

DISCLAIMER: *The Commission and Australia are publishing the texts of the Agreement following the announcement of conclusion of the negotiations on 24 March 2026. The texts are published in view of the public interest in the Agreement, for information purposes only and they may undergo further minor modifications, including as a result of the process of legal and linguistic revision. These texts are without prejudice to the final outcome of the Agreement between the EU and Australia. The texts will be final upon signature. The Agreement will become binding on the Parties under international law only after completion by each Party of its applicable legal requirements and procedures necessary for the entry into force of the Agreement.*

CHAPTER 23

EXCEPTIONS

ARTICLE 23.1

General exceptions

1. For the purposes of Chapter 2 (Trade in Goods), Chapter 4 (Customs and trade facilitation), Section B (Investment liberalisation) of Chapter 9 (Investment liberalisation and trade in services), Chapter 11 (Digital trade), Chapter 12 (Energy and resources) and Chapter 16 (State-owned enterprises), Article XX of GATT 1994, including its Notes and Supplementary Provisions, is incorporated into and made part of this Agreement, *mutatis mutandis*.
2. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment liberalization or trade in services, nothing in Chapter 9 (Investment liberalisation and trade in services), Chapter 11 (Digital trade), Chapter 12 (Energy and resources) and Chapter 16 (State-owned enterprises) shall be construed to prevent the adoption or enforcement by a Party of measures:
 - (a) necessary to protect public security or public morals or to maintain public order¹;
 - (b) necessary to protect human, animal or plant life or health; or

¹ The public security and public order exceptions may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

- (c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to:
 - (i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;
 - (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; or
 - (iii) safety.

3. For greater certainty, the Parties understand that, to the extent that such measures are otherwise inconsistent with the Chapters or Sections referred to in paragraphs 1 or 2:

- (a) the measures referred to in point (b) of Article XX of GATT 1994 and in point (b) of paragraph 2 of this Article include environmental measures, which are necessary to protect human, animal or plant life or health;
- (b) point (g) of Article XX of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources;
- (c) measures taken to implement multilateral environmental agreements may fall under points (b) or (g) of Article XX of GATT 1994 or under point (b) of paragraph 2 of this Article; and
- (d) measures taken to protect critical infrastructure, including communications, power and water infrastructure, may fall under point (a) of paragraph 2.

4. Before a Party takes a measure as provided for in points (i) or (j) of Article XX of GATT 1994, that Party shall:

- (a) notify the other Party in writing at least 30 days prior to applying the measure. Such notice shall include a description of the measure, its rationale and the intended duration; and

- (b) on request, provide the other Party with reasonable opportunity for consultation in relation to the measure, with a view to seeking a mutually acceptable solution. The Party may apply the relevant measures after the expiry of the period referred to in point (a).
5. If exceptional and urgent circumstances arise, the Party may apply the measures referred to in paragraph 4 that it considers necessary to deal with the situation. That Party shall inform the other Party immediately of the measures.

ARTICLE 23.2

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 an action which it considers necessary for the protection of its essential security interests:
 - (i) connected to the production of or traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods and materials, services and technology, and to economic activities, carried out directly or indirectly for the purpose of supplying a military establishment;
 - (ii) relating to fissionable and fusionable materials or the materials from which they are derived; or
 - (iii) taken in time of 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.

ARTICLE 23.3

Taxation

1. For the purpose of this Article:

(a) "residence" means residence for tax purposes; and

(b) "tax convention" means a convention for the avoidance of double taxation or any other international agreement or arrangement relating wholly or mainly to taxation that either any Member State, the Union or Australia are party to.

2. Nothing in this Agreement shall affect the rights and obligations of either Australia or the Union or its Member States, under any tax convention. In the event of any inconsistency between this Agreement and any such tax convention, the tax convention shall prevail to the extent of the inconsistency. With regard to a tax convention between the Union or its Member States and Australia, the relevant competent authorities under this Agreement² and the tax convention shall jointly determine whether an inconsistency exists between this Agreement and the tax convention.³

3. Article 9.7(Most favoured nation treatment) and Article 9.15 (Most-favoured nation treatment) shall not apply to an advantage accorded by a Party pursuant to a tax convention. 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 tax convention by which the Party is bound.

4. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade and investment, nothing in this Agreement

² For the purposes of this Article, for Australia, the relevant competent authority under this Agreement is the Secretary to the Treasury or a successor or an authorised representative.

³ For greater certainty, this is without prejudice to Chapter 24 (Dispute settlement). If a joint determination is made, it shall be binding on the panel established pursuant to Article 24.6 (Establishment of a panel) and taken into account to the extent it is relevant for the assessment of the matter before it.

shall be construed to prevent the adoption, maintenance or enforcement by a Party of any measure that:

- (a) aims at ensuring the equitable or effective imposition or collection of direct taxes;⁴ or
- (b) distinguishes between taxpayers who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.⁵

ARTICLE 23.4

Treatment of information

1. Nothing in this Agreement shall be construed to require a Party to make available confidential information, the disclosure of which would impede the enforcement of its laws or regulations, otherwise be contrary to the public interest or prejudice the legitimate commercial interests of particular enterprises, public or private, except where a panel requires such confidential information in dispute settlement proceedings under Chapter 24 (Dispute Settlement). In such cases, the panel shall ensure that confidentiality is fully protected pursuant to Chapter 24 (Dispute settlement).
2. Unless otherwise provided for in this Agreement, if a Party submits information to the other Party under this Agreement, or to the Trade Committee or to a specialised committee which the Party designates as confidential, the other Party shall treat that information as confidential.

ARTICLE 23.5

WTO waivers

⁴ The term “any measure that aims at ensuring the equitable or effective imposition or collection of direct taxes” shall be understood by reference to the footnote to Article XIV of GATS.

⁵ The Parties understand that paragraph 4 may apply to taxation measures relating to retirement plans, including superannuation schemes.

If an obligation in this Agreement is substantially equivalent to an obligation in the WTO Agreement, a measure taken in conformity with a waiver adopted pursuant to Article IX of the WTO Agreement is deemed to also be in conformity with the substantially equivalent provision in this Agreement.