

Chapter XI

Exceptions

Article 11-01: Definitions

For purposes of this Chapter:

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

taxation measures: does not include:

- (a) a “customs duty”, as defined in Article 1-01; and
- (b) measures listed in exceptions (b) and (c) of that definition.

Article 11-02: General Exceptions

Article XX of the GATT 1994 and its interpretative notes, or any equivalent provision of a successor Agreement to which all Parties are party, are incorporated into and made part of this Agreement. 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 Article XX(g) of GATT 1994, applies to measures relating to the conservation of living and non-living exhaustible natural resources.

Article 11-03: National Security

Nothing in this Agreement shall be construed:

- (a) to require any 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 actions that it considers necessary for the protection of its essential security interests:
 - (i) relating to traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods, materials, services and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment;
 - (ii) taken in time of war or other emergency in international relations; or

- (iii) relating to the implementation of national policies or international agreements respecting the non-proliferation of biological, chemical and nuclear weapons or other nuclear explosive devices; or
- (c) to prevent any Party from taking action in pursuance of its obligation under the United Nations Charter of maintenance of international peace and security.

Article 11-04: Taxation

1. Except as set out in this Article, nothing in this Agreement shall apply to taxation measures.
2. Nothing in this Agreement shall affect the rights and obligations of any 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.
3. Notwithstanding paragraph 2, Article 2-02 and such other provisions of this Agreement as are necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article III of the General Agreement on Tariffs and Trade 1994.

Article 11-05: Balance of Payments

The rights and obligations of the Parties relating to balance of payments shall be governed by the WTO Understanding on Balance-of-Payments Provisions.