

## CHAPTER 12

### GENERAL PROVISIONS AND EXCEPTIONS

#### Article 12.1: Measures against Unfair Competition

1. The Party shall address anticompetitive business conduct and enforce its competition law in a non-discriminatory and transparent way, and ensure due process in decision making.
2. A Party shall not have recourse to dispute settlement under Chapter 11 (Dispute Settlement) for any matter arising under this Article.

#### Article 12.2: Measures against Corruption

1. The Parties affirm their commitment to prevent and combat bribery and corruption in international trade, acknowledging the negative impact on governance, institutions, and sustainable economic development. The Parties shall promote integrity, transparency, and accountability in both public and private sector, adopting appropriate measures within their legal frameworks to discourage corrupt practices.
2. The Parties reaffirm their obligations under the *United Nations Convention against Corruption*, done at New York on 31 October 2003 and other relevant international anti-corruption agreements, as well as their support for APEC anti-corruption principles and the promotion of anti-corruption practices in the private sector.
3. A Party shall not have recourse to dispute settlement under Chapter 11 (Dispute Settlement) for any matter arising under this Article.

#### Article 12.3: Taxation Measures

1. For the purposes of this Article:

**designated authorities** means:

- (a) for Indonesia, the Minister of Finance or his or her authorized representative; and
  - (b) for Peru, the Ministry of Economy and Finance (*Ministerio de Economía y Finanzas - MEF*);
- or their successors;

**tax convention** means a convention for the avoidance of double taxation or other international taxation agreement or arrangement to which Indonesia or Peru is party; and

**taxes and taxation measures** do not include customs duties.

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 and obligations are also granted or imposed under Article III of the GATT 1994.

4. 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, that convention shall prevail to the extent of the inconsistency. In the case of a tax convention between the Parties, the designated authorities shall have the sole responsibility for determining whether any inconsistency exists between this Agreement and that convention.

5. Nothing in this Agreement shall oblige a Party to extend to the other Party the benefit of any treatment, preference or privilege arising from any existing or future tax convention by which the Party is bound.

#### **Article 12.4: Measures to Safeguard the Balance of Payments**

Where a Party is in serious balance of payments and external financial difficulties or under threat thereof, it may, in accordance with GATT 1994 and the *Understanding on Balance of Payments Provisions of the General Agreement on Tariffs and Trade 1994*, set out in Annex 1A to the WTO Agreement, adopt restrictive import measures. Such restrictive measures shall be consistent with the *Articles of Agreement of the International Monetary Fund*.

#### **Article 12.5: General Exceptions**

For the purposes of Chapter 2 (National Treatment and Market Access for Goods), Chapter 3 (Rules of Origin), Chapter 4 (Customs Procedures and Trade Facilitation), Chapter 5 (Technical Barriers to Trade), and Chapter 6 (Sanitary and Phytosanitary Measures), Article XX of GATT 1994 including its Notes and Supplementary Provisions is 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 non-living exhaustible natural resources.

#### **Article 12.6: Security Exceptions**

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 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, as carried on directly or indirectly for the purpose of supplying or provisioning a military establishment;
  - (iii) taken so as to protect critical public infrastructure which may include communications, power and water infrastructures, according to domestic laws and regulations of the Parties; or
  - (iv) taken in time of national emergency or 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.