

Australia-Chile Free Trade Agreement

Table of Contents

Preamble

- 1. Initial Provisions
- 2. General Definitions
 - Annex 2-A – Country-Specific Definitions
- 3. National Treatment and Market Access for Goods
 - Annex 3-A – Exceptions to Elimination of Import and Export Restrictions
 - Annex 3-B – Elimination of Customs Duties: Section 1 – Schedule of Australia
 - Annex 3-B – Elimination of Customs Duties: Section 2 – Schedule of Chile
- 4. Rules of Origin
 - Annex 4-A – Minimum Requirements for a Certificate of Origin
 - Annex 4-B – Example of a Certificate of Origin
 - Annex 4-C – Rules of Origin Schedule
- 5. Customs Administration
- 6. Sanitary and Phytosanitary Measures
- 7. Technical Regulations, Standards and Conformity Assessment Procedures
- 8. Trade Remedies
- 9. Cross-Border Trade in Services
 - Annex 9-A – Professional Services
- 10. Investment
 - Annex 10-A – Customary International Law
 - Annex 10-B – Expropriation
 - Annex 10-C – Transfers
 - Annex 10-D – DL 600
 - Annex 10-E – Termination of the Bilateral Investment Agreement
 - Annex 10-F – Service of Documents on a Party under Section B
- 11. Telecommunications
- 12. Financial Services
 - Annex 12-A – Cross-Border Trade
 - Annex 12-B – Annex on Specific Commitments
 - Annex 12-C – Authorities Responsible for Financial Services

澳大利亚-智利自由贸易协定

目录

序言

- 1. 初始条款
- 2. 一般定义
 - 附件2-A – 国家特定定义
- 3. 国民待遇和货物市场准入
 - 附件3-A – 取消进口和出口限制的例外情况
 - 附件3-B – 关税消除：第一部分 – 澳大利亚清单
 - 附件3-B – 关税消除：第二部分 – 智利清单
- 4. 原产地规则
 - 附件4-A – 原产地证书的最低要求
 - 附件4-B – 原产地证书示例
 - 附件4-C – 原产地规则表
- 5. 海关当局 6. 卫生和植物卫生措施 7. 技术法规、标准和合格评定程序 8. 贸易救济 9. 跨境服务贸易
- 附件9-A – 专业服务
- 10. 投资
 - 附件10-A – 习惯国际法
 - 附件10-B – 征收
 - 附件10-C – 转移
 - 附件10-D – DL 600
 - 附件10-E – 双边投资协定终止
 - 附件10-F – 根据B部分对一方送达文件
- 11. 电信
- 12. 金融服务
 - 附件12-A – 跨境贸易
 - 附件12-B – 关于具体承诺的附件
 - 附件12-C – 负责金融服务的机构

13. Temporary Entry for Business Persons

• Annex 13-A – Temporary Entry for Business Persons

14. Competition Policy

15. Government Procurement

• Annex 15-A

16. Electronic Commerce

17. Intellectual Property

18. Cooperation

19. Transparency

• Annex 19-A – Contact Points

20. Institutional Arrangements

21. Dispute Settlement

22. General Provisions and Exceptions

23. Final Provisions

Non-Conforming Measures

• Annex I – Cross-Border Trade in Services and Investment

• Annex II – Cross-Border Trade in Services and Investment

• Annex III – Financial Services

Side Letters

• Side Letter on Beef Grading

• Side Letter on Rules of Origin Certification

• Side Letter on Education Services (applies also to Investment Chapter)

• Side Letter on Wine

13. 商务人员临时入境

• 附件13-A – 商务人员临时入境

14. 竞争政策

15. 政府采购

• 附件15-A

16. 电子商务 17. 知识产权

18. 合作 19. 透明度

• 第19-A附件 – 联系点 20. 制度安排 21. 争端解决 22. 总则和例外 23. 最终条款

不符合措施

• 附件I – 跨境服务和投资贸易

• 附件II – 跨境服务和投资贸易

• 附件III – 金融服务

双边备忘录

• 双边 牛肉分级备忘录

• 双边备忘录关于原产地规则认证

• 双边备忘录关于教育服务（同样适用于投资章节）

• 葡萄酒双边备忘录

PREAMBLE

The Government of Australia and the Government of the Republic of Chile (“the Parties”), resolved to:

REINFORCE the special bonds of friendship and cooperation between them;

STRENGTHEN their economic relations and further liberalise and expand bilateral trade and investment;

CONTRIBUTE to the strengthening and reinforcement of the multilateral trading system as established through the World Trade Organization (WTO);

ESTABLISH clear and mutually advantageous rules governing their trade and reduce the barriers to trade that exist between them;

ENCOURAGE a closer economic partnership that will bring economic and social benefits, create new employment opportunities, and improve living standards for their people;

PROMOTE a predictable, transparent, and consistent business environment that will assist enterprises to plan effectively and use resources efficiently;

FOSTER creativity and innovation and promote stronger links between dynamic sectors of their economies;

IMPLEMENT this Agreement in a manner consistent with sustainable development and environmental protection and conservation;

BUILD on their respective rights and obligations under the WTO Agreement, other agreements to which they are both parties, and their commitment to open trade, investment and economic reform in the Asia-Pacific Economic Cooperation (APEC) forum;

HAVE AGREED as follows:

序言

澳大利亚政府和智利共和国政府（“缔约方”），决定：

加强他们之间的特殊友谊与合作关系；

加强他们的经济关系，并进一步自由化和扩大双边贸易和投资；

有助于加强和巩固通过世界贸易组织（WTO）建立的多边贸易体系；

建立清晰且互利的规则来管理他们的贸易，并减少他们之间存在的贸易壁垒；

鼓励建立更紧密的经济伙伴关系，以带来经济和社会效益，创造新的就业机会，并提高其人民的生活水平；

促进可预测、透明和一致的商业环境，以帮助企业有效规划并高效利用资源；

培养创造力和创新，并促进其经济体中充满活力的部门之间的更紧密联系；

以符合可持续发展以及环境保护和 conservation 的方式实施本协定；

基于其根据世界贸易组织协定、它们均为缔约方的其他协定，以及在亚太经合组织（APEC）论坛中开放贸易、投资和经济改革的承诺，分别享有权利和承担义务；

已同意如下：

Chapter 1
Initial Provisions

第一章 初始条
款

Article 1.1: Establishment of a Free Trade Area

The Parties, consistent with Article XXIV of the *General Agreement on Tariffs and Trade 1994* and Article V of the *General Agreement on Trade in Services*, hereby establish a free trade area.

Article 1.2: Relation to Other Agreements

The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement and other agreements to which both Parties are party.

文章1.1：自由贸易区的设立

缔约方，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，兹建立自由贸易区。

文章 1.2：与其他协议的关系

缔约方重申其根据世界贸易组织协定以及其他缔约方均为缔约方的协定所享有的现行权利和义务。

Chapter 2 General Definitions

章节 2 一般定义

Article 2.1: Definitions of General Application

For the purposes of this Agreement, unless otherwise specified:

(a) **central level of government** means:

- (i) for Australia, the Commonwealth government; and
- (ii) for Chile, the national level of government;

(b) **covered investment** means, with respect to a Party, an investment in its territory of an investor of the other Party in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

(c) **Customs Administration** means the competent authority that is responsible under the law of a Party for the administration of customs laws and regulations;

(d) **customs duty** includes any import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but does not include any:

- (i) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994; in respect of like, directly competitive, or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;
- (ii) safeguard duties applied in accordance with Article XIX of GATT 1994 and the Safeguards Agreement;
- (iii) antidumping or countervailing duty; and
- (iv) fee or other charge in connection with importation commensurate with the cost of services rendered;

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

(f) **enterprise** means any entity constituted or organised under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture, or other association;

(g) **enterprise of a Party** means an enterprise constituted or organised under the law of a Party;

(h) **existing** means in effect on the date of entry into force of this Agreement;

文章 2.1: 通用定义

就本协定而言，除非另有规定：

(a) 中央政府层面指：

- (i) 对于澳大利亚，联邦政府；以及
- (ii) 对于智利，国家级政府；

(b) 受保护的投资是指，对于一方而言，在其领土内存在的、自本协定生效日期起或此后设立、获得或扩大的另一方的投资者的投资；

(c) 海关当局是指根据一方法律负责海关法律和法规管理的机构；

(d) 关税包括与货物进口相关的任何进口关税和任何种类的费用，包括与该进口相关的任何形式的附加税或附加费，但不包括任何：

- (i) 与1994年关税及贸易总协定第III:2条一致地征收的、等同于内部税的费用；对于该方的同类、直接竞争或可替代的货物，或对于进口货物已从中制造或部分生产的货物；(ii) 根据1994年关税及贸易总协定第十九条和保障措施协定适用的保障措施关税；(iii) 反倾销或反补贴关税；以及(iv) 与进口相关的、与服务提供成本相当的费或其他费用；

(e) 日历日是指日历日，包括周末和假日；

(f) 企业是指根据适用法律设立或组织的任何实体，无论是否以营利为目的，以及是否为私营或国有，包括任何公司、信托、合伙企业、个体工商户、合资企业或其他协会；

(g) 一方法律是指根据一方法律设立或组织的企业；

(h) 现行方式在本协定生效日期生效；

- (i) **GATS** means the *General Agreement on Trade in Services*, contained in Annex 1B of the WTO Agreement;
- (j) **GATT 1994** means the *General Agreement on Tariffs and Trade 1994*, contained in Annex 1A of the WTO Agreement;
- (k) **goods of a Party** means domestic products as these are understood in GATT 1994 or such goods as the Parties may agree, and includes originating goods of that Party. A good of a Party may include materials of other countries;
- (l) **government procurement** means the process by which a government obtains the use of or acquires goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale, or use in the production or supply of goods or services for commercial sale or resale;
- (m) **Harmonized System (HS)** means the *Harmonized Commodity Description and Coding System* governed by “*The International Convention on the Harmonized Commodity Description and Coding System*”, including its General Rules of Interpretation, Section Notes, and Chapter Notes, and their amendments, as adopted and implemented by the Parties in their respective tariff laws;
- (n) **heading** means the first four digits in the tariff classification number under the Harmonized System;
- (o) **investor of a Party** means a Party or a national or an enterprise of a Party, that attempts to make, is making, or has made an investment in the territory of the other Party; provided, however, that a natural person who is a dual national shall be deemed to be exclusively a national of the State of his/her dominant and effective nationality ²⁻¹;
- (p) **measure** means any measure by a Party, whether in the form of a law, regulation, rule, procedure, practice, decision, administrative action or any other form;
- (q) **national** means a natural person who has the nationality of a Party according to Annex 2-A;
- (r) **originating good** means a good qualifying under the rules of origin set out in Chapter 4 (Rules of Origin);
- (s) **person** means a natural person or an enterprise;
- (t) **person of a Party** means a national or an enterprise of a Party;
- (u) **publish** includes publication in written form or on the Internet;

²⁻¹ For greater certainty, the Parties understand that “investor of a Party” includes a state enterprise.

- (i) GATS 指服务贸易总协定， 包含在世界贸易组织协定附件1B中；
- (j) GATT 1994 指的是包含在《世界贸易组织协定》附件1A中的1994年关税及贸易总协定；
- (k) 一方方的货物指的是在1994年关税及贸易总协定中理解的国内产品， 或缔约方可同意的此类货物， 并包括该方的原产地货物。一方的货物可以包括其他国家的材料；
- (l) 政府采购是指政府为政府目的获取商品或服务的使用权或所有权的过程， 或任何此类组合， 且不以商业销售或转售为目的， 或用于商业销售或转售的商品或服务的生产或供应；
- (m) 协调制度（HS）是指受“协调商品描述和编码系统国际公约”管辖的协调制度商品描述和编码系统， 包括其解释总则、 章节注释和附件注释， 以及缔约方在其各自关税法中采纳和实施的修正案；
- (n) 品目指协调制度下的关税分类号中的前四位数字；
- (o) 一方投资者指一方或缔约方法国国民或企业， 该方或该国民或企业试图在另一方领土进行、 正在或已经进行投资； 但是， 双重国籍的自然人应被视为仅为其主要和有效国籍的国家 ²⁻¹；
- (p) 措施指一方采取的任何措施， 无论其形式为法律、 法规、 规则、 程序、 惯例、 决定、 行政行为或任何其他形式；
- (q) 国民指根据附件2-A具有缔约方法国籍的自然人；
- (r) 原产地货物指符合第4章（原产地规则）中规定的原产地规则的原产地货物；
- (s) 个人指自然人或企业；
- (t) 一方人员指缔约方法国国民或企业；
- (u) 发布包括以书面形式或通过互联网出版；

²⁻¹ 为进一步明确， 缔约方理解“一方投资者”包括国有企业。

(v) **regional level of government** means, for Australia, a state of Australia, the Australian Capital Territory, or the Northern Territory. For Chile, as a unitary state, “regional level of government” is not applicable;

(w) **Safeguards Agreement** means the *Agreement on Safeguards*, contained in Annex 1A of the WTO Agreement;

(x) **SPS Agreement** means the *Agreement on the Application of Sanitary and Phytosanitary Measures*, contained in Annex 1A of the WTO Agreement;

(y) **state enterprise** means an enterprise wholly or majority owned or controlled by a Party for the purposes of carrying on business activity;

(z) **subheading** means the first six digits in the tariff classification number under the Harmonized System;

(aa) **territory** means for a Party the territory of that Party as set out in Annex 2-A;

(bb) **TBT Agreement** means the *Agreement on Technical Barriers to Trade*, contained in Annex 1A of the WTO Agreement;

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

(dd) **WTO** means the World Trade Organization, and

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

(v) 地区政府层面，对于澳大利亚而言，指澳大利亚州、澳大利亚首都领地或北领地。对于智利，作为一个单一制国家，“地区政府层面”不适用；

(w) 保障措施协定是指包含在世界贸易组织协定附件1A中的保障协定，附件1A；

(x) 卫生与植物卫生措施协定是指包含在世界贸易组织协定附件1A中的卫生与植物卫生措施协定，植物卫生措施，包含在世界贸易组织协定附件1A中；

(y) 国有企业是指由一方全部或多数拥有或控制的企业，用于从事商业活动；

(z) 子目是指协调制度下关税分类号中的前六位；the Harmonized System；

(aa) 领土是指一方在附件2-A中规定的该方的领土；(bb) TBT协定是指世界贸易组织协定附件1A中包含的技术性贸易壁垒协定；contained in Annex 1A of the WTO Agreement;

(cc) 与贸易有关的知识产权协定是指附件1C中包含的与贸易有关的知识产权协定；知识产权权利，包含在《世界贸易组织协定》的附件1C中；

(dd) 世界贸易组织是指世界贸易组织，并且

(ee) 《世界贸易组织协定》是指马拉喀什建立世界贸易组织的协定；贸易组织，于1994年4月15日签署。

Annex 2-A

Country-Specific Definitions

For the purposes of this Agreement, unless otherwise specified:

1. **natural person who has the nationality of a Party** means:
 - (a) with respect to Australia, an Australian citizen as defined in the *Australian Citizenship Act 2007*, or a permanent resident of Australia as defined in the *Migration Regulations 1994*; and
 - (b) with respect to Chile, a *chileno (a)* as defined in *Constitución Política de la República de Chile* or a permanent resident of Chile; and
2. **territory** means:
 - (a) with respect to Australia, the territory of the Commonwealth of Australia:
 - (i) excluding all external territories other than the Territory of Norfolk Island, the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands, the Territory of Ashmore and Cartier Islands, the Territory of Heard Island and McDonald Islands, and the Coral Sea Islands Territory; and
 - (ii) including Australia's territorial sea, contiguous zone, exclusive economic zone, and continental shelf; and
 - (b) with respect to Chile, the land, maritime, and air space under its sovereignty, and the exclusive economic zone and the continental shelf within which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law.

附件2-A

国家特定定义

根据本协议的宗旨，除非另有规定：

1. 拥有缔约方国籍的自然人是指：
 - (a) 就澳大利亚而言，根据2007年澳大利亚公民法定义的澳大利亚公民，或根据1994年移民条例定义的澳大利亚永久居民；以及(b) 就智利而言，根据智利共和国政治宪法定义的智利人(a)，或智利永久居民；以及
2. 领土是指：
 - (a) 关于澳大利亚，澳大利亚联邦的领土：(i) 除诺福克岛领地、圣诞岛领地、科科斯（基林）群岛领地、阿什莫尔和卡蒂尔群岛领地、赫德岛和麦克唐纳岛领地以及珊瑚海群岛领地之外，排除所有外部领土；以及 (ii) 包括澳大利亚的领海、邻接区、专属经济区和大陆架；以及
 - (b) 关于智利，其下的土地、海洋和 airspace

主权，以及根据国际法及其国内法在其内行使主权权利和管辖权的专属经济区和大陆架。

Chapter 3
National Treatment and Market Access for Goods

Section A – Definitions

Article 3.1: Definitions

For the purposes of this Chapter:

- (a) **advertising films and recordings** means recorded visual media or audio materials, consisting essentially of images and/or sound, showing the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of a Party, provided that such materials are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public, and provided that they are imported in packets that each contain no more than one copy of each film or recording and that do not form part of a larger consignment;
- (b) **Agriculture Agreement** means the *Agreement on Agriculture*, contained in Annex 1A of the WTO Agreement;
- (c) **agricultural goods** means those goods referred to in Article 2 of the Agriculture Agreement;
- (d) **commercial samples of negligible value** means commercial samples having a value, individually or in the aggregate as shipped:
 - (i) with respect to Chile, of not more than one U.S. dollar or the equivalent amount in Chilean currency; and
 - (ii) with respect to Australia, of not more than one Australian dollar; orcommercial examples so marked, torn, perforated, or otherwise treated that they are unsuitable for sale or for use except as commercial samples;
- (e) **consular transactions** means requirements that goods of a Party intended for export to the territory of the other Party must first be submitted to the supervision of the Consul of the importing Party in the territory of the exporting Party for the purpose of obtaining consular invoices or consular visas for commercial invoices, certificates of origin, manifests, shippers' export declarations, or any other customs documentation required on or in connection with importation;
- (f) **export subsidies** shall have the meaning assigned to that term in Article 1(e) of the Agriculture Agreement, including any amendment of that Article;

第三章 国民待遇和货物市场准入

A部分 – 定义

第三条 定义

本章的目的如下：

- (a) 广告影片和录音是指录制的视觉媒体或音频材料，基本上由图像和/或声音组成，展示由一方领土内设立或居住的个人提供的商品或服务的性质或运营情况，前提是这些材料适合向潜在客户展示，但不适合向公众广播，并且它们是以包裹形式进口的，每个包裹最多包含每部影片或录音一份，并且不属于更大一批货物的一部分；
- (b) 农业协定是指包含在世界贸易组织协定附件1A中的农业协定；
- (c) 农产品是指《农业协定》第2条所指的货物；
- (d) 微不足道的商业样品是指单独或合计装运的价值的商业样品：
 - (i) 就智利而言，不超过一美元或等值智利货币的金额；和
 - (ii) 就澳大利亚而言，不超过一澳元；或商业示例经标记、撕裂、穿孔或以其他方式处理，以至于不适宜销售或除作为商业样品外不适宜使用；
- (e) 领事交易是指一方打算出口至另一方领土的货物必须首先提交给出口方领土中进口方领事进行监督，以获取商业发票、原产地证书、舱单、托运人出口申报或与进口相关的任何其他海关文件所需的领事发票或领事签证的要求；
- (f) 出口补贴应具有《农业协定》第1条(e)款所赋予该术语的含义，包括对该条款的任何修订；

- (g) **goods intended for display or demonstration** includes their component parts, ancillary apparatus, and accessories;
- (h) **goods temporarily admitted for sports purposes** means sports requisites for use in sports contests, demonstrations, or training in the territory of the Party into whose territory such goods are admitted;
- (i) **import licensing** means an administrative procedure requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the relevant administrative body as a prior condition for importation into the territory of the importing Party;
- (j) **performance requirement** means a requirement that:
- (i) a given level or percentage of goods or services be exported;
 - (ii) goods or services of the Party granting an import licence be substituted for imported goods or services;
 - (iii) a person benefiting from an import licence purchase other goods or services in the territory of the Party granting the import licence, or accord a preference to domestically produced goods or services;
 - (iv) a person benefiting from an import licence produce goods or supply services, in the territory of the Party granting the import licence, with a given level or percentage of domestic content; or
 - (v) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows;
- (k) **printed advertising materials** means those goods classified in Chapter 49 of the Harmonized System, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials, and posters, that are used to promote, publicise, or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge.

Article 3.2: Scope and Coverage

Except as otherwise provided, this Chapter applies to trade in goods of a Party.

Section B - National Treatment

Article 3.3: National Treatment

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including its interpretative notes, and to

(g) 用于展示或示范的货物包括其零部件、辅助设备和附件； (h) 为体育目的临时入境的货物是指体育用品。

在货物被允许进入的缔约方领土内进行体育比赛、示范或训练时使用；

(i) 进口许可指要求提交一份申请或其他文件（除海关清关目的通常要求外）作为进口到进口方领土的先决条件，提交给相关行政机关；

(j) 性能要求指一项要求：

(i) 某一水平或百分比的货物或服务被出口； (ii) 授予进口许可证的缔约方货物或服务替代进口货物或服务； (iii) 从进口许可证中受益的个人在授予进口许可证的缔约方领土内购买其他货物或服务，或给予国内货物或服务的偏好； (iv) 从进口许可证中受益的个人在授予进口许可证的缔约方领土内生产货物或提供服务，具有某一水平或百分比的国内含量；或 (v) 以任何方式将进口的数量或价值与出口的数量或价值或外汇流入的金额联系起来；

(k) 印刷广告材料是指根据协调制度第49章分类的货物，包括小册子、传单、单页、贸易目录、行业协会发布的年鉴、旅游宣传材料以及海报，这些材料用于促进、宣传或广告商品或服务，本质上旨在广告商品或服务，并且是免费提供的。

文章3.2：范围和覆盖范围

除另有规定外，本章适用于一方方的货物贸易。

B部分 - 国民待遇

文章3.3：国民待遇

每一方应根据1994年关税及贸易总协定第III条，包括其解释性注释，给予另一方货物国民待遇，并

this end Article III of GATT 1994, and its interpretative notes, are incorporated into and made part of this Agreement *mutatis mutandis*.

Section C - Tariff Elimination

Article 3.4: Tariff Elimination

1. Except as otherwise provided in this Agreement, neither Party may increase any existing customs duty, or adopt any customs duty, on an originating good.
2. Except as otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on originating goods in accordance with its Schedule in Annex 3-B.
3. If a Party reduces its applied most-favoured-nation import duty rate after the entry into force of this Agreement and before the end of the tariff elimination period, the tariff elimination schedule of that Party shall apply to the reduced rate.
4. On the request of either Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their Schedules in Annex 3-B. An agreement between the Parties to accelerate the elimination of a customs duty on a good shall supersede any duty rate or staging category determined pursuant to their Schedules in Annex 3-B for such good following discussion by the Committee on Trade in Goods and when approved by each Party in accordance with Article 20.1.3(e) (Joint FTA Committee – Institutional Arrangements Chapter).
5. A Party may at any time accelerate unilaterally the elimination of customs duties on originating goods of the other Party set out in its Schedule in Annex 3-B. A Party considering this shall inform the other Party as early as practicable before the new rate of customs duty takes effect.

3.5: Customs Valuation

The Parties shall apply the provisions of Article VII of GATT 1994 and the WTO Agreement on the Implementation of Article VII of GATT 1994 for the purposes of determining the customs value of goods traded between the Parties.

为此目的，1994年关税及贸易总协定第III条及其解释性注释相应修改后，纳入本协议定并成为本协议的一部分。

C部分 - 关税消除

第3.4条：关税消除

1. 除本协议另有规定外，任何一方不得提高现行原产地货物的任何关税，或对原产地货物征收任何关税。
2. 除本协议另有规定外，每一方应根据附件3-B中的其计划，逐步消除其原产地货物的关税。
3. 如果一方在本协议生效后、关税消除期结束前降低了其最惠国进口关税税率，则该方的关税消除计划应适用于降低后的税率。
4. 在任何一方的要求下，缔约方应磋商考虑加速消除附件3-B中其清单所列的关税。缔约方就加速消除某项货物的关税达成协议，应取代根据附件3-B中其清单确定的该货物任何关税费率或分阶段类别，该协议应在货物贸易委员会讨论后，并按照第20.1.3(e)条（联合自由贸易协定委员会——机构安排章节）经每一方批准时生效。
5. 一方可随时单方面加速消除附件3-B中其清单所列的另一方的原产地货物的关税。考虑采取此措施的缔约方应在新的关税费率生效前尽早通知另一方。

3.5: 海关估价

缔约方应当适用GATT 1994第7条和GATT 1994第7条实施协定中的规定，以确定缔约方之间贸易货物的海关价值。

Section D - Special Regimes

Article 3.6: Temporary Admission of Goods

1. Each Party shall grant customs duty-free temporary admission ³⁻¹ for the following goods, regardless of their origin, for the use solely by or under the personal supervision of a national or resident of the other Party:
- (a) professional equipment, including equipment for the press or television, software and broadcasting and cinematographic equipment, necessary for carrying out the business activity, trade or profession of a business person who qualifies for temporary entry pursuant to the laws of the importing Party;
 - (b) goods intended for display or demonstration at exhibitions, fairs or similar events;
 - (c) commercial samples and advertising films and recordings; and
 - (d) goods admitted for sports purposes.
2. Each Party shall, at the request of the person concerned and for reasons deemed valid by its Customs Administration, extend the time limit for temporary admission beyond the period initially fixed.
3. Neither Party may condition the customs duty-free temporary admission of goods referred to in paragraph 1, other than to require that such goods:
- (a) be used by a person in the exercise of the business activity, trade, profession, or sport of that person;
 - (b) not be sold or leased while in its territory;
 - (c) be accompanied by a security in an amount no greater than the charges that would otherwise be owed on entry or final importation, releasable on exportation of the good;
 - (d) be capable of identification when taken out of the territory of the other Party³⁻²;
 - (e) be taken out from the territory of the other Party on or before the departure of the person referenced in subparagraph (a), or within such other period, related to the purpose of the temporary admission, as the Party may establish;

³⁻¹ Temporary admission equates to importation under Australia's *Customs Act 1901*.

³⁻² Taken out from the territory of the other Party equates to exportation under Australia's *Customs Act 1901*.

第 D 部分 - 特殊制度

第 3.6 条：货物的临时入境

1. 每一方应当授予免税临时入境³⁻¹对于以下货物，无论其原产地如何，仅供另一方的国民或居民个人监督使用：
- (a) 专业设备，包括供新闻或电视使用的设备、软件以及广播和电影设备，这些设备是从从事商业活动、贸易或职业的商业人士进行临时入境所必需的，该人士根据进口方的法律符合临时入境资格；(b) 用于在展览、交易会或类似活动中展示或示范的货物；(c) 商业样品和广告影片和录音；(d) 为体育目的而临时入境的货物。
2. 每一方应根据有关人士的请求及其海关当局认为有效的理由，将临时入境的时间限制延长至最初规定的期限。
3. 任何一方均不得对第 1 段所述的免税临时入境货物附加条件，除非要求此类货物：
- (a) 由该个人在其商业活动、贸易、职业或体育活动中使用；(b) 在其领土内不得出售或租赁；(c) 随附担保，担保金额不得超过若未临时准入则应缴纳的入境或最终进口费用，且可在货物出口时解除担保；²
 - (d) 在离开另一方领土时能够被识别³；(e) 在另一方领土上被取出，时间不晚于第 (a) 款中提到的个人离开时间，或在该期限内，与临时准入的目的相关，缔约方可自行规定；

³⁻¹ 临时准入等同于根据澳大利亚1901年海关法进行的进口。³⁻² 从另一方领土取出等同于根据澳大利亚1901年海关法进行的出口。

- (f) be admitted in no greater quantity than is reasonable for their intended use; and
- (g) be otherwise admissible into the Party's territory under its laws.

4. If any condition that a Party imposes under paragraph 3 has not been fulfilled, the Party may apply the customs duty and any other charge that would normally be owed on the good plus any other charges or penalties provided for under its domestic law.

5. Each Party, through its Customs Administration, shall adopt procedures providing for the expeditious release of goods admitted under this Article. To the extent possible, such procedures shall provide that when such a good accompanies a national or resident of the other Party who is seeking temporary entry, the good shall be released simultaneously with the entry of that national or resident subject to necessary documentation required by the customs authorities of the admitting Party.

6. Each Party shall permit a good temporarily admitted under this Article to be exported through a customs port other than that through which it was admitted.

7. Each Party, through its Customs Administration, consistent with domestic law, shall relieve the importer or other person responsible for a good admitted under this Article from any liability for failure to export the good on presentation of satisfactory proof to customs authorities that the good has been destroyed within the original period fixed for temporary admission or any lawful extension.

8. Subject to Chapter 9 (Cross-Border Trade in Services) and Chapter 10 (Investment):

- (a) each Party shall allow a container used in international traffic that enters its territory from the territory of the other Party to exit its territory on any route that is reasonably related to the economic and prompt departure of such container;
- (b) neither Party may require any bond or impose any penalty or charge solely by reason of any difference between the port of entry and the port of departure of a container;
- (c) neither Party may condition the release of any obligation, including any bond, that it imposes in respect of the entry of a vehicle into its territory on its exit through any particular port of departure; and
- (d) neither Party may require that the carrier bringing a container from the territory of the other Party into its territory be the same carrier that takes such container to the territory of the other Party.

(f) 数量不得超过其预期用途所合理的数量；并且 (g) 根据其法律，可被允许进入一方领土。

4. 如果缔约方根据第3段规定所设定的任何条件未得到满足，该缔约方可以申请对货物征收其通常应缴纳的关税和任何其他费用，以及其国内法规定的任何其他费用或处罚。

5. 每一方通过其海关当局，应制定程序，以便对根据本条项下临时准入的货物进行快速放行。在可能的情况下，此类程序应规定，当此类货物伴随另一方寻求临时入境的国民或居民时，该货物应与该国民或居民的入境同时放行，前提是进口方海关当局要求提供必要的文件。

6. 每一方应允许根据本条项下临时准入的货物通过其被准入的口岸以外的海关口岸出口。

7. 每一方通过其海关当局，根据国内法，应在对海关当局提交令人满意的证明，证明根据本条项下临时准入的货物在本条项下临时准入的原定期限内或在任何合法延期内已被销毁时，免除进口商或对货物负责的其他个人的责任。

8. 根据第9章（跨境服务贸易）和第10章（投资）的规定：

(a) 每一方应当允许一个用于国际运输的集装箱，该集装箱从另一方的领土进入其领土后，可以经由任何与该集装箱的经济和迅速离境相关的合理路线退出其领土；(b) 任何一方不得仅因集装箱的入境口岸与离境口岸之间的差异而要求任何保证金或处以任何罚款或费用；(c) 任何一方不得将其在车辆进入其领土方面所施加的任何义务（包括任何保证金）的解除，以通过任何特定离境口岸为其退出为条件；以及(d) 任何一方不得要求将集装箱从另一方的领土运入其领土的承运人必须是将该集装箱运回另一方领土的同一承运人。

Article 3.7: Goods Re-entered after Repair or Alteration

1. Neither Party may apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been temporarily exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in its territory.
2. Neither Party may apply a customs duty to a good, regardless of its origin, admitted temporarily from the territory of the other Party for repair or alteration.
3. For the purposes of this Article, repair or alteration does not include an operation or process that:
 - (a) destroys a good’s essential characteristics or creates a new or commercially different good; or
 - (b) transforms an unfinished good into a finished good.

Article 3.8 Customs Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials

Each Party shall grant customs duty-free entry to commercial samples of negligible value, and to printed advertising materials, imported from the territory of the other Party, regardless of their origin, but may require that:

- (a) such samples be imported solely for the solicitation of orders for goods, or services provided from the territory, of the other Party or a non-Party; or
- (b) such advertising materials be imported in packets that each contain no more than one copy of each such material and that neither such materials nor packets form part of a larger consignment.

Section E - Non-Tariff Measures

Article 3.9: Import and Export Restrictions

1. Except as otherwise provided in this Agreement, neither Party may adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994 and its interpretative notes, and to this end Article XI of GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, *mutatis mutandis*.
2. The Parties understand that the rights and obligations in paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, a Party from adopting or maintaining:

文章 3.7：修理或改装后重新入境的货物

1. 任何一方不得对其领土暂时出口到另一方的领土进行修理或改装后重新进入其领土的货物（无论其原产地如何）征收关税，无论这种修理或改装是否可以在其领土内进行。
2. 任何一方不得对从另一方领土暂时进口以进行修理或改装的货物征收关税，无论其原产地如何。
3. 就本条而言，修理或改装不包括以下操作或过程：
 - (a) 损毁货物的本质特征或创造一种新颖的或商业上不同的货物；或 (b) 将未完成的货物转变为成品。

文章 3.8：微不足道的价值的商业样品和印刷广告材料的免税入境

每一方应当对从另一方领土进口的、价值微不足道的商业样品和印刷广告材料授予免税入境，无论其原产地如何，但可以要求：

- (a)此类样品仅进口用于招揽向另一方领土或非缔约方订购的货物或服务的订单；或 (b)此类广告材料以包裹形式进口，每个包裹最多包含一份此类材料，并且此类材料或包裹不是更大货件的一部分。

E部分 - 非关税措施

第3.9条：进出口限制

- 1.除本协定另有规定外，任何一方均不得采取或维持对另一方任何货物的进口禁止或限制，或对预定运往另一方领土的任何货物的出口或出口销售禁止或限制，除非根据1994年关税及贸易总协定第十一条及其解释性注释，为此目的，1994年关税及贸易总协定第十一条及其解释性注释被纳入并成为本协定的一部分，相应修改。
2. 缔约方理解，第1段中的权利和义务在任何其他形式的限制被禁止的情况下，禁止一方采取或维持：

- (a) export and import price requirements, except as permitted in enforcement of countervailing and antidumping orders and undertakings;
- (b) import licensing conditioned on the fulfilment of a performance requirement; or
- (c) voluntary export restraints.

3. Paragraphs 1 and 2 shall not apply to the measures set out in Annex 3-A.

4. Each Party shall ensure the transparency of any non-tariff measures permitted in paragraph 1 and shall ensure that any such measures are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to trade between the Parties.

Article 3.10: Administrative Fees and Formalities

1. Each Party shall ensure, in accordance with Article VIII:1 of GATT 1994 and its interpretative notes, that all fees and charges of whatever character (other than import and export duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III:2 of GATT 1994, and antidumping and countervailing duties) imposed on or in connection with importation or exportation are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.

2. Neither Party may require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.

3. Each Party shall make available through the Internet or a comparable computer based telecommunications network a current list of the fees and charges it imposes in connection with importation or exportation.

Article 3.11: Export Taxes

Neither Party may adopt or maintain any duty, tax or other charge on the export of any good to the territory of the other Party, unless such duty, tax or charge is adopted or maintained on any such good when destined for domestic consumption.

Article 3.12: Treatment of Certain Spirits

1. Australia confirms that the Australia New Zealand Food Standards Code (“the Code”) allows recognition of Chilean Pisco as a product exclusively manufactured in Chile and that no variation to the Code is necessary for such recognition.

(a) 出口和进口价格要求，但除非在反补贴和反倾销裁决和承诺的执行中允许； (b) 以履行性能要求为条件的进口许可；或 (c) 自愿出口限制。

3. 第1段和第2段不适用于附件3-A中规定的措施。

4. 每一方应确保第1段允许的任何非关税措施具有透明度，并确保此类措施的制定、采纳或实施旨在或导致对缔约方之间的贸易造成不必要的障碍。

第3.10条：行政费用和手续

1. 每一方应根据1994年关税及贸易总协定第8条第1款及其解释性注释，确保对进口或出口征收或与之相关的所有费用和收费（除进出口关税、等同于1994年关税及贸易总协定第3条第2款规定的内部税或其他内部收费，以及反倾销和反补贴税之外）的性质不限，其金额限制为所提供服务的近似成本，并且不代表对国内货物或为财政目的对进口或出口的间接保护或征税。

2. 任何一方不得就另一方任何货物的进口，要求领事交易，包括相关费用和收费。

3. 每一方应通过互联网或类似的基于计算机的电信网络，提供其就进口或出口所征收的费用和收费的最新清单。

第3.11条：出口税

任何一方不得对向另一方领土出口的任何货物征收关税、税或其他收费，除非在将该货物用于国内消费时，已征收或维持此类关税、税或收费。

第3.12条：某些烈酒的处理

1. 澳大利亚确认，澳大利亚新西兰食品标准法典（“该法典”）允许将智利葡萄酒认定为在智利独家制造的产品，并且对于这种认定无需修改该法典。

2. To the extent contemplated in the Code, Australia shall not permit the sale of any product as Chilean Pisco unless it has been manufactured in Chile according to the laws of Chile governing the manufacture of Chilean Pisco and complies with all applicable Chilean regulations for the consumption, sale, or export as Chilean Pisco.

Section F – Agriculture

Article 3.13: Agricultural Export Subsidies

1. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall work together toward an agreement in the WTO to eliminate those subsidies and prevent their reintroduction in any form.
2. Neither Party shall introduce or maintain any export subsidy on any agricultural good destined for the territory of the other Party.

Section G – Other Measures

Article 3.14: Administration of Trade Regulations

In accordance with Article X of GATT 1994, each Party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, judicial decisions and administrative rulings pertaining to:

- (a) the classification or the valuation of products for customs purposes;
- (b) rates of duty, taxes or other charges;
- (c) requirements, restrictions or prohibitions on imports or exports;
- (d) the transfer of payments; and
- (e) issues affecting sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing or other use of products for customs purposes.

Section H - Institutional Provisions

Article 3.15: Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods, comprising representatives of each Party.

2. 在该法典所涵盖的范围内，澳大利亚不得允许将任何产品作为智利葡萄酒出售，除非该产品已根据智利关于智利葡萄酒制造的法律在智利制造，并符合所有适用于作为智利葡萄酒消费、销售或出口的智利法规。

第F部分 – 农业

第3.13条：农业出口补贴

1. 缔约方共享多边消除农产品出口补贴的目标，并应共同在WTO内达成一项消除此类补贴并防止其以任何形式重新引入的协议。
2. 任何一方不得对打算运往另一方领土的任何农产品引入或维持任何出口补贴。

第G部分 – 其他措施

文章3.14：贸易法规管理

根据1994年关税及贸易总协定第X条，每一方应以统一、公正和合理的方式管理其所有与以下事项相关的法律、法规、司法裁决和行政裁决：

- (a) 海关目的的产品分类或估价；(b) 关税、税收或其他费用；(c) 进口或出口的要求、限制或禁止；(d) 支付转移；以及(e) 影响海关目的的产品销售、分销、运输、保险、仓储、检验、展示、加工、混合或其它使用的议题。

第H节 - 制度性规定

文章3.15：货物贸易委员会

1. 各方 hereby 设立货物贸易委员会，由各方的代表组成。

2. The Committee shall meet at the request of either Party or the Joint FTA Committee to consider any matter arising under this Chapter, Chapter 4 (Rules of Origin) or Chapter 5 (Customs Administration).
3. The Committee shall meet at such venues and times as may be agreed by the Parties. Meetings may be held via teleconference, videoconference or through any other means as mutually determined by the Parties.
4. The Committee's functions shall include:
- (a) promoting trade in goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement and other issues as appropriate; and
 - (b) addressing barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures, and, if appropriate, referring such matters to the Joint FTA Committee for its consideration.

2. 该委员会应应任何一方或联合自由贸易委员会的要求召开会议，以审议根据本章、第4章（原产地规则）或第5章（海关当局）产生的任何事项。
3. 委员会应根据缔约方商定的场所和时间举行会议。会议可通过电话会议、视频会议或由双方共同决定的其他方式进行举行。
4. 委员会的职能应包括：
- (a) 促进缔约方之间的货物贸易，包括通过磋商加速根据本协定消除关税和其他适当事项；以及 (b) 解决缔约方之间货物贸易的壁垒，特别是与非关税措施应用相关的壁垒，如果适当，可将此类事项提交联合自由贸易委员会审议。

Annex 3-A
Exceptions to Elimination of Import and Export Restrictions

Paragraphs 1 and 2 of Article 3.9 shall not apply to:

- (a) with respect to Australia:
 - (i) control by Australia on the exports of woodchips and unprocessed forest products (e.g., whole logs) sourced from native forests outside Regional Forest Agreement regions, or plantation forests within States where Codes of Practice have not been approved by the Australian Government, and Sandalwood (*Santalum spicatum*) sourced from any State, the Australian Capital Territory, or the Northern Territory; and
 - (ii) the provisions of and measures under the *Livestock Export (Merino) Orders*, made under the *Export Control Act of 1982*, as amended.
- (b) with respect to Chile, measures concerning the importation of used vehicles as provided in Law No 18.483 or its successor.

附件3-A 取消进口和出口限制的例外情况

第3.9条第1段和第2段不适用于：

- (a) 关于澳大利亚： (i) 对源自区域森林协议地区以外原生林或国家中未获澳大利亚政府批准实践守则的人工林的木片和未加工林产品（例如原木）的出口进行澳大利亚控制，以及源自任何国家、澳大利亚首都领地或北领地的檀香木（*Santalum spicatum*）；以及 (ii) 根据1982年出口控制法颁布的牲畜出口（美利奴）订单的规定和措施。
- (b) 关于智利，涉及旧设备进口的措施

车辆如第18.483号法律或其继任者所规定。

Annex 3-B
Elimination of Customs Duties

Section 1: Schedule of Australia

Customs Duties on Goods Originating in Chile

Introductory notes

- I. Australia's tariff schedule in this Annex contains the following five columns:
- (a) **Code:** the code used in the nomenclature of the Harmonized System 2007;
 - (b) **Description:** the description of the product falling under the heading;
 - (c) **Base Rate:** the basic customs duty from which the tariff elimination program starts; and
 - (d) **Category:** the category under which the product concerned falls for the purposes of tariff elimination.
- II. The categories which are applicable to imports into Australia from Chile are the following:
- 1) **Year 0:** customs duties shall be eliminated entirely and such goods shall be duty-free on the date this Agreement enters into force.

	Entry into force
Margin of preference	100%

- 2) **Year 6:** customs duties shall be removed in seven equal annual stages beginning on the date this Agreement enters into force, and such goods shall be duty-free, effective 1 January 2015.

	Entry into force	01/01/2010	01/01/2011	01/01/2012	01/01/2013	01/01/2014	01/01/2015
Margin of preference	14.3%	28.6%	42.9%	57.2%	71.5%	85.8%	100%

附件3-B 关税消除

第一部分 澳大利亚清单

源自智利的商品关税

引言

- I. 本附件中的澳大利亚关税清单包含以下五列：
- (a) 法规：协调制度2007商品名称表中的代码；(b) 描述：属于该品目的产品描述；(c) 基本关税率：关税消除计划开始的基本关税；以及(d) 类别：根据关税消除目的，相关产品所属的类别。

- II. 适用于从智利进口到澳大利亚的商品类别如下：

- 1) 第0年：关税应完全消除，此类货物在本协定生效之日应免税。

	生效 生效
优惠幅度	100%

- 2) 第6年：关税将在本协定生效之日起分七个相等的年度阶段移除，并且这些货物将免税，自2015年1月1日生效。

	生效 force	01/01/2010	01/01/2011	01/01/2012	01/01/2013	01/01/2014	2015年	
Margin of 偏好	14.3%	28.6%	42.9%	57.2%	71.5%	85.8%	100%	

3) **Year 6 TX:** customs duties shall be duty-free, effective 1 January 2015.

	Entry into force	01/01/2010	01/01/2011	01/01/2012	01/01/2013	01/01/2014	01/01/2015
Margin of preference	0%	0%	0%	0%	0%	0%	100%

Note: Under existing law, Australia’s most-favoured-nation rates for some textiles, clothing and footwear products are scheduled to be reduced on 1 January 2010.

3) 第6年TX：关税将免税，自2015年1月1日生效。

	生效 生效	01/01/2010	01/01/2011	01/01/2012	01/01/2013	01/01/2014	2015年	
优惠幅度 优惠幅度	0%	0%	0%	0%	0%	0%	0%	100%

注意：根据现行法律，澳大利亚对部分纺织品、服装和鞋类产品的最惠国待遇费率计划于2010年1月1日降低。

Section 2: Schedule of Chile

Customs Duties on Goods Originating in Australia

Introductory notes

- I. Chile’s tariff schedule in this Annex contains the following five columns:
- (a) **Code:** the code used in the nomenclature of the Harmonized System 2007;
 - (b) **Description:** the description of the product falling under the heading;
 - (c) **Base Rate:** the basic customs duty from which the tariff elimination program starts;
 - (d) **Category:** the category under which the product concerned falls for the purposes of tariff elimination; and
 - (e) **Observation:** additional information if it corresponds.
- II. The categories which are applicable to imports into Chile from Australia are the following:
- 1) **Year 0:** customs duties shall be eliminated entirely and such goods shall be duty-free on the date this Agreement enters into force.

	Entry into force
Margin of preference	100%

- 2) **Year 6:** customs duties shall be removed in seven equal annual stages beginning on the date this Agreement enters into force, and such goods shall be duty-free, effective 1 January 2015.

	Entry into force	01/01/2010	01/01/2011	01/01/2012	01/01/2013	01/01/2014	01/01/2015
Margin of preference	14,3%	28,6%	42,9%	57,2%	71,5%	85,8%	100%

- 3) **Year 6 TX:** customs duties shall be duty-free, effective 1 January 2015.

	Entry into force	01/01/2010	01/01/2011	01/01/2012	01/01/2013	01/01/2014	01/01/2015
Margin of preference	0%	0%	0%	0%	0%	0%	100%

第二部分：智利清单

澳大利亚原产货物关税

引言

- 一、本附件中智利的关税清单包含以下五列：
- (a) 法规：协调制度2007的商品名称表中所使用的代码；(b) 描述：属于该品目的产品描述；(c) 基本关税率：关税消除计划开始的基本关税；(d) 类别：对于关税消除而言，所涉产品所属的类别；以及(e) 备注：如果适用，则提供附加信息。

- II. 适用于从澳大利亚进口到智利的类别的如下：

- 1) 第0年：关税应完全消除，此类货物在本协定生效之日应免税。

	生效 力量
优惠幅度	100%

- 2) 第6年：关税应在七个相等的年度阶段内移除，自本协定生效之日起开始，此类货物应免税，自2015年1月1日生效。

	生效 生效	01/01/2010	01/01/2011	01/01/2012	01/01/2013	01/01/2014	01/01/2015
边际 偏好	14.3%	28.6%	42.9%	57.2%	71.5%	85.8%	100%

- 3) 第6年TX：关税应免税，自2015年1月1日生效。

	生效 生效	01/01/2010 01/01/2011 01/01/2012 01/01/2013 01/01/2014 2015年					
优惠幅度 优惠幅度	0%	0%	0%	0%	0%	0%	100%

4) **Category W:** duties on goods provided for in the items in staging category W shall be reduced by 16,7 per cent of the base rate on 1 January of entry into force, and by an additional 8,3 per cent of the base rate each year thereafter through year three. Beginning 1 January of year four, duties on these goods shall be reduced by an additional 16,7 per cent of the base rate annually through year eight and shall be duty-free effective 1 January 2015; and

	Entry into force	01/01/2010	01/01/2011	01/01/2012	01/01/2013	01/01/2014	01/01/2015
Margin of preference	16,7%	25%	33,3%	50%	66,7%	83,3%	100%

5) **Sugar Category:** the *ad-valorem* duty (6 per cent) will be charged in accordance with the following schedule:

Date	<i>Ad-valorem</i> duty to be charged
01/01/2009	3,00 %
01/01/2010	1,98 %
01/01/2011	1,02 %
01/01/2012	0,00 %

For greater certainty it is understood that this phase out schedule is only applicable to the *ad-valorem* duty (6 per cent) imposed by Chile to other countries for the following tariff lines (1701.11.00, 1701.12.00, 1701.91.00, 1707.99.10, 1701.99.20, and 1701.99.90)

The specific tariff will continue to apply for the products considered under Law No. 18.525 or its successor.

4) 类别W：在生效日的1月1日，对在过渡期类别W中列出的货物征收的关税应减少基本关税率的**16.7%**，并在生效日后每年通过第三年再减少基本关税率的**8.3%**。自第四年的1月1日起，对这些货物的关税应每年再减少基本关税率的**16.7%**，直至第八年，并自2015年1月1日起免税；和

	入境 into force	01/01/2010	01/01/2011	01/01/2012	01/01/2013	01/01/2014	01/01/2015
边际偏好	16.7%	25%	33.3%	50%	66.7%	83.3%	100%

5) 糖类：从价税（6%）将根据以下清单收费：

Date	从价税应收费
2009年1月1日	3,00 %
01/01/2010	1,98 %
01/01/2011	1,02 %
01/01/2012	0,00 %

为明确起见，理解本逐步取消清单仅适用于智利对其他国家征收的从价税（6%）（适用于以下关税线：1701.11.00、1701.12.00、1701.91.00、1707.99.10、1701.99.20和1701.99.90）

第18.525号法律或其继任者所考虑的产品将继续适用特定关税。

Chapter 4
Rules of Origin

章节4 原产地规则

Article 4.1: Definitions

For the purposes of this Chapter:

- (a) **adjusted value** means:
 - (i) in the case of a good to be exported from one Party to another, the value determined under the Customs Valuation Agreement, as adjusted to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incidental to the international shipment of the good from the country of exportation to the place of importation;
 - (ii) in the case of a material, the total of all prices actually paid or payable to acquire the materials to which the transaction relates in accordance with the Customs Valuation Agreement;
- (b) **Customs Valuation Agreement** means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, contained in Annex 1A of the WTO Agreement;
- (c) **exporter** means a person who exports goods from the exporting Party;
- (d) **fungible goods or materials** means goods or materials that are identical or interchangeable as result of being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which cannot be distinguished from one another for origin purposes by virtue of any markings or mere visual examination;
- (e) **generally accepted accounting principles** means the recognised consensus or substantial authoritative support in the territory of 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;
- (f) **importer** means a person who imports goods into the importing Party;
- (g) **indirect material** means a material used in the production, testing or inspection of a good but not physically incorporated into the good, or a material or good used in the maintenance of buildings or the operation of equipment associated with the production of a good including:
 - (i) fuel and energy;
 - (ii) tools, dyes and moulds;

第4.1条：定义

本章旨在：(a) 调整后的价值是指：(i) 在一种货物从一个缔约方出口到另一个缔约方的情况下，根据海关估价协定确定的值，经调整以排除为运输、保险以及与从出口国到进口地的国际装运相关的任何成本、费用或费用；(ii) 在材料的情况下，根据海关估价协定实际支付或应付以获取与交易相关的材料的总价格；(b) 海关估价协定是指关于实施

1994年关税及贸易总协定第七条，包含在世界贸易组织协定附件1A中；

(c) 出口商是指从出口方出口货物的人；(d) 可替代货物或材料是指由于种类和商业质量相同、具有相同的技术和物理特性，并且因任何标记或仅通过视觉检查而无法按原产地目的相互区分的货物或材料；(e) 公认会计原则是指一方领土内关于收入、费用、成本、资产和负债的记录、信息披露以及财务报表编制的公认共识或重大权威支持。这些标准可能包括通用定义的广泛指南以及详细的标准、实践和程序；(f) 进口商是指将货物进口到进口方的人；(g) 间接材料是指在生产、测试或

对未物理融入货物的货物检验，或用于维护建筑物或与货物生产相关的设备运营的材料或货物，包括：

- (i) 燃料和能源；
- (ii) 工具、染料和模具；

- (iii) spare parts and materials;
 - (iv) lubricants, greases, compounding materials and other materials used in production;
 - (v) gloves, glasses, footwear, clothing, safety equipment and supplies;
 - (vi) equipment, devices and supplies used for testing or inspecting the good;
 - (vii) catalysts and solvents; and
 - (viii) any other materials 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;
- (h) **material** means any good, used or consumed in the production of another good, and physically incorporated into or classified with that good;
- (i) **originating material** means a material that qualifies as originating in accordance with the relevant provisions of this Chapter;
- (j) **preferential tariff treatment** means the rate of customs duties applicable to an originating good of the exporting Party in accordance with Annex 3-B; and
- (k) **producer** means a person who engages in the production of goods or materials.

Article 4.2: Originating Goods

For the purposes of this Agreement, a good is an originating good of a Party and, subject to Article 4.18, eligible for a preferential tariff, if it:

- (a) is a wholly obtained good of a Party;
- (b) is produced entirely in the territory of a Party exclusively from originating materials;
- (c) satisfies all applicable requirements of Annex 4-C, as a result of processes performed entirely in the territory of one or both of the Parties by one or more producers; or
- (d) otherwise qualifies as an originating good under this Chapter;

and meets all other applicable requirements of this Chapter.

(iii) 备件和材料；

(iv) 润滑剂、润滑脂、复合材料和其他生产中使用的材料； (v) 手套、眼镜、鞋类、服装、安全设备及供应品； (vi) 用于测试或检查货物的设备、装置和供应品； (vii) 催化剂和溶剂；以及 (viii) 任何未融入货物但其在货物生产中的使用可以被合理证明为该生产一部分的其他材料；

(h) 材料是指用于生产另一种货物的任何货物，并物理地融入或归类于该货物； (i) 原产材料是指根据本章相关规定符合原产地资格的材料； (j) 优惠关税待遇是指根据附件3-B适用于出口方原产地货物的关税税率；以及 (k) 生产商是指从事货物或材料生产的人员。

第4.2条：原产地货物

根据本协议，货物为一方原产地货物，并且根据第4.18条，有资格享受优惠关税，如果它：

(a) 是一方完全获得的产品； (b) 完全在一方领土内生产，且仅由原产材料构成； (c) 满足附件4-C的所有适用要求，这些要求是由一方或双方领土内一个或多个生产者通过完全在一方或双方领土内进行的工艺产生的；或 (d) 根据本章其他方式符合原产地货物的规定；

并符合本章所有其他适用要求。

Article 4.3: Wholly Obtained Goods

For the purposes of Article 4.2, a wholly obtained good of a Party means:

- (a) mineral and other naturally occurring goods extracted in or from the territory of a Party;
- (b) vegetable goods⁴⁻³, as such goods are defined in the Harmonized System, harvested, picked or gathered in the territory of a Party;
- (c) live animals born and raised in the territory of a Party;
- (d) goods obtained from live animals in the territory of a Party;
- (e) goods obtained from hunting, trapping, fishing, gathering, capturing or aquaculture conducted in the territory of a Party;
- (f) goods (fish, shellfish and other marine life) taken from the high seas by vessels registered or recorded with a Party and flying its flag;
- (g) goods obtained or produced on board factory ships registered or recorded with a Party and flying its flag, 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 outside the territorial sea, provided that a Party has a right to exploit such seabed in accordance with international law;
- (i) waste and scrap derived from:
 - (i) production in the territory of a Party; or
 - (ii) used goods collected in the territory of a Party;provided that such goods are fit only for the recovery of raw materials; and
- (j) goods produced or obtained entirely in the territory of a Party exclusively from goods referred to in subparagraphs (a) to (i).

Article 4.4: Cumulation

A good which is an originating good of a Party pursuant to Article 4.2 and is used in the production of a good or goods in the territory of the other Party shall be considered to originate in the territory of that other Party.

⁴⁻³ The definition of “vegetable products” in the Harmonized Commodity Description and Coding System shall apply as the definition of “vegetable goods” for the purposes of this Chapter.

第4.3条：完全获得货物

根据第4.2条，一方完全获得的产品是指：

- (a) 一方领土内开采或开采的矿物和其他自然产生的货物；(b) 蔬菜货物⁴⁻³
- ，作为协调制度中对此类货物定义的那样，在的一方领土内收获、采摘或采集；(c) 在一方领土内出生和饲养的活动物；(d) 在一方领土内从活动物获得的货物；(e) 在一方领土内进行的狩猎、捕猎、捕鱼、采集、捕捉或水产养殖活动获得的货物；(f) 由在缔约方注册或登记并悬挂其旗帜的船舶从公海捕捞的货物（鱼类、贝类和其他海洋生物）；(g) 从第(f)项所述货物中，由在缔约方注册或登记并悬挂其旗帜的工厂船获得或生产的货物；(h) 由一方或一方人员从领海以外海底或海底以下捕获的货物，前提是缔约方根据国际法有权开发该海底；(i) 来自：(i) 一方领土内的生产；或(ii) 在一方领土内收集的已使用货物；前提是此类货物仅适用于回收原材料；以及(j) 完全在一方领土内生产或获得的货物，仅由第(a)项至第(i)项所述货物构成。

第4.4条：累积

根据第4.2条，一方原产地货物，若在另一方领土上用于生产货物或货物，应视为起源于该另一方领土。

⁴⁻³ 协调制度商品描述和编码系统中对“蔬菜产品”的定义应作为本章中“蔬菜货物”的定义适用。

Article 4.5: De Minimis

1. A good that does not satisfy a change in tariff classification requirement pursuant to Annex 4-C is nonetheless an originating good if:
 - (a) the value of all non-originating materials used in the production of the good that do not undergo the required change in tariff classification does not exceed 10 per cent of the adjusted value of the good (as calculated in accordance with Article 4.12); and
 - (b) the good meets all other applicable criteria of this Chapter.
2. The value of such non-originating materials shall, however, be included in the value of non-originating materials for any applicable regional value content requirement for the good.

Article 4.6: 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 resources presented with the good shall be considered originating goods, 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 or production process requirement.
2. If the good is subject to a regional value content requirement, the value of the accessories, spare parts, tools and instructional or other information resources presented with the good is to be taken into account as originating or non-originating, as the case may be, in calculating the regional value content of the good.
3. Paragraph 1 and 2 shall only apply provided that:
 - (a) the accessories, spare parts, tools and instructional or other information resources presented with the good are not invoiced separately from the good; and
 - (b) the quantities and value of the accessories, spare parts, tools and instructional or other information resources presented with the good are customary for that good.
4. Where accessories, spare parts and tools are not customary for the good or are invoiced separately from the good, they shall be treated as separate goods for the purpose of origin determination.

第4.5条：最小值

1. 不满足附件4-C规定的关税分类变更要求的货物，若满足以下条件，仍应视为原产地货物：
 - (a) 用于生产货物的所有非原产材料的调整后的价值，其中未发生所需关税分类变更的，不超过货物调整后价值的10%；以及(b) 该货物符合本章所有其他适用标准。
2. 然而，此类非原产材料的价值应计入货物的非原产材料价值，以满足该货物适用的任何区域价值含量要求。

第4.6条：附件、备件和工具

1. 在确定货物原产地时，与货物一同呈现的附件、备件、工具和说明或其他信息资源应被视为原产地货物，并在确定原产地货物生产中使用的所有非原产材料是否已发生适用关税分类变更或生产流程要求变更时予以忽略。
2. 如果货物受到区域价值含量要求，则与货物一同提供的附件、备件、工具和说明或其他信息资源的价值应计入计算货物的区域价值含量，视情况而定，作为原产地或非原产地。
3. 第1段和第2段仅在下列条件下适用：
 - (a) 与货物一同提供的附件、备件、工具和说明或其他信息资源未单独开票；以及 (b) 与货物一同提供的附件、备件、工具和说明或其他信息资源的数量和价值是该货物的常规数量和价值。
4. 当附件、备件和工具不是货物的常规组成部分，或单独开票时，它们应作为单独的货物对待，以确定原产地。

Article 4.7: Fungible Goods and Materials

1. The determination of whether fungible goods or materials are originating goods shall be made either by physical segregation of each of the materials, or through the use of an inventory management method recognised in the generally accepted accounting principles of the Party in which the production is performed or otherwise accepted by that Party.
2. A Party shall provide that an inventory management method selected under paragraph 1 for particular fungible goods or materials shall continue to be used for those fungible goods or materials throughout its fiscal year.

Article 4.8: Packaging Materials and Containers

1. Packaging materials and containers for transportation and shipment of a good shall not be taken into account in determining the origin of any good.
2. Packaging 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 or production process requirements as set out in Annex 4-C.
3. If a good is subject to a regional value content requirement then the value of the packaging materials 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.
4. Where the quantity or value of the packaging materials is not reasonable for the good, its value shall not be included as originating in a regional value content calculation for the good.

Article 4.9: Sets or Composite Goods

1. A set put up for retail sale or composite good that is classifiable pursuant to Rule 3 of the General Rules for the Interpretation of the Harmonized System, shall be considered as originating, provided that:
 - (a) all the component goods are originating; or
 - (b) the value of the non-originating component goods does not exceed 25 per cent of the total adjusted value (as calculated in accordance with Article 4.12) of the good put up in a set for retail sale or composite good.
2. The origin of packaging materials and containers for a set put up for retail sale or composite good shall be determined in accordance with Article 4.8.

文章4.7：可替代货物或材料

1. 可替代货物或材料是否为原产地货物的确定，应通过物理隔离每种材料，或使用在该生产执行或被该方其他方式认可的缔约方的公认会计原则中认可的库存管理方法来进行。
2. 一方应规定，根据第1段为特定可替代货物或材料选定的库存管理方法，应在其财政年度内继续用于这些可替代货物或材料。

文章4.8：包装材料和容器

1. 用于运输和装运货物的包装材料和容器，在确定任何货物的原产地时不应予以考虑。
2. 包装零售销售的货物的包装材料和容器，当与该货物一起分类时，在确定用于该货物生产的所有非原产材料是否已满足附件4-C中规定的适用关税分类或生产过程要求时不应予以考虑。
3. 如果货物受到区域价值含量要求，则零售销售包装货物的包装材料的价值应作为原产或非原产材料计入货物区域价值含量计算中。
4. 如果包装材料的数量或价值对货物来说不合理，其价值不应计入货物的区域价值含量计算中。

第4.9条：套装或组合商品

1. 依照协调制度解释通则第3条规则进行分类的零售销售套装或组合商品，如果满足以下条件，应被视为原产：
 - (a) 所有组成部分商品均为原产；或 (b) 非原产组成部分商品的价值不超过零售销售套装或组合商品总调整价值（根据第4.12条计算）的25%。
2. 零售销售套装或复合货物的包装材料和容器的原产地应根据第4.8条确定。

3. This Article shall not apply to a set put up for retail sale or composite good for which the Harmonized System provides a specific description.

Article 4.10: Indirect Material

An indirect material shall be treated as an originating material without regard to where it is produced.

Article 4.11: Regional Value Content

For the purposes of Article 4.2 where Annex 4-C requires a good to meet a regional value content requirement, the regional value content of that good shall be calculated using the following method:

$$\text{Build-down Method} = \frac{\text{AV} - \text{VNM}}{\text{AV}} \times 100$$

RVC

where:

RVC is the regional value content of the good, expressed as a percentage;

AV is the adjusted value as defined in Article 4.1(a), and

VNM is the value of non-originating materials that are acquired and used by the producer in the production of the good. VNM includes material of undetermined origin but does not include the value of a material that is self-produced.

Article 4.12: Calculation of the Value of Non-Originating Material

1. Each Party shall provide that the value of a non-originating material is:
 - (a) for a material imported by the producer of the good, the adjusted value of the material, adjusted by deducting the following costs and expenses:
 - (i) the costs of freight, insurance, packing, and all other costs incurred in transporting the material within the Party’s territory to the location of the producer;
 - (ii) duties, taxes, and customs brokerage fees on the material paid in the territory of the Party, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable;

3. 本条不适用于协调制度提供了特定描述的零售销售套装或复合货物。

第4.10条：间接材料

间接材料应被视为原产材料，而不管其生产地点。

第4.11条：区域价值含量

根据第4.2条附件4-C要求货物满足区域价值含量要求的目的，该货物的区域价值含量应使用以下方法计算：

$$\text{Build-down Method} = \frac{\text{AV} - \text{VNM}}{\text{AV}} \times 100$$

RVC

其中：

RVC是货物的区域价值含量，以百分比表示；

AV是第4.1(a)条中定义的调整后的价值，和

VNM是非原产材料的价值，该材料由生产商在货物生产中获取和使用。
VNM包括原产地不明的材料，但不包括自产材料的价值。

第4.12条：非原产材料价值的计算

1. 每一方应规定非原产材料的价值是：
 - (a)对于由货物生产商进口的材料，材料的调整后的价值，通过扣除以下成本和费用进行调整：
 - (i) 在一方领土内将材料运输到生产商所在地的运费、保险、包装以及所有其他成本；
 - (ii) 在该方领土上支付的材料关税、税和海关经纪费，不包括被豁免、退还、可退还或以其他方式可以收回的关税和税，包括抵扣已支付或应付的关税或税；

- (iii) if the good is imported from the other Party, the cost of waste and spoilage resulting from the use of the material in the production of the good in the territory of that Party;
 - (iv) if the good is imported from the other Party, the cost of processing incurred in the territory of that Party in the production of the non-originating material;
 - (v) if the good is imported from the other Party, the cost of originating materials used or consumed in the production of the non-originating material in the territory of that Party; and
- (b) for a material acquired in the territory where the good is produced, the adjusted value of the material, adjusted by deducting the following costs and expenses:
- (i) the costs of freight, insurance, packing, and all other costs incurred in transporting the material within the Party's territory to the location of the producer;
 - (ii) duties, taxes, and customs brokerage fees on the material paid in the territory of the Party, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable;
 - (iii) the cost of waste and spoilage resulting from the use of the material in the production of the good in the territory of the Party;
 - (iv) the cost of processing incurred in the territory of the Party in the production of the non-originating material; and
 - (v) the cost of originating materials used or consumed in the production of the non-originating material in the territory of the Party.

2. Where the cost or expense of a deduction listed in paragraph 1(a) or 1(b) is unknown or documentary evidence of the amount of the deduction is not available, then no deduction is allowable for that particular cost.

Article 4.13: Non-Qualifying Operations

1. A good shall not be considered to be an originating good of the exporting Party merely by reason of:
- (a) operations to ensure the preservation of products in good condition for the purpose of storage during transport;
 - (b) changes of packaging and breaking up and assembly of packages;

(iii)如果货物从另一方进口，在该方领土上使用材料生产货物所产生的废料和损耗的成本； (iv)如果货物从另一方进口，在该方领土上生产非原产材料所产生的加工成本； (v)如果货物从另一方进口，在生产中使用的或消耗的原产材料的成本

- e
- 该方领土内的非原产材料；以及
- (b) 对于在货物生产领土内获得的材料，其调整后的价值，通过扣除以下成本和费用进行调整：
- (i) 运输材料至生产商所在地的费用，包括运费、保险费、包装费以及其他所有相关费用；
 - (ii) 在该方领土内支付的与材料相关的关税、税项和海关经纪费，不包括被豁免、退还、可退还或以其他方式可收回的关税和税项，包括抵扣已支付或应付的关税或税项； (iii) 在该方领土内使用该材料生产货物时产生的废料和损耗成本； (iv) 在该方领土内生产非原产材料时产生的加工成本； 以及 (v) 在该方领土内用于生产非原产材料或消耗的原产材料成本。

2. 如果第1(a)段或1(b)段中列出的扣除额的成本或费用未知，或者没有扣除额金额的文件证据，则对该特定成本不得允许扣除额。

第4.13条：非合格操作

1. 仅凭以下原因，货物不应被视为出口方的原产地货物：
- (a) 运营以确保产品在运输过程中保持良好状态，用于储存； (b) 包装变更以及拆分和组装包装；

- (c) disassembly;
- (d) placing in bottles, cases, boxes and other simple packaging operations;
- (e) mere making-up of sets of articles; or
- (f) any combination of operations referred to in subparagraphs (a) to (e).

2. Paragraph 1 shall prevail over the product specific rules set out in Annex 4-C.

Article 4.14: 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 territory of the Party in which the good is produced or manufactured.

Article 4.15: Third Country Transshipment

1. A good shall continue to be considered an originating good provided that the good undergoes no subsequent production or any other operation outside the territories of the Parties, other than unloading, reloading, storing, repacking, relabelling or any other necessary operations to preserve it in good condition or to transport the good to the territory of a Party.
2. Notwithstanding paragraph 1, an originating good of a Party imported into the other Party after an exhibition in a non-Party shall continue to qualify as an originating good.
3. To ensure compliance with paragraphs 1 or 2, the Customs Administration of the importing Party may request documents, including customs documents of the third country, or any other documents, including transport documents.

Article 4.16: Certificate of Origin

1. A claim that a good should be treated as originating and accepted as eligible for a preferential tariff shall be supported by a Certificate of Origin.
2. The Certificate of Origin shall be completed by the exporter. The Certificate of Origin shall contain a set of minimum requirements as detailed in Annex 4-A and shall:
 - (a) specify that the goods enumerated therein are the origin of the exporting Party and meet the terms of this Chapter;
 - (b) be made in respect of one or more goods and may include a variety of goods; and

(c) 拆卸；(d) 将物品装入瓶、箱、盒和其他简单包装操作；(e) 仅组装物品套装；或 (f) 小段 (a) 至 (e) 中所述任何运营的组合。

2. 第4.15条应优先于附件4-C中规定的产品特定规则。

第4.14条：成本记录

就本章而言，所有成本均应根据货物生产或制造的缔约方领土内适用的公认会计原则进行记录和保存。

第4.15条：第三国转运

1. 如果货物在缔约方领土之外未经后续生产或任何其他操作，仅进行卸货、重新装载、储存、重新包装、重新贴标签或任何其他为保持货物完好或运输货物至缔约方领土而采取的必要操作，则该货物应继续被视为原产地货物。
2. 不论第1段如何规定，一方在非缔约方举办的展览会上展示后进口到另一方的原产地货物，应继续视为原产地货物。
3. 为确保符合第1段或第2段的规定，进口方海关当局可以要求文件，包括第三国的海关文件，或任何其他文件，包括运输文件。

第4.16条：原产地证书

1. 索赔某货物应被视为原产地货物并符合优惠关税资格的，应提供原产地证书。
2. 原产地证书应由出口商填写。原产地证书应包含附件4-A中详述的最低要求，并应：
 - (a) 注明其中列明的货物是出口方并符合本章条款；(b) 应针对一种或多种货物作出，并可能包括多种货物；以及

(c) be completed in English or Spanish.

3. An example of a Certificate of Origin in English and Spanish is provided in Annex 4-B.

4. The Certificate of Origin shall remain valid for a period of one year from the date the document was issued.

5. If the exporter is not the producer of the good referred to in the Certificate of Origin, that exporter may complete and sign the Certificate of Origin on the basis of:

- (a) the exporter’s knowledge that the good qualifies as an originating good; or
- (b) a producer’s written declaration or statement that the good qualifies as an originating good of a Party.

6. Nothing in paragraph 5(b) shall be construed to require a producer who is not the exporter of the good to make a written declaration or statement that the good qualifies as an originating good of a Party.

Article 4.17: Exceptions from Certificate of Origin

Notwithstanding paragraph 1 of Article 4.16, the Customs Administration of the importing Party shall not require a Certificate of Origin from importers when:

- (a) the total customs value of the originating goods does not exceed 1000 United States dollars or the equivalent amount in that Party’s currency, or such higher amount as the Party may establish; or
- (b) the Customs Administration of the importing Party has waived the requirement for evidence,

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 requirements of this Chapter.

Article 4.18: Claim for Preferential Tariff Treatment

1. Subject to Article 4.24, the Customs Administration of the importing Party shall grant preferential tariff treatment to a good imported into its territory from the other Party, provided that the importer:

- (a) makes a Customs Import Declaration that the good qualifies as an originating good of the exporting Party;
- (b) complies with Article 4.15; and

(c) 以英语或西班牙语完成。

3. 附件4-B中提供了英语和西班牙语的原产地证书示例。

4. 原产地证书自签发之日起应保持一年有效。

5. 如果出口商不是原产地证书中所述货物的生产商，该出口商可以依据以下情况完成并签署原产地证书：
原产地，出口商可在以下基础上完成并签署原产地证书：

- (a) 出口商对货物符合原产地货物标准的认知；或 (b) 生产商出具的书面声明或陈述，表明货物为一缔约方的原产地货物。

6. 第5(b)段中的任何内容均不得解释为要求非该货物出口商的生产商作出书面声明或陈述，表明该货物符合一方原产地货物的资格。

第4.17条：原产地证书的例外

尽管为第4.16条第1款所规定，进口方海关当局在以下情况下不得向进口商要求原产地证书：

- (a) 原产地货物的总关税价值不超过1000美元或该方货币的等值金额，或该方可能设立的更高金额；或 (b) 进口方海关当局免除了证据要求，

但进口不得构成一个或多个可合理地被认为是为规避本章要求而进行或安排的进口。

第4.18条：优惠关税待遇的索赔

1. 根据第4.24条，进口方海关当局应当对从另一方进口到其领土的货物授予优惠关税待遇，前提是进口商：

- (a) 向海关提交进口申报，证明该货物属于出口方的原产地货物；
- (b) 遵守第4.15条；以及

- (c) submits the Certificate of Origin and, where appropriate, other evidence to substantiate the tariff preference claimed for the good upon request.

2. Where an importer has reason to believe that the Certificate of Origin contains incorrect information, the importer should promptly make a corrected declaration and pay any owed duties.

Article 4.19: Customs Duty Refund

If at the time of importation of a good the importer does not claim or is unable to claim preferential tariff treatment, the importer may within one year from the date of importation, or within a longer period if provided for by a Party in its domestic legislation, apply for a refund of any excess customs duty paid on production of:

- (a) a Certificate of Origin and, where appropriate, other evidence that the good qualifies as an originating good; and
- (b) other documentation relating to the importation of the good as the Customs Administration of the importing Party may require.

Article 4.20: Records

1. Each Party shall require that:

- (a) an exporter or producer shall maintain, for five years from the date of the Certificate of Origin, all records relating to the origin of a good for which preferential tariff treatment is claimed in the importing Party, including the Certificate of Origin relevant to the good, or a copy thereof; and
- (b) an importer claiming preferential tariff treatment shall maintain, for five years after the date of importation of a good, all records relating to the importation of the good, including the Certificate of Origin relevant to the good, or a copy thereof in accordance with the laws, regulations and practices of the relevant Party.

2. The records to be maintained pursuant to this Article and Article 4.21 shall include electronic records. Any such records in electronic form shall be maintained in accordance with the laws, regulations and practices of the relevant Party.

- (c) 提交原产地证书，并在适当情况下，根据请求提交其他证据，以证明该货物所声称的关税优惠。

2. 如果进口商有理由相信原产地证书包含不正确信息，进口商应立即作出更正申报并支付任何应付关税。

第4.19条：关税退税

如果在货物进口时，进口商未要求或无法要求优惠关税待遇，进口商可在进口之日起一年内，或根据一方国内立法规定的更长期限，申请退还因生产以下货物而支付的任何超额关税：

- (a) 原产地证书，并在适当情况下提供其他证据证明该货物符合原产地货物标准；以及 (b) 与进口货物相关的其他文件，包括进口方海关当局可能要求的文件。

第4.20条：记录

1. 每一方应当要求：

- (a) 出口商或生产商应当自原产地证书签发之日起五年内，保存所有与进口方声称享受优惠关税待遇的货物的原产地相关的记录，包括与该货物相关的原产地证书或其副本；以及 (b) 声明享受优惠关税待遇的进口商应当自货物进口之日起五年内，根据相关方的法律、法规和实践，保存所有与该货物进口相关的记录，包括与该货物相关的原产地证书或其副本。

2. 根据本条和第4.21条的规定应保存的记录应包括电子记录。任何以电子形式保存的此类记录应根据相关方的法律、法规和实践进行保存。

Article 4.21: Obligations Regarding Exportation

1. Where the exporter becomes aware that it has provided an erroneous or false Certificate of Origin or any other such erroneous or false evidence, the exporter shall endeavour to give notice as soon as possible to the Customs Administration of the importing and exporting Party, as well as the importer, of any change that would affect the accuracy or validity of a Certificate of Origin.
2. The exporter that has provided a Certificate of Origin shall provide a copy of this document to the exporting Party’s Customs Administration upon request.
3. Each Party shall, to the extent permitted by its laws, regulations and practices, maintain penalties for false Certificates of Origin or documentation related to the origin of a good submitted to a Customs Administration by an exporter in its territory.

Article 4.22: Origin Verification

1. The Customs Administration of the importing Party may verify the eligibility of a good for preferential tariff treatment in accordance with its laws, regulations and practices.
2. If the Customs Administration of the importing Party has reasonable doubts as to the authenticity or accuracy of the information included in the Certificate of Origin it may:
 - (a) institute measures to establish the validity of the Certificate of Origin;
 - (b) issue written requests for information to the relevant importers of the good for which preferential tariff treatment was claimed; and
 - (c) issue written requests for information to the exporter in the exporting Party on the basis of a Certificate of Origin.
3. A request for information in accordance with subparagraph 2(c) shall not preclude the use of the verification method provided for in Article 4.23.
4. The Customs Administration of the importing Party shall complete any action to verify eligibility for preferential tariff treatment within 90 days from the commencement of such action, and make a decision and provide written advice as to whether the good is eligible for preferential tariff treatment to all relevant parties within 30 days.

Article 4.23: Verification Visit

1. The Customs Administration of the importing Party may request the exporter to:

第4.21条：关于出口的义务

1. 如果出口商发现其提供了错误或虚假的原产地证书或任何其他此类错误或虚假的证据，出口商应尽快通知进口方和出口方的海关当局以及进口商，任何可能影响原产地证书的准确性或有效性的变更。
2. 已提供原产地证书的出口商应根据进口方海关当局的要求，提供该文件的副本。
3. 每一方应根据其法律、法规和实践，对在其领土内向海关当局提交的、与货物原产地相关的虚假原产地证书或文件维持处罚。

第4.22条：原产地验证

1. 进口方海关当局可根据其法律、法规和实践，验证货物享受优惠关税待遇的资格。
2. 如果进口方海关当局对原产地证书中包含的信息的真实性或准确性有合理怀疑，它可以：
 - (a) 采取措施以确定原产地证书的有效性；
 - (b) 向已提出优惠关税待遇索赔的相关进口商发出书面信息请求；以及
 - (c) 在原产地证书的基础上，向出口方的出口商发出书面信息请求。
3. 根据第2款(c)项提出的信息请求不应排除使用第4.23条规定的验证方法。
4. 进口方海关当局应在采取验证优惠关税待遇资格的行动开始之日起90日内完成任何验证行动，并在30日内向所有相关方作出决定并提供书面建议，说明该货物是否有资格享受优惠关税待遇。

第4.23条：验证访问

1. 进口方海关当局可以要求出口商：

- (a) permit the Customs Administration to visit the exporter’s factory or premises;
- (b) arrange a visit to the factory or premises of the producer, if the exporter is not the producer; and
- (c) provide information relating to the origin of the good.

2. The Customs Administration of the importing Party shall issue a written communication with such a request to the exporter in advance of the proposed date of the visit.

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

4. The above written communication shall at a minimum include:

- (a) the identity of the Customs Administration issuing the request;
- (b) the name of the exporter of the good in the exporting Party to whom the request is addressed;
- (c) the date the written request is made;
- (d) the proposed date and place of the visit;
- (e) the objective and scope of the proposed visit, including specific reference to the good subject of the verification referred to in the Certificate of Origin; and
- (f) the names and titles of the officials of the Customs Administration of the importing Party who will participate in the visit.

5. The Customs Administration of the importing Party shall notify the Customs Administration of the exporting Party when it initiates a verification action under this Article.

6. The Customs Administration of the importing Party shall complete any action to verify eligibility for preferential tariff treatment within 90 days from the commencement of such action, and make a decision and provide written advice as to whether the good is eligible for preferential tariff treatment to all relevant parties within 30 days.

Article 4.24: Determination of Origin and Preferential Tariff Treatment

1. Each Party shall provide that, when an importer in its territory does not comply with any requirement of this Chapter and Chapter 3 (National Treatment and

(a) 允许海关当局访问出口商的工厂或场所；(b) 如果出口商不是生产商，安排访问生产商的工厂或场所；以及(c) 提供与货物原产地有关的信息。

2. 进口方海关当局应在访问建议日期之前向出口商发出书面通知，提出此类请求。

3. 进口方海关当局未经出口商或生产商书面事先同意，不得访问出口方领土内任何出口商或生产商的工厂或场所。

4. 上述书面通知至少应包括：

(a) 发出请求的海关当局的身份；(b) 向其发出请求的出口方所出口货物的出口商的姓名；(c) 书面请求的日期；(d) 访问的建议日期和地点；(e) 建议访问的目标和范围，包括对原产地证书中所述验证货物的具体参考；以及(f) 将参加访问的进口方海关当局官员的姓名和职务。

5. 进口方海关当局应在根据本条发起验证行动时通知出口方海关当局。

6. 进口方海关当局应在采取验证优惠关税待遇资格的行动之日起90日内完成该行动，并在30日内向所有相关方作出决定并提供书面建议，说明该货物是否有资格享受优惠关税待遇。

第4.24条：原产地和优惠关税待遇的确定

1. 每一方应当规定，当其领土内的进口商不遵守本章和第三章（国民待遇和货物市场准入）的任何要求时，对于从另一方领土进口的商品，所声称的优惠关税待遇可能被暂停或拒绝。

Market Access for Goods), the claimed preferential tariff treatment may be suspended or denied for the imported good from the territory of the other Party.

2. The Customs Administration of the importing Party may suspend the application of preferential tariff treatment to a good that is the subject of an origin verification action under Article 4.22 or 4.23, for the duration of that action or any part thereof.

3. The Customs Administration 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 or the exporter fails to comply with any of the relevant requirements of this Chapter.

Article 4.25: Appeal

The importing Party shall grant the right of appeal in matters relating to eligibility for preferential tariff treatment to an importer, exporter or producer of a good traded or to be traded between the Parties, in accordance with its laws and regulations and practices.

Article 4.26: Consultation, Review and Modification

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

Article 4.27: Non-Party Invoices

The Customs Administration of the importing Party shall not reject a Certificate of Origin only for the reason that the invoice is issued in a non-Party.

Article 4.28: Confidentiality

For greater certainty, the Parties confirm that Article 5.9 (Confidentiality - Customs Administration Chapter) applies to this Chapter.

Article 4.29: Goods in Storage

In accordance with Article 4.18 or Article 4.19, the Customs Administration of the importing Party shall grant preferential tariff treatment for a good which, on the date of entry into force of this Agreement, is customs duty unpaid and stored in a warehouse regulated by the Customs Administration, provided:

对于从另一方领土进口的商品，所声称的优惠关税待遇可能被暂停或拒绝。

2. 进口方海关当局可暂停对第4.22条或第4.23条项下原产地核查行动中的一项货物适用优惠关税待遇，该行动期间或其中任何部分期间均适用此规定。

3. 当出现以下情况时，进口方海关当局可拒绝优惠关税待遇的索赔：

- (a) 该货物不符合原产地货物的资格；或 (b) 进口商或出口商未能遵守本章的相关要求。

第4.25条：上诉

进口方应根据其法律、法规和实践，向在第4条项下进行贸易或将要进行贸易的缔约方之间的进口商、出口商或商品生产者，在优惠关税待遇资格相关事项上授予申诉权。

第4.26条：磋商、审查和修改

缔约方应定期磋商，以确保本章的规定得到有效、统一和一致的管理，以实现本章的精神和目标。

第4.27条：非缔约方发票

进口方海关当局不得仅因发票是在非缔约方签发而拒绝原产地证书。

第4.28条：保密性

为明确起见，缔约方确认第5.9条（保密性——海关当局章节）适用于本章。

第4.29条：储存货物

根据第4.18条或第4.19条，进口方海关当局应根据本协定生效日期时未缴纳关税且存放在海关监管仓库的货物，授予优惠关税待遇，但须满足以下条件：

- (a) the good satisfies all applicable requirements of this Chapter; and
- (b) the importer submits a Certificate of Origin in accordance with this Chapter to the Customs Administration of the importing Party.

(a) 该货物满足本章所有适用要求；以及 (b) 进口商按照本章向进口方海关当局提交原产地证书。

Annex 4-A
Minimum Requirements for a Certificate of Origin

- Exporter name and address;
- Consignee name and address;
- Marks and numbers;
- Number and kind of packages;
- Description of goods;
- Harmonized System Code;
- The applicable rule of origin;
- Declaration certifying goods meet the applicable rule of origin;
- Name, title and signature of person completing the Certificate of Origin;
- Date of issue; and
- Number of Certificate of Origin.

附件4-A 原产地证书的最低要求

- 出口商名称和地址；
- 收货人名称和地址；
- 标志和编号；
- 包装数量和种类；
- 货物描述；
- 协调制度编码；
- 适用的原产地规则；
- 证明货物符合适用原产地规则的声明；
- 填写原产地证书的个人姓名、职务和签名；
- 签发日期；和
- 原产地证书编号。

ANNEX 4-B
Example of a Certificate of Origin

AUSTRALIA-CHILE				
FREE TRADE AGREEMENT / TRATADO DE LIBRE COMERCIO				
CERTIFICATE OF ORIGIN / CERTIFICADO DE ORIGEN				
Certificate / Certificado No.				
1. Exporter / Exportador				
2. Consignee / Consignatario				
3. Marks and Numbers / Marcas y Números	4. Number and Kind of Packages / Número y clase de bultos	5. Description of Goods / Descripción de las Mercancías	6. Rule of Origin / Regla de Origen	7. Harmonized System Code / Clasificación Sistema Armonizado
8. Remarks / Observaciones				
9. Declaration by the exporter / Declaración del exportador:				
I, the undersigned, declare that the above details are true and accurate and the good(s) described above meet the condition(s) required for the issuance of this certificate / El que suscribe declara que la(s) mercancía(s) arriba descrita(s) cumple(n) la(s) condición(es) exigida(s) para la emisión del presente certificado.				
Country of origin / País de origen.....				
Place and date / Lugar y fecha.....				
Name / Nombre.....				
Title / Cargo.....				
Signature / Firma.....				

附件4-B 原产地证书示例

澳大利亚-智利				
自由贸易协定 / 自由贸易协定				
原产地证书 / 原产地证书				
证书编号 / Certificado No.				
1. 出口商 / 出口商				
2. 收货人 / 收货人				
3. 标志和编号 / Marcas y Números	4. 包装数量和种类 / Packages / 编号和种类 包裹	5. 货物描述 / 描述 货物	6. 原产地规则 / 原产地规则 原产地	7. 协调制度 Code / Clasificación 协调制度
8. 备注 / Observaciones				
9. 出口商声明 / Declaración del exportador:				
本人，签署人，声明以上细节真实准确，且上述货物符合签发条件 本证书 / 签署人声明， 上述货物符合签发本证书的条件 证书。				
原产国 / País de origen.				
地点和日期 / Lugar y fecha.				
姓名 / Nombre.				
职务 / Cargo.				
签名 / 签名.				

AUSTRALIA-CHILE FREE TRADE AGREEMENT
CERTIFICATE OF ORIGIN INSTRUCTIONS

For purposes of obtaining preferential tariff treatment, this document must be completed legibly and in full by the exporter and be in the possession of the importer at the time the Customs Import Declaration is made. Please print or type.

Certificate No: Provide a unique number for the Certificate of Origin.

Field 1: State the full legal name, address (including country) and legal tax identification number of the exporter. Legal tax identification number is: in Australia, the Australian Business Number; in Chile, the Unique Tax Number (“Rol Unico Tributario”).

Field 2: State the full legal name, address (including country) of the consignee.

Field 3: Marks and numbers on the packages.

Field 4: Number and kind of packages.

Field 5: Provide a full description of each good. The description should be sufficient to relate it to the invoice description and to the Harmonized System (HS) description of the good. If the Certificate of Origin covers a single shipment of a good, include the invoice number as shown on the commercial invoice.

Field 6: For each good described in Field 5, state which criterion (A to D) is applicable. The rules of origin are contained in Chapter 4 and Annex 4-C of the Agreement. NOTE: Indicate at least one of the preference criteria below.

Preference Criteria:

A The good is a wholly obtained good of a Party.

B The good is produced entirely in the territory of the Party exclusively from originating material.

C Satisfies all applicable requirements of Annex 4-C (Rules of Origin Schedule), as a result of processes performed entirely in the territory of one or both of the Parties by one or more producers.

D Otherwise qualifies as an originating good under the Rules of Origin Chapter.

Field 7: For each good described in Field 5 identify the HS tariff classification to 6 digits.

Field 8: Remarks. For example, if a good is invoiced by a non-Party operator, indicate “Invoice by a non-Party”.

Field 9: This field must be completed, signed and dated by the exporter. The date must be the date the Certificate of Origin was completed and signed. Title refers to the title or position within the company of the person who completes and signs the certificate of origin.

澳大利亚-智利自由贸易协定原产地证书说明

为获得优惠关税待遇，本文件必须由出口商清晰完整地填写，并在海关进口申报时由进口商持有。请打印或手写。

证书编号：为原产地证书提供一个唯一编号。

字段1: 填写出口商的全称、地址 (包括国家) 和法律税务识别号。法律税务识别号是: 在澳大利亚, 澳大利亚商业号码; 在智利, 唯一税号 (“统一税务编号”)。字段2: 填写收货人的全称、地址 (包括国家)。字段3: 包装上的标志和编号。字段4: 包装数量和种类。字段5: 提供每项货物的完整描述。描述应足以将其与发票描述和货物的协调制度 (HS) 描述相关联。如果原产地证书涵盖一项货物的单一装运, 请包括商业发票上显示的发票号码。字段6: 对于字段5中描述的每项货物, 说明适用的标准 (A至D)。原产地规则包含在协议的第4章和附件4-C中。注意: 至少标明以下一项优惠标准。

优惠标准:

A 货物为一方完全获得的产品。B 货物完全在缔约方领土内生产，且仅由原产材料构成。C 满足附件 4-C（原产地规则表）的所有适用要求，这些要求是由一方或双方领土内一个或多个生产者完全执行的过程所导致的结果。D 其他符合原产地规则章节规定的原产地货物。

字段7: 对于字段5中描述的每种货物, 确定其HS关税分类, 精确到6位数字。

字段8: 备注。例如, 如果货物由非缔约方经营者开票, 请标明“由非缔约方开票”。

字段9: 此字段必须由出口商填写、签字并注明日期。日期必须是原产地证书完成和签字的日期。职务是指完成和签字原产地证书的人员在公司内的职务或职位。

Annex 4-C
Rules of Origin Schedule

附件4-C 原产地规则表

Headnotes to the Schedule

1. The following definitions apply:
 - (a) **Subheading** means the first six digits in the tariff classification number under the Harmonized System;
 - (b) **Heading** means the first four digits in the tariff classification number under the Harmonized System; and
 - (c) **Chapter** means the first two digits in the tariff classification number under the Harmonized System.
2. The specific rule, or specific set of rules, that applies to a particular heading (4-digit code) or subheading (6-digit code) is set out immediately adjacent to the heading or subheading.
3. A requirement of a change in tariff classification applies only to non-originating materials.
4. When a heading or subheading is subject to alternative specific rules of origin, the rule will be considered to be met if a good satisfies one of the alternatives.
5. Where a specific rule of origin is defined using the criterion of a change in tariff classification, and the rule is written to exclude tariff provisions at the level of a chapter, heading or subheading of the Harmonized System, each Party shall construe the rule of origin to require that materials classified in those excluded provisions be originating for the good to qualify as originating.
6. Chapter notes within this Schedule apply to all headings or subheadings within the indicated chapter or group of chapters unless there exists a specific exclusion.

清单附注

1. 以下定义适用：
 - (a) 子目是指协调制度下关税分类号中的前六位数字；(b) 品目是指协调制度下关税分类号中的前四位数字；以及(c) 章节是指协调制度下关税分类号中的前两位数字。
2. 适用于特定品目（4位代码）或子目（6位代码）的具体规则或一组具体规则，立即紧邻该品目或子目列出。
3. 关税分类变更的要求仅适用于非原产材料。
4. 当品目或子目适用原产地规则的替代具体规则时，如果货物满足其中一种替代方案，则视为该规则得到满足。
5. 如果原产地规则使用关税分类变更的标准进行定义，并且该规则被写成排除协调制度中某一章节、品目或子目的关税条款，每一方应当解释该原产地规则要求，被排除条款中分类的材料为货物原产地资格的获得而必须是原产地的。
6. 本章清单内的章节注释适用于所指示章节或章节组内的所有品目或子目，除非存在具体排除。

Chapter 5
Customs Administration

Article 5.1: Definitions

For the purposes of this Chapter:

- (a) **customs law** means such laws and regulations administered and enforced by the Customs Administration of each Party concerning the importation, exportation, and transit/transshipment 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
- (b) **customs procedures** means the treatment applied by the Customs Administration of each Party to goods which are subject to customs control.

Article 5.2: Scope and Coverage

This Chapter applies to customs procedures applied to goods traded between the Parties.

Article 5.3: Publication and Enquiry Points

- 1. Each Party shall publish on the Internet its laws, regulations and administrative procedures applicable to or enforceable by its Customs Administration.
- 2. Each Party shall designate one or more inquiry points to address inquiries from interested persons concerning customs matters, and shall make available on the Internet information concerning procedures for making such inquiries.
- 3. Each Party shall endeavour to provide interested persons and the other Party with advance notice of any proposed customs laws and practices that are likely to substantially affect the operation of the Agreement.

Article 5.4: Review and Appeal

- 1. Each Party shall ensure that with respect to its determinations on customs matters, importers in its territory have access to:
 - (a) administrative review independent of the official that issued the determination; and
 - (b) judicial review of the determination or decision taken at the final level of administrative review.

章节 5 海关当局

文章 5.1：定义

就本章而言：

- (a) 海关法是指每一方海关当局管理和执行的相关法律和法规，涉及货物的进口、出口和过境/转口，与关税、费用和其他税有关，或与受控物品在每一方海关领土边界上的移动相关的禁令、限制和其他类似控制；以及
- (b) 海关程序是指每一方海关当局对海关监管货物适用的待遇。

文章 5.2：范围和覆盖范围

本章适用于缔约方之间贸易的货物所适用的海关程序。

第5.3条：公布和查询点

- 1. 每一方应当在其海关当局适用的或可强制执行的法律、法规和行政程序上，通过互联网公布其法律、法规和行政程序。
- 2. 每一方应当指定一个或多个查询点，以处理利益相关方关于海关事项的查询，并通过互联网提供有关提出此类查询程序的信息。
- 3. 每一方应当努力向利益相关方和另一方提供关于拟议的海关法律和做法的预先通知，这些法律和做法可能会实质性地影响协议的运营。

第5.4条：审查和上诉

- 1. 每一方应确保，就其关于海关事项的决定而言，其领土内的进口商能够获得：
 - (a) 独立于作出决定的官员的行政复议；以及 (b) 对行政复议的最终级别作出的决定或决定的司法审查。

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

Article 5.5: Penalties / Sanctions

Each Party shall maintain measures for the imposition of civil or administrative penalties or sanctions, and, where appropriate, criminal sanctions for violations of its customs laws.

Article 5.6: Customs Procedures and Facilitation

1. Each Party shall ensure that its customs procedures conform, where possible and to the extent permitted by its respective laws, regulations and practices, to international standards and recommended practices established by the World Customs Organization.

2. Each Party shall ensure that its customs procedures and practices:
- (a) are administered in an impartial, uniform and reasonable manner; and
 - (b) avoid arbitrary and unwarranted procedural obstacles.

3. The Customs Administration of each Party shall periodically review its customs procedures with a view to exploring options for their simplification and the enhancement of mutually beneficial arrangements to facilitate international trade.

4. Each Party shall ensure goods are released within a time period no longer than that required to ensure compliance with its customs laws.

5. A Party may, so long as other customs requirements have been met, and to the extent possible:
- (a) release goods at the point of arrival, without temporary transfer to warehouses or other locations; or
 - (b) release goods prior to, and without prejudice to, the final determination by its Customs Administration of the applicable customs duties, taxes and fees.

Article 5.7: Risk Management

1. Each Party shall administer its customs procedures so as to facilitate the clearance of low-risk goods and focus on high-risk goods. To the extent possible,

2. 上诉决定通知应给予上诉人，并应以书面形式提供该决定的理由。

第5.5条：处罚/制裁

每一方应维持实施民事或行政处罚或制裁的措施，并在适当的情况下，对其海关法律规定的违反行为实施刑事制裁。

第5.6条：海关程序和便利化

1. 每一方应确保其海关程序在可能的情况下，并在其各自法律、法规和实践允许的范围内，符合世界海关组织建立的国际标准和推荐做法。

2. 每一方应确保其海关程序和实践：
- (a) 以公正、统一和合理的方式管理；以及 (b) 避免任意和不必要的程序障碍。

3. 各缔约方的海关当局应定期审查其海关程序，旨在探索简化程序和增强互惠安排以促进国际贸易的选项。

4. 各缔约方应确保货物在不超过其海关法律合规所需的时间段内放行。

5. 一方可在其他海关要求得到满足的情况下，并在可能范围内：
- (a) 在到达点放行货物，无需临时转移到仓库或其他地点；或 (b) 在其海关当局对适用的海关关税、税和费用作出最终确定之前，且不妨碍其最终确定的情况下放行货物。

第5.7条：风险管理

1. 每一方应当管理其海关程序，以便促进低风险货物的清关，并重点关注高风险货物。在可能的情况下，

systems that allow for information regarding an importation to be processed in advance of arrival are to be used to clear goods.

2. Each Party shall work to further enhance the use of risk management techniques in the administration of its customs procedures.

Article 5.8: Cooperation

1. Each Party’s Customs Administration shall endeavor to provide the Customs Administration of the other Party with advance notice of any significant modification of administrative policy regarding the implementation of its customs laws and practices that are likely to substantially affect the operation of this Agreement.

2. To the extent permitted by their domestic laws, rules and regulations, the Customs Administrations of both Parties shall endeavour to provide each other with:

- (a) information to assist in the investigation and prevention of infringements of customs and customs related laws and regulations; and
- (b) any other customs matters agreed by the Parties.

Article 5.9: Confidentiality

1. Each Party’s Customs Administration undertakes not to use any information received in accordance with this Chapter or Chapter 4 (Rules of Origin) other than for the purpose for which the information was given, or to disclose any such information, except in cases where:

- (a) the Customs Administration that furnished the information has expressly approved its use or disclosure for other purposes related to this Chapter or Chapter 4 (Rules of Origin); or
- (b) the national law of the receiving Customs Administration requires disclosure, in which case the receiving Customs Administration shall notify the Customs Administration that furnished the information of the relevant law.

2. Any information received in accordance with this Chapter or Chapter 4 (Rules of Origin) shall be treated as confidential and will be subject to the same protection and confidentiality as the same kind of information is subject to under the national law of the Customs Administration where it is received.

3. Nothing in this Chapter or Chapter 4 (Rules of Origin) shall be construed to require a Party to furnish or allow access to information the disclosure of which would:

应使用允许在货物到达前处理有关进口的信息的系统来清关货物。

2. 每一方应努力进一步在其海关程序管理中应用风险管理技术。

第5.8条：合作

1. 每一方海关当局应努力向另一方海关当局提前通知其海关法律和实践实施方面任何重大行政政策的修改，这些修改可能会实质性地影响本协议的运作。

2. 在其国内法律、规则和法规允许的范围内，双方海关当局应努力向对方提供：

- (a) 协助调查和预防对海关和相关法律、法规的侵犯的信息；以及
- (b) 双方同意的任何其他海关事项。

文章5.9：保密性

1. 每一方海关当局承诺不将根据本章或第4章（原产地规则）收到的任何信息用于提供该信息的目的，或披露任何此类信息，除非在以下情况下：

- (a) 提供信息的海关当局已明确批准将其用于与本章或第4章（原产地规则）相关的其他目的；或 (b) 接收海关当局的国家法律要求披露，在这种情况下，接收海关当局应通知提供信息的海关当局相关法律。

2. 根据本章或第4章（原产地规则）收到的任何信息应被视为机密，并将受到与在接收信息的海关当局的国家法律下同类信息所受的保护和保密相同的保护。

3. 本章或第4章（原产地规则）中的任何内容均不得解释为要求缔约方提供或允许访问其披露将：

- (a) be contrary to the public interest as determined by its laws, rules or regulation;
- (b) be contrary to any of its laws, rules and regulations including but not limited to those protecting personal privacy or the financial affairs and accounts of individuals; or
- (c) impede law enforcement.

Article 5.10: Advance Rulings

1. Each Party, where possible and to the extent permitted by its domestic laws, regulations and practices, shall provide for written advance rulings to be issued to a person described in subparagraph 2(a) concerning tariff classification, valuation and the qualification of a good as an originating good under this Agreement.
2. Each Party shall adopt or maintain procedures for issuing written advance rulings which shall:
 - (a) provide that an importer in its territory or an exporter or producer in the territory of the other Party may apply for an advance ruling before the importation of the goods concerned;
 - (b) include a detailed description of the information required to process a request for an advance ruling;
 - (c) allow its Customs Administration, at any time during the course of an evaluation of an application for an advance ruling, to request that the applicant provide additional information necessary to evaluate the request;
 - (d) ensure that an 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;
 - (e) provide that an advance ruling be issued to the applicant expeditiously, or in any case within 30 working days of the receipt of all necessary information; and
 - (f) provide a written explanation for the reasons for the advance ruling.
3. Subject to paragraph 4, each Party shall apply an advance ruling to importations into its territory beginning on the date it issues the ruling or on any other date specified in the ruling. The Party shall ensure the same treatment of all importations regardless of the importer, exporter or producer involved, where the facts and circumstances are identical in all material respects.
4. A Party may modify or revoke an advance ruling where, consistent with this Agreement:

- (a) 与其法律、规则或法规所确定的公共利益相悖；(b) 与其任何法律、规则和法规相悖，包括但不限于保护个人隐私或个人财务事务和账户的那些法律、规则和法规；或(c) 妨碍执法。

第5.10条：预先裁决

1. 每一方，在其可能且根据其国内法律、法规和实践允许的范围内，应规定向第2款第（a）项所述的个人出具书面预先裁决，涉及关税分类、估价以及根据本协定将货物认定为原产地货物的事项。
2. 每一方应采用或维持出具书面预先裁决的程序，该程序应：
 - (a) 规定其领土内的进口商或另一方领土内的出口商或生产商可在有关货物进口前申请预先裁决；(b) 包括处理预先裁决请求所需信息的详细描述；(c) 允许其海关当局在评估预先裁决申请的过程中，随时要求申请人提供评估请求所需的补充信息；(d) 确保预先裁决基于申请人提交的事实和情况以及决策者掌握的任何其他相关信息；(e) 规定应迅速向申请人出具预先裁决，或在任何情况下，在收到所有必要信息之日起30个工作日内出具；以及(f) 提供预先裁决的理由的书面解释。
3. 除第4段的规定外，每一方应将先期裁决适用于其领土上的进口，该进口自其作出裁决之日起或裁决中规定的任何其他日期开始。缔约方应确保对在实质方面相同的事实和情况下，所有进口商、出口商或生产商涉及的进口给予相同待遇。
4. 一方可以修改或撤销初步裁决，其中与本协定一致的是：

- (a) there is a change in the law;
- (b) incorrect information was provided or relevant information was withheld;
- (c) there is a change in a material fact; or
- (d) there is a change in the circumstances on which the ruling was based.

Article 5.11: Paperless Trading

- 1. The Customs Administration of each Party, in implementing initiatives which provide for the use of paperless trading, shall take into account the methods agreed by the World Customs Organization, including adoption of the World Customs Organization data model for the simplification and harmonisation of data.
- 2. The Customs Administration of each Party shall work towards having electronic means for all its customs reporting requirements, as soon as practicable.
- 3. The introduction and enhancement of information technology shall, to the greatest extent possible, be carried out in consultation with all relevant parties including businesses directly affected.

Article 5.12: Fees and Charges

For greater certainty, the Parties confirm that Article 3.10 (Administrative Fees and Formalities - National Treatment and Market Access for Goods Chapter) applies to customs fees and charges.

(a) 法律发生变化；(b) 提供了不正确信息或隐瞒了相关信息；(c) 实质性事实发生变化；或 (d) 裁决所依据的情况发生变化。

第5.11条：无纸化贸易

- 1. 各方海关当局在实施旨在使用无纸化贸易的倡议时，应考虑世界海关组织同意的办法，包括采用世界海关组织数据模型，以简化数据协调。
- 2. 各方海关当局应尽快努力为其所有海关申报要求提供电子方式。
- 3. 信息技术的发展和增强应尽可能与所有相关方磋商进行，包括直接受影响的业务。

第5.12条：费用和收费

为明确起见，缔约方确认第3.10条（行政费用和手续——货物国民待遇和市场准入章节）适用于海关费用和收费。

Chapter 6
Sanitary and Phytosanitary Measures

Article 6.1: Definitions

For the purposes of this Chapter:

sanitary and phytosanitary (SPS) measures means any measure referred to in Annex A, paragraph 1 of the SPS Agreement.

Article 6.2: Objectives

The objectives of this Chapter are to:

- (a) facilitate bilateral trade in food, plants and animals, including their products, while protecting human, animal or plant life or health in the territory of each Party;
- (b) deepen mutual understanding of each Party's regulations and procedures relating to and consultations on and implementation of SPS measures; and
- (c) strengthen cooperation between Australian and Chilean government agencies with responsibility for matters covered by this Chapter.

Article 6.3: Scope and Coverage

1. This Chapter applies to all SPS measures of a Party that may, directly or indirectly, affect trade between the Parties.
2. Neither Party may have recourse to dispute settlement under this Agreement for any matter arising under this Chapter.

Article 6.4: General Provisions

1. The Parties affirm their rights and obligations under the SPS Agreement.
2. The Parties shall cooperate on priority proposals for technical assistance and capacity building to enhance the capability on SPS related aspects to further the achievement of the objectives of this Chapter.
3. The Parties shall cooperate in relevant international bodies engaged in work on SPS related issues, including the *WTO SPS Committee*, the various *Codex Committees* (including the *Codex Alimentarius Commission*), the *International Plant Protection Convention*, the *World Organisation for Animal Health (OIE)* and other

章节 6 卫生与植物卫生措施

第 6.1 条：定义

本章的目的：

卫生与植物卫生（SPS）措施是指 SPS 协定附件 A 第 1 段中提到的任何措施。

第 6.2 条：目标

本章的目标是：

- (a) 促进缔约方之间食品、植物和动物的双边贸易，包括其产品，同时保护每一方领土内人类、动物或植物的生命或健康；(b) 深化每一方关于实施SPS措施的相关法规和程序、磋商及实施的相互理解；以及(c) 加强澳大利亚和智利负责本章涵盖事项的政府机构之间的合作。

第6.3条：范围和覆盖范围

1. 本章适用于任何一方可能直接或间接影响缔约方之间贸易的SPS措施。
2. 任何一方不得就本章产生的事项援引本协定下的争端解决程序。

第6.4条：一般规定

1. 缔约方确认其在SPS协定下的权利和义务。
2. 缔约方应当就优先的技术援助和能力建设提案进行合作，以增强在SPS相关方面的能力，从而进一步实现本章的目标。
3. 缔约方应在从事与SPS相关问题的相关国际机构中合作，包括WTO SPS委员会、各种Codex委员会（包括食品法典委员会）、国际植物保护公约、世界动物卫生组织（OIE）和其他

international and regional fora on food safety and human, animal and plant life or health.

Article 6.5: Consultations on and Implementation of Sanitary and Phytosanitary Measures

1. Each Party shall identify an overall contact point relating to SPS measures (“SPS Contact Point”). For the purpose of this Article, the SPS Contact Point shall be:
 - (a) in the case of Australia, the Department of Agriculture, Fisheries and Forestry, or its successor; and
 - (b) in the case of Chile, the General Directorate of International Economic Affairs, Ministry of Foreign Affairs, or its successor.
2. On request of a Party for consultations on a matter arising under this Chapter, the Parties shall enter into consultations between relevant government agencies with responsibility for that matter under the scope of the SPS Contact Point.
3. Each Party’s SPS Contact Point shall:
 - (a) coordinate requests for technical assistance and capacity building programs on SPS matters;
 - (b) review progress on addressing SPS matters that may arise between the Parties;
 - (c) communicate SPS priorities between the Parties;
 - (d) facilitate the consideration of requests for information and clarification of issues with the other Party;
 - (e) facilitate communication between relevant experts when the consideration of scientific or technical issues requires such contact;
 - (f) promote and facilitate cooperation on SPS issues between the Parties;
 - (g) perform any other activities that facilitate transparency in the implementation of SPS measures; and
 - (h) ensure that all relevant government agencies participate in the above activities as appropriate and arrange meetings between relevant experts of each Party on these activities when required.
4. The Parties acknowledge the value of exchanging information on their respective SPS measures and, to ensure transparency in the implementation of SPS measures, each Party shall:

国际和区域食品安全以及人类、动物和植物的生命或健康论坛。

文章6.5：关于卫生和植物卫生措施的磋商和实施

1. 每一方应确定一个与卫生和植物卫生措施相关的总体联系点（“SPS联系点”）。就本章而言，SPS联系点应为：
 - (a) 在澳大利亚的情况下，农业、渔业和林业部或其继任者；以及(b) 在智利的情况下，外交部国际经济事务总局或其继任者。
2. 在一方就本章事项提出磋商请求时，缔约方应在负责该事项的SPS联系点范围内，就相关政府机构之间进行磋商。
3. 每一方的SPS联系点应：
 - (a) 就SPS事务的技术援助和能力建设计划提出协调请求；(b) 审查缔约方之间解决SPS事务的进展；(c) 在缔约方之间沟通SPS优先事项；(d) 促进与另一方就信息请求和问题澄清进行考虑；(e) 在考虑科学或技术问题时，促进相关专家之间的沟通；(f) 促进和便利缔约方之间就SPS事务的合作；(g) 执行任何其他有助于促进SPS措施实施中透明度的活动；以及(h) 确保所有相关政府机构根据适当情况参与上述活动，并在需要时安排缔约方相关专家就这些活动进行会议。
4. 缔约方承认就其各自SPS措施交换信息的价值，并确保SPS措施实施中的透明度，每一方应当：

- (a) exchange a list, to be updated as appropriate, of officials responsible for SPS matters in the agencies of the Parties; and
- (b) provide notifications to a nominated SPS official of the other Party of measures imposed in response to an urgent threat to human, animal or plant life or health.

5. The SPS Contact Point shall be included in all communications between the Parties made pursuant to this Article.

- (a) 交换一份适当更新的负责缔约方机构中SPS事务的官员名单；以及
- (b) 向另一方指定的SPS官员提供关于为应对对人类、动物或植物的生命或健康构成紧急威胁的措施的通知。

5. SPS联系点应包含在缔约方根据本章进行的所有通信中。

Chapter 7
Technical Regulations, Standards and
Conformity Assessment Procedures

Article 7.1: Definitions

For the purposes of this Chapter:

technical regulation, standard and conformity assessment procedures shall have the meanings assigned to those terms in Annex 1 of the TBT Agreement.

Article 7.2: Objectives

The objectives of this Chapter are to increase and facilitate trade through the improvement of the implementation of the TBT Agreement, the elimination of unnecessary technical barriers to trade and the enhancement of bilateral cooperation.

Article 7.3: Scope and Coverage

1. Except as provided in paragraphs 2 and 3 of this Article, this Chapter applies to all standards, technical regulations, and conformity assessment procedures of the central level of government that may, directly or indirectly, affect trade in goods between the Parties.
2. Each Party shall take such reasonable measures as may be available to it to ensure compliance by regional or local governments and non-governmental bodies within its territory which are responsible for the preparation, adoption and application of technical regulations, standards and conformity assessment procedures in the implementation of the provisions of this Chapter.
3. Technical specifications prepared by governmental bodies for production or consumption requirements of such bodies are not subject to the provisions of this Chapter, but are addressed in Chapter 15 (Government Procurement), according to its coverage.
4. This Chapter does not apply to sanitary and phytosanitary measures as defined in Annex A, paragraph 1 of the SPS Agreement, which are covered in Chapter 6 (Sanitary and Phytosanitary Measures).

Article 7.4: Affirmation of Agreement on Technical Barriers to Trade

The Parties affirm their rights and obligations under the TBT Agreement.

章节 7 技术法规、标准和合格评
定程序

第 7.1 条：定义

本章的目的如下：

技术法规、标准和合格评定程序应具有 TBT 协定附件 1 中分配给这些术语的含义。

第 7.2 条：目标

本章的目标是通过改进 TBT 协定的实施、消除不必要的贸易技术壁垒以及加强双边合作来增加和促进贸易。

第7.3条：范围和覆盖范围

1. 除本条第2、3段另有规定外，本章适用于可能直接或间接影响缔约方之间货物贸易的中央政府层面所有标准、技术法规和合格评定程序。
2. 每一方应采取其所能采取的合理措施，以确保其领土内负责制定、采用和实施技术法规、标准和合格评定程序的地区或地方政府及非政府机构合规。
3. 政府机构为生产或消费需求而准备的技术规范不适用本章规定，但根据政府采购章节的覆盖范围，在第15章（政府采购）中予以规定。
4. 本章不适用于SPS协定附件A第1段中定义的卫生和植物卫生措施，这些措施在第6章（卫生和植物卫生措施）中予以涵盖。

文章7.4：技术性贸易壁垒协定确认

缔约方确认其根据TBT协定享有的权利和义务。

Article 7.5: International Standards

1. Each Party shall use relevant international standards, to the extent provided in Article 2.4 of the TBT Agreement, as a basis for its technical regulations.
2. In determining whether an international standard, guide or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement exists, each Party shall apply the principles set out in *Decisions and Recommendations adopted by the Committee since 1 January 1995*, G/TBT/1/Rev.8, 23 May 2002, Section IX (*Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the Agreement*), issued by the WTO Committee on Technical Barriers to Trade.

Article 7.6: Trade Facilitation

The Parties shall work cooperatively in the fields of standards, technical regulations and conformity assessment procedures with a view to facilitating trade between the Parties. In particular, the Parties shall seek to identify trade facilitating bilateral initiatives regarding standards, technical regulations and conformity assessment procedures that are appropriate for particular issues or sectors. Such initiatives may include:

- (a) cooperation on regulatory issues, such as convergence or equivalence of technical regulations and standards;
- (b) alignment with international standards;
- (c) reliance on a supplier’s declaration of conformity; and
- (d) use of accreditation to qualify conformity assessment bodies, as well as cooperation through recognition of conformity assessment procedures.

Article 7.7: Technical Regulations

1. Each Party shall give positive consideration to accepting as equivalent technical regulations of the other Party, even if these regulations differ from its own, provided it is satisfied that these regulations adequately fulfil the objectives of its regulations.
2. Where a Party does not accept a technical regulation of the other Party as equivalent to its own, it shall, at the request of the other Party, explain its reasons.
3. Neither Party may have recourse to dispute settlement under this Agreement for any matter arising under this Article.

文章7.5：国际标准

1. 每一方应根据TBT协定第2.4条所规定之程度，将相关国际标准作为其技术法规的依据。
2. 在确定《技术性贸易壁垒协定》第2条和第5条以及附件3所指的国际标准、指南或建议是否存在时，每一方应适用自1995年1月1日起由委员会通过的决定和建议，G/TBT/1/Rev.8，2002年5月23日，第九部分（世界贸易组织技术性贸易壁垒委员会关于《协定》第2条、第5条和附件3的国际标准、指南和建议的发展原则的决定），所载的原则。

文章7.6：贸易便利化

缔约方应在标准、技术法规和合格评定程序领域进行合作，以促进缔约方之间的贸易。特别是，缔约方应努力确定适用于特定问题或部门的、关于标准、技术法规和合格评定程序的双边便利化倡议。此类倡议可包括：

- (a) 对监管问题进行合作，例如技术法规和标准的趋同或等同；(b) 与国际标准一致；(c) 依赖供应商的符合性声明；以及 (d) 使用认可来认定合格评定机构，并通过承认合格评定程序进行合作。

文章 7.7：技术法规

1. 每一方应当积极考虑接受另一方的技术法规作为等同，即使这些法规与其自身的法规不同，前提是其认为这些法规充分实现了其法规的目标。
2. 如果一方不接受另一方的技术法规作为与其自身的法规等同，则应当应另一方的请求解释其理由。
3. 任何一方均不得根据本协定就本条项下事项援引争端解决程序。

Article 7.8: Conformity Assessment Procedures

1. The Parties recognise that a broad range of mechanisms exist to facilitate the acceptance in a Party's territory of the results of conformity assessment procedures conducted in the other Party's territory. For example:

- (a) the importing Party may rely on a supplier's declaration of conformity;
- (b) conformity assessment bodies located in each Party's territory may enter into voluntary arrangements to accept the results of each other's conformity assessment procedures;
- (c) a Party may agree with the other Party to accept the results of conformity assessment procedures that bodies located in the other Party's territory conduct with respect to specific technical regulations;
- (d) a Party may adopt accreditation procedures for qualifying conformity assessment bodies located in the territory of the other Party;
- (e) a Party may designate conformity assessment bodies located in the territory of the other Party; and
- (f) a Party may facilitate the consideration of a request by the other Party to recognise the results of conformity assessment procedures conducted by bodies in the other Party's territory, including through negotiation of agreements in a sector nominated by that other Party.

The Parties shall exchange information on these and other similar mechanisms with a view to facilitating acceptance of conformity assessment results.

2. Where a Party does not accept the results of a conformity assessment procedure conducted in the territory of the other Party, it shall, on request of that other Party, explain the reasons for its decision.

3. Each Party shall accredit, approve, license, or otherwise recognise conformity assessment bodies in the territory of the other Party on terms no less favourable than those it accords to conformity assessment bodies in its territory. Where a Party accredits, approves, licenses, or otherwise recognises a body assessing conformity with a specific technical regulation or standard in its territory and refuses to accredit, approve, license, or otherwise recognise a body assessing conformity with that technical regulation or standard in the territory of the other Party, it shall, on request of that other Party, explain the reasons for its decision.

4. Where a Party declines a request from the other Party to engage in negotiations or conclude an agreement on facilitating recognition in its territory of the results of conformity assessment procedures conducted by bodies in the other Party's territory, it shall, on request of that other Party, explain the reasons for its decision.

第7.8条：合格评定程序

1. 缔约方承认存在多种机制，以促进在一方领土接受另一方领土内进行的合格评定程序的结果。例如：

- (a) 进口方可以依赖供应商的符合性声明；(b) 位于每一方领土内的合格评定机构可以达成自愿安排，以接受对方合格评定程序的结果；(c) 一方可以与另一方同意接受位于另一方领土内的机构针对特定技术法规进行的合格评定程序的结果；(d) 一方可以采用认可程序，以认可位于另一方领土内的合格评定机构；(e) 一方可以指定位于另一方领土内的合格评定机构；以及(f) 一方可以促进另一方考虑承认位于另一方领土内的机构进行的合格评定程序的结果的请求，包括通过谈判达成该另一方指定的领域的协议。

缔约方应当就这些及其他类似机制交换信息，以促进合格评定结果的接受。

2. 当一方不接受在另一方领土上进行的合格评定程序的结果时，应根据另一方的要求，解释其决定的理由。

3. 每一方应在另一方领土上认可、批准、许可或以不低于其领土上授予合格评定机构的条件认可、批准、许可或承认合格评定机构。当一方认可、批准、许可或以其他方式承认在其领土上评估符合特定技术法规或标准的机构，并拒绝认可、批准、许可或以其他方式承认在另一方领土上评估符合该技术法规或标准的机构时，应根据另一方的要求，解释其决定的理由。

4. 当一方拒绝另一方请求就促进在其领土内承认由另一方领土内的机构进行的合格评定程序的结果开展谈判或达成协议时，该方应根据另一方的要求，解释其决定的理由。

Article 7.9: Transparency

1. Each Party shall allow persons of the other Party to participate in the development of standards, technical regulations and conformity assessment procedures on terms no less favourable than those accorded to its own persons.
2. Each Party shall recommend that non-governmental bodies in its territory observe paragraph 1 in relation to the development of standards and voluntary conformity assessment procedures.
3. The Parties acknowledge the importance of transparency in decision-making, including providing a meaningful opportunity for persons to provide comments on proposed technical regulations and conformity assessment procedures. Where a Party publishes a notice under Article 2.9 or 5.6 of the TBT Agreement, it shall:
 - (a) include in the notice a statement describing the objective of the proposed technical regulation or conformity assessment procedure and the rationale for the approach the Party is proposing; and
 - (b) transmit the proposal electronically to the other Party through the enquiry point the Party has established under Article 10 of the TBT Agreement at the same time as it notifies WTO Members of the proposal pursuant to the TBT Agreement.

Each Party should allow at least 60 days after it transmits a proposal under subparagraph (b) for the public and the other Party to make comments in writing on the proposal.

4. Where a Party makes a notification under Article 2.10 or 5.7 of the TBT Agreement, it shall at the same time transmit the notification to the other Party electronically through the enquiry point referenced in subparagraph 3(b).
5. Each Party shall publish, or otherwise make available to the public, in print or electronically, its responses to significant comments it receives under paragraph 3 no later than the date it publishes the final technical regulation or conformity assessment procedure.
6. On request of the other Party, a Party shall provide the other Party information regarding the objective of, and rationale for, a standard, technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt.

Article 7.10: Committee on Technical Barriers to Trade

1. In order to facilitate implementation of this Chapter and cooperation between the Parties, the Parties hereby establish a Committee on Technical Barriers to Trade, comprising representatives of each Party.
2. For the purposes of this Article, the Committee shall be coordinated by (“the Coordinators”):

第7.9条：透明度

1. 每一方应允许另一方人员以不低于其给予自身人员所享有的条件参与标准的制定、技术法规和合格评定程序的制定。
2. 每一方应建议其领土内的非政府机构在制定标准和自愿合格评定程序方面遵守第1段。
3. 各方承认决策中的透明度的重要性，包括为人员提供对拟议的技术法规和合格评定程序提出意见的 **meaningful** 机会。当一方根据TBT协定第2.9条或第5.6条发布通知时，它应：
 - (a) 在通知中包含一段说明拟议的技术法规或合格评定程序的目标以及该方提出的方法的理由的陈述；以及 (b) 通过该方根据TBT协定第10条设立的咨询点，以电子方式将提案传送给另一方，同时根据TBT协定通知世界贸易组织成员。

每一方应在它根据第**(b)**段传输提案后，至少允许公众和另一方有**60**天的时间就提案书面提出意见。

4. 当一方根据TBT协定第2.10条或5.7条发出通知时，应同时通过第3**(b)**款中引用的查询点以电子方式将通知传送给另一方。
5. 每一方应在其收到第3款收到的重大意见之日起，最迟不晚于其发布最终技术法规或合格评定程序的日期，以印刷或电子方式公布或以其他方式向公众提供其回复。
6. 在另一方的要求下，一方应向另一方提供有关其已采纳或拟采纳的标准、技术法规或合格评定程序的目标和理由的信息。

第7.10条：技术性贸易壁垒委员会

1. 为了促进本章的实施以及缔约方之间的合作，缔约方特此设立一个技术性贸易壁垒委员会，该委员会由各方的代表组成。
2. 根据本文章的规定，委员会应由（“协调员”）：

- (a) in the case of Australia, the Department of Innovation, Industry, Science and Research, or its successor; and
- (b) in the case of Chile, the General Directorate of International Economic Affairs, Ministry of Foreign Affairs, or its successor.

3. The Committee's functions shall include:

- (a) monitoring the implementation and administration of this Chapter;
- (b) promptly addressing any issue that a Party raises related to the development, adoption, application, or enforcement of standards, technical regulations or conformity assessment procedures;
- (c) enhancing cooperation in the development and improvement of standards, technical regulations and conformity assessment procedures;
- (d) exchanging information on standards, technical regulations and conformity assessment procedures, in response to all reasonable requests for such information from a Party;
- (e) providing technical advice, information and assistance on mutually agreed terms and conditions to enhance the Parties' standards, technical regulations and conformity assessment procedures;
- (f) conducting joint studies and holding seminars on mutually agreed terms and conditions to enhance the Parties' understanding of technical regulations, standards and conformity assessment procedures;
- (g) facilitating cooperation in the area of specific technical regulations by referring enquiries from a Party to the appropriate regulatory authorities;
- (h) where appropriate, facilitating sectoral cooperation among governmental and non-governmental conformity assessment bodies in the Parties' territories;
- (i) exchanging information on developments in non-governmental, regional, and multilateral fora engaged in activities related to standardisation, technical regulations and conformity assessment procedures;
- (j) taking any other steps the Parties consider will assist them in implementing the TBT Agreement and in facilitating trade in goods between them;
- (k) at a Party's request, consulting on any matter arising under this Chapter;

- (a) 在澳大利亚的情况下，创新、工业、科学和研究中心，或其继任者；以及 (b) 在智利的情况下，外交部国际经济事务总局，或其继任者。

3. 委员会的职能应包括：

- (a) 监督本章的实施和管理； (b) 及时处理一方提出的与发展、采用、应用或执行标准、技术法规或合格评定程序相关的问题； (c) 加强在标准、技术法规和合格评定程序的开发和改进方面的合作； (d) 根据一方提出的所有合理信息请求，就标准、技术法规和合格评定程序交换信息； (e) 在共同商定的条款和条件下提供技术建议、信息和援助，以增强一方的标准、技术法规和合格评定程序； (f) 在共同商定的条款和条件下开展联合研究和举办研讨会，以增强一方对技术法规、标准和合格评定程序的理解； (g) 通过将一方的查询转介给适当的监管机构，促进在特定技术法规领域的合作； (h) 在适当的情况下，促进缔约方领土内政府和非政府合格评定机构之间的部门合作； (i) 就参与标准化、技术法规和合格评定程序活动的非政府、区域和多边论坛的发展情况交换信息； (j) 采取任何其他缔约方认为将有助于其实施TBT协定和促进相互之间货物贸易的步骤； (k) 应一方请求，就本章项下产生的任何事项进行磋商；

- (l) reviewing this Chapter in light of any developments under the TBT Agreement, and developing recommendations for amendments to this Chapter in light of those developments; and
- (m) as it considers appropriate, reporting to the Joint FTA Committee on the implementation of this Chapter.

4. Where the Parties have had recourse to consultations under paragraph 3(k) such consultations shall, on the agreement of the Parties, constitute consultations under Article 21.3 (Consultations - Dispute Settlement Chapter).
5. A Party shall, on request, give favourable consideration to any sector-specific proposal the other Party makes for further cooperation under this Chapter.
6. The Coordinators shall communicate with each other by any agreed method that is appropriate for the efficient and effective discharge of their functions.
7. The Committee shall meet at such venues and times as may be agreed by the Parties. Meetings may be held via teleconference, videoconference, or through any other means, as mutually determined by the Parties. By mutual agreement, *ad hoc* working groups may be established, if necessary.

Article 7.11: Information Exchange

Any information or explanation that is provided on request of a Party pursuant to the provisions of this Chapter shall be provided in print or electronically within a reasonable period of time.

(l) 鉴于TBT协定项下任何发展情况，审查本章，并根据这些发展情况制定对本章进行修订的建议；以及 (m) 在其认为适当的情况下，就本章的实施情况向联合自由贸易委员会报告。

4. 当缔约方根据第3(k)款诉诸磋商时，此类磋商经缔约方同意，应构成根据第21.3条（争端解决章节磋商）进行的磋商。
5. 一方在收到请求时，应优先考虑另一方根据本章提出的任何部门特定提案，以促进合作。
6. 协调员应通过任何双方商定的、适合其有效履行职能的方法进行相互沟通。
7. 委员会应在双方商定的地点和时间举行会议。会议可通过电话会议、视频会议或双方共同决定的其他方式进行。经双方同意，如有必要，可设立临时工作组。

第7.11条：信息交换

根据本章规定，应一方请求而提供的任何信息或解释，应在合理期限内以印刷或电子方式提供。

Chapter 8
Trade Remedies

第八章 贸易
救济

Article 8.1: Global safeguards

1. Each Party retains its rights and obligations under Article XIX of GATT 1994 and the Safeguards Agreement, and any other relevant provisions in the WTO Agreement, and their successors.
2. This Agreement does not confer any additional rights or obligations on the Parties with regard to actions taken pursuant to Article XIX of GATT 1994 and the Safeguards Agreement, and their successors.

Article 8.2: Antidumping and Countervailing Duties

1. Each Party retains its rights and obligations under Article VI of GATT 1994 and the WTO Agreement, and their successors, with regard to the application of antidumping and countervailing duties.
2. This Agreement does not confer any additional rights or obligations on the Parties with regard to actions taken pursuant to Article VI of GATT 1994 and the WTO Agreement, and their successors, with regard to the application of antidumping and countervailing duties.

第八条第一款：全球保障措施

1. 每一方保留其根据1994年关税及贸易总协定第十九条和保障措施协定以及世界贸易组织协定中任何其他相关规定的权利和义务， 及其继任者。
2. 本协定并未授予缔约方在根据1994年关税及贸易总协定第十九条和保障措施协定采取的行动方面任何额外的权利或义务， 以及其继任者。

第八条第二款：反倾销和反补贴税

1. 每一方保留其在1994年关税及贸易总协定第六条和世界贸易组织协定方面的权利和义务， 以及其继任者， 在反倾销和反补贴税的适用方面的权利和义务。
2. 本协定并未授予缔约方就根据1994年关税及贸易总协定第六条和世界贸易组织协定及其继任者采取的行动， 在反倾销和反补贴税的适用方面任何额外的权利或义务。

Chapter 9
Cross-Border Trade in Services

Article 9.1: 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 service and does not include so-called line maintenance (part of CPC 8868);
- (b) **airport operation services** means passenger air terminal services and ground services on air fields, including runway operating services, on a fee or contract basis (excluding cargo handling) (as covered under CPC 7461);
- (c) **computer reservation system services** means services provided by computerised systems that contain information about air carrier's schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued (part of CPC 7523);
- (d) **cross-border trade in services or cross-border supply of services** means the supply of a service:
 - (i) from the territory of one Party into the territory of the other Party;
 - (ii) in the territory of one Party by a person of that Party to a person of the other Party; or
 - (iii) by a national of a Party in the territory of the other Party;but does not include the supply of a service in the territory of a Party by an investor of the other Party or a covered investment;
- (e) **enterprise** means an enterprise as defined in Article 2.1(f) (Definitions of General Application – General Definitions Chapter), and a branch of an enterprise;
- (f) **enterprise of a Party** means an enterprise organised or constituted under the laws of a Party, and a branch located in the territory of a Party and carrying out business activities there;
- (g) **ground handling services** means container handling services for air transport services only (part of CPC 7411); other cargo handling services for air transport services only, including baggage handling (part of CPC 7419); and other supporting services for air transport (CPC 7469);

第9章 跨境服务贸易

第9.1条：定义

就本章而言：

- (a) 飞机维修保养服务是指当飞机或其一部分在停运期间进行的活动，不包括所谓的航线维护（属于CPC 8868的一部分）；
- (b) 机场运营服务是指旅客航空终端服务和机场地面服务，包括跑道运营服务，按费用或合同方式提供（不包括货物处理）（如CPC 7461所述）；
- (c) 计算机预订系统服务是指由包含航空公司时刻表、可用性、票价和票价规则的计算机化系统提供的服务，通过这些服务可以进行预订或发行机票（属于CPC 7523的一部分）；
- (d) 跨境服务贸易或跨境服务供应是指服务供应：
 - (i) 从一方领土到另一方领土； (ii) 在一方领土内由该方人员向另一方人员提供；或 (iii) 由一方国民在另一方领土内提供；但不包括另一方投资者或受保护投资在一方领土内提供服务；
- (e) 企业是指第2.1(f)条（一般应用定义——一般定义章节）中定义的企业，以及企业的分支机构；
- (f) 一方企业是指根据一方法律组织或设立的企业，以及位于一方领土内并在当地开展业务活动的分支机构；
- (g) 地面处理服务是指仅指航空运输集装箱处理服务（CPC 7411的一部分）；仅指航空运输货物处理服务，包括行李处理（CPC 7419）；以及其他航空运输支持服务（CPC 7469）；

- (h) **measures adopted or maintained by a Party** means measures adopted or maintained by:
 - (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.
- (i) **selling and marketing of air transport services** has the same meaning as defined in paragraph 6(b) of the GATS Annex on Air Transport Services, except that “marketing” shall be limited to market research, advertising and distribution;
- (j) **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;
- (k) **service supplier of a Party** means a person of that Party who seeks to supply or supplies a service; and
- (l) **specialty air services** means any non-transportation air services, such as aerial fire-fighting, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, and helicopter-lift for logging and construction, and other airborne agricultural, industrial, and inspection services.

Article 9.2: Scope and Coverage

1. This Chapter applies to measures adopted or maintained by a Party affecting cross-border trade in services by service suppliers of the other Party. Such measures include measures affecting:
- (a) the production, distribution, marketing, sale, and delivery of a service;
 - (b) the purchase or use of, or payment for, a service;
 - (c) the access to and use of distribution, transport, or telecommunications networks and services in connection with the supply of a service;
 - (d) the presence in its territory of a service supplier of the other Party; and
 - (e) the provision of a bond or other form of financial security as a condition for the supply of a service.

- (h) 缔约方采取或维持的措施是指缔约方采取或维持的措施：
- (i) 中央、区域或地方政府和当局；以及
 - (ii) 非政府机构在行使被授予的权力时中央、区域或地方政府或当局。
- (i) 航空运输服务的销售和营销与《GATS航空运输服务附件》第6(b)段中定义的含义相同，但“营销”应限于市场调研、广告和分销；(j) 行使政府权力而提供的服务是指既不以商业为基础也不与一个或多个服务供应商竞争的任何服务；(k) 缔约方服务供应商是指该方寻求或提供服务的人员；以及 (l) 特种航空服务是指任何非运输类航空服务，例如航空消防、观光、喷洒、测量、制图、摄影、跳伞、滑翔机牵引以及用于伐木和建筑施工的直升机吊装，以及其他航空农业、工业和检验服务。

文章 9.2：范围和覆盖范围

1. 本章适用于缔约方采取或维持的、影响另一方服务供应商进行的跨境服务贸易的措施。此类措施包括影响以下方面的措施：
- (a) 服务的生产、分销、营销、销售和交付；(b) 购买、使用或支付服务；(c) 在服务供应方面，对分销、运输或电信网络和服务的接入和使用；(d) 另一方服务供应商在其领土内的存在；以及 (e) 作为服务供应条件的保证金或其他形式财务担保的提供。

2. Articles 9.5 and 9.8 shall also apply to measures adopted and maintained by a Party affecting the supply of a service in its territory by an investor of the other Party or a covered investment.⁹⁻¹

3. This Chapter does not apply to:

- (a) financial services as defined in Article 12.1(e) (Definitions – Financial Services Chapter);
- (b) government procurement;
- (c) subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance;
- (d) services supplied in the exercise of governmental authority within the territory of each respective Party; or
- (e) air services, including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services, other than:
 - (i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;
 - (ii) the selling and marketing of air transport services;
 - (iii) computer reservation system services;
 - (iv) airport operation services (excluding cargo handling);
 - (v) ground handling services; and
 - (vi) specialty air services.

4. This Chapter does not impose any obligation on a Party with respect to a national of the other Party seeking access to its employment market, or employed on a permanent basis in its territory, and does not confer any right on that national with respect to that access or employment.

Article 9.3: National Treatment

Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords, in like circumstances, to its own services and service suppliers.

⁹⁻¹ For greater certainty, the Parties understand that nothing in this Chapter, including this paragraph, is subject to Investor-State Dispute Settlement pursuant to Section B of Chapter 10 (Investment).

2. 第9.5条和第9.8条也适用于一方为影响另一方投资者或受保护投资在其领土内提供服务而采取和维持的措施。⁹⁻¹

3. 本章不适用于：

- (a) 第12.1(e)条定义的金融服务；(b) 政府采购；(c) 一方提供的补贴或拨款，包括政府支持贷款、担保和保险；(d) 各方在其各自领土内行使政府权力时提供的服务；或(e) 航空服务，包括国内和国际航空运输服务（定期或不定期），以及支持航空服务的相关服务，但不包括：(i) 飞机维修保养服务期间飞机被撤回服务的情况；(ii) 航空运输服务的销售和营销；(iii) 计算机预订系统服务；(iv) 机场运营服务（不包括货物处理）；(v) 地面处理服务；以及(vi) 特种航空服务。

4. 本章对寻求进入其就业市场或在其领土上永久就业的另一方国民，不施加任何义务，也不授予该国民关于该进入或就业的任何权利。

第9.3条：国民待遇

每一方应给予另一方的服务和服务供应商不低于其自身在类似情况下给予自身服务和服务供应商的待遇。

⁹⁻¹ 为进一步明确，缔约方理解本章，包括本段，均不适用第10章（投资）第B节规定的投资者-国家争端解决机制。

Article 9.4: Most-Favoured-Nation Treatment

Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords, in like circumstances, to the services and service suppliers of a non-Party.

Article 9.5: Market Access

Neither Party may adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

- (a) impose limitations on:
 - (i) the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test;
 - (ii) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
 - (iii) the total number of service operations or 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 test⁹⁻²; or
 - (iv) 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; or
- (b) restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.

Article 9.6: Local Presence

Neither Party may require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 9.7: Non-Conforming Measures

1. Articles 9.3, 9.4, 9.5 and 9.6 do not apply to:

⁹⁻² Subparagraph (a)(iii) does not cover measures of a Party which limit inputs for the supply of services.

第9.4条：最惠国待遇

每一方应给予另一方的服务和服务供应商不低于其自身在类似情况下给予非缔约方的服务和服务供应商的待遇。

第9.5条：市场准入

任何一方不得采取或维持，无论是基于区域划分还是基于其整个领土，以下措施：

- (a) 对以下方面施加限制：
- (i) 服务供应商的数量，无论是以数量配额、垄断、独家服务供应商的形式，还是要求进行经济需要测试；(ii) 服务交易或资产的总价值，以数量配额或要求进行经济需要测试的形式；(iii) 服务运营的总数量或以指定数量单位表示的服务产出总量，以配额或要求进行经济需要测试的形式⁹⁻²
 - ；或 (iv) 在特定服务部门中可能被雇用的自然人数总额，或服务供应商可以雇用的自然人数，这些人是为供应特定形式的服务所必需的，并且与服务供应直接相关；或

- (b) 限制或要求服务供应商通过特定的法律实体或合资企业来提供服务。

第9.6条：本地存在

任何一方均不得要求另一方服务供应商在其领土内建立或维持代表处或任何形式的实体，或作为跨境供应服务的条件而成为居民。

第9.7条：不符合规定的措施

1. 第9.3、9.4、9.5和9.6条不适用于：

⁹⁻² 子款 (a)(iii) 不涵盖一方为限制服务供应而采取的措施。

- (a) any existing non-conforming measure that is maintained by a Party at:
 - (i) the central level of government, as set out by that Party in its Schedule to Annex I;
 - (ii) a regional level of government, as set out by that Party in its Schedule to Annex I; or
 - (iii) a local level of government;
- (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
- (c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 9.3, 9.4, 9.5 or 9.6.

2. Articles 9.3, 9.4, 9.5 and 9.6 do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities as set out in its Schedule to Annex II.

Article 9.8: Domestic Regulation

- 1. Each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.
- 2. Each Party shall ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, including by ensuring that such measures 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. Where a Party maintains measures relating to qualification requirements and procedures, technical standards and licensing requirements, the Party shall:
 - (a) make publicly available:
 - (i) information on requirements and procedures to obtain, renew or retain any licences or professional qualifications; and

(a) 任何一方在以下情况维持的现有的不符合规定的措施：

(i) 该缔约方在附件I的清单中规定的中央政府层面；(ii) 该缔约方在附件I的清单中规定的地区政府层面；或 (iii) 地方政府层面；(b) 继续实施或及时更新小段 (a) 中提到的任何不符合规定的措施；或 (c) 对小段 (a) 中提到的任何不符合规定的措施进行修订，只要该修订不会降低该措施在修订前与第9.3、9.4、9.5或9.6条符合的程度。

2. 第9.3、9.4、9.5和9.6条不适用于任何缔约方就附件II的清单中规定的部门、子部门或活动所采纳或维持的措施。

第9.8条：国内法规

- 1. 每一方应确保所有影响服务贸易的一般性措施以合理、客观和公正的方式实施。
- 2. 每一方应确保与服务资格要求及程序、技术标准和服务许可要求相关的措施不构成服务贸易的不必要壁垒，包括确保此类措施包括但不限于：
 - (a) 基于客观透明的标准，例如管辖权和提供服务的能力；(b) 不比确保服务质量所必需的更负担重；以及在许可程序的情况下，本身不限制服务供应。
- 3. 如果一方维持与服务资格要求及程序、技术标准和服务许可要求相关的措施，该方应：
 - (a) 向公众提供：
 - (i) 获取、续期或保留任何许可证或专业资格的要求和程序信息；以及

- (ii) information on technical standards;
- (b) where any form of authorisation is required for the supply of a service, ensure that it will:
 - (i) within a reasonable period of time after the submission of an application deemed complete under its domestic laws and regulations, consider the application and make a decision as to whether or not to grant the relevant authorisation;
 - (ii) promptly inform the applicant of the decision whether or not to grant the relevant authorisation;
 - (iii) upon the request of the applicant, provide without undue delay, information concerning the status of the application; and
 - (iv) where practicable, upon the written request of an unsuccessful applicant, provide written reasons for a decision not to grant the relevant authorisation;
- (c) provide for adequate procedures to verify the competency of professionals of the other Party;
- (d) in appropriate professional and other service sectors consider, and where feasible, take steps to implement a temporary or project-specific licensing or registration regime, based on the foreign supplier's home licence or recognised professional body membership (without the need for further written or oral examination) with a view to facilitating temporary access for foreign service suppliers to provide services in relation to specific projects or for limited periods in circumstances where specific expertise is required. Such a temporary or limited licence regime should not operate to prevent a foreign supplier from gaining a local licence subsequent to satisfying the necessary local licensing requirements;
- (e) in each sector where an examination must be passed as a pre-requisite to the provision of a service in the territory of the Party:
 - (i) in the case of examinations administered by government authorities, take reasonable steps to schedule examinations no less frequently than once in every calendar year; or
 - (ii) in the case of examinations solely administered by non-governmental bodies or professional associations, use best efforts to encourage such bodies or associations to schedule examinations no less frequently than once in every calendar year; and

in each case, the Party shall ensure that such examinations are open to applicants of the other Party. The possibility of using electronic means

- (ii) 技术标准信息;

(b) 如果提供任何服务需要任何形式的授权, 确保其将:

- (i) 在其国内法律法规认定申请为完整后的合理期限内, 考虑该申请并作出是否授予相关授权的决定; (ii) 及时通知申请人是否授予相关授权的决定; (iii) 应申请人的请求, 无不当延迟地提供关于申请状态的有关信息; 以及 (iv) 在切实可行的情况下, 应不成功申请人的书面请求, 提供不予授予相关授权决定的书面理由;

(c) 为验证另一方的专业人士的能力提供充分的程序;

(d) 在适当的专业和其他服务部门考虑, 并在可行的情况下采取措施实施临时或项目特定的许可或注册制度, 基于外国供应商的本地许可证或认可的专业机构成员资格(无需进一步书面或口头考试), 旨在促进外国服务供应商为特定项目或有限时期提供相关服务, 在需要特定专业知识的情况下。此类临时或有限许可证制度不应阻止外国供应商在满足必要的本地许可要求后获得本地许可证;

(e) 在每个必须通过考试作为在缔约方领土内提供服务的前提条件的行业:

- (i) 在政府机构管理的考试情况下, 采取合理措施安排考试, 频率不低于每年一次; 或 (ii) 在非政府机构或专业协会单独管理的考试情况下, 尽最大努力鼓励此类机构或协会安排考试, 频率不低于每年一次; 并且

在每种情况下, 缔约方应确保此类考试向另一方的申请人开放。应探索使用电子方式举行此类考试、以口头方式举行此类考试以及在另一方领土内提供参加此类考试的机会的可能性。

for conducting such examinations, of conducting such examinations orally, and of providing opportunities for taking such exams in the territory of the other Party should be explored.

4. Notwithstanding Article 9.1(h), paragraphs 1 to 3 above shall not apply where the relevant measures are the responsibility of non-governmental bodies. However, each Party shall encourage such non-governmental bodies to comply with the requirements of paragraphs 1 to 3 above.

5. If the results of the negotiations related to Article VI:4 of GATS enter into effect, the Parties shall jointly review those results with a view to their incorporation into this Agreement, as considered appropriate by the Parties.

Article 9.9: Recognition

1. For the purposes 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, or 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. Where a Party recognises, autonomously or by agreement or arrangement, the education or experience obtained, requirements met or licences or certifications granted in the territory of a non-Party:

- (a) nothing in Article 9.4 shall be construed to require the Party to accord such recognition to the education or experience obtained, requirements met or licences or certifications granted in the territory of the other Party; and
- (b) the Party shall accord the other Party an adequate opportunity to demonstrate that the education or experience obtained, requirements met or licences or certifications granted in the other Party should also be recognised.

3. A Party shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorisation, licensing, or certification of services suppliers, or a disguised restriction on trade in services.

Article 9.10: Denial of Benefits

Subject to prior notification and consultation, a Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is an enterprise:

应探索使用电子方式举行此类考试、以口头方式举行此类考试以及在另一方领土内提供参加此类考试的机会的可能性。

4. 不论第9.1(h)条如何规定，若相关措施由非政府机构负责，则上述第1至3段的规定不适用。然而，每一方应鼓励此类非政府机构遵守上述第1至3段的要求。

5. 若与GATS第六条第四款相关的谈判结果生效，缔约方应共同审查这些结果，以视缔约方认为适当的方式将其纳入本协定。

第9.9条：承认

1. 为履行其授权、许可或认证服务供应商的标准或标准，全部或部分地，并遵守第3段的要求，一方可承认在特定国家获得的教育或经验、满足的要求或授予的许可证或认证。此类承认，可通过协调或其他方式实现，可基于与有关国家的协议或安排，或自主给予。

2. 当一方自主地或通过协议或安排承认非缔约方领土内获得的学历或经验、满足的要求或授予的许可证或认证时：

- (a) 第9.4条中的任何内容均不得解释为要求一方承认另一方领土内获得的学历或经验、满足的要求或授予的许可证或认证；以及 (b) 一方应给予另一方充分的机会，以证明另一方领土内获得的学历或经验、满足的要求或授予的许可证或认证也应得到承认。

3. 一方不得以歧视各国在服务供应商授权、许可或认证的标准或标准的方式承认，或对服务贸易的伪装限制构成手段。

第9.10条：拒绝利益

经事先通知和磋商，若服务供应商为一家企业，缔约方可以拒绝向另一方服务供应商提供本章的利益：

- (a) owned or controlled either by persons of a non-Party or of the denying Party; and
- (b) has no substantive business operations in the territory of the other Party.

(a) 由非缔约方人员或否认方人员拥有或控制；以及 (b) 在另一方领土内没有实质性业务经营。

Annex 9-A
Professional Services

1. Further to Article 9.9, the Parties agree to support, to the extent that their resources permit, profession-led initiatives that seek to facilitate recognition of the qualifications and or registration/licensing of professionals of the other Party.
2. To that end, the Parties agree to establish contact points and, on the request of either Party, to consult and exchange information on professional qualifications and registration/licensing. Such information may include:
 - (a) relevant professional and regulatory bodies, including contact details;
 - (b) laws, regulations and/or rules relating to professional qualifications, registration/licensing;
 - (c) procedures for recognition of qualifications; and
 - (d) procedures for recognition of registration/licensing.
3. The Parties agree to support profession-led mutual recognition initiatives, if and when required and to the extent to which their resources permit, in ways that are indicated by professional bodies and/or a regulator that may be of assistance to the negotiation of a mutual recognition agreement.

附件9-A 专业服务

1. 根据第9.9条，缔约方同意在其资源允许的范围内支持行业主导的倡议，以促进承认另一方的专业人员的资格和/或注册/许可。
2. 为此，缔约方同意建立联系点，并在任何一方提出请求时，就专业资格和注册/许可进行磋商和信息交换。此类信息可能包括：
 - (a) 相关专业和监管机构，包括联系方式；(b) 与专业资格、注册/许可相关的法律、法规和/或规则；(c) 资格承认程序；以及 (d) 注册/许可承认程序。
3. 缔约方同意在需要时，根据其资源所能允许的程度，支持以专业为导向的相互承认倡议，具体方式由行业协会和/或监管机构（可能有助于相互承认协议的谈判）所指示。

Chapter 10
Investment

第10章 投资

Article 10.1: Definitions

For the purposes of this Chapter:

- (a) **Centre** means the International Centre for Settlement of Investment Disputes (ICSID) established by the ICSID Convention;
- (b) **claimant** means an investor of a Party that is a party to an investment dispute with the other Party;
- (c) **disputing parties** means the claimant and the respondent;
- (d) **disputing party** means either the claimant or the respondent;
- (e) **enterprise** means an enterprise as defined in Article 2.1(f) (Definitions of General Application – General Definitions), and a branch of an enterprise;
- (f) **enterprise of a Party** means an enterprise constituted or organised under the law of a Party, and a branch located in the territory of a Party and carrying out business activities there;
- (g) **freely usable currency** means freely usable currency as determined by the International Monetary Fund under its *Articles of Agreement*;
- (h) **ICSID Additional Facility Rules** means the *Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes*;
- (i) **ICSID Convention** means the *Convention on the Settlement of Investment Disputes between States and Nationals of other States*, done at Washington, March 18, 1965;
- (j) **investment** means every asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include:
 - (i) an enterprise;
 - (ii) shares, stock, and other forms of equity participation in an enterprise;

第10.1条：定义

本章的目的：

- (a) 中心是指根据国际投资争端解决中心公约设立的 国际投资争端解决中心（ICSID）；
- (b) 申诉方是指一方投资者，该投资者与另一方存在投资争端；
- (c) 争议方是指申诉方和被诉方；
- (d) 争议方是指申诉方或被诉方；
- (e) 企业是指根据第2.1(f)条（通用定义的一般定义）定义的企业，以及企业的分支机构；
- (f) 一方企业是指根据一方法律设立或组织的企业，以及位于一方领土并在当地开展业务活动的分支机构；
- (g) 自由使用货币是指根据国际货币基金组织协定条款确定的自由使用货币；
- (h) ICSID附加便利规则是指管理国际投资争端解决中心秘书处进行诉讼的附加便利规则的规则；
- (i) ICSID公约是指于1965年3月18日在华盛顿签署的国家与另一国国民之间投资争端解决公约；
- (j) 投资是指投资者直接或间接拥有或控制的具有投资特征的所有资产，包括资本或其他资源的投入、获得收益或利润的预期或风险承担等特征。投资可能采取的形式包括：
 - (i) 企业；
 - (ii) 企业中的股份、股票和其他形式的股权参与；

- (iii) bonds, debentures, loans and other debt instruments¹⁰⁻¹; but do not include a debt instrument of a Party or of a state enterprise;
 - (iv) futures, options and other derivatives;
 - (v) rights under contract, including turnkey, construction, management, production, concession, or revenue-sharing contracts;
 - (vi) intellectual property rights;
 - (vii) rights conferred pursuant to domestic law, such as concessions, licences, authorisations, and permits;¹⁰⁻² and
 - (viii) other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges;
- but investment does not mean an order or judgment entered in a judicial or administrative action;
- (k) **investor of a non-Party** means, with respect to a Party, an investor that attempts to make, is making, or has made an investment in the territory of that Party, that is not an investor of either Party;
 - (l) **New York Convention** means the *United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards*, done at New York, June 10, 1958;
 - (m) **non-disputing Party** means the Party that is not a party to an investment dispute;
 - (n) **respondent** means the Party that is a party to an investment dispute;
 - (o) **Secretary-General** means the Secretary-General of ICSID;
 - (p) **tribunal** means an arbitration tribunal established under Article 10.19 or 10.26; and
 - (q) **UNCITRAL Arbitration Rules** means the arbitration rules of the United Nations Commission on International Trade Law.

¹⁰⁻¹ Some forms of debt, such as bonds, debentures, and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt, such as claims to payment that are immediately due and result from the sale of goods or services, are less likely to have such characteristics.

¹⁰⁻² Whether a particular right conferred pursuant to domestic law, as referred to in subparagraph (vii), has the characteristics of an investment depends on such factors as the nature and extent of the rights that the holder has under the domestic law of the Party. Among such rights that do not have the characteristics of an investment are those that do not create any rights protected under domestic law. For greater certainty, the foregoing is without prejudice to whether any asset associated with such right has the characteristics of an investment.

- (iii) 债券、债券、贷款和其他债务工具¹⁰⁻¹；但不包括缔约方或国有企业的债务工具；(iv) 期货、期权和其他衍生品；(v) 合同权利，包括交钥匙、建设、管理、生产、特许权或收入分成合同；(vi) 知识产权；(vii) 根据国内法授予的权利，如特许权、许可证、授权和许可证；¹⁰⁻²
 - 和 (viii) 其他有形或无形、动产或不动产，以及相关财产权，如租赁、抵押、留置权和质押；
- 但投资并不意味着在司法或行政行为中作出的命令或判决；
- (k) 非缔约方投资者是指，相对于一方，试图在、正在或已经在一方的领土内进行投资，且该投资者既不是缔约方投资者也不是非当事方投资者；
 - (l) 纽约公约是指于1958年6月10日在纽约缔结的《承认和执行外国仲裁裁决公约》；
 - (m) 非争议方是指不是投资争端当事方的缔约方；
 - (n) 被诉方是指投资争端的当事方；
 - (o) 秘书长是指国际投资争端解决中心的秘书长；
 - (p) 仲裁庭是指根据第10.19条设立或¹⁰⁻² 10.26；并且
 - (q) 联合国国际贸易法委员会仲裁规则是指联合国国际贸易法委员会的仲裁规则。

¹⁰⁻¹ 一些债务形式，如债券、债券和长期票据，更有可能具有投资的特性，而其他债务形式，如因销售商品或服务而产生的立即到期的付款要求，则不太可能具有这些特性。¹⁰⁻²根据国内法授予的特定权利（如第(vii)款所述）是否具有投资的特性，取决于持有人根据该国内法所拥有的权利的性质和范围。缔约方的国内法。不具有投资特性的此类权利包括那些在国内法下不产生任何受保护权利的权利。为明确起见，前述内容不影响与该权利相关的任何资产是否具有投资特性。

Section A - Investment

A部分 - 投资

Article 10.2: Scope and Coverage¹⁰⁻³

1. This Chapter applies to measures adopted or maintained by a Party relating to:
 - (a) investors of the other Party;
 - (b) covered investments; and
 - (c) with respect to Article 10.7 all investments in the territory of the Party.
2. In the event of any inconsistency between this Chapter and another Chapter, the other Chapter shall prevail to the extent of the inconsistency.
3. A requirement by a Party that a service supplier of the other Party post a bond or other form of financial security as a condition of providing a service into its territory does not of itself make this Chapter applicable to measures adopted or maintained by a Party relating to the provision of that cross-border service. This Chapter applies to that Party's treatment of the posted bond or financial security to the extent that such bond or financial security is a covered investment.
4. This Chapter does not apply to:
 - (a) measures adopted or maintained by a Party to the extent that they are covered by Chapter 12 (Financial Services); and
 - (b) any act or fact that took place or any situation that ceased to exist before the date of entry into force of this Agreement, except as provided in Annex 10-E paragraph 2.

Article 10.3: National Treatment

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

¹⁰⁻³ For greater certainty, this Chapter is subject to and shall be interpreted in accordance with Annexes 10-A through 10-D.

第10.2条：范围和覆盖范围¹⁰⁻³

1. 本章适用于缔约方采取或维持的与以下相关的措施：
 - (a) 另一方的投资者；(b) 受保护的投资；以及(c) 关于第10.7条，该方领土内的所有投资。
2. 如果本章与另一章节之间存在任何不一致，则其他章节在不一致范围内优先适用。
3. 一方要求另一方的服务供应商在其领土内向其提供服务时提供保证金或其他形式财务担保，这本身并不使本章适用于一方为提供该跨境服务而采取或维持的措施。本章适用于该方对所提供的保证金或财务担保的待遇，前提是该保证金或财务担保是受保护的投资。
4. 本章不适用于：
 - (a) 缔约方采取或维持的措施，在 extent that 它们被第12章（金融服务）所涵盖的范围内；以及 (b) 在本协定生效日期之前发生或存在的任何行为或事实，或已停止存在的任何情况，除非如第10-E附件第2段所规定。

第10.3条：国民待遇

1. 每一方应给予另一方的投资者不低于其在本领土内就设立、收购、扩张、管理、经营、运营及销售或其他处置投资所给予其本国投资者的待遇，前提是情况相同。
2. 每一方应给予受保护的投资不低于其在本方领土内就设立、收购、扩张、管理、经营、运营及销售或其他处置投资而给予其自身投资者的待遇。

¹⁰⁻³ 为进一步明确，本章受第10-A至10-D附件约束，并应根据这些附件进行解释。

Article 10.4: Most-Favoured-Nation Treatment¹⁰⁻⁴

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

Article 10.5: Minimum Standard of Treatment¹⁰⁻⁵

- 1. Each Party shall accord to covered investments treatment in accordance with customary international law, including fair and equitable treatment and full protection and security.
- 2. For greater certainty, paragraph 1 prescribes the customary international law minimum standard of treatment of aliens as the minimum standard of treatment to be afforded to covered investments. 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 by that standard, and do not create additional substantive rights. The obligation in paragraph 1 to provide:
 - (a) “fair and equitable treatment” includes the obligation not to deny justice in criminal, civil, or administrative adjudicatory proceedings in accordance with the principle of due process embodied in the principal legal systems of the world; and
 - (b) “full protection and security” requires each Party to provide the level of police protection required under customary international law.
- 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 10.6: Treatment in Case of Strife

- 1. Notwithstanding Article 10.9.5(b), each Party shall accord to investors of the other 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 or civil strife treatment no less favourable than that it accords, in like circumstances, to:

¹⁰⁻⁴For greater certainty, Article 10.4 does not apply to the dispute settlement procedures set out in Section B of this Chapter, including requirements as to time.
¹⁰⁻⁵For greater certainty, Article 10.5 shall be interpreted in accordance with Annex 10-A.

第10.4条：最惠国待遇¹⁰⁻⁴

- 1. 每一方应给予另一方的投资者不低于其就其领土内设立、收购、扩张、管理、经营、运营及销售或其他处置投资而给予任何非方投资者的待遇。
- 2. 每一方应给予受保护的投资者不低于其领土内任何非缔约方投资者的投资，在类似情况下，就设立、收购、扩张、管理、经营、运营和销售或其他处置投资所给予的待遇。

第10.5条：最低标准待遇¹⁰⁻⁵

5

- 1. 每一方应根据习惯国际法给予受保护的投资者待遇，包括公平公正待遇和充分保护与安全。
- 2. 为进一步明确，第1段规定了习惯国际法对外国人最低标准待遇，即应给予受保护投资者的最低标准待遇。'公平公正待遇'和'充分保护与安全'的概念并不要求超出该标准所需的待遇，也不创造额外的实体权利。第1段提供的义务包括：
 - (a) '公平公正待遇'包括根据世界主要法律体系所体现的正当程序原则，在刑事、民事或行政裁决程序中不得拒绝正义的义务；以及 (b) '充分保护与安全'要求每一方提供习惯国际法规定的警察保护水平。
- 3. 确认违反本协议另一条款或单独国际协议的行为，并不构成违反本条的行为。

第10.6条：争端中的待遇

- 1. 不论第10.9.5(b)条如何规定，每一方应给予另一方的投资者和受保护的投资者，就其采取或维持的与其领土内因武装冲突或内乱而遭受损失的投资相关的措施，以不低于其在类似情况下给予下列对象的投资者的待遇：

¹⁰⁻⁴为明确起见，第10.4条不适用于本章B部分规定的争端解决程序，包括时间要求。
¹⁰⁻⁵为明确起见，第10.5条应根据附件10-A进行解释。

- (a) its own investors and their investments; or
- (b) investors of any non-Party and their investments.

2. Notwithstanding paragraph 1, if an investor of a Party, in the situations referred to in paragraph 1, suffers a loss in the territory of the other Party resulting from:

- (a) requisitioning of its covered investment or part thereof by the latter's forces or authorities; or
- (b) destruction of its covered investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation,

the latter Party shall provide the investor restitution, compensation or both in the event of a partial restitution, which in any case shall be prompt, adequate, and effective, and with respect to compensation, in accordance with paragraphs 2 to 4 of Article 10.11, *mutatis mutandis*.

3. Paragraph 1 does not apply to existing measures relating to subsidies or grants that would be inconsistent with Article 10.3 but for Article 10.9.5(b).

Article 10.7: Performance Requirements

Mandatory Performance Requirements

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

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

(a) 其自身的投资者及其投资；或 (b) 任何非缔约方的投资者及其投资。

2. 不论第1段的规定如何，若一方投资者在第1段所述情况下，在另一方领土内因下列情况遭受损失：

(a) 其受保护的投资或其部分被后者的部队或当局征用；或 (b) 其受保护的投资或其部分被后者的部队或当局摧毁，且该摧毁并非该情况所必需的，

后者缔约方应在发生部分补偿的情况下，向投资者提供补偿或补偿与归还，无论何种情况，均应迅速、充分且有效，并且就补偿而言，应按照第10.11条第2至4段的规定，相应修改。

3. 第1段的规定不适用于与补贴或拨款有关的现有措施，除非这些措施与第10.3条不一致，但与第10.9.5(b)条一致。

第10.7条：绩效要求

强制性业绩要求

1. 任何一方均不得就一方投资者或非缔约方在其领土内的投资设立、收购、扩张、管理、经营、运营或销售或其他处置，强加或执行任何下列要求，或执行任何承诺或谅解：

(a) 出口一定水平或百分比的货物或服务； (b) 实现一定水平或百分比的国内含量； (c) 购买、使用或给予其领土内生产的货物以偏好，或从其领土内的人员购买货物； (d) 以任何方式将进口的数量或价值与出口的数量或价值或与该投资相关的外汇流入量联系起来； (e) 通过以任何方式将此类销售与其出口数量或外汇收入联系起来，来限制其领土内由该投资产生或供应的货物或服务的销售；

- (f) to transfer a particular technology, a production process, or other proprietary knowledge to a person in its territory; or
- (g) to supply exclusively from the territory of the Party the goods that it produces or the services that it supplies to a specific regional market or to the world market.

Advantages Subject to Performance Requirements

2. Neither Party may condition the receipt or continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment in its territory of an investor of a Party or of a non-Party, on compliance with any of the following requirements:

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

Exceptions and Exclusions

- 3. (a) Nothing in paragraph 2 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a non-Party, on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.
- (b) Paragraph 1(f) does not apply:
 - (i) when a Party authorises use of an intellectual property right in accordance with Article 31¹⁰⁻⁶ of the TRIPS Agreement, or to measures requiring the disclosure of proprietary information that fall within the scope of, and are consistent with, Article 39 of the TRIPS Agreement; or
 - (ii) when the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal, or competition authority to remedy a practice determined after

¹⁰⁻⁶The reference to Article 31 includes footnote 7 to Article 31.

- (f) 将特定技术、生产流程或其他专有知识转移给其领土内的个人；或
- (g) 从缔约方领土独家供应其生产的货物或其向特定区域市场或世界市场提供的货物或服务。

受绩效要求约束的利益

2. 任何一方不得将一方投资者或非缔约方在其领土内设立、收购、扩张、管理、经营、运营或销售或处置投资所获得的优势的接收或持续接收，以符合以下任何要求为条件：

- (a) 实现给定的国内含量水平或百分比；(b) 购买、使用或给予偏好其领土内生产的货物，或从其领土内的人员购买货物；(c) 以任何方式将进口的数量或价值与出口的数量或价值或与该投资相关的外汇流入金额联系起来；或 (d) 通过以任何方式将此类销售与其出口数量或外汇收入联系起来，来限制该投资在其领土内生产的或供应的货物或服务的销售。

例外和排除

- 3. (a) 第2段的任何内容均不得被解释为阻止一方将一方投资者或非缔约方在其领土内的投资与在其领土内满足生产选址要求、提供服务、培训或雇佣工人、建设或扩建特定设施或进行研发的合规性联系起来，以获得利益、继续获得利益。
 - (b) 第1条(f)款不适用：(i) 当一方根据第31¹⁰⁻⁶条授权使用知识产权时，(ii) 当要求被施加或承诺或义务被法院、行政法庭或竞争主管机构强制执行以纠正一项在之后确定的实践时，与与贸易有关的知识产权协定有关的条款，或要求披露属于与贸易有关的知识产权协定第39条范围且与其一致的专有信息的措施；或
- 一项措施由法院、行政法庭或竞争主管机构强制执行，以纠正一项已确定的实践。

¹⁰⁻⁶对第31条的引用包括第31条的脚注7。

judicial or administrative process to be anticompetitive under the Party's competition laws¹⁰⁻⁷.

- (c) Provided that such measures are not applied in an arbitrary or unjustifiable manner, or do not constitute a disguised restriction on international trade or investment, paragraphs 1(b), (c), and (f), and 2(a) and (b), shall not be construed to prevent a Party from adopting or maintaining measures, including environmental measures:
 - (i) necessary to secure compliance with laws and regulations that are not inconsistent with this Agreement;
 - (ii) necessary to protect human, animal, or plant life or health; or
 - (iii) related to the conservation of living or non-living exhaustible natural resources.
- (d) Paragraphs 1(a), (b), and (c), and 2(a) and (b), do not apply to qualification requirements for goods or services with respect to export promotion and foreign aid programs.
- (e) Paragraphs 1(b), (c), (f), and (g), and 2(a) and (b), do not apply to government procurement.
- (f) Paragraphs 2(a) and (b) do not apply to requirements imposed by an importing Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.

4. For greater certainty, paragraphs 1 and 2 do not apply to any requirement other than the requirements set out in those paragraphs.

5. This Article does not preclude enforcement of any commitment, undertaking, or requirement between private parties, where a Party did not impose or require the commitment, undertaking, or requirement.

Article 10.8: Senior Management and Boards of Directors

- 1. Neither Party may require that an enterprise of that Party that is a covered investment appoint to senior management positions individuals of any particular nationality.
- 2. A Party may require that a majority or less of the board of directors, or any committee thereof, of an enterprise of that Party that is a covered investment, be of a particular nationality, or resident in the territory of the Party, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

¹⁰⁻⁷The Parties recognise that a patent does not necessarily confer market power.

司法或行政程序在缔约方的竞争法下为反竞争行为¹⁰⁻⁷.

(c) 只要此类措施不是以任意或非歧视性方式实施，或不构成对国际贸易或投资的伪装限制，第1(b)、(c)和(f)段以及第2(a)和(b)段不得解释为禁止一方采取或维持措施，包括环境措施：

(i) 为确保符合与本协定不一致的法律和法规所必需的； (ii) 为保护人类、动物或植物的生命或健康所必需的；或 (iii) 与可再生自然资源的保护相关的。

(d) 第1(a)、(b)和(c)段，以及第2(a)和(b)段，不适用于与出口促进和外国援助计划相关的货物或服务的资格要求。(e) 第1(b)、(c)、(f)和(g)段，以及第2(a)和(b)段，不适用于政府采购。(f) 第2(a)和(b)段不适用于进口方就符合优惠关税或优惠配额的资格而提出的与货物内容相关的要求。

4. 为进一步明确，第1段和第2段不适用于除第1段和第2段中规定的要求以外的任何要求。

5. 本文章并不妨碍缔约方之间在未对一方施加或提出承诺、承诺或要求的情况下，执行任何承诺、承诺或要求。

第10条8款：高级管理层和董事会

- 1. 任何一方不得要求其作为受保护投资的企业任何一方，在高级管理层职位上任命具有任何特定国籍的个人。
- 2. 一方可以要求受保护的投资的一方企业董事会多数或少数成员，或其任何委员会，具有特定的国籍，或居住在缔约方领土内，但该要求不得实质性损害投资者对其投资行使控制权的能力。

¹⁰⁻⁷缔约方承认，专利并不必然赋予市场力量。

Article 10.9: Non-Conforming Measures

1. Articles 10.3, 10.4, 10.7, and 10.8 do not apply to:
 - (a) any existing non-conforming measure that is maintained by a Party at:
 - (i) the central level of government, as set out by that Party in its Schedule to Annex I;
 - (ii) a regional level of government, as set out by that Party in its Schedule to Annex I; or
 - (iii) a local level of government;
 - (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
 - (c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 10.3, 10.4, 10.7, and 10.8.
2. Articles 10.3, 10.4, 10.7, and 10.8 do not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors, or activities, as set out in its Schedule to Annex II.
3. Neither Party may, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule to Annex II, require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.
4. Articles 10.3 and 10.4 do not apply to any measure that is an exception to, or derogation from, the obligations under Article 17.5 (National Treatment – Intellectual Property Chapter) as specifically provided for in that Article.
5. Articles 10.3, 10.4, and 10.8 do not apply to:
 - (a) government procurement; or
 - (b) subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance.

第10.9条：不符合规定的措施

1. 第10.3条、第10.4条、第10.7条和第10.8条不适用于：
 - (a) 任何一方维持的现有不符合规定的措施，包括：
 - (i) 该方在附件I的附件表中列出的中央政府层面的措施；(ii) 该方在附件I的附件表中列出的地方政府的措施；或 (iii) 地方政府层面的措施；
 - (b) 与第(a)项中提到的任何不符合规定的措施继续存在或及时更新；或 (c) 对第(a)项中提到的任何不符合规定的措施的修订，只要该修订不会降低该措施在修订前的符合性，即符合第10.3条、第10.4条、第10.7条和第10.8条。
2. 第10.3条、第10.4条、第10.7条和第10.8条不适用于任何一方向对附件II的附件表中列出的部门、子部门或活动所采纳或维持的措施。
3. 任何一方不得在本协定生效日期之后所采取的、并包含于其附件II的附件表中的任何措施下，以该投资者的国籍为由，要求另一方的投资者，在措施生效时处置其现行的投资。
4. 第10.3条和第10.4条不适用于任何对第17.5条（国民待遇——知识产权章节）下的义务构成例外或背离的措施，而该条对此有具体规定。
5. 第10.3条、第10.4条和第10.8条不适用于：
 - (a) 政府采购；或 (b) 由缔约方提供的补贴或拨款，包括政府支持贷款、担保和保险。

Article 10.10: Transfers¹⁰⁻⁸

1. Each Party shall permit all transfers relating to a covered investment to be made freely and without delay into and out of its territory. Such transfers include:
- (a) contributions to capital;
 - (b) profits, dividends, interest, capital gains, royalty payments, management fees, and technical assistance and other fees;
 - (c) proceeds from the sale of all or any part of the covered investment or from the partial or complete liquidation of the covered investment;
 - (d) payments made under a contract entered into by the investor, or the covered investment, including payments made pursuant to a loan agreement;
 - (e) payments made pursuant to paragraphs 1 and 2 of Article 10.6 and Article 10.11; and
 - (f) payments arising under Section B.
2. Each Party shall permit returns in kind relating to a covered investment to be made as authorised or specified in a written agreement between the Party and a covered investment or an investor of the other Party.
3. Each Party shall permit transfers relating to a covered investment to be made in a freely usable currency at the market rate of exchange prevailing on the date of transfer.
4. Notwithstanding paragraphs 1 to 3, a Party may prevent or delay a transfer through the equitable, non-discriminatory, and good faith application of its laws relating to:
- (a) bankruptcy, insolvency, or the protection of the rights of creditors;
 - (b) issuing, trading, or dealing in securities, futures or derivatives;
 - (c) criminal or penal offences;
 - (d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities; or
 - (e) ensuring compliance with orders or judgments in judicial or administrative proceedings.

¹⁰⁻⁸ For greater certainty, Article 10.10 is subject to Annex 10-C.

第10.10条：转移¹⁰⁻⁸

1. 每一方应允许所有与受保护投资相关的转移自由且无延迟地进入和离开其领土。此类转移包括：
- (a) 资本贡献；(b) 利润、股息、利息、资本收益、特许权使用费、管理费以及技术援助和其他费用；(c) 销售全部或部分受保护投资所得或受保护投资部分或完全清算所得；(d) 投资者或受保护投资根据其签订的合同支付的款项，包括根据贷款协议支付的款项；(e) 根据第10.6条第1段和第2段以及第10.11条支付的款项；以及(f) 根据B部分产生的款项。
2. 每一方应允许与受保护投资相关的实物返还，其方式应符合该方与受保护投资或另一方投资者之间书面协议的授权或规定。
3. 每一方应允许与受保护投资相关的转移以自由使用货币进行，汇率按转移日期的市场汇率计算。
4. 不论第1至3段的规定如何，一方可通过对其相关法律进行公平、非歧视性和善意的适用，来阻止或延迟转让，其相关法律包括：
- (a) 破产、无力偿债或保护债权人的权利；(b) 发行、交易或处理证券、期货或衍生品；(c) 刑事或刑事犯罪；(d) 在必要时对转移进行财务报告或记录保存，以协助执法或金融监管机构；或(e) 确保在司法或行政程序中遵守命令或判决。

¹⁰⁻⁸ 为进一步明确，第10.10条受附件10-C约束。

5. Notwithstanding paragraph 2, a Party may restrict transfers of returns in kind in circumstances where it could otherwise restrict such transfers under this Agreement, including as set out in paragraph 4.

Article 10.11: Expropriation and Compensation¹⁰⁻⁹

1. Neither Party may expropriate or nationalise a covered investment either directly or indirectly through measures equivalent to expropriation or nationalisation (“expropriation”), except:

- (a) for a public purpose;
- (b) in a non-discriminatory manner;
- (c) on payment of prompt, adequate, and effective compensation in accordance with paragraphs 2 to 4; and
- (d) in accordance with due process of law.

2. Compensation shall:

- (a) be paid without delay;
- (b) be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place (“the date of expropriation”);
- (c) not reflect any change in value occurring because the intended expropriation had become known earlier; and
- (d) be fully realisable and freely transferable.

3. If the fair market value is denominated in a freely usable currency, the compensation paid shall be no less than the fair market value on the date of expropriation, plus interest at a commercially reasonable rate for that currency, accrued from the date of expropriation until the date of payment.

4. If the fair market value is denominated in a currency that is not freely usable, the compensation paid – converted into the currency of payment at the market rate of exchange prevailing on the date of payment – shall be no less than:

- (a) the fair market value on the date of expropriation, converted into a freely usable currency at the market rate of exchange prevailing on that date; plus

¹⁰⁻⁹For greater certainty, Article 10.11 shall be interpreted in accordance with Annex 10-B.

5. 不论第2段如何规定，缔约方可以在本协定可能允许其限制此类转移的情况下，限制实物返还，包括第4段中规定的情况。

第10.11条：征收与补偿¹⁰⁻⁹

1. 任何缔约方均不得直接或间接通过等同于征收或国有化的措施来征收或国有化受保护的投资（“征收”），但除外：

- (a) 为公共利益；(b) 以非歧视性方式；(c) 根据第2至4段的规定支付及时、充分和有效的补偿；以及 (d) 依照法律规定的正当程序。

2. 赔偿应当：

- (a) 无延迟支付；(b) 等同于征收发生之日（“征收之日”）之前被征收投资的公允价值；(c) 不得反映由于预期征收在较早时间已公开而发生的价值变化；并且 (d) 必须完全可变现且可自由转移。

3. 如果公允价值以自由使用货币计价，则支付的赔偿金不得低于征收之日的公允价值，加上自征收之日起至付款之日按商业合理利率计算的该货币的利息。

4. 如果公允价值以非自由使用货币计价，则支付的赔偿金——在付款之日按当时市场汇率折算成付款货币——不得低于：

- (a) 征收之日公允价值，以该日现行汇率将之兑换为自由使用货币；加上

附件10-B对于更明确起见，第10.11条应根据附件10-B进行解释。

- (b) interest, at a commercially reasonable rate for that freely usable currency, accrued from the date of expropriation until 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, or to the revocation, limitation, or creation of intellectual property rights, to the extent that such revocation, limitation, or creation is consistent with Chapter 17 (Intellectual Property).

Article 10.12: Special Formalities and Information Requirements

- 1. Nothing in Article 10.3 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with covered investments, such as a requirement that investors be residents of the Party or that covered investments be legally constituted under the laws or regulations of the Party, provided that such formalities do not materially impair the protections afforded by a Party to investors of the other Party and covered investments pursuant to this Chapter.
- 2. Notwithstanding Articles 10.3 and 10.4, a Party may require an investor of the other Party, or a covered investment, to provide information concerning that investment solely for informational or statistical purposes. The Party shall protect such information that is confidential from any disclosure that would prejudice the competitive position of the investor or the covered investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its domestic law.

Article 10.13: Denial of Benefits

Subject to prior notification and consultation, a Party may deny the benefits of this Chapter to an investor of the other Party and to investments of that investor if the investor is an enterprise:

- (a) owned or controlled either by persons of a non-Party or of the denying Party; and
- (b) has no substantive business operations in the territory of the other Party.

- (b) 利息，以该自由使用货币的商业合理利率计算，自征收之日起至付款之日止。

5. 本第10条不适用于根据与贸易有关的知识产权协定授予的与知识产权相关的强制许可证的签发，也不适用于知识产权的撤销、限制或创设，只要这种撤销、限制或创设与本第17章（知识产权）一致。

第10.12条：特殊形式要求和信息要求

- 1. 第10.3条中的任何内容均不得解释为阻止一方制定或维持一项与受保护投资相关的特殊形式要求的措施，例如要求投资者是该方的居民或要求受保护投资根据该方的法律或法规合法设立，只要这些形式要求不实质性损害该方对另一方投资者和受保护投资根据本章提供的保护。
- 2. 尽管有第10.3条和第10.4条，一方可以要求另一方的投资者或受保护投资提供仅用于信息或统计目的的投资信息。该方应保护机密信息免受任何可能损害投资者或受保护投资竞争地位披露的披露。本段中的任何内容均不得解释为阻止一方在与其国内法公平和善意适用相关的其他情况下获取或披露信息。

第10.13条：拒绝利益

经事先通知和磋商，一方可拒绝给予另一方投资者及该投资者的投资本章之利益，如果该投资者为企业：

- (a) 为非缔约方人员或否认方人员拥有或控制；以及 (b) 在另一方领土内没有实质性业务经营。

Section B - Investor-State Dispute Settlement

Article 10.14: Scope of Investor-State Dispute Settlement

Section B applies where there is a dispute between a Party and an investor of the other Party relating to a covered investment made in the territory of a Party in accordance with its laws, regulations and investment policies.

Article 10.15: Consultations and Negotiations

1. In the event of an investment dispute, the claimant and the respondent shall initially seek to resolve the dispute through consultations and negotiations, which may include the use of non-binding, third-party procedures. Such consultations shall be initiated by a written request for consultations delivered by the claimant to the respondent.
2. The parties shall endeavour to commence consultations within 30 days of receipt by the respondent of the request for consultations, unless the disputing parties otherwise agree.
3. With the objective of resolving an investment dispute through consultations, a claimant shall make all reasonable efforts to provide the respondent, prior to the commencement of consultations, with information regarding the legal and factual basis for the investment dispute.
4. For greater certainty, the initiation of consultations and negotiations shall not be construed as recognition of the jurisdiction of the tribunal.

Article 10.16: Submission of a Claim to Arbitration

1. If an investment dispute has not been resolved within six months of the receipt by the respondent of a request for consultations:
 - (a) the claimant, on its own behalf, may submit to arbitration under this Section a claim that:
 - (i) the respondent has breached an obligation under Section A; and
 - (ii) the claimant has incurred loss or damage by reason of, or arising out of, that breach; and
 - (b) the claimant, on behalf of an enterprise of the respondent that is a juridical person that the claimant owns or controls directly or indirectly, may submit to arbitration under this Section a claim that:
 - (i) the respondent has breached an obligation under Section A; and

B部分 - 投资者-国家争端解决

第10.14条：投资者-国家争端解决的适用范围

B部分适用于一方与另一方投资者就根据其法律、法规和投资政策在某一方领土内进行的受保护投资发生的争议。

第10.15条：磋商和谈判

1. 在发生投资争端的情况下，申诉方和被诉方应首先通过磋商和谈判解决争端，这可能包括使用非约束性第三方程序。此类磋商应由申诉方向被诉方提交书面咨询请求来启动。
2. 各方应努力在收到咨询请求之日起30日内开始磋商，除非争议方另有约定。
3. 以通过磋商解决投资争端为目标，申诉方应在磋商开始前，尽合理努力向被诉方提供有关投资争端法律和事实依据的信息。
4. 为进一步明确，磋商和谈判的启动不应被视为承认仲裁庭的管辖权。

第10.16条：仲裁索赔的提交

1. 如果投资争端在收到磋商请求之日起六个月内未能解决：
 - (a) 申诉方可以以自己的名义根据本部分提交仲裁，提出申诉，即：(i) 被诉方违反了A部分规定的义务；以及 (ii) 申诉方因该违约行为遭受了损失或损害；以及 (b) 申诉方可以以被诉方的一个法人企业（该企业是申诉方直接或间接拥有的企业）的名义根据本部分提交仲裁，提出申诉，即：(i) 被诉方违反了A部分规定的义务；以及

- (ii) the enterprise has incurred loss or damage by reason of, or arising out of, that breach.

2. At least 90 days before submitting any claim to arbitration under this Section, a claimant shall deliver to the respondent a written notice of its intention to submit the claim to arbitration (“notice of intent”). The notice shall specify:

- (a) the name and address of the claimant and, where a claim is submitted on behalf of an enterprise, the name, address, and place of incorporation of the enterprise;
- (b) for each claim, the provision of this Agreement alleged to have been breached and any other relevant provisions;
- (c) the legal and factual basis for each claim; and
- (d) the relief sought and the approximate amount of damages claimed.

3. A claimant may submit a claim referred to in paragraph 1:

- (a) under the ICSID Convention, provided that both the non-disputing Party and the respondent are parties to the ICSID Convention;
- (b) under the ICSID Additional Facility Rules, provided that either the non-disputing Party or the respondent, but not both, is a party to the ICSID Convention;
- (c) under the UNCITRAL Arbitration Rules; or
- (d) if the disputing parties agree, to any other arbitration institution or under any other arbitration rules.

4. A claim shall be deemed submitted to arbitration under this Section when the claimant’s notice of or request for arbitration (“notice of arbitration”) is received under the applicable arbitral rules.

5. The arbitration rules applicable under paragraph 3, and in effect on the date the claim or claims were submitted to arbitration under this Section, shall govern the arbitration except to the extent modified by this Agreement.

6. The claimant shall provide with the notice of arbitration referred to in paragraph 4:

- (a) the name of the arbitrator that the claimant appoints; or
- (b) the claimant’s written consent for the Secretary-General to appoint the claimant’s arbitrator.

- (ii) 该企业因该违约行为遭受了损失或损害。

2. 在根据本节提交任何仲裁索赔前至少90天，申诉方应向被诉方提交一份书面意向通知，表明其打算将索赔提交仲裁（“意向通知”）。通知应具体说明：

- (a) 申诉方的姓名和地址；如果代表企业提交索赔，则还应提供企业的名称、地址和注册地；(b) 对于每一项索赔，被指控违反的本协议的规定以及任何其他相关规定；(c) 每项索赔的法律和事实依据；以及
- (d) 寻求的救济和索赔损害赔偿的近似金额。

3. 申诉方可提交第1段所述的索赔：

- (a) 根据《国际投资争端解决中心公约》，前提是非争议方和被诉方均为《国际投资争端解决中心公约》的缔约方；(b) 根据《国际投资争端解决中心附加便利规则》，前提是非争议方或被诉方中只有一方是《国际投资争端解决中心公约》的缔约方；(c) 根据《联合国国际贸易法委员会仲裁规则》；或
- (d) 如果争议方同意，向任何其他仲裁机构或根据任何其他仲裁规则。

4. 当申诉方的仲裁通知（仲裁通知）根据适用仲裁规则收到时，该索赔应被视为根据本节提交给仲裁。

5. 第3段适用的仲裁规则，以及在本节下将索赔提交给仲裁的日期生效的仲裁规则，应 govern 仲裁，除非由本协定修改。

6. 申诉方应在第4段所述的仲裁通知中提供：

- (a) 申诉方任命的仲裁员的姓名；或
- (b) 申诉方书面同意秘书长任命申诉方仲裁员的。

Article 10.17: Consent of each Party to Arbitration

- 1. Each Party consents to the submission of a claim to arbitration under this Section in accordance with this Agreement.
- 2. The consent under paragraph 1 and the submission of a claim to arbitration under this Section shall be deemed to satisfy the requirements of:
 - (a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the ICSID Additional Facility Rules for written consent of the parties to the dispute;
 - (b) Article II of the New York Convention for an “agreement in writing”; and
 - (c) Article 1 of the UNCITRAL Arbitration Rules.

Article 10.18: Conditions and Limitations on Consent of each Party

- 1. No claim may be submitted to arbitration under this Section if more than three years have elapsed from the date on which the claimant first acquired, or should have first acquired, knowledge of the breach alleged under Article 10.16.1 causing loss or damage to a claimant or covered investment.
- 2. No claim may be submitted to arbitration under this Section unless:
 - (a) the claimant consents in writing to arbitration in accordance with the procedures set out in this Agreement; and
 - (b) the notice of arbitration referred to in Article 10.16.6 is accompanied:
 - (i) for claims submitted to arbitration under Article 10.16.1(a), by the claimant’s written waiver; and
 - (ii) for claims submitted to arbitration under Article 10.16.1(b), by the claimant’s and the enterprise’s written waivers,

of any right to initiate or continue before any administrative tribunal or court under the law of either Party, or other dispute settlement procedures, any proceeding with respect to the events alleged to give rise to the claimed breach.
- 3. No claim may be submitted to arbitration, if the claimant referred to in Article 10.16.1(a) or 10.16.1(b), has alleged the breach of an obligation under Section A in proceedings before a court or an administrative tribunal of a Party, or other binding dispute settlement procedure. For greater certainty, if an investor elects to submit a claim, of the type previously described to a court or administrative tribunal of the Party, that election shall be definitive and the investor may not thereafter submit the claim to arbitration under this Section.

第10.17条：各方的仲裁同意

- 1. 每一方同意根据本协定在本节下提交仲裁索赔。
- 2. 第1段项下的同意以及根据本节提交的仲裁索赔应被视为满足下列要求：
 - (a) 国际投资争端解决中心公约（中心的管辖权）第二章节以及国际投资争端解决中心附加便利规则，用于书面同意争议的缔约方；(b) 纽约公约第II条，用于“书面协议”；以及(c) 联合国国际贸易法委员会仲裁规则第1条。

第10.18条：各方法定同意的条件和限制

- 1. 如果申诉方首次获得或本应首次获得关于第10.16.1条项下导致对申诉方或受保护投资造成损失或损害的违约的知识已超过三年，则不得根据本节提交仲裁索赔。
- 2. 除非：
 - (a) 申诉方根据本协定规定的程序书面同意仲裁；并且 (b) 第10.16.6条所述的仲裁通知：(i) 对于根据第10.16.1(a)条提交仲裁的索赔，附有申诉方的书面放弃；以及 (ii) 对于根据第10.16.1(b)条提交仲裁的索赔，附有申诉方和企业的书面放弃，

在任何行政法庭提起或继续任何权利之前
或放弃其他争端解决程序，与据称产生所声称违约的事件有关的任何诉讼。

- 3. 如果第10.16.1(a)条或10.16.1(b)条中提到的申诉方已经在一方的法院或行政法庭，或其他具有约束力的争端解决程序中指控违反了A部分项下的义务，则不得提交仲裁。为明确起见，如果投资者选择将先前描述的类型之一的索赔提交给一方的法院或行政法庭，该选择应是最终的，并且投资者此后不得根据本部分将索赔提交仲裁。

4. Notwithstanding paragraph 2(b), the claimant (for claims brought under Article 10.16.1(a)) and the claimant or the enterprise (for claims brought under Article 10.16.1(b)) may initiate or continue an action that seeks interim injunctive relief and does not involve the payment of monetary damages before a judicial or administrative tribunal of the respondent, provided that the action is brought for the sole purpose of preserving the claimant's or the enterprise's rights and interests during the pendency of the arbitration.

5. Neither Party shall give diplomatic protection, or bring an international claim, in respect of a dispute which one of its investors and the other Party shall have consented to submit or have submitted to conciliation or arbitration under Article 10.17, 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.

Article 10.19: Selection of Arbitrators

1. Unless the disputing parties otherwise agree, the tribunal shall comprise three arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, appointed by agreement of the disputing parties and who shall be a national of a third country.

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, either Party or the claimant.

3. The Secretary-General shall serve as appointing authority for an arbitration under this Section.

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 Secretary-General, on the request of a disputing party, shall appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed.

5. Pursuant to paragraph 1, where the disputing parties have agreed on a sole arbitrator or each individual member of the tribunal and one or more of those arbitrators has the nationality of one of the disputing parties, the appointment shall be in writing.

6. Subject to paragraph 7:

- (a) the costs of arbitration shall be born equally by the disputing parties unless the tribunal decides otherwise; and
- (b) the prevailing ICSID rate for arbitrators shall apply.

4. 尽管有第2段(b)项的规定，但对于根据第10.16.1(a)条提出的索赔，申诉方（对于根据第10.16.1(b)条提出的索赔，申诉方或企业）可以在被诉方的司法或行政法庭之前提起或继续寻求临时禁令救济的行动，该行动不涉及金钱损害赔偿，前提是该行动的唯一目的是在仲裁进行期间维护申诉方或企业的权利和利益。

5. 任何一方不得就其投资者与另一方已同意根据第10.17条提交或已提交调解或仲裁的争议给予外交保护或提起国际索赔，除非另一方未能遵守并执行该争议的裁决。根据本段，外交保护不包括仅为促进争议解决而进行的非正式外交交流。

第10.19条：仲裁员的选定

1. 除非争议方另有约定，仲裁庭应由三名仲裁员组成，每方任命一名仲裁员，第三名仲裁员（担任首席仲裁员）由争议方协议任命，且应为第三国国民。

2. 仲裁员应具备国际公法、国际贸易或国际投资规则的专业知识或经验，并应独立于任何一方或申请人，且不与任何一方或申请人有关联或接受其指示。

3. 秘书长应作为本节项下仲裁的指定机构。

4. 如果在本节项下提交索赔之日起75日内未成立仲裁庭，秘书长应根据争议方的请求，在其自由裁量权范围内任命尚未任命的仲裁员或仲裁员。

5. 根据第1段，如果争议方已就独任仲裁员或仲裁庭的每个成员达成一致，并且其中一名或多名仲裁员具有争议方之一的国籍，则任命应采用书面形式。

6. 除非符合第7段的规定：

- (a) 仲裁成本应由争议方平均承担，除非仲裁庭决定 otherwise；以及
- (b) 应适用 ICSID 仲裁员现行费率。

7. The disputing parties may establish rules relating to expenses incurred by the tribunal, including arbitrators’ remuneration.

8. Even without the consent of the tribunal that he or she was a member, where any arbitrator appointed as provided for in this Section resigns or becomes unable to act, a successor shall 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 10.20: Conduct of the Arbitration

1. The disputing parties may agree on the legal place of any arbitration under the arbitral rules applicable under Article 10.16.3(b), (c) or (d). If the disputing parties fail to reach agreement, the tribunal shall determine the place in accordance with the applicable arbitral rules, provided that the place shall be in the territory of a State that is a party to the New York Convention.

2. The tribunal shall have the authority to accept and consider *amicus curiae* written submissions that may assist the tribunal in evaluating the submissions and arguments of the disputing parties from a person or entity that is not a disputing party (the “submitter”). The submissions shall be provided in both Spanish and English, and shall identify the submitter and any Party, other government, person, or organisation, other than the submitter, that has provided, or will provide, any financial or other assistance in preparing the submission. Where such submissions are admitted by the tribunal, the tribunal shall provide to the parties an opportunity to respond to such written submissions.

3. Without prejudice to a tribunal’s authority to address other objections as a preliminary question, such as an objection that a dispute is not within the jurisdiction or the competence of the tribunal, a tribunal shall address and decide as a preliminary question any objection by the respondent that the claim is manifestly without legal merit.

- (a) Such objection shall be submitted to the tribunal as soon as possible after the tribunal is constituted, and in no event later than the date the tribunal fixes for the respondent to submit its counter-memorial (or, in the case of an amendment to the notice of arbitration referred to in Article 10.16.4, the date the tribunal fixes for the respondent to submit its response to the amendment).
- (b) On receipt of an objection under this paragraph, the tribunal shall suspend any proceedings on the merits, establish a schedule for considering the objection consistent with any schedule it has established for considering any other preliminary question, and issue a decision or award on the objection, stating the grounds therefor.
- (c) The respondent does not waive any objection as to the jurisdiction or competence of the tribunal or any argument on the merits merely because the respondent did or did not raise an objection under this

7. 争议方可以建立与仲裁庭产生的费用相关的规则，包括仲裁员的报酬。

8. 即使未经其所属的仲裁庭同意，如果根据本条规定被任命的任何仲裁员辞职或无法履行职责，也应当以任命原仲裁员的方式任命继任者，继任者应享有原仲裁员的所有权力和职责。

第10.20条：仲裁的进行

1. 争议方可以就根据第10.16.3(b)、(c)或(d)条适用的仲裁规则下的任何仲裁的法律地点达成协议。如果争议方未能达成协议，仲裁庭应根据适用的仲裁规则确定地点，但地点应在为一方当事国的《纽约公约》缔约国的领土内。

2. 仲裁庭有权接受和考虑可能有助于其评估争议方（“提交者”）提交的陈述和论点的法庭之友书面陈述，该提交者不是争议方（包括个人或实体）。提交的陈述应以西班牙语和英语提供，并应指明提交者以及任何其他提供或将为提交陈述提供任何财务或其他援助的缔约方、其他政府、个人或组织（不包括提交者）。如果仲裁庭接受此类提交，仲裁庭应给予各方机会对书面提交进行答复。

3. 不影响仲裁庭作为初步问题处理其他异议的权力，例如异议仲裁庭对争议没有管辖权或没有管辖权，仲裁庭应当作为初步问题处理被诉方提出的任何异议，即索赔明显缺乏法律依据。

- (a) 该异议应尽快提交给仲裁庭
在仲裁庭成立后，并且不迟于仲裁庭为被诉方提交反诉状（或在第10.16.4条中提到的仲裁通知的修订情况下，仲裁庭为被诉方提交对修订的回复）确定的日期。
- (b) 收到本段规定的异议后，仲裁庭应当
暂停实体程序，建立考虑该异议的日程，并就该异议作出决定或裁决，说明理由。
- (c) 被诉方并未放弃就管辖权或
仲裁庭的管辖权或任何关于实体问题的论点，仅仅因为被诉方根据本协议提出或未提出异议

paragraph or make use of the expedited procedure set out in the following paragraph.

4. In the event that the respondent so requests within 45 days after the tribunal is constituted, the tribunal shall decide on an expedited basis an objection under paragraph 3 or any objection that the dispute is not within the tribunal’s jurisdiction or competence. The tribunal shall suspend any proceedings on the merits and issue a decision or award on the objection(s), stating the grounds therefor, no later than 150 days after the date of the request. However, if a disputing party requests a hearing, the tribunal may take an additional 30 days to issue the decision or award. Regardless of whether a hearing is requested, a tribunal may, on a showing of extraordinary cause, delay issuing its decision or award by an additional brief period of time, which may not exceed 30 days.

5. When it decides a respondent’s objection under paragraph 3 or 4, the tribunal may, if warranted, award to the prevailing disputing party reasonable costs and attorneys’ fees incurred in submitting or opposing the objection. In determining whether such an award is warranted, the tribunal shall consider whether either the claimant’s claim or the respondent’s objection was frivolous, and shall provide the disputing parties a reasonable opportunity to comment.

6. A respondent may not assert as a defence, counterclaim, right of set-off, or otherwise that the claimant has received or will receive indemnification or other compensation for all or part of the alleged loss or damages pursuant to an insurance or guarantee contract.

7. A tribunal may order an interim measure of protection to preserve the rights of a disputing party, or to ensure that the tribunal’s jurisdiction is made fully effective, including an order to preserve evidence in the possession or control of a disputing party or to protect the tribunal’s jurisdiction. A tribunal may not order attachment or enjoin the application of a measure alleged to constitute a breach referred to in Article 10.16. For the purposes of this paragraph, an order includes a recommendation.

8. At the request of a disputing party, a tribunal shall, before issuing an award on liability, transmit its proposed award to the disputing parties and to the non-disputing Party. Within 60 days after the tribunal transmits its proposed award, only the disputing parties may submit written comments to the tribunal concerning any aspect of its proposed award. The tribunal shall consider any such comments and issue its award not later than 45 days after the expiration of the 60 day comment period.

Article 10.21: The non-disputing Party

1. No later than 30 days after the date that such documents have been delivered to the respondent, the respondent shall deliver to the non-disputing Party a copy of:

- (a) the notice of intent referred to in Article 10.16.2;
- (b) the notice of arbitration referred to in Article 10.16.4;

本段或使用以下段落中规定的加速程序

4. 如果被诉方在仲裁庭成立后45日内提出请求，仲裁庭应以加速方式决定第3段下的异议或任何关于争议不属于仲裁庭管辖权或管辖权的异议。仲裁庭应暂停实体程序，并在请求之日起150日内就异议作出裁决，并说明理由。但是，如果争议方要求举行听证，仲裁庭可以额外30天作出裁决。无论是否要求举行听证，仲裁庭在特殊情况证明下，可以延迟作出裁决，但延迟时间不得超过30天。

5. 当仲裁庭决定被诉方的第3段或第4段下的异议时，如果合理，仲裁庭可向胜诉方授予因提交或反对异议而产生的合理成本和律师费。在确定是否授予此类裁决时，仲裁庭应考虑申诉方的索赔或被诉方的异议是否不合理，并应给予争议方合理的机会提出意见。

6. 被诉方不得以申诉方已获得或将要获得根据保险或担保合同对全部或部分所谓损失或损害的赔偿为由，提出抗辩、反诉、抵销权或其他主张。

7. 仲裁庭可以采取临时保护措施以保护争议方的权利，或确保仲裁庭的管辖权完全生效，包括下令保全争议方持有或控制的证据，或保护仲裁庭的管辖权。仲裁庭不得下令扣押或禁止实施第10.16条所述构成违约的措施。就本段而言，裁决包括建议。

8. 应争议方的请求，仲裁庭在就责任问题作出裁决前，应将其拟作出的裁决传送给争议方和非争议方。仲裁庭将其拟作出的裁决传送给争议方后60日内，仅争议方可以就其拟作出的裁决的任何方面向仲裁庭提交书面意见。仲裁庭应考虑任何此类意见，并在60天意见期届满后45天内作出其裁决。

第10.21条：非争议方

1. 自此类文件交付被诉方之日起不超过30日内，被诉方应向非争议方交付以下文件的副本：

- (a) 第10.16.2条中所述的意向通知；
- (b) 第10.16.4条中提到的仲裁通知；

- (c) pleadings, memorials, and briefs submitted to the tribunal by a disputing party and any written submissions submitted pursuant to paragraphs 2 and 3 of Article 10.20 and Article 10.26;
- (d) minutes or transcripts of hearings of the tribunal, where available;
- (e) orders, awards, and decisions of the tribunal; and
- (f) any other document submitted to the tribunal, including redacted versions of confidential documents submitted in accordance with Article 10.22.

2. On written notice to the disputing parties, the non-disputing Party may make a submission to a tribunal on any question of interpretation of this Agreement.

3. The non-disputing Party receiving confidential information pursuant to paragraph 1 shall treat the information as if it were a disputing party.

Article 10.22: Transparency of Arbitral Proceedings

1. Subject to paragraphs 2 and 4, the respondent shall, after receiving the following documents, make them available to the public at their cost:

- (a) the notice of intent referred to in Article 10.16.2;
- (b) the notice of arbitration referred to in Article 10.16.4;
- (c) pleadings, memorials, and briefs submitted to the tribunal by a disputing party and any written submissions submitted pursuant to paragraphs 2 and 3 of Article 10.20, Article 10.21.2 and Article 10.26;
- (d) minutes or transcripts of hearings of the tribunal, where available; and
- (e) orders, awards, and decisions of the tribunal.

2. The tribunal shall conduct hearings open to the public and shall determine, in consultation with the disputing parties, the appropriate logistical arrangements. However, any disputing party that intends to use information designated as confidential business information or information that is privileged or otherwise protected from disclosure under a Party’s law in a hearing shall so advise the tribunal. The tribunal shall make appropriate arrangements to protect the information from disclosure including closing the hearing for the duration of any discussion of confidential information.

3. Nothing in this Section requires a respondent to disclose information which would impede law enforcement or information that is privileged or otherwise protected from disclosure under a Party’s law or to furnish or allow access to information that it may withhold in accordance with Article 22.2 (Security Exceptions

(c) 争议方向仲裁庭提交的诉讼文书、备忘录和简报，以及根据第10.20条和第10.26条第2、3段提交的任何书面陈述；(d) 仲裁庭庭审的会议记录或庭审记录，如可用；(e) 仲裁庭的裁决、裁决和决定；以及(f) 提交给仲裁庭的任何其他文件，包括根据第10.22条提交的保密文件的修订版本。

2. 向争议方发出书面通知后，非争议方可以就本协定任何解释性问题向仲裁庭提交书面陈述。

3. 根据第1段规定收到机密信息的非争议方，应将其视为争议方处理。

第10.22条：仲裁程序透明度

1. 除第2段和第4段的规定外，被诉方在收到下列文件后，应自付费用将其向公众公开：

(a) 第10.16.2条所述的意向通知；(b) 第10.16.4条所述的仲裁通知；(c) 争议方提交给仲裁庭的诉讼文书、备忘录和简报，以及根据第10.20条第2段和第3段、第10.21.2条和第10.26条提交的任何书面陈述；(d) 仲裁庭庭审的会议记录或庭审记录，如可提供；以及(e) 仲裁庭的裁决、裁决和决定。

2. 仲裁庭应举行向公众开放的庭审，并与争议方磋商确定适当的后勤安排。然而，任何意图在庭审中使用被指定为商业机密的信息，或根据一方法律被认定为特权或受保护而不予披露的信息的争议方，均应向仲裁庭作出此种通知。仲裁庭应采取适当安排以保护信息免于披露，包括在讨论机密信息期间闭庭。

3. 本章节中的任何内容均不要求被诉方披露会妨碍执法或根据缔约方法律享有特权或受其他保护而不予披露的信息，也不要求提供或允许访问其根据第22.2条（安全例外<Security Exceptions>）或第22.5条（信息披露<Disclosure of Information>——总则和例外章节<General Provisions and Exceptions Chapter>）可以保留的信息。

– General Provisions and Exceptions Chapter) or Article 22.5 (Disclosure of Information – General Provisions and Exceptions Chapter).

4. Information that may be designated as confidential information is limited to any sensitive factual information that is not available in the public domain.

5. Confidential business information or information that is privileged or otherwise protected from disclosure under a Party’s law shall, if such information is submitted to the tribunal, be protected from disclosure in accordance with the following procedures:

- (a) Subject to subparagraph (d), neither the disputing parties nor the tribunal shall disclose to the non-disputing Party or to the public any confidential business information or information that is privileged or otherwise protected from disclosure under a Party’s law where the disputing party that provided the information clearly designates it in accordance with subparagraph (b);
- (b) Any disputing party claiming that certain information constitutes confidential business information or information that is privileged or otherwise protected from disclosure under a Party’s law shall clearly designate the information at the time it is submitted to the tribunal;
- (c) A disputing party shall, at the same time that it submits a document containing information claimed to be confidential business information or information that is privileged or otherwise protected from disclosure under a Party’s law, submit a redacted version of the document that does not contain the information. Only the redacted version shall be made public in accordance with paragraph 1; and
- (d) The tribunal shall decide any objection regarding the designation of information claimed to be confidential business information or information that is privileged or otherwise protected from disclosure under a Party’s law. If the tribunal determines that such information was not properly designated, the disputing party that submitted the information may:
 - (i) withdraw all or part of its submission containing such information; or
 - (ii) agree to resubmit complete and redacted documents with corrected designations in accordance with the tribunal’s determination and subparagraph (c).

In either case, the other disputing party shall, whenever necessary, resubmit complete and redacted documents which either remove the information withdrawn under subparagraph (d)(i) by the disputing party that first submitted the information or redesignate the information consistent with the designation under subparagraph (d)(ii) of the disputing party that first submitted the information.

– 总则和例外章节<General Provisions and Exceptions Chapter>)。

4. 可被指定为机密信息的范围仅限于公共领域之外的不敏感事实信息。

5. 商业机密或根据缔约方法律享有特权或受其他保护而不予披露的信息，如提交给仲裁庭，应按照以下程序予以保护而不予披露：

- (a) 除非适用第(d)项，争议方或仲裁庭不得向非争议方或公众披露根据缔约方法律享有特权或受其他保护而不予披露的商业机密或信息，前提是提供该信息的争议方按照第(b)项的规定明确指定了该信息；
- (b) 任何声称某些信息构成商业机密或根据缔约方法律享有特权或受其他保护而不予披露的争议方，应在将信息提交给仲裁庭时明确指定该信息；
- (c) 争议方应在提交包含据称为商业机密或根据缔约方法律享有特权或受其他保护而不予披露的信息的文件的同时，提交不包含该信息的文件修订版本。根据第1段的规定，仅应公开修订版本；和
- (d) 仲裁庭应当决定关于被主张为商业机密或根据缔约方法律享有特权或受其他保护而不予披露的信息的指定所提出的异议。如果仲裁庭认定该信息未正确指定，提交该信息的争议方可以：

(i) 撤回其包含该信息的全部或部分提交；或 (ii) 同意根据仲裁庭的决定和第 (c) 段，重新提交完整并经过删减的文件，并按照仲裁庭的决定进行更正指定。

在任一情况下，另一方争议方应根据需要，重新提交完整且经过编辑的文件，这些文件要么移除了首先提交信息的争议方根据第

(d) (i) 款撤回的信息，要么重新指定了首先提交信息的争议方根据第 (d) (ii) 款指定的信息。

6. A disputing party may disclose to other persons in connection with the arbitral proceedings such confidential documents as it considers necessary for the preparation of its case, but it shall require that any confidential information in such documents is protected.

7. Nothing in this Section authorises a respondent to withhold from the public information required to be disclosed by its laws.

Article 10.23: Governing Law

1. Subject to paragraph 2, when a claim is submitted under Article 10.16.1(a) or Article 10.16.1(b), the tribunal shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law.

2. A decision of the Joint FTA Committee issuing its interpretation of a provision of this Agreement under Article 20.1.3(f) (Joint FTA Committee – Institutional Arrangements Chapter) shall be binding on a tribunal established under this Section, and any award must be consistent with that decision.

Article 10.24: Interpretation of Annexes

1. Where a respondent asserts as a defence that the measure alleged to be a breach is within the scope of a non-conforming measure set out in Annex I or Annex II, the tribunal shall, on request of the respondent, request the interpretation of the Joint FTA Committee on the issue. The Joint FTA Committee shall submit in writing any decision issuing its interpretation under Article 20.1.3(f) (Joint FTA Committee – Institutional Arrangements Chapter) to the tribunal within 60 days of delivery of the request.

2. A decision issued by the Joint FTA Committee under paragraph 1 shall be binding on the tribunal, and any award must be consistent with that decision. If the Joint FTA Committee fails to issue such a decision within 60 days, the tribunal shall decide the issue.

Article 10.25: Expert Reports

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

6. 争议方可以就仲裁程序向其他人披露其认为对其案件准备必要的机密文件，但它应要求保护此类文件中的任何机密信息。

7. 本节任何内容均未授权被诉方根据其法律应公开的信息。

第10.23条：适用法律

1. 除第2段规定外，当根据第10.16.1(a)条或第10.16.1(b)条提交索赔时，仲裁庭应根据本协定和适用的国际法规则裁决争议事项。

2. 联合自由贸易协定委员会根据第20.1.3(f)条（联合自由贸易协定委员会——机构安排章节）对本协定某项规定的解释作出的决定，对根据本节设立的仲裁庭具有约束力，任何裁决必须与该决定一致。

第10.24条：附件的解释

1. 当被诉方以抗辩主张据称构成违约的措施属于附件I或附件II中规定的不符合规定的措施范围时，仲裁庭应根据被诉方的请求，请求联合自由贸易委员会对相关问题作出解释。联合自由贸易委员会应自收到请求之日起60日内，以书面形式将根据第10.1.3(f)条（联合自由贸易协定委员会——机构安排章节）作出的解释决定提交给仲裁庭。

2. 根据第1段作出的联合自由贸易委员会的决定对仲裁庭具有约束力，并且任何裁决必须与该决定一致。如果联合自由贸易委员会未能在60日内作出此类决定，仲裁庭应决定该问题。

第10.25条：专家报告

在不影响根据适用仲裁规则授权任命其他类型专家的情况下，仲裁庭应争议方的请求任命一名或多名专家，或除非争议方不批准，可自行任命，要求其就争议方在诉讼中提出的涉及环境、健康、安全或其他科学事项的任何事实问题向其书面报告，具体条款和条件由争议方自行商定。

Article 10.26: Consolidation

1. Where two or more claims have been submitted separately to arbitration under Article 10.16.1 and the claims have a question of law or fact in common and arise out of the same events or circumstances, any disputing party may seek a consolidation order with the agreement of all the disputing parties sought to be covered by the order or in accordance with the terms of paragraphs 2 to 10.
2. A disputing party that seeks a consolidation order under this Article shall deliver, in writing, a request to the Secretary-General and to all the disputing parties sought to be covered by the order and shall specify in the request:
- (a) the names and addresses of all the disputing parties sought to be covered by the order;
 - (b) the nature of the order sought; and
 - (c) the grounds on which the order is sought.
3. Unless the Secretary-General finds within 30 days after receiving a request under paragraph 2 that the request is manifestly unfounded, a tribunal shall be established under this Article.
4. Subject to paragraph 5, unless all the disputing parties sought to be covered by the order otherwise agree, a tribunal established under this Article shall be constituted in accordance with Article 10.19 except that, for the purpose of Article 10.19.1, the claimants shall appoint a single arbitrator by agreement.
5. If, within 60 days after the Secretary-General receives a request made under paragraph 2, the respondent fails or the claimants fail to appoint an arbitrator in accordance with paragraph 4, the Secretary-General may be requested by any disputing party sought to be covered by the order, to appoint the arbitrator or arbitrators not yet appointed. If the respondent fails to appoint an arbitrator, the arbitrator to be appointed by the Secretary-General may be a national of the respondent, and if the claimants fail to appoint an arbitrator, the arbitrator to be appointed by the Secretary-General may be a national of the Party other than the respondent.
6. Where a tribunal established under this Article is satisfied that two or more claims that have been submitted to arbitration under Article 10.16.1 have a question of law or fact in common, and arise out of the same events or circumstances, the tribunal may, in the interest of fair and efficient resolution of the claims, and after hearing the disputing parties, by order:
- (a) assume jurisdiction over, and hear and determine together, all or part of the claims;
 - (b) assume jurisdiction over, and hear and determine one or more of the claims, the determination of which it believes would assist in the resolution of the others; or

第10.26条：合并审理

1. 如根据第10.16.1条分别提交仲裁的两个或多个索赔具有共同的法律或事实问题，且源于相同的事件或情况，任何争议方均可在与拟受该令约束的所有争议方达成一致的情况下，或根据第2至第10段的规定，寻求合并审理令。
2. 任何寻求根据本条获得合并审理令的争议方应以书面形式向秘书长以及所有被寻求纳入该令的争议方提交请求，并在请求中说明：
- (a) 被寻求纳入该令的所有争议方的姓名和地址；(b) 所寻求的令的性质；以及(c) 寻求该令的理由。
3. 除非秘书长在收到根据第2段提交的请求后30日内认定该请求明显缺乏依据，否则应根据本条设立仲裁庭。
4. 除第5段的规定外，除非所有被寻求纳入该令的争议方另行同意，否则根据本条设立的仲裁庭应根据第10.19条设立，但就第10.19.1条而言，申诉方应通过协议任命一名仲裁员。
5. 如果，在秘书长收到根据第2段提出的请求之日起60天内，被诉方未能任命仲裁员或申诉方未能按照第4段的规定任命仲裁员，则任何寻求受该裁决约束的争议方可以请求秘书长任命尚未任命的仲裁员或仲裁员。如果被诉方未能任命仲裁员，则秘书长任命的仲裁员可以是被诉方的国民，如果申诉方未能任命仲裁员，则秘书长任命的仲裁员可以是除被诉方以外的缔约方的国民。
6. 如果根据本条设立的仲裁庭确认，根据第10.16.1条提交仲裁的两个或多个索赔在法律或事实上具有共同点，并且源于相同的事件或情况，则为了公平有效地解决索赔，仲裁庭在听取争议方后，可以作出裁决：
- (a) 对全部或部分索赔行使管辖权，并共同审理和作出决定；(b) 对一个或多个索赔行使管辖权，并审理和作出其认为将有助于解决其他索赔的决定；或

- (c) instruct a tribunal previously established under Article 10.19 to assume jurisdiction over, and hear and determine together, all or part of the claims, provided that:
 - (i) that tribunal, at the request of any claimant not previously a disputing party before that tribunal, shall be reconstituted with its original members, except that the arbitrator for the claimants shall be appointed pursuant to paragraphs 4 and 5; and
 - (ii) that tribunal shall decide whether any prior hearing shall be repeated.

7. Where a tribunal has been established under this Article, a claimant that has submitted a claim to arbitration under Article 10.16.1 and that has not been named in a request made under paragraph 2 may make a written request to the tribunal that it be included in any order made under paragraph 6, and shall specify in the request:

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

The claimant shall deliver a copy of its request to the Secretary-General.

8. A tribunal established under this Article shall conduct its proceedings in accordance with Section B of this Agreement.
9. A tribunal established under Article 10.19 shall not have jurisdiction to decide a claim, or a part of a claim, over which a tribunal established or instructed under this Article has assumed jurisdiction.
10. On application of a disputing party, a tribunal established under this Article, pending its decision under paragraph 6, may order that the proceedings of a tribunal established under Article 10.19 be stayed, unless the latter tribunal has already adjourned its proceedings.

Article 10.27: Awards

1. Where a tribunal makes a final award against a respondent, the tribunal may award, separately or in combination, only:
- (a) monetary damages and any applicable interest;
 - (b) restitution of property, in which case the award shall provide that the respondent may pay monetary damages and any applicable interest in lieu of restitution.

- (c) 指示根据第10.19条先前设立的仲裁庭行使管辖权，并共同审理和裁决全部或部分索赔，但须满足以下条件：
 - (i) 该仲裁庭应任何先前未争议方在仲裁庭面前，应使用其原始成员重新组建，但申诉方的仲裁员应根据第4段和第5段任命；以及 (ii) 该仲裁庭应决定是否应重复任何先前的听证会。

7. 如果根据本文章设立了仲裁庭，已根据第10.16.1条提交仲裁索赔且未被列入第2段提出的请求中的申诉方，可向仲裁庭提交书面请求，要求将其包括在第6段作出的任何裁决中，并在请求中说明：

- (a) 申诉方的姓名和地址； (b) 所寻求的命令的性质；以及 (c) 所寻求的命令的理由。

申诉方应当将其请求的副本提交给秘书长。

8. 根据本条设立的仲裁庭应当按照本协定B部分的规定进行程序。
9. 根据第10.19条设立的仲裁庭不得对根据本条设立或受命设立的仲裁庭已取得管辖权的索赔或索赔的一部分作出裁决。
10. 在争议方提出申请的情况下，根据本条设立的仲裁庭在根据第6段作出决定之前，可以命令根据第10.19条设立的仲裁庭暂停其程序，除非后者仲裁庭已休庭。

第10.27条：裁决

1. 当仲裁庭对被诉方作出最终裁决时，仲裁庭可以单独或结合方式仅裁决：
- (a) 金钱损害赔偿和任何适用利息； (b) 财产返还，在这种情况下，裁决应当规定被诉方可以用金钱损害赔偿和任何适用利息代替财产返还。

A tribunal may also award costs and attorneys' fees in accordance with this Section and the applicable arbitration rules.

2. Subject to paragraph 1, where a claim is submitted to arbitration under Article 10.16.1(b):

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

3. A tribunal may not award punitive damages.

4. An award made by a tribunal 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.

6. A disputing party may not seek enforcement of a final award until:

- (a) in the case of a final award made under the ICSID Convention:
 - (i) 120 days have elapsed from the date the award was rendered and no disputing party has requested revision or annulment of the award; or
 - (ii) revision or annulment proceedings have been completed; and
- (b) in the case of a final award under the ICSID Additional Facility Rules, the UNCITRAL Arbitration Rules, or the rules selected pursuant to Article 10.16.5(d):
 - (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.

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

8. A disputing party may seek enforcement of an arbitration award under the ICSID Convention, or the New York Convention regardless of whether actions have been taken under Article 10.18.5.

仲裁庭也可以根据本部分和适用仲裁规则裁决成本和律师费。

2. 根据第1段，当根据第10.16.1(b)条提交索赔进行仲裁时：

- (a) 财产返还裁决应规定向企业进行返还；(b) 金钱损害赔偿裁决及适用利息应规定将款项支付给企业；以及(c) 裁决应规定其作出不损害任何人在适用国内法救济中可能拥有的任何权利。

3. 仲裁庭不得裁决惩罚性损害赔偿。

4. 仲裁庭作出的裁决除在争议方之间及针对特定案件外不具有约束力。

5. 根据第6段及临时裁决的适用审查程序，争议方应立即遵守并履行裁决。

6. 争议方在最终裁决的执行之前不得寻求执行该最终裁决，除非：(a) 在根据国际投资争端解决中心公约作出的最终裁决的情况下：(i) 自裁决作出之日起已过120天且没有争议方请求对该裁决进行修正或撤销；或(ii) 修正或撤销程序已经完成；以及(b) 在根据国际投资争端解决中心附加便利规则、联合国国际贸易法委员会仲裁规则或根据第10.16条5(d)作出的规则作出的最终裁决的情况下：(i) 自裁决作出之日起已过90天且没有争议方开始修正、撤销或撤销该裁决的程序；或(ii) 法院已驳回或允许修正、撤销或撤销该裁决的申请且没有进一步的上诉。

7. 每一方应在其领土内提供裁决的执行。

8. 争议方可以根据国际投资争端解决中心公约或纽约公约寻求仲裁裁决的执行，无论是否已采取第10.18.5条规定的行动。

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

Article 10.28: Service of Documents

Delivery of notice and other documents on a Party shall be made to the place named for that Party in Annex 10-F.

9. 根据本节提交仲裁的索赔应被视为根据纽约公约第I条产生于商业关系或交易。

第10条：文书送达

缔约方应将通知和其他文件送达附件10-F中为该缔约方指定的地点。

Annex 10-A
Customary International Law

The Parties confirm their shared understanding that “customary international law” generally and as specifically referenced in Article 10.5 results from a general and consistent practice of States that they follow from a sense of legal obligation. The customary international law minimum standard of treatment of aliens refers, for the purposes of this Agreement, to all customary international law principles that protect the economic rights and interests of aliens.

附件10-A 习惯国际法

缔约方确认其共同理解，即“习惯国际法”通常且在第十条5款中具体提及的，源于各缔约方遵循法律义务的一般且一致的做法。本协定所称外国人习惯国际法最低标准待遇，是指所有保护外国人经济权利和利益的习惯国际法原则。

Annex 10-B
Expropriation

The Parties confirm their shared understanding that:

- 1. An action or a series of actions by a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right or property interest in an investment.
- 2. Article 10.11.1 addresses two situations. The first is direct expropriation, where an investment is nationalised or otherwise directly expropriated through formal transfer of title or outright seizure.
- 3. The second situation addressed by Article 10.11.1 is indirect expropriation, where an action or series of actions by a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.
 - (a) The determination of whether an action or series of actions by a Party, in a specific fact situation, constitutes an indirect expropriation, requires a case-by-case, fact-based inquiry that considers, among other factors:
 - (i) the economic impact of the government action, although the fact that an action or series of actions by a Party has an adverse effect on the economic value of an investment, standing alone, does not establish that an indirect expropriation has occurred;
 - (ii) the extent to which the government action interferes with distinct, reasonable investment-backed expectations; and
 - (iii) the character of the government action.
 - (b) Except in rare circumstances, non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety, and the environment, do not constitute indirect expropriations.

附件10-B
征收

缔约方确认其共同理解如下：

- 1. 一方的行为或一系列行为不能构成征收，除非其干涉了投资中的有形或无形财产权或财产权益。
- 2. 第10.11.1条涉及两种情况。第一种是直接征收，即投资被国有化或通过正式转移所有权或直接没收而直接征收。
- 3. 第10.11.1条涉及的第二种情况是间接征收，即一方的行为或一系列行为在没有正式转移所有权或直接没收的情况下产生了等同于直接征收的效果。
 - (a) 确定（缔约方）的一项行为或一系列行为在特定事实上构成间接征收，需要根据具体情况进行的、基于事实的调查，该调查考虑了其他因素：
 - (i) 政府行为的（经济影响），尽管（缔约方）的一项行为或一系列行为对投资（经济价值）产生不利影响，单独来看，并不能证明发生了间接征收；
 - (ii) 政府行为干预的程度，明确的、合理的投资预期；和
 - (iii) 政府行为的性质。
 - (b) 除特殊情况外，一方为保护合法的公共利益目标（如公共卫生、安全 and 环境）而设计和实施的非歧视性监管措施，不构成间接征收。

Annex 10-C
Transfers

Chile

1. Chile reserves the right of the Central Bank of Chile (*Banco Central de Chile*) to maintain or adopt measures in conformity with Law 18.840, Constitutional Organic Law of the Central Bank of Chile (*Ley 18.840, Ley Orgánica Constitucional del Banco Central de Chile*) or other legislation, in order to ensure currency stability and the normal operation of domestic and foreign payments. For this purpose, the Central Bank of Chile is empowered to regulate the supply of money and credit in circulation and international credit and foreign exchange operations. The Central Bank of Chile is empowered as well to issue regulations governing monetary, credit, financial, and foreign exchange matters. Such measures include, *inter alia*, the establishment of restrictions or limitations on current payments and transfers (capital movements) to or from Chile, as well as transactions related to them, such as requiring that deposits, investments or credits from or to a foreign country, be subject to a reserve requirement (*encaje*).
2. Notwithstanding paragraph 1, the reserve requirement that the Central Bank of Chile can apply pursuant to Article 49 N° 2 of Law 18.840, shall not exceed 30 per cent of the amount transferred and shall not be imposed for a period which exceeds two years.
3. When applying measures under this Annex, Chile, as established in its legislation, shall not discriminate between Australia and any third country with respect to transactions of the same nature.

附件10-C 转
移

智利

1. 智利保留智利中央银行（Banco Central de Chile）根据第18.840号法律、智利中央银行宪法有机法（Ley 18.840, Ley Orgánica Constitucional del Banco Central de Chile）或其他立法维持或采取符合性措施的权力，以确保货币稳定和国内及国外支付的正常运作。为此，智利中央银行被授权监管流通中的货币和信用供应以及国际信贷和外汇交易。智利中央银行还被授权发布管理货币、信贷、金融和外汇事务的法规。此类措施包括但不限于对智利境内或境外的当前支付和转账（资本流动）设立限制或限制，以及与之相关的交易，例如要求来自或送往外国的存款、投资或信贷必须缴纳储备要求（encaje）。
2. 不论第1段的规定如何，智利中央银行根据第18.840号法律第49条第2款的规定可适用的储备要求，不得超过转移金额的30%，且不得适用于超过两年的期限。
3. 在适用本附件规定的措施时，智利根据其立法所确立，不得在同类交易方面将澳大利亚与任何第三国区别对待。

Annex 10-D
DL 600

Chile

1. The obligations and commitments contained in this Chapter do not apply to Decree Law 600, Foreign Investment Statute (*Decreto Ley 600, Estatuto de la Inversión Extranjera*) (hereinafter referred to in this Annex as “DL 600”), and to Law 18.657, Foreign Capital Investment Fund Law (*Ley 18.657, Ley de Fondos de Inversión de Capital Extranjero*), to the continuation or prompt renewal of such laws, to amendments to those laws or to any special and/or voluntary investment regime that may be adopted in the future by Chile.
2. For greater certainty, it is understood that the Foreign Investment Committee of Chile has the right to accept and reject applications to invest through DL 600 and Law 18.657. Additionally, the Foreign Investment Committee has the right to regulate the terms and conditions of foreign investment under DL 600 and Law 18.657.
3. Notwithstanding paragraphs 1 and 2, Chile shall accord to an investor of Australia or its investment that is a party to an investment contract under DL 600, the better of the treatment required under Section A of this Chapter or the treatment under the investment contract.
4. Chile shall permit an investor of Australia or its investment that has entered into an investment contract under DL 600 to amend the investment contract to make it consistent with the obligation referred to in paragraph 3.
5. Notwithstanding any other provision in this Agreement, Chile may prohibit an investor of Australia or a covered investment from transferring from Chile proceeds of the sale of all or any part of an investment made pursuant to a contract under DL 600 for up to one year after the date that the investor or covered investment transferred funds to Chile to establish the investment.

附件10-D
DL 600

智利

1. 本章包含的义务和承诺不适用于第600号法令，外国投资法（Decreto Ley 600, Estatuto de la Inversión Extranjera）（以下简称本附件中称为“DL 600”），以及第18.657号法律，外国资本投资基金法（Ley 18.657, Ley de Fondos de Inversión de Capital Extranjero），也不适用于这些法律的延续或及时更新，或智利未来可能采用的对这些法律的修订或任何特殊和/或自愿的投资制度。
2. 为进一步明确，理解智利外国投资委员会有权接受和拒绝通过DL 600和第18.657号法律进行的投资申请。此外，智利外国投资委员会有权规范DL 600和第18.657号法律项下的外国投资条款和条件。
3. 尽管有第1段和第2段的规定，智利应给予澳大利亚投资者或其作为DL 600项下投资合同一方的外国投资，本章A部分规定的待遇或投资合同项下的待遇中较优者。
4. 智利应允许澳大利亚投资者或其作为DL 600项下投资合同一方的外国投资，修改投资合同以使其符合第3段所述的义务。
5. 不论本协定中的其他规定如何，智利可以禁止澳大利亚投资者或受保护的投资者，在投资者或受保护的投资者将资金转移到智利以建立投资之日起一年内，将从根据DL 600签订的合同出售全部或部分投资所得的款项转让给澳大利亚投资者或受保护的投资者。

Annex 10-E
Termination of the Bilateral Investment Agreement

1. Without prejudice to paragraph 2, the Parties agree that the “Agreement between the Government of Australia and the Government of the Republic of Chile on the Reciprocal Promotion and Protection of Investments”, and its Protocol, signed in Canberra on 9 July 1996, (hereafter the “IPPA”), will terminate on the date of entry into force of the present Agreement.
2. The IPPA shall continue to apply to any investment (as defined in the IPPA) which was made before the entry into force of this Agreement with respect to any act, fact or situation which originated before the entry into force of this Agreement.
3. Notwithstanding paragraph 2, an investor may only submit a claim under Article 11 of the IPPA (Settlement of disputes between a Contracting Party and an investor of the other Contracting Party) within three years from the date of entry into force of this Agreement.
4. The Parties agree that this Annex constitutes an amendment to Article 12 of the IPPA and is effective to terminate the IPPA.

第10-E附件 双边投资协定终止

1. 不损害第2段的规定，缔约方同意，澳大利亚政府与智利共和国政府于1996年7月9日在堪培拉签订的《澳大利亚政府与智利共和国政府关于相互促进和保护投资协定》及其议定书（以下简称“IPPA”）将于本协定生效日期终止。
2. IPPA 应继续适用于任何在 本协定生效前作出的投资（根据 IPPA 定义），且该投资与任何在本协定生效前产生的行为、事实或情况相关。
3. 尽管有第2段规定，投资者只能在 本协定生效之日起三年内，根据 IPPA 第11条（缔约方与另一缔约方投资者之间的争端解决）提交索赔。
4. 缔约方同意，本附件构成对IPPAA第12条的修订，并自生效之日起终止IPPAA。

Annex 10-F
Service of Documents on a Party under Section B

Australia

Notices and other documents in disputes under Section B shall be served on Australia by delivery to:

Department of Foreign Affairs and Trade

Chile

Notices and other documents in disputes under Section B shall be served on Chile by delivery to:

*Dirección de Asuntos Jurídicos del Ministerio de Relaciones
Exteriores de la República de Chile
Teatinos 180
Santiago, Chile*

附件10-F 根据B部分对一方送达文件

澳大利亚

B部分下的通知和其他争议文件应送达澳大利亚，具体方式为：

外交贸易部

智利

根据B部分发生的争议中的通知和其他文件应通过以下方式送达智利：

智利共和国外交部法律事务司 智利圣地亚哥特埃蒂诺街
180号

Chapter 11
Telecommunications

第11章 电信

Article 11.1: Definitions

For the purposes of this Chapter:

- (a) **cost-oriented** means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;
- (b) **dialing parity** means the ability of an end-user to use an equal number of digits to access a like public telecommunications service, regardless of the public telecommunications service supplier chosen by such end-user and in a way that involves no unreasonable dialing delays;
- (c) **end-user** means a final consumer of or subscriber to a public telecommunications service, including a service supplier other than a supplier of public telecommunications services;
- (d) **essential facilities** means facilities of a public telecommunications network or service that:
 - (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;
- (e) **interconnection** means linking with suppliers providing public telecommunications networks or services in order to allow the users of one supplier to communicate with the users of another supplier and to access services provided by another supplier;
- (f) **leased circuit** means telecommunications facilities between two or more designated points that are set aside for the dedicated use of, or availability to, a particular customer or other users;
- (g) **major supplier** means a supplier or suppliers which alone or together have the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for public telecommunications networks or services as a result of control over essential facilities or use of its position in the market;
- (h) **network element** means a facility or equipment used in supplying a public telecommunications service, including features, functions, and capabilities provided by means of such a facility or equipment, which may include local loop, sub loops and line sharing;

第11.1条：定义

本章的目的：

- (a) 成本导向是指基于成本的方式，并且可以包括合理利润，和可能涉及针对不同设施或服务不同成本方法；
- (b) 拨号对等是指最终用户使用相等数量的用于访问类似公共电信服务（无论该最终用户选择了哪个公共电信服务供应商）的数字，且以不涉及不合理拨号延迟的方式；
- (c) 最终用户是指公共电信服务的最终消费者或订阅者，包括公共电信服务供应商以外的服务供应商；电信服务，包括公共电信服务供应商以外的服务供应商提供的电信服务；
- (d) 基本设施是指公共电信网络或服务的设施，包括：服务，即：
 - (i) 仅由一个或少数几个供应商独家或主要提供的设施
 - 供应商数量，以及 (ii) 在经济或技术上无法被替代以提供服务；
- (e) 互联互通是指与提供公众服务的供应商建立联系电信网络或服务，以允许一个供应商的用户与另一个供应商的用户通信并访问另一个供应商提供的服务；
- (f) 租用电路是指两个或多个电信设施电信设施，这些点是为特定客户或其他用户专用或可用的；
- (g) 主要供应商是指单独或共同拥有实质性影响公共电信网络或服务的相关市场参与条款（考虑到价格和供应）的能力，作为对基本设施的控制或利用其在市场中的地位的结果；
- (h) 网络元素是指用于供应公共的设施或设备；电信服务，包括通过此类设施或设备提供的功能、功能和功能，这可能包括本地环路、子环路和线路共享；

- (i) **non-discriminatory** means treatment no less favourable than that accorded to any other user of like public telecommunications networks or services in like circumstances;
- (j) **number portability** means the ability of end-users to retain existing telephone numbers when switching between suppliers of like public telecommunications networks or services;
- (k) **physical co-location** means physical 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 networks or services;
- (l) **public telecommunications network** means the telecommunications infrastructure which a Party requires to be used to provide telecommunications services;
- (m) **public telecommunications service** means any telecommunications service which a Party requires to be offered to the public generally. Such services may include, *inter alia*, telephone and data transmission typically involving customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information;
- (n) **regulatory decisions** means decisions by regulators made pursuant to authority conferred under domestic law including in relation to:
 - (i) the making of rules for the telecommunications industry excluding legislation and statutory rules;
 - (ii) the approval of terms and conditions, standards and codes to apply in the telecommunications industry;
 - (iii) the adjudication or other resolution of disputes between suppliers of public telecommunications networks or services; and
 - (iv) licensing;
- (o) **telecommunications** means the transmission and reception of signals by any electromagnetic means;
- (p) **telecommunications regulatory body** means any body or bodies responsible for the regulation of telecommunications; and
- (q) **user** means an end-user or a supplier of public telecommunications networks or services.

Article 11.2: Scope and Coverage

- 1. This Chapter applies to:

(i) 非歧视性手段待遇，不低于在任何其他类似公共电信网络或服务情况下类似用户所获得的待遇； (j) 号码携带是指终端用户在切换到类似公共电信网络或服务的供应商时能够保留现有电话号码的能力； (k) 物理共位是指为在由主要供应商拥有、控制和使用以提供公共电信网络或服务的场所安装、维护或修理设备而获得的空间的物理接入； (l) 公共电信网络是指一方要求用于提供电信服务的电信基础设施； (m) 公共电信服务是指一方要求向公众普遍提供的任何电信服务。此类服务可能包括，但不限于，通常涉及客户提供的在两个或多个点之间传输和接收数据，而客户的客户信息在形式或内容上没有端到端的任何变化； (n) 监管决定是指监管机构根据国内法授予的权力作出的决定，包括与以下方面的关系： (i) 为电信行业制定规则，不包括立法和法定规则； (ii) 批准适用于电信行业的条款和条件、标准和法规； (iii) 对公共电信网络或服务的供应商之间的争议进行裁决或其他解决；以及 (iv) 许可； (o) 电信是指通过任何电磁方式传输和接收信号； (p) 电信监管机构是指负责电信监管的任何机构或机构；以及 (q) 用户是指终端用户或公共电信网络或服务的供应商。

第11条.2：范围和覆盖范围

- 1. 本章适用于：

- (a) measures adopted or maintained by a Party relating to access to and use of public telecommunications networks and services;
- (b) measures adopted or maintained by a Party relating to suppliers of public telecommunications networks and services;
- (c) measures adopted or maintained by a Party relating to the conduct of major suppliers; and
- (d) other measures relating to public telecommunication networks or services.

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

3. Except to ensure that enterprises operating broadcast stations and cable systems have continued access to and use of public telecommunications networks and services, this Chapter does not apply to measures that a Party adopts or maintains relating to broadcast or cable distribution of radio or television programming.

4. Nothing in this Chapter shall be construed as:

- (a) requiring a Party to compel any enterprise to establish, construct, acquire, lease, operate, or provide telecommunications networks or services where such networks or services are not offered to the public generally;
- (b) requiring a Party to compel any enterprise exclusively engaged in the broadcast or cable distribution of radio or television programming to make available its broadcast or cable facilities as a public telecommunications network; or
- (c) preventing a Party from prohibiting persons operating private networks from using their networks to provide public telecommunications networks or services to third persons.

Section A

Access To and Use of Public Telecommunications Networks or Services

Article 11.3: Access and Use

1. Each Party shall ensure that enterprises of the other Party have access to and use of any public telecommunications network or service, including leased circuits, offered in its territory or across its borders on a timely basis and on terms and conditions that are reasonable and non-discriminatory such as those set out in paragraphs 2 to 6.

2. Each Party shall ensure that such enterprises are permitted to:

(a) 缔约方采取或维持的与公共电信网络和服务的接入和使用有关的措施；(b) 缔约方采取或维持的与公共电信网络和服务供应商有关的措施；(c) 缔约方采取或维持的与主要供应商经营有关的措施；以及(d) 与公共电信网络或服务有关的其他措施。

2. 如果本章与其他章节之间存在任何不一致，本章的规定应优先适用，但仅限于不一致的范围内。

3. 除确保经营广播电台和有线电视系统的企业能够持续接入和使用公共电信网络和服务外，本章不适用于一方为广播或有线分配无线电或电视节目而采取或维持的措施。

4. 本章的任何规定均不得解释为：

(a) 要求一方强制任何企业建立、建设、获取、租赁、运营或提供电信网络或服务，而此类网络或服务并未向公众普遍提供；(b) 要求一方强制专门从事无线电或电视节目广播或有线分配的企业，将其广播或有线设施作为公共电信网络提供给公众；或(c) 阻止一方禁止私人网络运营商使用其网络向第三方提供公共电信网络或服务。

A部分 公共电信网络或服务的接入和使用

第11条3款：接入和使用

1. 每一方应确保另一方的企业能够及时地接入和使用其领土内或跨境提供的任何公共电信网络或服务，包括租用电路，并且这些条款和条件应是合理和非歧视性的，例如第2至6段中规定的那样。

2. 每一方应确保此类企业获准：

- (a) purchase or lease, and attach terminal or other equipment that interfaces with, a public telecommunications network;
- (b) provide services to individual or multiple end-users over leased or owned circuits;
- (c) connect owned or leased circuits with public telecommunications networks and services in the territory, or across the borders, of that Party, or with circuits leased or owned by another enterprise;
- (d) perform switching, signaling, processing, and conversion functions; and
- (e) use operating protocols of their choice.

3. Each Party shall ensure that enterprises of the other Party may use public telecommunications networks and services for the movement of information in its territory or across its borders and for access to information contained in databases or otherwise stored in machine-readable form in the territory of either Party or any WTO Member.

4. Notwithstanding paragraph 3, a Party may take such measures as are necessary to:

- (a) ensure the security and confidentiality of messages; or
- (b) protect the privacy of personal data of end users of public telecommunications networks or services,

subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks or services, other than as necessary to:

- (a) safeguard the public service responsibilities of suppliers of public telecommunications networks or services, in particular their ability to make their networks or services available to the public generally; or
- (b) protect the technical integrity of public telecommunications networks or services.

6. Provided that they satisfy the criteria set out in paragraph 5, conditions for access to and use of public telecommunications networks and services may include:

- (a) a requirement to use specified technical interfaces, including interface protocols, for inter-connection with such networks and services;

- (a) 购买或租赁，并连接与公共电信网络接口的终端或其他设备；
- (b) 在租赁或拥有的电路上向单个或多个终端用户提供服务； (c) 将拥有的或租赁的电路连接到该缔约方领土内的公共电信网络和服务，或跨越其边界，或连接到另一家企业租赁或拥有的电路； (d) 执行交换、信号、处理和转换功能；以及 (e) 使用其选择的操作协议。

3. 每一方应确保另一方的企业可以使用其领土内的公共电信网络和服务，用于其领土内或跨越其边界的信息传输，以及访问包含在任一方领土内或任何世界贸易组织成员领土内以机器可读形式存储的数据库或其他信息。

4. 尽管有第3段的规定，缔约方可以采取必要的措施：

- (a) 确保消息的安全性和保密性；或 (b) 保护公共电信网络或服务终端用户的个人数据的隐私，

但前提是这些措施不得以构成任意或不合理的歧视手段或对服务贸易的伪装限制的方式实施。

5. 每一方应确保在公共电信网络或服务的访问和使用方面不施加任何条件，除非是为了：

- (a) 保护公共电信网络或服务的供应商的公共服务责任，特别是他们向公众普遍提供其网络或服务的能力；或 (b) 保护公共电信网络或服务的技术完整性。

6. 在满足第5段规定的标准的前提下，访问和使用公共电信网络和服务的条件可包括：

- (a) 使用指定的技术接口，包括接口协议，以实现与这些网络和服务的互联互通的要求；

- (b) requirements, where necessary, for the inter-operability of such services;
- (c) type approval of terminal or other equipment which interfaces with the network and technical requirements relating to the attachment of such equipment to such networks; and
- (d) notification, registration and licensing which, if adopted or maintained, are transparent and applications processed without undue delay.

Section B
Suppliers of Public Telecommunications Networks or Services

Article 11.4: Interconnection

- Each Party shall ensure suppliers of public telecommunications networks or services in its territory provide, directly or indirectly, interconnection with the suppliers of public telecommunications networks or services of the other Party.
- In carrying out paragraph 1, each Party shall ensure that suppliers of public telecommunications networks or services in its territory take reasonable steps to protect the confidentiality of commercially sensitive information of, or relating to, suppliers and end-users of public telecommunications networks or services and only use such information for the purpose of providing those services.

Article 11.5: Number Portability

Each Party shall ensure that suppliers of public telecommunications networks or services in its territory provide number portability, to the extent technically and economically feasible, in a reasonable period of time and on terms and conditions that are reasonable and non-discriminatory.

Article 11.6: Dialing Parity and Access to Telephone Numbers

Each Party shall ensure that:

- (a) its telecommunication regulatory body has the authority to require that suppliers of public telecommunications services in its territory provide dialing parity within the same category of service to suppliers of public telecommunications services of the other Party; and
- (b) suppliers of public telecommunications services of the other Party are afforded non-discriminatory access to telephone numbers.

(b) 必要时，对这类服务的互操作性的要求；(c) 与网络接口的终端或其他设备的类型批准，以及与技术要求相关的此类设备连接到这些网络的要求；以及 (d) 通知、注册和许可，如果采用或维持，则应透明，并且申请不应有不当延迟。

B部分 公共电信网络或服务的供应商

第11条4款：互联互通

- 每一方应确保其领土内公共电信网络或服务的供应商直接或间接地与另一方的公共电信网络或服务的供应商进行互联互通。
- 在执行第1款时，每一方应确保其领土内公共电信网络或服务的供应商采取合理措施保护公共电信网络或服务的供应商和终端用户的商业敏感信息的保密性，并且仅将此类信息用于提供这些服务的目的。

第11条5款：号码携带

每一方应确保其领土内公共电信网络或服务的供应商在技术经济上可行的情况下，在合理期限内以合理和非歧视性的条款和条件提供号码携带。

第11条.6款：拨号对等和电话号码接入

每一方应确保：

- (a) 其电信监管机构有权要求其领土内公共电信服务的供应商在与另一方公共电信服务供应商相同的类别中提供拨号对等；以及
- (b) 另一方公共电信服务的供应商享有非歧视性的电话号码接入权。

Article 11.7: Submarine Cable Systems

Each Party shall ensure reasonable and non-discriminatory treatment for access to submarine cable systems (including landing facilities) in its territory, where a supplier is authorised to operate a submarine cable system as a public telecommunications service.

Section C
Conduct of Major Suppliers of Public Telecommunications
Networks and Services

Article 11.8: Major Supplier Competitive Safeguards

Each Party shall maintain appropriate measures for the purpose of preventing suppliers who, alone or together, are a major supplier in its territory from engaging in or continuing anti-competitive practices, including in particular:

- (a) engaging in anti-competitive cross-subsidisation;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available, on a timely basis, to suppliers of public telecommunications networks or services, technical information about essential facilities and commercially relevant information that are necessary for them to provide services.

Article 11.9: Treatment by Major Suppliers

Each Party shall ensure that major suppliers in its territory accord suppliers of public telecommunications networks and services of the other Party treatment no less favourable than such major suppliers accord in like circumstances to their subsidiaries, their affiliates or non-affiliated service suppliers regarding:

- (a) the availability, provisioning, rates, or quality of like public telecommunications networks or services; and
- (b) the availability of technical interfaces necessary for interconnection.

第11.7条：海底电缆系统

每一方应确保在其领土内对海底电缆系统（包括登陆设施）的接入给予合理和非歧视的待遇，其中授权供应商将海底电缆系统作为公共电信服务运营。

C 公共电信网络和服务主要供应商的行为

第11.8条：主要供应商竞争保障措施

每一方应维持适当措施，以防止在其领土内单独或共同构成主要供应商的供应商从事或继续从事反竞争行为，特别是：

- (a) 从事反竞争交叉补贴；(b) 使用从竞争对手处获得并产生反竞争结果的信息；以及(c) 未及时向公共电信网络或服务的供应商提供有关基本设施和商业相关信息的技术信息，这些信息对于他们提供服务是必要的。

第11条.9：主要供应商的待遇

每一方应确保其领土内的主要供应商给予另一方的公共电信网络和服务供应商的待遇，不低于此类主要供应商在类似情况下给予其附属机构、关联公司或非附属服务供应商的待遇：

- (a) 类似公共电信网络或服务的可用性、提供、费率或质量；以及
- (b) 互联互通所必需的技术接口的可用性。

Article 11.10: Interconnection with Major Suppliers ¹¹⁻¹

General Terms and Conditions

1. Each Party shall ensure that major suppliers in its territory provide interconnection for the facilities and equipment of suppliers of public telecommunications networks or services of the other Party:
- (a) at any technically feasible point in the major supplier’s network;
 - (b) under non-discriminatory terms, conditions (including technical standards and specifications), and rates¹¹⁻²;
 - (c) of a quality no less favourable than that provided by such major suppliers for their own like services, for like services of non-affiliated service suppliers, or for like service of their subsidiaries or other affiliates;
 - (d) in a timely fashion, on terms, conditions (including technical standards and specifications), and cost-oriented rates¹¹⁻³ that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that suppliers seeking interconnection need not pay for network components or facilities that they do not require for the service to be provided; and
 - (e) on 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.

Options for Interconnecting with Major Suppliers

2. Each Party shall ensure that suppliers of public telecommunications networks or services of the other Party may interconnect their facilities and equipment with those of major suppliers in its territory pursuant to at least one of the following options¹¹⁻⁴:
- (a) a reference interconnection offer or another standard interconnection offer containing the rates, terms, and conditions that the major supplier offers generally to suppliers of public telecommunications networks or services;

¹¹⁻¹Australia's interconnection regime provides access on terms and conditions which are fair and reasonable to all parties and which do not unfairly discriminate between users. Access rights are guaranteed by legislation and the terms and conditions of access are established primarily through processes of commercial negotiation or by reference to access undertakings given by suppliers of public telecommunications networks or services which may draw upon an industry code of practice. Any code of practice and each supplier's undertaking will be subject to approval by the regulator.

¹¹⁻²In Australia, the rate at which interconnection is provided is determined by negotiation. Both negotiating parties have recourse to the regulator which will make a decision based on transparent criteria to ensure that rates are fair and reasonable in the circumstances.

¹¹⁻³In Australia, the regulator may resolve any dispute on what costs are relevant in determining rates.

¹¹⁻⁴For Australia, these options include arbitration.

第11.10条：与主要供应商互联 ¹¹⁻¹

一般条款和条件

1. 每一方应确保其领土内的主要供应商为另一方公共电信网络或服务的供应商提供设施和设备的互联互通：
- (a) 在主要供应商网络中的任何技术可行点；² (c) 质量不低于此类主要供应商为其自身类似服务、非附属服务供应商的类似服务或其子公司或**(b) 在非歧视性条款、条件（包括技术标准 and 规范）和费率¹¹⁻²下**其他关联机构的类似服务所提供的服务；(d) 及时地，在条款、条件（包括技术标准 and 规范），以及成本导向费率¹¹⁻³
 - 透明、合理、考虑经济可行性，并充分解耦，以便寻求互联互通的供应商无需支付其提供服务不需要的网络组件或设施；以及 (e) 应请求，在网络终端点之外向大多数用户提供点，费用反映必要附加设施的建设成本。

与主要供应商互联的选项

2. 每一方应确保另一方的公共电信网络或服务的供应商能够根据以下至少一项选项，将其设施和设备与其主要供应商在其领土内的设施和设备进行互联互通¹¹⁻⁴：
- (a) 参考互联报价或包含主要供应商通常向公共电信网络或服务的供应商提供的费率、条款和条件的另一种标准互联报价；

¹¹⁻¹澳大利亚的互联制度提供公平合理的条款和条件，对所有缔约方开放且不歧视用户。接入权利由立法保障，接入条款和条件主要通过商业谈判过程或参考公共电信网络或服务的供应商提供的接入承诺来建立，这些承诺可能参考行业行为准则。任何行为准则和每个供应商的承诺均需监管机构批准。¹¹⁻²在澳大利亚，互联互通的费率由谈判决定。双方谈判方均可向监管机构申诉，监管机构将根据透明标准做出决定，以确保费率在具体情况下的公平合理性。¹¹⁻³在澳大利亚，监管机构可解决关于何种成本与确定费率相关的争议。¹¹⁻⁴对于澳大利亚，这些选项包括仲裁。

- (b) the terms and conditions of an existing interconnection agreement; or
- (c) through negotiation of a new interconnection agreement.

Public Availability of Procedures for Interconnection Negotiations

3. Each Party shall ensure that applicable procedures for interconnection negotiations with major suppliers in its territory are made publicly available.

Public Availability of Terms and Conditions for Interconnection with Major Suppliers

4. Each Party shall ensure, where interconnection is provided under paragraph 2(a), that the rates, terms, and conditions are made publicly available.

Article 11.11: Resale

Each Party¹¹⁻⁵ shall ensure that major suppliers in its territory:

- (a) offer for resale, at reasonable rates,¹¹⁻⁶ to suppliers of public telecommunications services of the other Party, public telecommunications services that such major supplier provides at retail to end users that are not suppliers of public telecommunications services; and
- (b) do not impose unreasonable or discriminatory conditions or limitations on the resale of such services.

Article 11.12: Unbundling of Network Elements

Each Party shall provide its telecommunications regulatory body with the authority to require that major suppliers in its territory provide suppliers of public telecommunications networks and services of the other Party access to network elements for the provision of public telecommunications networks or services on an unbundled basis, and on terms and conditions and at cost-oriented rates that are reasonable and non-discriminatory.

¹¹⁻⁵Australia may determine in accordance with its law and regulations which public telecommunications services must be offered for resale by major suppliers in accordance with paragraph 1, based on the need to promote competition or such other factors as the Party considers relevant.

¹¹⁻⁶For the purposes of Article 11.11(a): 1) a Party may determine reasonable rates through any methodology it considers appropriate; and 2) wholesale rates, set pursuant to a Party’s law and regulations, shall be considered reasonable.

- (b) 现行互联协议的条款和条件；或 (c) 通过协商新的互联协议。

互联谈判程序的公开可用性

3. 每一方应确保其领土内与主要供应商互联谈判的适用程序是公开可用的。

与主要供应商互联的条款和条件的公开可用性

4. 每一方应确保，在根据第2(a)段提供互联的情况下，费率、条款和条件是公开可用的。

第11条第11条：转售

每一方¹¹⁻⁵ 应确保其领土内的主要供应商：

- (a) 提供转售，以合理的费率，¹¹⁻⁶ 向其他方的公共电信服务供应商，以及 (b) 不得对上述服务的转售施加不合理或歧视性的条件或限制。

第11条第12款：网络元素解绑

每一方应向其电信监管机构提供要求其领土内主要供应商以非捆绑方式向另一方公共电信网络和服务供应商提供网络元素以合理和非歧视的条件和成本导向费率提供公共电信网络或服务的权力。

¹¹⁻⁵澳大利亚可根据其法律和法规，基于促进竞争或缔约方认为相关的其他因素的需要，确定第11条第1款所述的主要供应商必须向其他方的公共电信服务供应商转售哪些公共电信服务。

¹¹⁻⁶为第11条第11款第（a）项之目的：1）一方可通过其认为适当的方法确定合理费率；2）根据一方法律和法规设定的批发费率应被视为合理。

Article 11.13: Provisioning and Pricing of Leased Circuits

1. Each Party shall ensure that major suppliers in its territory provide enterprises of the other Party leased circuit services that are public telecommunications networks or services in a reasonable period of time, on terms and conditions, and at rates, that are reasonable and non-discriminatory.
2. In carrying out paragraph 1, each Party shall provide its telecommunications regulatory body the authority to require major suppliers in its territory to offer such leased circuit services that are public telecommunications networks or services to enterprises of the other Party at capacity-based, cost-oriented prices.

Article 11.14: Co-location

1. Each Party shall ensure that major suppliers in its territory provide to suppliers of public telecommunications services of the other Party physical co-location of equipment necessary for interconnection or access to unbundled network elements on a timely basis and on terms, conditions and at cost-oriented rates that are reasonable and non-discriminatory.
2. Where physical co-location is not practical for technical reasons or because of space limitations, each Party shall ensure that major suppliers in its territory provide alternative solution, which may include facilitating virtual co-location, on a timely basis and on terms, conditions and at cost-oriented rates that are reasonable and non-discriminatory.
3. Each Party may determine, in accordance with its law and regulations, which premises in its territory are subject to paragraphs 1 and 2.

Article 11.15: Access to Poles, Ducts, Conduits, Transmission Towers, Underground Facilities and Rights of Way

Each Party shall maintain appropriate measures for the purpose of preventing major suppliers in its territory from denying access to poles, ducts, conduits, transmission towers, underground facilities and rights-of-way, or any other structures deemed necessary by the Party, owned or controlled by such major suppliers, to suppliers of public telecommunications networks or services of the other Party in a manner which would constitute anti-competitive practices.

Article 11.16: Denial of Access

Each Party shall ensure that any decision of the Party to deny access will be provided with a clear and detailed written explanation.

第11条.13：租用电路的提供和定价

1. 每一方应确保其领土内主要供应商在合理期限内以合理和非歧视的条件和费率向另一方的企业提供租用电路服务，该服务为公共电信网络或服务。
2. 在执行第1段时，每一方应向其电信监管机构提供要求其领土内的主要供应商向另一方的企业提供基于容量的、成本导向的费率的、属于公共电信网络或服务的此类租用电路服务之授权。

第11条.14：共位

1. 每一方应确保其领土内的主要供应商及时向另一方的公共电信服务供应商提供用于互连或访问解束网络元素所需的设备的物理共位，并提供合理和非歧视的、基于成本导向的费率的条款、条件和费率。
2. 如因技术原因或空间限制，物理共位不切实际，每一方应确保其领土内的主要供应商及时提供替代方案，该方案可包括促进虚拟共位，并提供合理和非歧视的、基于成本导向的费率的条款、条件和费率。
3. 每一方应根据其法律和法规，确定其领土内哪些场所受第1段和第2段约束。

第11.15条：对电杆、管道、导管、传输塔、地下设施和通道权的访问

每一方应采取适当措施，以防止其领土内的主要供应商以构成反竞争行为的方式，拒绝向另一方公共电信网络或服务的供应商提供电杆、管道、导管、传输塔、地下设施和通道权，或该方认为必要的任何其他由此类主要供应商拥有或控制的设施。

第11.16条：拒绝访问

每一方应当确保缔约方拒绝提供接入的任何决定都将提供清晰和详细的书面解释。

Section D
Regulatory Measures

D部分 监管措施

Article 11.17: Independent Regulatory Bodies

1. Each Party shall ensure that any telecommunications regulatory body that it establishes or maintains is independent and separate from, and not accountable to, any supplier of public telecommunications networks or services. To this end, each Party shall ensure that its telecommunications regulatory bodies do not hold a financial interest or maintain an operating role in any supplier of public telecommunications networks or services.
2. Each Party shall ensure that the decisions and procedures of its telecommunications regulatory body are impartial with respect to all interested persons. To this end, each Party shall ensure that its regulatory body does not hold a financial interest in any supplier of public telecommunications networks or services, and that any financial interest that the Party holds in a supplier of a public telecommunications networks or services does not influence the decisions and procedures of its telecommunications regulatory body.
3. Each Party shall ensure that the decisions of, and procedures used by, its telecommunications regulatory bodies shall be fair and impartial and shall be made and implemented without undue delay.

Article 11.18: Flexibility in the Choice of Technology

Neither Party may prevent suppliers of public telecommunications networks or services from choosing the technologies they wish to use to supply their services, including packet-based services and commercial mobile wireless services, subject to requirements necessary to satisfy legitimate public policy interests, including protection of the technical integrity of public telecommunications networks and services.

Article 11.19: Universal Service

Each Party shall administer any universal service obligation that it maintains in a transparent, non-discriminatory, and competitively neutral manner and shall ensure that its universal service obligation is not more burdensome than necessary for the kind of universal service that it has defined.

Article 11.20: Licensing Process

1. When a Party requires a supplier of public telecommunications networks or services to have a licence, the Party shall make publicly available:

第11.17条 独立监管机构

1. 每一方应当确保其建立或维持的任何电信监管机构是独立的，并与任何公共电信网络或服务的供应商分离，不对任何公共电信网络或服务的供应商负责。为此，每一方应当确保其电信监管机构在任何公共电信网络或服务的供应商中不持有任何经济利益或维持任何运营角色。
2. 每一方应确保其电信监管机构的决定和程序对所有利益相关方都是公正的。为此，每一方应确保其监管机构在任何公共电信网络或服务的供应商中不持有任何财务利益，并确保该方在公共电信网络或服务的供应商中持有的任何财务利益不影响其电信监管机构的决定和程序。
3. 每一方应确保其电信监管机构的决定和程序是公平和公正的，并且应在不发生不当延迟的情况下做出和实施。

第11.18条 技术选择灵活性

任何一方不得阻止公共电信网络或服务的供应商选择其希望用于提供服务的科技，包括分组服务和商业移动无线服务，但前提是必须满足满足合法公共政策利益的要求，包括保护公共电信网络和服务的技术完整性。

第11.19条：普遍服务

每一方应以透明、非歧视和竞争中立的方式管理其维持的任何普遍服务义务，并确保其普遍服务义务对于其定义的普遍服务类型而言不是负担重的。

第11.20条：许可程序

1. 当一方要求公共电信网络或服务的供应商获得许可证时，该方应当公开提供：

- (a) all the licensing criteria and procedures it applies, including any standard terms and conditions of the licence;
- (b) the time it normally requires to reach a decision concerning an application for a licence; and
- (c) the terms and conditions of individual licences.

2. Each Party shall ensure that, on request, an applicant receives the reasons for the denial of a licence.

3. Each Party shall ensure that licensing requirements for suppliers of telecommunications networks or services of the other Party are applied in a way that is not more burdensome than necessary.

Article 11.21: Allocation and Use of Scarce Telecommunications Resources

1. Each Party shall administer its procedures for the allocation and use of scarce telecommunications resources, including frequencies, numbers, and rights of way, in an objective, timely, transparent, and non-discriminatory manner.

2. Each Party shall make publicly available the current state of allocated frequency bands but shall not be required to provide detailed identification of frequencies assigned for specific government uses.

3. For greater clarity, measures regarding the allocation and assignment of spectrum and regarding frequency management are not measures that are *per se* inconsistent with Article 9.5 (Market Access – Cross-Border Trade in Services Chapter), which is applied to Chapter 10 (Investment) through Article 9.2.2 (Scope and Coverage – Cross-Border Trade in Services Chapter). Accordingly, each Party retains the right to establish and apply its spectrum and frequency management policies, which may limit the number of suppliers of public telecommunications networks or services, provided that it does so in a manner that is consistent with this Agreement. Each Party also retains the right to allocate frequency bands taking into account current and future needs.

4. When making a spectrum allocation for non-governmental telecommunications networks or services, each Party shall endeavour to rely on an open and transparent public comment process that considers the overall public interest. Each Party shall endeavour to rely generally on market-based approaches in assigning spectrum for terrestrial non-governmental telecommunications networks or services.

Article 11.22: Enforcement

1. Each Party shall provide its relevant regulatory body with the authority to enforce compliance with the Party's measures relating to the obligations set out in Articles 11.3 to 11.15 and Articles 11.20 to 11.23.

- (a) 它所适用的所有许可标准及程序，包括任何许可证的标准条款和条件；(b) 它通常要求就许可证申请作出决定所需的时间；以及
- (c) 单个许可证的条款和条件。

2. 每一方应确保，在申请时，申请人能够获得许可证拒绝的理由。

3. 每一方应确保，对另一方电信网络或服务供应商的许可要求，以非歧视性方式实施，且负担不应超过必要程度。

第11.21条：稀缺电信资源的分配和使用

1. 每一方应客观、及时、透明和非歧视性地管理其稀缺电信资源分配和使用程序，包括频率、号码和通行权。

2. 每一方应公开已分配频率带的状态，但无需提供为特定政府用途分配的频率的详细识别。

3. 为了更加清晰，关于频谱分配和指派以及关于频率管理的措施并非本身与第9.5条（市场准入——跨境服务贸易章节）相抵触，该条款通过第9.2.2条（范围和覆盖——跨境服务贸易章节）适用于第10章（投资）。因此，每一方保留制定和实施其频谱和频率管理政策的权利，这些政策可能限制公共电信网络或服务的供应商数量，前提是它这样做的方式与本协定一致。每一方还保留根据当前和未来的需求分配频段的权利。

4. 在为非政府电信网络或服务进行频谱分配时，每一方应努力依赖一个考虑整体公共利益的开放和透明的公开评论程序。每一方应努力在为地面非政府电信网络或服务分配频谱时，普遍依赖基于市场的做法。

第11.22条：执行

1. 每一方应向其相关监管机构提供执行与第11.3条至第11.15条和第11.20条至第11.23条中规定的义务相关的措施相一致的合规措施的权力。

2. Such authority to enforce compliance shall include the ability to impose, or seek from administrative or judicial bodies, effective sanctions, which may include financial penalties, or the modification, suspension, and revocation of licences.

Article 11.23: Resolution of Telecommunications Disputes and Appeal Processes

Each Party shall ensure that:

Recourse to a telecommunications regulatory body

- (a) enterprises of the other Party may seek timely review by a telecommunications regulatory body or other relevant body to resolve disputes regarding the Party’s measures relating to a matter set out in Articles 11.3 to 11.15 and Articles 11.20 to 11.23;
- (b) suppliers of public telecommunications networks or services of the other Party that have requested interconnection with a major supplier in its territory may have recourse, within a reasonable and publicly available period of time after the supplier requests interconnection, to a national telecommunications regulatory body or other relevant body to resolve disputes regarding the terms, conditions, and rates for interconnection with such major supplier;

Judicial review

- (c) any enterprise that is aggrieved or whose interests are adversely affected by a determination or decision of the Party’s telecommunications regulatory body may obtain judicial review of such determination or decision by an impartial and independent judicial authority; and
- (d) the making of an application for judicial review shall not have the effect of delaying the coming into operation of the telecommunications regulatory body’s decision or determination, or of suspending the operation of the decision or determination, unless otherwise determined by the relevant judicial body.

Article 11.24: Transparency

Further to Chapter 19 (Transparency), each Party shall ensure that:

- (a) regulatory decisions, including the basis for such decisions, of its telecommunications regulatory body are promptly published or otherwise made available to all interested persons;
- (b) its measures relating to public telecommunications networks or services are made publicly available, including:

2. 此执行合规的权力应包括施加或从行政或司法机构寻求有效制裁的能力，这些制裁可能包括财务处罚，或许可证的修改、暂停和撤销。

第11.23条：电信争议的解决和上诉程序 es

每一方应当确保：

向电信监管机构申诉

(a) 另一方企业可以及时通过电信监管机构或其他相关机构对与第11.3条至第11.15条和第11.20条至第11.23条中规定的事项相关的缔约方措施提起审查，以解决争议；(b) 另一方公共电信网络或服务的供应商，在已请求与其领土内的主要供应商互联互通后，在合理且公开可用的期限内，可以申诉至国家电信监管机构或其他相关机构，以解决与该主要供应商互联互通的条款、条件和费率相关的争议；

司法审查

(c) 任何企业如果因缔约方电信监管机构的决定或决定而受到损害或其利益受到不利影响，可以通过公正和独立的司法机构获得对该决定或决定的司法审查；以及 (d) 提起司法审查的申请不应具有

延迟电信监管机构决定或决定的生效或暂停该决定或决定运营的效果，除非由相关司法机构另行确定。

第11.24条：透明度

根据第19章（透明度），每一方应确保：

(a) 其电信监管机构的监管决定，包括作出此类决定的依据，应迅速公布或以其他方式向所有利益相关方提供；(b) 其与公共电信网络或服务相关的措施应公开提供，包括：

- (i) tariffs and other terms and conditions of service;
- (ii) requirements for judicial review following a regulatory decision;
- (iii) specifications of technical interfaces;
- (iv) conditions for attaching terminal or other equipment to public telecommunications networks;
- (v) notification, permit, registration, or licensing requirements, if any; and
- (vi) measures of bodies responsible for preparing, amending, and adopting standards-related measures affecting access and use.

Article 11.25: Industry Participation

Each Party shall facilitate consultation with suppliers of public telecommunications networks or services of the other Party operating in its territory in the development of telecommunications policy, regulations and standards in a manner that is open to any participant in the telecommunications industry in the territory of that Party.

Article 11.26: International Standards

The Parties recognise the importance of international standards for global compatibility and interoperability of telecommunications networks and services, and undertake to promote such standards through the work of relevant international bodies, including the International Telecommunication Union and the International Organization for Standardization.

(i) 关税及其他服务条款和条件； (ii) 监管决定后的司法审查要求； (iii) 技术接口规范； (iv) 将终端或其他设备连接到公共电信网络的条款； (v) 任何通知、许可、注册或许可要求； 以及 (vi) 负责制定、修订和采用与标准相关的措施的负责机构的措施， 这些措施影响接入和使用。

第11条.25： 行业参与

每一方应促进与在另一方领土内运营的公共电信网络或服务的供应商磋商，以开放的方式制定该方领土内电信政策、法规和标准， 该方式应允许该方领土内电信行业的任何参与者参与。

第11条.26： 国际标准

缔约方承认国际标准对于电信网络和服务在全球兼容性和互操作性方面的重要性， 并通过相关国际机构（包括国际电信联盟和国际标准化组织）的工作来促进这些标准。

Chapter 12
Financial Services

第12章 金融服
务

Article 12.1: Definitions

For the purposes of this Chapter:

- (a) **cross-border financial service supplier of a Party** means a person of a Party that is engaged in the business of supplying a financial service within the territory of the Party and that seeks to supply or supplies a financial service through the cross-border supply of such services;
- (b) **cross-border trade in financial services** or **cross-border supply of financial services** means the supply of a financial service:
 - (i) from the territory of one Party into the territory of the other Party;
 - (ii) in the territory of a Party by a person of that Party to a person of the other Party; or
 - (iii) by a national of a Party in the territory of the other Party;but does not include the supply of a service in the territory of a Party by an investment in that territory;
- (c) **financial institution** means any financial intermediary or other enterprise that is authorised to do business and regulated or supervised as a financial institution under the law of the Party in whose territory it is located;
- (d) **financial institution of the other Party** means a financial institution, including a branch, located in the territory of a Party that is controlled by persons of the other Party;
- (e) **financial service** means any service of a financial nature. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance), as well as services incidental or auxiliary to a service of a financial nature. Financial services include the following activities:

Insurance and insurance-related services

- (i) direct insurance (including co-insurance):
 - (A) life;
 - (B) non-life;
- (ii) reinsurance and retrocession;

第12.1条：定义

本章的目的如下：

- (a) 一方缔约方的跨境金融服务提供者是指一方人员，该人员在一方领土内从事提供金融服务业务，并寻求通过跨境供应此类服务来提供或提供金融服务；
- (b) 跨境金融服务贸易或跨境金融服务供应是指提供金融服务：
 - (i) 从一方领土到另一方领土； (ii) 在一方领土内由该方人员提供给另一方人员；或 (iii) 由一方国民在另一方领土内提供；但不包括在该领土内的一项投资所提供的服务；
- (c) 金融机构是指任何被授权从事业务并在其所在地领土内根据该领土的法律作为金融机构进行监管或监督的中介机构或其他企业；
- (d) 另一方缔约方的金融机构是指位于一方领土内并由另一方人员控制的
一家金融机构，包括分支机构；
- (e) 金融服务是指任何具有金融性质的服务。金融服务包括所有保险和与保险相关的服务，以及所有银行及其他金融服务（不包括保险），以及与具有金融性质的服务相关或辅助的服务。金融服务包括以下活动：

保险和与保险相关的服务

- (i) 直接保险（包括共同保险）： (A) 人寿保险； (B) 非人寿保险； (ii) 再保险和分保；

- (iii) insurance intermediation, such as brokerage and agency;
- (iv) service 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 transactions;
- (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, futures and options;
 - (D) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
 - (E) transferable securities;
 - (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;
- (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;

- (iii) 保险中介，如经纪和代理；(iv) 保险辅助服务，如咨询、精算、风险评估和理赔服务；

银行及其他金融服务（不包括保险）

- (v) 接受公众存款及其他可偿还资金；(vi) 提供各类贷款，包括消费者信用、抵押贷款、保理及商业交易融资；(vii) 金融租赁；(viii) 所有支付和资金传输服务，包括信用卡、费用卡、借记卡、旅行支票和银行汇票；(ix) 担保和承诺；(x) 为自己账户或客户账户进行的交易，无论在交易所、场外交易市场或其他市场，包括以下：(A) 货币市场工具（包括支票、票据、存款证明）；(B) 外汇；(C) 衍生产品，包括期货和期权；(D) 汇率利率工具，包括如互换、远期利率协议等产品；(E) 可转让证券；(F) 其他可转让票据和金融资产，包括贵金属；

- (xi) 参与各类证券的发行，包括作为代理人进行的承保和承销（无论公开或私下）以及与此类发行相关的服务；

- (十二) 资金中介；(十三) 资产管理，包括现金或投资组合管理、所有形式的集合投资管理、养老金管理、托管、保管和信托服务；(十四) 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) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;
 - (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;
- (f) **financial service supplier of a Party** means a person of a Party that is engaged in the business of supplying a financial service within the territory of that Party;
- (g) **investment** means “investment” as defined in Article 10.1(j) (Definitions – Investment Chapter), except that, with respect to “loans” and “debt instruments” referred to in that Article:
- (i) a loan to or debt instrument issued by a financial institution is an investment only where it is treated as regulatory capital by the Party in whose territory the financial institution is located; and
 - (ii) a loan granted by or debt instrument owned by a financial institution, other than a loan to or debt instrument of a financial institution referred to in subparagraph (i), is not an investment;
- for greater certainty:
- (iii) a loan to, or debt instrument issued by, a Party or a state enterprise is not an investment; and
 - (iv) a loan granted by or debt instrument owned by a cross-border financial service supplier, other than a loan to or debt instrument issued by a financial institution, is an investment if such loan or debt instrument meets the criteria for investments set out in Article 10.1(j) (Definitions – Investment Chapter);
- (h) **investor of a Party** means an “investor of a Party” as defined in Article 2.1(o) (Definitions of General Application – General Definitions Chapter);
- (i) **new financial service** means a financial service not supplied in the Party’s territory that is supplied within the territory of the other Party, and includes any new form of delivery of a financial service or the sale of a financial product that is not sold in the Party’s territory;
- (j) **person of a Party** means “person of a Party” as defined in Article 2.1(t) (Definitions of General Application – General Definitions Chapter) and, for greater certainty, does not include a branch of an enterprise of a non-Party;
- (k) **public entity** means a central bank or monetary authority of a Party, or any financial institution owned or controlled by a Party; and

(十五) 金融信息的提供和转让, 以及金融数据
其他金融服务供应商提供的处理和相关软件; (xvi) 关于第(v)至(xv)段中列出的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及建议、收购建议以及公司重组和战略建议;

(f) 一方金融服务供应商是指一方人员, 该方人员在另一方领土内从事提供金融服务的业务;

(g) 投资是指第10.1(j)条(定义——投资章节)中定义的“投资”, 但就该条中提到的“贷款”和“债务工具”而言: 投资章节), 但就该条中提到的“贷款”和“债务工具”而言:

(i) 一家金融机构提供的贷款或发行的债务工具, 仅在其被视为监管资本时, 才构成投资;
且(ii) 除上述(i)项所述的金融机构贷款或债务工具外, 金融机构提供的贷款或拥有的债务工具不构成投资;

为进一步明确: (iii) 一方提供的贷款或一方国有企业发行的债务工具不构成投资;

且(iv) 跨境金融服务提供者提供的贷款或拥有的债务工具, 除金融机构提供的贷款或发行的债务工具外, 若该贷款或债务工具符合第10.1(j)条(定义——投资章节)中规定的投资标准, 则构成投资;

(h) 一方投资者是指第2.1(o)条中定义的“一方投资者”;
(一般应用定义——一般定义章节);

(i) **new financial service** means a financial service not supplied in the Party’s 以及任何一方领土内未销售的金融产品的销售;

(j) 一方人员是指第2.1(t)条中定义的“一方人员”;
(一般应用定义——一般定义章节)并且, 为了更明确起见, 不包括非缔约方企业的分支机构;

(k) 公共实体是指一方的中央银行或货币当局, 或任何一方拥有或控制的金融机构; 以及

(l) **self-regulatory organisation** means any non-governmental body, including any securities or futures exchange or market, clearing agency, other organisation or association, that exercises its own or delegated regulatory or supervisory authority over financial service suppliers or financial institutions.

Article 12.2: Scope and Coverage

1. This Chapter applies to measures adopted or maintained by a Party relating to:
- (a) financial institutions of the other Party;
 - (b) investors of the other Party, and investments of such investors, in financial institutions in the Party’s territory; and
 - (c) cross-border trade in financial services.
2. Articles 9.10 (Denial of Benefits – Cross-Border Trade in Services Chapter), 10.10 (Transfers – Investment Chapter), 10.11 (Expropriation and Compensation – Investment Chapter), 10.12 (Special Formalities and Information Requirements – Investment Chapter) and 10.13 (Denial of Benefits – Investment Chapter) are hereby incorporated into and made a part of this Chapter *mutatis mutandis*¹²⁻¹. Section B of Chapter 10 (Investment) is hereby incorporated into and made a part of this Chapter solely for breaches by a Party of Articles 10.10 to 10.13, as incorporated in this Chapter. No other provision of Chapter 9 (Cross-Border Trade in Services) or Chapter 10 (Investment) shall apply to a measure described in paragraph 1.
3. This Chapter does not apply to measures adopted or maintained by a Party relating to:
- (a) activities or services forming part of a public retirement plan or statutory system of social security; or
 - (b) activities or services conducted for the account or with the guarantee or using the financial resources of the Party, including its public entities;
- except that this Chapter shall apply if a Party allows any of the activities or services referred to in subparagraphs (a) or (b) to be conducted by its financial institutions in competition with a public entity or a financial institution.

Article 12.3: National Treatment

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

¹²⁻¹The Parties understand that the provisions of Chapter 10 (Investment) hereby incorporated include, are subject to and shall be interpreted in conformity with Annexes 10-A to 10-F of that Chapter, as applicable.

(l) 自律组织是指任何非政府机构，包括任何证券或期货交易所或市场、清算机构、其他组织或协会，该机构对其金融服务供应商或金融机构行使自身或被授予的监管或监督权力。

第12.2条：范围和覆盖范围

1. 本章适用于一方采取或维持的与以下措施相关的措施：
- (a) 另一方的金融机构；(b) 另一方的投资者及其在另一方领土内金融机构的投资；以及 (c) 跨境金融服务贸易。
2. 第9.10条（拒绝利益——跨境服务贸易章节）、第10.10条（转移——投资章节）、第10.11条（征收和补偿——投资章节）、第10.12条（特殊程序和信息安全要求——投资章节）和第10.13条（拒绝利益——投资章节）现予纳入并成为本章的一部分，相应修改¹²⁻¹
- . 第10章（投资）第B节现被纳入并成为本章的一部分，仅适用于一方违反第10.10至10.13条，如本章所纳入。第9章（跨境服务贸易）或第10章（投资）的其他条款不适用于第1段所述的措施。
3. 本章不适用于一方采取或维持的与以下措施相关的措施：
- (a) 构成公共退休计划或法定社会保障制度一部分的活动或服务；或 (b) 以缔约方名义、提供担保或使用其财政资源的活动或服务，包括其公共实体；
- 但若一方允许其金融机构在其领土内与公共实体或金融机构竞争地开展本协议第（a）项或第（b）项所述的任何活动或服务，则本章应适用。

第12.3条：国民待遇

1. 每一方应给予另一方的投资者不低于其给予自身投资者的待遇，在类似情况下，就设立、收购、扩张、管理、经营、运营和

¹²⁻¹缔约方理解，第10章（投资）的条款所包含的规定包括、受其约束并应参照该章第10-A至10-F附件进行解释，如适用。

sale or other disposition of financial institutions and investments in financial institutions in its territory.

2. Each Party shall accord to financial institutions of the other Party and to investments of investors of the other Party in financial institutions treatment no less favourable than that it accords to its own financial institutions, and to investments of its own investors in financial institutions, in like circumstances, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of financial institutions and investments.
3. For purposes of the national treatment obligations in Article 12.6.1, a Party shall accord to cross-border financial service suppliers of the other Party treatment no less favourable than that it accords to its own financial service suppliers, in like circumstances, with respect to the supply of the relevant service.

Article 12.4: Most-Favoured-Nation Treatment

Each Party shall accord to investors of the other Party, financial institutions of the other Party, investments of investors in financial institutions, and cross-border financial service suppliers of the other Party treatment no less favourable than that it accords to the investors, financial institutions, investments of investors in financial institutions, and cross-border financial service suppliers of a non-Party, in like circumstances.

Article 12.5: Market Access for Financial Institutions

A Party shall not adopt or maintain, with respect to investors of the other Party, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

- (a) impose limitations:
 - (i) on the number of financial institutions, whether in the form of numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test;
 - (ii) on the total value of financial service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
 - (iii) on the total number of financial service operations or on the total quantity of financial services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;¹²⁻² or

¹²⁻²This subparagraph does not cover measures of a Party which limit inputs for the supply of financial services.

其领土内的金融机构及其金融机构投资的出售或其他处置。

2. 每一方应给予另一方的金融机构以及投资者在金融机构中的投资不低于其给予自身金融机构的待遇，并在类似情况下，给予其自身投资者在金融机构中的投资不低于其给予另一方的金融机构和投资者的待遇，涉及金融机构和投资的设立、收购、扩张、管理、经营、运营和销售或其他处置。
3. 为了履行第12.6.1条中的国民待遇义务，每一方应在类似情况下，给予另一方的跨境金融服务提供者不低于其给予自身金融服务提供者的待遇，涉及相关服务的提供。

第12.4条：最惠国待遇

每一方应给予另一方的投资者、金融机构、投资者在金融机构中的投资以及跨境金融服务提供者不低于其给予非缔约方的投资者、金融机构、投资者在金融机构中的投资以及跨境金融服务提供者的待遇，在类似情况下。

第12.5条：金融机构市场准入

一方不得针对另一方的投资者，基于区域划分或基于其全部领土，采取下列措施：

- (a)施加限制：
 - (i) 关于金融机构的数量，无论以数量配额、垄断、独家服务供应商的形式，还是要求进行经济需要测试；(ii) 关于金融服务交易的总价值或以数量配额形式存在的资产，或要求进行经济需要测试；(iii) 关于金融服务运营的总数量，或以配额形式表达的、以指定数量单位计量的服务产出总量，或要求进行经济需要测试；

12-2

or

¹²⁻²本段不包括一方限制金融服务供应投入的措施。

(iv) on the total number of natural persons that may be employed in a particular financial service sector or that a financial institution may employ and who are necessary for, and directly related to, the supply of a specific financial service in the form of numerical quotas or the requirement of an economic needs test; or

(b) restrict or require specific types of legal entity or joint venture through which a financial institution may supply a service.

Article 12.6: Cross-Border Trade

1. Each Party shall permit, under terms and conditions that accord national treatment, cross-border financial service suppliers of the other Party to supply the financial services specified in Annex 12-A.

2. Each Party shall permit persons located in its territory, and its nationals wherever located, to purchase financial services from cross-border financial service suppliers of the other Party located in the territory of the other Party. This obligation does not require a Party to permit such suppliers to do business or solicit in its territory. Each Party may define “doing business” and “solicitation” for purposes of this Article as long as such definitions are not inconsistent with the obligations of paragraph 1.

3. Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration of cross-border financial service suppliers of the other Party and of financial instruments.

Article 12.7: New Financial Services¹²⁻³

1. Each Party shall permit a financial institution of the other Party, on request or notification to the relevant regulator, where required, to supply any new financial service that the first Party would permit its own financial institutions, in like circumstances, to supply under its domestic law, provided that the introduction of the financial service does not require the Party to adopt a new law or modify an existing law.

2. Notwithstanding Article 12.5(b), a Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorisation for the supply of the service. Where a Party requires authorisation to supply a new financial service, the decision shall be made within a reasonable time and authorisation may only be refused for prudential reasons.

(iv) 关于特定金融服务领域可能雇用的自然人总数，或金融机构可能雇用且对于提供特定金融服务是必要且直接相关的自然人数，以数量配额形式或要求进行经济需要测试；或

(b) 限制或要求金融机构通过特定的法律实体或合资企业提供服务。

第12.6条：跨境贸易

1. 每一方应根据给予国民待遇的条款和条件，允许另一方的跨境金融服务提供者提供附件12-A中规定的金融服务。

2. 每一方应允许其领土内的人员及其国民无论位于何处，从位于另一方领土内的另一方的跨境金融服务提供者处购买金融服务。这项义务不要求一方允许此类提供者在其领土内开展业务或招揽。每一方可以为本条之目的定义“开展业务”和“招揽”，只要这些定义与第1段的规定不一致。

3. 在不妨碍对跨境金融服务贸易进行其他审慎监管手段的情况下，一方可以要求另一方的跨境金融服务提供者和金融工具的注册。

第12.7条：新金融服务¹²⁻³

每一方应允许另一方缔约方的金融机构，在根据需要向相关监管机构提出请求或通知时，提供任何该一方在其国内法下，在类似情况下允许其自身金融机构提供的金融服务，前提是该金融服务的引入不需要该方制定新法律或修改现有法律。

2. 不论第12.5(b)条如何规定，缔约方可以通过其机构和法律形式确定新金融服务可以提供的途径，并且可以要求授权提供该服务。如果缔约方要求授权提供新金融服务，该决定应在合理的时间内作出，并且只有在审慎理由的情况下才能拒绝授权。

¹²⁻³For greater certainty, a Party may, consistent with Article 12.3, prohibit a particular new financial service.

¹²⁻³For greater certainty, a Party may, consistent with Article 12.3, prohibit a particular new financial service.

Article 12.8: Treatment of Certain Information

Nothing in this Chapter requires a Party to furnish or allow access to:

- (a) information related to the financial affairs and accounts of individual customers of financial institutions or cross-border financial service suppliers; or
- (b) any confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or prejudice legitimate commercial interests of particular enterprises.

Article 12.9: Senior Management and Boards of Directors

1. Neither Party may require financial institutions of the other Party to engage individuals of any particular nationality as senior managerial or other essential personnel.
2. Neither Party may require that more than a minority of the board of directors of a financial institution of the other Party be composed of nationals of the Party, persons residing in the territory of the Party, or a combination thereof.

Article 12.10: Non-Conforming Measures

1. Articles 12.3, 12.4, 12.5, 12.6 and 12.9 do not apply to:
 - (a) any existing non-conforming measure that is maintained by a Party at:
 - (i) the central level of government, as set out by that Party in Section 1 of its Schedule to Annex III of non-conforming measures;
 - (ii) a regional level of government, as set out by that Party in Section 1 of its Schedule to Annex III of non-conforming measures; or
 - (iii) a local level of government.
 - (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
 - (c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed:
 - (i) immediately before the amendment, with Articles 12.3, 12.4 and 12.9; or

第12.8条：某些信息的处理

本章中的任何内容均未要求缔约方提供或允许访问：

- (a) 与金融机构或跨境金融服务提供者的个别客户财务事务和账户相关的信息；或 (b) 任何机密信息，其披露将妨碍执法或否则与公共利益相悖或损害特定企业的合法商业利益。

第12.9条：高级管理层和董事会

1. 任何一方不得要求另一方金融机构雇佣任何特定国籍的个人担任高级管理层或其他关键人员。
2. 任何一方不得要求另一方金融机构的董事会中，超过少数成员为该方国民、居住在该方领土的人员或两者的组合。

第12.10条：不符合措施

1. 第12.3条、第12.4条、第12.5条、第12.6条和第12.9条不适用于：

- (a) 任何一方维持的现有的不符合规定的措施：
 - (i) 中央政府层面，如该缔约方在附件III的附件表中第一部分中规定的非符合措施；(ii) 地区政府层面，如该缔约方在附件III的附件表中第一部分中规定的非符合措施；或(iii) 地方政府层面。(b) 继续或及时更新(a)中提到的任何非符合措施；或(c) 对(a)中提到的任何非符合措施进行修订，只要修订不会降低该措施的符合性，如：(i) 在修订前立即，与第12.3条、第12.4条和第12.9条；或

(ii) on the date of entry into force of the Agreement, with Articles 12.5 and 12.6.

2. Articles 12.3 to 12.6 and Article 12.9 do not apply to any non-conforming measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities, in accordance with Section 2 of its Schedule to Annex III of non-conforming measures.

3. Annex 12-B sets out certain specific commitments by each Party.

4. Where a Party has set out a non-conforming measure to Articles 9.3 (National Treatment – Cross-Border-Trade in Services Chapter), 9.4 (Most-Favoured-Nation Treatment – Cross-Border Trade in Services Chapter), 9.5 (Market Access – Cross-Border Trade in Services Chapter), 10.3 (National Treatment – Investment Chapter), 10.4 (Most-Favoured-Nation Treatment – Investment Chapter), or 10.8 (Senior Management and Boards of Directors – Investment Chapter) in its Schedule to Annex I or Annex II, the non-conforming measure shall be deemed to constitute a non-conforming measure to Articles 12.3, 12.4, 12.5, 12.6 or 12.9, as the case may be, to the extent that the measure, sector, sub-sector or activity set out in the non-conforming measure is covered by this Chapter.

Article 12.11: Exceptions

1. Nothing in this Chapter or Chapter 9 (Cross-Border Trade in Services), Chapter 10 (Investment), Chapter 11 (Telecommunications), including specifically Article 11.2.2 (Scope and Coverage – Telecommunications Chapter), Chapter 14 (Competition Policy) or Chapter 16 (Electronic Commerce) of this Agreement shall prevent a Party from adopting or maintaining measures for prudential reasons¹²⁻⁴, including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of this Agreement referred to in this paragraph, they shall not be used as a means of avoiding the Party's obligations under such provisions.¹²⁻⁵

2. Nothing in this Chapter or, Chapter 9 (Cross-Border Trade in Services), Chapter 10 (Investment), Chapter 11 (Telecommunications), including specifically Article 11.2.2 (Scope and Coverage – Telecommunications Chapter), Chapter 14 (Competition Policy) or Chapter 16 (Electronic Commerce) of this Agreement applies to non-discriminatory measures of general application taken by any public entity in pursuit of monetary and related credit policies or exchange rate policies. This paragraph shall not affect a Party's obligations under Article 10.7 (Performance

¹²⁻⁴It is understood that the term “prudential reasons” includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial institutions or cross-border financial service suppliers.

¹²⁻⁵The Parties understand that a Party may take measures for prudential reasons through regulatory or administrative authorities, such as ministries or departments of labour, in addition to those who have regulatory responsibilities with respect to financial institutions.

(ii) 在协议生效日期，与第12.5条和第12.6条。

2. 第12.3条至第12.6条和第12.9条不适用于任何一方根据其附件III的非符合规定措施的附件表第二部分所采纳或维持的关于部门、子部门或活动的任何不符合规定的措施。

3. 附件12-B列出了每一方的某些具体承诺。

4. 如果一方在其附件I或附件II的附件表中列出了不符合规定的措施，该措施涉及第9.3条（国民待遇——跨境服务贸易章节）、第9.4条（最惠国待遇——跨境贸易章节）、第9.5条（市场准入——跨境贸易章节）、第10.3条（国民待遇——投资章节）、第10.4条（最惠国待遇——投资章节）或第10.8条（高级管理层和董事会——投资章节），则该不符合规定的措施应被视为构成第12.3条、第12.4条、第12.5条、第12.6条或第12.9条（视情况而定）的不符合规定的措施，前提是该措施、部门、子部门或活动被本章涵盖。

第12.11条：例外

1. 本章或第9章（跨境服务贸易）、第10章（投资）、第11章（电信），包括特别指第11.2.2条（范围和覆盖范围——电信章节）、第14章（竞争政策）或第16章（电子商务）的协定任何规定均不得阻止一方出于审慎理由¹²⁻⁴采取或维持措施，包括为保护投资者、存款人、保单持有人或受金融机构或跨境金融服务提供者受信义务约束的人员，或为确保金融体系的完整性和稳定性。当此类措施与本协定在本段中提及的规定不符时，不得将其用作规避该协定规定下义务的一种手段。¹²⁻⁵

2. 本章或本协定第9章（跨境服务贸易）、第10章（投资）、第11章（电信），包括特别指第11.2.2条（范围和覆盖范围——电信章节），第14章（竞争政策）或第16章（电子商务）中的任何内容，均不适用于任何公共实体为实现货币和相关信贷政策或汇率政策而采取的普遍适用的非歧视性措施。本段不影响一方在第10.7条（绩效要求——投资章节）下就第10章（投资）所涵盖的措施，或在第10.10条（转移——投资章节）下的义务。

¹²⁻⁴各方理解，“审慎理由”一词包括维持单个金融机构或跨境金融服务提供者的安全、稳健、完整性或财务责任。¹²⁻⁵各方理解，一方可通过监管或行政机关，例如劳动部或劳动部门，为审慎理由采取措施，除对金融机构具有监管职责的机构外。

Requirements – Investment Chapter) with respect to measures covered by Chapter 10 (Investment), or under Article 10.10 (Transfers – Investment Chapter).

3. Notwithstanding Article 10.10 (Transfers – Investment Chapter), as incorporated into this Chapter, a Party may prevent or limit transfers by a financial institution or cross-border financial service supplier to, or for the benefit of, an affiliate of or person related to such institution or supplier, through the equitable, non-discriminatory and good faith application of measures relating to maintenance of the safety, soundness, integrity, or financial responsibility of financial institutions or cross-border financial service suppliers. This paragraph does not prejudice any other provision of this Agreement that permits a Party to restrict transfers.

4. For greater certainty, 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 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 cross-border trade in financial services as covered by this Chapter.

Article 12.12: Recognition

1. A Party may recognise prudential measures of a non-Party in the application of measures covered by this Chapter. Such recognition may be:

- (a) accorded autonomously;
- (b) achieved through harmonisation or other means; or
- (c) based upon an agreement or arrangement with the non-Party.

2. A Party according recognition of prudential measures under paragraph 1 shall provide adequate opportunity to the other Party to demonstrate that circumstances exist in which there are or would be equivalent regulation, oversight, implementation of regulation and, if appropriate, procedures concerning the sharing of information between the Parties.

3. Where a Party accords recognition of prudential measures under paragraph 1(c) and the circumstances set out in paragraph 2 exist, the Party shall provide adequate opportunity to the other Party to negotiate accession to the agreement or arrangement, or to negotiate a comparable agreement or arrangement.

Article 12.13: Transparency

1. The Parties recognise that transparent regulations and policies and reasonable, objective and impartial administration governing the activities of financial institutions

要求——投资章节）与第10章（投资）所涵盖的措施有关，或根据第10.10条（转移——投资章节）。

3. 不论第10.10条（投资章节中的转移）如何并入本章，一方可以通过对金融机构或跨境金融服务提供者维护安全、稳健、完整或财务责任的相关措施进行公平、非歧视和善意的适用，来阻止或限制该金融机构或跨境金融服务提供者向其关联公司或与其有关联的个人进行的转移。本段不妨碍本协定中允许一方限制转移的任何其他规定。

4. 为进一步明确，本章的任何规定均不得解释为禁止一方采用或执行为确保证照符合与本章不一致的法律或法规所必需的措施，包括防止欺骗和欺诈行为或处理金融服务合同违约后果的措施，前提是该等措施的适用方式不构成在类似条件下构成国家之间任意或不合理的歧视的手段，或构成对根据本章涵盖的金融机构或跨境金融服务贸易的投资的伪装限制。

第12条.12：承认

1. 一方可在本章所述措施的实施中承认非缔约方的审慎措施。此种承认可为：

- (a) 自主给予；(b) 通过协调或其他方式实现；或(c) 基于与该非缔约方的协议或安排。

2. 承认第1段所述审慎措施的一方应向另一方提供充分机会，以证明存在或将会存在同等法规、监管、法规实施以及，如适用，缔约方之间信息共享程序的情况。

3. 当一方根据第1段(c)项承认审慎措施且第2段所述情况存在时，该方应向另一方提供充分机会，以谈判加入该协议或安排，或谈判达成一项可比协议或安排。

第12条.13：透明度

1. 缔约方承认，透明的法规和政策以及合理、客观和非歧视的管理，对规范金融机构和服务供应商的活动至关重要，这些活动对于促进金融机构和服务供应商进入对方市场以及在其市场内运营具有重要意义。

and financial service suppliers are important in facilitating both access of financial institutions and financial service suppliers to, and their operations in, each other's markets.

2. Each Party shall ensure that all measures of general application to which this Chapter applies are administered in a reasonable, objective and impartial manner.

3. In lieu of Article 19.3 (Publication – Transparency Chapter), each Party shall, to the extent practicable:

- (a) publish in advance any regulations of general application relating to the subject matter of this Chapter that it proposes to adopt; and
- (b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed regulations.

4. Each Party's regulatory authorities shall make publicly available their requirements, including any documentation required, for completing applications relating to the supply of financial services.

5. On the request of an applicant, a Party's regulatory authority shall inform the applicant of the status of its application. If such authority requires additional information from the applicant, it shall notify the applicant without undue delay.

6. A regulatory authority shall make an administrative decision on a completed application of an investor in a financial institution, a financial institution, or a cross-border financial service supplier of the other Party relating to the supply of a financial service within 120 days, and shall promptly notify the applicant of the decision. An application shall not be considered complete until all relevant hearings are held and all necessary information is received. Where it is not practicable for a decision to be made within 120 days, the regulatory authority shall notify the applicant without undue delay and shall endeavour to make the decision within a reasonable time thereafter.

7. On the request of an unsuccessful applicant, a regulatory authority that has denied an application shall, to the extent practicable, inform the applicant of the reasons for denial of the application in writing.

8. Each Party shall maintain or establish appropriate mechanisms that will respond to inquiries from interested persons regarding measures of general application covered by this Chapter.

9. Each Party shall ensure that the rules of general application adopted or maintained by self-regulatory organisations of the Party are promptly published or otherwise made available in such a manner as to enable interested persons to become acquainted with them.

10. To the extent practicable, each Party should allow reasonable time between publication of final regulations and their effective date.

和金融服务供应商进入对方市场以及在其市场内运营具有重要意义。

2. 每一方应确保适用于本章的所有一般性措施均以合理、客观和公正的方式管理。

3. 代替第19.3条（公布——透明度章节），每一方应尽其所能：

- (a) 预先公布其拟采用的本章主题相关的一般性法规；以及 (b) 为利益相关方和另一方提供合理的机会对拟议的法规提出意见。

4. 每一方的监管机构应将其要求，包括完成与金融服务供应相关的申请所需任何文件，向公众公开。

5. 应申请人的请求，一方的监管机构应告知申请人其申请的状态。如果该机构需要申请人提供补充信息，应在不当延迟的情况下通知申请人。

6. 监管机构应在投资者就金融机构、金融机构或另一方跨境金融服务供应商提供的金融服务完成申请之日起120日内作出行政决定，并应立即通知申请人该决定。除非所有相关听证会均举行且所有必要信息均收到，否则申请不应被视为已完成。如120日内无法作出决定，监管机构应在不造成不当延迟的情况下通知申请人，并应努力在合理时间内作出决定。

7. 如不成功的申请人提出请求，已拒绝申请的监管机构应在不切实际的情况下，以书面形式告知申请人拒绝申请的理由。

8. 各方应维持或建立适当机制，以回应利益相关方就本章涵盖的一般性措施提出的查询。

9. 各方应确保该方的自律组织的通用规则得到采纳或维持，并应迅速以使利益相关方能够了解的方式发布或以其他方式提供这些规则。

10. 在实际可行的范围内，每一方应允许在最终法规发布与其实施日期之间有合理的时间间隔。

11. At the time it adopts final regulations, a Party should, to the extent practicable, address in writing substantive comments received from interested persons with respect to the proposed regulations.

Article 12.14: Self-Regulatory Organisations

Where a Party requires a financial institution or a cross-border financial service supplier of the other Party to be a member of, participate in, or have access to, a self-regulatory organisation to provide a financial service in or into the territory of that Party, the Party shall ensure observance of the obligations of this Chapter by such self-regulatory organisation.

Article 12.15: Payment and Clearing Systems

Under terms and conditions that accord national treatment, each Party shall grant to financial institutions of the other Party established in its territory access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities available in the normal course of ordinary business. This Article is not intended to confer access to the Party's lender of last resort facilities.

Article 12.16: Financial Services Committee

1. The Parties hereby establish a Financial Services Committee.
2. The Committee may meet at the request of either Party to discuss any matter arising under this Agreement that affects financial services.
3. The Committee shall be headed by officials of the authorities specified in Annex 12-C.

Article 12.17: Dispute Settlement

1. Chapter 21 (Dispute Settlement Chapter) applies as modified by this Article to the settlement of disputes arising under this Chapter.
2. A Party may request in writing consultations with the other Party regarding any matter on the implementation, interpretation, application or operation of this Chapter.
3. Consultations under this Article shall be headed by officials of the authorities specified in Annex 12-C.
4. Upon initiation of consultations, the Parties shall provide information and give confidential treatment to the information exchanged in accordance with Article 22.5 (Disclosure of Information – General Provisions and Exceptions Chapter).

11. 在采纳最终法规时，一方应尽可能以书面形式回应利益相关方就拟议法规提出的实质性意见。

第12.14条：自律组织

当一方要求另一方的金融机构或跨境金融服务提供者为该方领土内的金融服务成为自律组织的成员、参与或获得访问权时，该方应确保该自律组织遵守本章的义务。

第12.15条：支付和清算系统

在符合国民待遇条款的前提下，每一方应授予其领土内设立的另一方的金融机构访问由公共实体运营的支付和清算系统以及正常业务过程中可获得的官方融资和再融资设施的权利。本条无意授予访问该方最后贷款人设施的权利。

第12.16条：金融服务委员会

1. 缔约方 hereby 设立 金融服务 委员会。
2. 委员会 may 在任一方 请求下召开会议，以讨论本章产生的、影响 金融服务 的任何 事项。
3. 委员会 shall 由附件12-C中指定的当局官员负责。

第12.17条：争端解决

1. 第21章（争端解决章节）经本章修改后，适用于本章产生的争议的解决。
2. 一方 may 以书面形式请求与另一方就本章的实施、解释、适用或运行中的任何 事项 进行 磋商。
3. 根据本文章进行的磋商应由附件12-C中指定的当局官员主持。
4. 在磋商启动时，缔约方应根据第22.5条（信息披露——总则和例外章节）的规定，提供信息并对交换的信息予以保密待遇。

5. Nothing in this Article shall be construed to require regulatory authorities participating in consultations to disclose information or take any action that would interfere with specific regulatory, supervisory, administrative or enforcement matters.

6. Nothing in this Article shall be construed to require a Party to derogate from its relevant law regarding sharing of information among financial regulators or the requirements of an agreement or arrangement between financial authorities of the Parties.

7. Panelists on panels constituted for disputes arising under this Chapter shall meet the requirements set out in Article 21.7 (Compositions of Arbitral Panels – Dispute Settlement Chapter) and shall also have expertise or experience in financial services law or practice, which may include the regulation of financial institutions.

8. Consistent with Article 21.12 (Non-Implementation – Compensation and Suspension of Concessions or other Obligations – Dispute Settlement Chapter), in any dispute where a panel finds a measure to be inconsistent with the obligations of this Agreement and the measure affects:

- (a) only the financial services sector, the complaining Party may suspend benefits only in the financial services sector;
- (b) the financial services sector and any other sector, the complaining Party may suspend benefits in the financial services sector that have an effect equivalent to the effect of the measures in the Party's financial services sector; or
- (c) only a sector other than the financial services sector, the complaining Party may not suspend benefits in the financial services sector.

Article 12.18: Investment Disputes in Financial Services

1. Where an investor of one Party submits a claim under Article 10.16 (Submission of a Claim to Arbitration – Investment Chapter) to arbitration under Section B of Chapter 10 (Investment) against the other Party and the respondent invokes Article 12.11, on the request of the respondent, the tribunal shall refer the matter in writing to the Parties for discussions under Article 12.16. Subject to paragraph 4, the tribunal may not proceed pending receipt of a decision or report under this Article.

2. In a referral pursuant to paragraph 1, the Parties shall decide whether reliance on Article 12.11 is justified. The Parties shall transmit a copy of their decision to the tribunal. The decision shall be binding on the tribunal.

3. Where the Parties have not decided the issue within 60 days of the receipt of the referral under paragraph 1, either Party may institute dispute settlement proceedings under Article 12.17. The panel shall be constituted in accordance with Article 12.17.

5. 本条中的任何内容均不得解释为要求参与磋商的监管机构披露信息或采取任何会干扰特定监管、监督、行政或执法事项的行动。

6. 本条任何规定均不得解释为要求缔约方背离其关于金融监管机构之间信息共享的相关法律，或背离缔约方金融当局之间达成的协议或安排的要求。

7. 本章产生的争议所组建的仲裁小组的仲裁员，应满足第21.7条（仲裁小组的组成——争议解决章节）中规定的要求，并且还应在金融服务法律或实践方面具有专业知识或经验，这可能包括金融机构监管。

8. 与第21.12条（未实施——赔偿和豁免的暂停或其他义务——争议解决章节）一致，在任何争议中，如果仲裁小组认定一项措施与本协议的义务不一致，并且该措施影响：

- (a) 仅限于金融服务部门，投诉方仅在金融服务部门可以暂停利益；(
- b) 金融服务部门及任何其他部门，投诉方可以在对等于该措施对缔约方金融服务部门产生影响的金融服务部门暂停利益；或(c) 仅限于金融服务部门以外的部门，投诉方不得在金融服务部门暂停利益。

第12.18条：金融服务投资争议

1. 当一方投资者根据第10.16条（向仲裁提交索赔——投资章节）在第10章（投资）B节下向另一方提交索赔并经被诉方援引第12.11条时，在应被诉方的请求，仲裁庭应以书面形式将事项转交缔约方根据第12.16条进行讨论。除第4段的规定外，仲裁庭不得在收到本条项下的决定或报告前继续审理。

2. 根据第1段的规定进行转交时，缔约方应决定是否援引第12.11条是合理的。缔约方应将其决定副本传送给仲裁庭。该决定对仲裁庭具有约束力。

3. 如果缔约方在收到第1段所指的转交之日起60天内未能决定该事项，任何缔约方均可根据第12.17条提起争端解决程序。小组应根据第12.17条组成。

4. Where no request for dispute settlement proceedings has been made within 10 days of the expiration of the 60 day period referred to in paragraph 3, the tribunal may proceed to decide the matter.

5. Where the parties resolve or seek resolution of the issues through dispute settlement proceedings, the decision of the arbitral panel shall be binding on the tribunal.

4. 如果在第3段所指的60天期限届满后10天内未提出争端解决程序的请求，仲裁庭可以继续决定该事项。

5. 当缔约方通过争议解决程序解决或寻求解决争议时，仲裁小组的决定对仲裁庭具有约束力。

Annex 12-A
Cross-Border Trade

Insurance and insurance-related services

1. For Australia, Article 12.6.1 applies to the cross-border supply of or trade in financial services as defined in Article 12.1(b)(i) with respect to:
- (a) insurance of risks relating to:
 - (i) maritime shipping and commercial aviation and space launching and freight (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising there from; and
 - (ii) goods in international transit;
 - (b) reinsurance and retrocession, and services auxiliary to insurance as referred to in Article 12.1(e)(ii) and (iv); and
 - (c) insurance intermediation, such as brokerage and agency as referred to in Article 12.1(e)(iii) in relation to the services in subparagraphs (a) and (b).
2. For Chile, Article 12.6.1 applies to the cross-border supply of or trade in financial services as defined in Article 12.1(b)(i) with respect to:
- (a) insurance of risk relating to:
 - (i) international maritime transport and international commercial aviation, with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods, and any liability deriving there from; and
 - (ii) goods in international transit;
 - (b) brokerage of insurance of risks relating to subparagraph (a)(i) and (a)(ii); and
 - (c) reinsurance and retrocession; reinsurance brokerage; and consultancy, actuarial, and risk assessment.

Banking and other financial services (excluding insurance)

3. For Australia, Article 12.6.1 applies with respect to the provision and transfer of financial information and financial data processing and related software as referred to in Article 12.1(e)(xv), and advisory and other auxiliary services, excluding intermediation, relating to banking and other financial services as referred to in Article 12.1(e)(xvi).

附件12-A 跨境贸易

保险和与保险相关的服务

1. 对澳大利亚而言，第12.6.1条适用于第12.1(b)(i)条中定义的跨境供应或贸易金融服务，具体包括：
- (a) 与以下风险相关的保险：(i) 海上运输和商业航空、航天发射和运费（包括卫星），此类保险应涵盖以下全部或部分：运输中的货物、运输货物的工具以及由此产生的任何责任；以及 (ii) 国际运输中的货物；(b) 再保险和分保，以及根据第12.1(e)(ii)和(iv)条所述的与保险相关的服务；以及 (c) 保险中介，如根据第12.1(e)(iii)条与(a)和(b)项下服务相关的经纪和代理。
2. 对于智利，第12.6.1条适用于第12.1(b)(i)条定义的金融服务跨境供应或贸易，具体包括：
- (a) 与以下风险相关的保险：(i) 国际海上运输和国际商业航空，此类保险应涵盖以下全部或部分：运输中的货物、运输货物的工具以及由此产生的任何责任；以及 (ii) 国际运输中的货物；(b) 与(a)(i)和(a)(ii)相关的保险经纪；(c) 再保险和分保；再保险经纪；以及咨询、精算和风险评估。

银行及其他金融服务（不包括保险）

3. 对于澳大利亚，第12.6.1条适用于第12.1(e)(xv)条中提到的金融信息的提供和转让、金融数据处理和相关软件，以及第12.1(e)(xvi)条中提到的与银行及其他金融服务相关的咨询和其他辅助服务，不包括中介。

4. For Chile, Article 12.6.1 applies with respect to:
- (a) provision and transfer of financial information as described in Article 12.1(e)(xv);
 - (b) financial data processing as described in Article 12.1(e)(xv), subject to prior authorisation from the relevant regulator, as required;¹²⁻⁶ and
 - (c) advisory and other auxiliary financial services, excluding intermediation and credit reference and analysis, relating to banking and other financial services as described in Article 12.1(e)(xvi).

5. Notwithstanding subparagraph 4(c), in the event that after the date of entry into force of this Agreement Chile allows credit reference and analysis to be supplied by cross-border financial service suppliers, it shall accord national treatment (as specified in Article 12.3.3) to cross-border financial service suppliers of Australia. Nothing in this commitment shall be construed to prevent Chile from subsequently restricting or prohibiting the supply of credit reference and analysis services by cross-border financial service suppliers.

6. It is understood that Chile's commitments on cross-border investment advisory services shall not, in and of themselves, be construed to require Chile to permit the public offering of securities (as defined under its relevant law) in its territory by cross-border suppliers of Australia who supply or seek to supply such investment advisory services. Chile may subject the cross-border suppliers of investment advisory services to regulatory and registration requirements.

¹²⁻⁶It is understood that where the financial information or financial data processing referred to in subparagraphs (a) and (b) involve personal data, the treatment of such personal data shall be in accordance with Chilean law regulating the protection of such data.

4. 对于智利，第12.6.1条适用于：
- (a) 提供和转让第12.1(e)(xv)条所述的金融信息； (b) 根据第12.1(e)(xv)条所述的金融数据处理，需事先获得相关监管机构的授权，如所要求；¹²⁻⁶
- 以及(c)与第12.1(e)(xvi)条所述的银行及其他金融服务相关的咨询及其他辅助金融服务，不包括中介和信用参考和分析。

5. 尽管有第4(c)项，如果在本协定生效日期之后智利允许跨境金融服务提供者提供信用参考和分析，则智利应给予澳大利亚的跨境金融服务提供者国民待遇（如第12.3.3条所述）。本承诺中的任何内容均不得解释为阻止智利随后限制或禁止跨境金融服务提供者提供信用参考和分析服务。

6. 双方理解，智利在跨境投资咨询服务方面的承诺本身不应被解释为要求智利允许澳大利亚的跨境供应商在其领土内，通过提供或寻求提供此类投资咨询服务的方式，发行证券（根据其相关法律定义）。智利可以要求投资咨询服务跨境供应商遵守监管和注册要求。

¹²⁻⁶理解的是，如果第(a)项和第(b)项所述的金融信息或金融数据处理涉及个人数据，则此类个人数据的处理应遵守智利法律中规定的此类数据的保护法律。

Annex 12-B
Annex on Specific Commitments

Section A Pension Funds Management

1. Notwithstanding the inclusion of the non-conforming measures of Chile in Annex III, Section 2, referring to social services, Chile, with respect to the establishment by an investor of Australia:
 - (a) shall permit such an investor that does not own or control an *Administradora de Fondos de Pensiones* under *Decreto Ley* 3.500 to establish or acquire in Chile an *Administradora de Fondos de Pensiones* to supply the financial services that such an institution may supply under Chile's domestic law at the time of establishment, without the imposition of numerical restrictions or of an economic needs test; and
 - (b) as required by its domestic law, shall not establish arbitrary differences with respect to such an investor in *Administradora de Fondos de Pensiones* under *Decreto Ley* 3.500.
2. No other modification of the effect of the non-conforming measures referring to social services is intended or shall be construed under this paragraph.
3. The specific commitments of Chile under paragraph 1 are subject to the headnotes and non-conforming measures set forth in Annex III of Chile with respect to financial services.
4. For the purposes of this Annex:
 - (a) an "investor of Australia" means an investor of Australia engaged in the business of providing banking and other financial services (excluding insurance) in Australia; and
 - (b) "numerical restrictions" means limitations imposed, either on the basis of a regional subdivision or on the basis of the entire territory, on the number of financial institutions whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test.

Section B: Voluntary Savings Plans; Non-Discriminatory Treatment of Australian Investors

1. Notwithstanding the inclusion of the non-conforming measures of Chile in Annex III, Section 2, referring to social services, with respect to voluntary savings pension plans established under *Ley* 19.768, Chile shall extend the obligations of Article 12.3.1 and 12.3.2 and of Article 12.4 to financial institutions of Australia,

附件12-B 关于具体承诺的附件

A部分：养老金基金管理

1. 尽管智利在社会服务方面的不符合规定的措施已列入附件III，第二部分，智利在澳大利亚投资者设立方面：
 - (a) 应允许该投资者在不拥有或控制第3,500号法令下的养老金基金管理人，在智利设立或收购养老金基金管理人，以向该机构在设立时根据智利国内法可能提供的金融服务，而不施加数量限制或经济需要测试；以及 (b) 根据其国内法，不得就该投资者设立第3,500号法令下的养老金基金管理人设立任意差异。
2. 本段无意或不得解释为对指向社会服务的不符合规定的措施的效果进行其他修改。
3. 智利根据第1段的具体承诺受智利关于金融服务的附件III中规定的标题和非符合措施约束。
4. 就本附件而言：
 - (a) “澳大利亚投资者”是指从事在澳大利亚提供银行及其他金融服务（不包括保险）业务的澳大利亚投资者；以及(b) “数量限制”是指基于区域划分或基于整个领土对金融机构数量施加的限制，无论以数量配额、垄断、独家服务供应商或经济需要测试的要求的形式。

B部分：自愿储蓄计划；澳大利亚投资者的非歧视待遇

1. 尽管智利在附件III第二部分中包含了关于社会服务的非符合措施，但在根据第19,768号法律设立的自愿储蓄养老金计划方面，智利应将第12.3.1条和12.3.2条以及第12.4条的规定扩展至澳大利亚的金融机构，

investors of Australia, and investments of such investors in financial institutions established in Chile.

2. Notwithstanding the inclusion of the nonconforming measures of Chile in Annex III, Section 2, referring to social services, Chile, as required by its domestic law, shall not establish arbitrary differences with respect to Australian investors in *Administradoras de Fondos de Pensiones* under *Decreto Ley* 3.500.

Section C: Portfolio Management

1. A Party shall allow a financial institution (other than a trust company or insurance company) organised outside its territory to provide investment advice and portfolio management services, excluding (1) custodial services, (2) trustee services and (3) execution services that are not related to managing a collective investment scheme, to a collective investment scheme located in its territory. This commitment is subject to Article 12.2 and to Article 12.6.3, regarding the right to require registration, without prejudice to other means of prudential regulation.

2. Notwithstanding paragraph 1, a Party may require the collective investment scheme located in the Party's territory to retain ultimate responsibility for the management of the collective investment scheme or the funds it manages.

3. For the purposes of paragraph 1 and 2, a collective investment scheme means:

- (a) in Australia, a managed investment scheme as defined under section 9 of the *Corporations Act 2001* (Cth), other than a managed investment scheme operated in contravention of subsection 601ED (5) of the *Corporations Act 2001* (Cth), or an entity that:
 - (i) carries on a business of investment in securities, interests in land, or other investments; and
 - (ii) in the course of carrying on that business, invests funds subscribed, whether directly or indirectly, after an offer or invitation to the public (within the meaning of section 82 of the *Corporations Act 2001* (Cth)) made on terms that the funds subscribed would be invested; and
- (b) in Chile, the following fund management companies subject to supervision by the *Superintendencia de Valores y Seguros*:
 - (i) *Compañías Administradoras de Fondos Mutuos* (Decreto Ley 1.328 de 1976);
 - (ii) *Compañías Administradoras de Fondos de Inversión* (Ley 18.815 de 1989);
 - (iii) *Compañías Administradoras de Fondos de Inversión de Capital Extranjero* (Ley 18.657 de 1987);

澳大利亚的投资者，以及此类投资者在智利设立的金融机构中的投资。

2. 尽管附件III第2部分中包含了智利在社会服务方面的非符合性措施，但智利应根据其国内法，不得在Decreto Ley 3.500项下的养老金管理公司（Administradoras de Fondos de Pensiones）方面与澳大利亚投资者设立任意差别待遇。

第C部分：投资组合管理

1. 一方应允许在其领土外组织的金融机构（不包括信托公司或保险公司）向其领土内的集合投资计划提供投资建议和投资组合管理服务，但排除（1）与管理集合投资计划无关的托管服务、（2）受托服务以及（3）执行服务。此项承诺受第12.2条和第12.6.3条关于要求注册的权利的约束，且不妨碍其他审慎监管方式。

2. 尽管有第1段的规定，一方可以要求其领土内的集合投资计划对集合投资计划或其管理的资金的管理承担最终责任。

3. 根据第1段和第2段的规定，集合投资计划是指：

- (a) 在澳大利亚，根据2001年公司法（联邦）第9条定义的受管理的投资计划，不包括违反2001年公司法（联邦）第601ED(5)款 subsection 运营 的受管理的投资计划，或一个：
 - (i) 从事证券、土地权益或其他投资业务；以及 other investments; and在向公众发出要约或邀请之后 whether directly or indirectly, after an offer or invitation to the public (根据2001年公司法（联邦）第82节的规定) 在资金认购将投资的条款下；和
- (b) 在智利，受证券和保险监督局监管的以下基金管理公司：
 - (i) 共同基金管理人公司（1976年第1.328号法令）； (ii) 投资基金管理人公司（1989年第18.815号法律）； (iii) 外国资本投资基金管理人公司（1987年第18.657号法律）；

- (iv) *Compañías Administradoras de Fondos para la Vivienda* (Ley 18.281 de 1993); and
- (v) *Compañías Administradoras Generales de Fondos* (Ley 18.045 de 1981).

(iv) 住房基金管理公司（1993年第18.281号法律）；和 (v) 通用基金管理公司（1981年第18.045号法律）。

Annex 12-C
Authorities Responsible for Financial Services

The authority of each Party responsible for financial services shall be:

- (a) for Australia, the Department of the Treasury, or its successor.
- (b) for Chile, the *Ministerio de Hacienda*.

附件12-C 负责金融服务的机构

每一方负责金融服务的机构权力如下：

- (a) 对于澳大利亚，财政部或其继任者而言。
- (b) 对于智利，财政部而言。

Chapter 13
Temporary Entry for Business Persons

Article 13.1: Definitions

For the purposes of this Chapter:

- (a) **business person** means a national of a Party who is engaged in trade in goods, the supply of services, or the conduct of investment activities;
- (b) **business visitor** means a national of a Party who is seeking to travel to the other Party for business purposes, including for investment purposes, whose remuneration and financial support for the duration of the visit is derived from sources outside the granting Party, and who is not engaged in making direct sales to the general public or in supplying goods or services themselves.

For the purposes of qualifying under this category, a national seeking temporary entry under the present category, shall present¹³⁻¹

- (i) proof of nationality of a Party;
- (ii) documentation demonstrating that the business person will be so engaged and describing the purpose of entry; and
- (iii) evidence demonstrating that the proposed business activity is international in scope and that the business person is not seeking to enter the local labour market.

Each Party shall provide that a business person may satisfy the requirements of subparagraph (b)(iii) by demonstrating that:

- (A) the source of remuneration for the proposed business activity is outside the territory of the Party granting temporary entry; and
- (B) the business person's principal place of business and the actual place of accrual of profits, at least predominantly, remain outside such territory.

- (c) **contractual service supplier** means a national:
 - (i) who has high level technical or professional qualifications, skills and experience and:
 - (A) who is an employee of an enterprise of a Party that has concluded a contract for the supply of a service within the other

¹³⁻¹In addition to the requirements in Article 13.1(b)(i) to (iii), temporary entry will only be granted to business persons who also meet the requirements of a Party's immigration measures.

第13章 商务人员临时入境

第13.1条：定义

本章的目的：

- (a) 商务人士是指一方国民，其从事货物贸易、服务供应或投资活动；
- (b) 商务访客是指一方国民，其前往另一方进行商务目的旅行，包括投资目的，其访问期间的报酬和财务支持来源于授信方以外的来源，并且不从事向公众进行直接销售或自行供应货物或服务。

为此类资格，寻求根据本类别临时入境的国民，应提交¹³⁻¹

- (i) 一方国籍证明；(ii) 证明商务人士将从事此类活动并描述入境目的的文件；以及(iii) 证明所提议的商业活动具有国际范围且商务人士无意进入本地劳动力市场的证据。

每一方应规定，商务人士可通过证明以下内容来满足第（b）（iii）项的要求：

- (A) 所提议的商业活动的报酬来源位于授予临时入境的缔约方领土之外；以及 (B) 商务人士的主要营业地和利润的实际发生地，至少主要地，仍位于该领土之外。

- (c) 合同服务供应商是指缔约方的国民：

- (i) 拥有高级技术或专业资格、技能和经验，并且：
 - (A) 是缔约方企业的雇员
在另一方内签订了一份服务供应合同

¹³⁻¹ 除第13.1（b）（i）至（iii）项的要求外，临时入境仅授予同时满足缔约方移民措施要求的商务人士。

Party and which does not have a commercial presence within that Party; or

(B) who is engaged by an enterprise lawfully and actively operating in the other Party in order to supply under a contract within that Party; and

(ii) who is assessed as having the necessary qualifications, skills and work experience accepted as meeting the domestic standard in the granting Party for their nominated occupation.

Nothing in (A) or (B) above shall preclude a Party from requiring an employment contract between the national and the enterprise operating in the granting Party.

(d) **dependent** means:

- (i) For Australia, a person who meets the requirements for a dependent or dependent child as defined in the Migration Regulations 1994.
- (ii) For Chile, a family member who lives with the business person, including the parents, children and the concubine.

(e) **executive** means a national who primarily directs the management of an enterprise, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the enterprise. An executive would not directly perform tasks related to the actual provision of the service or the operation of the enterprise.

(f) **granting Party** means a Party who receives an application for temporary entry from a national of the other Party who is covered by Article 13.2.

(g) **immigration formality** means a visa, employment pass, or other document or electronic authority granting a national of one Party the right:

- (i) in the case of business visitors, to enter and visit the granting Party;
- (ii) in the case of executives and their accompanying spouses, intra-corporate transferees and their accompanying spouses and contractual service suppliers and their accompanying spouses, to enter, reside and work in the granting Party; or
- (iii) in the case of dependents of executives, intra-corporate transferees and contractual service suppliers, to enter and reside in the territory of the granting Party.

(h) **immigration measure** means a measure affecting the entry and sojourn of aliens.

缔约方且在该缔约方境内没有商业存在；或 (B) 受另一方境内合法且积极运营的企业雇佣，以在该缔约方境内根据合同提供商品或服务；并且

(ii) 被评估为拥有必要资格、技能和工作经验，并被认为符合授予方国内标准的个人，其提名职业为该职业。

(A) 或 (B) 上述任何一项均不得阻止一方要求国民与在授予方运营的企业之间签订雇佣合同。

(d) 受抚养人是指：

(i) 对于澳大利亚，符合1994年移民条例中定义的受抚养人或受抚养人资格的个人。(ii) 对于智利，与商务人士共同生活的家庭成员，包括父母、子女和情妇。

(e) 高管是指主要负责指导企业管理、在决策方面拥有广泛自由裁量权，并且仅从高级高管、董事会或企业股东那里接受一般监督或指导的国民。高管不会直接执行与服务实际提供或企业运营相关的任务。

(f) 授信方是指收到另一方国民根据第13.2条提出的临时入境申请的缔约方的缔约方。

(g) 移民手续是指授予一方国民进入并访问授信方的权利的签证、工作许可或其他文件或电子授权：

(i) 在商务访客的情况下，进入并访问授信方；(ii) 在高管及其随行配偶、公司内部调任人员及其随行配偶和合同服务供应商及其随行配偶的情况下，进入、居住并在授信方工作；或(iii) 在高管、公司内部调任人员和合同服务供应商的受抚养人的情况下，进入并在授信方领土内居住。

(h) 移民措施是指影响外国人入境和居留的措施。

- (i) **intra-corporate transferee** means an employee of an enterprise of a Party established in the territory of the other Party through a branch, subsidiary or affiliate which is lawfully and actively operating in that Party, who is transferred by that enterprise to fill a position in the branch, subsidiary or affiliate of the enterprise in the granting Party, and who is:
- (i) **a manager** which means a national who will be responsible for the entire or a substantial part of the operations of the enterprise in the granting Party, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the enterprise, including directing the enterprise or a department or subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the enterprise; or
 - (ii) **a specialist** which means a national with advanced trade, technical or professional skills. The person seeking entry must be assessed as having the necessary qualifications or alternative credentials accepted as meeting the granting Party's domestic standards for the relevant occupation.

For the purposes of qualifying under this category, a national seeking temporary entry under the present category, shall present¹³⁻²

- (A) proof of nationality of a Party;
- (B) documentation demonstrating that the business person will be so engaged and describing the purpose of entry; and
- (C) documentation demonstrating the attainment of the relevant minimum educational requirements or alternative credentials.

- (j) **spouse** means:
- (i) For Australia, a person who meets the requirements for a spousal relationship as defined in the Migration Regulations 1994.
 - (ii) For Chile, a person who meets the requirements for a spousal relationship under Chilean domestic laws and regulations.
- (k) **temporary entry** means entry into the territory of a Party by a business person of the other Party without the intent to establish permanent residence.

¹³⁻² In addition to the requirements in Article 13.1(i)(A) to (C), temporary entry will only be granted to business persons who also meet the requirements of a Party's immigration measures.

(i) 公司内部调任人员是指一方在另一方领土内通过分支机构、子公司或关联公司设立的企业的雇员，该分支机构、子公司或关联公司在该方合法且积极运营，该雇员由该企业调任到在授信方的一方企业的分支机构、子公司或关联公司担任职位，并且该雇员：

- (i) 经理，指将负责企业全部或大部分运营的国民，主要从企业的高管、董事会或股东处接受一般监督或指导，包括指导企业或其一个部门或分支机构；监督和控制其他监督、专业或管理人员的工作；并有权建立企业部门或分支机构的宗旨和政策；或
- (ii) 专家，指具有先进商业、技术或专业技能的国民。寻求入境的人员必须被评估为具有必要资格或被接受为符合授信方相关职业的国内标准的替代资质。

为符合本类别资格，寻求临时入境的国民，应提交¹³⁻²

- (A) 一方国籍证明；(B) 证明商务人士将从事该活动并描述入境目的的文件；以及(C) 证明达到相关最低学历要求或替代资质的文件。

- (j) 配偶是指：
- (i) 对于澳大利亚，指符合1994年移民条例中定义的配偶关系要求的人。(ii) 对于智利，指符合智利国内法律法规中配偶关系要求的人。
- (k) 临时入境是指另一方商务人士到一方领土入境，且无建立永久居留的意图。

¹³⁻² 除第13.1(i)(A)至(C)条的要求外，临时入境仅授予符合一方移民措施的商务人士。

Article 13.2: Scope and Coverage

1. This Chapter shall apply to measures affecting the movement of nationals of a Party into the territory of the other Party where such persons are:
- (a) business visitors;
 - (b) contractual service suppliers;
 - (c) executives of a business headquartered in a Party, establishing a branch or subsidiary of that business in the other Party; or
 - (d) intra-corporate transferees.
2. This Chapter does not apply to measures affecting nationals seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, nationality, permanent residence, or employment on a permanent basis.

Article 13.3: General Obligations

1. Each Party shall apply expeditiously its measures relating to the provisions of this Chapter so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.
2. Nothing in this Agreement shall prevent a Party from applying measures to regulate the entry of nationals of the other 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 nationals across, its borders provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of this Chapter and Chapter 9 (Cross-Border Trade in Services).
3. The sole fact of requiring nationals to meet eligibility requirements prior to entry to a Party shall not be regarded as nullifying or impairing the benefits accruing to the other Party under this Chapter and Chapter 9 (Cross-Border Trade in Services).
4. Any measure regarding temporary entry of business persons adopted and maintained by a Party at its own initiative or as a result of an agreement between the Parties, that provides for more liberal access for and/or treatment of business persons covered by this Chapter, shall be accorded to business persons covered by this Chapter. However, with respect to such measures adopted or maintained by a Party at its own initiative, any more liberal access and/or treatment under such measures shall only be accorded for so long as the measures are in place.

Article 13.4: Grant of Temporary Entry

1. Each Party shall grant temporary entry to business persons, including spouses and dependents of intra-corporate transferees, who are otherwise qualified for entry under applicable measures including those relating to public health and safety and

第13.2条：范围和覆盖范围

1. 本章适用于影响一方国民到另一方领土入境的措施，其中这些人包括：
- (a) 商务访客；(b) 合同服务供应商；(c) 总部设于一方的企业的高管，在另一方设立该企业的分支机构或子公司；或(d) 公司内部调任人员。
2. 本章不适用于影响寻求进入一方就业市场的国民的措施，也不适用于关于国籍、国籍、永久居留权或永久性就业的措施。

第13.3条：一般义务

1. 每一方应迅速适用其与本章节规定相关的措施，以避免不当损害或延迟本协定下的货物或服务贸易或投资活动的经营。
2. 本协定任何条款均不得阻止一方采取措施，以规范另一方国民进入其领土或在其领土内临时停留，包括为保护其完整性和确保其国民跨境有序流动所必需的措施，前提是这些措施不得以使本章节和第9章（跨境服务贸易）项下另一方应得利益失效或受损的方式加以适用。
3. 要求国民在进入一方之前满足资格要求这一行为本身，不得被视为使本章节和第9章（跨境服务贸易）项下另一方应得利益失效或受损。
4. 一方自行采取或根据缔约方间协议维持的关于商务人士临时入境的任何措施，如果为适用本章项下的商务人士提供了更宽松的准入和/或待遇，则应适用于本章项下的商务人士。然而，对于一方自行采取或维持的此类措施，此类措施项下的更宽松的准入和/或待遇仅应在措施有效期内适用。

第13.4条：临时入境许可

1. 每一方应根据本章规定，授予临时入境许可给商务人士，包括公司内部调任人员的配偶和受抚养人，只要他们符合适用措施（包括与公共卫生和安全以及国家安全相关的措施）规定的入境条件，

national security, in accordance with this Chapter, including the provisions of Annex 13-A.

- 2. Each Party shall ensure that fees charged by its competent authorities on applications for an immigration formality do not constitute an unjustifiable impediment to the movement of nationals under this Chapter.
- 3. The temporary entry granted by virtue of this Chapter does not replace the requirements needed to carry out a profession or activity according to the specific laws and regulations in force in the territory of the Party authorising the temporary entry.

Article 13.5: Provision of Information

- 1. Each Party shall:
 - (a) make publicly available explanatory material on all relevant measures which pertain to or affect the operation of this Chapter, including any new or changed measures;
 - (b) no later than six months after the date of entry into force of this Agreement provide the other Party with a consolidated document describing the requirements for temporary entry under this Chapter in such a manner as will enable business persons of the other Party to become acquainted with them; and
 - (c) maintain appropriate mechanisms to respond to inquiries from the other Party, and interested persons of the other Party, regarding measures affecting the temporary entry and temporary stay of nationals of the other Party.
- 2. Each Party shall collect and maintain, and make available upon request to the other Party in accordance with its domestic law, data respecting the granting of temporary entry under this Chapter to business persons of the other Party who have been issued immigration documents.

Article 13.6: Consultations

- 1. The Parties agree to consult on any issue raised by a Party that relates to this Chapter. Such consultations may include:
 - (a) consideration of suggestions to further facilitate temporary entry of business persons;
 - (b) consideration of the development of common criteria and interpretations for the implementation of this Chapter; and

包括附件13-A的规定。

- 2. 每一方应确保其主管当局在移民手续申请上收取的费用不构成对本协定本章规定的国民流动的不正当障碍。
- 3. 根据本章授予的临时入境不取代在授权临时入境的该方领土上有效的特定法律法规中规定的开展职业或活动的要求。

第13.5条：信息提供

- 1. 每一方应：
 - (a) 就与本章运作相关或影响的各项相关措施（包括任何新措施或已更改的措施）制作并向公众提供说明性材料；(b) 不迟于本协定生效之日起六个月后向另一方提供综合文件，描述本章规定的临时入境要求，以便另一方的商务人士能够熟悉这些要求；以及(c) 维持适当的机制，以回应另一方当局和另一方利益相关方就另一方国民临时入境和临时停留措施提出的查询。
- 2. 每一方应收集和维护，并根据其国内法，在另一方请求时提供本章关于授予另一方已签发移民文件的商务人士临时入境的数据。

第13.6条：磋商

- 1. 缔约方同意就一方提出的与本章节相关的问题进行磋商。此类磋商可包括：
 - (a) 考虑进一步促进商务人士临时入境的建议；(b) 考虑制定本章实施方面的共同标准和解释；以及

(c) any concerns regarding a refusal to grant temporary entry under this Chapter.

2. Consultations shall include officials from the Parties’ immigration authorities.

Article 13.7: Dispute Settlement

1. A Party may not initiate proceedings under Chapter 21 (Dispute Settlement) regarding a refusal to grant temporary entry under this Chapter or a particular case arising under Article 13.3 unless:

- (a) the matter involves a pattern of practice;
- (b) the business person has exhausted the available domestic remedies regarding the particular matter; and
- (c) the Parties have undertaken consultations in accordance with Article 13.6.

2. The remedies referred to in paragraph 1(b) shall be deemed to be exhausted where there is undue delay in the remedial process which is attributable to the Party in which the process is undertaken.

Article 13.8: Relation to Other Chapters

1. Except for this Chapter, Chapters 1 (Initial Provisions), 2 (General Definitions), 20 (Institutional Arrangements), 21 (Dispute Settlement), and 23 (Final Provisions), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.

2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

Article 13.9: Application of Regulations

1. To the extent possible, each Party shall, on request, provide to interested persons a concise statement addressing comments received on proposed and existing regulations relating to the temporary entry of business persons.

2. Where an application for an immigration formality is required by a Party, the Party shall process expeditiously complete applications for immigration formalities received from nationals of the other Party covered by Article 13.2, including further immigration formality requests.

3. Each Party shall upon request, and within a reasonable period after a complete application by a national covered by Article 13.2 requesting temporary entry is lodged, notify the applicant of:

(c) 关于本章拒绝授予临时入境的任何关切。

2. 磋商应包括缔约方移民当局的官员。

第13.7条：争端解决

1. 除非：缔约方不得就本章拒绝授予临时入境或第13.3条项下特定案件启动第21章（争端解决）项下的程序，

(a) 该事项涉及惯例模式；(b) 商务人士已就特定事项穷尽所有国内救济措施；以及(c) 缔约方已根据第13.6条进行磋商。

2. 第1(b)段所述的救济措施应被视为已穷尽，如果救济程序存在不当延迟，且该延迟归因于程序进行的缔约方。

第13.8条：与其他章节的关系

1. 除本章外，第1章（初始条款）、第2章（一般定义）、第20章（制度安排）、第21章（争端解决）和第23章（最终条款），本协议的任何规定均不得对任何一方就其移民措施施加义务。

2. 本章的任何内容均不得解释为对本协议其他章节施加义务或承诺。

第13.9条：法规的适用

1. 在可能的情况下，每一方应根据请求向利益相关方提供一份简明声明，说明收到的关于与商务人士临时入境相关的拟议和现行法规的评论。

2. 如果一方要求移民手续申请，该方应迅速处理根据第13.2条涵盖的另一方国民收到的移民手续申请，包括进一步的移民手续请求。

3. 每一方应当在收到根据第13.2条请求临时入境的国民提交的完整申请后，在合理期限内，应请求通知申请人：

- (a) 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; or if refused, the reasons for refusal and any avenues for merits review.

(a) 收到申请；(b) 申请的状态；以及(c) 关于申请的决定，包括，如果批准，停留期限和其他条件；或者如果拒绝，拒绝的原因和任何申诉途径。

Annex 13-A
Temporary Entry for Business Persons

Section 1

1. In the case of Chile:
- (a) Business persons who enter Chile under any of the categories set out in Article 13.2, including spouses and dependants of intra-corporate transferees, shall be deemed to be engaged in activities which are in the country's interest.
 - (b) Business persons who enter Chile under any of the categories set out in Article 13.2 and are issued a temporary visa shall have that temporary visa extended for subsequent periods provided the conditions on which it is based remain in effect, without requiring that person to apply for permanent residence.
 - (c) When a national:
 - (i) has been granted the right to temporary entry under Article 13.4 for longer than 12 months; and
 - (ii) has a spouse;Chile shall, upon application by an accompanying spouse of a national of Australia who meets Chile's criteria for the grant of an immigration formality, grant that accompanying spouse the right of temporary entry, stay, work and movement, for an equal period to that of the national.
 - (d) Business persons who enter Chile may also obtain an identity card for foreigners.

Section 2

2. In the case of Australia:

For the purposes of this Section of the Annex:

service seller means a national who is a sales representative of a service supplier of that Party who is seeking temporary entry to the other Party for the purpose of negotiating, or entering into, agreements for the sale of services for that service supplier, where such a representative will not be engaged in making direct sales to the general public or in supplying services directly.

附件13-A 商务人员临时入境

第一部分

1. 在智利的情况下：

- (a) 根据《第13.2条》规定的任何类别入境智利的商务人士，包括公司内部调任人员的配偶和受抚养人，应被视为从事符合智利国家利益的活动。
- (b) 根据《第13.2条》规定的任何类别入境智利并获发临时签证的商务人士，如其基于的条件仍然生效，其临时签证可延期，无需申请永久居留权。
- (c) 当一个国民：
 - (i) 根据《第13.4条》获得临时入境权超过12个月；且
 - (ii) 有配偶；智利应在澳大利亚的随行配偶满足智利授予移民手续的标准时，应随行配偶的申请，授予该配偶临时入境、停留、工作和自由移动的权利，期限与该国民相同。

的国民，该随行配偶应被授予临时入境、停留、工作和自由移动的权利，期限与该国民相同。

- (d) 进入智利的商务人士也可以获得外国人的身份卡。

第二部分

2. 在澳大利亚的情况下：

根据附件本部分的条款：

服务销售者是指寻求临时入境到另一方以谈判或签订服务销售协议的缔约方法定代表人，该法定代表人是寻求临时入境到另一方的服务供应商的销售代表，该代表不会从事向公众进行直接销售或直接提供服务。

Short Term Temporary Entry

- (a) Australia shall, upon application by a business visitor of Chile who meets Australia’s criteria for the grant of an immigration formality, grant that business visitor, through a single immigration formality, the right of temporary entry to, and stay and movement in, Australia, consistent with the purpose of the visit, for a period of up to 90 days. A business visitor of Chile who is a service seller may stay for a period of up to 12 months.

Long Term Temporary Entry

- (b) Australia shall, upon application by a contractual service supplier, an executive or an intra-corporate transferee, who is a national of Chile who meets Australia’s criteria for the grant of an immigration formality, grant that person, through a single immigration formality, the right of temporary entry to, and stay, work and movement in, Australia. These rights shall be granted for an initial period of time, sufficient to supply relevant services and consistent with the purpose of the visit, for:
 - (i) an intra-corporate transferee, who meets the definition of an intra-corporate transferee and who is a manager, for a period of up to four years, with the possibility of further stay;
 - (ii) an intra-corporate transferee, who meets the definition of an intra-corporate transferee and who is a specialist, for a period of up to two years, with the possibility of further stay; and
 - (iii) a contractual service supplier for a period of up to one year, with the possibility of further stay.
- (c) When a national:
 - (i) has been granted the right to temporary entry under Article 13.4 for longer than 12 months; and
 - (ii) has a spouse;

Australia shall, upon application by an accompanying spouse of a national of Chile who meets Australia’s criteria for the grant of an immigration formality, grant that accompanying spouse the right of temporary entry, stay, work and movement, for an equal period to that of the national.

短期临时入境

- (a) 澳大利亚应在智利商务访客满足澳大利亚授予移民手续的标准并提交申请时，通过一次移民手续授予该商务访客临时入境澳大利亚、在澳大利亚停留和移动的权利，与访问目的一致，期限最长为90天。智利商务访客中的服务销售者可停留期限最长为12个月。

长期临时入境

- (b) 澳大利亚应当，在合同服务供应商、高管或公司内部调任人员提出申请时，授予其为智利国民且符合澳大利亚移民手续授予标准的该人员，通过一次移民手续，临时入境澳大利亚、停留、工作及行动的权利。这些权利应当授予一个初始期限，足以提供相关服务并与访问目的一致，具体为：
 - (i) 符合公司内部调任人员定义且为公司经理的公司内部调任人员，最长不超过四年，并有可能进一步停留；
 - (ii) 符合公司内部调任人员定义且为公司专家的公司内部调任人员，最长不超过两年，并有可能进一步停留；以及
 - (iii) 合同服务供应商，最长不超过一年，并有可能进一步停留。

- (c) 当一名国民：

- (i) 已根据第13.4条被授予临时入境权超过12个月；并且
- (ii) 有配偶；

澳大利亚应当，在智利国民的随行配偶提出申请并符合澳大利亚授予移民手续的标准时，授予该随行配偶临时入境、停留、工作和行动的权利，期限与该国民相同。

Chapter 14
Competition Policy

第14章 竞争政策

Article 14.1: Definitions

For the purposes of this Chapter:

- (a) **competition authority** means:
 - (i) for Australia, the Australian Competition and Consumer Commission (ACCC) or its successor; and
 - (ii) for Chile, the Fiscalía Nacional Económica or its successor;
- (b) **competition law** means:
 - (i) for Australia, the *Trade Practices Act 1974* (excluding Part X) and any regulations, made under that Act, as well as any amendments thereto; and
 - (ii) for Chile, Decree Law No. 211 of 1973 and any implementing regulations, as well as any amendments thereto;
- (c) **anticompetitive activity** means public or private business conduct or transactions that adversely affect competition, such as:
 - (i) anticompetitive horizontal arrangements between competitors;
 - (ii) anticompetitive unilateral conduct;
 - (iii) anticompetitive vertical arrangements; and
 - (iv) anticompetitive mergers and acquisitions;
- (d) **enforcement activity** means any application of competition law by way of investigation or proceeding conducted by a Party, but shall not include research, studies or surveys with the objective of examining the general economic situation or general conditions in specific industries. Such research, studies or surveys shall not be construed so as to include any investigation with regard to suspected violation of competition law;
- (e) **enterprise with special or exclusive rights** means an enterprise to which a Party has granted special or exclusive rights in its purchases or sales involving either imports or exports;

第14.1条：定义

本章的目的：

- (a) 竞争主管机构是指：
 - (i) 对于澳大利亚，澳大利亚竞争与消费者委员会（ACCC）或其继任者；以及 (ii) 对于智利，智利国民经济检察院或其继任者；
- (b) 竞争法律是指：
 - (i) 对于澳大利亚，是指1974年贸易行为法（不包括第X部分）以及根据该法制定的任何法规，以及对此进行的任何修订；以及 (ii) 对于智利，是指1973年第211号法令以及任何实施性法规，以及对此进行的任何修订；
- (c) 反竞争行为是指对竞争产生不利影响的公共或私人商业经营或交易，例如：
 - (i) 竞争对手之间的反竞争横向协议； (ii) 反竞争单方面行为； (iii) 反竞争纵向协议；以及 (iv) 反竞争并购；
- (d) 执法活动是指缔约方通过调查或程序进行的任何竞争法的适用，但不包括以检验一般经济状况或特定行业一般条件为目的的研究、研究或调查。此类研究、研究或调查不得解释为包括任何关于涉嫌违反竞争法的调查；
- (e) 具有特殊或专有权利的企业是指一方授予其在涉及进口或出口的采购或销售中具有特殊或专有权利的企业；

- (f) **designate** means, whether formally or in effect, to establish, designate, or authorise a monopoly or to expand the scope of a monopoly to cover an additional good or service;
- (g) **monopoly** means an entity, including a consortium or government agency, that in any relevant market in the territory of a Party is designated as the sole provider or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of such grant;
- (h) **non-discriminatory treatment** means the better of national treatment and most-favoured-nation treatment, as set out in the relevant provisions of this Agreement; and
- (i) **in accordance with commercial considerations** means consistent with normal business practices of privately-held enterprises in the relevant business or industry.

Article 14.2: Objectives

- 1. Recognising that anticompetitive practices have the potential to restrict bilateral trade and investment, the Parties believe that proscribing anticompetitive activities and implementing policies that promote economic efficiency and consumer welfare will help secure the benefits of this Agreement.
- 2. With a view to preventing distortions or restrictions of competition which may affect trade in goods or services between them, the Parties shall give particular attention to anticompetitive activities.
- 3. The Parties agree, within their existing domestic legal frameworks, to coordinate on the implementation of competition laws. This will include notification, consultation and exchange of non-confidential information.
- 4. The Parties acknowledge the importance of contributing to the development of best practice in the area of competition policy in global and plurilateral fora.

Article 14.3: Competition Law and Anticompetitive Activities

- 1. Each Party shall maintain or adopt measures consistent with its domestic law to proscribe anticompetitive activities and take appropriate action with respect thereto, recognising that such measures will help realise the objectives of this Agreement. Each Party shall ensure that a person subject to the imposition of a sanction or remedy for violation of such measures is provided with the opportunity to be heard and to present evidence, and to seek review of such sanction or remedy in a court or independent tribunal of that Party.
- 2. Each Party shall ensure that all businesses operating in its territory are subject to its competition laws. Parties may exempt businesses or sectors from the

(f) 指定是指，无论正式或实际上，建立、指定或授权垄断，或扩大垄断的范围以涵盖额外的货物或服务；(g) 垄断是指实体，包括联合体或政府机构，在一方领土内的任何相关市场中被指定为某项货物或服务的唯一提供者或购买者，但包括被授予专有知识产权的实体，该实体仅因该授予而获得专有权利；(h) 非歧视待遇是指本协定相关条款中规定的国民待遇和最惠国待遇中较优者；以及(i) 根据商业考虑是指与相关行业中私营企业的正常商业实践一致。

或行业。s

第14.2条：目标

- 1. 认识到反竞争行为有可能限制双边贸易和投资，缔约方认为，禁止反竞争活动并实施促进经济效率和消费者福利的政策将有助于确保本协定的利益。
- 2. 为了防止可能影响其之间货物或服务贸易的竞争扭曲或限制，缔约方应特别关注反竞争活动。
- 3. 缔约方在其现行的国内法律框架内，同意协调竞争法的实施。这包括通知、磋商和非机密信息的交换。
- 4. 各缔约方承认，在多边和诸边论坛上为竞争政策领域的最佳实践发展做出贡献的重要性。

第14.3条：竞争法和反竞争活动

- 1. 每一方应根据其国内法维持或采取禁止反竞争活动的措施，并采取适当行动，认识到此类措施将有助于实现本协议的目标。每一方应确保，受处罚或补救措施影响的个人有权获得听证机会、提供证据，并在该方的法院或独立仲裁庭中寻求对该处罚或补救措施的审查。
- 2. 每一方应确保其领土内所有企业均受其竞争法约束。缔约方可以免除企业或部门。

application of competition laws, provided that such exemptions are transparent and are undertaken on the grounds of public policy or public interest. Where a Party considers such an exemption might adversely affect its interests, it may seek consultations pursuant to Article 14.7.

3. Each Party shall maintain an authority or authorities responsible for the enforcement of its national competition laws. In enforcing its competition laws, each Party's competition authority will treat nationals of the other Party no less favourably than it treats its own nationals in like circumstances.

4. The Parties recognise the importance of effective competition law enforcement in the free trade area. To this end, the Parties shall cooperate, on mutually agreed terms, on the enforcement of competition laws.

Article 14.4: Enterprises with Special or Exclusive Rights, including Designated Monopolies

1. Nothing in this Chapter shall be construed to prevent a Party from granting to an enterprise special or exclusive rights or designating a monopoly provided that this is done in accordance with the Party's domestic law.

2. Recognising that enterprises with special or exclusive rights, including designated monopolies, should not operate in a manner that creates obstacles to trade and investment, each Party shall ensure that any enterprise with special or exclusive rights, including any privately or publicly designated monopoly:

- (a) acts solely in accordance with commercial considerations in its exercise of special or exclusive rights including, where applicable, the purchase or sale of the monopoly good or service in the relevant market, including with regard to price, quality, availability, marketability, transportation, and other terms and conditions of purchase or sale, except to comply with any terms of its grant or designation that are not inconsistent with subparagraph (b) or (c);
- (b) provides non-discriminatory treatment to covered investments, to goods of the other Party, and to service suppliers of the other Party in its exercise of special or exclusive rights including, where applicable, the purchase or sale of the monopoly good or service in the relevant market;
- (c) does not use its special or exclusive rights including, where applicable, its monopoly position to engage, either directly or indirectly, including through its dealings with its parent, subsidiaries, or other enterprises with common ownership, in anticompetitive practices in a non-monopolised market in its territory, where such practices adversely affect covered investments; and
- (d) acts in a manner that is not inconsistent with the Party's obligations under this Agreement wherever such an enterprise with special or

competition laws, provided that such exemptions are transparent, and are based on public policy or public interest. Where a Party considers such an exemption might adversely affect its interests, it may seek consultations pursuant to Article 14.7.

3. Each Party shall maintain one or more bodies responsible for the enforcement of its national competition laws. In enforcing its competition laws, each Party's competition authority will treat nationals of the other Party no less favourably than it treats its own nationals in like circumstances.

4. The Parties recognise the importance of effective competition law enforcement in the free trade area. To this end, the Parties shall cooperate, on mutually agreed terms, on the enforcement of competition laws.

Article 14.4: Enterprises with Special or Exclusive Rights, including Designated Monopolies

1. Nothing in this Chapter shall be construed to prevent a Party from granting to an enterprise special or exclusive rights or designating a monopoly provided that this is done in accordance with the Party's domestic law.

2. Recognising that enterprises with special or exclusive rights, including designated monopolies, should not operate in a manner that creates obstacles to trade and investment, each Party shall ensure that any enterprise with special or exclusive rights, including any privately or publicly designated monopoly:

- (a) acts solely in accordance with commercial considerations in its exercise of special or exclusive rights including, where applicable, the purchase or sale of the monopoly good or service in the relevant market, including with regard to price, quality, availability, marketability, transportation, and other terms and conditions of purchase or sale, except to comply with any terms of its grant or designation that are not inconsistent with subparagraph (b) or (c);
- (b) provides non-discriminatory treatment to covered investments, to goods of the other Party, and to service suppliers of the other Party in its exercise of special or exclusive rights including, where applicable, the purchase or sale of the monopoly good or service in the relevant market;
- (c) does not use its special or exclusive rights including, where applicable, its monopoly position to engage, either directly or indirectly, including through its dealings with its parent, subsidiaries, or other enterprises with common ownership, in anticompetitive practices in a non-monopolised market in its territory, where such practices adversely affect covered investments; and
- (d) acts in a manner that is not inconsistent with the Party's obligations under this Agreement wherever such an enterprise with special or

exclusive rights or designated monopoly exercises any regulatory, administrative or other governmental authority that the Party has delegated to it in connection with the exercise of special or exclusive rights including, where applicable, the monopoly good or service, such as the power to grant import or export licences, approve commercial transactions, or impose quotas, fees or other charges.

3. This Article does not apply to government procurement.
4. Where a Party grants to an enterprise special or exclusive rights or designates a monopoly and it determines that the grant or designation may affect the interests of the other Party, the Party shall endeavour to:
- (a) at the time of the grant or designation introduce such conditions on the exercise of special or exclusive rights including, where applicable, the operation of the monopoly so as to minimise any adverse affect on the other Party, as communicated by that Party, under Article 14.7; and
 - (b) provide written notification, in advance wherever possible, to the other Party of the grant or designation.

Article 14.5: State Enterprises

1. Nothing in this Chapter shall be construed to prevent a Party from establishing or maintaining a state enterprise, provided that this is done in accordance with the Party's domestic law.
2. Each Party shall ensure that any state enterprise that it establishes or maintains acts in a manner that is not inconsistent with the Party's obligations under this Agreement wherever such enterprise exercises any regulatory, administrative or other governmental authority that the Party has delegated to it, such as the power to expropriate, grant licences, approve commercial transactions, or impose quotas, fees or other charges.
3. Each Party shall ensure that any state enterprise that it establishes or maintains accords non-discriminatory treatment in the sale of its goods or services.
4. Each Party shall take reasonable measures to ensure it does not provide any competitive advantage to any government-owned business simply because it is government owned. This Article applies to the business activities of government-owned businesses and not to their non-business, non-commercial activities.

根据本协定，无论具有特殊或专有权利的企业或指定垄断企业行使任何监管、行政或其他政府权力，该权力由缔约方授予其用于行使特殊或专有权利，包括，在适用情况下，垄断商品或服务，例如授予进出口许可证、批准商业交易或征收配额、费用或其他费用。

3. 本条不适用于政府采购。
4. 当一方授予企业特殊或专有权利或指定垄断，并认定授予或指定可能影响另一方的利益时，该方应努力：
- (a) 在授予或指定时，就特殊或专有权利的行使引入条件，包括在适用情况下垄断的运营，以最小化对另一方的不利影响，如该方根据第14.7条传达的；以及 (b) 在可能的情况下提前向另一方提供书面通知，关于授予或指定。

第14.5条：国有企业

1. 本章任何规定均不得解释为禁止一方建立或维持国有企业，但前提是此举符合该方的国内法。
2. 每一方应确保其设立或维持的任何国有企业，在行使该方委托给它的任何监管、行政或其他政府权力时，其行为与本协定项下该方的义务不一致，例如征收权力、授予许可证、批准商业交易或征收配额、费用或其他费用。
3. 每一方应确保其设立或维持的任何国有企业，在销售其商品或服务时，享有非歧视待遇。
4. 每一方应当采取合理的措施，确保其不会仅仅因为企业是国有而向任何国有业务提供任何竞争优势。本条适用于国有业务的业务活动，而不适用于其非业务、非商业活动。

Article 14.6: Notifications

1. Each Party, through its competition authority, but subject to its laws and regulations, shall notify the competition authority of the other Party of an enforcement activity where it determines that the enforcement activity:
 - (a) is liable to substantially affect the other Party’s important interests;
 - (b) relates to restrictions on competition which are liable to have a direct and substantial effect in the territory of the other Party; or
 - (c) concerns anticompetitive acts taking place principally in the territory of the other Party.
2. Provided that it is not contrary to the Parties’ competition laws and does not affect any investigation being carried out, notifications shall take place at an early stage of the procedure.
3. The notifications provided for in paragraph 1 should include sufficient detail to permit the other Party to evaluate its interests.
4. The Parties undertake to ensure that notifications are made in the circumstances set out above, taking into account the administrative resources available to them.

Article 14.7: Consultations

1. If the competition authority of a Party considers that an investigation or proceeding being conducted by the competition authority of the other Party may adversely affect its important interests it may transmit its views on the matter to the other Party’s competition authority.
2. A Party, through its competition authority, may request consultations regarding the issues addressed in paragraph 1 as well as any other matter covered by this Chapter. The requesting Party shall indicate the reasons for the request and whether any procedural time limit or other constraints require that consultations be expedited. Such consultations shall be without prejudice to the right of a Party so consulted to take any measure under its competition laws it deems appropriate.

Article 14.8: Exchange of Information, Transparency and Confidentiality

1. With a view to facilitating the effective application of their respective competition laws, the competition authorities may exchange information.
2. With the objective of making their competition policies as transparent as possible, each Party shall ensure that its laws, regulations and procedures addressing competition shall be in writing and shall be published or otherwise made publicly available.

第14.6条：通知

1. 每一方应当通过其竞争主管机构，但在其法律和法规的约束下，在确定执法活动时，应当将执法活动通知另一方的竞争主管机构。
 - (a) 承担责任以致实质上影响另一方的重大利益； (b) 涉及在另一方领土内可能产生直接和实质影响的竞争限制；或 (c) 涉及主要发生在另一方领土内的反竞争行为。
2. 在不违反缔约方竞争法且不影响任何正在进行的调查的情况下，通知应在程序早期进行。
3. 第1段规定的通知应包括足够详细信息，以使另一方能够评估其利益。
4. 缔约方承诺在上述情况下进行通知，并考虑其可用的行政资源。

第14.7条：磋商

1. 如果一方竞争主管机构认为另一方竞争主管机构正在进行的调查或程序可能对其重要利益产生不利影响，它可以向另一方的竞争主管机构就此事传达其意见。
2. 一方可以通过其竞争主管机构就第1段所述问题以及本章涵盖的任何其他事项提出磋商请求。请求方应说明请求的理由，并说明是否任何程序性时间限制或其他约束要求加速磋商。此类磋商不应损害被磋商一方根据其竞争法认为适当采取任何措施的权利。

第14.8条：信息交换、透明度和保密性

1. 为了促进其各自竞争法的有效应用，竞争主管机构可以交换信息。
2. 以使其竞争政策尽可能透明为目标，每一方应确保其涉及竞争的法律、法规和程序为书面形式，并应予以公布或以其他方式向公众公开。

3. On the request of a Party, the other Party shall endeavour to make available public information concerning:

- (a) the enforcement of its measures proscribing anticompetitive activities;
- (b) its state enterprises, and enterprises with special or exclusive rights, including designated monopolies, provided that requests for such information shall indicate the entities involved, specify the particular goods and/or services and markets concerned, and include indicia that these entities may be engaging in practices that may hinder trade or investment between the Parties; and
- (c) exemptions to its measures proscribing anticompetitive activities, provided that requests for such information shall specify the particular goods and/or services and markets to which the request relates.

4. Any information or documents exchanged between the Parties on a confidential basis pursuant to the provisions of this Chapter shall be kept confidential. Neither Party shall, except to comply with its domestic legal requirements, release or disclose such information or documents to any person without the written consent of the Party which provided such information or documents. Where the disclosure of such information or documents is necessary to comply with the domestic legal requirements of a Party, that Party shall notify the other Party where possible before such disclosure is made or otherwise at the earliest practicable time.

5. The Party providing such confidential information shall furnish non-confidential summaries thereof if requested by the other Party. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. When a Party indicates that such confidential information is not susceptible to a public summary and where such information is submitted to a judicial authority, it shall be at the discretion of that judicial authority whether to consider such information.

Article 14.9: Dispute Settlement

1. Neither Party may have recourse to dispute settlement under this Agreement for any matter arising under this Chapter.

2. In the event that a breach of this Chapter by an enterprise exercising any regulatory, administrative or other governmental authority that the Party has delegated to it also constitutes a breach of another Chapter of this Agreement, this Article shall not preclude recourse by a Party to dispute settlement for the breach of the other Chapter by such an enterprise.

3. 应一方的请求，另一方应努力提供有关以下方面的公共信息：

- (a) the enforcement of its measures proscribing anticompetitive activities;
- (b) its state enterprises, and enterprises with special or exclusive rights, including designated monopolies, provided that requests for such information shall indicate the entities involved, specify the particular goods and/or services and markets concerned, and include indicia that these entities may be engaging in practices that may hinder trade or investment between the Parties; and
- (c) exemptions to its measures proscribing anticompetitive activities, provided that requests for such information shall specify the particular goods and/or services and markets to which the request relates.

4. Any information or documents exchanged between the Parties on a confidential basis pursuant to the provisions of this Chapter shall be kept confidential. Neither Party shall, except to comply with its domestic legal requirements, release or disclose such information or documents to any person without the written consent of the Party which provided such information or documents. Where the disclosure of such information or documents is necessary to comply with the domestic legal requirements of a Party, that Party shall notify the other Party where possible before such disclosure is made or otherwise at the earliest practicable time.

5. 提供此类机密信息的缔约方在另一方提出请求时，应提供非机密的摘要。这些摘要应包含足够详细的信息，以使另一方能够合理理解所提交的机密信息的实质内容。当一方表示此类机密信息不适合进行公开摘要，并且此类信息提交给了司法机构时，是否考虑此类信息应由该司法机构自行决定。

第14.9条：争端解决

1. 任何一方均不得就本章产生的事项根据本协定寻求争端解决。

2. 如果一方委托的企业行使该缔约方授予的任何监管、行政或其他政府权力时违反了本章，且该企业的违约行为同时构成对本协定另一章节的违反，则本协定本章不应阻止该缔约方向争端解决机构寻求对该企业违反本协定另一章节的救济。

Article 14.10: Technical Assistance

The Parties may provide each other technical assistance in order to take advantage of their respective experience and to strengthen the implementation of their competition laws and policies.

文章 14.10：技术援助

缔约方可以相互提供技术援助，以利用各自的经验，并加强其竞争法和政策的实施。

Chapter 15
Government Procurement

Article 15.1: Definitions

For the purposes of this Chapter:

- (a) **build-operate-transfer contract and public works concession contract** mean any contractual arrangement the primary purpose of which is to provide for the construction or rehabilitation of physical infrastructure, plant, buildings, facilities, or other government owned works and under which, as consideration for a supplier's execution of a contractual arrangement, a procuring entity grants the supplier, for a specified period of time, temporary ownership or a right to control and operate, and demand payment for, the use of such works for the duration of the contract;
- (b) **covered procurement** means a government procurement of goods, services including construction services, or both:
 - (i) by any contractual means, including purchase and rental or lease, with or without an option to buy , build-operate-transfer contracts and public works concessions contracts;
 - (ii) for which the value, as estimated in accordance with Article 15.5 equals or exceeds the relevant threshold specified in Annex 15-A;
 - (iii) that is conducted by a procuring entity;
 - (iv) is not excluded from coverage by this Agreement; and
 - (v) subject to the conditions specified in Annex 15-A;
- (c) **in writing or written** means any expression of information in words, numbers, or other symbols, including electronic expressions, that can be read, reproduced, and stored;
- (d) **international standard** means a standard that has been developed in conformity with the document referenced in Article 7.5 (International Standards – Technical Regulations, Standards and Conformity Assessment Procedures Chapter);
- (e) **limited tender procedure** means a procurement method where the procuring entity contacts a supplier or suppliers of its choice in accordance with Article 15.15;
- (f) **multi-use list** means a list of suppliers that a procuring entity has determined satisfy the conditions for participation in that list and that the procuring entity intends to use more than once;

第十五章 政府采购

第15.1条：定义

本章的目的如下：

- (a) 建设-运营-移交合同和公共工程特许合同是指主要目的是提供物理基础设施、工厂、建筑物、设施或其他政府所有作品的建设或修复的任何合同安排，在该合同安排下，作为供应商执行合同安排的对价，采购实体授予供应商在特定期限内临时所有权或控制及运营的权利，并要求在合同期间使用此类作品支付费用；
- (b) 受覆盖采购是指政府采购货物、服务（包括建筑服务）或两者：
 - (i) 以任何合同方式，包括购买和租赁或租赁，有或无购买选择权，建设-运营-移交合同和公共工程特许权合同；(ii) 其价值，根据第15.5条的规定估算，等于或超过附件15-A中规定的相关阈值；(iii) 由采购实体进行；(iv) 未被本协定排除在保障范围之外；并且 (v) 遵守附件 15-A中规定的条件；
- (c) 书面形式或书面方式是指任何可以用文字、数字或其他符号表达的信息形式，包括电子表达形式，可以阅读、复制和存储；
- (d) 国际标准是指符合第7.5条（国际标准——技术法规、标准和合格评定程序章节）中引用文件所规定的技术标准；
- (e) 有限招标程序是指采购实体根据第15.15条联系其选择的供应商或供应商的采购方法；
- (f) 多用途供应商名单是指采购实体已确定满足该名单参与条件的供应商名单，并且采购实体打算多次使用该名单；

- (g) **offset** means any condition or undertaking that encourages local development or improves a Party’s balance of payments accounts such as the use of domestic content, the licensing of technology, investment, counter-trade and similar actions or requirements;
- (h) **open tender procedure** means those tendering procedures in which all interested suppliers may submit a tender;
- (i) **procuring entity** means an entity listed in Annex 15-A;
- (j) **publish** means to disseminate information in an electronic or paper medium that is distributed widely and is readily accessible to the general public;
- (k) **selective tender procedure** means those tendering procedures in which the procuring entity determines the suppliers that it will invite to submit tenders;
- (l) **supplier** means a person or group of persons that provides or could provide goods or services to a procuring entity; and
- (m) **technical specification** means a tendering requirement that:
 - (i) sets out the characteristics of:
 - (A) goods to be procured, including quality, performance, safety and dimensions, or the processes and methods for their production; or
 - (B) services to be procured, or the processes or methods for their provision, including any applicable administrative provisions;
 - (ii) addresses terminology, symbols, packaging, marking or labelling requirements, as they apply to a good or service; or
 - (iii) sets out conformity assessment procedures prescribed by a procuring entity.

Article 15.2: Scope and Coverage

- 1. This Chapter applies to any measure adopted or maintained by a Party regarding covered procurement.
- 2. This Chapter does not apply to:
 - (a) non-contractual agreements or any form of assistance provided by a Party, including grants, loans, equity infusions, fiscal incentives, subsidies, guarantees, cooperative agreements and sponsorship arrangements;

(g) 偏差补偿是指任何鼓励本地发展或改善缔约方国际收支账户的条件或承诺, 例如使用国内含量、技术许可、投资、易货贸易以及类似行动或要求; (h) 公开招标程序是指所有感兴趣的供应商都可以提交投标的招标程序; (i) 采购实体是指附件15-A中列出的实体; (j) 发布是指通过电子或纸质媒介传播信息, 该媒介广泛分发且公众易于获取; (k) 选择性招标程序是指采购实体确定其邀请提交投标的供应商的招标程序; (l) 供应商是指向采购实体提供或能够提供货物或服务的人员或人员团体; 以及(m) 技术规格是指招标要求, 该要求: (i) 列出以下特征的特性: (A) 待采购货物, 包括质量、性能、安全和尺寸, 或其生产和方法的流程和方法; 或(B) 待采购服务, 或其提供的方法或流程, 包括任何适用的行政管理规定; (ii) 涉及适用于货物或服务的术语、符号、包装、标记或标签要求; 或(iii) 列出由采购实体规定的合格评定程序。

文章 15.2: 范围和覆盖范围

- 1. 本章适用于一方针对受覆盖采购所采取或维持的任何措施。
- 2. 本章不适用于: (a) 非合同协议或一方提供的任何形式的援助, 缔约方, 包括拨款、贷款、股权注入、财政激励、补贴、担保、合作协议和赞助安排;

- (b) procurement for the direct purpose of providing foreign assistance;
- (c) procurement funded by international grants, loans or other assistance to the extent that the provision of such assistance is subject to conditions inconsistent with this Chapter;
- (d) public employment contracts;
- (e) procurement of a financial service as defined in Article 12.1(e) (Definitions – Financial Services Chapter).
- (f) procurement of goods and services by a procuring entity from another entity of the same Party, or between a procuring entity of a Party and a regional or local government of that Party, where no other supplier has been asked to tender;
- (g) procurement of goods and services outside the territory of the procuring Party, for consumption outside the territory of the procuring Party;
- (h) procurement funded by grants and/or sponsorship payments received from a person other than a procuring entity of a Party;
- (i) procurement of fiscal agency or depository services, liquidation and management services for regulated financial institutions, or services related to the sale, redemption and distribution of public debt, including loans and government bonds, notes, derivatives and other securities; or
- (j) the procurement or rental of land, existing buildings or other immovable property or rights thereon where not part of an arrangement for procurement of construction services.

Article 15.3: General Obligations

1. Each Party shall ensure that its procuring entities comply with this Chapter in conducting covered procurements.
2. No procuring entity may prepare, design, or otherwise structure or divide, in any stage of the procurement, any procurement in order to avoid the obligations of this Chapter.
3. Each Party shall apply to covered procurements of goods the rules of origin that it applies in the normal course of trade to those goods.

(b) 为直接提供外国援助而进行的采购；(c) 由国际拨款、贷款或其他援助资助的采购，但此类援助的提供与本章不一致的条件；(d) 公共雇佣合同；(e) 根据第12.1(e)条（定义——金融服务章节）定义的金融服务采购。(f) 采购缔约方的一个实体从同一缔约方的另一个实体，或一个缔约方的采购实体与其领土内的地区或地方政府之间采购货物和服务，且未要求其他供应商投标；(g) 在采购缔约方领土外采购货物和服务，用于在采购缔约方领土外消费；(h) 由非缔约方采购实体从其他人处获得的拨款和/或赞助支付资助的采购；(i) 采购财政代理机构或存款服务、受监管金融机构的清算和管理服务，或与公债的出售、赎回和分销相关的服务，包括贷款和政府债券、票据、衍生品和其他证券；或(j) 采购或租赁土地、现有建筑物或其他不动产或相关权利，但并非为采购建筑服务而进行的安排。

第15.3条：一般义务

1. 每在**进行受覆盖采购时**，~~在实施受覆盖采购时~~采购实体在实施受覆盖采购时遵守本章。
2. 任何采购实体均不得准备、设计或以其他方式构建或划分，在任何采购阶段，任何采购以避免本章的义务。采购的任何阶段，任何旨在规避本章义务的采购。
3. 每一方应当将原产地规则适用于货物的受覆盖采购它在正常贸易过程中适用于那些货物。

Article 15.4: National Treatment and Non-Discrimination

1. Each Party shall accord to the goods, services and suppliers of the other Party treatment no less favourable than the most favourable treatment the Party accords to its own goods, services and suppliers.
2. Neither Party may:
 - (a) treat a locally established supplier less favourably than another locally established supplier on the basis of degree of foreign affiliation or ownership; or
 - (b) discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other Party.
3. For greater clarity, all orders under contracts awarded for covered procurement, such as framework agreements or panel arrangements shall be subject to paragraphs 1 and 2.
4. The provisions of paragraphs 1 and 2 shall not apply to measures concerning customs duties and other charges of any kind imposed on, or in connection with, importation, the method of levying such duties and charges or other import regulations, including restrictions and formalities, and measures affecting trade in services other than measures governing covered procurement.

Article 15.5: Valuation of Contracts

1. In estimating the value of a procurement for the purpose of ascertaining whether it is a covered procurement, a procuring entity shall:
 - (a) take into account all forms of remuneration, including any premiums, fees, commissions, interest, other revenue streams that may be provided for under the contract and, where the procurement provides for the possibility of option clauses, the maximum total value of the procurement, inclusive of optional purchases; and
 - (b) without prejudice to paragraph 2, where the procurement is to be conducted in multiple parts, with contracts to be awarded at the same time or over a given period to one or more suppliers, base its calculation on the total maximum value of the procurement over its entire duration.
2. In the case of procurement by lease, rental, or hire purchase of goods or services, or procurement for which a total price is not specified, a procuring entity shall estimate the value on the basis of objective criteria or apply the following basis of valuation:

第15.4条：国民待遇和非歧视

1. 每一方应给予另一方的货物、服务和供应商不低于该缔约方给予其自身货物、服务和供应商的最优惠待遇的待遇。
2. 任何一方不得：
 - (a) 基于外国隶属关系或所有权的程度，对本地设立供应商实行比其他本地设立供应商更不利的待遇；或 (b) 以该供应商为特定采购提供的货物或服务属于另一方为由，歧视本地设立供应商。
3. 为进一步明确，所有为受覆盖采购授予合同的订单，例如框架协议或小组安排，均应受第1段和第2段约束。
4. 第1段和第2段的规定不适用于涉及进口关税和其他任何种类费用、征收此类关税和费用的方法或其他进口法规（包括限制和形式要求），以及影响服务贸易的措施，但不适用于管理受覆盖采购的措施。

第15.5条：合同的估价

1. 在估计采购的价值以确定其是否为受覆盖采购的目的时，采购实体应当：
 - (a) 考虑所有形式的报酬，包括合同可能提供的任何溢价、费用、佣金、利息、其他收入来源，以及当采购提供选择条款的可能性时，采购的最大总价值，包括可选采购；以及 (b) 不受第2段的影响，当采购分为多个部分，合同在同一时间或在一个给定期间内授予一个或多个供应商时，基于整个期间采购的总最大价值进行其计算。
2. 在租赁、分期付款购买商品或服务，或未指定总价的采购情况下，采购实体应根据客观标准进行估价或适用以下估价依据：

- (a) in the case of a fixed-term contract:
 - (i) where the term of the contract is 12 months or less, the total estimated maximum value for its duration; or
 - (ii) where the term of the contract exceeds 12 months, the total estimated maximum value, including any estimated residual value;
- (b) where the contract is for an indefinite period, the estimated monthly instalment multiplied by 48; and
- (c) where it is not certain whether the contract is to be a fixed-term contract subparagraph (b) shall be used.

3. Where the total estimated maximum value of a procurement over its entire duration is not known the procurement shall be a covered procurement, unless otherwise excluded under this Agreement.

Article 15.6: Prohibition of Offsets

A Party shall not seek, take account of, impose, or enforce offsets at any stage of a covered procurement.

Article 15.7: Publication of Procurement Measures

Each Party shall promptly publish its procurement laws, regulations, procedures and policy guidelines of general application relating to covered procurements, and any changes or additions to this information.

Article 15.8: Publication of Notice of Intended Procurement

- 1. In an open tendering procedure, a procuring entity shall publish a notice inviting interested suppliers to submit tenders (“notice of intended procurement”) in such a way as to be readily accessible to any interested supplier of the other Party for the entire period established for tendering.
- 2. Each notice of intended procurement shall include a description of the intended procurement, any conditions that suppliers must fulfil to participate in the procurement, the name of the procuring entity, the address where suppliers may obtain all documents relating to the procurement and the time limits for submission of tenders.
- 3. Where, in a selective tendering procedure, a procuring entity publishes a notice inviting applications for participation in a procurement, that notice shall be published in such a way as to be readily accessible to any interested supplier of the other Party.

- (a) 在固定期限合同的情况下：
 - (i) 合同期限为12个月或更短时，其期限内的估计最高总价值；或 (ii) 合同期限超过12个月时，包括任何估计残值的估计最高总价值；
- (b) 合同期限为无限期时，估计月付款乘以48；以及 (c) 不确定合同是否为固定期限合同时，应使用第 (b) 款。

3. 如果采购在其整个期限内的估计最高总价值未知，则该采购应为受覆盖采购，除非根据本协定另有规定。

第15.6条：禁止抵消

一方不得在任何受覆盖采购阶段寻求、考虑、实施或执行抵消。

第15.7条：采购措施的公布

每一方应当及时发布其关于受覆盖采购的通用定义的采购法律、法规、程序和政策指南，以及对此信息的任何变更或补充。

第15.8条：拟采购通知的发布

- 1. 在公开招标程序中，采购实体应当以易于任何一方感兴趣的供应商获取的方式发布邀请感兴趣的供应商提交标书的通知（“拟采购通知”），并持续整个招标期限。
- 2. 每一份拟采购通知应当包括拟采购的描述、供应商参与采购必须履行的任何条件、采购实体的名称、供应商可以获取所有与采购相关的文件的地址以及提交标书的时间限制。
- 3. 在选择性招标程序中，如果采购实体发布通知邀请另一方感兴趣的供应商参与采购，该通知应以易于任何一方供应商获取的方式发布。

Article 15.9: Procurement Plans

Each Party shall encourage its procuring entities to publish, prior to, or as early as possible in, each fiscal year, a notice regarding their procurement plans for that fiscal year that includes a description of each planned procurement and indicate the expected time of commencement of the related tender process.

Article 15.10: Time Limits

1. A procuring entity shall prescribe time limits for tendering that allow sufficient time for suppliers to prepare and submit responsive tenders, taking into account the nature and complexity of the procurement and the efficient operation of the procurement process. The time allowed for the submission of tenders shall not be set with the intention of causing a competitive disadvantage for suppliers of the other Party, or suppliers offering goods or services of the other Party, in submitting tenders in accordance with the requirements set out in the tender documentation.
2. Except as provided for in paragraphs 3 and 4, a procuring entity shall provide that the final date for the submission of tenders shall not be less than 30 days:
 - (a) from the date on which the notice of intended procurement is published; or
 - (b) where the procuring entity has used selective tendering, from the date on which the entity invites suppliers to submit tenders.
3. Under the following circumstances, a procuring entity may establish a time limit for tendering that is less than 30 days, provided that such time limit is sufficiently long to enable suppliers to prepare and submit responsive tenders and is in no case less than 10 days:
 - (a) where the procuring entity published a separate notice, including a notice of planned procurement under Article 15.9 at least 30 days and not more than 12 months in advance, and such separate notice contains:
 - (i) a description of the procurement;
 - (ii) the time limits for the submission of tenders or, where appropriate, applications for participation in a procurement; and
 - (iii) the address from which documents relating to the procurement may be obtained;
 - (b) where the procuring entity procures commercial goods or services that are sold or offered for sale to, and customarily purchased and used by, non-governmental buyers for non-governmental purposes, including

第15.9条：采购计划

每一方应鼓励其采购实体在每一财政年度之前或尽早发布通知，说明其该财政年度的采购计划，该通知应包括每项计划采购的描述，并标明相关招标流程的预期开始时间。

第15.10条：时间限制

1. 采购实体应当为招标规定时间限制，以便供应商有足够的时间准备和提交响应性投标，并考虑到采购的性质和复杂性以及采购流程的高效运行。允许提交投标的时间不得有意造成对另一方供应商或提供另一方商品或服务的供应商在按照投标文件中规定的要求提交投标时产生竞争劣势。
2. 除第3段和第4段的规定外，采购实体应当规定标书提交最终日期不得少于30天：
 - (a) 从拟采购通知发布之日起；或 (b) 如果采购实体使用了选择性招标，则从实体邀请供应商提交投标之日起。
3. 在以下情况下，采购实体可以设立少于30天的招标时间限制，前提是该时间限制足够长，以便供应商能够准备和提交响应性标书，并且在任何情况下均不得少于10天：
 - (a) 当采购实体至少提前30天且不超过12个月发布单独的通知，包括根据第15.9条发布的计划采购通知时，并且该单独通知包含：
 - (i) 采购的描述； (ii) 提交标书的时间限制，或在适当情况下，参与采购的申请时间限制；以及 (iii) 可以从中获取与采购相关的文件的地址；
 - (b) 其中，采购实体采购的商业货物或服务被销售或提供给非政府买家，且这些货物或服务通常由非政府买家为非政府目的购买和使用，包括

goods and services with modifications customary in the commercial marketplace, as well as minor modifications not customarily available in the commercial marketplace;

- (c) in the case of second or subsequent publication of notices for procurement of a recurring nature;
- (d) where a state of urgency duly substantiated by the procuring entity renders impracticable the time limits specified in paragraph 2; or
- (e) when the intended procurement is for goods or services which can be easily and objectively specified and which reasonably imply less effort in the preparation and submission of responsive tenders.

4. A procuring entity may reduce the time limit for submission of a tender by up to five days when it:

- (a) publishes a notice of intended procurement in an electronic medium; or
- (b) in the context of a selective tendering procedure, issues an invitation to tender via an electronic medium;

and provides, to the extent practicable, the tender documentation via an electronic medium.

5. The application of paragraph 4 shall in no case result in the time limit for submissions being reduced to less than 10 days.

6. A procuring entity shall require all participating suppliers to submit tenders in accordance with a common deadline.

Article 15.11: Tender Documentation

1. A procuring entity shall provide on request to any supplier participating in a covered procurement or promptly publish, tender documentation that includes all the information necessary to permit suppliers to prepare and submit responsive tenders. The documentation shall include all criteria that the procuring entity will consider in awarding the contract.

2. Where a procuring entity, during the course of a covered procurement, modifies a notice or tender documentation provided to participating suppliers, it shall publish or transmit all such modifications in writing:

- (a) to all suppliers that are participating in the procurement at the time the notice or tender documentation is modified, if the identities of such suppliers are known, and in all other cases, in the same manner as the original information was transmitted; and

具有商业市场中习惯性修改的货物和服务，以及商业市场中不习惯性提供的轻微修改；

(c) 在拟采购的周期性采购的第二次或后续出版通知的情况下；(d) 当采购实体充分证明紧急状态，使得第2段规定的时间限制不可行时；或(e) 当拟采购的货物或服务可以轻易且客观地规定，并且合理地表明准备和提交响应性投标所需的工作量较少时。

4. 当采购实体时，可以缩短投标提交的时间限制，最多延长五日：

(a) 通过电子媒介发布拟采购通知；或(b) 在选择性投标程序中，通过电子媒介发布投标邀请；

并提供，在可行的情况下，通过电子媒介的投标文件。

第4段的适用在任何情况下均不得将提交的时间限制缩短至少于10日。

6. 采购实体应当要求所有参与供应商按照一个共同的截止日期提交投标。

文章 15.11：投标文件

1. 采购实体应当应任何参与受覆盖采购的供应商的要求，向其提供投标文件，或者及时发布包含所有必要信息以允许供应商准备和提交响应性投标的投标文件。该文件应当包括采购实体在裁决合同时考虑的所有标准。

2. 如果采购实体在受覆盖采购过程中修改提供给参与供应商的通知或投标文件，它应当以书面形式发布或传输所有此类修改：

(a) 向所有在通知或投标文件修改时参与采购的供应商，如果这些供应商的身份已知，并且在所有其他情况下，以与原始信息相同的方式；以及

(b) in adequate time to allow such suppliers to modify and re-submit their tenders, as appropriate.

3. A procuring entity shall promptly reply to any reasonable request for relevant information by a supplier participating in the procurement. A procuring entity may establish a reasonable time limit to request the relevant information.

4. Procuring entities shall not provide information with regard to a specific procurement in a manner which would have the effect of giving a potential supplier an unfair advantage over competitors.

Article 15.12: Technical Specifications

1. A procuring entity shall not prepare, adopt or apply any technical specification with the purpose or the effect of creating unnecessary obstacles to trade between the Parties.

2. In prescribing the technical specifications for the good or service being procured, a procuring entity shall:

- (a) specify the technical specifications, wherever appropriate, in terms of performance and functional requirements, rather than design or descriptive characteristics; and
- (b) base the technical specifications on relevant international standards, where such exist and are applicable to the procuring entity, except where the use of an international standard would fail to meet the procuring entity’s program requirements or would impose greater burdens than the use of a recognised national standard.

3. A procuring entity shall not prescribe technical specifications that require or refer to a particular trade mark or trade name, patent, copyright, design or type, specific origin or producer or supplier, unless there is no other sufficiently precise or intelligible way of otherwise describing the procurement requirements and provided that, in such cases, words such as “or equivalent” are included in the tender documentation.

4. A procuring entity shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in that procurement.

5. Notwithstanding paragraph 4, a procuring entity may:

- (a) conduct market research in developing specifications for a particular procurement; or
- (b) allow a supplier that has been engaged to provide design or consulting services to participate in procurements related to such services;

(b) 在充分的时间内，以便这些供应商可以修改并重新提交他们的标书，如适当。

3. 采购实体应当及时回复供应商参与采购所提出的任何合理的相关信息请求。采购实体可以设定合理的时间限制来请求相关信息。

4. 采购实体不得以可能使潜在供应商相对于竞争对手获得不公平优势的方式提供有关特定采购的信息。

第15.12条：技术规范

1. 采购实体不得制定、采纳或应用任何旨在或导致缔约方之间贸易造成不必要的障碍的技术规范。

2. 在规定所采购货物或服务的技术规范时，采购实体应当：

- (a) 应当根据需要，以性能和功能要求，而不是设计或描述性特征来规定技术规范；以及 (b) 应当基于相关的国际标准制定技术规范，前提是该等国际标准存在且适用于采购实体，除非使用国际标准将无法满足采购实体的项目要求，或使用公认的国家标准负担更小。

3. 采购实体不得规定要求或引用特定商标、商号、专利、版权、设计或类型、特定原产地或生产商或供应商的技术规范，除非没有其他足够精确或清晰的方式描述采购要求，并且在此类情况下，投标文件中应包含“或同等物”等词语。

4. 采购实体不得以排除竞争的方式寻求或接受建议，该建议可能被用于准备或采用针对特定采购的技术规范，且该建议可能涉及与该采购有商业利益关系的人员。

5. 不论第4段如何规定，采购实体可以：

- (a) 进行市场调研以制定特定采购的规范；或 (b) 允许已被聘用于提供设计或咨询服务之供应商参与与此类服务相关的采购；

provided it would not give any supplier an unfair advantage over other suppliers.

6. For greater clarity, this Article is not intended to preclude a procuring entity from preparing, adopting, or applying technical specifications to promote the conservation of natural resources and the environment.

Article 15.13: Conditions for Participation

1. A Party shall limit any conditions for participation in a covered procurement to those that ensure the supplier’s capability to fulfil the requirements of the procurement.

2. In assessing whether a supplier satisfies the conditions for participation, a Party:

- (a) shall evaluate the capabilities of a supplier on the basis of that supplier’s business activities both inside and outside the territory of the Party of the procuring entity;
- (b) shall base its determination solely on the conditions that a procuring entity has specified in advance in notices or tender documentation;
- (c) may not impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by a procuring entity of that Party or that the supplier has prior work experience in the territory of that Party; and
- (d) may require prior experience where relevant to meet the requirements of the procurement.

3. Nothing in this Article shall preclude a Party from excluding a supplier from a procurement on grounds such as:

- (a) bankruptcy;
- (b) false declarations; or
- (c) significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior contract.

4. Where a Party requires suppliers to register or pre-qualify before being permitted to participate in a covered procurement that Party shall ensure that a notice inviting suppliers to apply for registration or pre-qualification is published sufficiently in advance of the procurement to allow for interested suppliers, including suppliers of the other Party, to initiate and, to the extent that it is compatible with the efficient operation of the procurement process, complete the registration or qualification procedures.

前提是不会给任何供应商相对于其他供应商造成不公平优势。

6. 为了更清晰，本文章无意排除采购实体准备、采纳或应用于促进自然资源 and 环境保护的采购技术规范。

文章 15.13：参与条件

1. 一方应将覆盖采购的参与条件限制为那些确保供应商履行采购要求的条件。

2. 在评估供应商是否满足参与条件时，一方应：

(a) 基于该供应商在采购实体所在缔约方领土内外的业务活动，评估供应商的能力；(b) 仅基于采购实体在通知或投标文件中预先指定的条件做出决定；(c) 不得强加这样的条件，即为了参与采购，供应商先前必须由该方的一个采购实体授予一个或多个合同，或供应商在该方领土内具有先前工作经验；以及 (d) 在相关情况下，可要求先前经验以满足采购要求。

3. 本文章中的任何内容均不得妨碍缔约方因以下理由将供应商排除在采购之外：

(a) 破产；(b) 虚假申报；或 (c) 在先前合同项下实质性要求或义务的履行中存在重大或持续的缺陷。

4. 当一方要求供应商在获得参与受覆盖采购的许可前进行注册或预资格认定时，该方应确保发布邀请供应商申请注册或预资格认定的通知，并确保在采购活动开始前有足够的时间，以便感兴趣的供应商，包括另一方供应商，能够启动并（在不影响采购流程高效运行的前提下）完成注册或资格认定程序。

5. The process of, and the time required for, registering or qualifying suppliers shall not be used in order to prevent or delay the inclusion of suppliers of the other Party on a list of suppliers or prevent such suppliers from being considered for a particular procurement.

6. A Party may establish a multi-use list provided that it publishes, annually or continuously, a notice inviting interested suppliers to apply for inclusion on the list. The notice shall include:

- (a) a description of the goods and services, or categories thereof, for which the list may be used;
- (b) the requirements to be satisfied by suppliers;
- (c) the name and address of the procuring entity or other government agency and other information necessary to contact the procuring entity and obtain all relevant documents relating to the list; and
- (d) deadlines for submission of applications for inclusion on that list, where applicable.

7. A Party that maintains a multi-use list shall include on the list all suppliers that satisfy the requirements set out in the notice referred to in paragraph 6 within a reasonably short time.

Article 15.14: Tendering Procedures

1. A procuring entity shall only use open or selective tendering procedures consistent with the provisions of this Chapter, except as provided for in Article 15.15.

2. A procuring entity may use selective tendering procedures in accordance with Article 15.4 and the procurement laws, regulations, procedures and policies of its Party.

3. To ensure effective competition under selective tendering procedures, a procuring entity shall invite tenders from the largest number of domestic suppliers and suppliers of the other Party that is consistent with the efficient operation of the procurement system. It shall select the suppliers to participate in the procedure in a fair and non-discriminatory manner.

Article 15.15: Limited Tendering

1. Provided that it does not use this provision for the purpose of avoiding competition, to protect domestic suppliers or in a manner that discriminates against suppliers of the other Party, a procuring entity may use limited tendering procedures.

5. 注册或资格认定供应商的程序及所需时间不得被用于阻止或延迟将另一方供应商列入供应商名单，或阻止此类供应商被考虑参与特定采购活动。

6. 缔约方可以建立多用途供应商名单，前提是它发布通知，每年或持续邀请感兴趣的供应商申请加入该名单。通知应包括：

- (a) 该名单可能用于的货物和服务或其类别的描述； (b) 供应商应满足的要求； (c) 采购实体或其他政府机构的名址以及联系采购实体和获取与该名单相关的所有相关文件的其他必要信息； 以及 (d) 提交加入该名单的申请的截止日期，如适用。

7. 维持多用途名单的缔约方应在合理短的时间内，将满足第6段所述通知中规定的所有要求的所有供应商列入该名单。

第15.14条：招标程序

1. 采购实体应仅使用与本章规定一致的开标或选择性招标程序，除非第15.15条另有规定。

2. 采购实体可依据第15.4条及其缔约方的采购法律、法规、程序和政策，使用选择性招标程序。

3. 为确保选择性招标程序下的有效竞争，采购实体应邀请与采购系统有效运行相一致的最多数量的国内供应商和另一方的供应商投标。它应以公平和非歧视的方式选择参与该程序的供应商。

第15.15条：有限招标

1. 如果不将其用于规避竞争、保护国内供应商或以歧视另一方供应商的方式，采购实体可以使用有限招标程序。

2. When a procuring entity applies limited tendering it may choose, according to the nature of the procurement, not to apply Articles 15.8, 15.10, 15.11, 15.12, 15.13, 15.14, 15.16.1 and 15.16.3 to 15.16.6. A procuring entity may use limited tendering only under the following circumstances:

- (a) where, in response to a prior notice, invitation to participate, or invitation to tender:
 - (i) no tenders were submitted or no suppliers requested participation;
 - (ii) no tenders were submitted that conform to the essential requirements in the tender documentation; or
 - (iii) no suppliers satisfied the conditions for participation;and the procuring entity does not substantially modify the essential requirements of the procurement;
- (b) where, for works of art, or for reasons connected with the protection of exclusive rights, such as patents or copyrights, or proprietary information, or where there is an absence of competition for technical reasons, the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute exists;
- (c) for additional deliveries by the original supplier or its authorised agent that are intended either as replacement parts, extensions, or continuing services for existing equipment, software, services or installations, where a change of supplier would compel the procuring entity to procure goods or services not meeting requirements of interchangeability with existing equipment, software, services, or installations;
- (d) for goods purchased on a commodity market;
- (e) where a procuring entity procures a prototype or a first good or service that is intended for limited trial or developed at its request in the course of, and for, a particular contract for research, experiment, study, or original development;
- (f) where additional construction services that were not included in the initial contract but that were within the objectives of the original tender documentation have, due to unforeseen circumstances, become necessary to complete the construction services described therein. However, the total value of contracts awarded for additional construction services may not exceed 50 per cent of the amount of the initial contract;
- (g) for new construction services consisting of the repetition of similar construction services that conform to a basic project for which an

2. 当采购实体适用有限招标时，根据采购的性质，可以选择不适用第15.8条、第15.10条、第15.11条、第15.12条、第15.13条、第15.14条、第15.16.1条和第15.16.3条至第15.16.6条。采购实体只有在以下情况下才能使用有限招标：

- (a) 在对预先通知、参与邀请或投标邀请作出回应的情况下：(i) 未提交标书或供应商未请求参与；(ii) 未提交符合投标文件中基本要求的标书；或 (iii) 供应商未满足参与条件；并且采购实体未实质性修改采购的基本要求
- 要求；
- (b) 在艺术品的情况下，或由于专有权利保护（如专利或版权）或专有信息等原因，或由于技术原因缺乏竞争，商品或服务只能由特定供应商提供且不存在合理的替代品或替代方案；(c) 对于原始供应商或其授权代理人提供的附加交付，旨在作为现有设备、软件、服务或安装的替换部件、扩展或持续服务，而更换供应商将迫使采购实体采购不符合与现有设备、软件、服务或安装互操作性的商品或服务的要求；(d) 对于在商品市场上购买的商品；(e) 当采购实体采购原型或第一项货物或服务，该货物或服务旨在进行有限试验或应特定研究合同、实验、研究或原始开发的要求而开发时；(f) 由于不可预见的情况，初始合同中未包含但属于原始投标文件目标范围内的附加建筑服务，因完成其中所述的建筑服务而变得必要。然而，附加建筑服务所授予合同的总额不得超过初始合同金额的50%；(g) 对于由符合基本项目的新建筑服务组成的重复相似建筑服务，该基本项目是按照本章规定使用公开招标或选择性招标授予初始合同的，并且采购实体在关于初始建筑服务的拟采购通知中已表明，在授予此类新建筑服务的合同时可能使用有限招标程序；

initial contract was awarded following use of open tendering or selective tendering in accordance with this Chapter, and for which the procuring entity has indicated in the notice of intended procurement concerning the initial construction service that limited tendering procedures might be used in awarding contracts for such new construction services;

- (h) for purchases made under exceptionally advantageous conditions that only arise in the very short term, such as from unusual disposals, unsolicited innovative proposals, liquidation, bankruptcy or receivership and not for routine purchases from regular suppliers;
- (i) where a contract is awarded to the winner of a design contest provided that:
 - (i) the contest has been organised in a manner that is consistent with this Chapter, and
 - (ii) the contest is judged by an independent jury with a view to a design contract being awarded to the winner; or
- (j) in so far as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseen by the procuring entity, the goods or services could not be obtained in time by means of an open or selective tendering procedure.

3. A procuring entity shall maintain a record or prepare a written report providing specific justification for any contract awarded by means other than open or selective tendering procedures, as provided for in this Article.

Article 15.16: Treatment of Tenders and Awarding of Contracts

1. A procuring entity shall receive and open all tenders under procedures that guarantee the fairness and impartiality of the procurement process.
2. A procuring entity shall treat all tenders in confidence to the extent permitted by its domestic law. In particular, it shall not provide information to particular suppliers that might prejudice fair competition between suppliers.
3. A procuring entity shall not penalise any supplier whose tender is received after the time specified for receiving tenders if the delay is due solely to mishandling on the part of the procuring entity.
4. A procuring entity shall require that in order to be considered for award, a tender must be submitted in writing and must, at the time it is submitted, conform to the essential requirements of the tender documentation.
5. Unless a procuring entity determines that it is not in the public interest to award a contract, it shall award the contract to the supplier that the procuring entity

初始合同是按照本章规定使用公开招标或选择性招标授予的，并且采购实体在关于初始建筑服务的拟采购通知中已表明，在授予此类新建筑服务的合同时可能使用有限招标程序；

(h) 对于因异常有利条件而仅在极短期限内发生的采购，例如非正常处置、非主动创新提案、清算、破产或接管，而非常规采购自常规供应商的采购；

(i) 当合同授予设计竞赛的获胜者时，前提是：

(i) 竞赛已按照本章规定的方式组织，并且 (ii) 竞赛由独立陪审团进行评判，旨在将设计合同授予获胜者；或

(j) 在绝对必要时，由于采购实体无法预见的事件导致的极端紧急情况，导致无法通过公开或选择性招标程序及时获得货物或服务。

3. 采购实体应保存记录或准备书面报告，为通过公开或选择性招标程序以外的其他方式授予的任何合同提供具体理由，如本章所述。

第15.16条：投标处理和合同授予

1. 采购实体应当依照保证采购程序公平性和公正性的程序，接收并开标。
2. 采购实体应当根据其国内法的规定，对投标予以保密。特别是，它不得向特定供应商提供可能妨碍供应商之间公平竞争的信息。
3. 如果延迟是由于采购实体方面的疏忽造成的，采购实体不得惩罚在接收投标截止时间后收到投标的任何供应商。
4. 采购实体应当要求，为了被考虑授予合同，投标必须以书面形式提交，并且在提交时必须符合投标文件的基本要求。
5. 除非采购实体确定授予合同不符合公共利益，否则应当将合同授予采购实体

has determined to satisfy the conditions for participation and whose tender is determined to be the most advantageous or best value for money, in accordance with the requirements and evaluation criteria specified in the notices and tender documentation.

6. A procuring entity shall not cancel a procurement or modify awarded contracts in order to avoid the obligations of this Chapter.

Article 15.17: Information on Awards

1. A procuring entity shall promptly inform suppliers participating in a tendering procedure of its contract award decision. On request, a procuring entity shall provide a supplier whose tender was not selected for award the reasons for not selecting its tender.

2. Each Party shall require its procuring entities either to promptly publish, or to publish no later than 60 days after award of a contract, a notice that includes at least the following information about the award:

- (a) the name of the procuring entity;
- (b) a description of the goods or services procured;
- (c) the value of the contract award; and
- (d) the name of the winning supplier.

3. A procuring entity shall maintain records and reports of tendering procedures relating to covered procurements, including the reports provided for in Article 15.15.3, and shall retain such records and reports for a period of at least three years.

Article 15.18: Domestic Review of Supplier Challenges

1. Each Party shall maintain at least one impartial administrative or judicial authority that is independent of its procuring entities to receive and review, in a non-discriminatory, timely, transparent and effective manner, complaints that suppliers submit, in accordance with the Party’s law, relating to a covered procurement. Where such an authority is not a court it shall either be subject to judicial review or shall have procedural guarantees similar to those of a court.

2. Each Party shall make information on complaint mechanisms generally available.

Article 15.19: Modifications and Rectifications

1. A Party may modify its coverage under this Chapter provided that it:

已确定满足参与条件且其投标被确定为最有利或最具成本效益的供应商，并依据通知和投标文件中规定的具体要求和评估标准进行。

6. 采购实体不得取消采购或修改已授予的合同，以规避本章的义务。

第15.17条：关于裁决的信息

1. 采购实体应及时通知参与招标程序的供应商其合同授予决定。如供应商请求，采购实体应向未中标的供应商提供未选中其投标的理由。

2. 各方应要求其采购实体要么及时发布，要么在合同授予后60日内发布包含以下至少信息的通知：

- (a) 采购实体的名称； (b) 采购的货物或服务的描述； (c) 合同授予的价值； 以及 (d) 中标供应商的名称。

3. 采购实体应当保存与受覆盖采购相关的招标程序的记录和报告，包括第15.15.3条规定的报告，并应保存这些记录和报告至少三年。

第15.18条：供应商挑战的国内审查

1. 每一方应至少维持一个与其采购实体独立的不偏不倚的行政或司法机构，以非歧视、及时、透明和有效的方式接收和审查供应商根据其法律提交的、与受覆盖采购相关的投诉。如果该机构不是法院，则应受司法审查或应具有与法院相似的程序保障。

2. 每一方应使投诉机制的信息普遍可得。

第15.19条：修改和更正

1. 一方可以修改其在本章项下的保障范围，前提是它：

- (a) notifies the other Party in writing and simultaneously offers acceptable compensatory adjustments to the other Party to maintain a level of coverage comparable to that existing prior to the modification, except as provided in paragraphs 2 and 3; and
- (b) the other Party does not object in writing within 30 days of the notification.

2. Each Party may make rectifications of a purely formal nature to its coverage under this Chapter, or minor amendments to its Schedule in Annex 15-A provided that it notifies the other Party in writing and the other Party does not object in writing within 30 days of the notification. A Party that makes such a rectification or minor amendment need not provide compensatory adjustments.

3. A Party need not provide compensatory adjustments in those circumstances where the Parties agree that the proposed modification covers an entity over which a Party has effectively eliminated its control or influence. Where the Parties do not agree that such government control or influence has been effectively eliminated, the objecting Party may request further information or consultations with a view to clarifying the nature of any government control or influence and reaching agreement on the entity’s continued coverage under this Chapter.

4. Where appropriate, the Joint FTA Committee shall adopt the modification, rectification or minor amendment notified by the Party concerned.

Article 15.20: Confidential Information

When a person of a Party makes available confidential information to the other Party or its procuring entities, the latter Party shall ensure that such information is kept confidential and is not used for a purpose other than that for which it was made available. However, disclosure of confidential information may occur where a Party or its procuring entities are required to make disclosure under its domestic law or where disclosure is authorised by the person that furnished the information.

Article 15.21: Encouraging use of Electronic Communications in Procurement

1. The Parties shall seek to provide opportunities for government procurement to be undertaken through the Internet or a comparable computer-based telecommunications network.

2. In order to facilitate commercial opportunities for their suppliers under this Chapter, each Party shall maintain a single electronic portal for accessing information on government procurement supply opportunities in its territory and on measures relating to government procurement.

3. The Parties shall encourage, to the extent possible, the use of electronic means for the provision of tender documents and receipt of tenders.

- (a) 以书面形式通知另一方并同时提供可接受的 e 对另一方进行补偿性调整，以维持与修改前相当的保障范围，但除第2段和第3段的规定外；和

- (b) 另一方在收到通知后30日内未书面提出异议通知。

2. 每一方可对其在本章项下的保障范围进行纯形式上的更正，或对其附件 15-A中的清单进行轻微修订，前提是其以书面形式通知另一方，且另一方在收到通知后30日内未书面提出异议。进行此类更正或轻微修订的一方无需提供补偿性调整。

3. 在缔约方同意拟议的修改涵盖一方已有效消除其控制或影响的实体的情况下，该方无需提供补偿性调整。如果缔约方不认为此类政府控制或影响已被有效消除，提出异议的一方可以请求进一步信息或磋商，以澄清任何政府控制或影响的具体性质，并就实体在本章项下的持续保障范围达成协议。

4. 在适当的情况下，联合自由贸易委员会应采纳有关缔约方通知的修改、更正或轻微修订。

第15.20条：机密信息

当一方人员向另一方或其采购实体提供机密信息时，后者缔约方应确保该信息被保密，并且不被用于提供信息时的目的之外的其他目的。然而，在缔约方或其采购实体根据其国内法被要求披露机密信息，或披露经提供信息的人员授权的情况下，机密信息的披露可能会发生。

第15.21条：鼓励在采购中使用电子通信

1. 缔约方应寻求提供通过互联网或类似计算机电信网络进行政府采购的机会。

2. 为了促进本章为其供应商提供的商业机会，每一方应维护一个单一的电子门户，用于获取有关其领土内政府采购供应机会和与政府采购相关的措施的信息。

3. 缔约方应当尽最大可能鼓励使用电子方式提供投标文件和接收投标。

4. The Parties shall ensure that policies and procedures adopted for the use of electronic means in procurement:
- (a) protect documentation from unauthorised and undetected alteration; and
 - (b) provide appropriate levels of security for data on, and passing through, the procuring entity’s network.

5. Each Party shall encourage its procuring entities to publish the notices covered by Article 15.9 on a website accessible through the electronic portal referred to in paragraph 2.

Article 15.22: Ensuring Integrity in Procurement Practices

Each Party shall ensure that criminal or administrative penalties exist to address corruption in its government procurement, and that its entities have in place policies and procedures to eliminate, to the extent possible, any potential conflict of interest on the part of those engaged in or having influence over a procurement.

Article 15.23: Exceptions

1. Provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail or a disguised restriction on trade between the Parties, nothing in this Chapter shall be construed to prevent a Party from adopting or maintaining measures:
- (a) necessary to protect public morals, order or safety;
 - (b) necessary to protect human, animal, or plant life or health;
 - (c) necessary to protect intellectual property; or
 - (d) relating to goods or services of handicapped persons, of philanthropic or not for profit institutions, or of prison labour.
2. The Parties understand that subparagraph (b) includes environmental measures necessary to protect human, animal, or plant life or health.
3. Further to Article 22.2 (Security Exceptions – General Provisions and Exceptions Chapter), nothing in this Chapter shall be construed to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests relating to government procurement indispensable for national security or for national defence purposes.

4. 缔约方应当确保为采购中使用电子方式所采纳的政策和程序：

- (a) 保护文件免遭未经授权且未被检测到的更改；以及 (b) 为存储在或通过采购实体的网络上传输的数据提供适当级别的安全保护。

5. 每一方应鼓励其采购实体在可通过第2段所述电子门户访问的网站上发布第15.9条涵盖的通知。

第15.22条：确保采购实践中的完整性

每一方应确保存在刑事或行政处罚以解决其政府采购中的腐败问题，并确保其实体已制定政策和程序，以消除参与或影响采购的人员可能存在的任何潜在利益冲突。

第15.23条：例外情况

1. 如果此类措施并非以任意或不合理的歧视方式适用于条件相同或相似的缔约方之间，或并非对缔约方之间的贸易设置伪装限制，则本章的任何规定均不得解释为禁止一方采取或维持措施：
- (a) 保护公共道德、秩序或安全所必需的；(b) 保护人类、动物或植物的生命或健康所必需的；(c) 保护知识产权所必需的；或(d) 与残疾人、慈善或非营利机构或监狱劳动的货物或服务相关的。
2. 缔约方理解，第(b)项包括保护人类、动物或植物的生命或健康所必需的环境措施。
3. 根据《第22.2条（安全例外——总则和例外章节）》，本章的任何规定均不得解释为禁止缔约方采取其认为对其基本安全利益所必需的任何行动，这些利益涉及对国家安全或国防目的至关重要的政府采购。

Article 15.24: Consultations on Government Procurement

- 1. Each Party shall use the contact point referred in Chapter 19 (Transparency). The contact point shall be included in all communications between the Parties made pursuant to this Article.
- 2. For the purpose of this Article each Party shall reply to any request from the other party for an explanation of any matter relating to the application of this Chapter, including matters related to its procurement laws, regulations and policy guidelines.
- 3. The Parties shall exchange information relating to the development and use of electronic communication in government procurement systems, shall exchange statistics and other information; and shall make efforts to increase understanding of their respective government procurement systems. The Parties shall also exchange information on their respective approaches to maximise access for small and medium enterprises to the government procurement market.
- 4. As provided for in Article 15.19, each Party shall inform the other Party of any developments which may modify its coverage under this Chapter.

Article 15.25: Further Negotiations

On request of either Party, the Parties shall enter into negotiations with a view to extending coverage under this Chapter on a reciprocal basis, if a Party provides, through an international agreement entered into after entry into force of this Agreement, access to its procurement market for suppliers of a non-Party beyond what it provides under this Agreement to suppliers of the other Party.

第15.24条：关于政府采购的磋商

- 1. 每一方应根据第19章（透明度）中提到的联系点行事。该联系点应包含在缔约方根据本条进行的所有通信中。
- 2. 为本条之目的，每一方应就另一方法求对本章适用相关的任何事项的解释作出答复，包括与其采购法律、法规和政策指南相关的事项。
- 3. 缔约方应交换有关政府采购系统中电子通信的发展和使用的有关信息，应交换统计数据和其他信息；并应努力增进对其各自政府采购系统的理解。缔约方还应在各自为最大限度地使中小企业获得政府采购市场准入的方法方面交换信息。
- 4. 如第15.19条所述，每一方应将可能修改其在本章项下的保障范围的任何发展通知另一方。

第15.25条：进一步谈判

根据任何一方的要求，缔约方应进行谈判，以期在相互基础上扩大本章的保障范围，如果一方通过在本协定生效后缔结的国际协议，为其非缔约方供应商提供的采购市场准入超过其根据本协定为另一方供应商提供的准入。

Annex 15-A

Section 1: Central Government Entities

1. This Chapter applies to central government entities listed in each Party’s Schedule to this Section where the value of the procurement is estimated, in accordance with Article 15.5, to equal or exceed the thresholds specified below:
- (a) for procurement of goods and services:
A\$87,000 or CLP\$35,911,000
 - (b) for procurement of construction services:
A\$9,570,000 or CLP\$3,940,806,000
2. The monetary thresholds set out in paragraph 1 shall be adjusted in accordance with Section 8 of this Annex

附件15-A

第一部分：中央政府实体

1. 本章适用于根据第15.5条估计，采购价值等于或超过下述门槛的每一方清单中列出的中央政府实体：
- (a) 用于采购货物和服务：87,000澳元或35,911,000 CLP元 (b) 用于采购建筑服务：9,570,000澳元或3,940,806,000 CLP元
2. 第1段中规定的货币门槛应根据本附件第8节进行调整

Schedule of Australia^{1,2}

澳大利亚清单^{1,2}

1. Agriculture, Fisheries and Forestry Portfolio

Department of Agriculture, Fisheries and Forestry
Dairy Adjustment Authority
Biosecurity Australia

2. Attorney-General's Portfolio

Attorney-General's Department
Administrative Appeals Tribunal
Australian Crime Commission
Australian Customs Service
Australian Federal Police
AUSTRAC
CrimTrac Agency
Family Court of Australia
Federal Court of Australia
Federal Magistrates Court
Human Rights and Equal Opportunity Commission
Insolvency and Trustee Service Australia (ITSA)
National Capital Authority
National Native Title Tribunal
Office of Parliamentary Counsel
Office of the Director of Public Prosecutions

3. Broadband, Communications and the Digital Economy Portfolio

Department of Broadband, Communications and the Digital Economy

4. Defence Portfolio

Department of Defence³
Department of Veterans' Affairs
Defence Materiel Organisation³

5. Education, Employment and Workplace Relations Portfolio

Department of Education, Employment and Workplace Relations
Australian Industrial Registry
Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority)
Office of the Workplace Ombudsman
Workplace Authority

6. Environment, Heritage and the Arts Portfolio

Department of Environment, Water, Heritage and the Arts
Bureau of Meteorology

7. Families, Housing, Community Services and Indigenous Affairs Portfolio

Department of Families, Housing, Community Services and Indigenous Affairs
Equal Opportunity for Women in the Workplace Agency

8. Finance and Deregulation Portfolio

Department of Finance and Deregulation
Australian Electoral Commission
Australian Reward Investment Alliance⁴
ComSuper

1. 农业、渔业和林业组合部门 农业、渔业和林业部 乳制品调整局 澳大利亚生物安全局

2. 总检察长组合部门 总检察长部 行政上诉法庭 澳大利亚犯罪委员会 澳大利亚海关服务 澳大利亚联邦警察 澳大利亚金融犯罪和监管审讯局 犯罪追踪机构 家庭法院 澳大利亚联邦法院 澳大利亚联邦地方法院 澳大利亚人权与平等机会委员会 澳大利亚破产和信托服务局 (ITSA) 国家首都管理局 国家原住民土地权利法庭办公室 议会法律顾问办公室 公共检察官办公室 工作申诉专员办公室

3. 宽带、通信和数字经济组合部门 宽带、通信和数字经济部

4. 国防组合部门 国防部³ 退伍军人事务部 国防物资组织³

5. 教育、就业和工作关系组合部门 教育、就业和工作关系部 澳大利亚工业登记处 海员安全、康复和补偿局 (Seacare Authority) 工作申诉专员办公室 工作管理局

6. 环境、遗产和艺术组合部门 环境、水利、遗产和艺术部 气象局

7. 家庭、住房、社区服务和原住民事务组合部门 家庭、住房、社区服务和原住民事务部 工作场所妇女平等机会机构

8. 财务和去管制组合部门 财政与去管制部 澳大利亚选举委员会 澳大利亚奖励投资联盟⁴ 澳大利亚超级基金监管机构

9. Foreign Affairs and Trade Portfolio

Department of Foreign Affairs and Trade
AusAid

Australian Centre for International Agricultural Research

10. Health and Ageing Portfolio⁵

Department of Health and Ageing

Australian Radiation Protection and Nuclear Safety Agency (ARPANSA)

National Blood Authority

Professional Services Review Scheme

11. Human Services Portfolio

Department of Human Services

Centrelink

12. Infrastructure, Transport, Regional Development and Local Government Portfolio

Department of Infrastructure, Transport, Regional Development and Local Government

13. Immigration and Citizenship Portfolio

Department of Immigration and Citizenship

Migration Review Tribunal and Refugee Review Tribunal

14. Innovation, Industry, Science and Research Portfolio

Department of Innovation, Industry, Science and Research

Australian Research Council

IP Australia

15. Prime Minister and Cabinet Portfolio

Department of the Prime Minister and Cabinet

Australian National Audit Office

Australian Public Service Commission

Office of the Commonwealth Ombudsman

Office of the Inspector-General of Intelligence and Security

Office of the Official Secretary of the Governor-General

Office of the Privacy Commissioner

Office of the Renewable Energy Regulator

National Archives of Australia

16. Resources, Energy and Tourism Portfolio

Department of Resources, Energy and Tourism

Geoscience Australia

17. Treasury Portfolio

Department of the Treasury

Australian Bureau of Statistics

Australian Competition and Consumer Commission

Australian Office of Financial Management (AOFM)

Australian Taxation Office

Commonwealth Grants Commission

Inspector General of Taxation

National Competition Council

Productivity Commission

Royal Australian Mint

18. Parliamentary Departments

Department of the House of Representatives

Department of the Senate

9. 外交和贸易组合部门

外交贸易部 澳大利亚国际发展署 澳大利亚国际农业研究中心

10. 健康与老龄化组合⁵

健康与老龄化部 澳大利亚辐射防护与核安全局 国家血液管理局 专业服务审查计划

11. 人类服务组合

人类服务部 中心链接

12. 基础设施、交通、区域发展和地方政府部

13. 移民与公民部

移民与公民部 移民审查法庭和难民审查法庭

14. 创新、工业、科学和研究中心

创新、工业、科学和研究中心 澳大利亚研究委员会 澳大利亚知识产权局

15. 总理及内阁事务

总理及内阁部 澳大利亚国家审计署 澳大利亚公共服务委员会 联邦监察专员办公室 情报与安全总监察长办公室 总督府官方秘书办公室 隐私专员办公室 可再生能源监管办公室 澳大利亚国家档案馆

16. 资源、能源与旅游事务

资源、能源与旅游部 澳大利亚地质科学局

17. 财政事务

财政部 澳大利亚统计局 澳大利亚竞争与消费者委员会 澳大利亚财务管理办公室 (AOFM) 澳大利亚税务局 联邦拨款委员会 税务总监察长 国家竞争委员会 生产力委员会 澳大利亚皇家铸币厂

18. 议会部门

众议院部 参议院部

Notes to the Schedule of Australia

1. This Chapter covers only those entities subordinate to the relevant portfolio which are listed in this Schedule.
2. This Chapter does not cover the procurement of motor vehicles by any entity listed in this Section.
3. Department of Defence and Defence Materiel Organisation

(a) This Chapter does not cover the procurement of the following goods due to Article 15.23:

	Approximately equivalent to:
Weapons	FSC 10
Fire Control Equipment	FSC 12
Ammunition and Explosives	FSC 13
Guided Missiles	FSC 14
Aircraft and Airframe Structural Components	FSC 15
Aircraft Components and Accessories	FSC 16
Aircraft Launching, Landing & Ground Handling Equipment	FSC 17
Space Vehicles	FSC 18
Ships, Small Craft, Pontoons and Floating Docks	FSC 19
Ship and Marine Equipment	FSC 20
Ground Effect Vehicles, Motor Vehicles, Trailers and Cycles	FSC 23
Engines, Turbines and Components	FSC 28
Engines Accessories	FSC 29
Bearings	FSC 31
Water Purification and Sewage Treatment Equipment	FSC 46
Valves	FSC 48
Maintenance and Repair Shop Equipment	FSC 49
Prefabricated Structures and Scaffolding	FSC 54
Communication, Detection and Coherent Radiation Equipment	FSC 58
Electrical and Electronic Equipment Components	FSC 59
Fiber Optics Materials, Components, Assemblies and Accessories	FSC 60
Electric Wire, and Power and Distribution Equipment	FSC 61
Alarm, Signal and Security Detection Systems	FSC 63
Instruments and Laboratory Equipment	FSC 66
Specialty Metals	No Code

NB: Whether a good is included within the scope of this Note shall be determined solely according to the descriptions provided in the left column above. United States Federal Supply Codes (FSC) are provided for reference purposes only. (For a

澳大利亚附表说明

1. 本章仅涵盖属于相关部门且列于本清单下的实体。
2. 本章不涵盖本节列出的任何实体采购的机动车辆。
3. 国防部和国防物资组织

(a) 由于第15.23条，本章不涵盖采购以下货物：

	大约 等同于：
武器	FSC 10
火控设备	FSC 12
弹药和爆炸物	FSC 13
制导导弹	FSC 14
飞机和机翼结构组件	FSC 15
飞机部件和附件	FSC 16
飞机发射、着陆和地面处理设备	FSC 17
航天器	FSC 18
船舶、小型船只、浮筒和浮码头	FSC 19
船舶和海洋设备	FSC 20
地面效应车辆、机动车辆、拖车和自行车	FSC 23
发动机、涡轮机和组件	FSC 28
发动机附件	FSC 29
轴承	FSC 31
水净化和污水处理设备	FSC 46
阀门	FSC 48
维护和修理店设备	FSC 49
预制结构和脚手架	FSC 54
通信、探测和相干辐射设备	FSC 58
电气和电子设备组件	FSC 59
光纤材料、组件、组装和附件 FSC 60	
电线和电力及配电设备	FSC 61
警报、信号和安全检测系统	FSC 63
仪器和实验室设备	FSC 66
特种金属	无代码

注意：货物是否包含在本说明的范围内应根据上方左侧列提供的描述单独确定。美国联邦供应代码（FSC）仅供参考。（有关美国联邦供应代码的完整列表，其中澳大利亚类别大致等同，请参见<style id='1'> <https://www.fbo.gov></style>）。

complete listing of the United States Federal Supply Codes, to which the Australian categories are approximately equivalent, see <https://www.fbo.gov>).

(b) For Australia, this Chapter does not cover the following services, as elaborated in the Common Classification System and the WTO system of classification – MTN.GNS/W/120, due to Article 15.23. (*For a complete listing of Common Classification System, see: <http://www.sice.oas.org/trade/nafta/chap-105.asp>*):

- Design, development, integration, test, evaluation, maintenance, repair, modification, rebuilding and installation of military systems and equipment (approximately equivalent to relevant parts of U.S. Product Service Codes A & J);
- Operation of Government-owned facilities (approximately equivalent to U.S. Product Service Code M);
- Space services (AR, B4 & V3); and
- Services in support of military forces overseas.

(c) This Chapter does not cover the procurement of goods and services by, or on behalf of, the Defence Intelligence Organisation, the Defence Signals Directorate or the Defence Imagery and Geospatial Organisation.

(d) In respect of Article 15.4, the Australian Government reserves the right, pursuant to Article 15.23, to maintain the Australian Industry Involvement program and its successor programs and policies.

4. Department of Finance and Deregulation

This Chapter does not cover procurement by the Australian Reward Investment Alliance of investment management, investment advisory or master custody and safekeeping services for the purposes of managing and investing the assets of Australian Government superannuation funds.

5. Health and Ageing Portfolio

This Chapter does not apply to procurement of health and welfare services.

有关美国联邦供应代码的完整列表，其中澳大利亚类别大致等同，请参见 <https://www.fbo.gov>).

(b) 对于澳大利亚而言，本章不涵盖以下服务，这些服务根据共同分类系统和 WTO 分类系统详细说明——MTN.GNS/W/120，由于第15.23条。（关于共同分类系统的完整列表，请参阅：<http://www.sice.oas.org/trade/nafta/chap-105.asp>）：

- 军事系统和设备的设计、发展、集成、测试、评估、维护、修理、修改、重建和安装（大约等同于美国产品服务代码A和J的相关部分）；
- 政府所有设施的操作（大约等同于美国产品服务代码M）；
- 空间服务（AR、B4和V3）；以及
- 支持海外军事力量的服务。

(c) 本章不涵盖国防情报局、国防信号局或国防影像与地理空间组织采购货物和服务的活动，或代表这些机构进行的采购。

(d) 关于第15.4条，澳大利亚政府根据第15.23条保留权利，以维持澳大利亚产业参与计划及其后续计划和政策。

4. 财政与去管制部

本章不涵盖澳大利亚奖励投资联盟为管理和投资澳大利亚政府超级年金基金资产而采购的投资管理、投资咨询或主托管和安全保管服务的活动。

5. 健康与老龄化组合

本章不适用于健康和社会福利服务的采购。

Schedule of Chile

智利清单

- 1. *Presidencia de la República*
- 2. *Ministerio de Interior*
- 3. *Ministerio de Relaciones Exteriores*
- 4. *Ministerio de Defensa Nacional*
- 5. *Ministerio de Hacienda*
- 6. *Ministerio Secretaría General de la Presidencia*
- 7. *Ministerio Secretaría General de Gobierno*
- 8. *Ministerio de Economía, Fomento y Reconstrucción*
- 9. *Ministerio de Minería*
- 10. *Ministerio de Planificación y Cooperación*
- 11. *Ministerio de Educación*
- 12. *Ministerio de Justicia*
- 13. *Ministerio de Trabajo y Previsión Social*
- 14. *Ministerio de Obras Públicas*
- 15. *Ministerio de Transporte y Telecomunicaciones*
- 16. *Ministerio de Salud*
- 17. *Ministerio de Vivienda y Urbanismo*
- 18. *Ministerio de Bienes Nacionales*
- 19. *Ministerio de Agricultura*
- 20. *Ministerio Servicio Nacional de la Mujer*
- 21. *Ministerio de Energía*

Gobiernos Regionales

Intendencia Región de Arica y Parinacota
Gobernación de Arica
Gobernación de Parinacota

Intendencia Región de Tarapacá
Gobernación de Iquique
Gobernación de Tamarugal

Intendencia Región de Antofagasta
Gobernación de Antofagasta
Gobernación de Loa
Gobernación de Tocopilla

Intendencia Región de Atacama
Gobernación de Copiapó
Gobernación de Huasco
Gobernación de Chañaral

Intendencia Región de Coquimbo
Gobernación de El Elqui

- 1. 共和国总统府 2. 内政部 3. 外交部 4. 国防部 5. 财政部 6. 总统府秘书处 7. 政府秘书处 8. 经济、促进和重建部 9. 矿业部 10. 规划和合作部 11. 教育部 12. 司法部 13. 劳工和社会保障部 14. 公共工程 部 15. 交通和电信部 16. 卫生部 17. 住房和城市发展部 18. 国有资产管理部 19. 农业部 20. 国家妇女服务部 21. 能源部

地方政府

阿里卡和帕拉纳科塔地区总督府 阿里卡省 帕拉纳科塔省

塔拉帕卡地区总督府 伊基克省 塔马鲁加尔省

安托法加斯塔地区总督府 安托法加斯塔省 洛亚省 托科皮利亚省

阿塔卡马地区总督府 科皮亚波省 瓦斯科省 查纳尔省

科奇巴地区总督府 埃尔埃尔基省

Gobernación de Limarí
Gobernación de Choapa

Intendencia Región de Valparaíso
Gobernación de Valparaíso
Gobernación de Quillota
Gobernación de San Antonio
Gobernación de San Felipe
Gobernación de Los Andes
Gobernación de Petorca
Gobernación de Isla de Pascua

Intendencia Región del Libertador Bernardo O´Higgins
Gobernación de Cachapoal
Gobernación de Colchagua
Gobernación de Cardenal Caro

Intendencia Región del Maule
Gobernación de Curicó
Gobernación de Talca
Gobernación de Linares
Gobernación de Cauquenes

Intendencia Región del Bío Bío
Gobernación de Concepción
Gobernación de Ñuble
Gobernación de Bío-Bío
Gobernación de Arauco

Intendencia Región de La Araucanía
Gobernación de Cautín
Gobernación de Malleco

Intendencia Región de Los Ríos
Gobernación de Valdivia
Gobernación de Ranco

Intendencia Región de Los Lagos
Gobernación de Llanquihue
Gobernación de Osorno
Gobernación de Chiloé
Gobernación de Palena

Intendencia Región de Aysén del General Carlos Ibañez del Campo
Gobernación de Coihaique
Gobernación de Puerto Aysén
Gobernación de General Carrera
Gobernación de Capitán Prat

Intendencia Región de Magallanes y de la Antártica Chilena

利马里省 乔阿帕省

瓦尔帕莱索地区行政长官 瓦尔
帕莱索省 基拉瓦省 圣安东尼奥
省 圣费利佩省 安第斯省 佩托
尔卡省 复活岛省

自由人伯纳多·奥希金斯地区行政长官 卡查波尔省
科奇加瓜省 红衣主教卡罗省

马乌莱地区行政长官 库里
科省 塔尔卡省 利纳雷斯省
考克内斯省

比奥比奥地区行政长官 康塞
普西翁省 尼布勒省 比奥比奥
省 阿拉乌科省

阿拉乌卡尼亚地区行政长官 考廷
省 马莱科省

莱罗斯地区行政长官 瓦利迪
维亚省 兰科省

拉 lagos地区行政长官 拉兰奇
胡埃省 奥斯orno省 奇洛埃省
帕莱纳省

阿森森将军卡洛斯·伊巴涅斯·德尔·卡门地区行政长官 科伊哈克
省 阿森森港省 将军卡雷拉省 普拉特船长省

麦哲伦和智利南极地区行政长官

Gobernación de Magallanes
Gobernación de Última Esperanza
Gobernación de Tierra del Fuego
Gobernación de Antártica Chilena

Intendencia Región Metropolitana
Gobernación de Maipo
Gobernación de Cordillera
Gobernación de Talagante
Gobernación de Melipilla
Gobernación de Chacabuco
Gobernación de Santiago

马格达莱纳省 最后希望省 火地
岛省 智利南极省

大都会区执政官 马伊波省 安第
斯山脉省 塔拉加nte省 梅利皮
亚省 查卡布科省 圣地亚哥省

Section 2: Sub-Central Government Entities

- 1. This Chapter applies to the sub-central government entities listed in each Party’s Schedule to this Section where the value of the procurement is estimated, in accordance with Article 15.5, to equal or exceed:
 - (a) for procurement of goods and services:
A\$679,000 or CLP\$279,557,000
 - (b) for procurement of construction services:
A\$9,570,000 or CLP\$3,940,806,000
- 2. The monetary thresholds set out in paragraph 1 shall be adjusted in accordance with Section 8 of this Annex.
- 3. This Section covers only those entities specifically listed below.

第二部分：次级中央政府实体

- 1. 本章适用于每一方清单中列出的次级中央政府实体，根据第15.5条，采购的价值估计等于或超过：
 - (a) 用于采购货物和服务： 67.9万美元或2.7955亿港币 (b) 用于采购建筑服务：
9,570,000澳元或3,940,806,000 CLP元
- 2. 第1段中规定的货币门槛应根据本附件第8节进行调整。
- 3. 本节仅涵盖下方特别列出的实体。

Schedule of Australia

Australian Capital Territory¹

ACT Auditor-General’s Office
ACT Electoral Commission
ACT Gambling and Racing Commission
ACT Health
ACT Human Rights Commission
ACT Insurance Authority
ACT Planning and Land Authority
ACT Planning and Land Council
ACT Workcover
Chief Minister’s Department
Cultural Facilities Corporation
Department of Disability, Housing and Community Services
Department of Education and Training
Department of Justice and Community Safety
Department of Treasury
Territory and Municipal Services
Director of Public Prosecutions
Environment Commissioner
Legal Aid Commission of the ACT
National Exhibition Centre Trust
Ombudsman of the ACT
Independent Competition and Regulatory Commission

Note to the Schedule of Australia

1. For the entities listed for the Australian Capital Territory, this Chapter does not cover the procurement of health and welfare services, education services, utility services or motor vehicles.

New South Wales^{1,2}

Department of Primary Industries
Office of the Rural Assistance Authority
Office of the NSW Food Authority
Attorney General’s Department
Department of Environment and Climate Change
Office of the Legal Aid Commission
Office of the Director of Public Prosecutions NSW
Department of Commerce
Office of the Motor Accidents Authority
Office of the WorkCover Authority
Office for Children
Department of Ageing, Disability and Home Care
Department of Community Services

澳大利亚清单

澳大利亚首都领地¹

澳大利亚首都领地审计长办公室 澳大利亚首都领地选举委员会 澳大利亚首都领地赌博和赛马委员会 澳大利亚首都领地卫生局 澳大利亚首都领地人权委员会 澳大利亚首都领地保险管理局 澳大利亚首都领地规划和土地管理局 澳大利亚首都领地规划和土地委员会 澳大利亚首都领地工作保险局 首席部长部 文化设施公司 残疾人、住房及社区服务部 教育和培训部 司法及社区安全部 财政部 领地和市政服务 公共检察官 环境专员 澳大利亚首都领地法律援助委员会 国家展览中心信托 澳大利亚首都领地监察长 独立竞争与监管委员会

澳大利亚清单说明

1. 对于为澳大利亚首都领地列出的实体，本章不涵盖健康和社会福利服务的采购、教育服务、公用事业服务或机动车辆。

新南威尔士州^{1,2}

初级产业部办公室 农村援助局办公室 新南威尔士州食品局办公室 总检察长部 环境和气候变化部 法律援助委员会办公室 公共检察官办公室 新南威尔士州商业部 汽车事故管理局办公室 工作保险局办公室 儿童事务办公室 老龄化、残疾和居家护理部 社区服务部

Aboriginal Housing Office Group of Staff
Department of Aboriginal Affairs
Department of Education and Training
Office of the Board of Studies
Department of Water and Energy
Department of Health
Office of the Health Care Complaints Commission
Department of Planning
Office of the Sydney Harbour Foreshore Authority
Department of Corrective Services
Department of Juvenile Justice
Ministry for Police
Office of the New South Wales Crime Commission
Office of the Police Integrity Commission
Office of the Community Relations Commission
Ombudsman’s Office
Department of Premier and Cabinet
Office of the New South Wales Electoral Commission
The Audit Office of New South Wales
Department of State and Regional Development
Department of Lands
Department of Local Government
Department of Rural Fire Service
New South Wales Fire Brigades
State Emergency Service
Department of Arts, Sport and Recreation
Ministry of Transport
Office of the Sydney Olympic Park Authority
The Treasury
Tourism New South Wales Division

Notes to the Schedule of Australia

- 1. For the entities listed for New South Wales, this Chapter does not cover the procurement of health and welfare services, education services or motor vehicles.
- 2. For the entities listed for New South Wales, this Chapter does not apply to procurements undertaken by a covered entity on behalf of a non-covered entity.

Northern Territory¹

Department of Chief Minister
Auditor General’s Office
Department of the Legislative Assembly
Ombudsman’s Office
Remuneration Tribunal
Aboriginal Areas Protection Authority
Department of Business, Economic and Regional Development
Land Development Corporation
Department of Primary Industry, Fisheries and Mines

原住民住房办公室 员工组 原住民事务部 教育和培训部 课程标准局办公室 水利和能源部 卫生部 医疗投诉委员会办公室 规划部 悉尼港滨岸管理局办公室 矫正服务部 青少年司法部 警察部 新南威尔士州犯罪委员会办公室 警察诚信委员会办公室 社区关系委员会办公室 监察专员办公室 首席部长和内阁部 新南威尔士州选举委员会办公室 新南威尔士州审计办公室 州和区域发展部 土地部 地方政府部 农村消防服务部 新南威尔士州消防队 州紧急服务 艺术、体育和休闲部 交通部 悉尼奥林匹克公园管理局办公室 财政部 新南威尔士州旅游部门

澳大利亚清单说明

- 1. 对于列出的新南威尔士州实体，本章不涵盖健康和社会福利服务的采购、教育服务或机动车辆。
- 2. 对于列出的新南威尔士州实体，本章不适用于受保护实体代表非受保护实体进行的采购。

北领地¹

首席部长部 审计长办公室 立法议会部 监察专员办公室 薪酬仲裁庭 原住民地区保护局 商业、经济和区域发展部 土地开发公司 初级产业、渔业和矿业部

Department of Local Government, Housing and Sport
Department of Natural Resources, Environment and the Arts
Parks and Wildlife Commission of the Northern Territory
Strehlow Research Centre Board
Northern Territory Employment and Training Authority
Work Health Authority
Department of Health and Community Services
Health and Community Services Complaints Commission
Department of Justice
Northern Territory Emergency Service
Northern Territory Fire and Rescue Service
Police Force of the Northern Territory
Northern Territory Licensing Commission
Racing Commission
Tourism NT
Office of the Commissioner for Public Employment
Northern Territory Treasury
Utilities Commission of the Northern Territory

Note to the Schedule of Australia

1. For the entities listed for the Northern Territory, this Chapter does not cover set-asides on behalf of the Charles Darwin University pursuant to Partnership Agreements between the Northern Territory Government and Charles Darwin University.

Queensland^{1, 2}

Department of Justice and Attorney-General
Public Trust Office
Office of Fair Trading
Department of Child Safety
Department of Communities
Disability Services Queensland
Department of Emergency Services
Queensland Ambulance Service
Queensland Fire and Rescue Service
Department of Infrastructure and Planning
Department of Local Government, Sport and Recreation
Department of Main Roads
Department of Mines and Energy
Department of Natural Resources and Water
Queensland Police Service
Department of Corrective Services
Department of the Premier and Cabinet
Office of the Queensland Parliamentary Counsel
Office of the Public Service Commissioner
Department of Primary Industries and Fisheries
Forestry Plantations Queensland
Department of Public Works

地方政府、住房与体育部 自然资源、环境与艺术部 北
领地公园与野生动物委员会 斯特雷洛研究中心委员会
北领地就业与培训局 工作健康局 健康与社区服务部 健
康与社区服务投诉委员会 司法部 北领地应急服务 北领
地消防与救援服务 北领地警察部队 北领地许可证委员
会 赛马委员会 旅游北领地 公共就业专员办公室 北领地
财政部 北领地公用事业委员会

澳大利亚清单说明

1. 对于北领地列出的实体，本章不涵盖北领地政府和查尔斯·达尔文大学之间根据合伙企业协议为查尔斯·达尔文大学设立的保留名额。

昆士兰州^{1, 2}

司法与律师总长部 公共信托办公室 公平交易办公室
儿童安全部 社区部 昆士兰残疾人服务 昆士兰州应
急服务部 昆士兰救护服务 昆士兰消防与救援服务
基础设施与规划部 地方政府、体育与休闲部 主要公
路部 矿业与能源部 自然资源与水务部 昆士兰警察
服务 矫正服务部 总理和内阁部 昆士兰议会法律顾
问办公室 公共服务专员办公室 初级产业与渔业部
昆士兰林业与种植园 公共工程部

Department of Housing
Environmental Protection Agency
Department of Tourism, Regional Development and Industry
Queensland Transport
Department of Employment and Industrial Relations
Treasury Department
QSuper
Motor Accident Insurance Commission
Nominal Defendant
Office of Economic and Statistical Research
Office of State Revenue
Queensland Office of Gaming and Regulation

Notes to the Schedule of Australia

1. For the entities listed for Queensland, this Chapter does not apply to procurements by covered entities on behalf of non-covered entities.
2. For the entities listed for Queensland, this Chapter does not cover the procurement of health and welfare services, education services, government advertising and motor vehicles.

South Australia¹

Department of the Premier and Cabinet
Arts SA
Aboriginal Affairs and Reconciliation Division
Department of Treasury and Finance
Independent Gambling Authority
Department of Trade and Economic Development
Department of Primary Industries and Resources SA
Planning SA
Office for the Southern Suburbs
Department of Justice
Attorney-General's Department
Department for Correctional Services
Country Fire Services
Courts Administration Authority
South Australian Fire and Emergency Services Commission
South Australian Metropolitan Fire Services
South Australian Police Department
State Electoral Office
Auditor-General's Department
Department of Families and Community Services
Department of Health
Department of Education and Children's Services
Department of Further Education Employment, Science & Technology
SA Tourism Commission
Department for Environment and Heritage
Environment Protection Authority

住房部 环境保护局 旅游部、区域发展和工业 昆士兰交通部 就业和工业关系部 财政部 QSuper 机动车事故保险委员会 名义被告办公室 经济和统计研究办公室 州税务办公室 昆士兰游戏和监管办公室

澳大利亚清单说明

1. 对于列出的昆士兰州实体，本章不适用于受保护实体代表非受保护实体进行的采购。
2. 对于列出的昆士兰州实体，本章不涵盖健康和社会福利服务的采购、教育服务、政府广告和机动车辆。

南澳大利亚¹

总理和内阁部 艺术南澳大利亚 原住民事务和和解司 财政部和金融部 独立赌博管理局 贸易和发展部 初级产业和资源部 南澳大利亚规划 南澳大利亚南部地区办公室 司法部 总检察长部 矫正服务部 乡村消防服务 法院管理局 南澳大利亚消防和紧急服务委员会 南澳大利亚都市消防服务 南澳大利亚警察局 州选举办办公室 总审计长部 家庭和社区服务部 卫生部 教育和儿童服务部 进一步教育和就业、科学与技术南澳大利亚部 旅游委员会 环境和遗产部 环境保护局

Department of Water, Land and Biodiversity Conservation
Department of Transport, Energy and Infrastructure
Office for State/Local Government Relations
State Procurement Board

Note to the Schedule of Australia

1. For the entities listed for South Australia, this Chapter does not cover the procurement of health and welfare services, education services, advertising services or motor vehicles.

Tasmania¹

Department of Education
Department of Health and Human Services
Department of Infrastructure, Energy and Resources
Department of Justice
Department of Police and Emergency Management
Department of Premier and Cabinet
Department of Primary Industries and Water
Department of Economic Development and Tourism
Department of Environment, Parks, Heritage and the Arts
Department of Treasury and Finance
House of Assembly
Legislative Council
Legislature-General
Office of the Governor
Tasmanian Audit Office
Office of the Ombudsman

Note to the Schedule of Australia

1. For the entities listed for Tasmania, this Chapter does not cover the procurement of health and welfare services, education services or advertising services.

水资源、土地和生物多样性保护部 交通、能源和基础设施部 州/地方政府关系办公室 州采购委员会

澳大利亚附表说明

1. 对于南澳大利亚州列出的实体，本章不涵盖健康和社会福利服务的采购、教育服务、广告服务或机动车辆。

塔斯马尼亚¹

教育部 健康与人类服务部 基础设施、能源和资源部
司法部 警察和应急管理部 首席部长和内阁部 主要产业和水部 经济发展和旅游部 环境、公园、遗产和艺术部 财政部和金融部 议会下院 立法议会 立法大会
州长办公室 塔斯马尼亚审计办公室 监察专员办公室

澳大利亚附表说明

1. 对于塔斯马尼亚州列出的实体，本章不涵盖健康和社会福利服务的采购、教育服务或广告服务。

Victoria^{1, 2}

Department of Premier and Cabinet
Department of Treasury and Finance
Department of Human Services
Department of Education and Early Childhood Development
Department of Innovation Industry and Regional Development
Department of Infrastructure
Department of Sustainability and Environment
Department of Primary Industries
Department of Planning and Community Development
Department of Justice
Essential Services Commission
Office of Police Integrity
Office of Public Prosecutions
Office of the Chief Commissioner of Police
Office of the Commissioner for Environmental Sustainability
Office of the Legal Services Commissioner
Office of the Ombudsman
Office of the Privacy Commissioner
Office of the Special Investigations Monitor
Office of the Victorian Electoral Commission
State Services Authority
Victorian Auditor-General's Office

Notes to the Schedule of Australia

1. For the entities listed for Victoria, this Chapter does not cover the procurement of motor vehicles.
2. For the entities listed for Victoria, this Chapter does not apply to procurements by covered entities on behalf of non-covered entities.

Western Australia

Department of Agriculture and Food
Rural Business Development Corporation of Western Australia
Department of Fisheries
Mid West Development Commission
Wheatbelt Development Commission
Great Southern Development Commission
Office of the Director of Public Prosecutions
Office of the Information Commissioner
Law Reform Commission of Western Australia
Equal Opportunity Commission
Department of Health
Western Australian Electoral Commission
Department for Communities
Department for Child Protection
Disability Services Commission

维多利亚^{1, 2}

首席部长和内阁部 财政部和金融部 人类服务部 教育和早期儿童发展部 创新、工业和区域发展部 基础设施部 可持续性和环境部 初级产业部 规划和社区发展部 司法部 基本服务委员会 警察诚信办公室 公共起诉办公室 警察首席专员办公室 环境可持续性专员办公室 法律服务机构专员办公室 监察专员办公室 隐私专员办公室 特别调查监督员办公室 维多利亚州选举委员会办公室 州服务管理局 维多利亚州审计长办公室

澳大利亚附表说明

1. 对于列出的维多利亚实体，本章不涵盖机动车辆的采购。
2. 对于列出的维多利亚实体，本章不适用于受覆盖实体代表非覆盖实体进行的采购。

西澳大利亚州

农业和食品部 西澳大利亚州农村企业发展公司 渔业部 中西部发展委员会 小麦带发展委员会 大南方发展委员会 公共检察官办公室 信息专员办公室 西澳大利亚州法律改革委员会 平等机会委员会 卫生部 西澳大利亚州选举委员会 社区部 儿童保护部 残疾人服务委员会

Department of Culture and the Arts
Department of Consumer and Employment Protection
Department of Indigenous Affairs
Department of the Registrar, Western Australian Industrial Relations Commission
Department of Education and Training
Country High Schools Hostels Authority
Curriculum Council of Western Australia
Department of Education Services
Botanic Gardens and Parks Authority
Department of Water
Department of Environment and Conservation
Swan River Trust
Zoological Parks Authority
Department of Housing and Works
State Supply Commission of Western Australia
Department of Racing, Gaming and Liquor
Department of Local Government and Regional Development
Heritage Council of WA
National Trust of Australia (WA)
Kimberley Development Commission
Pilbara Development Commission
Gascoyne Development Commission
Goldfields Esperance Development Commission
Department for Planning and Infrastructure
Main Roads Western Australia
Western Australian Planning Commission
Public Transport Authority
Fire and Emergency Services Authority of Western Australia
Department of Attorney General
Department of Corrective Services
Office of the Inspector of Custodial Services
Western Australian Police
Department of the Premier and Cabinet
Governor’s Establishment
Office of the Public Sector Standards Commissioner
Salaries and Allowances Tribunal
Department of Industry and Resources
Minerals and Energy Research Institute of Western Australia
Western Australian Tourism Commission (Tourism Western Australia)
Small Business Development Corporation
Rottnest Island Authority
Department of Sport and Recreation
Western Australian Sports Centre Trust
South West Development Commission
Department of Treasury and Finance
Office of Energy
Perth International Centre for Application of Solar Energy
Legislative Assembly
Legislative Council
Office of the Auditor General

文化艺术部 消费者和就业保护部 土著事务部 注册署 西澳大利亚州工业关系公司

mmission

教育和培训部 国家高中宿舍管理局 西澳大利亚州课程委员会 教育服务部 植物园和公园管理局 水资源部 环境和保护部 天鹅河信托 动物园管理局 住房和工程部 西澳大利亚州供应委员会 赛马、博彩和酒类部 地方政府和区域发展部 WA遗产委员会 澳大利亚国家信托（WA） 金伯利开发委员会 皮尔巴拉开发委员会 加斯科因开发委员会 金矿和埃斯佩兰斯开发委员会 规划和基础设施部 西澳大利亚州主要道路局 西澳大利亚州规划委员会 公共交通局 西澳大利亚州消防和应急服务局 司法部 矫正服务部 拘留服务检查办公室 西澳大利亚州警察局 总理和内阁部 总督办公室 公共部门标准专员办公室 工资和津贴tribunal 工业和资源部 西澳大利亚州矿产和能源研究所 西澳大利亚州旅游委员会（旅游西澳大利亚州） 中小企业发展公司 罗特尼斯岛管理局 体育和休闲部 西澳大利亚州体育中心信托 西南开发委员会 财政部和金融部 能源办公室 珀斯国际太阳能应用中心 立法议会 立法议会 审计长办公室

Office of the Parliamentary Commissioner for Administrative Investigations
Corruption and Crime Commission
Parliamentary Services Department

行政调查专员办公室 腐败与犯罪委员会 议会服务部门

Schedule of Chile

智利清单

1. *Municipalidad de Arica*
2. *Municipalidad de Camarones*
3. *Municipalidad de Putre*
4. *Municipalidad de General Lagos*
5. *Municipalidad de Iquique*
6. *Municipalidad de Alto Hospicio*
7. *Municipalidad de Pozo Almonte*
8. *Municipalidad de Camiña*
9. *Municipalidad de Colchane*
10. *Municipalidad de Huará*
11. *Municipalidad de Pica*
12. *Municipalidad de Antofagasta*
13. *Municipalidad de Mejillones*
14. *Municipalidad de Sierra Gorda*
15. *Municipalidad de Taltal*
16. *Municipalidad de Calama*
17. *Municipalidad de Ollagüe*
18. *Municipalidad de San Pedro de Atacama*
19. *Municipalidad de Tocopilla*
20. *Municipalidad de María Elena*
21. *Municipalidad de Copiapó*
22. *Municipalidad de Caldera*
23. *Municipalidad de Tierra Amarilla*
24. *Municipalidad de Chañaral*
25. *Municipalidad de Diego de Almagro*
26. *Municipalidad de Vallenar*
27. *Municipalidad de Alto del Carmen*
28. *Municipalidad de Freirina*
29. *Municipalidad de Huasco*
30. *Municipalidad de La Serena*
31. *Municipalidad de Coquimbo*
32. *Municipalidad de Andacollo*
33. *Municipalidad de La Higuera*
34. *Municipalidad de Paihuano*
35. *Municipalidad de Vicuña*
36. *Municipalidad de Illapel*
37. *Municipalidad de Canela*
38. *Municipalidad de Los Vilos*
39. *Municipalidad de Salamanca*
40. *Municipalidad de Ovalle*
41. *Municipalidad de Combarbalá*
42. *Municipalidad de Monte Patria*
43. *Municipalidad de Punitaqui*
44. *Municipalidad de Río Hurtado*
45. *Municipalidad de Valparaíso*
46. *Municipalidad de Casablanca*

1. 阿里卡市政厅 2. 卡马龙市政厅 3. 普特市政厅 4. 圣安东尼奥市政厅 5. 伊基克市政厅 6. 阿尔托霍斯皮奥市政厅 7. 波索阿尔蒙特市政厅 8. 卡米纳市政厅 9. 科奇阿内市政厅 10. 瓦拉市政厅 11. 皮卡市政厅 12. 安托法加斯塔市政厅 13. 梅希约内斯市政厅 14. 希拉戈尔德市政厅 15. 塔尔塔尔市政厅 16. 卡拉马市政厅 17. 奥拉瓜市政厅 18. 圣佩德罗德阿塔卡马市政厅 19. 托科皮利亚市政厅 20. 玛丽亚埃лена市政厅 21. 科皮亚波市政厅 22. 卡尔德拉市政厅 23. 阿马利亚拉市政厅 24. 查纳尔市政厅 25. 迭戈德阿尔马格罗市政厅 26. 瓦伦纳市政厅 27. 阿尔托德尔卡门市政厅 28. 弗雷里纳市政厅 29. 瓦斯科市政厅 30. 拉塞纳市政厅 31. 科金博市政厅 32. 安达科洛市政厅 33. 拉希瓜拉市政厅 34. 派胡阿诺市政厅 35. 维库纳市政厅 36. 伊拉佩尔市政厅 37. 坎纳市政厅 38. 洛斯维洛市政厅 39. 萨拉曼卡市政厅 40. 奥瓦列市政厅 41. 科姆巴巴里亚市政厅 42. 蒙特帕特里亚市政厅 43. 普伊塔基市政厅 44. 里奥胡塔多市政厅 45. 瓦尔帕莱索市政厅 46. 卡萨布兰卡市政厅

47. *Municipalidad de Con – Con*
48. *Municipalidad de Juan Fernández*
49. *Municipalidad de Puchuncaví*
50. *Municipalidad de Quilpué*
51. *Municipalidad de Quintero*
52. *Municipalidad de Villa Alemana*
53. *Municipalidad de Viña del Mar*
54. *Municipalidad de Isla de Pascua*
55. *Municipalidad de Los Andes*
56. *Municipalidad de Calle Larga*
57. *Municipalidad de Rinconada*
58. *Municipalidad de San Esteban*
59. *Municipalidad de La Ligua*
60. *Municipalidad de Cabildo*
61. *Municipalidad de Papudo*
62. *Municipalidad de Petorca*
63. *Municipalidad de Zapallar*
64. *Municipalidad de Quillota*
65. *Municipalidad de La Calera*
66. *Municipalidad de Hijuelas*
67. *Municipalidad de La Cruz*
68. *Municipalidad de Limache*
69. *Municipalidad de Nogales*
70. *Municipalidad de Olmué*
71. *Municipalidad de San Antonio*
72. *Municipalidad de Algarrobo*
73. *Municipalidad de Cartagena*
74. *Municipalidad de El Quisco*
75. *Municipalidad de El Tabo*
76. *Municipalidad de Santo Domingo*
77. *Municipalidad de San Felipe*
78. *Municipalidad de Catemu*
79. *Municipalidad de Llay – Llay*
80. *Municipalidad de Panquehue*
81. *Municipalidad de Putaendo*
82. *Municipalidad de Santa María*
83. *Municipalidad de Rancagua*
84. *Municipalidad de Codegua*
85. *Municipalidad de Coinco*
86. *Municipalidad de Coltauco*
87. *Municipalidad de Doñihue*
88. *Municipalidad de Graneros*
89. *Municipalidad de Las Cabras*
90. *Municipalidad de Machalí*
91. *Municipalidad de Malloa*
92. *Municipalidad de Mostazal*
93. *Municipalidad de Olivar*
94. *Municipalidad de Peumo*
95. *Municipalidad de Pichidegua*
96. *Municipalidad de Quinta de Tilcoco*

47. Con市政府 – Con 48. 圣胡安费尔南德斯市政厅 49. 普钦卡维市政厅 50. 吉尔普埃市政厅 51. 奎因特罗市政厅 52. 维拉阿莱玛市政府 53. 维尼亚德尔马市政府 54. 罗阿斯岛市政府 55. 洛斯安德斯市政府 56. 卡莱拉市政厅 57. 里孔阿达市政厅 58. 圣埃斯特万市政厅 59. 拉利瓜市政厅 60. 卡比多市政厅 61. 帕普多市政厅 62. 佩托尔卡市政厅 63. 扎帕拉市政厅 64. 吉尔洛塔市政厅 65. 拉卡莱拉市政厅 66. 希胡埃拉斯市政厅 67. 拉克鲁斯市政厅 68. 利马切市政厅 69. 纳奥莱斯市政厅 70. 奥利瓦尔市政厅 71. 圣安东尼奥市政厅 72. 阿尔加罗市政厅 73. 卡塔赫纳市政府 74. 埃尔基斯科市政府 75. 埃尔塔博市政府 76. 圣多明各市政厅 77. 圣费利佩市政厅 78. 卡特emu市政厅 79. 拉拉伊拉市政厅 80. 帕恩基韦市政厅 81. 普图埃诺市政厅 82. 圣玛利亚市政厅 83. 拉斯安哈瓜市政厅 84. 科德瓜市政厅 85. 科因科市政厅 86. 科尔托阿科市政厅 87. 多尼韦市政厅 88. 格拉内罗市政厅 89. 拉斯卡拉布拉市政厅 90. 马查利市政厅 91. 马尔洛市政厅 92. 摩斯塔萨尔市政厅 93. 奥利瓦尔市政厅 94. 皮尤莫市政厅 95. 皮奇德瓜市政厅 96. 奎尔塔德蒂尔科市政厅

97. *Municipalidad de Rengo*
98. *Municipalidad de Requínoa*
99. *Municipalidad de San Vicente*
100. *Municipalidad de Pichilemu*
101. *Municipalidad de La Estrella*
102. *Municipalidad de Litueche*
103. *Municipalidad de Marchihue*
104. *Municipalidad de Navidad*
105. *Municipalidad de Paredones*
106. *Municipalidad de San Fernando*
107. *Municipalidad de Chépica*
108. *Municipalidad de Chimbarongo*
109. *Municipalidad de Lolol*
110. *Municipalidad de Nancagua*
111. *Municipalidad de Palmilla*
112. *Municipalidad de Peralillo*
113. *Municipalidad de Placilla*
114. *Municipalidad de Pumanque*
115. *Municipalidad de Santa Cruz*
116. *Municipalidad de Talca*
117. *Municipalidad de Constitución*
118. *Municipalidad de Curepto*
119. *Municipalidad de Empedrado*
120. *Municipalidad de Maule*
121. *Municipalidad de Pelarco*
122. *Municipalidad de Penciahue*
123. *Municipalidad de Río Claro*
124. *Municipalidad de San Clemente*
125. *Minicipalidad de San Rafael*
126. *Municipalidad de Cauquenes*
127. *Municipalidad de Chanco*
128. *Municipalidad de Pelluhue*
129. *Municipalidad de Curicó*
130. *Municipalidad de Hualañé*
131. *Municipalidad de Licantén*
132. *Municipalidad de Molina*
133. *Municipalidad de Rauco*
134. *Municipalidad de Romeral*
135. *Municipalidad de Sagrada Familia*
136. *Municipalidad de Teno*
137. *Municipalidad de Vichuquén*
138. *Municipalidad de Linares*
139. *Municipalidad de Colbún*
140. *Municipalidad de Longaví*
141. *Municipalidad de Parral*
142. *Municipalidad de Retiro*
143. *Municipalidad de San Javier*
144. *Municipalidad de Villa Alegre*
145. *Municipalidad de Yerbass Buenas*
146. *Municipalidad de Concepción*

97. 勞科市政廳 98. 雷基諾亞市政廳
99. 聖文森特市政廳 100. 皮奇利穆市政廳 101. 拉埃斯特拉市政廳 102. 利圖埃切市政廳 103. 瑪西韋市政廳 104. 聖誕市政廳 105. 帕雷多市政廳 106. 聖費爾南多市政廳 107. 切皮卡市政廳 108. 奇馬龍戈市政廳 109. 洛洛市政廳 110. 南卡瓜市政廳 111. 帕爾米拉市政廳 112. 佩拉利略市政廳 113. 普拉西拉市政廳 114. 普馬克市政廳 115. 聖克魯斯市政廳 116. 塔爾卡市政廳 117. 立憲市政廳 118. 庫雷普托市政廳 119. 埃梅普拉多市政廳 120. 馬烏萊市政廳 121. 佩拉羅市政廳 122. 佩恩卡韋市政廳 123. 克勞斯河市政廳 124. 聖克萊門特市政廳 125. 聖拉斐爾市政府 126. 考克內斯市政廳 127. 坎科市政廳 128. 佩魯韋市政廳 129. 庫里科市政廳 130. 瓦拉涅市政廳 131. 利坎坦市政廳 132. 莫利納市政廳 133. 勞科市政廳 134. 羅梅拉市政廳 135. 聖家族市政廳 136. 特諾市政廳 137. 維丘肯市政廳 138. 利納雷斯市政廳 139. 科爾布恩市政廳 140. 龍加維市政廳 141. 帕拉爾市政廳 142. 雷蒂羅市政廳 143. 聖哈維爾市政廳 144. 維拉阿萊格雷市政廳 145. 耶爾瓦斯布埃納市政廳 146. 康塞普西翁市政廳

147. *Municipalidad de Coronel*
 148. *Municipalidad de Chiguayante*
 149. *Municipalidad de Florida*
 150. *Municipalidad de Hualqui*
 151. *Municipalidad de Lota*
 152. *Municipalidad de Penco*
 153. *Municipalidad de San Pedro de La Paz*
 154. *Municipalidad de Santa Juana*
 155. *Municipalidad de Talcahuano*
 156. *Municipalidad de Tomé*
 157. *Minicipalidad de Hualpén*
 158. *Municipalidad de Lebu*
 159. *Municipalidad de Arauco*
 160. *Municipalidad de Cañete*
 161. *Municipalidad de Contulmo*
 162. *Municipalidad de Curanilahue*
 163. *Municipalidad de Los Alamos*
 164. *Municipalidad de Tirúa*
 165. *Municipalidad de Los Angeles*
 166. *Municipalidad de Antuco*
 167. *Municipalidad de Cabrero*
 168. *Municipalidad de Laja*
 169. *Municipalidad de Mulchén*
 170. *Municipalidad de Nacimiento*
 171. *Municipalidad de Negrete*
 172. *Municipalidad de Quilaco*
 173. *Municipalidad de Quilleco*
 174. *Municipalidad de San Rosendo*
 175. *Municipalidad de Santa Bárbara*
 176. *Municipalidad de Tucapel*
 177. *Municipalidad de Yumbel*
 178. *Municipalidad de Alto Bío Bío*
 179. *Municipalidad de Chillán*
 180. *Municipalidad de Bulnes*
 181. *Municipalidad de Cobquecura*
 182. *Municipalidad de Coelemu*
 183. *Municipalidad de Coihueco*
 184. *Municipalidad de Chillán Viejo*
 185. *Municipalidad de El Carmen*
 186. *Municipalidad de Ninhue*
 187. *Municipalidad de Ñiquén*
 188. *Municipalidad de Pemuco*
 189. *Municipalidad de Pinto*
 190. *Municipalidad de Portezuelo*
 191. *Municipalidad de Quillón*
 192. *Municipalidad de Quirihue*
 193. *Municipalidad de Ranquil*
 194. *Municipalidad de San Carlos*
 195. *Municipalidad de San Fabián*
 196. *Municipalidad de San Ignacio*

147. 科罗内尔市政厅 148. 奇瓜亚特市政
 厅 149. 佛罗里达市政厅 150. 瓦尔基市政
 厅 151. 洛塔市政厅 152. 彭科市政厅
 153. 聖彼得市政府 de La Pa

z

154. 圣胡安娜市政厅 155. 塔尔卡瓦
 诺市政厅 156. 托梅市政厅 157. 沃尔
 潘市政厅 158. 莱布市政厅 159. 阿拉
 乌科市政厅 160. 卡内特市政厅
 161. 孔图尔莫市政厅 162. 库里纳拉
 韦市政厅 163. 阿尔阿马市政厅
 164. 蒂鲁亚市政厅 165. 洛杉矶市政
 厅 166. 安图科市政厅 167. 卡布雷罗
 市政厅 168. 拉哈市政厅 169. 穆尔琴
 市政厅 170. 纳西蒙市政厅 171. 内格
 雷特市政厅 172. 基拉科市政厅
 173. 基莱科市政厅 174. 圣罗森多市
 政厅 175. 圣巴芭拉市政厅 176. 图卡
 佩尔市政厅 177. 翁贝尔市政厅
 178. 阿尔托比奥市政厅 179. 奇廉市
 政厅 180. 布内斯市政厅 181. 科布克
 瓜拉市政厅 182. 科埃莱穆市政厅
 183. 科伊韦科市政厅 184. 老奇廉市
 政厅 185. 埃尔卡门市政厅 186. 尼涅
 市政厅 187. 尼昆市政厅 188. 佩穆科
 市政厅 189. 皮诺市政厅 190. 波特塞
 乌洛市政厅 191. 基利翁市政厅
 192. 基里韦市政厅 193. 兰基尔市政
 厅 194. 圣卡洛斯市政厅 195. 圣法比
 安市政厅 196. 圣伊纳西奥市政厅

197. *Municipalidad de San Nicolás*
198. *Municipalidad de Trehuaco*
199. *Municipalidad de Yungay*
200. *Municipalidad de Temuco*
201. *Municipalidad de Carahue*
202. *Municipalidad de Cunco*
203. *Municipalidad de Curarrehue*
204. *Municipalidad de Freire*
205. *Municipalidad de Galvarino*
206. *Municipalidad de Gorbea*
207. *Municipalidad de Lautaro*
208. *Municipalidad de Loncoche*
209. *Municipalidad de Melipeuco*
210. *Municipalidad de Nueva Imperial*
211. *Municipalidad de Padre de Las Casas*
212. *Municipalidad de Perquenco*
213. *Municipalidad de Pitrufquén*
214. *Municipalidad de Pucón*
215. *Municipalidad de Saavedra*
216. *Municipalidad de Teodoro Schmidt*
217. *Municipalidad de Toltén*
218. *Municipalidad de Vilcún*
219. *Municipalidad de Villarrica*
220. *Municipalidad de Cholchol*
221. *Municipalidad de Angol*
222. *Municipalidad de Collipulli*
223. *Municipalidad de Curacautín*
224. *Municipalidad de Ercilla*
225. *Municipalidad de Lonquimay*
226. *Municipalidad de Los Sauces*
227. *Municipalidad de Lumaco*
228. *Municipalidad de Purén*
229. *Municipalidad de Renaico*
230. *Municipalidad de Traiguén*
231. *Municipalidad de Victoria*
232. *Municipalidad de Valdivia*
233. *Municipalidad de Corral*
234. *Municipalidad de Lanco*
235. *Municipalidad de Los Lagos*
236. *Municipalidad de Mafil*
237. *Municipalidad de Mariquina*
238. *Municipalidad de Paillaco*
239. *Municipalidad de Panguipulli*
240. *Municipalidad de La Unión*
241. *Municipalidad de Futrono*
242. *Municipalidad de Lago Ranco*
243. *Municipalidad de Río Bueno*
244. *Municipalidad de Puerto Montt*
245. *Municipalidad de Calbuco*
246. *Municipalidad de Cochamó*

197. 圣尼古拉斯市政厅 198. 特雷乌科市政厅 199. 永加市政厅 200. 特木库市政厅 201. 卡拉胡市政厅 202. 昆科市政厅 203. 库里雷韦市政厅 204. 弗雷尔市政厅 205. 加拉维诺市政厅 206. 戈贝亚市政厅 207. 劳塔罗市政厅 208. 隆科切市政厅 209. 梅利佩科市政厅 210. 新帝国市政厅 211. 拉卡萨斯牧师市政厅 212. 佩昆科市政厅 213. 皮鲁夫肯市政厅 214. 普孔市政厅 215. 萨维德拉市政厅 216. 特奥多罗·施密特市政厅 217. 托尔滕市政厅 218. 维尔昆市政厅 219. 维拉里卡市政厅 220. 乔尔乔尔市政厅 221. 安戈尔市政厅 222. 科利普利市政厅 223. 库里卡图廷市政厅 224. 埃尔西利亚市政厅 225. 隆基迈市政厅 226. 路易斯奥斯市政厅 227. 卢马科市政厅 228. 普伦市政厅 229. 雷纳科市政厅 230. 特拉伊根市政厅 231. 维多利亚市政厅 232. 瓦利迪维亚市政厅 233. 科拉尔市政厅 234. 兰科市政厅 235. 洛斯拉戈斯市政厅 236. 马菲利市政厅 237. 玛丽 quina 市政厅 238. 派亚科市政厅 239. 潘基普利市政厅 240. 拉联合市政厅 241. 富特罗市政厅 242. 拉格兰科市政厅 243. 里奥布恩市政厅 244. 蒙特港市政厅 245. 卡尔布科市政厅 246. 科恰莫市政厅

247. *Municipalidad de Fresia*
 248. *Municipalidad de Frutillar*
 249. *Municipalidad de Los Muermos*
 250. *Municipalidad de Llanquihue*
 251. *Municipalidad de Maullín*
 252. *Municipalidad de Puerto Varas*
 253. *Municipalidad de Castro*
 254. *Municipalidad de Ancud*
 255. *Municipalidad de Chonchi*
 256. *Municipalidad de Curaco de Velez*
 257. *Municipalidad de Dalcahue*
 258. *Municipalidad de Puqueldón*
 259. *Municipalidad de Queilén*
 260. *Municipalidad de Quellón*
 261. *Municipalidad de Quemchi*
 262. *Municipalidad de Quinchao*
 263. *Municipalidad de Osorno*
 264. *Municipalidad de Puerto Octay*
 265. *Municipalidad de Purranque*
 266. *Municipalidad de Puyehue*
 267. *Municipalidad de Río Negro*
 268. *Municipalidad de San Juan de La Costa*
 269. *Municipalidad de San Pablo*
 270. *Municipalidad de Chaitén*
 271. *Municipalidad de Futaleufú*
 272. *Municipalidad de Hualaihue*
 273. *Municipalidad de Palena*
 274. *Municipalidad de Coyhaique*
 275. *Municipalidad de Lago Verde*
 276. *Municipalidad de Aysén*
 277. *Municipalidad de Cisnes*
 278. *Municipalidad de Guaitecas*
 279. *Municipalidad de Cochrane*
 280. *Municipalidad de O'Higgins*
 281. *Municipalidad de Tortel*
 282. *Municipalidad de Chile Chico*
 283. *Municipalidad de Río Ibañez*
 284. *Municipalidad de Punta Arenas*
 285. *Municipalidad de Laguna Blanca*
 286. *Municipalidad de Río Verde*
 287. *Municipalidad de San Gregorio*
 288. *Municipalidad Cabo de Hornos (Ex Navarino)*
 289. *Municipalidad Antártica*
 290. *Municipalidad de Porvenir*
 291. *Municipalidad de Primavera*
 292. *Municipalidad de Timaukel*
 293. *Municipalidad de Natales*
 294. *Municipalidad de Torres del Paine*
 295. *Municipalidad de Santiago*
 296. *Municipalidad de Cerrillos*

247. Fresia市政府 248. Frutillar市政府 249.
 Los Muermos市政府 250. Llanquihue市政府
 251. Maullín市政府 252. Puerto Varas市政府
 253. Castro市政府 254. Ancud市政府 255.
 Chonchi市政府 256. Curaco de Velez市政府
 257. Dalcahue市政府 258. Puqueldón市政府
 259. Queilén市政府 260. Quellón市政府 261.
 Quemchi市政府 262. Quinchao市政府 263.
 Osorno市政府 264. Puerto Octay市政府 265.
 Purranque市政府 266. Puyehue市政府 267.
 Río Negro市政府 268. San Juan de La Costa市
 政府 269. San Pablo市政府 270. Chaitén市政府
 271. Futaleufú市政府 272. Hualaihue市政府
 273. Palena市政府 274. Coyhaique市政府
 275. Lago Verde市政府 276. Aysén市政府
 277. Cisnes市政府 278. Guaitecas市政府 279.
 Cochrane市政府 280. O'Higgins市政府 281.
 Tortel市政府 282. Chile Chico市政府 283. Río
 Ibañez市政府 284. Punta Arenas市政府 285.
 Laguna Blanca市政府 286. Río Verde市政府
 287. San Gregorio市政府 288. Cabo de
 Hornos市政府 (前Navarino) 289. Antártica市
 政府 290. Porvenir市政府 291. Primavera市政
 府 292. Timaukel市政府 293. Natales市政府
 294. Torres del Paine市政府 295. Santiago市政
 府 296. Cerrillos市政府

297. *Municipalidad de Cerro Navia*
 298. *Municipalidad de Conchalí*
 299. *Municipalidad de El Bosque*
 300. *Municipalidad de Estación Central*
 301. *Municipalidad de Huechuraba*
 302. *Municipalidad de Independencia*
 303. *Municipalidad de La Cisterna*
 304. *Municipalidad de La Florida*
 305. *Municipalidad de La Granja*
 306. *Municipalidad de La Pintana*
 307. *Municipalidad de La Reina*
 308. *Municipalidad de Las Condes*
 309. *Municipalidad de Lo Barnechea*
 310. *Municipalidad de Lo Espejo*
 311. *Municipalidad de Lo Prado*
 312. *Municipalidad de Macul*
 313. *Municipalidad de Maipú*
 314. *Municipalidad de Ñuñoa*
 315. *Municipalidad de Pedro Aguirre Cerda*
 316. *Municipalidad de Peñalolen*
 317. *Municipalidad de Providencia*
 318. *Municipalidad de Pudahuel*
 319. *Municipalidad de Quilicura*
 320. *Municipalidad de Quinta Normal*
 321. *Municipalidad de Recoleta*
 322. *Municipalidad de Renca*
 323. *Municipalidad de San Joaquín*
 324. *Municipalidad de San Miguel*
 325. *Municipalidad de San Ramón*
 326. *Municipalidad de Vitacura*
 327. *Municipalidad de Puente Alto*
 328. *Municipalidad de Pirque*
 329. *Municipalidad de San José de Maipo*
 330. *Municipalidad de Colina*
 331. *Municipalidad de Lampa*
 332. *Municipalidad de Til Til*
 333. *Municipalidad de San Bernardo*
 334. *Municipalidad de Buin*
 335. *Municipalidad de Calera de Tango*
 336. *Municipalidad de Paine*
 337. *Municipalidad de Melipilla*
 338. *Municipalidad de Alhué*
 339. *Municipalidad de Curacaví*
 340. *Municipalidad de Maria Pinto*
 341. *Municipalidad de San Pedro*
 342. *Municipalidad de Talagante*
 343. *Municipalidad de El Monte*
 344. *Municipalidad de Isla de Maipo*
 345. *Municipalidad de Padre Hurtado*
 346. *Municipalidad de Peñaflor*

297. Cerro Navia市政府 298. Conchalí市
 政府 299. El Bosque市政府 300.
 Estación Central市政府 301.
 Huechuraba市政府 302.
 Independencia市政府 303. La Cisterna
 市政府 304. La Florida市政府 305. La
 Granja市政府 306. La Pintana市政府
 307. La Reina市政府 308. Las Condes市
 政府 309. Lo Barnechea市政府 310. Lo
 Espejo市政府 311. Lo Prado市政府 312.
 Macul市政府 313. Maipú市政府 314.
 Ñuñoa市政府 315. Pedro Aguirre
 Cerda市政府 316. Peñalolen市政府
 317. Providencia市政府 318. Pudahuel
 市政府 319. Quilicura市政府 320.
 Quinta Normal市政府 321. Recoleta市政
 府 322. Renca市政府 323. San Joaquín市
 政府 324. San Miguel市政府 325. San
 Ramón市政府 326. Vitacura市政府 327.
 Puente Alto市政府 328. Pirque市政府
 329. San José de Maipo市政府 330.
 Colina市政府 331. Lampa市政府 332.
 Til Til市政府 333. San Bernardo市政府
 334. Buin市政府 335. Calera de Tango市
 政府 336. Paine市政府 337. Melipilla市
 政府 338. Alhué市政府 339. Curacaví市
 政府 340. Maria Pinto市政府 341. San
 Pedro市政府 342. Talagante市政府 343.
 El Monte市政府 344. Isla de Maipo市政
 府 345. Padre Hurtado市政府 346.
 Peñaflor市政府

Section 3: Other Covered Entities

1. This Chapter applies to entities listed in each Party’s Schedule to this Section where the value of the procurement is estimated, in accordance with Article 15.5, to equal or exceed:
- (a) for procurement of goods and services:
A\$436,000 or CLP\$ 179,558,000
- (b) for procurement of construction services:
A\$9,570,000 or CLP\$ 3,940,806,000
2. The monetary thresholds set out in paragraph 1 shall be adjusted in accordance with Section 8 of this Annex.
3. This Section covers only those entities specifically listed below.

第3节：其他受覆盖实体

1. 本章适用于每一方在本节清单中列出的实体，其中采购的价值根据第15.5条估计等于或超过：
- (a) 对于货物和服务的采购：436,000澳元或CLP\$ 179,558,000 (b) 对于建筑服务的采购：9,570,000澳元或CLP\$ 3,940,806,000
2. 第1段中规定的货币门槛应根据本附件第8节进行调整。
3. 本节仅涵盖下方特别列出的实体。

Schedule of Australia¹

Aged Care Standards and Accreditation Agency Ltd.
Australian Accounting Standards Board
Australian Communications and Media Authority
Australian Fisheries Management Authority
Australian Institute of Criminology
Australian Institute of Health and Welfare
Australian Institute of Marine Science
Australian Law Reform Commission
Australian Maritime Safety Authority
Australian National Maritime Museum
Australian Nuclear Science and Technology Organisation
Australian Pesticides and Veterinary Medicines Authority
Australian Prudential Regulation Authority
Australian Securities and Investments Commission
Tourism Australia
Australian Trade Commission (Austrade)
Australian War Memorial²
Comcare
Commonwealth Scientific and Industrial Research Organisation
Corporations and Markets Advisory Committee
Export Finance and Insurance Corporation
Grains Research and Development Corporation
Great Barrier Reef Marine Park Authority
Medicare Australia
Land and Water Resources Research and Development Corporation
National Gallery of Australia
National Museum of Australia
Reserve Bank of Australia
Sydney Harbour Federation Trust
The Director of National Parks

Notes to the Schedule of Australia

1. For the entities listed in this schedule, this Chapter does not cover the procurement of motor vehicles.
2. This Chapter does not cover procurement of telecommunications services by the Australian War Memorial.

澳大利亚清单¹

老年护理标准和认证机构有限公司 澳大利亚会计准则委员会
澳大利亚通信和媒体管理局 澳大利亚渔业管理局 澳大利亚犯罪研究所 澳大利亚健康与福利研究所 澳大利亚海洋科学研究所 澳大利亚法律改革委员会 澳大利亚海事安全局 澳大利亚国家海事博物馆 澳大利亚核科学与技术组织 澳大利亚农药和兽药管理局 澳大利亚审慎监管局 澳大利亚证券和投资委员会 澳大利亚旅游局 澳大利亚贸易委员会（澳贸局） 澳大利亚战争纪念馆Comcare 澳大利亚联邦科学与工业研究组织 公司和市场咨询委员会 出口金融和保险公司 谷物研究与开发公司 大堡礁海洋公园管理局 澳大利亚医疗保险局 土地和水资源研究与开发公司 澳大利亚国家美术馆 澳大利亚国家博物馆 澳大利亚储备银行 悉尼港联邦信托 国家公园总监²

澳大利亚附表说明

1. 对于本清单中列出的实体，本章不涵盖机动车辆的采购。
2. 本章不涵盖澳大利亚战争纪念馆采购电信服务。

Schedule of Chile

- 1. *Empresa Portuaria Arica*
- 2. *Empresa Portuaria Iquique*
- 3. *Empresa Portuaria Antofagasta*
- 4. *Empresa Portuaria Coquimbo*
- 5. *Empresa Portuaria Valparaíso*
- 6. *Empresa Portuaria San Antonio*
- 7. *Empresa Portuaria San Vicente Talcahuano*
- 8. *Empresa Portuaria Puerto Montt*
- 9. *Empresa Portuaria Chacabuco*
- 10. *Empresa Portuaria Austral*
- 11. *Aeropuertos de propiedad del Estado, dependientes de la Dirección General de Aeronáutica Civil*

智利清单

- 1. 港口公司阿里卡 2. 港口公司伊基克 3. 港口公司安托法加斯塔 4. 港口公司科金博 5. 港口公司瓦尔帕莱索 6. 港口公司圣安东尼奥 7. 港口公司圣维森特 塔尔卡哈诺 8. 港口公司普图马约 9. 港口公司查卡布科 10. 港口公司南极
- 11. 国家所有机场，隶属于民用航空总局

Section 4: Goods

This Chapter applies to all goods procured by the entities listed in Sections 1 to 3, unless otherwise specified in this Chapter, including this Annex.

第4节：货物

本章适用于第1节至第3节中列出的实体采购的所有货物，除非本章另有规定，包括本附件。

Section 5: Services

This Chapter applies to all services procured by the entities listed in Sections 1 to 3, unless otherwise specified in this Chapter, including this Annex.

Schedule of Australia

This Chapter does not cover the procurement of research and development services, plasma fractionation services or government advertising services.

第5节：服务

本章适用于第1节至第3节中列出的实体采购的所有服务，除非本章另有规定，包括本附件。

澳大利亚清单

本章不涵盖研发服务、血浆分离服务或政府广告服务的采购。

Section 6: Construction Services

This Chapter applies to all construction services procured by the entities listed in Sections 1 to 3, unless otherwise specified in this Chapter, including this Annex.

Schedule of Australia

For the purposes of Articles 15.13.1 and 15.13.2, Australia requires, as a condition for participation in procurement of building and construction services, compliance with the National Code of Practice for the Construction Industry and related implementation guidelines at the central and sub-central government levels, and their successor policies and guidelines. In this respect Australia shall accord to the goods, services and suppliers of Chile, treatment no less favourable than the most favourable treatment it accords to its own goods, services and suppliers.

Schedule of Chile

This Chapter shall not apply to construction services intended for Easter Island (*Isla de Pascua*).

Note to Section 6

Buy national requirements on articles, supplies or materials acquired for use in construction services contracts covered by this Chapter shall not apply to goods of either Party.

第6节：建筑服务

本章适用于第1节至第3节中列出的实体采购的所有建筑服务，除非本章另有规定，包括本附件。

澳大利亚清单

根据第15.13.1条和第15.13.2条的规定，为参与建筑和建筑服务的采购，澳大利亚要求，作为条件，中央和次中央政府层面必须遵守建筑行业国家实践守则及相关实施指南，以及其后续政策和指南。在这方面，澳大利亚应给予智利的货物、服务和供应商不低于其自身货物、服务和供应商所获得的最优惠待遇的待遇。

智利清单

本章不适用于为复活节岛（帕斯卡岛）提供的建筑服务。

Note to Section 6

购买用于本章涵盖的建筑服务合同的文章、供应品或材料的国家要求，不适用于任何一方的货物。

Section 7: General Notes

Unless otherwise specified herein, the following General Notes in each Party’s Schedule apply without exception to this Chapter, including to all sections of this Annex.

Schedule of Australia

This Chapter does not apply to:

- (a) any form of preference to benefit small and medium enterprises;
- (b) measures to protect national treasures of artistic, historic, or archaeological value;
- (c) measures for the health and welfare of indigenous people; and
- (d) measures for the economic and social advancement of indigenous people.

第7节：一般说明

除非本协议另有规定，每一方的清单中包含的一般说明适用于本章，包括本章的所有附件部分，而不例外。

澳大利亚清单

本章不适用于：

- (a) 任何以优惠形式支持中小企业的措施； (b) 保护具有艺术、历史或考古价值的国家宝藏的措施； (c) 促进原住民健康和福利的措施； 以及
- (d) 促进原住民经济和社会进步的措施。

Section 8: Threshold Adjustment Formula

- 1. The thresholds in Sections 1 to 3 shall be adjusted at two-year intervals with each adjustment taking effect on January 1, beginning January 1, 2010.
- 2. The thresholds shall be adjusted:
 - (a) for Australia to align with the adjusted thresholds for equivalent categories of procurement listed in Annex 15-A, Section 1 to 3 of the Australia-United States Free Trade Agreement, expressed in its national currency according to that Agreement; and
 - (b) for Chile to align with the adjusted thresholds for equivalent categories of procurement listed in Annex 9.1, Section A to C of the Chile-United States Free Trade Agreement, expressed in its national currency according to that Agreement.
- 3. A Party may round its calculations for adjusted thresholds covered by this section according to the following:
 - (a) for Australia, to the nearest thousand Australian Dollars; and
 - (b) for Chile, to the nearest hundred thousand Chilean Pesos.
- 4. The Parties shall consult if a major change in a national currency vis-à-vis Special Drawing Rights or the other currency during a year were to create a significant problem with regard to the application of the Chapter.
- 5. In the event that:
 - (a) Australia withdraws from the Australia-United States Free Trade Agreement pursuant to Article 23.4 of that Agreement; or
 - (b) Chile withdraws from the Chile-United States Free Trade Agreement pursuant to Article 24.4 of that Agreement; or
 - (c) The Australia-United States Free Trade Agreement or the Chile-United States Free Trade Agreement are terminated; or
 - (d) An alteration to the arrangements for determining or adjusting the thresholds referred to in paragraph 2 in either the Australia-United States Free Trade Agreement or the Chile-United States Free Trade Agreement impacts on the operation of this Chapter;

The Joint FTA Committee shall agree revised arrangements for determining or adjusting thresholds with a view to maintaining the balance between the Parties in respect of the thresholds applying to one or more categories of procurement as set out in Sections 1 to 3.

第8节：阈值调整公式

- 1. 第1节至第3节中的门槛应每两年调整一次，每次调整于2010年1月1日开始生效，自2010年1月1日起。
- 2. 门槛应进行调整：
 - (a) 澳大利亚应与附件15-A、澳大利亚-美国自由贸易协定第1至3部分中列出的同等采购类别调整后的门槛对齐，并根据该协定以本国货币表示；以及 (b) 智利应与附件9.1、智利-美国自由贸易协定A至C部分中列出的同等采购类别调整后的门槛对齐，并根据该协定以本国货币表示。
- 3. 一方可根据以下规定对其在本节涵盖的调整后门槛的计算结果进行四舍五入：
 - (a) 对于澳大利亚，应四舍五入至最接近的澳大利亚元一千；以及 (b) 对于智利，应四舍五入至最接近的智利比索一百万。
- 4. 缔约方应当就某国货币相对于特别提款权或其他货币在一年内发生重大变化，从而对章节的适用产生重大问题时进行磋商。
- 5. 在以下情况下：
 - (a) 澳大利亚根据该协议第23.4条退出澳大利亚-美国自由贸易协定；或 (b) 智利根据该协议第24.4条退出智利-美国自由贸易协定；或 (c) 澳大利亚-美国自由贸易协定或智利-美国自由贸易协定被终止；或 (d) 对第2段所述确定或调整门槛的安排的任何改装，在澳大利亚-美国自由贸易协定或智利-美国自由贸易协定中，影响本章的运作；

联合自由贸易委员会应就确定或调整门槛的修订后安排达成一致，以维持缔约方之间在适用于第1节至第3节中规定的一个或多个采购类别的门槛方面的平衡。

6. Each Party shall notify the other Party of the value of the newly calculated thresholds in its national currency no later than one month before the thresholds take effect.

6. 每一方应在门槛生效前一个月内，以本国货币通知另一方新计算的门槛的价值。

Chapter 16
Electronic Commerce

Article 16.1: Definitions¹⁶⁻¹

For the purposes of this Chapter:

- (a) **digital certificates** are electronic documents or files that are issued or otherwise linked to a party to an electronic communication, transaction or contract for the purpose of establishing the party’s identity, authority or other attributes;
- (b) **electronic authentication** means the process of establishing levels of confidence in the identity of a party to an electronic communication or transaction;
- (c) **electronic version of a document** means a document in electronic format prescribed by a Party, including a document sent by facsimile transmission;
- (d) **personal data** means information about an individual whose identity is apparent, or can reasonably be ascertained, from the information;
- (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;
- (f) **party** means a person who takes part in a transaction or contract; and
- (g) **electronic transmission** means the transfer of digital products using any electromagnetic or photonic means.

Article 16.2: General Provisions

1. The Parties recognise the economic growth and opportunities provided by electronic commerce, and the importance of avoiding unnecessary barriers to its use and development consistent with this Agreement.
2. The aim of this Chapter is to promote electronic commerce between the Parties and the wider use of electronic commerce globally.
3. The Parties agree that, to the maximum extent possible, bilateral trade in electronic commerce shall be no more restricted than comparable non-electronic bilateral trade.

¹⁶⁻¹ For greater certainty, these definitions apply only to this Chapter.

第16章 电子商务

文章 16.1：定义¹⁶⁻¹

本章的目的：

(a) 数字证书是指为建立一方身份、机构或其他属性而签发或以其他方式与电子通信、交易或合同相关联的电子文档或文件；(b) 电子认证是指建立对电子通信或交易一方身份的信心等级的过程；(c) 文档的电子版本是指一方规定的电子格式文档，包括通过传真传输发送的文档；(d) 个人数据是指从信息中可以明显看出或可以合理确定的个人身份的信息；(e) 贸易管理文件是指一方签发或控制的表格，进口商或出口商必须填写或提交这些表格，以处理货物的进出口；(f) 缔约方是指参与交易或合同的一方；以及(g) 电子传输是指使用任何电磁或光子手段传输数字产品。

第16.2条：一般规定

1. 缔约方承认电子商务带来的经济增长和机遇，以及避免不必要的障碍以促进其与本协定一致的使用和发展的重要性。
2. 本章的目的是促进缔约方之间以及全球范围内电子商务的更广泛使用。
3. 缔约方同意，在最大程度上，跨境电子商务双边贸易的 **restriction** 不得比 **comparable** 非电子双边贸易更严格。

¹⁶⁻¹ 为了进一步明确，这些定义仅适用于本章。

Article 16.3: Electronic Supply of Services

Nothing in this Chapter imposes obligations to allow the electronic supply of a service nor the electronic transmission of content associated with those services, except in accordance with the provisions of Chapter 9 (Cross-Border Trade in Services), Chapter 10 (Investment) or Chapter 12 (Financial Services), including the Annexes (Non-Conforming Measures).

Article 16.4: Customs Duties

Each Party shall not impose customs duties on electronic transmissions between the Parties.

Article 16.5: Domestic Electronic Transactions Frameworks

- Each Party shall adopt or maintain measures regulating electronic transactions based on the following principles:
 - a transaction including a contract shall not be denied legal effect, validity or enforceability solely on the grounds that it is in the form of an electronic communication; and
 - laws should not discriminate arbitrarily between different forms of technology.
- Nothing in paragraph 1 prevents the Parties from making exceptions in their domestic laws to the general principles outlined in that paragraph.
- Each Party shall:
 - minimise the regulatory burden on electronic commerce; and
 - ensure that its measures regulating electronic commerce support industry-led development of electronic commerce.

Article 16.6: Electronic Authentication

- The Parties recognise that electronic authentication represents an element that facilitates trade.
- The Parties shall work towards the mutual recognition of digital certificates and electronic signatures at governmental level, based on internationally accepted standards.
- Each Party shall adopt or maintain measures regulating electronic authentication that:

第16.3条：电子服务提供

本章中的任何内容均未规定义务，以允许服务电子供应或与这些服务相关的内容电子传输，除非根据第9章（跨境服务贸易）、第10章（投资）或第12章（金融服务）的规定，包括附件（不符合规定的措施）。

第16.4条：关税

每一方不得对缔约方之间的电子传输征收关税。

第16.5条：国内电子交易框架

- 每一方应根据以下原则制定或维持规范电子交易的措施：
 - 一项包含合同的交易不应仅因其为电子通信形式而否认其法律效力、有效性或可执行性；以及 (b) 法律不应任意地歧视不同形式的技术。
- 第1段中的任何内容均不妨碍缔约方在其国内法中对其所概述的一般原则做出例外规定。
- 每一方应：
 - 最大限度地减轻对电子商务的监管负担；以及 (b) 确保其监管电子商务的措施支持电子商务的产业主导发展。

第16.6条：电子认证

- 缔约方承认，电子认证代表了一种促进贸易的要素。
- 缔约方应当基于国际公认标准，在政府层面推动数字证书和电子签名的相互承认。
- 每一方应当采取或维持电子认证监管措施，该措施包括：

- (a) permit parties who take part in a transaction or contract by electronic means to determine the appropriate authentication technologies and implementation models, and do not limit the recognition of such technologies and implementation models, unless there is a domestic or international legal requirement to the contrary; and
- (b) permit parties who take part in a transaction or contract by electronic means to have the opportunity to prove in court that their electronic transactions comply with any legal requirement.

4. The Parties shall encourage the use of interoperable electronic authentication.

Article 16.7: Online Consumer Protection

- 1. Each Party shall, to the extent possible and in a manner considered appropriate, adopt or maintain measures which provide protection for consumers using electronic commerce that is at least equivalent to measures which provide protection for consumers of other forms of commerce.
- 2. Each Party shall adopt or maintain measures regulating consumer protection where:
 - (a) consumers who participate in electronic commerce should be afforded transparent and effective consumer protection that is not less than the level of protection afforded in other forms of commerce; and
 - (b) businesses engaged in electronic commerce should pay due regard to the interests of consumers and act in accordance with fair business, advertising and marketing practices.
- 3. Each Party shall encourage business to adopt the following fair business practices where business engages in electronic commerce with consumers:
 - (a) businesses should provide accurate, clear and easily accessible information about themselves, the goods or services offered, and about the terms, conditions and costs associated with a transaction to enable consumers to make an informed decision about whether to enter into the transaction;
 - (b) to avoid ambiguity concerning the consumer's intent to make a purchase, the consumer should be able, before concluding the purchase, to identify precisely the goods or services he or she wishes to purchase; identify and correct any errors or modify the order; express an informed and deliberate consent to the purchase; and retain a complete and accurate record of the transaction;
 - (c) consumers should be provided with easy-to-use, secure payment mechanisms and information on the level of security such mechanisms afford.

(a) 允许通过电子方式参与交易或合同的各方确定适当的认证技术和实施模型，并且不限制对这类技术和实施模型的认可，除非存在相反的国内或国际法律要求；以及 (b) 允许通过电子方式参与交易或合同的各方有机会在法院证明其电子交易符合任何法律要求。

4. 缔约方应鼓励使用互操作电子认证。

文章 16.7：在线消费者保护

- 1. 每一方应尽可能并以被认为适当的方式，采取或维持为使用电子商务的消费者提供保护的措施，该保护至少等同于为使用其他商业形式的消费者提供的保护。
- 2. 每一方应采取或维持规范消费者保护的措施，其中：
 - (a) 参与电子商务的消费者应享有透明且有效的消费者保护，其保护水平不低于其他商业形式提供的保护；以及 (b) 从事电子商务的企业应充分考虑消费者的利益，并按照公平的商业、广告和营销实践行事。
- 3. 每一方应当鼓励商业在与消费者进行电子商务时采用下列公平商业实践：
 - (a) 企业应提供准确、清晰且易于获取的关于自身、所提供的商品或服务以及与交易相关的条款、条件和费用的信息，以使消费者能够就是否进行交易做出知情决定；(b) 为避免对消费者购买意图的模糊性，消费者应在完成购买前能够精确识别其希望购买的货物或服务；识别并更正任何错误或修改订单；对购买表示知情的、深思熟虑的同意；并保留完整准确的交易记录；(c) 消费者应获得易于使用、安全的支付机制和关于这些机制提供的安全级别的信息。

Article 16.8: Online Personal Data Protection

Each Party shall adopt or maintain a domestic legal framework which ensures the protection of the personal data of the users of electronic commerce. In the development of personal data protection standards, each Party shall take into account the international standards and criteria of relevant international bodies.

Article 16.9: Paperless Trading

- Each Party shall endeavor to accept electronic versions of trade administration documents used by the other Party as the legal equivalent of paper documents, except where:
 - there is a domestic or international legal requirement to the contrary; or
 - doing so would reduce the effectiveness of the trade administration process.
- For greater certainty, the Parties confirm that Article 5.11 (Paperless Trading – Customs Administration Chapter) applies to paperless trading under this Chapter.
- Each Party shall work towards developing a single window¹⁶⁻² to government incorporating relevant international standards for the conduct of trade administration, recognising that each Party will have its own unique requirements and conditions.

Article 16.10: Consultations

- The Parties will consult on electronic commerce matters arising under this Chapter including in relation to electronic signatures, data protection, online consumer protection and any other matters agreed by the Parties.
- The consultations may be held via teleconference, videoconference, or through other means, as mutually determined by the Parties.

¹⁶⁻² The Parties consider a non-binding definition of a single window is “A facility that allows parties involved in trade and transport to lodge standardised information and documents with a single entry point to fulfil all import, export and transit related regulatory requirements. If information is electronic, then individual data elements should only be submitted once.”

第16.8条：在线个人数据保护

每一方应采纳或维持一个国内法律框架，确保对电子商务用户个人数据的保护。在制定个人数据保护标准时，每一方应考虑相关国际机构提供的国际标准和标准。

第16.9条：无纸化贸易

- 每一方应努力接受另一方使用的贸易管理文件电子版本，作为纸质文件的合法等效，但以下情况除外：
 - (a) 存在相反的国内或国际法律要求；或 (b) 这样做会降低贸易管理过程的有效性。
- 为进一步明确，缔约方确认第5.11条（无纸化贸易——海关管理章节）适用于本章下的无纸化贸易。
- 每一方应努力建立一个包含与贸易管理行为相关的相关国际标准的政府单一窗口¹⁶⁻²，承认每一方都将有其独特的要求和条件。

第16.10条：磋商

- 缔约方将就本章产生的电子商务事项进行磋商，包括与电子签名、数据保护、在线消费者保护以及缔约方同意的任何其他事项有关。
- 磋商可以通过电话会议、视频会议或双方共同决定的其他方式进行。

¹⁶⁻² 缔约方认为单一窗口的非约束性定义是“一个允许参与贸易和运输的各方向单一入口提交标准化信息和文件，以履行所有与进口、出口和转运相关的监管要求的设施。如果信息是电子的，那么单个数据元素只需提交一次。”

Chapter 17
Intellectual Property

第17章 知识产权

Article 17.1: Definitions

For the purposes of this Chapter:

- (a) **broadcasting** means the transmission to the public by wireless means, including satellite, of sounds or sounds and images, or representations thereof, including wireless transmission of encrypted signals where the means for decrypting are provided to the public by the broadcasting organisation or with its consent;
- (b) **communication to the public of a performance or a phonogram** has the meaning in Article 2(g) of the *WIPO Performances and Phonograms Treaty*;
- (c) **fixation** in relation to performances and phonograms means the embodiment of sounds, or of the representations thereof, from which they can be perceived, reproduced or communicated through a device;
- (d) **intellectual property** refers to all categories of intellectual property that are the subject of Sections 1 to 7 of Part II of the TRIPS Agreement, namely: copyright and related rights; trade marks; geographical indications; industrial designs; patents; layout designs (topographies) of integrated circuits; and protection of undisclosed information¹⁷⁻¹;
- (e) **performance** refers to a performance fixed in a phonogram unless otherwise specified;
- (f) **performers** means actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret or otherwise perform literary or artistic works or expressions of folklore;
- (g) **phonogram** means the fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in a cinematographic or other audiovisual work;
- (h) **producer of a phonogram** means the person who, or the legal entity which, takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds, or the representations of sounds;
- (i) **publication of a performance or a phonogram** means the offering of copies of the performance or the phonogram to the public, with the consent of the right holder, and provided that copies are offered to the public in reasonable quantity;

¹⁷⁻¹ For the purposes of this Chapter, intellectual property also includes rights in plant varieties.

文章17.1：定义

本章的目的：

- (a) 广播是指通过无线方式向公众传输，包括卫星传输的声音或声音和图像，或其表现形式的代表，包括向公众提供的加密信号无线传输，其中解密方式由广播组织提供或经其同意；
- (b) 表演或录音向公众传播具有 meaning in Article 2(g) of the *WIPO Performances and Phonograms Treaty*;
- (c) **fixation** in relation to performances and phonograms means the embodiment of sounds, or of the representations thereof, from which they can be perceived, reproduced or communicated through a device;
- (d) **intellectual property** refers to all categories of intellectual property that are 《与贸易有关的知识产权协定》第二部分第1至7节的主题，即：版权和相关权利；商标；地理标志；工业设计；专利；集成电路布局设计（拓扑图）；以及未披露信息的保护¹⁷⁻¹；
- (e) 表演是指固定在录音中的表演，除非另有规定；(f) 表演者是指演员、歌手、音乐家、舞蹈家和其他表演文学或艺术作品或民间艺术表达的人；(g) 录音是指表演的声音或其他声音的固定，或声音的表示，但不以电影或其他视听作品中所包含的固定形式为限；(h) 录音制作人是指采取主动并负责表演声音或其他声音或声音表示的首次固定的人或法律实体，主动负责表演或其他声音的首次固定，或声音的表现形式；
- (i) 表演或录音的出版是指提供副本以权利持有人同意的方式向公众提供表演或录音，并且以合理的数量向公众提供副本；

根据本章规定，知识产权也包括植物新品种的权利。

- (j) **WIPO** means the World Intellectual Property Organization; and
- (k) **work** includes a cinematographic work.

Article 17.2: Purpose

The Parties recognise that it is important to provide adequate and effective protection and enforcement of intellectual property rights, promote efficient and transparent intellectual property systems and achieve an appropriate balance between the legitimate interests of intellectual property right holders and of users in subject matter protected by intellectual property rights.

Article 17.3: General Provisions

1. The Parties reaffirm their existing rights and obligations with respect to each other under the TRIPS Agreement and any other multilateral intellectual property agreements to which both are party.
2. Nothing in this Chapter shall prevent a Party from adopting appropriate measures to prevent:
 - (a) the abuse of intellectual property rights by right holders or the resort to practices that unreasonably restrain trade or adversely affect the international transfer of technology; and
 - (b) anticompetitive practices that may result from the abuse of intellectual property rights;provided that such measures are consistent with this Agreement.
3. Each Party shall give effect to the provisions of this Chapter and may, but shall not be obliged to, implement in its domestic law more extensive protection than is required by this Chapter, provided that such protection does not contravene the provisions of this Chapter.

Article 17.4: International Agreements

1. Each Party shall ratify or accede to the following agreements by 1 January 2009 in a manner consistent with its domestic law and subject to the fulfilment of its necessary internal requirements:
 - (a) the *Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite* (1974) (the Brussels Convention);
 - (b) the *Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure* (1980); and

- (j) WIPO 指世界知识产权组织；以及 (k) 作品包括电影作品。

第17.2条：目的

缔约方承认，提供充分有效的知识产权保护、促进高效透明的知识产权制度，并在知识产权权利人与受知识产权保护的客体用户之间的合法利益之间实现适当平衡，是重要的。

第17.3条：一般规定

1. 缔约方重申其根据与贸易有关的知识产权协定及双方均为缔约方的任何其他多边知识产权协定所享有的现有权利和义务。
2. 本章的任何规定均不得阻止一方采取适当措施以防止：
 - (a) 权利持有人滥用知识产权或采取不合理限制贸易或对国际技术转让产生不利影响的惯例；以及 (b) 可能因知识产权滥用而产生的反竞争行为；但前提是此类措施与本协定一致。
3. 每一方应实施本章的规定，并可以，但无义务，在其国内法中实施比本章要求更广泛的保护，前提是此类保护不与本章的规定相抵触。

第17.4条：国际协议

1. 每一方应在2009年1月1日前以与其国内法一致的方式批准或加入以下协议，并应在其必要内部要求得到履行的情况下进行：
 - (a) 关于卫星传输节目信号分布的公约 (1974) (布鲁塞尔公约)； (b) 布达佩斯条约关于为专利程序目的而国际承认微生物保藏 (1980)； 以及

- (c) the *International Convention for the Protection of New Varieties of Plants* (1991).

2. Each Party shall undertake reasonable efforts to ratify or accede to the following agreements, in a manner consistent with its domestic law and subject to the fulfilment of its necessary internal requirements:

- (a) the *Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks* (1989);
- (b) the *Patent Cooperation Treaty* (1970); and
- (c) the *Patent Law Treaty* (2000).

Article 17.5: National Treatment

1. In respect of all intellectual property rights covered in this Chapter, each Party shall accord to persons of the other Party treatment no less favourable than it accords to its own persons with regard to the protection¹⁷⁻² and enjoyment of such intellectual property rights and any benefits derived from such rights, subject to the exceptions provided in multilateral intellectual property agreements to which either Party is, or becomes, a contracting party.

2. A Party may derogate from paragraph 1 in relation to its judicial and administrative procedures, including requiring a person of the other Party to designate an address for service of process in its territory, or to appoint an agent in its territory, provided that such derogation is:

- (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.

3. Paragraph 1 does not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO in relation to the acquisition or maintenance of intellectual property rights.

Article 17.6: Application of Agreement to Existing Subject Matter

1. Except as it provides otherwise, including Article 17.32, this Chapter gives rise to obligations in respect of all subject matter existing at the date of entry into

¹⁷⁻² For the purposes of this Article, **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 Article, **protection** also includes the provisions concerning the prohibition on circumvention of effective technological measures and rights management information specified in Articles 17.28 and 17.29 respectively.

- (c) 保护植物新品种国际公约 (1991)。

2. 每一方应当采取合理措施批准或加入以下协议，其方式应与其国内法一致，并应满足其必要的内部要求：

- (a) 《马德里协定有关商标国际注册的议定书》（1989年）；
- (b) 《专利合作条约》（1970年）；以及 (c) 《专利法条约》（2000年）。

第17.5条：国民待遇

1. 对于本章涵盖的所有知识产权，每一方应当给予另一方人员不低于其给予本国人员关于知识产权保护的待遇¹⁷⁻²

和享受此类知识产权权利及由此产生的任何利益，但前提是，根据任何一方或成为缔约方的多边知识产权协定中提供的例外规定。

2. 缔约方可以在其司法和行政程序方面背离第1段，包括要求另一方人员指定其领土内的送达地址，或任命其在领土内的代理人，前提是该背离：

- (a) 必要的，以确保符合与本章不一致的法律和法规；以及 (b) 不得以构成对贸易的伪装限制的方式应用。

3. 第1段不适用于在WIPO主持下缔结的多边协议中关于知识产权的取得或维持的程序。

第十七条第6条：协议对现有主题事项的应用

1. 除其另有规定外，包括第17.32条，本章就所有在入境日期时存在的主题产生义务，涉及此类知识产权的权利的行使及由此产生的任何利益，但前提是，根据任何一方或成为缔约方的多边知识产权协定中提供的例外规定。

¹⁷⁻² 就本条而言，保护包括影响知识产权的可用性、收购、范围、维持和执行的事项，以及影响本章节专门涵盖的知识产权使用的事项。此外，就本条而言，保护还包括第十七条第28条和第十七条第29条分别规定的关于禁止规避有效技术措施和权利管理信息的条款。

force of this Agreement, that is protected on that date in the territory of the Party where protection is claimed, or that meets or comes subsequently to meet the criteria for protection under this Chapter.

2. Except as otherwise provided in this Chapter, a Party shall not be required to restore protection to subject matter that on the date of entry into force of this Agreement has fallen into the public domain in the territory of the Party where the protection is claimed.

Article 17.7: Application of Agreement to Prior Acts

This Chapter does not give rise to obligations in respect of acts that occurred before the date of entry into force of this Agreement.

Article 17.8: Industrial Property

1. Each Party shall provide a system that permits owners to assert industrial property rights and interested parties to challenge such rights through administrative or judicial means, or both.
2. Each Party shall endeavour to simplify and streamline its administrative procedures and participate in international fora, including the WIPO fora, dealing with reform and development of the industrial property system.

TRADE MARKS

Article 17.9: Trade Marks Protection

Each Party shall provide that trade marks shall include trade marks in respect of goods and services, collective marks and certification marks. A Party is not obligated to treat certification marks as a separate category in its domestic law. Each Party shall provide, in accordance with its domestic law, that a sound may constitute a sign, and a combination of colours may form all or part of a sign. Each Party may provide trade mark protection for scents. The Parties shall not require, as a condition of registration, that trade marks be visually perceptible. A Party may require that trade marks be represented graphically.

Article 17.10: Use of Identical or Similar Signs

Each Party shall provide that the owner of a registered trade mark shall have the exclusive right to prevent third parties not having the owner’s consent from using in the course of trade identical or similar signs, including subsequent geographical indications, for goods or services that are related to those goods or services in respect

本协议的效力，即在所声称的缔约方领土上于该日期受到保护，或符合或随后符合本章规定的保护标准。

2. 除本章另有规定外，任何一方不得被要求恢复在本协定生效日期时已在其主张保护领土内落入公共领域的主题的工业产权保护。

第17.7条： 协定对先前行为的适用

本章不产生在本协定生效日期之前发生的任何行为的义务。

第17.8条： 工业产权

1. 每一方应提供一套系统，允许所有者主张工业产权，并允许利害关系方通过行政或司法手段挑战这些权利，或两者兼有。
2. 每一方应努力简化并精简其行政程序，并参与处理工业产权制度改革和发展的国际论坛， 包括世界知识产权组织论坛。

商标

第17.9条： 商标保护

每一方应规定商标包括商品和服务的商标、集体商标和认证商标。一方没有义务在其国内法中将认证商标视为一个单独的类别。每一方应根据其国内法规定，声音可以构成标志，颜色组合可以构成标志的全部或部分。每一方可以提供气味商标保护。双方不得要求，作为注册的条件，商标必须是视觉上可感知的。一方可以要求商标以图形化方式表示。

第17.10条： 相同或近似的标志的使用

每一方应当规定，注册商标的所有者应当享有独占权，以防止第三方未经商标所有者同意，在贸易过程中使用与已注册商标相同或近似的标志，包括后续地理标志，用于与注册商标所指定的商品或服务相关联的商品或服务，且此种使用会导致混淆。

of which the trade mark is registered, where such use would result in a likelihood of confusion.¹⁷⁻³

Article 17.11: Exceptions to Trade Mark Rights

Each Party may provide limited exceptions to the rights conferred by a trade mark, such as fair use of descriptive terms, provided that such exceptions take account of the legitimate interest of the owner of the trade mark and of third parties.

Article 17.12: Well Known Trade Marks

1. Article 6bis of the *Paris Convention for the Protection of Industrial Property* shall apply to goods or services that are not identical or similar to those identified by a well known trade mark¹⁷⁻⁴, whether registered or not, provided that use of that trade mark in relation to those goods or services would indicate a connection between those goods or services and the owner of the trade mark, and provided that the interests of the owner of the trade mark are likely to be damaged by such use.
2. Each Party recognises the importance of the *Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks* (1999) as adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of WIPO, and shall be guided by the principles contained in this Recommendation.

Article 17.13: Trade Mark System of Protection

- Each Party shall provide a system of protection for trade marks that provides procedures for examination as to substance and formalities, opposition, and cancellation, which shall include, but not be limited to:
- (a) providing to the applicant a communication in writing, which may be electronic, of the reasons for any refusal to register a trade mark;

(b) providing the opportunity for the applicant to respond to communications from the authorities responsible for registration of trade marks, to contest an initial refusal, and to appeal judicially any final refusal to register a trade mark;

(c) providing an opportunity for interested parties to oppose the registration of a trade mark or to seek cancellation of a trade mark; and

(d) requiring that decisions in opposition or cancellation proceedings be reasoned and in writing.

¹⁷⁻³ It is understood that likelihood of confusion is to be determined under the domestic trade mark law of each Party.
¹⁷⁻⁴ In determining whether a trade mark is well known, the reputation of the trade mark need not extend beyond the sector of the public that normally deals with the relevant goods or services.

其中，商标注册的商品，如果此种使用会导致混淆，则适用此规定。¹⁷⁻³

文章 17.11：商标权的例外

每一方可以对商标所授予的权利提供有限的例外，例如描述性词语的合理使用，但此类例外应考虑到商标所有者的合法利益以及第三方的利益。

文章 17.12：驰名商标

1. 《保护工业产权巴黎公约》第六十九条之二的规定适用于与由驰名商标所指定的商品或服务不相同或类似的商品或服务¹⁷⁻⁴，无论是否注册，只要使用该商标与这些商品或服务相关，表明这些商品或服务与该商标所有者之间存在联系，并且该商标所有者的利益可能因这种使用而受到损害。
2. 每一方承认保护驰名商标规定联合建议书（1999年）的重要性，该建议书由保护工业产权巴黎联盟大会和世界知识产权组织大会通过，并应受该建议书所含原则的指导。

文章17.13：商标保护制度

- 每一方应当为商标提供保护制度，该制度应包括实质和形式审查、异议和取消的程序，但不仅限于：
- (a) 向申请人提供书面（可能是电子的）通知，说明拒绝注册商标的理由；(b) 为申请人提供机会，回应负责商标注册的当局的通信，对初步拒绝提出异议，并对最终拒绝注册商标的上诉进行司法审理；(c) 为利害关系方提供机会，对商标注册提出异议或寻求商标撤销；以及(d) 要求在异议或撤销程序中的决定必须具有理由并书面作出。

¹⁷⁻³ 双方理解，混淆的可能性应根据每一方的国内商标法确定。¹⁷⁻⁴ 在确定商标是否驰名时，该商标的声誉无需超出通常与相关商品或服务打交道的公众范围。

Article 17.14: Electronic Trade Marks System

Each Party shall provide, to the maximum extent practical:

- (a) a system for the electronic application, processing, registration and maintenance of trade marks; and
- (b) a publicly available electronic information system of registered trade marks.

Article 17.15: Term of Protection for Trade Marks

Each Party shall provide that initial registration of a trade mark shall be for a term of no less than 10 years.

Article 17.16: Classification of Goods and Services

Each Party shall maintain a trade mark 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* of June 15, 1957, as amended.

Article 17.17: Geographical Indications

1. Each Party shall recognise that geographical indications may be protected through a trade mark or *sui generis* system or other legal means.
2. Each Party shall provide the means for persons of the other Party to apply for protection of geographical indications. Each Party shall accept applications without the requirement for intercession by a Party on behalf of its persons, and shall:
 - (a) process applications for geographical indications with a minimum of formalities;
 - (b) make its regulations governing filing of such applications readily available to the public;
 - (c) ensure that applications for geographical indications are published for opposition and provide procedures for:
 - (i) opposing geographical indications before registration; and
 - (ii) cancellation of any registered geographical indications;
 - (d) ensure that measures governing the filing of applications for geographical indications set out clearly the procedures for such actions

第17.14条：电子商标系统

每一方应根据最大程度上的可行性提供：

- (a) 用于商标的电子申请、处理、注册和维持的系统；以及 (b) 公开可用的注册商标电子信息系统。

第17.15条：商标保护期限

每一方应规定， 商标的初始注册应不少于10年。

第17.16条：商品和服务分类

每一方应当维持一个与1957年6月15日签订的《关于为商标注册目的对商品和服务进行国际分类的尼斯协定》及其修正案一致的商标分类制度。

第17.17条：地理标志

1. 每一方应当承认地理标志可以通过商标或特殊标志制度或其他法律手段得到保护。
2. 每一方应当为另一方的个人提供申请地理标志保护的途径。每一方应当接受申请，无需其代表其个人进行斡旋，并且应当：
 - (a) 以最低限度的形式要求处理地理标志申请； (b) 将此类申请的提交规定法规易于公众获取； (c) 确保地理标志申请公布以供异议，并提供程序以： (i) 在注册前对地理标志提出异议；以及 (ii) 已注册地理标志的撤销； (d) 确保地理标志申请提交的规则明确说明此类行动的程序

and shall include contact information sufficient for applicants to obtain specific procedural guidance regarding the processing of those applications; and

- (e) provide that the grounds for refusing an application for protection of a geographical indication, or for opposing such an application, include the following¹⁷⁻⁵:
 - (i) the geographical indication is confusingly similar to a trade mark that is the subject of a pre-existing good-faith pending application or registration; and
 - (ii) the geographical indication is confusingly similar to a pre-existing trade mark, the rights to which have been acquired through use in good faith in the territory of the Party.

COUNTRY NAMES

Article 17.18: Country Names

Each Party shall provide the legal means for interested parties to prevent commercial use of country names of the other Party in relation to goods in a manner which is likely to mislead consumers as to the origin of such goods.

PATENTS

Article 17.19: Availability of Patents

Each Party shall make patents available for any invention, whether a product or process, in all fields of technology, provided that the invention is new, involves an inventive step, and is capable of industrial application. For the purposes of this Article, a Party may treat the terms “inventive step” and “capable of industrial application” as synonymous with the terms “non-obvious” and “useful”, respectively.

Article 17.20: Exceptions to Patent Rights

A Party may provide limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

¹⁷⁻⁵ Without prejudice, final decisions on the matters covered in Article 17.17.2(e) shall be taken according to each Party’s domestic law.

并应包括足够的联系方式，以便申请人获取关于处理这些申请的特定程序指导；并

- (e) 提供拒绝地理标志保护申请或反对该申请的理由包括以下¹⁷⁻⁵：
 - (i) 该地理标志与一项已存在的善意在审申请或注册的商标容易混淆；以及 (ii) 该地理标志与一项已存在的商标容易混淆，其权利是通过在缔约方领土内善意使用而取得的。

国家名称

第17.18条：国家名称

每一方应提供法律手段，使利害关系方能够防止以可能误导消费者对另一方的国家名称所涉货物原产地的方式，在货物上使用另一方的国家名称进行商业使用。

专利

第17.19条：专利的可获得性

每一方应就所有技术领域的任何发明（无论是产品还是工艺）提供专利，前提是发明是新颖的、涉及创造性步骤并且能够工业应用。就本条而言，一方可以将术语“创造性步骤”和“能够工业应用”分别视为与术语“非显而易见”和“有用”同义。

第17.20条：专利权的例外

一方可以针对专利授予的专有权利提供有限的例外，前提是这些例外不会与专利的正常利用产生不合理冲突，并且不会不合理地损害专利权人的合法利益，同时考虑第三方的合法利益。

¹⁷⁻⁵ 不损害任何一方，关于第17.17.2(e)条所述事项的最终决定应根据每一方的国内法作出。

Article 17.21: Patent System of Protection

- 1. Each Party shall provide an opportunity, either before or after grant, for interested parties to oppose the grant of a patent or to seek its revocation or cancellation¹⁷⁻⁶.
- 2. Each Party shall provide that a patent may only be revoked or cancelled on grounds that would have justified a refusal to grant the patent.
- 3. Notwithstanding paragraph 2, a Party may also provide that a patent may be revoked or cancelled on the basis of fraud, or that the patent is used in a manner determined to be anticompetitive in a judicial proceeding¹⁷⁻⁷.

Article 17.22: Grace Period for Patents

- Neither Party shall use the information contained in a public disclosure to prevent patentability due to a lack of novelty or inventive step if the public disclosure:
- (a) was made or authorised by, or derived from, the patent applicant; and
 - (b) occurs within 12 months prior to the date of filing of the application in the territory of the Party.

Article 17.23: Classification of Patents

Each Party shall maintain a patent classification system that is consistent with the *Strasbourg Agreement Concerning the International Patent Classification* of March 24, 1971, as amended.

DOMAIN NAMES

Article 17.24: Dispute Settlement and Registration Database

- 1. Each Party shall require that the management of its country-code top-level domain (ccTLD) provide an appropriate procedure for the settlement of disputes, based on the principles established in the Uniform Domain-Name Dispute-Resolution Policy.
- 2. Each Party shall require that the management of its ccTLD provide online public access to a reliable and accurate database of domain-name registrations in accordance with each Party’s law regarding protection of personal data.

¹⁷⁻⁶ For the purposes of this Article, a Party may treat the term “cancellation” as synonymous with “revocation” and the term “cancelled” as synonymous with “revoked”.
¹⁷⁻⁷ Where a Party provides that misrepresentation or inequitable conduct are grounds for revocation or cancellation of a patent, it may continue to so provide.

文章 17.21：保护专利制度

- 1. 每一方应当在授予专利之前或之后，为利害关系方提供机会，以反对授予专利或寻求其撤销或取消¹⁷⁻⁶。
- 2. 每一方应当规定，专利只能基于足以证明拒绝授予专利的理由而撤销或取消。
- 3. 不论第2段如何规定，缔约方也可以规定，专利可基于欺诈而撤销或取消，或规定专利在司法诉讼中被认定为具有反竞争性而使用¹⁷⁻⁷。

文章 17.22：专利宽限期

- 任何一方不得利用公开披露中包含的信息，以缺乏新颖性或创造性步骤为由，防止专利性，如果公开披露：
- (a) 是由专利申请人作出或授权的；以及 (b) 发生在申请提交之日起12个月内的缔约方领土内。

第17.23条：专利分类

每一方应维持一个与1971年3月24日修订的《关于国际专利分类的斯特拉斯堡协定》一致的专利分类系统。

域名

第17.24条：争端解决和注册数据库

- 1. 每一方应要求其国家代码顶级域名（ccTLD）的管理提供基于《统一域名争议解决政策》所确立原则的适当程序来解决争议。
- 2. 每一方应当要求其国家代码顶级域名的管理方根据每一方关于个人数据保护的法律，提供在线公共访问一个可靠和准确的域名注册数据库。

¹⁷⁻⁶ 就本条而言，缔约方可以将“取消”一词视为与“撤销”一词同义，并将“已取消”一词视为与“已撤销”一词同义。¹⁷⁻⁷ 如果缔约方规定虚假陈述或不公平行为是撤销或取消专利的理由，则它可以继续这样做。

COPYRIGHT

Article 17.25: Right of Reproduction

- 1. Each Party shall provide that authors¹⁷⁻⁸ of literary and artistic works have the right to authorise or prohibit¹⁷⁻⁹ all reproductions of their works, in any manner or form, permanent or temporary (including temporary storage in material form)¹⁷⁻¹⁰.
- 2. The Parties reaffirm that it is a matter for each Party’s law to prescribe that works shall not be protected by copyright unless they have been fixed in some material form.

RELATED RIGHTS

Article 17.26: Right of Reproduction

- 1. Each Party shall provide that performers, in respect of their performances, and producers of phonograms, in respect of their phonograms¹⁷⁻¹¹, have the right to authorise or prohibit all reproductions, in any manner or form, permanent or temporary (including temporary storage in material form)¹⁷⁻¹².
- 2. The Parties reaffirm that it is a matter for each Party’s law to prescribe that performances and phonograms shall not be protected by related rights unless they have been fixed in some material form.

¹⁷⁻⁸ References to “authors” in this Chapter refer also to any successors in interest.
¹⁷⁻⁹ For the purposes of paragraph 1 of Article 17.25 and paragraph 1 of Article 17.26, a right to authorise or prohibit means an exclusive right. For avoidance of doubt, in the case of Chile, a right to authorise also means an exclusive right.
¹⁷⁻¹⁰ It is consistent with this Agreement to provide exceptions and limitations for temporary acts of reproduction which are transient or incidental and an integral and essential part of a technological process and whose sole purpose is to enable (a) a lawful transmission in a network between third parties by an intermediary; or (b) a lawful use of a work; and which have no independent economic significance.
¹⁷⁻¹¹ References to “performers” and “producers of phonograms” in this Chapter refer also to any successors in interest.
¹⁷⁻¹² It is consistent with this Agreement to provide exceptions and limitations for temporary acts of reproduction of performances or phonograms which are transient or incidental and an integral and essential part of a technological process and whose sole purpose is to enable (a) a lawful transmission in a network between third parties by an intermediary; or (b) a lawful use of a performance or phonogram; and which have no independent economic significance.

版权

第17.25条：复制权

- 1. 每一方应当提供作者¹⁷⁻⁸ 文学和艺术作品的作者有权授权或禁止¹⁷⁻⁹ 其作品的所有复制形式，无论以何种方式或形式，永久或临时（包括以物质形式进行的临时存储）¹⁷⁻¹⁰。
- 2. 缔约方重申，是否规定作品未经以某种物质形式固定便不享有版权，属于每一方法律的事项。

相关权利

第17.26条：复制权

- 1. 每一方应当规定，表演者就其表演而言，以及音像制品制作者就其音像制品¹⁷⁻¹¹，有权授权或禁止以任何方式或形式进行的所有复制，包括永久性或临时性（包括以物质形式进行的临时存储）¹⁷⁻¹²。
- 2. 缔约方重申，是否规定表演和音像制品未经以某种物质形式固定，不得受相关权利保护，属于每一方法律的事项。

¹⁷⁻⁸ 本章中提及“作者”也指任何权益继任者。¹⁷⁻⁹ 为了第17.25条第1款和第17.26条第1款的目的，授权或禁止的权利意味着独占权。为了避免歧义，在智利的情况下，授权的权利也意味着独占权。¹⁷⁻¹⁰ 为临时复制行为提供例外和限制与本协定一致，这些临时复制行为是短暂的或偶然的，是技术过程不可分割和必要的部分，其唯一目的是（a）由中介在第三方之间通过网络进行合法传输；或（b）合法使用作品；并且没有独立的经济意义。¹⁷⁻¹¹ 本章中提及“表演者”和“音像制品制作者”也指任何权益继任者。¹⁷⁻¹² 为表演或音像制品的临时复制行为提供例外和限制与本协定一致，这些临时复制行为是短暂的或偶然的，是技术过程不可分割和必要的部分，其唯一目的是（a）由中介在第三方之间通过网络进行合法传输；或（b）合法使用表演或音像制品；并且没有独立的经济意义。

COMMON PROVISIONS TO COPYRIGHT AND RELATED RIGHTS

Article 17.27: Term of Protection for Copyright and Related Rights

Each Party shall provide that where the term of protection of a work (including a photographic work), performance or phonogram is to be calculated:

- (a) on the basis of the life of a natural person, the term shall be not less than the life of the author and 70 years after the author’s death; and
- (b) on a basis other than the life of a natural person, the term shall be:
 - (i) not less than 70 years from the end of the calendar year of the first authorised publication of the work, performance or phonogram; or
 - (ii) failing such authorised publication within 50 years from the creation of the work, performance or phonogram, not less than 70 years from the end of the calendar year of the creation of the work, performance or phonogram.

Article 17.28: Effective Technological Measures

Each Party shall provide for civil remedies or administrative measures and, when appropriate, criminal penalties, against the circumvention of effective technological measures that are used by authors, performers and producers of phonograms in connection with the exercise of their copyright and related rights, and that restrict acts in respect of their works, performances or phonograms, which are not authorised by those right holders, or permitted by law.

Article 17.29: Rights Management Information

In order to provide adequate and effective legal remedies to protect rights management information:

- (a) each Party shall provide that any person who without authority, and with respect to civil remedies, having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of any copyright or related right:
 - (i) knowingly removes or alters any rights management information;
 - (ii) distributes or imports for distribution rights management information knowing that the rights management information has been altered without authority; or

版权及相关权利的通用规定

第17.27条：版权及相关权利的保护期

每一方应当规定，在需要计算作品（包括摄影作品）、表演或音像制品的保护期限时：

- (a) 以自然人的寿命为基础，保护期应不少于作者的寿命加上作者去世后的70年；以及(b) 以非自然人寿命为基础，保护期应为： (i) 不少于作品、表演或音像制品首次授权出版后的日历年结束后的70年；或 (ii) 若作品、表演或音像制品创设后的50年内未进行授权出版，则不少于作品、表演或音像制品创设后的日历年结束后的70年。

第17.28条：有效技术措施

每一方应规定民事救济或行政措施，并在适当情况下规定刑事处罚，以防止规避由作者、表演者和音像制品制作者在使用其版权及相关权利时采用的有效技术措施，这些措施限制了对其作品、表演或音像制品的行为，而这些行为未经这些权利持有人授权或未经法律许可。

第17.29条：权利管理信息

为了为保护权利管理信息提供充分和有效的法律救济：

- (a) 每一方应当规定，任何未经授权，并且就民事救济而言，有合理理由知道其将诱使、使能够、便利或掩盖任何版权及相关权利的侵权行为的个人： (i) 明知移除或修改任何权利管理信息； (ii) 分发或进口用于分销的权利管理信息，知道该权利管理信息未经授权已被修改；或

(iii) distributes to the public, imports for distribution, broadcasts, communicates or makes available to the public copies of works, performances or phonograms, knowing that rights management information has been removed or altered without authority;

shall be liable, upon the suit of any injured person, and subject to civil remedies.

(b) Further to paragraph (a), each Party shall provide for the application of criminal procedures and penalties at least in cases where acts prohibited in subparagraph (a) are done knowingly, wilfully and for purposes of commercial advantage. A Party may exempt from criminal liability prohibited acts done in connection with a non-profit library, archive, educational institution or broadcasting entity¹⁷⁻¹³ established without a profit-making purpose¹⁷⁻¹⁴.

Article 17.30: Government Use of Software

Each Party shall maintain appropriate laws, orders, regulations, government issued guidelines or administrative or executive decrees which provide that its central government agencies use only legitimate computer software as authorised.

Article 17.31: Exceptions to Copyright and Related Rights

Each Party shall provide for exceptions or limitations to copyright and related rights included in this Chapter, in accordance with the Berne Convention for the Protection of Literary and Artistic Works, the TRIPS Agreement, the WIPO Copyright Treaty and/or the WIPO Performances and Phonograms Treaty.

Article 17.32: Application in Time

Each Party shall apply Article 18 of the Berne Convention, mutatis mutandis, to the subject matter, rights and obligations in Articles 17.25 to 17.31 inclusive.

ENCRYPTED PROGRAM-CARRYING SATELLITE SIGNALS

Article 17.33: Protection

1. Each Party shall make it:

¹⁷⁻¹³ A Party may provide that such a broadcasting entity means a “public non-commercial broadcasting entity”.
¹⁷⁻¹⁴ Each Party may provide for other exceptions to civil and criminal liability in accordance with its domestic law.

(iii) 向公众分发、进口用于分销、广播、传播或向公众提供作品、表演或音像制品的副本，知道权利管理信息未经授权已被移除或修改；

在受损害的人提起诉讼时，缔约方应承担责任，并受民事救济的约束。

(b) 根据第（a）款，每一方应规定适用刑事程序和处罚，至少在行为在第（a）款中禁止的行为明知故犯地、故意地并为了商业利益的目的时。一方可以免除民事和刑事责任被禁止的行为与非营利性图书馆、档案馆、教育机构或广播实体¹⁷⁻¹³ 为非盈利目的设立¹⁷⁻¹⁴。

第17.30条：政府使用软件

每一方应维持适当的法律、裁决、法规、政府发布的指南或行政或执行法令，这些法律、裁决、法规、政府发布的指南或行政或执行法令规定其中央政府机构仅使用经授权的合法计算机软件。

第17.31条：版权及相关权利的例外

每一方应根据保护文学和艺术作品伯尔尼公约、与贸易有关的知识产权协定、世界知识产权组织版权条约和/或世界知识产权组织表演和录音条约，为包含在本章中的版权及相关权利提供例外或限制。

第17.32条：时间适用

每一方应将保护文学和艺术作品伯尔尼公约第18条相应修改后，适用于第17.25条至第17.31条中的主题、权利和义务。

加密节目传输卫星信号

第17.33条：保护

1. 每一方应当使其：

¹⁷⁻¹³ 一方可以规定此类广播实体是指“公共非商业广播实体”。
¹⁷⁻¹⁴ 每一方可以根据其国内法规定民事和刑事责任的例外情况。

- (a) the basis for a civil action or a criminal offence to manufacture, assemble, modify, import, export, sell, lease or otherwise distribute a tangible or intangible device or system, knowing that the device or system is of assistance in decoding an encrypted program-carrying satellite signal¹⁷⁻¹⁵ without the authorisation of the lawful distributor of such signal; and
- (b) the basis for a civil action or a criminal offence wilfully to receive and make use of, or further distribute, a program-carrying signal that originated as an encrypted program-carrying satellite signal knowing that it has been decoded without the authorisation of the lawful distributor of the signal.

2. Each Party shall provide for the availability of civil proceedings for any person injured by any activity described in paragraph 1, including any person that holds an interest in the encrypted program-carrying signal or its content.

ENFORCEMENT

Article 17.34: General

1. Each Party shall ensure that procedures, remedies and penalties set forth in Articles 17.34 to 17.40 for enforcement of intellectual property rights are established in accordance with its domestic law¹⁷⁻¹⁶. Such administrative and judicial procedures, remedies or penalties, both civil and criminal, shall be made available to the holders of such rights in accordance with the principles of due process that each Party recognises, as well as with the foundations of its own legal system.

2. Articles 17.34 to 17.40 do not create any obligation:
- (a) to put in place a judicial system for the enforcement of intellectual property rights distinct from that already existing for the enforcement of law in general; or
 - (b) with respect to the distribution of resources for the enforcement of intellectual property rights and the enforcement of law in general.

The distribution of resources for the enforcement of intellectual property rights shall not excuse a Party from compliance with the provisions of Articles 17.34 to 17.40.

3. Each Party shall provide that final decisions of general application pertaining to the enforcement of intellectual property rights shall be in writing and shall state the

¹⁷⁻¹⁵ The degree to which the device or system assists in decoding an encrypted program-carrying satellite signal shall be a matter of each Party’s law.
¹⁷⁻¹⁶ Nothing in this Chapter prevents a Party from establishing or maintaining appropriate judicial or administrative procedural formalities for this purpose that do not impair each Party’s rights or obligations under this Agreement.

(a) 制造、组装、修改、进口、出口、出售、租赁或以其他方式分发有形或无形设备或系统的基础，明知该设备或系统在解码加密的程序承载卫星信号方面提供援助¹⁷⁻¹⁵

未经该信号的合法分发者的授权；和

(b) 故意地以民事诉讼或刑事犯罪为基础，接收并使用，或进一步分发，作为加密程序承载卫星信号起源的节目承载信号，知道该信号已被合法分发者未经授权解码。

2. 每一方应提供民事诉讼的可用性，以便任何受第1段所述活动损害的个人，包括任何持有加密程序承载信号或其内容的利益的个人。

执行

第17.34条：一般

1. 每一方应确保第17.34至17.40条中关于知识产权执行所规定的程序、救济措施和处罚，根据其国内法建立¹⁷⁻¹⁶。
这样的行政和司法程序、救济措施或处罚，无论是民事的还是刑事的，都应根据每一方承认的正当程序原则，以及其自身法律体系的基石，提供给这些权利的持有人。

2. 第17.34条至第17.40条不创造任何义务：

- (a) 建立一个与现行一般法律执行体系不同的知识产权执行司法体系；或
- (b) 关于知识产权执行和一般法律执行的资源分配。

知识产权的执行所涉及的资源分配不得使一方免除遵守第17.34条至第17.40条规定的义务。

3. 每一方应当规定，涉及知识产权执行的一般性最终决定应当以书面形式作出，并说明

¹⁷⁻¹⁵ 设备或系统协助解码加密的程序承载卫星信号的程度应为一方法律的管辖事项。¹⁷⁻¹⁶ 本章任何内容均不妨碍一方为该目的建立或维持不损害本协定下每一方权利或义务的适当司法或行政程序正式程序。

reasons or the legal basis on which the decisions are based. Each Party shall provide that such decisions shall be published, preferably electronically, or, where such publication is not practicable, otherwise made available to the public in its national language in such a manner as to enable governments and right holders to become acquainted with them.

Article 17.35: Presumptions for Copyright and Related Rights

In civil judicial and criminal proceedings involving copyright or related rights, each Party shall provide:

- (a) for a presumption, in the absence of evidence to the contrary, that the natural person or legal entity whose name is indicated as the author, producer, performer or publisher of the work, performance or phonogram in the usual manner¹⁷⁻¹⁷ shall be presumed to be the designated right holder in such work, performance or phonogram; and
- (b) in accordance with its domestic law, for a presumption, in the absence of evidence to the contrary, that copyright or a related right subsists in such subject matter.

Article 17.36: Civil and Administrative Procedures and Remedies

- Each Party shall make available to right holders¹⁷⁻¹⁸ civil judicial procedures concerning the enforcement of any intellectual property right.
- Each Party shall provide that in civil judicial proceedings, its judicial authorities shall:
 - (a) have the authority to order the infringer to pay the right holder:
 - (i) damages adequate to compensate for the injury the right holder has suffered as a result of the infringement; and
 - (ii) at least in the case of copyright or related rights infringement and trade mark counterfeiting, the profits of the infringer that are attributable to the infringement, and that are not taken into account in determining damages under subparagraph (i)¹⁷⁻¹⁹.

¹⁷⁻¹⁷ Each Party may establish the means by which it shall determine what constitutes the “usual manner” for a particular physical support.
¹⁷⁻¹⁸ For the purpose of this Article, the term **right holder** includes licensees as provided for in each Party’s domestic law, as well as federations and associations having the legal standing and authority to assert such rights.
¹⁷⁻¹⁹ Notwithstanding Article 17.36.2(a), a Party may provide any one or more of the following: that only one or the other of the remedies set out in Article 17.36.2(a)(i) and (ii) is available at the election of the right holder; in the case of a finding of non-use of a trade mark that the right holder may not be entitled to either of the remedies set out in Article 17.36.2(a)(i) and (ii); and in the case of innocent copyright and related rights infringement that the right holder may be entitled to an account of profits but not damages.

理由或决定依据的法律依据。每一方应提供，此类决定应予以公布， 最好以电子方式，或者，如果此类公布不可行，则以本国语言以使政府和权利持有人能够了解的方式向公众提供。

第17.35条：版权及相关权利的推定

在涉及版权及相关权利的民事和刑事程序中， 每一方应当提供：

- (a) 在缺乏相反证据的情况下，对于以通常方式表明姓名为作品、表演或录音的作者、生产商、表演者或出版者的自然人或法律实体的推定¹⁷⁻¹⁷
 - 应当被推定为该作品、表演或录音的指定权利持有人；以及
- (b) 根据其国内法，在没有相反证据的情况下，推定该主题存在版权或相关权利。

第17.36条：民事和行政程序和救济

- 每涉及位售知权利持者的提集司法程序。¹⁸
- 每一方应当规定，在其司法诉讼中， 其司法当局应当：
 - (a) 有权责令侵权人向权利持有人支付：
 - (i) 足以补偿权利持有人所受损害的损害赔偿
 - 因侵权而遭受损失；以及
 - (ii) 在版权或相关权利侵权的情况下至少以及商标假冒，侵权者因侵权而获得的利润，这些利润在根据第（i）款确定损害赔偿时不予考虑¹⁷⁻¹⁹.

¹⁷⁻¹⁷ 每一方可以建立其确定何种构成特定物理支持“通常方式”的方法。¹⁷⁻¹⁸ 就本条而言，术语“权利持有人”包括各方的国内法中规定的被许可人， 以及具有主张此类权利的法律地位和授权的联邦和协会。¹⁷⁻¹⁹ 不论第17.36.2(a)条如何规定，一方可以提供以下一项或多项： 仅有一方或另一方可以选择适用第17.36.2(a)(i)和(ii)款中规定的救济措施； 在商标未使用的情况下， 权利持有人无权获得第17.36.2(a)(i)和(ii)款中规定的救济措施； 以及在无过错版权和相关权利侵权的情况下， 权利持有人有权获得利润计算但无权获得损害赔偿。

(b) in determining any order for damages made under subparagraph (a), consider, *inter alia*, any legitimate measure of the value of the infringed goods or services including the retail price.

3. Each Party shall provide that, except in exceptional circumstances, its judicial authorities shall have the authority to order, at the conclusion of civil judicial proceedings concerning infringement of copyright or related rights or trade mark counterfeiting, that the prevailing party be awarded payment of courts costs or fees and reasonable attorney’s fees by the infringing party.

4. In civil judicial proceedings concerning copyright or related rights infringement and trade mark counterfeiting, each Party shall provide that its judicial authorities shall have the authority, at least where necessary to prevent further infringement, to order the seizure of suspected infringing goods, related materials and implements by means of which such goods are produced.

5. Each Party shall provide that in civil judicial proceedings concerning the enforcement of intellectual property rights, its judicial authorities shall have the authority to order the infringer to provide any information that the infringer possesses regarding persons involved in the infringement and regarding the distribution channels of the infringing goods. Judicial authorities shall also have the authority to impose fines or imprisonment on infringers who do not comply with such orders, in accordance with each Party’s domestic law.

6. If a Party’s judicial or other authorities appoint technical or other experts in civil judicial proceedings concerning the enforcement of intellectual property rights, and require that the parties to the proceedings bear the costs of such experts, the Party should seek to ensure that these costs are reasonable and related appropriately to, *inter alia*, the quantity and nature of work to be performed, or, if applicable, based on standardised fees, and do not unreasonably deter recourse to such proceedings.

Article 17.37: Provisional Measures

1. Each Party’s authorities shall act on requests for relief *inaudita altera parte* expeditiously in accordance with the Party’s judicial rules.

2. With respect to provisional measures, each Party shall provide that its judicial authorities shall have the authority to require the applicant to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the applicant is the right holder¹⁷⁻²⁰ and that the applicant’s right is being infringed or that such infringement is imminent, and to order the applicant to provide a reasonable security or equivalent assurance set at a level sufficient to protect the respondent and to prevent abuse, and so as not to unreasonably deter recourse to such procedures.

¹⁷⁻²⁰ In accordance with subparagraph (a) of Article 17.35.

(b) 在根据第 (a) 段确定损害赔偿令时，应考虑，尤其是，任何侵犯的货物或服务的合法价值衡量标准，包括零售价格。

3. 每一方应当规定，除特殊情况外，其司法当局在有关版权及相关权利侵权或商标假冒的民事司法诉讼结束时，有权裁定胜诉方由侵权方支付法院费用或费用以及合理的律师费。

4. 在有关版权及相关权利侵权和商标假冒的民事司法诉讼中，每一方应当规定其司法当局有权，至少在必要时为防止进一步侵权，裁定扣押涉嫌侵权商品、相关材料和用于生产此类商品的手段。

5. 每一方应当规定，在有关知识产权执行的民事司法诉讼中，其司法当局有权裁定侵权人提供其拥有的任何有关参与侵权的人员以及有关侵权商品分销渠道的信息。司法当局还有权根据每一方的国内法对不遵守此类裁定的侵权人处以罚款或监禁。

6. 如果一方的司法或其他当局在涉及知识产权执行民事司法诉讼中任命技术或其他专家，并要求诉讼各方承担此类专家的成本，该方应努力确保这些成本是合理的，并与要执行的工作的数量和性质等适当相关，或者，如适用，基于标准化费用，并且不不合理地阻碍寻求此类诉讼。

第17.37条：临时措施

1. 各方的当局在不听取对方意见的情况下应迅速根据该方的司法规则处理救济请求。

2. 关于临时措施，每一方应规定其司法当局有权要求申请人提供任何合理可用的证据，以便他们足以确信申请人就是权利持有人¹⁷⁻²⁰。

并且认定申请人的权利正在受到侵犯或即将受到侵犯，并责令申请人提供合理的担保或同等保证，其水平应足以保护被诉方并防止滥用，并且不应不合理地阻碍对这类程序的援引。

¹⁷⁻²⁰ 根据第17.35条（a）款的规定。

Article 17.38: Criminal Procedures and Remedies

Each Party shall provide for criminal procedures and penalties to be applied at least in cases where a person wilfully engages in trade mark counterfeiting or piracy of works, performances or phonograms on a commercial scale¹⁷⁻²¹ including wilful infringement of copyright and related rights for a commercial advantage or financial gain.¹⁷⁻²² Specifically, each Party shall provide:

- (a) penalties that include imprisonment and/or monetary fines that are sufficient to provide a deterrent to infringement consistent with the level of penalties applied for crimes of a corresponding gravity;
- (b) that its judicial authorities shall have the authority to order the seizure of suspected counterfeit or pirated goods, related materials and implements that have been used in the commission of the offence, assets legally traceable to the infringing activity and documentary evidence relevant to the offence ¹⁷⁻²³. Each Party shall further provide that its judicial authorities have the authority to order the seizure of items in accordance with its domestic law;
- (c) that its judicial authorities shall have the authority, among other measures, to order the forfeiture of any assets legally traceable to the infringing activity for at least indictable offences, and the forfeiture and destruction of all goods found to be counterfeit or pirated, and, at least with respect to wilful copyright and related rights piracy, to order the forfeiture and destruction of materials and implements that have been used in the making of the infringing goods. Each Party shall further provide that such forfeiture and destruction shall occur without compensation to the defendant; and
- (d) that the appropriate authorities, as determined by each Party, shall have the authority to initiate criminal legal action *ex officio* in cases of copyright and related rights piracy and trade mark counterfeiting without the need for a formal complaint by a person or right holder.

Article 17.39: Border Measures

1. Each Party shall provide, in any right holder initiated procedures for suspension by its Customs Administration of the release into free circulation of suspected counterfeit trade mark goods or pirated copyright goods¹⁷⁻²⁴ imported into

¹⁷⁻²¹ Piracy of works, performances or phonograms on a commercial scale may include where a person wilfully commits significant infringements of copyright that are not committed for the purpose of commercial advantage or financial gain.
¹⁷⁻²² Commercial advantage or financial gain shall be understood to exclude *de minimis* infringements. Nothing in this Agreement prevents prosecutors from exercising any discretion that they may have to decline to pursue cases.
¹⁷⁻²³ Each Party may provide that items that are subject to seizure pursuant to any such judicial order need not be individually identified so long as they fall within general categories specified in the order.
¹⁷⁻²⁴ For the purposes of Article 17.39.1 to 4:

第17.38条：刑事程序和救济

每一方应当规定刑事程序和处罚，至少适用于个人故意以商业规模从事商标假冒或作品、表演或音像制品的盗版¹⁷⁻²¹，包括为获取商业利益或经济利益而故意侵犯版权和相关权利¹⁷⁻²²。

具体而言，每一方应提供：

- (a) 包括监禁和/或足以提供对侵权行为威慑力的货币罚款的处罚，该威慑力与针对相应严重程度的犯罪所适用的处罚水平一致；²³
 - (b) 该缔约方法院当局应有权扣押涉嫌假冒或盗版的货物、与犯罪行为相关的材料和工具、可合法追溯到侵权活动的资产以及与犯罪行为相关的文件证据¹⁷⁻。每一方还应当提供，其司法当局根据其国内法有权下令扣押物品；
 - (c) 其司法当局应当有权，除其他外
- 措施，以命令没收任何可合法追溯到侵权活动的资产，至少针对可起诉的罪行，以及没收和销毁所有被发现为假冒或盗版的货物，并且，至少对于故意侵犯版权和相关权利的盗版行为，以命令没收和销毁用于制作侵权货物的材料和工具。每一方应进一步规定，此类没收和销毁不得向被告提供赔偿；以及
- (d) 各方确定的适当当局应具有在版权和相关权利盗版以及商标假冒的情况下主动发起刑事法律行动的权力，而无需个人或权利持有人提出正式投诉。

第17.39条：边境措施

1. 每一方应当在其海关当局根据权利持有人启动的暂停程序中，提供对涉嫌假冒商标商品或盗版版权商品进入自由流通的扣押措施¹⁷⁻²⁴ 进口到

¹⁷⁻²¹ 商业规模的盗版作品、表演或音像制品可能包括：一方故意实施重大版权侵权行为，且该侵权行为并非出于商业利益或经济利益的目的。¹⁷⁻²² 商业利益或经济利益应被理解为不包括轻微侵权。本协定中的任何规定均不阻止检察官行使他们可能拥有的拒绝追究案件的自由裁量权。¹⁷⁻²³ 每一方可以规定，根据任何此类司法命令被扣押的物品无需单独识别，只要它们属于命令中规定的通用类别即可。¹⁷⁻²⁴ 为了第17.39.1至4条的目的：

the Party’s territory, that the right holder provide to the satisfaction of the competent authorities:

- (a) adequate evidence that there is *prima facie* infringement of the right holders’ intellectual property rights under the laws of the territory of importation and a sufficiently detailed description of the goods to make them reasonably recognisable by the Party’s Customs Administration; and
- (b) if requested, a reasonable security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse.

The requirements for a sufficiently detailed description and a security or equivalent assurance shall not unreasonably deter recourse to these procedures.

- 2. Where its competent authorities have made a determination that goods are counterfeit or pirated, a Party shall provide that its competent authorities have the authority to inform the right holder of the names and addresses of the consignor, the importer and the consignee, and of the quantity of the goods in question.
- 3. Each Party shall provide that its Customs Administration may initiate border measures *ex officio* with respect to imported or exported goods suspected of being counterfeit trade mark or pirated copyright goods, without the need for a specific formal complaint.
- 4. Each Party shall provide that goods that have been suspended from release by its Customs Administration, and that have been forfeited as pirated or counterfeit, shall be destroyed, except in exceptional cases. In regard to counterfeit trade mark goods, the simple removal of the trade mark unlawfully affixed shall not be sufficient to permit the release of the goods into the channels of commerce. The competent authorities, except in exceptional circumstances, shall not be authorised to permit the exportation of counterfeit or pirated goods that have been seized, nor shall they be authorised to permit such goods to be subject to movement under customs control.

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- (a) **counterfeit trade mark goods** means any goods including packaging, bearing without authorisation a trade mark that is identical to the trade mark validly registered in respect of such goods, or that cannot be distinguished in its essential aspects from such a trade mark, and that thereby infringes the rights of the owner of the trade mark in question under the law of the country of importation; and
 - (b) **pirated copyright goods** means any goods that are copies made without the consent of the right holder or person duly authorised by the right holder in the country of production and that are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or related right under the law of the country of importation.
 - (c)

一方领土，权利持有人向主管当局提供，使其满意：

- (a) 有充分证据表明，在进口领土的法律下，存在对权利持有人知识产权的初步侵权，并且货物有足够详细的描述，以便缔约方海关当局能够合理识别；以及
- (b) 如要求，提供合理的担保或同等保证，足以保护被告和主管当局，并防止滥用。

对足够详细的描述和安全或同等保证的要求，不得不合理地阻碍采用这些程序。

- 2. 当其主管当局已作出决定认定货物为假冒或盗版时，缔约方应提供其主管当局有权将发货人、进口商和收货人的姓名和地址，以及所涉货物的数量通知权利持有人。
- 3. 每一方应提供其海关当局可以在没有具体正式投诉的情况下，针对涉嫌为假冒商标或盗版版权商品的进口或出口货物主动采取边境措施。
- 4. 每一方应当规定，由其海关当局暂停放行的货物，以及被认定为盗版或假冒而没收的货物，应当销毁，但特殊情况除外。关于假冒商标商品，仅移除非法附加的商标并不足以允许该货物进入商业渠道。主管当局，除特殊情况外，无权授权放行被扣押的假冒或盗版货物，也无权授权此类货物在海关监管下移动。

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- (a) 假冒商标商品是指任何货物，包括包装，未经授权带有与该货物有效注册的商标相同或在其主要方面无法区分的商标，并因此侵犯该商标权利持有人在进口国法律下的权利；以及(b) 盗版版权商品是指未经权利持有人或权利持有人在生产国正式授权的个人同意而制作的复制品，这些复制品直接或间接地来自一个文章，如果制作该复制品将构成对进口国法律下的版权或相关权利的侵权。(c)

Article 17.40: Service Provider Liability

1. Each Party shall provide for a legislative scheme to limit remedies that may be available against service providers¹⁷⁻²⁵ for infringement of copyright or related rights¹⁷⁻²⁶ that they do not control, initiate or direct and that take place through their systems or networks.
2. The scheme in paragraph 1 will only apply if a service provider meets conditions, including:
- (a) removing or disabling access to infringing material upon notification from the rights owner through a procedure established by each Party; and
 - (b) no financial benefit is received by the service provider for the infringing activity in circumstances where it has the right and ability to control such activity.

COOPERATION

Article 17.41: Cooperation

Consistent with Article 17.2 the Parties agree to cooperate through:

- (a) the notification of relevant contact points on the request of a Party; and
- (b) the exchange of publicly available information concerning policy developments in intellectual property of a Party on the request of the other Party and to the extent that the requested Party is able to provide such information.

¹⁷⁻²⁵ Each Party may determine, within its domestic law, what constitutes a service provider.
¹⁷⁻²⁶ Each Party may determine, within its domestic law, what constitutes a related right for the purpose of this Article.

文章 17.40：服务提供者责任

1. 每一方应当提供一项立法方案，以限制对服务提供者¹⁷⁻²⁵ 因他们不控制、发起或指使且通过其系统或网络发生的版权或相关权利¹⁷⁻²⁶侵权行为可获得的救济措施。
2. 该计划仅在服务提供者满足条件时适用，包括：
- (a) 在每一方建立的程序下，根据权利人的通知，删除或禁用对侵权材料的访问；以及 (b) 在服务提供者有权和能力控制此类活动的情况下，其未因侵权活动获得任何经济利益。

合作

文章 17.41：合作

与第17.2条一致，缔约方同意通过以下方式合作：

- (a) 在一方的要求下，通知相关联系点；以及 (b) 在另一方的要求下，并至请求方能够提供此类信息的程度，交换有关一方知识产权政策发展的公开可用信息。

¹⁷⁻²⁵ 每一方可在其国内法中确定构成服务提供者的内容。¹⁷⁻²⁶ 每一方可在其国内法中确定构成本条所指相关权利的内容。

Chapter 18
Cooperation

第十八章
合作

Article 18.1: General Objectives

1. The Parties agree to establish a framework for cooperative activities as a means to expand and enhance the benefits of this Agreement and to build a strategic economic partnership.
2. The Parties will establish close cooperation aimed *inter alia* at:
 - (a) strengthening and building on existing cooperative relationships;
 - (b) creating new opportunities for trade and investment, and for promoting competitiveness, fostering innovation and encouraging research and development;
 - (c) supporting the role of the private sector in promoting and building strategic alliances to encourage mutual economic growth and development; and
 - (d) increasing the level of and further developing cooperation activities between the Parties in areas of mutual interest.

Article 18.2: Scope

1. Cooperation between the Parties should contribute to achieving the objectives of this Agreement through the identification and development of innovative cooperation initiatives capable of providing added value to the bilateral relationship.
2. Cooperation between the Parties under this Chapter will complement the cooperation between the Parties set out in other Chapters of this Agreement.
3. Areas of cooperation may include but should not be limited to: science, agriculture including the wine industry, food production and processing, mining, energy, environment, small and medium enterprises, tourism, education, labour, human capital development and cultural collaboration.
4. Cooperation on labour and employment matters of mutual interest and benefit will be based on the concept of decent work, including the principles embodied in the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998)*.
5. Cooperation on environment will reflect the commitment of both Parties to strengthening environmental protection and the promotion of sustainable development, in the context of strengthening trade and investment relations between them.

第18.1条：总体目标

1. 缔约方同意建立一个合作活动框架，作为扩大和增强本协定利益以及建立战略经济伙伴关系的手段。
2. 缔约方将建立密切合作，旨在：
 - (a) 加强和巩固现有的合作关系； (b) 创造新的贸易和投资机会，促进竞争力、鼓励创新和鼓励研发； (c) 支持私营部门在促进和建立战略联盟以鼓励相互经济增长和发展方面的作用； 以及 (d) 增加缔约方在相互利益领域的合作水平和进一步发展合作活动。

第18.2条：范围

1. 缔约方之间的合作应通过识别和发展能够为双边关系增加价值的创新合作倡议，促进实现本协议的目标。
2. 根据本章进行的合作应补充本协议其他章节中规定的缔约方之间的合作。
3. 合作领域可包括但不限于：科学、农业（包括葡萄酒产业）、食品生产和加工、矿业、能源、环境、中小型企业、旅游业、教育、劳工、人力资本发展和文化合作。
4. 关于共同利益和互利的劳工和就业事项的合作将基于体面劳动的概念，包括《国际劳工组织关于工作中基本原则和权利宣言》及其后续行动（1998年）所体现的原则。
5. 环境合作将体现双方加强环境保护和促进可持续发展的承诺，在加强彼此贸易和投资关系的大背景下。

6. Cooperative activities will be agreed between the Parties and may include, but should not be limited to: exchanges of people and information; cooperation in regional and multilateral fora; dialogues, conferences and seminars; facilitating contacts between scientists and academia; the development of joint research programs; and the encouragement of private sector cooperation.

7. Areas of cooperation may be developed through existing agreements and through appropriate implementing arrangements including the designation of national contact points to facilitate activities on environment and labour cooperation.

Article 18.3: Innovation, Research and Development

Cooperation in innovation, research and development will be focused on cooperative activities in sectors where mutual and complementary interests exist. Among other activities, the Parties will encourage the exchange of experts and information. Where appropriate, they will also promote partnerships in the support of the development of innovative products and services and activities to promote linkage, innovation and technology exchange.

Article 18.4: Cooperation Committee

1. For the purposes of this Chapter, the Parties hereby establish a Cooperation Committee (“the Committee”) comprising representatives of each Party.
2. The Committee shall be coordinated and co-chaired by:
 - (a) in the case of Australia, the Department of Foreign Affairs and Trade, or its successor; and
 - (b) in the case of Chile, the Ministry of Foreign Affairs through the General Directorate for International Economic Affairs and the Chilean Agency for International Cooperation, or their successors.
3. In order to ensure the proper functioning of the Committee, each Party will designate a contact person no later than 6 months from the date of entry into force of this Agreement. Each Party will notify the other Party promptly of any change of contact person.
4. The Committee shall meet in or shortly after the first year of entry into force of this Agreement, and thereafter as agreed by the Parties.
5. The Committee shall:
 - (a) adopt the Committee’s operating procedures;
 - (b) discuss cooperative activities which might be undertaken under this Chapter;

6. 合作活动将由双方商定，可能包括但不限于：人员和信息交流；在区域和多边论坛中的合作；对话、会议和研讨会；促进科学家和学术界之间的联系；联合研究计划的发展；以及鼓励私营部门合作。

7. 合作领域可以通过现有协议以及适当的实施安排来发展，包括指定国家联系点以促进环境和劳工合作活动。

第18.3条：创新、研究和开发

在创新、研究和开发方面的合作将集中于存在相互和互补利益的部门中的合作活动。在其他活动方面，缔约方将鼓励专家和信息交流。在适当的情况下，它们还将促进伙伴关系，以支持创新产品和服务的发展以及促进联系、创新和技术交流的活动。

第18.4条：合作委员会

1. 为本章的目的，缔约方特此设立一个合作委员会（“委员会”），由各方的代表组成。
2. 委员会应由以下方式协调和共同主持：
 - (a) 在澳大利亚的情况下，外交贸易部，或其继任者；以及 (b) 在智利的情况下，通过外交部、国际经济事务总司和智利国际合作署，或其继任者。
3. 为了确保委员会的正常运作，每一方将在本协定生效之日起6个月内指定一名联系人。每一方将及时通知另一方联系人的任何变更。
4. 委员会应在本协定生效后的第一年内或在之后，根据缔约方之间的协议举行会议。
5. 委员会应：
 - (a) 采用委员会的操作程序； (b) 讨论在本章下可能进行的合作活动；

- (c) review where appropriate the implementation of cooperative activities;
- (d) maintain and update information on cooperation between the Parties, including implementing arrangements; and
- (e) undertake such other functions to foster cooperation including establishing working groups under this Chapter as the Parties may agree.

6. The Committee may interact, where appropriate, with relevant entities to address specific matters.

7. The Committee shall report periodically to the Joint FTA Committee the results of its meetings.

Article 18.5: Resources

With the aim of contributing to the fulfilment of the objectives of this Chapter, the Parties shall provide, within the limits of their own capacities and through their own channels, adequate resources to support cooperative activities, as required.

(c) 适当审查合作活动的实施情况；(d) 维护和更新缔约方之间合作的有关信息，包括实施安排；以及 (e) 执行其他促进合作的功能，包括根据缔约方可能达成的协议在本章下设立工作组。

6. 委员会可以与相关实体互动，以处理具体事项。

7. 委员会应定期向联合自由贸易委员会报告其会议结果。

文章 18.5：资源

为促进本章目标的实现，缔约方应在各自的能力范围内，通过各自渠道提供充足资源，以支持合作活动，如有需要。

Chapter 19
Transparency

第十九章
透明度

Article 19.1: Definitions

For the purposes of this Chapter:

administrative ruling of general application means an administrative or quasi-judicial ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct but does not include:

- (a) a determination or ruling made in an administrative proceeding that applies to a particular person, good or service of the other Party in a specific case; or
- (b) a ruling that adjudicates with respect to a particular act or practice.

Article 19.2: Contact Points

1. The contact point referred in Annex 19-A shall facilitate communications between the Parties on any matter covered by this Agreement.
2. On the request of the other Party, the contact point shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communication with the requesting Party.

Article 19.3: Publication

1. Each Party shall ensure, wherever possible in electronic form, that its laws, regulations, procedures and administrative rulings of general application respecting any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons and the other Party to become acquainted with them.
2. To the extent possible, each Party shall:
 - (a) publish in advance any such measure referred to in paragraph 1 that it proposes to adopt; and
 - (b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed measures.

第十九条第1条：定义

本章规定如下：

普遍适用行政裁决是指适用于所有属于其适用范围且建立行为规范但不包括：

- (a) 在行政程序中作出的针对另一方特定个人、货物或服务的决定或裁决；或 (b) 对特定行为或实践作出裁决的裁决。

第十九条第2条：联系点

1. 第19-A附件中提到的联系点应促进缔约方之间就本协定涵盖的事项进行沟通。
2. 应另一方的要求，联系点应确定负责该事项的办公室或官员，并在必要时协助与请求方进行沟通。

第19.3条：出版

1. 每一方应确保，尽最大可能以电子形式，使其法律、法规、程序和涉及本协定涵盖事项的通用行政裁决及时出版或以其他方式提供，以便利益相关方和另一方能够了解。
2. 在可能的情况下，每一方应：
 - (a) 提前发布其拟采取的、在第1段中提到的任何措施；以及 (b) 为利益相关方和另一方提供合理的机会对拟议的措施提出意见。

Article 19.4: Notification and Provision of Information

- 1. To the maximum extent possible, each Party shall notify the other Party of any proposed or actual measure that the Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other Party’s interests under this Agreement.
- 2. On request of the other Party, a Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure that the requesting Party considers might materially affect the operation of this Agreement or otherwise substantially affect its interests under this Agreement, regardless of whether the requesting Party has been previously notified of that measure.
- 3. Any notification, request or information under this Article shall be provided to the other Party through the relevant contact points.
- 4. Any notification or information provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.

Article 19.5: Administrative Proceedings

With a view to administering in a consistent, impartial and reasonable manner its measures referred to in Article 19.3, each Party shall ensure that in its administrative proceedings in which these measures are applied to particular persons, goods or services of the other Party in specific cases that it:

- (a) provides wherever possible, persons of the other Party that are directly affected by a proceeding reasonable notice, in accordance with its domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issues in controversy;
- (b) affords such persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding and the public interest permit; and
- (c) follows its procedures in accordance with domestic law.

Article 19.6: Review and Appeal ¹⁹⁻¹

- 1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by this

¹⁹⁻¹ In the case of Australia, for avoidance of doubt, “review” includes merits (*de novo*) review only where provided for under the Party’s law.

第19.4条：通知和信息提供

- 1. 在最大程度上，每一方应将任何拟议的或实际采取的措施通知另一方，该方认为该措施可能实质性影响本协议的运作，或以其他方式实质性地影响另一方在本协议下的利益。
- 2. 应另一方请求，一方应迅速提供信息并答复有关请求方认为可能实质性影响本协议的运作或否则实质性影响其在本协议项下利益的任何实际或拟议措施的信息，无论请求方是否已事先被通知该措施。
- 3. 根据本条提供的任何通知、请求或信息应通过相关联系点提供给另一方。
- 4. 根据本条提供的任何通知或信息不应影响该措施是否符合本协议。

第19.5条：行政程序

为了一致、公正和合理地实施第19.3条所述措施，每一方应确保在其行政程序中，当这些措施被应用于另一方的特定个人、货物或服务时，该方应：

- (a) 在程序启动时，尽可能向受程序直接影响的一方当事人提供合理通知，根据其国内程序，包括对程序性质的描述、启动程序的授权法律的规定，以及对任何争议问题的总体描述；(b) 在时间、程序性质和公共利益允许的情况下，在作出任何最终行政行为之前，给予此类当事人合理的机会陈述支持其立场的事实和论点；以及(c) 遵守其国内法规定的程序。

第19.6条：审查和上诉 ¹⁹⁻¹

- 1. 每一方应建立或维持司法、准司法或行政法庭或程序，以便对本协定所涵盖事项的最终行政行为进行及时审查，并在必要时进行纠正。

¹⁹⁻¹ 就澳大利亚而言，为避免歧义，“审查”仅包括其法律规定的实质审查（重新审理）。

Agreement. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:
- (a) a reasonable opportunity to support or defend their respective positions; and
 - (b) a decision based on the evidence and submissions of record or, where required by domestic law, the record compiled by the administrative authority.
3. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that such decisions shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action that is the subject of the decision.

此类法庭应公正且独立于负责行政执行的机构，且不得对该事项的结果有任何重大利益。

2. 每一方应确保，在任何此类法庭或程序中，诉讼的缔约方有权：
- (a) 合理的机会来支持或捍卫其各自立场；以及 (b) 基于证据和案卷中的提交材料或，如国内法所要求，基于行政机构编制的案卷的决定。
3. 每一方应当确保，根据其国内法的规定，可以提起上诉或进行进一步审查，以确保此类决定由机构执行，并应适用于与决定所涉及的行政行为相关的机构的实践。

Annex 19-A
Contact Points

第19-A附件
联系点

For purposes of Article 19.2.1, the Contact Points shall be:

- (a) in the case of Australia, the Department of Foreign Affairs and Trade, or its successor; and
- (b) in the case of Chile, the Asia Pacific Department of the General Directorate of International Economic Affairs, Ministry of Foreign Affairs, or its successor.

根据第19.2.1条，联系点应为：

- (a) 在澳大利亚的情况下，外交贸易部，或其继任者；以及 (b) 在智利的情况下，外交部国际经济事务总局亚太部门，或其继任者。

Chapter 20
Institutional Arrangements

Article 20.1: Joint FTA Committee

1. The Parties hereby establish a Joint FTA Committee.
2. The Joint FTA Committee shall be composed of relevant government officials of each Party and shall be co-chaired by (i) a Deputy Secretary of the Department of Foreign Affairs and Trade for Australia and (ii) the Director-General of International Economic Relations of the Ministry of Foreign Affairs for Chile, or their respective designees.
3. The Joint FTA Committee shall:
- (a) review the general functioning of this Agreement;
 - (b) review, consider and, as appropriate, decide on specific matters related to the operation, application and implementation of this Agreement, including matters reported by committees or working groups established under this Agreement;
 - (c) supervise the work of committees, working groups and contact points established under this Agreement;
 - (d) facilitate, as appropriate, the avoidance and settlement of disputes arising under this Agreement, including through consultations pursuant to Article 21.4 (Referral of Matters to the Joint FTA Committee – Dispute Settlement Chapter);
 - (e) consider and adopt any amendment to this Agreement or other modification or rectification to the commitments therein, subject to completion of necessary domestic legal procedures by each Party ²⁰⁻¹;
 - (f) as appropriate, issue interpretations of the Agreement;
 - (g) review the wider trade relationship;
 - (h) explore ways to enhance further trade and investment between the Parties and to further the objectives of this Agreement; and

²⁰⁻¹Chile shall implement any amendment or other modification approved by the Joint FTA Committee of the following provisions of the Agreement through *Acuerdos de Ejecución*, in accordance with the *Constitución Política de la República de Chile*:
(i) the Schedules attached to Annex 3-B (Elimination of Customs Duties), to accelerate tariff elimination;
(ii) the rules of origin established in Annex 4-C (Rules of Origin Schedule); and
(iii) the entities listed in Annex 15-A to the Government Procurement Chapter.

第20章 制度安排

第20.1条：联合自由贸易委员会

1. 缔约方 hereby 建立一个联合自由贸易委员会。
2. 联合自由贸易委员会应由各方的相关政府官员组成，并由 (i) 澳大利亚外交贸易部副部长和 (ii) 智利外交部国际经济关系司司长共同主持，或由他们各自指定的代表。
3. 联合自由贸易委员会应：
- (a) 审查本协定的总体运行情况；
 - (b) 审查、考虑并，如适当，决定与本协定的运营、应用和实施相关的具体事项，包括由本协定设立的委员会或工作组报告的事项；
 - (c) 监督在本协定下设立的委员会、工作组和联系点的工作；
 - (d) 如适当，促进和解决根据本协定产生的争议，包括通过根据第21.4条（转交事项至联合自由贸易委员会——争端解决章节）进行的磋商；
 - (e) 考虑并批准对本协定的任何修订或其他修改或对其中承诺的更正，前提是各方可完成必要的国内法律程序 ²⁰⁻¹
 - ；
 - (f) 适当情况下，对本协定进行解释；
 - (g) 审查更广泛的贸易关系；
 - (h) 探索进一步促进缔约方之间贸易和投资以及推进本协定目标的方式；以及

²⁰⁻¹智利应根据智利共和国政治宪法，通过执行协议实施联合自由贸易委员会批准的以下协议的修订或其他修改：(i)附件3-B（关税消除）所附的清单，以加速关税消除；(ii)附件4-C（原产地规则表）中建立的原产地规则；以及(iii)政府采购章节附件15-A中列出的实体。

(i) take such other action as the Parties may agree.

4. The Joint FTA Committee may seek the advice of non-governmental persons or groups on matters covered by this Agreement.

Article 20.2: Meetings of the Joint FTA Committee

1. The Joint FTA Committee shall meet:

(a) in or shortly after the first year of entry into force of this Agreement;
and

(b) thereafter as agreed by the Parties.

2. The Joint FTA Committee shall meet alternately in the territory of each Party, unless the Parties otherwise agree.

3. The Joint FTA Committee shall also meet in special session within 30 days of the request of a Party, with such sessions to be held in the territory of the other Party or at such location as may be agreed by the Parties.

4. All decisions of the Joint FTA Committee shall be taken by mutual agreement.

5. The Joint FTA Committee may adopt its own rules of procedure.

(i) 采取缔约方可能同意的其他行动。

4. 联合自由贸易委员会可以就本协定涵盖的事项寻求非政府人士或团体的建议。

第20.2条：联合自由贸易委员会会议

1. 联合自由贸易委员会应召开会议：

(a) 在本协定生效后的第一年或稍后；以及 (b) 以后按缔约方协议召开。

2. 联合自由贸易委员会应交替在每一方的领土内召开会议，除非缔约方另有约定。

3. 联合自由贸易委员会亦应在缔约方请求后的30日内召开特别会议，此类会议应在另一方领土举行或由缔约方另行商定地点举行。

4. 联合自由贸易委员会的所有决定均应经协商一致作出。5. 联合自由贸易委员会可以制定其自身的议事规则。

Chapter 21
Dispute Settlement

第21章 争端解决

Article 21.1: Scope and Coverage

1. Unless otherwise provided for in this Agreement, this Chapter shall apply with respect to the avoidance or settlement of disputes between the Parties concerning the implementation, interpretation, application or operation of this Agreement, which includes wherever a Party considers that:

- (a) a measure of the other Party is inconsistent with its obligations under this Agreement;
- (b) the other Party has otherwise failed to carry out its obligations under this Agreement; or
- (c) a benefit the Party could reasonably have expected to accrue to it under Chapters 3 (National Treatment and Market Access for Goods), 4 (Rules of Origin), 5 (Customs Administration), 7 (Technical Regulations, Standards and Conformity Assessment Procedures), 9 (Cross-Border Trade in Services), 15 (Government Procurement) or 17 (Intellectual Property) is being nullified or impaired as a result of a measure that is not inconsistent with this Agreement.

2. In cases where there is an infringement of the obligations under this Agreement, the action is considered *prima facie* to constitute a case of nullification or impairment.

Article 21.2: Choice of Dispute Settlement Procedure

1. Where a dispute regarding any matter arises under this Agreement and under another free trade agreement to which both Parties are party or the WTO Agreement, the complaining Party may select the dispute settlement procedure in which to settle the dispute.
2. Once the complaining Party has requested a panel under an agreement referred to in paragraph 1, the forum selected shall be used to the exclusion of the others.

Article 21.3: Consultations

1. Either Party may request in writing consultations with the other Party concerning any matter on the implementation, interpretation, application or operation of this Agreement, including a matter relating to a measure that the other Party proposes to take (hereinafter referred to in this Chapter as “proposed measure”).

第21.1条：范围和覆盖范围

1. 除非本协定另有规定，本章应适用于缔约方之间就本协定的实施、解释、适用或运行所涉及的避免或解决争端，包括任何一方认为：

- (a) 另一方的一项措施与其在本协定项下的义务不一致；(b) 另一方未能履行其在本协定项下的义务；或(c) 由于一项与该协定不一致的措施，缔约方根据第3章（国民待遇和货物市场准入）、第4章（原产地规则）、第5章（海关当局）、第7章（技术法规、标准和合格评定程序）、第9章（跨境服务贸易）、第15章（政府采购）或第17章（知识产权）本应合理预期可获得的利益正在被取消或损害。

2. 在本协定项下的义务发生侵权的情况下，该行为被视为表面上构成取消或损害的案件。

第21.2条：争端解决程序的选择

1. 当根据本协定或缔约方均为缔约方的另一自由贸易协定或世界贸易组织协定就任何事项产生争议时，投诉方可以选择争端解决程序来解决该争议。
2. 一旦投诉方根据第1段所述协定请求成立小组，所选论坛应优先使用，排除其他论坛。

第21.3条：磋商

1. 任何一方均可书面请求与另一方就本协定实施、解释、适用或运行的相关事项进行磋商，包括与另一方拟议采取的措施相关的事项（本章中以下简称“拟议措施”）。

2. The requesting Party shall deliver the request to the other Party, setting out the reasons for the request, including identification of the measure at issue and an indication of the legal basis for the complaint, and providing sufficient information to enable an examination of the matter.
3. The Parties shall make every effort to arrive at a mutually satisfactory resolution of the matter through consultations under this Article.
4. In consultations under this Article, a Party may request the other Party to make available personnel of its government agencies or other regulatory bodies who have expertise in the matter subject to consultations.
5. The consultations under this Article shall be confidential and without prejudice to the rights of either Party in any further proceedings.

Article 21.4: Referral of Matters to the Joint FTA Committee

1. If the consultations fail to resolve the matter within 40 days of the delivery of a Party’s request for consultations under Article 21.3.2, or 20 days in cases of urgency including those which concern perishable goods, the complaining Party may refer the matter to the Joint FTA Committee by delivering written notification to the other Party. The Joint FTA Committee shall endeavour to resolve the matter.
2. The Joint FTA Committee may:
- (a) call on such technical advisers or create such working groups or expert groups as it deems necessary;
 - (b) have recourse to good offices, conciliation, mediation or such other dispute resolution procedures; or
 - (c) make recommendations;
- as may assist the Parties to reach a mutually satisfactory resolution of the dispute.

Article 21.5: Establishment of Arbitral Panels

1. The complaining Party that requested consultations under Article 21.3 may request in writing the establishment of an arbitral panel, if the Parties fail to resolve the matter within:
- (a) 45 days after the date of receipt of the request for consultation if there is no referral to the Joint FTA Committee under Article 21.4;
 - (b) 30 days of the Joint FTA Committee convening pursuant to Article 21.4, or 15 days in cases of urgency including those which concern perishable goods; or

2. 请求方向另一方提交请求，说明请求的理由，包括确定相关措施并指明投诉的法律依据，并提供足够的信息以便对事项进行审查。
3. 缔约方应尽一切努力通过本条下的磋商，就事项达成双方均可接受的解决方案。
4. 在本条下的磋商中，一方可以请求另一方提供其政府机构或其他监管机构中具备相关事项专业知识的个人。
5. 本条下的磋商应保密，且不影响任何一方在进一步程序中的权利。

第21.4条：转交事项至联合自由贸易委员会

1. 如果在本条下的磋商未能就一方提出第21.3.2条下的磋商请求后的40日内解决事项，或在紧急情况下（包括涉及易腐商品的紧急情况）20日内未能解决，投诉方可以通过向另一方送达书面通知的方式将事项转交至联合自由贸易委员会。联合自由贸易委员会应努力解决该事项。
2. 联合自由贸易委员会可以：
- (a) 要求其认为必要的技术顾问或创建此类工作组或专家小组；(b) 诉诸翰旋、调解或此类其他争端解决程序；或 (c) 提出建议；
- 以协助缔约方就争议达成双方均可接受的解决方案。

第21.5条：仲裁小组的设立

1. 依据第21.3条请求磋商的投诉方，如果缔约方在 内未能解决事项，可以书面请求设立仲裁小组，
- (a) 收到咨询请求之日起45日内，若未根据第21.4条转交联合自由贸易委员会；(b) 根据第21.4条召开联合自由贸易委员会之日起30日内，或紧急情况下（包括涉及易腐商品的紧急情况）15日内；或

(c) 60 days after a Party has delivered a request for consultation under Article 21.3, or 30 days in cases of urgency including those which concern perishable goods, if the Joint FTA Committee has not convened after a referral under Article 21.4.

2. The establishment of an arbitral panel shall not be requested on any matter relating to a proposed measure.

3. Any request to establish an arbitral panel pursuant to this Article shall identify:

- (a) the specific measure at issue;
- (b) the legal basis of the complaint including any provision of this Agreement alleged to have been breached and any other relevant provisions; and
- (c) the factual basis for the complaint.

4. The panel shall be established and perform its functions in a manner consistent with the provisions of this Chapter.

5. The date of the establishment of an arbitral panel shall be the date on which the chair is appointed.

Article 21.6: Terms of Reference of Arbitral Panels

Unless the Parties otherwise agree within 20 days from the date of receipt of the request for the establishment of the arbitral panel, the terms of reference of the arbitral panel shall be:

“To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of an arbitral panel pursuant to Article 21.5, to make findings of law and fact and determinations on whether the measure is not in conformity with the Agreement or is causing nullification or impairment in the sense of Article 21.1(c) together with the reasons therefore, and to issue a written report for the resolution of the dispute. If the Parties agree, the arbitral panel may make recommendations for resolution of the dispute.”

Article 21.7: Composition of Arbitral Panels

1. An arbitral panel shall comprise three panelists.
2. Each Party shall, within 30 days after the date of receipt of the request for the establishment of an arbitral panel, appoint one panelist who may be its national and propose up to three candidates to serve as the third panelist who shall be the chair of the arbitral panel. The third panelist shall not be a national of either Party, nor have

(c) 若联合自由贸易委员会在根据第21.4条转交请求后未召开，一方根据第21.3条提交咨询请求之日起60日内，或紧急情况下（包括涉及易腐商品的紧急情况）30日内。

2. 不得就拟议措施相关事项请求设立仲裁小组。

3. 根据本条提出的设立仲裁小组的请求应明确：

(a) 相关措施；(b) 投诉的法律依据，包括据称已被违反的本协议的任何规定以及任何其他相关规定；以及(c) 投诉的事实依据。

4. 仲裁小组应按照本章的规定设立并履行其职能。

5. 仲裁小组设立的日期应为主席任命的日期。

第21.6条：仲裁小组的参考条款

除非缔约方在收到仲裁小组设立请求之日起20天内另行同意，否则仲裁小组的参考条款应为：

“根据本协定的相关条款，审查仲裁小组设立请求中所述事项，作出法律和事实的认定，并就措施是否符合本协定或是否造成第21.1(c)条意义上的取消或损害作出决定，连同其理由，并就争议的解决发布书面报告。如果缔约方同意，仲裁小组可以就争议的解决提出建议。”

第21.7条：仲裁小组的组成

1. 仲裁小组应由三名仲裁员组成。
2. 每一方应在收到设立仲裁小组的请求之日起30日内任命一名仲裁员，该仲裁员可以是其国民，并提出最多三名候选人作为第三仲裁员，该第三仲裁员应为仲裁小组主席。第三仲裁员不得为任何一方的国民，也不得

his or her usual place of residence in either Party, nor be employed by either Party, nor have dealt with the dispute in any capacity.

3. The Parties shall agree on and appoint the third panelist within 45 days after the date of receipt of the request for the establishment of an arbitral panel, taking into account the candidates proposed pursuant to paragraph 2.

4. If a Party has not appointed a panelist pursuant to paragraph 2 or if the Parties fail to agree on and appoint the third panelist pursuant to paragraph 3, the panelist or panelists not yet appointed shall be chosen within seven days by lot from the candidates proposed pursuant to paragraph 2.

5. All panelists shall:

- (a) have expertise or experience in law, international trade or other matters covered by this Agreement;
- (b) be chosen strictly on the basis of objectivity, reliability and sound judgment;
- (c) be independent of, and not be affiliated with or receive instructions from, the government of either Party; and
- (d) comply with a code of conduct, to be provided in the Rules of Procedure referred to in Article 21.13.

6. If a panelist appointed under this Article dies, becomes unable to act or resigns, a successor shall be appointed within 15 days in accordance with the appointment procedure provided for in paragraphs 2, 3 and 4, which shall be applied, respectively, *mutatis mutandis*. The successor shall have all the powers and duties of the original panelist. The work of the arbitral panel shall be suspended for a period beginning on the date the original panelist dies, becomes unable to act or resigns. The work of the arbitral panel shall resume on the date the successor is appointed.

Article 21.8: Proceedings of Arbitral Panels

1. The arbitral panel shall meet in closed session except when meeting with the Parties. Panel meetings with the Parties shall be open to the public except where information designated as confidential by a Party is being discussed.

2. The Parties shall be given the opportunity to provide at least one written submission and to attend any of the presentations, statements or rebuttals in the proceedings. All information or written submissions submitted by a Party to the arbitral panel, including any comments on the draft report and responses to questions put by the arbitral panel, shall be made available to the other Party.

3. The arbitral panel should consult with the Parties as appropriate and provide adequate opportunities for the development of a mutually satisfactory resolution.

其通常居住地不在任何缔约方境内，也不受任何缔约方雇佣，且未以任何方式参与该争议。

3. 缔约方应在收到设立仲裁小组的请求之日起45日内，根据第2段的规定提出的候选人，就第三仲裁员达成一致并任命之。

4. 如果一方未根据第2段的规定任命仲裁员，或者缔约方未能根据第3段的规定就第三仲裁员达成一致并任命之，则应在七日内通过抽签从根据第2段的规定提出的候选人中选出尚未任命的仲裁员或仲裁员。

5. 所有仲裁员均应：

- (a) 在法律、国际贸易或本协定涵盖的其他事项方面具有专业知识或经验；
- (b) 严格基于客观性、可靠性和公正判断进行选择；
- (c) 与任何一方政府独立，不得有任何一方政府的关联公司或接受其指示；并且
- (d) 遵守第21.13条所指的议事规则中提供的行为准则。

6. 如果根据本条被任命的仲裁员去世、无法履行职责或辞职，应在15日内根据第2、3和4段规定的任命程序指定继任者，这些程序应相应修改适用。继任者应拥有原仲裁员的所有权力和职责。仲裁小组的工作应自原仲裁员去世、无法履行职责或辞职之日起暂停。仲裁小组的工作应在继任者被任命之日起恢复。

第21.8条：仲裁小组的程序

1. 仲裁小组应举行闭门会议，但与缔约方开会时除外。与缔约方举行的仲裁小组会议应公开进行，除非正在讨论一方指定为机密的信息。

2. 缔约方应有机会至少提交一份书面陈述，并出席程序中的任何陈述、声明或反驳。一方向仲裁小组提交的所有信息或书面陈述，包括对草案报告的任何意见以及对仲裁小组提出的任何问题的回复，均应提供给另一方。

3. 仲裁小组应根据需要与缔约方磋商，并提供充分的机会以达成双方均可接受的解决方案。

4. The arbitral panel shall aim to make its decisions, including its report, by consensus but may also make its decisions, including its report, by majority vote.

5. After notifying the Parties, and subject to such terms and conditions as the Parties may agree if any within 10 days, the arbitral panel may seek information from any relevant source and may consult experts to obtain their opinion or advice on certain aspects of the matter. The panel shall provide the Parties with a copy of any advice or opinion obtained and an opportunity to provide comments.

6. The deliberations of the arbitral panel and the documents submitted to it shall be kept confidential.

7. Notwithstanding paragraph 6, either Party may make public statements as to its views regarding the dispute, but shall treat as confidential, information and written submissions submitted by the other Party to the arbitral panel which that other Party has designated as confidential. Where a Party has provided information or written submissions designated to be confidential, that Party shall, within 28 days of a request of the other Party, provide a non-confidential summary of the information or written submissions which may be disclosed publicly.

8. Each Party shall bear the cost of its appointed panelist and its own expenses. The cost of the chair of an arbitral panel and other expenses associated with the conduct of the proceedings shall be borne by the Parties in equal shares.

Article 21.9: Suspension or Termination of Proceedings

1. The Parties may agree that the arbitral panel suspend its work at any time for a period not exceeding 12 months from the date of such agreement. In the event of such a suspension, the time-frames set out in paragraphs 2, 5 and 7 of Article 21.10 and paragraph 7 of Article 21.12 shall be extended by the amount of time that the work was suspended. If the work of the arbitral panel has been suspended for more than 12 months, the authority for establishment of the arbitral panel shall lapse unless the Parties agree otherwise.

2. The Parties may agree to terminate the proceedings of the arbitral panel by jointly so notifying the chair of the arbitral panel at any time before the issuance of the report to the Parties.

Article 21.10: Report

1. The report of the arbitral panel shall be drafted without the presence of the Parties. The panel shall base its report on the relevant provisions of this Agreement and the submissions and arguments of the Parties, and may take into account any other relevant information provided to the panel.

2. The arbitral panel shall, within 180 days, or within 60 days in cases of urgency, including those which concern perishable goods, after the date of its establishment, submit to the Parties its draft report.

4. 仲裁小组应努力以一致的方式做出其决定，包括其报告，但也可以以多数票做出其决定，包括其报告。

5. 通知缔约方后，并在10日内就任何可能达成的条款和条件达成一致的情况下，仲裁小组可以从任何相关来源获取信息，并咨询专家以获取他们对事项某些方面的意见或建议。仲裁小组应向缔约方提供其获取的任何意见或建议的副本，并给予缔约方提供意见的机会。

6. 仲裁小组的审议及其提交的文件应保密。

7. 尽管有第6段的规定，任何一方都可以就其对争议的看法发表公开声明，但应将另一方提交给仲裁小组并指定为机密的信息和书面提交视为机密。如果一方提供了指定为机密的信息或书面提交，该方应在另一方提出请求后的28天内，提供非机密的信息或书面提交摘要，该摘要可以公开披露。

8. 每一方应承担其指定的仲裁员的费用以及自身的费用。仲裁庭主席的费用以及与诉讼程序相关的其他费用应由缔约方平均分担。

第21.9条：诉讼的暂停或终止

1. 缔约方可以同意仲裁小组在任何时间暂停其工作，暂停期限不超过自该协议之日起的12个月。如果发生暂停，第21.10条第2段、第5段和第7段以及第21.12条第7段规定的时间限制应延长暂停工作的时间。如果仲裁小组的工作被暂停超过12个月，设立仲裁小组的权力将失效，除非缔约方另有约定。

2. 缔约方可以同意在任何时间在向缔约方提交报告之前，通过联合通知仲裁小组主席终止仲裁小组的诉讼程序。

第21.10条：报告

1. 仲裁小组的报告应在不通知缔约方的情况下起草。小组应基于本协定相关条款以及缔约方的提交和论点起草报告，并可以参考小组收到的任何其他相关信息。

2. 仲裁小组应在设立之日起180日内，或在紧急情况下（包括涉及易腐商品的紧急情况）60日内，向缔约方提交其草案报告。

3. The draft report shall contain both the descriptive part summarising the submissions and arguments of the Parties and the findings and determinations of the arbitral panel. If the Parties agree, the arbitral panel may make recommendations for resolution of the dispute in its report. The findings and determinations of the panel and, if applicable, any recommendations cannot add to or diminish the rights and obligations of the Parties provided in this Agreement.
4. When the arbitral panel considers that it cannot submit its draft report within the aforementioned 180 or 60 day period, it may extend that period with the consent of the Parties.
5. A Party may provide written comments to the arbitral panel on its draft report within 15 days after the date of submission of the draft report.
6. After considering any written comments on the draft report, the arbitral panel may reconsider its draft report and make any further examination it considers appropriate.
7. The arbitral panel shall issue its final report, within 30 days after the date of submission of the draft report. The report shall include any separate opinions on matters not unanimously agreed, not disclosing which panelists are associated with majority or minority opinions.
8. The final report of the arbitral panel shall be available to the public within 15 days after the date of issuance, subject to the requirement to protect confidential information.
9. The report of the arbitral panel shall be final and binding on the Parties.

Article 21.11: Implementation of the Report

1. Unless the Parties agree otherwise, the Party complained against shall eliminate the non-conformity or the nullification or impairment in the sense of Article 21.1(c) as determined in the report of the arbitral panel, immediately, or if this is not practicable, within a reasonable period of time.
2. The Parties shall continue to consult at all times on the possible development of a mutually satisfactory resolution.
3. The reasonable period of time referred to in paragraph 1 shall be mutually determined by the Parties. Where the Parties fail to agree on the reasonable period of time within 45 days after the date of issuance of the report of the arbitral panel referred to in Article 21.10, either Party may refer the matter to an arbitral panel as provided for in Article 21.12.7, which shall determine the reasonable period of time.
4. Where there is disagreement between the Parties as to whether the Party complained against eliminated the non-conformity or the nullification or impairment in the sense of Article 21.1(c) as determined in the report of the arbitral panel within

3. 草案报告应包含描述性部分，总结缔约方的提交和论点，以及仲裁小组的裁决和认定。如果缔约方同意，仲裁小组可以在其报告中就争议的解决提出建议。仲裁小组的裁决和认定，以及适用的任何建议，不得增加或减少本协议规定的缔约方的权利和义务。
4. 当仲裁小组认为它不能在上述180天或60天期限内向缔约方提交其草案报告时，经缔约方同意，它可以延长该期限。
5. 一方可以在草案报告提交之日起15天内向仲裁小组提供书面意见。
6. 在考虑有关草案报告的任何书面意见后，仲裁小组可以重新考虑其草案报告，并作出它认为适当的任何进一步审查。
7. 仲裁小组应在草案报告提交之日起30天内发布其最终报告。报告应包括对未达成一致的事项的不同意见，但不披露与多数意见或少数意见相关联的仲裁员。
8. 仲裁小组的最终报告应在发布之日起15天内向公众提供，但需遵守保护机密信息的要求。
9. 仲裁小组的报告应是终局的，并对缔约方具有约束力。

第21.11条：报告的实施

1. 除非缔约方另有约定，被投诉方应消除仲裁小组报告中根据第21.1(c)条确定的不一致性、取消或损害，立即，或如不可行，在合理期限内。
2. 缔约方应随时磋商达成双方均可接受的解决方案的可能性。
3. 第1段所指的合理期限应由缔约方共同决定。如缔约方在仲裁小组根据第21.10条发布的报告之日起45日内未能就合理期限达成一致，任何一方均可根据第21.12.7条的规定将事项提交仲裁小组，该仲裁小组应确定合理期限。
4. 当缔约方之间就以下事项存在分歧时，即被投诉方是否在仲裁小组报告所确定的合理期限内，以第21.1(c)条所述的含义消除了非一致性或取消或损害，

the reasonable period of time as determined pursuant to paragraph 3, either Party may refer the matter to an arbitral panel as provided for in Article 21.12.7.

Article 21.12: Non-Implementation – Compensation and Suspension of Concessions or other Obligations

1. If the Party complained against notifies the complaining Party that it is impracticable, or the arbitral panel to which the matter is referred pursuant to Article 21.11.4 confirms that the Party complained against has failed to eliminate the non-conformity or the nullification or impairment in the sense of Article 21.1(c) as determined in the report of the arbitral panel within the reasonable period of time as determined pursuant to Article 21.11.3, the Party complained against shall, if so requested, enter into negotiations with the complaining Party with a view to reaching mutually satisfactory compensation.
2. If there is no agreement on satisfactory compensation within 20 days after the date of receipt of the request mentioned in paragraph 1, the complaining Party may suspend the application to the Party complained against of concessions or other obligations under this Agreement, after giving notification of such suspension 30 days in advance. Such notification may only be given 20 days after the date of receipt of the request mentioned in paragraph 1.
3. The compensation referred to in paragraph 1 and the suspension referred to in paragraph 2 shall be temporary measures. Neither compensation nor suspension is preferred to full elimination of the non-conformity or the nullification or impairment in the sense of Article 21.1(c) as determined in the report of the arbitral panel. The suspension shall only be applied until such time as the non-conformity or the nullification or impairment in the sense of Article 21.1(c) is fully eliminated, or a mutually satisfactory solution is reached.
4. In considering what concessions or other obligations to suspend pursuant to paragraph 2:
 - (a) the complaining Party should first seek to suspend concessions or other obligations with respect to the same sector(s) as that in which the report of the arbitral panel referred to in Article 21.10 has found a failure to comply with the obligations under this Agreement, or nullification or impairment of benefits in the sense of Article 21.1(c); and
 - (b) if the complaining Party considers that it is not practicable or effective to suspend concessions or other obligations with respect to the same sector(s), it may suspend concessions or other obligations with respect to other sectors. The notification of such suspension pursuant to paragraph 2 shall indicate the reasons on which it is based.
5. The level of suspension referred to in paragraph 2 shall be equivalent to the level of the nullification or impairment.

根据第3段确定的合理期限，任何一方均可将事项提交给第21.12.7条规定的仲裁小组。

第21.12条：未实施——赔偿及豁免的暂停或其他义务

1. 如果被投诉方通知投诉方其不可行，或根据第21.11.4条提交的事项所指定的仲裁小组确认被投诉方未能在根据第21.11.3条确定的合理期限内消除不符合性或根据第21.1(c)条在仲裁小组报告中确定的取消或损害，则被投诉方应根据投诉方的请求，与投诉方进行谈判，以达成双方满意的赔偿。
2. 如果在第1段中提到的请求收到之日起20天内未就令人满意的赔偿达成协议，投诉方在提前30天通知暂停后，可以暂停根据本协定向被投诉方适用特许权或其他义务。此类通知只能在收到第1段中提到的请求之日起20天后给出。
3. 第1段所述的赔偿和第2段所述的暂停应为临时措施。赔偿或暂停均不应优先于仲裁小组报告中所确定的非一致性或第21.1(c)条意义上的取消或损害。暂停仅应适用至非一致性或第21.1(c)条意义上的取消或损害完全消除，或达成双方满意的解决方案之时。
4. 在考虑根据第2段暂停哪些特许权或其他义务时：
 - (a) 投诉方应首先寻求暂停与仲裁小组报告（见第21.10条）所述未能遵守本协定义务或第21.1(c)条意义上的利益取消或损害相同的部门相关的特许权或其他义务；以及 (b) 如果投诉方认为暂停与相同的部门相关的特许权或其他义务不切实际或无效，它可以暂停与其他部门相关的特许权或其他义务。根据第2段进行的此类暂停通知应说明其依据的理由。
5. 第2段中提到的豁免暂停的水平应等同于取消或损害的水平。

6. If the Party complained against considers that the requirements for the suspension of concessions or other obligations by the complaining Party set out in paragraph 2, 3, 4 or 5 have not been met, it may refer the matter to an arbitral panel.

7. The arbitral panel that is established for the purposes of this Article or Article 21.11 shall have, wherever possible, as its panelists, the panelists of the original arbitral panel. If this is not possible, then the panelists to the arbitral panel that is established for the purposes of this Article or Article 21.11 shall be appointed pursuant to Article 21.7. The arbitral panel established under this Article or Article 21.11 shall issue its report within 60 days after the date when the matter is referred to it. When the arbitral panel considers that it cannot issue its report within the aforementioned 60 day period, it may extend that period for a maximum of 30 days with the consent of the Parties. The report shall be available to the public within 15 days after the date of issuance, subject to the requirement to protect confidential information. The report shall be final and binding on the Parties.

Article 21.13: Rules of Procedure

The Joint FTA Committee shall adopt the Rules of Procedure which provide for the details of the rules and procedures of arbitral panels established under this Chapter, upon the entry into force of this Agreement. Unless the Parties otherwise agree, the arbitral panel shall follow the rules of procedure adopted by the Joint FTA Committee and may, after consulting the Parties, adopt additional rules of procedure not inconsistent with the rules adopted by the Joint FTA Committee.

Article 21.14: Application and Modification of Rules and Procedures

Any time period or other rules and procedures for arbitral panels provided for in this Chapter, including the Rules of Procedure referred to in Article 21.13, may be modified by mutual consent of the Parties. The Parties may also agree at any time not to apply any provision of this Chapter.

6. 如果被投诉方认为投诉方在第2段、第3段、第4段或第5段中规定的豁免特许权或其他义务的要求未得到满足，它可以向仲裁小组提交该事项。

7. 为本条或第21.11条之目的而设立的仲裁小组，应尽可能由原仲裁小组的仲裁员担任仲裁员。如不可能，则为本条或第21.11条之目的而设立的仲裁小组的仲裁员应依照第21.7条予以任命。根据本条或第21.11条设立的仲裁小组应在事项提交之日起60天内提交其报告。当仲裁小组认为其不能在上述60天期限内提交报告时，经缔约方同意，可将该期限延长最多30天。报告应在发布之日起15天内向公众提供，但需保护机密信息。报告应是终局的，并对缔约方具有约束力。

第21.13条：议事规则

联合自由贸易委员会应在本协定生效后，通过提供仲裁小组（根据本章设立）规则和程序的详细规定的议事规则。除非缔约方另行同意，仲裁小组应遵循联合自由贸易委员会通过的议事规则，并在与缔约方磋商后，通过与本协定联合自由贸易委员会通过的议事规则不一致的补充议事规则。

第21.14条：规则和程序的适用及修改

本章规定的任何时间段或其他仲裁小组的规则和程序，包括第21.13条中提到的议事规则，可由缔约方经相互同意进行修改。缔约方也可以随时同意不适用本章的任何规定。

Chapter 22
General Provisions and Exceptions

Article 22.1: General Exceptions

- For the purposes of Chapters 3 to 7 (National Treatment and Market Access for Goods, Rules of Origin, Customs Administration, Sanitary and Phytosanitary Measures, and Technical Regulations, Standards and Conformity Assessment Procedures), GATT 1994 Article XX and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*. The Parties understand that the measures referred to in GATT 1994 Article XX(b) include environmental measures necessary to protect human, animal, or plant life or health, and that GATT 1994 Article XX(g) applies to measures relating to the conservation of living and nonliving exhaustible natural resources.
- For the purposes of Chapters 9, 11 and 16 (Cross-Border Trade in Services, Telecommunications and Electronic Commerce²²⁻¹), GATS Article XIV (including its footnotes) is incorporated into and made part of this Agreement, *mutatis mutandis*. The Parties understand that the measures referred to in GATS Article XIV(b) include environmental measures necessary to protect human, animal, or plant life or health.
- Nothing in this Agreement shall be construed to prevent a Party from taking action authorised by the Dispute Settlement Body of the WTO. A Party taking such action shall inform the Joint FTA Committee to the fullest extent possible of measures taken and of their termination.

Article 22.2: Security Exceptions

- Nothing in this Agreement shall be construed:
 - to require a Party to furnish any information the disclosure of which it considers contrary to its essential security interests;
 - to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:
 - relating to fissionable and fusionable materials or the materials from which they are derived;
 - 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; or

²²⁻¹This Article is without prejudice to whether electronic transmissions should be classified as goods or services.

第22章 总则和例外

第22.1条：一般例外

- 为第3章至第7章（国民待遇和货物市场准入、原产地规则、海关当局、卫生和植物卫生措施以及技术法规、标准和合格评定程序）之目的，GATT 1994第20条及其解释性注释被纳入并构成本协定的一部分，相应修改。缔约方理解，GATT 1994第20条(b)中提到的措施包括保护人类、动物或植物的生命或健康的必要环境措施，并且GATT 1994第20条(g)适用于与保护可再生和不可再生资源相关的措施。
- 为第9章、第11章和第16章（跨境服务贸易、电信和电子商务²²⁻¹）之目的），GATS第14条（包括其脚注）被纳入并成为本协定的组成部分，相应修改。缔约方理解，GATS第14条(b)中提到的措施包括保护人类、动物或植物的生命或健康所必需的环境措施。
- 本协定任何规定均不得解释为阻止一方采取世界贸易组织的争端解决机构授权的行动。采取此类行动的一方应尽可能向联合自由贸易委员会通报所采取措施及其终止情况。

第22.2条：安全例外

- 本协定任何规定均不得解释：
 - 要求一方提供其认为与其基本安全利益相悖的任何信息；
 - 阻止一方采取其认为对其基本安全利益保护所必需的任何行动：
 - 与可裂变和可聚变材料或其衍生物有关；或
 - 与武器、弹药和战争工具的交易有关，或其他货物和材料的此类交易有关，或服务供应有关，无论直接或间接地为供应或设立军事设施之目的而进行；或

²²⁻¹本条不妨碍对电子传输是否应被归类为货物或服务的问题作出决定。

(iii) taken in time of war or other emergency in international relations; or

(c) to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

2. A Party taking action under paragraphs 1(b) and (c) shall inform the Joint FTA Committee to the fullest extent possible of measures taken and of their termination.

Article 22.3: Taxation

1. Except as set out in this Article, nothing in this Agreement shall apply to taxation measures.

2. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax treaty. In the event of any inconsistency between this Agreement and any such treaty, that treaty shall prevail to the extent of the inconsistency. In the case of a tax treaty between the Parties, the competent authorities under that treaty shall have sole responsibility for determining whether any inconsistency exists between this Agreement and that treaty.

3. Notwithstanding paragraph 2, the following Articles shall apply to taxation measures:

- (a) Article 3.3 (National Treatment – National Treatment and Market Access for Goods Chapter), and such other provisions of this Agreement as are necessary to give effect to that Article, to the same extent as does GATT 1994 Article III; and
- (b) Article 3.11 (Export Taxes – National Treatment and Market Access for Goods Chapter).

4. Subject to paragraph 2, the following Articles shall apply to taxation measures:

- (a) Article 9.3 (National Treatment – Cross-Border Trade in Services Chapter) and Article 12.3 (National Treatment – Financial Services Chapter), only where the taxation measure is a direct tax that relates to the purchase or consumption of particular services, except that nothing in this sub-paragraph shall prevent a Party from conditioning the receipt or continued receipt of an advantage relating to the purchase or consumption of particular services on requirements to provide the service in its territory;
- (b) Article 9.3 (National Treatment – Cross-Border Trade in Services Chapter), Article 9.4 (Most-Favoured-Nation Treatment – Cross-Border Trade in Services Chapter), Article 10.3 (National Treatment – Investment Chapter), Article 10.4 (Most-Favoured-Nation Treatment –

(iii) 在战争时期或其他国际关系紧急情况下采取的；或

(c) 阻止一方采取任何履行其根据联合国宪章为维护国际和平与安全所承担的义务的行动。

2. 根据第1(b)和(c)段采取行动的一方应尽可能向联合自由贸易委员会通报所采取的措施及其终止。

第22.3条：税收

1. 除本条另有规定外，本协定中的任何内容均不适用于税收措施。

2. 本协定任何规定均不得影响缔约方在任何税收协定下的权利和义务。在本协定与任何此类协定之间发生任何不一致的情况下，该协定应优先适用，其优先适用的程度以不一致的程度为限。如缔约方之间存在税收协定，则该协定项下的主管当局应 sole responsibility for determining whether any inconsistency exists between this Agreement and that treaty.

3. 不论第2段的规定如何，下列条款应适用于税收措施：

(a) 第3.3条（国民待遇——货物国民待遇和市场准入章节），以及本协定为使该条款得以实施而必需的其他规定，其程度与1994年关税及贸易总协定第III条相同；以及(b) 第3.11条（出口税——货物国民待遇和市场准入章节）。

4. 不论第2段的规定如何，下列条款应适用于税收措施：

- (a) 第9.3条（国民待遇——跨境服务贸易章节）和第12.3条（国民待遇——金融服务章节），仅当税收措施是直接税且与特定服务的购买或消费相关时适用，但本款中的任何内容均不得阻止一方将与服务在其领土内提供相关的利益接收或持续接收的条件，要求提供服务；
- (b) 第9.3条（国民待遇——跨境服务贸易章节）、第9.4条（最惠国待遇——跨境服务贸易章节）、第10.3条（国民待遇——投资章节）、第10.4条（最惠国待遇——

Investment Chapter), Article 12.3 (National Treatment – Financial Services Chapter), and Article 12.4 (Most-Favoured-Nation Treatment – Financial Services Chapter), only where the taxation measure is an indirect tax; and

- (c) Without prejudice to the rights and obligations of the Parties under paragraph 3, Articles 10.7.2, 10.7.3 and 10.7.4 (Performance Requirements – Investment Chapter);

except that nothing in those Articles shall apply:

- (d) any most-favoured-nation obligation in this Agreement with respect to an advantage accorded by a Party pursuant to a tax treaty;
- (e) to a non-conforming provision of any existing taxation measure;
- (f) to the continuation or prompt renewal of a non-conforming provision of any existing taxation measure;
- (g) to an amendment to a non-conforming provision of any existing tax measure to the extent that the amendment does not decrease its conformity, at the time of the amendment, with any of those Articles²²⁻²;
- (h) to the adoption of any non-conforming provision of a taxation measure which is substantially similar to an existing non-conforming provision of the other Party;
- (i) to the adoption or enforcement of any taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes; or
- (j) to a provision that conditions the receipt, or continued receipt of an advantage relating to the contributions to, or income of, a pension trust, superannuation fund or other arrangement to provide pension, superannuation or similar benefits on a requirement that the Party maintains continuous jurisdiction, regulation or supervision over such trust, fund or other arrangement.

5. Article 10.11 (Expropriation and Compensation – Investment Chapter), Article 10.16 (Submission of a Claim to Arbitration – Investment Chapter) and Chapter 21 (Dispute Settlement) shall apply to a taxation measure alleged to be an expropriation. However, no investor may invoke Article 10.11 (Expropriation and Compensation – Investment Chapter) as the basis of a claim where it has been determined pursuant to this paragraph that the measure is not an expropriation. An investor that seeks to invoke Article 10.11 (Expropriation and Compensation – Investment Chapter) with respect to a taxation measure must first refer to the designated authorities at the time that it gives its notice of intent under Article 10.16 (Submission of a Claim to Arbitration – Investment Chapter) the issue of whether that taxation measure involves an expropriation. If the designated authorities do not agree to consider the issue or,

²²⁻² For greater certainty, such an amendment may include the adoption of an excise tax on insurance premiums in place of an income tax on insurance premiums.

投资章节)、第12.3条（国民待遇——金融服务章节），以及第12.4条（最惠国待遇——金融服务章节），仅当税收措施为间接税时；和

- (c) 不影响第3段、第10.7.2条、10.7.3条和10.7.4条（绩效要求——投资章节）下缔约方的权利和义务；

但下列条款不适用：

- (d) 本协定中任何一方根据税收协定授予的优惠待遇的最惠国义务；(e) 任何现有税收措施中的非符合条款；(f) 现有税收措施中非符合条款的延续或及时更新；(g) 对现有税收措施中非符合条款的修订，且修订内容并未降低其与上述条款在任何修订时间点的符合性²²⁻²；(h) 采纳与另一方现有非符合条款实质性相似的任何税收措施中的非符合条款；(i) 采纳或执行任何旨在确保税收公平或有效征收的税收措施；或(j) 规定，将优势的获得或持续获得，与向养老金信托、超级年金基金或其他提供养老金、超级年金或类似福利的安排所做出的贡献或收入相关，条件是缔约方必须对上述信托、基金或其他安排保持持续管辖、监管或监督。

5. 第10.11条（征收与补偿——投资章节）、第10.16条（仲裁索赔的提交——投资章节）和第21章（争端解决）应适用于被指控为征收的税收措施。然而，任何投资者均不得援引第10.11条（征收与补偿——投资章节）作为索赔依据，如果根据本段规定已确定该措施并非征收。寻求就税收措施援引第10.11条（征收与补偿——投资章节）的投资者，必须首先在根据第10.16条（仲裁索赔的提交——投资章节）发出意向通知时，转交指定当局关于该税收措施是否涉及征收的问题。如果指定当局不同意审议该问题，或虽同意审议但未在转交之日起六个月内同意该措施并非征收，则投资者可依据第10.16条（仲裁索赔的提交——投资章节）提交其索赔至仲裁。

²²⁻² 为进一步明确，此类修订可包括采用针对保险溢价的消费税，以替代针对保险溢价的所得税。

having agreed to consider it, fail to agree that the measure is not an expropriation within a period of six months of such referral, the investor may submit its claim to arbitration under Article 10.16 (Submission of a Claim to Arbitration – Investment Chapter).

6. For the purposes of this Article, “taxation measure” means any measure relating to direct or indirect taxes, but does not include:

- (i) a customs duty; or
- (ii) the measures listed in exceptions (iii) and (iv) of the definition of customs duty in Article 2.1(d).

7. For the purposes of paragraph 4, “designated authority” means:

- (i) in the case of Australia, the Secretary to the Treasury or its successor, or an authorised representative of the Secretary; and
- (ii) in the case of Chile, the *Director del Servicio de Impuestos Internos, Ministerio de Hacienda*, or an authorised representative of the *Ministro de Hacienda*.

Article 22.4: Restrictions 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 adopt or maintain restrictive measures with regard to trade in goods and in services and with regard to payments and capital movements, including those related to direct investment.

2. The Parties shall endeavour to avoid the application of the restrictive measures referred to in paragraph 1.

3. Any restrictive measure adopted or maintained under this Article shall be non-discriminatory and of limited duration and shall not go beyond what is necessary to remedy the balance of payments and external financial situation. They shall be in accordance with the conditions established in the WTO Agreement and consistent with the Articles of Agreement of the International Monetary Fund, as applicable.

4. The Party maintaining or having adopted restrictive measures, or any changes thereto, shall promptly notify them to the other Party and present, as soon as possible, a time schedule for their removal.

5. The Party applying restrictive measures shall consult promptly with the other Party within the Joint FTA Committee. Such consultations shall assess the balance of payments situation of the Party concerned and the restrictions adopted or maintained under this Article, taking into account, *inter alia*, such factors as:

- (a) the nature and extent of the balance of payments and the external financial difficulties;

已同意审议但未在转交之日起六个月内同意该措施并非征收，则投资者可依据第10.16条（仲裁索赔的提交——投资章节）提交其索赔至仲裁。

6. 对于本文章而言，“税收措施”是指与直接税或间接税相关的任何措施，但不包括：

- (i) 关税；或 (ii) 第2.1(d)条中关税定义中例外情况(iii)和(iv)中列出的措施。

7. 对于第4段而言，“指定机构”是指：

- (i) 在澳大利亚的情况下，财政部秘书或其继任者，或财政部秘书的授权代表；以及 (ii) 在智利的情况下，内部税务服务局长、财政部或财政部长授权代表。

第22.4条：为保障国际收支的限制

1. 当一方处于严重的国际收支和外部金融困难中，或面临此类威胁时，它可以采取或维持与货物贸易、服务贸易、付款和资本流动（包括与直接投资相关的流动）有关的限制性措施。

2. 各方应努力避免应用第1段所述的限制性措施。

3. 根据本条采取或维持的任何限制性措施应为非歧视性的，期限有限，并且不应超过弥补国际收支和外部金融状况所必需的范围。这些措施应符合世界贸易组织协定中规定的条件，并与国际货币基金组织协定条款一致，如适用。

4. 维持或已采取限制性措施的一方，或对此作出任何变更，应立即将此类措施通知另一方，并尽快提交一项关于其取消的时间表。

5. 采取限制性措施的一方应在联合自由贸易委员会内立即与其他方磋商。此类磋商应评估有关一方的国际收支状况以及根据本条采取或维持的限制性措施，并考虑以下因素，例如：

- (a) 国际收支的性质和范围以及外部金融困难；

- (b) the external economic and trading environment of the consulting Party;
and
- (c) alternative corrective measures which may be available.

The consultations shall address the compliance of any restrictive measures with paragraphs 3 and 4. All findings of statistical and other facts presented by the International Monetary Fund relating to foreign exchange, monetary reserves and balance of payments shall be accepted and conclusions shall be based on the assessment by the Fund of the balance of payments and external financial situation of the consulting Party.

Article 22.5: Disclosure of Information

1. Each Party shall, in accordance with its laws and regulations, maintain the confidentiality of information provided in confidence by the other Party pursuant to this Agreement.
2. Nothing in this Agreement shall be construed as requiring a Party to furnish or allow access to confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest²²⁻³ or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

²²⁻³For the purposes of this paragraph the public interest includes, for Australia, compliance with the Privacy Act (Cth) 1988.

- (b) 咨询方的外部经济和贸易环境；和
- (c) 可用的替代纠正措施。

磋商应解决任何限制性措施是否符合第3段和第4段的规定。国际货币基金组织就外汇、货币储备和国际收支所提供的统计和其他事实均应被接受，结论应以基金对咨询方国际收支和外部金融状况的评估为基础。

第22.5条：信息披露

1. 每一方应根据其法律和法规，对另一方根据本协议提供的机密信息保持保密。
2. 本协议中的任何内容均不得解释为要求缔约方提供或允许访问机密信息，其披露将妨碍执法或否则违背公共利益²²⁻³或损害特定企业的合法商业利益，无论其是公共企业还是私营企业。

²²⁻³就本段而言，对于澳大利亚而言，公共利益包括遵守1988年（澳）隐私法。

Chapter 23
Final Provisions

第23章最终条款

Article 23.1: Annexes and Footnotes

The Annexes and footnotes to this Agreement constitute an integral part of this Agreement.

第23.1条：附件和脚注

本协定的附件和脚注构成本协定的组成部分。

Article 23.2: Accession

This Agreement is open to accession, on terms to be agreed between the Parties, by any country.

第23.2条：加入

本协定向任何国家开放加入，加入条件由缔约方协商确定。

Article 23.3: Amendments

1. The Parties may agree, in writing, on any modification of or addition to this Agreement.
2. When so agreed, and approved in accordance with the necessary domestic legal procedures of each Party, a modification or addition shall constitute an integral part of this Agreement. Such amendment shall enter into force 45 days after the date on which the Parties exchange written notification that such procedures have been completed, or after such other period as the Parties may agree.

第23.3条：修正案

1. 缔约方可以书面形式就对本协定的修改或补充达成协议。
2. 当达成此类协议时，并经每一方必要的国内法律程序批准，该修改或补充应构成本协定的组成部分。此类修订应自缔约方交换书面通知表明此类程序已完成之日起45日后生效，或自缔约方同意的任何其他期限后生效。

Article 23.4: Amendment of the WTO Agreement

If any provision of the WTO Agreement that the Parties have incorporated into this Agreement is amended, the Parties shall consult on whether to amend this Agreement.

第23.4条：世界贸易组织协定的修订

如果缔约方已纳入本协定的世界贸易组织协定的任何条款被修订，缔约方应磋商是否修订本协定。

Article 23.5: Entry into Force and Termination

1. The entry into force of this Agreement is subject to the completion of necessary domestic legal procedures by each Party.
2. This Agreement shall enter into force 45 days after the date on which the Parties exchange written notifications that such procedures have been completed, or after such other period as the Parties may agree.
3. Either Party may terminate this Agreement by written notification to the other Party. This Agreement shall expire 180 days after the date of such notification.

第23.5条：生效和终止

1. 本协定的生效取决于每一方完成必要的国内法律程序。
2. 本协定应自缔约方交换书面通知表明此类程序已完成之日起45日后生效，或自缔约方同意的其他期限后生效。
3. 任何一方可通过向另一方发出书面通知来终止本协定。本协定应在该通知发出之日起180日后到期。

Article 23.6: Authentic Texts

The English and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective governments, have signed this Agreement.

DONE at Canberra, in duplicate, this thirtieth day of July, 2008.

FOR THE GOVERNMENT OF AUSTRALIA:

FOR THE GOVERNMENT OF THE REPUBLIC OF CHILE:

.....
Stephen Smith
Minister for Foreign Affairs

.....
Alejandro Foxley Rioseco
Minister of Foreign Affairs

第23.6条：authentic 文本

本协定的英语和西班牙语文本具有同等效力。

为证明，签署人经各自政府授权，已签署本协定。

于堪培拉签署，一式两份，2008年7月30日。

FOR THE GOVERNMENT OF AUSTRALIA:

智利共和国政府：

.....
斯蒂芬·史密斯 外交部长

.....
亚历杭德罗·福克斯莱·里奥斯科
外交部长