

91. The purpose of Article III is to protect the competitive relationship between domestic and imported goods. As stated in *United States - Taxes on Petroleum and Certain Imported Substances*:

"... The general prohibition of quantitative restrictions under Article XI ... and the national treatment obligation of Article III ... have essentially the same rationale, namely to protect expectations of the contracting parties as to the competitive relationship between their products and those of the other contracting parties."⁶⁷

Therefore, when Article III:1 specifies that a contracting party must not adopt measures "so as to afford protection to domestic production", the object is to prevent the adoption or maintenance of measures that protect domestic products to the disadvantage of products imported from the territory of another party.

92. Part V.1 of the *Excise Tax Act* is not a protectionist measure adopted "so as to afford protection to domestic production" for the following reasons:

- (a) It does not affect the competitive relationship between imported and domestically-produced periodicals.
- (b) It is not based on the physical origin of periodicals, which is what is contemplated by the reference to "domestic production".
- (c) Far from having a protectionist aim, it is a legitimate response to an anti-competitive abuse in the advertising field, with the ultimate object of ensuring the survival of a distinct Canadian culture.

93. Because the GATT 1994, including Article III, applies to trade in goods, the expression "domestic production" in paragraph 1 must refer to the physical production of the good. This refers to its manufacturing, cultivation, extraction, etc. Article III of the GATT 1994 cannot address the competitive relationship between service-providers such as the authors and artists contributing to the intellectual material contained in periodicals. Nor does it protect the competitive relationship between publishers in their capacity as sellers of advertising space. In terms of physical production, the sole perspective that is relevant to Article III, Part V.1 of the *Excise Tax Act* is entirely neutral. It does not have the effect of protecting the production of periodicals in Canada; indeed its principal target was the production *in Canada* of split-run magazines as defined in the Act.

67. *U.S. Petroleum Taxes*, *supra* note 58 at 160, para. 5.2.2.