

only be adjusted with the permission of the IMF. As a result, it was essential that countries have the capacity to use trade measures to shield their balance of payments (BOPs). The GATT articles XII through XV spelled out the obligations relating to such measures, as well as the extent of the relationship between the GATT and the IMF. With the change to a system of floating exchange rates and the consequent adjustments in the IMF rules, trade measures to keep safe the balance of payments have virtually disappeared among OECD countries but have remained important elements in the economic policies of developing countries. The GATT includes a specific provision dealing with BOPs measures for developing countries (article XVIII). Unfortunately, the potential for abuse can be substantial. As a result, the NAFTA parties have agreed to a strict BOPs regime (article 2104) that is consistent with their obligations under the IMF, as well as the broader range of measures covered by the Agreement, such as trade in financial services and investment.

Article 2106 ensures that the exemption for cultural industries included in the Canada-U.S. FTA is carried over into and made a part of the NAFTA.

GATT Article XX

GATT's General Exceptions provide that nothing in the Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

- necessary to protect public morals (such as prohibitions on trade in pornographic material);
- necessary to protect human, animal or plant life or health (such as measures to protect the environment or endangered species);
- relating to the importation or exportation of gold or silver;
- necessary to secure compliance with laws or regulations, such as those relating to customs enforcement, the protection of patents, trade marks and copyrights or the enforcement of product standards;
- relating to the products of prison labour (Producers should not have to compete with goods produced with prison labour.);
- imposed for the protection of national treasures of artistic, historic or archeological value;
- relating to the conservation of exhaustible natural resources;
- undertaken in pursuance of obligations under any intergovernmental commodity agreement, such as an international wheat or tin agreement;
- involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic producing industry during periods when the domestic price of such materials is below the world price as part of a government stabilization plan; (See also Chapter Four on market access in the context of obligations relating to export measures and Chapter Seven for energy goods.); and
- essential to the acquisition or distribution of products in general or local short supply.