

## **PART VII OTHER PROVISIONS**

### **CHAPTER 20 EXCEPTIONS**

#### **Article 20.1: General Exceptions**

1. Article XX of GATT and its interpretative notes or any equivalent provision of a successor agreement to which both Parties are party are incorporated into and made part of this Agreement, for purposes of:

- (a) Part II, except to the extent that a provision of that Part applies to services or investment; and
- (b) Chapter 15, except to the extent that any of its provisions applies to services.

2. Subparagraphs (a), (b) and (c) of Article XIV of the GATS are incorporated into and made part of this Agreement, for purposes of:

- (a) Part II, to the extent that a provision of that Part applies to services;
- (b) Chapter 11;
- (c) Chapter 12; and
- (d) Chapter 15, to the extent that any of its provisions applies to services.

#### **Article 20.2: National Security**

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 actions which it considers necessary for the protection of its essential security interests:

- (i) 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;
  - (ii) taken in time of war or other emergency in international relations; or
  - (iii) relating to fissionable and fusionable materials or the materials from which they are derived; 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. The Commission shall be informed to the fullest extent possible of measures taken under subparagraphs 1(b) and (c) and of their termination.

#### **Article 20.3: Taxation**

1. For purposes of this Chapter:

**tax convention** means a convention for the avoidance of double taxation or other

international taxation agreement or arrangement; and

**taxes and taxation measures** do not include a "custom duty" as defined in Article 3.1.

2. Except as set out in this Article, nothing in this Agreement shall apply to taxation measures.

3. Nothing in this Agreement shall affect the rights and obligations of either 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.

4. Notwithstanding paragraph 3, Article 3.3 and other provisions of this Agreement necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article III of GATT.

#### **Article 20.4: Balance of Payments**

1. Where a Party is in serious balance of payments and external financial difficulties, or under threat thereof, it may adopt or maintain restrictive measures with regard to trade in goods and in services and with regard to payments and capital movements, including those related to direct investment.

2. The Parties shall endeavour to avoid the application of the restrictive measures referred to in paragraph 1.

3. Any restrictive measure adopted or maintained under this Article shall be non-discriminatory and of limited duration and shall not go beyond what is necessary to remedy the balance of payments and external financial situation. They shall be in accordance with the conditions established in the WTO Agreement and consistent with the Articles of Agreement of the International Monetary Fund, as applicable.

4. The Party maintaining or having adopted restrictive measures, or any changes thereto, shall promptly notify them to the other Party and present, as soon as possible, a time schedule for their removal.

5. The Party applying restrictive measures shall consult promptly within the Commission. Such consultations shall assess the balance of payments situation of the Party concerned and the restrictions adopted or maintained under this Article, taking into account, *inter alia*, such factors as:

- (a) the nature and extent of the balance of payments and external financial difficulties;
- (b) the external economic and trading environment of the consulting Party; and
- (c) alternative corrective measures which may be available.

6. The consultations shall address the compliance of any restrictive measures with paragraphs 3 and 4. All findings of statistical and other facts presented by the International Monetary Fund relating to foreign exchange, monetary reserves and balance of payments, shall be accepted, and conclusions shall be based on the assessment by the Fund of the balance of payments and the external

financial situation of the consulting Party.