement to provide pension, superannuation, or similar benefits on a requirement that the Party maintain continuous jurisdiction, regulation, or supervision over such trust, fund, or other arrangement.

5. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency relating to a taxation measure between this Agreement and any such tax convention, the latter shall prevail to the extent of the inconsistency. With respect to tax convention between the Parties, any

¹ For the purposes of this Agreement, “tax convention” means a convention for the avoidance of double taxation or other international taxation agreement or arrangement to which both Parties are party.

consultation about whether any inconsistency exists shall include the competent authorities of each Party under that tax convention.

ARTICLE 16.5: REVIEW OF AGREEMENT

The Parties shall undertake a general review of the Agreement, with a view to furthering its objectives, within three years of the date of entry into force of this Agreement and at least every five years thereafter unless otherwise agreed by the Parties. The review shall include, but not be limited to, consideration of further liberalisation and expansion of market access.

ARTICLE 16.6: 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 case of trade in goods, in accordance with GATT 1994 and the *Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement, adopt restrictive import measures;
- (b) in case of trade in services, adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments.

2. Restrictions adopted or maintained under paragraph 1(b) 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;
- (d) be temporary and be phased out progressively as the situation specified in paragraph 1 improves; and
- (e) be applied on a non-discriminatory basis such that the other Party is treated no less favourably than any non-Party.

3. In determining the incidence of restrictions adopted or maintained under paragraph 1, a Party may give priority to economic sectors which are more essential to

its 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, or any changes therein, shall be notified promptly to the other Party.

5. The Party adopting or maintaining any restrictions under paragraph 1 shall commence consultations with the other Party in order to review the restrictions applied by it.