

CHAPTER EIGHT

INVESTMENT

Section A – Substantive Obligations

Article 801: Scope and Coverage

1. This Chapter shall apply to measures adopted or maintained by a Party relating to:
- (a) investors of the other Party;
 - (b) covered investments; and
 - (c) with respect to Articles 807, 809 and 810, all investments in the territory of the Party.
2. For greater certainty, the provisions of this Chapter do not bind a Party in relation to any act or fact that took place or any situation that ceased to exist before the date of entry into force of this Agreement.

Article 802: Relation to Other Chapters

1. In the event of any inconsistency between this Chapter and another Chapter, the other Chapter shall prevail to the extent of the inconsistency.

第八章

投资

A部分 – 实质性义务

第801条： 范围和覆盖范围

1. 本章适用于缔约方采取或维持的与以下事项相关的措施：
- (a) 另一缔约方的投资者；(b) 涵盖投资；以及(c) 就第807、809和810条而言， 缔约方领土内的所有投资。
2. 为更加明确起见， 本章节的规定不约束缔约方与在本协议生效日期之前发生的任何行为或事实或已停止存在的任何情况有关的行为。

第802条： 与其他章节的关系

1. 如本章节与其他章节存在不一致， 则以其他章节的规定为准， 不一致的范围仅限于该不一致之处。

2. A requirement by a Party that a service supplier of the other Party post a bond or other form of financial security as a condition of the cross-border supply of a service into its territory does not of itself make this Chapter applicable to the cross-border supply of the service. This Chapter applies to measures adopted or maintained by the Party relating to the posted bond or financial security, to the extent that such bond or financial security is a covered investment.

3. This Chapter shall not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter Eleven (Financial Services).

4. Articles 906 (Cross-Border Trade in Services - Market Access) and 909 (Cross-Border Trade in Services - Domestic Regulation) are hereby incorporated into and made a part of this Chapter and apply to measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment.¹

Article 803: National Treatment

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of investments in its territory.

¹ It is understood by the Parties that any reservation taken by a Party pursuant to Article 908 (Cross-Border Trade in Services - Non-Conforming Measures) against Article 906 (Cross-Border Trade in Services - Market Access) applies to measures of that Party covered under paragraph 4.

2. 一缔约方要求另一缔约方的服务供应商在其领土内跨境提供服务时提交保证金或其他形式的财务担保，这一要求本身并不使本章节适用于该跨境服务提供。本章节适用于该缔约方针对所提交的保证金或财务担保采取或维持的措施，前提是该保证金或财务担保构成一项涵盖投资。

3. 本章节不适用于缔约方采取或维持的措施，只要这些措施属于第十一章（金融服务）的范畴。

4. 第906条（跨境服务贸易-市场准入）和第909条（跨境服务贸易-国内监管）特此并入本章节并成为其组成部分，适用于缔约方采取或维持的影响其领土内涵盖投资提供服务的措施。¹

第803条：国民待遇

1. 每一缔约方应就投资的设立、收购、扩张、管理、经营、运营及出售或其他处置，在类似情况下，给予另一缔约方投资者的待遇不低于其给予本国投资者的待遇。

¹ 缔约方理解，缔约方根据第908条（跨境服务贸易-不符措施）对第906条（跨境服务贸易-市场准入）所作的任何保留，均适用于该缔约方在第4款下涵盖的措施。

2. Each Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of investments in its territory.

3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a sub-national government, treatment no less favourable than the treatment accorded, in like circumstances, by that sub-national government to investors, and to investments of investors, of the Party of which it forms a part.

Article 804²: Most-Favoured-Nation Treatment

1. Each Party shall accord to investors of the other Party treatment no less favourable than that it accords, in like circumstances, to investors of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of investments in its territory.

2. Each Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments of investors of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of investments in its territory.

3. For greater certainty, the treatment accorded by a Party under this Article means, with respect to a sub-national government, treatment accorded, in like circumstances, by that sub-national government to investors, and to investments of investors, of a non-Party.

² Article 804 shall be interpreted in accordance with Annex 804.1.

2. 每一缔约方应就投资的设立、收购、扩张、管理、经营、运营及出售或其他处置，在类似情况下，给予涵盖投资的待遇不低于其给予本国投资者投资的待遇。

3. 缔约方根据第1款和第2款给予的待遇，就次国家级政府而言，是指在类似情况下，该次国家级政府给予其所属缔约方的投资者及其投资的待遇不低于其给予其他投资者的待遇。

第804²条：最惠国待遇

1. 每一缔约方应给予另一缔约方的投资者不低于其在类似情况下给予非缔约方投资者的待遇，涉及在其领土内投资的设立、收购、扩张、管理、经营、运营及出售或其他处置。

2. 每一缔约方应给予涵盖投资不低于其在类似情况下给予非缔约方投资者投资的待遇，涉及在其领土内投资的设立、收购、扩张、管理、经营、运营及出售或其他处置。

3. 为进一步明确，一缔约方根据本条给予的待遇，就次国家级政府而言，指该次国家级政府在类似情况下给予非缔约方投资者及其投资的待遇。

² 第804条应根据附件804.1进行解释。

Article 805: Minimum Standard of Treatment

1. Each Party shall accord to covered investments treatment in accordance with the customary international law minimum standard of treatment of aliens, including fair and equitable treatment and full protection and security.
2. The concepts of “fair and equitable treatment” and “full protection and security” in paragraph 1 do not require treatment in addition to or beyond that which is required by the customary international law minimum standard of treatment of aliens.
3. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

Article 806: Senior Management and Boards of Directors

1. A Party may not require that an enterprise of that Party, that is a covered investment, appoint to senior management positions individuals of any particular nationality.
2. A Party may require that a majority of the board of directors, or any committee thereof, of an enterprise that is a covered investment be of a particular nationality, or resident in the territory of the Party, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

第805条：最低待遇标准

1. 每一缔约方应按照习惯国际法关于外国人最低待遇标准的规定，包括公平与公正待遇及充分保护与安全，给予涵盖投资以待遇。
2. 第1款中“公平与公正待遇”及“充分保护与安全”的概念，并不要求给予超出习惯国际法所规定的关于外国人最低待遇标准的待遇。
3. 裁定违反本协议其他条款或另一国际协议的行为，并不构成对本条的违反。

第806条：高级管理层与董事会

1. 缔约方不得要求其境内作为涵盖投资的企业，任命具有特定国籍的人士担任高级管理职位。
2. 缔约方可要求作为涵盖投资的企业其董事会或任何委员会的大多数成员具有特定国籍，或为该缔约方领土内的居民，前提是该要求不会实质损害投资者对其投资行使控制的能力。

Article 807: Performance Requirements

1. Neither Party may impose or enforce any of the following requirements, or enforce any commitment or undertaking, in connection with the establishment, acquisition, expansion, management, conduct or operation of an investment of an investor of the other Party or of a non-Party in its territory:

- (a) to export a given level or percentage of goods;
- (b) to achieve a given level or percentage of domestic content;
- (c) to purchase, use or accord a preference to goods produced or services provided in its territory, or to purchase goods or services from persons in its territory;
- (d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment;
- (e) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;
- (f) to transfer technology, a production process or other proprietary knowledge to a person in its territory, except when the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal or competition authority, to remedy an alleged violation of competition laws or to act in a manner not inconsistent with other provisions of this Agreement; or

第807条：业绩要求

1. 任何缔约方均不得在另一缔约方或非缔约方的投资者在其领土内投资的设立、收购、扩张、管理、经营或运营方面，施加或强制执行以下任何要求，或强制执行任何承诺或保证：

- (a) 出口特定数量或比例的货物；(b) 达到特定水平或比例的国内含量；(c) 购买、使用或优先考虑在其领土内生产或提供的服务，或从其领土内的个人处购买货物或服务；
- (d) 以任何方式将进口的数量或价值与出口的数量或价值，或与该投资相关的外汇流入量挂钩；
- (e) 限制在其领土内销售货物或服务，此类投资通过以任何方式将这些销售与其出口量或价值或外汇收入相关联而产生或提供；
- (f) 转让技术、生产工艺或其他专有向其领土内的个人提供知悉，除非该要求是由法院、行政法庭或竞争管理机构为纠正涉嫌违反竞争法的行为或以不违反本协议其他条款的方式行事而实施或强制执行；或

(g) to supply exclusively from the territory of the Party the goods it produces or the services it provides to a specific regional market or to the world market.

2. A measure that requires an investment to use a technology to meet generally applicable health, safety or environmental requirements shall not be construed to be inconsistent with subparagraph 1(f). For greater certainty, Articles 803 and 804 apply to the measure.

3. Neither Party may condition the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of the other Party or of a non-Party, on compliance with any of the following requirements:

- (a) to achieve a given level or percentage of domestic content;
- (b) to purchase, use or accord a preference to goods produced in its territory, or to purchase goods from producers in its territory;
- (c) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment; or
- (d) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings.

(g) 要求其生产货物或提供服务时， 必须专门从缔约方领土内向特定区域市场或世界市场供应。

2. 要求投资使用技术以满足普遍适用的健康、安全或环境要求的措施， 不得被解释为与第1款(f)项不一致。为进一步明确， 第803条和第804条适用于该措施。

3. 任何缔约方均不得以遵守下列任何要求为条件， 给予或继续给予与另一缔约方或非缔约方投资者在其领土内投资相关的优惠：

(a) 达到特定水平或比例的国内含量；(b) 购买、使用或优先考虑其领土内生产的货物， 或从其领土内的生产商购买货物；(c) 以任何方式将进口的数量或价值与出口的数量或价值或与该投资相关的外汇流入金额挂钩；或(d) 限制其领土内此类货物或服务的销售

投资通过以任何方式将其销售与出口量或价值或外汇收入相关联而产生或提供。

4. Nothing in paragraph 3 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of the other Party, on compliance with a requirement to locate production, provide a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

5. Paragraphs 1 and 3 do not apply to any requirement other than the requirements set out in those paragraphs.

6. The provisions of:
- (a) subparagraphs 1(a), (b) and (c), and 3(a) and (b) do not apply to qualification requirements for goods or services with respect to export promotion and foreign aid programs;
 - (b) subparagraphs 1(b), (c), (f) and (g), and 3(a) and (b) do not apply to procurement by a Party or a state enterprise; and
 - (c) subparagraphs 3(a) and (b) do not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

4. 第3款中的任何规定不得解释为阻止缔约方将获得或继续获得优惠与在其领土内另一缔约方投资者的投资相关联，条件是遵守以下要求：在其领土内进行生产、提供服务、培训或雇佣工人、建造或扩建特定设施，或开展研发。

5. 第1款和第3款不适用于除该两款所列要求之外的任何要求。

6. 下列条款的规定：
- (a) 第1款(a)、(b)和(c)项，以及第3款(a)和(b)项不适用于与出口促进和外援计划相关的货物或服务的资格要求；(b) 第1款(b)、(c)、(f)和(g)项，以及第3款(a)和(b)项不适用于缔约方或国有企业的采购；(c) 第3款(a)和(b)项不适用于进口缔约方为获得优惠关税或优惠配额而对货物含量施加的要求。

Article 808: Reservations and Exceptions

1. Articles 803, 804, 806 and 807 do not apply to:
- (a)# any existing non-conforming measure that is maintained by

(i)# a national government, as set out in its Schedule to Annex I,

or

(ii)# a sub-national government;

(b)# the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or

(c)# an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 803, 804, 806 and 807.
2. Articles 803, 804, 806 and 807 do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors or activities, as set out in its schedule to Annex II.
3. In respect of intellectual property rights, a Party may derogate from Articles 803, 804 and subparagraph 1(f) of Article 807 in a manner that is consistent with the TRIPS Agreement and waivers to the TRIPS Agreement adopted pursuant to Article IX of the WTO Agreement.

第808条：保留和例外

1. 第803条、第804条、第806条和第807条不适用于：
- (a) 任何现有的不符措施，由(i)中央政府根据其附件一清单所列维持，或(ii)次国家级政府维持；(b) 对(a)项所述任何不符措施的延续或及时更新；或(c) 对(a)项所述任何不符措施的修正，只要该修正未降低该措施在修正前即刻与第803条、第804条、第806条和第807条的一致性。
2. 第803条、第804条、第806条和第807条不适用于缔约方就其附件二清单所列部门、分部门或活动采取或维持的任何措施。
3. 在知识产权方面，缔约方可按照《与贸易有关的知识产权协定》及根据《世界贸易组织协定》第九条通过的《与贸易有关的知识产权协定》豁免，以符合该协定的方式减损第803条、第804条和第807条第1款(f)项的规定。

4. The provisions of Articles 803, 804 and 806 do not apply to:

- (a)# procurement by a Party or a state enterprise; or
- (b)# subsidies or grants provided by a Party or a state enterprise, including government-supported loans, guarantees and insurance.

Article 809: Health, Safety and Environmental Measures

The Parties recognize that it is inappropriate to encourage investment by relaxing domestic health, safety or environmental measures. Accordingly, a Party should not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such measures as an encouragement for the establishment, acquisition, expansion or retention in its territory of an investment of an investor. If a Party considers that the other Party has offered such an encouragement, it may request consultations with the other Party and the two Parties shall consult with a view to avoiding any such encouragement.

Article 810: Corporate Social Responsibility

Each Party should encourage enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate internationally recognized standards of corporate social responsibility in their internal policies, such as statements of principle that have been endorsed or are supported by the Parties. These principles address issues such as labour, the environment, human rights, community relations and anti-corruption. The Parties therefore remind those enterprises of the importance of incorporating such corporate social responsibility standards in their internal policies.

4. 第803条、第804条和第806条的规定不适用于：

- (a) 缔约方或国有企业的采购；或
- (b) 缔约方或国有企业提供的补贴或赠款，包括政府支持的贷款、担保和保险。

第809条：健康、安全和环境措施

缔约方认识到，通过放松国内健康、安全或环境措施来鼓励投资是不恰当的。因此，缔约方不应放弃或以其他方式减损此类措施，也不应提议放弃或以其他方式减损此类措施，以此作为鼓励投资者在其领土内设立、收购、扩张或保留投资的手段。如果一缔约方认为另一缔约方提供了此类鼓励，可要求与另一缔约方进行磋商，双方应进行磋商以避免任何此类鼓励。

第810条：企业社会责任

每一缔约方应鼓励在其领土内运营或受其管辖的企业自愿在其内部政策中纳入国际认可的企业社会责任标准，例如缔约方已认可或支持的原则声明。这些原则涉及劳工、环境、人权、社区关系和反腐败等问题。因此，缔约方提醒这些企业在其内部政策中纳入此类企业社会责任标准的重要性。

Article 811: Compensation for Losses

- 1. Each Party shall accord to investors of the other Party, and to covered investments, non-discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict, civil strife or a natural disaster.
- 2. Paragraph 1 shall not apply to existing measures relating to subsidies or grants that would be inconsistent with Article 803 but for subparagraph 4(b) of Article 808.

Article 812³: Expropriation

- 1. Neither Party may nationalize or expropriate a covered investment either directly, or indirectly through measures having an effect equivalent to nationalization or expropriation (hereinafter referred to as “expropriation”), except for a public purpose⁴, in accordance with due process of law, in a non-discriminatory manner and on prompt, adequate and effective compensation.
- 2. Such compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place (“date of expropriation”), and shall not reflect any change in value occurring because the intended expropriation had become known earlier. Valuation criteria shall include going concern value, asset value including declared tax value of tangible property, and other criteria, as appropriate, to determine fair market value.

³ For greater certainty, paragraph 1 of Article 812 shall be interpreted in accordance with Annex 812.1.

⁴ The term “public purpose” shall be interpreted in accordance with international law. It is not meant to create any inconsistency with the same or similar concepts in the domestic law of either Party.

第811条：损失补偿

- 1. 每一缔约方应就其采取或维持的与武装冲突、内乱或自然灾害导致的领土内投资损失相关的措施，给予另一缔约方的投资者及涵盖投资非歧视性待遇。
- 2. 第1款不适用于与补贴或赠款有关的现行措施，这些措施若非第808条第4款(b)项的规定将与第803条不一致。

第812³条：征收

- 1. 任何缔约方均不得直接或通过等同于国有化或征收效果的间接措施（以下统称“征收”）对涵盖投资实施国有化或征收，除非出于公共目的⁴，，依照法律正当程序，以非歧视方式给予迅速、充分和有效的补偿。
- 2. 此类补偿应等同于征收发生前（“征收日期”）被征收投资的公平市场价值，且不得反映因征收意向提前公开而导致的任何价值变动。估值标准应包括持续经营价值、资产价值（含申报税务价值的有形财产）及其他适当标准，以确定公平市场价值。

³ 为更明确起见，第812条第1款应按照附件812.1进行解释。

⁴ “公共目的”一词应依照国际法进行解释。该术语无意与任一缔约方国内法中相同或类似概念产生任何不一致。

3. Compensation shall be paid without delay and shall be fully realizable and freely transferable. Compensation shall be payable in a freely convertible currency and shall include interest at a commercially reasonable rate for that currency from the date of expropriation until date of payment.

4. The investor affected shall have a right under the law of the expropriating Party to prompt review of its case and of the valuation of its investment by a judicial or other independent authority of that Party in accordance with the principles set out in this Article.

5. This Article shall not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, or to the revocation, limitation or creation of intellectual property rights, to the extent that such issuance, revocation, limitation or creation is consistent with the WTO Agreement.

Article 813: Transfers

1. Each Party shall permit all transfers relating to a covered investment to be made freely, and without delay, into and out of its territory. Such transfers include:

- (a)# contributions to capital;
- (b)# profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance and other fees, returns in kind and other amounts derived from the investment;
- (c)# proceeds from the sale of all or any part of the covered investment or from the partial or complete liquidation of the covered investment;

3. 补偿应毫不延迟地支付，并应可全额实现且自由转移。补偿应以自由兑换货币支付，并包括自征收日期至支付日期按该货币商业合理利率计算的利息。

4. 受影响的投资者有权根据征收方的法律，由该缔约方的司法或其他独立机构按照本条规定的原则，对其案件及其投资估值进行及时审查。

5. 本条不适用于与知识产权相关的强制许可的颁发，或知识产权的撤销、限制或创设，只要此类颁发、撤销、限制或创设符合《世界贸易组织协定》的规定。

第813条：转移

1. 每一缔约方应允许与涵盖投资相关的所有转移自由且无延迟地进出其领土。此类转移包括：

- (a) 资本出资；(b) 利润、股息、利息、资本收益、特许权使用费、管理费、技术援助及其他费用、实物回报及从投资中衍生的其他金额；
- (c) 出售涵盖投资全部或部分所得，或涵盖投资部分或全部清算所得；

(d)# payments made under a contract entered into by the investor, or the covered investment, including payments made pursuant to a loan agreement;

(e)# payments made pursuant to Articles 811 and 812; and

(f)# payments arising under Section B.

2. Each Party shall permit transfers relating to a covered investment to be made in the convertible currency in which the capital was originally invested, or in any other convertible currency agreed to by the investor and the Party concerned. Unless otherwise agreed by the investor, transfers shall be made at the market rate of exchange applicable on the date of transfer.

3. Notwithstanding paragraphs 1 and 2, a Party may prevent a transfer through the equitable, non-discriminatory and good faith application of its laws relating to:

(a) bankruptcy, insolvency or the protection of the rights of creditors;

(b) issuing, trading or dealing in securities;

(c) criminal or penal offences;

(d) reports of transfers of currency or other monetary instruments; or

(e) ensuring the satisfaction of judgments in adjudicatory proceedings.

4. Neither Party may require its investors to transfer, or penalize its investors for failing to transfer, the income, earnings, profits or other amounts derived from, or attributable to, investments in the territory of the other Party.

(d) 投资者或涵盖投资根据所签订合同支付的款项，包括根据贷款协议支付的款项；

(e) 根据第811条和第812条作出的付款；以及 (f) 根据B部分产生的付款。

2. 每一缔约方应允许与涵盖投资相关的转移以最初投资所用的可兑换货币进行，或以投资者和相关缔约方商定的任何其他可兑换货币进行。除非投资者另有约定，转移应按转移日期适用的市场汇率进行。

3. 尽管有第1款和第2款的规定，缔约方可通过公平、非歧视和善意适用其关于以下事项的法律来阻止转移：

(a) 破产、无力偿债或保护债权人权利；(b) 证券的发行、交易或买卖；(c) 刑事或刑事犯罪；(d) 货币或其他货币工具转移的报告；或 (e) 确保裁决程序中判决的执行。

4. 任何缔约方均不得要求其投资者转移，或因投资者未转移从另一缔约方领土内的投资中产生或可归属于该投资的收入、收益、利润或其他款项而对其进行处罚。

5. Paragraph 4 shall not be construed to prevent a Party from imposing any measure through the equitable, non-discriminatory and good faith application of its laws relating to the matters in subparagraphs (a) through (e) of paragraph 3.

6. Notwithstanding paragraph 1, a Party may restrict transfers in kind in circumstances where it could otherwise restrict transfers under the WTO Agreement and as set out in paragraph 3.

Article 814: Subrogation

1. If a Party or any agency thereof makes a payment to any of its investors under a guarantee or a contract of insurance it has entered into in respect of an investment, the other Party shall recognize the validity of the subrogation in favour of the Party or agency to any right or title held by the investor.
2. A Party or any agency thereof, which is subrogated to the rights of an investor in accordance with paragraph 1 of this Article, shall be entitled in all circumstances to the same rights as those of the investor in respect of the investment. Such rights may be exercised by the Party or any agency thereof, or by the investor if the Party or any agency thereof so authorizes.

5. 第4款不得解释为阻止缔约方通过公平、非歧视和诚信适用其与第3款(a)至(e)项所述事项相关的法律实施任何措施。

6. 尽管有第1款的规定，缔约方在根据《世界贸易组织协定》及第3款规定本可限制转移的情况下，可限制实物转移。

第814条：代位

1. 如一缔约方或其任何机构根据其就一项投资所签订的担保或保险合同向其任何投资者支付款项，另一缔约方应承认该缔约方或机构对投资者所持任何权利或所有权的代位有效。
2. 根据本条第一款被代位取得投资者权利的缔约方或其任何机构，在所有情况下应享有与该投资者就投资所享有的相同权利。此类权利可由缔约方或其任何机构行使，或在缔约方或其任何机构授权的情况下由投资者行使。

Article 815: Denial of Benefits

1. A Party may deny the benefits of this Chapter to an investor of the other Party that is an enterprise of such Party and to investments of such investor if investors of a non-Party own or control the enterprise and the denying Party adopts or maintains measures with respect to the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprises or to its investments.
2. A Party may deny the benefits of this Chapter to an investor of the other Party that is an enterprise of such Party and to investments of such investors if investors of a non-Party own or control the enterprise and the enterprise has no substantial business activities in the territory of the Party under whose law it is constituted or organized.

Article 816: Special Formalities and Information Requirements

1. Nothing in Article 803 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with the establishment of covered investments, such as a requirement that investments be legally constituted under the laws or regulations of the Party, provided that such formalities do not materially impair the protections afforded by a Party to investors of the other Party and covered investments pursuant to this Chapter.

第815条： 利益拒绝

1. 如果非缔约方的投资者拥有或控制该企业，且拒绝给予利益的缔约方针对该非缔约方采取或维持了禁止与该企业交易的措施，或若本章利益给予该企业或其投资将导致违反或规避此类措施，则缔约方可拒绝将本章利益给予作为该缔约方企业的另一缔约方投资者及其投资。
2. 缔约方可拒绝将本章节的利益授予作为该缔约方企业的另一缔约方投资者及其投资，若该企业由非缔约方的投资者所有或控制，且该企业在其设立或组织所依据法律的缔约方领土内无实质性商业活动。

第816条： 特殊手续和信息要求

1. 不得将第803条的任何内容解释为阻止缔约方采取或维持与涵盖投资设立相关的特殊手续措施，例如要求投资根据缔约方的法律法规合法设立，前提是此类手续不会实质性削弱缔约方根据本章节向另一缔约方的投资者和涵盖投资提供的保护。

2. Notwithstanding Articles 803 or 804, a Party may require an investor of the other Party, or its covered investments, to provide information concerning that investment solely for informational or statistical purposes, provided that such requests are reasonable and not unduly burdensome. The Party shall protect any confidential information from any disclosure that would prejudice the competitive position of the investor or the covered investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

Article 817: Committee on Investment

- 1.# The Parties hereby establish a Committee on Investment, comprising representatives of each Party.
- 2.# The Committee shall provide a forum for the Parties to consult on issues related to this Chapter that are referred to it by a Party. The Committee shall meet at such times as agreed by the Parties and should work to promote cooperation and facilitate joint initiatives, which may address issues such as corporate social responsibility and investment facilitation.

2. 尽管有第803条或第804条的规定，缔约方可要求另一缔约方的投资者或其涵盖投资提供与该投资相关的信息，仅用于信息或统计目的，前提是此类要求合理且不会造成不当负担。缔约方应保护任何机密信息免遭披露，以免损害投资者或涵盖投资的竞争地位。本款任何内容不得解释为阻止缔约方以其他方式获取或披露与其法律公平善意适用相关的信息。

第817条：投资委员会

1. 缔约方特此设立投资委员会，由每一缔约方的代表组成。
2. 委员会应为缔约方提供一个论坛，就本章节相关问题进行磋商，这些问题可由任一缔约方提交至委员会。委员会应在缔约方商定的时间召开会议，并致力于促进合作与推动联合倡议，此类倡议可涉及企业社会责任和投资便利化等议题。

Section B - Settlement of Disputes between an Investor and the Host Party

Article 818: Purpose

Without prejudice to the rights and obligations of the Parties under Chapter Twenty-One (Dispute Settlement), this Section establishes a mechanism for the settlement of investment disputes.

Article 819: Claim by an Investor of a Party on Its Own Behalf

1.# An investor of a Party may submit to arbitration under this Section a claim that the other Party has breached:

- (a)# an obligation under Section A, other than an obligation under paragraph 4 of Article 802, Articles 809, 810 or 816;
- (b)# an obligation under subparagraph 3(a) of Article 1305 (Competition Policy, Monopolies and State Enterprises - Designated Monopolies) or paragraph 2 of Article 1306 (Competition Policy, Monopolies and State Enterprises - State Enterprises), only to the extent that a designated monopoly or state enterprise has acted in a manner inconsistent with the Party’s obligations under Section A, other than an obligation under paragraph 4 of Article 802, Articles 809, 810 or 816; or
- (c)# a legal stability agreement referred to in paragraph 2 of this Article,

and that the investor has incurred loss or damage by reason of, or arising out of, that breach.

B节—投资者与东道方之间的争议解决

第818条：目的

在不影响缔约方根据第二十一章（争议解决）所享有权利和承担义务的前提下，本节确立了一项投资争议解决机制。

第819条：一方投资者代表自身提出的索赔

1. 缔约方投资者可根据本节规定，就另一缔约方违反以下义务的行为提交仲裁：

- (a) A部分规定的义务，但不包括第802条第4款、第809条、第810条或第816条规定的义务；
- (b) 第1305条第3(a)款（竞争政策、垄断和国有企业—指定垄断）或第1306条第2款（竞争政策、垄断和国有企业—国有企业）规定的义务，但仅限于指定垄断或国有企业以不符合缔约方在A部分下义务（不包括第802条第4款、第809条、第810条或第816条规定的义务）的方式行事的情形；或
- (c) 本条第2款所述的法律稳定性协议，

且投资者因该违约行为而遭受损失或损害。

2. A claim by an investor that a tax measure of a Party is in breach of a legal stability agreement between the national government authorities of a Party and the investor concerning an investment may be submitted to arbitration only where:

(a)# the legal stability agreement was entered into after 20 June 2007; or

(b)# the legal stability agreement existed on 20 June 2007, and

(i)# the tax measure was adopted after the date of entry into force of this Agreement; and

(ii)# the claim is not related to any tax matter in dispute between the investor or its investment and the Party before the entry into force of this Agreement,

and in either case, the taxation authorities of the Parties, no later than six months after the investor gives notice of its intention to submit the claim to arbitration, have not jointly determined that the tax measure does not contravene the legal stability agreement. The investor shall refer the issue of whether the tax measure does not contravene the legal stability agreement for a determination to the taxation authorities of the Parties at the same time that it gives notice under Article 821.

2. 投资者主张缔约方的税收措施违反该缔约方国家政府当局与投资者之间关于投资的法律稳定性协议的，仅在以下情况下可提交仲裁：

(a) 法律稳定性协议签订于2007年6月20日之后；或(b) 法律稳定性协议在2007年6月20日已存在，且

(i) 税收措施在本协议生效日期之后实施；且

(ii) 索赔不涉及本协议生效前投资者或其投资与缔约方之间任何存在争议的税务事项，
投资者或其投资与缔约方在本协议生效前存在的争议，

且在任一情况下，若缔约方税务当局未在投资者发出拟提交仲裁请求通知后六个月内共同裁定该税收措施未违反法律稳定性协议。投资者应在根据第821条发出通知的同时，将税收措施是否违反法律稳定性协议的问题提交缔约方税务当局裁定。

Article 820: Claim by an Investor of a Party on Behalf of an Enterprise

1. An investor of a Party, on behalf of an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, may submit to arbitration under this Section a claim that the other Party has breached:

- (a)# an obligation under Section A, other than an obligation under paragraph 4 of Article 802, or Articles 809, 810 or 816; or
- (b)# an obligation under subparagraph 3(a) of Article 1305 (Competition Policy, Monopolies and State Enterprises - Designated Monopolies) or paragraph 2 of Article 1306 (Competition Policy, Monopolies and State Enterprises - State Enterprises), only to the extent that a designated monopoly or state enterprise has acted in a manner inconsistent with the Party’s obligations under Section A, other than an obligation under paragraph 4 of Article 802, Articles 809, 810 or 816; or
- (c)# a legal stability agreement referred to in paragraph 2 of this Article,

and that the enterprise has incurred loss or damage by reason of, or arising out of, that breach.

第820条： 一方的投资者代表企业的索赔

1. 缔约方投资者可代表其直接或间接拥有或控制的另一缔约方法人企业，根据本节规定就另一缔约方违约行为提出仲裁请求：

- (a) A部分项下的义务， 但第802条第4款或第809条、 第810条或第816条项下的义务除外； 或
- (b) 第1305条（竞争政策、 垄断和国有企业-指定垄断）第3(a)款或第1306条（竞争政策、 垄断和国有企业-国有企业）第2款项下的义务， 但仅限于指定垄断或国有企业以不符合缔约方在A部分项下义务（第802条第4款、 第809条、 第810条或第816条项下的义务除外）的方式行事； 或
- (c) 本条第2款所述的法律稳定性协议，

且企业因该行为或由此遭受损失或损害。
该违约。

2. A claim by an investor, on behalf of an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, that a tax measure of a Party is in breach of a legal stability agreement between the national government authorities of a Party and the enterprise may be submitted to arbitration only where:

(a)# the legal stability agreement was entered into after 20 June 2007; or

(b)# the legal stability agreement existed on 20 June 2007, and

(i)# the tax measure was adopted after the date of entry into force of this Agreement, and

(ii)# the claim is not related to any tax matter in dispute between the investor or its investment and the Party before the entry into force of this Agreement,

and in either case, the taxation authorities of the Parties, no later than six months after the investor gives notice of its intention to submit the claim to arbitration, have not jointly determined that the tax measure does not contravene the legal stability agreement. The investor shall refer the issue of whether the tax measure does not contravene the legal stability agreement for a determination to the taxation authorities of the Parties at the same time that it gives notice under Article 821.

2. 投资者可代表其直接或间接拥有或控制的另一缔约方法人企业，就一缔约方的税收措施违反该缔约方国家政府当局与企业之间的法律稳定性协议提出索赔，仅在以下情况下可提交仲裁：

(a) 法律稳定性协议签订于2007年6月20日之后；或

(b) 法律稳定性协议在2007年6月20日已存在，且

(i) 税收措施是在本协议生效日期之后采取的，且

(ii) 索赔与本协议生效前投资者或其投资与缔约方之间任何争议的税务事项无关，

且在上述任一情况下，缔约方的税务当局未能在投资者发出拟将索赔提交仲裁的通知后六个月内共同裁定该税收措施未违反法律稳定性协议。投资者应在根据第821条发出通知的同时，将该税收措施是否未违反法律稳定性协议的问题提交缔约方税务当局裁定。

3. Where an investor makes a claim under this Article and the investor or a non-controlling investor in the enterprise makes a claim under Article 819 arising out of the same events that gave rise to the claim under this Article, and two or more of the claims are submitted to arbitration under Article 824, the claims should be heard together by a Tribunal established under Article 829, unless the Tribunal finds that the interests of a disputing party would be prejudiced thereby.

4. An investment may not make a claim under this Section.

Article 821: Notice of Intent to Submit a Claim to Arbitration

1. The disputing investor shall deliver to the disputing Party a written notice of its intent to submit a claim to arbitration at least six months before the claim is submitted. The notice shall specify:

- (a) the name and address of the disputing investor and, where a claim is made under Article 820, the name and address of the enterprise;
- (b) the provisions of this Agreement alleged to have been breached and any other relevant provisions;
- (c) the issues and the factual basis for the claim, including the measures at issue; and
- (d) the relief sought and the approximate amount of damages claimed.

2. The disputing investor shall also deliver, with its Notice of Intent to Submit a Claim to Arbitration, evidence establishing that it is an investor of the other Party.

3. 若投资者根据本条提出索赔，且该投资者或企业中非控制投资者就引发本条索赔的同一事件根据第819条提出索赔，且两项或多项索赔根据第824条提交仲裁，则应由根据第829条设立的仲裁庭一并审理，除非仲裁庭认定此举会损害争议方的利益。

4. 投资不得根据本节提出索赔。

第821条：提交仲裁索赔意向通知

1. 争议投资者应在提交仲裁请求前至少六个月，向争议方送达其提交仲裁索赔的书面意向通知。该通知应列明：

- (a) 争议投资者的名称和地址，以及根据第820条提出索赔时企业的名称和地址；(b) 被指控违反的本协议条款及其他相关条款；(c) 争议事项及索赔的事实依据，包括争议措施；(d) 寻求的救济及索赔的大致损害赔偿金额。

2. 争议投资者还应随其提交仲裁索赔意向通知一并提供证据，证明其为另一缔约方的投资者。

Article 822: Settlement of a Claim through Consultation

1. Before a disputing investor may submit a claim to arbitration, the disputing parties shall first hold consultations in an attempt to settle a claim amicably.
2. Consultations shall be held within six months of the submission of the Notice of Intent to Submit a Claim to Arbitration, unless the disputing parties otherwise agree.
3. The place of consultation shall be the capital of the disputing Party, unless the disputing parties otherwise agree.

Article 823: Conditions Precedent to Submission of a Claim to Arbitration

1. A disputing investor may submit a claim to arbitration under Article 819 only if:
 - (a) the disputing investor consents to arbitration in accordance with the procedures set out in this Section;
 - (b) at least six months have elapsed since the events giving rise to the claim;
 - (c) not more than 39 months have elapsed from the date on which the disputing investor first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the investor has incurred loss or damage thereby;

第822条：通过协商解决索赔

1. 争议投资者在提交仲裁请求前，争议各方应首先进行磋商，以期友好解决索赔。
2. 磋商应在提交仲裁索赔意向通知后六个月内进行，除非争议各方另有约定。
3. 磋商地点应为争议方首都，除非争议各方另有约定。

第823条：提交仲裁索赔的先决条件

1. 争议投资者仅在以下情况下可根据第819条提交仲裁请求：
 - (a) 争议投资者同意按照本节规定的程序进行仲裁；(b) 自引发索赔的事件发生之日起至少已过去六个月；(c) 自争议投资者首次知悉或本应首次知悉涉嫌违约及投资者因此遭受损失或损害之日起不超过39个月；

- (d) the disputing investor has delivered the Notice of Intent required under Article 821, in accordance with the requirements of that Article, at least six months prior to submitting the claim; and
- (e) the disputing investor and, where the claim is for loss or damage to an interest in an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, the enterprise, waive their right to initiate or continue before any administrative tribunal or court under the law of either Party, or other dispute settlement procedures, any proceedings with respect to the measure of the disputing Party that is alleged to be a breach referred to in Article 819, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of the disputing Party.

2. A disputing investor may submit a claim to arbitration under Article 820 only if:

- (a) both the disputing investor and the enterprise consent to arbitration in accordance with the procedures set out in this Section;
- (b) at least six months have elapsed since the events giving rise to the claim;
- (c) not more than 39 months have elapsed from the date on which the enterprise first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the enterprise has incurred loss or damage thereby;

(d) 争议投资者已根据第821条的要求，在提交索赔前至少六个月送达该条规定的意向通知；且

(e) 争议投资者及（当索赔涉及另一缔约方企业权益的损失或损害，且该企业为投资者直接或间接拥有或控制的法人时）该企业，放弃其根据任一缔约方法律在行政法庭或法院启动或继续任何与争议方被指控违反第819条措施相关的诉讼程序的权利，或放弃其他争议解决程序中的权利，除非是在争议方行政法庭或法院提起的不涉及损害赔偿的禁令、宣告性或其他特别救济程序。

2. 争议投资者仅在以下情况下可根据第820条提交仲裁请求：

(a) 争议投资者和企业均根据本节规定的程序同意仲裁；(b) 自引发索赔的事件发生之日起至少已过去六个月；(c) 自企业首次知悉或本应首次知悉涉嫌违约及企业因此遭受损失或损害之日起不超过39个月；

- (d) the disputing investor has delivered the Notice of Intent required under Article 821, in accordance with the requirements of that Article, at least six months prior to submitting the claim; and
- (e) both the disputing investor and the enterprise waive their right to initiate or continue before any administrative tribunal or court under the law of either Party, or other dispute settlement procedures, any proceedings with respect to the measure of the disputing Party that is alleged to be a breach referred to in Article 820, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of the disputing Party.

3. A consent and waiver required by this Article shall be in the form provided for in Annex 823.1, shall be delivered to the disputing Party and shall be included in the submission of a claim to arbitration.

4. An investor may submit a claim relating to taxation measures covered by this Chapter to arbitration under this Section only if the taxation authorities of the Parties fail to reach the joint determinations specified in paragraph 8 of Article 2203 (Exceptions - Taxation), paragraph 2 of Article 819 and paragraph 2 of Article 820 within six months of being notified in accordance with those provisions.

5. A waiver from the enterprise under subparagraphs 1(e) or 2(e) shall not be required only where a disputing Party has deprived a disputing investor of control of an enterprise.

6. Failure to meet any of the conditions precedent provided for in paragraphs 1 through 4 shall nullify the consent of the Parties given in Article 825.

(d) 争议投资者已根据第821条的要求，在提交索赔前至少六个月送达了第821条要求的意向通知；且

(e) 争议投资者和企业均放弃根据任一缔约方法律在任何行政法庭或法院启动或继续针对争议方被指控违反第820条所指措施的任何诉讼程序的权利，亦放弃其他争议解决程序中的相关权利，但根据争议方法律在行政法庭或法院寻求不涉及损害赔偿的禁令、宣告性或其他特别救济的诉讼程序除外。

3. 本条要求的同意和放弃应以附件823.1规定的形式作出，递交给争议方，并纳入仲裁申请的提交材料中。

4. 投资者仅可在以下情况下将本章所涉税收措施相关索赔提交本节项下的仲裁：缔约方税务当局根据第2203条（例外-税收）第8款、第819条第2款及第820条第2款收到通知后六个月内未能达成相关共同决定。

5. 仅在争议缔约方剥夺争议投资者对企业控制权的情况下，才无需企业根据第1(e)款或第2(e)款提交弃权声明。

6. 未能满足第1至第4款规定的任何先决条件，将使缔约方在第825条中给予的同意无效。

Article 824: Submission of a Claim to Arbitration

1. Except as provided in Annex 824.1, a disputing investor who meets the conditions precedent in Article 823 may submit the claim to arbitration under:
- (a) the ICSID Convention, provided that both the disputing Party and the Party of the disputing investor are parties to the Convention;
 - (b) the Additional Facility Rules of ICSID, provided that either the disputing Party or the Party of the disputing investor, but not both, is a party to the ICSID Convention;
 - (c) the UNCITRAL Arbitration Rules; or
 - (d) any other body of rules approved by the Commission as available for arbitrations under this Section.
2. The Commission shall have the power to make rules supplementing the applicable arbitral rules and may amend any rules of its own making. Such rules shall be binding on a Tribunal established under this Section, and on individual arbitrators serving on such a Tribunal.
3. The applicable arbitration rules shall govern the arbitration except to the extent modified by this Section, and supplemented by any rules adopted by the Commission under this Section.

第824条：提交仲裁申请

1. 除附件824.1规定的情形外，满足第823条先决条件的争议投资者可根据以下规定提交仲裁请求：
- (a) ICSID公约，前提是争议方和争议投资者所属方均为公约缔约方；
 - (b) ICSID附加便利规则，前提是争议方或争议投资者所属方中仅一方为ICSID公约缔约方；
 - (c) UNCITRAL仲裁规则；或
 - (d) 委员会批准适用于本节仲裁的其他规则体系。
2. 委员会有权制定补充适用仲裁规则的规则，并可修订其自行制定的任何规则。此类规则对根据本节设立的仲裁庭及在该仲裁庭任职的仲裁员具有约束力。
3. 适用仲裁规则应管辖仲裁程序，除非本节的修改内容另有规定，并可由委员会根据本节通过的任何规则予以补充。

Article 825: Consent to Arbitration

- 1. Each Party consents to the submission of a claim to arbitration in accordance with the procedures set out in this Section.
- 2. The consent given in paragraph 1 and the submission by a disputing investor of a claim to arbitration shall satisfy the requirement of:
 - (a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the Additional Facility Rules for written consent of the parties;
 - (b) Article II of the New York Convention for an agreement in writing; and
 - (c) Article I of the Inter-American Convention for an agreement.

Article 826: Arbitrators

- 1. Except in respect of a Tribunal established under Article 829, and unless the disputing parties agree otherwise, the Tribunal shall comprise three arbitrators. One arbitrator shall be appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, shall be appointed by agreement of the disputing parties.
- 2. Arbitrators shall:
 - (a) have expertise or experience in public international law, international trade or international investment rules or the resolution of disputes arising under international trade or international investment agreements;

第825条： 仲裁同意

- 1. 每一缔约方同意按照本节规定的程序提交仲裁申请。
- 2. 第1款中给予的同意以及争议投资者提交仲裁请求， 应满足以下要求：
 - (a) ICSID公约第二章（中心管辖权）和附加便利规则对缔约方书面同意的要求； (b) 纽约公约第二条对书面协议的要求； 以及(c) 美洲国家公约第一条对协议的要求。

第826条： 仲裁员

- 1. 除根据第829条设立的仲裁庭外， 且除非争议各方另有约定， 仲裁庭应由三名仲裁员组成。争议各方应各任命一名仲裁员， 第三名仲裁员（即首席仲裁员）应由争议各方协议任命。
- 2. 仲裁员应：
 - (a) 具备国际公法、 国际贸易或国际投资规则方面的专业知识或经验， 或解决国际贸易或国际投资协定所产生争议的能力；

- (b) be independent of, and not be affiliated with or take instructions from, either Party or the disputing investor; and
- (c) comply with any Code of Conduct for Dispute Settlement as agreed by the Commission.

3. The disputing parties should agree upon the arbitrators’ remuneration. If the disputing parties do not agree on such remuneration before the constitution of the Tribunal, the prevailing ICSID rate for arbitrators shall apply.

4. The Commission may establish rules relating to expenses incurred by the Tribunal.

Article 827: Constitution of a Tribunal When a Party Fails to Appoint an Arbitrator or the Disputing parties Are Unable to Agree on a Presiding Arbitrator

If a Tribunal, other than a Tribunal established under Article 829, has not been constituted within 90 days after the date that a claim is submitted to arbitration, either disputing party may ask the Secretary-General to appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed, except that the presiding arbitrator shall not be a national of either Party.

- (b) 保持独立，不与任何关联方存在隶属关系或接受其指示来自任一缔约方或争议投资者；以及

- (c) 遵守委员会商定的任何争端解决行为准则。

3. 争议各方应就仲裁员报酬达成一致。若仲裁庭组成前争议各方未就此报酬达成一致，则适用现行ICSID仲裁员费率。

4. 委员会可制定与仲裁庭产生费用相关的规则。

第827条：仲裁庭的组成——当缔约方未指定仲裁员或争议各方无法就首席仲裁员达成一致时

若仲裁庭（依据第829条设立的仲裁庭除外）未在索赔提交仲裁之日起90天内组成，任一争议方可请求秘书长酌情任命尚未选定的仲裁员，但首席仲裁员不得为任一缔约方的国民。

Article 828: Agreement to Appointment of Arbitrators

For purposes of Article 39 of the ICSID Convention and Article 7 of Schedule C to the ICSID Additional Facility Rules, and without prejudice to an objection to an arbitrator based on a ground other than citizenship or permanent residence:

- (a) the disputing Party agrees to the appointment of each individual member of a Tribunal established under the ICSID Convention or the ICSID Additional Facility Rules;

- (b) a disputing investor referred to in Article 819 may submit a claim to arbitration, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only if the disputing investor agrees in writing to the appointment of each member of the Tribunal; and

- (c) a disputing investor referred to in Article 820 may submit a claim to arbitration, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only if the disputing investor and the enterprise agree in writing to the appointment of each member of the Tribunal.

第828条： 仲裁员任命协议

就《ICSID公约》第39条及《ICSID附加便利规则》附录C第7条之目的而言，且在不影响以国籍或永久居留权以外理由对仲裁员提出异议的情况下：

- (a) 争议方同意根据《ICSID公约》或《ICSID附加便利规则》设立的仲裁庭每位成员的任命；

- (b) 第819条所述的争议投资者只有在书面同意仲裁庭每位成员的任命后，方可根据《ICSID公约》或《ICSID附加便利规则》提交仲裁请求或继续索赔；

- (c) 第820条所述的争议投资者只有在争议投资者与企业书面同意仲裁庭每位成员的任命后，方可根据ICSID公约或ICSID附加便利规则提交仲裁请求或继续索赔。

Article 829: Consolidation

1. A Tribunal established under this Article shall be established under the UNCITRAL Arbitration Rules and shall conduct its proceedings in accordance with those Rules, except as modified by this Section.
2. Where a Tribunal established under this Article is satisfied that claims submitted to arbitration under Article 824 have a question of law or fact in common, the Tribunal may, in the interest of fair and efficient resolution of the claims, and after hearing the disputing parties, by order:
- (a) assume jurisdiction over, and hear and determine together, all or part of the claims; or
 - (b) assume jurisdiction over, and hear and determine one or more of the claims, the determination of which it believes would assist in the resolution of the others.
3. A disputing party that seeks an order under paragraph 2 shall request that the Secretary-General establish a Tribunal and shall specify in the request:
- (a) the name of the disputing Party or disputing investors against which the order is sought;
 - (b) the nature of the order sought; and
 - (c) the grounds on which the order is sought.
4. The disputing party shall deliver a copy of the request to the disputing Party or disputing investors against which the order is sought.

第829条：合并

1. 根据本条设立的仲裁庭应按照UNCITRAL仲裁规则设立，并应依照该规则进行诉讼程序，但本节修改的部分除外。
2. 若根据本条设立的仲裁庭认定，根据第824条提交仲裁的索赔存在共同的法律或事实问题，仲裁庭可在听取争议各方意见后，出于公平高效解决索赔的目的，通过命令：
- (a) 对所有或部分索赔行使管辖权，并一并审理和裁定；或 (b) 对一项或多项索赔行使管辖权并审理裁定，且仲裁庭认为该裁定有助于解决其他索赔。
3. 寻求根据第2款作出命令的争议方，应请求秘书长设立仲裁庭，并在请求中列明：
- (a) 所涉命令针对的争议方或争议投资者名称；(b) 所寻求命令的性质；及 (c) 寻求该命令的理由。
4. 争议方应向寻求命令所针对的争议缔约方或争议投资者送达请求副本。

5. The disputing parties shall request the Secretary-General to establish a Tribunal comprising three arbitrators within 60 days of receipt of the request. The disputing parties shall ask the Secretary-General to appoint the presiding arbitrator, from the ICSID Panel of Arbitrators. A presiding arbitrator may not be a national of either Party. The disputing parties shall ask the Secretary-General to appoint the two other members from the ICSID Panel of Arbitrators. To the extent arbitrators are not available from that Panel, the disputing parties will leave appointments to the discretion of the Secretary-General. One member shall be a national of the disputing Party and one member shall be a national of the Party of the disputing investors.

6. Where a Tribunal has been established under this Article, a disputing investor that has submitted a claim to arbitration under Article 824 and that has not been named in a request made under paragraph 3 may make a written request to the Tribunal that it be included in an order made under paragraph 2, and shall specify in the request:

- (a) the name and address of the disputing investor;
- (b) the nature of the order sought; and
- (c) the grounds on which the order is sought.

7. A disputing investor referred to in paragraph 6 shall deliver a copy of its request to the disputing parties named in a request made under paragraph 3.

8. A Tribunal established under Article 824 shall not have jurisdiction to decide a claim, or a part of a claim, over which a Tribunal established under this Article has assumed jurisdiction.

5. 争议各方应请求秘书长在收到请求后**60**天内设立由三名仲裁员组成的仲裁庭。争议各方应要求秘书长从**ICSID**仲裁员小组中任命首席仲裁员。首席仲裁员不得为任一缔约方的国民。争议各方应要求秘书长从**ICSID**仲裁员小组中任命另外两名成员。若该小组中无合适仲裁员可供任命，争议各方将授权秘书长全权决定任命事宜。其中一名成员应为争议缔约方的国民，另
一名成员应为争议投资者所属方的国民。

6. 如已根据本条设立仲裁庭，且争议投资者已根据第**824**条提交仲裁请求但未在第**3**款所述请求中被列名，则该投资者可向仲裁庭提出书面请求，要求被纳入第**2**款所作命令，并应在请求中载明：

- (a) 争议投资者的名称和地址；(b) 所寻求命令的性质；及(c) 寻求该命令的理由。

7. 第**6**款所述争议投资者应将其请求副本递送第**3**款所述请求中列名的争议各方。

8. 根据第**824**条设立的仲裁庭无权裁决已由本条下设立的仲裁庭行使管辖权的索赔或其部分内容。

9. On application of a disputing party, a Tribunal established under this Article, pending its decision under paragraph 2, may order that the proceedings of a Tribunal established under Article 824 be stayed unless the latter Tribunal has already adjourned its proceedings.

Article 830: Notice to the Non-Disputing Party

A disputing Party shall deliver to the other Party a copy of the Notice of Intent to Submit a Claim to Arbitration and other documents, such as a Notice of Arbitration and Statement of Claim, no later than 30 days after the date that such documents have been delivered to the disputing Party.

Article 831: Documents

1. The non-disputing Party shall be entitled, at its cost, to receive from the disputing Party a copy of:

(a)# the evidence that has been tendered to the Tribunal;

(b)# copies of all pleadings filed in the arbitration; and

(c)# the written argument of the disputing parties.

2. The Party receiving information pursuant to paragraph 1 shall treat the information as if it were a disputing Party.

Article 832: Participation by the Non-Disputing Party

1. On written notice to the disputing parties, the non-disputing Party may make submissions to a Tribunal on a question of interpretation of this Agreement.

9. 应争议方申请，本条下设立的仲裁庭可在根据第2款作出决定前，命令第824条下设立的仲裁庭暂停诉讼程序，除非后者已自行休庭。

第830条：向非争议方发出的通知

争议方应在向争议方送达提交仲裁索赔意向通知及其他文件（如仲裁通知和索赔声明）之日起30日内，向另一缔约方送达上述文件的副本。

第831条：文件

1. 非争议方有权自费从争议方处获取以下文件的副本：

(a) 已提交仲裁庭的证据；(b) 仲裁中提交的所有诉状副本；及(c) 争议各方的书面论点。

2. 根据第1款接收信息的缔约方应如同争议方一样对待该信息。

第832条：非争议方的参与

1. 非争议方可在向争议各方发出书面通知后，就本协议的解释问题向仲裁庭提交材料。

2. The non-disputing Party shall have the right to attend any hearings held under this Section, whether or not it makes submissions to the Tribunal.

Article 833: Place of Arbitration

Unless the disputing parties agree otherwise, a Tribunal shall hold arbitration in the territory of a Party that is a party to the New York Convention, selected in accordance with:

- (a) the ICSID Additional Facility Rules, if the arbitration is under those Rules or the ICSID Convention; or
- (b) the UNCITRAL Arbitration Rules, if the arbitration is under those Rules.

Article 834: Preliminary Objections to Jurisdiction or Admissibility

Where issues relating to jurisdiction or admissibility are raised as preliminary objections, a Tribunal shall, wherever possible, decide the matter before proceeding to the merits.

Article 835: Public Access to Hearings and Documents

- 1. Hearings held under this Section shall be open to the public. To the extent necessary to ensure the protection of confidential information, the Tribunal may hold portions of hearings *in camera*.
- 2. The Tribunal shall establish procedures for the protection of confidential information and appropriate logistical arrangements for open hearings, in consultation with the disputing parties.

2. 无论是否向仲裁庭提交材料，非争议方均有权参加本节项下举行的任何听证会。

第833条：仲裁地点

除非争议各方另有约定，仲裁庭应按照以下规定在作为《纽约公约》缔约方的缔约方领土内进行仲裁：

- (a) 《ICSID附加便利规则》，如果仲裁是根据该规则或《ICSID公约》进行的；或
- (b) 《UNCITRAL仲裁规则》，如果仲裁是根据该规则进行的。

第834条：管辖权或可受理性的初步异议

当管辖权或可受理性问题作为初步异议提出时，仲裁庭应尽可能在进入实质问题审理前作出决定。

第835条：听证会和文件的公开访问

- 1. 本节项下的听证会应向公众开放。为确保机密信息的保护所需，仲裁庭可对部分听证会进行非公开审理。
- 2. 仲裁庭应与争议各方协商，制定保护机密信息的程序，并为公开听证会作出适当的后勤安排。

3. All documents submitted to, or issued by, the Tribunal shall be publicly available, unless the disputing parties otherwise agree, subject to the deletion of confidential information.
4. Notwithstanding paragraph 3, any Tribunal award under this Section shall be publicly available, subject to the deletion of confidential information.
5. A disputing party may disclose to other persons in connection with the arbitral proceedings such unredacted documents as it considers necessary for the preparation of its case, but it shall ensure that those persons protect the confidential information in such documents.
6. The Parties may share with officials of their respective national and sub-national governments all relevant unredacted documents in the course of dispute settlement under this Agreement, but they shall ensure that those persons protect any confidential information in such documents.
7. As provided under Article 2202 (Exceptions - National Security) and Article 2204 (Exceptions - Disclosure of Information), the Tribunal shall not require a Party to furnish or allow access to information the disclosure of which would impede law enforcement or would be contrary to the Party's law protecting the deliberative and policy-making processes of the executive branch of government at the cabinet level, personal privacy or the financial affairs and accounts of individual customers of financial institutions, or which it determines to be contrary to its essential security.

3. 提交仲裁庭或由仲裁庭签发的所有文件均应公开提供，除非争议各方另有约定，但需删除机密信息。
4. 尽管有第3款规定，本协议本节项下的任何仲裁庭裁决均应公开可查，但需删除机密信息。
5. 争议方可向与仲裁程序相关的其他人员披露其认为案件准备所需的未编辑文件，但应确保相关人员保护此类文件中的机密信息。
6. 缔约方可与本协议项下争端解决过程中各自中央政府及地方政府官员共享所有相关未编辑文件，但应确保相关人员保护此类文件中的任何机密信息。
7. 根据第2202条（例外-国家安全）和第2204条（例外-信息披露）的规定，仲裁庭不得要求缔约方提供或允许访问以下信息：披露此类信息会妨碍执法，或违背缔约方保护政府行政部门内阁级别审议和决策过程的法律、个人隐私或金融机构个人客户的财务事务和账户的法律，或仲裁庭认定此类信息披露违背其基本安全。

8. To the extent that a Tribunal’s confidentiality order designates information as confidential and a Party’s law on access to information requires public access to that information, the Party’s law on access to information shall prevail. However, a Party should endeavour to apply its law on access to information so as to protect information designated confidential by the Tribunal.

Article 836: Submissions by Other Persons

1. Any person, other than a disputing party, that wishes to file a written submission with a Tribunal (the “applicant”) shall apply for leave from the Tribunal to file such a submission, in accordance with Annex 836.1. The applicant shall attach the submission to the application.
2. The applicant shall serve its application for leave to file a submission, as well as its submission, on all disputing parties and the Tribunal.
3. The Tribunal shall set an appropriate date for the disputing parties to comment on the application for leave.
4. In determining whether to grant the leave the Tribunal shall consider, among other things, the extent to which:
 - (a) the applicant’s submission would assist the Tribunal in the determination of a factual or legal issue related to the arbitration by bringing a perspective, particular knowledge or insight that is different from that of the disputing parties;
 - (b) the applicant’s submission would address a matter within the scope of the dispute;

8. 若仲裁庭的保密令将某信息指定为机密，而缔约方的信息获取法要求该信息应公开获取，则以缔约方的信息获取法为准。但缔约方应努力适用其信息获取法，以保护被仲裁庭指定为机密的信息。

第836条： 其他人员的提交

1. 任何非争议方的人员（“申请人”）如希望向仲裁庭提交书面材料，应根据附件836.1向仲裁庭申请提交此类材料的许可。申请人应将提交材料附于申请中。
2. 申请人应将其提交材料的许可申请及提交材料送达所有争议方和仲裁庭。
3. 仲裁庭应设定适当的日期，供争议各方对许可申请发表评论。
4. 在决定是否授予许可时，仲裁庭应特别考虑以下方面：
 - (a) 申请人的提交材料是否能够通过提供不同于争议方的视角、特定知识或见解，协助仲裁庭裁定与仲裁相关的事实或法律问题；
 - (b) 申请人的提交材料将涉及争议范围内的事项；

(c) the applicant has a significant interest in the arbitration; and

(d) there is a public interest in the subject-matter of the arbitration.

5. The Tribunal shall ensure that:

(a)# any applicant’s submission does not disrupt the proceedings; and

(b)# neither disputing party is unduly burdened or unfairly prejudiced by such submissions.

6. The Tribunal shall decide whether to grant leave to an applicant to file a submission. If the Tribunal grants leave, it shall set an appropriate date for the disputing parties to respond in writing to the submission. By that date, the non-disputing Party may, pursuant to Article 832, address any issues of interpretation of this Agreement presented in the submission.

7. The Tribunal that grants leave to file a submission to an applicant is not required to address the submission at any point in the arbitration, nor is the person that files the submission entitled to make further submissions in the arbitration.

8. Access to hearings and documents by persons that file applications under these procedures shall be governed by the provisions pertaining to public access to hearings and documents under Article 835.

Article 837: Governing Law

1. A Tribunal established under this Section shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law.

(c) 申请人对于仲裁具有重大利益；且 (d) 仲裁事项涉及公共利益。

5. 仲裁庭应确保：

(a) 任何申请人的提交材料不会扰乱诉讼程序；且 (b) 争议各方不会因此类提交材料而承受不当负担或遭受不公平损害。

6. 仲裁庭应决定是否许可申请人提交材料。若仲裁庭授予许可，应为争议各方设定适当的书面回应提交材料的截止日期。截至该日期，非争议缔约方可依据第832条，就提交材料中提出的本协议解释问题发表意见。

7. 授予申请人提交材料许可的仲裁庭，无需在仲裁的任何阶段处理该提交材料，提交材料者亦无权在仲裁中进一步提交材料。

8. 根据本程序提交申请的人员对听证会和文件的访问权，应受第835条关于听证会和文件公共获取的条款管辖。

第837条：适用法律

1. 根据本节设立的仲裁庭应依照本协议及适用的国际法规则对争议事项作出裁决。

2. Subject to the other terms of this Section, when a claim is submitted to arbitration for a breach of a legal stability agreement referred to in paragraph 2 of Articles 819 or paragraph 2 of Article 820, a Tribunal established under this Section shall apply:

- (a)# the rules of law specified in the legal stability agreement, or as the disputing parties may otherwise agree; or
- (b)# if the rules of law have not been specified or otherwise agreed:
 - (i) the law of the disputing Party, including its rules on the conflict of laws,⁵ and
 - (ii) such rules of international law as may be applicable.

3. An interpretation by the Commission of a provision of this Agreement shall be binding on a Tribunal established under this Section, and any award under this Section shall be consistent with the interpretation.

Article 838: Interpretation of Annexes

1. Where a disputing Party asserts as a defence that the measure alleged to be a breach is within the scope of a reservation or exception set out in Annex I or Annex II, on request of the disputing Party, the Tribunal shall request the interpretation of the Commission on the issue. The Commission, within 60 days of delivery of the request, shall submit in writing its interpretation to the Tribunal.

⁵ The “law of the disputing Party” means the law that a domestic court or tribunal of proper jurisdiction would apply in the same case.

2. 在遵守本节其他条款的前提下，当因违反第819条第2款或第820条第2款所述法律稳定性协议而提交仲裁索赔时，根据本节设立的仲裁庭应适用：

- (a) 法律稳定性协议中指定的法律规则，或争议各方可能另行同意的规则；或
- (b) 如果法律规则未被指定或另行约定：
 - (i) 争议方的法律，包括其关于法律冲突的规则，⁵ 及
 - (ii) 可能适用的国际法规则。

3. 委员会对本协议条款的解释对根据本节设立的仲裁庭具有约束力，且本节下的任何裁决均应与该解释保持一致。

第838条：附件的解释

1. 如争议方主张辩护称，被指控违约的措施属于附件一或附件二所列保留或例外的范围，应争议方的请求，仲裁庭应就该问题提请委员会作出解释。委员会应在收到请求后60天内，向仲裁庭提交书面解释。

⁵ “争议方的法律”系指具有适当管辖权的国内法院或法庭在同一案件中适用的法律。

2. Further to paragraph 3 of Article 837, a Commission interpretation submitted under paragraph 1 shall be binding on the Tribunal. If the Commission fails to submit an interpretation within 60 days, the Tribunal shall decide the issue.

Article 839: Expert Reports

Without prejudice to the appointment of other kinds of experts where authorized by the applicable arbitration rules, a Tribunal, at the request of a disputing party, or on its own initiative unless the disputing parties disapprove, may appoint experts to report to it in writing on any factual issue concerning environmental, health, safety or other scientific matters raised by a disputing party, subject to such terms and conditions as the disputing parties may agree.

Article 840: Interim Measures of Protection

A Tribunal may order an interim measure of protection to preserve the rights of a disputing party, or to ensure that the Tribunal's jurisdiction is made fully effective, including an order to preserve evidence in the possession or control of a disputing party or to protect the Tribunal's jurisdiction. A Tribunal may not order attachment or enjoin the application of the measure alleged to constitute a breach referred to in Article 819 or 820. For purposes of this paragraph, an order includes a recommendation.

2. 根据第837条第3款的规定，依据第1款提交的委员会解释对仲裁庭具有约束力。如委员会未能在60天内提交解释，则由仲裁庭对该问题作出裁决。

第839条： 专家报告

在不影响根据适用仲裁规则委派其他类型专家的情况下，仲裁庭可应争议方请求，或除非争议各方反对，亦可主动委派专家，就争议方提出的有关环境、健康、安全或其他科学问题的任何事实问题向其提交书面报告，但须遵守争议各方可能商定的条款和条件。

第840条： 临时保护措施

仲裁庭可命令采取临时保护措施以维护争议方的权利，或确保仲裁庭的管辖权得到充分有效行使，包括命令保存争议方持有或控制的证据，或保护仲裁庭的管辖权。仲裁庭不得下令扣押或禁止执行被指称构成第819条或第820条所述违约的措施。就本款而言，命令包括建议。

Article 841: Final Award

1. Where a Tribunal makes a final award against the disputing Party, the Tribunal may award, separately or in combination, only:

- (a) monetary damages and any applicable interest;
- (b) restitution of property, in which case the award shall provide that the disputing Party may pay monetary damages and any applicable interest in lieu of restitution.

The Tribunal may also award costs in accordance with the applicable arbitration rules.

2. Subject to paragraph 1, where a claim is made under paragraph 1 of Article 820:

- (a) an award of monetary damages and any applicable interest shall provide that the sum be paid to the enterprise;
- (b) an award of restitution of property shall provide that restitution be made to the enterprise; and
- (c) the award shall provide that it is made without prejudice to any right that any person may have in the relief under applicable domestic law.

3. A Tribunal may not order a disputing Party to pay punitive damages.

第841条：最终裁决

1. 如仲裁庭针对争议方作出最终裁决，则仲裁庭可单独或合并裁定以下内容：

(a) 金钱损害赔偿及任何适用利息；(b) 财产归还，在此情况下，裁决应规定争议方可支付金钱损害赔偿及任何适用利息以代替财产归还。

仲裁庭还可根据适用仲裁规则裁决费用。

2. 在第1款的前提下，如根据第820条第1款提出索赔：

(a) 金钱损害赔偿及任何适用利息的裁决应规定将该款项支付给企业；(b) 财产归还的裁决应规定将财产归还给企业；且(c) 裁决应规定其不影响任何个人根据适用国内法对救济享有的任何权利。

3. 仲裁庭不得命令争议方支付惩罚性损害赔偿。

Article 842: Finality and Enforcement of an Award

1. An award made by a Tribunal shall have no binding force except between the disputing parties and in respect of that particular case.

2. Subject to paragraph 3 and the applicable review procedure for an interim award, a disputing party shall abide by and comply with an award without delay.

3. A disputing party may not seek enforcement of a final award until:
 - (a) in the case of a final award made under the ICSID Convention:
 - (i) 120 days have elapsed from the date the award was rendered and no disputing party has requested revision or annulment of the award, or
 - (ii) revision or annulment proceedings have been completed; and
 - (b) in the case of a final award under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules:
 - (i) 90 days have elapsed from the date the award was rendered and no disputing party has commenced a proceeding to revise, set aside or annul the award, or
 - (ii) a court has dismissed or allowed an application to revise, set aside or annul the award and there is no further appeal.

第842条：裁决的终局性和执行

1. 仲裁庭作出的裁决除对争议各方及该特定案件外，不具有约束力。

2. 在第3款及临时裁决适用的审查程序约束下，争议方应立即遵守并执行裁决。

3. 争议方在下列情形出现前不得寻求执行最终裁决：
 - (a) 对于根据ICSID公约作出的最终裁决：
 - (i) 自裁决作出之日起已过120天且无争议方请求修订或撤销该裁决；或
 - (ii) 修订或撤销诉讼程序已完成；且
 - (b) 在国际投资争端解决中心附加便利规则或UNCITRAL仲裁规则下的最终裁决情况下：
 - (i) 自裁决作出之日起已过去90天，且无争议方启动修订、搁置或撤销裁决的程序，或 (ii) 法院已驳回或准许修订、搁置或撤销裁决的申请，且无进一步上诉。

4. Each Party shall provide for the enforcement of an award in its territory.

5. If the disputing Party fails to abide by or comply with a final award, the Commission, on delivery of a request by the Party of the disputing investor, shall establish an arbitral panel under Chapter Twenty-One (Dispute Settlement). The requesting Party may seek in such proceedings:

- (a) a determination that the failure to abide by or comply with the final award is inconsistent with the obligations of this Agreement; and
- (b) a recommendation that the disputing Party abide by or comply with the final award.

6. A disputing investor may seek enforcement of an arbitration award under the ICSID Convention, the New York Convention or the Inter-American Convention regardless of whether proceedings have been taken under paragraph 5.

7. A claim that is submitted to arbitration under this Section shall be considered to arise out of a commercial relationship or transaction for purposes of Article I of the New York Convention and Article I of the Inter-American Convention.

4. 每一缔约方应在其领土内提供裁决的执行。

5. 如争议方未能遵守或执行最终裁决，争议投资者所属方提出请求后，委员会应根据第二十一章（争议解决）成立仲裁小组。请求方可在该诉讼程序中寻求：

- (a) 裁定未遵守或执行最终裁决的行为违反本协议义务；及 (b) 建议争议方遵守或执行最终裁决。

6. 无论是否已根据第5款启动诉讼程序，争议投资者均可依据《ICSID公约》《纽约公约》或《美洲国家公约》寻求仲裁裁决的执行。

7. 根据本节提交仲裁的索赔，应视为出于商业关系或交易而产生，以达到《纽约公约》第一条和《美洲国家公约》第一条的目的。

Article 843: General

Time when a Claim is Submitted to Arbitration

1. A claim is submitted to arbitration under this Section when:
- (a) the request for arbitration under paragraph 1 of Article 36 of the ICSID Convention is received by the Secretary-General;

(b) the notice of arbitration under Article 2 of Schedule C of the ICSID Additional Facility Rules is received by the Secretary-General; or

(c) the notice of arbitration given under the UNCITRAL Arbitration Rules is received by the disputing Party.

Service of Documents

2. Delivery of notice and other documents on a Party shall be made to:

For Canada: Office of the Deputy Attorney General of Canada

For Peru: Ministerio de Economía y Finanzas

Receipts under Insurance or Guarantee Contracts

第843条：总则

索赔提交仲裁的时间

1. 在下列情况下，索赔即根据本节提交仲裁：
- (a) 秘书长收到根据《ICSID公约》第36条第1款提出的仲裁请求；

(b) 秘书长收到根据《ICSID附加便利规则》附录C第2条提交的仲裁通知；或(c) 争议方收到根据《UNCITRAL仲裁规则》发出的仲裁通知。

文件送达

2. 向缔约方送达通知及其他文件应发送至：加拿大：加拿大副检察长办公室 秘鲁：经济财政部 保险或担保合同下的收据

3. In an arbitration under this Section, a disputing Party shall not assert as a defence, counterclaim, right of setoff or otherwise, that the disputing investor has received or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of its alleged damages.

Article 844: Exclusions

The dispute settlement provisions of this Section and of Chapter Twenty-One (Disputes Settlement) shall not apply to the matters in Annex 844.1.

Article 845: Suspension of Other Agreements

1. The *Agreement Between Canada and the Republic of Peru for the Promotion and Protection of Investments* done in Hanoi on 14 November 2006 (the “FIPA”) shall be suspended from the date of entry into force of this Agreement and until such time as this Agreement is no longer in force.
2. Notwithstanding paragraph 1, the FIPA shall remain operative for a period of fifteen years after the entry into force of this Agreement for the purpose of any breach of the obligations of the FIPA that occurred before the entry into force of this Agreement. During this period the right of an investor of a Party to submit a claim to arbitration concerning such a breach shall be governed by the relevant provisions of the FIPA.

3. 在本节仲裁中，争议方不得以争议投资者已根据保险或担保合同获得或将获得全部或部分声称损害的赔偿或其他补偿为由，提出辩护、反诉、抵销权或其他主张。

第844条：排除

本节及第二十一章（争端解决）的争端解决条款不适用于附件844.1所列事项。

第845条：其他协定的中止

1. 加拿大与秘鲁共和国于2006年11月14日在河内签署的《促进和保护投资协定》（简称“FIPA”）应自本协议生效之日起中止，直至本协议不再有效为止。
2. 尽管有第1款的规定，就本协议生效前发生的违反《外国投资促进和保护协定》义务的行为而言，《外国投资促进和保护协定》应在本协议生效后继续有效十五年。在此期间，缔约方投资者就此类违约行为提交仲裁请求的权利应受《外国投资促进和保护协定》相关条款管辖。

Article 846: Termination

Notwithstanding the termination of this Agreement pursuant to Article 2305 (Final Provisions - Termination), this Agreement shall remain in force for a period of fifteen years after the termination for the purpose of any breach of the obligations of this Chapter or subparagraph 3(a) of Article 1305 (Competition Policy, Monopolies and State Enterprises - Designated Monopolies) or paragraph 2 of Article 1306 (Competition Policy, Monopolies and State Enterprises - State Enterprises) that occurred prior to the termination of this Agreement. During this period the right of an investor of a Party to submit a claim to arbitration concerning such a breach shall be governed by the relevant provisions of this Agreement.

第846条：终止

尽管本协议根据第2305条（最终条款—终止）终止，就本协议终止前发生的违反本章节义务或第1305条（竞争政策、垄断和国有企业—指定垄断）第3(a)款或第1306条（竞争政策、垄断和国有企业—国有企业）第2款的行为而言，本协议应在终止后继续有效十五年。在此期间，缔约方投资者就此类违约行为提交仲裁请求的权利应受本协议相关条款管辖。

Section C - Definitions

Article 847: Definitions

For the purpose of this Chapter:

affiliate: a person is an affiliate of another person when:

- (a)# directly or indirectly, it controls or is controlled by that other person;
or
- (b)# it and the other person are both controlled, directly or indirectly, by the same person;

confidential information means business confidential information and information that is privileged or otherwise protected from disclosure;

covered investment means, with respect to a Party, an investment in its territory of an investor of the other Party existing on the date of entry into force of this Agreement, as well as investments made or acquired thereafter;

disputing investor means an investor that makes a claim under Section B;

disputing Party means a Party against which a claim is made under Section B;

disputing party means the disputing investor or the disputing Party;

enterprise means an enterprise as defined in Article 105 of Chapter One (Initial Provisions and General Definitions – Definitions of General Application) and a branch of any such entity;

enterprise of a Party means an enterprise constituted or organized under the law of a Party, and a branch located in the territory of a Party and carrying out business activities there;

C部分 - 定义

第847条：定义

就本章节而言：

关联方：在以下情况下，一人为另一人的关联方：

- (a) 直接或间接地，其控制该另一人或被该另一人控制；或
- (b) 其与该另一人直接或间接地受同一人控制；

机密信息是指商业机密信息以及享有特权或其他免受披露保护的信息；

涵盖投资就一缔约方而言，指在本协议生效之日存在于其领土内的另一缔约方投资者的投资，以及此后作出或取得的投资；

争议投资者指根据B部分提出索赔的投资者；

争议方指根据B部分被提出索赔的缔约方；

争议当事方指争议投资者或争议方；

企业指第一章（初始条款和一般定义——一般适用定义）第105条所定义的企业及任何此类实体的分支机构；

缔约方企业指根据缔约方法律组建或组织的企业，以及位于缔约方领土并在该领土开展业务活动的分支机构；

equity or debt securities include voting and non-voting shares, bonds, convertible debentures, stock options and warrants;

ICSID means the International Centre for Settlement of Investment Disputes;

ICSID Convention means the *Convention on the Settlement of Investment Disputes between States and Nationals of other States*, done at Washington on 18 March 1965;

intellectual property rights means copyright and related rights, trademark rights, rights in geographical indications, rights in industrial designs, patent rights, rights in layout designs of integrated circuits, rights in relation to protection of undisclosed information, and plant breeders’ rights;

Inter-American Convention means the *Inter-American Convention on International Commercial Arbitration*, done at Panama on 30 January 1975;

investment means:

(a)# an enterprise;

(b)# an equity security of an enterprise;

(c)# a debt security of an enterprise:

(i) where the enterprise is an affiliate of the investor, or

(ii) where the original maturity of the debt security is at least three years,

but does not include a debt security, regardless of original maturity, of a state enterprise;

股权或债务证券包括有表决权和无表决权股份、债券、可转换债券、股票期权和认股权证；

ICSID指国际投资争端解决中心；

ICSID公约指1965年3月18日在华盛顿签署的《国家与他国国民间投资争端解决公约》；

知识产权指版权及相关权利、商标权、地理标志权、工业设计的专利权、集成电路布图设计权、未披露信息保护权及植物育种者权；

美洲国家公约指1975年1月30日在巴拿马签署的《美洲国家间国际商事仲裁公约》；

投资指：

(a) 企业；(b) 企业的股权证券；(c) 企业的债务证券：(i) 该企业为投资者的关联企业，或(ii) 该债务证券的原始期限至少为三年，

但不包括国有企业的债务证券，无论其原始期限如何；

(d)# a loan to an enterprise:

- (i) where the enterprise is an affiliate of the investor, or
- (ii) where the original maturity of the loan is at least three years,

but does not include a loan, regardless of original maturity, to a state enterprise;

(e)# an interest in an enterprise that entitles the owner to share in income or profits of the enterprise;

(f)# an interest in an enterprise that entitles the owner to share in the assets of that enterprise on dissolution, other than a debt security or a loan excluded from subparagraphs (c) or (d);

(g)# real estate or other property, tangible or intangible, acquired in the expectation or used for the purpose of economic benefit or other business purposes; and

(h)# interests arising from the commitment of capital or other resources in the territory of a Party to economic activity in such territory, such as under:

- (i) contracts involving the presence of an investor's property in the territory of the Party, including turnkey or construction contracts, or concessions, or
- (ii) contracts where remuneration depends substantially on the production, revenues or profits of an enterprise;

(d) 向企业提供的贷款:

- (i) 该企业是投资者的关联企业, 或 (ii) 贷款的原始期限至少为三年,

但不包括向国有企业提供的贷款, 无论其原始期限如何;

(e) 企业权益, 该权益使所有者有权分享企业的收入或利润;

(f) 企业权益, 该权益使所有者有权在企业解散时分享该企业的资产, 但不包括被排除在(c)或(d)项之外的债务证券或贷款;

(g) 不动产或其他财产, 无论是有形还是无形, 其取得预期或使用目的是为了经济利益或其他商业目的; 及

(h) 因在缔约方领土内投入资本或其他资源用于该领土内的经济活动而产生的权益, 例如:

- (i) 涉及投资者财产存在于缔约方领土内的合同, 包括交钥匙或建设合同, 或特许权, 或

(ii) 报酬主要取决于企业生产、收入或利润的合同;

but **investment does not mean,**

(i)# claims to money that arise solely from:

- (i) commercial contracts for the sale of goods or services by a national or enterprise in the territory of a Party to an enterprise in the territory of the other Party, or
- (ii) the extension of credit in connection with a commercial transaction, such as trade financing, other than a loan covered by subparagraph (d); and

(j)# any other claims to money,

that do not involve the kinds of interests set out in subparagraphs (a) through (h);

investment of an investor of a Party means an investment owned or controlled directly or indirectly by an investor of such Party;

investor of a Party⁶ means:

(a)# in the case of Canada:

- (i)# Canada or a state enterprise of Canada, or
- (ii)# a national or an enterprise of Canada,

that seeks to make, is making or has made an investment; a natural person who is a dual citizen shall be deemed to be exclusively a citizen of the State of his or her dominant and effective citizenship; and

⁶ For greater certainty, it is understood that an investor “seeks to make an investment” only when the investor has taken concrete steps necessary to make the investment, such as when the investor has made an application for a permit or license authorizing the establishment of an investment.

但投资并不意味着，

(i) 仅因以下原因产生的货币债权：

(i) 缔约方领土内的国民或企业向另一缔约方领土内的企业出售商品或服务的商业合同，或(ii) 与商业交易相关的信贷展期，例如贸易融资，但不包括(d)项所涵盖的贷款；以及

(j) 任何其他货币债权，

这些债权不涉及(a)至(h)项所列的各种利息；

缔约方投资者的投资是指由该缔约方投资者直接或间接拥有或控制的投资；

缔约方投资者⁶ 指：

(a) 就加拿大而言：

- (i) 加拿大或加拿大的国有企业， 或
- (ii) 加拿大的国民或企业，

寻求进行、正在进行或已经进行投资的自然人；双重公民身份的自然人应被视为仅具有其主要和有效公民身份所属国家的国籍；且

⁶ 为进一步明确，理解“投资者寻求进行投资”仅当投资者已采取进行投资所需的具体步骤时，例如投资者已提交申请以获得授权设立投资的许可证或执照。

(b)# in the case of Peru:

(i)# a state enterprise of Peru, or

(ii)# a national or enterprise of Peru,

that seeks to make, is making or has made an investment; a natural person who is a dual citizen shall be deemed to be exclusively a citizen of the State of his or her dominant and effective citizenship;

investor of a non-Party⁷ means an investor other than an investor of a Party, that seeks to make, is making, or has made an investment;

legal stability agreement means an agreement entered into by a national government authority of a Party and an investor of the other Party or a covered investment of such investor that accords certain benefits, including, but not limited to, a commitment to maintain the existing income tax regime during a specified time;

New York Convention means the *United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards*, done at New York on 10 June 1958;

non-disputing Party means a Party that is not a party to an investment dispute under Section B;

non-disputing party means a person of a Party, or a person of a non-Party with a significant presence in the territory of a Party, that is not a party to an investment dispute under Section B;

Secretary-General means the Secretary-General of ICSID;

⁷ For greater certainty, it is understood that an investor “seeks to make an investment” only when the investor has taken concrete steps necessary to make the investment, such as when the investor has made an application for a permit or license authorizing the establishment of an investment.

(b) 就秘鲁而言：

(i) 秘鲁的国有企业，或

(ii) 秘鲁的国民或企业，

其寻求进行、正在进行或已进行投资；作为双重公民的自然人应被视为仅具有其主要和有效公民身份所属国家的公民；

非缔约方投资者⁷ 指非缔约方投资者以外的投资者，其寻求进行、正在进行或已进行投资；

法律稳定性协议指一缔约方的国家政府机构与另一缔约方的投资者或该投资者的涵盖投资所签订的协议，该协议赋予某些利益，包括但不限于承诺在特定时间内维持现行所得税制度；

纽约公约指1958年6月10日在纽约签订的《联合国承认及执行外国仲裁裁决公约》；

非争议方指不是B部分项下投资争议一方的缔约方；

非争议方指不是B部分项下投资争议一方的缔约方人员，或在缔约方领土内具有重要存在的非缔约方人员；

秘书长指国际投资争端解决中心秘书长；

⁷ 为进一步明确，投资者仅在采取投资所需具体步骤（例如申请授权设立投资的许可证或执照）时，方被视为“寻求投资”。

taxation authorities means the following until notice in writing to the contrary is provided to the other Party:

(a)# for Canada: the Assistant Deputy Minister, Tax Policy, of the Department of Finance Canada; and

(b)# for Peru: the Vice Minister of Economy, the Ministry of Economy and Finance;

Tribunal means an arbitration tribunal established under Article 824 or Article 829; and

UNCITRAL Arbitration Rules means the arbitration rules of the United Nations Commission on International Trade Law, approved by the United Nations General Assembly on 15 December 1976.

税务当局指下列机构，直至向另一缔约方提供相反的书面通知：

(a) 对于加拿大：加拿大财政部税务政策助理副部长；以及 (b) 对于秘鲁：经济和财政部经济副部长；

仲裁庭指根据第824条或第829条设立的仲裁庭；以及

UNCITRAL仲裁规则指联合国国际贸易法委员会制定、1976年12月15日经联合国大会批准的仲裁规则。

Annex 804.1

Most-Favoured-Nation Treatment

For greater clarity, treatment “with respect to the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of investments” referred to in paragraphs 1 and 2 of Article 804 does not encompass dispute resolution mechanisms, such as those in Section B, that are provided for in international treaties or trade agreements.

附件804.1

最惠国待遇

为更明确起见，第804条第1款和第2款所述的"对投资的设立、收购、扩张、管理、经营、运营及出售或其他处置的待遇"不包括国际条约或贸易协定中规定的争端解决机制，例如B部分中的机制。

Annex 812.1

Indirect Expropriation

The Parties confirm their shared understanding that:

- (a) Indirect expropriation results from a measure or series of measures of a Party that have an effect equivalent to direct expropriation without formal transfer of title or outright seizure;
- (b) The determination of whether a measure or series of measures of a Party constitutes an indirect expropriation requires a case-by-case, fact-based inquiry that considers, among other factors:
 - (i)# the economic impact of the measure or series of measures, although the sole fact that a measure or series of measures of a Party has an adverse effect on the economic value of an investment does not establish that an indirect expropriation has occurred,
 - (ii)# the extent to which the measure or series of measures interferes with distinct, reasonable investment-backed expectations, and
 - (iii)# the character of the measure or series of measures;

附件812.1

间接征收

缔约方确认其共同理解如下：

- (a) 间接征收源于一缔约方采取的措施或一系列措施，其效果等同于直接征收但未发生正式所有权转移或彻底没收；
- (b) 判定一缔约方的措施或一系列措施是否构成间接征收，需基于具体案件事实进行考量，除其他因素外，还应包括：
 - (i) 该措施或一系列措施的经济影响，但仅凭一缔约方的措施或一系列措施对投资的经济价值产生不利影响这一事实，并不能认定间接征收已发生，
 - (ii) 措施或一系列措施对明确的、合理的投资预期造成干扰的程度，以及
 - (iii) 措施或一系列措施性质；

(c) Except in rare circumstances, such as when a measure or series of measures is so severe in the light of its purpose that it cannot be reasonably viewed as having been adopted and applied in good faith, non-discriminatory measures of a Party that are designed and applied to protect legitimate public welfare objectives, such as health, safety and the environment, do not constitute indirect expropriation.

(c) 除特殊情况外（例如某项措施或一系列措施就其目的而言过于严厉，以致无法合理视为出于善意而采取和实施），缔约方为保护健康、安全和环境等合法的公共福利目标而设计和实施的非歧视性措施，不构成间接征收。

Annex 823.1

**Standard Waiver and Consent
in Accordance with Article 823 of this Agreement⁸**

In the interest of facilitating the filing of waivers as required by Article 824 of this Agreement, and to facilitate the orderly conduct of the dispute resolution procedures set out in Section B, the following standard waiver forms shall be used, depending on the type of claim.

Claims filed under Article 819 must be accompanied by either Form 1, where the investor is a national of a Party, or Form 2, where the investor is a Party, a state enterprise thereof, or an enterprise of such Party.

Where the claim is based on loss or damage to an interest in an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, either Form 1 or 2 must be accompanied by Form 3.

Claims made under Article 820 must be accompanied by either Form 1, where the investor is a national of a Party, or Form 2, where the investor is a Party, a state enterprise thereof, or an enterprise of such Party, and Form 4.

⁸ Subject to Annex 824.1.

附件823.1

标准豁免与同意书
依据本协议第823条⁸

为便利提交本协议第824条所要求的豁免文件，并促进B部分规定的争议解决程序有序进行，应根据索赔类型使用以下标准豁免表格。

根据第819条提交的索赔，若投资者为缔约方国民，须附表格1；若投资者为缔约方、其国有企业或该缔约方企业，则须附表格2。

若索赔基于投资者直接或间接拥有或控制的另一缔约方法人企业的权益遭受损失或损害，则表格1或2须与表格3一并提交。

根据第820条提出的索赔必须附上表格1（当投资者为缔约方国民时）或表格2（当投资者为缔约方、其国有企业或该缔约方企业时），以及表格4。

⁸ 受限于附件824.1。

Form 1

Consent and waiver for an investor of a Party bringing a claim under Article 819 or Article 820 (where the investor is a national of a Party) of the Free Trade Agreement between Canada and the Republic of Peru:

I,____(Name of investor)_, consent to arbitration in accordance with the procedures set out in this Agreement, and waive my right to initiate or continue before any administrative tribunal or court under the law of either Party to the Agreement, or other dispute settlement procedures, any proceedings with respect to the measure of____(Name of disputing Party)_ that is alleged to be a breach referred to in Article 819 or Article 820, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of____(Name of disputing Party)_.
(To be signed and dated.)

表格1

加拿大与秘鲁共和国自由贸易协定第819条或第820条（投资者为缔约方国民时）下提出索赔的缔约方投资者的同意和放弃：

本人，（投资者姓名）， 同意按照本协议规定的程序进行仲裁，并放弃在协议任一缔约方法律下的行政法庭或法院，或其他争议解决程序中，就（争议方名称）被指称违反第819条或第820条的措施提起或继续任何诉讼程序的权利，除非是在（争议方名称）法律下的行政法庭或法院寻求不涉及损害赔偿的禁令、宣告性或其他特别救济的诉讼程序。

(需签名并注明日期。)

Form 2

Consent and waiver for an investor of a Party bringing a claim under Article 819 or Article 820 (where the investor is a Party, a state enterprise thereof, or an enterprise of such Party) of the Free Trade Agreement between Canada and the Republic of Peru:

I, _____ (Name of declarant), on behalf of _____ (Name of investor), consent to arbitration in accordance with the procedures set out in this Agreement, and waive the right of _____ (Name of investor) to initiate or continue before any administrative tribunal or court under the law of either Party to the Agreement, or other dispute settlement procedures, any proceedings with respect to the measure of _____ (Name of disputing Party) that is alleged to be a breach referred to in Article 819 or Article 820, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages before an administrative tribunal or court under the law of _____ (Name of disputing Party).

I hereby solemnly declare that I am duly authorised to execute this consent and waiver on behalf of _____ (Name of investor).

(To be signed and dated.)

表格2

根据《加拿大与秘鲁共和国自由贸易协定》第819条或第820条（当投资者为缔约方、其国有企业或该缔约方企业时）提出索赔的缔约方投资者的同意和放弃：

我，（声明人姓名），代表（投资者姓名），同意根据本协议规定的程序进行仲裁，并放弃（投资者姓名）在协议任一缔约方法律下的行政法庭或法院，或其他争议解决程序中，就（争议方名称）被指控违反第819条或第820条的措施提起或继续任何诉讼程序的权利，但不包括在（争议方名称）法律下的行政法庭或法院提起的不涉及损害赔偿的禁令、宣告性或其他特别救济的诉讼程序。

我在此郑重声明，我已正式授权代表（投资者姓名）执行本同意和放弃声明。（需签名并注明日期。）

Form 3

Waiver of an enterprise that is the subject of a claim by an investor of a Party under Article 819 of the Free Trade Agreement between Canada and the Republic of Peru:

I,____(Name of declarant), waive the right of __ (Name of the enterprise) __to initiate or continue before any administrative tribunal or court under the law of either Party to this Agreement, or other dispute settlement procedures, any proceedings with respect to the measure of____(Name of disputing Party) that is alleged by____(Name of investor) to be a breach referred to in Article 819, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of____(Name of disputing Party) .

I hereby solemnly declare that I am duly authorised to execute this waiver on behalf of____Name of the enterprise)____. (To be signed and dated.)

表格3

加拿大与秘鲁共和国自由贸易协定第819条项下缔约方投资者索赔所涉企业弃权书：

我，（声明人姓名），放弃（企业名称）在本协议任一缔约方法律下的任何行政法庭或法院，或其他争议解决程序中，就（争议方名称）被（投资者姓名）指控为违反第819条的措施提起或继续任何诉讼程序的权利，除非是在（争议方名称）法律下的行政法庭或法院寻求不涉及损害赔偿的禁令、宣告性或其他特别救济的诉讼程序。

本人特此郑重声明，我已获正式授权代表（企业名称）签署本弃权书。（需签名并注明日期。）

Form 4

Consent and waiver of an enterprise that is the subject of a claim by an investor of a Party under Article 820 of the Free Trade Agreement between Canada and the Republic of Peru:

I, _____ (Name of declarant), on behalf of _____ (Name of enterprise) _____, consent to arbitration in accordance with the procedures set out in this Agreement, and waive the right of _____ (Name of enterprise) _____ to initiate or continue before any administrative tribunal or court under the law of either Party to the Agreement, or other dispute settlement procedures, any proceedings with respect to the measure of _____ (Name of disputing Party) that is alleged by _____ (Name of investor) _____ to be a breach referred to in Article 820, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages before an administrative tribunal or court under the law of _____ (Name of disputing Party) _____.

I hereby solemnly declare that I am duly authorised to execute this consent and waiver on behalf of _____ (Name of the enterprise) _____.
(To be signed and dated.)

表格4

加拿大与秘鲁共和国自由贸易协定第820条下缔约方投资者索赔所涉企业的同意和放弃：

我，（声明人姓名），代表（企业名称），同意根据本协议规定的程序进行仲裁，并放弃（企业名称）在协议任一缔约方法律下的行政法庭或法院，或其他争议解决程序中就（争议方名称）被（投资者姓名）指控构成第820条所指违约的措施提起或继续任何诉讼程序的权利，但不包括在（争议方名称）法律下的行政法庭或法院寻求不涉及损害赔偿的禁令、宣告性或其他特别救济的诉讼程序。

本人特此郑重声明，已获正式授权代表（企业名称）执行本同意和放弃书。

（需签名并注明日期。）

Annex 824.1

Submission of a Claim to Arbitration

1. An investor of Canada may not submit to arbitration under Section B a claim that Peru has breached an obligation under Section A:
- (a) on its own behalf under subparagraphs 1(a) or (b) of Article 819; or
 - (b) on behalf of an enterprise of Peru that is a juridical person that the investor owns or controls directly or indirectly under subparagraphs 1(a) or (b) of Article 820,

if the investor or the enterprise, respectively, has alleged the breach of the obligation under Section A in proceedings before a court or administrative tribunal of Peru.

2. An investor of Canada may not submit to arbitration under Section B a claim that Peru has breached a legal stability agreement referred to in paragraph 3 of Article 819 and paragraph 3 of Article 820:
- (a) on its own behalf under subparagraph 1(c) of Article 820; or
 - (b) on behalf of an enterprise of Peru that is a juridical person that the investor owns or controls directly or indirectly under subparagraph 1(c) of Article 820,

附件824.1

提交仲裁申请

1. 加拿大投资者不得根据B部分就秘鲁违反A部分义务的行为提交仲裁索赔：
- (a) 代表其自身根据第819条第1款(a)或(b)项；或(b) 代表其直接或间接拥有或控制的秘鲁企业法人根据第820条第1款(a)或(b)项，

前提是该投资者或企业（视情况而定）已在秘鲁法院或行政法庭的诉讼程序中指控A部分项下义务的违约行为。

2. 加拿大投资者不得就秘鲁违反第819条第3款和第820条第3款所述法律稳定性协议的行为，向B部分提交仲裁请求：
- (a) 根据第820条第1款(c)项代表其自身；或 (b) 根据第820条第1款(c)项代表该投资者直接或间接拥有或控制的秘鲁企业（该企业为法人），

if the investor or the enterprise, respectively, has alleged that breach in proceedings before a court or administrative tribunal of Peru or has submitted that claim to any other binding dispute settlement proceedings.

3. For greater certainty, if an investor of Canada elects to submit:
- (a)# a claim described in paragraph 1 to a court or administrative tribunal of the Republic of Peru; or

(b)# a claim described in paragraph 2 to a court or administrative tribunal of the Republic of Peru or to any other binding dispute settlement proceedings,

that election shall be definitive and the investor may not thereafter submit the same claim to arbitration under Section B.

前提是该投资者或企业（视情况而定）已在秘鲁法院或行政法庭的诉讼程序中指控该违约行为，或已将该索赔提交至任何其他有约束力的争议解决程序。

3. 为进一步明确，如果加拿大投资者选择提交：
- (a) 第1款所述的索赔至秘鲁共和国的法院或行政法庭；或

(b) 第2款所述的索赔至秘鲁共和国的法院或行政法庭，或任何其他有约束力的争议解决程序，

该选择应为最终决定，此后投资者不得就同一索赔依据B部分提交仲裁请求。

Annex 836.1

Submissions by Other Persons

1. Applications for leave to file submissions by other persons shall:
- (a) be made in writing, dated and signed by the applicant, and include the applicant’s address and other contact details;
 - (b) be no longer than five typed pages;
 - (c) describe the applicant, including, where relevant, its membership and legal status (e.g., company, trade association or other non-governmental organization), its general objectives, the nature of its activities, and any parent organization (including any organization that directly or indirectly controls the applicant);
 - (d) disclose whether the applicant has any affiliation, direct or indirect, with any disputing party;
 - (e) identify any government, person or organization that has provided any financial or other assistance in preparing the submission;
 - (f) specify the nature of the interest that the applicant has in the arbitration;
 - (g) identify the specific issues of fact or law in the arbitration that the applicant has addressed in its written submission;

附件836.1

其他人员的提交

1. 其他人员提交材料的申请许可应：
- (a) 以书面形式提出，注明日期并由申请人签署，并包含申请人的地址和其他联系方式；(b) 不得超过五页打印页；(c) 描述申请人，包括其会员资格和法律地位（如公司、贸易协会或其他非政府组织）、总体目标、活动性质及任何上级组织（包括直接或间接控制申请人的任何组织）；(d) 披露申请人是否与任何争议方存在直接或间接隶属关系；(e) 指明在准备提交材料过程中提供财务或其他援助的任何政府、个人或组织；(f) 说明申请人在仲裁中具有的利益性质；(g) 指明申请人书面提交中涉及的仲裁具体事实问题或法律问题；

(h) explain, by reference to the factors specified in paragraph 4 of Article 836, why the Tribunal should accept the submission; and

(i) be made in a language of the arbitration.

2. Submissions filed by other persons shall:

(a) be dated and signed by the person filing the submission;

(b) be concise, and in no case longer than 20 typed pages, including any appendices;

(c) set out a precise statement supporting the person’s position on the issues; and

(d) only address matters within the scope of the dispute.

(h) 参照第836条第4款规定的因素，说明仲裁庭应接受该提交材料的理由；以及(i) 使用仲裁语言提交。

2. 其他人员提交的材料应：

(a) 由提交材料的人注明日期并签名；(b) 简明扼要，且在任何情况下不超过20打印页，包括任何附录；(c) 列出一份精确的陈述，支持提交人就相关问题的立场；以及(d) 仅涉及争议范围内的事项。

Annex 844.1

Exclusions from Dispute Settlement

- 1. A decision by Canada following a review under the *Investment Canada Act* (1985, ch. 28, 1st supp.), with respect to whether or not permit an acquisition that is subject to review, shall not be subject to the dispute settlement provisions of Section B of this Chapter or of Chapter Twenty-One (Dispute Settlement).
- 2. A decision by a Party to prohibit or restrict the acquisition of an investment in its territory by an investor of the other Party, or its investment, pursuant to Article 2202 (Exceptions - National Security) of Chapter Twenty-Two (Exceptions) shall not be subject to the dispute settlement provisions of Section B of this Chapter or of Chapter Twenty-One (Dispute Settlement).

附件844.1

争端解决例外

- 1. 加拿大根据《加拿大投资法》（1985年，第28章， 1st 补编）进行审查后作出的关于是否允许一项需审查的收购的决定， 不受本章B部分或第二十一章（争端解决）的争端解决条款约束。
- 2. 缔约方根据第二十二章（例外）第2202条（例外-国家安全）禁止或限制另一缔约方的投资者或其投资在其领土内收购投资的决定， 不受本章B部分或第二十一章（争议解决）争端解决条款的约束。