

Chapter 15

Exceptions

Article 15.1: General Exceptions

1. For the purposes of Chapters 3 to 7 (Trade in Goods, Rules of Origin, Customs Procedures, Sanitary and Phytosanitary Measures, and 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.
2. For the purposes of Chapters 9 (Trade in Services), 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.
3. Nothing in this Agreement shall be construed to prevent a Party from taking action authorised by the WTO Dispute Settlement Body. This is referring to a suspension of concession. A Party taking such action shall inform the Commission to the fullest extent possible of measures taken and of their termination.

Article 15.2: Security Exceptions

1. Nothing in this Agreement shall be construed:
 - (a) to require a Party to furnish any information the disclosure of which it considers contrary to its essential security interests;
 - (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 traffic in arms, ammunition and implements of war and to such traffic in other goods and materials, or relating to the supply of services, as carried on directly or indirectly for the purpose of supplying or provisioning a military establishment; or
 - (iii) 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 the maintenance of international peace and security.
2. A Party taking action under paragraphs 1(b) and (c) shall inform the Commission to the fullest extent possible of measures taken and of their termination.

Article 15.3: Taxation

1. Except as provided in this Article, nothing in this Agreement shall apply to taxation measures.

2. Nothing in this Agreement shall affect the rights and obligations of the Parties under any tax convention or other arrangement on taxation in force between the Parties. In the event of any inconsistency relating to a taxation measure between this Agreement and any such convention or other arrangement on taxation, the latter shall prevail to the extent of the inconsistency.

3. Any consultations between the Parties about whether an inconsistency relates to a taxation measure shall be referred to the designated authorities of the Parties. The designated authorities shall consider the issue and decide whether the tax convention or arrangement prevails. If within twelve (12) months of the referral of the issue to the designated authorities, they decide with respect to the measure that gives rise to the issue that the tax convention or arrangement prevails, no procedures concerning that measure may be initiated under Chapter 14 (Dispute Settlement). Neither may such procedures be initiated during the period the issue is under consideration by the designated authorities.

4. Article 3.3 (National Treatment) and other provisions of such Chapter as are necessary to give effect to that Article shall apply to taxation measures to the same extent as covered by GATT 1994.

5. Articles 9.4 (National Treatment) and 10.4 (National Treatment) shall apply to taxation measures to the same extent as covered by GATS.

6. For the purposes of this Article, **taxation measure** means any measure relating to direct or indirect taxes, but does not include:

- (a) a customs duty; or
- (b) the measures listed in paragraphs (b) and (c) of the definition of customs duties in Article 2.1.

7. For the purposes of paragraph 2, **designated authority** means:

- (a) in the case of Chile, the *Director del Servicio de Impuestos Internos*, *Ministerio de Hacienda*, or an authorised representative of the *Ministro de Hacienda*; and
- (b) in the case of Thailand, the Fiscal Policy Office, Ministry of Finance, or authorised representatives of the Ministry of Finance.

Article 15.4: Temporary Measures

1. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining temporary restrictive measures with regard to trade in goods and services and with regard to payments and capital movements:

- (a) in the event of serious balance of payments or external financial difficulties or threat thereof; or
- (b) where, in exceptional circumstances, payments and capital movements cause or threaten to cause serious difficulties for macroeconomic management, in particular, monetary policy or exchange rate policy in either Party.

2. Measures referred to in paragraph 1 shall:

- (a) be in accordance with the rights and obligations established in the WTO Agreement and consistent with the Articles of Agreement of the International Monetary Fund (IMF), as applicable;
- (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 set out in paragraph 1;
- (d) be temporary and be phased out or eliminated as soon as situation specified in paragraph 1 improves; and
- (e) be non-discriminatory.

3. Nothing in this Agreement shall be regarded to affect the rights enjoyed and obligations undertaken by a Party as a party to the Articles of Agreement of the IMF.

4. A Party shall publish or notify to the other Party of any restrictions adopted or maintained under paragraph 1, or any changes therein, to the extent that it does not duplicate the process under the WTO and the IMF.

Article 15.5: Confidentiality and Disclosure of Information

1. Unless otherwise provided in this Agreement, each Party shall, in accordance with its laws and regulations, maintain the confidentiality of information designated as confidential by the other Party pursuant to this Agreement.

2. Nothing in this Agreement shall be construed as requiring 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 juridical persons, whether public or private.