

Chapter 2
General Definitions

第2章 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;

第2.1条：一般适用定义

根据本协议，除非另有规定：

- (a) 中央政府级别是指：
 - (i) 对于澳大利亚，联邦政府；以及
 - (ii) 对于智利，国家级行政级别；
- (b) 受保护投资是指，对于一方法，在其领土内存在于一方法投资者在协议生效日期时或此后设立、获得或扩大的其他方法投资者的投资；
- (c) 海关管理机构是指根据一方法法律负责海关法律和法规管理的机构；
- (d) 关税包括与商品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条：2款一致地征收的相当于内部税的费用；对于该方法的类似、直接竞争或可替代商品，或对于进口商品已制造或生产的商品； (ii) 根据1994年关税及贸易总协定第XIX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) 一方企业是指根据一方法律设立或组织的企业；
- (h) 现行是指在本协议生效日期生效；

- (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 是指服务贸易总协定，包含在世界贸易组织协定附件1B中；
- (j) GATT 1994 指 1994年关税及贸易总协定，包含在世界贸易组织协定附件1A中；
- (k) 缔约方产品指 GATT 1994 中理解的国内产品或缔约方可能同意的产品，包括该缔约方的原产地产品。缔约方产品可包括其他国家的材料；
- (l) 政府采购指政府为政府目的获取商品或服务的使用权或所有权，或其任何组合，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）指受“协调商品描述和编码系统国际公约”管辖的协调商品描述和编码系统，包括其解释总则、章节注释和章节注释，以及缔约方在其各自关税法中采纳和实施的所有修正案；
- (n) 品目是指根据协调制度下的关税分类号中的前四位数字；
- (o) 缔约方投资者是指试图在另一缔约方领土内进行、正在进或已经进行投资的缔约方、缔约方法国国民或企业；但是，双重国籍的自然人应被视为仅为其主要和有效国籍国家的国民 ²⁻¹；
- (p) 措施是指缔约方采取的任何措施，无论其形式为法律、法规、规则、程序、惯例、决定、行政行为或其他形式；
- (q) 自然人是指根据附件2-A具有缔约方法国国籍的自然人；
- (r) 原产地产品是指符合第4章（原产地规则）中规定的原产地规则的产品；
- (s) 个人指自然人或企业；
- (t) 缔约方法国国民或企业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) 区域政府层级，对于澳大利亚，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，“区域政府层级”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，《世界贸易组织协定》；

(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，《世界贸易组织协定》；

(y) 国有企业是指由缔约方全部或多数拥有或控制的为从事商业活动目的而设立的企业；

(z) 子目是指根据协调制度下的关税分类号中的前六位数字；附件2-A；

(aa) 领土是指缔约方的领土，如附件2-A中所述；(bb) 技术性贸易壁垒协定是指世界贸易组织协定附件1A中包含的协定；

附件1A中包含的协定；

(cc) TRIPS Agreement 指的是与贸易有关的知识产权协定，知识产权权，包含在世界贸易组织协定附件1C中；

(dd) WTO 指的是世界贸易组织，以及

(ee) WTO Agreement 指的是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

根据本协议的目的，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，或根据智利共和国政治宪法定义的智利永久居民；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以外的所有外部领土均不包括在内；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，其主权下的陆地、海洋和 **airspace**，以及根据国际法和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。

主权，以及根据国际法和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。