

CHAPTER 19

GENERAL PROVISIONS AND EXCEPTIONS

Article 19.1: 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 law 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. Except as 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 19.2: 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), and the Annexes to the Chapters abovementioned, Article XX of GATT 1994, including its interpretative notes, is, incorporated into and form an integral 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 the purposes of Chapter 8 (Cross-border Trade in Services), Chapter 9 (Financial Services), Chapter 10 (Temporary Entry for Business Persons), Chapter 11 (Investment) and Chapter 12 (Digital Economy) and its Annexes, Article XIV of GATS, including its footnotes, is incorporated into and form an integral 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 19.3: 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 and fusionable 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 19.4: Taxation

1. For the purposes of this Article, the item “taxation measures” shall not include any customs or import duties.
2. Except as 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;⁵¹

(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,

⁵¹ 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.

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

Article 19.5: Review of Agreement

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

Article 19.6: 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*, contained 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. If a Party considers that the restrictive measure adopted or maintained affects the bilateral trade relationship, it may request consultations with the other Party in order to review the restrictions applied by it, and the other Party shall commence such consultations.