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AGREEMENT ESTABLISHING THE ASEAN-AUSTRALIA-NEW ZEALAND FREE TRADE AREA

建立东盟-澳大利亚-新西兰自由贸易区的协议

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PREAMBLE

The Governments of Brunei Darussalam, the Kingdom of Cambodia (Cambodia), the Republic of Indonesia (Indonesia), the Lao People's Democratic Republic (Lao PDR), Malaysia, the Union of Myanmar (Myanmar), the Republic of the Philippines (Philippines), the Republic of Singapore (Singapore), the Kingdom of Thailand (Thailand) and the Socialist Republic of Viet Nam (Viet Nam), collectively, the Member States of the Association of Southeast Asian Nations, and Australia and New Zealand;

REINFORCING the longstanding ties of friendship and co-operation among them;

RECALLING the *Framework for the AFTA-CER Closer Economic Partnership* endorsed by Ministers in Ha Noi, Viet Nam on 16 September 2001;

DESIRING to minimise barriers and deepen and widen economic linkages among the Parties; lower business costs; increase trade and investment; enhance economic efficiency; create a larger market with more opportunities and greater economies of scale for business;

CONFIDENT that this Agreement establishing an ASEAN-Australia-New Zealand Free Trade Area will strengthen economic partnerships, serve as an important building block towards regional economic integration and support sustainable economic development;

RECOGNISING the important role and contribution of business in enhancing trade and investment among the Parties and the need to further promote and facilitate co-operation and utilisation of the greater business opportunities provided by this Agreement;

序言

文莱达鲁萨兰国、柬埔寨王国（柬埔寨）、印度尼西亚共和国（印度尼西亚）、老挝人民民主共和国（老挝）、马来西亚、缅甸联邦（缅甸）、菲律宾共和国（菲律宾）、新加坡共和国（新加坡）、泰王国（泰国）和越南社会主义共和国（越南）各国政府，统称为 东南亚国家联盟成员国，以及澳大利亚和新西兰；

重申各方之间长期存在的友谊与合作关系；

回顾2001年9月16日在越南河内由部长们签署的东盟-澳新更紧密经济伙伴关系框架；

期望最大限度地减少壁垒，深化和拓宽各方之间的经济联系；降低商业成本；增加贸易和投资；提高经济效率；为商业创造一个更大规模的市场，提供更多机会和更大的规模经济；

确信本协定所建立的东盟-澳大利亚-新西兰自由贸易区将加强经济伙伴关系，作为区域经济一体化的重要基石，并支持可持续的经济发展；

认识到商业在增强缔约方之间贸易和投资方面的重要作用和贡献，以及需要进一步促进和便利合作，并利用本协定提供的更大商业机会；

CONSIDERING the different levels of development among ASEAN Member States and between ASEAN Member States, Australia and New Zealand and the need for flexibility, including special and differential treatment, especially for the newer ASEAN Member States; as well as the need to facilitate the increasing participation of newer ASEAN Member States in this Agreement and the expansion of their exports, including, *inter alia*, through strengthening of their domestic capacity, efficiency and competitiveness;

REAFFIRMING the respective rights and obligations and undertakings of the Parties under the World Trade Organization Agreement and other existing international agreements and arrangements;

RECOGNISING the positive momentum that regional trade agreements and arrangements can have in accelerating regional and global trade liberalisation, and their role as building blocks for the multilateral trading system;

HAVE AGREED AS FOLLOWS:

考虑到东盟成员国之间以及东盟成员国与澳大利亚和新西兰之间发展水平的差异，需要灵活性，包括特殊和差别待遇，特别是对新东盟成员国；以及需要便利新东盟成员国更多地参与本协定并扩展其出口，除其他外，通过加强其国内能力、效率和竞争力；

重申各方根据《世界贸易组织协定》及其他现行国际协议和安排所享有的权利和义务以及承诺；

认识到区域贸易协定和安排在加速区域及全球贸易自由化方面的积极推动作用，及其作为多边贸易体系基石的作用；

达成如下协议：

CHAPTER 1

ESTABLISHMENT OF FREE TRADE AREA, OBJECTIVES AND GENERAL DEFINITIONS

Article 1
Objectives

The objectives of this Agreement are to:

(a) progressively liberalise and facilitate trade in goods among the Parties through, *inter alia,* progressive elimination of tariff and non-tariff barriers in substantially all trade in goods among the Parties;

(b) progressively liberalise trade in services among the Parties, with substantial sectoral coverage;

(c) facilitate, promote and enhance investment opportunities among the Parties through further development of favourable investment environments;

(d) establish a co-operative framework for strengthening, diversifying and enhancing trade, investment and economic links among the Parties; and

(e) provide special and differential treatment to ASEAN Member States, especially to the newer ASEAN Member States, to facilitate their more effective economic integration.

第一章

自由贸易区的建立、目标及一般定义

第一条
目标

本协定的目标在于：

(a) 逐步自由化和便利化贸易
通过逐步取消缔约方之间实质性所有货物贸易的关税和非关税壁垒等方式，促进缔约方之间的货物流动；（b）以实质性部门覆盖为基础，逐步实现缔约方之间的服务贸易自由化；（c）通过进一步发展有利的投资环境，便利、促进和增加缔约方之间的投资机会；（d）建立合作框架，以加强、多样化和增强缔约方之间的贸易、投资和经济联系；以及（e）对东盟成员国，特别是新东盟成员国，提供特殊和差别待遇，以促进其更有效的经济一体化。

Article 2
Establishment of the ASEAN-Australia-New Zealand Free Trade Area

The Parties hereby establish, consistent with Article XXIV of GATT 1994 and Article V of GATS, an ASEAN, Australia and New Zealand Free Trade Area.

Article 3
General Definitions

For the purposes of this Agreement, unless the context otherwise requires:

(a) **AANZFTA** means the ASEAN-Australia-New Zealand Free Trade Area;

(b) **Agreement** means the *Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area*;

(c) **Agreement on Customs Valuation** means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;

(d) **ASEAN** means the Association of Southeast Asian Nations which comprises of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam and whose members are referred to in this Agreement collectively as the **ASEAN Member States** and individually as an **ASEAN Member State**;

第二条 东盟-澳大利亚-新西兰自由贸易区的建立

各方特此根据1994年关税及贸易总协定第二十四条和服务贸易总协定第五条的规定，建立东盟-澳大利亚-新西兰自由贸易区。

第三条 一般定义

就本协定而言，除非上下文另有要求：

(a) 东盟-澳大利亚-新西兰自由贸易协定（AANZFTA）指东盟-澳大利亚-新西兰自由贸易区；(b) 协议指《东盟-澳大利亚-新西兰自由贸易区建立协议》； (c) 海关估价协定指《世界贸易组织协定附件1A》中关于实施《1994年关税及贸易总协定第七条》的协议； (d) 东盟指东南亚国家联盟，其成员包括文莱达鲁萨兰国、柬埔寨王国、印度尼西亚共和国、老挝人民民主共和国、马来西亚、缅甸联邦、菲律宾共和国、新加坡共和国、泰王国和越南社会主义共和国，在本协定中统称为东盟成员国，单独称为东盟成员国；

(e) **customs duties** means any customs or import duty and a charge of any kind, including any tax or surcharge, imposed in connection with the importation of a good, but does not include any:

(i) charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III of GATT 1994, in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;

(ii) anti-dumping or countervailing duty applied consistently with the provisions of Article VI of GATT 1994, the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*, as may be amended and the *Agreement on Subsidies and Countervailing Measures* in Annex 1A to the WTO Agreement, as may be amended; or

(iii) fee or any charge commensurate with the cost of services rendered;

(f) **days** means calendar days, including weekends and holidays;

(g) **FTA Joint Committee** means the ASEAN, Australia and New Zealand FTA Joint Committee established pursuant to Article 1 (FTA Joint Committee) of Chapter 16 (Institutional Provisions);

(h) **GATS** means the *General Agreement on Trade in Services* in Annex 1B to the WTO Agreement;

(e) 关税指任何海关或进口税以及与货物进口相关的任何性质的费用，包括任何税费或附加费，但不包括任何：

(i) 相当于国内税的收费
依照1994年关贸总协定第3条第二段条款的规定，对同类国内产品或对进口产品的全部或部分制造或生产所用的物品征收；

(ii) 依照1994年关税及贸易总协定第六条、可能修订的1994年关税及贸易总协定第六条执行协议以及可能修订的世界贸易组织协定附件1A中的补贴与反补贴措施协议的规定实施的反倾销或反补贴税；或 (iii) 与服务提供成本相称的费用或任何收费；

(f) “日历日”包括周末和节假日；

(g) “自由贸易协定联合委员会”指根据第16章（机构条款）第一条（自由贸易协定联合委员会）设立的东盟、澳大利亚和新西兰自由贸易协定联合委员会；

(h) GATS指世界贸易组织协议附件1B中的《服务贸易总协定》；

(i) **GATT 1994** means the *General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement;

(j) **HS Code** means the Harmonized Commodity Description and Coding System established by the *International Convention on the Harmonized Description and Coding System* signed at Brussels on 14 June 1983, as amended;

(k) **IMF Articles of Agreement** means the *Articles of Agreement of the International Monetary Fund*;

(l) **newer ASEAN Member States** means the Kingdom of Cambodia, the Lao People's Democratic Republic, the Union of Myanmar and the Socialist Republic of Viet Nam;

(m) **originating good** means a good that qualifies as originating under Chapter 3 (Rules of Origin);

(n) **Parties** means the ASEAN Member States, Australia and New Zealand collectively;

(o) **Party** means an ASEAN Member State or Australia or New Zealand;

(p) **TRIPS Agreement** means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, in Annex 1C to the WTO Agreement;

(q) **WTO** means the World Trade Organization; and

(r) **WTO Agreement** means the *Marrakesh Agreement Establishing the World Trade Organization*, done on 15 April 1994.

(i) GATT 1994指世界贸易组织协定附件1A中的《1994年关税与贸易总协定》； (j) HS编码指1983年6月14日在布鲁塞尔签署的《商品名称及编码协调制度国际公约》所确立的商品名称及编码协调制度及其修订版； (k) IMF协定条款指《国际货币基金组织协定条款》； (l) 新东盟成员国指柬埔寨王国、老挝人民民主共和国、缅甸联邦和越南社会主义共和国； (m) 原产货物指根据第3章（原产地规则）符合原产资格的货物； (n) 缔约方统指东盟成员国、澳大利亚和新西兰； (o) 缔约方指一个东盟成员国或澳大利亚或新西兰； (p) TRIPS协定指世界贸易组织协定附件1C中的《与贸易有关的知识产权协定》； (q) WTO指世界贸易组织； (r) WTO协定指1994年4月15日签署的《建立世界贸易组织的马拉喀什协定》。

CHAPTER 2

TRADE IN GOODS

Article 1
Reduction and/or Elimination of Customs Duties

Except as otherwise provided in this Agreement, each Party shall progressively reduce and/or eliminate customs duties on originating goods of the other Parties in accordance with its schedule of tariff commitments in Annex 1 (Schedules of Tariff Commitments).

Article 2
Acceleration of Tariff Commitments

1. Nothing in this Agreement shall preclude all Parties from negotiating and entering into arrangements to accelerate and/or improve tariff commitments made under this Agreement. An agreement among all Parties to accelerate and/or improve tariff commitments shall be incorporated into this Agreement, in accordance with Article 6 (Amendments) of Chapter 18 (Final Provisions). Such acceleration and/or improvement of tariff commitments shall be implemented by all the Parties.

2. Two or more Parties may also consult to consider accelerating and/or improving tariff commitments set out in their schedules of tariff commitments in Annex 1 (Schedules of Tariff Commitments). An agreement between these Parties to accelerate and/or improve their respective tariff commitments under this Agreement shall be incorporated into this Agreement, in accordance with Article 6 (Amendments) of Chapter 18 (Final Provisions). Tariff concessions arising from such acceleration and/or improvement of tariff commitments shall be extended to all Parties.

第二章

货物贸易

第一条 关税的削减和/或取消

除本协定另有规定外，每一缔约方应按照其在附件1（关税减让表）中的关税减让表，逐步削减和/或取消对其他缔约方原产货物的关税。

第2条 关税承诺的加速

1. 本协定中的任何规定均不妨碍所有缔约方就加速和/或改进本协定项下的关税承诺进行谈判并达成安排。所有缔约方之间关于加速和/或改进关税承诺的协议应根据第18章（最后条款）第六条（修正案）的规定纳入本协定。此类关税承诺的加速和/或改进应由所有缔约方实施。

2. 两个或两个以上缔约方还可进行磋商，以考虑加速和/或改进其附件1（关税减让表）中关税减让表所列的关税承诺。这些缔约方之间关于根据本协定加速和/或改进各自关税承诺的协议，应按照第18章（最后条款）第六条（修正案）的规定纳入本协定。由此类关税承诺加速和/或改进产生的关税减让应扩展至所有缔约方。

3. A Party may, at any time, unilaterally accelerate the reduction and/or elimination of customs duties on originating goods of the other Parties set out in its schedule of tariff commitments in Annex 1 (Schedules of Tariff Commitments). A Party intending to do so shall inform the other Parties before the new rate of customs duties takes effect, or in any event, as early as practicable.

Article 3
Elimination of Agricultural Export Subsidies

Consistent with their rights and obligations under the WTO Agreement, each Party agrees to eliminate and not reintroduce all forms of export subsidies for agricultural goods destined for the other Parties.

Article 4
National Treatment on Internal Taxation and Regulation

Each Party shall accord national treatment to the goods of the other Parties in accordance with Article III of GATT 1994. To this end, Article III of GATT 1994 shall be incorporated into and shall form part of this Agreement, *mutatis mutandis*.

Article 5
Fees and Charges Connected with Importation and Exportation

1. Each Party shall ensure that fees and charges connected with importation and exportation shall be consistent with its rights and obligations under GATT 1994.

2. Each Party shall make available details of the fees and charges that it imposes in connection with importation and exportation and, to the extent possible and in accordance with its domestic laws and regulations, make such information available on the internet.

3. 一缔约方可随时单方面加速削减和/或取消其附件1（关税减让表）中关税减让表所列其他缔约方原产货物的关税。有意采取此类行动的缔约方应在新关税税率生效前，或在任何情况下尽早通知其他缔约方。

第三条 取消农产品出口补贴

根据其在WTO协定下的权利和义务，每一缔约方同意取消并不再重新引入针对其他缔约方农产品的所有形式出口补贴。

第四条 国内税和法规的国民待遇

每一缔约方应按照1994年关贸总协定第3条，给予其他缔约方货物国民待遇。为此，1994年关贸总协定第3条经必要修改后应纳入本协定并成为其组成部分。

第5条 进出口相关费用和收费

1. 每一缔约方应确保与进出口相关的费用和收费符合其在1994年关税与贸易总协定下的权利和义务。

2. 每一缔约方应公布其征收的与进出口相关的费用和收费的详细信息，并在可能的情况下根据其国内法律法规，在互联网上提供此类信息。

3. A Party may not require consular transactions, including related fees and charges, in connection with the importation of any good of any other Party.

Article 6
Publication and Administration of Trade Regulations

1. Article X of GATT 1994 shall be incorporated into and shall form part of this Agreement, *mutatis mutandis*.

2. In accordance with its domestic laws and regulations and to the extent possible, each Party shall make laws, regulations, decisions and rulings of the kind referred to in Paragraph 1 available on the internet.

Article 7
Quantitative Restrictions and Non-Tariff Measures

1. No Party shall adopt or maintain any prohibition or quantitative restriction on the importation of any good of any other Party or on the exportation of any good destined for the territory of any other Party, except in accordance with its WTO rights and obligations or this Agreement. To this end, Article XI of GATT 1994 shall be incorporated into and shall form part of this Agreement, *mutatis mutandis.*

2. Except as otherwise provided in this Agreement, a Party shall not adopt or maintain any non-tariff measure on the importation of any good of any other Party or on the exportation of any good destined for the territory of any other Party, except in accordance with its WTO rights and obligations or in accordance with this Agreement.

3. Each Party shall ensure the transparency of its non-tariff measures permitted under Paragraph 2 and shall ensure that any such measures are not prepared, adopted or applied with the view to or with the effect of creating unnecessary obstacles to trade among the Parties.

3. 一缔约方不得要求在与任何其他缔约方的任何货物进口有关的领事事务中，包括相关费用和收费。

第六条 贸易法规的公布和管理

1. 1994年关税及贸易总协定第十条经必要修改纳入本协定，并构成本协定的一部分。

2. 在符合其国内法律法规且尽可能可行的范围内，每一缔约方应在互联网上公布第1款所述类型的法律、法规、决定和裁决。

第七条 数量限制和非关税措施

1. 任何缔约方不得采取或维持任何禁止或对任何其他缔约方任何货物的进口或运往任何其他缔约方领土的任何货物的出口实施数量限制，除非符合其世界贸易组织权利和义务或本协定的规定。为此，1994年关税及贸易总协定第十一条经必要修改纳入本协定，并构成本协定的一部分。

2. 除本协定另有规定外，一缔约方不得对任何其他缔约方的任何货物的进口或运往任何其他缔约方领土的任何货物的出口采取或维持任何非关税措施，除非符合其世界贸易组织权利和义务或符合本协定规定。

3. 每一缔约方应确保其根据第二段允许的非关税措施的透明度，并应确保此类措施的制定、通过或实施不以在缔约方之间制造不必要的贸易障碍为目的或不产生此类效果。

4. The Goods Committee established pursuant to Article 11 (Committee on Trade in Goods) shall review non-tariff measures covered by this Chapter with a view to considering the scope for additional means to enhance the facilitation of trade in goods between the Parties. The Goods Committee shall submit to the FTA Joint Committee an initial report on progress in its work, including any recommendations, within two years of entry into force of this Agreement. Any Party may nominate measures for consideration by the Goods Committee.

Article 8
Import Licensing

1. Each Party shall ensure that all automatic and non-automatic import licensing measures are implemented in a transparent and predictable manner, and applied in accordance with the *Agreement on Import Licensing Procedures* in Annex 1A to the WTO Agreement.

2. Each Party shall promptly notify the other Parties of existing import licensing procedures. Thereafter, each Party shall notify the other Parties of any new import licensing procedures and any modification to its existing import licensing procedures, to the extent possible 60 days before it takes effect, but in any case no later than within 60 days of publication. The information in any notification under this Article shall be in accordance with Article 5.2 and 5.3 of the *Agreement on Import Licensing Procedures* in Annex 1A to the WTO Agreement.

3. Upon request of another Party, a Party shall, promptly and to the extent possible, respond to the request of that Party for information on import licensing requirements of general application.

4. 根据第11条（货物贸易委员会）设立的货物委员会应审议本章涵盖的非关税措施，以期考虑是否有范围采取额外手段促进缔约方之间的货物贸易便利化。货物委员会应在本协定生效后两年内向自由贸易协定联合委员会提交一份关于其工作进展的初步报告，包括任何建议。任何缔约方可提名措施供货物委员会审议。

第8条 进口许可

1. 每一缔约方应确保所有自动和非自动进口许可措施以透明和可预测的方式实施，并根据世界贸易组织协定附件1A中的进口许可程序协定予以适用。

2. 每一缔约方应及时将现行进口许可程序通知其他缔约方。此后，每一缔约方应尽可能在生效前60天通知其他缔约方任何新的进口许可程序及其现行进口许可程序的任何修改，但在任何情况下不得晚于公布后60天内。根据本条所作任何通知中的信息应符合世界贸易组织协定附件1A中进口许可程序协定第5.2条和第5.3条的规定。

3. 应另一缔约方请求，一缔约方应迅速并尽可能全面地回应该缔约方关于普遍适用的进口许可要求信息的请求。

Article 9
Modification of Concessions

In exceptional circumstances where a Party faces unforeseen difficulties in implementing its tariff commitments, that Party may, with the agreement of all other interested Parties, modify or withdraw a concession contained in its schedule of tariff commitments in Annex 1 (Schedules of Tariff Commitments). In order to seek to reach such agreement, the relevant Party shall engage in negotiations with any interested Parties. In such negotiations, the Party proposing to modify or withdraw its concessions shall maintain a level of reciprocal and mutually advantageous concessions no less favourable to the trade of all other interested Parties than that provided for in this Agreement prior to such negotiations, which may include compensatory adjustments with respect to other goods. The mutually agreed outcome of the negotiations, including any compensatory adjustments, shall apply to all the Parties and shall be incorporated into this Agreement in accordance with Article 6 (Amendments) of Chapter 18 (Final Provisions).

第9条 减让的修改

在缔约方实施其关税承诺过程中遭遇不可预见困难的特殊情况下，该缔约方可在征得所有其他利益相关缔约方同意后，修改或撤销其附件1（关税减让表）中所载的关税减让。为达成此类协议，相关缔约方应与所有利益相关缔约方进行谈判。在此类谈判中，提议修改或撤销减让的缔约方应维持不低于本协定谈判前对所有其他利益相关缔约方贸易有利的互惠互利减让水平，其中可包括针对其他货物的补偿性调整。谈判达成的共同商定结果（包括任何补偿性调整）应对所有缔约方适用，并应按照第18章（最后条款）第六条（修正案）的规定纳入本协定。

Article 10
Contact Points and Consultations

1. Each Party shall designate a contact point to facilitate communication among the Parties on any matter relating to this Chapter.

2. Where a Party considers that any proposed or actual measure of another Party or Parties may materially affect trade in goods between the Parties, that Party may, through the contact point, request detailed information relating to that measure and, if necessary, request consultations with a view to resolving any concerns about the measure. The other Party or Parties shall respond promptly to such requests for information and consultations.

第10条 联络点和磋商

1. 每一缔约方应指定一个联络点，以便就本章所涉任何事项在缔约方之间进行沟通。

2. 如一缔约方认为另一缔约方或若干缔约方的任何拟议或实际措施可能对各方之间的货物贸易产生重大影响，则该缔约方可通过联络点请求提供与该措施相关的详细信息，并在必要时请求磋商，以期解决对该措施的任何关切。另一方或若干缔约方应迅速回应此类信息请求和磋商请求。

Article 11
Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods (Goods Committee) consisting of representatives of the Parties. The Goods Committee may meet at the request of any Party or the FTA Joint Committee to consider any matter arising under this Chapter, or under:

(a) Chapter 3 (Rules of Origin);

(b) Chapter 4 (Customs Procedures);

(c) Chapter 5 (Sanitary and Phytosanitary Measures);

(d) Chapter 6 (Standards, Technical Regulations and Conformity Assessment Procedures); and

(e) Chapter 7 (Safeguard Measures).

2. The functions of the Goods Committee shall include:

(a) reviewing implementation of, and measures taken pursuant to, the Chapters referred to in Paragraph 1;

(b) receiving reports from, and reviewing the work of:

(i) the ROO Sub-Committee established pursuant to Article 18 (Sub-Committee on Rules of Origin) of Chapter 3 (Rules of Origin);

(ii) the SPS Sub-Committee established pursuant to Article 10 (Meetings Among the Parties on Sanitary and Phytosanitary Matters) of Chapter 5 (Sanitary and Phytosanitary Measures); and

第11条 货物贸易委员会

1. 各方特此设立一个由各方代表组成的货物贸易委员会（货物委员会）。货物委员会可在任何缔约方或自由贸易协定联合委员会的请求下召开会议，审议本章或以下条款下产生的事项:

(a) 第3章（原产地规则）；(b) 第4章（海关程序）；(c) 第5章（卫生与植物卫生措施）；(d) 第6章（标准、技术法规和合格评定程序）；以及(e) 第7章（保障措施）。

2. 货物委员会的职能应包括:

(a) 审议第1款所述各章节的执行情况及根据该章节采取的措施；(b) 接收以下分委会的报告并审议其工作：(i) 根据第三章（原产地规则）第18条（原产地规则分委会）设立的原产地规则分委会；(ii) 根据第五章（卫生与植物卫生措施）第10条（卫生与植物卫生措施问题缔约方会议）设立的SPS分委会；以及

(iii) the STRACAP Sub-Committee established pursuant to Article 13 (Sub-Committee on Standards, Technical Regulations and Conformity Assessment Procedures) of Chapter 6 (Standards, Technical Regulations and Conformity Assessment Procedures);

(c) implementing the work programme provided for in Article 7.4 (Quantitative Restrictions and Non-Tariff Measures);

(d) identifying and recommending measures to promote and facilitate improved market access, including any acceleration of tariff commitments under Article 2.1 (Acceleration of Tariff Commitments); and

(e) reporting, as required, to the FTA Joint Committee.

3. The Goods Committee may agree to establish subsidiary working groups or refer issues for consideration to the ROO Sub-Committee established pursuant to Article 18 (Sub-Committee on Rules of Origin) of Chapter 3 (Rules of Origin).

4. The meetings of the Goods Committee may occur in person, or by any other means as mutually determined by the Parties.

Article 12
Application

Each Party shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Chapter by the regional and local governments and authorities within its territories.

(iii) 根据第六章（标准、技术法规和合格评定程序）第13条（标准、技术法规和合格评定程序分委会）设立的STRACAP分委会；

(c) 实施第7.4条（数量限制和非关税措施）规定的工作计划；(d) 识别并推荐措施以促进和改善市场准入，包括根据第2.1条（关税承诺的加速）加速关税承诺；以及
(e) 按要求向自由贸易协定联合委员会报告。

3. 货物委员会可同意设立附属工作组或将问题提交根据第3章（原产地规则）第18条（原产地规则分委会）设立的原产地规则分委会审议。

4. 货物委员会的会议可面对面举行，或通过各方共同商定的任何其他方式召开。

第12条 申请

每一缔约方应采取其可用的合理措施，以确保其领土内的地区和地方各级政府及当局遵守本章的条款。

CHAPTER 3

RULES OF ORIGIN

Article 1
Definitions

For the purposes of this Chapter:

(a) **aquaculture** means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from seedstock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;

(b) **back-to-back Certificate of Origin** means a Certificate of Origin issued by an intermediate exporting Party's Issuing Authority/Body based on the Certificate of Origin issued by the first exporting Party;

(c) **CIF** means the value of the good imported and includes the cost of freight and insurance up to the port or place of entry into the country of importation. The valuation shall be made in accordance with Article VII of GATT 1994 and the Agreement on Customs Valuation;

(d) **FOB** means the free-on-board value of the good, inclusive of the cost of transport to the port or site of final shipment abroad. The valuation shall be made in accordance with Article VII of GATT 1994 and the Agreement on Customs Valuation;

(e) **generally accepted accounting principles** means the recognised consensus or substantial

第三章

原产地规则

第一条
定义

就本章而言：

(a) 水产养殖指水生生物的耕作
包括鱼类、软体动物、甲壳类动物、其他水生无脊椎动物及水生植物在内的生物体，通过干预养殖或生长过程（如定期投放种苗、投喂或防捕食）以提升生产，其种苗来源包括卵、鱼苗、鱼种和幼虫；

(b) 背对背原产地证书指
由中间出口方签发机构根据第一出口方签发的原产地证书所出具的原产地证书；

(c) 到岸价指进口货物的价值，
包括运至进口口岸或地点的运费和保险费。估价应依据1994年关贸总协定第7条及《海关估价协定》进行；

(d) 离岸价指货物的离岸价值，
包含运至最终装运港口或地点的运输成本。估价应依据1994年关贸总协定第7条及《海关估价协定》进行；

(e) 普遍接受的会计原则
意味着公认共识或实质性

authoritative support in a Party, with respect to the recording of revenues, expenses, costs, assets and liabilities; the disclosure of information; and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures;

权威支持。这些标准可能包含普遍适用的广泛指导方针以及详细标准、实践和程序；

(f) **good** means any merchandise, product, article or material;

(f) 货物 指任何商品、产品、条款或材料；

(g) **identical and interchangeable materials** means materials that are fungible as a result of being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which once they are incorporated into the finished product cannot be distinguished from one another for origin purposes by virtue of any markings or mere visual examination;

(g) 相同和可互换材料 指因属于同一种类和商业品质、具有相同技术和物理特性而可替代的材料，且一旦被纳入成品后，无法通过任何标记或单纯目视检查来区分其原产地目的；

(h) **indirect material** means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including:

(h) 间接材料 指用于货物的生产、测试或检验但未实际纳入货物的货物，或用于建筑物的维护或与货物生产相关设备的操作的货物，包括：

(i) fuel and energy;

(ii) tools, dies and moulds;

(iii) spare parts and materials used in the maintenance of equipment and buildings;

(iv) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;

(i) 燃料和能源；(ii) 工具、模具和铸模；(iii) 用于维护设备和建筑物的备件和材料；(iv) 在生产中或用于操作设备和建筑物中使用的润滑剂、油脂、复合材料和其他材料；

(v) gloves, glasses, footwear, clothing, safety equipment and supplies;

(vi) equipment, devices and supplies used for testing or inspecting goods;

(vii) catalysts and solvents; and

(viii) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production;

(i) **material** means any matter or substance used or consumed in the production of goods or physically incorporated into a good or subjected to a process in the production of another good;

(j) **non-originating good** or **non-originating material** means a good or material that does not qualify as originating under this Chapter;

(k) **originating material** means a material that qualifies as originating under this Chapter;

(l) **producer** means a person who grows, mines, raises, harvests, fishes, traps, hunts, farms, captures, gathers, collects, breeds, extracts, manufactures, processes or assembles a good;

(m) **production** means methods of obtaining goods including growing, mining, harvesting, farming, raising, breeding, extracting, gathering, collecting, capturing, fishing, trapping, hunting, manufacturing, producing, processing or assembling a good;

(v) 手套、眼镜、鞋类、服装、安全设备和用品；(vi) 用于测试或检查货物的设备、装置和用品；(vii) 催化剂和溶剂；以及(viii) 任何其他未并入货物但在货物生产中使用的物品，其使用可合理证明是该生产的一部分；(i) 材料指任何使用或

在生产货物过程中被消耗，或实际融入货物中，或在生产另一货物过程中经过加工；

(j) 非原产货物或非原产材料 指不符合本章原产资格的货物或材料；(k) 原产材料 指符合本章原产资格的材料；(l) 生产商 指从事种植、采矿、养殖、收获、捕捞、诱捕、狩猎、耕作、捕获、采集、收集、培育、提取、制造、加工或组装货物的人员；(m) 生产 指获取货物的方法，包括种植、采矿、收获、耕作、养殖、培育、提取、采集、收集、捕获、捕捞、诱捕、狩猎、制造、生产、加工或组装货物；

(n) **Product Specific Rules** are rules in Annex 2 (Product Specific Rules) that specify that the materials used to produce a good have undergone a change in tariff classification or a specific manufacturing or processing operation, or satisfy a regional value content criterion or a combination of any of these criteria; and

(o) **packing materials and containers for transportation** means goods used to protect a good during its transportation, different from those containers or materials used for its retail sale.

Article 2
Originating Goods

1. For the purposes of this Chapter, a good shall be treated as an originating good if it is either:

(a) wholly produced or obtained in a Party as provided in Article 3 (Goods Wholly Produced or Obtained);

(b) not wholly produced or obtained in a Party provided that the good has satisfied the requirements of Article 4 (Goods Not Wholly Produced or Obtained); or

(c) produced in a Party exclusively from originating materials from one or more of the Parties,

and meets all other applicable requirements of this Chapter.

2. A good which complies with the origin requirements of Paragraph 1 will retain its eligibility for preferential tariff treatment if exported to a Party and subsequently re-exported to another Party.

(n) 产品特定规则 是附件2（产品特定规则）中规定的规则，要求用于生产货物的材料需满足税则归类改变或特定制造或加工工序，或符合区域价值成分标准，或上述标准的任意组合；且

(o) 运输用包装材料和容器指用于在运输过程中保护货物的物品，不同于用于其零售的容器或材料。

第2条 原产货物

1. 就本章而言，货物在下列情况下应视为原产货物：

(a) 在一缔约方完全生产或获得，如第三条（完全生产或获得的货物）所述；(b) 非在一缔约方完全生产或获得，但该货物已满足第4条（非完全生产或获得的货物）的要求；或(c) 在一缔约方完全产自一个或多个缔约方的原产材料，

并符合本章所有其他适用要求。

2. 符合第1款原产地要求的货物，若出口至一缔约方后再出口至另一缔约方，将保留其优惠关税待遇资格。

Article 3
Goods Wholly Produced or Obtained

For the purposes of Article 2.1(a) (Originating Goods), the following goods shall be considered as wholly produced or obtained:

(a) plants and plant goods, including fruit, flowers, vegetables, trees, seaweed, fungi and live plants, grown, harvested, picked, or gathered in a Party[1];

(b) live animals born and raised in a Party;

(c) goods obtained from live animals in a Party;

(d) goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering, or capturing in a Party;

(e) minerals and other naturally occurring substances extracted or taken from the soil, waters, seabed or beneath the seabed in a Party;

(f) goods of sea-fishing and other marine goods taken from the high seas, in accordance with international law[2], by any vessel registered or recorded with a Party and entitled to fly the flag of that Party;

[1] For the purposes of this Article, "in a Party" means the land, territorial sea, Exclusive Economic Zone, Continental Shelf over which a Party exercises sovereignty, sovereign rights or jurisdiction, as the case may be, in accordance with international law.

For the avoidance of doubt, nothing contained in the above definition shall be construed as conferring recognition or acceptance by one Party of the outstanding maritime and territorial claims made by any other Party, nor shall be taken as pre-judging the determination of such claims.

[2] "International law" refers to generally accepted international law such as the *United Nations Convention on the Law of the Sea*.

第3条 完全生产或获得的货物

就第二条第一款(a)项（原产货物）而言，下列货物应视为完全生产或获得：

(a) 植物及植物产品，包括水果、花卉、蔬菜、树木、海藻、真菌及活植物，在一缔约方[1]种植、收获、采摘或采集；

(b) 在一缔约方出生并饲养的活动物；

(c) 从一缔约方境内的活动物获得的货物；(d) 在一缔约方境内通过狩猎、诱捕、捕捞、耕作、水产养殖、采集或捕获获得的货物；(e) 从一缔约方境内的土壤、水域、海床或海床以下提取或采取的矿物及其他天然物质；(f) 根据国际法[2]，由在一方注册或记录并有权悬挂该方旗帜的任何船舶从公海获取的海洋捕捞货物及其他海洋货物；

[1] 就本条而言，"在一缔约方"系指该缔约方根据国际法行使主权、主权权利或管辖权的土地、领海、专属经济区及大陆架。为避免疑义，上述定义所含内容不得解释为一缔约方对任何其他缔约方提出的未决海洋及领土索赔的认可或接受，亦不得视为预先判定此类索赔的决定。

[2] "国际法"指普遍接受的国际法，如《联合国海洋法公约》。

(g) goods produced on board any factory ship registered or recorded with a Party and entitled to fly the flag of that Party from the goods referred to in Subparagraph (f);

(h) goods taken by a Party, or a person of a Party, from the seabed or beneath the seabed beyond the Exclusive Economic Zone and adjacent Continental Shelf of that Party and beyond areas over which third parties exercise jurisdiction under exploitation rights granted in accordance with international law[3];

(i) goods which are:

(i) waste and scrap derived from production and consumption in a Party provided that such goods are fit only for the recovery of raw materials; or

(ii) used goods collected in a Party provided that such goods are fit only for the recovery of raw materials; and

(j) goods produced or obtained in a Party solely from products referred to in Subparagraphs (a) to (i) or from their derivatives.

Article 4
Goods Not Wholly Produced or Obtained

1. For the purposes of Article 2.1(b) (Originating Goods), except for those goods covered under Paragraph 2, a good shall be treated as an originating good if:

(a) the good has a regional value content of not less than 40 per cent of FOB calculated using the

[3] "International law" refers to generally accepted international law such as the *United Nations Convention on the Law of the Sea*.

(g) 由在一方注册或记录并有权悬挂该方旗帜的任何工厂船利用(f)项所述货物生产的货物；

(h) 由一缔约方或其国民从该缔约方专属经济区和相邻大陆架以外、且第三方根据国际法授予的开发权不享有管辖权的海床或海床以下区域采取的货物[3]；

(i) 符合以下条件的货物：

(i) 在缔约方境内生产或消费过程中产生的废料和碎屑，且此类货物仅适用于原材料回收；或

(ii) 在缔约方境内收集的二手货物，且此类货物仅适用于原材料回收；及

(j) 在缔约方境内完全由子段落(a)至(i)所述产品或其衍生品生产或获得的货物。

第4条 非完全生产或获得的货物

1. 就第二条第一款(b)项（原产货物）而言，除第二段所涵盖的货物外，货物在下列情况下应视为原产货物：

(a) 货物的区域价值成分按离岸价计算不低于40%，计算方式采用

[3] "国际法"系指普遍接受的国际法，如《联合国海洋法公约》。

formulae as described in Article 5 (Calculation of Regional Value Content), and the final process of production is performed within a Party; or

(b) all non-originating materials used in the production of the good have undergone a change in tariff classification at the four-digit level (i.e. a change in tariff heading) of the HS Code in a Party.

2. In accordance with Paragraph 1, a good subject to Product Specific Rules shall be treated as an originating good if it meets those Product Specific Rules.

3. For a good not specified in Annex 2 (Product Specific Rules), a Party shall permit the producer or exporter of the good to decide whether to use Paragraph 1(a) or (b) when determining if the good is originating.

4. If a good is specified in Annex 2 (Product Specific Rules) and the relevant provisions of that Annex provide a choice of rule between a regional value content based rule of origin, a change in tariff classification based rule of origin, a specific process of production, or a combination of any of these, a Party shall permit the producer or exporter of the good to decide which rule to use in determining if the good is originating.

Article 5
Calculation of Regional Value Content

1. For the purposes of Article 4 (Goods Not Wholly Produced or Obtained), the formula for calculating the regional value content will be either:

第5条（区域价值成分计算）所述公式，且最终生产工序在一缔约方境内完成；或

(b) 用于生产该货物的所有非原产材料已在缔约方境内发生HS编码四位数的税则归类改变（即税目改变）。

2. 根据第1款，受产品特定规则约束的货物若符合该产品特定规则，则应视为原产货物。

3. 对于附件2（产品特定规则）中未列明的货物，缔约方应允许该货物的生产商或出口商在判定货物是否原产时自行选择适用第1款(a)项或(b)项。

4. 若某货物列于附件2（产品特定规则）中，且该附件相关条款提供了区域价值成分基础的原产地规则、税则归类改变基础的原产地规则、特定生产过程或上述规则的组合等多种规则选择时，缔约方应允许该货物的生产商或出口商自行决定采用何种规则判定货物是否原产。

第5条 区域价值成分计算

1. 就第4条（非完全生产或获得的货物）而言，区域价值成分的计算公式应为以下任一项：

(a) Direct Formula

$$\frac{\text{AANZFTA Material Cost} + \text{Labour Cost} + \text{Overhead Cost} + \text{Profit} + \text{Other Costs}}{\text{FOB}} \times 100\%$$

or

(b) Indirect/Build-Down Formula

$$\frac{\text{FOB} - \text{Value of Non-Originating Materials}}{\text{FOB}} \times 100\ \%$$

where:

(a) **AANZFTA Material Cost** is the value of originating materials, parts or produce that are acquired or self-produced by the producer in the production of the good;

(b) **Labour Cost** includes wages, remuneration and other employee benefits;

(c) **Overhead Cost** is the total overhead expense;

(d) **Other Costs** are the costs incurred in placing the good in the ship or other means of transport for export including, but not limited to, domestic transport costs, storage and warehousing, port handling, brokerage fees and service charges;

(e) **FOB** is the free-on-board value of the goods as defined in Article 1 (Definitions); and

(a) 直接公式

$$\frac{\text{东盟-澳大利亚-新西兰自由贸易协定材料 Cost} + \text{Labour Cost} + \text{Overhead Cost} + \text{利润} + \text{其他费用}}{\text{FOB}} \times 100\%$$

or

(b) 间接/递减公式

$$\frac{\text{FOB} - \text{非原产材料价值}}{\text{FOB}} \times 100\ \%$$

位置：

(a) 东盟-澳大利亚-新西兰自由贸易协定材料成本指生产商在生产货物过程中获取或自产的原产材料、零件或产品的价值；(b) 劳动力成本包括工资、报酬及其他员工福利；(c) 间接费用指总间接开支；(d) 其他成本指为使货物装船或通过其他运输方式出口所产生的费用，包括但不限于国内运输成本、仓储、港口处理、经纪费用及服务费；(e) 离岸价指第一条（定义）中规定的货物离岸价值；且

(f) **Value of Non-Originating Materials** is the CIF value at the time of importation or the earliest ascertained price paid for all non-originating materials, parts or produce that are acquired by the producer in the production of the good. Non-originating materials include materials of undetermined origin but do not include a material that is self-produced.

2. The value of goods under this Chapter shall be determined in accordance with Article VII of GATT 1994 and the Agreement on Customs Valuation.

Article 6
Cumulative Rules of Origin

For the purposes of Article 2 (Originating Goods), a good which complies with the origin requirements provided therein and which is used in another Party as a material in the production of another good shall be considered to originate in the Party where working or processing of the finished good has taken place.

Article 7
Minimal Operations and Processes

Where a claim for origin is based solely on a regional value content, the operations or processes listed below, undertaken by themselves or in combination with each other, are considered to be minimal and shall not be taken into account in determining whether or not a good is originating:

(a) ensuring preservation of goods in good condition for the purposes of transport or storage;

(b) facilitating shipment or transportation;

(f) 非原产材料价值是指生产商在生产货物时获得的所有非原产材料、零件或产品的进口到岸价格或最早确定的支付价格。非原产材料包括来源不明的材料，但不包括自产材料。

2. 本章项下货物的价值应根据1994年关贸总协定第7条和《海关估价协定》确定。

第六条 累积原产地规则

就第二条（原产货物）而言，符合其中规定的原产地要求并在另一缔约方作为材料用于生产另一货物的货物，应视为在成品加工或处理发生的缔约方原产。

第七条 最小操作和工序

如果原产地主张仅基于区域价值成分，则下列单独或共同进行的操作或工序被视为最小，且在确定货物是否原产时不应予以考虑：

(a) 确保货物在运输或储存过程中保持良好状态的保存；
(b) 促进装运或运输；

(c) packaging[4] or presenting goods for transportation or sale;

(d) simple processes, consisting of sifting, classifying, washing, cutting, slitting, bending, coiling and uncoiling and other similar operations;

(e) affixing of marks, labels or other like distinguishing signs on products or their packaging; and

(f) mere dilution with water or another substance that does not materially alter the characteristics of the goods.

Article 8
De Minimis

1. A good that does not satisfy a change in tariff classification requirement pursuant to Article 4 (Goods Not Wholly Produced or Obtained) will nonetheless be an originating good if:

(a) (i) for a good, other than that provided for in Chapters 50 to 63 of the HS Code, the value of all non-originating materials used in the production of the good that did not undergo the required change in tariff classification does not exceed 10 per cent of the FOB value of the good;

(ii) for a good provided for in Chapters 50 to 63 of the HS Code, the weight of all non-originating materials used in its production that did not undergo the required change in tariff classification does not exceed 10 per cent of the total weight of the good, or the

[4] This excludes encapsulation which is termed “packaging” by the electronics industry.

(c) 为运输或出售而进行的包装[4] 或货物呈现；(d) 简单加工过程，包括筛分、分类、洗涤、切割、纵切、弯曲、卷绕和解卷以及其他类似运营；(e) 在产品或其包装上附加标记、标签或其他类似识别标志；以及 (f) 仅用水或其他不会实质性改变货物特性的物质进行稀释。

第8条 微量条款

1. 根据第4条（非完全生产或获得的货物），未满足税则归类改变要求的货物，在下列情况下仍应视为原产货物：

(a) (i) 对于HS编码第50至63章以外的货物，生产过程中使用的所有未发生所需税则归类改变的非原产材料的价值不超过该货物离岸价格的10%；(ii) 对于HS编码第50至63章项下的货物

HS编码项下，生产过程中使用的所有未发生规定税则归类改变的非原产材料总重量不超过货物总重量的10%，或

[4] 这不包括被电子行业称为“包装”的封装。

value of all non-originating materials used in the production of the good that did not undergo the required change in tariff classification does not exceed 10 per cent of the FOB value of the good; and

(b) the good meets all other applicable criteria of this Chapter.

2. The value of such materials shall, however, be included in the value of non-originating materials for any applicable regional value content requirement.

Article 9
Accessories, Spare Parts and Tools

1. For the purposes of determining the origin of a good, accessories, spare parts, tools and instructional or other information materials presented with the good shall be considered part of that good and shall be disregarded in determining whether all the non-originating materials used in the production of the originating good have undergone the applicable change in tariff classification, provided that:

(a) the accessories, spare parts, tools and instructional or other information materials presented with the good are not invoiced separately from the originating good; and

(b) the quantities and value of the accessories, spare parts, tools and instructional or other information materials presented with the good are customary for that good.

2. Notwithstanding Paragraph 1, if the good is subject to a regional value content requirement, the value of the accessories, spare parts, tools and instructional or other information materials presented with the good shall be taken into account as originating or non-originating materials, as

生产该货物时使用的所有未发生规定税则归类改变的非原产材料价值不超过货物离岸价格的10%；且

(b) 该货物符合本章所有其他适用标准。

2. 但此类材料的价值应计入任何适用的区域价值成分要求中的非原产材料价值。

第9条 附件、备件和工具

1. 为确定货物的原产地，
随货物一同提交的附件、备件、工具及说明书或其他信息材料应视为该货物的组成部分，且在判定用于生产原产货物的所有非原产材料是否已发生适用的税则归类改变时不予考虑，但须满足以下条件：

(a) 随货物一同提交的附件、备件、工具及说明书或其他信息材料未与原产货物分别开具发票；且 (b) 随货物一同提交的附件、备件、工具及说明书或其他信息材料的数量和价值符合该货物的惯例。

2. 尽管有第1款规定，如果货物需满足区域价值成分要求，则随货物提交的附件、备件、工具及说明书或其他信息材料的价值，应视情况作为原产材料或非原产材料，

the case may be, in calculating the regional value content of the good.

3. Paragraphs 1 and 2 do not apply where accessories, spare parts, tools and instructional or other information materials presented with the good have been added solely for the purpose of artificially raising the regional value content of that good, provided it is proven subsequently by the importing Party that they are not sold therewith.

Article 10
Identical and Interchangeable Materials

The determination of whether identical and interchangeable materials are originating materials shall be made either by physical segregation of each of the materials or by the use of generally accepted accounting principles of stock control applicable, or inventory management practice, in the exporting Party.

Article 11
Treatment of Packing Materials and Containers

1. Packing materials and containers for transportation and shipment of a good shall not be taken into account in determining the origin of any good.

2. Packing materials and containers in which a good is packaged for retail sale, when classified together with that good, shall not be taken into account in determining whether all of the non-originating materials used in the production of the good have met the applicable change in tariff classification requirements for the good.

计入该货物的区域价值成分计算。

3. 第1款和第2款不适用于仅为了人为提高该货物区域价值成分而随货物提供的附件、备件、工具和说明书或其他信息材料的情况，前提是进口方随后证明这些物品并非与该货物一同销售。

第10条 相同和可互换材料

对于相同和可互换材料是否为原产材料的决定，应通过对每种材料进行物理隔离，或使用出口方适用的普遍接受的会计原则中的库存控制或库存管理实践来作出。

第11条 包装材料和容器的待遇

1. 运输和装运货物所用的包装材料和容器，在确定任何货物的原产地时不应予以考虑。

2. 货物为零售而包装所用的包装材料和容器，若与该货物一并归类，则在确定该货物生产过程中使用的所有非原产材料是否已满足该货物适用的税则归类改变要求时，不应予以考虑。

3. If a good is subject to a regional value content requirement, the value of the packing materials and containers in which the good is packaged for retail sale shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

Article 12
Indirect Materials

An indirect material shall be treated as an originating material without regard to where it is produced and its value shall be the cost registered in the accounting records of the producer of the good.

Article 13
Recording of Costs

For the purposes of this Chapter, all costs shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the Party in which the goods are produced.

Article 14
Direct Consignment

A good will retain its originating status as determined under Article 2 (Originating Goods) if the following conditions have been met:

(a) the good has been transported to the importing Party without passing through any non-Party; or

(b) the good has transited through a non-Party, provided that:

(i) the good has not undergone subsequent production or any other operation outside the territories of the Parties other than

3. 若货物需满足区域价值成分要求，则在计算该货物的区域价值成分时，为该货物零售包装所用的包装材料和容器的价值应视情况作为原产材料或非原产材料予以计入。

第十二条 间接材料

间接材料应被视为原产材料，不考虑其生产地点，其价值应为生产商会计记录中登记的费用。

第十三条 成本记录

就本章而言，所有费用应按照生产货物所在缔约方适用的普遍接受的会计原则进行记录和保存。

第十四条 直接运输

若满足以下条件，货物将保留根据第二条（原产货物）确定的原产资格：

(a) 货物已直接运输至进口方，未途经任何非缔约方；或
(b) 货物虽经非缔约方过境，但须满足：(i) 该货物未经历后续

生产或缔约方领土外的任何其他运营，除了

unloading, reloading, storing, or any other operations necessary to preserve them in good condition or to transport them to the importing Party;

(ii) the good has not entered the commerce of a non-Party; and

(iii) the transit entry is justified for geographical, economic or logistical reasons.

Article 15
Certificate of Origin

A claim that goods are eligible for preferential tariff treatment shall be supported by a Certificate of Origin issued by an Issuing Authority/Body notified to the other Parties as set out in this Chapter's Annex on Operational Certification Procedures.

Article 16
Denial of Preferential Tariff Treatment

The Customs Authority of the importing Party may deny a claim for preferential tariff treatment when:

(a) the good does not qualify as an originating good; or

(b) the importer, exporter or producer fails to comply with any of the relevant requirements of this Chapter.

Article 17
Review and Appeal

The importing Party shall grant the right of appeal in matters relating to the eligibility for preferential tariff treatment to producers, exporters or importers of goods traded or to be

卸货、重新装载、存储或为保持货物良好状态或将其运输至进口方所需的其他操作；

(ii) 该货物未进入非缔约方的商业流通领域；且

(iii) 过境申报具有地理的、经济的或物流的正当理由。

第15条 原产地证书

关于货物符合优惠关税待遇条件的索赔主张，应由本章操作认证程序附件中规定的、已通知其他缔约方的签发机构出具的原产地证书予以支持。

第16条 拒绝给予优惠关税待遇

进口方的海关当局在下列情况下可拒绝给予优惠关税待遇：

(a) 货物不符合原产货物资格；或 (b) 进口商、出口商或生产商未能遵守本章的任何相关要求。

第17条 审查和上诉

进口方应根据其国内法律、法规和行政惯例，授予与优惠关税待遇资格相关的上诉权给贸易货物或即将贸易货物的生产商、出口商或进口商。

traded between the Parties, in accordance with its domestic laws, regulations and administrative practices.

Article 18
Sub-Committee on Rules of Origin

1. For the purpose of the effective and uniform implementation of this Chapter, the Parties hereby establish a Sub-Committee on Rules of Origin (ROO Sub-Committee). The functions of the ROO Sub-Committee shall include:

(a) monitoring of the implementation and administration of this Chapter;

(b) discussion of any issue that may have arisen in the course of implementation, including any matters that may have been referred to the ROO Sub-Committee by the Goods Committee established pursuant to Article 11 (Committee on Trade in Goods) of Chapter 2 (Trade in Goods) or the FTA Joint Committee;

(c) discussion of any proposed modifications of the rules of origin under this Chapter; and

(d) consultation on issues relating to rules of origin and administrative co-operation.

2. The ROO Sub-Committee shall consist of representatives of the Parties. It shall meet from time to time as mutually determined by the Parties.

3. The ROO Sub-Committee shall commence a review of Article 6 (Cumulative Rules of Origin) no earlier than 12 months, and no later than 18 months following entry into force of this Agreement. This review will consider the extension of the application of cumulation to all value added to a good within AANZFTA. The ROO Sub-Committee shall submit to the Goods Committee established pursuant to

根据其国内法律、法规及行政惯例，在各缔约方之间进行贸易。

第18条 原产地规则分委会

1. 为确保本章的有效和统一实施，各方特此设立原产地规则分委会（ROO分委会）。ROO分委会的职能应包括：

(a) 监督本章的实施和管理；(b) 讨论实施过程中可能出现的任何问题，包括根据第2章（货物贸易）第11条（货物贸易委员会）设立的货物委员会或自由贸易协定联合委员会提交给ROO分委会的任何事项；(c) 讨论本章项下原产地规则的任何拟议修改；以及(d) 就与原产地规则和行政合作相关的问题进行磋商。

2. ROO分委会应由各方的代表组成。其会议时间由各方共同商定。

3. 原产地规则分委会应不早于12个月、且不迟于本协定生效后18个月内启动对第六条（累积原产地规则）的审议。此次审议将考虑将累积规则适用范围扩展至东盟-澳大利亚-新西兰自由贸易协定内货物所有增值部分。原产地规则分委会应向根据

Article 11 (Committee on Trade in Goods) of Chapter 2 (Trade in Goods) a final report, including any recommendations, within three years of entry into force of this Agreement.

4. The ROO Sub-Committee shall commence a review of the application of the chemical reaction rule and other chemical process rules to Chapters 28 to 40 of the HS Code and other Product Specific Rules identified by Parties, no earlier than 12 months and no later than 18 months, following entry into force of this Agreement. The ROO Sub-Committee shall submit to the Goods Committee established pursuant to Article 11 (Committee on Trade in Goods) of Chapter 2 (Trade in Goods) a final report, including any recommendations, within three years of entry into force of this Agreement.

Article 19
Consultations, Review and Modification

1. The Parties shall consult regularly to ensure that this Chapter is administered effectively, uniformly and consistently in order to achieve the spirit and objectives of this Agreement.

2. This Chapter may be reviewed and modified in accordance with Article 6 (Amendments) of Chapter 18 (Final Provisions) as and when necessary, upon request of a Party, and subject to the agreement of the Parties, and may be open to such reviews and modifications as may be agreed upon by the FTA Joint Committee.

第2章（货物贸易）第11条（货物贸易委员会）设立的货物委员会提交一份包含所有建议的最终报告，时间不得晚于本协定生效后三年。

4. 原产地规则分委会应在本协定生效后不早于12个月且不迟于18个月，启动对HS编码第二十八章至第四十章及其他缔约方确定的产品特定规则中化学反应规则及其他化学加工规则适用情况的审议。原产地规则分委会应在本协定生效后三年内向根据第2章（货物贸易）第11条（货物贸易委员会）设立的货物委员会提交一份包含任何建议的最终报告。

第十九条 磋商、审议和修改

1. 缔约方应定期磋商，以确保本章得到有效、统一和一致的执行，从而实现本协定的精神和目标。

2. 本章可根据第18章（最后条款）第六条（修正案）的规定，在必要时应一缔约方请求并经缔约方同意进行审议和修改，并可按照自由贸易协定联合委员会商定的方式进行此类审议和修改。

ANNEX ON OPERATIONAL CERTIFICATION PROCEDURES

For the purpose of implementing Chapter 3 (Rules of Origin), the following operational procedures on the issuance and verification of Certificates of Origin and other related administrative matters shall be observed by each Party.

AUTHORITIES

Rule 1

The Certificate of Origin shall be issued by an Issuing Authority/Body of the exporting Party. Details of the Issuing Authorities/Bodies shall be notified by each Party, through the ASEAN Secretariat, prior to the entry into force of this Agreement. Any subsequent changes shall be promptly notified by each Party, through the ASEAN Secretariat.

Rule 2

1. The Issuing Authorities/Bodies shall provide the names, addresses, specimen signatures and specimens of the impressions of official seals of their respective Issuing Authorities/Bodies to the other Parties, through the ASEAN Secretariat. The Issuing Authorities/Bodies shall submit electronically to the ASEAN Secretariat the above information and specimens for dissemination to the other Parties. Any subsequent changes shall be promptly notified through the ASEAN Secretariat.

2. Any Certificate of Origin issued by a person not included in the list may not be honoured by the Customs Authority of the importing Party.

操作认证程序附件

为实施第3章（原产地规则），每一缔约方应遵守以下关于原产地证书签发和验证及其他相关行政事项的运营程序。

当局

规则1

原产地证书应由出口方的签发机构签发。每一缔约方应在本协定生效前，通过东盟秘书处通知签发机构的详细信息。任何后续变更应由每一缔约方通过东盟秘书处及时通知。

规则2

1. 签发机构应通过东盟秘书处向其他缔约方提供其各自签发机构的名称、地址、签名样本及官方印章印模样本。签发机构应以电子方式向东盟秘书处提交上述信息及样本，以便分发给其他缔约方。任何后续变更应通过东盟秘书处及时通知。

2. 由未列入名单人员签发的任何原产地证书，进口方海关当局可不予承认。

Rule 3

For the purpose of determining originating status, the Issuing Authorities/Bodies shall have the right to call for supporting documentary evidence and/or other relevant information to carry out any check considered appropriate in accordance with respective domestic laws, regulations and administrative practices.

APPLICATIONS

Rule 4

1. The manufacturer, producer, or exporter of the good or its authorised representative shall apply in writing or by electronic means to an Issuing Authority/Body, in accordance with the exporting Party's domestic laws, regulations and the Issuing Authority's/Body's procedures, requesting a pre-exportation examination of the origin of the good to be exported.

2. The result of the examination, subject to review periodically or whenever appropriate, shall be accepted as the supporting evidence in issuing a Certificate of Origin for the good to be exported thereafter.

3. Pre-exportation examination need not apply to a good for which, by its nature, origin can be easily determined.

Rule 5

The manufacturer, producer, or exporter of the good or its authorised representative shall apply for the Certificate of Origin by providing appropriate supporting documents and other relevant information, proving that the good to be exported qualifies as originating.

规则3

为确定原产资格，签发机构/机关有权要求提供支持性书面证据和/或其他相关信息，以便根据各自国内法律、法规及行政惯例进行其认为适当的核查。

申请

规则4

1. 货物的制造商、生产商或出口商或其授权代表应根据出口方的国内法律、法规及签发机构的程序，以书面形式或电子方式向签发机构提出申请，请求对拟出口货物的原产地进行出口前检验。

2. 检验结果应作为此后为拟出口货物签发原产地证书的支持证据，并需定期或在适当时进行审议。

3. 对于原产地易于根据其性质确定的货物，可不适用出口前检验。

规则 5

货物制造商、生产商或出口商或其授权代表应通过提供适当的支持性文件和其他相关信息来申请原产地证书，证明待出口货物符合原产资格。

PRE-EXPORTATION EXAMINATION

Rule 6

The Issuing Authority/Body shall, to the best of its competence and ability, carry out proper examination, in accordance with the domestic laws and regulations of the exporting Party or the procedures of the Issuing Authority/Body, upon each application for the Certificate of Origin to ensure that:

(i) the application and the Certificate of Origin are duly completed and signed by the authorised signatory;

(ii) the good is an originating good in accordance with Article 2 (Originating Goods) of Chapter 3 (Rules of Origin);

(iii) other statements in the Certificate of Origin correspond to appropriate supporting documents and other relevant information; and

(iv) information to meet the minimum data requirements listed in this Annex's Appendix 1 (Minimum Data Requirements – Application for a Certificate of Origin) is provided for the goods being exported.

ISSUANCE OF CERTIFICATE OF ORIGIN

Rule 7

1. The format of the Certificate of Origin is to be determined by the Parties and it must contain the minimum data requirements listed in this Annex's Appendix 2 (Minimum Data Requirements – Certificate of Origin).

出口前检验

第6条

签发机构应在其权限和能力范围内，根据出口方国内法律法规或签发机构的程序，对每份原产地证书申请进行适当审查，以确保：

(i) 原产地证书申请及原产地证书已由授权签署人完整填写并签署；(ii) 货物符合第三章（原产地规则）第二条（原产货物）规定的原产货物要求；(iii) 原产地证书中的其他声明与相应的支持性文件及其他相关信息一致；且(iv) 为待出口货物提供了满足本附件附录1（最低数据要求——原产地证书申请）所列最低数据要求的信息。

原产地证书的签发

第7条

1. 原产地证书的格式由缔约方确定，且必须包含本附件附录2（最低数据要求——原产地证书）所列的最低数据要求。

2. The Certificate of Origin shall comprise one original and two copies.

3. The Certificate of Origin shall:

(i) be in hardcopy;

(ii) bear a unique reference number separately given by each place or office of issuance;

(iii) be in the English language; and

(iv) bear an authorised signature and official seal of the Issuing Authority/Body. The signature and official seal may be applied electronically.

4. The original Certificate of Origin shall be forwarded by the exporter to the importer for submission to the Customs Authority of the importing Party. Copies shall be retained by the Issuing Authority/Body and the exporter.

5. Multiple goods declared on the same Certificate of Origin shall be allowed, provided that each good is originating in its own right.

Rule 8

To implement Article 2 (Originating Goods) of Chapter 3 (Rules of Origin), the Certificate of Origin issued by the Issuing Authority/Body shall specify the relevant origin conferring criteria.

Rule 9

Neither erasures nor superimpositions shall be allowed on the Certificate of Origin. Any alteration shall be made by striking out the erroneous material and making any addition required. Such alterations shall be approved by a person authorised to sign the Certificate of Origin and certified by

2. 原产地证书应包括一份正本和两份副本。

3. 原产地证书应：

(i) 为纸质版；(ii) 带有由各签发地点或签发机构单独赋予的唯一参考编号；(iii) 使用英语；以及(iv) 带有签发机构的授权签名和官方印章。签名和官方印章可以电子方式加盖。

4. 原产地证书正本应由出口商转交进口商，以便提交给进口方的海关当局。副本应由签发机构和出口商留存。

5. 同一份原产地证书上申报多种货物应被允许，前提是每种货物本身均为原产货物。

规则8

为实施第3章（原产地规则）第二条（原产货物），签发机构出具的原产地证书应注明相关的原产地授予标准。

规则9

原产地证书上不得有任何擦除或叠加。任何修改应通过划掉错误内容并添加必要内容来完成。此类修改须经授权签署原产地证书的人员批准，并由

the appropriate Issuing Authority/Body. Unused spaces shall be crossed out to prevent any subsequent addition.

相应签发机构认证。未使用的空格应划掉以防止任何后续添加。

Rule 10

第10条规则

1. The Certificate of Origin shall be issued as near as possible to, but no later than three working days after, the date of exportation.

1. 原产地证书应尽可能接近出口日期签发，但不得晚于出口日期后三个工作日。

2. Where a Certificate of Origin has not been issued as provided for in Paragraph 1 due to involuntary errors or omissions or other valid causes, the Certificate of Origin may be issued retroactively, but no longer than 12 months from the date of exportation, bearing the words **"ISSUED RETROACTIVELY"**.

2. 如因非故意的错误或遗漏或其他正当理由未按第1款规定签发原产地证书，可追溯性签发原产地证书，但不得超过出口日期后12个月，并注明"追溯签发"字样。

3. An Issuing Authority/Body of an intermediate Party shall issue a back-to-back Certificate of Origin, if an application is made by the exporter while the good is passing through that intermediate Party, provided that:

3. 中间方的签发机构应在货物通过该中间方时，根据出口商的申请签发背对背原产地证书，但须满足以下条件：

(i) a valid original Certificate of Origin or its certified true copy is presented;

(i) 提交有效的原产地证书原件或其经认证的真实副本；

(ii) the period of validity of the back-to-back Certificate of Origin does not exceed the period of validity of the original Certificate of Origin;

(ii) 背对背原产地证书的有效期不超过原产地证书原件的有效期；

(iii) the consignment which is to be re-exported using the back-to-back Certificate of Origin does not undergo any further processing in the intermediate Party, except for repacking or logistics activities such as unloading, reloading, storing, or any other operations necessary to preserve them in good condition or to transport them to the importing Party;

(iii) 使用背对背原产地证书再出口的货物在中间方不得进行任何进一步加工，除非是为了重新包装或物流活动（如卸货、重新装载、存储或其他为保持货物良好状态或将其运输至进口方所需的操作）；

(iv) the back-to-back Certificate of Origin contains relevant information from the original Certificate

(iv) 背对背原产地证书包含原产地证书的相关信息

of Origin in accordance with the minimum data requirements in this Annex's Appendix 2 (Minimum Data Requirements – Certificate of Origin). The FOB value shall be the FOB value of the goods exported from the intermediate Party; and

且符合本附件附录2（最低数据要求——原产地证书）中的最低数据要求。离岸价格应为从中间方出口货物的离岸价格；且

(v) the verification procedures in Rule 17 and Rule 18 shall also apply to the back-to-back Certificate of Origin.

(v) 第17条和第18条中的验证程序同样适用于背对背原产地证书。

Rule 11

第11条

In the event of theft, loss or destruction of a Certificate of Origin, the manufacturer, producer, exporter or its authorised representative may apply to the Issuing Authority/Body for a certified true copy of the original Certificate of Origin. The copy shall be made on the basis of the export documents in their possession and bear the words **"CERTIFIED TRUE COPY"**. This copy shall bear the date of issuance of the original Certificate of Origin. The certified true copy of a Certificate of Origin shall be issued no longer than 12 months from the date of issuance of the original Certificate of Origin.

如原产地证书被盗、遗失或损毁，制造商、生产商、出口商或其授权代表可向签发机构申请原产地证书的经认证的真实副本。该副本应根据其持有的出口文件制作，并标注"经认证的真实副本"字样。此副本应载明原产地证书的签发日期。原产地证书的经认证真实副本应在原证书签发之日起12个月内签发。

PRESENTATION

提交

Rule 12

第12条

1. For the purpose of claiming preferential tariff treatment, the importer shall submit to the Customs Authority at the time of import declaration the Certificate of Origin and other documents as required, in accordance with the procedures of the Customs Authority or domestic laws and regulations of the importing Party.

1. 为申请优惠关税待遇，进口商应在进口申报时按照海关当局程序或进口方国内法律法规要求，向海关当局提交原产地证书及其他所需文件。

2. Notwithstanding Paragraph 1, a Party may elect not to require the submission of the Certificate of Origin.

2. 尽管有第1款规定，缔约方可选择不要求提交原产地证书。

Rule 13

The following time limits for the presentation of the Certificate of Origin shall be observed:

(i) the Certificate of Origin shall be valid for a period of 12 months from the date of issue and must be submitted to the Customs Authority of the importing Party within that period;

(ii) where the Certificate of Origin is submitted to the Customs Authority of the importing Party after the expiration of the time limit for its submission, such Certificate of Origin shall still be accepted, subject to the importing Party's domestic laws, regulations or administrative practices, when failure to observe the time limit results from *force majeure* or other valid causes beyond the control of the importer and/or exporter; and

(iii) the Customs Authority of the importing Party may accept such Certificate of Origin, provided that the goods have been imported before the expiration of the time limit of that Certificate of Origin.

Rule 14

The Certificate of Origin shall not be required for:

(i) goods originating in the exporting Party and not exceeding US$200.00 FOB value or such higher amount specified in the importing Party's domestic laws, regulations or administrative practices; or

(ii) goods sent through the post not exceeding US$200.00 FOB value or such higher amount

规则13

应遵守以下提交原产地证书的时限规定：

(i) 原产地证书自签发之日起12个月内有效，且必须在该期限内提交给进口方的海关当局；(ii) 若原产地证书在提交期限届满后提交给进口方的海关当局，当未遵守期限是由于不可抗力或进口商和/或出口商无法控制的其他正当理由所致时，该原产地证书仍可被接受，但需遵守进口方的国内法律、法规或行政惯例；以及(iii) 进口方的海关当局可接受该原产地证书，前提是货物在原产地证书期限届满前已进口。

规则14

下列情况无需提交原产地证书：

(i) 原产于出口方且离岸价格不超过200美元或进口方的国内法律、法规或行政惯例规定的更高金额的货物；或
(ii) 通过邮寄发送且离岸价格不超过200美元或进口方的国内法律、法规或行政惯例规定的更高金额的货物

specified in the importing Party's domestic laws, regulations or administrative practices,

provided that the importation does not form part of one or more importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the submission of the Certificate of Origin.

Rule 15

1. Where the origin of the good is not in doubt, the discovery of minor transcription errors or discrepancies in documentation shall not *ipso facto* invalidate the Certificate of Origin, if it does in fact correspond to the goods submitted.

2. For multiple goods declared under the same Certificate of Origin, a problem encountered with one of the goods listed shall not affect or delay the granting of preferential tariff treatment and customs clearance of the remaining goods listed in the Certificate of Origin.

Rule 16

1. Each Party shall require that the Issuing Authority/Body, manufacturer, producer, exporter, importer, and their authorised representatives maintain for a period of not less than three years after the date of exportation or importation, as the case may be, all records relating to that exportation or importation which are necessary to demonstrate that the good for which a claim for preferential tariff treatment was made qualifies for preferential tariff treatment. Such records may be in electronic form.

2. Information relating to the validity of the Certificate of Origin shall be furnished upon request of the importing Party by an official authorised to sign the Certificate of Origin and certified by the appropriate Issuing Authority/Body.

进口方的国内法律、法规或行政惯例规定的更高金额,

前提是该进口不构成可能被合理认为是为规避提交原产地证书而进行或安排的一项或多项进口的一部分。

规则15

1. 当货物的原产地无疑问时，发现文件中的轻微转录错误或差异不应自动导致原产地证书失效，只要该证书确实与所提交的货物相符。

2. 对于同一原产地证书下申报的多种货物，所列货物之一遇到问题不应影响或延迟对原产地证书中其余所列货物给予优惠关税待遇和清关。

规则16

1. 每一缔约方应要求签发机构、制造商、生产商、出口商、进口商及其授权代表在出口日期或进口日期（视情况而定）后保存不少于三年的所有与该出口或进口相关的记录，这些记录对于证明申请优惠关税待遇的货物有资格获得优惠关税待遇是必要的。此类记录可以电子形式保存。

2. 关于原产地证书有效性的信息，应进口方要求，应由获授权签署原产地证书的官员提供，并经适当签发机构认证。

3. Any information communicated between the Parties concerned shall be treated as confidential and shall be used for the validation of Certificates of Origin purposes only.[1]

ORIGIN VERIFICATION

Rule 17

1. The Customs Authority of the importing Party may verify the eligibility of a good for preferential tariff treatment in accordance with its domestic laws, regulations or administrative practices.

2. If the Customs Authority of the importing Party has reasonable doubts as to the authenticity or accuracy of the information included in the Certificate of Origin or other documentary evidence, it may:

(i) institute retroactive checking measures to establish the validity of the Certificate of Origin or other documentary evidence of origin;

(ii) request information from the relevant importer of a good for which preferential tariff treatment was claimed; and

(iii) issue written requests to the Issuing Authority/Body of the exporting Party for information from the exporter or producer.

3. A request for information in accordance with Paragraph 2(iii) shall not preclude the use of the verification visit provided for in Rule 18.

4. The recipient of a request for information under Paragraph 2 shall provide the information requested within a period of 90 days from the date the written request is made.

[1] This Paragraph shall be read with reference to the confidentiality provisions of Article 5 (Confidentiality) of Chapter 18 (Final Provisions).

3. 相关缔约方之间传递的任何信息均应视为保密，且仅用于原产地证书的验证目的。[1]

原产地核查

第17条

1. 进口方海关当局可根据其国内法律、法规或行政惯例，核查货物是否符合优惠关税待遇的资格。

2. 若进口方海关当局对原产地证书或其他书面证据中所含信息的真实性或准确性存在合理怀疑，可采取以下措施：

(i) 实施追溯检查措施以确认原产地证书或其他原产地书面证据的有效性；(ii) 向申请优惠关税待遇货物的相关进口商索取信息；及(iii) 向出口方签发机构发出书面请求，要求出口商或生产商提供信息。

3. 根据第二段(iii)项提出的信息请求，不妨碍使用第18条规定的核查访问。

4. 根据第二段提出的信息请求，接收方应在书面请求提出之日起90个日历日内提供所请求的信息。

[1] 本段应结合第18章（最后条款）第5条（保密性）的保密条款进行解读。

5. The Customs Authority of the importing Party shall provide written advice as to whether the goods are eligible for preferential tariff treatment to all the relevant parties within 60 days from receipt of information necessary to make a decision.

VERIFICATION VISIT

Rule 18

1. If the Customs Authority of the importing Party wishes to undertake a verification visit, it shall issue a written request to the Issuing Authority/Body of the exporting Party at least 30 days in advance of the proposed verification visit.

2. If the Issuing Authority/Body of the exporting Party is not a government agency, the Customs Authority of the importing Party shall notify the Customs Authority of the exporting Party of the written request to undertake the verification visit.

3. The written request referred to in Paragraphs 1 and 2 shall at a minimum include:

(i) the identity of the Customs Authority issuing the request;

(ii) the name of the exporter or the producer of the exporting Party whose good is subject to the verification visit;

(iii) the date the written request is made;

(iv) the proposed date and place of the visit;

(v) the objective and scope of the proposed visit, including specific reference to the good subject to the verification; and

5. 进口方海关当局应在收到作出决定所需的必要信息后60天内，向所有相关缔约方提供关于货物是否符合优惠关税待遇资格的书面通知。

核查访问

第18条

1. 如进口方海关当局希望进行核查访问，应至少在拟议核查访问前30个日历日向出口方签发机构提交书面请求。

2. 如出口方签发机构非政府机构，进口方海关当局应将拟进行核查访问的书面请求通知出口方海关当局。

3. 第1款和第2款所指书面请求至少应包括：

(i) 发出请求的海关当局的身份；(ii) 出口方货物接受核查访问的出口商或生产商的名称；(iii) 书面请求的日期；(iv) 拟议访问的日期和地点；(v) 拟议访问的目的和范围，包括具体提及接受核查的货物；以及

(vi) the names and titles of the officials of the Customs Authority or other relevant authorities of the importing Party who will participate in the visit.

4. The Issuing Authority/Body of the exporting Party shall notify the exporter or producer of the intended verification visit by the Customs Authority or other relevant authorities of the importing Party and request the exporter or producer to:

(i) permit the Customs Authority or other relevant authorities of the importing Party to visit their premises or factory; and

(ii) provide information relating to the origin of the good.

5. The Issuing Authority/Body shall advise the exporter or producer that, should they fail to respond by a specified date, preferential tariff treatment may be denied.

6. The Issuing Authority/Body of the exporting Party shall advise the Customs Authority of the importing Party within 30 days of the date of the written request from the Customs Authority of the importing Party whether the exporter or producer has agreed to the request for a verification visit.

7. The Customs Authority of the importing Party shall not visit the premises or factory of any exporter or producer in the territory of the exporting Party without written prior consent from the exporter or producer.

8. The Customs Authority of the importing Party shall complete any action to verify eligibility for preferential tariff treatment and make a decision within 150 days of the date of the request to the Issuing Authority/Body under Paragraph 1. The Customs Authority of the importing Party shall provide written advice as to whether goods are eligible for

(vi) 将参与访问的进口方海关当局或其他相关当局官员的姓名和职务。

4. 出口方的签发机构应通知出口商或生产商有关进口方海关当局或其他相关当局拟进行的核查访问，并要求出口商或生产商:

(i) 允许进口方海关当局或其他相关当局访问其经营场所或工厂；以及 (ii) 提供与货物原产地相关的信息。

5. 签发机构应告知出口商或生产商，若其未能在指定日期前作出回应，则可能被拒绝给予优惠关税待遇。

6. 出口方的签发机构应在进口方海关当局书面请求之日起30个日历日内，告知进口方海关当局出口商或生产商是否同意核查访问请求。

7. 未经出口商或生产商的事先书面同意，进口方海关当局不得访问出口方领土内任何出口商或生产商的经营场所或工厂。

8. 进口方海关当局应在根据第1款向签发机构提出请求之日起150个日历日内完成任何验证优惠关税待遇资格的措施并作出决定。进口方海关当局应在决定作出后十日内向相关缔约方提供货物是否符合优惠关税待遇资格的书面通知。

preferential tariff treatment to the relevant parties within ten days of the decision being made.

9. Parties shall maintain the confidentiality of information classified as confidential collected in the process of verification and shall protect that information from disclosure that could prejudice the competitive position of the person who provided the information. The information classified as confidential may only be disclosed to those authorities responsible for the administration and enforcement of origin determination.[2]

SUSPENSION OF PREFERENTIAL TARIFF TREATMENT

Rule 19

1. The Customs Authority of the importing Party may suspend preferential tariff treatment to a good that is the subject of an origin verification action under this Annex for the duration of that action or any part thereof.

2. The importing Party may release the goods to the importer subject to any administrative measures deemed necessary, provided that they are not held to be subject to import prohibition or restriction and there is no suspicion of fraud.

3. In the event that a determination is made by the Customs Authority of the importing Party that the good qualifies as an originating good of the exporting Party, any suspended preferential tariff treatment shall be reinstated.

Rule 20

When the destination of any goods exported to a specified Party is changed after their export from the exporting Party, but before clearance by the importing Party, the exporter,

[2] This Paragraph shall be read with reference to the confidentiality provisions of Article 5 (Confidentiality) of Chapter 18 (Final Provisions).

在作出决定后的十个日历日内向相关缔约方提供优惠关税待遇。

9. 缔约方应保持核查过程中收集的机密信息的保密性，并保护该信息免遭可能损害信息提供者竞争地位的披露。机密信息仅可向负责原产地确定管理和执行的当局披露。[2]

优惠关税待遇的暂停

规则19

1. 进口方的海关当局可暂停对作为本附件项下原产地核查行动对象的货物在该行动或其任何部分持续期间给予优惠关税待遇。

2. 进口方可允许货物在采取必要行政措施的条件下放行给进口商，前提是该货物未被认定属于进口禁令或限制范围且不存在欺诈嫌疑。

3. 若进口方海关当局认定货物符合出口方原产货物资格，则应恢复任何被暂停的优惠关税待遇。

规则20

当任何出口至指定缔约方的货物在从出口方出口后、但进口方清关前变更目的地时，出口商、

[2] 本段应结合第18章（最后条款）第5条（保密性）的保密条款进行解读。

manufacturer, producer or its authorised representative shall apply in writing to the Issuing Authority/Body for a new Certificate of Origin for the goods changing destination. The application shall include the original Certificate of Origin relating to the goods.

Rule 21

For the purpose of implementing Article 14 (Direct Consignment) of Chapter 3 (Rules of Origin) where transportation is effected through the territory of any non-Party, the following shall be provided to the Customs Authority of the importing Party:

(i) a through Bill of Lading issued in the exporting Party;

(ii) a Certificate of Origin issued by the relevant Issuing Authority/Body of the exporting Party, unless not required pursuant to Rule 12.2 or Rule 14;

(iii) a copy of the original commercial invoice in respect of the good; and

(iv) supporting documents in evidence that the requirements of Article 14 (Direct Consignment) of Chapter 3 (Rules of Origin) have been complied with.

Rule 22

1. The Customs Authority of the importing Party may accept Certificates of Origin in cases where the sales invoice is issued either by a company located in a third country or by an exporter for the account of that company, provided that the goods meet the requirements of Chapter 3 (Rules of Origin).

制造商、生产商或其授权代表应以书面形式向签发机构申请为变更目的地的货物签发新的原产地证书。该申请应包含与货物相关的原产地证书正本。

规则21

为实施第3章（原产地规则）第14条（直接运输）之目的，当运输途经非缔约方领土时，应向进口方海关当局提供以下文件：

(i) 出口方签发的联运提单；(ii) 出口方相关签发机构出具的原产地证书（除非根据规则12.2或规则14无需提供）；(iii) 货物原始商业发票的副本；及(iv) 证明符合第3章（原产地规则）第14条（直接运输）要求的支持性文件。

规则22

1. 进口方海关当局可接受由第三国公司或代表该公司行事的出口商开具的销售发票所对应的原产地证书，前提是货物符合第3章（原产地规则）的要求。

2. The words “**SUBJECT OF THIRD-PARTY INVOICE** (*name of company using the invoice*)” shall appear on the Certificate of Origin.

ACTION AGAINST FRAUDULENT ACTS

Rule 23

When it is suspected that fraudulent acts in connection with the Certificate of Origin have been committed, the government authorities concerned shall co-operate in the action to be taken in the respective Party against the persons involved, in accordance with the Party’s respective laws and regulations.

GOODS IN TRANSPORT OR STORAGE

Rule 24

Originating goods which are in the process of being transported from the exporting Party to the importing Party, or which are in temporary storage in a bonded area in the importing Party, should be accorded preferential tariff treatment if they are imported into the importing Party on or after the date of entry into force of this Agreement, subject to the submission of a Certificate of Origin issued retroactively to the Customs Authority of the importing Party and subject to domestic laws, regulations or administrative practices of the importing Party.

SETTLEMENT OF DISPUTES

Rule 25[3]

1. In the case of a dispute concerning origin determination, classification of goods or other matters, the

[3] This Rule is without prejudice to a Party’s rights under Chapter 17 (Consultations and Dispute Settlement).

2. 原产地证书上须注明“第三方发票主体（使用发票的公司名称）”。

打击欺诈行为

第23条

当怀疑与原产地证书相关的欺诈行为已经发生时，有关政府当局应根据缔约方各自的法律法规，在缔约方针对相关人员采取的措施中进行合作。

运输或储存中的货物

第24条

正在从出口方运输至进口方的原产货物，或在进口方保税区临时储存的原产货物，如果在本协定生效之日或之后进口至进口方，应向进口方海关当局提交追溯签发的原产地证书，并遵守进口方的国内法律、法规或行政惯例，应给予优惠关税待遇。

争端解决

规则 25[3]

1. 在涉及原产地确定、货物分类或其他事项的争端中，

3 本规则不影响缔约方根据第17章（磋商与争端解决）享有的权利。

government authorities concerned in the importing and exporting Parties shall consult each other with a view to resolving the dispute, and the result shall be reported to the other Parties for information.

2. If no settlement can be reached bilaterally, the dispute may be referred to the ROO Sub-Committee established pursuant to Article 18 (Sub-Committee on Rules of Origin) of Chapter 3 (Rules of Origin).

进出口缔约方的相关政府当局应相互协商以解决争端，并将结果报告其他缔约方以供参考。

2. 若无法通过双边协商解决，可将争端提交根据第3章（原产地规则）第18条（原产地规则分委会）设立的原产地规则分委会处理。

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Appendix 1

Minimum Data Requirements – Application for a Certificate of Origin

The minimum data to be included in an application for a Certificate of Origin are:

1. Exporter details	The name, address and contact details of the exporter
2. Shipment details (a separate application must be made for each shipment)	(i) Consignee name and address (ii) Sufficient details to identify the consignment, such as importer's purchase order number, invoice number and date and Air Way Bill or Sea Way Bill or Bill of Lading (iii) Port of Discharge, if known
3. Full description of goods	(i) Detailed description of the goods, including HS Code (6-digit level), and if applicable, product number and brand name (ii) The relevant origin conferring criteria
4. Exporter's declaration	Declaration completed by the exporter or its authorised representative, signed and dated, and annotated with the signatory's name and designation. The declaration shall include a statement that the details provided in the application are true and correct

附录1

最低数据要求——原产地证书申请

原产地证书申请中须包含的最低数据要求如下:

1. 出口商详情	出口商的名称、地址和联系方式 出口商
2. 装运详情 (单独申请必须为每次装运提交)	(i) 收货人名称和地址 (ii) 识别货物的充分细节, 例如进口商采购订单号, 发票号码和日期以及空运提单或 海运提单或提单 (iii) 卸货港（如已知）
3. 货物完整描述 货物	(i) 货物详细描述，包括 HS编码（6位级别），如适用, 产品编号和品牌名称 (ii) 相关原产地授予标准
4. 出口商 声明	出口商或其 授权代表完成的声明，签署并注明日期，且 标注签署人姓名及 职务。该声明应包含一份 声明，确认申请中提供的 信息真实无误

Appendix 2

Minimum Data Requirements – Certificate of Origin

The minimum data to be included in the Certificate of Origin are:

1. Exporter details	The name and address and contact details of the exporter
2. Shipment details (a Certificate of Origin can only apply to a single shipment of goods)	(i) Consignee name and address (ii) Sufficient details to identify the consignment, such as importer's purchase order number, invoice number and date and Air Way Bill or Sea Way Bill or Bill of Lading (iii) Port of Discharge, if known
3. Full description of goods	(i) Detailed description of the goods, including HS Code (6-digit level), and if applicable, product number and brand name (ii) The relevant origin conferring criteria (iii) FOB Value[1]
4. Certification by Issuing Authority/Body	Certification by the Issuing Authority/Body that, based on the evidence provided, the goods specified in the Certificate of Origin meet all the relevant requirements of Chapter 3 (Rules of Origin)
5. Certificate of Origin number	A unique number assigned to the Certificate of Origin by the Issuing Authority/Body

[1] In the case of Australia and New Zealand, a Certificate of Origin or back-to-back Certificate of Origin which does not state the FOB value shall be accompanied by a declaration made by the exporter stating the FOB value of each good described in the Certificate of Origin.

附录2

最低数据要求——原产地证书

原产地证书中须包含的最低数据为:

1. 出口商详情	出口商的名称、地址及联系方式 出口商
2. 装运详情 (一份原产地证书仅适用于单批装运的货物)	(i) 收货人名称和地址 (ii) 识别货物的充分细节, 例如进口商采购订单号、发票号码和日期及空运提单或海运提单或提单 (iii) 卸货港（如已知）
3. 完整描述 货物	(i) 货物详细描述，包括 HS编码（6位级），如适用, 产品编号和品牌名称 (ii) 相关原产地授予标准 (iii) 离岸价格[1]
4. 认证由 签发 机构	签发机构的认证, 基于所提供的证据，货物 在原产地证书中指定的符合所有 第3章（原产地规则）的相关要求 原产地
5. 原产地证书 编号	由签发机构为原产地证书分配的独特编号 原产地由签发机构认证

[1] 对于澳大利亚和新西兰，未注明离岸价格的原产地证书或背对背原产地证书，应附有出口商声明，说明原产地证书中所述每项货物的离岸价格。

CHAPTER 4

CUSTOMS PROCEDURES

Article 1
Objectives

The objectives of this Chapter are to:

(a) ensure predictability, consistency and transparency in the application of customs laws and regulations of the Parties;

(b) promote efficient, economical administration of customs procedures, and the expeditious clearance of goods;

(c) simplify customs procedures; and

(d) promote co-operation among the customs administrations of the Parties.

Article 2
Scope

This Chapter applies, in accordance with the Parties' respective laws, regulations and policies, to customs procedures applied to goods traded among the Parties.

Article 3
Definitions

For the purposes of this Chapter:

(a) **customs law** means such laws and regulations administered and enforced by the customs authority of each Party concerning the importation, exportation, and transit/transhipment

第四章

海关程序

第一条
目标

本章的目标是:

(a) 确保各方海关法律法规实施的可预测性、一致性和透明度；(b) 促进海关程序的高效经济管理及贸易货物的快速清关；(c) 简化海关程序；以及(d) 推动各方海关管理机构间的合作。

第2条 范围

本章根据各方各自法律、法规和政策，适用于各方之间贸易货物的海关程序。

第三条
定义

就本章而言:

(a) 海关法指由每一缔约方的海关当局管理和执行的关于进口、出口和过境/转运的法律法规

of goods, as they relate to customs duties, charges, and other taxes, or to prohibitions, restrictions, and other similar controls with respect to the movement of controlled items across the boundary of the customs territory of each Party; and

这些法律法规涉及货物、关税、费用和其他税收，或与每一缔约方关税领土边界内受控物品流动相关的禁止、限制措施和其他类似管制；以及

(b) **customs procedures** means the treatment applied by the customs administration of a Party to goods, which are subject to that Party's customs law.

(b) 海关程序指一缔约方的海关管理机构对该缔约方海关法管辖货物实施的管理措施。

Article 4
Customs Procedures and Facilitation

第4条 海关程序与便利化

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent, transparent and facilitate trade, including through the expeditious clearance of goods.

1. 每一缔约方应确保其海关程序和实践具有可预测性、一致性、透明度，并通过快速清关等措施促进贸易便利化。

2. Customs procedures of each Party shall, where possible and to the extent permitted by its customs law, conform with the standards and recommended practices of the World Customs Organization.

2. 在可能且海关法允许的范围内，各缔约方的海关程序应符合世界海关组织的标准及建议做法。

3. The customs administration of each Party shall review its customs procedures with a view to their simplification to facilitate trade.

3. 各缔约方海关管理机构应审议其海关程序，以简化流程促进贸易便利化。

Article 5
Customs Co-operation

第5条 海关合作

1. To the extent permitted by its domestic law, the customs administration of each Party may, as deemed appropriate, assist the customs administration of each other Party, in relation to:

1. 在符合其国内法允许的范围内，每一缔约方的海关管理机构可酌情协助其他每一缔约方的海关管理机构，涉及以下方面：

(a) the implementation and operation of this Chapter;

(a) 本章的实施与运作；

(b) developing and implementing customs best practice and risk management techniques;

(c) providing, where possible, prior notice of changes to laws, regulations, and relevant procedures and guidelines that would affect the operation of this Agreement;

(d) simplifying and harmonising customs procedures;

(e) advancing technical skills and the use of technology; and

(f) application of the Agreement on Customs Valuation.

2. Subject to available resources, the customs administrations of the Parties may, as deemed appropriate, explore and undertake co-operation projects, including:

(a) capacity building programmes to enhance the capability of customs personnel of ASEAN Member States; and

(b) technical assistance programmes to facilitate the Parties' development and implementation of Single Windows.

Article 6
Use of Automated Systems

1. The customs administration of each Party, where applicable, shall endeavour to have its own system that supports electronic customs transactions.

2. In implementing initiatives, the customs administration of each Party shall take into account the relevant standards and best practices recommended by the World Customs

(b) 制定并实施海关最佳实践和风险管理技术；(c) 在可能的情况下，提前通知将影响本协定运作的法律、法规及相关程序和指南的变更；(d) 简化和统一海关程序；(e) 提升技术技能和技术应用；以及(f) 海关估价协定的申请。

2. 在可用资源允许的情况下，各缔约方的海关管理机构可视情况探索并开展合作项目，包括：

(a) 提升东盟成员国海关人员能力的能力建设项目；及
(b) 促进各方发展和实施单一窗口的技术援助项目。

第六条 自动化系统的使用

1. 在适用的情况下，每一缔约方的海关管理机构应努力建立支持电子海关交易的自身系统。

2. 在实施倡议时，每一缔约方的海关管理机构应考虑世界海关组织推荐的相关标准和最佳实践，

Organization, taking into consideration the available infrastructure and capabilities of each Party.

Article 7
Valuation

The Parties shall determine the customs value of goods traded among them in accordance with the provisions of the Agreement on Customs Valuation.[1]

Article 8
Advance Rulings

1. Each Party, through its customs administration or other relevant authorities, to the extent permitted by its domestic laws, regulations and administrative determinations, on the application of a person described in Paragraph 2(a), shall provide in writing advance rulings in respect of the tariff classification, questions arising from the application of the principles of the Agreement on Customs Valuation and/or origin of goods.

2. Where available, each Party shall adopt or maintain procedures for advance rulings, which shall:

(a) provide that an importer in its territory or an exporter or producer in the territory of another Party may apply for an advance ruling before the importation of the goods in question;

(b) require that an applicant for an advance ruling provide a detailed description of the goods and all relevant information needed to process an application for an advance ruling;

[1] In the case of Cambodia, the Agreement on Customs Valuation, as implemented in accordance with the provisions of the Protocol on the Accession of the Kingdom of Cambodia to the WTO shall apply *mutatis mutandis.*

同时考虑每一缔约方现有的基础设施和能力。

第七条
估价

各方应根据《海关估价协定》的条款确定彼此间贸易货物的完税价格。[1]

第八条 预先裁定

1. 每一缔约方应通过其海关管理机构或其他相关当局，在其国内法律、法规和行政决定允许的范围内，根据第二段(a)项所述人员的申请，以书面形式就关税分类、《海关估价协定》原则适用引发的问题和/或货物原产地提供预先裁定。

2. 在可行的情况下，每一缔约方应制定或维持预先裁定的程序，该程序应：

(a) 规定其领土内的进口商或
另一方的领土内的出口商或生产商可在相关货物进口前申请预先裁定；

(b) 要求预先裁定的申请人
提供货物的详细描述以及处理预先裁定申请所需的所有相关信息；

[1] 就柬埔寨王国而言，《海关估价协定》应根据《柬埔寨王国加入世界贸易组织议定书》的条款经必要修改后实施。

(c) provide that its customs administration may, at any time during the course of an evaluation of an application for an advance ruling, request that the applicant provide additional information within a specified period;

(d) provide that any advance ruling be based on the facts and circumstances presented by the applicant, and any other relevant information in the possession of the decision-maker; and

(e) provide that an advance ruling be issued to the applicant expeditiously, within the period specified in each Party's domestic laws, regulations or administrative determinations.

3. A Party may reject requests for an advance ruling where the additional information requested by it in accordance with Paragraph 2(c) is not provided within the specified period.

4. Subject to Paragraphs 1 and 5 and where available, each Party shall apply an advance ruling to all importations of goods described in that ruling imported into its territory for three years from the date of that ruling, or such other period as specified in that Party's domestic laws, regulations or administrative determinations.

5. A Party may modify or revoke an advance ruling upon a determination that the ruling was based on an error of fact or law (including human error), the information provided is false or inaccurate, if there is a change in domestic law consistent with this Agreement, or there is a change in a material fact or circumstance on which the ruling is based.

6. Where an importer claims that the treatment accorded to an imported good should be governed by an advance ruling, the customs administration may evaluate whether the facts and circumstances of the importation are consistent

(c) 规定其海关管理机构可在
在评估预先裁定申请过程中的任何时间，可要求申请人在规定期限内提供补充信息；

(d) 规定任何预先裁定应基于申请人提供的事实和情况，以及决策者掌握的其他相关信息；以及 (e) 规定应在每一缔约方国内法律、法规或行政决定规定的期限内迅速向申请人签发预先裁定。

3. 如未在规定期限内提供根据第二段(c)项要求的补充信息，缔约方可拒绝预先裁定请求。

4. 在第一段和第五段的约束下且条件允许时，每一缔约方应将该预先裁定适用于自裁定之日起三年内（或该缔约方国内法律、法规或行政决定规定的其他期限）进口至其领土的所有裁定所述货物。

5. 如确定预先裁定基于事实或法律错误（包括人为错误）、所提供信息虚假或不准确、国内法律发生符合本协定的变更、或裁定所依据的重要事实或情况发生变化，缔约方可修改或撤销该预先裁定。

6. 当进口商声称进口货物应受预先裁定待遇管辖时，海关管理机构可评估该进口事实和情况是否相符

with the facts and circumstances upon which an advance ruling was based.

Article 9
Risk Management

1. The Parties shall administer customs procedures so as to facilitate the clearance of low-risk goods and focus on high-risk goods. To enhance the flow of goods across their borders the customs administration of each Party shall regularly review these procedures.

2. Where a customs administration of a Party deems that the inspection of goods is not necessary to authorise clearance of the goods from customs control, that Party shall endeavour to provide a single point for the documentary or electronic processing of those goods.

Article 10
Confidentiality

1. Nothing in this Chapter shall be construed to require any Party to furnish or allow access to confidential information pursuant to this Chapter, the disclosure of which it considers would:

(a) be contrary to the public interest as determined by its legislation;

(b) be contrary to any of its legislation including, but not limited to, legislation protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions;

(c) impede law enforcement; or

(d) prejudice legitimate commercial interests, which may include competitive position, of particular enterprises, public or private.

预先裁定所依据的事实和情况。

第9条 风险管理

1. 缔约方应实施海关程序，以便利低风险货物的通关并重点关注高风险货物。为促进货物跨境流动，每一缔约方的海关管理机构应定期审议这些程序。

2. 如一缔约方的海关管理机构认为无需对货物进行检查即可授权货物清关，则该缔约方应努力为这些货物的单证或电子处理提供单一窗口。

第10条 保密性

1. 本章任何规定不得解释为要求任何缔约方提供或允许获取本章规定的机密信息，若该缔约方认为披露此类信息将：

(a) 与其立法确定的公共利益相悖；(b) 违反其任何立法，包括但不限于保护个人隐私或金融机构个人客户财务事务和账户的立法；(c) 妨碍执法；或 (d) 损害特定企业（无论公有或私有）的合法商业利益，其中可能包括竞争地位。

2. Where a Party provides information to another Party in accordance with this Chapter and designates the information as confidential, the Party receiving the information shall maintain the confidentiality of the information, use it only for the purposes specified by the Party providing the information, and not disclose it without the specific written permission of the Party providing the information.

Article 11
Enquiry Points

1. Each Party shall designate one or more enquiry points to address enquiries from interested persons concerning customs matters, and shall make available on the internet and/or in print form, information concerning procedures for making such enquiries.

2. Each Party shall publish on the internet and/or in print form all statutory and regulatory provisions and any customs administrative procedures applied or enforced by its customs administration, not including law enforcement procedures and internal operational guidelines.

Article 12
Consultations

The customs administrations of the Parties will encourage consultation with each other regarding significant customs issues that affect goods traded among the Parties.

Article 13
Review and Appeal

1. Each Party shall ensure that the importers in its territory have access to administrative review within the customs administration that issued the decision subject to review or, where applicable, the higher authority supervising the administration and/or judicial review of the determination

2. 如一缔约方根据本章向另一缔约方提供信息并将该信息指定为保密信息，则接收信息的缔约方应保持信息的保密性，仅将其用于提供信息的缔约方指定的目的，且未经提供信息的缔约方明确书面许可不得披露该信息。

第11条 咨询点

1. 每一缔约方应指定一个或多个咨询点，以处理利益相关方关于海关事务的咨询，并应在互联网上和/或以印刷形式提供有关进行此类咨询的程序信息。

2. 每一缔约方应在互联网上和/或以印刷形式公布所有法规和规章条款以及其海关管理机构适用或执行的海关行政程序，不包括执法程序和内部操作指南。

第12条 磋商

各方海关管理机构将鼓励就影响缔约方之间贸易货物的重大海关问题进行相互磋商。

第13条 审查和上诉

1. 每一缔约方应确保其领土内的进口商有权在作出待审议决定的海关管理机构内进行行政复审，或在适用情况下，向监督该管理机构的上级机关和/或对该决定进行司法审查的机关提出复审请求

taken at the final level of administrative review, in accordance with the Party's domestic law.

2. The decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing.

3. The level of administrative review may include any authority supervising the customs administration of a Party.

该决定系根据缔约方国内法在行政复审终局级别作出。

2. 上诉决定应送达上诉人，且该决定的理由应以书面形式提供。

3. 行政复审的级别可包括监督缔约方海关管理机构的任何当局。

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CHAPTER 5

SANITARY AND PHYTOSANITARY MEASURES

Article 1
Objectives

The objectives of this Chapter are to:

(a) facilitate trade among the Parties while protecting human, animal or plant life or health in the territory of each Party;

(b) provide greater transparency in and understanding of the application of each Party's regulations and procedures relating to sanitary and phytosanitary measures;

(c) strengthen co-operation among the competent authorities of the Parties which are responsible for matters covered by this Chapter; and

(d) enhance practical implementation of the principles and disciplines contained within the SPS Agreement.

Article 2
Scope

This Chapter shall apply to all sanitary and phytosanitary measures of a Party that may, directly or indirectly, affect trade among the Parties.

Article 3
Definitions

For the purposes of this Chapter:

第五章

卫生与植物卫生措施

第一条
目标

本章的目标是:

(a) 在保护每一缔约方领土内人类、动物或植物的生命或健康的同时，便利各方之间的贸易；(b) 提高各方关于卫生与植物卫生措施的法规和程序应用的透明度和理解；(c) 加强各方负责本章所涵盖事项的主管机关之间的合作；以及(d) 加强SPS协议中所载原则和纪律的实际实施。

第2条 范
围

本章适用于缔约方可能直接或间接影响各方之间贸易的所有卫生与植物卫生措施。

第三条
定义

就本章而言:

(a) **competent authorities** means those authorities within each Party recognised by the national government as responsible for developing and administering the various sanitary and phytosanitary measures within that Party;

(b) **international standards, guidelines and recommendations** shall have the same meaning as set out in paragraph 3 of Annex A to the SPS Agreement;

(c) **sanitary or phytosanitary measure** shall have the same meaning as set out in paragraph 1 of Annex A to the SPS Agreement; and

(d) **SPS Agreement** means the *Agreement on the Application of Sanitary and Phytosanitary Measures* in Annex 1A to the WTO Agreement.

(a) 主管机关指每一缔约方境内由国家政府认可、负责制定和实施该缔约方境内各项卫生与植物卫生措施的机关；

(b) 国际标准、指南和
建议应具有与SPS协议附件A第3段中所述相同的含义；

(c) 卫生或植物检疫措施应具有与SPS协议附件A第1款中所述相同的含义；以及(d) SPS协议指世界贸易组织协定附件1A中的

《实施卫生与植物卫生措施协定》。

Article 4
General Provisions

1. Each Party affirms its rights and obligations with respect to each other Party under the SPS Agreement.

2. Each Party commits to apply the principles of the SPS Agreement in the development, application or recognition of any sanitary or phytosanitary measure with the intent to facilitate trade among the Parties while protecting human, animal or plant life or health in the territory of each Party.

第4条 一般规定

1. 每一缔约方确认其根据SPS协议对其他缔约方享有的权利和承担的义务。

2. 每一缔约方承诺在制定、申请或认可任何卫生或植物检疫措施时适用SPS协议的原则，旨在促进各方之间的贸易，同时保护每一缔约方领土内人类、动物或植物的生命或健康。

Article 5
Equivalence

1. The Parties shall strengthen co-operation on equivalence in accordance with the SPS Agreement and relevant international standards, guidelines and recommendations, in order to facilitate trade among the Parties.

第5条 等效性

1. 各方应根据SPS协议及相关国际标准、指南和建议，加强等效性合作，以促进各方之间的贸易。

2. To facilitate trade, the competent authorities of the relevant Parties may develop equivalence arrangements and make equivalence decisions, in particular in accordance with Article 4 of the SPS Agreement and with the guidance provided by the relevant international standard setting bodies and by the WTO Committee on Sanitary and Phytosanitary Measures established pursuant to Article 12 of the SPS Agreement.

3. A Party shall, upon request, enter into negotiations with the aim of achieving bilateral recognition arrangements of the equivalence of specified sanitary or phytosanitary measures.

Article 6
Competent Authorities and Contact Points

1. Each Party shall provide each other Party with a description of its competent authorities and their division of responsibilities.

2. Each Party shall provide each other Party with a contact point to facilitate distribution of requests or notifications made in accordance with this Chapter.

3. Each Party shall ensure the information provided under Paragraphs 1 and 2 is kept up to date.

Article 7
Notification

1. Each Party acknowledges the value of exchanging information on its sanitary or phytosanitary measures.

2. Each Party agrees to provide timely and appropriate information directly to the contact points of the relevant Parties where a:

2. 为便利贸易，相关缔约方的主管机关可制定等效安排并作出等效决定，特别是根据SPS协定第4条以及相关国际标准制定机构和根据SPS协定第12条设立的WTO卫生与植物卫生措施委员会提供的指导。

3. 一缔约方应根据请求进行谈判，旨在达成特定卫生与植物卫生措施等效性的双边认可安排。

第六条 主管部门和联络点

1. 每一缔约方应向其他缔约方提供其主管机关的描述及其职责分工。

2. 每一缔约方应向其他缔约方提供一个联络点，以便利根据本章提出的请求或通知的分发。

3. 每一缔约方应确保根据第1款和第2款提供的信息保持最新。

第七条 通知

1. 每一缔约方承认就其卫生与植物卫生措施进行信息交换的价值。

2. 每一缔约方同意在以下情况下直接向相关缔约方的联络点提供及时和适当的信息：

(a) change in animal or plant health status may affect existing trade;

(b) significant sanitary or phytosanitary non-compliance associated with an export consignment is identified by the importing Party; and

(c) provisional sanitary or phytosanitary measure against or affecting the exports of another Party is considered necessary to protect human, animal or plant life or health within the importing Party.

3. The exporting Party should, to the extent possible, endeavour to provide information to the importing Party if the exporting Party identifies that an export consignment which may be associated with a significant SPS risk has been exported.

(a) 动植物健康状况的变化可能影响现有贸易；(b) 进口方发现与出口货物相关的重大卫生或植物检疫违规行为；以及(c) 进口方认为有必要采取临时卫生或植物检疫措施以保护其境内人类、动物或植物的生命或健康，该措施针对或影响另一缔约方的出口。

3. 出口方应尽可能努力向进口方提供信息，如果出口方发现可能涉及重大卫生与植物检疫风险的出口货物已经出口。

Article 8
Co-operation

第8条 合作

1. Each Party shall explore opportunities for further co-operation, collaboration and information exchange with the other Parties on sanitary and phytosanitary matters of mutual interest consistent with the objectives of this Chapter.

2. In relation to Paragraph 1, each Party shall endeavour to co-ordinate with regional or multilateral work programmes with the objective of avoiding unnecessary duplication and to maximise the benefits from the application of resources.

3. Each Party agrees to further explore how it can strengthen co-operation on the provision of technical assistance especially in relation to trade facilitation.

4. Any two Parties may, by mutual agreement, co-operate on adaptation to regional conditions in accordance with the

1. 每一缔约方应探索与其他缔约方在共同利益的卫生与植物检疫事宜上进一步合作、协作和信息交流的机会，且应符合本章的目标。

2. 关于第1款，每一缔约方应努力协调区域或多边工作计划，以避免不必要的重复，并最大化资源应用的效益。

3. 每一缔约方同意进一步探索如何加强在提供技术援助方面的合作，特别是在贸易便利化方面。

4. 任何两缔约方均可通过相互协议，依照

SPS Agreement and relevant international standards, guidelines and recommendations, in order to facilitate trade between the Parties.

Article 9
Consultations

Where a Party considers that a sanitary or phytosanitary measure affecting trade between it and another Party warrants further discussion, it may, through the contact points, request a detailed explanation of the sanitary or phytosanitary measure and if necessary, request to hold consultations in an attempt to resolve any concerns on specific issues arising from the application of the sanitary or phytosanitary measure. The other Party shall respond promptly to any requests for such explanations, and if so requested, shall enter into consultations, within 30 days from the date of the request. The Parties to the consultations shall make every effort to reach a mutually satisfactory resolution through consultations within 60 days from the date of the request, or a timeline mutually agreed upon by the consulting Parties. Should the consultations fail to achieve resolution, the matter shall be forwarded to the FTA Joint Committee.

Article 10
Meetings Among the Parties on Sanitary and Phytosanitary Matters

1. The Parties hereby establish a Sub-Committee on Sanitary and Phytosanitary Matters (SPS Sub-Committee), consisting of representatives from the relevant government agencies of each Party. The SPS Sub-Committee shall meet within one year of the entry into force of this Agreement and thereafter as mutually determined by the Parties.

2. The SPS Sub-Committee shall review the progress made by the Parties in implementing their commitments under this Chapter and may set up subsidiary working

SPS协议及相关国际标准、指南和建议，就适应区域条件开展合作，以促进各方之间的贸易。

第9条 磋商

如一缔约方认为影响其与另一缔约方之间贸易的卫生或植物检疫措施需要进一步讨论，可通过联络点请求就该卫生或植物检疫措施获得详细解释，并在必要时请求举行磋商，以解决因实施该卫生或植物检疫措施而产生的具体问题。另一方应迅速回应此类解释请求，如被请求，应在请求之日起30日历日内进行磋商。磋商各方应尽一切努力，在请求之日起60天内或磋商各方共同商定的时间框架内，通过磋商达成双方满意的解决方案。若磋商未能达成解决方案，该事项应提交自由贸易协定联合委员会。

第10条 缔约方关于卫生和植物检疫事项的会议

1. 各方特此设立卫生和植物检疫事项分委会（SPS分委会），由每一缔约方相关政府机构的代表组成。SPS分委会应在本协定生效后一年内召开会议，此后由各方共同商定召开时间。

2. SPS分委会应审议各方在实施本章承诺方面取得的进展，并可设立附属工作组

groups, as agreed between or among the relevant Parties, to consider specified issues relating to this Chapter.

3. Competent authorities of any two Parties may meet to make decisions bilaterally implementing the commitments under this Chapter. Each Party shall provide to the SPS Sub-Committee updates on the status of their work.

4. Subject to Paragraph 1, meetings under this Article shall occur as and when mutually determined by the relevant Parties and all decisions and/or records made shall be by mutual agreement of the relevant Parties. Meetings may occur in person, by teleconference, by video conference, or through any other means as mutually determined by the Parties.

Article 11
Non-Application of Chapter 17 (Consultations and Dispute Settlement)

Chapter 17 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.

，经相关缔约方之间商定，以审议与本章有关的特定问题。

3. 任何两缔约方的主管机关可举行会议，就实施本章承诺作出双边决定。每一缔约方应向SPS分委会通报其工作进展。

4. 在第1款约束下，本条款项下会议应在相关缔约方共同商定的时间和地点举行，所有决定和/或记录均须经相关缔约方相互协议达成。会议可以面对面、电话会议、视频会议或缔约方共同商定的任何其他方式举行。

第11条 第17章的不适用（磋商与争端解决）

第17章（磋商与争端解决）不适用于本章产生的事项。

CHAPTER 6

STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT PROCEDURES

Article 1
Objectives

The objectives of this Chapter are to facilitate trade in goods among the Parties by:

(a) ensuring that standards, technical regulations, and conformity assessment procedures do not create unnecessary obstacles to trade;

(b) promoting mutual understanding of each Party's standards, technical regulations, and conformity assessment procedures;

(c) strengthening information exchange and co-operation among the Parties in relation to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures;

(d) strengthening co-operation among the Parties in the work of international bodies related to standardisation and conformity assessments; and

(e) providing a framework to implement supporting mechanisms to realise these objectives.

Article 2
Scope

1. For the mutual benefit of the Parties, this Chapter applies to all standards, technical regulations and conformity

第六章

标准、技术法规和合格评定程序

第一条
目标

本章的目标是通过以下方式促进各方之间的货物贸易：

(a) 确保标准、技术法规和合格评定程序不会对贸易造成不必要的障碍；(b) 促进各方对彼此的标准、技术法规和合格评定程序的相互理解；(c) 加强各方在标准、技术法规和合格评定程序的制定、采用和实施方面的信息交流与合作；(d) 加强各方在与标准化和合格评定相关的国际机构工作中的合作；以及(e) 提供一个框架以实施支持机制来实现这些目标。

第2条 范围

1. 为了各缔约方的共同利益，本章适用于所有可能影响缔约方之间货物贸易的标准、技术法规和合格

assessment procedures of the Parties that may affect trade in goods between the Parties except:

(a) purchasing specifications prepared by governmental bodies for the production or consumption requirements of such bodies; and

(b) sanitary or phytosanitary measures as defined in Chapter 5 (Sanitary and Phytosanitary Measures).

2. Nothing in this Chapter shall limit the right of a Party to prepare, adopt and apply standards, technical regulations and conformity assessment procedures only to the extent necessary to fulfil a legitimate objective. Such legitimate objectives are, *inter alia*, national security requirements; the prevention of deceptive practices; protection of human health or safety; animal or plant life or health; or the environment.

Article 3
Definitions

For the purposes of this Chapter, the definitions set out in Annex 1 to the *Agreement on Technical Barriers to Trade* (TBT Agreement) in Annex 1A to the WTO Agreement shall apply.

Article 4
Affirmation of the TBT Agreement

1. Each Party affirms its rights and obligations with respect to each other Party under the TBT Agreement.

2. Each Party shall take such reasonable measures as may be available to it to ensure compliance, in the implementation of this Chapter, by local government and non-governmental bodies within its territory which are responsible for the preparation, adoption and application of standards, technical regulations and conformity assessment procedures.

评定程序，但以下情况除外：

(a) 政府机构为自身生产或消费需求制定的采购规范；以及(b) 第5章（卫生与植物卫生措施）所定义的卫生或植物检疫措施。

2. 本章任何规定不得限制缔约方仅在实现合法目标所必需的范围内制定、采用和实施标准、技术法规和合格评定程序的权利。此类合法目标尤其包括：国家安全要求；防止欺诈行为；保护人类健康或安全；动物或植物的生命或健康；或环境。

第3条 定义

就本章而言，适用世界贸易组织协定附件1A中《技术性贸易壁垒协定》（TBT协定）附件1所列定义。

第4条 对TBT协定的确认

1. 每一缔约方确认其根据TBT协定对其他缔约方享有的权利和承担的义务。

2. 每一缔约方应采取其可获得的合理措施，以确保在本章的实施过程中，其领土内负责标准、技术法规和合格评定程序的制定、采用和申请的地方政府和非政府机构遵守相关规定。

Article 5
Standards

1. With respect to the preparation, adoption and application of standards, each Party shall ensure that its standardising body or bodies accept and comply with Annex 3 to the TBT Agreement.

2. Each Party shall encourage the standardising body or bodies in its territory to co-operate with the standardising body or bodies of other Parties. Such co-operation shall include, but is not limited to:

(a) exchange of information on standards;

(b) exchange of information relating to standard setting procedures; and

(c) co-operation in the work of international standardising bodies in areas of mutual interest.

Article 6
Technical Regulations

1. Where relevant international standards exist or their completion is imminent, each Party shall use them, or relevant parts of them, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems.

2. Each Party shall give positive consideration to accepting as equivalent, technical regulations of another Party, even if these regulations differ from its own, provided it is satisfied that these regulations adequately fulfil the objectives of its own regulations.

第5条
标准

1. 关于标准的制定、采用和申请，每一缔约方应确保其标准化机构接受并遵守《技术性贸易壁垒协定》附件3。

2. 每一缔约方应鼓励其领土内的一个或多个标准化机构与其他缔约方的一个或多个标准化机构合作。此类合作应包括但不限于：

(a) 标准信息交流；(b) 标准制定程序信息交流；以及
(c) 在共同利益领域与国际标准化机构的工作合作。

第6条 技术法规

1. 在相关国际标准存在或其制定即将完成的情况下，每一缔约方应将这些标准或其相关部分作为技术法规的基础，除非此类国际标准或其相关部分对于实现所追求的合法目标无效或不适当，例如由于基本气候或地理因素或基本技术问题。

2. 每一缔约方应积极考虑将另一方技术法规视为等效，即使这些法规与其自身法规存在差异，只要其确信这些法规能充分实现其自身法规的目标。

3. Where a Party does not accept a technical regulation of another Party as equivalent to its own it shall, upon request of the other Party, explain the reasons for its decision.

Article 7
Conformity Assessment Procedures

1. Each Party shall give positive consideration to accepting the results of conformity assessment procedures of other Parties, even where those procedures differ from its own, provided it is satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to its own procedures.

2. Each Party shall seek to enhance the acceptance of the results of conformity assessment procedures conducted in the territories of other Parties with a view to increasing efficiency, avoiding duplication and ensuring cost effectiveness of the conformity assessments. In this regard, each Party may choose, depending on the situation of the Party and the specific sectors involved, a broad range of approaches. These may include but are not limited to:

(a) recognition by a Party of the results of conformity assessments performed in the territory of another Party;

(b) recognition of co-operative arrangements between accreditation bodies in the territories of the Parties;

(c) mutual recognition of conformity assessment procedures conducted by bodies located in the territory of each Party;

(d) accreditation of conformity assessment bodies in the territory of another Party;

3. 如一缔约方未将另一方技术法规视为与其自身法规等效，则应另一方的请求，解释其决定的理由。

第七条 合格评定程序

1. 每一缔约方应积极考虑接受其他缔约方的合格评定程序结果，即使这些程序与其自身程序不同，只要该缔约方确信这些程序能提供与其自身程序等效的符合适用技术法规或标准的保证。

2. 每一缔约方应努力加强对其他缔约方领土内实施的合格评定程序结果的接受，以提高效率、避免重复并确保合格评定的成本效益。为此，每一缔约方可根据该缔约方的情况及所涉特定部门，选择广泛的方法。这些方法可包括但不限于：

(a) 一缔约方认可在另一方领土内进行的合格评定程序的结果；(b) 认可缔约方领土内认证机构之间的合作安排；(c) 相互认可位于每一缔约方领土内的机构进行的合格评定程序；(d) 在另一方领土内对合格评定机构进行认证；

(e) use of existing regional and international multilateral recognition agreements and arrangements;

(f) designating conformity assessment bodies located in the territory of another Party to perform conformity assessment; and

(g) suppliers' declaration of conformity.

3. Each Party shall exchange information with other Parties on its experience in the development and application of the approaches in Paragraph 2(a) to (g) and other appropriate approaches with a view to facilitating the acceptance of the results of conformity assessment procedures.

4. A Party shall, upon request of another Party, explain its reasons for not accepting the results of any conformity assessment procedure performed in the territory of that other Party.

Article 8
Co-operation

1. The Parties shall intensify their joint efforts in the field of standards, technical regulations and conformity assessment procedures with a view to facilitating access to each other's markets.

2. Each Party shall, upon request of another Party, give positive consideration to proposals to supplement existing co-operation on standards, technical regulations and conformity assessment procedures. Such co-operation, which shall be on mutually determined terms and conditions, may include but is not limited to:

(e) 使用现有的区域和国际多边认可协议和安排；(f) 指定位于另一方领土内的合格评定机构进行合格评定；以及(g) 供应商符合性声明。

3. 每一缔约方应与其他缔约方交流其在第二段(a)至(g)项所述方法及其他适当方法的开发和应用方面的经验信息，以促进对合格评定程序结果的接受。

4. 一缔约方应另一缔约方请求，解释其不接受在该另一缔约方领土内进行的任何合格评定程序结果的理由。

第8条 合作

1. 各方应加强在标准、技术法规和合格评定程序领域的共同努力，以促进彼此市场的准入。

2. 每一缔约方应另一缔约方请求，应对补充现有标准、技术法规和合格评定程序合作的提案给予积极考虑。此类合作应在共同商定的条款和条件下进行，可包括但不限于：

(a) advice or technical assistance relating to the development and application of standards, technical regulations and conformity assessment procedures;

(b) co-operation between conformity assessment bodies, both governmental and non-governmental, in the territories of each of the Parties such as:

(i) use of accreditation to qualify conformity assessment bodies; and

(ii) enhancing infrastructure in calibration, testing, inspection, certification and accreditation to meet relevant international standards, recommendations and guidelines;

(c) co-operation in areas of mutual interest in the work of relevant regional and international bodies relating to the development and application of standards and conformity assessment procedures such as enhancing participation in the existing frameworks for mutual recognition developed by relevant regional and international bodies; and

(d) enhancing co-operation in the development and improvement of technical regulations and conformity assessment procedures such as:

(i) co-operation in the development and promotion of good regulatory practice;

(ii) transparency, including ways to promote improved access to information on standards, technical regulations and conformity assessment procedures; and

(a) 与
标准、技术法规和合格评定程序的制定和应用；

(b) 合格评定机构之间的合作
包括各缔约方领土内的政府和非政府机构，例如：

(i) 利用认证来评定合格评定机构的资质；以及
(ii) 加强校准、测试、检验、认证和认证的基础设施，以满足相关国际标准、建议和指南；

(c) 在共同利益领域的合作
参与相关区域和国际机构关于标准和合格评定程序制定和应用的工作，例如加强参与相关区域和国际机构制定的相互认可现有框架；以及

(d) 加强在制定和完善
技术法规和合格评定程序方面的合作，例如：

(i) 在制定和完善
促进良好监管实践；(ii) 透明度，包括促进改进标准、技术法规和合格评定程序信息获取的途径；以及

(iii) management of risks relating to health, safety, the environment and deceptive practices.

3. Upon request of another Party, a Party shall give positive consideration to a sector-specific proposal that the requesting Party makes for further co-operation under this Chapter.

Article 9
Consultations

1. Each Party shall give prompt and positive consideration to any request from another Party for consultations on issues relating to the implementation of this Chapter.

2. Where a matter covered under this Chapter cannot be clarified or resolved as a result of consultations, the Parties concerned may establish an *ad hoc* working group with a view to identifying a workable and practical solution to facilitate trade. The *ad hoc* working group shall comprise representatives of the Parties concerned.

3. Where a Party declines a request from another Party to establish an *ad hoc* working group, it shall, upon request of the other Party, explain the reasons for its decision.

Article 10
Agreements or Arrangements

1. Parties shall seek to identify trade-facilitating initiatives regarding standards, technical regulations and conformity assessment procedures that are appropriate for particular issues or sectors.

2. Such trade-facilitating initiatives may include agreements or arrangements on regulatory issues, such as

(iii) 管理与健康、安全、环境和欺诈行为相关的风险。

3. 应另一缔约方请求，一缔约方应对请求方就本章项下进一步合作提出的特定领域提案给予积极考虑。

第9条 磋商

1. 每一缔约方应对另一缔约方就本章实施相关事宜提出的磋商请求给予迅速且积极的考虑。

2. 若本章所涉事项经磋商仍无法澄清或解决，相关缔约方可设立特设工作组，以期确定可行且务实的解决方案以促进贸易。该特设工作组应由相关缔约方的代表组成。

3. 若一缔约方拒绝另一缔约方设立特设工作组的请求，应另一缔约方要求，该缔约方应说明其决定的理由。

第10条 协议或安排

1. 缔约方应寻求确定适用于特定问题或领域的标准、技术法规和合格评定程序方面的贸易便利化倡议。

2. 此类贸易便利化倡议可能包括关于监管问题的协议或安排，例如

alignment of standards, convergence or equivalence of technical regulations conformity assessment procedures and compliance issues.

3. Parties to an existing agreement or arrangement shall give consideration to extending such an agreement or arrangement to another Party upon request of that Party. Such consideration may be subject to appropriate confidence building processes to ensure equivalency of relevant standards, technical regulations and/or conformity assessment procedures.

4. Where a Party declines a request of another Party to consider extending the application of an existing agreement or arrangement it shall, upon request of that Party, explain the reasons for its decision.

Article 11
Transparency

1. Each Party affirms its commitment to ensuring that information regarding proposed new or amended standards, technical regulations and conformity assessment procedures is made available in accordance with the relevant requirements of the TBT Agreement.

2. Each Party shall ensure that the information relating to standards, technical regulations and conformity assessment procedures is published. Such information should be made available in printed form and, where possible, in electronic form.

Article 12
Contact Points

1. Each Party shall designate a contact point or contact points who shall, for that Party, have responsibility for co-ordinating the implementation of this Chapter.

标准对齐、技术法规的趋同或等效、合格评定程序以及合规问题。

3. 现有协议或安排的缔约方应应另一缔约方的请求，考虑将该协议或安排扩展至该缔约方。此类考虑可受制于适当的建立信任过程，以确保相关标准、技术法规和/或合格评定程序的等效性。

4. 如一缔约方拒绝另一缔约方关于考虑扩展现有协议或安排适用的请求，则应应该缔约方的请求，解释其决定的理由。

第11条 透明度

1. 每一缔约方确认其承诺，确保根据TBT协定的相关要求提供关于拟议新标准、技术法规和合格评定程序或对其修订的信息。

2. 每一缔约方应确保公布与标准、技术法规和合格评定程序相关的信息。此类信息应以印刷形式提供，并在可能的情况下以电子形式提供。

第12条 联络点

1. 每一缔约方应指定一个或多个联络点，该联络点应负责协调本章的实施。

2. Each Party shall provide each of the other Parties with the name of the designated contact point or contact points and the contact details of the relevant official in that organisation, including telephone, facsimile, email and any other relevant details.

3. Each Party shall notify each of the other Parties promptly of any change of their contact points or any amendments to the details of the relevant officials.

4. Each Party shall ensure that its contact point or contact points facilitate the exchange of information between the Parties on standards, technical regulations and conformity assessment procedures, in response to all reasonable requests for such information from a Party.

Article 13
Sub-Committee on Standards, Technical Regulations and Conformity Assessment Procedures

1. The Parties hereby establish a Sub-Committee on Standards, Technical Regulations and Conformity Assessment Procedures (STRACAP Sub-Committee), consisting of representatives of the Parties, to promote and monitor the implementation and administration of this Chapter.

2. The STRACAP Sub-Committee shall meet as mutually determined by the Parties. Meetings may be conducted in person, or by any other means as mutually determined by the Parties.

3. The STRACAP Sub-Committee shall determine its terms of reference in accordance with this Chapter.

4. The STRACAP Sub-Committee shall determine its work programme in response to priorities as identified by the Parties.

2. 每一缔约方应向其他缔约方提供指定的联络点或联络点的名称以及该组织中相关官员的联系方式，包括电话、传真、电子邮件和任何其他相关详细信息。

3. 每一缔约方应迅速通知其他缔约方其联络点的任何变更或相关官员详细信息的任何修正案。

4. 每一缔约方应确保其联络点或联络点在回应缔约方对此类信息的所有合理请求时，促进各方之间关于标准、技术法规和合格评定程序的信息交流。

第13条 标准、技术法规和合格评定程序分委会

1. 各方特此设立一个标准、技术法规和合格评定程序分委会（STRACAP分委会），由各方的代表组成，以促进和监督本章的实施和管理。

2. STRACAP分委会应按照各方共同商定的时间举行会议。会议可以面对面进行，或通过各方共同商定的任何其他方式进行。

3. STRACAP分委会应根据本章确定其职权范围。

4. STRACAP分委会应根据缔约方确定的优先事项制定其工作计划。

CHAPTER 7

SAFEGUARD MEASURES

Article 1
Scope

This Chapter applies to safeguard measures adopted or maintained by a Party affecting trade in goods among the Parties during the transitional safeguard period.

Article 2
Definitions

For the purposes of this Chapter:

(a) **domestic industry** means, with respect to an imported good, the producers as a whole of the like or directly competitive goods operating within a Party, or those whose collective output of the like or directly competitive goods constitutes a major proportion of the total domestic production of those goods;

(b) **global safeguard measure** means a measure applied under Article XIX of GATT 1994 and the *Agreement on Safeguards* in Annex 1A to the WTO Agreement (Safeguards Agreement) or Article 5 of the *Agreement on Agriculture* in Annex 1A to the WTO Agreement (Agreement on Agriculture);

(c) **provisional measure** means a provisional safeguard measure described in Article 7 (Provisional Safeguard Measures);

(d) **safeguard measure** means a transitional safeguard measure described in Article 6 (Scope

第七章

保障措施

第一条 范围

本章适用于过渡性保障期内缔约方采取或维持的影响各方间货物贸易的保障措施。

第二条
定义

就本章而言：

(a) 国内产业是指，就某一进口货物，指一缔约方境内全体生产同类或直接竞争产品的生产商，或其集体产量占该产品国内生产总量主要比例的群体；

(b) 全球保障措施指根据1994年关贸总协定第XIX条及世界贸易组织协定附件1A中的《保障措施协定》（《保障措施协定》）或世界贸易组织协定附件1A中《农业协定》第5条（《农业协定》）实施的措施；(c) 临时措施指临时性

第七条（临时保障措施）所述的保障措施；

(d) 保障措施指过渡性
第六条（过渡性保障措施的scope）中描述的保障措施

and Duration of Transitional Safeguard Measures);

(e) **serious injury** means a significant overall impairment in the position of a domestic industry;

(f) **threat of serious injury** means serious injury that, on the basis of facts and not merely on allegation, conjecture, or remote possibility, is clearly imminent; and

(g) **transitional safeguard period** means, in relation to a particular good, the period from the entry into force of this Agreement until three years after the customs duty on that good is to be eliminated, or reduced to its final commitment, in accordance with that Party's schedule of tariff commitments in Annex 1 (Schedules of Tariff Commitments).

Article 3
Imposition of a Safeguard Measure

If, as a result of the reduction or elimination of a customs duty under this Agreement, an originating good of another Party or Parties is being imported into the territory of a Party during the transitional safeguard period for that good in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to a domestic industry that produces like or directly competitive goods, that Party may:

(a) suspend the further reduction of any rate of customs duty provided for under this Agreement on the good; or

(b) increase the rate of customs duty on the good to a level not exceeding the lesser of:

和期限）；

(e) 严重损害指对国内产业状况造成重大全面减损；

(f) 严重损害威胁指基于事实（而非仅凭指控、推测或极小可能性）明显迫近的严重损害；且

(g) 过渡性保障期指针对特定货物，自本协定生效之日起至该货物关税依据缔约方在附件1（关税减让表）中的关税承诺被取消或降至最终承诺水平的三年期间。

第三条 实施保障措施

若因本协定项下关税削减或取消，导致一缔约方或多缔约方的原产货物在过渡性保障期内以绝对数量或相对于国内生产的比例激增进入另一缔约方领土，且在此条件下对生产同类或直接竞争产品的国内产业造成或威胁造成严重损害，则该缔约方可：

(a) 暂停进一步降低本协定规定的该货物关税税率；或
(b) 将该货物的关税税率提高至不超过以下两者中较低者的水平：

(i) the most-favoured-nation applied rate of duty on the good in effect at the time the action is taken; or

(ii) the most-favoured-nation applied rate of duty on the good in effect on the day immediately preceding the date of entry into force of this Agreement.

Article 4
Investigation

1. A Party shall take a safeguard measure only following an investigation by that Party's competent authorities in accordance with the same procedures as those provided for in Article 3 and Article 4.2 of the Safeguards Agreement; and to this end, Article 3 and Article 4.2 of the Safeguards Agreement shall be incorporated into and shall form part of this Agreement, *mutatis mutandis*.

2. Each Party shall ensure that its competent authorities complete any such investigation expeditiously and, in any event, within one year following the date of its initiation.

Article 5
Notification

1. A Party shall immediately notify the other Parties, in writing, on:

(a) initiating an investigation under Article 4 (Investigation);

(b) making a finding of serious injury or threat thereof caused by increased imports of an originating good of another Party or Parties resulting from the reduction or elimination of a customs duty on that originating good;

(i) 采取措施时有效的该货物最惠国适用关税税率；或 (ii) 本协定生效日前一天有效的该货物最惠国适用关税税率。

第4条 调查

1. 缔约方仅应在该缔约方主管机关根据《保障措施协定》第3条和第4.2条规定的程序进行调查后采取保障措施；为此目的，《保障措施协定》第3条和第4.2条应经必要修改纳入本协定并构成本协定的一部分。

2. 每一缔约方应确保其主管机关迅速完成任何此类调查，且无论如何应在启动日期后一年内完成。

第5条 通知

1. 缔约方应立即以书面形式就以下事项通知其他缔约方：

(a) 根据第四条（调查）启动调查；(b) 认定由于对另一缔约方或缔约方的原产货物降低或取消关税导致该原产货物进口增加，造成严重损害或其威胁；

(c) taking a decision to apply or extend a safeguard measure;

(d) taking a decision to progressively liberalise an existing safeguard measure; or

(e) applying a provisional measure.

2. A Party shall provide promptly to the other Parties a copy of the public version of the report of its competent authorities required under Article 4 (Investigation).

3. In making a notification pursuant to Paragraph 1(c), the Party applying or extending a safeguard measure shall provide the other Parties with evidence of serious injury or threat of serious injury caused by increased imports of an originating good of another Party or Parties as a result of the reduction or elimination of a customs duty pursuant to this Agreement. Such notification shall include:

(a) a precise description of the originating good subject to the proposed safeguard measure including its heading or subheading under the HS Code, on which the schedules of tariff commitments in Annex 1 (Schedules of Tariff Commitments) are based;

(b) a precise description of the proposed safeguard measure; and

(c) the proposed date of the safeguard measure's introduction, its expected duration, and a timetable for progressive liberalisation of the measure, if applicable. In the case of an extension of a measure, evidence that the domestic industry concerned is adjusting shall also be provided.

(c) 决定实施或延长保障措施；(d) 决定逐步放宽现有保障措施；或(e) 实施临时措施。

2. 一缔约方应及时向其他缔约方提供其主管机关根据第四条（调查）要求编制的报告公众版本副本。

3. 在根据第1款(c)项作出通知时，实施或延长保障措施的缔约方应向其他缔约方提供证据，证明由于根据本协定降低或取消关税，导致另一缔约方或另几缔约方的原产货物进口增加造成严重损害或严重损害威胁。该通知应包括：

(a) 拟实施保障措施的原产货物的精确描述，包括其HS编码下的税目或子目，该编码以附件1（关税减让表）中的关税承诺表为依据；(b) 拟议保障措施的精确描述；以及(c) 保障措施拟实施的日期、预期持续时间和该措施逐步自由化的时间表（如适用）。在措施延期的情况下，还应提供相关国内产业正在调整的证据。

Upon request, the Party applying or extending a safeguard measure shall provide additional information as another Party or Parties may consider necessary.

4. A Party proposing to apply or extend a safeguard measure shall provide adequate opportunity for prior consultations with those Parties which would be affected by the safeguard measure with a view to reviewing the information provided under Paragraphs 2 and 3 arising from the investigation referred to in Article 4 (Investigation), exchanging views on the safeguard measure and reaching an agreement on compensation as set forth in Article 8 (Compensation).

5. Where a Party applies a provisional measure referred to in Article 7 (Provisional Safeguard Measures), on request of another Party or Parties, consultations shall be initiated immediately after such application.

6. The provisions on notification in this Chapter shall not require a Party to disclose confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

Article 6
Scope and Duration of Transitional Safeguard Measures

1. A Party may not maintain a safeguard measure:

(a) except to the extent, and for such time, as may be necessary to prevent or remedy serious injury and to facilitate adjustment;

(b) for a period exceeding two years, except that the period may be extended by up to one year if the competent authorities of that Party determine, in conformity with the procedures referred to in

应一缔约方或多缔约方要求，实施或延长保障措施的缔约方应提供其认为必要的补充信息。

4. 提议实施或延长保障措施的缔约方，应为受该保障措施影响的缔约方提供充分的事先磋商机会，以审议根据第四条（调查）所指调查产生的第2款和第3款所提供的信息，就保障措施交换意见，并按照第8条（补偿）的规定达成补偿协议。

5. 如一缔约方实施第七条（临时保障措施）所指的临时措施，应另一缔约方或若干缔约方的请求，应在实施该措施后立即启动磋商。

6. 本章关于通知的条款不得要求缔约方披露机密信息，若披露此类信息会妨碍执法、违背公共利益或损害特定企业（无论公有或私有）的合法商业利益。

第六条 过渡性保障措施的范围和期限

1. 缔约方不得维持保障措施：

(a) 除非为防止或补救严重损害和促进调整所必需的程度和时间；(b) 期限不得超过两年，但如该缔约方的主管机关依照

Article 4 (Investigation), that the safeguard measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting; or

(c) for a period exceeding three years, including any extension.

2. A safeguard measure shall not be applied against an originating good of a Party which is an ASEAN Member State, as long as its share of imports of the good concerned in the importing Party does not exceed three per cent of the total imports from the other Parties, provided that those Parties with less than three per cent import share collectively account for not more than nine per cent of total imports of the good concerned from the other Parties.

3. Where the expected duration of the safeguard measure is over one year, the importing Party shall ensure that the safeguard measure is progressively liberalised at regular intervals during the period of application.

4. When a Party terminates a safeguard measure on a good, the rate of customs duty for that good shall be no higher than the rate that, according to the Party's schedule of tariff commitments in Annex 1 (Schedules of Tariff Commitments), would have been in effect as if the safeguard measure had never been applied.

5. Regardless of its duration or whether it has been subject to extension, a safeguard measure on a good shall terminate following the end of the transitional safeguard period for such good.

6. No safeguard measure shall be applied again to the import of a particular originating good which has been subject to such a safeguard measure, for a period of time

第四条（调查）所述程序确定，保障措施继续为防止或补救严重损害和促进调整所必需，且有证据表明该产业正在调整，则该期限可延长最多一年；或

(c) 超过三年的期限，包括任何延期。

2. 只要东盟成员国作为缔约方的原产货物在进口方相关货物总进口中的份额不超过其他缔约方总进口的百分之三，且进口份额低于百分之三的缔约方集体占比不超过相关货物从其他缔约方总进口的百分之九，则不得对该原产货物实施保障措施。

3. 若保障措施的预期实施期超过一年，进口方应确保在该措施实施期内以定期间隔逐步实现自由化。

4. 当缔约方终止对某货物的保障措施时，该货物的关税税率不得高于根据缔约方在附件1（关税减让表）中的关税承诺表所载、假设从未实施保障措施时应生效的税率。

5. 无论其期限长短或是否经过延期，对某一货物实施的保障措施应于该货物的过渡性保障期结束后终止。

6. 对于已实施保障措施的特定原产货物进口，不得在特定期限内再次实施保障措施，

equal to the duration of the previous safeguard measure, or two years, whichever is longer.

7. A Party shall not apply a safeguard measure to an originating good imported up to the limit of quota quantities granted under tariff rate quotas applied in accordance with its schedule of tariff commitments in Annex 1 (Schedules of Tariff Commitments).

Article 7
Provisional Safeguard Measures

1. In critical circumstances, where delay would cause damage which would be difficult to repair, a Party may take a provisional measure, pursuant to a preliminary determination that there is clear evidence that increased imports of an originating good from another Party or Parties have caused or are threatening to cause serious injury to a domestic industry.

2. The duration of such a provisional measure shall not exceed 200 days, during which time the relevant requirements of Article 2 (Definitions), Article 3 (Imposition of a Safeguard Measure), Article 4 (Investigation), Article 5 (Notification) and Article 6 (Scope and Duration of Transitional Safeguard Measures) shall be met. The duration of any provisional measure shall be counted as part of the initial period and any extension as referred to in Article 6 (Scope and Duration of Transitional Safeguard Measures).

3. The customs duty imposed as a result of the provisional measure shall be refunded if the subsequent investigation referred to in Article 4 (Investigation) does not determine that increased imports of the originating good have caused or threatened to cause serious injury to a domestic industry.

该期限应等于先前保障措施的持续时间或两年，以较长者为准。

7. 缔约方不得对进口量不超过根据附件1（关税减让表）中关税承诺表实施的关税配额所授予配额数量的原产货物实施保障措施。

第七条 临时保障措施

1. 在紧急情况下，如迟延会造成难以弥补的损害，缔约方可依据初步裁定采取临时措施，该初步裁定须有明确证据表明来自另一缔约方或多方原产货物的进口增加已造成或威胁造成国内产业的严重损害。

2. 此类临时措施的期限不得超过200日历日，在此期间须满足第2条（定义）、第3条（实施保障措施）、第4条（调查）、第5条（通知）及第6条（过渡性保障措施的范围和期限）的相关要求。任何临时措施的期限应计入第六条（过渡性保障措施的范围和期限）所指的初始期限及任何延期期限内。

3. 若第四条（调查）所指的后续调查未认定原产货物的进口增加已导致或威胁导致国内产业遭受严重损害，则应退还因临时措施而征收的关税。

Article 8
Compensation

1. The Party proposing to apply a safeguard measure shall, in consultation with the exporting Party or Parties who would be affected by such a measure, provide to that Party or Parties mutually agreed adequate means of trade compensation in the form of substantially equivalent level of concessions or other obligations to that existing under this Agreement between the Party applying the safeguard measure and the exporting Party or Parties who would be affected by such a measure.

2. In seeking compensation under Paragraph 1 for a safeguard measure, if the Parties mutually agree, they may hold consultations in the Goods Committee established pursuant to Article 11 (Committee on Trade in Goods) of Chapter 2 (Trade in Goods) to determine the substantially equivalent level of concessions to that existing under this Agreement between the Party taking the safeguard measure and the exporting Party or Parties who would be affected by such a measure prior to any suspension of equivalent concessions. Any proceedings arising from such consultations shall be completed within 30 days from the date on which the safeguard measure was applied.

3. If no agreement on the compensation is reached within the time frame specified in Paragraph 2, the Party or Parties against whose originating good the measure is applied may suspend the application of substantially equivalent concessions to the trade of the Party applying the safeguard measure. The Party or Parties may suspend the concessions only for the minimum period necessary to achieve the substantially equivalent effects and only while the safeguard measure is maintained. The right of suspension provided for in this Paragraph shall not be exercised for the first two years that a safeguard measure is in effect, provided that the safeguard measure has been applied as a result of an

第8条 补偿

1. 提议实施保障措施的缔约方应与受该措施影响的出口方进行磋商，以实质等效的减让水平或其他义务的形式，向该出口方提供双方同意的充分贸易补偿手段，该补偿水平应与本协定下实施保障措施的缔约方与受影响的出口方之间现有的减让或其他义务水平相当。

2. 在根据第1款寻求针对保障措施的补偿时，如缔约方共同同意，其可在第2章（货物贸易）第11条（货物贸易委员会）项下设立的货物委员会内举行磋商，以确定采取保障措施的缔约方与可能受该措施影响的出口方或各出口方之间在本协定项下存在的实质等效的减让水平，然后再中止等效减让。由此类磋商产生的任何程序应于保障措施实施之日起30个日历日内完成。

3. 如未在第二段规定的时间框架内就补偿达成协议，被实施措施的缔约方或缔约方可中止对实施保障措施的缔约方的贸易实施实质相等的减让。缔约方或缔约方仅可在实现实质相等效果所需的最短期限内中止减让，且仅可在保障措施实施期间中止减让。本段规定的中止权不得在保障措施生效的前两年内行使，前提是该保障措施是因

absolute increase in imports and that such a safeguard measure conforms to this Chapter.

4. A Party shall notify the other Parties in writing at least 30 days before suspending concessions under Paragraph 3.

5. The obligation to provide compensation under Paragraph 1 and the right to suspend substantially equivalent concessions under Paragraph 3 shall terminate on the termination of the safeguard measure.

Article 9
Relationship to the WTO Agreement

1. Each Party retains its rights and obligations under Article XIX of GATT 1994, the Safeguards Agreement and Article 5 of the Agreement on Agriculture. This Agreement does not confer any additional rights or obligations on the Parties with regard to global safeguard measures.

2. A Party shall not apply a safeguard measure or provisional measure, as provided in Article 6 (Scope and Duration of Transitional Safeguard Measures) or Article 7 (Provisional Safeguard Measures) on a good that is subject to a measure that the Party has applied pursuant to Article XIX of GATT 1994 and the Safeguards Agreement, the Agreement on Agriculture or any other relevant provisions in the WTO Agreement, nor shall a Party continue to maintain a safeguard measure or provisional measure on a good that becomes subject to a measure that the Party applies pursuant to Article XIX of GATT 1994 and the Safeguards Agreement, the Agreement on Agriculture or any other relevant provisions in the WTO Agreement.

3. A Party considering the imposition of a global safeguard measure on an originating good of another Party or Parties shall initiate consultations with that Party or Parties as far in advance of taking such measure as practicable.

进口绝对增长而实施，且该保障措施符合本章规定。

4. 一缔约方应在根据第3段中止减让前至少30个日历日以书面形式通知其他缔约方。

5. 第1款规定的提供补偿义务及第3段规定的中止实质相等减让的权利，应于保障措施终止时终止。

第9条 与WTO协定的关系

1. 每一缔约方保留其在1994年关贸总协定第XIX条、《保障措施协定》及《农业协定》第5条项下的权利和义务。本协定不就全球保障措施向缔约方赋予任何额外权利或义务。

2. 对于一缔约方已根据1994年关贸总协定第XIX条及《保障措施协定》、《农业协定》或WTO协定任何其他相关条款实施的措施所涉货物，该缔约方不得依据第六条（过渡性保障措施的范围和期限）或第七条（临时保障措施）对其采取保障措施或临时措施；若某货物成为缔约方根据1994年关贸总协定第XIX条及《保障措施协定》、《农业协定》或WTO协定任何其他相关条款实施措施的适用对象，该缔约方亦不得继续维持对该货物的保障措施或临时措施。

3. 一缔约方考虑对另一缔约方或另几缔约方的原产货物实施全球保障措施时，应在实际可行的范围内尽可能提前与该缔约方或该几缔约方发起磋商。

CHAPTER 8

TRADE IN SERVICES

Article 1
Scope and Coverage

1. This Chapter applies to measures by a Party affecting trade in services.

2. For the purposes of this Chapter, measures by a Party means measures taken by:

(a) central, regional, or local governments and authorities; and

(b) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities.

3. In fulfilling its obligations and commitments under this Chapter, each Party shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities and non-governmental bodies within its territory.

4. This Chapter shall not apply to measures affecting:

(a) government procurement;

(b) subsidies or grants including government-supported loans, guarantees, and insurance, provided by a Party or to any conditions attached to the receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to domestic services, service consumers or service suppliers;

第八章

服务贸易

第一条 范围和覆盖

1. 本章适用于缔约方影响服务贸易的措施。

2. 就本章而言，缔约方的措施指由以下主体采取的措施：

(a) 中央、地区或地方政府和当局；及 (b) 非政府机构在行使中央、地区或地方政府或当局授予的权力时采取的措施。

3. 在履行本章项下义务和承诺时，每一缔约方应采取其可获得的合理措施，以确保其领土内地区和地方各级政府及当局和非政府机构遵守这些义务和承诺。

4. 本章不适用于影响以下方面的措施：

(a) 政府采购； (b) 补贴或赠款，包括由政府支持的贷款、担保和保险，由缔约方提供或附加于接受此类补贴或赠款的任何条件，无论此类补贴或赠款是否仅提供给国内服务、服务消费者或服务提供者；

(c) services supplied in the exercise of governmental authority within the territory of each respective Party, as defined in Article 2(q) (Definitions), or

(d) in respect of air transport services, measures affecting traffic rights however granted; or measures affecting services directly related to the exercise of traffic rights, other than measures affecting:

(i) aircraft repair and maintenance services;

(ii) the selling and marketing of air transport services; and

(iii) computer reservation system services.

5. The Parties note the multilateral negotiations pursuant to the review of the GATS *Annex on Air Transport Services*. Upon the conclusion of such multilateral negotiations, the Parties shall conduct a review for the purpose of discussing appropriate amendments to this Agreement so as to incorporate the results of such multilateral negotiations.

6. Nothing in this Chapter shall apply to measures affecting natural persons seeking access to the employment market of another Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

Article 2
Definitions

For the purposes of this Chapter:

(a) **aircraft repair and maintenance services** means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from

(c) 在各自缔约方的领土内行使政府职权时提供的服务，如第二条(q)款（定义）中所定义，或

(d) 就航空运输服务而言，影响交通权（无论以何种方式授予）的措施；或影响与行使交通权直接相关的服务的措施，但不包括影响以下方面的措施：

(i) 航空器维修和保养服务；

(ii) 航空运输服务的销售和营销；及

(iii) 计算机预订系统服务。

5. 各方注意到根据《服务贸易总协定》航空运输服务附件审议进行的多边谈判。此类多边谈判结束后，各方应进行审议，以讨论对本协定的适当修正，从而纳入此类多边谈判的结果。

6. 本章任何规定不得适用于影响寻求进入另一缔约方就业市场的自然人的措施，也不得适用于有关公民身份、居留或永久性就业的措施。

第二条
定义

就本章而言：

(a) 航空器维修和保养服务 指当航空器或其部件退出服务时进行的此类活动，不包括所谓的航线

service and do not include so-called line maintenance;

(b) **commercial presence** means any type of business or professional establishment, including through:

(i) the constitution, acquisition or maintenance of a juridical person; or

(ii) the creation or maintenance of a branch or a representative office, within the territory of a Party for the purpose of supplying a service;

(c) **computer reservation system services** means services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

(d) **juridical person** means any entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or government-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

(e) **juridical person of a Party** means a juridical person which is either:

(i) constituted or otherwise organised under the law of that Party, and is engaged in substantive business operations in the territory of that Party or any other Party; or

服务和不要包含所谓的行
维持;

(b) 商业存在指任何类型的
商业或专业机构，包括通过以下方式:

(i) 设立、收购或维持
法人；或 (ii) 在一方的领土内设立或维持分支机构或代表处，以提供服务;

(c) 计算机预订系统服务指
由计算机化系统提供的服务，这些系统包含有关航空公司航班时刻表、可获得性、票价及票价规则的信息，通过这些系统可进行预订或签发机票;

(d) 法人指根据适用法律正式组建或以其他方式组织的任何实体，无论是否以营利为目的，也无论是私人所有还是政府所有，包括任何公司、信托、合伙、合资企业、独资企业或协会;

(e) 一缔约方的法人指符合下列条件之一的法人:
该法人须满足以下任一条件:

(i) 根据
该缔约方的法律，并在该缔约方领土或任何其他缔约方领土内从事实质性业务运营；或

(ii) in the case of supply of a service through commercial presence, owned or controlled by:

(A) natural persons of that Party; or

(B) juridical persons of that Party identified under Subparagraph (e)(i);

(f) In the case of Thailand and Viet Nam, a **juridical person** is:

(i) **owned** by persons of a Party if more than 50 per cent of the equity interest in it is beneficially owned by persons of that Party;

(ii) **controlled** by persons of a Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;

(iii) **affiliated** with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;

(g) **measure** means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

(h) **measures by a Party affecting trade in services** includes measures in respect of:

(i) the purchase or use of, or payment for, a service;

(ii) the access to and use of, in connection with the supply of a service, services which are

(ii) 在通过以下方式提供服务的情况下
商业存在，由以下主体拥有或控制：

(A) 该缔约方的自然人；或 (B) 根据(e)(i)项确定的该缔约方的法人；

(f) 就泰国和越南而言，法人是指：

(i) 由一缔约方的个人拥有，如其50%以上的股权权益由该缔约方的个人实益拥有；(ii) 由一缔约方的个人控制，如该等个人有权任命其多数董事或以其他方式合法指导其行动；(iii) 与另一人关联，当其控制该另一人或受该另一人控制时；或当其与该另一人受同一人控制时；

(g) 措施指一缔约方的任何措施，无论是以法律、法规、规则、程序、决定、行政行为的形式，还是以任何其他形式；

(h) 一缔约方影响服务贸易的措施包括关于以下方面的措施：

(i) 购买或使用某项服务，或为该服务支付； (ii) 在提供服务时，接入和使用那些

required by those Parties to be offered to the public generally; and

(iii) the presence, including commercial presence, of persons of a Party for the supply of a service in the territory of the other Party;

(i) **monopoly supplier of a service** means any person, public or private, which in the relevant market of the territory of a Party is authorised or established formally or in effect by that Party as the sole supplier of that service;

(j) **natural person of a Party** means a natural person who resides in the territory of that Party or elsewhere and who under the law of that Party:

(i) is a national of that Party; or

(ii) has the right of permanent residence[1] in that Party, in the case of a Party which accords substantially the same treatment to its permanent residents as it does to its nationals in respect of measures affecting trade in services, provided that no Party is obligated to accord to such permanent residents treatment more favourable than would be accorded by that Party to such permanent residents;

(k) **person** means a natural person or a juridical person;

[1] Where a Party has made a reservation with respect to permanent residents in its schedules under this Agreement, that reservation shall not prejudice the Parties' rights and obligations in GATS.

被缔约方要求向公众普遍提供的服务；以及

(iii) 一缔约方的个人在另一方领土内提供服务的存在，包括商业存在；

(i) 服务的垄断供应商指在一缔约方领土的相关市场中被该缔约方正式或实际上授权或确立为该服务唯一供应商的任何个人，无论是公共还是私营；

(j) 一缔约方的自然人指居住在该缔约方领土内或其他地方，并根据该缔约方法律：

(i) 是该缔约方的国民；或 (ii) 拥有[1] 在该缔约方的永久居留权，前提是该缔约方在影响服务贸易的措施方面给予其永久居民与其国民基本相同的待遇，但任何缔约方均无义务给予此类永久居民比该缔约方给予此类永久居民更优惠的待遇；

(k) 人指自然人 或 法人；

[1] 如一缔约方在本协定下的航班时刻表中对永久居民作出保留，则该保留不得损害各方在《服务贸易总协定》中的权利和义务。

(l) **sector of a service** means:

(i) with reference to a specific commitment, one or more, or all, subsectors of that service, as specified in a Party's schedules of specific commitments in Annex 3 (Schedules of Specific Services Commitments); and

(ii) otherwise, the whole of that service sector, including all of its subsectors;

(m) **selling and marketing of air transport services** means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services nor the applicable conditions;

(n) **services** includes any service in any sector except services supplied in the exercise of governmental authority;

(o) **service of another Party** means a service which is supplied:

(i) from or in the territory of that other Party; or

(ii) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of that other Party;

(l) 服务部门 指:

(i) 就具体承诺而言，指附件3（具体服务承诺表）中缔约方的具体承诺表所规定的一个或多个或所有分部门；及(ii) 在其他情况下，指整个服务部门，包括其所有分部门;

(m) 航空运输服务的销售和营销指有关航空公司自由销售和营销其航空运输服务的机会，包括市场调研、广告和分销等所有营销方面。这些活动不包括航空运输服务的定价及适用条件;

(n) 服务指任何部门的任何服务，但不包括行使政府职权时提供的服务;

(o) 另一缔约方的服务指由以下方式提供的服务:

(i) 来自或在另一缔约方领土内；或 (ii) 在通过商业存在或自然人存在提供服务的情况下，由另一缔约方的服务提供者提供;

(p) **service supplier** means a person that supplies a service[2];

(q) **a service supplied in the exercise of governmental authority** means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;

(r) **supply of a service** includes the production, distribution, marketing, sale and delivery of a service;

(s) **trade in services** means the supply of a service:

(i) from the territory of one Party into the territory of any other Party;

(ii) in the territory of one Party to the service consumer of any other Party;

(iii) by a service supplier of one Party, through commercial presence in the territory of any other Party;

(iv) by a service supplier of one Party, through presence of natural persons of a Party in the territory of any other Party; and

(t) **traffic rights** means the right for scheduled and non-scheduled services to operate and/or carry passengers, cargo and mail for remuneration or

[2] Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. juridical person) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers under this Agreement. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory where the service is supplied.

(p) 服务提供者指提供服务的自然人[2]；

(q) 政府机构行使职权时提供的服务，指既非在商业基础上提供，亦非与一个或多个服务供应商竞争的服务；

(r) 服务的提供包括服务的生产、分销、营销、出售和交付；

(s) 服务贸易指服务的提供：

(i) 自一缔约方领土向任何其他缔约方领土提供；
(ii) 在一缔约方领土内向任何其他缔约方的服务消费者提供；(iii) 由一缔约方的服务供应商通过在任何其他缔约方领土内的商业存在提供；(iv) 由一缔约方的服务供应商通过在任何其他缔约方领土内的自然人存在提供；以及

(t) 交通权是指定期和不定期服务为获取报酬或

[2] 如服务并非由法人直接提供，而是通过分支机构或代表处等其他形式的商业存在提供，则该服务供应商（即法人）仍应通过此类存在获得本协定规定的服务供应商待遇。此类待遇应延伸至提供服务的商业存在，且无需延伸至供应商位于服务提供领土外的其他部分。

hire from, to within, or over the territory of a Party, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged and their conditions, and criteria for designation of airlines, including such criteria as number, ownership, and control.

Article 3
National Treatment

1. In sectors inscribed in its schedules of specific commitments in Annex 3 (Schedules of Specific Services Commitments) or Annex 4 (Schedules of Movement of Natural Persons Commitments), and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of any other Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.[3]

2. A Party may meet the requirement of Paragraph 1 by according to services and service suppliers of any other Party, either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Party compared to like services or service suppliers of any other Party.

[3] Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

从一方的领土内雇佣、往返或飞越其领土的权利，包括服务点、运营路线、运输的交通类型、提供的容量、收取的关税及其条件，以及航空公司指定的标准，包括数量、所有权和控制等标准。

第三条 国民待遇

1. 在列入附件3（具体服务承诺表）或附件4（自然人流动承诺表）的具体承诺表中列明的部门中，并遵守其中所列的任何条件和资格的前提下，每一缔约方在影响服务提供的所有措施方面，给予任何其他缔约方的服务和服务供应商的待遇，不得低于其给予本国同类服务和服务供应商的待遇。[3]

2. 缔约方可通过给予任何其他缔约方的服务和服务供应商形式上相同的待遇或形式上不同的待遇，来满足第1款的要求。

3. 形式上相同或形式上不同的待遇，如果改变了竞争条件，有利于该缔约方的服务或服务供应商，相对于任何其他缔约方的同类服务或服务供应商，则应被视为较不优惠的待遇。

[3] 根据本条承担的具体承诺不得解释为要求任何缔约方补偿因相关服务或服务供应商的外国特性而产生的任何固有的竞争劣势。

Article 4
Market Access

1. With respect to market access through the modes of supply identified in Article 2(s) (Definitions), each Party shall accord services and service suppliers of any other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its schedules of specific commitments in Annex 3 (Schedules of Specific Services Commitments) or Annex 4 (Schedules of Movement of Natural Persons Commitments).[4]

2. In sectors where market access commitments are undertaken, the measures which a Party shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its schedules of specific commitments in Annex 3 (Schedules of Specific Services Commitments) or Annex 4 (Schedules of Movement of Natural Persons Commitments), are defined as:

(a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;

(b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

[4] If a Party undertakes a market-access commitment in relation to the supply of a services through the mode of supply referred to in Article 2(s)(i) (Definitions) and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market-access commitment through the mode of supply referred to in Article 2(s)(iii) (Definitions), it is hereby committed to allow related transfers of capital into its territory.

第四条 市场
准入

1. 关于通过第2条(s)款（定义）中确定的供应模式实现的市场准入，每一缔约方给予任何其他缔约方的服务和服务供应商的待遇，不得低于其在附件3（具体服务承诺表）或附件4（自然人流动承诺表）中具体承诺表所同意和规定的条款、限制和条件所提供的待遇。[4]

2. 在作出市场准入承诺的部门中，一缔约方不得在其全部领土或区域细分基础上维持或采取下列措施，除非其具体承诺表中另有规定（见附件3（具体服务承诺表）或附件4（自然人流动承诺表））：

(a) 以数量配额、垄断、独家服务供应商或经济需求测试要求的形式，限制服务供应商的数量；

(b) 以数量配额或经济需求测试要求的形式，对服务交易或资产总值实施限制；

[4] 如果一缔约方就通过第二条(s)(i)款（定义）所述供应模式提供的服务作出市场准入承诺，且资本跨境流动是该服务本身不可或缺的部分，则该缔约方由此承诺允许此类资本流动。如果一缔约方通过第二条(s)(iii)款（定义）所述供应模式作出市场准入承诺，则其特此承诺允许相关资本转移进入其领土。

(c) limitations on the total number of service operations or on the total quantity of services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test[5];

(d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;

(e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and

(f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

Article 5
Additional Commitments

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to Article 3 (National Treatment) or Article 4 (Market Access), including those regarding qualifications, standards or licensing matters. Such commitments shall be set out in a Party's schedules of specific commitments in Annex 3 (Schedules of Specific Services Commitments) and Annex 4 (Schedules of Movement of Natural Persons Commitments).

[5] Subparagraph (c) does not cover measures of a Party which limit inputs for the supply of services.

(c) 以配额或经济需求测试要求[5]的形式，对服务操作总数或以指定数值单位表示的服务输出总量实施限制；

(d) 自然人总数的限制
即可能受雇于特定服务部门或服务提供者可能雇佣的、且对以数量配额或经济需求测试形式提供的特定服务所必需并直接相关的自然人总数；

(e) 限制或要求特定类型
的法律实体或合资企业的措施，服务提供者可通过该法律实体或合资企业提供服务；以及

(f) 外资参与的限制，
以外资持股的最高百分比限制或单个或合计外商投资的总价值为限。

第五条 额外承诺

缔约方可就未受第三条（国民待遇）或第四条（市场准入）约束的影响服务贸易的措施进行承诺 谈判，包括涉及资格、标准或许可事项的措施。此类承诺应列明于缔约方的具体承诺表中，即附件3（具体服务承诺表）和附件4（自然人流动承诺表）。

[5] (c)项不涵盖缔约方限制服务供应的投入的措施。

Article 6
Review of Commitments

The Parties shall enter into successive rounds of negotiations, beginning not later than three years from the date of entry into force of this Agreement, and periodically thereafter as determined by the FTA Joint Committee, with a view to further improving specific commitments under this Chapter so as to progressively liberalise trade in services among the Parties.

Article 7
Consultations on Most-Favoured-Nation Treatment

1. Subject to Paragraph 2, if, after this Agreement enters into force, a Party enters into any agreement on trade in services with a non-Party in which it provides treatment to services or service suppliers of that non-Party more favourable than it accords to like services or service suppliers of other Parties under this Agreement, any other Party may request consultations to discuss the possibility of extending, under this Agreement, treatment no less favourable than that provided under the agreement with the non-Party. The requested Party shall enter into consultations with the requesting Party bearing in mind the overall balance of benefits. The requesting Party shall notify all the other Parties of their request for consultations under this Paragraph.

2. No Party shall be obliged to apply Paragraph 1 with respect to treatment provided under any bilateral or plurilateral agreement between an individual ASEAN Member State, or individual ASEAN Member States, and non-Parties or Australia or New Zealand.

3. The consulting Parties shall notify the results of the consultations to all other Parties as soon as practicable and by no later than the next meeting of the Services Committee

第六条 承诺的审议

缔约方应开展连续多轮谈判，首轮谈判不迟于本协定生效之日起三年内启动，后续谈判周期由自由贸易协定联合委员会确定，旨在进一步完善本章项下的具体承诺，逐步实现缔约方之间的服务贸易自由化。

第七条 最惠国待遇的磋商

1. 在第2款的前提下，如在本协定生效后，一缔约方与非缔约方签订任何服务贸易协定，并在该协定中给予该非缔约方的服务或服务供应商的待遇，优于其在本协定下给予其他缔约方的同类服务或服务供应商的待遇，则任何其他缔约方可请求磋商，以讨论在本协定下将不低于该非缔约方协定中所提供待遇的可能性。被请求方应考虑到整体利益平衡，与请求方进行磋商。请求方应将其根据本款提出的磋商请求通知所有其他缔约方。

2. 任何缔约方均无义务将第1款适用于东盟单个成员国或东盟多个成员国与非缔约方或澳大利亚或新西兰之间的任何双边或多边协定所提供的待遇。

3. 磋商缔约方应尽快且不迟于服务委员会下一次会议前，将磋商结果通知所有其他缔约方

established pursuant to Article 24 (Committee on Trade in Services) following the conclusion of consultations.

4. Notwithstanding Paragraph 1, a Party shall not be obliged to enter into consultations in relation to treatment provided under any international agreement that entered into force or was signed prior to the date of entry into force of this Agreement including, in respect of agreements on the liberalisation of trade in goods or services or investment, any measures taken as part of a wider process of economic integration or trade liberalisation between the parties to such agreements.

Article 8
Schedules of Specific Commitments

1. Each Party shall set out in a schedule the specific commitments it undertakes under Article 3 (National Treatment), Article 4 (Market Access) and Article 5 (Additional Commitments). With respect to sectors where such commitments are undertaken, each schedule shall specify:

(a) terms, limitations and conditions on market access;

(b) conditions and qualifications on national treatment;

(c) undertakings relating to additional commitments;

(d) where appropriate, the time-frame for implementation of such commitments; and

(e) the date of entry into force of such commitments.

2. Measures inconsistent with both Market Access and National Treatment shall be inscribed in the column relating to Market Access. In this case, the inscription will be

该委员会系根据第24条（服务贸易委员会）设立，并于磋商结束后履行职能。

4. 尽管有第1款的规定，一缔约方无义务就本协定生效前已生效或签署的任何国际协议所提供的待遇进行磋商，包括关于货物或服务或投资贸易自由化的协议，以及作为此类协议缔约方之间更广泛的经济一体化或贸易自由化进程一部分而采取的任何措施。

第8条 具体承诺表

1. 每一缔约方应在承诺表中列明其根据第三条（国民待遇）、第四条（市场准入）和第五条（额外承诺）所作的具体承诺。对于作出此类承诺的部门，每份承诺表应列明：

(a) 市场准入的条款、限制和条件；(b) 国民待遇的条件和资格；(c) 与额外承诺有关的承诺；(d) 如适用，此类承诺的实施时间框架；以及(e) 此类承诺的生效日期。

2. 与市场准入和国民待遇均不一致的措施应列入与市场准入相关的栏目。在此情况下，该列入将被

considered to provide a condition or qualification to National Treatment as well.

3. Schedules of specific services commitments shall be set out in Annex 3 (Schedules of Specific Services Commitments) of this Agreement. The specific commitments in respect of the supply of a service by a service supplier of one Party through presence of natural persons of a Party in the territory of another Party shall be set out in Annex 4 (Schedules of Movement of Natural Persons Commitments) of this Agreement.

Article 9
Modification of Schedules

1. A Party may modify or withdraw any commitment in its schedule of specific commitments in Annex 3 (Schedules of Specific Services Commitments) or Annex 4 (Schedules of Movement of Natural Persons Commitments), at any time after three years have elapsed from the date on which this Agreement enters into force, in accordance with the procedures set out in Article XXI of GATS, *mutatis mutandis,* and the Procedures for the Implementation of Article XXI of GATS set out in WTO document S/L/80 of 29 October 1999 (the GATS Article XXI Procedures), *mutatis mutandis*, as amended from time to time.

2. For the avoidance of doubt, references in Article XXI of GATS and the GATS Article XXI Procedures to the "Secretariat" and the "Council for Trade in Services" shall each be read as references to the FTA Joint Committee.

Article 10
Domestic Regulation

1. In sectors where specific commitments are undertaken, each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

视为也提供了国民待遇的条件或资格。

3. 具体服务承诺表应列于本协定附件3（具体服务承诺表）中。关于一缔约方的服务提供者通过该缔约方自然人在另一方领土内存在提供服务所作的具体承诺，应列于本协定附件4（自然人流动承诺表）中。

第9条 承诺表的修改

1. 一缔约方可在本协定生效之日起三年期满后的任何时间，依照经必要修改的《服务贸易总协定》第二十一条所列程序，以及经必要修改并随时间修正的1999年10月29日世界贸易组织S/L/80号文件所载《服务贸易总协定第二十一条执行程序》（即《服务贸易总协定第二十一条程序》），修改或撤销其附件3（具体服务承诺表）或附件4（自然人流动承诺表）中的任何承诺。

2. 为避免疑义，GATS第二十一条及《服务贸易总协定第二十一条程序》中对"秘书处"和"服务贸易理事会"的提及均应解读为对"自由贸易协定联合委员会"的提及。

第10条 国内法规

1. 在作出具体承诺的部门中，每一缔约方应确保所有普遍适用的影响服务贸易的措施以合理、客观和公正的方式实施。

2. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures, do not constitute unnecessary barriers to trade in services, the Parties shall jointly review the results of the WTO negotiations on disciplines on such measures, pursuant to Article VI.4 of GATS, and shall amend this Article, as appropriate, after consultations among the Parties, to bring the results of those negotiations into effect under this Agreement. The Parties note that the disciplines arising from such negotiations shall aim to ensure that qualification requirements and procedures, technical standards and licensing requirements and procedures are, *inter alia*:

(a) based on objective and transparent criteria, such as competence and the ability to supply the service;

(b) not more burdensome than necessary to ensure the quality of the service; and

(c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

3. In sectors in which a Party has undertaken specific commitments under Article 3 (National Treatment), Article 4 (Market Access) and Article 5 (Additional Commitments), pending the incorporation of the disciplines referred to in Paragraph 2, that Party shall not apply licensing and qualification requirements and technical standards that nullify or impair such specific commitments under this Agreement in a manner which:

(a) does not comply with the criteria outlined in Paragraph 2(a), (b) or (c); and

2. 为确保与资格要求和程序、技术标准以及许可要求和程序有关的措施不构成对服务贸易的不必要障碍，各方应根据《服务贸易总协定》第六条第四款，共同审议世界贸易组织关于此类措施纪律的谈判结果，并在缔约方之间磋商后酌情修订本条，以使这些谈判结果在本协定下生效。各方注意到，此类谈判产生的纪律应旨在确保资格要求和程序、技术标准以及许可要求和程序尤其做到：

(a) 基于客观和透明的标准，如权限和提供服务的能力；
(b) 不超过确保服务质量所必需的负担；以及(c) 在许可程序的情况下，其本身不构成对服务提供的限制。

3. 在一缔约方根据第三条（国民待遇）、第四条（市场准入）和第五条（额外承诺）作出具体承诺的部门中，在纳入第二段所述纪律之前，该缔约方不得以以下方式适用许可和资格要求及技术标准，以致取消或损害本协定项下的此类具体承诺：

(a) 不符合第二段(a)、(b)或(c)项所述标准；且

(b) could not reasonably have been expected of that Party at the time the specific commitments in those sectors were made.

4. In determining whether a Party is in conformity with its obligations under Paragraph 3(a), account shall be taken of international standards of relevant international organisations applied by that Party.[6]

5. Where authorisation is required for the supply of a service on which a specific commitment has been made, the competent authorities of that Party shall:

(a) in the case of an incomplete application, at the request of the applicant, identify all the additional information that is required to complete the application and provide the opportunity to remedy deficiencies within a reasonable timeframe;

(b) within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application;

(c) at the request of the applicant, provide, without undue delay, information concerning the status of the application under consideration; and

(d) if an application is terminated or denied, to the maximum extent possible, inform the applicant in writing, and without delay, the reasons for such action. The applicant will have the possibility of resubmitting, at its discretion, a new application.

6. In sectors where specific commitments regarding professional services are undertaken, each Party shall

[6] The term “relevant international organisations” refers to international bodies whose membership is open to the relevant bodies of all the Parties.

(b) 在该缔约方作出这些部门的具体承诺时，无法合理预期其会采取此类措施。

4. 在确定一缔约方是否符合其第3段(a)项下的义务时，应考虑该缔约方所采用的相关国际组织的国际标准。[6]

5. 对于已作出具体承诺的服务供应需要授权时，该缔约方的主管机关应：

(a) 对于不完整的申请，应申请人请求，指明完成申请所需的所有补充信息，并提供在合理的时间框架内补正缺陷的机会；

(b) 在根据国内法律法规视为完整的申请提交后的合理期限内，将有关申请的决定通知申请人；

(c) 应申请人请求，及时提供所审议申请进展状态的信息；

(d) 如申请被终止或拒绝，应尽最大可能以书面形式立即告知申请人采取该措施的理由。申请人可自行决定重新提交新的申请。

6. 在就专业服务作出具体承诺的部门中，每一缔约方应

[6] 术语“相关国际组织”是指成员资格向所有缔约方的相关机构开放的国际机构。

provide for adequate procedures to verify the competency of professionals of the other Parties.

7. Subject to its domestic laws and regulations, each Party shall permit service suppliers of the other Parties to use the business names under which they ordinarily trade in the territories of the other Parties and otherwise ensure that the use of business names is not unduly restricted.

Article 11
Transparency

1. The Parties recognise that transparent measures governing trade in services are important in facilitating the ability of service suppliers to gain access to, and operate in, each others' markets. Each Party shall promote regulatory transparency in trade in services.

Publication

2. Each Party shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force:

(a) all relevant measures of general application affecting trade in services; and

(b) all international agreements pertaining to, or affecting, trade in services to which a Party is a signatory.

3. To the extent possible, each Party shall make the measures and international agreements of the kind referred to in Paragraph 2 available on the internet.

制定适当程序以验证其他缔约方专业人员的能力。

7. 在遵守其国内法律法规的前提下，每一缔约方应允许其他缔约方的服务供应商使用其通常在其他缔约方领土内开展贸易时使用的商业名称，并确保商业名称的使用不会受到不当限制。

第11条 透明度

1. 各方认识到，透明的服务贸易管理措施对于促进服务供应商准入和运营彼此市场至关重要。每一缔约方应促进服务贸易中的监管透明度。

公布

2. 每一缔约方应及时公布，除紧急情况外，最迟不晚于其生效时：

(a) 所有普遍适用的影响服务贸易的相关措施；及 (b) 缔约方签署的所有与服务贸易有关或影响服务贸易的国际协议。

3. 在可能范围内，每一缔约方应将第二段所述措施和国际协定公布于互联网上。

4. Where publication referred to in Paragraphs 2 and 3 is not practicable, such information[7] shall be made otherwise publicly available.

5. To the extent provided for under its domestic legal framework, each Party shall endeavour to provide a reasonable opportunity for comments by interested persons of the Parties on measures referred to in Paragraph 2(a) before adoption.

Contact Points

6. Each Party shall designate a contact point to facilitate communications among the Parties on any matter covered by this Chapter. Upon the request of another Party, the contact point shall:

(a) identify the office or official responsible for the relevant matter; and

(b) assist as necessary in facilitating communications with the requesting Party with respect to that matter.

7. Each Party shall respond promptly to all requests by any other Party for specific information on:

(a) any measures referred to in Paragraph 2(a) or international agreements referred to in Paragraph 2(b); and

(b) any new, or any changes to existing, laws, regulations or administrative guidelines which significantly affect trade in services covered by the Party's specific commitments under this

[7] For greater certainty, the Parties agree that such information may be published in each Party's chosen language.

4. 若第二段和第三段所述的公布不可行，此类信息[7] 应以其他方式向公众提供。

5. 在符合其国内法律框架的前提下，每一缔约方应尽力为各缔约方的利益相关方就第二段(a)项所述措施提供在通过前发表意见的合理机会。

联络点

6. 每一缔约方应指定一个联络点，以便利各方就本章所涵盖的任何事项进行沟通。应另一缔约方请求，联络点应：

(a) 确定负责相关事项的负责机构或官员；以及 (b) 在必要时协助促进与请求方就该事项进行沟通。

7. 每一缔约方应迅速回应任何其他缔约方就以下方面提出的具体信息请求：

(a) 第二段(a)项所述任何措施或第2(b)款所述国际协定；以及(b) 任何新的或对现有法律、法规或行政指导方针的修改，其显著影响本章项下缔约方具体承诺所涵盖的服务贸易，

[7] 为进一步明确，各方同意此类信息可以以各缔约方选择的语言公布。

Chapter, whether or not the other Party has been previously notified of the new or changed law, regulation or administrative guideline.

Article 12
Development and Application of Regulations

Administrative Processes

1. With a view to administering in a consistent, impartial and reasonable manner its laws, regulations, procedures and administrative rulings of general application affecting trade in services, each Party shall ensure that its administrative agencies, in applying such laws, regulations, procedures and administrative rulings to particular services or service suppliers of another Party in specific cases through administrative processes, including adjudication, rule-making, licensing, determination and approval processes:

(a) to the extent provided under its domestic legal framework, and where possible, provide service suppliers of the other Party that are directly affected by an administrative process with reasonable notice that the process is taking place;

(b) to the extent provided under its domestic legal framework, endeavour to afford such service suppliers with reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the process and the public interest permit; and

(c) follow procedures that are in accordance with its laws.

无论另一方是否已事先获知该新制定或修订的法律、法规或行政指导方针。

第12条 法规的制定与适用

行政程序

1. 为以一致、公正和合理的方式实施其普遍适用的影响服务贸易的法律、法规、程序和行政裁决，每一缔约方应确保其行政机构在通过行政程序（包括裁决、规则制定、许可、决定和批准程序）将这些法律、法规、程序和行政裁决适用于特定案件中另一方特定服务或服务供应商时：

(a) 在其国内法律框架允许的范围内，并在可能的情况下，向直接受行政程序影响的另一方服务供应商提供合理通知，告知该程序正在进行；

(b) 在其国内法律框架允许的范围内，在时间、程序性质和公共利益允许的情况下，尽力为这些服务供应商提供合理机会，使其能够在任何最终行政行为之前陈述事实和论点以支持其立场；

(c) 遵循与其相符的程序法律。

Review and Appeal

2. Each Party shall maintain judicial, arbitral or administrative tribunals or procedures for the purpose of the prompt review[8], and, where warranted, correction of final administrative actions resulting from the processes covered by Paragraph 1. Where such procedures or tribunals are not independent of the agency entrusted with the administrative action concerned, each Party shall ensure that the tribunals or procedures provide for an objective and impartial review.

3. Each Party shall ensure that, in any such tribunal or under any such procedures, the parties to any proceedings are provided with the right to:

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision in accordance with the Party's laws.

4. Each Party shall ensure, subject to appeal or further review as provided in its law, that any decision referred to in Paragraph 3(b) shall be implemented in accordance with its laws.

Article 13
Disclosure of Confidential Information

Nothing in this Chapter shall be construed as requiring a Party to provide to the other Parties confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or which would prejudice the legitimate commercial interests of particular juridical persons, public or private.

[8] For avoidance of doubt, "review" includes merits review only where provided for under the Party's law.

审查和上诉

2. 每一缔约方应维持司法、仲裁或行政法庭或程序，以便对第1款所涉程序产生的最终行政行为进行迅速审议[8]，，并在有正当理由时予以纠正。如该等程序或仲裁庭不独立于负责相关行政行为的机构，每一缔约方应确保该等仲裁庭或程序规定进行客观公正的审查。

3. 每一缔约方应确保，在任何此类仲裁庭或任何此类程序中，任何程序的当事方均享有以下权利：

(a) 合理机会支持或辩护其各自立场；及

(b) 根据缔约方法律作出的决定。

4. 每一缔约方应确保，在其法律规定的上诉或进一步审议的前提下，第3款(b)项所述任何决定应根据其法律予以实施。

第13条 机密信息的披露

本章的任何规定不得解释为要求一缔约方向其他缔约方提供机密信息，此类信息的披露会妨碍执法或以其他方式违背公共利益，或会损害特定法人（无论是公共还是私人）的合法商业利益。

[8] 为避免疑义，“审议”仅在缔约方法律规定的情况下包括实体审查。

Article 14
Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's obligations under Article 3 National Treatment) and Article 4 (Market Access).

2. Where a Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Party's specific commitments, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments.

3. If a Party has a reason to believe that a monopoly supplier of a service of any other Party is acting in a manner inconsistent with Paragraph 1 or 2, it may request the Party establishing, maintaining or authorising such supplier to provide specific information concerning the relevant operations.

4. This Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect:

(a) authorises or establishes a small number of service suppliers; and

(b) substantially prevents competition among those suppliers in its territory.

Article 15
Business Practices

1. Parties recognise that certain business practices of service suppliers, other than those falling under Article 14

第十四条 垄断和专营服务提供者

1. 每一缔约方应确保其领土内的任何服务垄断供应商在相关市场供应垄断服务时，不以与该缔约方在第三条（国民待遇）和第四条（市场准入）项下义务不一致的方式行事。

2. 如一缔约方的垄断供应商直接或通过一附属公司，在其垄断权范围之外且受该缔约方具体承诺约束的服务提供中参与竞争，则该缔约方应保证该供应商在其领土内不滥用其垄断地位从事与此类承诺不一致的行为。

3. 如一缔约方有理由认为任何其他缔约方的服务的垄断供应商以与第1款或第2款不一致的方式行事，则该缔约方可请求设立、维持或授权该供应商的缔约方提供有关该供应商相关运营的具体信息。

4. 本条也应适用于专营服务供应商的情况，如一缔约方形式上或事实上：

(a) 授权或设立少数几个服务供应商；且 (b) 实质性阻止这些供应商在其领土内相互竞争。

第十五条 商业行为

1. 缔约方认识到，服务供应商的某些商业行为（不属于第14条（垄断和专营服务供应商）范畴的行为）可能会限制竞争，从而限制服务贸易。

(Monopolies and Exclusive Service Suppliers), may restrain competition and thereby restrict trade in services.

2. Each Party shall, at the request of any other Party, enter into consultations with a view to eliminating practices referred to in Paragraph 1. The Party addressed shall accord full and sympathetic consideration to such a request and shall co-operate through the supply of publicly available non-confidential information available to the requesting Party. The requested Party may also provide other information available to the requesting Party, subject to its domestic law and to the conclusion of satisfactory agreement concerning the safeguarding of its confidentiality by the requesting Party.

Article 16
Recognition

1. For the purpose of the fulfilment, in whole or in part, of its standards or criteria for the authorisation, licensing or certification of service suppliers, and subject to the requirements of Paragraph 3, a Party may recognise the education or experience obtained, requirements met, licences or certifications granted in a particular country. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement with the country concerned or may be accorded autonomously.

2. A Party that is a party to an agreement or arrangement of the type referred to in Paragraph 1, whether existing or future, shall afford adequate opportunity for other interested Parties to negotiate their accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for any other Party to demonstrate that education, experience, licences, or certifications obtained or requirements met in that other Party's territory should be recognised.

（垄断和专营服务供应商）可能抑制竞争，从而限制服务贸易。

2. 每一缔约方应任何其他缔约方的请求，应进行磋商，以期消除第1款中提及的做法。被请求方应充分且同情地考虑此类请求，并通过向请求方提供可公开获得的非机密信息进行合作。被请求方还可根据其国内法以及与请求方就保护其机密性达成令人满意的协议，向请求方提供其他可获得的信息。

第16条 承
认

1. 为全部或部分满足其对服务供应商的授权、许可或认证的标准或准则，并在遵守第3段要求的前提下，一缔约方可承认在特定国家获得的教育或经验、满足的要求、授予的许可证或证书。此类认可可通过协调或其他方式实现，可基于与相关国家的协议或安排，亦可自主地给予。

2. 作为第1款所述类型协议或安排（无论是现有还是未来）缔约方的缔约方，应为其他感兴趣的缔约方提供充分机会，以谈判加入此类协议或安排，或与其谈判达成类似的协议或安排。当缔约方自主地给予认可时，应为任何其他缔约方提供充分机会，证明在该其他缔约方领土内获得的教育、经验、许可证或证书或满足的要求应得到认可。

3. A Party shall not accord recognition in a manner which would constitute a means of discrimination between other Parties in the application of its standards or criteria for the authorisation, licensing or certification of service suppliers, or a disguised restriction on trade in services.

4. Where appropriate, recognition should be based on multilaterally agreed criteria. In appropriate cases, Parties shall work in co-operation with relevant inter-governmental and non-governmental organisations towards the establishment and adoption of common international standards and criteria for recognition and common international standards for the practice of relevant services trades and professions.

5. Each Party shall encourage competent bodies in its territory to enter into negotiations for agreements or arrangements on recognition of professional qualification requirements, qualification procedures, licensing or registration requirements, and licensing or registration procedures with a view to the achievement of early outcomes.

Article 17
Payments and Transfers

1. Except under the circumstances envisaged in Article 4 (Measures to Safeguard the Balance of Payments) of Chapter 15 (General Provisions and Exceptions), a Party shall not apply restrictions on international transfers or payments for current transactions relating to its specific commitments.

2. Nothing in this Chapter shall affect the rights and obligations of any of the Parties as members of the International Monetary Fund under the IMF Articles of Agreement, including the use of exchange actions which are in conformity with the IMF Articles of Agreement, provided that a Party shall not impose restrictions on any capital transactions inconsistent with its specific commitments

3. 缔约方不得以在服务供应商的授权、许可或认证标准或准则适用中对其他缔约方构成歧视的方式给予认可，或构成对服务贸易的变相限制。

4. 在适当情况下，认可应基于多边商定的标准。缔约方应在适当情况下与相关政府间组织和非政府组织合作，致力于制定和采用认可的共同国际标准和准则，以及相关服务贸易和职业实践的共同国际标准。

5. 每一缔约方应鼓励其领土内的主管机构就专业资格要求、资格程序、许可或注册要求以及许可或注册程序的认可开展协议或安排的谈判，以期尽早取得成果。

第17条 支付和转移

1. 除第15章（一般规定和例外）第4条（保障国际收支平衡的措施）规定的情形外，缔约方不得对与其具体承诺相关的经常性交易的国际转移或支付实施限制措施。

2. 本章的任何规定均不得影响任何缔约方作为国际货币基金组织成员根据《国际货币基金组织协定条款》所享有的权利和义务，包括使用符合《国际货币基金组织协定条款》的汇兑行动，但缔约方不得对任何资本交易施加与其具体承诺不一致的限制措施

regarding such transactions, except under Article 4 (Measures to Safeguard the Balance of Payments) of Chapter 15 (General Provisions and Exceptions) or at the request of the International Monetary Fund.

除非根据第15章（一般规定和例外）第4条（保障国际收支平衡的措施）或应国际货币基金组织的要求，否则不得对上述交易实施限制。

Article 18
Subsidies

第18条
补贴

1. Notwithstanding Article 1.4(b) (Scope and Coverage), the Parties shall review the issue of disciplines on subsidies related to trade in services in light of any disciplines agreed under Article XV of GATS.

1. 尽管有第1.4(b)条（范围和覆盖范围）的规定，各方应根据《服务贸易总协定》第15条下商定的任何纪律，审议与服务贸易相关的补贴纪律问题。

2. Parties recognise that, in certain circumstances, subsidies may have distortive effects on trade in services. Any Party which considers that it is adversely affected by a subsidy of another Party may request consultations with that Party on such matters. Such request shall be accorded sympathetic consideration.

2. 缔约方认识到，在某些情况下，补贴可能对服务贸易产生扭曲效应。任何缔约方如认为其受到另一缔约方补贴的不利影响，可请求与该缔约方就此类事项进行磋商。此类请求应得到同情的考虑。

Article 19
Safeguard Measures

第十九条 保障措施

1. The Parties note the multilateral negotiations pursuant to Article X of GATS on the question of emergency safeguard measures based on the principle of non-discrimination. Upon the conclusion of such multilateral negotiations, the Parties shall conduct a review for the purpose of discussing appropriate amendments to this Agreement so as to incorporate the results of such multilateral negotiations.

1. 各方注意到根据《服务贸易总协定》第10条基于非歧视原则进行的关于紧急保障措施问题的多边谈判。在此类多边谈判结束后，各方应进行审议，以讨论对本协定的适当修正，从而纳入此类多边谈判的结果。

2. In the event that the implementation of the commitments made in this Agreement causes substantial adverse impact to a service sector of a Party before the conclusion of the multilateral negotiations referred to in Paragraph 1, the affected Party may request consultations with the other Party or Parties. The requested Party or Parties shall enter into consultations with the requesting

2. 如本协定所作承诺的实施在完成第1款所述多边谈判之前对一缔约方的服务部门造成实质性不利影响，受影响缔约方可请求与另一方或其他缔约方进行磋商。被请求方应就其所认为可能造成实质性不利影响的承诺及请求方为缓解此类影响可能采取的任何措施的可能性，与请求方进行磋商。

Party on the commitments that the requested Party or Parties consider may have caused substantial adverse impact and on the possibility of the requesting Party adopting any measure to alleviate such impact. The requesting Party shall notify all the other Parties of their request for consultations under this Paragraph.

3. Any measures taken pursuant to Paragraph 2 shall be mutually agreed by the Parties concerned.

4. The consulting Parties shall notify the results of the consultations to all other Parties as soon as practicable and by no later than the next meeting of the Services Committee established pursuant to Article 24 (Committee on Trade in Services) following the conclusion of consultations.

Article 20
Increasing Participation for Newer ASEAN Member States

In order to increase the benefits of this Chapter for the newer ASEAN Member States, and in accordance with the objectives of and the Preamble to this Agreement and the objectives of Chapter 12 (Economic Co-operation), the Parties recognise the importance of according special and differential treatment to the newer ASEAN Member States and facilitating their participation in this Chapter through negotiated specific commitments relating to:

(a) strengthened domestic services capacity and its efficiency and competitiveness, *inter alia*, through access to technology on a commercial basis;

(b) improved access to distribution channels and information networks;

(c) commitments in sectors of export interest to newer ASEAN Member States; and

请求方应将其根据本款提出的磋商请求通知所有其他缔约方。

3. 根据第二段采取的任何措施须经相关缔约方相互同意。

4. 进行协商的缔约方应将协商结果通知
尽快且不迟于根据第24条（服务贸易委员会）设立的服务委员会在磋商结束后的下一次会议，向所有其他缔约方进行磋商。

第20条 促进新东盟成员国参与

为增强本章对新东盟成员国的利益，并遵循本协定序言及目标以及第12章（经济合作）的目标，各方认识到通过以下方面的具体承诺谈判，给予新东盟成员国特殊和差别待遇并促进其参与本章的重要性：

(a) 加强国内服务能力及其效率和竞争力，特别是通过商业基础上的技术准入；(b) 改善分销渠道和信息网络的准入；(c) 对新东盟成员国具有出口利益的服务部门作出承诺；以及

(d) recognising that commitments by each newer ASEAN Member State may be made in accordance with its individual stage of development.

Article 21
Denial of Benefits

A Party may deny the benefits of this Chapter:

(a) to the supply of any service, if it establishes that the service is supplied from or in the territory of a non-Party;

(b) in the case of the supply of a maritime transport service, if it establishes that the service is supplied:

(i) by a vessel registered under the laws of a non-Party, and

(ii) by a person of a non-Party which operates and/or uses the vessel in whole or in part;

(c) to a service supplier, that is a juridical person, if it establishes that it is not a service supplier of another Party.

Article 22
Treatment and Protection of Commercial Presence

1. Chapter 11 (Investment) does not apply to measures adopted or maintained by a Party to the extent that they are covered by this Chapter.

2. Notwithstanding Paragraph 1, the following Articles and Section of Chapter 11 (Investment) apply, *mutatis mutandis*, to measures affecting the supply of services by a service

(d) 认识到每个新东盟成员国可根据其各自发展阶段作出承诺。

第21条 利益的拒绝

一缔约方可拒绝给予本章利益：

(a) 对于任何服务的提供，如该缔约方确认该服务是从非缔约方领土或在非缔约方领土内提供的；(b) 对于海上运输服务的提供，如该缔约方确认该服务是由以下方式提供的：(i) 根据非缔约方法律注册的船舶，及(ii) 由非缔约方的人全部或部分运营和/或使用该船舶；(c) 对于作为法人的服务提供者，如该缔约方确认其不是另一缔约方的服务提供者。

第22条 商业存在的待遇和保护

1. 第11章（投资）不适用于一缔约方采取或维持的措施，只要这些措施属于本章涵盖的范围。

2. 尽管有第1款的规定，第11章（投资）的下列条款和章节经必要修改后适用于影响一方的服务提供者通过商业存在在另一方的领土内提供服务所采取的措施：

supplier of a Party through commercial presence in the territory of another Party:

(a) Article 6 (Treatment of Investment);

(b) Article 7 (Compensation for Losses);

(c) Article 8 (Transfers);

(d) Article 9 (Expropriation and Compensation);

(e) Article 10 (Subrogation); and

(f) Section B (Investment Disputes between a Party and an Investor).

Article 23
Miscellaneous Provisions

1. The GATS *Annex on Telecommunications* shall be incorporated into and shall form part of this Agreement, *mutatis mutandis*.

2. Additional provisions on financial services and telecommunications are set out in this Chapter's Annexes.

Article 24
Committee on Trade in Services

1. The Parties hereby establish a Committee on Trade in Services (Services Committee), consisting of representatives of the Parties.

2. The Services Committee's functions shall be:

(a) to conduct reviews of commitments in accordance with Article 6 (Review of Commitments);

一方的供应商通过在另一方的领土内的商业存在:

(a) 第六条（投资待遇）；(b) 第七条（损失补偿）；(c) 第8条（转移）；(d) 第9条（征收与补偿）；(e) 第十条（代位）；以及 (f) B节（缔约方与投资者之间的投资争端）。

第二十三条 杂项规定

1.《服务贸易总协定》电信附件应经必要修改后纳入本协定，并构成本协定的一部分。

2. 本章附件中列明了关于金融服务和电信的附加条款。

第24条 服务贸易委员会

1. 各方特此设立服务贸易委员会（服务委员会），由各方的代表组成。

2. 服务委员会的职能应为:

(a) 根据第六条（承诺的审议）对承诺进行审议;

(b) if the multilateral negotiations referred to in Article 19.1 (Safeguard Measures) have not concluded within three years from entry into force of this Agreement, to enter into discussion on the question of emergency safeguard measures based on the principle of non-discrimination for the purpose of considering appropriate amendments to this Chapter;

(c) to enter into discussions on the application of most-favoured-nation treatment to trade in services for the purpose of considering appropriate amendments to this Chapter, in conjunction with the first review of commitments under Article 6 (Review of Commitments);

(d) to review the implementation of this Chapter;

(e) to consider any other matters identified by the Parties; and

(f) to report to the FTA Joint Committee as required.

3. The Services Committee shall conclude the discussions referred to in Paragraph 2(a) to (c) within five years of entry into force of this Agreement, unless the Parties agree otherwise.

4. The Services Committee shall meet as mutually determined by the Parties as required under this Article and Article 6 (Review of Commitments). Meetings may be conducted in person, or by any other means as mutually determined by the Parties.

(b) 如果第19.1条（保障措施）所述的多边谈判在本协定生效后三年内未完成，则基于非歧视原则就紧急保障措施问题展开讨论，以考虑对本章进行适当修正；(c) 结合第六条（承诺的审议）下的首次承诺审议，就服务贸易的最惠国待遇适用问题展开讨论，以考虑对本章进行适当修正；(d) 审议本章的实施情况；(e) 考虑缔约方提出的任何其他事项；以及(f) 按要求向自由贸易协定联合委员会报告。

3. 服务委员会应在本协定生效后五年内完成第2款(a)至(c)项所指的讨论，除非各方另有约定。

4. 服务委员会应根据本条款及第六条（承诺的审议）的要求，由缔约方共同商定召开会议。会议可以面对面进行，或通过缔约方共同商定的任何其他方式进行。

ANNEX ON FINANCIAL SERVICES

Article 1
Scope and Definitions

1. This Annex applies to measures affecting the supply of financial services. Reference to the supply of a financial service in this Annex shall mean the supply of a service as defined in Article 2(s) (Definitions) of Chapter 8 (Trade in Services).

2. For the purposes of Article 2(n) (Definitions) of Chapter 8 (Trade in Services), "services supplied in the exercise of governmental authority" means the following:

(a) activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;

(b) activities forming part of a statutory system of social security or public retirement plans; or

(c) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.

3. For the purposes of Article 2(n) (Definitions) of Chapter 8 (Trade in Services), if a Party allows any of the activities referred to in Paragraph (2)(b) or (c) to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, "services" shall include such activities.

4. Article 2(q) (Definitions) of Chapter 8 (Trade in Services) shall not apply to services covered by this Annex.

金融服务附件

第一条 范围和定义

1. 本附件适用于影响金融服务供应的措施。本附件中提及的金融服务供应，应指第八章（服务贸易）第二条(s)款（定义）中所定义的服务供应。

2. 就第八章（服务贸易）第二条(n)款（定义）而言，“行使政府职权时提供的服务”指以下内容：

(a) 中央银行或货币当局或任何其他公共实体为执行货币或汇率政策而开展的活动；(b) 构成法定社会保障制度或公共退休计划组成部分的活动；或(c) 公共实体代表政府或利用政府财政资源或由政府担保开展的其他活动。

3. 就第八章（服务贸易）第二条(n)款（定义）而言，如一缔约方允许其金融服务供应商与公共实体或金融服务供应商竞争开展第(2)款(b)项或(c)项所述任何活动，则“服务”应包括此类活动。

4. 第八章（服务贸易）第二条(q)款（定义）不适用于本附件所涵盖的服务。

Article 2
Definitions

For the purposes of this Annex:

(a) a **financial service** is any service of a financial nature offered by a financial service supplier of a Party. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services include the following activities:

Insurance and insurance-related services

(i) Direct insurance (including co-insurance):

(A) life; and

(B) non-life;

(ii) Reinsurance and retrocession;

(iii) Insurance intermediation, such as brokerage and agency; and

(iv) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

Banking and other financial services (excluding insurance)

(v) Acceptance of deposits and other repayable funds from the public;

(vi) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

第二条
定义

就本附件而言：

(a) 金融服务指一方的金融服务供应商提供的任何具有金融性质的服务。金融服务包括所有保险及保险相关服务，以及所有银行及其他金融服务（不包括保险）。金融服务包括以下活动：

保险及保险相关服务

(i) 直接保险（包括共保）：

(A) 人寿保险；及

(B) 非人寿保险；

(ii) 再保险与转分保；

(iii) 保险中介，such as 经纪与代理；及

(iv) 保险辅助服务，例如咨询、精算、风险评估和理赔服务。

银行及其他金融服务（保险除外）

(v) 接受存款和来自公众的其他可偿还资金；(vi) 各类贷款，包括消费信贷、抵押信贷、保理和商业交易融资；

(vii) Financial leasing;

(viii) All payment and money transmission services, including credit, charge and debit cards, travellers' cheques and bankers drafts;

(ix) Guarantees and commitments;

(x) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(A) money market instruments (including cheques, bills, certificates of deposits);

(B) foreign exchange;

(C) derivative products including, but not limited to, futures and options;

(D) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;

(E) transferable securities; and

(F) other negotiable instruments and financial assets, including bullion;

(xi) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

(vii) 金融租赁；

(viii) 所有支付和资金传输服务，包括信用卡、签账卡和借记卡、旅行支票和银行汇票；(ix) 担保和承诺；(x) 自营交易或客户账户交易，无论是在交易所、场外市场还是其他场所，涉及以下内容：(A) 货币市场工具（包括支票、汇票、存款证）；(B) 外汇；(C) 衍生产品，包括但不限于期货和期权；(D) 汇率和利率工具，包括掉期、远期利率协议等产品；(E) 可转让证券；以及(F) 其他可转让票据和金融资产，包括金银条块；

(xi) 参与各类证券发行，包括作为代理的承销和配售（无论公开或私下）以及提供与此类发行相关的服务；

(xii) Money broking;

(xiii) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

(xiv) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(xv) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and

(xvi) Advisory, intermediation and other auxiliary financial services on all the activities listed in Subparagraphs (v) to (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

(b) a **financial service supplier** means any natural or juridical person of a Party wishing to supply or supplying financial services but the term "financial service supplier" does not include a public entity;

(c) **public entity** means:

(i) a government, a central bank or a monetary authority, of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for

(xii) 货币经纪；

(xiii) 资产管理，如现金或投资组合管理、各类集体投资管理、养老基金管理、托管、存管和信托服务；(xiv) 金融资产的结算和清算服务，包括证券、衍生产品和其他可转让票据；(xv) 金融信息的提供和传输，以及其他金融服务供应商提供的金融数据处理和相关软件；(xvi) 就第(v)至(xv)子段落所列所有活动提供的咨询、中介和其他辅助金融服务，包括信用参考和分析、投资和投资组合研究与建议、收购建议以及公司重组和战略建议；

(b) 金融服务供应商指一缔约方希望提供或正在提供金融服务的自然人或法人，但"金融服务供应商"一词不包括公共实体；

(c) 公共实体指：

(i) 缔约方的政府、中央银行或货币当局，或缔约方拥有或控制的实体，其主要从事履行政府职能或活动，以服务于

governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or

(ii) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions; and

(d) **self-regulatory organisation**:

(i) in the case of Australia and New Zealand, means any non-governmental body, including any securities or futures exchange or market, clearing or payment settlement agency, or other organisation or association that exercises its own or delegated regulatory or supervisory authority over financial service suppliers or financial institutions; and

(ii) in the case of ASEAN Member States, means any non-governmental body, including any securities or futures exchange or market, clearing or payment settlement agency, other organisation or association that is recognised by legislation as a self-regulatory organisation and exercises regulatory or supervisory authority over financial service suppliers or financial institutions pursuant to legislation or delegation from central, regional or local governments or authorities.

Article 3
Domestic Regulation

1. Notwithstanding any other provision of this Agreement, a Party shall not be prevented from taking measures for

政府目的，不包括主要按商业条款提供金融服务的实体；或

(ii) 私营实体，在行使通常由中央银行或货币当局履行的职能时；以及

(d) 自律组织：

(i) 就澳大利亚和新西兰而言，指任何非政府机构，包括任何证券或期货交易所或市场、清算或支付结算机构，或其他行使自身或受委托的监管或监督权力对金融服务供应商或金融机构进行监管的组织或协会；以及

(ii) 就东盟成员国而言，指任何非政府机构，包括任何证券或期货交易所或市场、清算或支付结算机构、其他被立法认可为自律组织，并根据立法或中央、地区或地方政府或当局的授权对金融服务供应商或金融机构行使监管或监督权力的组织或协会。

第三条 国内法规

1. 尽管有本协定任何其他条款，不得阻止一缔约方出于

prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system or to ensure the stability of the exchange rate[1] subject to the following:

(a) where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement;

(b) for measures to ensure the stability of the exchange rate such measures shall be no more than necessary and phased out when conditions no longer justify their institution or maintenance; and

(c) for measures to ensure the stability of the exchange rate such measures shall be applied on a most-favoured-nation basis.

2. Nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

Article 4
Recognition

1. A Party may recognise prudential measures of any international standard setting body, another Party, or a non-Party in determining how the Party's measures relating to financial services shall be applied. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement with the

[1] The measures to ensure the stability of the exchange rate shall not be adopted or maintained for the purpose of protecting a particular sector.

审慎原因采取措施，包括为保护投资者、存款人、保单持有人或金融服务供应商对其负有受托责任的人，或为确保金融体系的完整性和稳定性，或为确保汇率稳定[1] 但须符合下列条件：

(a) 若此类措施不符合
本协定的条款，则不得将其用作规避缔约方在本协定项下承诺或义务的手段；

(b) 对于确保汇率稳定的措施，此类措施不得超过必要限度，且当条件不再支持其实施或维持时应逐步取消；以及 (c) 对于确保汇率稳定的措施，此类措施应在最惠国待遇基础上实施。

2. 本协定任何条款不得解释为要求缔约方披露与个人客户的事务和账户有关的信息，或公共实体持有的任何机密或专有信息。

第四条 承
认

1. 缔约方可认可任何国际标准制定机构、另一缔约方或非缔约方的审慎措施，以确定其与金融服务相关的措施应如何适用。此类认可可通过协调或其他方式实现，并可基于与

[1] 不得为保护特定行业之目的而采取或维持确保汇率稳定的措施。

international standard setting body, another Party, or a non-Party concerned or may be accorded autonomously.

2. A Party that is a party to such an agreement or arrangement referred to in Paragraph 1, whether future or existing, shall afford adequate opportunity for other interested Parties to negotiate their accession to such agreements or arrangements, or to negotiate comparable ones with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation, and, if appropriate, procedures concerning the sharing of information between the parties to the agreement or arrangement.

3. Where a Party accords recognition autonomously, it shall afford adequate opportunity for any other Party to demonstrate that such circumstances as referred to in Paragraph 2 exist.

Article 5
Regulatory Transparency

1. The Parties recognise that transparent measures governing the activities of financial institutions and cross-border financial service suppliers are important in facilitating their ability to gain access to and operate in each other's market.

2. Each Party shall ensure that measures of general application adopted or maintained by a Party are promptly published or otherwise made publicly available.[2]

3. Each Party shall take such reasonable measures as may be available to it to ensure that the rules of general application adopted or maintained by self-regulatory

[2] For greater certainty, the Parties agree that such information may be published in each Party's chosen language.

相关国际标准制定机构、另一缔约方或非缔约方达成的协议或安排，亦可自主地给予认可。

2. 作为第1款所述协议或安排（无论是未来还是现有）缔约方的某一缔约方，应在具备等效法规、监督、法规实施以及（如适用）协议或安排缔约方之间信息共享程序的条件下，为其他有意愿的缔约方提供充分机会，以谈判加入此类协议或安排，或与其谈判达成类似的协议或安排。

3. 如一缔约方自主地给予认可，则应向任何其他缔约方提供充分机会，以证明存在第2款所述情形。

第5条 监管透明度

1. 各方认识到，规范金融机构和跨境金融服务供应商活动的透明措施，对于促进其获得准入并在彼此市场开展业务的能力至关重要。

2. 每一缔约方应确保其通过或维持的普遍适用的措施迅速公布或以其他方式使公众可获得。[2]

3. 每一缔约方应采取其可用的合理措施，以确保自律组织

[2] 为进一步明确，各方同意此类信息可以以各缔约方选择的语言公布。

organisations [3] of the Party are promptly published or otherwise made publicly available.[4]

4. Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons of another Party regarding measures of general application to which this Annex applies.[5]

5. Each Party's regulatory authorities shall use its best endeavours to make available to interested persons of another Party their requirements, including any documentation required, for completing applications relating to the supply of financial services.

6. On the request of an applicant in writing, regulatory authorities of a Party shall inform the applicant of the status of its application in writing. If an authority requires additional information from the applicant, it shall notify the applicant without undue delay.

7. Each Party's regulatory authorities shall make administrative decisions on a completed application of a financial service supplier of another Party seeking to supply a financial service in that Party's territory within 180 days and shall notify the applicant of the decision in writing without undue delay:

(a) an application shall not be considered complete until all relevant proceedings are conducted and the regulatory authorities consider all necessary information is received;

[3] This Paragraph only applies to a Party when that Party has established self-regulatory organisations.

[4] For greater certainty, the Parties agree that such information may be published in each Party's chosen language.

[5] The Parties confirm their shared understanding that interested persons in this Article should only be persons whose direct financial interest could be potentially affected by the adoption of the regulations of general application.

所通过或维持的普遍适用规则 [3] 被迅速公布或以其他方式向公众提供。[4]

4. 每一缔约方应维持或建立适当机制，以回应另一缔约方利益相关方就本附件所适用的普遍适用措施提出的询问。[5]

5. 每一缔约方的监管机构应尽最大努力向另一缔约方的利益相关方提供其要求，包括完成金融服务供应相关申请所需的任何文件。

6. 应申请人书面请求，一缔约方的监管机构应以书面形式告知申请人其申请状态。若监管机构需要申请人提供补充信息，应立即通知申请人。

7. 每一缔约方的监管机构应在180天内对另一缔约方金融服务供应商寻求在该缔约方领土内提供金融服务的完整申请作出行政决定，并应立即以书面形式通知申请人该决定：

(a) 在所有相关程序完成且监管机构确认收到所有必要信息之前，申请不应被视为完整；

[3] 本款仅适用于已建立自律组织的缔约方。[4] 为进一步明确，各方同意此类信息可以各缔约方选择的语言公布。[5] 各方确认其共同理解，即本条所述利益相关方应仅为直接经济利益可能受到普遍适用法规采纳影响的个人。

(b) where it is not practicable for a decision to be made within 180 days, the regulatory authority shall notify the applicant without delay and shall endeavour to make the decision within a reasonable time thereafter.

8. On the request of an unsuccessful applicant in writing, a regulatory authority that has denied an application shall endeavour to inform the applicant of the reasons for denial of the application in writing.

Article 6
Financial Services Exceptions

Nothing in this Chapter shall be construed to prevent the adoption or enforcement by a Party of measures necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter, including those relating to the prevention of deceptive and fraudulent practices or to deal with the effects of a default on financial services contracts, subject always to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment in financial institutions or trade in financial services.

Article 7
Transfers of Information and Processing of Information

1. A Party shall not take measures that:

(a) prevent transfers of information, including transfers of data by electronic means, necessary for the conduct of the ordinary business of a financial service supplier;

(b) 若无法在180天内作出决定，监管机构应立即通知申请人，并应在此后合理时间内尽力作出决定。

8. 应未成功的申请人以书面形式提出的请求，拒绝申请的监管机构应尽力以书面形式告知申请人申请被拒的理由。

第六条 金融服务例外

本章的任何规定不得解释为阻止缔约方采取或执行确保遵守与本章不相抵触的法律法规所必需的措施，包括与防止欺骗和欺诈行为或处理金融服务合同违约影响相关的措施，但前提是此类措施的实施方式不得构成在条件相同的国家之间进行任意或不合理的歧视的手段，或对金融机构投资或金融服务贸易的变相限制。

第七条 信息转移和信息处理

1. 缔约方不得采取以下措施：

(a) 阻止金融服务供应商日常业务经营所必需的信息转移，包括电子方式数据传输；

(b) prevent the processing of information necessary for the conduct of the ordinary business of a financial service supplier; or

(c) prevent transfers of equipment necessary for the conduct of the ordinary business of a financial service supplier, subject to importation rules consistent with international agreements.

2. Nothing in Paragraph 1:

(a) restricts the right of a Party to protect personal data, personal privacy and the confidentiality of individual records and accounts including in accordance with its domestic laws and regulations so long as such right shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement;

(b) prevents a regulator of a Party for regulatory or prudential reasons from requiring a financial service supplier in its territory to comply with domestic regulation in relation to data management and storage and system maintenance, as well as to retain within its territory copies of records; or

(c) shall be construed to require a Party to allow the cross-border supply or the consumption abroad of services in relation to which it has not made specific commitments, including to allow non-resident suppliers of financial services to supply, as a principal, through an intermediary or as an intermediary, the provision and transfer of financial information and financial data processing as referred to in Article 2(a)(xv) (Definitions).

(b) 阻止金融服务供应商日常业务经营所必需的信息处理；或 (c) 阻止金融服务供应商日常业务经营所必需的设备转移，但须遵守符合国际协议的进口规则。

2. 第1款中的任何规定：

(a) 不得限制缔约方保护个人数据、个人隐私及个人记录和账户保密性的权利，包括依据其国内法律法规采取的保护措施，只要该权利不被用作规避缔约方在本协定项下承诺或义务的手段；

(b) 不得阻止缔约方监管机构出于监管或审慎原因，要求其领土内的金融服务供应商遵守与数据管理和存储及系统维护相关的国内法规，并保留记录副本于其领土内；或

(c) 不得解释为要求一缔约方允许跨境供应或境外消费其未作出具体承诺的服务，包括允许非居民金融服务供应商以本人、通过中介或作为中介的方式提供第2条(a)(xv)款（定义）所指的金融信息的提供和传输及金融数据处理。

Article 8
Dispute Settlement

Members of arbitral tribunals established pursuant to Chapter 17 (Consultations and Dispute Settlement) for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service under dispute.

第8条 争端解决

根据第17章（磋商与争端解决）设立的仲裁法庭成员，在审理审慎问题和其他金融事项的争议时，应具备与争议所涉具体金融服务相关的必要专业知识。

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ANNEX ON TELECOMMUNICATIONS

Article 1
Scope and Coverage

1. This Annex applies to measures by a Party affecting trade in public telecommunications transport networks and services.

2. Notwithstanding Paragraph 1, this Annex shall not apply to measures by a Party affecting the distribution of broadcasting and audio-visual services, as defined in each Party's domestic legal framework.

3. Nothing in this Annex shall be construed to require a Party to allow the supply of public telecommunications transport networks or services in relation to which it has not made specific commitments under this Chapter.

Article 2
Definitions

For the purposes of this Annex:

(a) **co-location (physical)** means access to space in order to install, maintain or repair equipment at premises owned or controlled and used by a major supplier to supply public telecommunications transport services;

(b) **cost-oriented** means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;

(c) **essential facilities** means facilities of a public telecommunications transport network or service that:

电信附件

第一条 范围和覆盖范围

1. 本附件适用于缔约方影响公共电信传输网络和服务贸易的措施。

2. 尽管有第1款的规定，本附件不适用于缔约方影响广播和视听服务分销的措施，如每一缔约方国内法律框架所定义的。

3. 本附件中的任何内容不得解释为要求缔约方允许提供其在本章下未作出具体承诺的公共电信传输网络或服务。

第二条
定义

就本附件而言：

(a) 共置（物理）指为安装、维护或修理设备而获得空间准入，该空间位于主要供应商拥有或控制并用于提供公共电信传输服务的场所内；

(b) 成本导向指基于成本，并可包含合理利润，且可能针对不同关键设施或服务采用不同的成本计算方法；(c) 关键设施指公共电信传输网络或服务的设施，其具备以下特征：

(i) are exclusively or predominantly provided by a single or limited number of suppliers; and

(ii) cannot feasibly be economically or technically substituted in order to provide a service;

(d) **facilities-based suppliers** means suppliers of public telecommunications transport networks or services that:

(i) are licensed carriers in Australia;

(ii) are classified as Access Seekers in accordance with the Telecommunications Act 2001 as amended from time to time in New Zealand;

(iii) are the Infrastructure Provider for the Telecommunication Industry (InTi) licensees in Brunei Darussalam;

(iv) are licensed as network facility provider and licensed network services provider under domestic law in Cambodia;

(v) are licensed as telecommunication network provider in Indonesia;

(vi) are authorised to establish an enterprise to provide telecommunications service under the Telecommunications Act of 2001 in Lao PDR;

(vii) are licensed as Network Facilities Provider and Network Services Provider in Malaysia;

(i) 由单一或有限数量的供应商独家或主要提供；且(ii) 在经济或技术上无法实际替代以提供服务；

(d) 基于设施的供应商 指满足以下条件的公共电信传输网络或服务供应商：

(i) 是澳大利亚的持牌运营商；(ii) 根据新西兰不时修订的《2001年电信法》被归类为接入寻求者；(iii) 是文莱达鲁萨兰国电信行业基础设施提供商（InTi）的持牌者；(iv) 根据柬埔寨国内法获准成为网络设施提供商及持牌网络服务提供商；(v) 在印度尼西亚获准成为电信网络提供商；(vi) 依据老挝人民民主共和国《2001年电信法》获授权设立企业以提供电信服务；(vii) 在马来西亚获准成为网络设施提供商及网络服务提供商；

(viii) are telecommunications operators licensed as network facility provider and/or network service provider; and operators authorised by the Ministry of Communications, Posts and Telegraphs to provide facility based services in Myanmar;

(ix) are licensed public telecommunications entities as defined in the Public Telecommunications Policy Act of the Philippines;

(x) are facilities-based operators in Singapore;

(xi) are duly licensed under domestic law as facilities-based supplier in Thailand; and

(xii) are facilities-based operators duly licensed in Viet Nam;

(e) **interconnection** means linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier;

(f) **leased circuits** [1] means telecommunications facilities between two or more designated points that are set aside for the dedicated use of, or availability to, a particular user;

(g) **major supplier** means a supplier which has the ability to materially affect the terms of participation, having regard to price and supply, in the relevant market for the supply of public

[1] In the case of Thailand, "leased circuits" means telecommunications facilities between two designated points that are set aside for the dedicated use of, or availability to, a particular user.

(viii) 是获发牌照的电信运营商作为网络设施提供商和/或网络服务提供商；以及经缅甸通信、邮政和电报部授权在缅甸提供基于设施的服务运营商；

(ix) 是持有牌照的公共电信实体，如菲律宾《公共电信政策法》所定义；

(x) 是新加坡基于设施的运营商；(xi) 是根据泰国国内法正式获得许可的基于设施供应商；及 (xii) 是在越南正式获得许可的基于设施运营商；

(e) 互联互通是指与提供公共电信传输网络或服务的供应商连接，以使一家供应商的用户能够与另一家供应商的用户沟通并获取另一家供应商提供的服务；

(f) 租用电路[1] 是指为特定用户专用或可获得的、位于两个或多个指定点之间的电信设施；

(g) 主要供应商指有能力实质性影响相关市场中公共电信传输网络或服务或其部分供应参与条件（涉及价格和供应）的供应商，由于以下原因：

[1] 就泰国而言，"租用电路"是指两点之间预留的电信设施，专供特定用户使用或可获得。

telecommunications transport networks or services, or parts thereof, as a result of:

(i) control over essential facilities; or

(ii) use of its position in the market;

(h) **non-discriminatory** means treatment no less favourable than that accorded to any other user of like public telecommunications transport networks or services in like circumstances;

(i) **public telecommunications transport network** means the public telecommunications infrastructure which permits telecommunications between and among defined network termination points;

(j) **public telecommunications transport service** means any telecommunications transport service required, explicitly or in effect, by a Party to be offered to the public generally. Such services may include, *inter alia*, telegraph, telephone and data transmission typically involving the real-time transmission of customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information;

(k) **telecommunications** means the transmission and reception of signals by any electromagnetic means;

(l) **telecommunications regulatory body** means any body or bodies in the territory of a Party which is or are responsible, under the Party's domestic legal framework, for the regulation of telecommunications; and

电信传输网络或服务，或其部分，由于以下原因：

(i) 对关键设施的控制；或(ii) 利用其在市场中的地位；

(h) 非歧视性手段待遇不低于在类似情况下给予其他类似公共电信传输网络或服务用户的待遇；

(i) 公共电信传输网络
指允许在定义的网络终端点之间进行电信沟通的公共电信基础设施；

(j) 公共电信传输服务
指缔约方明确要求或实际上要求向公众普遍提供的任何电信传输服务。此类服务可包括但不限于电报、电话和数据传输，通常涉及客户提供的信息在两个或多个点之间进行实时传输，且客户信息的格式或内容不发生任何端到端的改变；

(k) 电信指通过任何电磁手段发送和接收信号；

(l) 电信监管机构指
在一方的领土内，根据该方的国内法律框架，负责电信法规的任何机构；以及

(m) **user** means service consumers and service suppliers.

Article 3
Transitional Arrangements

Noting each Party's different stage of development, and noting each Party's commitments under GATS, a Party may delay the application of Article 4 (Competitive Safeguards), Article 6 (Interconnection), Article 7 (Co-location), Article 8 (Leased Circuits Services) and Article 9.2 (Resolution of Disputes) in accordance with the timetable set out in this Annex's Appendix on Transitional Arrangements.

Article 4
Competitive Safeguards

1. Subject to Article 3 (Transitional Arrangements), each Party shall prevent suppliers of public telecommunications transport networks or services who, alone or together, are major suppliers in its territory, from engaging in or continuing anti-competitive practices.

2. The anti-competitive practices referred to in this Article shall include:

(a) engaging in anti-competitive cross-subsidisation;

(b) using information obtained from competitors with anti-competitive results; and

(c) not making available to other suppliers of telecommunications transport networks or services, in a timely fashion, technical information about essential facilities or commercially relevant information, which is necessary for such suppliers to provide public telecommunications transport networks or services.

(m) 用户指服务消费者和服务供应商。

第三条 过渡性安排

考虑到每一缔约方处于不同的发展阶段，并注意到每一缔约方在《服务贸易总协定》下的承诺，一缔约方可按照本附件《过渡性安排附录》中规定的时间表，延迟适用第四条（竞争保障措施）、第六条（互联互通）、第七条（共址）、第八条（租赁电路服务）及第9.2条（争议解决）。

第四条 竞争保障措施

1. 在第3条（过渡性安排）的前提下，每一缔约方应防止在其领土内单独或共同作为主要供应商的公共电信传输网络或服务供应商从事或继续反竞争行为。

2. 本条所述反竞争行为应包括：

(a) 从事反竞争交叉补贴；(b) 使用从竞争对手处获得的信息以达到反竞争效果；以及(c) 未及时向其他电信传输网络或服务供应商提供关于关键设施的技术信息或商业相关信息，这些信息是此类供应商提供公共电信传输网络或服务所必需的。

Article 5
Licensing

1. Each Party shall ensure that, where a licence is required, all measures relating to the licensing of suppliers of public telecommunications transport networks or services in its territory are published or, where publication is not practicable, otherwise made publicly available, including:

(a) circumstances in which a licence is required;

(b) licence application procedures;

(c) criteria used to assess licence applications;

(d) standard terms and conditions applicable to licences;

(e) the period of time normally required to reach a decision concerning a licence application;

(f) the cost of and/or fees for applying for and/or obtaining a licence; and

(g) the period of validity of a licence.

2. Each Party shall ensure that the reasons for the denial of a licence are made known to an applicant upon request.

Article 6
Interconnection[2]

1. Subject to Article 3 (Transitional Arrangements), each Party shall ensure that major suppliers in its territory provide

[2] For the sake of clarity, nothing in this Article shall be construed to require Thailand or Viet Nam to allow cross-border supply of public telecommunications transport networks or services in relation to which it has not made specific commitments under this Chapter.

第5条
许可

1. 每一缔约方应确保，在需要许可证的情况下，其领土内与公共电信传输网络或服务供应商许可相关的所有措施均予以公布，或在公布不可行时以其他方式向公众提供，包括：

(a) 需要许可证的情形；(b) 许可证申请程序；(c) 评估许可证申请的标准；(d) 适用于许可证的标准条款和条件；(e) 通常作出关于许可证申请的决定所需的时间；(f) 申请和/或获得许可证的费用和/或成本；以及(g) 许可证的有效期。

2. 每一缔约方应确保在申请人提出请求时，向其告知拒绝发放许可证的理由。

第六条 互联互通[2]

1. 根据第3条（过渡性安排），每一缔约方应确保其领土内的主要供应商提供

[2] 为明确起见，本条中的任何内容均不得解释为要求泰国或越南允许本章项下未作出具体承诺的公共电信传输网络或服务的跨境提供。

interconnection to suppliers of public telecommunications transport networks or services of other Parties at any technically feasible point in the major supplier's network. Such interconnection shall be:

(a) provided in a timely fashion, on terms and conditions (including technical standards and specifications), and at cost-oriented rates, that are reasonable (having regard to economic feasibility), non-discriminatory and transparent;

(b) sufficiently unbundled, such that the supplier of public telecommunications transport networks or services seeking interconnection need not pay for network components or facilities that it does not require for the service to be provided;

(c) of a quality no less favourable than that provided for the major supplier's own like services, or for like services of non-affiliated service suppliers, or for its subsidiaries or other affiliates; and

(d) provided upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2. Each Party shall ensure that the terms, conditions and rates (including technical standards and specifications) for interconnection between major suppliers in its territory and suppliers of public telecommunications transport networks or services of other Parties are able to be established (at least):

(a) through commercial negotiation; or

(b) by reference to a set of standard terms, conditions and rates that the major supplier offers generally to other suppliers of public telecommunications transport networks or

与其他缔约方的公共电信传输网络或服务供应商在主要供应商网络中任何技术可行点的互联互通。此类互联互通应满足以下条件：

(a) 在合理（考虑经济可行性）、非歧视性和透明的条款和条件（包括技术标准和规范）下，以成本导向费率及时提供；(b) 充分解绑，使得寻求互联互通的公共电信传输网络或服务供应商无需为其不提供服务所需的网络组件或设施付费；(c) 质量不低于主要供应商为其自身同类服务、非关联服务供应商的同类服务或其子公司或其他关联公司提供的服务；以及(d) 应要求，在向大多数用户提供的网络终端点之外的其他点提供，但需支付反映必要附加设施建设成本的费用。

2. 每一缔约方应确保其领土内主要供应商与其他缔约方的公共电信传输网络或服务供应商之间的互联互通条款、条件和费率（包括技术标准和规范）至少能够确立：

(a) 通过商业谈判；或 (b) 参考主要供应商通常向其他公共电信传输网络或

services, and that are approved or set out by a telecommunications regulatory body.

3. Each Party shall ensure that the procedures for interconnection with major suppliers in its territory are published or otherwise made publicly available.

Article 7
Co-location

1. Subject to Article 3 (Transitional Arrangements), each Party shall ensure that major suppliers in its territory:

(a) provide to suppliers of public telecommunications transport networks or services of other Parties that are facilities-based suppliers in the territory of that Party, physical co-location of equipment necessary for interconnection; and

(b) in situations where physical co-location referred to in Subparagraph (a) is not practical for technical reasons or because of space limitations, co-operate with suppliers of public telecommunications transport networks or services of other Parties that are facilities-based suppliers in the territory of that Party, to find and implement a practical and commercially viable alternative solution.[3]

2. Each Party shall ensure that major suppliers in its territory provide the physical co-location or practical and commercially viable alternative solution referred to in Paragraph 1 in a timely fashion and on terms and conditions (including technical standards and specifications), and at

[3] Such solutions may include:
(a) permitting facilities-based suppliers to locate equipment in a nearby building and to connect such equipment to the major supplier's network;
(b) conditioning additional equipment space or virtual co-location;
(c) optimising the use of existing space; and
(d) finding adjacent space.

服务供应商提供的一套标准条款、条件和费率，且该套条款、条件和费率已获电信监管机构批准或由其制定。

3. 每一缔约方应确保在其领土内与主要供应商互联互通的程序得以公布或以其他方式向公众公开。

第七条 共址

1. 在遵守第3条（过渡性安排）的前提下，每一缔约方应确保其领土内的主要供应商：

(a) 向公众电信供应商提供其他缔约方基于设施的供应商在该缔约方领土内的运输网络或服务，互联互通所需的设备物理共址；以及

(b) 在(a)项所指的物理共址因技术原因或空间限制而不可行的情况下，与该缔约方领土内基于设施的其他缔约方公共电信传输网络或服务供应商合作，寻找并实施一种实际可行且商业上可持续的替代解决方案。[3]

2. 每一缔约方应确保其领土内的主要供应商及时提供第1款所述的物理共址或实际可行的商业替代解决方案，并根据条款和条件（包括技术标准和规范），以及

[3] 此类解决方案可包括：(a) 允许基于设施的供应商将设备安置在附近建筑物中，并将此类设备连接至主要供应商网络；(b) 规定额外设备空间或虚拟共址条件；(c) 优化现有空间的使用；以及(d) 寻找相邻空间。

rates, that are reasonable (having regard to economic feasibility), non-discriminatory and transparent.

3. Each Party may determine, in accordance with its domestic laws and regulations, the locations at which it requires major suppliers in its territory to provide the physical co-location or the practical and commercially viable alternative solutions referred to in Paragraph 1.

Article 8
Leased Circuits Services

Subject to Article 3 (Transitional Arrangements), each Party shall, unless it is not technically feasible, ensure that major suppliers in its territory make leased circuits services (that are public telecommunications transport services) available to suppliers of public telecommunications transport networks or services of other Parties in a timely fashion and on terms and conditions (including technical standards and specifications), and at rates, that are reasonable (having regard to economic feasibility), non-discriminatory and transparent.

Article 9
Resolution of Disputes

1. Each Party shall ensure that a supplier of public telecommunications transport networks or services of another Party who requests interconnection with a major supplier that is authorised to supply public telecommunications transport networks or services in the Party's territory has recourse to a telecommunications regulatory body to resolve disputes in relation to such interconnection, including in relation to terms, conditions or rates:

(a) within a reasonable period of time, according to a procedure that has been published or otherwise made publicly available; and

费率，这些费率应是合理的（考虑到经济可行性）、非歧视性和透明的。

3. 每一缔约方可依据其国内法律法规，确定其领土内要求主要供应商提供第1款所述的物理共址或实际且商业上可行的替代解决方案的地点。

第8条 租赁电路服务

在第3条（过渡性安排）的前提下，每一缔约方应确保其领土内的主要供应商及时向其他缔约方的公共电信传输网络或服务供应商提供租赁电路服务（即公共电信传输服务），除非技术上不可行，且条款和条件（包括技术标准和规范）及费率应合理（考虑经济可行性）、非歧视性且透明。

第9条 争议解决

1. 每一缔约方应确保另一缔约方的公共电信传输网络或服务供应商在请求与该缔约方领土内获授权提供公共电信传输网络或服务的主要供应商互联互通时，可诉诸电信监管机构解决与此类互联互通相关的争议，包括与条款、条件或费率相关的争议：

(a) 在合理期限内，根据已公布或以其他方式向公众公开的程序；以及

(b) at the request of the affected supplier of public telecommunications transport networks or services of the other Party.

2. Subject to Article 3 (Transitional Arrangements), each Party shall ensure that a supplier of public telecommunications transport networks or services of another Party who requests co-location with or leased circuits services from a major supplier that is authorised to supply public telecommunications transport networks or services in the Party's territory has recourse to a telecommunications regulatory body or a competition regulatory body to address issues in relation to such co-location or leased circuits services, including in relation to terms, conditions or rates:

(a) within a reasonable period of time, according to a procedure that has been published or otherwise made publicly available; and

(b) at the request of the affected supplier of public telecommunications transport networks or services of the other Party.

3. Each Party shall ensure that its telecommunications regulatory body or bodies provide, upon request by a supplier of public telecommunications transport networks or services of another Party, a written explanation of any decision by a telecommunications regulatory body that affects the supplier of public telecommunications transport networks or services of the other Party, unless such explanation is otherwise publicly available.

Article 10
Transparency

Each Party shall endeavour to make information that the Party is required to publish or make publicly available

(b) 应另一方公共电信传输网络或服务受影响供应商的请求。

2. 根据第3条（过渡性安排），每一缔约方应确保另一缔约方的公共电信传输网络或服务供应商，在请求与该缔约方领土内获授权提供公共电信传输网络或服务的主要供应商进行共址或租赁电路服务时，有权向电信监管机构或竞争监管机构寻求解决与此类共址或租赁电路服务相关的问题，包括与条款、条件或费率相关的问题：

(a) 在合理期限内，按照已公布或以其他方式公开的程序；以及 (b) 应另一方公共电信传输网络或服务受影响供应商的请求。

3. 每一缔约方应确保其电信监管机构在另一方公共电信传输网络或服务供应商请求时，提供电信监管机构所作任何决定的书面解释，该决定影响另一方公共电信传输网络或服务供应商，除非此类解释已以其他方式公开。

第十条透明度

每一缔约方应努力将该缔约方根据本附件要求公布或向公众提供的信息

pursuant to this Annex available on the internet.

Article 11
Telecommunications Regulatory Body

1. Each Party shall establish or maintain, as part of its domestic legal framework, a telecommunications regulatory body.

2. Each Party shall ensure that every telecommunications regulatory body that it establishes or maintains is separate from, and not accountable to, any supplier of public telecommunications transport networks or services.

3. Each Party shall ensure that the functions and responsibilities of the telecommunications regulatory body or bodies, which shall include enforcement of the commitments set out in Article 6 (Interconnection), and all of its decision-making powers, shall be set out in the Party's domestic laws or regulations.

4. Each Party shall ensure that the decisions of, and the procedures used by, its telecommunications regulatory body or bodies are impartial with respect to all interested persons.

5. Each Party shall ensure that any supplier of public telecommunications transport networks or services of another Party that is aggrieved, or whose interests are adversely affected by a determination or decision of a telecommunications regulatory body of that Party, may obtain review of the determination or decision by an administrative, arbitral or judicial tribunal or authority or according to administrative, arbitral or judicial procedures. Where such procedures are not independent of the telecommunications regulatory body, the Party shall ensure that the procedures in fact provide for an objective and impartial review.

发布于互联网上。

第11条 电信监管机构

1. 每一缔约方应在其国内法律框架内设立或维持一个电信监管机构。

2. 每一缔约方应确保其设立或维持的每一个电信监管机构均独立于任何公共电信传输网络或服务供应商，且不对其负责。

3. 每一缔约方应确保电信监管机构的一项或多项职能和责任，包括执行第六条（互联互通）中规定的承诺，及其所有决策权，均在该缔约方的国内法律或法规中予以规定。

4. 每一缔约方应确保其电信监管机构的一项或多项决定及所使用的程序对所有利益相关方均公正无私。

5. 每一缔约方应确保，另一缔约方的公共电信传输网络或服务供应商如因该缔约方电信监管机构的决定或决定而受到侵害或其利益受到不利影响，可通过行政、仲裁或司法仲裁庭或当局或根据行政、仲裁或司法程序获得对该决定或决定的审议。如该等程序不独立于电信监管机构，该缔约方应确保该等程序实际上提供客观公正的审查。

Article 12
Universal Service

Each Party has the right to define the kind of universal service obligation it wishes to maintain. Such obligations, including any cross subsidisation policy set out under each Party's domestic laws, shall not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Party.

Article 13
Allocation and Use of Scarce Resources[4]

1. Each Party shall administer its procedures for the allocation and use of scarce resources, including frequencies and numbers, in an objective, timely, transparent and non-discriminatory manner.

2. Each Party shall publish or otherwise make publicly available the current state of allocated frequency bands.[5]

3. Parties are not required to publish identification of frequencies allocated for specific government uses, or to otherwise make them publicly available.

[4] Decisions on the allocation and assignment of spectrum and frequency management are not measures that are *per se* inconsistent with Article 4 (Market Access) of Chapter 8 (Trade in Services). Accordingly, each Party retains the ability to exercise its spectrum and frequency management policies, which may affect the number of service suppliers, provided that this is done in a manner that is consistent with this Chapter. Each Party also retains the right to allocate frequency bands taking into account existing and future needs.

[5] Parties are not required to publish information about the allocation of individual frequencies to specific licencees.

第12条 普遍服务

每一缔约方有权定义其希望维持的普遍服务义务类型。此类义务，包括根据每一缔约方国内法律规定的任何交叉补贴政策，只要以透明、非歧视性和竞争中性的方式实施，并且不超过该缔约方定义的普遍服务类型所必需的程度，不应被视为本身具有反竞争性。

第13条 稀缺资源的分配和使用[4]

1. 每一缔约方应以客观、及时、透明和非歧视的方式管理其稀缺资源（包括频率和号码）的分配和使用程序。

2. 每一缔约方应公布或以其他方式向公众提供已分配频段的当前状态。[5]

3. 缔约方无需公布为特定政府用途分配的频率标识，也无需以其他方式向公众提供此类信息。

[4] 关于频谱分配及频率管理的决定本身并不构成与第八章（服务贸易）第四条（市场准入）相抵触的措施。因此，只要符合本章规定，每一缔约方均保留实施其频谱和频率管理政策的权利，此类政策可能影响服务供应商的数量。缔约方还保留在考虑现有和未来需求的基础上分配频段的权利。[5] 缔约方无需公布向特定被许可人分配个别频率的信息。

APPENDIX ON TRANSITIONAL ARRANGEMENTS

Party	Article 4	Article 6	Article 7	Article 8	Article 9.2	Article 9.2
Brunei	Obligation to apply from 1 January 2009.	Obligation to apply from 1 January 2009.	Obligation to apply from 1 January 2009.	Obligation to apply from 1 January 2009.	Obligation to apply from 1 January 2009.	igation to apply n 1 January 2009.
Cambodia			Obligation to apply from no later than 3 years after the date of entry into force of this Agreement.	Obligation to apply from no later than 1 year from the date of entry into force of the law on Telecommunication. Cambodia shall endeavour to ensure that the Law on Telecommunication enters into force within 3 years of entry into force of this Agreement.	Obligation to apply from the date of application of Article 7 (for co-location) and 8 (for leased circuit services) respectively.	igation to apply n the date of lication of Article 7 co-location) and 8 leased circuit vices) pectively.
Laos	Obligation to apply from: (i) Three years after the date of Laos' accession to the WTO; or	Obligation to apply from: (i) Three years after the date of Laos' accession to the WTO; or	Obligation to apply from three years after the date of: (i) Laos' accession to the WTO; or (ii) entry into force of	Obligation to apply from three years after the date of: (i) Laos' accession to the WTO; or (ii) entry into force of	Obligation to apply from three years after the date of: (i) Laos' accession to the WTO; or (ii) entry into force of	igation to apply n three years after date of: Laos' accession to he WTO; or ntry into force of

Party	Article 4	Article 6	Article 7	Article 8	Article 9.2	Article 9.2
	(ii) three years after the date of entry into force of domestic legislation implementing this obligation; whichever is the earlier.	(ii) three years after the date of entry into force of domestic legislation implementing this obligation; whichever is the earlier.	domestic legislation implementing this obligation; whichever is the earlier.	domestic legislation implementing this obligation; whichever is the earlier.	domestic legislation implementing this obligation; whichever is the earlier.	domestic egislation mplementing this obligation; chever is the ier.
Myanmar	Obligation to apply from the date of completion of the review of current sector policy and regulatory arrangement allowing multi-telco participation in telecommunications services	Obligation to apply from the date of completion of the review of current sector policy and regulatory arrangement allowing multi-telco participation in telecommunications services	Obligation to apply from the date of completion of the review of current sector policy and regulatory arrange-ment allowing multi-telco participation in telecommunications services	Obligation to apply from the date of completion of the review of current sector policy and regulatory arrange-ment allowing multi-telco participation in telecommunications services	Obligation to apply from the date the new Telecommunications Law comes into force.	igation to apply n the date the new ecommunications / comes into force.

Party	Article 4	Article 6	Article 7	Article 8	Article 9.2	Article 9.2
Singapore	Commits to apply this Article upon the entry into force of this Agreement.	Commits to apply this Article on a reciprocal basis, i.e. Singapore will only give commitments relating to this Article to another Party, if and when the same commitments have been made by that Party.	Commits to apply this Article on a reciprocal basis, i.e. Singapore will only give commitments relating to this Article to another Party, if and when the same commitments have been made by that Party.	Commits to apply this Article on a reciprocal basis, i.e. Singapore will only give commitments relating to this Article to another Party, if and when the same commitments have been made by that Party.	Commits to apply this Article on a reciprocal basis, i.e. Singapore will only give commitments relating to this Article to another Party, if and when the same commitments have been made by that Party.	nmits to apply this cle on a reciprocal is, i.e. Singapore only give nmitments relating his Article to ther Party, if and en the same nmitments have n made by that ty.
Thailand[1]	Obligation to apply after the expiration of the last concession contract.	Obligation to apply after the expiration of the last concession contract.	Obligation to apply after the expiration of the last concession contract.	Obligation to apply after the expiration of the last concession contract.	Obligation to apply from the date of entry into force of this Agreement.	igation to apply n the date of entry force of this eement.
Viet Nam			To apply three years after these obligations are duly reflected in Viet Nam's domestic laws and regulations.	To apply three years after these obligations are duly reflected in Viet Nam's domestic laws and regulations.	To apply three years after these obligations are duly reflected in Viet Nam's domestic laws and regulations.	apply three years r these obligations duly reflected in : Nam's domestic s and regulations.

[1] The last concession contract will be expired in the year 2018.

CHAPTER 9

MOVEMENT OF NATURAL PERSONS

Article 1
Objectives

The objectives of this Chapter are to:

(a) provide for rights and obligations additional to those set out in Chapter 8 (Trade in Services) and Chapter 11 (Investment) in relation to the movement of natural persons between the Parties for business purposes;

(b) facilitate the movement of natural persons engaged in the conduct of trade and investment between the Parties;

(c) establish streamlined and transparent procedures for applications for immigration formalities for the temporary entry of natural persons to whom this Chapter applies; and

(d) protect the integrity of the Parties' borders and protect the domestic labour force and permanent employment in the territories of the Parties.

Article 2
Scope

1. This Chapter shall apply, as set out in each Party's schedule of specific commitments in Annex 4 (Schedules of Movement of Natural Persons Commitments), to measures affecting the temporary entry of natural persons of a Party into the territory of another Party. Such persons may include:

(a) business visitors;

第九章

自然人流动

第一条
目标

本章的目标是：

(a) 在第八章（服务贸易）和第11章（投资）的基础上，为缔约方之间出于商业目的的自然人流动提供额外的权利和义务；(b) 便利从事缔约方之间贸易和投资经营的自然人流动；(c) 为适用于本章的自然人临时入境申请移民手续建立简化和透明的程序；以及(d) 保护缔约方边境的完整性，并保护缔约方领土内的国内劳动力和永久就业。

第2条 范
围

1. 本章应适用于影响一缔约方的自然人临时入境另一方领土的措施，如附件4（自然人流动承诺表）中各缔约方具体承诺表所规定。此类人员可包括：

(a) 商务访问者；

(b) installers and servicers;

(c) executives of a business headquartered in a Party establishing a branch or subsidiary, or other commercial presence of that business in another Party;

(d) intra-corporate transferees; or

(e) contractual service suppliers.

2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of another Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

Article 3
Definitions

For the purposes of this Chapter:

(a) **granting Party** means a Party who receives an application for temporary entry from a natural person of another Party who is covered by Article 2.1 (Scope);

(b) **immigration formality** means a visa, permit, pass or other document or electronic authority granting a natural person of one Party the right to enter, reside or work or establish commercial presence in the territory of the granting Party;

(c) **natural person of a Party** means a natural person of a Party as defined in Article 2(j) (Definitions) of Chapter 8 (Trade in Services); and

(b) 安装和服务人员； (c) 企业高管总部设在一缔约方，在该缔约方设立分支机构或子公司，或该企业在另一缔约方的其他商业存在； (d) 公司内部调任人员；或 (e) 合同服务供应商。

2. 本章不适用于影响寻求进入另一缔约方就业市场的自然人的措施，也不适用于有关公民身份、居留或永久性就业的措施。

第三条
定义

就本章而言：

(a) 许可方指收到受第二条第一款（范围）约束的另一缔约方自然人临时入境申请的缔约方；(b) 移民手续指签证、许可证、通行证或其他文件或电子授权，授予一缔约方自然人进入许可方领土、居留、工作或建立商业存在的权利；(c) 一缔约方的自然人指第八章（服务贸易）第二条(j)款（定义）中所定义的缔约方自然人；

(d) **temporary entry** means entry by a natural person covered by this Chapter, without the intent to establish permanent residence.

Article 4
Grant of Temporary Entry

1. Each Party shall, in accordance with that Party's schedule of specific commitments in Annex 4 (Schedules of Movement of Natural Persons Commitments), grant temporary entry or extension of temporary stay in accordance with this Chapter to natural persons of another Party provided those natural persons:

(a) follow prescribed application procedures for the immigration formality sought; and

(b) meet all relevant eligibility requirements for entry to the granting Party.

2. Any fees imposed in respect of the processing of an immigration formality shall be reasonable and in accordance with domestic law.

3. A Party may deny temporary entry or extension of temporary stay to natural persons of another Party that do not comply with Paragraph 1(a) and (b).

Article 5
Schedules of Commitments for the Entry and Temporary Stay of Natural Persons

Each Party shall set out in Annex 4 (Schedules of Movement of Natural Persons Commitments) a schedule containing its commitments for the temporary entry and stay in its territory of natural persons of another Party covered by Article 2.1 (Scope). These schedules shall specify the conditions and limitations governing those commitments, including the

(d) 临时入境指受本章约束的自然人无意建立永久居留的入境行为。

第4条 临时入境的授予

1. 每一缔约方应根据该缔约方在附件4（自然人流动承诺表）中的具体承诺，依照本章规定，对另一缔约方的自然人授予临时入境或临时停留延期，前提是这些自然人：

(a) 遵循所申请的移民手续的既定申请程序；且 (b) 满足许可方关于入境的所有相关资格要求。

2. 移民手续办理过程中收取的任何费用应合理且符合国内法。

3. 对于未遵守第1款(a)项和(b)项的另一缔约方自然人，缔约方可拒绝其临时入境或临时停留延期。

第5条 自然人入境和临时停留承诺表

每一缔约方应在附件4（自然人流动承诺表）中列出一份承诺表，包含其对第二条第一款（范围）所涵盖的另一缔约方自然人临时入境和停留的承诺。这些承诺表应详细说明管理这些承诺的条件和限制，包括

length of stay, for each category of natural persons included in each Party's schedule of commitments.

Article 6
Processing of Applications

1. Where an application for an immigration formality is required by a Party, that Party shall process promptly complete applications for immigration formalities or extensions thereof received from natural persons of another Party covered by Article 2.1 (Scope).

2. Each Party shall, upon request and within a reasonable period after receiving a complete application for an immigration formality from a natural person of another Party covered by Article 2.1 (Scope), notify the applicant of:

(a) the receipt of the application;

(b) the status of the application; and

(c) the decision concerning the application including, if approved, the period of stay and other conditions.

Article 7
Immigration Measures

1. Nothing in this Chapter, Chapter 8 (Trade in Services) or Chapter 11 (Investment) shall prevent a Party from applying measures to regulate the entry of natural persons of another Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to another Party under this Chapter or to unduly impair or delay trade in goods or services or the conduct of investment activities under this Agreement.

停留期限，针对每一缔约方承诺表中包含的每一类自然人。

第六条 申请的处理

1. 如一缔约方要求办理移民手续需提交申请，则该缔约方应迅速处理根据第二条第一款（范围）所涵盖的另一缔约方自然人提交的完整的移民手续或其延期申请。

2. 每一缔约方应在收到根据第二条第一款（范围）所涵盖的另一缔约方自然人提交的完整的移民手续申请后，经请求并在合理期限内通知申请人以下事项：

(a) 申请的接收情况；(b) 申请的状态；及(c) 关于申请的决定，包括如获批准时的停留期限及其他条件。

第七条 移民措施

1. 本章、第八章（服务贸易）或第11章（投资）中的任何规定，均不得阻止一缔约方采取规范另一缔约方自然人进入其领土或在其领土内临时停留的措施，包括为保护其边境完整性及确保自然人有序流动所必需的措施，前提是此类措施的实施方式不得取消或损害另一缔约方在本章项下获得的利益，或不当损害或延迟本协定项下的货物或服务贸易或投资活动的经营。

2. The sole fact of requiring persons to meet eligibility requirements prior to entry to a Party shall not be regarded as nullifying or impairing benefits accruing to another Party under this Chapter, or of unduly impairing or delaying trade in goods or services or the conduct of investment activities under this Agreement.

Article 8
Transparency

Each Party shall:

(a) publish or otherwise make publicly available explanatory material on all relevant immigration formalities which pertain to or affect the operation of this Chapter;

(b) no later than six months after the date of entry into force of this Agreement publish, such as on its immigration website, or otherwise make publicly available in its own territory and to persons in the territory of the other Parties, the requirements for temporary entry under this Chapter, including explanatory material and relevant forms and documents that will enable natural persons of other Parties to become acquainted with those requirements; and

(c) upon modifying or amending any immigration measure that affects the temporary entry of natural persons, ensure that the information published or otherwise made available pursuant to Subparagraph (b) is updated as soon as possible within 90 days.

2. 仅因要求人员在进入一缔约方领土前满足资格要求这一事实，不得视为取消或损害另一缔约方在本章项下获得的利益，或不当损害或延迟本协定项下的货物或服务贸易或投资活动的经营。

第8条 透明度

每一缔约方应：

(a) 公布或以其他方式向公众提供与本章相关的所有移民手续的解释性材料；(b) 在本协定生效后不迟于六个月，在其移民网站等渠道公布，或以其他方式在其领土内及其他缔约方领土内的自然人可获取的方式，提供本章规定的临时入境要求，包括解释性材料及相关表格和文件，以使其他缔约方的自然人了解这些要求；及(c) 在修改或修订任何移民

影响自然人临时入境的措施，确保根据第(b)项公布或以其他方式提供的信息在90个日历日内尽快更新。

Article 9
Application of Chapter 17 (Consultations and Dispute Settlement)

1. The Parties shall endeavour to settle any differences arising out of the implementation of this Chapter through consultations.

2. A Party shall not have recourse to Chapter 17 (Consultations and Dispute Settlement) regarding a refusal to grant temporary entry under this Chapter unless:

(a) the matter involves a pattern of practice on the part of the granting Party; and

(b) the natural persons affected have exhausted all available domestic remedies regarding the particular matters.

第9条 第17章（磋商与争端解决）的申请

1. 各方应努力通过磋商解决因本章的实施而产生的任何分歧。

2. 缔约方不得就本章项下拒绝临时入境事宜诉诸第17章（磋商与争端解决），除非：

(a) 该事项涉及许可方的惯例模式；且 (b) 受影响的自然人已就该特定事项穷尽所有可用的国内救济措施。

CHAPTER 10

ELECTRONIC COMMERCE

Article 1
Objectives

The objectives of this Chapter are to:

(a) promote electronic commerce among the Parties;

(b) enhance co-operation among the Parties regarding development of electronic commerce; and

(c) promote the wider use of electronic commerce globally.

Article 2
Definitions

For the purposes of this Chapter:

(a) **digital certificates** are electronic documents or files that are issued or otherwise linked to a participant in an electronic communication or transaction for the purpose of establishing the participant's identity;

(b) **electronic authentication** means the process of testing an electronic statement or claim, in order to establish a level of confidence in the statement's or claim's reliability;

(c) **electronic signature** has for each Party the meaning set out in its domestic laws and regulations;

第十章

电子商务

第一条
目标

本章的目标是：

(a) 促进缔约方之间的电子商务；(b) 加强缔约方在电子商务发展方面的合作；以及(c) 促进全球范围内更广泛地使用电子商务。

第二条
定义

就本章而言：

(a) 数字证书是为确立电子通信或交易中参与方的身份而向其签发或关联的电子文档或文件；(b) 电子认证指为确立对电子声明或索赔可靠性的信任程度而对其进行测试的过程；(c) 电子签名对每一缔约方具有其国内法律法规规定的含义；

(d) **electronic version** of a document means a document in electronic format prescribed by a Party, including a document sent by facsimile transmission;

(e) **trade administration documents** means forms issued or controlled by a Party which must be completed by or for an importer or exporter in relation to the import or export of goods; and

(f) **UNCITRAL** refers to the United Nations Commission on International Trade Law.

Article 3
Transparency

1. Each Party shall publish as promptly as possible or, where that is not practicable, otherwise make publicly available all relevant measures of general application pertaining to or affecting the operation of this Chapter.

2. Each Party shall respond as promptly as possible to relevant requests by another Party for specific information on any of its measures of general application pertaining to or affecting the operation of this Chapter.

Article 4
Domestic Regulatory Frameworks

Each Party shall maintain, or adopt as soon as practicable, domestic laws and regulations governing electronic transactions taking into account the UNCITRAL Model Law on Electronic Commerce 1996.

(d) 文件的电子版本指
缔约方规定的电子格式文件，包括通过传真传输发送的文件；

(e) 贸易管理文件指由缔约方签发或控制的表格
进口商或出口商或其代理人在货物进出口时必须填写的文件；及

(f) UNCITRAL指联合国国际贸易法委员会。

第三条 透明度

1. 每一缔约方应尽快公布或以其他方式公开提供与本章运营相关或影响本章运营的所有普遍适用的措施。

2. 每一缔约方应尽快回应另一缔约方关于其普遍适用的、涉及或影响本章运营的措施的具体信息的请求。

第4条 国内监管框架

每一缔约方应维持或尽快制定规范电子交易的国内法律法规，同时考虑1996年联合国国际贸易法委员会电子商务示范法。

Article 5
Electronic Authentication and Digital Certificates

1. Each Party shall maintain, or adopt as soon as practicable, measures based on international norms for electronic authentication that:

(a) permit participants in electronic transactions to determine the appropriate authentication technologies and implementation models for their electronic transactions;

(b) do not limit the recognition of authentication technologies and implementation models; and

(c) permit participants in electronic transactions to have the opportunity to prove that their electronic transactions comply with the Party's domestic laws and regulations.

2. The Parties shall, where possible, endeavour to work towards the mutual recognition of digital certificates and electronic signatures that are issued or recognised by governments based on internationally accepted standards.

3. The Parties shall encourage the interoperability of digital certificates used by business.

Article 6
Online Consumer Protection

1. Subject to Paragraph 2, each Party shall, where possible, provide protection for consumers using electronic commerce that is at least equivalent to that provided for consumers of other forms of commerce under its relevant laws, regulations and policies.

第5条 电子认证与数字证书

1. 每一缔约方应维持或尽快制定基于电子认证国际规范的下列措施:

(a) 允许电子交易的参与者为其电子交易确定适当的认证技术和实施模式；(b) 不限制对认证技术和实施模式的认可；以及(c) 允许电子交易的参与者有机会证明其电子交易符合缔约方的国内法律法规。

2. 各方应尽可能努力推动对基于国际公认标准由政府签发或认可的数字证书和电子签名的相互认可。

3. 各方应鼓励商业使用的数字证书的互操作性。

第六条 在线消费者保护

1. 在遵守第二段的前提下，每一缔约方应在可能的情况下，根据其相关法律法规和政策，为使用电子商务的消费者提供至少等效于其他形式商业消费者的保护。

2. A Party shall not be obliged to apply Paragraph 1 before the date on which that Party enacts domestic laws or regulations or adopts policies on protection for consumers using electronic commerce.

Article 7
Online Data Protection

1. Subject to Paragraph 2, each Party shall, in a manner it considers appropriate, protect the personal data of the users of electronic commerce.

2. A Party shall not be obliged to apply Paragraph 1 before the date on which that Party enacts domestic laws or regulations to protect the personal data of electronic commerce users.

3. In the development of data protection standards, each Party shall consider the international standards and criteria of relevant international organisations.

Article 8
Paperless Trading

1. Each Party shall, where possible, work towards the implementation of initiatives which provide for the use of paperless trading.

2. The Parties shall co-operate in international fora to enhance acceptance of electronic versions of trade administration documents.

3. In working towards the implementation of initiatives which provide for the use of paperless trading, each Party shall take into account the methods agreed by international organisations including the World Customs Organization.

2. 缔约方无义务在该缔约方颁布关于使用电子商务的消费者保护的国内法律或法规或通过相关政策之前适用第1款。

第七条 在线数据保护

1. 在遵守第二段的前提下，每一缔约方应以其认为适当的方式保护电子商务用户的个人数据。

2. 缔约方在颁布保护电子商务用户个人数据的国内法律或法规之前，无义务适用第1款。

3. 在制定数据保护标准时，每一缔约方应考虑相关国际组织的国际标准和准则。

第8条 无纸化贸易

1. 每一缔约方应在可能的情况下，致力于实施提倡使用无纸化贸易的倡议。

2. 缔约方应在国际论坛中合作，以提高对贸易管理文件电子版本的接受度。

3. 在努力推进提供无纸化贸易使用的倡议的实施时，每一缔约方应考虑世界海关组织等国际组织商定的方法。

4. Each Party shall endeavour to make electronic versions of its trade administration documents publicly available.

Article 9
Co-operation on Electronic Commerce

1. Recognising the global nature of electronic commerce, the Parties shall encourage co-operation in research and training activities that would enhance the development of electronic commerce. These co-operative research and training activities may include, but are not limited to:

(a) promotion of the use of electronic versions of trade administration documents used by any other Party or Parties;

(b) assisting small and medium enterprises to overcome obstacles encountered in the use of electronic commerce;

(c) sharing information and experiences and identifying best practices in relation to domestic legal and policy frameworks in the sphere of electronic commerce, including those related to data protection, privacy, consumer confidence, cyber-security, unsolicited electronic mail, electronic signatures, intellectual property rights, and electronic government;

(d) encouraging co-operative activities to promote electronic commerce including those that would improve the effectiveness and efficiency of electronic commerce;

(e) exploring ways in which a developed Party or Parties could provide assistance to the developing Parties in implementing an electronic commerce legal framework;

4. 每一缔约方应努力使其贸易管理文件的电子版本可供公众使用。

第9条 电子商务合作

1. 鉴于电子商务的全球性，缔约方应鼓励开展研究与培训活动以促进电子商务发展的合作。此类合作研究与培训活动可包括但不限于：

(a) 促进使用任何其他缔约方使用的贸易管理文件的电子版本；(b) 协助中小企业克服在使用电子商务中遇到的障碍；(c) 分享信息和经验，并确定与电子商务领域国内法律与政策框架相关的最佳实践，包括与数据保护、隐私、消费者信心、网络安全、未经请求的电子邮件、电子签名、知识产权和电子政务相关的框架；(d) 鼓励促进电子商务的合作活动，包括那些可以提高电子商务有效性和效率的活动；(e) 探索发达缔约方如何可以向发展中缔约方提供实施电子商务法律框架的援助；

(f) encouraging co-operation between the relevant authorities to facilitate prompt investigation and resolution of fraudulent incidents relating to electronic commerce transactions;

(g) encouraging development by the private sector of methods of self-regulation, including codes of conduct, model contracts, guidelines, and enforcement mechanisms, that foster electronic commerce; and

(h) actively participating in regional and multilateral fora to promote development of electronic commerce.

2. The Parties shall endeavour to undertake forms of co-operation that build on and do not duplicate existing co-operation initiatives pursued in international fora.

Article 10
Non-Application of Chapter 17 (Consultations and Dispute Settlement)

Chapter 17 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.

(f) 鼓励相关当局之间的合作，以促进对电子商务交易相关欺诈事件的迅速调查和解决；(g) 鼓励私营部门制定自我监管方法，包括行为准则、示范合同、指南和执行机制，以促进电子商务；以及(h) 积极参与区域和多边论坛，以促进电子商务的发展。

2. 各方应努力开展以现有国际论坛中推进的合作倡议为基础且不重复的合作形式。

第10条 第17章（磋商与争端解决）的不适用

第17章（磋商与争端解决）不适用于本章产生的事项。

CHAPTER 11

INVESTMENT

SECTION A

Article 1
Scope

1. This Chapter shall apply to measures adopted or maintained by a Party relating to:

(a) investors of any other Party; and

(b) covered investments.

2. This Chapter shall not apply to:

(a) government procurement;

(b) subsidies or grants provided by a Party; and

(c) services supplied in the exercise of governmental authority by the relevant body or authority of a Party. For the purposes of this Chapter, a service supplied in the exercise of governmental authority means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers.

Article 2
Definitions

For the purposes of this Chapter:

(a) **covered investment** means with respect to a Party, an investment in its territory of an investor of another Party, in existence as of the date of

第11章

投资

A节

第一条 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) 任何其他缔约方的投资者；及 (b) 涵盖投资。

2. 本章不适用于：

(a) 政府采购；(b) 缔约方提供的补贴或赠款；以及(c) 缔约方相关机构或当局在行使政府职权时提供的服务。就本章而言，行使政府职权时提供的服务系指既非在商业基础上提供，亦非与一个或多个服务供应商竞争的服务。

第二条 定义

就本章而言：

(a) 涵盖投资 就一缔约方而言，指另一缔约方投资者在其领土内的投资，于

entry into force of this Agreement or established, acquired or expanded thereafter, and which, where applicable, has been admitted[1] by the host Party, subject to its relevant laws, regulations and policies;

(b) **freely usable currency** means a freely usable currency as determined by the International Monetary Fund in accordance with the IMF Articles of Agreement and any amendments thereto;

(c) **investment**[2] means every kind of asset owned or controlled by an investor, including but not limited to the following:

(i) movable and immovable property and other property rights such as mortgages, liens or pledges;

(ii) shares, stocks, bonds and debentures and any other forms of participation in a juridical person and rights derived therefrom;

(iii) intellectual property rights which are recognised pursuant to the laws and regulations of each Party and goodwill;

[1] For greater certainty:
(a) in the case of Thailand, protection under this Chapter shall be accorded to covered investments which have been specifically approved in writing for protection by the competent authorities;
(b) in the case of Viet Nam, "has been admitted" means "has been specifically registered or approved in writing, as the case may be".

[2] The term "investment" does not include an order or judgment entered in a judicial or administrative action.

本协定生效之日已存在或之后设立、收购或扩展，且经东道国根据其相关法律法规和政策[1] 批准（如适用）；

(b) 自由使用货币指国际货币基金组织根据《国际货币基金组织协定条款》及其任何修正案所确定的自由使用货币；

(c) 投资[2] 指投资者拥有或控制的各类资产，包括但不限于以下各项：

(i) 动产和不动产及抵押、留置权或质押等其他财产权；(ii) 股份、股票、债券和公司债券及参与法人的任何其他形式及由此产生的权利；(iii) 根据每一缔约方法律法规认可的知识产权及商誉；

[1] 为进一步明确：(a) 就泰国而言，本章的保护应适用于已由主管机关书面特别批准予以保护的涵盖投资；(b) 就越南而言，"已获准入"指"视情况已进行特别登记或书面批准"。

[2] "投资"一词不包括在司法或行政行为中作出的命令或判决。

(iv) claims to money or to any contractual performance related to a business and having financial value[3];

(v) rights under contracts, including turnkey, construction, management, production or revenue-sharing contracts; and

(vi) business concessions required to conduct economic activity and having financial value conferred by law or under a contract, including any concession to search for, cultivate, extract or exploit natural resources.

For the purpose of the definition of investment in this Article, returns that are invested shall be treated as investments and any alteration of the form in which assets are invested or reinvested shall not affect their character as investments;

(d) **investor of a Party** means a natural person of a Party or a juridical person of a Party that seeks to make[4], is making, or has made an investment in the territory of another Party;

(e) **juridical person** means any entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise,

[3] For greater certainty, investment does not mean claims to money that arise solely from:
(a) commercial contracts for sale of goods or services; or
(b) the extension of credit in connection with such commercial contracts.

[4] For greater certainty, the Parties understand that an investor that "seeks to make" an investment refers to an investor of another Party that has taken active steps to make an investment. Where a notification or approval process is required for making an investment, an investor that "seeks to make" an investment refers to an investor of another Party that has initiated such notification or approval process.

(iv) 货币索赔或与商业相关且具有财务价值的任何合同履行[3]；

(v) 合同权利，包括交钥匙、建设、管理、生产或收入分成合同；以及

(vi) 为开展经济活动且具有法律或合同赋予的财务价值所需的商业特许权，包括勘探、种植、开采或开发自然资源的任何特许权。

就本条款中投资定义而言，被投资的收益应视为投资，且资产投资或再投资形式的任何修改均不影响其作为投资的性质；

(d) 一缔约方的投资者指寻求在另一方的领土内进行[4]，正在或已经进行投资的一缔约方的自然人或法人；

(e) 法人指根据适用法律正式组建或以其他方式组织的任何实体，无论是否以利润为目的，

[3] 为进一步明确，投资不包括仅因以下原因产生的货币索赔：(a) 商品销售或服务的商业合同；或 (b) 与此类商业合同相关的信贷扩展。

[4] 为进一步明确，各方理解"寻求进行"投资的投资者指已采取积极措施进行投资的另一方的投资者。若投资需经通知或批准程序，"寻求进行"投资的投资者指已启动此类通知或批准程序的另一方的投资者。

and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship, association or similar organisation;

且无论私人所有或政府所有，包括任何公司、信托、合伙、合资企业、独资企业、协会或类似组织；

(f) **juridical person of a Party** means a juridical person constituted or organised under the law of that Party;

(f) 一缔约方的法人是指根据该缔约方的法律组建或组织的法人；

(g) **measure** means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

(g) 措施指一缔约方采取的任何措施，无论其形式为法律、法规、规则、程序、决定、行政行为还是其他任何形式；

(h) **measures by a Party** includes measures taken by:

(h) 缔约方的措施包括由

(i) central, regional, or local governments and authorities; and

(ii) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities;

by:

(i) 中央、地区或地方政府和当局；及(ii) 非政府机构在行使中央、地区或地方政府或当局授予的权力时采取的措施；(i) 一缔约方的自然人指根据该缔约方的法律法规，拥有其国籍或公民身份，或永久居留权的任何自然人；及(j) 收益指由投资产生或获得的金额，包括利润、股息、利息、资本收益、特许权使用费及所有其他合法收入。

(i) **natural person of a Party** means any natural person possessing the nationality or citizenship of, or right of permanent residence in that Party in accordance with its laws and regulations; and

(j) **return** means an amount yielded by or derived from an investment, including profits, dividends, interest, capital gains, royalties and all other lawful income.

Article 3
Relation to other Chapters

第三条 与其他章节的关系

1. This Chapter does not apply to measures adopted or maintained by a Party to the extent that they are covered by

1. 本章不适用于缔约方采取或维持的措施，只要这些措施属于

Chapter 8 (Trade in Services) or Chapter 9 (Movement of Natural Persons).

2. Notwithstanding Paragraph 1, Article 6 (Treatment of Investment), Article 7 (Compensation for Losses), Article 8 (Transfers), Article 9 (Expropriation and Compensation), Article 10 (Subrogation) and Section B (Investment Disputes between a Party and an Investor) shall apply, *mutatis mutandis*, to any measure affecting the supply of service by a service supplier of a Party through commercial presence in the territory of any one of the other Parties pursuant to Chapter 8 (Trade in Services), but only to the extent that any such measures relate to a covered investment and an obligation under this Chapter, regardless of whether such a service sector is scheduled in a Party's schedule of specific services commitments in Annex 3 (Schedules of Specific Services Commitments).

Article 4
National Treatment[5]

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

Article 5
Prohibition of Performance Requirements

No Party shall apply in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment of an investor of a Party in its territory any measure which is inconsistent with the *Agreement on Trade-Related Investment Measures* in Annex 1A to the WTO Agreement.

[5] The application of this Article is subject to Article 16 (Work Programme).

第八章（服务贸易）或第9章（自然人流动）的范畴。

2. 尽管有第1款的规定，第六条（投资待遇）、第七条（损失补偿）、第8条（转移）、第9条（征收与补偿）、第十条（代位）以及B节（缔约方与投资者之间的投资争端）应经必要修改后适用于任何影响一方服务提供者通过商业存在于其他任何一方领土内依据第八章（服务贸易）提供服务之措施，但仅限于此类措施与涵盖投资及本章项下义务相关的情形，无论该服务部门是否列入一方的附件3（具体服务承诺表）中的具体服务承诺表。

第四条国民待遇[5]

每一缔约方在投资的设立、收购、扩展、管理、经营、运营、清算、出售、转让或其他处置方面，应给予另一缔约方投资者及其涵盖投资不低于在类似情形下给予其本国投资者及其投资的待遇。

第五条禁止业绩要求

任何缔约方不得在其领土内，就另一缔约方投资者的投资的设立、收购、扩展、管理、经营、运营或出售或其他处置，采取任何与《世界贸易组织协定附件1A》中《与贸易有关的投资措施协定》不一致的措施。

[5] 本条款的申请须遵守第十六条（工作计划）。

Article 6
Treatment of Investment

1. Each Party shall accord to covered investments fair and equitable treatment and full protection and security.

2. For greater certainty[6]:

(a) fair and equitable treatment requires each Party not to deny justice in any legal or administrative proceedings;

(b) full protection and security requires each Party to take such measures as may be reasonably necessary to ensure the protection and security of the covered investment; and

(c) the concepts of "fair and equitable treatment" and "full protection and security" do not require treatment in addition to or beyond that which is required under customary international law, and do not create additional substantive rights.

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 7
Compensation for Losses

Each Party shall accord to investors of another Party, and to covered investments, with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict, civil strife or state of

[6] In the case of Indonesia, only Paragraph 2(a) and (b) shall apply where Indonesia is the Party according treatment under this Article.

第六条 投资待遇

1. 每一缔约方应给予涵盖投资公平公正待遇和充分保护与安全。

2. 为进一步明确[6]:

(a) 公平公正待遇要求每一缔约方不得在任何法律或行政程序中拒绝司法；(b) 充分保护与安全要求每一缔约方采取合理必要措施确保涵盖投资的保护与安全；以及(c) "公平公正待遇"和"充分保护与安全"的概念不要求超出国际习惯法所要求的待遇，也不创设额外的实质性权利。

3. 判定违反本协定其他条款或单独国际协定的行为，并不构成对本条的违反。

第七条 损失补偿

每一缔约方应就武装冲突、内乱或紧急状态导致的其领土内投资损失所采取或维持的措施，给予另一缔约方投资者及涵盖投资不低于其在类似情况下给予以下对象的待遇:

[6] 在印度尼西亚作为本条款下给予待遇的缔约方时，仅适用第2款(a)和(b)项。

emergency, treatment no less favourable than that it accords, in like circumstances, to:

(a) its own investors and their investments; and

(b) investors of any other Party or non-Party and their investments.

Article 8
Transfers

1. Each Party shall allow 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, including the initial contribution;

(b) profits, capital gains, dividends, royalties, licence fees, technical assistance and technical and management fees, interest and other current income accruing from any covered investment;

(c) proceeds from the total or partial sale or liquidation of any covered investment;

(d) payments made under a contract, including a loan agreement;

(e) payments made pursuant to Article 7 (Compensation for Losses) and Article 9 (Expropriation and Compensation);

(f) payments arising out of the settlement of a dispute by any means including adjudication, arbitration or the agreement of the parties to the dispute; and

紧急情况，不低于其在类似情况下给予的待遇

(a) 其自身的投资者及其投资；以及 (b) 任何其他缔约方或非缔约方的投资者及其投资。

第8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，包括初始出资；(b) 利润、资本收益、股息、特许权使用费、许可费、技术援助以及技术和管理费、利息和任何涵盖投资所产生的其他当前收入；(c) 任何涵盖投资全部或部分出售或清算的收益；(d) 根据合同（包括贷款协议）支付的款项；(e) 根据第七条（损失补偿）和第9条（征收与补偿）支付的款项；(f) 通过任何方式（包括裁决、仲裁或争议各方的协议）解决争端所产生的付款；以及

(g) earnings and other remuneration of personnel engaged from abroad in connection with that investment.

2. Each Party shall allow such transfers relating to a covered investment to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.

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

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

(b) issuing, trading, or dealing in securities, futures, options, or derivatives;

(c) criminal or penal offences and the recovery of the proceeds of crime;

(d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;

(e) ensuring compliance with orders or judgments in judicial or administrative proceedings;

(f) taxation;

(g) social security, public retirement, or compulsory savings schemes; and

(h) severance entitlements of employees.

4. Nothing in this Chapter shall affect the rights and obligations of each Party as a member of the International Monetary Fund under the IMF Articles of Agreement,

(g) 与该投资相关的外籍人员的收入和其他报酬。

2. 每一缔约方应允许与涵盖投资相关的此类转让以自由使用货币按转让时的现行市场汇率进行。

3. 尽管有第1款和第2款规定，缔约方仍可通过公平、非歧视且善意地适用以下法律法规来阻止或延迟转让：

(a) 破产、资不抵债或债权人权利保护；(b) 证券、期货、期权或衍生品的发行、交易或买卖；(c) 刑事犯罪及犯罪所得追缴；(d) 为协助执法或金融监管机构而必要的转让财务报告或记录保存；(e) 确保遵守司法或行政诉讼中的命令或判决；(f) 税收；(g) 社会保障、公共退休金或强制储蓄计划；及(h) 员工的遣散费。

4. 本章的任何规定均不影响每一缔约方作为国际货币基金组织成员根据《国际货币基金组织协定条款》所享有的权利和义务，

including the use of exchange actions which are in conformity with the IMF Articles of Agreement, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its specific commitments under this Chapter regarding such transactions, except under Article 4 (Measures to Safeguard the Balance of Payments) of Chapter 15 (General Provisions and Exceptions) or at the request of the International Monetary Fund.

Article 9
Expropriation and Compensation[7]

1. A Party shall not expropriate or nationalise a covered investment either directly or through measures equivalent to expropriation or nationalisation (expropriation), except:

(a) for a public purpose[8];

(b) in a non-discriminatory manner;

(c) on payment of prompt, adequate, and effective compensation; and

(d) in accordance with due process of law.

2. The compensation referred to in Paragraph 1(c) shall:

(a) be paid without delay[9];

[7] This Article shall be interpreted in accordance with this Chapter's Annex on Expropriation and Compensation.

[8] For the avoidance of doubt, where Malaysia is the expropriating Party, any measure of expropriation relating to land shall be for the purposes as set out in the domestic laws and regulations relating to land acquisition.

[9] The Parties understand that there may be legal and administrative processes that need to be observed before payment can be made.

包括使用符合《国际货币基金组织协定条款》的汇兑行动，但一缔约方不得对任何资本交易施加与其在本章中关于此类交易的具体承诺不一致的限制措施，除非根据第15章（一般规定和例外）第4条（保障国际收支平衡的措施）或应国际货币基金组织的要求。

第9条 征收与补偿[7]

1. 缔约方不得直接或通过等同于征收或国有化的措施（征收）对涵盖投资实施征收或国有化，除非：

(a) 出于公共目的[8]；(b) 以非歧视性方式；(c) 支付迅速、充分和有效的补偿；且 (d) 依照法律正当程序。

2. 第1款(c)项所述的补偿应：

(a) 无延迟支付[9]；

[7] 本条应依照本章的征收与补偿附件进行解释。[8] 为避免疑义，当马来西亚作为征收缔约方时，任何与土地相关的征用措施应符合国内法律法规中关于土地征用的规定目的。[9] 缔约方理解，在支付补偿前可能需要遵循法律和行政程序。

(b) be equivalent to the fair market value of the expropriated investment at the time when or immediately before the expropriation was publicly announced[10], or when the expropriation occurred, whichever is applicable;

(c) not reflect any change in value because the intended expropriation had become known earlier; and

(d) be effectively realisable and freely transferable between the territories of the Parties.

3. The compensation referred to in Paragraph 1(c) shall include appropriate interest. The compensation, including any accrued interest, shall be payable either in the currency of the expropriating Party, or if requested by the investor, in a freely usable currency.

4. If an investor requests payment in a freely useable currency, the compensation referred to in Paragraph 1(c), including any accrued interest, shall be converted into the currency of payment at the market rate of exchange prevailing on the date of payment.

5. This Article does not apply to the issuance of compulsory licences granted in relation to intellectual property rights in accordance with the TRIPS Agreement.

6. Notwithstanding Paragraphs 1 to 4, in the case where Singapore or Viet Nam is the expropriating Party, any measure of expropriation relating to land, which shall be as defined in the existing domestic legislation of the expropriating Party on the date of entry into force of this Agreement, shall be for a purpose and upon payment of compensation made in accordance with the aforesaid

[10] In the case of the Philippines, the time when or immediately before the expropriation was publicly announced refers to the date of filing of the Petition for Expropriation.

(b) 等效于被征用投资在征收公开宣布[10]，时或征收发生时的公平市场价值，以适用者为准；(c) 不反映因预期征收提前知晓而导致的任何价值变化；且 (d) 可有效实现并在缔约方领土之间自由转让。

3. 第1款(c)项所指的补偿应包括适当利息。补偿金（含任何应计利息）应以征用方货币支付，或应投资者请求以自由使用货币支付。

4. 若投资者请求以自由使用货币支付，则第1款(c)项所指补偿金（含任何应计利息）应按支付日期的市场汇率折算为支付货币。

5. 本条款不适用于根据《与贸易有关的知识产权协定》授予的知识产权强制许可。

6. 尽管有第1至4款的规定，在新加坡或越南作为征收缔约方的情况下，任何与土地相关的征用措施（土地的定义应遵循征收缔约方在本协定生效之日现行国内立法中的规定），应出于特定目的，并按照上述立法支付补偿。

[10] 就菲律宾而言，征收公开宣布时或紧接之前的时间系指提交征用申请书的日期。

legislation. Such compensation shall be subject to any subsequent amendments to the aforesaid legislation relating to the amount of compensation where such amendments follow the general trends in the market value of the land.

Article 10
Subrogation

1. If a Party or an agency of a Party makes a payment to an investor of that Party under a guarantee, a contract of insurance or other form of indemnity it has granted on non-commercial risk in respect of an investment, the other Party shall recognise the subrogation or transfer of any right or claim in respect of such investment. The subrogated or transferred right or claim shall not be greater than the original right or claim of the investor.

2. Where a Party or an agency of a Party has made a payment to an investor of that Party and has taken over rights and claims of the investor, that investor shall not, unless authorised to act on behalf of the Party or the agency making the payment, pursue those rights and claims against the other Party.

3. In any proceeding involving an investment dispute, a Party shall not assert, as a defence, counter-claim, right of set-off or otherwise, that the investor or the covered investment has received or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of any alleged loss.

Article 11
Denial of Benefits

1. Following notification, a Party may deny the benefits of this Chapter:

(a) to an investor of another Party that is a juridical person of such other Party and to investments of

此类补偿应遵循上述立法中关于补偿金额的任何后续修正案，前提是此类修正案符合土地市场价值的总体趋势。

第10条 代位权

1. 如果一缔约方或其机构根据其对一项投资提供的非商业风险担保、保险合同或其他形式的赔偿向该缔约方的投资者支付款项，另一方应承认就该投资产生的任何权利或索赔的代位权或转让。被代位或转让的权利或索赔不得超过投资者的原始权利或索赔。

2. 如一缔约方或其机构已向该缔约方的投资者支付款项并接管了该投资者的权利和索赔，则该投资者不得针对另一方主张这些权利和索赔，除非其被授权代表支付款项的缔约方或机构行事。

3. 在任何涉及投资争端的程序中，缔约方不得以投资者或涵盖投资已根据保险或担保合同获得或将获得全部或部分alleged loss的赔偿或其他补偿为由，提出抗辩、反诉、抵销权或其他主张。

第11条 利益拒绝

1. 在发出通知后，缔约方可拒绝本章的利益：

(a) 对于作为另一方法人的另一方投资者及其投资，

that investor if an investor of a non-Party owns or controls the juridical person and the juridical person has no substantive business operations in the territory of the other Party;

(b) to an investor of another Party that is a juridical person of such other Party and to investments of that investor if an investor of the denying Party owns or controls the juridical person and the juridical person has no substantive business operations in the territory of any Party, other than the denying Party.

2. Notwithstanding Paragraph 1 and subject to prior notification to and consultation with the relevant Party, Thailand may, under its applicable laws and regulations, deny the benefits of this Chapter relating to the admission, establishment, acquisition and expansion of investments to an investor of another Party that is a juridical person of such Party and to investments of such an investor where Thailand establishes that the juridical person is owned or controlled by natural persons or juridical persons of a non-Party or the denying Party.

3. In the case of Thailand, a juridical person is:

(a) **owned** by natural persons or juridical persons of a Party or a non-Party if more than 50 per cent of the equity interest in it is beneficially owned by such persons;

(b) **controlled** by natural persons or juridical persons of a Party or non-Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions.

4. Following notification, and without prejudice to Paragraph 1, the Philippines may deny the benefits of this Chapter to an investor of another Party and to investments of

若该法人由非缔约方投资者拥有或控制，且该法人在另一方领土内无实质性业务运营，则适用之；

(b) 对于作为另一缔约方法人的该另一缔约方投资者及其投资，若拒绝方的投资者拥有或控制该法人，且该法人在除拒绝方外的任何缔约方领土内无实质性业务运营，则可拒绝给予利益。

2. 尽管有第1款规定，在事先通知相关缔约方并进行磋商的前提下，泰国可根据其适用法律法规，拒绝将本章关于投资准入、设立、收购及扩展的利益给予作为该缔约方法人的另一缔约方投资者及其投资，前提是泰国确认该法人由非缔约方或拒绝方的自然人、法人拥有或控制。

3. 就泰国而言，法人是指：

(a) 由缔约方或非缔约方的自然人、法人拥有，若其50%以上的股权权益由该等人士实益拥有；(b) 由缔约方或非缔约方的自然人、法人控制，若该等人士有权任命其多数董事或以其他方式合法指导其行动。

4. 在发出通知后，且在不影响第1款的情况下，菲律宾可拒绝另一缔约方的投资者及其投资享有本章的利益，

that investor, where it establishes that such investor has made an investment in breach of the provisions of Commonwealth Act No. 108, entitled “An Act to Punish Acts of Evasion of Laws on the Nationalization of Certain Rights, Franchises or Privileges”, as amended by Presidential Decree No. 715, otherwise known as “The Anti-Dummy Law”, as may be amended.

Article 12
Reservations[11]

1. Article 4 (National Treatment), and in the case of Lao PDR Article 5 (Prohibition of Performance Requirements), do not apply to:

(a) any existing measure that does not conform to those Articles maintained by a Party at:

(i) the central level of government, as set out by that Party in its Schedule to List I;

(ii) a regional level of government, as set out by that Party in its Schedule to List I; or

(iii) a local level of government;

(b) the continuation or prompt renewal of any measure referred to in Subparagraph (a); or

(c) an amendment to any measure referred to in Subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure as it existed at the date of entry into force of the Party’s Schedule to List I, with Article 4 (National Treatment), and, in the case of Lao PDR Article 5 (Prohibition of Performance Requirements).

[11] The application of this Article is subject to Article 16 (Work Programme).

前提是菲律宾确认该投资者违反经第715号总统令（又称《反傀儡法》）修订的联邦法案第108号（题为《惩治规避某些权利、特许权或特权国有化法律行为法》）的条款进行了投资。

第12条 保留
条款[11]

1. 第4条（国民待遇），以及老挝人民民主共和国的第5条（禁止履行要求），不适用于：

(a) 任何缔约方在以下情况下维持的与上述条款不符的现行措施：
那些条款由缔约方在以下情况下维持：

(i) 该缔约方在其清单一的附表中列明的中央政府层级；(ii) 该缔约方在其清单一的附表中列明的地方政府层级；或(iii) 基层政府层级；(b) 第(a)项所述任何措施的延续或及时更新；或(c) 对第(a)项所述任何措施的修正，只要该修正未降低该措施在缔约方清单一附表生效日期时的合规性，即符合第4条（国民待遇），以及老挝人民民主共和国第5条（禁止履行要求）的规定。

[11] 本条款的适用受第十六条（工作计划）约束。

2. Article 4 (National Treatment), and in the case of Lao PDR Article 5 (Prohibition of Performance Requirements), 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 List II.

3. Other than pursuant to any procedures for the modification of schedules of reservations, a Party may not, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule to List II, require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.

Article 13
Transparency

1. Each Party shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application covered by this Chapter. International agreements pertaining to or affecting investors or investment activities to which a Party is a signatory shall also be published.

2. To the extent possible, each Party shall make the measures and international agreements of the kind referred to in Paragraph 1 available on the internet.

3. Where publication referred to in Paragraphs 1 and 2 is not practicable, such information[12] shall be made otherwise publicly available.

4. To the extent provided for under its domestic legal framework, each Party shall endeavour to provide a

[12] For greater certainty, the Parties agree that such information may be published in each Party's chosen language.

2. 第4条（国民待遇），以及老挝人民民主共和国第5条（禁止履行要求），不适用于缔约方在其第二清单附表中列明的部门、分部门或活动所采取或维持的任何措施。

3. 除依照任何保留清单修改程序外，一缔约方不得根据本协定生效后采取且涵盖于其第二清单附表中的任何措施，以国籍为由要求另一缔约方的投资者出售或以其他方式处置该措施生效时已存在的投资。

第13条 透明度

1. 每一缔约方应迅速公布本章涵盖的所有普遍适用的相关措施，除紧急情况外，最迟不晚于其生效之时。缔约方签署的涉及或影响投资者或投资活动的国际协议也应予以公布。

2. 在可能范围内，每一缔约方应将第1款所述措施及国际协议发布于互联网。

3. 若第1款和第2款所述的公布不可行，此类信息[12] 应以其他方式向公众提供。

4. 在符合其国内法律框架的前提下，每一缔约方应努力为

[12] 为进一步明确，各方同意此类信息可以各缔约方选择的语言公布。

reasonable opportunity for comments by interested persons on measures referred to in Paragraph 1 before adoption.

5. Each Party shall designate a contact point to facilitate communications among the Parties on any matter covered by this Chapter. Upon the request of another Party, the contact point shall:

(a) identify the office or official responsible for the relevant matter; and

(b) assist as necessary in facilitating communications with the requesting Party with respect to that matter.

6. Each Party shall respond within a reasonable period of time to all requests by any other Party for specific information on:

(a) any measures or international agreements referred to in Paragraph 1;

(b) any new, or any changes to existing, measures or administrative guidelines which significantly affect investors or covered investments, whether or not the other Party has been previously notified of the new or changed measure or administrative guideline.

7. Any notification or communication under this Article shall be provided to the other Party through the relevant contact points in the English language.

8. Nothing in this Article shall be construed as requiring a Party to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular juridical persons, public or private.

利益相关方就第1款所述措施在通过前提供发表意见的合理机会。

5. 每一缔约方应指定一个联络点，以便各方就本章涵盖的任何事项进行沟通。应另一方请求，联络点应：

(a) 确定负责相关事项的负责机构或官员；以及 (b) 根据需要协助促进与请求方就该事项的沟通。

6. 每一缔约方应在合理期限内回应任何其他缔约方关于以下具体信息的请求：

(a) 第1款中提及的任何措施或国际协议； (b) 任何新的或对现有措施或行政指导方针的修改，若其显著影响投资者或涵盖投资，无论另一方是否已事先收到关于该新措施或修改后措施或行政指导方针的通知。

7. 本条款项下的任何通知或沟通应以英语通过相关联络点提供给另一方。

8. 本条款任何规定不得解释为要求一缔约方提供机密信息，若披露该等信息会妨碍执法，或以其他方式违背公共利益，或损害特定法人（无论公有或私有）的合法商业利益。

9. Each Party shall ensure that in its administrative proceedings relating to the application of measures referred to in Paragraph 1 to particular investors or investments of the other Party in specific cases that:

(a) to the extent provided under its domestic legal framework and where possible, persons of another Party that are directly affected by a proceeding are provided reasonable notice, when a proceeding is initiated;

(b) to the extent provided under its domestic legal framework, that it endeavours to afford such persons with reasonable opportunity to present their positions prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and

(c) its procedures are in accordance with its laws.

10. Each Party shall maintain judicial or administrative tribunals or procedures for the purpose of the prompt review [13] and, where warranted, correction of final administrative actions regarding matters covered by this Chapter. Where such procedures or tribunals are not independent of the agency entrusted with the administrative action concerned, each Party shall ensure that the tribunals or procedures provide for an objective and impartial review.

11. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceedings are provided with the right to:

(a) a reasonable opportunity to support or defend their respective positions; and

[13] For avoidance of doubt, the form of “review” shall be as provided for under the Party’s law.

9. 每一缔约方应确保在其与适用第1款所述措施相关的行政程序中，针对另一方特定投资者或其具体案件中的投资时：

(a) 在其国内法律框架允许的范围内并尽可能做到，当程序启动时，直接受程序影响的另一缔约方人员应获得合理通知；

(b) 在其国内法律框架允许的范围内，当时间、程序性质及公共利益允许时，应尽力为上述人员提供在最终行政行为作出前陈述立场的合理机会；以及

(c) 其程序应符合其法律。

10. 每一缔约方应设立司法或行政法庭或程序，以便对本章所涉事项的最终行政行为进行迅速审议[13] ，并在必要时予以纠正。若此类程序或法庭不独立于负责相关行政行为的机构，则每一缔约方应确保该法庭或程序能提供客观公正的审查。

11. 每一缔约方应确保，在此类法庭或程序中，诉讼各方享有以下权利：

(a) 支持或辩护其各自立场的合理机会；以及

13 为避免疑义，“审议”的形式应按照缔约方法律的规定。

(b) a decision in accordance with the Party's laws.

12. Each Party shall ensure, subject to appeal or further review as provided in its law, that any decision referred to in Paragraph 11(b) shall be implemented in accordance with its laws.

Article 14
Special Formalities and Disclosure of Information

1. Nothing in Article 4 (National Treatment) shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with covered investments, including a requirement that covered investments be legally constituted under the laws or regulations of the Party, provided that such formalities do not substantially impair the protections afforded by a Party to investors of another Party and covered investments pursuant to this Chapter.

2. Notwithstanding Article 4 (National Treatment), a Party may require an investor of another Party, or a covered investment, to provide information concerning that investment solely for informational or statistical purposes. The Party shall protect to the extent possible any confidential information which has been provided from any disclosure that would prejudice legitimate commercial interests 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 15
Special and Differential Treatment for the Newer ASEAN Member States

In order to increase the benefits of this Chapter for the newer ASEAN Member States, and in accordance with the objectives of and the Preamble to this Agreement and

(b) 根据缔约方法律作出的决定。

12. 每一缔约方应确保，根据其法律规定的上诉或进一步审议，第11款(b)项所述任何决定应依照其法律实施。

第14条 特殊手续和信息披露

1. 不得将第4条（国民待遇）的任何内容解释为阻止缔约方采取或维持规定与涵盖投资相关的特殊手续的措施，包括要求涵盖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给予另一缔约方投资者和涵盖投资的保护。

2. 尽管有第4条（国民待遇）的规定，缔约方可要求另一缔约方投资者或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。缔约方应尽可能保护已提供的任何机密信息，避免披露损害投资者或涵盖投资的合法商业利益。本款的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公正和善意适用其法律相关的信息。

第15条 新东盟成员国的特殊和差别待遇

为增加本章对新东盟成员国的利益，并根据本协定及序言的目标与

objectives of Chapter 12 (Economic Co-operation), the Parties recognise the importance of according special and differential treatment to the newer ASEAN Member States under this Chapter, through:

(a) technical assistance to strengthen their capacity in relation to investment policies and promotion, including in areas such as human resource development;

(b) access to information on the investment policies of other Parties, business information, relevant databases and contact points for investment promotion agencies;

(c) commitments in areas of interest to the newer ASEAN Member States; and

(d) recognising that commitments by each newer ASEAN Member State may be made in accordance with its individual stage of development.

Article 16
Work Programme

1. The Parties shall enter into discussions on:

(a) schedules of reservations to this Chapter; and

(b) treatment of investment in services which does not qualify as commercial presence in Chapter 8 (Trade in Services).

2. The Parties shall also enter into discussions with a view to agreeing on:

第12章（经济合作）的目标，缔约方认识到根据本章对新东盟成员国给予特殊和差别待遇的重要性，具体方式包括：

(a) 技术援助以加强其在投资政策和促进方面的能力，包括人力资源开发等领域；(b) 获取其他缔约方的投资政策信息、商业信息、相关数据库及投资促进机构的联络点；(c) 对新东盟成员国感兴趣的领域作出承诺；以及(d) 认识到每个新东盟成员国可根据其各自发展阶段作出承诺。

第16条 工作计划

1. 各方应就以下事项展开讨论：

(a) 本章的保留清单；及(b) 对不符合第八章（服务贸易）中商业存在资格的服务投资的待遇。

2. 各方还应进行讨论，以期就以下事项达成一致：

(a) the application of most-favoured-nation treatment to this Chapter, including to those schedules of reservations; and

(b) procedures for the modification of schedules of reservations.

3. The Parties shall conclude the discussions referred to in Paragraphs 1 and 2 within five years from the date of entry into force of this Agreement unless the Parties otherwise agree. These discussions shall be overseen by the Investment Committee established pursuant to Article 17 (Committee on Investment).

4. Schedules of reservations to this Chapter referred to in Paragraph 1 shall enter into force on a date agreed to by the Parties.

5. Notwithstanding anything to the contrary in this Chapter, Article 4 (National Treatment) and Article 12 (Reservations) shall not apply until the Parties' schedules of reservations to this Chapter have entered into force in accordance with Paragraph 4.

Article 17
Committee on Investment

1. The Parties hereby establish a Committee on Investment (Investment Committee) consisting of representatives of the Parties.

2. The Investment Committee shall meet within one year from the date of entry into force of this Agreement and thereafter as mutually determined by the Parties. Meetings may be conducted in person, or by any other means as mutually determined by the Parties.

(a) 将最惠国待遇适用于本章，包括那些保留清单；以及
(b) 保留清单的修改程序。

3. 缔约方应在本协定生效之日起五年内完成第1款和第2款所述的讨论，除非缔约方另有约定。这些讨论应由根据第17条（投资委员会）设立的投资委员会监督。

4. 第1款所述的本章保留清单应于缔约方商定的日期生效。

5. 尽管本章有任何相反规定，第4条（国民待遇）和第12条（保留条款）在缔约方根据第4段使本章保留清单生效前不予适用。

第17条 投资委员会

1. 缔约方特此设立由各方代表组成的投资委员会（投资委员会）。

2. 投资委员会应于本协定生效之日起一年内召开会议，此后由各方共同商定召开时间。会议可面对面进行，或由各方共同商定的其他任何方式进行。

3. The Investment Committee's functions shall be:

(a) to oversee the discussions referred to in Article 16.1 and 16.2 (Work Programme);

(b) to review the implementation of this Chapter;

(c) to consider any other matters related to this Chapter identified by the Parties; and

(d) to report to the FTA Joint Committee as required.

SECTION B

Investment Disputes between a Party and an Investor

Article 18
Scope and Definitions

1. This Section shall apply to disputes between a Party and an investor of another Party concerning an alleged breach of an obligation of the former under Section A which causes loss or damage to the covered investment of the investor.

2. This Section shall not apply to investment disputes which have occurred prior to the entry into force of this Agreement.

3. A natural person possessing the nationality or citizenship of a Party may not pursue a claim against that Party under this Section.

4. For the purpose of this Section:

(a) **Appointing Authority** means:

3. 投资委员会的职能应为:

(a) 监督第16.1条和16.2条（工作计划）所述的讨论;
(b) 审议本章的实施情况；(c) 考虑缔约方确定的与本章相关的任何其他事项；以及(d) 按要求向自由贸易协定联合委员会报告。

B部分

一方与投资者之间的投资争端

第18条 范围和定义

1. 本节适用于一方与另一缔约方投资者之间因前者违反A节义务导致投资者涵盖投资遭受损失或损害的争议。

2. 本节不适用于本协定生效前发生的投资争端。

3. 拥有缔约方国籍或公民身份的{natural person}不得根据本节向该缔约方提出{claim}。

4. 就本节而言:

(a) 指定机构指:

(i) in the case of arbitration under Article 21.1(b) or (c) (Submission of a Claim), the Secretary-General of ICSID;

(ii) in the case of arbitration under Article 21.1(d) or (e) (Submission of a Claim), the Secretary-General of the Permanent Court of Arbitration; or

(iii) any person as agreed between the disputing parties;

(b) **disputing Party** means a Party against which a claim is made under this Section;

(c) **disputing party** means a disputing investor or a disputing Party;

(d) **disputing parties** means a disputing investor and a disputing Party;

(e) **disputing investor** means an investor of a Party that makes a claim against another Party on its own behalf under this Section, and where relevant includes an investor of a Party that makes a claim on behalf of a juridical person of the disputing Party that the investor owns or controls;

(f) **ICSID** means the International Centre for Settlement of Investment Disputes;

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

(h) **ICSID Additional Facility Rules** means the *Rules Governing the Additional Facility for the*

(i) 对于根据第21.1(b)条或(c)条（提交索赔）进行的仲裁，指国际投资争端解决中心秘书长；(ii) 对于根据第21.1(d)条或(e)条（提交索赔）进行的仲裁，指常设仲裁法院秘书长；或(iii) 争议各方同意的任何个人；(b) 争议方指根据本节被提出索赔的缔约方；(c) 争议当事方指争议投资者或争议方；(d) 争议各方指争议投资者和争议方；(e) 争议投资者指代表自身根据本节向另一缔约方提出索赔的缔约方投资者，在相关情况下还包括代表其拥有或控制的争议方法人提出索赔的缔约方投资者；(f) ICSID指国际投资争端解决中心；(g) ICSID公约指1965年3月18日在华盛顿签署的《解决国家与他国国民间投资争端公约》；(h) ICSID附加便利规则指

Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes;

(i) **non-disputing Party** means the Party of the disputing investor;

(j) **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; and

(k) **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.

Article 19
Consultations

1. In the event of an investment dispute referred to in Article 18.1 (Scope and Definitions), the disputing parties shall as far as possible resolve the dispute through consultation, with a view towards reaching an amicable settlement. Such consultations, which may include the use of non-binding, third party procedures, shall be initiated by a written request for consultations delivered by the disputing investor to the disputing Party.

2. With the objective of resolving an investment dispute through consultations, a disputing investor shall provide the disputing Party, prior to the commencement of consultations, with information regarding the legal and factual basis for the investment dispute.

由国际投资争端解决中心秘书处管理的程序;

(i) 非争议方指争议投资者所属的缔约方;

(j) 《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》；及

(k) 《联合国国际贸易法委员会仲裁规则》指1976年12月15日经联合国大会批准的《联合国国际贸易法委员会仲裁规则》。

第19条 磋商

1. 如发生第18.1条（范围与定义）所述的投资争端，争议各方应尽可能通过磋商解决争端，以期达成友好解决。此类磋商可由争议投资者向争议方提交书面磋商请求而启动，并可包括使用非约束性第三方程序。

2. 为了通过磋商解决投资争端，争议投资者应在磋商开始前向争议方提供有关投资争端的法律和事实依据的信息。

Article 20
Claim by an Investor of a Party

If an investment dispute has not been resolved within 180 days of the receipt by a disputing Party of a request for consultations, the disputing investor may, subject to this Article, submit to conciliation or arbitration a claim:

(a) that the disputing Party has breached an obligation arising under Article 4 (National Treatment), Article 6 (Treatment of Investment), Article 7 (Compensation for Losses), Article 8 (Transfers), and Article 9 (Expropriation and Compensation) relating to the management, conduct, operation or sale or other disposition of a covered investment; and

(b) that the disputing investor or the covered investment has incurred loss or damage by reason of, or arising out of, that breach.

Article 21
Submission of a Claim

1. A disputing investor may submit a claim referred to in Article 20 (Claim by an Investor of a Party) at the choice of the disputing investor:

(a) where the Philippines or Viet Nam is the disputing Party, to the courts or tribunals of that Party, provided that such courts or tribunals have jurisdiction over such claim; or

第20条 一方投资者的索赔

如果投资争端在争议方收到磋商请求后180天内未得到解决，争议投资者可根据本条款将索赔提交调解或仲裁：

(a) 争议方违反了
根据第4条（国民待遇）、第六条（投资待遇）、第七条（损失补偿）、第8条（转移）和第9条（征收与补偿）产生的与涵盖投资的管理、经营、运营或出售或其他处置相关的义务；及

(b) 争议投资者或涵盖投资
因该违反行为而遭受损失或损害。

第21条 提交索赔

1. 争议投资者可选择提交第20条（一方投资者的索赔）中所述的索赔：

(a) 当菲律宾或越南为争议方时，提交至该缔约方的法院或法庭，前提是该等法院或法庭对此类索赔拥有管辖权；或

(b) under the ICSID Convention and the *ICSID Rules of Procedure for Arbitration Proceedings* [14], provided that both the disputing Party and the non-disputing Party are parties to the ICSID Convention; or

(c) under the ICSID Additional Facility Rules, provided that either of the disputing Party or non-disputing Party are a party to the ICSID Convention; or

(d) under the UNCITRAL Arbitration Rules; or

(e) if the disputing parties agree, to any other arbitration institution or under any other arbitration rules,

provided that resort to one of the fora under Subparagraphs (a) to (e) shall exclude resort to any other.

2. A claim shall be deemed submitted to arbitration under this Article when the disputing investor's notice of or request for arbitration made in accordance with this Section (notice of arbitration) is received under the applicable arbitration rules.

3. The arbitration rules applicable under Paragraph 1(b) to (e) as in effect on the date the claim or claims were submitted to arbitration under this Article, shall govern the arbitration except to the extent modified by this Section.

4. In relation to a specific investment dispute or class of disputes, the applicable arbitration rules may be waived, varied or modified by written agreement between the disputing parties. Such rules shall be binding on the relevant

[14] In the case of the Philippines, the submission of a claim under the ICSID Convention and the *ICSID Rules of Procedure for Arbitration Proceedings* shall be subject to a written agreement between the disputing parties in the event that an investment dispute arises.

(b) 根据ICSID公约及ICSID仲裁程序规则 [14] ,, 前提是争议方和非争议方均为ICSID公约缔约方；或

(c) 根据ICSID附加便利规则,
前提是争议方或非争议方中有一方是ICSID公约的缔约方；或

(d) 根据联合国国际贸易法委员会仲裁规则；或

(e) 如争议各方同意，可提交任何其他
仲裁机构或根据任何其他仲裁规则进行仲裁,

但选择(a)至(e)项下的任一仲裁机构即排除选择其他机构的可能。

2. 根据本条款，当争议投资者根据本节规定发出的仲裁通知或仲裁请求（仲裁通知）按照适用仲裁规则被接收时，索赔应被视为已提交仲裁。

3. 根据第1款(b)至(e)项适用的仲裁规则，以索赔或多项索赔根据本条款提交仲裁之日生效的版本为准，应管辖该仲裁程序，除非本节另有修改。

4. 对于特定投资争端或某类争议，适用仲裁规则可通过争议各方之间的书面协议予以放弃、变更或修改。此类规则对依据本节设立的

14 就菲律宾而言，根据ICSID公约和ICSID仲裁程序规则提交索赔，须在投资争端发生时由争议各方达成书面协议。

tribunal or tribunals established pursuant to this Section, and on individual arbitrators serving on such tribunals.

5. The disputing investor shall provide with the notice of arbitration:

(a) the name of the arbitrator that the disputing investor appoints; or

(b) the disputing investor's written consent for the Appointing Authority to appoint that arbitrator.

Article 22
Conditions and Limitations on Submission of a Claim

1. The submission of a dispute as provided for in Article 20 (Claim by an Investor of a Party) to conciliation or arbitration under Article 21.1(b) to (e) (Submission of a Claim) in accordance with this Section, shall be conditional upon:

(a) the submission of the investment dispute to such conciliation or arbitration taking place within three years of the time at which the disputing investor became aware, or should reasonably have become aware, of a breach of an obligation referred to in Article 20(a) (Claim by an Investor of a Party) causing loss or damage to the disputing investor or a covered investment;

(b) the disputing investor providing written notice, which shall be submitted at least 90 days before the claim is submitted, to the disputing Party of its intent to submit the investment dispute to such conciliation or arbitration and which briefly summarises the alleged breach of the disputing Party (including the articles or provisions alleged to have been breached) and the loss or damage

相关仲裁庭或各仲裁庭具有约束力，并对在该等仲裁庭任职的仲裁员个体具有约束力。

5. 争议投资者应在仲裁通知中提供：

(a) 争议投资者指定的仲裁员姓名；或 (b) 争议投资者书面同意由指定机构任命该仲裁员。

第22条 索赔提交的条件和限制

1. 根据第20条（一方的投资者提出的索赔）将争端提交至第21.1(b)至(e)条（提交索赔）规定的调解或仲裁，须满足以下条件：

(a) 将投资争端提交此类调解或仲裁的时间，应在争议投资者知晓或理应知晓第20(a)条（一方的投资者提出的索赔）所指义务的违反行为导致其自身或涵盖投资遭受损失或损害之日起三年内；

(b) 争议投资者提供书面通知，该通知应在提交索赔前至少90天提交给争议方，表明其有意将该投资争端提交此类调解或仲裁，并简要概述争议方涉嫌违反的条款（包括被指控违反的条款或规定）以及给争议投资者或涵盖投资造成的损失或损害

allegedly caused to the disputing investor or a covered investment; and

(c) the notice of arbitration being accompanied by the disputing investor's written waiver of its right to initiate or continue any proceedings before the courts or administrative tribunals of either Party, or other dispute settlement procedures, of any proceeding with respect to any measure alleged to constitute a breach referred to in Article 20 (Claim by an Investor of a Party).

2. Notwithstanding Paragraph 1(c), no Party shall prevent the disputing investor from initiating or continuing an action that seeks interim measures of protection for the sole purpose of preserving its rights and interests and does not involve the payment of damages or resolution of the substance of the matter in dispute, before the courts or administrative tribunals of the disputing Party.

3. No Party shall give diplomatic protection, or bring an international claim, in respect of a dispute which has been submitted to conciliation or arbitration under this Article, unless such other Party has failed to abide by and comply with the award rendered in such dispute. Diplomatic protection, for the purposes of this Paragraph, shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.

4. A disputing Party shall not assert, as a defence, counter-claim, right of set-off or otherwise, that the disputing investor or the covered investment has received or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of any alleged loss.

据称对争议投资者或涵盖投资造成的；及

(c) 仲裁通知须附有争议投资者提交的书面放弃，放弃其在一方法院或行政法庭或其他争端解决程序中就任何被指称构成第20条（一方投资者的索赔）所述违反的措施启动或继续任何程序的权利。

2. 尽管有第1款(c)项的规定，任何缔约方不得阻止争议投资者在争议方的法院或行政法庭启动或继续仅以保护其权利和利益为目的且不涉及损害赔偿支付或争议事项实质解决的临时保护措施程序。

3. 任何缔约方不得就根据本条提交调解或仲裁的争端提供外交保护或提出国际索赔，除非另一缔约方未能遵守和履行就该争端作出的裁决。就本款而言，外交保护不包括仅为便利争端解决而进行的非正式外交交流。

4. 争议方不得以抗辩、反诉、抵销权或其他方式主张，争议投资者或涵盖投资已根据保险或担保合同获得或将获得全部或部分alleged loss的赔偿或其他补偿。

Article 23
Selection of Arbitrators

1. Unless the disputing parties otherwise agree, the tribunal shall comprise three arbitrators:

(a) one arbitrator appointed by each of the disputing parties; and

(b) the third arbitrator, who shall be the presiding arbitrator, appointed by agreement of the disputing parties, shall be a national of a non-Party which has diplomatic relations with the disputing Party and non-disputing Party, and shall not have permanent residence in either the disputing Party or non-disputing Party.

2. Arbitrators shall have expertise or experience in public international law, international trade or international investment rules, and be independent of, and not be affiliated with or take instructions from the disputing Party, the non-disputing Party, or disputing investor.

3. The Appointing Authority shall serve as appointing authority for arbitration under this Article.

4. If a tribunal has not been constituted within 75 days from the date that a claim is submitted to arbitration under this Section, the Appointing Authority, on the request of a disputing party, shall appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed.

5. The disputing parties may establish rules relating to expenses incurred by the tribunal, including arbitrators' remuneration.

6. Where any arbitrator appointed as provided for in this Article resigns or becomes unable to act, a successor shall

第二十三条 仲裁员的选定

1. 除非争议各方另有约定，仲裁庭应由三名仲裁员组成：

(a) 由争议各方各指定一名仲裁员；及 (b) 第三名仲裁员（即首席仲裁员）应由争议各方协议选定，该仲裁员应为与争议方及非争议方均保持外交关系的非缔约方国民，且不得在争议方或非争议方境内拥有永久居留权。

2. 仲裁员应具备国际公法、国际贸易或国际投资规则领域的专业知识或经验，且独立于争议方、非争议方及争议投资者，不得与之存在隶属关系或接受其指示。

3. 指定机构应担任本条款下仲裁的指定机构。

4. 若仲裁庭未能在根据本节提交仲裁索赔之日起75个日历日内组成，指定机构应争议一方的请求，可自行决定任命尚未选定的仲裁员。

5. 争议各方可制定与仲裁庭产生的费用相关的规则，包括仲裁员的报酬。

6. 根据本条款任命的任何仲裁员若辞职或无法履职，应按任命原仲裁员的相同方式任命继任者，且该继任者

be appointed in the same manner as prescribed for the appointment of the original arbitrator and the successor shall have all the powers and duties of the original arbitrator.

Article 24
Consolidation

Where two or more claims have been submitted separately to arbitration under Article 20 (Claim by an Investor of a Party) and the claims have a question of law or fact in common and arise out of the same or similar events or circumstances, all concerned disputing parties may agree to consolidate those claims in any manner they deem appropriate.

Article 25
Conduct of the Arbitration

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

2. A disputing Party may, no later than 30 days after the constitution of the tribunal, file an objection that a claim is manifestly without merit. A disputing Party may also file an objection that a claim is otherwise outside the jurisdiction or competence of the tribunal. The disputing Party shall specify as precisely as possible the basis for the objection.

3. The tribunal shall address any such objection as a preliminary question apart from the merits of the claim. The disputing parties shall be given a reasonable opportunity to present their views and observations to the tribunal. If the tribunal decides that the claim is manifestly without merit, or is otherwise not within the jurisdiction or competence of the tribunal, it shall render an award to that effect.

4. The tribunal may, if warranted, award the prevailing party reasonable costs and fees incurred in submitting or

应享有原仲裁员的一切权力和义务。

第24条 合并
审理

如果根据第20条（一方的投资者提出的索赔）分别提交了两项或多项索赔，且这些索赔存在共同的法律或事实问题，并源于相同或类似的事件或情况，所有相关争议各方可以同意以他们认为适当的任何方式合并这些索赔。

第25条 仲裁的进行

1. 如果与管辖权或可受理性有关的问题作为初步异议提出，仲裁庭应在处理实体问题之前对该事项作出决定。

2. 争议方可在仲裁庭组成后不迟于30天内提出异议，认为索赔明显缺乏法律依据。争议方也可提出异议，认为索赔不属于仲裁庭的管辖权或权限范围。争议方应尽可能精确地说明异议的依据。

3. 仲裁庭应将该等异议作为与索赔实体问题分开的初步问题处理。争议各方应被给予合理机会向仲裁庭陈述其意见和看法。如果仲裁庭认定索赔明显缺乏法律依据，或不属于仲裁庭的管辖权或权限范围，则应作出相应的裁决。

4. 仲裁庭可在有正当理由的情况下，裁定胜诉方在提交或

opposing the objection. In determining whether such an award is warranted, the tribunal shall consider whether either the claim or the objection was frivolous or manifestly without merit, and shall provide the disputing parties a reasonable opportunity to comment.

5. Unless the disputing parties otherwise agree, the tribunal shall determine the place of arbitration in accordance with the applicable arbitration rules, provided that the place shall be in the territory of a State that is a party to the New York Convention.

6. Where an investor claims that the disputing Party has breached Article 9 (Expropriation and Compensation) by the adoption or enforcement of a taxation measure, the disputing Party and the non-disputing Party shall, upon request from the disputing Party, hold consultations with a view to determining whether the taxation measure in question has an effect equivalent to expropriation or nationalisation. Any tribunal that may be established pursuant to this Section shall accord serious consideration to the decision of both Parties under this Paragraph.

7. If both Parties fail either to initiate consultations referred to in Paragraph 6, or to determine whether such taxation measure has an effect equivalent to expropriation or nationalisation within the period of 180 days from the date of the receipt of request for consultation referred to in Article 19 (Consultations), the disputing investor shall not be prevented from submitting its claim to arbitration in accordance with this Section.

Article 26
Transparency of Arbitral Proceedings

1. Subject to Paragraphs 2 and 3, the disputing Party may make publicly available all awards and decisions produced by the tribunal.

反对异议时产生的合理费用和开支。在判定是否应作出此类裁决时，仲裁庭应考虑索赔或异议是否轻率或明显缺乏法律依据，并应为争议各方提供合理机会发表意见。

5. 除非争议各方另有约定，仲裁庭应依据适用仲裁规则确定仲裁地点，但该地点须位于《纽约公约》缔约方之一的领土内。

6. 若投资者主张争议方通过采取或实施税收措施违反了第9条（征收与补偿），争议方与非争议方应在争议方请求下进行磋商，以判定相关税收措施是否具有等同于征收或国有化的效果。根据本节可能设立的任何仲裁庭，均应认真考虑缔约双方根据本段所作出的决定。

7. 若缔约双方未能在收到第19条（磋商）所指磋商请求之日起180天内启动第6段所述磋商，或未能判定该税收措施是否具有等同于征收或国有化的效果，则不得阻止争议投资者根据本节规定提交仲裁索赔。

第26条 仲裁程序的透明度

1. 在第2段和第3段的约束下，争议方可向公众公开仲裁庭作出的所有裁决和决定。

2. Any of the disputing parties that intend to use information designated as confidential information in a hearing shall so advise the tribunal. The tribunal shall make appropriate arrangements to protect the information from disclosure.

3. Any information specifically designated as confidential that is submitted to the tribunal or the disputing parties shall be protected from disclosure to the public.

4. A disputing party may disclose to persons directly connected with the arbitral proceedings such confidential information as it considers necessary for the preparation of its case, but it shall require that such confidential information is protected.

5. 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 Cabinet confidences, 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.

6. The non-disputing Party shall be entitled, at its cost, to receive from the disputing Party a copy of the notice of arbitration, no later than 30 days after the date that such document has been delivered to the disputing Party. The disputing Party shall notify all other Parties of the receipt of the notice of arbitration within 30 days thereof.

Article 27
Governing Law

1. Subject to Paragraphs 2 and 3, when a claim is submitted under Article 20 (Claim by an Investor of a Party), the tribunal shall decide the issues in dispute in accordance with this Agreement, any other applicable agreements between the Parties, any relevant rules of international law

2. 任何争议各方若拟在听证会上使用被指定为机密信息的信息，应就此通知仲裁庭。仲裁庭应作出适当安排以防止该信息被披露。

3. 任何被指定为保密的信息，如提交给仲裁庭或争议各方，应受到保护，不得向公众披露。

4. 争议方可向与仲裁程序直接相关的人员披露其认为案件准备所必需的此类机密信息，但应要求此类机密信息受到保护。

5. 仲裁庭不得要求缔约方提供或允许获取那些披露会妨碍执法、或违反缔约方法律保护的内阁机密、个人隐私或金融机构个人客户的财务事务和账户的信息，或仲裁庭认定违反其基本安全的信息。

6. 非争议方有权自费从争议方处获得仲裁通知的副本，且不得迟于该文件送达争议方之日起30个日历日。争议方应在收到仲裁通知后30个日历日内通知所有其他缔约方。

第27条 适用法律

1. 在第2款和第3款的约束下，当根据第20条（一方的投资者提出的索赔）提交索赔时，仲裁庭应依据本协定、缔约方之间任何其他适用的协议、国际法的相关规则

applicable in the relations between the Parties, and, where applicable, any relevant domestic law of the disputing Party.

2. The tribunal shall, on its own account or at the request of a disputing party, request a joint interpretation of any provision of this Agreement that is in issue in a dispute. The Parties shall submit in writing any joint decision declaring their interpretation to the tribunal within 60 days of the delivery of the request. Without prejudice to Paragraph 3, if the Parties fail to issue such a decision within 60 days, any interpretation submitted by a Party shall be forwarded to the disputing parties and the tribunal, which shall decide the issue on its own account.

3. A joint decision of the Parties, declaring their interpretation of a provision of this Agreement shall be binding on a tribunal, and any decision or award issued by a tribunal must be consistent with that joint decision.

Article 28
Awards

1. Where a tribunal makes a final award against either of the disputing parties, the tribunal may award, separately or in combination, only:

(a) monetary damages and any applicable interest; and

(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.

2. A tribunal may also award costs and attorney's fees in accordance with this Section and the applicable arbitration rules.

3. A tribunal may not award punitive damages.

适用于缔约方之间关系的，以及（如适用）争议方的任何相关国内法，对争端事项作出裁决。

2. 仲裁庭应主动或应争议一方请求，就本协定任何争议条款请求作出联合解释。各方应在收到请求后60天内以书面形式向仲裁庭提交宣告其解释的联合决定。在不影响第3段的前提下，若各方未能在60天内作出此类决定，任一缔约方提交的解释应转发给争议各方及仲裁庭，由仲裁庭自行决定该问题。

3. 各方就本协定某条款作出的联合解释决定对仲裁庭具有约束力，仲裁庭作出的任何决定或裁决必须与该联合决定保持一致。

第28条 裁决

1. 当仲裁庭针对任一争议方作出最终裁决时，该裁决可单独或合并包含以下内容：

(a) 金钱赔偿及任何适用利息；及 (b) 财产归还，在此情况下裁决应规定争议方可选择支付金钱赔偿及适用利息以替代财产归还。

2. 仲裁庭还可根据本A节及适用仲裁规则裁决费用和律师费。

3. 仲裁庭不得裁决惩罚性赔偿。

4. An award made by a tribunal shall be final and binding upon the disputing parties. An award shall have no binding force except between the disputing parties and in respect of the particular case.

5. Subject to Paragraph 6 and the applicable review procedure for an interim award, a disputing party shall abide by and comply with an award without delay.[15]

6. A disputing party may not seek enforcement of a final award until:

(a) in the case of a final award under the ICSID Convention:

(i) 120 days has 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;

(b) in the case of a final award under the ICSID Additional Facility Rules, the UNCITRAL Arbitration Rules, or the rules selected pursuant to Article 21.1(e) (Submission of a Claim):

(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.

[15] The Parties understand that there may be domestic legal and administrative processes that need to be observed before an award can be complied with.

4. 仲裁庭作出的裁决应为终局性并对争议各方具有约束力。除争议各方之间及针对特定案件外，裁决不具约束力。

5. 在第6段及适用于临时裁决的审查程序的前提下，争议方应立即遵守并执行裁决，不得延误。[15]

6. 争议方在以下情形发生前不得寻求执行最终裁决：

(a) 对于依据ICSID公约作出的最终裁决：(i) 自裁决作出之日起已过去120天且无争议方请求修订或废止裁决；或(ii) 修订或废止程序已完成；

(b) 对于依据ICSID附加便利规则、联合国国际贸易法委员会仲裁规则或根据第21.1(e)条（提交索赔）选定的规则作出的最终裁决：

(i) 自该日期起已过去90个日历日
裁决作出之日起已过去90天且无争议方启动修订、撤销或废止裁决的程序；或

(ii) 法院已驳回或允许一项
申请修改、撤销或废止裁决且无进一步上诉。

[15] 各方理解，在遵守裁决之前可能需要遵循国内法律和行政程序。

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

7. 每一缔约方应规定在其领土内执行裁决。

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ANNEX ON EXPROPRIATION AND COMPENSATION

1. An action or a series of related actions by a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right or property interest in a covered investment.

2. Article 9.1 (Expropriation and Compensation) of Chapter 11 (Investment) addresses two situations:

(a) the first situation is direct expropriation, where a covered investment is nationalised or otherwise directly expropriated through formal transfer of title or outright seizure; and

(b) the second situation is where an action or series of related actions by a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.

3. The determination of whether an action or series of related actions by a Party, in a specific fact situation, constitutes an expropriation of the type referred to in Paragraph 2(b) requires a case-by-case, fact-based inquiry that considers, among other factors:

(a) the economic impact of the government action, although the fact that an action or series of related actions by a Party has an adverse effect on the economic value of an investment, standing alone, does not establish that such an expropriation has occurred;

(b) whether the government action breaches the government's prior binding written commitment to the investor whether by contract, licence or other legal document; and

征收与补偿附件

1. 缔约方采取的一项措施或一系列相关措施，除非其干扰了涵盖投资中的有形或无形财产权或财产权益，否则不构成征收。

2. 第11章（投资）第9.1条（征收与补偿）涉及两种情形：

(a) 第一种情形是直接征收，即通过正式所有权转移或彻底没收将涵盖投资国有化或以其他方式直接征收；以及
(b) 第二种情形是缔约方采取的一项措施或一系列相关措施，虽未进行正式所有权转移或彻底没收，但产生了与直接征收等效的效果。

3. 在特定事实情况下，判定缔约方采取的一项措施或一系列相关措施是否构成第2(b)款所述类型的征收，需要进行逐案事实调查，并考虑以下因素（包括但不限于）：

(a) 政府行为的经济影响，
尽管缔约方的一项或一系列相关措施对投资的经济价值产生不利影响这一事实本身，并不构成此类征收的发生；

(b) 政府行为是否违反
政府通过合同、许可证或其他法律文件向投资者作出的先前有约束力的书面承诺；以及

(c) the character of the government action, including, its objective and whether the action is disproportionate to the public purpose.[1]

4. Non-discriminatory regulatory actions by a Party that are designed and applied to achieve legitimate public welfare objectives, such as the protection of public health, safety, and the environment do not constitute expropriation of the type referred to in Paragraph 2(b).

[1] "Public purpose" shall be read with reference to Article 9.1(a) and Article 9.6 (Expropriation and Compensation) of Chapter 11 (Investment).

(c) 政府行为的性质，包括其客观性以及该行为是否与公共目的不成比例。[1]

4. 缔约方为实现合法的公共福利目标（如公共卫生保护、安全和环境）而设计和采取的非歧视性监管措施，不构成第2(b)款所述类型的征收。

[1] "公共目的"应参照第11章（投资）中第9.1(a)条和第9.6条（征收与补偿）进行解读。

CHAPTER 12

ECONOMIC CO-OPERATION

Article 1
Scope and Objectives

1. The Parties reaffirm the importance of ongoing economic co-operation initiatives between ASEAN, Australia and New Zealand, and agree to complement their existing economic partnership in areas where the Parties have mutual interests, taking into account the different levels of development of the Parties.

2. The Parties acknowledge the provisions to encourage and facilitate economic co-operation included in various Chapters of this Agreement.

3. Economic co-operation under this Chapter shall support implementation of this Agreement through economic co-operation activities which are trade or investment related as specified in the Work Programme.

Article 2
Definitions

For the purposes of this Chapter:

(a) **implementing Party** or **implementing Parties** means, for each component of the Work Programme, the Party or Parties primarily responsible for the implementation of that component; and

(b) **Work Programme** means the programme of economic co-operation activities, organised into components, mutually determined by the Parties prior to the entry into force of this Agreement.

第12章

经济合作

第一条 范围与目标

1. 各方重申东盟、澳大利亚和新西兰之间持续经济合作倡议的重要性，并同意在各方具有共同利益的领域补充现有的经济伙伴关系，同时考虑到各方不同的发展水平。

2. 各方承认本协定各章节中鼓励和促进经济合作的条款。

3. 本章下的经济合作应通过工作计划中规定的与贸易或投资相关的经济合作活动来支持本协定的实施。

第二条
定义

就本章而言：

(a) 实施方指针对工作计划各组成部分主要负责实施该组成部分的一个或多个缔约方；

(b) 工作计划指由各方在本协定生效前共同商定的、按组成部分组织的经济合作活动计划。

Article 3
Resources

1. Recognising the development gaps among the ASEAN Member States and among the Parties, the Parties shall contribute appropriately to the implementation of the Work Programme.

2. In determining the appropriate level of contribution to the Work Programme, the Parties shall take into account:

(a) the different levels of development and capacity of Parties;

(b) any in-kind contributions able to be made to Work Programme components by Parties; and

(c) that the appropriate level of contribution enhances the relevance and sustainability of co-operation, strengthens partnerships between Parties and builds Parties' shared commitment to the effective implementation and oversight of Work Programme components.

Article 4
Economic Co-operation Work Programme

1. Each Work Programme component shall:

(a) be trade or investment related and support this Agreement's implementation;

(b) be specified in the Work Programme;

(c) involve a minimum of two ASEAN Member States, Australia and/or New Zealand;

第三条
资源

1. 鉴于东盟成员国之间及各缔约方之间存在发展差距，各方应适当参与工作计划的执行。

2. 在确定对工作计划适当的贡献水平时，各方应考虑：

(a) 各方不同的发展水平和能力；(b) 各方能够对工作计划组成部分作出的任何实物贡献；以及(c) 适当的贡献水平增强了合作的相关性和可持续性，加强了各方之间的伙伴关系，并建立了各方对有效实施和监督工作计划组成部分的共同承诺。

第4条 经济合作工作计划

1. 每个工作计划组成部分应：

(a) 与贸易或投资相关，并支持本协定的实施；(b) 在工作计划中明确；(c) 至少涉及两个东盟成员国、澳大利亚和/或新西兰；

(d) address the mutual priorities of the participating Parties; and

(e) where possible, avoid duplicating existing economic co-operation activities.

2. The description of each Work Programme component shall specify the details necessary to provide clarity to the Parties regarding the scope and purpose of such component.

Article 5
Focal Points for Implementation

1. Each Party shall designate a focal point for all matters relating to the implementation of the Work Programme and shall keep all Parties updated on its focal point's details.

2. The focal points shall be responsible for overseeing and reporting on the implementation of the Work Programme in accordance with Article 6 (Implementation and Evaluation of Work Programme Components) and Article 7 (Review of Work Programme), and for responding to inquiries from any Party regarding the Work Programme.

Article 6
Implementation and Evaluation of Work Programme Components

1. Prior to the commencement of each Work Programme component, the implementing Party or Parties, in consultation with relevant participating Parties, shall develop an implementation plan for that Work Programme component and provide that plan to each Party.

2. The implementing Party or Parties for a Work Programme component may use existing mechanisms for the implementation of that component.

(d) 解决参与方的共同优先事项；以及 (e) 在可能的情况下，避免重复现有的经济合作活动。

2. 每一工作计划组成部分的描述应明确说明必要的细节，以使缔约方清楚了解该组成部分的范围和目的。

第5条 执行联络点

1. 每一缔约方应指定一个联络点，负责处理与工作计划实施相关的所有事宜，并应向所有缔约方更新其联络点的详细信息。

2. 联络点应负责根据第六条（工作计划组成部分的执行和评估）和第七条（工作计划审查）监督和报告工作计划的实施情况，并回应任何缔约方关于工作计划的询问。

第六条 工作计划组成部分的执行和评估

1. 在每一工作计划组成部分开始之前，实施方或多方应与相关参与方协商，制定该工作计划组成部分的实施计划，并将该计划提供给每一缔约方。

2. 工作计划组成部分的实施方或多方可使用现有机制来实施该组成部分。

3. Until the completion of a Work Programme component, the implementing Party or Parties shall regularly monitor and evaluate the relevant component and provide periodic reports to each Party including a final component completion report.

Article 7
Review of Work Programme

At the direction of the FTA Joint Committee, the Work Programme shall be reviewed to assess its overall effectiveness and recommendations may be made. The FTA Joint Committee may make modifications to the Work Programme taking into account the review and available resources.

Article 8
Non-Application of Chapter 17 (Consultations and Dispute Settlement)

Chapter 17 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.

3. 在工作计划组成部分完成之前，实施方或多方应定期监测和评估相关组成部分，并向每一缔约方提供定期报告，包括一份最终组成部分完成报告。

第七条 工作计划审查

根据自由贸易协定联合委员会的指示，应对工作计划进行审议以评估其整体有效性，并可提出建议。自由贸易协定联合委员会可考虑审议结果和可用资源，对工作计划进行修改。

第8条 第17章（磋商与争端解决）的不适用

第17章（磋商与争端解决）不适用于本章产生的事项。

CHAPTER 13

INTELLECTUAL PROPERTY

Article 1
Objectives

Each Party confirms its commitment to reducing impediments to trade and investment by promoting deeper economic integration through effective and adequate creation, utilisation, protection and enforcement of intellectual property rights, taking into account the different levels of economic development and capacity and differences in national legal systems and the need to maintain an appropriate balance between the rights of intellectual property owners and the legitimate interests of users in subject matter protected by intellectual property rights.

Article 2
Definitions

For the purposes of this Chapter:

(a) **intellectual property rights** means copyright and related rights; rights in trademarks, geographical indications, industrial designs, patents, and layout-designs (topographies) of integrated circuits; rights in plant varieties; and rights in undisclosed information; as referred to in the TRIPS Agreement; and

(b) **WIPO** means the World Intellectual Property Organization.

第13章

知识产权

第一条
目标

每一缔约方确认其承诺，通过有效和充分地创造、利用、保护和执行知识产权，促进更深层次的经济一体化，从而减少贸易和投资障碍，同时考虑到经济发展水平和能力的差异、国家法律体系的差异，以及需要在知识产权所有者的权利与用户在知识产权保护主题事项中的合法利益之间保持适当平衡。

第二条
定义

就本章而言：

(a) 知识产权指版权及相关权利；商标、地理标志、工业设计、专利及集成电路的布图设计（拓扑图）所涉权利；植物品种权；以及未披露信息权；如《与贸易有关的知识产权协定》所述；以及

(b) WIPO指世界知识产权组织。

Article 3
Affirmation of the TRIPS Agreement

Each Party affirms its rights and obligations with respect to each other Party under the TRIPS Agreement.

Article 4
National Treatment

1. Each Party shall accord to the nationals of each other Party treatment no less favourable than it accords to its own nationals with regard to the protection[1] of intellectual property, subject to the exceptions provided in the TRIPS Agreement and in those multilateral agreements concluded under the auspices of WIPO.

2. Each Party may avail itself of the exceptions referred to under Paragraph 1 in relation to its judicial and administrative procedures, including requiring a national of any other Party to designate an address for service of process in its territory, or to appoint an agent in its territory, only where such exceptions are:

(a) necessary to secure compliance with laws and regulations that are not inconsistent with this Chapter; and

(b) not applied in a manner that would constitute a disguised restriction on trade.

[1] For the purposes of this Paragraph, "protection" includes matters affecting the availability, acquisition, scope, maintenance, and enforcement of intellectual property rights, as well as those matters affecting the use of intellectual property rights specifically covered by this Chapter. Further, for the purposes of this Paragraph, "protection" also includes the prohibition on circumvention of effective technological measures specified in Article 5 (Copyright).

第三条 对《与贸易有关的知识产权协定》的确认

每一缔约方确认其在《与贸易有关的知识产权协定》下对其他缔约方的权利和义务。

第四条国民待遇

1. 每一缔约方在知识产权保护方面[1]，应给予其他缔约方国民的待遇不低于其给予本国国民的待遇，但须遵守《与贸易有关的知识产权协定》及在世界知识产权组织主持下缔结的多边协定中规定的例外情形。

2. 每一缔约方仅可在下列条件下，针对其司法和行政程序援引第1款所述的例外，包括要求任何其他缔约方国民在其领土内指定送达地址或委任代理人：

(a) 为确保遵守与本章不相抵触的法律法规所必需；且

(b) 不得以构成变相贸易限制的方式实施。

[1] 就本款而言，"保护"包括影响知识产权可获得性、收购、范围、维持和执行的事项，以及本章特别涵盖的影响知识产权使用的事项。此外，就本款而言，"保护"还包括第5条（版权）中规定的禁止规避有效的技术措施。

Article 5
Copyright

1. Each Party shall:

   (a) provide to authors of works[2] the exclusive right to authorise any communication to the public of their works by wire or wireless means;

   (b) provide criminal procedures and penalties at least in cases where a person wilfully infringes copyright for commercial advantage or financial gain; and

   (c) foster the establishment of appropriate bodies for the collective management of copyright and encourage such bodies to operate in a manner that is efficient, publicly transparent and accountable to their members.

2. Each Party shall endeavour to:

   (a) provide to authors of sound recordings [3] the exclusive right to authorise any communication to the public of their sound recordings by wire or wireless means;

[2] For the purposes of this Chapter, "works" includes a cinematograph film.

[3] Where a Party is, or becomes, a member of the *WIPO Performances and Phonograms Treaty* (WPPT), that Party's obligations under this Paragraph shall be subject to any commitments and reservations that Party has made under the WPPT.

第5条
版权

1. 每一缔约方应：

   (a) 授予作品作者[2] 专有权，以授权通过有线或无线方式向公众传播其作品；(b) 至少在行为人故意侵犯版权以获取商业利益或经济利益的情况下，提供刑事程序和处罚；以及(c) 促进设立适当的版权集体管理机构，并鼓励此类机构以高效、公开透明和对其成员负责的方式运作。

2. 每一缔约方应努力：

   (a) 授予录音制品作者[3] 专有权，以授权通过有线或无线方式向公众传播其录音制品；

[2] 就本章而言，"作品"包括电影作品。

[3] 如一缔约方已是或成为《世界知识产权组织表演和录音制品条约》（WPPT）的成员，则该缔约方在本款下的义务应受制于该缔约方在WPPT下所作的任何承诺和保留。

(b) provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures[4] that are used by copyright owners in connection with the exercise of their copyright rights and that restrict acts, in respect of their works, which are not authorised by the copyright owners concerned or permitted by law; and

(c) provide criminal procedures and penalties at least in cases where a person wilfully commits a significant infringement of copyright, that is not committed for commercial advantage or financial gain and which is not otherwise permitted by law, but which has a substantial prejudicial impact on the owner of the copyright.

Article 6

Government Use of Software

Each Party confirms its commitment to:

(a) maintain appropriate laws, regulations or policies that make provision for its central government agencies to continue to use only legitimate computer software in a manner authorised by law and consistent with this Chapter; and

(b) encourage its respective regional and local governments to maintain or adopt similar measures.

[4] For the purposes of this Chapter, "effective technological measures" means any technology, device, or component that is used by copyright owners in connection with the exercise of their copyright rights and that restricts acts, in respect of their works or sound recordings, which are not authorised by the copyright owners concerned or permitted by law.

(b) 提供充分的法律保护和有效的法律救济，以防止规避有效的技术措施[4]，这些措施由版权所有者用于行使其版权权利，并限制未经相关版权所有者授权或法律许可的涉及其作品的行为；

(c) 至少在以下情况下提供刑事程序和处罚：某人故意实施重大版权侵权，该行为并非为商业利益或经济利益，且未经法律许可，但对版权所有者造成实质性损害影响。

第六条 政府使用软件

每一缔约方确认其承诺：

(a) 维持适当的法律、法规或政策，规定其中央政府机构继续仅以法律授权且符合本章的方式使用合法的计算机软件；及

(b) 鼓励其各自的地区和地方各级政府维持或采取类似措施。

[4] 就本章而言，"有效的技术措施"指版权所有者行使其版权权利时使用的任何技术、设备或组成部分，用以限制未经相关版权所有者授权或法律许可的对其作品或录音制品的行为。

Article 7
Trademarks and Geographical Indications

1. Each Party shall maintain a trademark classification system that is consistent with the *Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks*, as amended from time to time.

2. Each Party shall provide high quality trademark rights through the conduct of examination as to substance and formalities and through opposition and cancellation procedures.

3. Each Party shall protect trademarks where they predate, in its jurisdiction, geographical indications in accordance with its domestic law and the TRIPS Agreement.

4. Each Party recognises that geographical indications may be protected through a trademark system.

Article 8
Genetic Resources, Traditional Knowledge and Folklore

Subject to each Party's international obligations, each Party may establish appropriate measures to protect genetic resources, traditional knowledge and folklore.

Article 9
Co-operation

1. The Parties acknowledge the significant differences in capacity between some Parties in the area of intellectual property. Mindful of this, where a Party's implementation of this Chapter is inhibited by capacity constraints, each other Party shall, as appropriate, and upon request, endeavour to provide co-operation to that Party to assist in the implementation of this Chapter.

第七条 商标和地理标志

1. 每一缔约方应维持与《商标注册用商品和服务国际分类尼斯协议》（经不时修订）相一致的商标分类体系。

2. 每一缔约方应通过实质和形式审查以及异议和撤销程序，提供高质量的商标权。

3. 每一缔约方应根据其国内法和《与贸易有关的知识产权协定》，在其管辖权范围内保护先于地理标志存在的商标。

4. 每一缔约方承认地理标志可通过商标制度获得保护。

第8条 遗传资源、传统知识和民间文学艺术

在不违背各缔约方国际义务的前提下，每一缔约方可制定适当措施以保护遗传资源、传统知识和民间文学艺术。

第9条 合作

1. 各方认识到部分缔约方在知识产权领域存在显著的能力差异。有鉴于此，当一缔约方因能力限制而阻碍本章的实施时，其他各缔约方应在适当情况下，并根据请求，努力向该缔约方提供合作以协助本章的实施。

2. At the request of a Party, any other Party may, to the extent possible and as appropriate, render assistance to the requesting Party in order to enhance the requesting Party's national framework for the acquisition, protection, enforcement, utilisation and creation of intellectual property, with a view to developing intellectual property systems that foster domestic innovation in the requesting Party.

3. The Parties agree to promote dialogue on intellectual property issues, including by:

(a) designating contact points in relevant government agencies, including contact points for the enforcement of intellectual property rights at the border;

(b) encouraging interaction between intellectual property experts in order to broaden understanding of each others' intellectual property systems; and

(c) exchanging information concerning the infringement of intellectual property rights, in accordance with domestic law.

4. The Parties shall endeavour to co-operate in order to promote the efficiency and transparency of intellectual property administration and registration systems, including by exchanging information regarding developments in such systems and by developing publicly accessible databases of registered rights.

5. The Parties shall endeavour to co-operate in order to promote education and awareness regarding the benefits of effective protection and enforcement of intellectual property rights.

2. 应一缔约方请求，任何其他缔约方可尽可能且在适当范围内向请求方提供协助，以加强请求方在知识产权收购、保护、执行、利用和创造方面的国家框架，旨在发展促进请求方国内创新的知识产权体系。

3. 缔约方同意促进知识产权议题的对话，包括通过以下方式：

(a) 在相关政府机构中指定联络点，包括边境知识产权执法的联络点；(b) 鼓励知识产权专家之间的互动，以增进对彼此知识产权体系的理解；以及(c) 根据国内法交换有关知识产权侵权的信息。

4. 缔约方应努力开展合作，以提升知识产权管理和注册制度的效率与透明度，包括通过交换此类制度发展信息及开发注册权利的公开可访问数据库。

5. 各方应努力开展合作，以促进关于有效保护和知识产权执法利益的教育与意识。

6. Parties shall co-operate on border measures with a view to eliminating trade which infringes intellectual property rights. Parties who are members of the WTO shall also co-operate with each other to support the effective implementation of the requirements relating to border measures set out in Articles 51 to 60 of the TRIPS Agreement.

7. Recognising the importance of achieving the objectives of this Chapter, should any Party intend to accede to any of the following treaties, it can seek to co-operate with other Parties to support its accession to, and its implementation of, the following treaties:

(a) the *Patent Cooperation Treaty 1970*;

(b) the *Strasbourg Agreement Concerning the International Patent Classification 1971*;

(c) the *Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure 1977*;

(d) the *Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks 1989*;

(e) the *Patent Law Treaty 2000*;

(f) the *International Convention for the Protection of New Varieties of Plants 1991*;

(g) the TRIPS Agreement;

(h) the *Singapore Treaty on the Law of Trademarks 2006*;

(i) the *WIPO Copyright Treaty 1996*; and

6. 缔约方应在边境措施方面开展合作，以消除侵犯知识产权的贸易。作为世界贸易组织成员的缔约方还应相互合作，支持有效实施与贸易有关的知识产权协定第51至60条规定的边境措施相关要求。

7. 认识到实现本章目标的重要性，如有任何缔约方拟加入下列任何条约，可寻求与其他缔约方合作，以支持其加入并实施下列条约：

(a) 1970年专利合作条约；(b) 1971年斯特拉斯堡国际专利分类协定；(c) 1977年《国际承认用于专利程序的微生物保存布达佩斯条约》；(d) 1989年马德里协定有关商标国际注册的议定书；(e) 2000年专利法条约；(f) 1991年国际植物新品种保护公约；(g) 与贸易有关的知识产权协定；(h) 2006年新加坡商标法条约；(i) 1996年世界知识产权组织版权条约；及

(j) the *WIPO Performances and Phonograms Treaty 1996.*

8. Each Party shall, on request and as it considers appropriate, endeavour to provide co-operation to support any Party's efforts to implement an inclusive system[5] of trademark registration.

9. All co-operation under this Article is subject to the availability of resources.

Article 10
Transparency

1. Each Party shall ensure that its laws and regulations of general application that pertain to the availability, scope, acquisition, enforcement and prevention of the abuse of intellectual property rights are made publicly available in at least the national language of that Party or in the English language. Each Party shall also endeavour to provide that final judicial decisions and administrative rulings pertaining to the aforesaid matters are made publicly available in at least the national language of that Party or in the English language.

2. Each Party shall endeavour to make the information referred to in Paragraph 1, which is publicly available, made available in the English language and on the internet.

3. Each Party shall endeavour to make available on the internet databases of all pending and registered trademark rights in its jurisdiction.

[5] An inclusive system of trademarks does not limit the scope of registrable trademarks and thus permits the registration of all trademarks that are capable of distinguishing a good or service, such as shapes, aspects of packaging, single and multi-colour marks, sounds and scents.

(j) 《世界知识产权组织表演和录音制品条约》1996年。

8. 每一缔约方应应请求并视情况适当，努力提供合作，以支持任何缔约方实施包容性[5] 商标注册制度的努力。

9. 本条款下的所有合作均以资源的可获得性为条件。

第十条透明度

1. 每一缔约方应确保其普遍适用的、涉及知识产权权利的可获得性、范围、收购、执行和防止滥用的法律法规，至少以该缔约方的国语或英语向公众公开。每一缔约方还应努力确保涉及上述事项的最终司法判决和行政裁决至少以该缔约方的国语或英语向公众公开。

2. 每一缔约方应努力以英语并在互联网上提供第1款所述的、已向公众公开的信息。

3. 每一缔约方应尽力在其管辖权范围内的互联网上提供所有待决和已注册商标权的数据库。

[5] 包容性商标制度不限制可注册商标的范围，因此允许注册所有能够区分商品或服务的商标，例如形状、包装外观、单色和多色商标、声音和气味。

Article 11
Recognition of Transitional Periods under the TRIPS Agreement

Nothing in this Chapter shall derogate from any transitional period for implementing a provision of the TRIPS Agreement that has been or may be agreed by the Council for TRIPS, established pursuant to Article IV of the WTO Agreement, either prior or subsequent to the entry into force of this Agreement.

Article 12
Committee on Intellectual Property

1. Recognising the importance of achieving the objectives of this Chapter, the Parties hereby establish a Committee on Intellectual Property (IP Committee), consisting of representatives of the Parties to monitor the implementation and administration of this Chapter.

2. The IP Committee shall meet annually or as mutually determined by the Parties. Meetings may be conducted in person, or by any other means as mutually determined by the Parties.

3. The IP Committee shall determine its terms of reference in accordance with this Chapter.

4. The IP Committee shall determine its work programme in response to priorities as identified by the Parties.

5. In the course of fulfilling its functions, the IP Committee may agree that existing or new mechanisms be utilised or developed in order to promote dialogue between the Parties on intellectual property issues, including by providing opportunities for stakeholders to engage with the Parties on such issues.

第11条 与贸易有关的知识产权协定下过渡期的承认

本章任何规定均不得减损TRIPS理事会（根据WTO协定第四条设立）在本协定生效之前或之后已同意或可能同意的与贸易有关的知识产权协定条款实施过渡期。

第12条 知识产权委员会

1. 认识到实现本章目标的重要性，各方特此设立知识产权委员会（知识产权委员会），由各方的代表组成，以监督本章的实施和管理。

2. 知识产权委员会应每年召开会议，或由各方共同商定召开。会议可以面对面进行，或由各方共同商定的任何其他方式进行。

3. 知识产权委员会应根据本章确定其职权范围。

4. 知识产权委员会应根据各方确定的优先事项制定其工作计划。

5. 在履行其职能过程中，知识产权委员会可同意利用或开发现有的或新的机制，以促进各方在知识产权问题上的对话，包括为利益相关方提供机会就此类问题与缔约方进行接触。

6. Each Party shall notify the IP Committee annually of its progress in meeting its commitments under Article 5 (Copyright), and developments regarding accession to treaties listed in Article 9.7 (Co-operation). These notifications shall be submitted at least 30 days prior to the first IP Committee meeting of the year.

6. 每一缔约方应每年向知识产权委员会通报其在履行第5条（版权）下承诺的进展情况，以及加入第九条第七款（合作）所列条约的发展情况。此类通知应于当年首次知识产权委员会会议召开前至少30个日历日提交。

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CHAPTER 14

COMPETITION

Article 1
Basic Principles

1. The Parties recognise the importance of co-operation in the promotion of competition, economic efficiency, consumer welfare and the curtailment of anti-competitive practices.

2. The Parties recognise the significant differences in capacity between ASEAN Member States, Australia and New Zealand in the area of competition policy.

3. The Parties respect the sovereign rights of each Party to develop, set, administer and enforce its own competition laws and policies.

4. Nothing in this Chapter requires a Party to develop specific competition related measures to address anti-competitive practices, or prevents a Party from adopting policies in other fields, for example to promote economic development.

Article 2
Co-operation

1. The Parties may engage in co-operation activities consistent with Article 1 (Basic Principles) in the field of competition, including:

(a) exchange of experience regarding the promotion and enforcement of competition law and policy;

(b) exchange of publicly available information about competition law and policy;

第十四章

竞争

第一条 基本原则

1. 各方认识到在促进竞争、经济效率、消费者福利及遏制反竞争行为方面合作的重要性。

2. 各方认识到东盟成员国、澳大利亚和新西兰在竞争政策领域的能力存在显著差异。

3. 各方尊重每一缔约方制定、确立、实施和执行本国竞争法及政策的主权权利。

4. 本章不要求任何缔约方制定具体的竞争相关措施以应对反竞争行为，也不阻止缔约方在其他领域采取政策，例如促进经济发展。

第2条 合作

1. 各方可根据第一条（基本原则）在竞争领域开展合作活动，包括：

(a) 关于促进和执行竞争法及政策的经验交流；(b) 关于竞争法及政策的公开信息交流；

(c) exchange of officials for training purposes;

(d) exchange of consultants and experts on competition law and policy;

(e) participation of officials as lecturers, consultants, or participants at training courses on competition law and policy;

(f) participation of officials in advocacy programmes;

(g) other related activities following the introduction of a competition law in a Party; and

(h) any other form of technical co-operation as agreed upon by the Parties.

2. Mindful of this, where implementation of this Chapter is inhibited by capacity constraints, Australia and New Zealand may provide co-operation as they deem appropriate to assist ASEAN Member States with such implementation. Co-operation is subject to competition policy-related needs being identified and the availability of resources, having regards to respective Parties' laws and regulations.

Article 3
Contact Points

To ensure that technical co-operation under this Chapter occurs on an ongoing basis, the Parties shall designate contact points for technical co-operation and information exchange under this Chapter.

(c) 官员培训交流；(d) 竞争法和政策顾问与专家交流；(e) 官员作为讲师、顾问或参与者参加竞争法及政策培训课程；(f) 官员参与倡导计划；(g) 缔约方引入竞争法后的其他相关活动；以及(h) 缔约方商定的任何其他形式的技术合作。

2. 有鉴于此，在本章的实施因能力限制而受阻时，澳大利亚和新西兰可酌情提供合作，以协助东盟成员国实施本章。合作需以确定与竞争政策相关的需求为前提，并考虑资源可获得性及各缔约方的法律法规。

第三条 联络点

为确保本章项下的技术合作持续进行，缔约方应指定本章技术合作与信息交流的联络点。

Article 4
Non-Application of Chapter 17 (Consultations and Dispute Settlement)

Chapter 17 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.

第4条 第17章的不适用（磋商与争端解决）

第17章（磋商与争端解决）不适用于本章产生的事项。

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CHAPTER 15

GENERAL PROVISIONS AND EXCEPTIONS

Article 1
General Exceptions

1. For the purposes of Chapter 2 (Trade in Goods) Chapter 3 (Rules of Origin) Chapter 4 (Customs Procedures), Chapter 5 (Sanitary and Phytosanitary Measures) and Chapter 6 (Standards, Technical Regulations and Conformity Assessment Procedures), Article XX of GATT 1994 shall be incorporated into and shall form part of this Agreement, *mutatis mutandis.*

2. For the purposes of Chapter 8 (Trade in Services), Chapter 9 (Movement of Natural Persons) and Chapter 11 (Investment), Article XIV of GATS including its footnotes shall be incorporated into and shall form part of this Agreement, *mutatis mutandis.*

3. For the purposes of this Agreement, the Parties understand that measures referred to in Article XX(f) of GATT 1994 include measures necessary to protect national treasures or specific sites of historical or archaeological value, or measures necessary to support creative arts of national value.[1]

4. For the purposes of Chapter 8 (Trade in Services) and Chapter 11 (Investment), subject to the requirement that such measures are not applied in a manner which would

[1] "Creative arts" include the performing arts – including theatre, dance and music – visual arts and craft, literature, film and video, language arts, creative on-line content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid art work, including those that use new technologies to transcend discrete art form divisions. The term encompasses those activities involved in the presentation, execution and interpretation of the arts, and the study and technical development of these art forms and activities.

第15章

一般规定和例外

第1条 一般例外

1. 就第2章（货物贸易）、第3章（原产地规则）、第4章（海关程序）、第5章（卫生与植物卫生措施）和第6章（标准、技术法规和合格评定程序）而言，1994年关税与贸易总协定第20条经必要修改后纳入本协定，并构成本协定的一部分。

2. 就第8章（服务贸易）、第9章（自然人流动）和第11章（投资）而言，服务贸易总协定第14条及其脚注经必要修改后纳入本协定，并构成本协定的一部分。

3. 就本协定而言，各方理解1994年关税与贸易总协定第20条(f)款所指的措施包括为保护国家珍宝或具有历史或考古价值的特定遗址所必需的措施，或为支持具有国民价值的创意艺术所必需的措施。[1]

4. 就第八章（服务贸易）和第11章（投资）而言，在遵守此类措施的实施方式不得构成缔约方之间在类似情况下任意或不合理的歧视或变相的服务贸易或投资限制的前提下，

[1] "创意艺术"包括表演艺术——如戏剧、舞蹈和音乐——视觉艺术和手工艺、文学、电影和视频、语言艺术、创意在线内容、土著传统实践和当代文化表达，以及数字互动媒体和混合艺术作品，包括那些运用新技术超越离散艺术形式界限的作品。该术语涵盖与艺术的提交、执行和诠释相关的活动，以及对这些艺术形式与活动的研究和技术发展。

constitute a means of arbitrary or unjustifiable discrimination between Parties where like conditions prevail, or a disguised restriction on trade in services or investment, nothing in these Chapters shall be construed to prevent the adoption or enforcement by a Party of measures necessary to protect national treasures or specific sites of historical or archaeological value, or measures necessary to support creative arts of national value.[2]

5. A Party shall hold consultations with a view to reaching agreement on any necessary adjustment required to maintain the overall balance of commitments undertaken by the Parties under Chapter 8 (Trade in Services) and Chapter 11 (Investment) if requested by a Party affected by the measures referred to in Paragraph 4.

Article 2
Security Exceptions

1. Nothing in this Agreement shall be construed:

(a) to require any Party to furnish any information the disclosure of which it considers contrary to its essential security interests;

(b) to prevent any Party from taking any action which it considers necessary for the protection of its essential security interests:

(i) relating to fissionable materials or the materials from which they are derived;

[2] "Creative arts" include the performing arts – including theatre, dance and music – visual arts and craft, literature, film and video, language arts, creative on-line content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid art work, including those that use new technologies to transcend discrete art form divisions. The term encompasses those activities involved in the presentation, execution and interpretation of the arts, and the study and technical development of these art forms and activities.

这些章节的任何规定不得解释为阻止缔约方采取或执行保护国家珍宝或具有历史或考古价值的特定遗址的必要措施，或支持具有国民价值的创意艺术的必要措施。[2]

5. 受影响缔约方可要求就第4段所述措施进行磋商，以期达成协议，对第八章（服务贸易）和第11章（投资）下缔约方所作承诺的总体平衡进行必要调整。

第2条 安全例外

1. 本协定任何内容不得解释为：

(a) 要求任何缔约方提供其认为披露会违背其基本安全利益的任何信息；(b) 阻止任何缔约方采取其认为对保护其基本安全利益所必需的任何措施：(i) 涉及可裂变材料或从中衍生的材料；

[2] "创意艺术"包括表演艺术（如戏剧、舞蹈和音乐）、视觉艺术和手工艺、文学、电影和视频、语言艺术、创意在线内容、土著传统实践和当代文化表达，以及数字互动媒体和混合艺术作品（包括运用新技术超越离散艺术形式界限的作品）。该术语涵盖艺术呈现、执行与诠释相关活动，以及对这些艺术形式与活动的研究和技术发展。

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials, or relating to the supply of services, as carried on directly or indirectly for the purpose of supplying or provisioning a military establishment;

(iii) taken so as to protect critical public infrastructures[3] including communications, power and water infrastructures from deliberate attempts intended to disable or degrade such infrastructures;

(iv) taken in time of national emergency or war or other emergency in international relations; or

(c) to prevent any Party from taking any action in pursuance of its obligations under the *United Nations Charter* for the maintenance of international peace and security.

2. The FTA Joint Committee shall be informed to the fullest extent possible of measures taken under Paragraph 1(b) and (c) and of their termination.

Article 3
Taxation Measures

1. Except as provided in this Article, nothing in this Agreement shall apply to taxation measures.

2. This Agreement shall only grant rights or impose obligations with respect to taxation measures where:

(a) corresponding rights and obligations are also granted or imposed under the WTO Agreement;

[3] For clarity, this includes critical public infrastructures whether publicly or privately owned.

(ii) 涉及武器、弹药和战争工具的贸易以及涉及其他货物和材料的此类贸易，或涉及直接或间接为军事机构供应或补给目的而进行的服务提供；

(iii) 为保护关键公共基础设施[3]（包括通信、电力和水利基础设施）免遭蓄意破坏或削弱此类基础设施的行为而采取；

(iv) 在国家紧急状态、战争或国际关系紧急状态下采取；或

(c) 阻止任何缔约方为履行《联合国宪章》下维护国际和平与安全的义务而采取任何行动。

2. 应根据第1款(b)项和(c)项采取的措施及其终止情况，尽可能全面地向自由贸易协定联合委员会通报。

第三条 税收措施

1. 除本条款另有规定外，本协定任何内容均不适用于税收措施。

2. 本协定仅在下述情况下授予权利或施加与税收措施相关的义务：

(a) 根据WTO协定也授予或施加了相应的权利和义务；

[3] 为明确起见，这包括无论是公有还是私有的关键公共基础设施。

(b) they are granted or imposed under Article 8 (Transfers) of Chapter 11 (Investment); or

(c) they are granted or imposed under Article 9 (Expropriation and Compensation) of Chapter 11 (Investment).

3. Where Paragraph 2(b) or (c) apply, Section B (Investment Disputes between a Party and an Investor) of Chapter 11 (Investment) shall also apply in respect of taxation measures.

4. If there is a dispute described in Article 18.1 (Scope and Definitions) of Chapter 11 (Investment) that may relate to a taxation measure, the relevant Parties, including representatives of their tax administrations, shall hold consultations. Any tribunal established pursuant to Section B (Investment Disputes between a Party and an Investor) of Chapter 11 (Investment) shall accord serious consideration to a joint decision of the relevant Parties as to whether the measure in question is a taxation measure. For this purpose, Article 25.7 (Conduct of the Arbitration) of Chapter 11 (Investment) shall apply *mutatis mutandis*.

5. Nothing in this Agreement shall affect the rights and obligations of any Party under any tax convention relating to the avoidance of double taxation in force between any of the Parties. In the event of any inconsistency relating to a taxation measure between this Agreement and any such tax convention, the latter shall prevail. Any consultations between the relevant Parties about whether an inconsistency relates to a taxation measure shall be done by the competent tax authorities, as stipulated under the domestic laws and regulations of the relevant Parties. The request for such consultations shall be addressed through the contact points designated in accordance with Article 2 (Communications) of Chapter 16 (Institutional Provisions).

(b) 根据第11章（投资）第8条（转移）授予或施加；或

(c) 根据第11章（投资）第9条（征收与补偿）授予或施加。

3. 如适用第2(b)款或(c)款，第11章（投资）B节（缔约方与投资者之间的投资争端）亦应适用于税收措施。

4. 若存在第11章（投资）第18.1条（范围与定义）所述且可能涉及税收措施的争端，相关缔约方（包括其税收管理部门的代表）应进行磋商。根据第11章（投资）B节（缔约方与投资者之间的投资争端）设立的仲裁庭，应认真考虑相关缔约方关于争议措施是否属于税收措施的联合决定。为此目的，第11章（投资）第25.7条（仲裁的进行）应经必要修改后适用。

5. 本协定任何条款均不影响任何缔约方在现行避免双重征税税收协定下的权利和义务。若本协定与任何此类税收协定在税收措施方面存在不一致，以后者为准。相关缔约方之间就税收措施不一致性进行的磋商，应按照相关缔约方国内法律法规规定，由主管税务当局负责执行。此类磋商请求应通过根据第十六章（机构条款）第2条（通讯）指定的联络点提出。

6. Nothing in this Agreement shall oblige a Party to extend to any other Party the benefit of any treatment, preference or privilege arising from any existing or future agreement relating to the avoidance of double taxation or from the provisions on the avoidance of double taxation in any other international agreement or arrangement by which the Party is bound.

7. For the purposes of this Article, taxation measures do not include any import or customs duties.

Article 4
Measures to Safeguard the Balance of Payments

1. Where a Party is in serious balance of payments and external financial difficulties or under threat thereof, it may:

(a) in the case of trade in goods, in accordance with GATT 1994 and the *Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement, adopt restrictive import measures;

(b) in the case of trade in services, adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments;

(c) in the case of investments, adopt or maintain restrictions on payments or transfers related to covered investments as defined in Article 2(a) (Definitions) of Chapter 11 (Investment)

2. Restrictions adopted or maintained under Paragraph 1(b) or (c) shall:

(a) be consistent with the IMF Articles of Agreement*;*

6. 本协定任何条款均不要求缔约方将因现行或未来避免双重征税协议、或因该缔约方受约束的其他国际协议或安排中避免双重征税条款而产生的任何待遇、优惠或特权延伸至任何其他缔约方。

7. 就本条款而言，税收措施不包括任何进口或关税。

第4条 保障国际收支平衡的措施

1. 如一缔约方处于严重的国际收支和外部财政困难或受到此类困难威胁，则该缔约方可：

(a) 在货物贸易方面，根据1994年关税与贸易总协定及世界贸易组织协定附件1A中的《1994年关税与贸易总协定关于国际收支条款的谅解》，采取限制性进口措施；
(b) 在服务贸易方面，对已作出具体承诺的服务贸易采取或维持限制措施，包括对与此类承诺相关的交易的支付或转移进行限制；(c) 在投资方面，对与第11章（投资）第2条(a)款（定义）所定义的涵盖投资相关的支付或转移采取或维持限制措施

2. 根据第1款(b)项或(c)项采取或维持的限制措施应：

(a) 符合《国际货币基金组织协定条款》；

(b) avoid unnecessary damage to the commercial, economic and financial interests of any other Party;

(c) not exceed those necessary to deal with the circumstances described in Paragraph 1;

(d) be temporary and be phased out progressively as the situation specified in Paragraph 1 improves; and

(e) be applied on a non-discriminatory basis such that no Party is treated less favourably than any other Party or non-Party.

3. With respect to trade in services and investment,

(a) it is recognised that particular pressures on the balance of payments of a Party in the process of economic development or economic transition may necessitate the use of restrictions to ensure, *inter alia*, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition;

(b) in determining the incidence of such restrictions, a Party may give priority to economic sectors which are more essential to their economic or development programmes. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular sector.

4. Any restrictions adopted or maintained by a Party under Paragraph 1, or any changes therein, shall be notified promptly to the other Parties.

(b) 避免对任何其他缔约方的商业、经济和金融利益造成不必要的损害；(c) 不超过应对第1款所述情况所必需的范围；(d) 具有临时性，并随着第1款所述情况的改善逐步取消；以及(e) 在非歧视性基础上实施，使任何缔约方的待遇不低于任何其他缔约方或非缔约方。

3. 关于服务贸易和投资，

(a) 各方认识到，处于经济发展或经济转型进程中的缔约方，其国际收支可能面临特殊压力，因而有必要采取限制措施，以确保（除其他外）维持足够的金融储备水平，以实施其经济发展或经济转型计划；(b) 在确定此类限制措施的影响时，缔约方可优先考虑对其经济或发展计划更为关键的经济部门。但不得为保护特定部门而采取或维持此类限制措施。

4. 缔约方根据第1款采取或维持的任何限制措施，或其任何变更，应立即通知其他缔约方。

5. A Party adopting or maintaining any restrictions under Paragraph 1 shall:

(a) in the case of investment, respond to any other Party that requests consultations in relation to the restrictions adopted by it, if such consultations are not otherwise taking place outside this Agreement;

(b) in the case of trade in services, if consultations in relation to the restrictions adopted by it are not taking place at the WTO, a Party, if requested, shall promptly commence consultations with any interested Party.

Article 5
Treaty of Waitangi

1. Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Parties or as a disguised restriction on trade in goods and services, nothing in this Agreement shall preclude the adoption by New Zealand of measures it deems necessary to accord more favourable treatment to Maori in respect of matters covered by this Agreement including in fulfillment of its obligations under the Treaty of Waitangi.

2. The Parties agree that the interpretation of the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement. Chapter 17 (Consultations and Dispute Settlement) shall otherwise apply to this Article. An arbitral tribunal established pursuant to Article 11 (Establishment and Re-convening of Arbitral Tribunals) of Chapter 17 (Consultations and Dispute Settlement) may be requested to determine only whether any measure (referred to in Paragraph 1) is inconsistent with their rights under this Agreement.

5. 根据第1款采取或维持任何限制措施的缔约方应：

(a) 在投资方面，应任何其他缔约方关于其采取的限制措施的磋商请求作出回应，前提是此类磋商未在本协定之外进行；(b) 在服务贸易方面，若世界贸易组织未就某缔约方采取的限制措施开展磋商，则该缔约方在收到请求后应立即与任何利益相关缔约方启动磋商。

第5条 怀唐伊条约

1. 只要相关措施不被用作对其他缔约方人员实施任意或不合理歧视的手段，或作为对货物和服务贸易的变相限制，本协定任何规定均不得阻止新西兰采取其认为必要的措施，就本协定所涵盖事项（包括为履行《怀唐伊条约》义务）向毛利人提供更优惠待遇。

2. 缔约方同意，《怀唐伊条约》的解释，包括其产生的权利和义务的性质，不应受本协定争端解决条款的约束。第17章（磋商与争端解决）的其他规定适用于本条。根据第17章（磋商与争端解决）第11条（仲裁庭的设立和重新召集）设立的仲裁庭，仅可被请求裁定任何措施（第1款中所述）是否与本协定规定的权利不一致。

CHAPTER 16

INSTITUTIONAL PROVISIONS

Article 1
FTA Joint Committee

1. The Parties hereby establish a free trade agreement joint committee (the FTA Joint Committee) consisting of representatives of the Parties.

2. The functions of the FTA Joint Committee shall be to:

(a) review the implementation and operation of this Agreement;

(b) consider and recommend to the Parties any amendments to this Agreement;

(c) supervise and co-ordinate the work of all subsidiary bodies established pursuant to this Agreement;

(d) adopt, where appropriate, decisions and recommendations of subsidiary bodies established pursuant to this Agreement;

(e) consider any other matter that may affect the operation of this Agreement or that is entrusted to the FTA Joint Committee by the Parties; and

(f) carry out any other functions as the Parties may agree.

3. In the fulfillment of its functions, the FTA Joint Committee may establish additional subsidiary bodies, including *ad hoc* bodies, and assign them with tasks on specific matters, or delegate its responsibilities to any

第十六章

机构条款

第一条 自由贸易协定联合委员会

1. 缔约方特此设立一个自由贸易协定联合委员会（自由贸易协定联合委员会），由各方的代表组成。

2. 自由贸易协定联合委员会的职能应包括：

(a) 审议本协定的实施与运作；(b) 考虑并向缔约方推荐对本协定的任何修正案；(c) 监督并协调根据本协定设立的所有附属机构的工作；(d) 在适当情况下通过根据本协定设立的附属机构的决定与建议；(e) 考虑可能影响本协定运作或由缔约方委托给自由贸易协定联合委员会的任何其他事项；以及(f) 履行缔约方可能商定的任何其他职能。

3. 为履行其职能，自由贸易协定联合委员会可设立额外的附属机构，包括特设机构，并指派其处理具体事项的任务，或将职责委托给任何

subsidiary body established pursuant to this Agreement including:

(a) Goods Committee established pursuant to Article 11 (Committee on Trade in Goods) of Chapter 2 (Trade in Goods):

(i) ROO Sub-Committee established pursuant to Article 18 (Sub-Committee on Rules of Origin) of Chapter 3 (Rules of Origin);

(ii) SPS Sub-Committee established pursuant to Article 10 (Meetings Among the Parties on Sanitary and Phytosanitary Matters) of Chapter 5 (Sanitary and Phytosanitary Measures); and

(iii) STRACAP Sub-Committee established pursuant to Article 13 (Sub-Committee on Standards, Technical Regulations and Conformity Assessment Procedures) of Chapter 6 (Standards, Technical Regulations and Conformity Assessment Procedures);

(b) Services Committee established pursuant to Article 24 (Committee on Trade in Services) of Chapter 8 (Trade in Services);

(c) Investment Committee established pursuant to Article 17 (Committee on Investment) of Chapter 11 (Investment); and

(d) IP Committee established pursuant to Article 12 (Committee on Intellectual Property) of Chapter 13 (Intellectual Property).

4. The FTA Joint Committee shall establish its rules and procedures at its first meeting.

根据本协定设立的附属机构，包括：

(a) 根据第2章（货物贸易）第11条（货物贸易委员会）设立的货物委员会：(i) 根据第3章（原产地规则）第18条（原产地规则分委会）设立的原产地规则分委会；(ii) 根据第5章（卫生与植物卫生措施）第10条（卫生与植物卫生措施问题缔约方会议）设立的SPS分委会；及(iii) 根据第6章（标准、技术法规和合格评定程序）第13条（标准、技术法规和合格评定程序分委会）设立的STRACAP分委会；(b) 根据第8章（服务贸易）第24条（服务贸易委员会）设立的服务委员会；(c) 根据第11章（投资）第17条（投资委员会）设立的投资委员会；及(d) 根据第13章（知识产权）第12条（知识产权委员会）设立的知识产权委员会。

4. 自由贸易协定联合委员会应在其首次会议上制定其规则和程序。

5. Unless the Parties agree otherwise, the FTA Joint Committee shall convene its first meeting within one year after this Agreement enters into force. Its subsequent meetings shall be convened at such frequency as the Parties may mutually determine, and as necessary to discharge its functions under this Agreement. The FTA Joint Committee shall convene alternately in ASEAN Member States, Australia and New Zealand, unless the Parties agree otherwise. Special meetings of the FTA Joint Committee may be convened, as agreed by the Parties, within 30 days upon the request of a Party.

6. The FTA Joint Committee shall regularly report to the consultations of the ASEAN Economic Ministers, the Trade Minister of Australia and the Trade Minister of New Zealand through the meetings of their Senior Economic Officials.

Article 2
Communications

Each Party shall designate a contact point to facilitate communications among the Parties on any matter relating to this Agreement. All official communications in this regard shall be in the English language.

5. 除非缔约方另有约定，自由贸易协定联合委员会应在本协定生效后一年内召开首次会议。后续会议应根据缔约方共同确定的频率召开，并根据履行本协定下职能的需要召开。除非缔约方另有约定，自由贸易协定联合委员会应轮流在东盟成员国、澳大利亚和新西兰召开会议。应一缔约方请求，经缔约方同意，可在30日历日内召开自由贸易协定联合委员会特别会议。

6. 自由贸易协定联合委员会应通过高级经济官员会议定期向东盟经济部长、澳大利亚贸易部长和新西兰贸易部长磋商报告。

第2条 通讯

每一缔约方应指定一个联络点，以便就本协定相关事项在各缔约方之间进行沟通。所有相关正式沟通均应使用英语进行。

CHAPTER 17

CONSULTATIONS AND DISPUTE SETTLEMENT

SECTION A

Introductory Provisions

Article 1
Objectives

The objective of this Chapter is to provide an effective, efficient and transparent process for consultations and settlement of disputes arising under this Agreement.

Article 2
Definitions

For the purposes of this Chapter, the following definitions shall apply unless the context otherwise requires:

(a) **Complaining Party** means any Party or Parties that request consultations under Article 6 (Consultations);

(b) **dispute arising under this Agreement** means a complaint made by a Party concerning any measure affecting the operation, implementation or application of this Agreement whereby any benefit accruing to the Complaining Party directly or indirectly under this Agreement is being nullified or impaired, or the attainment of any objective of this Agreement is being impeded, as a result of the failure of the Responding Party to carry out its obligations[1] under this Agreement[2];

[1] A failure to carry out its obligations includes application by the Responding Party of any measure which is in conflict with the obligations under this Agreement.
[2] Non-violation complaints are not permitted under this Agreement.

第17章

磋商与争端解决

A节

引言条款

第一条
目标

本章的目标是为本协定项下产生的磋商与争端解决提供一个有效、高效且透明的程序。

第二条
定义

就本章而言，除非上下文另有要求，否则适用以下定义：

(a) 申诉方指根据第6条（磋商）请求磋商的任何缔约方；

(b) 本协定项下的争端指一缔约方就影响本协定运营、实施或适用的任何措施提出的申诉，由于应诉方未能履行其[1] 本协定[2]项下的义务，导致申诉方直接或间接根据本协定获得的任何利益正被取消或减损，或本协定任何目标的实现正受到阻碍；

[1] 未能履行其义务包括应诉方采取任何与本协定下义务相冲突的措施。[2] 本协定不允许非违反之诉。

(c) **Parties to the dispute** means the Complaining Party and the Responding Party;

(d) **Responding Party** means any Party to which the request for consultations is made under Article 6 (Consultations); and

(e) **Third Party** means any Party who has notified its substantial trade interest or substantial interest in the matter pursuant to Article 6.7 (Consultations) or Article 10.1 (Third Parties) respectively.

Article 3
Scope and Coverage

1. Except as otherwise provided in this Agreement, this Chapter shall apply to the avoidance or settlement of disputes arising under this Agreement. This Chapter shall not apply to the settlement of disputes arising under Chapter 5 (Sanitary and Phytosanitary Measures), Chapter 10 (Electronic Commerce), Chapter 12 (Economic Co-operation) and Chapter 14 (Competition).

2. This Chapter shall apply subject to such special and additional provisions on dispute settlement contained in other Chapters of this Agreement.

3. Subject to Article 5 (Choice of Forum), this Chapter is without prejudice to the rights of a Party to have recourse to dispute settlement procedures available under other agreements to which it is a party.

4. This Chapter may be invoked in respect of measures affecting the observance of this Agreement taken by central, regional or local governments or authorities within the territory of a Party.

(c) 争议各方指申诉方和应诉方；(d) 应诉方指根据第6条（磋商）被提出磋商请求的任何缔约方；以及(e) 第三方指已分别根据第六条第7款（磋商）或第10条第1款（第三方）就其在该事项中的实质性贸易利益或实质性利益作出通知的任何缔约方。

第三条 范围和覆盖范围

1. 除本协定另有规定外，本章适用于因本协定产生的争议的避免或解决。本章不适用于因第5章（卫生与植物卫生措施）、第10章（电子商务）、第12章（经济合作）和第14章（竞争）产生的争议的解决。

2. 本章的适用应受本协定其他章节中关于争端解决的特殊和附加规定的约束。

3. 在第5条（选择争端解决场所）的约束下，本章不影响缔约方根据其作为缔约方的其他协定中可用的争端解决程序寻求救济的权利。

4. 本章可适用于一方的领土内中央、地区或地方政府或当局采取的影响本协定遵守的措施。

Article 4
General Provisions

1. This Agreement shall be interpreted in accordance with the customary rules of treaty interpretation of public international law.

2. All notifications, requests and replies made pursuant to this Chapter shall be in writing.

3. The Parties to the dispute are encouraged at every stage of a dispute to make every effort to reach a mutually agreed solution to the dispute. Where a mutually agreed solution is reached, the terms and conditions of the agreement shall be notified to the other Parties.

4. Unless otherwise specified, any time periods provided for in this Chapter may be modified by mutual agreement of the Parties to the dispute provided that any modification shall not prejudice the rights of the Third Parties pursuant to Article 10 (Third Parties).

Article 5
Choice of Forum

1. Where a dispute concerning any matter arises under this Agreement and under another international agreement to which the Parties to the dispute are party, the Complaining Party may select the forum in which to address that matter and that forum shall be used to the exclusion of other possible fora in respect of that matter.

2. For the purposes of this Article, the Complaining Party shall be deemed to have selected the forum in which to settle the dispute when it has requested the establishment of an arbitral tribunal pursuant to Article 8 (Request for Establishment of Arbitral Tribunals) or requested the establishment of, or referred a matter to, a similar dispute settlement panel under another international agreement.

第4条 一般规定

1. 本协定应依照国际公法的条约解释的习惯规则予以解释。

2. 根据本章作出的所有通知、请求和答复均应以书面形式进行。

3. 鼓励争议各方在争端的每个阶段尽一切努力达成双方同意的解决方案。若达成双方同意的解决方案，应将协议的条款和条件通知其他缔约方。

4. 除非另有规定，本章规定的任何时限可由争议各方通过相互协议予以修改，但任何修改不得损害第三方根据第10条（第三方）享有的权利。

第5条 选择争端解决场所

1. 如争议各方同为缔约方的本协定与另一国际协议项下就任何事项产生争端，申诉方可选择解决该事项的争端解决场所，且该场所应被用于处理该事项，排除其他可能的争端解决场所。

2. 就本条款而言，当申诉方根据第8条（请求设立仲裁庭）请求设立仲裁庭，或根据另一国际协议请求设立或提交事项至类似争端解决专家组时，应视为已选定解决争端的争端解决场所。

3. This Article does not apply where the Parties to the dispute agree in writing that this Article shall not apply to a particular dispute.

SECTION B

Consultation Provisions

Article 6
Consultations

1. Any Party may request consultations with any other Party with respect to any dispute arising under this Agreement. A Responding Party shall accord due consideration to a request for consultations made by a Complaining Party and shall accord adequate opportunity for such consultations.

2. Any request for consultations shall give the reasons for the request, including identification of the measures at issue and an indication of the legal basis for the complaint.

3. A copy of all such requests shall be simultaneously provided to all Parties. The Responding Party shall immediately acknowledge receipt of the request by way of notification to all Parties, indicating the date on which the request was received.

4. The Responding Party shall, unless otherwise mutually agreed, reply to the request within seven days after the date of its receipt and shall enter into consultations within a period of no more than:

(a) ten days after the date of receipt of the request in cases of urgency, including perishable goods; or

(b) 30 days after the date of receipt of the request for all other matters.

3. 如争议各方以书面形式同意本条款不适用于特定争端，则本条款不适用。

B部分

磋商规定

第6条 磋商

1. 任何缔约方可就本协定项下的任何争端请求与任何其他缔约方进行磋商。应诉方应对申诉方提出的磋商请求给予应有的考虑，并为磋商提供充分机会。

2. 任何磋商请求均应说明请求的理由，包括指明争议措施及申诉的法律依据。

3. 所有此类请求的副本应同时提供给所有缔约方。应诉方应立即通过向所有缔约方发出通知的方式确认收到请求，并注明收到请求的日期。

4. 除非另有约定，应诉方应在收到请求之日起七个日历日内予以答复，并应在不超过以下期限内进行磋商：

(a) 在紧急情况下（包括易腐货物），自收到请求之日起10个日历日内；或 (b) 对于所有其他事项，自收到请求之日起30个日历日内。

5. If the Responding Party does not enter into consultations within the periods specified in Paragraph 4, or a period otherwise mutually agreed, the Complaining Party may proceed directly to request the establishment of an arbitral tribunal pursuant to Article 8 (Request for Establishment of Arbitral Tribunals).

6. The Parties to the dispute shall make every effort to reach a mutually satisfactory solution through consultations. To this end, the Parties to the dispute shall:

(a) provide sufficient information to enable a full examination of the matter, including how the measures at issue might affect the implementation or application of this Agreement;

(b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information; and

(c) endeavour to make available for the consultations personnel of its government agencies or other regulatory bodies who have responsibility for and/or expertise in the matter under consultation.

7. Whenever a Party other than the Parties to the dispute considers that it has a substantial trade interest in the consultations, such Party may notify the Parties to the dispute within seven days after the notification of the request for consultations, of its desire to be joined in the consultations. Such notification shall be simultaneously provided to all Parties. Such Party shall be joined in the consultations if the Parties to the dispute agree.

5. 如应诉方未在第4段规定期限内或双方另行商定的期限内进行磋商，申诉方可直接根据第8条（请求设立仲裁庭）请求设立仲裁庭。

6. 争议各方应尽一切努力通过磋商达成双方满意的解决方案。为此，争议各方应：

(a) 提供充分信息以便全面审查该事项，包括争议措施可能如何影响本协定的实施或申请；(b) 对磋商过程中交换的任何机密或专有信息，按照提供信息的缔约方相同的标准予以对待；以及(c) 尽力安排其政府机构或其他监管机构中负责和/或具备磋商事项专业知识的人员参与磋商。

7. 当争议各方以外的其他缔约方认为其在磋商中具有实质性贸易利益时，该缔约方可在磋商请求通知发出后七日历日内，通知争议各方其希望加入磋商。该通知应同时提供给所有缔约方。若争议各方同意，则该缔约方应加入磋商。

Article 7
Good Offices, Conciliation, Mediation

1. The Parties to the dispute may at any time agree to good offices, conciliation or mediation. Procedures for good offices, conciliation or mediation may begin at any time and may be terminated at any time.

2. If the Parties to the dispute agree, procedures for good offices, conciliation or mediation may continue while the matter is being examined by an arbitral tribunal established or re-convened under this Chapter.

3. Proceedings involving good offices, conciliation and mediation and positions taken by the Parties to the dispute during these proceedings shall be confidential and without prejudice to the rights of any Parties to the dispute in any further or other proceedings.

SECTION C

Adjudication Provisions

Article 8
Request for Establishment of Arbitral Tribunals

1. The Complaining Party may request the establishment of an arbitral tribunal to consider the matter if:

(a) the Responding Party does not enter into consultations in accordance with Article 6.4 (Consultations); or

(b) if the consultations fail to resolve a dispute within:

(i) 20 days after the date of receipt of the request for consultations in cases of urgency including perishable goods;

第七条 斡旋、调解与调停

1. 争议各方可随时同意进行斡旋、调解或调停。斡旋、调解或调停程序可随时启动，也可随时终止。

2. 若争议各方同意，斡旋、调解或调停程序可在根据本章设立或重新召集的仲裁庭审查该事项期间继续进行。

3. 涉及斡旋、调解和调停的程序以及争议各方在这些程序中所采取的立场应予以保密，且不得损害争议各方在任何其他程序中的权利。

第三部分

裁决条款

第8条 请求设立仲裁庭

1. 申诉方可请求设立仲裁庭以审议该事项，如果：

(a) 应诉方未按照第六条第四款（磋商）进行磋商；或
(b) 若磋商未能在以下期限内解决争端：(i) 在涉及紧急情况（包括易腐货物）时，自收到磋商请求之日起20个日历日内；

(ii) 60 days after the date of receipt of the request for consultations regarding any other matter; or

(iii) such other period as the Parties to the dispute may agree.

2. A request made pursuant to Paragraph 1 shall identify the specific measures at issue and provide details of the factual and legal basis of the complaint (including the provisions of this Agreement to be addressed by the arbitral tribunal) sufficient to present the problem clearly.

3. A copy of all such requests shall be simultaneously provided to all Parties. The Responding Party shall immediately acknowledge receipt of the request by way of notification to all Parties, indicating the date on which the request was received.

4. Where a request is made pursuant to Paragraph 1, an arbitral tribunal shall be established in accordance with Article 11 (Establishment and Re-convening of Arbitral Tribunals).

Article 9
Procedures for Multiple Complainants

1. Where more than one Party requests the establishment of an arbitral tribunal related to the same matter, a single arbitral tribunal may be established to examine these complaints if all of the Parties to the disputes agree. The Parties to the disputes should seek to establish a single arbitral tribunal whenever feasible.

2. The single arbitral tribunal shall organise its examination and present its findings in such a manner that the rights which the Parties to the dispute would have

(ii) 对于任何其他事项，自收到磋商请求之日起60个日历日内；或 (iii) 争议各方可能商定的其他期限。

2. 根据第1款提出的请求应指明争议措施，并提供申诉的事实和法律依据详情（包括仲裁庭将处理的本协定条款），以清晰呈现问题。

3. 所有此类请求的副本应同时提供给所有缔约方。应诉方应立即通过向所有缔约方发出通知的方式确认收到请求，并注明收到请求的日期。

4. 如根据第1款提出请求，应按照第11条（仲裁庭的设立和重新召集）设立仲裁庭。

第9条 多方申诉程序

1. 如有多于一个缔约方请求就同一事项设立仲裁庭，且争议各方均同意，则可设立单一仲裁庭审查这些申诉。争议各方应尽可能寻求设立单一仲裁庭。

2. 单一仲裁庭应以确保争议各方权利不受损害的方式组织审查并提交其裁决，

enjoyed had separate arbitral tribunals examined the complaints are in no way impaired.

3. If more than one arbitral tribunal is established to examine the complaints related to the same matter, the Parties to the disputes shall endeavour to ensure that the same persons serve as arbitrators for each arbitral tribunal. The arbitral tribunals shall consult to ensure, to the greatest extent possible, that the timetables for the arbitral tribunal processes are harmonised.

Article 10
Third Parties

1. Any Party having a substantial interest in a matter before an arbitral tribunal may notify the Parties to the dispute of this interest no later than ten days after the date of receipt by the Responding Party of the request for the establishment of the arbitral tribunal or the date of a request for a Compliance Review Tribunal pursuant to Article 16 (Compliance Review). Such notification shall be simultaneously provided to all Parties. Any Party notifying its substantial interest shall have the rights and obligations of a Third Party.

2. A Third Party shall receive the submissions of the Parties to the dispute to the first substantive meeting of the arbitral tribunal with the Parties to the dispute.

3. A Third Party shall have an opportunity to make at least one written submission to the arbitral tribunal and shall have an opportunity to be heard by the arbitral tribunal at its first substantive meeting with the Parties to the dispute. Any submissions or other documents submitted by Third Parties shall be simultaneously provided to the Parties to the dispute and other Third Parties.

4. The Parties to the dispute may agree to provide additional or supplemental rights to Third Parties regarding

即使由不同仲裁法庭分别审理申诉，这些权利也应得到充分保障。

3. 如设立多个仲裁庭审查同一事项相关的申诉，争议各方应尽力确保各仲裁庭由相同人员担任仲裁员。各仲裁法庭应相互协商，尽可能协调仲裁庭程序的时间表。

第10条 第三方

1. 对仲裁庭审理事项具有实质性利益的任何缔约方，可在应诉方收到设立仲裁庭请求之日起10个日历日内，或根据第16条（合规审查）请求设立合规审查仲裁庭之日起10个日历日内，就此利益通知争议各方。此类通知应同时提供给所有缔约方。通知其实质性利益的缔约方应享有第三方的权利和义务。

2. 第三方应接收争议各方提交给仲裁庭首次实质性会议的提交材料。

3. 第三方应有机会向仲裁庭提交至少一份书面意见，并应有机会在仲裁庭与争议各方举行的首次实质性会议上陈述意见。第三方提交的任何书面意见或其他文件应同时提供给争议各方及其他第三方。

4. 争议各方可同意向第三方提供关于

participation in arbitral tribunal proceedings. In providing additional or supplemental rights, the Parties to the dispute may impose conditions. Unless otherwise agreed by the Parties to the dispute, the arbitral tribunal shall not grant any additional or supplemental rights to any Third Parties regarding participation in arbitral tribunal proceedings.

5. If a Third Party considers that a measure already the subject of an arbitral tribunal proceeding nullifies or impairs benefits accruing to it under this Agreement, such Party may have recourse to dispute settlement procedures under this Chapter.

Article 11
Establishment and Re-convening of Arbitral Tribunals

1. An arbitral tribunal requested pursuant to Article 8 (Request for Establishment of Arbitral Tribunals) shall be established in accordance with this Article.

2. Unless the Parties to the dispute otherwise agree, the arbitral tribunal shall consist of three arbitrators. All appointments and nominations of arbitrators under this Article shall conform fully with the requirements in Paragraphs 9 and 10.

3. Within five days of the date of the receipt of a request under Article 8 (Request for Establishment of Arbitral Tribunals), the Parties to the dispute shall enter into consultations with a view to reaching agreement on the procedures for composing the arbitral tribunal, taking into account the factual, technical and legal circumstances of the dispute. The Parties to the dispute may agree to use any of the optional procedures specified in this Chapter's Annex on Optional Procedures for Composing Arbitral Tribunals. Any procedures for composing the arbitral tribunal which are agreed under this Paragraph shall be used for the composition of the arbitral tribunal and shall also be used for the purposes of Paragraphs 12 and 13.

参与仲裁庭程序的附加或补充权利。在提供附加或补充权利时，争议各方可附加条件。除非争议各方另有约定，仲裁庭不得向任何第三方授予关于参与仲裁庭程序的任何附加或补充权利。

5. 如第三方认为某项已提交仲裁庭程序的措施导致其根据本协定享有的利益丧失或减损，则该缔约方可援用本章规定的争端解决程序。

第11条 仲裁庭的设立和重新召集

1. 根据第8条（请求设立仲裁庭）提出的仲裁庭设立请求，应依照本条予以设立。

2. 除非争议各方另有约定，仲裁庭应由三名仲裁员组成。根据本条进行的所有仲裁员任命和提名均应完全符合第9和第10款的要求。

3. 在收到根据第8条（请求设立仲裁庭）提出的设立请求之日起五个日历日内，争议各方应进行磋商，以期考虑到争端的事实、技术和法律情况，就组成仲裁庭的程序达成协议。争议各方可同意使用本章仲裁庭组成可选程序附件中规定的任何可选程序。根据本段商定的任何组成仲裁庭的程序，应适用于仲裁庭的组成，并应同样适用于第12和第13款的目的。

4. If the Parties to the dispute are unable to reach agreement on the procedures for composing the arbitral tribunal within 15 days of the date of the receipt of the request referred to in Paragraph 3, any Party to the dispute may at any time thereafter notify the other Parties to the dispute that it wishes to use the procedures set forth in Paragraphs 5 to 7. Where such a notification is made, the arbitral tribunal shall be composed in accordance with Paragraphs 5 to 7.

5. The Complaining Party or Parties shall appoint one arbitrator within ten days of the date of the receipt of the notification referred to in Paragraph 4. The Responding Party shall appoint one arbitrator within 20 days of the date of the receipt of the notification referred to in Paragraph 4.

6. Following the appointment of the arbitrators in accordance with Paragraph 5, the Parties to the dispute shall agree on the appointment of the third arbitrator who shall serve as the chair of the arbitral tribunal. To assist in reaching this agreement, each of the Parties to the dispute may provide to the other Parties to the dispute a list of up to three nominees for appointment as the chair of the arbitral tribunal. If the Parties to the dispute have not agreed on the chair of the arbitral tribunal within 15 days of the appointment of the second arbitrator, the two appointed arbitrators shall designate by common agreement the third arbitrator who shall chair the arbitral tribunal.

7. If all three arbitrators have not been appointed within 45 days of the date of the receipt of the notification referred to in Paragraph 4, any Party to the dispute may request the Director-General of the WTO to make the remaining appointments within a further period of 15 days. Any lists of nominees which were provided under Paragraph 6 shall also be provided to the Director-General of the WTO and may be used in making the required appointments.

4. 如果争议各方未能在收到第3段所述请求之日起15个日历日内就组成仲裁庭的程序达成协议，争议任何一方可在之后任何时间通知争议其他各方，其希望使用第5至7段规定的程序。如作出此类通知，仲裁庭应按照第5至7段组成。

5. 申诉方应于收到第4段所述通知之日起10个日历日内指定一名仲裁员。应诉方应于收到第4段所述通知之日起20个日历日内指定一名仲裁员。

6. 根据第5段完成仲裁员指定后，争议各方应协商指定第三名仲裁员担任仲裁庭主席。为促成此项协议，争议各方可向其他争议缔约方提供最多三名仲裁庭主席提名人选名单。若争议各方未能在第二名仲裁员指定后15个日历日内就仲裁庭主席人选达成一致，则已指定的两名仲裁员应以共同协议方式指定第三名仲裁员担任仲裁庭主席。

7. 若所有三位仲裁员未能在收到第4段所述通知之日起45个日历日内完成任命，争端任何缔约方可请求世界贸易组织总干事在额外15个日历日内完成剩余任命。根据第6段提供的提名人选名单也应提交世界贸易组织总干事，并可用于完成所需任命。

8. The date of establishment of the arbitral tribunal shall be the date on which the last arbitrator is appointed.

9. All arbitrators shall:

(a) have expertise or experience in law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;

(b) be chosen strictly on the basis of objectivity, reliability, and sound judgement;

(c) be independent of, and not be affiliated with or take instructions from, any Party to the dispute;

(d) not have dealt with the matter in any capacity; and

(e) disclose, to the Parties to the dispute, information which may give rise to justifiable doubts as to their independence or impartiality.

10. Unless the Parties to the dispute otherwise agree, arbitrators shall not be nationals of a Party to the dispute. In addition, the chair of arbitral tribunal shall not have his or her usual place of residence in the territory of a Party to the dispute.

11. Arbitrators shall serve in their individual capacities and not as government representatives, nor as representatives of any organisation. Parties shall not give them instructions nor seek to influence them as individuals with regard to matters before an arbitral tribunal.

12. If an arbitrator appointed under this Article resigns or becomes unable to act, a successor arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator and shall have all the

8. 仲裁庭的设立日期应为最后一位仲裁员完成任命之日。

9. 所有仲裁员应：

(a) 具备法律、国际贸易、本协定所涉其他事项或国际贸易协定下争议解决的专业知识或经验；(b) 严格基于客观性、可靠性和合理判断进行遴选；(c) 独立于争议任何一方，且不得与之存在隶属关系或接受其指示；(d) 未曾以任何身份处理过该事项；以及(e) 向争议各方披露可能引发对其独立性或公正性产生合理怀疑的信息。

10. 除非争议各方另有约定，仲裁员不得为争议任何一方的国民。此外，仲裁庭主席的通常居住地不得位于争议任何一方的领土内。

11. 仲裁员应以个人身份履职，不得作为政府代表或任何组织的代表。各方不得就仲裁庭审理事项向仲裁员个人发出指示或试图施加影响。

12. 根据本条款任命的仲裁员若辞职或无法履职，应以任命原仲裁员的相同方式任命继任仲裁员，且继任者应享有原仲裁员的全部

powers and duties of the original arbitrator. The work of the arbitral tribunal shall be suspended during the appointment of the successor arbitrator.

13. Where an arbitral tribunal is re-convened under Article 16 (Compliance Review) or Article 17 (Compensation and Suspension of Concessions or other Obligations) the re-convened arbitral tribunal shall, where possible, have the same arbitrators as the original arbitral tribunal. Where this is not possible, the replacement arbitrator(s) shall be appointed in the same manner as prescribed for the appointment of the original arbitrator(s), and shall have all the powers and duties of the original arbitrator(s).

Article 12
Functions of Arbitral Tribunals

1. An arbitral tribunal shall make an objective assessment of the matter before it, including an objective assessment of:

(a) the facts of the case;

(b) the applicability of the provisions of this Agreement cited by the Parties to the dispute; and

(c) whether the Responding Party has failed to carry out its obligations under this Agreement.

2. An arbitral tribunal shall have the following terms of reference unless the Parties to the dispute agree otherwise within 20 days from the date of the establishment of an arbitral tribunal:

> "To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for establishment of an arbitral tribunal made pursuant to Article 8 (Request for Establishment of

权力和义务。在任命继任仲裁员期间，仲裁庭的工作应暂停。

13. 如根据第16条（合规审查）或第17条（补偿和中止减让或其他义务）重新召集仲裁庭，则重新召集的仲裁庭在可能情况下应由原仲裁庭的相同仲裁员组成。如无法实现，替换仲裁员应按照原仲裁员的指定方式任命，并拥有原仲裁员的全部权力和义务。

第12条 仲裁庭的职能

1. 仲裁庭应对其审理的事项进行客观评估，包括对以下方面进行客观评估：

(a) 案件事实；(b) 争议各方援引的本协定条款的适用性；及(c) 应诉方是否未履行本协定规定的义务。

2. 除非争议各方在仲裁庭设立之日起20个日历日内另有约定，否则仲裁庭应具有以下职权范围：

> "根据本协定相关条款，审查依据第8条（请求设立仲裁庭）提出的设立仲裁庭请求中所述事项，并作出本协定规定的裁决及（如适用）建议。"

Arbitral Tribunals), and to make such findings and if applicable, suggestions provided for in this Agreement."

The arbitral tribunal shall make its findings in accordance with this Agreement.

3. The arbitral tribunal shall set out in its report:

(a) a descriptive section summarising the arguments of the Parties to the dispute and Third Parties;

(b) its findings on the facts of the case and on the applicability of the provisions of this Agreement;

(c) its findings on whether the Responding Party has failed to carry out its obligations under this Agreement; and

(d) its reasons for its findings in Subparagraphs (b) and (c).

4. In addition to Paragraph 3, an arbitral tribunal may include in its report any other findings jointly requested by the Parties to the dispute. The arbitral tribunal may suggest ways in which the Responding Party could implement the findings.

5. Unless the Parties to the dispute otherwise agree, an arbitral tribunal shall base its report solely on the relevant provisions of this Agreement and the submissions and arguments of the Parties to the dispute. An arbitral tribunal shall only make the findings and suggestions provided for in this Agreement.

6. The interests of Third Parties and those of other Parties shall be fully taken into account during the arbitral tribunal proceedings. Third Parties' submissions shall be reflected in the report of the arbitral tribunal.

仲裁法庭），并根据本协定作出裁决，如适用，提出建议。"

仲裁庭应根据本协定作出裁决。

3. 仲裁庭应在其报告中列明：

(a) 描述性部分，概述争议各方及第三方的论点；(b) 其对案件事实及本协定条款适用性的裁决；(c) 其对应诉方是否未履行本协定项下义务的裁决；以及(d) 其对(b)和(c)子段落中裁决的理由。

4. 除第3段外，仲裁庭可在其报告中纳入争议各方共同请求的其他裁决。仲裁庭可对应诉方如何实施裁决提出建议。

5. 除非争议各方另有约定，仲裁庭应仅基于本协定的相关条款及争议各方的提交材料和论点作出报告。仲裁庭仅应作出本协定规定的裁决和建议。

6. 在仲裁庭程序期间，应充分考虑第三方及其他缔约方的利益。第三方的提交材料应体现在仲裁庭的报告中。

7. The findings and suggestions of the arbitral tribunal cannot add to or diminish the rights and obligations provided in this Agreement or any other international agreement.

8. The arbitral tribunal shall consult regularly the Parties to the dispute and provide adequate opportunities for the development of a mutually satisfactory solution to the dispute.

9. An arbitral tribunal re-convened under this Chapter shall also carry out functions with regard to compliance review under Article 16 (Compliance Review) and review of level of suspension of concessions or other obligations under Article 17 (Compensation and Suspension of Concessions or other Obligations). Paragraphs 1 to 3 shall not apply to an arbitral tribunal re-convened under Article 16 (Compliance Review) and Article 17 (Compensation and Suspension of Concessions or other Obligations).

10. An arbitral tribunal shall make its findings by consensus provided that where an arbitral tribunal is unable to reach consensus it may make its findings by majority vote.

Article 13
Arbitral Tribunal Procedures

1. An arbitral tribunal established pursuant to Article 11 (Establishment and Re-convening of Arbitral Tribunals) shall adhere to this Chapter. The arbitral tribunal shall apply the rules of procedure set out in this Chapter's Annex on Rules of Procedure for Arbitral Tribunal Proceedings (Rules of Procedure Annex) unless the Parties to the dispute agree otherwise. On the request of a Party to the dispute, or on its own initiative, the arbitral tribunal may, after consulting the Parties to the dispute, adopt additional rules of procedure which do not conflict with the provisions of this Chapter or with the Rules of Procedure Annex.

7. 仲裁庭的裁决和建议不得增加或减少本协定或任何其他国际协议规定的权利和义务。

8. 仲裁庭应定期与争议各方磋商，并为达成双方满意的争端解决方案提供充分机会。

9. 根据本章重新召集的仲裁庭还应履行第16条（合规审查）规定的合规审议职能，以及第17条（补偿和中止减让或其他义务）规定的中止减让或其他义务水平的审议职能。第1至3款不适用于根据第16条（合规审查）和第17条（补偿和中止减让或其他义务）重新召集的仲裁庭。

10. 仲裁庭应以协商一致方式作出裁决；若无法达成一致，则可通过多数表决作出裁决。

第13条 仲裁法庭程序

1. 根据第11条（仲裁庭的设立和重新召集）设立的仲裁庭应遵守本章规定。除非争议各方另有约定，仲裁庭应适用本章仲裁庭程序规则附件（程序规则附件）规定的程序规则。应争议一方的请求或自行决定，仲裁庭可在与争议各方磋商后，采用不违反本章条款或程序规则附件的附加程序规则。

2. An arbitral tribunal re-convened under Article 16 (Compliance Review) or Article 17 (Compensation and Suspension of Concessions or other Obligations) may establish its own procedures which do not conflict with this Chapter or the Rules of Procedure Annex, in consultation with the Parties to the dispute, drawing as it deems appropriate from this Chapter or the Rules of Procedure Annex.

Timetable

3. After consulting the Parties to the dispute, an arbitral tribunal shall, as soon as practicable and whenever possible within 15 days after the establishment of the arbitral tribunal, fix the timetable for the arbitral tribunal process. The arbitral tribunal process, from the date of establishment until the date of the final report shall, as a general rule, not exceed the period of nine months, unless the Parties to the dispute agree otherwise.

4. Similarly, a Compliance Review Tribunal re-convened pursuant to Article 16 (Compliance Review) shall, as soon as practicable and whenever possible within 15 days after re-convening, fix the timetable for the compliance review process taking into account the time periods specified in Article 16 (Compliance Review).

Arbitral Tribunal Proceedings

5. Arbitral tribunal proceedings should provide sufficient flexibility so as to ensure high-quality reports, while not unduly delaying the arbitral tribunal process.

6. Arbitral tribunal deliberations shall be confidential. The Parties to the dispute and Third Parties shall be present only when invited by the arbitral tribunal to appear before it. An arbitral tribunal shall hold its hearings in closed session unless the Parties to the dispute agree otherwise. All presentations and statements made at hearings shall be

2. 根据第16条（合规审查）或第17条（补偿和中止减让或其他义务）重新召集的仲裁庭，可在与争议各方磋商后，制定不违反本章或程序规则附件的自身程序，并酌情借鉴本章或程序规则附件的规定。

时间表

3. 仲裁庭应在与争议各方磋商后，尽快且尽可能在仲裁庭设立后15个日历日内确定仲裁庭程序的时间表。除非争议各方另有约定，否则从仲裁庭设立之日起至最终报告提交之日止的仲裁庭程序，一般不应超过九个月的时限。

4. 同样，根据第16条（合规审查）重新召集的合规审查仲裁庭，应在重新召集后尽快且尽可能在15个日历日内，考虑第16条（合规审查）规定的时限，确定合规审查程序的时间表。

仲裁庭程序

5. 仲裁庭程序应具备足够的灵活性，以确保高质量的报告，同时不会不当拖延仲裁庭程序的进程。

6. 仲裁庭审议应保密。争议各方和第三方仅在被仲裁庭邀请出庭时方可出席。仲裁庭应以闭门会议形式举行听证会，除非争议各方另有约定。听证会上提交的所有声明和陈述应

made in the presence of the Parties to the dispute. There shall be no *ex parte* communications with the arbitral tribunal concerning matters under consideration by it.

Submissions

7. Each Party to the dispute shall have an opportunity to set out in writing the facts of its case, its arguments and counter arguments. The timetable fixed by the arbitral tribunal shall include precise deadlines for submissions by the Parties to the dispute and Third Parties.

Hearings

8. The timetable fixed by the arbitral tribunal shall provide for at least one hearing for the Parties to the dispute to present their case to the arbitral tribunal. As a general rule, the timetable shall not provide more than two hearings unless special circumstances exist.

9. The venue for hearings shall be decided by mutual agreement between the Parties to the dispute. If there is no agreement, the venue shall alternate between the capitals of the Parties to the dispute with the first hearing to be held in the capital of the Responding Party.

Confidentiality

10. Written submissions to the arbitral tribunal shall be treated as confidential, but shall be made available to the Parties to the dispute. No Party to the dispute shall be precluded from disclosing statements of its own positions to the public provided that there is no disclosure of information which has been designated as confidential by a Party to the dispute or Third Party. The Parties to the dispute, Third Parties and the arbitral tribunal shall treat as confidential information submitted by a Party to the dispute to the arbitral tribunal which that Party has designated as confidential. A Party to the dispute shall upon request of a Party, provide a

在争议各方在场的情况下进行。不得就仲裁庭审议事项与其进行单方通讯。

提交材料

7. 每一争议缔约方均应有以书面形式陈述其案件事实、论点及反驳论点的机会。仲裁庭确定的时间表应包含争议各方及第三方提交材料的确切截止日期。

听证会

8. 仲裁庭确定的时间表应至少安排一次听证会，供争议各方向仲裁庭陈述案情。作为一般规则，除非存在特殊情况，时间表安排的听证会不得超过两次。

9. 听证会地点应由争议各方通过相互协议决定。若未达成协议，则听证会地点应轮流设于争议各方的首都，首次听证会应在应诉方首都举行。

保密性

10. 提交给仲裁庭的书面陈述应被视为保密，但应向争端各方提供。争端任何一方不得被阻止向公众披露其自身立场的声明，前提是不披露已被争端一方或第三方指定为保密的信息。争端各方、第三方和仲裁庭应将争端一方向仲裁庭提交的、该方指定为保密的信息视为机密信息。争端一方应根据另一方的请求，提供

non-confidential summary of the information contained in its written submissions that could be disclosed to the public.

其书面意见中所含信息的非保密摘要，该摘要可向公众披露。

Additional Information and Technical Advice

附加信息和技术建议

11. The Parties to the dispute and Third Parties shall respond promptly and fully to any request by an arbitral tribunal for such information as the arbitral tribunal considers necessary and appropriate.

11. 争议各方和第三方应迅速、全面地回应仲裁庭提出的任何信息请求，只要仲裁庭认为该等信息必要且适当。

12. An arbitral tribunal may seek information and technical advice from any individual or body which it deems appropriate. However, before doing so the arbitral tribunal shall seek the views of the Parties to the dispute. Where the Parties to the dispute agree that the arbitral tribunal should not seek the additional information or technical advice, the arbitral tribunal shall not proceed. The arbitral tribunal shall provide the Parties to the dispute with any information or technical advice it receives and an opportunity to provide comments.

12. 仲裁庭可向其认为适当的任何个人或机构寻求信息和技术建议。但在采取此类行动前，仲裁庭应征求争议各方的意见。若争议各方一致认为仲裁庭不应寻求补充信息或技术建议，则仲裁庭不得继续推进。仲裁庭应向争议各方提供其收到的任何信息或技术建议，并给予其提出意见的机会。

Report

报告

13. The arbitral tribunal shall provide to the Parties to the dispute an interim report, meeting the requirements specified in Article 12.3 (Functions of Arbitral Tribunals).

13. 仲裁庭应向争议各方提供一份中期报告，该报告须符合第12.3条（仲裁庭的职能）所规定的要求。

14. The interim report shall be provided at least four weeks before the deadline for completion of the final report. The arbitral tribunal shall accord adequate opportunity to the Parties to the dispute to review the entirety of its interim report prior to its finalisation and shall include a discussion of any comments made by the Parties to the dispute in its final report.

14. 中期报告应在最终报告完成期限前至少四周提交。仲裁庭应在定稿前给予争议各方充分审议中期报告全文的机会，并应在最终报告中讨论争议各方提出的所有意见。

15. The interim and final report of the arbitral tribunal shall be drafted without the presence of the Parties to the dispute. Opinions expressed in the report of the arbitral tribunal by its individual members shall be anonymous.

15. 仲裁庭的中期报告和最终报告应在争议各方不在场的情况下起草。仲裁庭报告中个别成员表达的意见应匿名处理。

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16. The arbitral tribunal shall provide its final report to all other Parties seven days after the report is presented to the Parties to the dispute, and at any time thereafter a Party to the dispute may make the report publicly available subject to the protection of any confidential information contained in the report.

Article 14
Suspension and Termination of Proceedings

1. The Parties to the dispute may agree that the arbitral tribunal suspend its work at any time for a period not exceeding 12 months from the date of such agreement. Within this period, the suspended arbitral proceeding shall be resumed upon the request of any Party to the dispute. If the work of the arbitral tribunal has been continuously suspended for more than 12 months, the authority for establishment of the arbitral tribunal shall lapse unless the Parties to the dispute agree otherwise.

2. The Parties to the dispute may agree to terminate the proceedings of an arbitral tribunal in the event that a mutually satisfactory solution to the dispute has been found.

3. Before the arbitral tribunal presents its final report, it may at any stage of the proceedings propose to the Parties to the dispute that the dispute be settled amicably.

4. The Parties to the dispute shall notify the other Parties that the arbitral tribunal has been suspended, terminated or its authority has lapsed pursuant to Paragraph 1.

16. 仲裁庭应在向争议各方提交报告后七个日历日内，向所有其他缔约方提供其最终报告。此后，争议各方可在保护报告中包含的任何机密信息的前提下，随时向公众公开该报告。

第14条 程序的暂停和终止

1. 争议各方可协商同意仲裁庭暂停工作，暂停期限自该协议达成之日起不超过12个月。在此期间，经争议任何一方请求，应恢复被暂停的仲裁程序。若仲裁庭工作连续暂停超过12个月，则仲裁庭设立授权即告失效，除非争议各方另有约定。

2. 若争议各方已就争端达成双方满意的解决方案，可协商终止仲裁庭程序。

3. 在仲裁庭提交最终报告前，可在程序任何阶段向争议各方提议友好解决争端。

4. 争议各方应通知其他缔约方，仲裁庭已根据第1款暂停、终止或其权限已失效。

SECTION D

Implementation Provisions

Article 15
Implementation

1. Where an arbitral tribunal finds that the Responding Party has failed to carry out its obligations under this Agreement, the Responding Party shall comply with its obligations under this Agreement.

2. Within 30 days of the date of the presentation of the arbitral tribunal's final report to the Parties to the dispute, the Responding Party shall notify the Complaining Party:

(a) of its intentions with respect to implementation, including an indication of possible actions it may take to comply with the obligation in Paragraph 1;

(b) whether such implementation can take place immediately; and

(c) if such implementation cannot take place immediately, the reasonable period of time the Responding Party would need to implement.

3. If it is impracticable to comply immediately with the obligation in Paragraph 1, the Responding Party shall have a reasonable period of time to do so.

4. If a reasonable period of time is required, it shall, whenever possible, be mutually agreed by the Parties to the dispute. Where the Parties to the dispute are unable to agree on the reasonable period of time within 45 days of the date of the presentation of the arbitral tribunal's final report to the Parties to the dispute, any Party to the dispute may request that the chair of the arbitral tribunal determine the reasonable

D部分

实施规定

第15条 实施

1. 如仲裁庭认定应诉方未履行本协定项下义务，应诉方应遵守其在本协定项下的义务。

2. 在仲裁庭将最终报告提交争议各方之日起30个日历日内，应诉方应通知申诉方：

(a) 其关于实施的意向，包括可能为遵守第1款义务而采取的措施的说明；(b) 该实施是否可以立即进行；以及
(c) 如该实施无法立即进行，应诉方实施所需的合理期限。

3. 如立即遵守第1款义务不可行，应诉方应有一段合理期限予以实施。

4. 如需确定合理期限，应尽可能由争议各方共同商定。若争议各方未能在仲裁庭最终报告提交争议各方之日起45个日历日内就合理期限达成一致，则争议任何一方可请求仲裁庭主席确定该合理

period of time. Unless the Parties to the dispute otherwise agree, such requests shall be made no later than 120 days from the date of the presentation of the arbitral tribunal's final report to the Parties to the dispute.

5. Where a request is made pursuant to Paragraph 4, the chair of the arbitral tribunal shall present the Parties to the dispute with a report containing a determination of the reasonable period of time and the reasons for such determination within 45 days of the date of the request.

6. As a guideline, the reasonable period of time determined by the chair of the arbitral tribunal should not exceed 15 months from the date of the presentation of the arbitral tribunal's final report to the Parties to the dispute. However, such reasonable period of time may be shorter or longer, depending upon the particular circumstances.

Article 16
Compliance Review

1. Where the Parties to the dispute disagree on the existence or consistency with this Agreement of measures taken to comply with the obligation in Article 15.1 (Implementation), such dispute shall be decided through recourse to an arbitral tribunal re-convened for this purpose (Compliance Review Tribunal).[3] Unless otherwise specified in this Chapter, a Compliance Review Tribunal may be convened at the request of any Party to the dispute.

2. Such request may only be made after the earlier of:

(a) the expiry of the reasonable period of time; or

(b) a notification to the Complaining Party by the Responding Party that it has complied with the obligation in Article 15.1 (Implementation).

[3] Consultations under Article 6 (Consultations) are not required for these procedures.

期限。除非争议各方另有约定，此类请求应在仲裁庭最终报告提交争议各方之日起120个日历日内提出。

5. 如根据第4段提出请求，仲裁庭主席应在请求提出之日起45个日历日内，向争议各方提交一份报告，其中包含对合理期限的决定及该决定的理由。

6. 作为指导原则，仲裁庭主席确定的合理期限自仲裁庭向争议各方提交最终报告之日起不应超过15个月。但根据具体情况，该合理期限可酌情缩短或延长。

第16条 合规审查

1. 如争议各方对为遵守第15.1条（执行）义务而采取的措施是否存在或是否符合本协定存在分歧，该争端应通过为此目的重新召集的仲裁庭（合规审查仲裁庭）作出决定。[3] 除非本章另有规定，合规审查仲裁庭可应争议任何一方的请求召集。

2. 此类请求仅可在以下较早时间之后提出：

(a) 合理期限届满；或

(b) 向申诉方发出通知后
应诉方已遵守第15.1条（执行）规定的义务。

[3] 此类程序无需根据第6条（磋商）进行磋商。

3. A Compliance Review Tribunal shall make an objective assessment of the matter before it, including an objective assessment of:

(a) the factual aspects of any implementation action taken by the Responding Party; and

(b) whether the Responding Party has complied with the obligation in Article 15.1 (Implementation).

4. The Compliance Review Tribunal shall set out in its report:

(a) a descriptive section summarising the arguments of the Parties to the dispute and Third Parties;

(b) its findings on the factual aspects of the case; and

(c) its findings on whether the Responding Party has complied with the obligation in Article 15.1 (Implementation).

5. The Compliance Review Tribunal shall, where possible, provide its interim report to the Parties to the dispute within 75 days of the date it re-convenes, and its final report 15 days thereafter. When the Compliance Review Tribunal considers that it cannot provide either report within the relevant timeframe, it shall inform the Parties to the dispute in writing of the reasons for the delay together with an estimate of the period within which it will submit the report.

6. Where an arbitral tribunal is requested to re-convene pursuant to Paragraph 1, it shall re-convene within 15 days of the date of the request. The period from the date of the request for the arbitral tribunal to re-convene to the submission of its final report shall not exceed 120 days, unless Article 11.12 (Establishment and Re-convening of

3. 合规审查仲裁庭应对其审理的事项进行客观评估，包括对以下方面的客观评估：

(a) 应诉方采取的任何执行措施的事实方面；以及(b) 应诉方是否遵守了第15.1条（执行）规定的义务。

4. 合规审查仲裁庭应在其报告中列明：

(a) 概述争议各方和第三方论点的描述性部分；(b) 其对案件事实方面的裁决；以及(c) 其对应诉方是否遵守第15.1条（执行）规定义务的裁决。

5. 合规审查仲裁庭应尽可能在重新召开之日起75个日历日内向争议各方提交中期报告，并在其后15个日历日内提交最终报告。当合规审查仲裁庭认为无法在相关时限内提交任一报告时，应以书面形式告知争议各方延迟的理由及预计提交报告的期限。

6. 如根据第1款要求仲裁庭重新召集，该仲裁庭应在请求之日起15个日历日内重新召集。从请求仲裁庭重新召集之日起至提交其最终报告之日止的期限不得超过120个日历日，除非第11.12条（设立和重新召集

Arbitral Tribunals) applies or the Parties to the dispute otherwise agree.

Article 17
Compensation and Suspension of Concessions or other Obligations

1. Compensation and the suspension of concessions or other obligations are temporary measures available in the event that the Responding Party does not comply with its obligation under Article 15.1 (Implementation). However, neither compensation nor the suspension of concessions or other obligations is preferred to compliance with the obligation under Article 15.1 (Implementation). Compensation is voluntary and, if granted, shall be consistent with this Agreement.

2. Where either of the following circumstances exists:

(a) the Responding Party has notified the Complaining Party that it does not intend to comply with the obligation in Article 15.1 (Implementation); or

(b) a failure to comply with the obligation in Article 15.1 (Implementation) has been established in accordance with Article 16 (Compliance Review),

the Responding Party shall, if so requested by the Complaining Party, enter into negotiations with a view to developing mutually acceptable compensation.

3. If no satisfactory compensation has been agreed within 30 days of the date of a request made under Paragraph 2, the Complaining Party may at any time thereafter notify the Responding Party and the other Parties that it intends to suspend the application to the Responding Party of concessions or other obligations equivalent to the level of nullification and impairment, and shall have the right to begin

仲裁法庭）适用或争议各方另有约定。

第17条 补偿和中止减让或其他义务

1. 补偿和中止减让或其他义务是应诉方未遵守第15.1条（执行）义务时可采取的临时措施。但无论是补偿还是中止减让或其他义务，均不优先于遵守第15.1条（执行）的义务。补偿是自愿的，若给予补偿，则应符合本协定。

2. 在下列任一情形存在时：

(a) 应诉方已通知申诉方其无意遵守第15.1条（执行）的义务；或 (b) 根据第16条（合规审查）已确定未遵守第15.1条（执行）的义务，

应诉方应在申诉方请求下，进行谈判以期达成双方可接受的补偿。

3. 如在根据第二段提出请求的日期后30日历日内未能议定令人满意的补偿，则申诉方可随时通知应诉方和其他缔约方其拟中止对应诉方实施的减让或其他义务，且该中止减让或其他义务的程度应等同于利益丧失或减损的程度，并应有权在

suspending concessions or other obligations 30 days after the date of receipt of the notification.

4. The right to suspend concessions or other obligations arising under Paragraph 3 shall not be exercised where:

(a) a review is being undertaken pursuant to Paragraph 8; or

(b) a mutually agreed solution has been reached.

5. A notification made under Paragraph 3 shall specify the level of concessions or other obligations that the Complaining Party proposes to suspend, and the relevant Chapter and sector(s) which the concessions or other obligations are related to.

6. In considering what concessions or other obligations to suspend, the Complaining Party shall apply the following principles:

(a) the Complaining Party should first seek to suspend concessions or other obligations in the same sector or sectors as that affected by the measure; and

(b) the Complaining Party may suspend concessions or other obligations in other sectors it if considers that it is not practicable or effective to suspend concessions or other obligations in the same sector.

7. The level of suspending concessions or other obligations shall be equivalent to the level of nullification and impairment.

8. Within 30 days from the date of receipt of a notification made under Paragraph 3, if the Responding Party objects to the level of suspension proposed or considers that the

收到通知的日期后30日历日开始中止减让或其他义务。

4. 在下列情况下，不得行使第3段规定的暂停减让或其他义务的权利：

(a) 正在根据第8段进行审议；或

(b) 已达成双方同意的解决方案。

5. 根据第3段作出的通知应列明申诉方拟暂停的减让或其他义务的水平，以及相关减让或其他义务所涉章节和部门。

6. 在考虑暂停何种减让或其他义务时，申诉方应适用下列原则：

(a) 申诉方应首先寻求中止与受措施影响的相同部门或部门的减让或其他义务；以及 (b) 如果申诉方认为中止相同部门的减让或其他义务不可行或无效，则可以中止其他部门的减让或其他义务。

7. 中止减让或其他义务的水平应与利益丧失或减损的水平等效。

8. 在收到根据第3段所作通知之日起30个日历日内，若应诉方对提议的中止水平提出异议或认为

principles set forth in Paragraph 6 have not been followed, the Responding Party may request the arbitral tribunal to re-convene to make findings on the matter. The arbitral tribunal shall provide its assessment to the Parties to the dispute within 30 days of the date it re-convenes. Where an arbitral tribunal is requested to re-convene pursuant to this Paragraph, it shall re-convene within 15 days of the date of the request, unless Article 11.12 (Establishment and Re-convening of Arbitral Tribunals) applies.

9. The suspension of concessions or other obligations shall be temporary and shall only be applied until such time as the obligation in Article 15.1 (Implementation) has been complied with or a mutually satisfactory solution is reached.

10. Where the right to suspend concessions or other obligations has been exercised under this Article, if the Responding Party considers that:

(a) the level of concessions or other obligations suspended by the Complaining Party is not equivalent to the level of the nullification and impairment; or

(b) it has complied with the obligation in Article 15.1 (Implementation),

it may request the arbitral tribunal to re-convene to examine the matter.[4]

11. Where the arbitral tribunal re-convenes pursuant to Paragraph 10(a), Paragraph 8 shall apply. Where the arbitral tribunal re-convenes pursuant to Paragraph 10(b), Article 16.3 to 16.5 (Compliance Review) shall apply.

[4] Where a Compliance Review Tribunal determines that measures taken to comply are inconsistent with this Agreement, it may also, on request, assess whether the level of any existing suspension of concessions is still appropriate and, if not, assess an appropriate level.

第6段规定的原则未被遵循，应诉方可请求仲裁庭重新召开会议就该事项作出裁决。仲裁庭应在重新召开会议之日起30个日历日内向争议各方提交其评估意见。若根据本段规定请求仲裁庭重新召开会议，除非适用第11.12条（仲裁法庭的设立与重新召开），否则仲裁庭应在请求之日起15个日历日内重新召开会议。

9. 中止减让或其他义务应是临时的，且仅应适用至第15.1条（执行）规定的义务得到遵守或达成双方满意的解决方案为止。

10. 如根据本条行使了中止减让或其他义务的权利，应诉方认为：

(a) 申诉方中止的减让或其他义务的水平与利益丧失或减损的水平不等效；或

(b) 其已遵守第15.1条（执行）规定的义务，

则可请求仲裁庭重新召开会议审议该事项。[4]

11. 如仲裁庭根据第10(a)段重新召开会议，则应适用第8段。如仲裁庭根据第10(b)段重新召开会议，则应适用第16.3至16.5条（合规审查）。

[4] 如合规审查仲裁庭裁定为遵守而采取的措施与本协定不一致，则其也可应请求评估任何现有中止减让的水平是否仍然适当，如不适当，则评估适当的水平。

SECTION E

Final Provisions

Article 18
Special and Differential Treatment Involving Newer ASEAN Member States

1. At all stages of the determination of the causes of a dispute and of dispute settlement procedures involving newer ASEAN Member States, particular sympathetic consideration shall be given to the special situation of newer ASEAN Member States. In this regard, Parties shall exercise due restraint in raising matters under these procedures involving a least-developed country Party. If nullification or impairment is found to result from a measure taken by a least-developed country Party, a Complaining Party shall exercise due restraint regarding matters covered under Article 17 (Compensation and Suspension of Concessions or other Obligations) or other obligations pursuant to these procedures.

2. Where one or more of the Parties to a dispute is a newer ASEAN Member State, the arbitral tribunal's reports shall explicitly indicate the form in which account has been taken of relevant provisions on special and differential treatment for a newer ASEAN Member State that form part of this Agreement which have been raised by the newer ASEAN Member State in the course of the dispute settlement procedures.

Article 19
Expenses

1. Unless the Parties to the dispute otherwise agree, each Party to a dispute shall bear the costs of its appointed arbitrator and its own expenses and legal costs.

E部分

最后条款

第18条 涉及新东盟成员国的特殊和差别待遇

1. 在确定争端原因及涉及新东盟成员国的争端解决程序的各个阶段，应特别同情地考虑新东盟成员国的特殊情况。在这方面，缔约方在根据这些程序提出涉及最不发达国家缔约方的事项时应保持适当克制。如认定利益丧失或减损是由最不发达国家缔约方采取的措施所致，申诉方应就第17条（补偿和中止减让或其他义务）或根据这些程序的其他义务所涵盖的事项保持适当克制。

2. 若争端一方或多方为新东盟成员国，仲裁庭的报告应明确说明在争端解决程序中已如何考虑该新东盟成员国提出的、作为本协定组成部分的有关新东盟成员国特殊和差别待遇的条款。

第十九条 费用

1. 除非争议各方另有约定，每一缔约方应承担其任命的仲裁员的费用及其自身开支和法律费用。

2. Unless the Parties to the dispute otherwise agree, the costs of the chair of the arbitral tribunal and other expenses associated with the conduct of its proceedings shall be borne in equal parts by the Parties to the dispute.

Article 20
Contact Points

1. Each Party shall designate a contact point for this Chapter and shall notify the other Parties of the details of this contact point within 30 days of the entry into force of this Agreement. Each Party shall notify the other Parties of any change to its contact point.

2. Any request, written submission or other document relating to any proceedings pursuant to this Chapter shall be delivered to the relevant Party or Parties through their designated contact points who shall provide confirmation of receipt of such documents in writing.

Article 21
Language

1. All proceedings pursuant to this Chapter shall be conducted in the English language.

2. Any document submitted for use in any proceedings pursuant to this Chapter shall be in the English language. If any original document is not in the English language, a Party submitting it for use in the proceedings shall provide an English language translation of that document.

2. 除非争议各方另有约定，仲裁庭主席的费用及进行仲裁程序相关的其他费用应由争议各方平均分担。

第20条 联络点

1. 每一缔约方应为本章节指定一个联络点，并应在本协定生效后30个日历日内将该联络点的详细信息通知其他缔约方。每一缔约方应将其联络点的任何变更通知其他缔约方。

2. 任何与本章节程序相关的请求、书面意见或其他文件，均应通过指定的联络点递交给相关缔约方，该联络点应以书面形式确认收讫此类文件。

第21条
语言

1. 本章节的所有程序均应使用英语进行。

2. 根据本章提交用于任何程序的任何文件均应以英语书写。若原始文件非以英语书写，提交该文件用于程序的缔约方应提供该文件的英文翻译。

ANNEX ON RULES OF PROCEDURE FOR ARBITRAL TRIBUNAL PROCEEDINGS

1. Any reference made in these Rules to an Article is a reference to the appropriate Article in Chapter 17 (Consultations and Dispute Settlement).

Timetable

2. After consulting the Parties to the dispute, an arbitral tribunal shall, as soon as practicable and whenever possible within 15 days after the establishment of the arbitral tribunal, fix the timetable for the arbitral tribunal process. The arbitral tribunal process, from the date of establishment until the date of the final report shall, as a general rule, not exceed the period of nine months, unless the Parties to the dispute agree otherwise.

3. In determining the timetable for the arbitral tribunal process, the arbitral tribunal shall provide sufficient time for the Parties to the dispute to prepare their respective submissions. The arbitral tribunal shall set precise deadlines for written submissions by the Parties to the dispute and they shall respect those deadlines. The interim report shall be provided at least four weeks before the deadline for completion of the final report.

4. The arbitral tribunal shall present to the Parties to the dispute its final report within 180 days from the date of its establishment. In cases of urgency, including those relating to perishable goods, the arbitral tribunal shall aim to present its report to the Parties to the dispute within 90 days from the date of its establishment. When the arbitral tribunal considers that it cannot present its final report within 180 days or within 90 days in cases of urgency, it shall inform the Parties to the dispute in writing of the reasons for the delay together with an estimate of the period within which it will present its report.

仲裁庭程序规则附件

1. 本规则中对条款的任何引用均指第17章（磋商与争端解决）中的相应条款。

时间表

2. 仲裁庭应在与争议各方磋商后，尽快且尽可能在仲裁庭设立后15个日历日内确定仲裁庭程序的时间表。除非争议各方另有约定，仲裁庭程序从设立日期到最终报告日期一般不得超过九个月期限。

3. 在确定仲裁庭程序时间表时，仲裁庭应为争议各方准备各自提交材料预留充足时间。仲裁庭应为争议各方的书面陈述设定确切截止日期，且各方应遵守这些期限。中期报告应在最终报告完成期限前至少四周提交。

4. 仲裁庭应自设立之日起180天内向争议各方提交其最终报告。在涉及紧急情况（包括与易腐货物相关的情形）时，仲裁庭应力争自设立之日起90天内向争议各方提交报告。若仲裁庭认为无法在180天内或在紧急情况下90天内提交最终报告，应以书面形式通知争议各方延迟的理由，并预估提交报告的时限。

5. Any time period applicable to the arbitral tribunal proceeding shall be suspended for a period that begins on the date on which any member of the arbitral tribunal resigns or becomes unable to act and ends on the date on which the successor member is appointed.

5. 仲裁庭程序适用的任何时限应自仲裁庭任何成员辞职或无法履职之日起暂停，直至继任成员被任命之日止。

6. Unless otherwise agreed by the Parties to the dispute, an arbitral tribunal may, in consultation with the Parties to the dispute, modify any time period applicable in the arbitral tribunal proceeding and make such other procedural or administrative adjustments as may be required in the proceeding.

6. 除非争议各方另有协议，仲裁庭可在与争议各方协商后，修改仲裁庭程序中适用的任何时限，并作出程序中所需的其他程序性或行政性调整。

Operation of Arbitral Tribunals

仲裁庭的运作

7. The chair of the arbitral tribunal shall preside at all of its meetings. An arbitral tribunal may delegate to the chair authority to make administrative and procedural decisions.

7. 仲裁庭主席应主持其所有会议。仲裁庭可授权主席作出行政和程序决定。

8. Except as otherwise provided in this Annex, the arbitral tribunal may conduct its business by any means, including by telephone, facsimile transmission and any other means of electronic communication.

8. 除本附件另有规定外，仲裁庭可通过任何方式进行经营，包括电话、传真传输和任何其他电子通信方式。

9. Only members of the arbitral tribunal may take part in the deliberations of the arbitral tribunal.

9. 只有仲裁庭成员才能参与仲裁庭的审议。

10. The arbitral tribunal may, in consultation with the Parties to the dispute, retain such number of assistants, interpreters or translators, or designated note takers as may be required for the proceeding and permit them to be present during its deliberations. Any such arrangements established by the arbitral tribunal may be modified by the agreement of the Parties to the dispute.

10. 仲裁庭可在与争议各方协商后，保留程序所需的助理、口译员或笔译员、指定记录员的数量，并允许他们出席审议。仲裁庭作出的任何此类安排均可经争议各方协议修改。

11. The arbitral tribunal’s deliberations shall be confidential. The members of the arbitral tribunal and the persons retained by the arbitral tribunal shall maintain the

11. 仲裁庭的审议应保密。仲裁庭成员及仲裁庭聘请的人员应保持

confidentiality of arbitral tribunal proceedings and deliberations.

12. There shall be no *ex parte* communications with the arbitral tribunal concerning matters under consideration by it.

13. The interests of Third Parties and those of other Parties shall be fully taken into account during the arbitral tribunal proceedings.

Written Submissions and Other Documents

14. Each Party to the dispute shall transmit to the arbitral tribunal a first submission in writing setting out the facts of its case and its arguments. Unless the Parties agree otherwise, a Complaining Party shall deliver its first submission to the arbitral tribunal and to the Responding Party within 14 days after the date of the establishment of the arbitral tribunal. The Responding Party shall deliver its first submission to the arbitral tribunal and to the Complaining Party within 21 days after the date of receipt of the first submission of the Complaining Party. Any subsequent written submissions shall be submitted simultaneously.

15. A Party to the dispute shall deliver no less than four copies of its written submissions to the arbitral tribunal and one copy to the other Parties to the dispute. Third Parties shall receive the submissions of the Parties to the dispute to the first substantive hearing.

16. In respect of any request, notice or other document(s) related to the arbitral tribunal proceeding that is not covered by Rules 14 and 15, each Party to the dispute may deliver a copy of the document(s) to the other Party to the dispute by facsimile, email or other means of electronic transmission.

17. A Party to the dispute may at any time correct minor errors of a clerical nature in any request, notice, written submission or other document(s) related to the arbitral

仲裁法庭程序和审议的保密性。

12. 不得就仲裁庭正在审议的事项与其进行单方通讯。

13. 在仲裁庭程序期间，应充分考虑第三方及其他缔约方的利益。

书面陈述及其他文件

14. 争议每一缔约方应以书面形式向仲裁庭提交首次陈述，阐明其案件事实及论点。除非各方另有约定，申诉方应于仲裁庭设立之日起14个日历日内向仲裁庭及应诉方提交其首次陈述。应诉方应于收到申诉方首次陈述之日起21个日历日内向仲裁庭及申诉方提交其首次陈述。任何后续书面意见均应同时提交。

15. 争议缔约方向仲裁庭提交的书面意见副本不得少于四份，并向争议其他缔约方各提交一份副本。第三方应收到争议各方提交至首次实质性听证会的材料。

16. 对于第14条和第15条未涵盖的与仲裁庭程序相关的任何请求、通知或其他文件，争端每一缔约方可向争端另一方通过传真、电子邮件或其他电子传输方式递送文件副本。

17. 争端缔约方可随时通过提交一份明确标注修改内容的新文件，更正与仲裁庭程序相关的任何请求、通知、书面意见或其他文件中的文书性质的小错误。

tribunal proceeding by delivering a new document clearly indicating the changes.

Hearings

18. At the first substantive hearing with the Parties to the dispute, each Party to the dispute shall present the facts of its case and its arguments. The Complaining Party shall present its position first. The Parties to the dispute shall be given an opportunity for final statements, with the Complaining Party presenting its statement first.

19. All Third Parties shall be invited to present their views during a separate session of the first substantive hearing of the arbitral tribunal set aside for that purpose. All Third Parties may be present during the entirety of this session.

20. The Parties to the dispute and Third Parties shall make available to the arbitral tribunal written versions of their oral statements and responses to questions made in hearings with the arbitral tribunal.

Availability of Information

21. Written submissions to the arbitral tribunal shall be treated as confidential, but shall be made available to the Parties to the dispute. No Party to the dispute shall be precluded from disclosing statements of its own positions to the public provided that there is no disclosure of information which has been designated as confidential by a Party to the dispute or Third Party. The Parties to the dispute, Third Parties and the arbitral tribunal shall treat as confidential information submitted by a Party to the dispute to the arbitral tribunal which that Party has designated as confidential. A Party to the dispute shall, upon request of another Party, provide a non-confidential summary of the information contained in its written submissions that could be disclosed to the public.

通过提交一份明确标注变更的新文件启动法庭程序。

听证会

18. 在与争议各方的第一次实质性听证会上，每一争议缔约方应陈述其案件事实和论点。申诉方应首先陈述其立场。争议各方应有机会进行最后陈述，申诉方应首先陈述其声明。

19. 所有第三方应被邀请在仲裁庭为这一目的预留的第一次实质性听证会的单独会议上陈述其观点。所有第三方可全程出席该会议。

20. 争议各方和第三方应向仲裁庭提供其在仲裁庭听证会上所作口头陈述和问题答复的书面版本。

信息可获性

21. 提交给仲裁庭的书面意见应被视为保密，但应向争议各方提供。争议任何一方不得被阻止向公众披露其自身立场的声明，前提是不披露已被争议一方或第三方指定为保密的信息。争议各方、第三方和仲裁庭应将争议一方向仲裁庭提交的、该方指定为保密的信息视为机密信息。争议一方应在另一方的要求下，提供其书面意见中可向公众披露的信息的非保密摘要。

Information Gathering

22. The Parties to the dispute and Third Parties shall respond promptly and fully to any request by an arbitral tribunal for such information as the arbitral tribunal considers necessary and appropriate.

23. An arbitral tribunal may seek information and technical advice from any individual or body which it deems appropriate. However, before doing so the arbitral tribunal shall seek the views of the Parties to the dispute. Where the Parties to the dispute agree that the arbitral tribunal should not seek the additional information or technical advice, the arbitral tribunal shall not proceed. The arbitral tribunal shall provide the Parties to the dispute with any information or technical advice it receives and an opportunity to provide comments.

Reports

24. The arbitral tribunal shall provide to the Parties to the dispute an interim report, meeting the requirements specified in Article 12.3 (Functions of Arbitral Tribunals).

25. The interim report shall be provided at least four weeks before the deadline for completion of the final report. The arbitral tribunal shall accord adequate opportunity to the Parties to the dispute to review the entirety of its interim report prior to its finalisation and shall include a discussion of any comments made by the Parties to the dispute in its final report.

26. The interim report and final report of the arbitral tribunal shall be drafted without the presence of the Parties to the dispute. Opinions expressed in the reports of the arbitral tribunal by its individual members shall be anonymous.

信息收集

22. 争议各方和第三方应迅速、充分地回应仲裁庭提出的、仲裁庭认为必要且适当的任何信息请求。

23. 仲裁庭可向其认为适当的任何个人或机构寻求信息和技术建议。但在采取此类行动前，仲裁庭应征求争议各方的意见。若争议各方一致认为仲裁庭不应寻求补充信息或技术建议，则仲裁庭不得继续推进。仲裁庭应向争议各方提供其收到的所有信息或技术建议，并给予其发表意见的机会。

报告

24. 仲裁庭应向争议各方提交一份中期报告，该报告须符合第12.3条（仲裁庭的职能）中规定的要求。

25. 中期报告应在最终报告完成期限至少四周前提交。仲裁庭应在定稿前给予争议各方充分审议中期报告全文的机会，并在最终报告中纳入对争议各方所提意见的讨论。

26. 仲裁庭的中期报告和最终报告应在争议各方不在场的情况下起草。仲裁庭报告中个别成员表达的意见应匿名。

Venue

27. The venue for the arbitral tribunal hearings shall be decided by mutual agreement between the Parties to the dispute. If there is no agreement, the venue shall alternate between the capitals of the Parties to the dispute with the first hearing to be held in the capital of the Responding Party.

Remuneration and Payment of Expenses

28. The arbitral tribunal shall keep a record and render a final account of all general expenses incurred in connection with the proceedings, including those paid to its assistants, designated note takers or other individuals that it retains pursuant to Rule 10.

地点

27. 仲裁庭听证会的地点应由争议各方相互协议决定。若无协议，地点应在争议各方的首都之间轮换，首次听证会在应诉方的首都举行。

报酬和费用支付

28. 仲裁庭应保存记录并提交一份关于与程序相关的所有一般费用的最终账目，包括根据第10条规则向其助理、指定记录员或其所保留的其他个人支付的费用。

ANNEX ON OPTIONAL PROCEDURES FOR COMPOSING ARBITRAL TRIBUNALS

As provided in Article 11.3 (Establishment and Re-convening of Arbitral Tribunals), the Parties to the dispute may agree to use any of the following optional procedures, or variations thereof, for the purpose of composing an arbitral tribunal.

Optional Procedure A

1. The Complaining Party and the Responding Party shall each appoint one arbitrator within (*period to be agreed by the Parties to the dispute*) of the date of the receipt of a request to establish an arbitral tribunal. If either Party fails to appoint an arbitrator within such period, then the arbitrator appointed by the other Party shall act as the sole arbitrator of the arbitral tribunal.

2. Where two arbitrators are appointed in accordance with Paragraph 1, the Parties to the dispute shall designate by common agreement the third arbitrator who shall chair the arbitral tribunal. If the Parties to the dispute have not designated the chair of the arbitral tribunal within (*period to be agreed by the Parties to the dispute*) of the appointment of the second arbitrator, the two arbitrators appointed in accordance with Paragraph 1 shall designate by common agreement the third arbitrator who shall chair the tribunal. If the chair of the arbitral tribunal has not been designated by the arbitrators within (*period to be agreed by the Parties to the dispute*) of the appointment of the second arbitrator, the Director-General of the WTO shall, at the request of any Party to the dispute, appoint the chair of the arbitral tribunal within (*period to be agreed by the Parties to the dispute*) of that request.

仲裁庭组成可选程序附件

如第11.3条（仲裁庭的设立和重新召集）所规定，争议各方可同意使用以下任何可选程序或其变体，以组成仲裁庭。

任择程序A

1. 申诉方和应诉方应在收到设立仲裁庭请求的日期后（由争议各方商定的期限内）各自任命一名仲裁员。如任一方未能在该期限内任命仲裁员，则另一方任命的仲裁员应担任仲裁庭的独任仲裁员。

2. 如根据第1款任命了两名仲裁员，则争议各方应通过共同协议指定第三名仲裁员，该仲裁员应担任仲裁庭主席。如争议各方未在（争议各方商定的期限）内指定仲裁庭主席，则根据第1款任命的两名仲裁员应通过共同协议指定第三名仲裁员担任仲裁庭主席。如仲裁员未在（争议各方商定的期限）内指定仲裁庭主席，则世界贸易组织总干事应任何争议一方的请求，在（争议各方商定的期限）内任命仲裁庭主席。

Optional Procedure B

1. The Complaining Party and the Responding Party shall each appoint one arbitrator within (*period to be agreed by the Parties to the dispute*) of the date of the receipt of a request to establish an arbitral tribunal.

2. The Parties to the dispute shall agree on the appointment of the third arbitrator within (*period to be agreed by the Parties to the dispute*) of the appointment of the third arbitrator who shall serve as chair of the arbitral tribunal. If all three appointments have not been made within (*period to be agreed by the Parties to the dispute*), the necessary appointments shall be made at the request of any Party to the dispute by the Director-General of the WTO within a further (*period to be agreed by the Parties to the dispute*).

Optional Procedure C

1. Within (*period to be agreed by the Parties to the dispute*) of the date of the receipt of a request to establish an arbitral tribunal, each Party to the dispute shall provide to the other Parties to the dispute a list of up to *(number to be agreed by the Parties to the dispute)* nominees for appointment as arbitrators, including at least two individuals suitable for appointment as chair. The Parties to the dispute shall then consult with each other on the composition of the arbitral tribunal with the objective of appointing the arbitrators drawing as appropriate on the lists of nominees.

2. If all of the arbitrators have not been appointed within (*period to be agreed by the Parties to the dispute*) of the request to establish an arbitral tribunal, any of the remaining arbitrators shall be appointed at the request of any Party to the dispute by random drawing from the lists of nominees separated for this purpose into separate lists of nominations for appointment as chair or as a regular arbitrator.

选择性程序B

1. 申诉方和应诉方应在收到设立仲裁庭请求的日期后（争议各方商定的期限）内各任命一名仲裁员。

2. 争议各方应在（由争议各方商定的期限内）共同任命第三名仲裁员，该仲裁员将担任仲裁庭主席。若所有三名仲裁员未能在（由争议各方商定的期限内）完成任命，则经争议任何一方请求，剩余任命应由世界贸易组织总干事在（由争议各方另行商定的期限内）完成。

选择性程序C

1. 在收到设立仲裁庭请求的日期后（争议各方商定的期限内），每一争议缔约方应向其他争议缔约方提供一份最多（争议各方商定的数量）名仲裁员提名人选名单，其中包括至少两名适合担任主席的人选。随后，争议各方应就仲裁庭的组成进行磋商，以酌情从提名人选名单中任命仲裁员为目标。

2. 若所有仲裁员未能在
（由争议各方商定的期限内）完成
设立仲裁庭的请求后，剩余任何
仲裁员应任一缔约方请求
从为本次争端设立的提名人选名单中随机抽选
该名单已按用途分为主席提名
与普通仲裁员提名两个独立列表

CHAPTER 18

FINAL PROVISIONS

Article 1
Annexes, Appendices and Footnotes

The Annexes, Appendices and footnotes to this Agreement shall constitute an integral part of this Agreement.

Article 2
Relation to Other Agreements

1. Each Party reaffirms its rights and obligations under the WTO Agreement and other agreements to which the Parties are party.

2. Nothing in this Agreement shall be construed to derogate from any right or obligation of a Party under the WTO Agreement and other agreements to which the Parties are party.

3. In the event of any inconsistency between this Agreement and any other agreement to which two or more Parties are party, such Parties shall immediately consult with a view to finding a mutually satisfactory solution.

4. Nothing in this Agreement shall prevent any individual ASEAN Member State from entering into any agreement with any one or more ASEAN Member State and/or Australia and/or New Zealand relating to trade in goods, trade in services, investment, and/or other areas of economic co-operation.

5. The provisions of this Agreement shall not apply to any agreement among ASEAN Member States. The provisions of this Agreement shall also not apply to any agreement involving any ASEAN Member State and/or Australia and/or

第18章

最后条款

第一条 附件、附录和脚注

本协定的附件、附录及脚注应构成本协定的组成部分。

第2条 与其他协议的关系

1. 每一缔约方重申其在WTO协定及各方作为缔约方的其他协议项下的权利和义务。

2. 本协定中的任何内容不得解释为减损一缔约方在WTO协定及各方作为缔约方的其他协议项下的任何权利或义务。

3. 如本协定与两个或以上缔约方均为缔约方的任何其他协议之间存在不一致，相关缔约方应立即进行磋商，以期找到双方满意的解决方案。

4. 本协定不得阻止任何东盟成员国与一个或多个东盟成员国和/或澳大利亚和/或新西兰就货物贸易、服务贸易、投资和/或经济合作的其他领域达成任何协议。

5. 本协定的条款不适用于东盟成员国之间的任何协议。本协定的条款也不适用于涉及任何东盟成员国和/或澳大利亚和/或

New Zealand unless otherwise agreed by the parties to that agreement.[1]

Article 3
Amended or Successor International Agreements

If any international agreement, or a provision therein, referred to in this Agreement (or incorporated into this Agreement) is amended, the Parties shall consult on whether it is necessary to amend this Agreement, unless this Agreement provides otherwise.

Article 4
Disclosure of Information

Unless otherwise provided in this Agreement, nothing in this Agreement shall require any Party to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

Article 5
Confidentiality

Unless otherwise provided in this Agreement, where a Party provides information to another Party in accordance with this Agreement and designates the information as confidential, the other Party shall maintain the confidentiality of the information. Such information shall be used only for the purposes specified, and shall not be otherwise disclosed without the specific permission of the Party providing the information, except to the extent that the Party receiving the information is required under its domestic law to provide the information to judicial proceedings.

[1] This Paragraph does not apply to any future agreement concluded in accordance with this Agreement.

新西兰的任何协议，除非该协议的缔约方另有约定。[1]

第三条 修订或后继国际协议

若本协定中提及（或纳入）的任何国际协定或其条款被修订，除非本协定另有规定，否则各方应协商是否有必要修订本协定。

第4条 信息披露

除非本协定另有规定，否则本协定任何内容均不得要求任何缔约方提供机密信息，若披露此类信息将妨碍执法、违背公共利益，或损害特定企业（无论公有或私有）的合法商业利益。

第5条 保密性

除非本协定另有规定，否则一缔约方根据本协定向另一方提供信息并将该信息指定为保密时，另一方应保持该信息的保密性。此类信息仅应用于指定目的，未经提供信息的缔约方特别许可，不得以其他方式披露，但接收信息的缔约方根据其国内法需向司法程序提供信息的情况除外。

[1] 本段不适用于根据本协定缔结的任何未来协议。

Article 6
Amendments

This Agreement may be amended by agreement in writing by the Parties and such amendments shall come into force on such date or dates as may be agreed among them.

Article 7
Entry into Force

1. Each Party shall notify each other Party in writing upon completion of its internal requirements[2] necessary for entry into force of this Agreement. This Agreement shall enter into force on 1 July 2009 for any Party that has made such notifications provided that Australia, New Zealand and at least four ASEAN Member States have made such notifications by that date.

2. If this Agreement does not enter into force on 1 July 2009 it shall enter into force, for any Party that has made the notification referred to in Paragraph 1, 60 days after the date by which Australia, New Zealand and at least four ASEAN Member States have made the notifications referred to in Paragraph 1.

3. After the entry into force of this Agreement pursuant to Paragraph 1 or 2, this Agreement shall enter into force for any Party 60 days after the date of its notification referred to in Paragraph 1.

Article 8
Withdrawal and Termination

1. Any Party may withdraw from this Agreement by giving six months advance notice in writing to the other Parties.

[2] For greater certainty, the term “internal requirements” may include obtaining governmental approval or parliamentary approval in accordance with domestic law.

第六条 修正

本协定可由各方以书面形式协议修正，此类修正案应于各方商定的日期或若干日期生效。

第七条 生效

1. 每一缔约方应在完成其内部要求[2] 后，以书面形式通知其他缔约方本协定生效所需的内部要求。对于已作出此类通知的缔约方，本协定将于2009年7月1日生效，前提是澳大利亚、新西兰和至少四个东盟成员国在该日期前已作出此类通知。

2. 如果本协定未在2009年7月1日生效，则对于已作出第1款所述通知的缔约方，本协定将在澳大利亚、新西兰和至少四个东盟成员国作出第1款所述通知之日起60天后生效。

3. 本协定根据第1款或第2款生效后，对于任何缔约方，本协定将在其作出第1款所述通知之日起60天后生效。

第八条 退出和终止

1. 任何缔约方可提前六个月以书面形式通知其他缔约方退出本协定。

[2] 为更明确起见，“内部要求”一词可包括根据国内法获得政府批准或议会批准。

2. This Agreement shall terminate if, pursuant to Paragraph 1:

(a) Australia withdraws;

(b) New Zealand withdraws; or

(c) this Agreement is in force for less than four ASEAN Member States.

Article 9
Review

The Parties shall undertake a general review of this Agreement with a view to furthering its objectives in 2016, and every five years thereafter, unless otherwise agreed by the Parties.

SIGNED at Cha-am, Phetchaburi, Thailand, this 27th day of February, two thousand and nine, in three copies in the English language.

For the Government of Brunei Darussalam:

For the Government of Australia:

2. 根据第1款，本协定应终止：

(a) 澳大利亚退出；(b) 新西兰退出；或(c) 本协定对少于四个东盟成员国生效。

第9条 审议

各方应于2016年对本协定进行全面审议，以促进其目标实现，此后每五年审议一次，除非各方另有约定。

本协定于2009年2月27th 日在泰国佛丕府差安签署，一式三份，均以英语写成。

代表政府
文莱达鲁萨兰国：

代表政府
澳大利亚：

For the Government of
the Kingdom of Cambodia:

For the Government of
New Zealand:

代表政府
柬埔寨王国：

柬埔寨王国政府代表：
新西兰：

For the Government of
the Republic of Indonesia:

印度尼西亚共和国政府代表：

For the Government of
the Lao People's Democratic Republic:

老挝人民民主共和国政府代表：

For the Government of
Malaysia:

马来西亚政府代表：

For the Government of
the Union of Myanmar:

缅甸联邦政府代表：

For the Government of
the Republic of the Philippines:

菲律宾共和国政府代表：

For the Government of
the Republic of Singapore:

新加坡共和国政府代表：

For the Government of
the Kingdom of Thailand:

泰王国政府代表：

For the Government of
the Socialist Republic of Viet Nam:

越南社会主义共和国政府代表：

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