24. A Party may not communicate with the panel without notifying the other Party. The panel shall not communicate with a Party in the absence of, or without notifying, the other Party.

24. 缔约方不得在未通知另一缔约方的情况下与专家组进行沟通。专家组不得在另一缔约方缺席或未通知的情况下与某一缔约方沟通。

25. A panellist may not discuss an aspect of the substantive subject matter of the proceeding with the Parties in the absence of the other panellists.

25. 专家组成员不得在其他成员缺席的情况下与缔约方讨论程序实质事项的任何方面。

Remuneration and Payment of Expenses

报酬和费用支付

26. Each panellist shall keep a record and render a final account to the Parties of their time and expenses, and those of any assistant. The chair of the panel shall keep a record and render a final account to the Parties of all general expenses.

26. 每位专家组成员应记录并向缔约方提交其工作时间、费用及任何助理工作时间和费用的最终账目。专家组主席应记录并向缔约方提交所有一般费用的最终账目。

Chapter 18: Exceptions

第18章：例外

Article 18.1: Definitions

第18.1条：定义

For the purposes of this Chapter:

就本章而言：

competition authority means:

竞争主管机关系指：

- (a) for Canada, the Commissioner of Competition and includes a successor notified to the other Party through the Coordinators; and

- (a) 对加拿大而言，指竞争事务专员，包括通过协调员向另一缔约方通知的继任者；

- *(b) for Ukraine, the Antimonopoly Committee of Ukraine and includes a successor notified to the other Party through the Coordinators.*

***designated authority** means:*

- *(a) for Canada, the Assistant Deputy Minister for Tax Policy, Department of Finance and includes a successor notified to the other Party through the Coordinators; and*
- *(b) for Ukraine, the State Fiscal Service of Ukraine and includes a successor notified to the other Party through the Coordinators.*

***information protected under its competition laws** means:*

- *(a) for Canada, information within the scope of Section 29 of the Competition Act, R.S.C. 1985, c. C-34, and includes any successor provision; and*
- *(b) for Ukraine, information with restricted access according to Article 221 of the Law of Ukraine On the Antimonopoly Committee of Ukraine and includes any successor provision.*

***person engaged in a cultural industry** means a person engaged in any of the following activities:*

- (b) 对乌克兰而言，指乌克兰反垄断委员会，包括通过协调员向另一缔约方通知的继任者。

指定机构指：

- (a) 对加拿大而言，指财政部税务政策助理副部长，包括通过协调员通知另一缔约方的继任者；及• (b) 对乌克兰而言，指乌克兰国家财税局，包括通过协调员通知另一缔约方的继任者。

受竞争法保护的信息指：

- (a) 对加拿大而言，指《1985年竞争法》（R.S.C. 1985, c. C-34）第29条范围内的信息，并包括任何后继条款；及• (b) 对乌克兰而言，指根据乌克兰《关于乌克兰反垄断委员会的法律》第221 条限制访问的信息，并包括任何后继条款。

从事文化产业的人员指从事以下任何活动的人员：

- *(a) the publication, distribution or sale of books, magazines, periodicals or newspapers in print or machine-readable form, but not including the sole activity of printing or typesetting any of the foregoing;*
- *(b) the production, distribution, sale or exhibition of film or video recordings;*
- *(c) the production, distribution, sale or exhibition of audio or video music recordings;*
- *(d) the publication, distribution or sale of music in print or machine-readable form; or*
- *(e) radiocommunications in which the transmissions are intended for direct reception by the general public, and all radio, television and cable broadcasting undertakings and all satellite programming and broadcast network services.*

tax convention *means a convention for the avoidance of double taxation or other international taxation agreement or arrangement; and*

tax *and* **taxation measure** *do not include:*

- *(a) a customs duty; or*
- *(b) a measure listed in exceptions (b), (c), or (d) in the definition of customs duty in Article 1.6 (Definitions of General Application).*

- (a) 以印刷或机读形式出版、发行或销售书籍、杂志、期刊或报纸，但不包括仅从事上述任何一项的印刷或排版活动；
- (b) 电影或录像的制作、发行、销售或展览；• (c) 音频或视频音乐录音的制作、发行、销售或展览；
- (d) 音乐以印刷或机器可读形式的出版、发行或销售；或
- (e) 无线电通信，其传输旨在供公众直接接收，以及所有广播、电视和有线广播事业，以及所有卫星节目和广播网络服务。

税收协定指避免双重征税的协定或其他国际税收协议或安排；及

税收及**税收措施**不包括：

- (a) 关税；或• (b) 第一条第六款（通用定义）中关税定义所列例外(b)、(c)或(d)项下的措施。

Article 18.2: General Exceptions

For the purposes of Chapter 2 (National Treatment and Market Access), Chapter 3 (Rules of Origin and Origin Procedures), Chapter 4 (Trade Facilitation), Chapter 5 (Emergency Action), Chapter 6 (Sanitary and Phytosanitary Measures), Chapter 7 (Technical Barriers to Trade), and Chapter 8 (Electronic Commerce), GATT 1994 Article XX is incorporated into this Agreement. The Parties understand that the measures referred to in GATT 1994 Article XX (b) include environmental measures necessary to protect human, animal or plant life or health. The Parties further understand that GATT 1994 Article XX (g) applies to measures for the conservation of living and non-living exhaustible natural resources.

第18.2条：一般例外

就第二章（国民待遇和市场准入）、第三章（原产地规则和原产地程序）、第四章（贸易便利化）、第五章（紧急行动）、第六章（卫生与植物卫生措施）、第七章（技术性贸易壁垒）及第八章（电子商务）而言，1994年关税与贸易总协定第二十条已纳入本协议。缔约方理解，1994年关税与贸易总协定第二十条(b)款所指措施包括保护人类、动物或植物的生命或健康所必需的环境措施。缔约方进一步理解，1994年关税与贸易总协定第二十条(g)款适用于保护可耗竭的自然资源的措施。

Article 18.3: National Security

This Agreement does not:

- (a) require a Party to furnish or allow access to information if that Party determines that the disclosure of this information would be contrary to its essential security interests;
- (b) prevent a Party from taking an action that it considers necessary to protect its essential security interests:

第18.3条：国家安全

本协议不：

• (a) 要求一缔约方提供或允许获取信息，如果该缔约方认为披露该信息将违背其基本安全利益； • (b) 阻止一缔约方采取其认为保护其基本安全利益所必需的行动：

- *(i) relating to the traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods, materials, services and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment;*
- *(ii) taken in time of war or other emergency in international relations; or*
- *(iii) relating to the implementation of national policies or international agreements respecting the non-proliferation of nuclear weapons or other nuclear explosive devices; or*

- (i) 涉及武器、弹药和战争工具的贸易，以及直接或间接为供应军事或其他安全机构之目的而进行的其他货物、材料、服务和技术贸易及交易；
- (ii) 在国际关系处于战争或其他紧急状态时采取；或
- (iii) 涉及实施关于核武器或其他核爆炸装置不扩散的国家政策或国际协议；或

- (c) prevent a Party from fulfilling its obligations under the *Charter of the United Nations* for the maintenance of international peace and security.

- (c) 阻止缔约方履行《联合国宪章》下维护国际和平与安全的义务。

Article 18.4: Taxation

第18.4条：税收措施

1. Except as set out in this Article, this Agreement does not apply to a taxation measure.

1. 除本条另有规定外，本协议不适用于税收措施。

2. This Agreement does not affect the rights and obligations of a Party under a tax convention. In the event of any inconsistency between this Agreement and a tax convention, the tax convention prevails.

2. 本协议不影响缔约方在税收协定下的权利和义务。如本协议与税收协定存在任何不一致，以税收协定为准。

3. If a provision with respect to a taxation measure under this Agreement is similar to a provision under a tax convention, the competent authorities identified in the tax convention shall use the procedural provisions of that tax convention to resolve an issue that may arise under this Agreement.

4. Notwithstanding paragraphs 2 and 3:

- (a) Article 2.3 (National Treatment) and the provisions of this Agreement necessary to give effect to that Article apply to a taxation measure to the same extent as Article III of the GATT; and,
- (b) Article 2.9 (Customs Duties on Exports) applies to a taxation measure.

5. In order to give effect to paragraphs 1 to 3:

- (a) if an issue arises as to whether a measure of a Party is a taxation measure in a dispute between the Parties, either Party may refer the issue to the designated authorities of the Parties. The designated authorities shall decide the issue of whether the measure is a taxation measure, and their decision shall bind any panel established under Article 17.7 (Establishment of a Panel) for the dispute. If a Party has referred the issue to the designated

3. 如本协议中关于税收措施的规定与税收协定中的规定类似，税收协定中指定的主管当局应使用该税收协定的程序性规定来解决可能因本协议产生的问题。

4. 尽管有第2款和第3款的规定：

- (a) 第2.3条（国民待遇）及本协议中为实施该条所必需的条款适用于税收措施的程度应与GATT第三条相同；且，• (b) 第2.9条（出口关税）适用于税收措施。

5. 为实施第1款至第3款：

- (a) 如果在缔约方之间的争端中出现关于一缔约方的措施是否为税收措施的问题，任一缔约方可将该问题提交缔约方的指定当局。指定当局应决定该措施是否为税收措施的问题，其决定对根据第17.7条（专家组的设立）为争端设立的专家组具有约束力。如果一缔约方已将问题提交指定

authorities and they have not decided the issue within six months of the referral, the panel shall decide the issue; and

- (b) if an issue arises as to whether, according to paragraph 2, a tax convention prevails over this Agreement in a dispute between the Parties, a Party to the dispute may refer the issue to the designated authorities of the Parties. The designated authorities shall consider the issue and decide whether there is an inconsistency between this Agreement and a tax convention with respect to a taxation measure that gives rise to the issue. If within six months of the referral of the issue to the designated authorities, they decide with respect to the taxation measure that gives rise to the issue that there is an inconsistency, procedures concerning that taxation measure may not be initiated under Article 17.7 (Establishment of a Panel). Procedures concerning the taxation measure may not be initiated while the designated authorities are considering the issue. If a Party has referred the issue to the designated authorities and they have not decided the issue within six months of the referral, the panel shall decide the issue.

6. The designated authorities seized of an issue under paragraph 5 may modify the time period allowed to decide the issue.

当局且他们在提交后六个月内未决定该问题，则专家组应决定该问题；且

- (b) 如出现关于根据第2款税收协定是否优先于本协议适用于缔约方之间争端的问题，争端缔约方可将该问题提交各缔约方的指定当局。指定当局应考虑该问题并决定本协议与税收协定之间是否存在与引发该问题的税收措施相关的不一致。若在将问题提交指定当局后六个月内，当局就引发该问题的税收措施认定存在不一致，则不得根据第17.7条（专家组的设立）启动关于该税收措施的程序。在指定当局考虑该问题期间，不得启动关于该税收措施的程序。若缔约方已将问题提交指定当局而当局未在提交后六个月内作出决定，则由专家组裁决该问题。

6. 根据第5款处理相关问题的指定当局可修改决定该问题的时限。

7. This Agreement does not require a Party to furnish or allow access to information the disclosure of which would be contrary to that Party's law protecting information concerning the taxation affairs of a taxpayer.

7. 本协议不要求缔约方提供或允许获取其法律保护的纳税人税务事务信息，若披露此类信息将违反该缔约方法律。

Article 18.5: Disclosure of Information

第18.5条：信息披露

1. This Agreement does not require a Party to furnish or allow access to information that if disclosed 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.

1. 本协议不要求缔约方提供或允许访问以下信息：若披露此类信息会妨碍执法，或违背缔约方保护内阁级别政府行政部门的审议和决策过程、个人隐私或金融机构个人客户财务事务及账户的法律。

2. In the course of a dispute settlement procedure under this Agreement:

2. 在本协议项下的争端解决程序过程中：

- (a) a Party is not required to furnish or allow access to information protected under its competition laws; and
- (b) a competition authority of a Party is not required to furnish or allow access to information that is privileged or otherwise protected from disclosure.

- (a) 缔约方无义务提供或允许获取受竞争法保护的信息；且• (b) 缔约方的竞争主管机关无义务提供或允许获取属于特权信息或以其他方式受保护免于披露的信息。

Article 18.6: Cultural Industries

Article 18.6: Cultural Industries

This Agreement does not apply to a measure adopted or maintained by a Party with respect to a person engaged in a cultural industry except as specifically provided in Article 2.4 (Tariff Elimination on Imports).

本协议不适用于缔约方针对从事文化产业的人员采取或维持的措施，除非第2.4条（进口关税消除）中另有具体规定。

Article 18.7: World Trade Organization Waivers

第18.7条：世界贸易组织豁免

If a right or obligation in this Agreement duplicates a right or obligation under the WTO Agreement, a measure adopted by a Party in conformity with a waiver decision adopted by the WTO pursuant to Article IX of the WTO Agreement is deemed to be also in conformity with this Agreement.

若本协议中的某项权利或义务与世界贸易组织协议中的权利或义务重复，则缔约方采取的措施若符合世界贸易组织根据世界贸易组织协议第九条通过的豁免决定，即视为亦符合本协议。

Chapter 19: Final provisions

第19章：最终条款

Article 19.1: Annexes, Appendices and Footnotes

第19.1条：附件、附录及脚注

The Annexes, Appendices and footnotes to this Agreement constitute integral parts of this Agreement.

本协议的附件、附录及脚注构成本协议不可分割的组成部分。

Article 19.2: Review Clause

第19.2条：审查条款

The Parties undertake to review this Agreement within two years of its entry into force, in light of further developments including within the framework of the WTO Agreement, and other agreements to which the Parties are party, with a view to examining the further

缔约方承诺在本协议生效后两年内对其进行审查，结合世界贸易组织协议框架内及其他缔约方所参与协议的最新发展情况，以期进一步研究