

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

本章规定中，

普遍适用行政裁决是指适用于所有方和通常属于其适用范围的事实情况，并建立行为规范，但不包括：

- (a) 在行政程序中作出的、适用于特定方、特定商品或服务的裁决或认定；或 (b) 对特定行为或实践作出裁决的裁决。

第19.2条：联系点

1. 第19-A附件中提到的联系点应促进各方就本协议涵盖的任何事项进行沟通。
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，并在必要时协助促进与请求方的沟通。

第19.3条：公布

1. 各方应确保，尽可能以电子形式，使其涉及本协议涵盖的任何事项的法律、法规、程序和具有普遍适用性的行政裁决及时公布或以其他方式提供，以便利害关系人和另一方能够了解。
2. 在可能的情况下，各方应：
 - (a) 提前公布其拟采用的第1段所述任何措施；以及 (b) 为利害关系人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. 尽最大可能，每一方应将任何拟议的或实际的、该方认为可能实质性影响本协议运营或否则实质性影响另一方在本协议项下的利益的措施通知另一方。
- 2. 应另一方的要求，一方应迅速提供信息并答复有关任何实际或拟议的措施的信息，该措施是请求方认为可能实质性影响本协议的运营或实质性影响其在本协议项下的利益的，无论请求方是否已事先被通知该措施。
- 3. 根据本条的规定，任何通知、请求或信息均应通过相关联系点提供给另一方。
- 4. 根据本条提供的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条所述的措施，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，其程序应：

- (a) 在可能的情况下，当程序启动时，根据其国内程序，向受程序直接影响的其他方提供合理的通知，包括程序的性质、启动程序的授权依据以及任何争议问题的概述；(b) 在时间、程序的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，给予此类个人提出支持其立场的事实和论据的合理机会；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. 每一方应设立或维持司法、准司法或行政法庭或程序，以便对涉及本协议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重新审理（实质审查）。

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.

协议。此类法庭应公正且独立于负责行政执行的机构，且不得对事项的结果有任何重大利益。

2. 各方应确保，在任何此类法庭或程序中，诉讼各方有权：

- (a) 合理的机会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作出的决定，或根据国内法的要求，基于行政机构编制的案卷作出的决定。

3. 各方应确保，根据其国内法的规定，可以提起上诉或进行进一步审查，以确保此类决定由相关机构执行，并应管理该机构在涉及该决定的行政行为方面的实践。

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条的规定，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， 国际经济事务总局亚太部门、 外交部， 或其继任者。