

CHAPTER 1 INITIAL PROVISIONS AND DEFINITIONS

ARTICLE 1.1: ESTABLISHMENT OF A FREE TRADE AREA

The Parties, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish a free trade area.

ARTICLE 1.2: RELATION TO OTHER AGREEMENTS

1. The Parties affirm their existing rights and obligations with respect to each other under multilateral and bilateral agreements to which both Parties are party, including the WTO Agreement.
2. Nothing in this Agreement shall derogate from the existing rights and obligations of a Party under the WTO Agreement or any other multilateral or bilateral agreement to which both Parties are party.
3. In the event of any inconsistency between this Agreement and any other multilateral or bilateral agreement to which both Parties are party, the Parties shall immediately consult with a view to finding a mutually satisfactory solution.

ARTICLE 1.3: GENERAL DEFINITIONS

For the purposes of this Agreement, unless otherwise specified:

- (a) **customs duty** means any customs or import duty and a charge of any kind, including any form of surtax or surcharge, imposed in connection with the importation of a good, but does not include any:
 - (i) charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III of the GATT 1994, in respect of the like goods or, directly competitive or substitutable goods of the Party or in respect of goods from which the imported goods have been manufactured or produced in whole or in part;
 - (ii) anti-dumping or countervailing duty applied pursuant to a Party's law and applied consistently with the provisions of Article VI of the GATT 1994, the Agreement on Anti-Dumping, and the Agreement on Subsidies and Countervailing Measures; or
 - (iii) fees or other charges commensurate with the cost of services rendered;

- (b) **days** means calendar days;
- (c) **existing** means in effect on the date of entry into force of this Agreement;
- (d) **GATS** means the *General Agreement on Trade in Services*, contained in Annex 1B to the WTO Agreement;
- (e) **GATT 1994** means the *General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the WTO Agreement;
- (f) **measure** includes any law, regulation, procedure, requirement or practice;
- (g) **national** means a natural person who:
 - (i) for Australia, is an Australian citizen, or has the right of permanent residence in Australia; and
 - (ii) for China, has the nationality of China according to the laws of China;
- (h) **person** means either a natural person or juridical person;
- (i) **territory** means:
 - (i) for Australia, the territory of Australia:
 - (A) excluding all external territories other than the Territory of Norfolk Island, the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands, the Territory of Ashmore and Cartier Islands, the Territory of Heard Island and McDonald Islands, and the Coral Sea Islands Territory; and
 - (B) including Australia's territorial sea, contiguous zone, exclusive economic zone and continental shelf over which Australia exercises sovereign rights or jurisdiction in accordance with international law; and
 - (ii) for China, the entire customs territory of the People's Republic of China, including land, airspace, internal waters, territorial sea, and areas beyond the territorial sea within which China exercises sovereign rights or jurisdiction in accordance with international law and its domestic law;

- (j) **WTO** means the World Trade Organization; and
- (k) **WTO Agreement** means the *Marrakesh Agreement Establishing the World Trade Organization*, done at Marrakesh on 15 April 1994.