

Chapter XII

Exceptions

Article 99 General Exceptions

For the purpose of this Agreement, Article XX of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 100 Essential Security

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;

(b) to prevent any 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 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,

(iii) taken in time of war or other emergency in international relations; or

(c) to preclude a Party from applying measures that it considers necessary for the fulfillment of its obligations under the United Nations Charter with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests.

Article 101 Taxation

1. For the purposes of this Article:

tax convention means a convention for the avoidance of double taxation or other international taxation agreement or arrangement in force between the Parties; and

taxation measures do not include an "import customs duty" as defined in Article 5.

2. Except as 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 Article III of GATT 1994.

4. Nothing in this Agreement shall affect the rights and obligations of the Parties under any tax convention in force between the Parties. In the event of any inconsistency relating to a taxation measure between this Agreement and such tax convention, the latter shall prevail to the extent of the inconsistency. In the case of a tax convention between the Parties, the competent authorities under that convention shall have sole responsibility for determining whether any inconsistency exists between this Agreement and that convention.

Article 102 Measures to Safeguard the Balance of Payments

Where the Party is in serious balance of payments and external financial difficulties or threat thereof, it may, in accordance with the WTO Agreement and consistent with the *Articles of Agreement of the International Monetary Fund*, adopt measures deemed necessary.

Article 103 Disclosure of Information

Nothing in this Agreement shall be construed to require a Party to furnish or allow access to confidential information the disclosure of which would impede law enforcement or would be contrary to the public interests, the Party's law protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions or which prejudice legitimate commercial interests of particular enterprises, public or private.