

CHAPTER SEVENTEEN

EXCEPTIONS

Article 17.1: General Exceptions

1. For purposes of Chapter Two (Trade in Goods), Chapter Three (Rules of Origin and Origin Procedures), Chapter Four (Customs Procedures and Trade Facilitation), Chapter Five (Sanitary and Phytosanitary Measures), Chapter Six (Technical Barriers to Trade), and Chapter Seven (Trade Remedies), Article XX of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. For the purposes of Chapter Eight (Cross-Border Trade in Services), Annex 8-B (Telecommunications), Chapter Nine (Digital Trade)¹, Article XIV of GATS (including its footnotes) is incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 17.2: Security Exceptions

1. Nothing in this Agreement shall be construed to:
 - (a) require a Party to furnish or allow access to any information, the disclosure of which it considers contrary to its essential security interests;
 - (b) 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 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 purposes of supplying a military establishment;
 - (iii) taken so as to protect critical public infrastructure², including communications, power and water infrastructures, from deliberate attempts intended to

¹ Article 17.1 is without prejudice to whether digital products should be classified as goods or services.

² For greater certainty, this includes critical public infrastructure whether publicly or privately owned.

- disable or degrade such infrastructure;
 - (iv) taken in time of national emergency, war or other emergency in international relations; or
 - (c) 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 Joint Committee shall be informed to the fullest extent possible of measures taken under subparagraphs 1(b) and 1(c) and of their termination.

Article 17.3: 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 either Party under any tax convention. In the event of any inconsistency between this Agreement and any 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.
3. Notwithstanding paragraph 2, Article 2.2 (National Treatment) 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 GATT 1994.
4. Subject to paragraph 2:
- (a) Article 8.3 (National Treatment) shall apply to taxation measures on income, on capital gains, or on the taxable capital of corporations that relate to the purchase or consumption of particular services, except that nothing in this subparagraph shall prevent a Party from conditioning the receipt or continued receipt of an advantage relating to the purchase or consumption of particular services on requirements to provide the service in its territory; and
 - (b) Articles 8.3 (National Treatment) and 8.4 (Most-Favored-Nation Treatment) shall apply to all taxation measures, other than those on income, on capital gains, or on the taxable capital of corporations, or taxes on estates, inheritances, gifts, and generation-skipping transfers;

except that nothing in the Articles referred to in subparagraphs (a) and (b) shall apply:

- (c) any most-favored-nation obligation with respect to an advantage accorded by a Party pursuant to a tax convention;
- (d) to a non-conforming provision of any existing taxation measure;
- (e) to the continuation or prompt renewal of a non-conforming provision of any existing taxation measure;
- (f) to an amendment to a non-conforming provision of any existing taxation measure to the extent that the amendment does not decrease its conformity, at the time of the amendment, with any of those Articles;
- (g) to the adoption or enforcement of any taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes (as permitted by Article XIV(d) of GATS); or
- (h) to a provision that conditions the receipt, or continued receipt, of an advantage relating to the contributions to, or income of, a pension trust or pension plan on a requirement that the Party maintain continuous jurisdiction over the pension trust or pension plan.

5. For purposes of this Article:

- (a) **tax convention** means an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income or other international taxation agreements or arrangements to which both Parties are party;
- (b) taxes and taxation measures do not include customs duties as defined in Article 1.5 (General Definitions) and measures listed in exceptions (b) through (e) of that definition;
- (c) **competent authorities** means:
 - (i) for Korea, the Deputy Minister for Tax and Customs, Ministry of Economy and Finance or his or her successor; and
 - (ii) for Georgia, Revenue Service - Legal Entity of Public Law of the Ministry of Finance.

Article 17.4: 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 otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or

private.

Article 17.5: Confidentiality

Unless otherwise provided in this Agreement, where a Party provides information to the other Party in accordance with this Agreement and designates the information as confidential, the Party receiving the information shall maintain the confidentiality of the information.