

**FREE TRADE AGREEMENT BETWEEN THE GOVERNMENT OF
AUSTRALIA AND THE GOVERNMENT OF THE PEOPLE’S REPUBLIC
OF CHINA**

澳大利亚政府与中国政府之间的自由贸易协定

PREAMBLE

序言

The Governments of Australia (“Australia”) and the People’s Republic of China (“China”), hereinafter referred to collectively as “the Parties”:

Inspired by their longstanding friendship and growing bilateral economic and trade relationship since the establishment of diplomatic relations in 1972;

Recalling the *Trade and Economic Cooperation Framework between the People’s Republic of China and Commonwealth of Australia* adopted on 24 October 2003 with the objective of strengthening the comprehensive and stable economic and trade relationship between the Parties;

Building on their rights, obligations and undertakings under the *Marrakesh Agreement Establishing the World Trade Organization* and other multilateral, regional and bilateral agreements and arrangements;

Mindful of their commitment to the Asia-Pacific Economic Cooperation (“APEC”) goals and principles, and in particular the efforts of all APEC economies to meet the APEC Bogor Goals of free and open trade and the actions subscribed to in the *Osaka Action Agenda*;

Upholding the rights of their governments to regulate in order to meet national policy objectives, and to preserve their flexibility to safeguard public welfare;

Desiring to strengthen their economic partnership and further liberalise bilateral trade and investment to bring economic and social benefits, to create new opportunities for employment and to improve the living standards of their peoples;

Resolved to create an expanded market for goods and services in their territories through establishing clear rules governing their trade which will ensure a predictable, transparent and consistent commercial framework for business operations; and

Recognising that the strengthening of their economic partnership through a free trade agreement, which removes barriers to the trade of goods and services and investment flows, will produce mutual benefits for the Parties;

Have agreed as follows:

澳大利亚政府（“澳大利亚”）和中华人民共和国政府（“中国”），以下统称为“缔约方”：

兹鉴于双方长期友谊以及自1972年建交以来不断发展的双边经济和贸易关系；

回顾2003年10月24日通过的《中华人民共和国与大英联邦贸易和经济合作框架》，其旨在加强缔约方之间的全面和稳定的经济和贸易关系；

在《马拉喀什建立世界贸易组织协定》以及其他多边、区域和双边协定和安排项下的权利、义务和承诺基础上；

铭记双方对亚太经合组织（“亚太经合组织”）目标和原则的承诺，特别是所有亚太经合组织经济体为实现亚太经合组织茂物目标——自由和开放贸易——以及大阪行动议程中承诺采取的行动；

维护其政府为达成国家政策目标而进行监管的权利，并保留其保护公共福利的灵活性；

希望加强其经济伙伴关系，进一步放宽双边贸易和投资，以带来经济和社会利益，创造新的就业机会，并提高其人民的生活水平；

决心通过建立管理其贸易的明确规则，在其领土内创造扩大商品和服务市场，这些规则将确保商业运营的可预测、透明和一致的商业框架；以及

认识到，通过自由贸易协定加强其经济伙伴关系，消除商品和服务贸易以及投资流动的壁垒，将为缔约方带来互惠利益；

已同意如下：

CHAPTER 1
INITIAL PROVISIONS AND DEFINITIONS

ARTICLE 1.1: ESTABLISHMENT OF A FREE TRADE AREA

The Parties, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish a free trade area.

ARTICLE 1.2: RELATION TO OTHER AGREEMENTS

1. The Parties affirm their existing rights and obligations with respect to each other under multilateral and bilateral agreements to which both Parties are party, including the WTO Agreement.
2. Nothing in this Agreement shall derogate from the existing rights and obligations of a Party under the WTO Agreement or any other multilateral or bilateral agreement to which both Parties are party.
3. In the event of any inconsistency between this Agreement and any other multilateral or bilateral agreement to which both Parties are party, the Parties shall immediately consult with a view to finding a mutually satisfactory solution.

ARTICLE 1.3: GENERAL DEFINITIONS

For the purposes of this Agreement, unless otherwise specified:

- (a) **customs duty** means any customs or import duty and a charge of any kind, including any form of surtax or surcharge, imposed in connection with the importation of a good, but does not include any:
- (i) charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III of the GATT 1994, in respect of the like goods or, directly competitive or substitutable goods of the Party or in respect of goods from which the imported goods have been manufactured or produced in whole or in part;
 - (ii) anti-dumping or countervailing duty applied pursuant to a Party's law and applied consistently with the provisions of Article VI of the GATT 1994, the Agreement on Anti-Dumping, and the Agreement on Subsidies and Countervailing Measures; or
 - (iii) fees or other charges commensurate with the cost of services rendered;

第一章 初始条款和定义

第一条1.1：建立自由贸易区

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。

第一条 关于此协议与其他协议的关系

1. 各方确认其根据双方均为缔约方的多边和双边协议所享有的现有权利和义务，包括世界贸易组织协定。
2. 本协议的任何规定均不得使一方背离其在世界贸易组织协定或双方均为缔约方的任何其他多边或双边协议项下的现有权利和义务。
3. 如本协议与任何一方均为缔约方的多边或双边协议之间存在任何不一致，缔约方应立即磋商，以寻求双方均满意的解决方案。

第一条 定义

就本协议而言，除非另有规定：

- (a) 关税是指与商品进口相关的任何关税、进口关税和任何种类的费用，包括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条第二款的规定一致的内税相当的收费，适用于类似货物或一方或进口货物的制造或生产所依据的货物；(ii) 根据一方法律规定并按照1994年关税及贸易总协定第VI条、反倾销协定以及补贴与反补贴措施协定的规定适用的反倾销税或反补贴税；或(iii) 与提供的服务成本相当的费用或其它收费；

- (b) **days** means calendar days;
- (c) **existing** means in effect on the date of entry into force of this Agreement;
- (d) **GATS** means the *General Agreement on Trade in Services*, contained in Annex 1B to the WTO Agreement;
- (e) **GATT 1994** means the *General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the WTO Agreement;
- (f) **measure** includes any law, regulation, procedure, requirement or practice;
- (g) **national** means a natural person who:
 - (i) for Australia, is an Australian citizen, or has the right of permanent residence in Australia; and
 - (ii) for China, has the nationality of China according to the laws of China;
- (h) **person** means either a natural person or juridical person;
- (i) **territory** means:
 - (i) for Australia, the territory of Australia:
 - (A) 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
 - (B) including Australia's territorial sea, contiguous zone, exclusive economic zone and continental shelf over which Australia exercises sovereign rights or jurisdiction in accordance with international law; and
 - (ii) for China, the entire customs territory of the People's Republic of China, including land, airspace, internal waters, territorial sea, and areas beyond the territorial sea within which China exercises sovereign rights or jurisdiction in accordance with international law and its domestic law;

(b) 天指日历日；(c) 有效指在本协议生效日期生效；(d) GATS指包含于世界贸易组织协定附件1B中的服务贸易总协定；(e) GATT 1994指包含于世界贸易组织协定附件1A中的1994年关税及贸易总协定；(f) 措施包括任何法律、法规、程序、要求或做法；(g) 国民指：(i) 对于澳大利亚，是澳大利亚公民，或拥有澳大利亚永久居留权的人；以及(ii) 对于中国，根据中国法律具有中国国籍的人；(h) 个人指自然人或法人；(i) 领土指：(i) 对于澳大利亚，澳大利亚的领土：(A) 除诺福克岛、圣诞岛、科科斯（基林）群岛、阿什莫尔和卡蒂尔群岛、赫德岛和麦克唐纳群岛以及珊瑚海群岛领土以外的所有外部领土除外；以及(B) 包括澳大利亚根据国际法行使主权权利或管辖权的领海、邻接区、专属经济区和大陆架；以及

(ii) 对于中国中华人民共和国整个关税领土，包括陆地、领空、内水、领海以及根据国际法及其国内法中国行使主权或管辖权的领海以外区域；

- (j) **WTO** means the World Trade Organization; and
- (k) **WTO Agreement** means the *Marrakesh Agreement Establishing the World Trade Organization*, done at Marrakesh on 15 April 1994.

(j) WTO是指世界贸易组织；以及(k) WTO协议是指马拉喀什建立世界贸易组织协定，于1994年4月15日在马拉喀什完成。

CHAPTER 2
TRADE IN GOODS

第二章 货物贸易

ARTICLE 2.1: SCOPE

This Chapter applies to trade in goods of a Party.

ARTICLE 2.2: DEFINITIONS

For the purposes of this Chapter:

- (a) **Agreement on Import Licensing Procedures** means the *Agreement on Import Licensing Procedures* contained in Annex 1A to the WTO Agreement;
- (b) **consular transactions** means requirements that documents related to goods of a Party intended for export to the territory of the other Party must first be submitted to the consul of the importing Party in the territory of the exporting Party for the purpose of obtaining consular invoices or consular visas. Such documents may include commercial invoices, certificates of origin, manifests, shippers' export declarations, or any other customs documentation required on or in connection with importation;
- (c) **existing** means in effect on the date of entry into force of this Agreement;
- (d) **export subsidy** means a subsidy as defined by Article 3 of the Agreement on Subsidies and Countervailing Measures and includes export subsidies listed in Article 9 of the *Agreement on Agriculture*, contained in Annex 1A to the WTO Agreement;
- (e) **Harmonized System** (HS) means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes and Chapter Notes, as adopted and administered by the World Customs Organization; and
- (f) **measure** includes any law, regulation, procedure, requirement or practice.

ARTICLE 2.3: NATIONAL TREATMENT ON INTERNAL TAXATION AND REGULATION

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

第2.1条 范围

本章适用于一方的货物贸易。

第2.2条 定义

本章适用：

- (a) 进口许可证程序协定是指包含在世界贸易组织协定附件1A中的进口许可证程序协定；(b) 领事交易是指与一方打算出口到另一方领土的商品相关的文件必须首先提交给出口方领土中进口方的领事，以获取领事发票或领事签证。此类文件可包括商业发票、原产地证书、舱单、出口商出口申报或任何其他与进口有关的海关文件；(c) 现有是指在协议生效日期有效的；(d) 出口补贴是指根据补贴与反补贴措施协定第3条定义的补贴，并包括包含在世界贸易组织协定附件1A中的农业协定第9条中列出的出口补贴；(e) 协调制度（HS）是指由世界海关组织制定和管理的协调商品描述和编码系统，包括其解释总规则、第X节注释和章节注释；以及(f) 措施包括任何法律、法规、程序、要求或做法。

ARTICLE 2.3: NATIONAL TREATMENT ON INTERNAL TAXATION AND REGULATION

每一方应根据1994年关税及贸易总协定第III条的规定，给予另一方货物国民待遇。为此，1994年关税及贸易总协定第III条经修订后纳入本协议，并成为本协议的一部分。

ARTICLE 2.4: ELIMINATION OF CUSTOMS DUTIES

1. Each Party shall eliminate its customs duties on originating goods of the other Party in accordance with its Schedule to Annex I (Schedules in Relation to Article 2.4 (Elimination of Customs Duties)).
2. Neither Party shall increase any existing customs duty or introduce a new customs duty on imports of an originating good of the other Party other than in accordance with this Agreement.

ARTICLE 2.5: CLASSIFICATION OF GOODS

The classification of goods traded between the Parties shall be in conformity with the Harmonized System, as adopted and implemented by the Parties in their respective tariff laws.

ARTICLE 2.6: CUSTOMS VALUATION

Each Party shall determine the customs value of goods traded between the Parties in accordance with Article VII of the GATT 1994 and the Customs Valuation Agreement.

ARTICLE 2.7: NON-TARIFF MEASURES

1. Unless otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction or measure having equivalent effect, including quantitative restrictions, on the importation of a good originating in the territory of the other Party, or on the exportation or sale for export of a good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994. To this end, Article XI of GATT 1994 is incorporated into and made part of this Agreement, *mutatis mutandis*.
2. A Party shall not adopt or maintain any non-tariff measures on the importation of any good of the other Party or on the exportation of any good destined for the territory of the other Party, except in accordance with its rights and obligations under the WTO Agreement or this Agreement.
3. Each Party shall ensure the transparency of its non-tariff measures permitted in paragraph 2 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.

第2.4条：关税消除

1. 每一方应根据其附件I的附录（与第2.4条（关税消除）相关的年度）消除其对另一方原产地货物的关税。
2. 任何一方不得增加任何有效的关税或对本协议规定之外的原产地货物进口征收新的关税。

第2.5条：货物分类

缔约方之间交易的货物分类应与缔约方在其各自关税法律中采纳和实施的协调制度一致。

第2.6条：关税估价

每一方应根据1994年关税及贸易总协定第七条和海关估价协定确定缔约方之间贸易货物的海关估价。

第二条七款：非关税措施

- 1.除非本协议另有规定，否则任何一方不得采取或维持任何禁止、限制或具有等效效力的措施，包括数量限制，针对源自另一方领土的商品的进口，或针对运往另一方领土的商品的出口或出口销售，除非根据1994年关税及贸易总协定第十一条的规定。为此，1994年关税及贸易总协定第十一条并入本协议，并成为本协议的一部分，相应修改。
- 2.任何一方不得针对另一方的任何商品进口或运往另一方领土的任何商品出口采取或维持任何非关税措施，除非根据世界贸易组织协定或本协议规定的其权利和义务。
3. 每一方应确保第2段所允许的非关税措施的透明度，并确保任何此类措施均不得以或以造成对缔约方之间贸易的不必要障碍为目的而制定、采纳或实施。

4. The Committee on Trade in Goods, established in accordance with Article 2.15, shall review non-tariff measures within the scope of this Chapter with a view to ensuring that they do not constitute unnecessary obstacles to trade between the Parties. Either Party may nominate measures for consideration by the Committee on Trade in Goods.

ARTICLE 2.8: IMPORT LICENSING

1. Each Party shall ensure that import licensing regimes applied to goods originating in the other Party are applied in accordance with the WTO Agreement, and in particular, with the provisions of the Agreement on Import Licensing Procedures.

2. Neither Party shall apply import licensing to goods traded between the Parties unless such licensing is:

- (a) used to administer a quantitative restriction on imports in conformity with this Agreement or with the WTO Agreement;
- (b) used for purposes other than the implementation of quantitative restrictions in conformity with this Agreement, the WTO Agreement or other international obligations; or
- (c) automatic within the meaning of Article 2.1 of the Agreement on Import Licensing Procedures.

3. Promptly after the date of entry into force of this Agreement, each Party shall notify the other Party of its existing import licensing regimes and related licensing procedures. Thereafter each Party shall notify the other Party of any new import licensing procedure and any modification to its existing import licensing procedures, to the extent possible 60 days before it takes effect but in any case no later than the effective date of the licensing procedure. A notification provided in accordance with this Article shall include the information specified in paragraphs 2 through 4 of Article 5 of the Agreement on Import Licensing Procedures.

4. Each Party shall answer within 30 days all reasonable enquiries from the other Party with regard to criteria employed by its respective licensing authorities in granting or denying import licences.

ARTICLE 2.9: ADMINISTRATIVE FEES AND FORMALITIES

1. Each Party shall ensure, in accordance with Article VIII:1 of GATT 1994, that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charges applied consistently with Article

4. 根据第2.15条建立的商品贸易委员会应审查本章范围内的非关税措施，以确保其不构成对缔约方之间贸易的不必要障碍。任何一方均可向商品贸易委员会提名供其审议的措施。

第2.8条：进口许可证

1. 每一方应确保适用于另一缔约方原产货物的进口许可证制度符合世界贸易组织协定，并特别符合进口许可证程序协定的规定。

2. 任何一方不得对缔约方之间贸易的货物实施进口许可证，除非该许可证是：

- (a) 用于实施与本协议或世界贸易组织协定一致进口数量限制的管理；(b) 用于与本协议、世界贸易组织协定或其他国际义务一致的进口数量限制实施以外的目的；或(c) 根据进口许可证程序协定第2.1条的定义为自动的。

3. 在本协议生效日期后，每一方应立即将其实施的现有进口许可证制度及相关许可证程序通知另一方。此后，每一方应在新的进口许可证程序生效前尽可能在60天内，但无论如何不迟于许可证程序的有效日期，通知另一方任何新的进口许可证程序及其现有进口许可证制度的任何修改。根据本条提供的通知应包括进口许可证程序协定第5条第2至4款中规定的信。

4. 每一方应在30日内答复另一方关于其各自许可证管理机构在授予或拒绝进口许可证时采用的标准的所有合理询问。

ARTICLE 2.9: ADMINISTRATIVE FEES AND FORMALITIES

根据1994年关税及贸易总协定第八条第一款，每一方应确保所有费用和收费，无论其性质如何（关税、等同于内部税或与第六条一致地应用的其它内部费用除外）。

III:2 of GATT 1994, and antidumping and countervailing duties applied in accordance with Article VI and XVI of the GATT 1994, the Agreement on the Implementation of Article VI of the GATT 1994 and the Agreement on Subsidies and Countervailing Measures), imposed on or in connection with importation or exportation, are limited in amount to the approximate cost of services rendered and do not represent indirect protection of domestic products or a taxation of imports or exports for fiscal purposes.

2. Neither Party shall 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 on the internet details of fees and charges it imposes in connection with importation and exportation.

ARTICLE 2.10: ADMINISTRATION OF TRADE REGULATIONS

1. 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 the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing or other use.

2. In accordance with Article VIII of GATT 1994, neither Party shall impose substantial penalties for minor breaches of customs regulations or procedural requirements. In particular, no penalty in respect of any omission or mistake in customs documentation, which is easily rectified and obviously made without fraudulent intent or gross negligence, shall be greater than necessary to serve merely as a warning.

ARTICLE 2.11: EXPORT SUBSIDIES

Neither Party shall introduce or maintain any export subsidy on any good destined for the territory of the other Party.

ARTICLE 2.12: TRANSPARENCY AND REVIEW OF NON-TARIFF MEASURES

The Committee on Trade in Goods may refer for consideration measures falling within the scope of Chapter 5 (Sanitary and Phytosanitary Measures) or Chapter 6 (Technical Barriers to Trade) to the Committee on Sanitary and Phytosanitary Measures or the Committee on Technical Barriers to Trade as appropriate. The Committee on Sanitary and Phytosanitary Measures or the Committee on Technical Barriers to Trade, as appropriate, shall report the results of such consideration to the Committee on Trade in Goods.

1. 每一方应根据1994年关税及贸易总协定第八条：1款的规定，确保对进口或出口所征收或与之相关的所有费用和收费（除关税、等效于内部税或其他与第八条III：2款规定一致地适用的内部费用，以及根据1994年关税及贸易总协定第六条和第十六条规定的反倾销和反补贴措施、关于实施1994年关税及贸易总协定第六条的协定以及补贴与反补贴措施协定所征收的费用之外），其金额应限制在所提供服务的近似成本，并且不应构成对国内产品的间接保护或以财政为目的对进口或出口的征税。

2. 任何一方不得就另一方任何商品的进口要求领事交易，包括相关费用和收费。

3. 每一方应在互联网上提供其就进口和出口所征收的费用和收费的详细信息。

条款2.10：贸易法规的管理

1. 根据1994年关税及贸易总协定第十条，每一方应以统一、公正和合理的方式实施其关于产品的海关分类或估价、关税税率、税收或其他费用、进口或出口的要求、限制或禁止、或支付转移的要求、限制或禁止，或影响其销售、分销、运输、保险、仓储、检验、展览、加工、混合或其他使用的所有法律、法规、司法判决和行政裁决。

2. 根据1994年关税及贸易总协定第八条，任何一方不得对海关法规或程序要求的轻微违约行为处以重大处罚。特别是，对于海关文件中的遗漏或错误，如果易于纠正且显然是由于欺诈意图或重大过失之外的原因造成的，则不得规定超过仅作为警告所必需的处罚。

条款 2.11：出口补贴

任何一方不得对出口至另一方领土的任何商品引入或维持任何出口补贴。

ARTICLE 2.12: TRANSPARENCY AND REVIEW OF NON-TARIFF MEASURES

货物贸易委员会可适当将属于第5章（卫生与植物卫生措施）或第6章（技术性贸易壁垒）范围内的措施提交卫生与植物卫生措施委员会或技术性贸易壁垒委员会审议。卫生与植物卫生措施委员会或技术性贸易壁垒委员会应根据情况将审议结果报告货物贸易委员会。

ARTICLE 2.13: COUNTRY SPECIFIC TARIFF QUOTA

1. For products in respect of which China establishes a Country Specific Tariff Quota (“CSTQ”) in its Schedule to Annex I (Schedules in Relation to Article 2.4 (Elimination of Customs Duties)), China shall grant duty-free treatment to imports of such products of Australian origin up to the quantity for each year as specified in Annex 2-A after entry into force of this Agreement.
2. Imports of such products of Australian origin in excess of the specified quantity in Annex 2-A in any given calendar year shall be subject to the most-favoured-nation (“MFN”) applied rate.
3. The quantities of the CSTQ beyond the last stage specified in Annex 2-A shall remain at the same level as the last stage.

ARTICLE 2.14: SPECIAL AGRICULTURAL SAFEGUARD MEASURES

1. China may apply a special agricultural safeguard measure to agricultural products specified in Annex 2-B in accordance with this Article.
2. If, during any given calendar year, the volume of imports by China from Australia of the originating products listed in Annex 2-B exceeds the trigger level for the products in that calendar year as set out in Annex 2-B, China may apply a special agricultural safeguard measure to the products in the form of an additional customs duty.
3. The sum of the additional customs duty applied under paragraph 2 and any other customs duties applied to the products in question shall not exceed the lesser of the MFN applied rate of customs duty in effect on the date on which the special agricultural safeguard measure is applied, or the base rate.
4. China may maintain a special agricultural safeguard measure applied under paragraph 2 only until the end of the calendar year in which China applies the measure.
5. Supplies of the products in question which were en route to China on the basis of a contract settled before the special agricultural safeguard measure is applied under paragraph 2 shall be exempted from such additional customs duty, provided that they shall be counted in the volume of imports of the products in question during the following calendar year for the purposes of a determination under paragraph 2 in that calendar year.
6. Any special agricultural safeguard measure shall be applied in a transparent manner. China shall ensure that the volume of imports is published regularly in a manner which is readily accessible to Australia, and shall give notice in writing,

第2.13条：特定国家关税配额

1. 对于中国在其附件I的附录（与第2.4条（关税消除）相关的年度）中为特定国家关税配额（“CSTQ”）所设的产品，中国应在本协议生效后，对澳大利亚原产此类产品的进口给予免税待遇，直至附件2-A中规定的每年数量。
2. 在任何日历年内，来自澳大利亚原产的此类产品的进口数量超过附件2-A中规定的数量时，应适用最惠国待遇（“MFN”）税率。
3. 超过附件2-A中最后规定阶段的CSTQ数量应保持在最后阶段的水平。

第2.14条：特殊农业保护措施

1. 中国可根据本条款的规定，对附件2-B中规定的农产品采取特殊农业保护措施。
2. 如果在任何给定的日历年中，中国从澳大利亚进口附件2-B中列出的原产产品的数量超过附件2-B中规定的该日历年内产品的触发水平，中国可以对产品采取特别农业保障措施，形式为附加关税。
3. 第2段规定的附加关税与对相关产品征收的任何其他关税之和不得超过最惠国关税税率，该税率在特别农业保障措施实施之日生效，或基本税率中较低者。
4. 中国只能维持第2段规定的特别农业保障措施，直至中国实施该措施的那个日历年结束。
5. 在第2段规定的特别农业保障措施实施前已与中国签订合同的、正在运往中国的相关产品供应，应豁免此类附加关税，但须计入该日历年内相关产品的进口数量，以便在第2段规定的该日历年内进行裁决。
6. 任何特殊的农业保障措施应以透明的方式实施。中国应确保进口数量以澳大利亚可轻易获取的方式定期公布，并应以书面形式提前尽可能远地通知澳大利亚，在任何情况下，应在该措施实施之日起10日内通知澳大利亚。

including relevant data, to Australia as far in advance as may be practicable, and in any event within 10 days of the implementation of such measure.

7. China may not apply or maintain, with respect to the same products, a special agricultural safeguard measure and, at the same time, apply or maintain a measure under Article XIX of GATT 1994, the Agreement on Safeguards or Chapter 7 (Trade Remedies) of this Agreement.

8. In the last stage of the application of a trigger level for the respective products as set out in Annex 2-B, the Committee on Trade in Goods will conduct a review of the special agricultural safeguard measure. If the review concludes that imports from Australia of the products covered by the special agricultural safeguard measure have not caused serious injury to the corresponding Chinese domestic industry, then the special agricultural safeguard measure for the products will no longer apply. If the Committee determines that serious injury has occurred, then a further review, as specified above, will take place six years later, and every six years thereafter as required.

ARTICLE 2.15: COMMITTEE ON TRADE IN GOODS

1. The Parties hereby establish a Committee on Trade in Goods (hereinafter referred to in this Article as the “Committee”) comprising representatives of each Party.

2. The Committee shall meet on request of a Party or the FTA Joint Commission to consider the operation and implementation of this Chapter, Chapter 7 (Trade Remedies), Chapter 3 (Rules of Origin and Implementation Procedures) or Chapter 4 (Customs Procedures and Trade Facilitation).

3. 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 tariff and non-tariff barriers to trade in goods between the Parties and, if appropriate, referring such matters to the FTA Joint Commission for its consideration.

4. The Committee shall submit to the FTA Joint Commission an initial progress report on its work relating to non-tariff measures under Article 2.7, including any recommendations, within one year of the date of entry into force of this Agreement.

5. The Committee shall review the implications of each periodic Harmonized System amendment and promptly recommend to the FTA Joint Commission any necessary amendments to Annex I (Schedules in relation to Article 2.4 (Elimination of

包括相关数据，并在任何情况下，在措施实施之日起10日内通知澳大利亚。

7. 中国不得就相同产品同时适用或维持一项特殊农业保障措施，并适用或维持1994年关税及贸易总协定、保障措施协定或本协议第7章（贸易救济）项下的措施。

8. 在附件2-B中规定的针对各自产品的触发水平应用的最后阶段，货物贸易委员会将对特殊农业保障措施进行审查。如果审查结论认为来自澳大利亚的受特殊农业保障措施涵盖的产品进口未对该相应中国国内产业造成严重损害，则该产品的特殊农业保障措施将不再适用。如果委员会认定发生了严重损害，则将按照上述规定在六年后进行进一步审查，并按要求此后每六年间隔进行一次。

第2.15条：货物贸易委员会

1. 各方 hereby 设立一个货物贸易委员会（以下简称本条中称“委员会”），由各方的代表组成。

2. 委员会应根据一方或自由贸易协定联合委员会的要求召开会议，审议本章、第7章（贸易救济）、第3章（原产地规则和实施程序）或第4章（海关程序和贸易便利化）的运营和实施情况。

3. 委员会的职能应包括：

- (a) 促进缔约方之间的货物贸易，包括通过磋商加速本协议项下的关税消除和其他适当事项；以及 (b) 解决缔约方之间货物贸易的关税和非关税壁垒，并在适当情况下将此类事项提交自由贸易协定联合委员会审议。

4. 委员会应在本协议生效之日起一年内，向自由贸易协定联合委员会提交关于第2.7条项下非关税措施的初步工作报告，包括任何建议。

5. 委员会应审查每个定期协调制度修正案的影响，并及时向自由贸易协定联合委员会建议对附件I（与第2.4条（消除关税）相关的日程）和附件II（原产地特定规则）进行必要的修正，以反映协调制度修正案。

Customs Duties)) and Annex II (Product Specific Rules of Origin) to reflect the Harmonized System amendment.

ARTICLE 2.16: DISPUTE SETTLEMENT

The dispute settlement provisions in Chapter 15 (Dispute Settlement) shall apply to any matter arising under this Chapter.

关税消除）和附件II（原产地特定规则）进行必要的修正，以反映协调制度修正案。

条款 2.16：争端解决

第15章（争端解决）中的争端解决条款应适用于本章产生的任何事项。

ANNEX 2-A
COUNTRY SPECIFIC TARIFF QUOTA

1. Table 1 specifies the products in respect of which China establishes a Country Specific Tariff Quota (CSTQ) in its Schedule to Annex I (Schedules in Relation to Article 2.4 (Elimination of Customs Duties)).
2. For the products specified in Table 1, the quantity of the CSTQ to which China shall grant duty-free treatment for each complete calendar year is specified in Table 2. In the year of entry into force of this Agreement, where there will remain more than nine calendar months, the Stage 1 quantity shall apply, prorated for the percentage of the year remaining from the date of entry into force. In that case China shall have three full calendar months from the date of entry into force to prepare for opening the quantity for application. In the year of entry into force of this Agreement, where there will remain less than nine calendar months, the Stage 1 quantity shall not apply until the start of the first complete calendar year after entry into force of this Agreement, and the quantities in subsequent years shall be the full quantities for subsequent stages specified in Table 2.
3. China shall operate the CSTQ in a transparent manner and, on request of Australia, provide information on the quantity of the CSTQ issued. Unless otherwise agreed, the rules applying to the administration of the CSTQ for the products of Australian origin will be consistent with the *Detailed Rules for Implementation of Administration on Import Tariff Quotas of Wool and Wool Tops in 2015* (Ministry of Commerce Announcement No. 65 of 2014) or any successor rules in force in any given calendar year.

Table 1: Products

	HS Code	Description of Product
1	51011100	Greasy shorn wool, not carded or combed
2	51011900	Greasy wool (excl. shorn), not carded or combed
3	51012100	Degreased shorn wool, not carbonised, not carded or combed
4	51012900	Degreased wool (excl. shorn), not carbonised, not carded or combed
5	51013000	Carbonised wool, not carded or combed
6	51031010	Noils of wool, not garnetted stock

Table 2: Quantity of the Country Specific Tariff Quota

Stage	Quantity of the Country Specific Tariff Quota (tonnes)
1	30,000
2	31,500
3	33,075
4	34,729

附件2-A 特定国家关税配额

1. 表1规定了中华人民共和国在其附件I（与第2.4条（关税消除）相关的年度）中为特定国家关税配额（CSTQ）设立的产品。
2. 对于表1中规定的产品，中国每年应给予免税待遇的CSTQ数量在表2中规定。在本协议生效的年份，如果剩余时间超过九个月，则适用第一阶段数量，并根据自生效之日起剩余年份的百分比进行比例计算。在这种情况下，中国应自生效之日起有三个月的完整日历年时间准备开放申请数量。在本协议生效的年份，如果剩余时间少于九个月，则第一阶段数量不适用，直到本协议生效后的第一个完整日历年开始，后续年份的数量应为表2中规定的后续阶段的全量。
3. 中国应以透明的方式运营CSTQ，并在澳大利亚提出请求时提供已发放CSTQ数量的信息。除非另有约定，适用于澳大利亚原产地产品CSTQ管理的规则将与2015年羊毛和羊毛条目的进口关税配额管理实施详细规则（2014年第65号商务部公告）或任何在给定日历年生效的后续规则一致。

表1：产品

	HS编码	产品描述
1	51011100	未梳未并的脂毛
2	51011900	未梳未并的脂毛（不包括剪毛）
3	51012100	未碳化未梳未并的脱脂毛
4	51012900	未碳化未梳未并的脱脂毛（不包括剪毛）
5	51013000	碳化毛，未梳未并
6	51031010	羊毛短纤维，非染色纱线

表2：国家特定关税配额数量

阶段	国家特定关税配额数量（吨）
1	30,000
2	31,500
3	33,075
4	34,729

Stage	Quantity of the Country Specific Tariff Quota (tonnes)
5	36,465
6	38,288
7	40,203
8	42,213
9	44,324

Note: The specified quantities are expressed in terms of clean equivalent weight.

阶段	国家特定关税配额数量（吨）
5	36,465
6	38,288
7	40,203
8	42,213
9	44,324

注意：指定的数量以清洁当量重量表示。

ANNEX 2-B
SPECIAL AGRICULTURAL SAFEGUARD MEASURES

Part I Beef

1. Table 1 specifies the products that may be subject to a special agricultural safeguard measure under Article 2.14.
2. The trigger level in the calendar year in which this Agreement enters into force shall be the Stage 1 level specified in Table 2, prorated for the percentage of that year for which this Agreement is in force.
3. The trigger level in subsequent years shall be the full trigger level specified in Table 2, with the continuation of the final trigger level subject to paragraph 8 of Article 2.14.

Table 1: Products

	HS code	Description of Product
1	02011000	Fresh or chilled bovine carcasses & half carcasses
2	02012000	Fresh or chilled bovine meat (excl. carcasses) with bone in
3	02013000	Fresh or chilled boneless bovine meat
4	02021000	Frozen bovine carcasses & half carcasses
5	02022000	Frozen bovine meat (excl. carcasses) with bone in
6	02023000	Frozen boneless bovine meat

Table 2: Quantity Trigger Level

Stage	Trigger Level (tonnes)
1	170,000
2	170,000
3	170,000
4	170,000
5	174,454
6	179,687
7	185,078
8	190,630
9	196,349
10	202,240
11	208,307
12	214,556
13	220,993
14	227,623

附件2-B 特殊农业保护措施

第一部分 牛肉

1. 表1规定了可能根据第2.14条受到特殊农业保护措施的产品。
2. 本协议生效的日历年中的触发水平应为表2中规定的第一阶段水平，并根据本协议在该年生效的百分比进行比例计算。
3. 后续年份的触发水平应为表2中规定的全部触发水平，最终触发水平的延续受第2.14条第8段约束。

表1：产品

	HS编码	产品描述
1	02011000	新鲜或冷藏的牛胴体和半胴体
2	02012000	新鲜或冷藏的带骨牛肉（不包括胴体）with 带骨
3	02013000	新鲜或冷藏的无骨牛肉
4	02021000	冷冻牛胴体 & 半胴体
5	02022000	带骨冷冻牛肉（不包括胴体）
6	02023000	冷冻去骨牛肉

表2：数量触发水平

阶段	触发水平（吨）
1	170,000
2	170,000
3	170,000
4	170,000
5	174,454
6	179,687
7	185,078
8	190,630
9	196,349
10	202,240
11	208,307
12	214,556
13	220,993
14	227,623

Stage	Trigger Level (tonnes)
15	234,451
16	241,485
17	248,729

Part II Milk Powder

1. Table 3 specifies the products that may be subject to a special agricultural safeguard measure under Article 2.14.
2. The trigger level in the calendar year in which this Agreement enters into force shall be the Stage 1 level specified in Table 4, prorated for the percentage of that year for which this Agreement is in force.
3. The trigger level in subsequent years shall be the full trigger level specified in Table 4, with the continuation of the final trigger level subject to paragraph 8 of Article 2.14.

Table 3: Products

	HS code	Description of Product
1	04022100	Milk & cream in solid forms of >1.5% fat, unsweetened
2	04022900	Milk & cream in solid forms of >1.5% fat, sweetened

Table 4: Quantity Trigger Level

Stage	Trigger Level (tonnes)
1	17,500
2	18,375
3	19,294
4	20,258
5	21,271
6	22,335
7	23,452
8	24,624
9	25,855
10	27,148
11	28,506
12	29,931
13	31,427
14	32,999
15	34,649

阶段	触发水平（吨）
15	234,451
16	241,485
17	248,729

第二部分奶粉

1. 表3规定了可能根据第2.14条受到特殊农业保障措施的产品。
2. 本协议生效的日历年中的触发水平应为表4中规定的第一阶段水平，按本协议在该年有效期间的百分比进行比例计算。
3. 后续年份的触发水平应为表4中规定的全部触发水平，最终触发水平的延续应受第2.14条第8段的约束。

表3：产品

	HS编码	产品描述
1	04022100	固态形式的牛奶和奶油 >1.5%脂肪，无糖
2	04022900	固态形式的牛奶和奶油 >1.5%脂肪，加糖

表4：数量触发水平

阶段	触发水平（吨）
1	17,500
2	18,375
3	19,294
4	20,258
5	21,271
6	22,335
7	23,452
8	24,624
9	25,855
10	27,148
11	28,506
12	29,931
13	31,427
14	32,999
15	34,649

CHAPTER 3
RULES OF ORIGIN AND IMPLEMENTATION PROCEDURES

Section A: Rules of Origin

ARTICLE 3.1: DEFINITIONS

For the purposes of this Chapter:

- (a) **authorised body** means any Government authority or other entity authorised under the laws and regulations of a Party or recognised by a Party as competent to issue a Certificate of Origin;
- (b) **Certificate of Origin** means a form issued by an authorised body of the exporting Party, identifying the goods being consigned between the Parties and certifying that the goods to which the Certificate relates are originating in a Party in accordance with the provisions of this Chapter;
- (c) **CIF value** means the value of the good imported inclusive of the cost, insurance and freight up to the port or place of entry in the country of importation;
- (d) **Customs Valuation Agreement** means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994* contained in Annex 1A to the WTO Agreement;
- (e) **Declaration of Origin** means a statement as to the origin of the goods made by the exporter or producer of those goods, identifying the goods being consigned between the Parties and declaring that the goods to which the Declaration relates are originating goods;
- (f) **FOB** means the value of the good free on board inclusive of the cost of transport, including the insurance, up to the port or site of final shipment for export;
- (g) **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;
- (h) **material** means any matter or substance used in the production of a good and physically incorporated into that good;

第三章 原产地规则及实施程序

第A节：原产地规则

第三条第一款 定义

本章所称：

- (a) 授权机构是指根据一方法律法规授权或被一方认定为有资格签发原产地证书的政府机构或其他实体；(b) 原产地证书是指出口方授权机构签发的表格，用以识别缔约方之间托运的货物，并证明与证书相关的货物根据本章规定在一方原产；(c) 到岸价是指进口国进口口岸或地点的进口货物价值，包括成本、保险费和运费；(d) 海关估价协定是指包含在世界贸易协定附件1A中的1994年关税及贸易总协定第七条的实施协定；(e) 原产地声明是指出口商或生产商就货物原产地所作的声明，用以识别缔约方之间托运的货物，并声明与声明相关的货物为原产地货物；(f) FOB是指货物离岸价，包括运输成本，包括保险费，直至出口最终装运港或地点；(g) 公认会计原则是指一方领土内关于收入、费用、成本、资产和负债记录的公认共识或权威支持，信息的披露，以及财务报表的编制。这些标准可能包括广泛适用的通用指南以及详细的标准、做法和程序；
- (h) 材料是指用于生产商品并物理地融入该商品的任何物质或物质；

- (i) **originating material** means a material that qualifies as originating in accordance with this Chapter;
- (j) **producer** means a person who engages in the production of a good; and
- (k) **production** means methods of obtaining goods, including growing, raising, mining, harvesting, fishing, farming, trapping, hunting, capturing, gathering, collecting, breeding, extracting, manufacturing, processing or assembling a good.

ARTICLE 3.2: ORIGINATING GOODS

Unless otherwise indicated in this Chapter, a good shall be considered as originating in a Party when:

- (a) the good is wholly obtained or produced in the territory of a Party in accordance with Article 3.3;
- (b) the good is produced entirely in the territory of one or both Parties, exclusively from originating materials; or
- (c) the good is produced in the territory of one or both of the Parties, using non-originating materials, complies with the applicable product specific rule contained in Annex II (Product Specific Rules of Origin), and meets the other applicable provisions of this Chapter.

ARTICLE 3.3: WHOLLY OBTAINED GOODS

For the purposes of Article 3.2(a), the following goods shall be considered as wholly obtained or produced in the territory of a Party:

- (a) live animals born and raised in the territory of a Party;
- (b) goods obtained from live animals referred to in subparagraph (a) in the territory of a Party;
- (c) goods obtained directly from hunting, trapping, fishing, aquaculture, gathering, or capturing conducted in the territory of a Party;
- (d) plants and plant products¹ harvested, picked or gathered in the territory of a Party;

¹ The Parties understand that “plant” in subparagraph (d) refers to all plant life, including fungi and algae.

(i) 原产地材料是指根据本章规定符合原产地资格的材料；(j) 生产商是指从事商品生产的人员；以及(k) 生产是指获取商品的方法，包括种植、饲养、采矿、收获、捕捞、农业、捕捉、狩猎、捕获、收集、收集、繁殖、提取、制造、加工或组装商品。

第3.2条：原产地货物

除非本章另有说明，当货物符合以下条件时，应视为在一方领土内获得或生产：

(a) 货物根据第3.3条在一方领土内完全获得或生产；(b) 货物完全在一方或双方领土内生产，且仅使用原产地材料；或(c) 货物在一方或双方领土内生产，使用非原产地材料，符合附件II（原产地特定规则）中包含的适用产品特定规则，并满足本章其他适用规定。

第3.3条：完全获得货物

根据第3.2(a)条的目的，以下货物应被视为在另一方领土内完全获得或生产：

(a) 在一方领土内出生和饲养的活动物；(b) 在一方领土内从上述第(a)款所述活动物中获得的货物；(c) 在一方领土内直接进行的狩猎、捕捉、捕鱼、水产养殖、采集或捕获活动获得的货物；(d) 在一方领土内收获、采摘或采集的植物和植物产品¹；

¹ 各方理解，子句（d）中的“植物”是指所有植物生命，包括真菌和藻类。

- (e) mineral and other naturally occurring substances, not included in paragraphs (a) to (d) above, extracted or taken in the territory of a Party;
- (f) goods, other than fish, shellfish, plant and other marine life, extracted or taken from the waters, seabed or subsoil beneath the seabed outside the territory of that Party, provided that the Party has the right to exploit such waters, seabed or subsoil beneath the seabed in accordance with international law and the domestic law of the Party;
- (g) goods (fish, shellfish, plant and other marine life) taken from the high seas by a vessel registered with a Party and flying its flag;
- (h) goods obtained or produced from the goods referred to in subparagraph (g) on board factory ships registered with a Party and flying its flag;
- (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 entirely in the territory of a Party exclusively from goods referred to in subparagraph (a) through (i).

ARTICLE 3.4: CHANGE IN TARIFF CLASSIFICATION

A change in tariff classification requirement under Annex II (Product Specific Rules of Origin) requires that the non-originating materials used in the production of the goods undergo a change of tariff classification as a result of that production in the territory of one or both Parties.

ARTICLE 3.5: REGIONAL VALUE CONTENT

1. Where the Regional Value Content (RVC) is referred to in Annex II (Product Specific Rules of Origin), the RVC shall be calculated as follows:

RVC = $\frac{V - VNM}{V} \times 100$

where:

“RVC” is the regional value content, expressed as a percentage;

(e) 不包括上述第 (a) 至 (d) 款中的矿物和其他自然物质，在一方领土内开采或取得的；(f) 除鱼类、贝类、植物和其他海洋生物以外的货物，从该方领土以外的水域、海底或海底以下地层中开采或取得的，前提是该方根据国际法和各方的国内法有权开发这些水域、海底或海底以下地层；(g) 由在一方注册并悬挂其旗帜的船舶从公海取得的鱼类、贝类、植物和其他海洋生物；(h) 在与该方注册并悬挂其旗帜的工厂船上获得的或生产的货物，这些货物是指上述第 (g) 款所述的货物；(i) 产生于：(i) 一方领土内的生产；或 (ii) 在一方领土内收集的使用过的货物；前提是这些货物仅适用于原材料回收；以及 (j) 完全在一方领土内、仅从上述第 (a) 至 (i) 款所述货物中生产的货物。

条款 3.4：关税分类变更

附件II（原产地特定规则）项下关税分类要求发生变更时，要求在缔约方领土内生产该货物所使用的非原产地材料，因该生产而发生关税分类变更。

ARTICLE 3.5: REGIONAL VALUE CONTENT

1. 在附件II（原产地特定规则）中提及的区域价值含量（RVC）时，RVC应按如下方式计算：

RVC = $\frac{V - VNM}{V} \times 100$

其中：

“RVC” 是区域价值含量，以百分比表示；

“V” is the value of the good, as determined in accordance with the provisions of the Customs Valuation Agreement, adjusted on an FOB basis; and

“VNM” is the value of the non-originating materials, including materials of undetermined origin, as determined in accordance with paragraph 2.

2. The value of the non-originating materials shall be:

- (a) the CIF value of imported materials, determined in accordance with the Customs Valuation Agreement; or
- (b) the value determined in accordance with the Customs Valuation Agreement when the non-originating materials are acquired within the territory of that Party, not including freight, insurance, packing costs and any other costs incurred in transporting, within the Party’s territory, the non-originating materials to the location of the producer.

3. For the purpose of calculating the regional value content of a good in accordance with paragraph 1, no account shall be taken of the non-originating materials used to produce originating materials that are subsequently used in the production of the good.

ARTICLE 3.6: CUMULATION

Originating material from the territory of a Party used in the production of a good in the territory of the other Party shall be considered to originate in the territory of the other Party.

ARTICLE 3.7: DE MINIMIS

1. A good that does not satisfy a change in tariff classification requirement in accordance with Annex II (Product Specific Rules of Origin) will nonetheless be an originating good if:

- (a) the value of all non-originating materials used in the production of the good that does not undergo the required change in tariff classification does not exceed 10 percent of the value of the good as determined in accordance with Article 3.5; and
- (b) the good meets all other applicable provisions 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.

“V” 是商品的价值，根据海关估价协定的规定确定，并以 FOB 基础进行调整；和

“VNM” 是非原产地材料的价值，包括根据第2段确定的来源不明的材料价值。

2. 非原产地材料的价值应为：

- (a) 根据《海关估价协定》确定的进口材料的到岸价；或 (b) 当非原产地材料在该方领土内获得时，根据《海关估价协定》确定的价值，不包括运费、保险费、包装费以及将非原产地材料运至生产商所在地的任何其他费用。

3. 为了根据第1段计算商品的区域价值含量，不得考虑用于生产后续用于该商品生产的原产地材料的非原产地材料。

条款 3.6：累积

一方领土的原产地材料用于另一方领土的商品生产时，应视为原产于另一方领土。

条款 3.7：微不足道

1. 不满足附件II（原产地特定规则）规定的关税分类要求变更的商品，如果满足以下条件，仍应视为原产地货物：

- (a) 不发生所需关税分类变更的商品生产中所使用的所有非原产地材料的价值不超过根据条款3.5确定的商品价值的10%；以及 (b) 该商品满足本章所有其他适用规定。

2. 但是，此类非原产地材料的价值应当计入该商品适用的任何区域价值含量要求中的非原产地材料价值内。

ARTICLE 3.8: ACCESSORIES, SPARE PARTS AND TOOLS

1. Accessories, spare parts or tools presented and classified with an originating good that form part of the standard accessories, spare parts, or tools for that good shall be treated as originating goods and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification, provided that:

- (a) the accessories, spare parts, or tools are classified and invoiced with the goods and are included in the price of the goods;
- (b) the quantities and value of the accessories, spare parts, or tools are customary for the originating goods; and
- (c) if the good is subject to a regional value content requirement, the value of the accessories, spare parts, or tools 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.

2. Paragraph 1 does not apply where the accessories, spare parts or tools have been added solely for the purpose of artificially raising the regional value content of the goods.

ARTICLE 3.9: FUNGIBLE MATERIALS

1. The determination of whether fungible materials are originating materials shall be made either by physical separation of each of the materials or by the use of an inventory management method recognised in the generally accepted accounting principles of the exporting Party.

2. **Fungible materials** means materials which are interchangeable for commercial purposes, whose properties are essentially identical, and between which it is impractical to differentiate by a mere visual examination.

ARTICLE 3.10: PACKING, PACKAGES AND CONTAINERS

1. Containers and packing materials used for the transport of a good shall not be taken into account in determining the origin of the good.

2. Where a good is subject to a change in tariff classification requirement in Annex II (Product Specific Rules of Origin), the origin of the packaging materials and containers in which the good is packaged for retail sale shall be disregarded in

条款 3.8: 配件、备件和工具

1. 与原产地货物一同呈交并分类的配件、备件或工具，如果属于该货物的标准配件、备件或工具的一部分，则应视为原产地货物，并在确定该商品生产中所使用的所有非原产地材料是否经过适用的关税分类变更时予以忽略，前提是：

- (a) 配件、备件或工具与货物一并分类和开票，并包含在货物的价格中；(b) 配件、备件或工具的数量和价值是原产地货物的通常情况；以及(c) 如果货物受区域价值含量要求约束，配件、备件或工具的价值应作为原产地材料或非原产地材料，视情况而定，在计算货物的区域价值含量时予以考虑。

2. 第1段不适用于配件、备件或工具仅出于人为提高货物区域价值含量的目的而添加的情况。

条款 3.9: 可替代材料

1. 确定可替代材料是否为原产地材料，应通过物理分离每种材料或使用出口方公认会计原则中认可的库存管理方法进行。

2. 可替代材料是指为商业目的可互换的材料，其特性基本相同，且仅通过视觉检查难以区分。

ARTICLE 3.10: PACKING, PACKAGES 和CONTAINERS

1. 用于运输商品的容器和包装材料不应在确定商品原产地时予以考虑。

2. 当商品在附件II（原产地特定规则）中关税分类要求发生变化时，在零售销售中用于包装该商品的包装材料和容器，在确定该商品的原产地时应当不予考虑，前提是该包装材料和容器与该商品属于同一关税分类。

determining the origin of the good, provided that the packaging materials and containers are classified with the good.

3. Where a good is subject to a regional value content requirement, the value of the packaging materials and containers used for retail sale shall be taken into account as originating materials or non-originating materials, as the case may be, when determining the origin of the good.

ARTICLE 3.11: NEUTRAL ELEMENTS

1. In determining whether a good is an originating good, any neutral elements as defined in paragraph 2 shall be treated as originating.

2. **Neutral element** means a good used in the production of another good but not physically incorporated into that other good, or a good used in the operation of equipment associated with the production of another good, including:

- (a) fuel and energy;
- (b) tools, dies, and moulds;
- (c) spare parts and materials used in the maintenance of equipment and buildings;
- (d) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment and buildings;
- (e) gloves, glasses, footwear, clothing, safety equipment, and supplies;
- (f) equipment, devices, and supplies used for testing or inspecting the goods;
- (g) catalysts and solvents; and
- (h) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

ARTICLE 3.12 : MINIMAL OPERATIONS OR PROCESSES

1. A good shall not be considered to be originating only by reason of having undergone one or more of the following operations or processes:

- (a) operations or processes to ensure preservation of goods in good condition for the purposes of transport or storage;

确定商品的原产地，前提是包装材料和容器与商品归类一致。

3. 当商品受区域价值含量要求约束时，在确定商品原产地时，用于零售销售的包装材料和容器的价值应按具体情况被视为原产地材料或非原产地材料。

ARTICLE 3.11: 中性要素

1. 在确定商品是否为原产地货物时，第2段中定义的任何中性要素应被视为原产地要素。

2. 中性要素是指用于生产另一商品但未物理融入该商品的商品，或用于与另一商品生产相关的设备运营的商品，包括：

- (a) 燃料和能源；(b) 工具、模具和模具；(c) 用于维护设备和建筑物的备件和材料；(d) 用于生产或用于运营设备和建筑物的润滑剂、油脂、复合材料和其他材料；(e) 手套、眼镜、鞋、服装、安全设备和供应品；(f) 用于测试或检查商品设备的设备、装置和供应品；(g) 催化剂和溶剂；以及(h) 任何未融入商品但其在商品生产中的使用可以合理证明是商品生产一部分的其他商品。

ARTICLE 3.12 : 最小操作或程序

1. 商品不应仅因其经历了一个或多个以下运营或过程而被视为原产地：

- (a) 为确保货物在运输或储存过程中保持良好状态而进行的运营或流程；

- (b) packaging and repackaging;
 - (c) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);
 - (d) placing in bottles, cans, flasks, bags, cases or boxes, fixing on cards or boards, and other simple packaging operations;
 - (e) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging; or
 - (f) disassembly of goods.
2. Paragraph 1 shall prevail over the product specific rules set out in Annex II (Product Specific Rules of Origin).

ARTICLE 3.13: DIRECT CONSIGNMENT

1. An originating good shall retain its originating status provided that the good is directly transported to the importing Party without passing through the territory of a non-party.
2. Notwithstanding paragraph 1, an originating good transported through one or more non-parties, with or without trans-shipment or temporary storage in such non-parties, shall retain its originating status, provided that:
- (a) the good remains under customs control in those non-parties;
 - (b) the good does not undergo any operation there other than unloading and reloading, repacking, re-labelling for the purpose of satisfying the requirements of the importing Party, temporary storage or any operation required to keep them in good condition; and
 - (c) in cases where the good is temporarily stored in the territory of a non-party, as provided in paragraph 2 of this Article, stay of the good in that non-party shall not exceed 12 months from the date of its entry.
3. Consignments of originating goods may be split up in non-parties for further transport, subject to the fulfilment of the conditions listed in paragraph 2.
4. The customs administration of the importing Party may require the importer to submit documentary evidence to confirm compliance with the conditions listed in paragraph 2.

(b) 包装和重新包装；(c) 筛分、筛选、分类、分级、匹配（包括成套物品的组装）；(d) 装入瓶中、罐中、酒瓶中、袋子中、箱中或盒中，固定在卡片或板上，以及其他简单包装操作；(e) 在产品或其包装上粘贴或印刷标记、标签、标志和其他类似的区分标志；或 (f) 货物拆卸。

2. 第1段应优先于附件II（原产地特定规则）中规定的产品特定规则。

ARTICLE 3.13: DIRECT CONSIGNMENT

1. 原产地货物应保持其原产地地位，前提是货物直接运输至进口方，且未通过非缔约方的领土。
2. 尽管有第1段规定，通过一个或多个非缔约方运输的原产地货物，无论是否在该非缔约方进行转运或临时存储，只要满足以下条件，仍应保持其原产地地位，即：
- (a) 该货物仍处于这些非缔约方的海关监管之下；(b) 该货物除卸货、装货、重新包装、为满足进口方要求而重新贴标签、临时存储或任何为保持其良好状态所需的操作外，未在该地进行任何其他操作；以及 (c) 根据本条第2款的规定，如果该货物在非缔约方领土内进行临时存储，该货物在该非缔约方的停留时间不得超过其进入该非缔约方之日起12个月。
3. 原产地货物可拆分至非缔约方进行进一步运输，前提是须满足第2段中列出的条件。
4. 进口方的海关当局可以要求进口商提交文件证据以确认符合第2段中列出的条件。

Section B: Implementation Procedures

ARTICLE 3.14: CERTIFICATE OF ORIGIN

1. For the purposes of obtaining preferential tariff treatment in the other Party, a Certificate of Origin shall be issued by an authorised body of the exporting Party.
2. Each Party shall inform the customs administration of the other Party of the names and addresses of the authorised bodies issuing the Certificates of Origin and shall provide specimen impressions of official seals used by such authorised bodies. Any change in names, addresses or official seals shall be promptly notified to the customs administration of the other Party.
3. A Certificate of Origin shall be issued before or at the time of exportation when the goods have been determined to be originating in the exporting Party in accordance with the provisions of this Chapter. The exporter or producer shall submit an application for the Certificate of Origin together with appropriate supporting documents proving that the goods qualify as originating.
4. The Certificate of Origin, based on the template in Annex 3-A, shall be completed in the English language and shall be duly signed and stamped. A Certificate of Origin shall be applicable to one or more goods under one consignment unless the Parties otherwise agree and shall remain valid for 12 months from the date of issue.
5. Notwithstanding paragraph 3, in exceptional cases where a Certificate of Origin has not been issued before or at the time of exportation due to *force majeure*, or involuntary errors, omissions or other valid reasons, a Certificate of Origin may be issued within 12 months from the date of shipment, bearing the remark “ISSUED RETROSPECTIVELY”, and remain valid for 12 months from the date of shipment.
6. In cases of theft, loss or accidental destruction of a Certificate of Origin, the exporter or producer may, within the term of validity of the original Certificate of Origin, make a written request to the authorised body that issued the original certificate for a certified copy, provided that the original Certificate of Origin had not been used. The certified copy shall bear the words “CERTIFIED TRUE COPY of the original Certificate of Origin number ____ dated ____”. The certified copy shall have the same term of validity as the original Certificate of Origin.

ARTICLE 3.15: DECLARATION OF ORIGIN

1. A Declaration of Origin shall be accepted in place of a Certificate of Origin for any consignment of goods covered by an advance ruling issued by the importing Party in accordance with Article 4.9 (Advance Rulings) of Chapter 4 (Customs Procedures

B部分：实施程序

第3.14条：原产地证书

1. 为在另一方获得优惠关税待遇，出口方的授权机构应签发原产地证书。
2. 每一方应当将另一方签发原产地证书的授权机构的名称和地址通知海关当局，并提供此类授权机构使用的官方印章的样本。名称、地址或官方印章的任何变更应当及时通知另一方的海关当局。
3. 当货物根据本章规定被确定为本方原产时，原产地证书应当在出口前或出口时签发。出口商或生产商应当提交原产地证书的申请，并附上适当的证明货物符合原产地要求的支持文件。
4. 基于附件3-A模板的原产地证书应当用英语填写，并应当正式签署和盖章。除非各方另行同意，原产地证书适用于一票货物中的一个或多个货物，并自签发之日起12个月内保持有效。
5. 不论第3段如何规定，在因不可抗力、非故意错误、遗漏或其他有效理由导致原产地证书在出口前或出口时未能签发的情况下，自装运之日起12个月内可签发原产地证书，并注明“追溯签发”，该证书自装运之日起12个月内有效。
6. 如原产地证书被盗、丢失或意外毁坏，出口商或生产商可在原产地证书有效期内，向签发原产地证书的授权机构提交书面请求，申请证明副本，前提是原产地证书未被使用。证明副本应注明“原产地证书编号__日期__的真实证明副本”。证明副本的有效期应与原产地证书相同。

ARTICLE 3.15: DECLARATION OF ORIGIN

1. 原产地声明可代替原产地证书，用于任何由进口方根据第四章（海关程序）第4.9条（预先裁决）中预先裁决（且符合贸易便利化）认定为原产地的货物货物，前提是该裁决所依据的事实和情况保持不变且该裁决仍然有效。

and Trade Facilitation) that deems the good to qualify as originating, so long as the facts and circumstances on which the ruling was based remain unchanged and the ruling remains valid.

2. A Declaration of Origin shall be completed in the English language and duly signed by the exporter or producer in a format based on the template in Annex 3-B. The Declaration shall cover the goods presented under a single import customs declaration and shall remain valid for 12 months from the date of issue.

ARTICLE 3.16: CLAIMS FOR PREFERENTIAL TARIFF TREATMENT

1. Except as otherwise provided in Article 3.22, each Party shall grant preferential tariff treatment to a good that qualifies as an originating good of the exporting Party provided that the importer:

- (a) makes a claim for preferential tariff treatment, either by written or electronic means before or at the time of importation, or otherwise in accordance with the importing Party's laws and regulations, on the grounds that the good qualifies as an originating good;
- (b) possesses a valid Certificate or Declaration of Origin for the imported good;
- (c) submits, if required by the importing customs administration, the original or copy of the Certificate or Declaration of Origin and such other documentation relating to the importation of the good; and
- (d) submits, if required by the importing customs administration, evidence to prove that the consignment criteria specified in Article 3.13 have been met.

2. Where a Certificate or Declaration of Origin is not provided at the time of importation of a good, the importing customs administration may impose the non-preferential import customs duty or payment of a deposit equivalent to the non-preferential duty on that good. In such a case the importer may apply for a refund of any excess import customs duty or deposit paid within one year from the date of importation, or any longer period if provided for by the importing Party in its laws and regulations, provided that the requirements in paragraph 1 are fulfilled.

ARTICLE 3.17: MINOR ERRORS OR DISCREPANCIES

Where the origin of an imported good is not in doubt, minor transcription errors in a Certificate of Origin or discrepancies in documentation, or the absence of overleaf instructions in a Certificate of Origin, will not of themselves render the Certificate of

和贸易便利化) 中认定为原产地的货物货件, 前提是该裁决所依据的事实和情况保持不变且该裁决仍然有效。

2. 原产地证书应以英文填写, 并由出口商或生产商按照附件3-B中的模板正式签署。该证书应涵盖在一份进口海关申报中提交的货物, 并自签发之日起有效期为12个月。

条款3.16: 优惠关税待遇的申领

1. 除条款3.22另有规定外, 每一方应向符合出口方原产地货物标准的商品提供优惠关税待遇, 前提是进口商:

- (a) 在进口前或进口时, 以书面或电子方式申领优惠关税待遇, 或根据进口方法律法规以其他方式, 理由是该商品符合原产地货物标准; (b) 拥有进口货物的有效原产地证书或原产地声明; (c) 如进口海关当局要求, 提交原产地证书或原产地声明的原件或复印件以及与该货物进口相关的其他文件; 以及(d) 如进口海关当局要求, 提交证明已满足条款3.13中规定的发运标准的证据。

2. 当商品进口时未提供原产地证书或原产地声明, 进口海关当局可对该商品征收非优惠进口关税或要求支付相当于非优惠关税的押金。在这种情况下, 进口商可自进口之日起一年内(或根据进口方法律法规规定的更长期限), 在满足第1段要求的前提下, 申请退还已支付的任何超额进口关税或押金。

ARTICLE 3.17: 小INOR 误RRORS 或差ISCREPANCIES

如果进口商品的原产地没有疑问, 原产地证书中的轻微转录错误或文件中的差异, 或原产地证书中缺少背面说明, 本身不会使该证书无效

Origin invalid if it does in fact correspond to the good. However, this does not prevent the customs administration of the importing Party from initiating a verification process in accordance with Article 3.21.

ARTICLE 3.18: WAIVER OF CERTIFICATE OF ORIGIN OR DECLARATION OF ORIGIN

1. For the purpose of granting preferential tariff treatment under this Chapter, a Party shall waive the requirements for the presentation of a Certificate of Origin or Declaration of Origin and grant preferential tariff treatment to:

- (a) any consignment of originating goods of a customs value not exceeding 1,000 Australian dollars for Australia or 6,000 RMB for China, or such higher amount as each Party may establish; or
- (b) other originating goods as provided under its laws and regulations.

2. Waivers provided for in paragraph 1 shall not be applicable when it is established by the customs administration of the importing Party that the importation forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the submission of a Certificate of Origin or Declaration of Origin.

ARTICLE 3.19: AMENDMENTS TO CERTIFICATES OR DECLARATIONS OF ORIGIN

1. Neither erasures nor superimpositions shall be permitted on any Certificate or Declaration of Origin. Any amendment to a Certificate of Origin or Declaration of Origin shall be made by striking out the erroneous information and making any addition which might be required. Any such alterations shall be endorsed by the person who made them and, for a Certificate of Origin, certified by the authorised body which issued the Certificate of Origin.

2. Any empty space on a Certificate of Origin or Declaration of Origin shall be crossed out or otherwise marked to prevent subsequent additions.

ARTICLE 3.20: RETENTION OF ORIGIN DOCUMENTS

1. Each Party shall require its producers, exporters, and importers to retain the Certificate of Origin, Declaration of Origin and any other documentary evidence sufficient to substantiate the origin of the goods as defined in this Chapter for 3 years or such longer period in accordance with that Party's laws and regulations.

原产地无效，如果它确实与商品相符。但是，这并不妨碍进口方海关当局根据第3.21条启动验证程序。

条款 3.18：豁免原产地证书或原产地声明

1. 为在本章节项下授予优惠关税待遇之目的，一方应豁免提交原产地证书或原产地声明的要求，并向下列货物授予优惠关税待遇：

- (a) 任何海关估价不超过 1,000 澳大利亚元（针对澳大利亚）或 6,000 人民币（针对中国）的原产地货物，或每一方可能设立的更高金额；或
- (b) 根据其法律法规提供的其他原产地货物。

2. 第1段项下提供的豁免，在进口方海关当局认定进口属于一系列可能合理地被视为为避免提交原产地证书或原产地声明而进行的进口时，不适用。

条款 3.19：原产地证书或原产地声明的修正案

1. 任何原产地证书或原产地声明均不得有涂改或覆盖。对原产地证书或原产地声明的任何修改，应通过划掉错误信息并添加可能需要的任何内容来进行。此类任何更改应由进行更改的人员签字，并且对于原产地证书，应由签发该原产地证书的授权机构认证。

2. 原产地证书或原产地声明上的任何空白处应划掉或以其他方式标记，以防止后续添加。

ARTICLE 3.20: RETENTION OF ORIGIN DOCUMENTS

1. 每一方应根据该缔约方法律法规，要求其生产商、出口商和进口商保留本章节中定义的货物原产地所要求的原产地证书、原产地声明和任何其他充分证明货物原产地的文件证据，期限为3年或更长时间。

2. Each Party shall ensure that its authorised bodies retain copies of Certificates of Origin and any other documentary evidence sufficient to substantiate the origin of the goods

ARTICLE 3.21: VERIFICATION OF ORIGIN

1. For the purposes of determining whether goods imported into the territory of a Party from the territory of the other Party qualify as originating goods, the importing customs administration may conduct a verification process in sequence by means of:

- (a) requesting the assistance of the customs administration of the exporting Party;
- (b) written requests for information from the exporter or producer in the territory of the exporting Party;
- (c) written requests to the authorised body of the exporting Party that issued the Certificate of Origin to verify the validity of the Certificate; or
- (d) such other procedures as the customs administrations of the Parties may jointly decide.

2. A verification action under paragraph 1 shall only be initiated when there are reasonable grounds to doubt the accuracy or authenticity of a Certificate of Origin or Declaration of Origin, the origin status of the goods concerned or the fulfilment of any other requirements under this Chapter.

3. In taking verification action pursuant to paragraph 1(a), the customs administration of the importing Party shall:

- (a) specify the reasons for the verification action and provide any relevant documents and information obtained to the customs administration of the exporting Party;
- (b) limit such requests using a risk management approach; and
- (c) endeavour to complete any verification action within six months of the commencement of such action and promptly provide written advice of its decision to all relevant parties.

4. In taking verification action pursuant to paragraph 1(a), the customs administration of the exporting Party shall:

- (a) subject to paragraph 4(b), respond promptly to the request and reply not later than three months after its receipt; and

2. 每一方应确保其授权机构保留原产地证书和任何其他充分证明货物原产地的文件证据的副本。

第3.21条：原产地验证

1. 为确定从另一方领土进口至一方领土的货物是否属于原产地货物，进口海关当局可依次通过以下方式开展验证程序：

- (a) 请求出口方海关当局提供援助；(b) 向出口方领土内的出口商或生产商发出书面信息请求；(c) 向签发原产地证书的出口方授权机构发出书面请求以验证证书的有效性；或(d) 由缔约方海关当局共同决定的其他程序。

2. 根据第1段的规定发起的验证行动，仅在存在合理理由怀疑原产地证书或原产地声明、相关货物的原产地地位或本章规定的任何其他要求得到满足时方可发起。

3. 根据第1(a)段的规定采取验证行动时，进口方海关当局应：

- (a) 说明验证行动的理由，并将获得的任何相关文件和信息提供给出口方的海关当局；(b) 采用风险管理方法限制此类请求；以及(c) 努力在行动开始后的六个月内完成任何验证行动，并及时向所有相关方提供其决定的书面建议。

4. 在根据第1(a)段采取验证行动时，出口方的海关当局应：

- (a) 遵守第4(b)段的规定，及时回应请求，并在收到请求后三个月内回复；以及

- (b) endeavour to provide assistance to the extent permitted by its laws, regulations and policies, but may nevertheless deny or limit assistance on the basis of resource availability.

5. If all verification actions under paragraph 1 have been exhausted and have failed to resolve the concern of the customs administration of the importing Party, a verification visit may be conducted of the premises of the exporter or producer with the prior consent and assistance of the customs administration of the exporting Party, according to procedures jointly decided by the customs administrations of the Parties.

6. This Article shall not affect the rights of customs administrations of the Parties to undertake verification or compliance activities within their territories in accordance with their laws and regulations.

ARTICLE 3.22: DENIAL OF PREFERENTIAL TARIFF TREATMENT

1. A Party may deny preferential tariff treatment to a good where:

- (a) the importer fails to make a claim for preferential tariff treatment before or at the time of importation in accordance with the importing Party's laws and regulations;
- (b) the name of the relevant authorised body or the specimen impressions of official seals used by such authorised body, or advice of any change in the above information, have not been provided to the customs administration of the importing Party;
- (c) action taken under Article 3.21 failed to verify the eligibility of the good for preferential tariff treatment, including where:
 - (i) the customs administration of the exporting Party is unable for any reason to respond to the request to the satisfaction of the customs administration of the importing Party; or
 - (ii) the exporter or producer, as appropriate, fails to provide information which the importing Party has requested within three months of the date of request.
- (d) notwithstanding Article 3.18.1, an importation forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purposes of circumventing the requirements of this Chapter; or

- (b) 尽力在法律、法规和政策允许的范围内提供援助，但可根据资源可用性拒绝或限制援助。

5. 如果第1段项下的所有核查措施均已用尽且未能解决进口方海关当局的关切，则经出口方海关当局事先同意和援助，可以对出口商或生产商的场所进行核查访问，具体程序由缔约方海关当局共同决定。

6. 本条款不影响缔约方海关当局根据其法律法规在其领土内进行核查或合规活动的权利。

条款 3.22：拒绝给予优惠关税待遇

1. 一方可以对商品拒绝给予优惠关税待遇，其中：

- (a) 进口方未根据进口方法律法规，在进口前或进口时申领优惠关税待遇；
- (b) 相关授权机构的名称或其使用的官方印章的印模，或上述信息的变更通知，未提供给进口方海关当局；
- (c) 根据 第3.21条 采取的行动未能核实商品享受优惠关税待遇的资格，包括：
 - (i) 出口方海关当局因任何原因无法令进口方海关当局满意地回应请求；或
 - (ii) 出口商或生产商（如适用），未在请求之日起三个月内提供进口方要求的信息。
- (d) 尽管有 第3.18.1条，但一项进口属于可能被合理视为规避本章要求而进行或安排的一系列进口的一部分；或

- (e) the good does not or did not comply with the other requirements of this Chapter, including where:
 - (i) the Certificate or Declaration of Origin has not been duly completed and signed;
 - (ii) the good does not qualify as an originating good; or
 - (iii) the data provided under the Certificate or Declaration of Origin does not correspond to those of the supporting documents submitted.

2. In the event that preferential tariff treatment is denied, the customs administration of the importing Party shall provide to the exporter, importer or producer, as the case may be, the reasons for that decision in writing.

ARTICLE 3.23: GOODS TRANSPORTED EN ROUTE AFTER EXPORTATION

1. The customs administration of the importing Party shall grant preferential treatment for an originating good of the exporting Party which is in the process of being transported from the exporting Party to the importing Party on the date of entry into force of this Agreement.
2. The importer shall make a claim for preferential tariff treatment under paragraph 1 within six months from the date of entry into force of this Agreement and comply with the requirements of Article 3.16.

ARTICLE 3.24: REVIEW

The Parties shall commence a joint review of origin documentary requirements within 3 years following entry into force of this Agreement. The review will consider the development of an electronic origin data exchange system to ensure the effective and efficient implementation of this Chapter, as well as the introduction of additional trade facilitative measures including broadening the use of Declarations of Origin.

(e) 商品不符合本章的其他要求，包括：

- (i) 原产地证书或原产地声明未按规定完成和签署；(ii) 该商品不符合原产地货物标准；或 (iii) 原产地证书或原产地声明中提供的数据与提交的支持文件不一致。

2. 如被拒绝给予优惠关税待遇，进口方海关当局应以书面形式向出口商、进口商或生产商（以适用者为准）提供该决定的理由。

条款 3.23：出口后运输途中的货物

1. 进口方海关当局应在本协议生效日期，对正在从出口方运输至进口方的出口方原产地货物给予优惠待遇。
2. 进口商应在本协议生效之日起六个月内，根据第1段提出优惠关税待遇的申领，并遵守条款 3.16 的要求。

条款 3.24：审查

各方应在本协议生效后3年内开始对原产地文件要求进行联合审查。审查将考虑开发电子原产地数据交换系统，以确保本章的有效和高效实施，以及引入其他贸易便利化措施，包括扩大原产地声明（Declaration of Origin）的使用。

ANNEX 3-A
CERTIFICATE OF ORIGIN

(SAMPLE ONLY- ORIGINALS TO BE SUPPLIED BY AUTHORISED BODIES)

1. Exporter's name, address and country:			Certificate No.: CERTIFICATE OF ORIGIN Form for China-Australia Free Trade Agreement Issued in: _____			
2. Producer's name and address (if known):						
3. Importer's name, address and country (if known):			For official use only:			
4. Means of transport and route (if known) Departure date: Vessel/Flight/Train/Vehicle No.: Port of loading: Port of discharge:			5. Remarks:			
6. Item number (max. 20)	7. Marks and numbers on packages (optional)	8. Number and kind of packages; description of goods	9. HS code (6-digit code)	10. Origin criterion	11.Gross or net weight or other quantity (e.g. Quantity Unit, litres, m³.)	12. Invoice number and date
13. Declaration by the exporter or producer The undersigned hereby declares that the above-stated information is correct and that the goods exported to _____ (Importing Party) comply with the origin requirements specified in the China-Australia Free Trade Agreement.			14. Certification On the basis of the control carried out, it is hereby certified that the information herein is correct and that the described goods comply with the origin requirements of the China-Australia Free Trade Agreement.			
			Place, date, and signature and stamp of the Authorised Body Tel: _____ Fax: _____ Address: _____			
Place, date and signature of authorised person						

附件3-A 原产地证书

(仅供参考- 原件由授权机构提供)

1. 出口商名称、地址和国家：			证书编号： 原产地证书 中国-澳大利亚自由贸易协定申请表			
2. 生产商名称和地址（如知晓）：			签发地点：_____			
3. 进口商名称、地址和国家（如知晓）：			仅供官方使用：			
4. 运输方式和路线（如知晓） 出发日期： 船舶/航班/火车/车辆编号： 装货港： 卸货港：			5. 备注：			
6. 项目 号码 (最多 20)	7. 包装上的标志和编号 包装上 的标志和编 号（可选）	8. 数量和种类 包装; 货物描述 商品	9. HS编码 (6位编码)	10. 原产地 标准	11.毛重或净重 重量或其他 数量（例如， 数量单位，升， m³。）	12. 发票 号码和 date
13. 出口商或生产商的声明 签署人特此声明，上述 信息是准确的，并且出口至 _____ (进口方) 符合中国-澳大利亚自由贸易协定中规定的 原产地要求。			14. 认证 根据所进行的控制，兹证明 本文件中的信息是正确的，并且所描述的 货物符合中国—澳大利亚自由贸易协定的 原产地要求。 _____ 地点、日期和授权人的签名和印章 Body Tel: _____ Fax: _____ 地址：_____			

- Overleaf Instruction

Box 1:

State the full legal name and address of the exporter in Australia or China.

Box 2:

State the full legal name and address (including country) of the producer, if known. If more than one producer’s good is included in the certificate, list the additional producers, including names and addresses (including country). If the exporter or the producer wish the information to be confidential, it is acceptable to state “Available to the competent authority or authorised body upon request”. If the producer and the exporter are the same, please complete the box with “SAME”. If the producer is unknown, it is acceptable to state "UNKNOWN".

Box 3:

State the full legal name and address of the importer in Australia or China, if known.

Box 4:

Complete the means of transport and route and specify the departure date, transport vehicle number, and port of loading and discharge, if known.

Box 5:

The Customer’s Order Number, Letter of Credit Number, among others, may be included. If the invoice is issued by a non-Party operator, information such as the name, address and country of the operator issuing the invoice shall be indicated herein.

Box 6:

State the item number; item number shall not exceed 20.

Box 7:

State the shipping marks and numbers on packages, when such marks and numbers exist.

Box 8:

The number and kind of packages shall be specified. Provide a full description of each good. The description should be sufficiently detailed to enable the products to be identified by the Customs Officers examining them and relate it to the invoice description and to the HS description of the good. If the goods are not packed, state “in bulk”. When the description of the goods is finished, add “***” (three stars) or “\ ” (finishing slash).

Box 9:

For each good described in Box 8, identify the HS tariff classification (a six-digit code).

Box 10:

For each good described in Box 8, state which criterion is applicable, according to the following instructions. The rules of origin are contained in Chapter 3 (Rules of Origin and Implementation Procedures) and Annex II (Product Specific Rules of Origin) of the China-Australia Free Trade Agreement.

Origin Criterion	Insert in Box 10
The good is “wholly obtained” in the territory of a Party in accordance with Article 3.3 (Wholly Obtained Goods).	WO
The good is produced entirely in the territory of one or both Parties, exclusively from materials whose origin conforms to the provisions of Chapter 3 (Rules of Origin and Implementation Procedures).	WP
The good is produced in the territory of one or both Parties, using non-originating materials that comply with the applicable product specific rule; and meets the other applicable provisions of Chapter 3 (Rules of Origin and Implementation Procedures).	PSR

- Box 11:

State gross or net weight in kilograms or other units of measurement for each good described in Box 8. Other units of measurement (e.g. volume or number of items) which would indicate exact quantities may be used where customary.
- Box 12:

The invoice number and date should be shown here.
- Box 13:

The box must be completed by the exporter or producer. Insert the place, date and the signature of a person authorised by the exporter or producer.
- Box 14:

The box must be completed, signed, dated and stamped by the authorised person of the authorised body. The telephone number, fax and address of the authorised body should be given.

- Overleaf Instruction

Box 1:

填写出口商在澳大利亚或中国的全称和地址。

Box 2:

如知悉，填写生产商的全称和地址（包括国家）。如果证书中包含多个生产商的商品，请列出其他生产商，包括姓名和地址（包括国家）。如果出口商或生产商希望信息保密，可以填写“经主管部门或授权机构请求后提供”。如果生产商和出口商相同，请填写“相同”。如果生产商未知，可以填写“未知”。

- Box 3:

如知悉，填写进口商在澳大利亚或中国的全称和地址。
- Box 4:

填写运输方式和路线，并注明出发日期、运输车辆编号以及装货港和卸货港，如知悉。

方框 5：客户订单号、信用证号等可以包括在内。如果发票由非当事人经营者签发，则应在此处注明签发票据的经营者姓名、地址和国家。

方框 6：说明项目编号；项目编号不得超过 20 个。

方框 7：当包装上的标志和编号存在时，应说明运输标志和编号。

方框 8：应说明包装数量和种类。提供每件商品的详细描述。描述应足够详细，以便海关官员能够通过检查的产品来识别它们，并将其与发票描述和商品的 HS 描述相关联。如果货物未包装，请说明“散装”。当商品描述完成后，添加“***”（三个星号）或“\ ”（结束斜杠）。

方框 9：对于方框 8 中描述的每件商品，确定 HS 关税分类（六位代码）。

箱子10：对于在箱子8中描述的每种商品，根据以下说明说明适用哪个标准。原产地规则包含在中国-澳大利亚自由贸易协定的第3章（原产地规则和实施程序）和附件II（原产地特定规则）中。

原产地标准	插入到箱子10
该商品在一方领土上“完全获得”。 根据第3.3条（完全获得货物）。	WO
该商品完全在一个或两个一方领土上生产。 缔约方，仅由符合第3章（原产地规则和实施程序）规定的原产地材料的商品构成 条款的原产地规则和实施程序）。 实施程序）。	WP
该商品在一个或两个缔约方的领土内生产。 使用材料材料遵守适用 产品特定规则；并符合第3章的 其他适用规定（原产地规则和实施 程序）。	PSR

箱11：列出第8箱中每种商品的毛重或净重，以千克或其他计量单位表示。在习惯用法的情况下，可以使用其他计量单位（例如体积或项目数量）来表明确切的数量。

箱12：应在此处显示发票号码和日期。

箱13：该箱必须由出口商或生产商填写。插入地点、日期和由出口商或生产商授权的个人签名。

第14箱：该箱必须由授权机构的授权人员填写、签字、注明日期并盖印。授权机构的电话号码、传真和地址应予提供。

Continuation Sheet

Certificate of Origin – Form for China-Australia Free Trade Agreement

Certificate No.:

6. Item number (max. 20)	7. Marks and numbers on packages (Optional)	8. Number and kind of packages; description of goods	9. HS code (6-digit code)	10. Origin criterion	11. Gross or net weight or other quantity (e.g. Quantity Unit, litres, m ³ .)	12. Invoice number and date
13. Declaration by the exporter or producer The undersigned hereby declares that the above-stated information is correct and that the goods exported to _____ (Importing Party) comply with the origin requirements specified in the China-Australia Free Trade Agreement.			14. Certification On the basis of the control carried out, it is hereby certified that the information herein is correct and that the described goods comply with the origin requirements of the China-Australia Free Trade Agreement. _____ Place, date, and signature and stamp of the Authorised Body Tel: _____ Fax: _____ Address: _____			
_____ Place, date and signature of authorised person						

原产地证书续表 – 中国-澳大利亚自由贸易协定格式

证书编号:

6. 项目编号 (max. 20)	7. 包装上的标志和编号 包装 (可选)	8. 包装数量和种类; 描述 货物	9. HS编码 (6位编码)	10. 原产地标准	11. 总值或净重或其他数量 (例如 Quantity Unit, 升 , m ³ .)	12. 发票号码和 date
13. 出口商或生产商的声明 签署人特此声明, 上述信息是正确的, 并且出口的货物出口至 _____ (进口方) 遵守在原产地要求中规定的中国-澳大利亚自由贸易协定。 _____ 地点、日期和授权人签名			14. 认证 根据所进行的控制, 兹证明本文件中的信息是正确的, 并且所描述的商品符合中国-澳大利亚自由贸易贸易协议。 _____ 地点、日期和授权机构的签名和印章 Tel: _____ Fax: _____ 地址: _____			

ANNEX 3-B
DECLARATION OF ORIGIN
China-Australia Free Trade Agreement

On behalf of

_____, being the

(print exporter's or producer's name and address)

EXPORTER / PRODUCER / EXPORTER AND PRODUCER,

(strike out those which do not apply)

I hereby declare that the goods described below are originating goods from

AUSTRALIA / CHINA

(strike out that which does not apply)

in accordance with the rules of origin requirements of the China-Australia Free Trade Agreement.

I am legally responsible for the truthfulness and authenticity of what is declared in this document.

Item No.	Description of goods	Harmonised system code six (6) digits	Number and date of invoice	Reference number of advance ruling	Origin-conferring criteria

Signature: _____

Name: _____

Position: _____

Date: _____

Note: This declaration must be printed and presented as a separate document accompanying the commercial invoice. The maximum number of items covered by this declaration should not exceed 20.

A附件 3-B 原产地声明 中国-澳大利亚自由贸易协定

代表

_____, 作为

(打印出口商或生产商的名称和地址)

出口商 / 生产商 / 出口商和生产商,

(划掉不适用项)

我声明, 下述货物为

澳大利亚 / 中国

(划掉不适用项)

根据中国-澳大利亚自由贸易协定原产地规则要求。

我对此文件中声明的真实性负责。

Item No.	货物描述	协调制度编码六位数字	号码和日期的发票	参考号码预先裁定	原产地-conferring 标准

签名: _____

姓名: _____

职位: _____

日期: _____

注意: 本声明必须打印并作为单独文件随商业发票一起提交。本声明涵盖的项目数量不得超过20个。

CHAPTER 4
CUSTOMS PROCEDURES AND TRADE FACILITATION

ARTICLE 4.1: SCOPE

This Chapter applies to customs procedures applied to the goods traded and to the movement of means of transport between the Parties.

ARTICLE 4.2: DEFINITIONS

For the purposes of this Chapter:

- (a) **customs administration** means:
 - (i) in relation to Australia, the Australian Customs and Border Protection Service or its successor; and
 - (ii) in relation to China, the General Administration of Customs;
- (b) **customs laws** means the statutory, regulatory and administrative provisions relating to the importation, exportation, movement or storage of goods, the administration or enforcement of which are specifically charged to the customs administration, and any regulations made by the customs administration under its statutory powers; and
- (c) **customs procedures** means the treatment applied by the customs administration of each Party.

ARTICLE 4.3: CUSTOMS PROCEDURES AND FACILITATION

1. Each Party shall ensure that its customs procedures conform, where possible and to the extent permitted by its laws, regulations, and, where applicable, administrative rules or procedures, to international standards and recommended practices established by the World Customs Organization.
2. Each Party shall ensure that its customs procedures:
 - (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.

第四章 海关程序与贸易便利化

4.1条：范围

本章适用于贸易货物所适用的海关程序以及缔约方之间运输工具的移动。

4.2条：定义

就本章而言：

(a)海关当局是指：**(i)**就澳大利亚而言，澳大利亚海关和边境保护局或其继承者；以及**(ii)**就中国而言，海关总署；**(b)**海关法律是指与货物的进口、出口、移动或储存有关的法律、法规和行政规定，其管理或执行被特别委托给海关当局，以及海关当局根据其法定权力制定的任何法规；以及**(c)**海关程序是指每一方海关当局所适用的处理方式。

4.3条：海关程序和便利化

1. 每一方应确保其海关程序尽可能且在其法律、法规允许的范围内，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：
 - (a)** 以公正、统一和合理的方式实施；以及 **(b)** 避免任意和不合理的程序障碍。
3. 每一方的海关当局应定期审查其海关程序，旨在探索简化这些程序和增强互利安排以促进国际贸易的选项。

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

ARTICLE 4.4: COOPERATION

1. To the extent permitted by their laws and regulations, the customs administrations of both Parties shall endeavour to assist each other, in relation to:

- (a) the implementation and operation of this Chapter; and
- (b) such other issues as the Parties mutually determine.

2. Each Party shall endeavour to provide the other Party with timely notice of any significant modification of its customs laws or customs procedures that are likely to substantially affect the operation of this Agreement.

ARTICLE 4.5: RISK MANAGEMENT

Each Party shall work to further enhance the use of risk management techniques in the administration of its customs procedures so as to facilitate the clearance of low-risk goods and allow resources to focus on high-risk goods.

ARTICLE 4.6: APPLICATION OF INFORMATION TECHNOLOGY

1. Each Party shall apply information technology to support customs operations, where it is cost-effective and efficient, particularly in the paperless trading context, taking into account developments in this area within relevant international organisations, including the World Customs Organization.

2. The customs administration of each Party shall endeavour to establish as soon as practicable an electronic means for communication of relevant information required by it and other relevant, trade-related agencies to facilitate the international movement of goods and means of transport.

3. The introduction and enhancement of information technology shall, to the greatest extent possible, be carried out in consultation with relevant parties, including businesses directly affected.

4. 每一方应确保货物在不超过为确保合规其海关法律所需的时间期限内放行。

条款4.4：合作

1. 在其法律法规允许的范围内，缔约双方的海关当局应努力相互协助，涉及以下方面：

- (a) 本章节的实施和运作；以及
- (b) 各方共同商定的其他问题。

2. 每一方应努力及时通知另一方其海关法律或海关程序的任何重大修改，这些修改可能实质性影响本协定的运作。

条款 4.5：风险管理

每一方应努力进一步在海关程序的管理中应用风险管理技术，以便促进低风险货物的清关，并允许资源集中于高风险货物。

条款 4.6：信息技术应用

1. 每一方应应用信息技术支持海关操作，在成本效益和效率方面，特别是在无纸化贸易的背景下，并考虑到相关国际组织（包括世界海关组织）在该领域的进展。

2. 各方的海关当局应努力尽快建立电子通信方式，用于沟通其和其他相关、与贸易相关的机构所需的相关信息，以促进货物的国际运输和运输工具。

3. 信息技术引进和提升应尽可能与相关方磋商，包括直接受影响的业务。

ARTICLE 4.7: TRANSPARENCY

1. Each Party shall promptly publish, including on the internet, its laws, regulations and, where applicable, administrative rules or procedures of general application relevant to trade in goods between the Parties.
2. Each Party shall designate one or more enquiry points to address enquiries from interested persons on customs matters, and shall make available on the internet information concerning procedures for making such enquiries.
3. To the extent practicable and in a manner consistent with its laws and regulations, each Party shall publish, in advance on the internet, draft laws and regulations of general application relevant to trade between the Parties, with a view to affording the public, especially interested persons, an opportunity to provide comment.
4. Each Party shall ensure, to the extent possible, that a reasonable interval is provided between the publication of new or amended laws and regulations of general application relevant to trade between the Parties and their entry into force.
5. Each Party shall administer, in a uniform, impartial and reasonable manner, its laws and regulations of general application relevant to trade between the Parties.

ARTICLE 4.8: REVIEW AND APPEAL

Each Party shall ensure the availability of processes for administrative and judicial review of decisions taken by its customs administration. Such review shall be independent from the official or office that made the decision.

ARTICLE 4.9: ADVANCE RULINGS

1. Each Party shall provide for written advance rulings to be issued to a person described in paragraph 2(a) concerning tariff classification, whether a good is originating under this Agreement, and other matters the Parties may agree.
2. Each Party shall adopt or maintain procedures for issuing written advance rulings, which shall:
 - (a) provide that an exporter, importer or any person with a justifiable cause, or a representative thereof, may apply for an advance ruling. A Party may require that an applicant have legal representation or registration in its territory;
 - (b) include a detailed description of the information required to process a request for an advance ruling;

第4.7条：透明度

1. 每一方应迅速公布其法律、法规和，如适用，与缔约方之间货物贸易相关的通用行政规则或程序，包括在互联网上公布。
2. 每一方应指定一个或多个查询点，以处理利益相关者关于海关事项的查询，并应在互联网上提供有关进行此类查询的程序的信息。
3. 在切实可行且与其法律法规一致的情况下，每一方应在互联网上提前发布与缔约方之间贸易相关的一般适用法规草案，以便给予公众，特别是利益相关者，提供意见的机会。
4. 每一方应确保，在切实可行的范围内，与缔约方之间贸易相关的新或修订的一般适用法规的发布与其生效之间提供合理的间隔。
5. 每一方应以统一、公正和合理的方式实施其与缔约方之间贸易相关的一般适用法规。

第4.8条：审查和申诉

每一方应确保其海关当局作出的决定有行政和司法审查的程序。此类审查应独立于作出决定的官方或机构。

第4.9条：预先裁决

1. 每一方应规定向第2(a)段所述的个人签发书面预先裁决，涉及关税分类、商品是否根据本协定原产地以及其他各方可能同意的事项。
2. 每一方应制定或维持签发书面预先裁决的程序，该程序应：
 - (a) 规定出口商、进口商或任何有正当理由的个人或其代表可以申请预先裁定。一方可以要求申请人具有其领土内的法律代表或注册；
 - (b) 包括处理预先裁定请求所需信息的详细说明；

- (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; and
 - (e) provide that the ruling be issued, in the national language of the issuing customs administration, to the applicant expeditiously within 60 days on receipt of all necessary information.
3. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting forth the basis for its decision to decline to issue the advance ruling.
4. A Party may reject requests for an advance ruling where the additional information requested by it in accordance with paragraph 2(c) is not provided within the specified period.
5. Each Party shall endeavour to make information on advance rulings which it considers to be of significant interest to other traders publicly available, taking into account the need to protect confidential information.
6. Subject to paragraph 7, each Party shall apply an advance ruling to importations into its territory through any port of entry for three years or such longer period as a Party may decide, 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 of a good subject to the ruling during the validity period regardless of the importer or exporter involved, where the facts and circumstances are identical in all material respects.
7. A Party may modify or revoke an advance ruling, consistent with this Agreement, where:
- (a) there is a change in its laws or regulations;
 - (b) incorrect information is provided or relevant information is 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.

(c) 允许其海关当局在评估预先裁定申请的整个过程中，随时要求申请人提供评估请求所需的补充信息；(d) 确保预先裁定基于申请人提出的事实和情况以及决策者持有的任何其他相关信息；以及 (e) 规定裁定以签发海关当局的国家语言，在收到所有必要信息后60天内迅速向申请人签发。

3. 一方拒绝作出预先裁决的，应当及时以书面形式通知申请人，说明拒绝作出预先裁决的理由。
4. 一方可以拒绝预先裁决的请求，如果其根据第2段(c)所要求的补充信息未在规定时间内提供。
5. 每一方应当努力使其认为对其他贸易商具有重大意义的预先裁决信息公开可用，同时考虑到保护机密信息的需要。
6. 除第7段的规定外，每一方应当将预先裁决适用于其领土通过任何入境口岸进行的进口，期限为三年或一方决定的一个更长时期，自其作出裁决之日起计算，或裁决中规定的任何其他日期起计算。该方应当确保在有效期内，对受裁决约束的所有进口商品给予相同待遇，无论涉及哪个进口商或出口商，只要事实和情况在实质上完全相同。
7. 一方可以根据本协议修改或撤销预先裁定，其中：

(a) 其法律或法规发生变化；(b) 提供了不正确的信息或隐瞒了相关信息；(c) 实质性事实发生变化；或(d) 作出裁决所依据的情况发生变化。

ARTICLE 4.10: RELEASE OF GOODS

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties. This paragraph shall not require a Party to release a good where its requirements for release have not been met.
2. In accordance with paragraph 1, each Party shall adopt or maintain procedures that:
 - (a) provide for the release of goods as rapidly as possible after arrival, provided all other regulatory requirements have been met; and
 - (b) as appropriate, provide for advance electronic submission and processing of information before the physical arrival of goods with a view to expediting the release of goods.
3. Each Party shall endeavour to adopt and maintain a system under which goods in need of urgent clearance can obtain prompt customs clearance.

ARTICLE 4.11: PERISHABLE GOODS

1. With a view to preventing avoidable loss or deterioration of perishable goods, and provided all regulatory requirements have been met, each Party shall:
 - (a) provide for the release of perishable goods under normal circumstances within the shortest possible time; and
 - (b) provide for the release of perishable goods, in exceptional circumstances where it would be appropriate to do so, outside the business hours of its customs administration and other relevant authorities.
2. Each Party shall give appropriate priority to perishable goods when scheduling any examinations that may be required.
3. Each Party shall either arrange, or allow an importer to arrange, for the proper storage of perishable goods pending their release. Each Party may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities. The movement of the goods to those storage facilities, including authorisations for the operator moving the goods, may be subject to the approval, where required, of the relevant authorities. Each Party shall, where practicable and consistent with its laws, on request of the importer, provide for any procedures necessary for release to take place at those storage facilities.

4.10条：货物放行

1. 每一方应采用或维持简化海关程序以实现高效货物放行，以促进双方之间的贸易。本段规定不应要求缔约方在未满足其放行要求的情况下放行商品。
2. 根据第1段，每一方应当采用或维持下列程序：
 - (a) 在满足所有其他监管要求的前提下，提供货物抵达后尽快放行的程序；以及 (b) 在适当的情况下，提供货物实际抵达前提前电子提交和处理信息，以加快货物放行。
3. 每一方应当努力采用和维持一个系统，在该系统下，需要紧急清关的货物能够获得快速海关清关。

4.11条：易腐商品

1. 为了防止易腐商品发生可避免的损失或变质，并且所有监管要求均已满足，每一方应当：
 - (a) 在正常情况下，以最短的时间提供易腐商品的放行；以及 (b) 在特殊情况且适宜的情况下，在海关当局和其他相关当局的工作时间之外提供易腐商品的放行。
2. 每一方在安排任何可能需要的检查时，应当对易腐商品给予适当的优先权。
3. 每一方应当安排，或允许进口商安排，对易腐商品进行适当储存，直至其释放。每一方可以要求进口商安排的储存设施已获得其相关当局的批准或指定。货物运往这些储存设施的行动，包括移动货物的操作员的授权，可能需要获得相关当局的批准。每一方应当在切实可行且与其法律一致的情况下，应进口商的要求，提供任何必要的程序，以便在那些储存设施处进行释放。

ARTICLE 4.12: TEMPORARY ADMISSION OF GOODS

1. Each Party shall allow, as provided for in its laws and regulations, goods to be brought into its territory conditionally relieved, totally or partially, from payment of import duties and taxes if such goods:

- (a) are brought into its territory for a specific purpose;
- (b) are intended for re-exportation within a specific period; and
- (c) have not undergone any change except normal depreciation and wastage due to the use made of them.

2. A Party shall not apply any import duties or taxes on containers, pallets or packing material used in the transportation of goods.

ARTICLE 4.13: ACCEPTANCE OF COPIES

1. Each Party shall, where appropriate, endeavour to accept paper or electronic copies of supporting documents required for imported goods.

2. A Party shall not require an original or copy of export declarations submitted to the customs administration of the exporting Party as a requirement for importation.

ARTICLE 4.14: CONSULTATION

1. The customs administration of a Party may at any time request consultations with the customs administration of the other Party on any matter arising from the implementation or operation of this Chapter. Such consultations shall be conducted through the relevant contact points, and shall take place within 30 days of the request, unless the customs administrations of the Parties mutually determine otherwise.

2. The customs administration of each Party shall designate one or more contact points for the purposes of this Chapter and provide details of such contact points to the other Party. The customs administrations of the Parties shall notify each other promptly of any amendments to the details of their contact points.

3. The customs administrations of the Parties may consult each other on any trade facilitation issues arising from procedures to secure trade and the movement of means of transport between the Parties.

ARTICLE 4.12: 临时进口货物

1. 每一方应当根据其法律法规的规定，允许货物进入其领土，条件是这些货物：

- (a) 被带入其领土用于特定目的； (b) 旨在特定期限内再出口；并且 (c) 除正常折旧和使用造成的损耗外，未经任何改变。

2. 一方不得对用于货物运输的集装箱、托盘或包装材料征收任何进口关税或税收。

ARTICLE 4.13: 接受副本

1. 每一方应在适当情况下，努力接受进口货物所需的纸质或电子支持文件副本。

2. 一方不得要求出口方提交给海关当局的出口申报的原件或复印件作为进口的要求。

第4.14条：磋商

1. 一方的海关当局可以随时就本章节的实施或运营产生的任何事项，请求与另一方的海关当局磋商。此类磋商应通过相关联络点进行，且应在请求之日起30日内进行，除非缔约方的海关当局相互决定其他方式。

2. 各方的海关当局应为本章节的目的指定一个或多个联络点，并将此类联络点的详细信息提供给另一方。缔约方的海关当局应迅速相互通知其联络点详情的任何修正案。

3. 各方海关当局可就为保障贸易及各方之间运输工具的移动而采取的程序所产生的任何贸易便利化问题进行磋商。

CHAPTER 5
SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 5.1: 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 sanitary and phytosanitary measures;
- (c) strengthen cooperation between Australian and Chinese government agencies with responsibility for sanitary and phytosanitary matters; and
- (d) enhance implementation of the SPS Agreement.

ARTICLE 5.2: SCOPE

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

ARTICLE 5.3: DEFINITIONS

For the purposes of this Chapter,

- (a) **SPS Agreement** means the *Agreement on the Application of Sanitary and Phytosanitary Measures* contained in Annex 1A of the World Trade Organization Agreement; and
- (b) **sanitary and phytosanitary measure** means any measure referred to in paragraph 1 of Annex A of the SPS Agreement.

ARTICLE 5.4: INTERNATIONAL OBLIGATIONS

The Parties affirm their rights and obligations with respect to each other under the SPS Agreement.

第五章 卫生和植物卫生措施

第5.1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) 深化每一方关于卫生和植物卫生措施的法规和程序的相互理解；(c) 加强澳大利亚和中国政府机构在卫生和植物卫生事项上的合作；以及(d) 提高SPS协定的实施。

第5.2条：范围

本章适用于每一方可能直接或间接影响缔约方之间贸易的所有卫生和植物卫生措施。

第5.3条：定义

在本章节中，

- (a) SPS协定是指世界贸易组织协定附件1A中包含的《卫生和植物卫生措施应用协定》；以及
- (b) 卫生和植物卫生措施是指SPS协定附件A第1段中提到的任何措施。

ARTICLE 5.4: INTERNATIONAL OBLIGATIONS

各方确认其在SPS协定项下相互的权利和义务。

ARTICLE 5.5: TRANSPARENCY

1. The Parties acknowledge the importance of transparency in the application of sanitary and phytosanitary measures, including through, *inter alia*, the exchange of information on their respective sanitary and phytosanitary measures in a timely manner.
2. Each Party shall provide notification, consistent with the notification requirements under the SPS Agreement, to the enquiry point of the other Party of new or revised sanitary and phytosanitary measures, including measures imposed in response to an urgent threat to human, animal or plant life or health.
3. Upon request by a Party, the notifying Party shall provide the full text of the notified sanitary and phytosanitary measures to the enquiry point of the other Party within 7 days.
4. Whenever an international standard, guideline or recommendation does not exist, or the content of a proposed sanitary or phytosanitary measure is not substantially the same as the content of an international standard, guideline or recommendation, and if the measure may have a significant effect on trade of the other Party, the Party should normally allow at least 60 days for the other Party to make comments in writing, shall discuss these comments upon request, and shall take the comments and the results of the discussions into account.
5. Where urgent problems of health protection arise, or threaten to arise, for a Party, the Party is not required to provide an opportunity for the other Party to make comments in writing prior to the entry into force of the measure. However, the Party shall observe the provisions of paragraphs 3 and 4, shall allow the other Party to make comments in writing, shall discuss these comments upon request, and shall take the comments and the results of the discussions into account.
6. Where there is non-compliance of an imported consignment with sanitary and phytosanitary measures, the relevant government agency of the importing Party shall notify the relevant government agency of the exporting Party of the non-compliance without undue delay.

ARTICLE 5.6: COOPERATION

1. The Parties shall explore opportunities for further cooperation and collaboration on sanitary and phytosanitary matters at the bilateral, regional and multilateral levels consistent with the provisions of this Chapter, including through:
 - (a) cooperating on work in relevant international bodies and regional organisations engaged in food safety and human, animal or plant life or health issues;

第5.5条：透明度

1. 各方承认卫生和植物卫生措施应用透明度的重要性，包括但不限于及时交换各自卫生和植物卫生措施的信息。
2. 每一方应根据SPS协定的通知要求，将新修订的卫生和植物卫生措施通知另一方的咨询点，包括为应对对人类、动物或植物生命或健康的紧急威胁而采取的措施。
3. 当一方提出请求时，通知方应在7天内将通知的卫生和植物卫生措施的全文提供给另一方的咨询点。
4. 当不存在国际标准、指南或建议，或者拟议的卫生或植物卫生措施的内容与国际标准、指南或建议的内容基本不一致，并且该措施可能对另一方的贸易产生重大影响时，该方通常应至少给予另一方60天的时间以书面形式提出意见，应根据请求讨论这些意见，并将这些意见及讨论结果纳入考虑。
5. 当一方出现卫生保护紧急问题，或威胁出现此类问题时，该方在措施生效前无需为另一方提供书面意见的机会。然而，该方应遵守第3、4段的规定，应允许另一方提出书面意见，应根据请求讨论这些意见，并将意见及讨论结果纳入考虑。
6. 当进口货物不符合卫生和植物卫生措施时，进口方的相关政府机构应在不合理延迟的情况下，将不符合情况通知出口方的相关政府机构。

ARTICLE 5.6: COOPERATION

1. 各方应根据本章规定，在双边、区域和多边层面探索卫生和植物卫生事项的合作与协作机会，包括通过以下方式：
 - (a) 在从事食品安全和人类、动物或植物生命或健康问题相关国际机构和区域组织中合作开展工作；

- (b) strengthening technical cooperation and communication on import risk analysis principles and processes so as to avoid undue delay; and
- (c) conducting possible joint research projects on diseases and pest prevention, surveillance and control strategies and on other scientific issues, including in the area of food safety, relating to SPS measures.

2. The Committee on Sanitary and Phytosanitary Measures established in accordance with Article 5.11 shall consider proposals for cooperation and collaboration to give effect to this Article.

ARTICLE 5.7: REGIONALISATION AND EQUIVALENCE

Each Party shall accept the regionalisation and equivalence provisions of the SPS Agreement, and consider the relevant international standards, guidelines and recommendations, in order to facilitate trade between the Parties.

ARTICLE 5.8: CONTROL, INSPECTION AND APPROVAL PROCEDURES

1. Each Party shall implement its control, inspection and approval procedures in accordance with its rights and obligations under the SPS Agreement.
2. On request of a Party, the Parties shall exchange views and information on their control, inspection and approval procedures.
3. Each Party shall, on request of the other Party, accept the control, inspection and approval procedures of the other Party as equivalent, provided that it is satisfied that these achieve the importing Party's appropriate level of sanitary and phytosanitary protection.

ARTICLE 5.9: TECHNICAL ASSISTANCE AND CAPACITY BUILDING

1. The Parties recognise that cooperation, information sharing, capacity building and technical assistance are important elements in promoting the objectives of this Chapter.
2. The Parties shall give full consideration to the provisions on technical assistance and special and differential treatment in the SPS Agreement, and the possible difficulties that the Parties may encounter in the implementation of this Chapter. The Parties agree to take such reasonable measures, as may be available, to enhance capacity building by providing technical assistance.

(b) 加强在进口风险分析原则和流程方面的技术合作与沟通，以避免不当延误；以及 (c) 在疾病和害虫预防、监测和控制策略以及其他科学问题（包括与SPS措施相关的食品安全领域的问题）方面开展可能的联合研究项目。

2. 根据 第5.11条 成立的 卫生与植物卫生措施委员会 应考虑合作与协作提案，以实施本条。

第5.7条：区域化与等效性

每一方 应接受 SPS协定 的区域化与等效性条款，并考虑相关的 国际标准、指南和建议，以促进缔约方之间的贸易。

第5.8条：控制、检验和审批程序

1. 每一方 应根据其在 SPS协定 下的权利和义务 实施 其控制、检验和审批程序。
2. 应一方请求，缔约方应就其控制、检验和审批程序交换意见和信息。
3. 每一方在另一方请求时，应将另一方的控制、检验和审批程序视为等效，前提是其满意这些程序达到了进口方的适当水平的卫生和植物卫生保护。

第5.9条：技术援助和能力建设

1. 各方承认合作、信息共享、能力建设和技术援助是促进本章目标的重要要素。
2. 各方应当充分考虑到SPS协定中关于技术援助和特殊和差别待遇的规定，以及各方在实施本章时可能遇到的困难。各方同意采取一切合理的措施，通过提供技术援助来增强能力建设。

3. Consistent with the objectives of this Article, the Parties shall jointly consider technical assistance projects in the field of sanitary and phytosanitary measures for the purposes of implementing this Article. Such technical assistance projects may include, but are not limited to:

- (a) sharing knowledge, experience or research results in areas such as:
 - (i) animal and plant pests and diseases;
 - (ii) food safety;
 - (iii) agri-chemicals and veterinary medicines; and
 - (iv) other areas agreed by the Parties; and
- (b) consulting on positions in regional and international organisations and on relevant standards and programs.

4. The Parties shall explore opportunities for other forms of technical assistance or cooperation that the Parties jointly decide upon, including strengthening cooperation between their SPS enquiry points, sharing available translations of SPS notifications and related documents, and exchanging experience and information on SPS notifications.

ARTICLE 5.10: CONSULTATION AND DISPUTE SETTLEMENT

1. The Parties shall endeavour to resolve any matter arising under this Chapter through cooperative mechanisms under this Chapter.
2. Neither Party shall have recourse to the dispute settlement provisions in Chapter 15 (Dispute Settlement) for any matter arising under this Chapter.

ARTICLE 5.11: COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES

1. The Parties note the high level consultative mechanism established under the *Memorandum of Understanding on Cooperation in Sanitary and Phytosanitary Matters between the Australian Department of Agriculture, Fisheries and Forestry and the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China*.
2. The Parties hereby establish the Committee on Sanitary and Phytosanitary Measures (the "Committee"), comprising representatives of each Party.

3. 与本条目标一致，各方应当共同考虑在卫生和植物卫生措施领域实施本条目的技术援助项目。此类技术援助项目可包括但不限于：

- (a) 分享知识、经验或研究成果，例如：(i) 动植物病虫害；(ii) 食品安全；(iii) 农业化学品和兽药；以及 (iv) 各方同意的其他领域；以及 (b) 就在区域和国际组织中的立场、相关标准和相关项目进行磋商。

4. 各方应探讨其他形式的合作机会，这些机会由各方共同决定，包括加强其SPS咨询点之间的合作、分享可用的SPS通报和相关文件的中译本，以及就SPS通报交流经验和信息。

第5.10条：磋商与争端解决

1. 各方应通过本章规定的合作机制努力解决根据本章产生的任何事项。
2. 任何一方不得就根据本章产生的事项援引第15章（争端解决）中的争端解决条款。

第5.11款：卫生与植物卫生措施委员会

1. 各方注意到，根据澳大利亚农业、渔业和林业部与中华人民共和国质量监督检验检疫总局签署的《卫生与植物卫生合作谅解备忘录》建立的较高层级磋商机制。
2. 各方 hereby establish the Committee on Sanitary and Phytosanitary Measures (the "Committee"), comprising representatives of each Party.

3. For the purposes of this Article, the Committee shall be coordinated by:
- (a) for Australia, the Department of Agriculture or its successor; and
 - (b) for China, the General Administration of Quality Supervision, Inspection and Quarantine or its successor.
4. The Committee shall meet at least once every two years unless the Parties agree otherwise. The Committee's functions shall include:
- (a) promoting the objectives set out in Article 5.1;
 - (b) reviewing and monitoring the implementation of this Chapter;
 - (c) determining areas for cooperation and collaboration;
 - (d) considering proposals for technical assistance and capacity building under this Chapter;
 - (e) reviewing progress on and, as appropriate, seeking to address through mutual consent, sanitary and phytosanitary matters that may arise between the Parties;
 - (f) as appropriate, reporting its findings and the outcomes of its discussions to the FTA Joint Commission; and
 - (g) carrying out other functions as may be delegated to it by the FTA Joint Commission.
5. Each Party shall ensure that appropriate representatives with responsibility for sanitary and phytosanitary measures and food standards participate in meetings of the Committee.
6. The Committee may agree to establish technical working groups on human, animal and plant health or food safety, as necessary, including regionalisation and equivalence, to address issues arising from the implementation of this Chapter.
7. Each Party shall establish a contact point which shall have responsibility for coordinating the implementation of this Chapter. The contact points will be:
- (a) for Australia, the Department of Agriculture or its successor; and
 - (b) for China, the General Administration of Quality Supervision, Inspection and Quarantine or its successor.

根据本条款，该委员会应由以下人员协调：

(a) 对于澳大利亚，农业部门或其继承者；以及 (b) 对于中国，质量监督检验检疫总局或其继承者。

4. 委员会应每两年至少召开一次会议，除非缔约方同意其他安排。该委员会的职能应包括：

(a) 促进第5.1条中规定的目标；(b) 审查和监督本章的实施；(c) 确定合作和协作领域；(d) 考虑在本章下提供技术援助和能力建设提案；(e) 审查缔约方之间可能出现的卫生和植物卫生事项的进展，并适当通过相互同意寻求解决；(f) 适当情况下，向自由贸易协定联合委员会报告其发现及其讨论的结果；以及(g) 执行自由贸易协定联合委员会可能授予的其他职能。

5. 每一方应确保负责卫生和植物卫生措施和食品安全标准的适当代表参加该委员会的会议。

6. 委员会可以根据需要同意建立技术工作组，涉及人类、动物和植物健康或食品安全，包括区域化和等效性，以解决实施本章时出现的问题。

7. 每一方应设立一个联络点，负责协调本章的实施。联络点如下：

(a) 对于澳大利亚，农业部门或其继承者；以及 (b) 对于中国，质量监督检验检疫总局或其继承者。

CHAPTER 6
TECHNICAL BARRIERS TO TRADE

ARTICLE 6.1: OBJECTIVES

The objectives of this Chapter are to further the implementation of the TBT Agreement and to facilitate trade between the Parties through:

- (a) cooperation to ensure that technical regulations, standards and conformity assessment procedures do not create unnecessary barriers to trade;
- (b) improving access to information on technical regulations, standards and conformity assessment procedures;
- (c) enhancing mutual understanding of each Party's technical regulations, standards and conformity assessment procedures;
- (d) establishing communication links between agencies in the Parties and fostering cooperation at the regulatory level;
- (e) building on existing cooperation between standards, accreditation and conformity assessment organisations for the purpose of promoting recognition and acceptance of the results of conformity assessment; and
- (f) encouraging the reduction of transaction costs between the Parties.

ARTICLE 6.2: SCOPE

1. Unless otherwise provided in paragraphs 2 and 3, this Chapter applies to all standards, technical regulations and conformity assessment procedures of the central government that may, directly or indirectly, affect trade in goods between the Parties.
2. This Chapter does not apply to purchasing specifications prepared by government bodies for production or consumption requirements of such bodies.
3. This Chapter does not apply to sanitary and phytosanitary measures which are covered by Chapter 5 (Sanitary and Phytosanitary Measures).
4. Nothing in this Chapter shall prevent a Party from adopting or maintaining, in accordance with its rights and obligations under the TBT Agreement, standards, technical regulations and conformity assessment procedures.

第六章 技术性贸易壁垒

第六条第一款：目标

本章的目的是进一步实施技术性贸易壁垒协定，并通过以下方式促进缔约方之间的贸易：

- (a) 合作以确保技术法规、标准和合格评定程序不会造成不必要的贸易壁垒；
- (b) 改善对技术法规、标准和合格评定程序的信息获取；
- (c) 增进每一方对另一方技术法规、标准和合格评定程序的理解；
- (d) 在缔约方机构之间建立沟通渠道，并在监管层面促进合作；
- (e) 在现有标准、认证和合格评定组织之间的合作基础上，促进合格评定结果的承认和接受；以及
- (f) 鼓励减少缔约方之间的交易成本。

第六条第二款：范围

1. 除非第2款和第3款另有规定，本章适用于缔约方中央政府所有可能直接或间接影响缔约方之间货物贸易的标准、技术法规和合格评定程序。
2. 本章不适用于政府机构为自身生产或消费需求而制定的采购规格。
3. 本章不适用于第5章（卫生和植物卫生措施）所涵盖的卫生和植物卫生措施。
4. 本章规定不得阻止一方根据其在本章技术性贸易壁垒协定项下的权利和义务，制定或维持标准、技术法规和合格评定程序。

5. Each Party shall take such reasonable measures as may be available to it to ensure compliance with the provisions of this Chapter by local government bodies and non-government bodies within its territory.

ARTICLE 6.3: DEFINITIONS

For the purposes of this Chapter:

- (a) **TBT Agreement** means the *Agreement on Technical Barriers to Trade* contained in Annex 1A of the WTO Agreement; and
- (b) **technical regulation, standard and conformity assessment procedures** shall have the meanings assigned to them in Annex 1 of the TBT Agreement.

ARTICLE 6.4: AFFIRMATION OF THE TBT AGREEMENT

The Parties affirm their rights and obligations with respect to each other under the TBT Agreement.

ARTICLE 6.5: INTERNATIONAL STANDARDS

The Parties shall use international standards, guidelines and recommendations, or the relevant parts of international standards, as a basis for their technical regulations and related conformity assessment procedures where relevant international standards exist or their completion is imminent, unless such international standards or their relevant parts are ineffective or inappropriate to fulfil legitimate objectives.

ARTICLE 6.6: 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 that 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, on request of the other Party, explain its reasons. The Parties will, if they so agree, give further consideration to whether a Party should accept a particular regulation as equivalent to its own and consider establishing an *ad hoc* working group, as provided for in Article 6.13.5(e), for this purpose.

5. 每一方应采取其所能采取的合理措施，以确保其领土内的政府机构和非政府机构遵守本章规定。

条款 6.3：定义

就本章而言：

- (a) 技术性贸易壁垒协定是指世界贸易组织协定附件1A中包含的技术性贸易壁垒协定；以及(b) 技术法规、标准和合格评定程序应具有在技术性贸易壁垒协定附件1中赋予它们的含义。

条款 6.4：确认技术性贸易壁垒协定

各方确认其根据技术性贸易壁垒协定相互享有的权利和义务。

条款 6.5：国际标准

各方应在其技术法规及相关合格评定程序中，在相关的国际标准存在或即将完成时，以国际标准、指南和建议，或国际标准的有关部分为基础，除非这些国际标准或其有关部分无法实现合法目标或不适于实现合法目标。

条款 6.6：技术法规

- 1. 每一方应积极考虑接受另一方的技术法规作为等效法规，即使这些法规与其自身的法规不同，前提是其确信这些法规充分实现了其法规的目标。
- 2. 当一方不接受另一方的技术法规作为其自身的等效法规时，应根据另一方的请求，解释其理由。如果各方同意，将就一方是否应接受某一特定法规作为其自身的等效法规给予进一步考虑，并考虑根据第6.13.5(e)条的规定成立一个临时工作组，以实现此目的。

ARTICLE 6.7: CONFORMITY ASSESSMENT PROCEDURES

1. The Parties shall work cooperatively, in particular on mandatory conformity assessment procedures, with a view to facilitating trade.
2. The Parties recognise that a broad range of mechanisms exists to facilitate the acceptance of conformity assessment procedures and the results thereof.
3. The Parties agree to exchange information on conformity assessment procedures, including testing, inspection, certification, accreditation and metrology, with a view to building mechanisms for cooperation in the field of conformity assessment procedures in a manner consistent with the TBT Agreement and the relevant domestic legislation of the Parties.
4. The Parties agree to encourage their conformity assessment bodies to work more closely with a view to facilitating the acceptance of conformity assessment results between both Parties.
5. Subject to paragraph 6, each Party shall accredit 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.
6. China's domestic legislation requires a cooperation agreement between the Parties or their competent authorities before it can accredit, approve, license or otherwise recognise a body in the territory of Australia for assessing conformity with a particular technical regulation or standard.
7. This Article shall not preclude a Party from undertaking conformity assessment solely within specific government bodies located in its own territory or in the other Party's territory, subject to its obligations under the TBT Agreement.

ARTICLE 6.8: TRANSPARENCY

1. The Parties acknowledge the importance of transparency in decision-making on proposed technical regulations and conformity assessment procedures. Where a Party publishes a notice in accordance with 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 from its own national TBT enquiry point to the enquiry point of the other Party 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.

条款 6.7: 合格评定程序

1. 各方应就强制性合格评定程序进行合作，以促进贸易。
2. 各方承认存在多种机制，以促进合格评定程序的接受及其结果。
3. 各方同意就合格评定程序（包括测试、检验、认证、认可和计量）交换信息，旨在根据技术性贸易壁垒协定及各方的相关国内立法，建立合格评定程序领域的合作机制。
4. 各方同意鼓励其合格评定机构更紧密地合作，以促进双方合格评定结果的接受。
5. 除第6段规定外，每一方应在其领土内给予另一方领土内的合格评定机构不低于其给予其领土内合格评定机构的有利条件，予以认可或以其他方式承认。
6. 中国的国内立法要求缔约方或其主管当局之间达成合作协议，才能在澳大利亚领土内认可、批准、许可或以其他方式认可一个机构，以评估其是否符合特定的技术法规或标准。
7. 本条款不应妨碍一方在其领土内或另一方领土内位于特定政府机构内的合格评定，前提是其遵守技术性贸易壁垒协定项下的义务。

条款 6.8: 透明度

1. 各方承认在拟议的技术法规和合格评定程序方面的决策中透明度的重要性。当一方根据技术性贸易壁垒协定第2.9条或第5.6条发布通知时，它应当：
 - (a) 在通知中包含一段说明拟议技术法规或合格评定程序的客观目的以及该缔约方拟议采用的方法的合理性的陈述；以及 (b) 将提案通过其自身的国家TBT咨询点电子传输至根据TBT协定第10条设立的另一方咨询点，同时按照TBT协定通知世界贸易组织成员该提案。

Each Party, after it transmits a proposal to the other Party, should allow at least 60 days for the other Party to make comments in writing on the proposal.

2. Each Party shall respond in print or electronically to comments it receives from the other Party before it publishes the final technical regulation or conformity assessment procedure.

3. Where a Party makes an urgent notification in accordance with Article 2.10 or 5.7 of the TBT Agreement, it shall at the same time transmit electronically the notification to the other Party through the enquiry point referenced in paragraph 1(b).

4. On request of the other Party, a Party shall provide the other Party with information regarding the objective of, rationale for, and, where possible, other relevant information about a standard, technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt.

5. A Party shall provide in a timely manner responses to all reasonable requests received from the other Party for information, where available, concerning technical regulations and conformity assessment procedures, products subject to conformity assessment requirements, charges and fees for conducting conformity assessment activities, bodies accredited to carry out certification and laboratory testing activities, and the scope of business of such bodies.

6. The Parties, through their competent regulatory authorities, shall endeavour to enhance cooperation and develop mechanisms to notify the other Party, in a timely manner, of any relevant and possibly emerging product problems, the measures to be taken, and the reasons for the imposition of the measures.

ARTICLE 6.9: TRADE FACILITATION

1. The Parties shall work cooperatively in the fields of standards, technical regulations and conformity assessment procedures to facilitate trade between the Parties. In particular, the Parties shall seek to identify bilateral initiatives regarding standards, technical regulations and conformity assessment procedures that are appropriate for particular issues or sectors so as to facilitate trade. 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) feasibility of acceptance and reliance on a supplier's declaration of conformity;

每一方在向另一方传输提案后，应至少允许另一方有60天的时间就提案书面提出意见。

2. 每一方应在发布最终技术法规或合格评定程序之前，以印刷或电子方式回应其从另一方收到的意见。

3. 当一方根据技术性贸易壁垒协定第2.10条或第5.7条发出紧急通知时，应同时通过第1(b)段所述的咨询点以电子方式将通知传送给另一方。

4. 应另一方的请求，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、理由以及（如有可能）其他相关信息的信息。

5. 一方应在合理的时间内回应另一方提出的所有合理请求，以获取有关技术法规和合格评定程序、受合格评定要求约束的产品、进行合格评定活动的费用和收费、获得认证和实验室检测活动的认可机构以及此类机构的业务范围的（如有的）信息。

6. 各方通过其主管监管机构，应努力加强合作，并制定机制，以便及时通知另一方任何相关且可能出现的产品问题、拟采取的措施以及措施实施的原因。

第六条九款：贸易便利化

1. 各方应在标准、技术法规和合格评定程序领域进行合作，以促进双方之间的贸易。特别是，各方应努力确定适用于特定问题或部门的标准、技术法规和合格评定程序的双边倡议，以便促进贸易。此类倡议可包括：

- (a) 合作监管问题，例如技术法规和标准的趋同或等效性；(b) 与国际标准一致；
- (c) 接受的可行性以及依赖供应商符合性声明；

- (d) use of accreditation to qualify conformity assessment bodies; and
- (e) cooperation through recognition of conformity assessment procedures.

2. The Parties shall encourage their respective standardising and conformity assessment bodies to consult and exchange views when developing standards, guidelines, recommendations or policies relevant to this Chapter, and to consult and exchange views on major issues under discussion in relevant international or regional bodies.

ARTICLE 6.10: INFORMATION EXCHANGE

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

ARTICLE 6.11: COOPERATION AND TECHNICAL ASSISTANCE

1. Each Party recognises the rights and obligations relating to technical assistance in the TBT Agreement, especially for developing country Members.

2. Considerable cooperation already exists between the Parties and their competent authorities on TBT issues. To support implementation of this Chapter and increase mutual understanding of their respective systems, the Parties, through the Committee on Technical Barriers to Trade established under Article 6.13, shall consider further cooperation and technical assistance programs in the field of technical barriers to trade. Such cooperation and technical assistance may include:

- (a) conducting joint studies, symposiums and seminars;
- (b) exchange of information in respect of technical regulations, standards, conformity assessment procedures and good regulatory practice;
- (c) supporting the activities of international standardisation bodies and the WTO Committee on Technical Barriers to Trade;
- (d) reinforcing the role of international standards as a basis for technical regulations and conformity assessment procedures;
- (e) promoting the accreditation of conformity assessment bodies on the basis of relevant standards and guides of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC); and

(d) 使用认证来认可合格评定机构；以及 (e) 通过承认合格评定程序进行合作。

2. 各方应鼓励其各自的标准制定机构和合格评定机构在制定与本章相关的标准、指南、建议或政策时进行磋商和交换意见，并在相关国际或区域机构讨论的重大问题上进行磋商和交换意见。

第六条第十条：信息交换

根据本章规定，一方在接到另一方请求时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。

第六条第十一条：合作与技术援助

1. 各方承认技术援助协定（TBT协定）中有关技术援助的权利和义务，特别是对发展中国家成员而言。

2. 缔约方及其主管当局在技术性贸易壁垒问题上已存在相当程度的合作。为支持本章节的实施并增进对各自系统的相互了解，缔约方通过根据第6.13条成立的技术性贸易壁垒委员会，应考虑在技术性贸易壁垒领域开展进一步的合作和技术援助项目。此类合作和技术援助可包括：

- (a) 开展联合研究、研讨会和研讨会；
- (b) 在技术法规、标准、合格评定程序和良好监管实践方面交换信息；
- (c) 支持国际标准化机构和技术性贸易壁垒委员会的活动；
- (d) 加强国际标准作为技术法规和合格评定程序基础的作用；
- (e) 基于国际标准化组织（ISO）和国际电工委员会（IEC）的相关标准和指南，促进合格评定机构的认证；以及

(f) any other areas as agreed by the Parties.

ARTICLE 6.12: CONSULTATION AND DISPUTE SETTLEMENT

1. The Parties shall endeavour to resolve any matter arising under this Chapter through cooperative mechanisms under this Chapter.

2. Neither Party shall have recourse to the provisions in Chapter 15 (Dispute Settlement) for any matter arising under this Chapter.

ARTICLE 6.13: COMMITTEE ON TECHNICAL BARRIERS TO TRADE

1. The Parties hereby establish the Committee on Technical Barriers to Trade (hereinafter referred to in this Article as the “Committee”), comprising representatives of each Party.

2. The Committee shall be:

- (a) composed of representatives of the competent authorities of the Parties, who, upon agreement, may also invite representatives of relevant entities with necessary expertise relevant to the issues to be discussed; and
- (b) co-chaired by officials of the competent authorities of the Parties.

3. For the purposes of this Article, the Committee shall be coordinated by Chapter Coordinators (“the Coordinators”):

- (a) in the case of Australia, the Department of Industry or its successor; and
- (b) in the case of China, the General Administration of Quality Supervision, Inspection and Quarantine or its successor.

4. The Coordinators shall also facilitate the implementation of this Chapter and the decisions of the Committee. The Coordinators shall communicate with each other by any agreed method that is appropriate for the efficient and effective discharge of their functions.

5. The Committee’s functions shall include:

- (a) reviewing and monitoring the implementation and administration of this Chapter, including in light of any developments under the WTO Committee on Technical Barriers to Trade as well as the TBT Agreement, and, if necessary, developing recommendations for supplementing this Chapter;

(f) 各方同意的任何其他领域。

条款 6.12: 磋商与争端解决

1. 各方应通过本章节下的合作机制努力解决根据本章节产生的任何事项。

2. 任何一方均不得对本章节产生的事项援引第15章（争端解决）中的规定。

条款 6.13: 技术性贸易壁垒委员会

1. 各方兹设立技术性贸易壁垒委员会（以下简称本条款中称“委员会”），由各方的代表组成。

2. 该委员会应：

- (a) 由各缔约方主管当局的代表组成，经协议，亦可邀请具有必要专业知识的相关实体代表参加，以讨论相关问题；以及 (b) 由各缔约方主管当局的官员共同主持。

3. 就本条款而言，该委员会应由章节协调员（“协调员”）协调：

- (a) 在澳大利亚的情况下，为工业部或其继承者；以及 (b) 在中国的 경우，为质量监督检验检疫总局或其继承者。

4. 协调员还应促进本章的实施以及该委员会的裁决。协调员应通过任何经协议的、适合其职能高效有效履行的方法进行相互沟通。

5. 该委员会的职能应包括：

- (a) 审查和监督本章的实施和管理，包括根据世界贸易组织技术性贸易壁垒委员会以及技术性贸易壁垒协定的任何发展情况，并在必要时，为本章制定补充建议；

- (b) upon a Party's written request, consulting on issues concerning technical barriers to trade arising under this Chapter. Where a Party declines a request from the other Party to consult on an issue relevant to this Chapter, it shall, on request, explain its reasons for its decision;
- (c) providing information on standards, technical regulations and conformity assessment procedures of a Party in response to all reasonable requests for information from the other Party;
- (d) discussing and developing appropriate project proposals on technical assistance and cooperation as needed and agreed by the Parties, and monitoring implementation;
- (e) establishing *ad hoc* working groups to discuss specific technical issues as needed and agreed by the Parties;
- (f) reporting to the FTA Joint Commission on its findings and the outcome of its discussions; and
- (g) carrying out other functions as may be delegated to it by the FTA Joint Commission.

6. In its first meeting, the Committee shall adopt its rules of procedure, which shall be updated if necessary.

7. The Committee shall convene at least once every two years, unless the Parties agree otherwise. The Committee may meet in person, by teleconference, by videoconference, or by any other means agreed by the Parties. The Parties may avail themselves of the opportunity to meet, where possible, in conjunction with other meetings related to the Agreement or in the margins of international meetings.

(b) 在一方提出书面请求时，就本章产生的技术性贸易壁垒问题进行磋商。如果一方拒绝就与本章相关的问题同另一方进行磋商，则应在请求时说明其决定的原因；(c) 在收到另一方提出的所有合理的信息请求时，提供一方关于标准、技术法规和合格评定程序的信息；(d) 根据缔约方需要和同意，讨论和发展适当的技术援助与合作项目提案，并监督实施；(e) 根据缔约方需要和同意，设立临时工作组讨论特定的技术问题；(f) 向自由贸易协定联合委员会报告其发现和讨论结果；以及(g) 根据自由贸易协定联合委员会的授权，执行其他职能。

6. 在其第一次会议中，该委员会应通过其程序规则，如有必要，应进行更新。

7. 委员会应当每两年至少召开一次会议，除非缔约方另有约定。委员会可以亲自开会、通过电话会议、通过视频会议或通过缔约方同意的任何其他方式进行会议。缔约方可以利用机会，在可能的情况下，与其他与协议相关的会议或在国际会议的边缘进行会议。

CHAPTER 7
TRADE REMEDIES

第七章贸易救济措施

ARTICLE 7.1: DEFINITIONS

For the purposes of Articles 7.2 through 7.7:

- (a) **domestic industry** means, with respect to an imported product, the producers as a whole of the like or directly competitive product operating within the territory of a Party, or those whose collective output of the like or directly competitive product constitutes a major proportion of the total domestic production of those products;
- (b) **bilateral safeguard measure** means a measure described in Article 7.2.2;
- (c) **Safeguards Agreement** means the *Agreement on Safeguards* contained in Annex 1A to the WTO Agreement;
- (d) **serious injury** means a significant overall impairment in the position of a domestic industry;
- (e) **threat of serious injury** means serious injury that, on the basis of facts and not merely on allegation, conjecture, or remote possibility, is clearly imminent; and
- (f) **transition period** means, in relation to a particular product, the three year period from the date of entry into force of this Agreement, except that for any product for which the date on which the customs duty on that product is to be eliminated in accordance with Annex I (Schedules in Relation to Article 2.4 (Elimination of Customs Duties)) is more than three years, transition period shall mean the tariff elimination period for that product.

ARTICLE 7.2: APPLICATION OF A BILATERAL SAFEGUARD MEASURE

1. If during the transition period, as a result of the reduction or elimination of a customs duty in accordance with this Agreement, an originating product is being imported into a Party's territory in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces a like or directly competitive product, the importing Party may apply a bilateral safeguard measure described in paragraph 2.
2. If the conditions in paragraph 1 are met, a Party may, only to the extent

条款 7.1：定义

为第7.2条至第7.7条的目的：

- (a) 国内产业是指，对于进口产品，在缔约方领土内从事同类或直接竞争产品的生产商整体，或者其同类或直接竞争产品的总产量构成这些产品国内总产量主要比例的经营者；(b) 双边保障措施是指第7.2.2条所述的措施；(c) 保障措施协定是指包含在世界贸易协定附件1A中的保障措施协定；(d) 严重损害是指国内产业地位的重大整体损害；(e) 严重损害威胁是指基于事实而非仅仅是指控、推测或遥远可能性，明显迫近严重损害；(f) 过渡期是指与本协议特定产品相关的，自本协议生效之日起三年的期限，但是，对于根据附件I（与第2.4条（关税消除）相关的年度）规定，其关税消除日期超过三年的产品，过渡期应指该产品的关税消除期。

ARTICLE 7.2: APPLICATION OF A BILATERAL SAFEGUARD MEASURE

1. 如果在过渡期内，根据本协议减少或消除关税的结果，一项原产地产品以绝对数量或相对于国内生产而言的如此增加的数量，进口到一方领土，并且在这种条件下，导致或威胁要导致对生产同类或直接竞争产品的国内产业造成严重损害，则进口方可以应用第2段所述的双边保障措施。
2. 如果第1段的条件得到满足，一方可以，仅限于防止或补救严重损害并促进调整： t

necessary to prevent or remedy serious injury and facilitate adjustment:

- (a) suspend the further reduction of any rate of duty provided for under this Agreement on the product; or
- (b) increase the rate of duty on the good to a level not to exceed the lesser of:
 - (i) the most-favoured-nation (hereinafter referred to as “MFN”) applied rate of duty on the product in effect at the time the measure is applied; and
 - (ii) the MFN applied rate of duty on the product in effect on the day immediately preceding the date of entry into force of this Agreement.¹

ARTICLE 7.3: SCOPE AND DURATION OF BILATERAL SAFEGUARD MEASURES

1. Neither Party shall apply or maintain a bilateral safeguard measure:
 - (a) except to the extent, and for such time, as may be necessary to prevent or remedy serious injury and to facilitate adjustment; or
 - (b) for a period exceeding two years, except that the period may be extended by up to one year if the competent authorities of the applying Party determine, in conformity with the procedures set out in this Chapter, that the bilateral safeguard measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting. Regardless of its duration, any such measure shall terminate at the end of the transition period.
2. In order to facilitate adjustment in a situation where the expected duration of a bilateral safeguard measure is over one year, the Party applying the measure shall progressively liberalise it at regular intervals during the period of application.
3. A Party shall not apply a bilateral safeguard measure again on a product which has been subject to a bilateral safeguard measure for a period of time equal to that during which the previous bilateral safeguard measure had been applied, provided that the period of non-application is at least two years. However, no bilateral safeguard measure may be applied more than twice on the same product.
4. Neither Party shall apply a bilateral safeguard measure on a product that is subject to a measure that the Party has applied in accordance with Article XIX of GATT

¹ The Parties understand that neither tariff rate quotas nor quantitative restrictions would be permissible forms of bilateral safeguard measures.

必要的，以防止或补救严重损害并促进调整：

- (a) 停止进一步降低本协议规定的任何关税税率；或 (b) 提高该商品的关税税率至不超过以下较低者： (i) 措施实施时该商品适用的最惠国（以下简称“MFN”）关税税率；以及 (ii) 本协议生效日前该商品适用的最惠国关税税率。¹

第七条 双边保障措施的范围和期限

1. 任何一方不得实施或维持双边保障措施：
 - (a) 除非为防止或补救严重损害并促进调整所必需，或 (b) 超过两年，但如适用方的主管当局根据本章规定的程序认定双边保障措施继续为防止或补救严重损害并促进调整所必需，且有证据表明该行业正在调整，则该期限可延长至一年。无论期限多长，任何此类措施均应在过渡期结束时终止。
2. 为了便于在双边保障措施的预期期限超过一年的情况下进行调整，采取该措施的一方应当在申请期间内定期逐步放宽该措施。
3. 任何一方不得在已受到双边保障措施影响的时间段等于先前双边保障措施已适用时间段的产品上再次适用双边保障措施，前提是该不适用期间至少为两年。但是，不得在相同产品上适用超过两次双边保障措施。
4. 任何一方不得对受该方根据1994年关税及贸易总协定第十九条所采取的措施约束的产品实施双边保障措施

¹ 各方理解，关税配额和数量限制均不得作为双边保障措施的形式。

1994 and the Safeguards Agreement, and neither Party shall maintain a bilateral safeguard measure on a product that becomes subject to a measure that the Party imposed pursuant to Article XIX of GATT 1994 and the Safeguards Agreement.

5. On the termination of a bilateral safeguard measure, the Party that applied the bilateral safeguard measure shall apply the rate of customs duty set out in its schedule to Annex I (Schedules in Relation to Article 2.4 (Elimination of Customs Duties)) on the date of termination as if the bilateral safeguard measure had never been applied.

ARTICLE 7.4: INVESTIGATION PROCEDURES AND TRANSPARENCY REQUIREMENTS

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

2. Each Party shall ensure that its competent authorities complete any such investigation within one year of its initiation.

ARTICLE 7.5: PROVISIONAL BILATERAL SAFEGUARD MEASURES

1. In critical circumstances where delay would cause damage which would be difficult to repair, a Party may apply a provisional bilateral safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports have caused or are threatening to cause serious injury to a domestic industry.

2. Before applying a provisional bilateral safeguard measure the applying Party shall notify the other Party and shall, on request of the other Party, initiate consultations after applying such a measure.

3. The duration of a provisional bilateral safeguard measure shall not exceed 200 days, during which period the pertinent requirements of Articles 7.2 through 7.4 shall be met. Such a provisional bilateral safeguard measure should take the form of a suspension of the further reduction of any rate of duty provided for under this Agreement on the product or an increase in the customs duties to a rate not exceeding the lesser of the rates in Article 7.2.2(b). Any additional customs duties or guarantees collected shall be promptly refunded if the subsequent investigation referred to in Article 7.4.1 determines that increased imports have not caused, or threatened to cause, serious injury to a domestic industry.

4. The duration of any such provisional bilateral safeguard measure shall be counted as part of the period described in Article 7.3.1.

1994年关税及贸易总协定、保障措施协定，并且任何一方不得对根据1994年关税及贸易总协定第十九条和保障措施协定所采取的措施而受其约束的产品维持双边保障措施。

5. 在临时双边保障措施终止时，采取临时双边保障措施的一方应在其附件I（与第2.4条（关税消除）相关的附件）中规定的关税税率，在终止日期按照双边保障措施从未被采取的情况应用该税率。

第七条第4款：调查程序和透明度要求

1. 一方只有在其主管当局根据保障措施协定第3条和第4.2条规定的相同程序进行调查后，才能采取临时双边保障措施；为此，保障措施协定第3条和第4.2条被纳入并成为本协议的一部分，除适用情况外。

2. 每一方应确保其主管当局在启动调查后一年内完成任何此类调查。

第七条第5款：临时双边保障措施

1. 在紧急情况下，如果延误将导致难以修复的损害，一方可依据初步裁决，即有明确证据表明进口增加已造成或威胁造成国内产业严重损害，采取临时双边保障措施。

2. 在采取临时双边保障措施前，采取方应通知另一方，并在另一方请求时，在采取该措施后启动磋商。

3. 临时双边保障措施的期限不得超过200天，在此期间应满足第七条第2款至第七条第4款的相关要求。此类临时双边保障措施应以暂停本协议规定的关税进一步减税或提高关税至不超过第七条第2.2(b)款中较低税率的形式实施。如果第七条第4.1款所述后续调查确定进口增加未造成或未威胁造成国内产业严重损害，则所征收的任何额外关税或担保应立即退还。

4. 任何此类临时双边保障措施的期限应计入第七条第3.1款所述的期限之内。

ARTICLE 7.6: NOTIFICATION AND CONSULTATION

1. A Party shall immediately notify the other Party in writing on:
 - (a) initiating a bilateral safeguard investigation;
 - (b) making a finding of serious injury or threat thereof caused by increased imports;
 - (c) taking a decision to apply or extend a bilateral safeguard measure; and
 - (d) taking a decision to liberalise a bilateral safeguard measure previously applied in accordance with Article 7.3.2.
2. In making the notifications referred to in paragraph 1(b) and paragraph 1(c), the Party applying a bilateral safeguard measure shall provide the other Party with all pertinent information, which shall include evidence of serious injury or threat thereof caused by increased imports, a precise description of the product involved, the proposed bilateral safeguard measure, the grounds for introducing the bilateral safeguard measure, the proposed date of introduction and its expected duration and timetable for progressive liberalisation. In the case of an extension of a bilateral safeguard measure, the written results of the determination required by Article 7.4, including evidence that the continued application of the measure is necessary to prevent or remedy serious injury and that the industry is adjusting, shall also be provided.
3. A Party proposing to apply or extend a bilateral safeguard measure shall provide adequate opportunity for prior consultations with the other Party, with a view to, *inter alia*, reviewing the information provided in accordance with paragraph 2, exchanging views on the bilateral safeguard measure and reaching an agreement on compensation in accordance with Article 7.7.1.
4. A Party shall provide to the other Party a copy of the public version of the report of its competent authorities required under Article 7.4 as soon as it is available.

ARTICLE 7.7: COMPENSATION

1. A Party applying a bilateral safeguard measure shall, in consultation with the other Party, provide to the other Party mutually agreed trade liberalising compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the bilateral safeguard measure. Such consultations shall begin within 30 days of the application of the bilateral safeguard measure.
2. If the Parties are unable to reach an agreement on compensation within 30 days

第7.6条：通知与磋商

1. 一方应以书面形式立即通知另一方：
 - (a) 启动双边保障调查；(b) 作出因进口增加造成严重损害或其威胁的认定；(c) 作出适用或延长双边保障措施的决定；以及(d) 作出根据第7.3.2条先前适用的双边保障措施放宽的决定。
2. 在作出第1(b)段和第1(c)段所述的通知时，适用双边保障措施的缔约方应当向另一方提供所有相关信息，这些信息包括因进口增加造成严重损害或其威胁的证据、涉及产品的精确描述、拟议的双边保障措施、引入双边保障措施的依据、拟议的引入日期及其预期期限和逐步放宽的时间表。在双边保障措施延长期限的情况下，还应当提供第7.4条要求的裁决书面结果，包括证明措施的持续适用对于防止或补救严重损害是必要的以及行业正在调整的证据。
3. 一方提出适用或延长双边保障措施时，应向另一方提供充分的事先磋商机会，以审议根据第2段提供的信息，就双边保障措施交换意见，并依据第7.7.1条就补偿达成协议。
4. 一方应在其主管当局根据第7.4条要求的报告的公开版本可用时，立即向另一方提供该报告的副本。

ARTICLE 7.7: COMPENSATION

1. 适用双边保障措施的一方应与另一方磋商，向另一方提供相互同意的贸易自由化补偿，其形式为具有实质上等效的贸易影响或相当于预期由双边保障措施产生的附加关税价值的让步。此类磋商应在双边保障措施适用之日起30日内开始。
2. 如果各方在30天内无法就补偿达成协议

of the consultations commencing, the exporting Party shall be free to suspend the application of substantially equivalent concessions to the trade of the Party applying the bilateral safeguard measure.

3. A Party shall notify the other Party in writing at least 30 days before suspending concessions in accordance with paragraph 2.

4. The obligation to provide compensation under paragraph 1 and the right to suspend concessions in accordance with paragraph 2 shall terminate on the date of the termination of the safeguard measure.

ARTICLE 7.8: GLOBAL SAFEGUARD

Each Party retains its rights and obligations under Article XIX of GATT 1994 and the Safeguards Agreement. This Agreement shall not confer any additional rights or impose any additional obligations on the Parties with respect to measures applied under Article XIX of GATT 1994 and the Safeguards Agreement.

ARTICLE 7.9: ANTI-DUMPING MEASURES

1. Except as otherwise provided for in this Article, each Party retains its rights and obligations under the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* contained in Annex 1A to the WTO Agreement.

2. The Parties agree to enhance dialogue in matters of anti-dumping to afford each other fair and transparent treatment. The Parties will afford adequate opportunity for consultations to exchange information on issues raised by the other Party with respect to such matters, including through the regular holding of a High Level Dialogue on Trade Remedies.

ARTICLE 7.10: SUBSIDIES AND COUNTERVAILING MEASURES

1. Except as otherwise provided for in this Article, each Party retains its rights and obligations under the *Agreement on Subsidies and Countervailing Measures* contained in Annex 1A to the WTO Agreement.²

2. The Parties shall ensure transparency of subsidy measures by exchanging their notifications to the WTO pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the *Agreement on Subsidies and Countervailing Measures*.

² For greater certainty, nothing in this Article affects the Parties' rights and obligations under Article 13.3 of the *Agreement on Subsidies and Countervailing Measures*.

如果各方在磋商开始后的30天内无法就补偿达成协议，则申请双边保障措施的一方可以自由暂停对申请双边保障措施的方的贸易实施实质性同等优惠。

3. 一方应在根据第2段暂停让步前至少30日以书面形式通知另一方。

4. 根据第1段的补偿义务以及根据第2段暂停让步的权利应于保障措施终止之日终止。

第七条第八款：全球保障措施

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的权利和义务。本协议不应就根据1994年关税及贸易总协定第十九条和保障措施协定采取的措施向缔约方授予任何额外的权利或施加任何额外的义务。

第七条第九款：反倾销措施

1. 除本条另有规定外，每一方保留其根据世界贸易协定附件1A所含的关税及贸易总协定第六条实施协定所享有的权利和义务。

2. 各方同意在反倾销事项上加强对话，以给予对方公公平和透明的待遇。各方将提供充分的磋商机会，以就另一方就此类事项提出的问题交换信息，包括通过定期举行贸易救济高级别对话。

条款 7.10：补贴和反倾销措施

1. 除本条另有规定外，每一方保留其根据世界贸易协定附件1A所含的补贴与反补贴措施协定所享有的权利和义务。²

2. 各方应通过根据1994年关税及贸易总协定第十六条第1款和补贴与反补贴措施协定第二十五条交换其通知给世界贸易组织，以确保补贴措施的透明度。

² 为进一步明确，本条中的任何内容均不影响各方根据补贴与反补贴措施协定第13.3条所享有的权利和义务。

3. As soon as possible after a Party's receipt of a properly documented application for the initiation of a countervailing investigation against the imports from the other Party, the Party shall notify the other Party in writing. Such notification shall include the non-confidential version of the application and its supporting evidence. The investigating authority and the Party being notified shall avoid publicising the existence of the application unless a decision has been made to initiate an investigation.

4. As soon as possible after a properly documented application is accepted, and in any event before the initiation of any investigation, the importing Party shall afford to the other Party reasonable opportunities for consultations with the aim of clarifying the situation on matters raised in the application and arriving at a mutually agreed solution. Investigations into newly-alleged subsidy programs shall be undertaken in a transparent manner with the other Party afforded reasonable opportunities for consultations to defend its interests.

5. The investigating authorities shall carefully review the accuracy and adequacy of the evidence provided in the application to determine whether the evidence is sufficient to justify the initiation of an investigation.

6. Throughout the investigation, the other Party shall be afforded a reasonable opportunity to continue consultations, with a view to clarifying the factual situation and to arriving at a mutually agreed solution.

3. 在一方收到另一方发起针对其进口产品的反倾销调查的正式申请后，应尽快以书面形式通知另一方。该通知应包括申请的非保密版本及其支持证据。调查当局和被通知方应避免公开申请的存在，除非已作出启动调查的决定。

4. 在正式申请被接受后尽快，并在任何调查启动之前，进口方应给予另一方合理的机会进行磋商，以澄清申请中提出的事项并达成双方同意的解决方案。对新型补贴计划的调查应以透明的方式进行，并给予另一方合理的机会进行磋商以维护其利益。

5. 调查当局应仔细审查申请中提供的证据的准确性和充分性，以确定证据是否足以证明启动调查的合理性。

6. 在整个调查过程中，另一方应享有合理的机会继续磋商，以澄清事实情况并达成双方同意的解决方案。

CHAPTER 8
TRADE IN SERVICES

PART I: SCOPE AND DEFINITIONS

第八章 服务贸易

第一部分 范围和定义

ARTICLE 8.1: SCOPE

1. This Chapter shall apply to measures adopted or maintained by a Party affecting trade in services, including measures in respect of:

- (a) the production, distribution, marketing, sale or delivery of a service;
- (b) the purchase or use of, or payment for, a service;
- (c) the access to and use of, in connection with the supply of a service, services which are required by a Party to be offered to the public generally; and
- (d) the presence in its territory of a service supplier of the other Party.

2. This Chapter shall not apply to:

- (a) measures affecting air traffic rights, however granted, or measures affecting services directly related to the exercise of air traffic rights and air traffic control and air navigation services, other than measures affecting:
 - (i) aircraft repair and maintenance services;
 - (ii) the selling and marketing of air transport services;
 - (iii) computer reservation system (“CRS”) services;
 - (iv) airport operation services;
 - (v) ground handling services; and
 - (vi) specialty air services.

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

第8.1条 范围

1. 本章适用于一方采取或维持的、影响服务贸易的措施，包括有关以下措施：

(a) 服务的生产、分销、营销、销售或交付；(b) 服务的购买或使用，或支付；(c) 与提供服务相关的服务和使用的获取及使用，一方需要向公众普遍提供的服务；以及(d) 另一方的服务供应商在其领土内的存在。

2. 本章不适用于：

(a) 影响空中交通权利的措施，无论其如何授予，或影响与行使空中交通权利直接相关的服务以及空中交通管制和空中导航服务的措施，但不包括影响：

- (i) 飞机维修服务；(ii) 航空运输服务的销售和营销；
- (iii) 计算机预订系统（“CRS”）服务；(iv) 机场运营服务；(v) 地面处理服务；以及(vi) 特种航空服务。

缔约方注意到根据对GATS空中运输服务附件的审查而进行的 multilateral negotiations。在 such multilateral negotiations 结束后，缔约方应当进行审查，以讨论适当的修正案，以便将 such multilateral negotiations 的结果纳入本协议。

- (b) government procurement;
- (c) services supplied in the exercise of governmental authority in a Party's territory;
- (d) subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance; and
- (e) measures affecting natural persons of a Party seeking access to the employment market of the other Party, or measures regarding citizenship, residence or employment on a permanent basis.

ARTICLE 8.2: DEFINITIONS

For the purposes of this Chapter:

- (a) **aircraft repair and maintenance services** means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and does not include so-called "line maintenance";
- (b) **airport operation services** means passenger air terminal, airfield and other airport infrastructure operation services excluding airport security services and services covered in ground handling services;
- (c) **commercial presence** means any type of business or professional establishment, including through:
 - (i) the constitution, acquisition or maintenance of a juridical person; or
 - (ii) the creation or maintenance of a branch or a representative office, within the territory of a Party for the purpose of supplying a service;
- (d) **computer reservation system services** mean services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;
- (e) **controlled** means having the power to name a majority of directors or otherwise legally direct a juridical person's actions;
- (f) **ground handling services** means the provision, by a third party on a fee or contract basis, of the following activities performed at an airport:

(b) 政府采购；(c) 在一方领土上行使政府权力而提供的劳务；(d) 一方提供的补贴或拨款，包括政府支持贷款、担保和保险；以及 (e) 影响一方寻求进入另一方就业市场之自然人的措施，或关于公民身份、居留或永久性就业的措施。

条款 8.2：定义

本章规定：

(a) 飞机维修服务是指当飞机或其一部分退出服务时进行的此类活动，不包括所谓的‘一线维护’；(b) 机场运营服务是指客运航站楼、机场和其他机场基础设施运营服务，不包括机场安保服务和地面处理服务涵盖的服务；(c) 商业存在是指任何类型的商业或专业机构，包括通过：(i) 设立、收购或维持法人；或(ii) 在一方领土内设立或维持分支机构或代表处，目的是提供服务；(d) 计算机预订系统服务是指由包含航空承运商的航班时刻表、可用性、票价和票价规则的计算机化系统提供的服务，通过这些系统可以进行预订或发行机票；(e) 受控是指有权任命法人多数董事或以其他合法方式指导法人的行为；(f) 地面处理服务是指第三方以费用或合同为基础，在机场进行的以下活动：

airline representation, administration and supervision; passenger handling services; ramp services; air cargo and baggage handling services; and load control and flight operation services. Ground handling services do not include security, aircraft repair and maintenance services or management of essential centralised airport infrastructure;

(g) **juridical person** of a Party means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association, which is either:

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

(ii) in the case of the supply of a service through commercial presence, owned or controlled by:

(A) natural persons of that Party; or

(B) juridical persons of that Party identified under subparagraph (i);

(h) **measure** means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action or any other form, taken 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) **measures by Parties affecting trade in services** include measures in respect of:

(i) the purchase, payment or use of a service;

(ii) the access to and use of, in connection with the supply of a service, services which are required by the Parties to be offered to the public generally; and

(iii) the presence, including commercial presence, of persons of a Party for the supply of a service in the territory of the other Party;

航空公司代表、管理和监督；旅客服务；登机桥服务；航空货物和行李处理服务；以及装载控制和飞行运营服务。地面处理服务不包括安全、飞机维修服务或机场关键集中基础设施的管理；

(g) 一方法人是指根据适用法律正式成立或以其他方式组织起来的任何法律实体，无论是否营利，也无论是否私有或国有，包括任何公司、信托、合伙企业、合资企业、个体工商户或协会，其特征为：

(i) 根据该法律成立或以其他方式组织，并在该方领土内从事实质性业务运营；或 (ii) 在通过商业存在提供服务的情况下，为：(A) 该方自然人；或 (B) 根据第 (i) 款确定的该方法人；

(h) 措施是指一方采取的任何措施，无论以法律、法规、规则、程序、决定、行政行为或任何其他形式，由以下机构采取：

(i) 中央、区域或地方政府和机构；以及 (ii) 在行使中央、区域或地方政府或机构授予的权力时，非政府机构；

(i) 影响服务贸易的各方的措施包括有关措施：

(i) 服务的购买、支付或使用；(ii) 与提供服务相关的服务和使用的获取及使用，包括各方要求向公众普遍提供的服务的获取及使用；以及(iii) 一方人员在另一方领土内为提供服务而存在，包括商业存在；

- (j) **monopoly supplier of a service** means any person, public or private, which in the relevant market of the territory of a Party is authorised or established formally or in effect by that Party as the sole supplier of that service;
- (k) **natural person of a Party** means a natural person who under the law of the Party,
 - (i) for Australia, is an Australian citizen or a permanent resident of Australia; and
 - (ii) for China, is a natural person who under the Chinese law is a national of China;
- (l) **owned** means holding more than 50 percent of the equity interest in a juridical person;
- (m) **person of a Party** means either a natural person or a juridical person of a Party;
- (n) **qualification procedures** means administrative procedures relating to the administration of qualification requirements;
- (o) **qualification requirements** means substantive requirements which a service supplier is required to fulfil in order to obtain certification or a licence;
- (p) **sector of a service** means, with reference to a specific commitment, one or more or all subsectors of that service, as specified in a Party's Schedule in Annex III, or otherwise the whole of that service sector, including all of its subsectors;
- (q) **selling and marketing of air transport services** means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution, but do not include the pricing of air transport services nor the applicable conditions;
- (r) **services** includes any service in any sector except services supplied in the exercise of governmental authority;
- (s) **service consumer** means any person that receives or uses a service;
- (t) **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;

(j) 垄断服务供应商是指在任何一方领土的相关市场中，经该方授权或正式或实际上被该方确立为该服务的唯一供应商的任何个人，无论其是公共的还是私有的；

(k) 一方自然人是指根据一方法律，(i) 对于澳大利亚，是指澳大利亚公民或澳大利亚永久居民；以及 (ii) 对于中国，是指根据中国法律是中国国民的自然人；(l) 拥有是指持有法人 50% 以上的股权利益；(m) 一方人士是指一方自然人或一方法人；(n) 资格程序是指与资格要求管理相关的行政程序；(o) 资格要求是指服务供应商为获得认证或许可证而必须满足的实质性要求；(p) 服务部门是指，参考具体承诺，该服务的一个或多个或所有子部门，如附件III中一方附件中规定，或以其他方式为整个服务部门，包括其所有子部门；(q) 航空运输服务的销售和营销是指相关航空公司销售和营销其航空运输服务的机会，包括所有营销方面，如市场调研、广告和分销，但不包括航空运输服务的定价或适用条件；(r) 服务包括任何部门中的任何服务，除政府行使职能时提供的服务外；(s) 服务消费者是指任何接收或使用服务的人；(t) 政府行使职能提供的服务是指任何既非商业性提供也非与一个或多个服务供应商竞争的服务；

- (u) **service supplier of a Party** means any person of a Party that supplies a service;¹
- (v) **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;
- (w) **supply of a service** includes the production, distribution, marketing, sale and delivery of a service;
- (x) **trade in services** means the supply of a service:
 - (i) from the territory of a Party into the territory of the other Party (“cross-border supply mode”);
 - (ii) in the territory of a Party to the service consumer of the other Party (“consumption abroad mode”);
 - (iii) by a service supplier of a Party, through commercial presence in the territory of the other Party (“commercial presence mode”); and
 - (iv) by a service supplier of a Party, through presence of natural persons of that Party in the territory of the other Party (“presence of natural persons mode” or “movement of natural persons mode”);
- (y) **traffic rights** means the right for scheduled and non-scheduled services to operate and/or to carry passengers, cargo and mail for remuneration or hire from, to, within, or over the territory of a Party, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged and their conditions, and criteria for designation of airlines, including such criteria as number, ownership and control.

¹ Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. the juridical person) shall, nonetheless, through such commercial presence be accorded the treatment provided for service suppliers in accordance with this Chapter. Such treatment shall be extended to the commercial presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory of a Party where the service is supplied.

- (u) 一方服务提供者是指任何为另一方提供服务的一方人士；
服务；¹
- (v) 特种航空服务是指任何非运输类航空服务，例如空中灭火、观光、喷洒、测量、测绘、摄影、跳伞、滑翔机牵引以及用于伐木和建筑的直升机吊装和其他空中农业、工业和检查服务；
- (w) 服务供应包括服务的生产、分销、营销、销售和交付；
- (x) 服务贸易是指服务供应：
 - (i) 从一方领土到另一方领土（“跨境供应模式”）； (ii) 在一方领土内到另一方服务消费者（“消费地模式”）； (iii) 由一方服务提供者，通过在另一方领土内的商业存在（“商业存在模式”）； 以及 (iv) 由一方服务提供者，通过该方自然人存在于另一方领土内（“自然人存在模式”或“自然人流动模式”）；
- (y) 运输权是指定期和非定期服务在一方领土内、之间或上空运营和/或收取报酬或雇佣费用运送旅客、货物和邮件的权利，包括服务点、运营路线、运输类型、提供能力、收费标准及其条件，以及航空公司指定标准，包括号码、所有权和控制权等标准。

¹ 如果服务不是由法人直接提供，而是通过分支机构或代表处等商业存在形式提供，则服务供应商（即法人）仍应通过该商业存在获得本章规定的给予服务供应商的待遇。此种待遇应扩展至提供服务所通过的商业存在，且无需扩展至供应商位于服务提供地一方领土之外的其他任何部分。

PART II: SCHEDULING APPROACH

ARTICLE 8.3: SCHEDULING OF COMMITMENTS

Each Party shall make commitments on National Treatment, Market Access and Most-Favoured-Nation Treatment in accordance with either Section A or Section B.

Section A: Positive Listing Approach

ARTICLE 8.4: SCHEDULE OF SPECIFIC COMMITMENTS

1. Where a Party schedules commitments in accordance with this Section, it shall set out in a schedule, called its Schedule of Specific Commitments, the specific commitments it undertakes in accordance with Articles 8.5, 8.6 and 8.8. With respect to sectors where such commitments are undertaken, its Schedule of Specific Commitments shall specify:

- (a) terms, limitations and conditions on market access;
- (b) conditions and qualifications on national treatment;
- (c) undertakings relating to additional commitments; and
- (d) where appropriate, the time-frame for implementation of such commitments.

2. Measures inconsistent with both Articles 8.5 and 8.6 shall be inscribed in the column relating to Article 8.6. In this case the inscription will be considered to provide a condition or qualification to Article 8.5 as well.

3. Schedules of Specific Commitments are annexed to this Agreement as Annex III and shall form an integral part thereof.

ARTICLE 8.5: NATIONAL TREATMENT

1. Where a Party schedules commitments in accordance with this Section, in the sectors inscribed in its Schedule of Specific Commitments in Annex III, and subject to any conditions and qualifications set out therein, it shall accord to services and service suppliers of the other Party, in respect of all measures affecting the supply of services,

第二部分：列入议程方式

第8.3条：承诺的列入议程

每一方应根据A部分或B部分的规定，就国民待遇、市场准入和最惠国待遇做出承诺。

第A节：正面列入议程方式

第8.4条：具体承诺清单

1. 如果一方根据本节规定列入议程承诺，则应根据第8.5条、第8.6条和第8.8条，在其具体承诺清单中列明其承诺的具体内容。对于承诺所涉及的部门，其具体承诺清单应规定：

(a) 市场准入的术语、限制和条件； (b) 国民待遇的条件和资格； (c) 与额外承诺相关的承诺；以及 (d) 在适当情况下，此类承诺的实施时间表。

2. 与第8.5条和第8.6条均不一致的措施应记入与第8.6条相关的栏目。在这种情况下，该记录将被视为提供第8.5条的条件或资格。

3. 具体承诺的附件是本协议的附件III，并应构成其组成部分。

A1.5: N2T3

1. 当一方根据本节规定，在附件III中其具体承诺清单所列的部门内列出承诺，并遵守其中规定的任何条件和资格认定时，它应当给予另一方的服务和服务供应商，在所有影响服务供应的措施方面，

treatment no less favourable than that it accords to its own like services and service suppliers.²

2. A Party may meet the requirement in paragraph 1 by according to services and service suppliers of the other Party either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment by a Party shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of that Party compared to the like service or service suppliers of the other Party.

ARTICLE 8.6: MARKET ACCESS

1. Where a Party schedules commitments in accordance with this Section, with respect to market access through the modes of supply identified in Article 8.2(x), it shall accord services and service suppliers of the other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule of Specific Commitments in Annex III.³

2. In sectors where market access commitments are undertaken, the measures which a Party shall not maintain or adopt, either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule of Specific Commitments in Annex III, are defined as:

- (a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;
- (b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

² Specific commitments assumed under this Article shall not be construed to require the Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

³ If a Party undertakes a market access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (x)(i) of Article 8.2, and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (x)(iii) of Article 8.2, it is thereby committed to allow related transfers of capital into its territory.

不低于其给予自己的同类服务和服务供应商的优惠待遇。²

2. 一方可以通过按照另一方的服务和服务供应商，给予形式上相同的待遇或形式上不同的待遇，以满足第1段的要求，就像它给予自己的同类服务和服务供应商的待遇一样。

3. 一方给予的形式上相同或形式上不同的待遇，如果与另一方的同类服务或服务供应商相比，修改了竞争条件，有利于该方的服务或服务供应商，则应被视为不利。

ARTICLE 8.6: 市场准入

1. 如果一方根据本节规定制定承诺，关于通过附件III中第8.2(x)条确定的供应模式获得的市场准入，它应给予另一方的服务和服务供应商不低于其具体承诺清单中规定的条款、限制和条件的待遇。³

2. 在市场准入承诺所涉及的部门中，除非其附件III中的具体承诺清单另有规定，一方不得维持或采用任何措施，无论是基于区域划分还是基于其整个领土，这些措施被定义为：

- (a) 对服务供应商数量的限制，无论以数量配额、垄断、独家服务供应商的形式，还是以经济需求测试的要求形式存在；
- (b) 对服务交易或资产总价值的限制，无论以数量配额的形式，还是以经济需求测试的要求形式存在；

² 根据本条款所承担的具体承诺不应被解释为要求一方赔偿因相关服务或服务供应商的外国特性而产生的固有竞争劣势。³ 如果一方就通过第8.2条第(x)(i)款所述供应模式提供服务而承担市场准入承诺，并且跨境资本流动是该服务本身的重要组成部分，那么该方即承诺允许此类资本流动。如果一方就通过第8.2条第(x)(iii)款所述供应模式提供服务而承担市场准入承诺，那么该方即承诺允许相关资本转移进入其领土。

- (c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;⁴
- (d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;
- (e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and
- (f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

ARTICLE 8.7: MOST-FAVOURED-NATION TREATMENT

1. Where a Party schedules commitments in accordance with this Section, in respect of the services sectors listed in Annex 8-A, and subject to any conditions and qualifications set out therein, the Party shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords to like services and service suppliers of any non-party.⁵
2. Notwithstanding paragraph 1, a Party may adopt or maintain any measure that accords differential treatment to any non-party in accordance with any free trade agreement or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.
3. For greater certainty, paragraph 2 includes, in respect of agreements on the liberalisation of trade in goods or services or investment, any measures taken as part of a wider process of economic integration or trade liberalisation.
4. For sectors not covered by paragraph 1, if, after the date of entry into force of this Agreement, a Party subsequently enters into any agreement with a non-party in which it provides treatment to services or service suppliers of that non-party more favourable than it accords to like services or service suppliers of the other Party, the other Party may request consultations to discuss the possibility of extending, under this Agreement, treatment no less favourable than that provided under the agreement with

⁴ Paragraph 2(c) does not cover measures of a Party which limit inputs for the supply of services.

⁵ For the purposes of this Article, the term “non-party” shall not include the following WTO members within the meaning of the WTO Agreement: (1) Hong Kong, China; (2) Macao, China; and (3) Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei).

(c) 对服务操作总数或服务产出总量的限制，以配额或经济需求测试的要求形式表达，并以指定的数值单位表示；⁴(d) 对特定服务部门可能雇用的自然人总数或服务供应商可雇用的自然人的限制，这些自然人是提供特定服务所必需的，并直接与其相关，以数量配额或经济需求测试的要求形式存在；(e) 限制或要求服务供应商通过特定类型的法律实体或合资企业提供服务所采取的措施；以及 (f) 对外国资本参与的限制，以外国持股比例的最大百分比限制或单个或累计外国投资的总价值形式存在。

第八条七款：最惠国待遇

1. 一方根据本节规定，就附件8-A中列出的服务部门制定承诺，并遵守其中规定的任何条件和资格认定，该方应给予另一方的服务和服务供应商不低于其给予任何非缔约方的同类服务和服务供应商的待遇。⁵
2. 尽管有第1段的规定，一方可以采用或维持任何根据本协议生效日期前生效或签署的任何自由贸易协定或多边国际协定给予任何非缔约方差别待遇的措施。
3. 为了进一步明确，第2段包括，就货物或服务贸易自由化协定或投资协定而言，作为更广泛的经济一体化或贸易自由化进程一部分采取的任何措施。
4. 对于第1段未涵盖的部门，如果在本协议生效日期之后，一方与任何非缔约方签订任何协议，在该协议中，一方给予该非缔约方的服务或服务供应商的待遇优于其给予另一方同类服务或服务供应商的待遇，另一方可以请求磋商，讨论在本协议项下延长给予该非缔约方不低于其与该非缔约方签订的协议所提供的待遇的可能性。

⁴ 第2款(c)不包括限制服务供应投入的措施。

⁵ 根据本条款的规定，“非缔约方”一词不包括以下世界贸易组织成员，其含义符合世界贸易组织协定：(1) 中国香港；(2) 中国澳门；以及 (3) 台湾、澎湖、金门和马祖单独关税区（中华台北）。

the non-party. In such circumstances, the Parties shall enter into consultations bearing in mind the overall balance of benefits.

5. The provisions of this Agreement shall not be construed as to prevent a Party from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.

ARTICLE 8.8: ADDITIONAL COMMITMENTS

A Party making commitments in accordance with this Section may also negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles 8.5 and 8.6, including but not limited to those regarding qualification, standards or licensing matters. Such commitments shall be inscribed in that Party's Schedule of Specific Commitments in Annex III.

Section B: Negative Listing Approach

ARTICLE 8.9: SCHEDULE OF NON-CONFORMING MEASURES

1. For a Party making commitments in accordance with this Section, Articles 8.10 through 8.12 shall not apply to:

- (a) any non-conforming measure that is maintained by the following on the date of entry into force of this Agreement, as set out in Section A of a Party's Schedule of Non-Conforming Measures in Annex III:
 - (i) the central government of a Party; or
 - (ii) a regional level of government;
- (b) any non-conforming measure that is maintained by a local level of government other than a regional level of government referred to in subparagraph (a)(ii) on the date of entry into force of this Agreement; or
- (c) the continuation or prompt renewal of any non-conforming measure referred to in subparagraphs (a) and (b).

2. Articles 8.10 through 8.12 shall not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors or activities set out in Section B of its Schedule of Non-Conforming Measures in Annex III.

在这种情况下，各方应进行磋商，并考虑到利益总体平衡。

5. 本协议的条款不得解释为阻止一方授予邻国优惠，以促进仅限于本地生产和消费的服务在毗邻边境区域的交换。

第8.8条：附加承诺

根据本节做出承诺的一方也可以就第8.5条和第8.6条未列入议程的影响服务贸易的措施进行谈判，包括但不限于关于资格认定、标准或许可事项的措施。此类承诺应列入该方附件III中的具体承诺清单。

B部分：负面清单方法

第8.9条：非一致性措施清单

1. 对于根据本节做出承诺的一方，第8.10条至第8.12条不适用于：

- (a) 在本协议生效日期，根据缔约方附件III中的第X节非一致性措施清单所列，由以下一方维持的任何非一致性措施：(i) 缔约方的中央政府；或 (ii) 区域级政府；(b) 在本协议生效日期，由第(a)(ii)项所述的区域级政府以外的其他地方级政府维持的任何非一致性措施；或 (c) 第(a)项和第(b)项所述的任何非一致性措施的持续或迅速重新实施。

2. 条款8.10至8.12不适用于任何一方针对其附件III中非一致性措施清单B部分所列的部门、子部门或活动所采纳或维持的措施。

3. Schedules of Non-Conforming Measures are annexed to this Agreement as Annex III and shall form an integral part thereof.

ARTICLE 8.10: NATIONAL TREATMENT

1. For a Party making commitments in accordance with this Section, it shall accord to services and service suppliers of the other Party treatment no less favourable than that it accords to its own like services and service suppliers.⁶
2. A Party may meet the requirement in paragraph 1 by according to services and service suppliers of the other Party either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.
3. Formally identical or formally different treatment by a Party shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of that Party compared to the like service or service suppliers of the other Party.

ARTICLE 8.11: MARKET ACCESS

For a Party making commitments in accordance with this Section,⁷ with respect to market access through the modes of supply identified in Article 8.2(x), it shall not adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, measures that are defined as:

- (a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;
- (b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirements of an economic needs test;
- (c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical

⁶ Nothing in this Article shall be construed to require the Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

⁷ Where a Party undertakes a market access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (x)(i) of Article 8.2, and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (x)(iii) of Article 8.2, it is thereby committed to allow related transfers of capital into its territory.

3. 非一致性措施清单作为附件III附属于本协议，并构成本协议的组成部分。

条款 8.10：国民待遇

1. 对于根据本节做出承诺的一方，应给予另一方的服务和服务供应商不低于其本国同类服务和服务供应商的待遇。⁶
2. 一方可以通过给予另一方的服务和服务供应商与其本国同类服务和服务供应商形式上相同或形式上不同的待遇来满足第1段的要求。
3. 一方给予的形式上相同或形式上不同的待遇，如果与另一方的同类服务或服务供应商相比，修改了竞争条件以有利于该方的服务或服务供应商，则应被视为不利。

条款 8.11：市场准入

对于根据本节做出承诺的一方，⁷ 就通过第8.2(x)条中确定的供应模式进行市场准入而言，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，被定义为以下措施：

- (a) 对服务供应商数量的限制，无论以数量配额、垄断、独家服务供应商的形式或经济需求测试的要求形式存在；
- (b) 对服务交易或资产总价值的限制，无论以数量配额或经济需求测试的要求形式存在；
- (c) 对服务运营总数或以指定数量单位表示的服务产出总量的限制

⁶ 本条款中的任何内容均不得解释为要求一方对其领土上相关服务或服务供应商的外国特性所导致的固有竞争劣势进行补偿。

⁷ 如果一方就通过第8.2条第(x)(i)项中提到的供应模式进行的服务供应做出市场准入承诺，并且跨境资本流动是该服务本身的重要组成部分，那么该方即承诺允许此类资本流动。如果一方就通过第8.2条第(x)(iii)项中提到的供应模式进行的服务供应做出市场准入承诺，那么该方即承诺允许相关资本转移进入其领土。

units in the form of quotas or the requirements of an economic needs test;⁸

- (d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirements of an economic needs test;
- (e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and
- (f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

ARTICLE 8.12: MOST-FAVOURLED-NATION TREATMENT

1. For a Party making commitments in accordance with this Section, it shall, unless otherwise indicated in its Schedule of Non-Conforming Measures in Annex III, accord to services and service suppliers of the other Party treatment no less favourable than it accords to like services and service suppliers of any non-party.
2. Notwithstanding paragraph 1, a Party may adopt or maintain any measure that accords differential treatment to any non-party in accordance with any free trade agreement or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.
3. For greater certainty, paragraph 2 includes, in respect of agreements on the liberalisation of trade in goods or services or investment, any measures taken as part of a wider process of economic integration or trade liberalisation.
4. For those sectors exempted from the operation of paragraph 1 by a Party's Schedule of Non-Conforming Measures in Annex III and where, after this Agreement enters into force, that Party subsequently enters into any agreement with a non-party in which it provides treatment to services or service suppliers of that non-party more favourable than it accords to like services or service suppliers of the other Party, the other Party may request consultations to discuss the possibility of extending, under this Agreement, treatment no less favourable than that provided under the agreement with the non-party. In such circumstances, the Parties shall enter into consultations bearing in mind the overall balance of benefits.

⁸ This subparagraph shall not apply to measures of a Party which limit inputs for the supply of services.

以配额或经济需求测试的要求形式存在的单位；⁸

(d) 对特定服务部门中可雇用的自然人数总额或服务供应商可雇用的、对提供特定服务形式必要且直接相关的自然人数的限制，以数量配额或经济需求测试的要求为准；(e) 限制或要求服务供应商通过特定类型的法律实体或合资企业提供服务；以及(f) 对外国资本参与的限制，包括对外国持股比例的最高百分比限制或单个或累计外国投资的总额限制。

第八条第11款：市场准入

1. 对于根据本节做出承诺的一方，除非其在附件III中的非一致性措施清单中另有说明，否则应给予另一方的服务和服务供应商不低于其给予任何非缔约方的同类服务和服务供应商的优惠待遇。
2. 尽管有第1段的规定，一方可以采用或维持任何根据本协议生效日期之前生效或签署的任何自由贸易协定或多边国际协定给予任何非缔约方差别待遇的措施。
3. 为进一步明确，第2段包括关于货物或服务贸易自由化或投资的协议中，作为更广泛的经济一体化或贸易自由化进程一部分所采取的任何措施。
4. 对于根据附件III中某缔约方的《非一致性措施清单》豁免第1段规定的运营的那些部门，且在本协议生效后，该缔约方随后与任何非缔约方达成任何协议，在该协议中，它向该非缔约方的服务或服务供应商提供的待遇优于它给予另一方同类服务或服务供应商的待遇，另一方可以请求磋商，讨论在本协议下延长不低于与非缔约方协议提供的待遇的可能性。在这种情况下，缔约方应进行磋商，并考虑到利益总体平衡。

⁸ 本段不适用于限制服务供应投入的缔约方的措施。

5. The provisions of this Agreement shall not be construed as to prevent a Party from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.

PART III: OTHER PROVISIONS

ARTICLE 8.13: DOMESTIC REGULATION

1. In sectors where specific commitments are undertaken, each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2.

- (a) Each Party shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, on request of an affected service supplier, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.
- (b) The provisions of subparagraph (a) shall not be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

3. Where authorisation is required for the supply of a service on which a specific commitment under this Agreement has been made, the competent authorities of each Party shall:

- (a) in the case of an incomplete application, on request of the applicant, identify all the additional information that is required to complete the application and provide the opportunity to remedy deficiencies within a reasonable timeframe;
- (b) on request of the applicant, provide without undue delay information concerning the status of the application; and
- (c) if an application is terminated or denied, to the maximum extent possible, inform the applicant in writing and without delay the reasons for such

5. 本协议的条款不得解释为阻止一方为了促进仅限于本地生产和消费的服务在毗邻边境区域内的交换，而向邻国授予或给予优惠。

第三部分：其他规定

第八条13款：国内法规

1. 在作出具体承诺的部门中，每一方应确保所有普遍适用的、影响服务贸易的措施以合理、客观和公正的方式实施。

2. (a) 每一方应维持或尽快设立司法、仲裁或行政法庭或程序，这些法庭或程序应根据受影响的服务供应商的请求，对影响服务贸易的行政决定进行迅速审查，并在必要时提供适当的救济措施。如果此类程序不独立于负责作出相关行政决定的机构，该方应确保程序实际上提供客观和公正的审查。(b) 第(a)段的规定不应被解释为要求一方设立此类法庭或程序，如果这样做与其宪法结构或法律制度的性质不一致的话。

3. 如果根据本协议已作出具体承诺，服务供应需要授权，则每一方的主管当局应：

- (a) 在不完整申请的情况下，应申请人请求，识别所有完成申请所需的补充信息，并在合理的时间内提供纠正缺陷的机会；(b) 应申请人请求，无不当延误地提供有关申请状态的信息；以及(c) 如果申请被终止或拒绝，在最大程度上，以书面形式并及时通知申请人终止或拒绝的原因

action. The applicant will have the possibility of resubmitting, at its discretion, a new application.

4. To ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, the Parties shall jointly review the results of the negotiations on disciplines on these measures pursuant to paragraph 4 of Article VI of GATS, with a view to their incorporation into this Agreement. The Parties note that such disciplines aim to ensure that such requirements 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.

5.

- (a) In sectors in which a Party has undertaken specific commitments, pending the incorporation of the disciplines referred to in paragraph 4, that Party shall not apply licensing and qualification requirements and technical standards that nullify or impair its obligation under this Agreement in a manner which:
 - (i) does not comply with the criteria outlined in subparagraphs 4(a), (b) or (c); and
 - (ii) could not reasonably have been expected of that Party at the time the specific commitments in those sectors were made.
- (b) In determining whether a Party is in conformity with the obligation under subparagraph 5(a), account shall be taken of international standards of relevant international organisations applied by that Party.⁹

6. In sectors where specific commitments regarding professional services are undertaken, each Party shall provide for adequate procedures to verify the competence of professionals of the other Party.

⁹ The term “relevant international organisations” refers to international bodies whose membership is open to the relevant bodies of the Parties to this Agreement.

采取行动。申请人将有机会根据其自行决定重新提交新的申请。

4. 为确保与资格要求和程序、技术标准及许可要求相关的措施不构成服务贸易的不必要壁垒，缔约方应根据服务贸易总协定第六条第4款就这些措施的实施纪律进行的谈判结果进行联合审查，以将其纳入本协议。缔约方注意到，这些纪律旨在确保此类要求，包括：(a) 基于客观和透明的标准，如能力和提供服务的能力；(b) 其负担重程度不超过确保服务质量所必需的程度；以及(c) 在许可程序的情况下，本身不限制服务供应。

(a) 基于客观和透明的标准，如能力和服务提供的能力；(b) 不比确保服务质量所必需的程度更负担重；以及在许可程序的情况下，本身不限制服务供应。

5.

(a) 在一方已作出具体承诺的部门中，在所述实施纪律纳入本协议之前，该方不得适用使其在本协议下的义务无效或损害的许可和资格要求及技术标准，其方式为：

(i) 不符合第4款(a)、(b)或(c)项中概述的标准；以及(ii) 在那些部门作出具体承诺时，该方不可能合理预期其会采取这种方式。

(b) 在确定一方是否符合第5(a)项下的义务时，应考虑该方采用的有关国际组织的国际标准。⁹

6. 在就专业服务作出具体承诺的部门中，每一方应规定充分的程序以核实另一方专业人员的资格。

⁹ “相关国际组织”一词是指其成员资格向本协议各方的相关机构开放的国际机构。

7. A Party shall, in accordance with its laws and regulations, permit services suppliers of the other Party to use enterprise names under which they trade in the territory of the other Party.

ARTICLE 8.14: 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 4, a Party may recognise, or encourage its relevant competent bodies to recognise, the education or experience obtained, requirements met, or licences or certifications granted in the other Party. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement between the Parties or their relevant competent bodies, 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, nothing in Articles 8.7 or 8.12 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.

3. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 2, whether existing or in the future, shall afford adequate opportunity for the other Party, on request, to negotiate its accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that the education, experience, licences or certifications obtained or requirements met in that other Party's territory should also be recognised.

4. A Party shall not accord recognition in a manner which would constitute a means of discrimination between the other Party and non-parties in the application of its standards or criteria for the authorisation, licensing or certification of service suppliers, or a disguised restriction on trade in services.

ARTICLE 8.15: QUALIFICATIONS RECOGNITION COOPERATION

1. The Parties agree to encourage, where possible, the relevant bodies in their respective territories responsible for issuance and recognition of professional and vocational qualifications to strengthen cooperation and to explore possibilities for mutual recognition of respective professional and vocational qualifications.

2. Each Party, where possible, will encourage the relevant bodies in its territory to develop, where possible, mutually acceptable standards and criteria for licensing and certification, and to provide recommendations to the Committee on Trade in Services on

7. 缔约方应根据其法律法规，允许另一方的服务供应商在其领土内使用其经营的企业名称。

第八十四条：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的目的，在部分或全部情况下，并遵守第四段的要求，一方可以承认，或鼓励其相关主管部门承认，另一方获得的、满足的要求或授予的许可证或认证的教育或经验。这种承认，可以通过协调或其他方式实现，可以基于双方或其相关主管部门之间的协议或安排，也可以自主授予。

2. 当一方承认，自主地或通过协议或安排，非缔约方领土内获得的教育或经验、满足的要求或授予的许可证或认证时，第八十四条第7条或第12条中的任何内容均不得解释为要求该方承认另一方领土内获得的教育或经验、满足的要求或授予的许可证或认证。

3. 一方是缔约方，参与第2段所述类型的协议或安排，无论该协议或安排是有效的还是未来的，都应给予另一方充分的机会，在请求时，就其加入该协议或安排进行谈判，或就与其谈判相当的协议或安排进行谈判。当一方自主给予承认时，应给予另一方充分的机会，证明在该另一方领土内获得的或满足的要求所应获得的教育、经验、许可证或认证也应得到承认。

4. 一方不得以歧视另一方与非缔约方的方式承认，在应用其关于服务供应商授权、许可或认证的标准或标准时，或以伪装的服务贸易限制的方式。

ARTICLE 8.15: QUALIFICATIONS RECOGNITION COOPERATION

1. 各方同意，在可能的情况下，鼓励其各自领土内负责发布和承认专业和职业资格的相关机构加强合作，并探索相互承认各自专业和职业资格的可能性。

2. 每一方，在其领土内，将鼓励相关机构制定，在其能力范围内，相互可接受的许可和认证标准及标准，并向服务贸易委员会提供建议

mutual recognition with respect to service sectors mutually agreed by the Parties, including engineering and Traditional Chinese Medicine.

3. The Parties may discuss, as appropriate, relevant bilateral, plurilateral and multilateral agreements relating to professional and vocational services.

ARTICLE 8.16: PAYMENTS AND TRANSFERS

1. Except in the circumstances envisaged in Article 16.6 (Measures to Safeguard the Balance-of-Payments) of Chapter 16 (General Provisions and Exceptions), a Party shall not apply restrictions on international transfers and payments for current transactions relating to its specific commitments.

2. Nothing in this Chapter shall affect the rights and obligations of the Parties as members of the International Monetary Fund in accordance with the Articles of Agreement of the International Monetary Fund, including the use of exchange actions which are in conformity with the Articles of Agreement, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its specific commitments regarding such transactions, except under Article 16.6 (Measures to Safeguard the Balance of Payments) of Chapter 16 (General Provisions and Exceptions), or at the request of the International Monetary Fund.

ARTICLE 8.17: 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 a juridical person:

- (a) owned or controlled 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.

ARTICLE 8.18: TRANSPARENCY

1. Each Party shall ensure that:
- (a) regulatory decisions, including the basis for such decisions, are promptly published or otherwise made available to all interested persons; and
 - (b) its measures relating to public networks or services are made publicly available, including the requirements, if any, for permits.

相互承认，涉及由缔约方共同同意的服务部门，包括工程和传统中医。

3. 各方可以根据适当情况，讨论与专业和职业教育服务相关的相关双边、多边和多边协定。

第八章第16条：支付和转账

1. 除第16章第16.6条（维护国际收支平衡措施）所述情况外，任何一方不得对其具体承诺相关的经常性国际转账和支付施加限制。

2. 本章任何规定均不影响各方作为国际货币基金组织成员的权利和义务，包括根据国际货币基金组织协定条款使用与协定条款一致的外汇行动，前提是任何一方不得对其具体承诺相关的资本交易施加与其具体承诺不一致的限制，除非根据第16章第16.6条（维护国际收支平衡措施）或应国际货币基金组织的请求。

条款 8.17：拒绝利益

在事先通知和磋商的前提下，若服务供应商是法人，一方可以拒绝该另一方服务供应商享受本章的利益：

- (a) 拥有或受非缔约方或拒绝方人士拥有或控制；以及 (b) 在另一方的领土内没有实质性业务运营。

ARTICLE 8.18: TRANSPARENCY

1. 每一方应确保：
- (a) 监管决策，包括作出此类决策的依据，应及时公布或以其他方式提供给所有利益相关者；以及 (b) 其与公共网络或服务相关的措施应公开提供，包括许可证的任何要求，如有。

2. Each Party shall ensure that, where a licence is required, all measures relating to the licensing of suppliers of public networks or services are made publicly available, including:

- (a) the circumstances in which a licence is required;
- (b) all applicable licencing procedures;
- (c) the period of time normally required to reach a decision concerning a licence application;
- (d) the cost of, or fees for applying for, or obtaining, a licence; and
- (e) the period of validity of a licence.

3. Each Party shall, in accordance with its laws and regulations, ensure that, on request, an applicant receives reasons for the denial of, revocation of, refusal to renew, or the imposition or modification of conditions on, a licence. Each Party shall endeavour to provide, to the extent possible, such information in writing.

ARTICLE 8.19: TELECOMMUNICATION SERVICES

1. The Annex on Telecommunications of GATS and Reference Paper on Telecommunications shall be incorporated, *mutatis mutandis*, into and form an integral part of this Agreement.

2. Each Party shall ensure that licensing requirements for suppliers of telecommunications networks or services of the other Party are applied in the least trade restrictive manner and are not more burdensome than necessary.

3. 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.

4. In accordance with its laws and regulations, each Party shall ensure that suppliers of public telecommunications networks or services of the other Party operating in its territory are provided with adequate advance notice¹⁰ of, and the opportunity to comment on, regulatory decisions of general application that its telecommunications regulatory body proposes.

¹⁰ For greater clarity, the practice of soliciting public opinions before promulgation of regulatory decisions shall be deemed “adequate advance notice”.

2. 每一方应确保，在需要许可证的情况下，所有与公共网络或服务供应商许可相关的措施均应公开提供，包括：

- (a) 要求许可证的情况；(b) 所有适用的许可程序；(c) 通常需要多长时间才能就许可证申请做出决定；(d) 许可证的成本、申请费或获取费；以及
- (e) 许可证的有效期。

3. 每一方应根据其法律法规，确保在要求时，申请人能够获得拒绝、撤销、不续期或对许可证施加或修改条件的理由。每一方应尽可能以书面形式提供此类信息。

第八十九条第十九条：电信服务

1. 服务贸易总协定的电信附件和电信参考文件应在不改变实质内容的情况下，并入本协议并成为其组成部分。

2. 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最不限制贸易的方式适用，并且不应比必要的更负担重。

3. 每一方应促进与另一方在其领土内运营的公共电信网络或服务的供应商就电信政策、法规和标准的发展进行磋商。

4. 根据其法律法规，每一方应确保在其领土内运营的另一方公共电信网络或服务供应商得到充分的事先通知¹⁰，并有机会对电信监管机构提出的具有普遍适用性的监管决策进行评论。

¹⁰ 为更清晰起见，在监管决策颁布前征求公众意见的做法应被视为“充分的事先通知”。

5. The Parties shall encourage their respective telecommunications service suppliers to cooperate to reduce the wholesale rates for international mobile roaming between the two Parties, with a view to reducing international mobile roaming rates.

ARTICLE 8.20: COMMITTEE ON TRADE IN SERVICES

1. The Parties hereby establish a Committee on Trade in Services (the “Committee”) that shall meet within two years of the date of entry into force of this Agreement, or as agreed by the Parties, or on the request of the FTA Joint Commission, to consider any matter arising under this Chapter.

2. The Committee’s functions shall include:

- (a) reviewing the implementation and operation of this Chapter;
- (b) identifying and recommending measures to promote increased services trade between the Parties; and
- (c) considering other trade in services issues of interest to a Party.

3. With the agreement of both Parties, representatives from relevant agencies or sectors may be invited to attend the Committee meetings.

ARTICLE 8.21: CONTACT POINTS

Each Party shall designate one or more contact points to facilitate communications between the Parties on any matter covered by this Chapter, and shall provide details of such contact points to the other Party. The Parties shall notify each other promptly of any amendments to the details of their contact points.

ARTICLE 8.22: MODIFICATION OF SCHEDULES

1. A Party (referred to in this Article as the “modifying Party”) may modify or withdraw any commitment in its Schedule in Annex III at any time after three years have elapsed from the date on which that commitment entered into force, provided that:

- (a) it notifies the other Party (referred to in this Article as the “affected Party”) of its intention to modify or withdraw a commitment no later than three months before the intended date of implementation of the modification or withdrawal; and

5. 各方应鼓励其各自电信服务供应商合作，以降低两国之间的国际移动漫游批发费率，旨在降低国际移动漫游费率。

第八条第二十条：服务贸易委员会

1. 各方 **hereby** 设立服务贸易委员会（“委员会”），该委员会应在本协议生效之日起两年内召开会议，或经各方同意，或应自由贸易协定联合委员会请求，以审议本章项下出现的任何事项。

2. 委员会的职能应包括：

- (a) 审查本章的实施和运营；(b) 确定并建议促进缔约方之间服务贸易增加的措施；以及(c) 审议对一方具有利益的服务贸易问题。

3. 经双方同意，相关机构或部门的代表可被邀请参加委员会会议。

ARTICLE 8.21: CONTACT POINTS

每一方应指定一个或多个联络点，以促进各方就本章涵盖的任何事项进行沟通，并应向另一方提供此类联络点的详细信息。各方应就其联络点详情的任何修正案立即相互通知。

条款 8.22：附件的修改

1. 一方（在本条中称为“修改方”）可以在该承诺生效之日起三年后随时修改或撤回其附件III中的任何承诺，前提是：

- (a) 它通知另一方（在本条款中称为“受影响方”）其修改或撤回承诺的意图，且不迟于修改或撤回的预定实施日期前三个月；以及

(b) upon notification of a Party's intent to make such modification, the Parties shall consult and attempt to reach agreement on the appropriate compensatory adjustment.

2. In achieving a compensatory adjustment, the Parties shall endeavour to maintain a general level of mutually advantageous commitment that is not less favourable to trade than provided for in the Schedules prior to such negotiations.

3. If agreement under paragraph 1(b) is not reached between the modifying Party and the affected Party within three months, the affected Party may refer the matter to an arbitral tribunal in accordance with the procedures set out in Chapter 15 (Dispute Settlement) or, where agreed between the Parties, to an alternative arbitration procedure.

4. The modifying Party may not modify or withdraw its commitment until it has made the compensatory adjustments in conformity with the findings of the arbitral tribunal in accordance with paragraph 3.

5. If the modifying Party implements its proposed modification or withdrawal and does not comply with the findings of the arbitral tribunal, the affected Party may modify or withdraw substantially equivalent benefits in conformity with the findings of the arbitral tribunal.

ARTICLE 8.23: MONOPOLIES AND EXCLUSIVE SERVICE SUPPLIERS

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's obligations under its Schedule in Annex III.

2. Where a Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Party's specific commitments in its Schedule in Annex III, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments.

3. If a Party has reason to believe that a monopoly supplier of a service of the other Party is acting in a manner inconsistent with paragraph 1 or 2, that Party may request the other Party establishing, maintaining or authorising such supplier to provide specific information concerning the relevant operations.

4. If, after the date of entry into force of this Agreement, a Party grants monopoly rights regarding the supply of a service covered by its specific commitments in its Schedule in Annex III, that Party shall notify the other Party no later than three months before the intended implementation of the grant of monopoly rights, and paragraphs 1(b) and 2 of Article 8.22 shall apply.

(b) 在一方通知其意图进行此类修改时，各方应磋商并尝试就适当的补偿性调整达成协议。

2. 在达成补偿性调整时，缔约方应努力维持一个在谈判前不低于附件所规定水平的、对贸易互利的承诺水平，且该水平不应应对贸易不利。

3. 如果修改方和受影响方在**1(b)**段规定的三个月内未能达成协议，受影响方可根据第15章（争端解决）规定的程序或根据缔约方之间的协议，将事项提交仲裁庭或替代仲裁程序。

4. 修改方在未根据第3段的规定作出与仲裁庭的裁决一致的补偿性调整之前，不得修改或撤回其承诺。

5. 如果修改方实施其拟议的修改或撤回，且未遵守仲裁庭的裁决，受影响方可根据仲裁庭的裁决，修改或撤回实质上等效的利益。

ARTICLE 8.23: 垄断和独家服务供应商

1. 每一方应确保其领土内任何垄断服务供应商在相关市场提供垄断服务时，其行为不与其附件III中的承诺不一致。

2. 当一方的垄断供应商直接或通过关联公司参与其垄断权范围之外且属于其附件III中具体承诺的服务供应时，该方应确保该供应商不滥用其垄断地位，在其领土内采取与其承诺不一致的行为。

3. 如果一方有理由相信另一方的服务垄断供应商的行为与第1段或第2段不一致，该方可以请求另一方建立、维持或授权该供应商提供有关相关运营的具体信息。

4. 如果在本协议生效日期之后，一方就其附件III中的具体承诺所涵盖的服务供应授予垄断权，该方应在垄断权拟议实施的三个月至前通知另一方，第8.22条的第1款(b)项和第2款应适用。

5. This Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect,

- (a) authorises or establishes a small number of service suppliers; and
- (b) substantially prevents competition among those suppliers in its territory.

ARTICLE 8.24: REVIEW

1. The Parties shall consult within two years of the date of entry into force of this Agreement and every two years thereafter, or as otherwise agreed, to review the implementation of this Chapter and consider other trade in services issues of mutual interest, with a view to the progressive liberalisation of the trade in services between them on a mutually advantageous basis.

2. Where a Party unilaterally liberalises a measure affecting market access of a service supplier or suppliers of the other Party, the other Party may request consultations to discuss the measure. Following such consultations, if the Parties agree to incorporate the liberalised measure into the Agreement as a new commitment, the relevant Schedule in Annex III shall be amended.

3. After the entry into force of this agreement, at a time to be mutually agreed by the Parties, the Parties shall initiate next round of the negotiation on trade in services in the form of negative listing approach, and conclude such negotiation as soon as they could.

ARTICLE 8.25: COOPERATION

Bilateral Taxation Arrangements

1. The Parties shall review their bilateral taxation arrangements,¹¹ having regard to mutual economic objectives and international taxation standards.

Traditional Chinese Medicine Services (“TCM”)

2. Within the relevant committees to be established in accordance with this Agreement, and subject to available resources, Australia and China shall cooperate on matters relating to trade in TCM services.

3. Cooperation identified in paragraph 2 shall:

¹¹ These arrangements include the *Agreement between the Government of the People’s Republic of China and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income*, done at Canberra on 17 November 1988.

5. 本条款亦适用于独家服务供应商的情况，其中一方正式或实际上，

- (a) 授权或设立少量服务供应商；并
- (b) 大大阻止其在领土内这些供应商之间的竞争。

第8.24条：审查

1. 各方应在本协议生效之日起两年内，并此后每两年一次，或经另行商定，磋商审查本章的实施情况，并考虑其他互感兴趣的 服务贸易问题，以实现双方在互惠互利的基础上逐步放宽服务贸易。

2. 如一方单方面放宽影响另一方服务供应商或供应商市场准入的措施，另一方可以请求磋商以讨论该措施。经此类磋商后，如果各方同意将放宽的措施作为一项新承诺纳入本协议，附件III中的相关附件应予以修订。

3. 本协议生效后，在缔约方相互同意的时间内，缔约方应以负面清单方法形式发起服务贸易下一轮谈判，并尽快完成该谈判。

第8.25条：合作

双边税收安排

1. 各方应审查其双边税收安排,¹¹ 并顾及相互经济目标和国际税收标准。

中医药服务 (“TCM”)

2. 根据本协议设立的有关委员会内，在资源允许的情况下，澳大利亚和中国应就与中医药服务贸易相关的事项进行合作。

3. 第2段中确定的合作应：

¹¹ 这些安排包括 中华人民共和国政府和澳大利亚政府关于避免双重征税和防止偷漏税的协议，该协议于1988年11月17日在堪培拉签署。

- (a) include exchanging information, where appropriate, and discussing policies, regulations and actions related to TCM services; and
- (b) encourage future collaboration between regulators, registration authorities and relevant professional bodies of the Parties to facilitate trade in TCM and complementary medicines, in a manner consistent with all relevant regulatory frameworks. Such collaboration, involving the competent authorities of both Parties – for Australia, notably the Department of Health, and for China the State Administration of Traditional Chinese Medicine – will foster concrete cooperation and exchanges relating to TCM.

(a) 包括在适当情况下交换信息，并讨论与中医药服务相关的政策、法规和行为；以及

(b) 鼓励缔约方的主管当局、注册机构和相关专业机构之间开展未来合作，以促进中医药和补充与替代医学的贸易，方式应与所有相关监管框架保持一致。此类合作将涉及双方的主管当局——对于澳大利亚，特别是卫生部；对于中国，是国家中医药管理局——将促进与中医药相关的具体合作与交流。

ANNEX 8-A
SECTOR COVERAGE UNDER ARTICLE 8.7

Sector	Conditions/Qualification
Environmental services (CPC 9401-9406, 9409)	
Construction and related engineering services (CPC 512, 514, 516 and 517)	
Services incidental to forestry (CPC 8814)	The commitment is limited to preferential treatment accorded to members of the Organization for Economic Cooperation and Development (“OECD”)
Engineering services (CPC 8672)	
Integrated engineering services (CPC 8673)	
Computer and related services (CPC841, 842, 843, 844, 845 and 849)	
Tourism and travel related services (CPC 641, 642, 643, 7471 and 7472)	
Related scientific and technical consulting services (CPC 8675, excluding the services related to national security)	
Securities services	
Education services (excluding national compulsory education and special education services e.g. military, police, political and party school education)	

附件8-A 第8.7条下的行业覆盖范围

行业	条件/资格认定
环境服务 (CPC 9401-9406, 9409)	
建筑 and 相关工程服务 (CPC 512, 514, 516和517)	
林业相关服务 (CPC 8814)	该承诺仅限于给予经济合作与发展组织成员的优惠待遇 授予该组织的成员 经济合作 and 发展 (“经合组织”)
工程服务 (CPC 8672)	
集成工程服务 (CPC 8673)	
计算机及相关服务 (CPC841, 842, 843, 844, 845) and 849)	
旅游业 and 旅行 相关服务 (CPC 641, 642, 643, 7471 and 7472)	
相关的科学技术咨询服务 (CPC 8675, 不包括与国家安全相关的服务)	
证券服务	
教育服务 (不包括国家义务教育和特殊教育服务 e.g. 军事, 警察, 政治和党校教育)	

**ANNEX 8-B
FINANCIAL SERVICES**

附件8-B 金融服务

ARTICLE 1: SCOPE

1. This Annex provides for measures additional to Chapter 8 (Trade in Services) in relation to financial services.

2. This Annex applies to measures affecting the supply of financial services. Reference to the supply of a financial service in this Annex shall mean the supply of a financial service:

- (a) from the territory of a Party into the territory of the other Party;
- (b) in the territory of a Party to the service consumer of the other Party;
- (c) by a service supplier of a Party, through commercial presence in the territory of the other Party; or
- (d) by a service supplier of a Party, through presence of natural persons of that Party in the territory of the other Party.

ARTICLE 2: DEFINITIONS

1. For the purposes of this Annex, “services supplied in the exercise of governmental authority” as referred to in Chapter 8 (Trade in Services) of this Agreement means the following:

- (a) activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;
- (b) activities forming part of a statutory system of social security or public retirement plans; or
- (c) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government,

except where a Party allows the activities referred to in paragraph 1(b) or paragraph 1(c) to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier.

2. The definition of “service supplied in the exercise of governmental authority” in Article 8.2 (Definitions) of Chapter 8 (Trade in Services) shall not apply to services covered by this Annex.

第1条：范围

1. 本附件规定了与第8章（服务贸易）相关的金融服务方面的额外措施。

2. 本附件适用于影响金融服务供应的措施。本附件中提及的金融服务供应应指金融服务的供应：

- (a) 从一方领土供应至另一方领土； (b) 在一方领土内向另一方的服务消费者供应； (c) 由一方服务提供者，通过在另一方领土内的商业存在进行供应；或 (d) 由一方服务提供者，通过该方自然人在另一方领土内的存在进行供应。

条款 2：定义

1. 根据本附件的目的，“本协议第8章（服务贸易）中提到的‘政府当局行使职能时提供的服务’是指以下内容：

- (a) 中央银行或货币当局或任何其他公共实体为实施货币或汇率政策而开展的活动； (b) 构成法定社会保障制度或公共退休计划一部分的活动；或(c) 公共实体为政府账户或使用政府的担保或金融资源而开展的其他活动，

除非一方允许第1段(b)或第1段(c)中提到的活动由其金融服务提供者在与公共实体或金融服务提供者竞争的情况下开展。

2. “政府行使职能提供的服务”这一术语在《第8章（服务贸易）第8.2条（定义）》中的定义不适用于本附件涵盖的服务。

3. For the purposes of this Annex:

- (a) **financial service** is any service of a financial nature offered by a financial service supplier of a Party. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services include the following activities:

Insurance and insurance-related services

- (i) direct insurance (including co-insurance):
 - (A) life; and
 - (B) non-life;
- (ii) reinsurance and retrocession;
- (iii) insurance intermediation, such as brokerage and agency;
- (iv) services auxiliary to insurance, such as consultancy, actuarial, risk assessment, actuarial and claim settlement services;

Banking and other financial services (excluding insurance)

- (v) acceptance of deposits and other repayable funds from the public;
- (vi) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;
- (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;

3. 就本附件而言：

- (a) 金融服务是指一方金融服务提供者提供的任何具有金融性质的服务。金融服务包括所有保险和保险相关服务，以及所有银行业务及其他金融服务（不包括保险）。金融服务包括以下活动：

保险和保险相关服务

- (i) 直接保险（包括共同保险）：
 - (A) 人寿；和
 - (B) 非人寿；
- (ii) 再保险和分保；
- (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、精算和理赔服务；

银行业务及其他金融服务（不包括保险）

- (v) 对公众接受的存款和其他可偿还资金；(vi) 各类贷款，包括消费者信用、抵押贷款、保理和商业交易融资；(vii) 金融租赁；(viii) 所有支付和资金传输服务，包括信用卡、记账卡、借记卡、旅行支票和银行汇票；(ix) 担保和承诺；(x) 为自己账户或为客户账户进行的交易，无论是在交易所、场外交易市场还是其他方式，包括：(A) 货币市场工具（包括支票、票据、存款证明）；(B) 外汇；

- (C) derivative products including, but not limited to, futures and options;
- (D) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
- (E) transferable securities; and
- (F) other negotiable instruments and financial assets, including bullion;
- (xi) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;
- (xii) money broking;
- (xiii) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
- (xiv) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
- (xv) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and
- (xvi) advisory, intermediation and other auxiliary financial services on all the activities listed in paragraphs 3(a)(v) through 3(a)(xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;
- (b) **financial service supplier** means any natural or juridical person of a Party wishing to supply or supplying financial services but does not include a public entity; and
- (c) **public entity** means:
 - (i) a government, a central bank or a monetary authority of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or

(C) 衍生产品，包括但不限于期货和期权；(D) 汇率和利率工具，包括互换、远期利率协议等产品；(E) 可转让证券；以及(F) 其他可流通票据和金融资产，包括贵金属；

(xi) 参与各种证券发行，包括作为代理人（无论公开或私下）进行的承销和分销，以及与此类发行相关的服务；(xii) 资金中介；(xiii) 资产管理，如现金或投资组合管理、各种集合投资管理、养老金管理、托管、保管和信托服务；(xiv) 金融资产（包括证券、衍生产品和其他可流通票据）的结算和清算服务；(xv) 提供和转让金融信息，以及由其他金融服务提供者提供的金融数据处理和相关软件；以及(xvi) 就第 3(a)(v) 至 3(a)(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；

(b) 金融服务提供者是指任何希望提供或正在提供金融服务的缔约方法人或自然人，但不包括公共实体；以及

(c) 公共实体是指：

(i) 一方政府、中央银行或货币当局，或一方拥有的或受一方控制的实体，其主要从事为政府目的执行政府职能或活动，不包括主要在商业条件下提供金融服务的实体；或

- (ii) a private entity performing functions normally performed by a central bank or monetary authority, when exercising those functions.

ARTICLE 3: DOMESTIC REGULATION

1. Notwithstanding any other provisions of this Chapter, a Party shall not be prevented from adopting or maintaining reasonable measures for prudential reasons, including for:

- (a) the protection of investors, depositors, policy-holders, policy-claimants, persons to whom a fiduciary duty is owed by a financial service supplier, or any similar financial market participants; or
- (b) ensuring the integrity and stability of that Party's financial system.

2. Where such measures do not conform with the provisions of this Chapter, they shall not be used as a means of avoiding that Party's commitments or obligations under this Chapter. Such measures shall not constitute a disguised restriction on trade in services and shall not discriminate against financial services or financial service suppliers of the other Party in comparison to the Party's own like financial services or like financial service suppliers.

3. Nothing in this Chapter shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

ARTICLE 4: RECOGNITION

1. A Party may recognise prudential measures of the other Party, or a non-party, in determining how the Party's measures relating to financial services shall be applied. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement with an international standard-setting body, the other Party, or a non-party concerned, or may be accorded autonomously.

2. A Party that is a party to such an agreement or arrangement referred to in paragraph 1, whether future or existing, shall afford adequate opportunity for the other Party to negotiate its accession to such agreements or arrangements, or to negotiate comparable ones with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation, and, if appropriate, procedures concerning the sharing of information between the parties to the agreement or arrangement.

- (ii) 私营实体在行使中央银行或货币当局通常履行的职能时。

条款 3：国内法规

1. 不论本章有任何其他规定，一方不得因审慎理由而受阻，不得采用或维持合理的措施，包括：

- (a) 保护投资者、存款人、保单持有人、保单索赔人、受金融服务供应商承担信托责任的人或任何类似的金融市场参与者；或 (b) 确保该方金融体系的完整性和稳定性。

2. 如果此类措施不符合本章规定，则不得将其用作规避该方在本章项下的承诺或义务的手段。此类措施不得构成伪装的服务贸易限制，也不得在与其他方的类似金融服务或类似金融服务提供者相比时，歧视另一方的金融服务或金融服务提供者。

3. 本章的任何规定均不得解释为要求一方披露与个人客户的事务和账目或公共实体持有的任何机密或专有信息有关的信息。

ARTICLE 4: RECOGNITION

1. 一方可以承认另一方或非缔约方的审慎措施，在确定一方与金融服务相关的措施如何适用时。这种承认，可以通过协调或其他方式实现，可以基于与国际标准制定机构、另一方或有关非缔约方的协议或安排，或可以自主给予。

2. 第1段中提到的协议或安排的一方，无论是未来的还是有效的，都应给另一方提供充分的机会，以在存在同等监管、监督、此类监管的实施以及，如适用，协议或安排缔约方之间的信息共享程序的情况下，加入此类协议或安排，或与其谈判类似的协议或安排。

3. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that such circumstances as referred to in paragraph 2 exist.

ARTICLE 5: REGULATORY TRANSPARENCY

1. The Parties recognise that transparent measures governing the activities of financial institutions and cross-border financial service suppliers are important in facilitating their ability to gain access to and operate in each other's market.

2. Each Party shall ensure that measures of general application adopted or maintained by a Party are promptly published or otherwise made publicly available.

3. Each Party shall take such reasonable measures as may be available to it to ensure that the rules of general application adopted or maintained by self-regulatory organisations¹ of the Party are promptly published or otherwise made publicly available.

4. Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons² of the other Party regarding measures of general application to which this Annex applies.

5. 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.

6. Each Party's regulatory authorities shall make administrative decisions on a completed application of a financial service supplier of the other Party seeking to supply a financial service in that Party's territory within 180 days and shall notify the applicant of the decision where possible in writing, without undue delay:

- (a) an application shall not be considered complete until all relevant proceedings are conducted and the regulatory authorities consider all necessary information has been received; and
- (b) where it is not practicable for a decision to be made within 180 days, the regulatory authority shall notify the applicant without delay and shall endeavour to make the decision within a reasonable time thereafter.

¹ In the case of Australia, "self-regulatory organisation" means any non-governmental body, including any securities or futures exchange or market, clearing or payment settlement agency, or other organisation or association that exercises its own or delegated regulatory or supervisory authority over financial service suppliers or financial institutions; and in the case of China, means an organisation recognised as a self-regulatory body by the central government according to China's laws and regulations.

² The Parties confirm their shared understanding that "interested persons" in this Article should only be persons whose direct financial interest could potentially be affected by the adoption of the regulations of general application.

3. 当一方自主给予承认时，应给另一方提供充分的机会，以证明第2段中提到的情形存在。

第5条：监管透明度

1. 各方承认，规范金融机构和跨境金融服务提供者活动的透明措施，对于促进其进入和经营对方市场的能力至关重要。

2. 每一方应确保，缔约方采纳或维持的普遍适用措施均及时公布或以其他方式公开可用。

3. 每一方应采取其所能采取的合理措施，以确保缔约方的自律组织¹ 采纳或维持的普遍适用规则均及时公布或以其他方式公开可用。

4. 每一方应维持或建立适当机制，以回应另一方利益相关者² 关于本附件适用的普遍适用措施的询问。

5. 各缔约方法规机构应公开其完成与金融服务供应相关的申请所需的要求，包括所需任何文件。

6. 各缔约方法规机构应在180天内对另一方寻求在本方领土内供应金融服务的金融服务提供者的已完成申请作出行政决定，并在可能的情况下以书面形式通知申请人，且不得无故延误：

- (a) 申请人提交的申请，直至所有相关程序完成且监管机构认为所有必要信息已收到，方视为完整；以及 (b) 如在180天内无法做出决定，监管机构应立即通知申请人，并应努力在合理时间内做出决定。

¹ 在澳大利亚，是指任何非政府机构，包括任何证券或期货交易所或市场、清算或支付结算机构，或行使对金融服务提供者或金融机构的自身或授权监管或监督权力的其他组织或协会；在中国的情况下，是指根据中国的法律法规被中央政府认定为自律机构的组织。

² 各方确认其共同理解，本条款中的“利益相关者”应仅指其直接财务利益可能因一般适用法规的采用而受到潜在影响的个人。

7. On the written request of an unsuccessful applicant, a regulatory authority that has denied an application shall endeavour to inform the applicant of the reasons for denial of the application in writing.

ARTICLE 6: DISPUTE SETTLEMENT

Arbitrators on an arbitral tribunal established in accordance with Chapter 15 (Dispute Settlement) for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service under dispute.

ARTICLE 7: COMMITTEE ON FINANCIAL SERVICES

1. The Parties hereby establish a Committee on Financial Services (hereinafter referred to as the “Committee”).

2. The Committee shall comprise officials of each Party from authorities responsible for financial services. The authorities responsible for financial services are:

- (a) for Australia, the Treasury and the Department of Foreign Affairs and Trade and, as necessary, officials from the relevant regulatory authorities including the Australian Prudential Regulation Authority, Reserve Bank of Australia and Australian Securities and Investment Commission; and
- (b) for China, the Ministry of Commerce and, as necessary, officials from the relevant regulatory authorities, including the People’s Bank of China, China Banking Regulatory Commission, China Securities Regulatory Commission, China Insurance Regulatory Commission and the State Administration of Foreign Exchange.

3. The Committee shall:

- (a) supervise the implementation of this Annex and its further elaboration; and
- (b) consider issues regarding financial services that are referred to it by a Party, including ways for the Parties to incorporate into this Agreement development in their markets for financial services and to cooperate more effectively in the financial services sector.

4. The Committee shall meet every two years, or as otherwise agreed, to assess the functioning of this Agreement as it applies to financial services.

7. 根据未获成功申请人的书面请求，已拒绝申请的监管机构应努力以书面形式告知申请人申请被拒绝的原因。

第6条：争端解决

根据第15章（争端解决）设立的仲裁庭中，负责审慎问题和其他金融事项的仲裁员，应具备与争议中特定金融服务相关的必要专业知识。

第7条：金融服务委员会

1. 各方 hereby 设立金融服务委员会（以下简称“该委员会”）。

2. 该委员会应包括各方的负责金融服务的机构官员。负责金融服务的机构包括：

- (a) 对于澳大利亚，财政部和外交贸易部，并在必要时，包括澳大利亚审慎监管局、澳大利亚储备银行和澳大利亚证券和投资委员会的相关监管机构官员；以及 (b) 对于中国，商务部，并在必要时，包括中国人民银行、中国银行业监督管理委员会、中国证券监督管理委员会、中国保险监督管理委员会和国家外汇管理局的相关监管机构官员。

3. 委员会应：

- (a) 监督本附件的实施及其进一步细化；以及 (b) 审议一方提交给它的金融服务问题，包括各方可将金融服务市场的发展纳入本协定以及更有效地在金融服务部门合作的方式。

4. 该委员会应每两年召开一次，或经另行同意，以评估本协议在金融服务方面的运作情况。

ARTICLE 8: CONSULTATIONS

A Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request.

第八条：磋商

一方可就本协议下影响金融服务的任何事项，与另一方进行磋商。另一方应予以同情的考虑。

CHAPTER 9
INVESTMENT

Section A: Investment

第九章 投资

第一节 投资

ARTICLE 9.1: DEFINITIONS

For the purposes of this Chapter:

- (a) **covered investment** means, with respect to a Party, an investment in its territory of an investor of the other Party in existence at the date of entry into force of this Agreement or established, acquired, or expanded thereafter and which, where applicable, has been admitted by the host Party, subject to its relevant laws, regulations and policies;
- (b) **enterprise** means any entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organisation; and a branch of an enterprise;
- (c) **enterprise of a Party** means an enterprise constituted or organised in accordance with the laws of a Party, and a branch located in the territory of a Party and carrying out business activities there;
- (d) **investment** means every kind of asset that an investor owns or controls, directly or indirectly, which has the characteristics of an investment, such as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that investments may take include:
 - (i) an enterprise and a branch of an enterprise;
 - (ii) shares, stocks or other forms of equity participation in an enterprise, including rights derived therefrom;
 - (iii) bonds, debentures, loans and other forms of debt, including rights derived therefrom;
 - (iv) rights under contracts, including turnkey, construction, management, production or revenue sharing contracts;
 - (v) claims to money and claims to any performance under a contract associated with an investment and having a financial value;

第九条第一款 定义

本章的目的在于：

- (a) 受保护投资是指，对于一方而言，在其领土内存在的另一方投资者的投资，该投资在本协议生效日期时存在，或在此之后设立、获得或扩大，并且根据适用情况，已由东道国依照其相关法律法规和政策予以承认；
- (b) 企业是指根据适用法律成立或组织的任何实体，无论是否营利，以及是否为私营或国有，包括公司、信托、合伙企业、个体工商户、合资企业、协会或类似组织；以及企业的分支机构；
- (c) 一方企业是指根据缔约方法律成立或组织的企业，以及位于一方领土内并在该领土内开展业务活动的分支机构；
- (d) 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各种资产，例如资本或其他资源的投入、盈利预期或风险承担。投资可能采取的形式包括：
 - (i) 一个企业和企业的分支机构；(ii) 企业中的股份、股票或其他形式的股权参与，包括由此产生的权利；(iii) 债券、公司债、贷款和其他形式的债务，包括由此产生的权利；(iv) 合同项下的权利，包括交钥匙、建筑、管理、生产或收入分成合同；(v) 与投资相关的合同项下的金钱债权和履行请求权，且具有金融价值；

- (vi) intellectual property rights;
- (vii) rights conferred pursuant to laws and regulations or contracts such as concessions, licenses, authorisations and permits; and
- (viii) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges;

Note: Investments also include the amounts yielded by investments that are reinvested, in particular, profit, interest, capital gains, dividends, royalties and fees. A change in the form in which assets are invested does not affect their character as investments.

- (e) **investor of a Party** means a Party, a natural person of a Party, or an enterprise of a Party, that seeks to make, is making or has made a covered investment;

ARTICLE 9.2: SCOPE

1. This Chapter shall apply to measures adopted or maintained by a Party relating to:
 - (a) investors of the other Party; and
 - (b) covered investments.
2. This Chapter shall not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter 8 (Trade in Services) or Chapter 10 (Movement of Natural Persons).
3. This Chapter shall not apply to:
 - (a) government procurement; or
 - (b) subsidies or grants provided by a Party, including government-supported loans, guarantees and insurance.
4. For greater certainty, this Chapter shall not bind either Party in relation to any act or fact that took place or any situation that ceased to exist before the date of entry into force of this Agreement.

(vi) 知识产权； (vii) 根据法律法规或合同（如让步、许可、授权和许可）授予的权利；以及 (viii) 任何其他有形和无形、动产和不动产，以及任何相关财产权，如租赁权、抵押权、留置权和质押权；注意：投资还包括再投资的投资收益，特别是利润、利息、资本利得、股息、特许权使用费和费用。资产投资形式的变化不会影响其作为投资的性质。

- (e) 一方投资者是指寻求、正在或已经进行受保护投资的一方、一方自然人或一方企业；

第九条之二：范围

1. 本章适用于一方采取或维持的与下列内容相关的措施：
 - (a) 另一方的投资者；以及
 - (b) 受保护的投资。
2. 本章规定不适用于一方采取或维持的措施，如果这些措施属于第8章（服务贸易）或第10章（自然人移动）的管辖范围。
3. 本章规定不适用于：
 - (a) 政府采购；或 (b) 一方提供的补贴或拨款，包括政府支持贷款、担保和保险。
4. 为了进一步明确，本章不得约束任何一方就本协议生效日期之前发生的行为或事实或已停止存在的情况承担义务。

ARTICLE 9.3: NATIONAL TREATMENT

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

ARTICLE 9.4: MOST-FAVOURED-NATION TREATMENT²

1. Each Party shall accord to investors of the other Party, and covered investments, in relation to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory, treatment no less favourable than that it accords, in like circumstances, to investors and investments in its territory of investors of any non-Party.
2. For greater certainty, the treatment referred to in this Article does not encompass Investor-State Dispute Settlement procedures or mechanisms.
3. Notwithstanding paragraph 1, each Party reserves the right to adopt or maintain any measure that accords more favourable treatment to investors of non-parties in

¹ For greater certainty, the concept of ‘expansion’ in Article 3 means the expansion of an existing investment and does not include the establishment or acquisition of a new, separate investment.

² For the purposes of this Article, the term “non-party” shall not include the following WTO members within the meaning of the General Agreement on Tariffs and Trade and the WTO Agreement: 1) Hong Kong, China; 2) Macao, China; and 3) Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei).

第9.3条：国民待遇

1. 澳大利亚应给予中国的投资者不低于其在本领土内设立、收购、扩张、管理、经营和出售或其他处置投资方面，在类似情况下给予其自身投资者的待遇。
2. 中国应当给予澳大利亚投资者不低于其自身投资者在类似情况下就其领土内的投资的扩张、¹ 管理、经营、运营和投资的出售或其他处置所给予的待遇。
3. 澳大利亚应当给予受保护投资不低于其自身投资者在类似情况下就其领土内的投资的设立、收购、扩张、管理、经营、运营和投资的出售或其他处置所给予的待遇。
4. 中国应当给予受保护投资不低于其自身投资者在类似情况下就其领土内的投资的扩张、管理、经营、运营和投资的出售或其他处置所给予的待遇。

第9.4条：最惠国待遇²

1. 每一方应给予另一方的投资者及其领土内的受保护投资，在设立、收购、扩张、管理、经营、运营以及出售或其他处置其领土内的投资方面，不低于其给予任何非缔约方投资者的其领土内的投资者和投资，在类似情况下所给予的待遇。
2. 为了更明确起见，本条款所指的待遇不包括投资者-国家争端解决程序或机制。
3. 不论第1段如何规定，每一方保留采取或维持任何给予非缔约方投资者的更优惠待遇的措施的权利，该措施应与在本协议生效日期之前生效的任何双边或多边国际协议一致。

¹ 为了更明确起见，本条款中的含义是指现有投资的扩张，不包括设立或收购新的、独立的投资。

² 根据本条款的规定，“非缔约方”一词不应包括关税及贸易总协定和世界贸易组织协定意义上的以下世界贸易组织成员：1) 中国香港；2) 中国澳门；以及3) 台湾、澎湖、金门和马祖单独关税区（中华台北）。

accordance with any bilateral or multilateral international agreement in force prior to the date of entry into force of this Agreement.³

4. Notwithstanding paragraph 1, each Party reserves the right to adopt or maintain any measure that accords more favourable treatment to investors of non-parties in accordance with any bilateral or multilateral international agreement in force on, or signed after, the date of entry into force of this Agreement involving:

- (a) aviation;
- (b) fisheries; or
- (c) maritime matters, including salvage.

ARTICLE 9.5: NON-CONFORMING MEASURES⁴

1. For Australia, Article 9.3 and Article 9.4 shall not apply to:
- (a) any existing non-conforming measure that is maintained on the date of entry into force of this Agreement:
 - (i) at the central level of government, as set out by Australia in Section A of its Schedule of Non-Conforming Measures in Annex III;
 - (ii) by a State or Territory of Australia, as set out by Australia in Section A of its Schedule of Non-Conforming Measures in Annex III; or
 - (iii) at a local level of Australian government;
 - (b) the continuation of any non-conforming measure referred to in subparagraph (a); or

³ For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement.

⁴ Until the entry into force of China’s investment commitments in the comprehensive Investment Chapter negotiated pursuant to Article 9.9, China’s commitments under Article 9.4 shall apply subject to any non-conforming measures scheduled by China against the most-favoured-nation (MFN) obligation in any negative list investment agreement with a non-party, *mutatis mutandis*. Until the entry into force of the comprehensive Investment Chapter negotiated pursuant to Article 9.9, and subject to the scope of this Chapter, if China concludes more than one such agreement with a non-party, the schedule of non-conforming measures against MFN most favourable to Australian investors and investments shall apply *mutatis mutandis*.

根据在 本协议生效日期 之前生效的任何双边或多边国际协议。³

4. 不论第1段如何规定，每一方保留根据在 本协议生效日期或之后签署的、涉及本协议生效日期生效的任何双边或多边国际协定，采取或维持任何给予非缔约方投资者更优惠待遇的措施的权利，该措施包括：

- (a) 航空； (b) 渔业；或 (c) 海事事项，包括救助。

ARTICLE 9.5: NON-CONFORMING MEASURES⁴

1. 对澳大利亚而言，第9.3条和第9.4条不适用于：
- (a) 本协议生效日期时维持的任何现有非符合措施： (i) 在澳大利亚附件III中其非一致性措施清单第A节中规定的中央政府层面； (ii) 由澳大利亚州或领地维持，如澳大利亚在附件III中其非一致性措施清单第A节中规定；或 (iii) 在澳大利亚地方政府层面； (b) 任何在子句(a)中提及的非符合措施的延续；或

³ 为明确起见，该权利延伸至根据相关双边或多边国际协定的后续审查或修订而给予的任何差别待遇。⁴ 在根据第9.9条谈判的、关于全面投资章节中的中国投资承诺生效之前，中国在第9.4条下的承诺应适用，但须遵守中国针对任何与非缔约方签订的负面清单投资协议中的最惠国（MFN）义务而制定的不符措施清单，依此类推。在根据第9.9条谈判的全面投资章节生效之前，且在本章节范围内，如果中国与一个非缔约方签订了一个以上的此类协议，则对最惠国（MFN）给予澳大利亚投资者和投资最有利的、不符措施清单应依此类推适用。

- (c) an amendment or modification to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment or modification does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 9.3 and Article 9.4.
2. For China, Article 9.3 and Article 9.4 shall not apply to:
- (a) any existing non-conforming measures maintained within its territory;
 - (b) the continuation 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 increase the non-conformity of the measure, as it existed immediately before the amendment, with Article 9.3 and Article 9.4.
3. Article 9.3 and Article 9.4 shall not apply to any measure that Australia adopts or maintains with respect to sectors, sub-sectors, or activities, as set out in Section B of its Schedule of Non-Conforming Measures in Annex III.
4. The Parties shall endeavour to progressively remove the non-conforming measures.

ARTICLE 9.6: DENIAL OF BENEFITS

1. 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) that has no substantive business operations in the territory of the other Party.
2. A Party may deny the benefits of this Chapter to an investor of the other Party that is an enterprise of the other Party and to investments of that investor if persons of a non-party own or control the enterprise and the denying Party adopts or maintains measures with respect to the non-party or a person of the non-party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise or its investments.

(c) 对子句(a)中提及的任何非符合措施的任何修正或修改，只要该修正或修改不会降低该措施在修正前与其第9.3条和第9.4条的一致性。

2. 对于中国，第9.3条和第9.4条不适用于：

(a) 其领土内维持的任何有效的非一致性措施；(b) 所称(a)项中提到的任何非一致性措施的继续；或(c) 对所述(a)项中提到的任何非一致性措施进行的修订，但修订不得增加该措施在修订前立即与第9.3条和第9.4条的非一致性，

3. 第9.3条和第9.4条不适用于澳大利亚就附件III中其非一致性措施清单第B节所列的部门、子部门或活动所采纳或维持的措施。

4. 各方应努力逐步消除非一致性措施。

第9.6条：拒绝利益

1. 一方可以拒绝另一方投资者以及该投资者的投资的本章利益，如果该投资者是企业：

(a) 由非缔约方或拒绝方的个人拥有或控制；以及 (b) 在另一方的领土内没有实质性业务运营。

2. 一方可以拒绝向另一方投资者（该投资者为另一方的企业）及其投资提供本章的利益，如果非缔约方人士拥有或控制该企业，并且拒绝方针对非缔约方或非缔约方人士采取或维持禁止与企业进行交易的措施，或者如果向该企业或其投资提供本章的利益，这些措施将被违反或规避。

ARTICLE 9.7: COMMITTEE ON INVESTMENT

1. The Parties hereby establish a Committee on Investment that shall meet on the request of either Party or the FTA Joint Commission to consider any matter arising under this Chapter.
2. The Committee's functions shall include:
 - (a) reviewing the implementation of this Chapter;
 - (b) identifying and recommending measures or initiatives to promote and increase investment flows between the Parties; and
 - (c) unless the Parties otherwise agree, conducting the review referred to in Article 9.9.
3. The Committee:
 - (a) shall establish and maintain a list of arbitrators pursuant to Article 9.15.5 and Article 9.15.6;
 - (b) may, pursuant to Article 9.18.2 or Article 9.19, adopt a joint decision of the Parties, declaring their interpretation of a provision of this Chapter and Annex 9-A;
 - (c) may propose amendments to Section B in the light of experience of its operation.

ARTICLE 9.8: GENERAL EXCEPTIONS

1. For the purposes of this Chapter and subject to the requirement that such measures are not applied in a manner which would constitute arbitrary or unjustifiable discrimination between investments or between investors, or a disguised restriction on international trade or investment, nothing in this Agreement shall be construed to prevent a Party from adopting or enforcing measures:
 - (a) necessary to protect human, animal or plant life or health;
 - (b) necessary to ensure compliance with laws and regulations that are not inconsistent with this Agreement;
 - (c) imposed for the protection of national treasures of artistic, historic or archaeological value; or

第9.7条：投资委员会

1. 各方 **hereby** 设立投资委员会，该委员会应根据任何一方或自由贸易协定联合委员会的要求召开会议，以审议本章下出现的任何事项。
2. 该委员会的职能应包括：
 - (a) 审查本章的实施情况；(b) 确定并建议促进和增加缔约方之间投资流动的措施或倡议；以及(c) 除非缔约方另有约定，开展第9.9条所述的审查。
3. 该委员会：
 - (a) 应根据第9.15.5条和第9.15.6条建立并维护仲裁员名单；(b) 可根据第9.18.2条或第9.19条，通过缔约方的联合决定，声明其对本章条款及附件9-A的解释；(c) 可根据其运营经验，提议对B部分进行修正。

第9.8条：一般例外

1. 就本章之目的而言，且以此类措施不得以构成对投资或投资者之间任意或不合理的歧视，或对国际贸易或投资构成隐蔽限制的方式加以适用为限，本协议任何条款均不得解释为禁止一方采取或执行措施：
 - (a) 保护人类、动物或植物的生命或健康；(b) 确保遵守与本协议不一致的法律法规；(c) 为保护具有艺术、历史或考古价值的国家宝藏而征收的；或

- (d) relating to the conservation of living or non-living exhaustible natural resources.

2. The Parties understand that the measures referred to in subparagraph 1(a) include environmental measures to protect human, animal or plant life or health, and that the measures referred to in subparagraph 1(d) include environmental measures relating to the conservation of living or non-living exhaustible natural resources.

ARTICLE 9.9: FUTURE WORK PROGRAM

1. Unless the Parties otherwise agree, the Parties shall conduct a review of the investment legal framework between them no later than three years after the date of entry into force of this Agreement.

2. The review shall include consideration of this Chapter and the *Agreement between the Government of Australia and the Government of the People's Republic of China on the Reciprocal Encouragement and Protection of Investments*.

3. Unless the Parties otherwise agree, the Parties shall commence negotiations on a comprehensive Investment Chapter, reflecting outcomes of the review referred to in paragraphs 1 and 2, immediately after such review is completed. The negotiations shall include, but are not limited to, the following:

- (a) amendments to Articles included in this Chapter;
- (b) the inclusion of additional Articles in this Chapter, including Articles addressing:
 - (i) Minimum Standard of Treatment;
 - (ii) Expropriation;
 - (iii) Transfers;
 - (iv) Performance Requirements;
 - (v) Senior Management and Board of Directors;
 - (vi) Investment-specific State to State Dispute Settlement; and
 - (vii) The application of investment protections and ISDS to services supplied through commercial presence; and
- (c) scheduling of investment commitments by China on a negative list basis.

- (d) 与可再生或不可再生自然资源的保护有关。

2. 各方理解，第1(a)段所指的措施包括保护人类、动物或植物的生命或健康的环境措施，以及第1(d)段所指的措施包括与可再生或不可再生自然资源的保护有关的环境措施。

第9.9条：未来工作计划

1. 除非各方另有约定，否则各方应在本协议生效之日起三年内对其之间的投资法律框架进行审查。

2. 审查应包括考虑本章节和 协议，以及澳大利亚政府和中华人民共和国政府关于相互鼓励和保护投资的协议。

3. 除非各方另有约定，否则各方应在第1段和第2段所述的审查完成后立即就全面投资章节展开谈判。谈判应包括但不限于以下内容：

- (a) 对包含在本章节中的条款的修正案；(b) 在本章节中包含额外的条款，包括针对以下问题的条款：(i) 最低待遇标准；(ii) 征收；(iii) 转移；(iv) 业绩要求；(v) 高级管理人员和董事会；(vi) 投资特定国家间争端解决；以及
- (vii) 将投资保护和对通过商业存在提供的服务适用的ISDS；以及

- (c) 以负面清单方式列入议程中国的投资承诺。

4. Unless the Parties otherwise agree, the negotiations referred to in paragraph 3 shall be concluded and then incorporated into this Agreement in accordance with Article 17.3 (Amendments) of Chapter 17 (Final Provisions).

Section B: Investor-State Dispute Settlement

ARTICLE 9.10: DEFINITIONS

For the purposes of this Chapter:

- (a) **claimant** means an investor of a Party that is a party to an investment dispute with the other Party;
- (b) **disputing parties** means the claimant and the respondent;
- (c) **disputing Party** means a Party against which a claim is made under Section B (Investor-State Dispute Settlement);
- (d) **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*;
- (e) **ICSID Convention** means the *Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington, 18 March 1965*;
- (f) **non-disputing Party** means the Party that is not a party to an investment dispute;
- (g) **protected information** means confidential business information or information that is privileged or otherwise protected from disclosure under a Party’s law;
- (h) **respondent** means the Party that is a party to an investment dispute;
- (i) **Secretary-General** means the Secretary-General of ICSID; and
- (j) **UNCITRAL Arbitration Rules** means the arbitration rules of the United Nations Commission on International Trade Law.

4. 除非各方另有约定，第3段所述的谈判应予结束，并按照第17章（最终条款）第17.3条（修正案）的规定并入本协议。

B部分：投资者-国家争端解决

条款9.10：定义

本章规定目的如下：

(a) 申请人是指一方投资者，该投资者与另一方是投资争端的一方；(b) 争议方是指申请人和被申请人；(c) 争议方是指根据B部分（投资者-国家争端解决）提出申领的一方；(d) ICSID附加便利规则是指国际投资争端解决中心秘书处管理程序附加便利的规则；(e) ICSID公约是指1965年3月18日在华盛顿签订的关于国家与他国国民间投资争端解决公约；(f) 非争议方是指不是投资争端一方的当事人；(g) 受保护信息是指商业秘密或根据一方法律享有特权或受保护免于披露的信息；(h) 被申请人是指投资争端的一方；(i) 秘书长是指ICSID秘书长；以及(j) 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。

ARTICLE 9.11: CONSULTATIONS

1. In the event of an investment dispute, after two months since the occurrence of the measure or event giving rise to the dispute, the claimant may deliver to the respondent a written request for consultations. The request shall:

- (a) specify the name and address of the claimant and, where a claim is submitted on behalf of an enterprise of the respondent that is a juridical person that the claimant owns or controls directly or indirectly, the name, address, and place of incorporation of the enterprise;
- (b) for each claim, identify the provision of this Chapter alleged to have been breached and any other relevant provisions;
- (c) for each claim, identify the measures or events giving rise to the claim;
- (d) for each claim, indicate whether the claim is made on its own behalf or on behalf of the enterprise;
- (e) for each claim, provide a brief summary of the legal and factual basis sufficient to present the problem clearly; and
- (f) specify the relief sought, the approximate amount of damages claimed and its standard or basis for calculation.

2. After a request for consultations is made in accordance with this Section, the claimant and the respondent shall initially seek to resolve the dispute through consultations.

3. If the disputing parties reach a mutually agreed solution to a dispute, or certain claims thereof, formally raised under this Section, they shall abide by and comply with the mutually agreed solution reached under this Article without delay.

4. Measures of a Party that are non-discriminatory and for the legitimate public welfare objectives of public health, safety, the environment, public morals or public order shall not be the subject of a claim under this Section.

5. The respondent may, within 30 days of the date on which it receives a request for consultations (as provided for in paragraph 1), state that it considers that a measure alleged to be in breach of an obligation under Section A is of the kind described in paragraph 4, by delivering to the claimant and to the non-disputing Party a notice specifying the basis for its position (a 'public welfare notice').

第9.11条：磋商

1. 在发生投资争端的情况下，自导致争端的措施或事件发生之日起两个月后，申请人可以向被申请人提交书面磋商请求。该请求应：

- (a)列明申请人的姓名和地址，如果申请人是代表被申请人的企业提交申领，且该企业是申请人直接或间接拥有或控制的法律实体，则还需列明该企业的名称、地址和注册地；(b)针对每一项申领，指明据称违反本章节的条款以及任何其他相关条款；(c)针对每一项申领，指明导致申领的措施或事件；(d)针对每一项申领，说明申领是代表自身还是代表企业提出的；(e)针对每一项申领，提供简要的法律和事实依据摘要，足以清晰地呈现问题；(f)列明请求的救济、索赔的损害赔偿的近似金额及其计算标准或依据。

2. 根据本节规定提出磋商请求后，申请人与被申请人应首先通过磋商解决争议。

3. 如果争议方就一项争议或其中某些索赔达成双方同意的解决方案，该争议或索赔根据本节正式提出，则应遵守并符合根据本条达成的双方同意的解决方案，不得延误。

4. 一方的非歧视性措施，旨在实现公共卫生、安全、环境、公共道德或公共秩序的合法公共福利目标，不应成为根据本节提出的索赔的对象。

5. 被申请人可以在收到磋商请求之日起30日内（如第1段所述），通过向申请人和非争议方提交一份说明其立场依据的通知（即‘公益公告’），声明其认为涉嫌违反第A节义务的措施属于第4段所述的类型。

6. The issuance of a public welfare notice shall trigger a 90 day period during which the respondent and the non-disputing Party shall consult. The dispute resolution procedure contemplated by this Section shall be automatically suspended for this 90 day period.

7. The issuance of a public welfare notice is without prejudice to the respondent's right to invoke the procedures described in Article 9.16.5 or Article 9.16.6. The respondent shall promptly inform the claimant, and make available to the public, the outcome of any consultations.

8. In any proceeding brought pursuant to this Section, the tribunal shall not draw any adverse inference from the non-issuance of a public welfare notice by the respondent, or from the absence of any decision between the respondent and the non-disputing Party as to whether a measure is of a kind described in paragraph 4.

ARTICLE 9.12: SUBMISSION OF A CLAIM TO ARBITRATION

1. This Section applies where there is a dispute between a Party and an investor of the other Party relating to a covered investment made in accordance with the Party's laws, regulations and investment policies.⁵

2. In the event that an investment dispute cannot be settled by consultations under Article 9.11 within 120 days after the date of receipt of the request for consultations,

- (a) the claimant, on its own behalf, may submit to arbitration under this Section a claim:
 - (i) that the respondent has breached an obligation in Article 9.3; and
 - (ii) that the claimant has incurred loss or damage by reason of, or arising out of, that breach;⁶ or
- (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:

⁵ For greater certainty, the State to State Dispute Settlement mechanism in Chapter 15 (Dispute Settlement) of this Agreement applies to this Chapter including pre-establishment obligations under Article 9.3.
⁶ For greater certainty, the loss or damage incurred by the claimant that forms the subject matter of a claim under sub-paragraph (a) shall not include loss or damage suffered by the claimant which is a result of loss or damage caused to an enterprise of the respondent that is a juridical person that the claimant owns or controls directly or indirectly by reason of, or arising out of, the alleged breach by the respondent.

6. 公益公告的发布应触发一个90日的期限，在此期间，被申请人和非争议方应进行磋商。本节所设想的争议解决程序在此90日期间应自动暂停。

7. 发布公益公告不影响被申请人援引第9.16.5条或第9.16.6条所述的程序。被申请人应立即通知申请人，并将磋商结果向公众公开。

8. 依据本节提起的任何程序中，仲裁庭不得因被申请人未发布公益公告，或因被申请人与非争议方之间未就一项措施是否属于第4段所述类型作出决定而作出不利推论。

第9.12条：仲裁申领的提交

1. 本节适用于一方与另一方投资者之间就根据一方法律、法规和投资政策进行的受保护投资发生的争议。⁵

2. 如果投资争端在收到磋商请求之日起120天内无法根据第9.11条进行磋商解决，

- (a) 申请人可依据本第X节，就以下事项提交仲裁申领：(i) 被申请人违反了第9.3条中的义务；以及 (ii) 申请人因该违约行为遭受了损失或损害；⁶ 或
- (b) 申请人，代表被申请人为法人且申请人直接或间接拥有或控制的企业，可根据本第X节提交仲裁申领：

⁵ 为明确起见，本协议第15章（争端解决）中的国家间争端解决机制适用于本章，包括第9.3条下的设立前义务；⁶ 为明确起见，根据第(a)项下申领事项，申请人遭受的损失或损害不应包括因被申请人据称的违约行为导致对被申请人企业造成的损失或损害，该企业为法人，申请人直接或间接地因该违约行为拥有或控制该企业。

- (i) that the respondent has breached an obligation under Article 9.3; and
- (ii) that the enterprise has incurred loss or damage by reason of, or arising out of, that breach.

3. A claimant cannot submit or continue to pursue a claim under this Section where the investment of the claimant in the territory of the respondent is owned or controlled indirectly by an investor of a non-party, and the investor of the non-party submits or has submitted a claim with respect to the same measure or event under any agreement between the respondent and that non-party.

4. A claimant may submit a claim referred to in paragraph 2:

- (a) under the ICSID Convention and the ICSID Rules of Procedure for Arbitration Proceedings, provided that both the respondent and the non-disputing Party are parties to the ICSID Convention;
- (b) under the ICSID Additional Facility Rules, provided that either the respondent or the non-disputing Party is a party to the ICSID Convention;
- (c) under the UNCITRAL Arbitration Rules, except as modified by this Agreement and the Side Letter on Transparency Rules Applicable to ISDS; or
- (d) if the claimant and respondent agree, to any other arbitration institution or under any other arbitration rules.

5. Where a claim is submitted to arbitration under paragraph 4(b), (c) and (d) (except where a claim is submitted to any other arbitration institution under paragraph 4(d)), the disputing parties and the tribunal constituted thereunder shall request ICSID to provide administrative services for the arbitration proceedings. Both Parties shall endeavour to make proper institutional arrangements with ICSID to accommodate such requests following the entry into force of this Agreement.

6. A claim shall be deemed submitted to arbitration under this Section when the claimant's notice of or request for arbitration ("notice of arbitration"):

- (a) referred to in paragraph 1 of Article 36 of the ICSID Convention is received by the Secretary-General;
- (b) referred to in Article 2 of Schedule C of the ICSID Additional Facility Rules is received by the Secretary-General;
- (c) referred to in Article 3 of the UNCITRAL Arbitration Rules, together

(i) 被申请人违反了第9.3条项下的义务；以及 (ii) 该企业因该违反行为遭受了损失或损害。

3. 申请人不得在本节下提交或继续追索一项申领，其中申请人在被申请人领土内的投资为非缔约方投资者间接拥有或控制，且该非缔约方投资者已提交或提交了一项关于被申请人与该非缔约方之间相同措施或事件的申领。

4. 申请人可以提交第2段所述的申领：

- (a) 根据《ICSID公约》和《ICSID仲裁程序规则》，前提是被申请人和非争议方均为《ICSID公约》的缔约方；(b) 根据《ICSID附加便利规则》，前提是被申请人或非争议方为《ICSID公约》的缔约方；(c) 根据《联合国国际贸易法委员会仲裁规则》，但根据本协议和适用于ISDS的透明度规则补充信进行修改；或(d) 如果申请人和被申请人同意，向任何其他仲裁机构或根据任何其他仲裁规则。

5. 当根据第4(b)、(c)和(d)段提交仲裁申请（除根据第4(d)段提交仲裁申请至任何其他仲裁机构的情况外），争议方和据此组成的仲裁庭应请求国际投资争端解决中心（ICSID）为仲裁程序提供行政服务。双方应努力在《本协议》生效后与ICSID做出适当的机构安排，以适应此类请求。

6. 当申请人提交仲裁通知或仲裁请求（“仲裁通知”）时，该申领应被视为根据本第X节提交仲裁。

- (a) 在《ICSID公约》第36条第1段中所述的申领由秘书长接收；(b) 在《ICSID附加便利规则》附件C第2条中所述的申领由秘书长接收；(c) 在《联合国国际贸易法委员会仲裁规则》第3条中所述的申领，连同在《联合国国际贸易法委员会仲裁规则》第20条中所述的索赔声明，均由被申请人接收；或

with the statement of claim referred to in Article 20 of the UNCITRAL Arbitration Rules, are received by the respondent; or

- (d) referred to under any arbitral institution or arbitral rules selected under paragraph 4(d) is received by the respondent,

provided that no claim shall be deemed submitted under this Section if that claim is asserted by the claimant for the first time after such notice of arbitration is submitted.

7. A notice of arbitration shall:

- (a) specify the name and address of the claimant and, where a claim is submitted on behalf of an enterprise of the respondent that is a juridical person that the claimant owns or controls directly or indirectly, the name, address, and place of incorporation of the enterprise;
- (b) for each claim, identify the provision of this Chapter alleged to have been breached and any other relevant provisions;
- (c) for each claim, identify the measure or event giving rise to the claim;
- (d) for each claim, indicate whether the claim is made on the claimant's own behalf or on behalf of an enterprise;
- (e) for each claim, provide a brief summary of the legal and factual basis sufficient to present the problem clearly; and
- (f) specify the relief sought, the approximate amount of damages claimed and its standard or basis for calculation.

8. The claimant shall provide with the notice of arbitration:

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

9. The arbitration rules applicable under paragraph 4, 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 and the Side Letter on Transparency Rules Applicable to ISDS.

ARTICLE 9.13: CONSENT OF EACH PARTY TO ARBITRATION

根据联合国国际贸易法委员会仲裁规则第20条所述的索赔声明，被申请人收到；或

- (d) 任何根据第4(d)段选定的仲裁机构或仲裁规则提交的仲裁通知被申请人收到，

但若该申领是由申请人首次在提交仲裁通知后提出的，则不得视为根据本节提交的申领。

7. 仲裁通知应：

- (a) 载明申请人的姓名和地址；若申领是为被申请人控制的企业提出的，该企业为法人且申请人直接或间接控制，则还应载明该企业的名称、地址和注册地；(b) 对每项申领，指明据称被违反的本章条款及任何其他相关条款；(c) 对每项申领，指明产生该申领的措施或事件；(d) 对每项申领，指明申领是代表申请人本人提出的还是代表企业提出的；(e) 对每项申领，提供足以清楚陈述问题的法律和事实依据的简要摘要；以及(f) 载明请求的救济、索赔的损害赔偿的近似金额及其计算标准或依据。

8. 申请人应当在仲裁通知中提供：

- (a) 申请人指定的仲裁员姓名；或 (b) 申请人书面同意秘书长指定该仲裁员。

9. 第4段适用的仲裁规则，以及在本节规定的仲裁申请提交之日生效的仲裁规则，应 govern the arbitration 仲裁，但本协议和适用于ISDS的透明度规则补充信对此进行的修改除外。

第9.13条：每一方同意根据本协议在本节下将申领提交仲裁

1. Each Party consents to the submission of a claim to arbitration under this Section in accordance with this Agreement. Failure to meet any of the conditions and limitations provided for in Article 9.12.4 shall nullify that consent.

2. The consent under paragraph 1 and the submission of a claim to arbitration under this Section shall satisfy the requirements of 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.

ARTICLE 9.14: 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 9.12.2 and knowledge that the claimant (for claims brought under Article 9.12.2(a)) or the enterprise (for claims brought under Article 9.12.2(b)) has incurred loss or damage. In no event may a claim be submitted to arbitration under this Section after four years since the occurrence of the measures and/or events giving rise to the breach alleged under Article 9.12.2.

2. No claim may be submitted to arbitration under this Section unless:

- (a) the claimant has complied with the rules and procedures set forth in Articles 9.12.1 and 9.12.2;
- (b) the claim has been explicitly included in the request for consultations submitted by the claimant in accordance with Article 9.11.1;
- (c) the claimant consents in writing to arbitration in accordance with the procedures set out in this Agreement; and,
- (d) the notice of arbitration is accompanied,
 - (i) for claims submitted to arbitration under Article 9.12.2(a), by the claimant's written waiver, and
 - (ii) for claims submitted to arbitration under Article 9.12.2(b), by the claimant's and the enterprise's written waivers, and written waiver by all persons through which the claimant owns or controls the enterprise,

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 any measure or event alleged to constitute a breach referred to in Article 9.12.2.

1. 每一方同意根据本协议在本节下将申领提交仲裁。未能满足第9.12.4条中规定的任何条件和限制将使该同意无效。

2. 第1段项下的同意以及根据本章节提交仲裁的申领应满足ICSID公约（中心的管辖权）第II章以及ICSID附加便利规则中关于争议双方书面同意的要求。

第9.14条：每一方同意的条件和限制

1. 如果自申请人首次获得或本应首次获得关于第9.12.2条项下所声称的违约的知识，以及申请人（根据第9.12.2(a)条提起的申领）或企业（根据第9.12.2(b)条提起的申领）遭受损失或损害的知识之日起已超过三年，则不得根据本章节提交仲裁的申领。在任何情况下，自第9.12.2条项下所声称的违约产生的措施和/或事件发生之日起四年后，均不得根据本章节提交仲裁的申领。

2. 未经本第X节规定，不得提交仲裁申领：

- (a) 申请人已遵守第9.12.1条和第9.12.2条规定的规则和程序；(b) 申请人已根据第9.11.1条提交磋商请求，且该请求中明确包括该申领；(c) 申请人已根据本协议规定的程序以书面形式同意仲裁；以及，(d) 仲裁通知应附带，(i) 对于根据第9.12.2(a)条提交仲裁的申领，应附有申请人的书面放弃，以及(ii) 对于根据第9.12.2(b)条提交仲裁的申领，应附有申请人和企业的书面放弃，以及通过该申请人拥有或控制的企业所有个人提交的书面放弃，

在任何一方法律规定的任何行政机构或法院之前提起或继续的任何申领权，或任何其他争议解决程序中，与第9.12.2条所述构成违约的措施或事件有关的任何程序。

3. Notwithstanding paragraph 2(d)(ii), a waiver from the enterprise shall not be required only if the respondent has deprived the claimant of its control of the enterprise and the claimant is unable to provide such a waiver as a result.

4. Notwithstanding paragraph 2(d), the claimant (for claims brought under Article 9.12.2(a)) and the claimant or the enterprise (for claims brought under Article 9.12.2(b)) may, in accordance with the laws of the respondent, 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.

ARTICLE 9.15: CONSTITUTION OF THE TRIBUNAL

1. Unless the disputing parties have agreed to appoint a sole arbitrator, the tribunal shall comprise three arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the chairperson, appointed by agreement of the disputing parties.

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

3. If the disputing parties agree to appoint a sole arbitrator, the disputing parties shall seek to agree on the sole arbitrator. If they fail to do so within 90 days of the day on which the respondent gave its agreement to submit the dispute to a sole arbitrator, the sole arbitrator shall be drawn by the appointing authority on the request of a disputing party from the list of chairpersons established pursuant to paragraph 5 below.

4. If a tribunal has not been constituted within 90 days from the date that a claim is submitted to arbitration under this Section, the appointing authority, on the request of a disputing party, shall appoint, in his or her discretion, the remaining arbitrators from the list established pursuant to paragraph 5 below.

5. The Committee on Investment shall, no later than 2 years after the entry into force of this Agreement, establish a list of individuals who are willing and able to serve as arbitrators. The Committee on Investment shall ensure that at all times the list includes at least 20 individuals.

6. For purpose of the list referred to in paragraph 5, each Party shall select at least five individuals to serve as arbitrators. The Parties shall also jointly select at least 10 individuals who are not nationals of either Party to act as chairperson of the tribunals.

7. In the event that the Secretary-General is required to appoint an arbitrator or arbitrators under paragraph 3 or 4, and the list referred to in paragraph 5 has not been established, the Secretary-General shall appoint, in his or her discretion, the arbitrator or

3. 尽管有第2段(d)(ii)项，但如果被申请人剥夺了申请人对企业控制的权，并且申请人因此无法提供豁免，则企业不得被要求提供豁免。

4. 不论第2(d)段如何规定，对于根据第9.12.2(a)条提出的申领，以及对于根据第9.12.2(b)条提出的申领，申请人或企业（视情况而定）可以依照被申请人的法律，在司法或行政法庭对被申请人提起或继续提起寻求临时禁令救济且不涉及金钱损害赔偿的诉讼，前提是该诉讼的唯一目的是在仲裁进行期间维护申请人或企业的权利和利益。

第9.15条：仲裁庭的组成

1. 除非争议方同意任命一名独任仲裁员，否则仲裁庭应由三名仲裁员组成，每位争议方任命一名仲裁员，第三名仲裁员（即主席）由争议方协议任命。

2. 秘书长应作为本节的仲裁指定机构。

3. 如果争议方同意任命一名独任仲裁员，争议方应努力就独任仲裁员达成一致。如果他们在被申请人同意将争议提交给独任仲裁员之日起90天内未能达成一致，则应根据第5段的规定设立的主席名单，由争议方请求指定机构从主席名单中任命独任仲裁员。

4. 如果在本第X节规定的仲裁之日起90天内未成立仲裁庭，则指定机构应根据争议方的请求，在其自行判断范围内，从根据第5段的规定设立的名单中任命其余仲裁员。

5. 投资委员会应在本协议生效之日起2年内，建立一份愿意且有能力的个人名单，以作为仲裁员。投资委员会应确保该名单始终至少包含20名个人。

6. 为了第5段所述名单的目的，每一方应至少选出五名个人担任仲裁员。缔约方还应联合选出至少10名任何一方国民均非其国民的个人担任仲裁庭主席。

7. 如果根据第3段或第4段需要任命秘书长任命仲裁员或仲裁员，并且第5段中提到的名单尚未建立，则秘书长应在其自由裁量权范围内任命尚未任命的仲裁员或

arbitrators not yet appointed. The Secretary-General shall not appoint a national of either Party as the presiding arbitrator unless the disputing parties otherwise agree.

8. All arbitrators appointed pursuant to this Section shall have expertise or experience in public international law, international trade or international investment rules, or the resolution of disputes arising under international trade or international investment agreements. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute, or be affiliated with the government of either Party or any disputing party, and shall comply with Annex 9-A. Arbitrators who serve on the list established pursuant to paragraph 5 shall not, for that reason alone, be deemed to be affiliated with the government of either Party.

9. For purposes of Article 39 of the ICSID Convention and Article 7 of Schedule C to the ICSID Additional Facility Rules, and without prejudice to an objection to an arbitrator on a ground other than nationality:

- (a) the respondent agrees to the appointment of each individual member of a tribunal established under the ICSID Convention or the ICSID Additional Facility Rules;
- (b) a claimant referred to in Article 9.12.2(a) may submit a claim to arbitration under this Section, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only on condition that the claimant agrees in writing to the appointment of each individual member of the tribunal; and
- (c) a claimant referred to in Article 9.12.2(b) may submit a claim to arbitration under this Section, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only on condition that the claimant and the enterprise agree in writing to the appointment of each individual member of the tribunal.

ARTICLE 9.16: CONDUCT OF THE ARBITRATION

1. The disputing parties may agree on the legal place of any arbitration under the arbitral rules applicable under Article 9.12.4. If the disputing parties fail to reach agreement, the tribunal shall determine the place in accordance with the applicable arbitral rules.

2. The non-disputing Party may make oral and written submissions to the tribunal regarding the interpretation of this Chapter.

3. With the written agreement of the disputing parties, the tribunal may allow a party or entity that is not a disputing party to file a written *amicus curiae* submission

仲裁员。除非争议方另行同意，否则秘书长不得任命任何一方国家的国民为首席仲裁员。

8. 根据本第X节指定的仲裁员应具备国际公法、国际贸易或国际投资规则或国际贸易或国际投资协议项下争议解决方面的专业知识或经验。他们应当是独立的，以个人身份任职，并且不就与争议相关的事项接受任何组织或政府的指示，也不隶属于任何一方政府或任何争议方，并且应遵守附件9-A。根据第5段设立的名单上任职的仲裁员，仅因该原因本身不应被视为隶属于任何一方政府。

9. 为《国际投资争端解决中心公约》第39条和《ICSID附加便利规则》附件C第7条之目的，且不妨碍就国籍以外的理由提出对仲裁员的异议：

(a) 被申请人同意根据《国际投资争端解决中心公约》或《ICSID附加便利规则》设立的仲裁庭的每个成员的任命；(b) 《第9.12.2(a)条》中提到的申请人只有在书面同意仲裁庭的每个成员的任命的条件下，才能根据本第X节，或根据《国际投资争端解决中心公约》或《ICSID附加便利规则》，提交仲裁申请或继续仲裁申请；以及(c) 《第9.12.2(b)条》中提到的申请人只有在书面同意仲裁庭的每个成员的任命的条件下，才能根据本第X节，或根据《国际投资争端解决中心公约》或《ICSID附加便利规则》，提交仲裁申请或继续仲裁申请。

第9.16条：仲裁的进行

1. 争议方可以就第9.12.4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。

2. 非争议方可以就本章的解释向仲裁庭提出口头和书面陈述。

3. 经争议方书面协议，仲裁庭可允许非争议方提交书面法庭之友提交

with the tribunal regarding a matter within the scope of the dispute. In determining whether to allow such a filing, the tribunal shall consider, among other things, the extent to which:

- (a) the *amicus curiae* submission would assist the tribunal in the determination of a factual or legal issue related to the proceeding by bringing a perspective, particular knowledge, or insight that is different from that of the disputing parties;
- (b) the *amicus curiae* submission would address a matter within the scope of the dispute; and
- (c) the *amicus curiae* has a significant interest in the proceeding.

4. Each submission in accordance with paragraph 3 of this Article shall identify the author, disclose any affiliation, direct or indirect, with any disputing party, and identify any person, government, or other entity that has provided, or will provide, any financial or other assistance in preparing the submission. Each submission shall be in a language of the arbitration, and comply with any page limits and deadlines set by the tribunal. The tribunal shall ensure that the *amicus curiae* submission does not disrupt the proceeding or unduly burden or unfairly prejudice either disputing party, and that the disputing parties are given an opportunity to present their observations on the *amicus curiae* submission.

5. Without prejudice to a tribunal's authority to address other objections as a preliminary question, a tribunal shall address and decide as a preliminary question any objection by the respondent that, as a matter of law, a claim submitted is not a claim for which an award in favour of the claimant may be made under Article 9.12.

- (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.
- (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) In deciding an objection under this paragraph, the tribunal shall assume to be true claimant's factual allegations in support of any claim in the notice of arbitration and, in disputes brought under the UNCITRAL Arbitration Rules, the statement of claim referred to in Article 20 of the UNCITRAL Arbitration Rules. The tribunal may also consider any relevant facts not in dispute.

与仲裁庭就争议范围内的某事项。在决定是否允许此类提交时，仲裁庭应考虑，其他事项中，程度如何：

- (a) 法庭之友的提交将通过对争议方不同的视角、特别知识或见解的引入，协助仲裁庭就与程序相关的事实或法律问题作出裁决；(b) 法庭之友的提交将涉及争议的范围；以及(c) 法庭之友对程序有重大利益。

4. 根据本条款第3段的规定，每一提交应指明作者、披露与任何争议方直接或间接的任何关系，并指明为准备提交而提供或将要提供任何财务或其他援助的个人、政府或其他实体。每一提交应以仲裁的语言提交，并遵守仲裁庭设定的任何页数限制和截止日期。仲裁庭应确保法庭之友的提交不会干扰程序，或过度负担或不公平地偏袒任何争议方，并确保争议方有机会就法庭之友的提交提出意见。

5. 不影响仲裁庭作为初步问题处理其他异议的权力，仲裁庭应当就被申请人提出的、根据法律，提交的申领并非第9.12条下可以为申请人作出裁决的申领的异议作为初步问题进行审理并作出裁决。

- (a) 该异议应在仲裁庭成立后尽快提交仲裁庭，且不得迟于仲裁庭为被申请人提交反诉状而确定的日期。(b) 仲裁庭收到本段规定的异议后，应暂停实体问题的审理，建立与考虑任何其他初步问题相一致的异议审理时间表，并对该异议作出决定或裁决，并说明理由。(c) 在决定本段规定的异议时，仲裁庭应假定仲裁通知中支持任何申领的事实主张为真，并在根据联合国国际贸易法委员会仲裁规则提起的争议中，假定第20条规定的索赔声明为真。仲裁庭还可以考虑任何未争议的相关事实。

- (d) The respondent does not waive any objection as to competence or any argument on the merits merely because the respondent did or did not raise an objection under this paragraph or make use of the expedited procedure set out in paragraph 6.

6. 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 5 and any objection that the dispute is not within the tribunal's 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, which may not exceed 30 days.

7. When it decides a respondent's objection under paragraph 5 or 6, the tribunal may, if warranted, award to the prevailing disputing party reasonable costs and attorney's 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.

8. A respondent may not assert as a defence, counterclaim, right of set-off, or for any other reason that the claimant or the enterprise referred to in Article 9.12.2(b) has received or will receive indemnification or other compensation for all or part of the alleged damages pursuant to an indemnity, guarantee or insurance contract.

ARTICLE 9.17: TRANSPARENCY OF ARBITRAL PROCEEDINGS

1. Subject to paragraphs 3, 4 and 5, the respondent shall, after receiving the following documents, promptly transmit them to the non-disputing Party:

- (a) the request for consultations;
- (b) the notice of arbitration;
- (c) pleadings, memorials, and briefs submitted to the tribunal by a disputing party and any written submissions submitted pursuant to Article 9.21;
- (d) minutes or transcripts of hearings of the tribunal, where available; and
- (e) orders, awards, and decisions of the tribunal.

2. Subject to paragraphs 3, 4 and 5, the respondent:

- (d) 被申请人仅因被申请人根据本段提出或未提出异议，或未使用第6段规定的简易程序，并不放弃关于管辖权或实体问题的任何异议或论点。

6. 如果被申请人自仲裁庭成立之日起45日内提出请求，仲裁庭应当对第5段项下的异议以及异议所提出的争议不属于仲裁庭管辖权的事项进行快速审理。仲裁庭应当中止实体问题的审理，并在请求之日起150日内就异议作出决定或裁决，并说明理由。但是，如果争议方请求举行听证会，仲裁庭可以额外30天作出决定或裁决。无论是否请求举行听证会，仲裁庭在证明存在特殊情况的情况下，可以延迟作出决定或裁决，但延迟时间不得超过30天。

7. 当仲裁庭决定第5段或第6段项下的被申请人的异议时，如果情况属实，仲裁庭可以向胜诉方授予合理的费用和律师费，该费用为提交或反对异议所发生的费用。在确定是否授予此类裁决时，仲裁庭应当考虑申请人提出的申领或被申请人提出的异议是否滥程序，并应当给予争议方合理的意见反馈机会。

8. 被申请人不得以抗辩、反诉、抵销权或任何其他理由主张，申请人或第9.12.2(b)条中提到的企业已根据赔偿条款、担保或保险合同获得或将要获得全部或部分所谓损害赔偿的补偿。

第9.17条：仲裁程序的透明度

1. 除第3、4和5款规定外，被申请人在收到下列文件后，应立即将其传送给非争议方：

- (a) 磋商请求；(b) 仲裁通知；(c) 争议方提交给仲裁庭的诉讼文书、答辩状和简报，以及根据第9.21条提交的书面陈述；(d) 仲裁庭听证会的会议记录或庭审记录（如有）；以及(e) 仲裁庭的裁决、命令和决定。

2. 根据第3、4和5段的规定，被申请人：

- (a) shall make the documents referred to in paragraph 1 (a), (b) and (e) available to the public;
- (b) may make the documents referred to in paragraph 1(c) and (d) available to the public;
- (c) may make any written submissions submitted pursuant to Article 9.16.2 available to the public provided that prior consent is obtained from the non-disputing Party.

3. With the agreement of the respondent, 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 protected information in a hearing shall so advise the tribunal. The tribunal shall make appropriate arrangements to protect the information from disclosure.

4. Nothing in this Section requires a respondent to disclose protected information or to furnish or allow access to information that it may withhold in accordance with Article 16.1 (Disclosure and Confidentiality of Information) or Article 16.3 (Security Exceptions) of Chapter 16 (General Provisions and Exceptions).

5. Any protected information that is submitted to the tribunal shall be protected from disclosure in accordance with the following procedures:

- (a) Neither the disputing parties nor the tribunal shall disclose to the non-disputing Party or to the public any protected information 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 protected information shall clearly designate the information at the time it is submitted to the tribunal;
- (c) A disputing party shall, within 7 days after it submits a document containing information claimed to be protected information, submit a redacted version of the document that does not contain the information. Only the redacted version may be provided to the non-disputing Party and made public in accordance with paragraphs 1 and 2.

ARTICLE 9.18: GOVERNING LAW

1. Subject to paragraphs 2 and 3, when a claim is submitted under Article 9.12, the tribunal shall decide the issues in dispute in accordance with this Agreement as interpreted in accordance with customary rules of treaty interpretation of public

(a) 应当将第1条(a款)、(b款)和(e款)中提到的文件向公众公开；(b) 可以将第1条(c款)和(d款)中提到的文件向公众公开；(c) 可以将根据第9.16.2条提交的任何书面陈述向公众公开，前提是已从非争议方获得事先同意。

3. 经被申请人同意，仲裁庭应举行公开听证会，并与争议方磋商确定适当的 logistical 安排。但是，任何意图在听证会中使用被指定为受保护信息的争议方应当通知仲裁庭。仲裁庭应采取适当安排以保护信息不被披露。

4. 本第X节中的任何规定均不要求被申请人披露受保护信息，也不要求其提供或允许非争议方或公众访问其根据第16章第16.1条（信息披露与保密）或第16.3条（安全例外）规定可以保留的信息。

5. 任何提交给仲裁庭的受保护信息应根据下列程序予以保护，以免披露：

(a) 争议方或仲裁庭均不得向非争议方或公众披露任何受保护信息，前提是该争议方在根据第(b)项下的小项明确指定该信息；(b) 任何声称某信息构成受保护信息的争议方应在提交给仲裁庭时明确指定该信息；(c) 争议方应在提交包含声称受保护信息的文件的7日内，提交不包含该信息的文件删节版本。只有该删节版本可提供给非争议方并按照第1条和第2条的规定公开。

ARTICLE 9.18: GOVERNING LAW

1. 根据第2段和第3段的规定，当根据第9.12条提交申领时，仲裁庭应根据本协议作出解释，该解释应符合维也纳条约法公约（该公约于1969年5月23日在维也纳完成）所编纂的公法习惯性条约解释规则，以解决争议问题。

international law, as codified in the *Vienna Convention on the Law of Treaties* done at Vienna on 23 May 1969. Where relevant and appropriate, the tribunal shall also take into consideration the law of the respondent.

2. A joint decision of the Parties, acting through the Committee on Investment, declaring their interpretation of a provision of this Agreement shall be binding on a tribunal of any ongoing or subsequent dispute, and any decision or award issued by such a tribunal must be consistent with that joint decision.

3. A decision between the respondent and the non-disputing Party that a measure is of the kind described in Article 9.11.4 shall be binding on a tribunal and any decision or award issued by a tribunal must be consistent with that decision.

ARTICLE 9.19: INTERPRETATION OF ANNEXES

1. Where a respondent asserts as a defence that the measure alleged to be a breach is within the scope of an entry set out in Section A or B of its Schedule of Non-Conforming Measures in Annex III, the tribunal shall, on request of the respondent, request the interpretation of the Parties on the issue. The Parties shall submit in writing any joint decision declaring their interpretation to the tribunal within 90 days of delivery of the tribunal's request.

2. A joint decision issued under paragraph 1 by the Parties, acting through the Committee on Investment, shall be binding on the tribunal, and any decision or award issued by the tribunal must be consistent with that joint decision. If the Parties fail to issue such a decision within 90 days, the tribunal shall decide the issue. In such a case, the tribunal shall draw no inference from the fact that the Parties fail to issue such a decision.

3. A joint decision issued under paragraph 1 by the Parties shall also be binding on the tribunal of any dispute subsequent to the date of the joint decision to the extent applicable and not modified by another joint decision issued pursuant to paragraph 1 subsequent to the first said joint decision.

ARTICLE 9.20: 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.

在相关且适当的情况下，仲裁庭还应考虑被申请人的法律。

2. 各方通过投资委员会作出的联合决定，声明对本协定条款的解释，对任何正在进行或后续的争议中的仲裁庭具有约束力，并且该仲裁庭作出的任何决定或裁决必须与该联合决定一致。

3. 被申请人与非争议方之间关于一项措施属于第9.11.4条所述类型的决定，对仲裁庭具有约束力，并且仲裁庭作出的任何决定或裁决必须与该决定一致。

第9.19条：附件的解释

1. 当被申请人以抗辩方式主张被指控违反的措施属于附件III中其不符措施清单第X节A部分或B部分所列条目范围时，仲裁庭应根据被申请人的请求，请求各方对该问题作出解释。各方应在仲裁庭发出请求之日起90天内以书面形式向仲裁庭提交声明其解释的联合决定。

2. 各方通过投资委员会根据第1段发布的联合决定对仲裁庭具有约束力，仲裁庭发布的任何决定或裁决必须与该联合决定一致。如果各方在90天内未能发布此类决定，仲裁庭应决定该问题。在这种情况下，仲裁庭不得从各方未能发布此类决定这一事实上得出任何推论。

3. 各方根据第1段发布的联合决定也应对自联合决定之日起至该联合决定适用的范围内且未经第1段后续发布的另一联合决定修改的任何后续争议的仲裁庭具有约束力。

ARTICLE 9.20: EXPERT REPORTS

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，则自行任命，以便就争议方在程序中提出的涉及环境、健康、安全或其他科学事项的任何事实问题向其提交书面报告，具体条款和条件由争议方自行商定。

ARTICLE 9.21: CONSOLIDATION

1. Where two or more claims have been submitted separately to arbitration under Article 9.12.2 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 in accordance with the agreement of all the disputing parties sought to be covered by the order or the terms of paragraphs 2 through 11.
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. Unless all the disputing parties sought to be covered by the order otherwise agree, a tribunal established under this Article shall comprise three arbitrators:
 - (a) one arbitrator appointed by agreement of the claimants;
 - (b) one arbitrator appointed by the respondent; and
 - (c) the presiding arbitrator appointed by the Secretary-General from the list of chairpersons established pursuant to Article 9.15.5.
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, on the request of any disputing party sought to be covered by the order, shall appoint the arbitrator or arbitrators not yet appointed from the list of arbitrations established pursuant to Article 9.15.5.
6. In the event that the Secretary-General is required to appoint an arbitrator or arbitrators under paragraph 4 or 5, and the list referred to in Article 9.15.5 has not been established, the Secretary-General shall appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed. The Secretary-General shall not appoint a national of either Party as the presiding arbitrator unless the disputing parties otherwise agree.
7. Where a tribunal established under this Article is satisfied that two or more

第9.21条：合并

1. 如根据第9.12.2条分别提交了两个或多个仲裁申请，且这些申请具有共同的法律或事实问题，并源于相同的事件或情况，则任何争议方均可根据所有被该命令涵盖的争议方或第2至11段条款的协议寻求合并令。
2. 任何寻求根据本条款获得合并令的争议方应以书面形式向秘书长以及所有被请求纳入该令的争议方提交请求，并在请求中说明：
 - (a) 被请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. 秘书长在收到根据第2段提交的请求后30日内，如未发现该请求明显缺乏依据，则应根据本条款设立仲裁庭。
4. 除非所有被请求纳入该令的争议方另行同意，否则根据本条款设立的仲裁庭应由三名仲裁员组成：
 - (a) 由申请人协议任命一名仲裁员；(b) 由被申请人任命一名仲裁员；以及
 - (c) 由秘书长根据第9.15.5条设立的主席名单任命的首席仲裁员。
5. 如果秘书长收到第2段提出的请求后60天内，被申请人未任命仲裁员或申请人未根据第4段任命仲裁员，则秘书长应根据任何争议方请求的裁决所涵盖的争议方，从根据第9.15.5条设立的仲裁员名单中任命尚未任命的仲裁员或仲裁员。
6. 如果秘书长根据第4段或第5段被要求任命仲裁员或仲裁员，并且第9.15.5条中提到的名单尚未建立，则秘书长应根据其自由裁量权任命尚未任命的仲裁员或仲裁员。除非争议方另行同意，否则秘书长不得任命任何一方国家的国民为首席仲裁员。
7. 根据本条款设立的仲裁庭，如果认为存在两个或两个以上

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claims that have been submitted to arbitration under Article 9.12.2 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
- (c) instruct a tribunal previously established under Article 9.15 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(a), 5 and 6; and
 - (ii) that tribunal shall decide whether any prior hearing shall be repeated.

8. Where a tribunal has been established under this Article, a claimant that has submitted a claim to arbitration under Article 9.12.2 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 7, 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.

9. A tribunal established under this Article shall conduct its proceedings in accordance with the UNCITRAL Arbitration Rules, except as modified by this Agreement and the Side Letter on Transparency Rules Applicable to ISDS.

10. A tribunal established under Article 9.15 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.

11. On application of a disputing party, a tribunal established under this Article,

根据第9.12.2条提交仲裁的索赔具有共同的法律或事实问题，并源于相同的事件或情况，仲裁庭可出于公平高效解决索赔的利益，在听取争议方后，以命令方式：

- (a) 对全部或部分申领行使管辖权并共同审理和裁决；(b) 对一个或多个申领行使管辖权并审理和裁决，其裁决相信将有助于解决其他申领；或(c) 指示根据第9.15条设立的仲裁庭对全部或部分申领行使管辖权并共同审理和裁决，前提是(i) 该仲裁庭应根据任何先前未在该仲裁庭作为争议方的申领人的请求，使用其原有成员重新组成，但申领人的仲裁员应根据第4(a)段、第5段和第6段的规定任命；以及(ii) 该仲裁庭应决定是否应重复任何先前听证会。

8. 如果根据本条设立了仲裁庭，已根据第9.12.2条提交申领并未被第2段请求中提及的申领人可以向仲裁庭提交书面请求，要求将其包括在第7段作出的任何命令中，并在请求中说明：

- (a) 申请人的姓名和地址；(b) 所寻求的命令的性质；以及(c) 寻求该命令的理由。申请人应当将其请求副本提交给秘书长

9. 根据本条款设立的仲裁庭应当按照联合国国际贸易法委员会仲裁规则进行其程序，但本协议和适用于ISDS的透明度规则补充信所做的修改除外。

10. 根据第9.15条设立的仲裁庭无权对根据本条款设立或指派的仲裁庭已假定管辖权的申领或申领的一部分作出裁决。

11. 根据争议方申请，根据本条设立的仲裁庭 e,

pending its decision under paragraph 7, may order that the proceedings of a tribunal established under Article 9.15 be stayed, unless the latter tribunal has already adjourned its proceedings.

ARTICLE 9.22: AWARDS

1. Where a tribunal makes an award against a respondent, the tribunal may award, separately or in combination, only:

- (a) monetary damages and any applicable interest; and
- (b) restitution of property, in which case the award shall provide that the respondent may pay monetary damages and any applicable interest in lieu of restitution.

2. A tribunal may also award costs and attorney’s fees in accordance with this Section and the applicable arbitration rules.

3. Subject to paragraph 1, where a claim is submitted to arbitration under Article 9.12.2(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 laws and regulations provided that such relief does not grant or result in duplicated remedies to any person in light of the award rendered.

4. A tribunal may not award punitive damages.

5. An award made by a tribunal shall have no binding force except between the disputing parties and in respect of the particular case.

6. Subject to paragraph 7, a disputing party shall abide by and comply with an award without delay.

7. A disputing party may not seek enforcement of an 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

在争议方提出申请时，根据本条款设立的仲裁庭，在其根据第7段作出决定之前，可以命令暂停根据第9.15条设立的仲裁庭的程序，除非后者仲裁庭已经休庭。

第9.22条：裁决

1. 当仲裁庭对被申请人作出裁决时，仲裁庭可以单独或结合只裁决以下内容：

- (a) 金钱损害赔偿和适用利息；以及 (b) 财产返还，在此情况下，裁决应规定被申请人可以用金钱损害赔偿和适用利息代替财产返还。

2. 仲裁庭也可以根据本节和适用仲裁规则裁决费用和律师费。

3. 除第1段规定外，当申领根据第9.12.2(b)条提交仲裁时：

- (a) 财产返还裁决应当规定向企业进行返还；(b) 金钱损害赔偿裁决及适用利息裁决应当规定将款项支付给企业；以及(c) 裁决应当规定其作出不影响任何个人在适用法律法规项下救济中可能拥有的任何权利，前提是该救济未授予或导致任何个人因该已作出的裁决而获得重复救济。

4. 仲裁庭不得裁决惩罚性损害赔偿。

5. 仲裁庭作出的裁决除对争议方之间及就特定案件外不具有约束力。

6. 除非第7段另有规定，争议方应当及时遵守并执行裁决。

7. 争议方不得在以下情况下寻求裁决的执行：

- (a) 在根据ICSID公约作出的最终裁决的情况下：
 - (i) 120天已从裁决作出之日起经过，且

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 an award made under the ICSID Additional Facility Rules, the UNCITRAL Arbitration Rules, or the rules selected pursuant to Article 9.12.4(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.

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

ARTICLE 9.23: APPELLATE REVIEW

Within three years after the date of entry into force of this Agreement, the Parties shall commence negotiations with a view to establishing an appellate mechanism to review awards rendered under Article 9.22 in arbitrations commenced after any such appellate mechanism is established. Any such appellate mechanism would hear appeals on questions of law.

ARTICLE 9.24: ANNEXES AND FOOTNOTES

The Annexes and footnotes shall form an integral part of this Agreement.

ARTICLE 9.25: SERVICE OF DOCUMENTS

Delivery of notice and other documents on a Party shall be made to the place named for that Party in Annex 9-B.

没有争议方请求修改或撤销裁决；或

(ii) 修改或撤销程序已经完成；并且

(b) 在根据ICSID附加便利规则、联合国国际贸易法委员会仲裁规则或根据第9.12.4(d)条选定的规则作出的裁决的情况下，

(i) 自裁决作出之日起90天已过且争议方未开始修改、撤销或撤销裁决的程序；或 (ii) 法院已驳回或允许修改、撤销或撤销裁决的申请且没有进一步的上诉。

8. 每一方应在其领土内提供裁决的执行。

第9.23条：上诉审查

在本协议生效日期起三年内，缔约方应开始谈判，旨在建立上诉机制，以审查在建立任何此类上诉机制之后根据第9.22条启动的仲裁中颁发的裁决。任何此类上诉机制将就法律问题进行上诉审理。

第9.24条：附件和脚注

附件和脚注应构成本协议的组成部分。

第9.25条：文件的送达

一方应将通知和其他文件送达附件9-B中为该方指定的地点。

**ANNEX 9-A
CODE OF CONDUCT**

附件9-A 行为准则

Responsibilities to the Process

1. Every arbitrator shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process are preserved. Former arbitrators shall comply with the obligations established in paragraphs 16, 17, 18 and 19.

Disclosure Obligations

2. Prior to confirmation of his or her selection as an arbitrator under this Agreement, a candidate shall disclose any interest, relationship or matter that is likely to affect his or her independence or impartiality or that might reasonably create an appearance of impropriety or bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters.

3. Once selected, an arbitrator shall continue to make all reasonable efforts to become aware of any interests, relationships and matters referred to in paragraph 2 and shall disclose them by communicating them in writing to the disputing parties. The obligation to disclose is a continuing duty, which requires an arbitrator to disclose any such interests, relationships and matters that may arise during any stage of the proceeding.

Performance of Duties by Arbitrators

4. An arbitrator shall comply with the provisions of this Chapter and the applicable rules of procedure.

5. On selection, an arbitrator shall perform his or her duties thoroughly and expeditiously throughout the course of the proceeding with fairness and diligence.

6. An arbitrator shall not deny other arbitrators the opportunity to participate in all aspects of the proceeding.

7. An arbitrator shall consider only those issues raised in the proceeding and necessary to rendering a decision and shall not delegate the duty to decide to any other person.

8. An arbitrator shall take all appropriate steps to ensure that the arbitrator's assistant and staff are aware of, and comply with, paragraphs 1, 2, 3, 18, 19 and 20.

9. An arbitrator shall not engage in *ex parte* contacts concerning the proceeding.

对流程的责任

1. 每位仲裁员应避免不当行为及不当行为的表象，应保持独立且公正，应避免直接或间接的利益冲突，并应遵守高标准行为，以维护争议解决程序的完整性和公正性。前任仲裁员应遵守第16、17、18和19段规定的义务。

披露义务

2. 在根据本协议确认其被选为仲裁员之前，候选人应披露任何可能影响其独立或公正性的利益、关系或事项，或可能合理地在该程序中产生不当行为或偏见的印象。为此，候选人应尽一切合理努力了解任何此类利益、关系和事项。

3. 被选为仲裁员后，应继续尽一切合理努力了解第2段中提到的任何利益、关系和事项，并通过以书面形式向争议方沟通来披露它们。披露义务是一项持续的义务，要求仲裁员披露在任何程序阶段可能出现的任何此类利益、关系和事项。

仲裁员履行职责

4. 仲裁员应遵守本章规定及适用程序规则。

5. 仲裁员在选定后，应在整个程序过程中勤勉、公平地履行其职责。

6. 仲裁员不得剥夺其他仲裁员参与程序所有方面的机会。

7. 仲裁员应仅考虑程序中提出且作出裁决所必需的问题，不得将裁决的职责委托给任何其他人。

8. 仲裁员应采取适当措施以确保仲裁员、助理和工作人员都了解并遵守第1条、第2条、第3条、第18条、第19条和第20条。

9. 仲裁员不得就程序进行单方面接触。

10. An arbitrator shall not communicate matters concerning actual or potential violations by another arbitrator unless the communication is to both disputing parties or is necessary to ascertain whether that arbitrator has violated or may violate this Annex.

Independence and Impartiality of Arbitrators

11. An arbitrator shall be independent and impartial. An arbitrator shall act in a fair manner and shall avoid creating an appearance of impropriety or bias.

12. An arbitrator shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party or a disputing party or fear of criticism.

13. An arbitrator shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of the arbitrator's duties.

14. An arbitrator shall not use his or her position on the arbitral tribunal to advance any personal or private interests. An arbitrator shall avoid actions that may create the impression that others are in a special position to influence the arbitrator. An arbitrator shall make every effort to prevent or discourage others from representing themselves as being in such a position.

15. An arbitrator shall not allow past or existing financial, business, professional, family or social relationships or responsibilities to influence the arbitrator's conduct or judgment.

16. An arbitrator shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect the arbitrator's impartiality or that might reasonably create an appearance of impropriety or bias.

Duties in Certain Situations

17. An arbitrator or former arbitrator shall avoid actions that may create the appearance that the arbitrator was biased in carrying out the arbitrator's duties or would benefit from the decision or award of the arbitral tribunal.

Maintenance of Confidentiality

18. An arbitrator or former arbitrator shall not at any time disclose or use any non-public information concerning the proceeding or acquired during the proceeding except for the purposes of the proceeding and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to affect adversely the interest of others.

19. An arbitrator shall not disclose an arbitral tribunal award or parts thereof prior to its publication.

10. 仲裁员不得就另一名仲裁员实际或潜在的违反行为进行沟通，除非该沟通同时向争议双方进行，或有必要确定该仲裁员是否违反或可能违反本附件。

仲裁员的独立性和公正性

11. 仲裁员应当独立且公正。仲裁员应当以公平的方式行事，并避免造成不当行为的表象或偏见的印象。

12. 仲裁员不得受自身利益、外部压力、政治因素、公众喧嚣、对一方或争议方的忠诚或害怕批评的影响。

13. 仲裁员不得直接或间接地承担任何义务或接受任何利益，这些义务或利益在任何方面都可能干扰或看似干扰仲裁员职责的适当履行。

14. 仲裁员不得利用其在仲裁庭的职位来谋取任何个人或私人利益。仲裁员应当避免采取可能造成他人认为处于影响仲裁员的优势地位的行为。仲裁员应当尽一切努力防止或制止他人声称处于这种地位。

15. 仲裁员不得允许过去的或现有的财务、商业、专业、家庭或社会关系或责任影响仲裁员的经营或判断。

16. 仲裁员应避免进入任何关系，或获得任何财务利益，该关系或利益可能会影响仲裁员的公正性，或可能合理地造成不当行为的表象或偏见。

特定情况下的职责

17. 仲裁员或前任仲裁员应避免采取可能造成仲裁员在履行职责时存在偏见或将从仲裁庭的裁决或判决中获益的行为。

保密的维护

18. 仲裁员或前任仲裁员在任何时候不得披露或使用与程序有关的任何非公开信息，或程序中获得的信息，除非出于程序的目的，并且在任何情况下，不得披露或使用此类信息以获得个人优势或他人优势，或不利地影响他人的利益。

19. 仲裁员不得在仲裁庭裁决发布之前披露仲裁庭裁决或其部分内容。

20. An arbitrator or former arbitrator shall not at any time disclose the deliberations of an arbitral tribunal, or any arbitrator’s view, except as required by legal or constitutional requirements.

Definitions

21. For the purposes of this Annex:

assistant means a person who, under the terms of appointment of an arbitrator, conducts research or provides support for the arbitrator;

arbitrator means a member of an arbitral tribunal established under Section B of this Chapter;

proceeding, unless otherwise specified, means the proceeding of an arbitral tribunal under Section B of this Chapter; and

staff, in respect of an arbitrator, means persons under the direction and control of the arbitrator, other than assistants.

20. 仲裁员或前仲裁员在任何时候均不得披露仲裁庭的审议，或任何仲裁员的意见，除非根据法律或宪法要求。

定义

21. 根据本附件的规定：

助理是指根据仲裁员的任命条款，进行研究或为仲裁员提供支持的个人；

仲裁员是指根据本章B部分设立的仲裁庭成员；

程序，除非另有规定，是指根据本章B部分设立的仲裁庭的程序；和

工作人员，关于仲裁员，是指受仲裁员指导和控制的个人，但不包括助手。

ANNEX 9-B
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
RG Casey Building
John McEwen Crescent
Barton ACT 0221 Australia

China

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

Ministry of Commerce
NO.2 Dongchangan Street, Dongcheng District
Beijing, China, 100731

附件9-B B部分一方根据第B节的文件送达

澳大利亚

B部分项下的通知和其他文件应送达澳大利亚，方式为直接送达：

外交贸易部RG凯西大楼约翰·麦克尤恩
弯道巴顿澳大利亚ACT 0221

中国

第B节争议下的通知和其他文件应通过以下方式送达中国：

商务部 东长安街2号 东城区 北京 中国
100731

CHAPTER 10
MOVEMENT OF NATURAL PERSONS

ARTICLE 10.1: SCOPE

1. This Chapter shall apply to measures affecting the movement of natural persons of a Party into the territory of the other Party under any of the categories referred to in Annex 10-A.
2. This Chapter shall not apply to measures affecting natural persons of a Party seeking access to the employment market of the other Party, nor shall it apply to measures regarding citizenship, nationality, or residence or employment on a permanent basis.
3. Nothing contained in this Agreement shall prevent a Party from applying measures to regulate the entry or temporary stay of natural persons of the other Party in its territory, including measures necessary to protect the integrity of its territory and to ensure the orderly movement of natural persons across its borders, provided such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under this Chapter.¹

ARTICLE 10.2: DEFINITIONS

For the purposes of this Chapter:

- (a) **immigration measure** means any measure² affecting the entry and stay of foreign nationals in a Party;
- (b) **immigration formality** means a visa, permit, pass or other document or electronic authority granting a natural person of a Party temporary entry to the other Party;
- (c) **natural person of a Party** means a natural person who under the law of the Party,
 - (i) for Australia, is an Australian citizen or a permanent resident of Australia; and

¹ The sole fact that a Party requires natural persons of the other Party to obtain an immigration formality shall not be regarded as nullifying or impairing the benefits accruing to that other Party under this Chapter.

² “Measure” means any measure, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form.

第10章 自然人移动

条款10.1：范围

1. 本章适用于一方根据附件10-A中所述类别，将其自然人移动至另一方领土的措施。
2. 本章不适用于一方自然人寻求进入另一方就业市场的措施，也不适用于关于公民身份、国籍或居留、永久性就业的措施。
3. 本协议任何内容均不得阻止一方采取措施以规范另一方自然人进入其领土或临时居留，包括保护其领土完整和确保自然人跨境有序移动所必需的措施，但前提是此类措施不得以使另一方在本章项下获得之利益归于无效或受损的方式实施。¹

第10.2条：定义

本章的目的：

- (a) 移民措施是指影响一方外国人入境和停留的任何措施²； (b) 移民手续是指一方自然人获得进入另一方临时入境的签证、许可证、通行证或其他文件或电子授权； (c) 一方自然人是指根据各方的法律， (i) 对于澳大利亚，是澳大利亚公民或澳大利亚永久居民； 以及

¹ 一方要求另一方自然人获得移民手续这一事实本身，不应被视为使该另一方在本章项下应得利益无效或受损。

² “措施”是指任何形式的措施，无论其表现为法律、法规、规则、程序、决定、行政行为或任何其他形式。

(ii) for China, is a natural person who under Chinese law is a national of China;

(d) **temporary employment entry** means entry by a natural person of a Party, including a skilled worker, into the territory of the other Party in order to temporarily work under an employment contract concluded pursuant to the law of the receiving Party, without the intent to establish permanent residence; and

(e) **temporary entry** means entry by a natural person covered by this Chapter, including, where relevant, temporary employment entry, without the intent to establish permanent residence.

ARTICLE 10.3: EXPEDITIOUS APPLICATION PROCEDURES

1. Each Party shall expeditiously process complete applications for immigration formalities received from natural persons of the other Party covered by this Chapter, including further immigration formality requests or extensions thereof.

2. Each Party shall, on request and within a reasonable period after a complete application by a natural person of the other Party covered by this Chapter requesting temporary entry is lodged, notify the applicant, either directly or through their authorised representative, of:

- (a) receipt of the application;
- (b) the status of the application; and
- (c) where a decision has been made, the decision concerning the application, including:
 - (i) if approved, the period of stay and other conditions; or
 - (ii) if refused, the reasons for refusal.

3. The Parties affirm their voluntary commitments established in the *APEC Business Travel Card Operating Framework*.

4. Each Party shall ensure that fees charged by its competent authorities in respect of the processing of an immigration formality are reasonable and do not in themselves represent an unjustifiable impediment to the movement of natural persons of the other Party under this Chapter.

5. Each Party shall endeavour, to the extent possible, to provide facilities for online lodgement and processing of immigration formalities.

(ii) 对于中国, 是根据中国法律的中国国民;

(d) 临时就业入境是指一方自然人, 包括技术工人, 进入另一方领土, 根据接受方的法律签订雇佣合同, 暂时工作, 无意建立永久居留权; 以及

(e) 临时入境是指本章涵盖的自然人入境, 包括在相关情况下临时就业入境, 无意建立永久居留权。

第10.3条: 快速申请程序

1. 每一方应迅速处理本章涵盖的自然人从另一方收到的完整移民手续申请, 包括进一步的移民手续请求或其延期。

2. 每一方应在本章涵盖的自然人提交完整申请请求临时入境后, 合理期限内, 直接或通过其授权代表通知申请人:

(a) 收到申请; (b) 申请状态; 以及(c) 如已做出决定, 则涉及申请的决定, 包括: (i) 如获批准, 则停留期限和其他条件; 或(ii) 如被拒绝, 则拒绝理由。

3. 各方重申其在亚太经合组织商务旅行卡操作框架中建立的自愿承诺。

4. 每一方应确保其主管当局就处理移民手续所收取的费用是合理的, 并且本身不构成对另一方自然人在本章项下的移动的不合理阻碍。

5. 每一方应尽其所能, 提供在线提交和处理移民手续的便利。

ARTICLE 10.4: GRANT OF TEMPORARY ENTRY

1. Each Party shall set out in Annex 10-A the specific commitments it undertakes for each of the categories of natural persons specified therein. The Parties may make commitments in respect of the temporary employment entry of natural persons.
2. Where a Party makes a commitment under paragraph 1, it shall grant temporary entry or extension of temporary stay to natural persons of the other Party to the extent provided for in that commitment, provided that those natural persons:
 - (a) follow the prescribed application procedures for the relevant immigration formality; and
 - (b) meet all relevant eligibility requirements for such temporary entry.
3. In respect of the specific commitments on temporary entry in this Chapter, unless otherwise specified in Annex 10-A, neither Party shall:
 - (a) impose or maintain any limitations on the total number of visas to be granted to natural persons of the other Party; or
 - (b) require labour market testing, economic needs testing or other procedures of similar effect as a condition for temporary entry.
4. Each Party shall limit any fees for processing applications for temporary entry of natural persons in a manner consistent with Article 10.3.
5. Temporary entry granted in accordance with this Chapter does not replace the requirements needed to carry out a profession or activity according to the applicable laws and regulations in force in the territory of the Party authorising the temporary entry.

ARTICLE 10.5: TRANSPARENCY

Further to the commitments in Chapter 13 (Transparency), each Party shall:

- (a) provide to the other Party such materials as will enable it to become acquainted with that Party's measures relating to this Chapter;
- (b) no later than six months after the date of entry into force of this Agreement, prepare, publish on the internet where possible or, if not, otherwise make publicly available in a consolidated manner, explanatory material, relevant forms and documents, and average processing times

条款10.4：临时入境的授予

1. 每一方应在附件10-A中列明其针对其中所规定的各类自然人类别所做出的具体承诺。缔约方可就自然人的临时就业入境做出承诺。
2. 当一方根据第1段作出承诺时，应向另一方自然人授予临时入境或延长临时居留，其程度应在该承诺中规定，前提是这些自然人：
 - (a) 遵循相关移民手续的规定的申请程序；以及 (b) 满足此类临时入境的所有相关资格要求。
3. 关于本章中临时入境的具体承诺，除非附件10-A中另有规定，任何一方均不得：
 - (a) 对授予另一方自然人的签证总数施加或维持任何限制；或 (b) 要求劳动力市场测试、经济需求测试或其他具有类似效果的手续作为临时入境的条件。
4. 每一方应以与第10.3条一致的方式限制处理自然人临时入境申请的费用。
5. 根据本章授予的临时入境不取代在授权临时入境的缔约方领土内根据适用法律法规开展职业或活动的必要要求。

ARTICLE 10.5: TRANSPARENCY

根据第13章（透明度）中的承诺，每一方应：

- (a) 向另一方提供此类材料，以便其了解该方与本章节相关的措施；(b) 不迟于本协议生效日期六个月后，准备、尽可能在互联网上发布或若无法发布，则以合并方式公开提供说明材料、相关表格和文件以及平均处理时间

regarding temporary entry under this Chapter in such a manner as will enable natural persons of the other Party to become acquainted with them;

- (c) establish or maintain appropriate mechanisms to respond to enquiries from interested persons regarding measures relating to temporary entry covered by this Chapter; and
- (d) upon modifying or amending an immigration measure that affects the temporary entry of natural persons, ensure that such modifications or amendments are promptly published or otherwise made available pursuant to subparagraph (b).

ARTICLE 10.6: COMMITTEE ON MOVEMENT OF NATURAL PERSONS

1. The Parties hereby establish a Committee on Movement of Natural Persons that shall meet within two years of entry into force of this Agreement, or as agreed by the Parties or on the request of the FTA Joint Commission, to consider any matter arising under this Chapter.

2. The Committee's functions shall include:

- (a) reviewing the implementation and operation of this Chapter; and
- (b) identification and recommendation of measures to promote increased movement of natural persons between the Parties; and to improve the commitments undertaken by the Parties under this Chapter, on a mutually advantageous basis.

ARTICLE 10.7: DISPUTE SETTLEMENT

1. The Parties shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect the operation of this Chapter.

2. The dispute settlement procedures in Chapter 15 (Dispute Settlement) shall not apply to this Chapter unless:

- (a) the matter involves a pattern of practice; and
- (b) the natural persons of a Party concerned have exhausted administrative remedies, where available, regarding the particular matter.

关于本章节下的临时入境，以使另一方的自然人能够了解这些措施；

(c) 建立或维持适当的机制，以回应利益相关者关于本章节涵盖的临时入境措施的相关询问；以及 (d) 在修改或修订影响自然人临时入境的移民措施时，确保此类修改或修订根据第(b)项下的小项及时公布或以其他方式提供。

条款 10.6：自然人移动委员会

1. 各方 hereby 建立 自然人移动委员会，该委员会应在本协议生效后两年内召开会议，或经各方同意或应自由贸易协定联合委员会的请求召开会议，以审议本章节下出现的任何事项。

2. 该委员会的职能应包括：

(a) 审查本章节的实施和运营；以及 (b) 识别和推荐促进缔约方之间自然人移动的措施；以及改善缔约方在本章节下作出的承诺，在互惠互利的基础上。

条款 10.7：争端解决

1. 各方应通过合作和磋商，尽一切努力就任何可能影响本章运营的事项达成双方满意的解决方案。

2. 第15章（争端解决）中的争端解决程序不适用于本章，除非：

(a) 该事项涉及一种做法模式；以及 (b) 有关缔约方的自然人已就该特定事项穷尽行政救济措施（如有的话）。

3. The remedies referred to in paragraph 2(b) shall be deemed to be exhausted if a final determination in the matter has not been issued within one year after the date of the institution of proceedings (not including any review or appeal) for such remedy, and the failure to issue such a determination is not attributable to delays caused by the natural persons concerned.

ARTICLE 10.8: RELATION TO OTHER CHAPTERS

1. Except for this Chapter, Chapters 1 (Initial Provisions and Definitions), 13 (Transparency), 14 (Institutional Provisions), 15 (Dispute Settlement), 16 (General Provisions and Exceptions), and 17 (Final Provisions), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures within the scope of this Chapter.

2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

3. 第2(b)段所述的救济措施应被视为已穷尽，如果在该救济措施的诉讼启动日期（不包括任何复审或上诉）之后一年内未作出最终裁决，并且未能作出该裁决并非由于有关自然人的延误所致。

第10.8条：与其他章节的关系

1. 除本章外，第一章（初始条款和定义）、第13章（透明度）、第14章（机构条款）、第15章（争端解决）、第16章（总则和例外）和第17章（最终条款），本协定任何条款均不得就一方在本章范围内的移民措施对其施加任何义务。

2. 本章任何规定均不得解释为对本协议其他章节施加义务或承诺。

ANNEX 10-A
SPECIFIC COMMITMENTS ON THE MOVEMENT OF NATURAL PERSONS

Section A: Australia's Specific Commitments

1. Australia requires a natural person of China seeking temporary entry to its territory under the provisions of Chapter 10 (Movement of Natural Persons) and this Annex to obtain appropriate immigration formalities prior to entry. Grant of temporary entry in accordance with this Annex is contingent on meeting eligibility requirements contained within Australia's migration law and regulations, as applicable at the time of an application for grant of temporary entry. Eligibility requirements for grant of temporary entry in accordance with paragraphs 5 through 11 of this Annex include, but are not limited to, employer nomination and occupation requirements.

BUSINESS VISITORS OF CHINA

2. Entry and temporary stay shall be granted to business visitors of China referred to in paragraph 4(a) for a period of up to 90 days.

3. Entry and temporary stay shall be granted to business visitors of China referred to in paragraph 4(b) for a period of up to six months, with the possibility of further stay for up to one year.

4. A business visitor of China means a natural person of China who is:
- (a) seeking to travel to Australia for business purposes, including for investment purposes, whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia, and who must not engage in making direct sales to the general public or in supplying goods or services themselves; or
 - (b) a service seller, who is a natural person not based in Australia whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia, and who is a sales representative of a service supplying enterprise, seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service supplying enterprise.

附件10-A 自然人移动的具体承诺

第A节：澳大利亚的具体承诺

1. 澳大利亚要求，根据第10章（自然人移动）和本附件的规定寻求临时入境其领土的中国自然人，在入境前必须获得适当的移民手续。根据本附件授予临时入境，取决于在申请授予临时入境时澳大利亚移民法律和法规中包含的资格要求。根据本附件第5至11段的条款授予临时入境的资格要求包括但不限于雇主提名和职业要求。

中国的商务访客

2. 应给予第4(a)段所述的中国商务访客入境和临时居留许可，期限最长为90天。
3. 应给予第4(b)段所述的中国商务访客入境和临时居留许可，期限最长为六个月，并有可能进一步居留最长一年。
4. 中国商业访客是指：
- (a) 希望为商业目的（包括投资目的）前往澳大利亚旅行，其访问期间的报酬和财务支持必须来源于澳大利亚境外，且不得从事向普通公众进行直接销售或自行提供商品或服务；或
 - (b) 服务销售者，即非基于澳大利亚的自然人，其访问期间的报酬和财务支持必须来源于澳大利亚境外，并且是服务供应企业的销售代表，寻求临时入境，目的是为该服务供应企业谈判销售服务或签订服务销售协议。

INTRA-CORPORATE TRANSFEREES OF CHINA

5. Entry and temporary stay shall be granted to intra-corporate transferees of China referred to in paragraph 6(a), (b) and (c) for a period of up to four years, with the possibility of further stay.

6. An intra-corporate transferee of China means an employee of an enterprise of China established in Australia through a branch, subsidiary or affiliate which is lawfully and actively operating in Australia, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in Australia, and who is:

- (a) an executive or a senior manager, who is a natural person responsible for the entire or a substantial part of the operations of the enterprise in Australia, 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
- (b) a specialist, who is a natural person with advanced trade, technical or professional skills and experience who must be assessed as having the necessary qualifications, or alternative credentials accepted as meeting Australia's standards, for that occupation, and who must have been employed by the employer for not less than two years immediately preceding the date of the application for temporary entry.
- (c) a manager, who is a natural person within an enterprise who primarily directs the enterprise or a department or subdivision of the enterprise, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorisation), and exercises discretionary authority over day-to-day operations. This does not include a first-line supervisor unless the employees supervised are professionals.

INDEPENDENT EXECUTIVES OF CHINA

7. Entry and temporary stay shall be granted to independent executives of China for a period of up to four years.

8. An independent executive of China means an executive of an enterprise headquartered in China who is establishing a branch or subsidiary of that enterprise in Australia, and who is a natural person that will be responsible for the entire or a

中国内部调动人员

5. 对第6(a)、(b)和(c)段所述的中国内部调动人员，应授予入境和临时居留，期限最长为四年，并有可能进一步居留。

6. 中国内部调动人员是指在中国通过分支机构、子公司或关联公司在澳大利亚合法且积极运营的企业中工作的雇员，该雇员被转移到澳大利亚的企业分支机构、子公司或关联公司担任职位，并且该雇员是：

- (a) 高管或高级管理人员，作为自然人，负责企业全部或大部分在澳大利亚的运营，主要从高级高管、董事会或股东那里接受一般监督或指导，包括指导企业或其一个部门或子部门；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子部门的目标和政策；或
- (b) 专家，作为自然人，具有先进的商业、技术或专业技能和经验，必须被评估为具有该职业所需的资格认定，或被接受为符合澳大利亚标准的替代资质，并且必须在申请临时入境日期前至少两年内受雇于雇主。
- (c) 一位经理，作为企业内的自然人，主要负责指导企业或企业的一个部门或分支机构，监督和控制其他主管、专业人员或管理人员的工作，有权招聘和解雇或采取其他人事措施（如晋升或休假授权），并对日常运营行使自由裁量权。这不包括一线主管，除非被监督的员工是专业人员。

INDEPENDENT EXECUTIVES OF CHINA

7. 应向中国独立高管授予入境和临时居留许可，期限最长为四年。

8. 独立高管是指在中国总部设立的企业在中国设立分支机构或子公司，并负责该企业在中国运营的全部或大部分运营的自然人，该高管主要从企业的高管、董事会或股东那里接受一般监督或指导，包括指导企业或其部门或子部门；监督和控制其他监督、专业或管理人员的工作；并有权制定企业部门或子部门的目标和政策。

substantial part of the enterprise’s operations in Australia, 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.

CONTRACTUAL SERVICE SUPPLIERS OF CHINA

9. Entry and temporary stay shall be granted to contractual service suppliers of China for a period of up to four years, with the possibility of further stay.

10. A contractual service supplier of China means a natural person of China who has trade, technical or professional skills and experience and who is assessed as having the necessary qualifications, skills and work experience accepted as meeting Australia’s standards for their nominated occupation and is:

- (a) an employee of an enterprise of China that has concluded a contract for the supply of a service within Australia and which does not have a commercial presence within Australia; or
- (b) engaged by an enterprise lawfully and actively operating in Australia in order to supply a service under a contract within Australia.

11. Entry and temporary stay shall be granted for a period of up to four years, with the possibility of further stay, for up to a combined total of 1,800 per year, of Chinese chefs, Wushu martial arts coaches, Mandarin language tutors and Traditional Chinese Medicine practitioners, entering as contractual service suppliers of China.

INSTALLERS AND SERVICERS OF CHINA

12. Entry and temporary stay shall be granted to installers and servicers of China for a period of up to three months.

13. A natural person of China is an installer or servicer of machinery and/or equipment where such installation and/or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer must abide by Australian workplace standards and conditions and cannot perform services which are not related to the installation or servicing activity which is the subject of the contract.

监督和控制其他监督、专业或管理人员的工作；并有权制定企业部门或子部门的目标和政策。

中国合同服务供应商

9. 对中国合同服务供应商，应授予其入境和临时居留资格，期限最长为四年，并有可能进一步居留。

10. 中国合同服务供应商是指具有商业、技术或专业技能和经验的中国自然人，其被评估为具有符合澳大利亚对其提名职业的标准所接受的必要资格、技能和工作经验，并且是：

- (a) 中国某企业的雇员，该企业已就服务供应在澳大利亚缔结合同，且在澳大利亚内不具有商业存在；或 (b) 受到在澳大利亚合法且积极运营的企业雇佣，以根据合同在澳大利亚内提供服务。

11. 应对中国厨师、武术教练、普通话教师和中医从业者，作为中国合同服务供应商，授予其入境和临时居留资格，期限最长为四年，每年总计不超过1,800人，并有可能进一步居留。

中国安装和维修人员

12. 条目和临时居留将授予中国安装和维修人员，期限最长为三个月。

13. 中国自然人是指为机器和/或设备进行安装或维护的安装人员或维护人员，且供应公司的此类安装或维护是该机器或设备购买的条件。安装人员或维护人员必须遵守澳大利亚工作标准和条件，并且不能执行与合同所涉及的安装或维护活动无关的服务。

ACCOMPANYING SPOUSES AND DEPENDANTS

14. For a natural person of China who has been granted the right of entry and temporary stay under this Chapter for a period of longer than 12 months and who has a spouse or dependant, Australia shall, upon application, grant the accompanying spouse or dependant the right of entry and temporary stay, movement and work for an equal period to that of the natural person.

随行配偶和受抚养人

14. 对于根据本章获得入境权和临时居留权，期限超过12个月，并且有配偶或受抚养人的中国自然人，澳大利亚应根据申请，授予其配偶或受抚养人入境权和临时居留权、行动权和工作权，期限与该自然人相同。

Section B: China’s Specific Commitments

(See China’s Schedule of Specific Commitments in Annex III.)

B部分：中国的具体承诺

(详见附件III中的中国的具体承诺清单。)

CHAPTER 11 INTELLECTUAL PROPERTY

ARTICLE 11.1: PURPOSE AND PRINCIPLES

The purpose of this Chapter is to increase the benefits from trade and investment through the protection and enforcement of intellectual property rights. The Parties recognise that:

- (a) establishing and maintaining transparent intellectual property systems and promoting and maintaining adequate and effective protection and enforcement of intellectual property rights provides certainty to rights holders and users;
- (b) protecting and enforcing intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology;
- (c) intellectual property protection promotes economic and social development and can reduce distortion and obstruction to international trade;
- (d) intellectual property systems should support open, innovative and efficient markets, including through the effective creation, utilisation, protection and enforcement of intellectual property rights, appropriate limitations and exceptions, and an appropriate balance between the legitimate interests of rights holders, users and the public interest;
- (e) intellectual property systems should not themselves become barriers to legitimate trade;
- (f) appropriate measures, provided they are consistent with the provisions of the TRIPS Agreement¹ and this Chapter, may be needed to prevent the abuse of intellectual property rights by right holders, or the resort to practices which unreasonably restrain trade, are anticompetitive or adversely affect the international transfer of technology; and
- (g) appropriate measures to protect public health and nutrition may be adopted provided they are consistent with the TRIPS Agreement and this Chapter.

¹ For greater certainty, “TRIPS Agreement” includes any amending protocol in force and any waiver made between the Parties of any provision of the TRIPS Agreement granted by WTO Members in accordance with the WTO Agreement.

第十一章 知识产权

第11.1条：目的和原则

本章的目的是通过保护和执行知识产权来增加贸易和投资的利益。各方承认：

- (a) 建立并维持透明的知识产权体系，促进并维持知识产权的充分和有效保护与执行，为权利持有人和用户提供确定性；(b) 保护和执行知识产权应有助于促进技术创新以及技术的转让和传播；(c) 知识产权保护促进经济和社会发展，并可以减少对国际贸易的扭曲和阻碍；(d) 知识产权体系应支持开放、创新和高效的市场，包括通过有效创造、利用、保护和执行知识产权，适当的限制和例外，以及在权利持有人、用户和公共利益之间的适当平衡；(e) 知识产权体系本身不应成为合法贸易的障碍；(f) 适当的措施，只要它们与与贸易有关的知识产权协定¹和本章节的规定一致，可能需要防止权利持有人滥用知识产权，或采取不合理地限制贸易、反竞争或不利影响技术国际转让的做法；以及(g) 为了保护公共卫生和营养，可以采取适当的措施，只要它们与与贸易有关的知识产权协定和本章节一致。

¹ 为明确起见，“与贸易有关的知识产权协定”包括任何生效的修正议定书以及缔约方之间根据世界贸易组织协定授予世界贸易组织成员并根据“与贸易有关的知识产权协定”第11.1条豁免的任何条款的豁免。

ARTICLE 11.2: DEFINITIONS

For the purposes of this Chapter, unless the contrary intention appears:

- (a) **intellectual property rights** refers to copyright and related rights, rights in trade marks, geographical indications, industrial designs, patents and layout-designs (topographies) of integrated circuits, rights in plant varieties, and rights in undisclosed information, as defined and described in the TRIPS Agreement;
- (b) **national of a Party** includes, in respect of the relevant right, an entity of that Party that would meet the criteria for eligibility for protection provided for in the agreements listed in Article 1.3 of the TRIPS Agreement;
- (c) **TRIPS Agreement** means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, contained in Annex 1C to the WTO Agreement; and
- (d) **WIPO** means the World Intellectual Property Organization.

ARTICLE 11.3: OBLIGATIONS ARE MINIMUM OBLIGATIONS

Each Party shall, at a minimum, give effect to the provisions of this Chapter. A Party may, but shall not be obliged to, provide more extensive protection for, and enforcement of, intellectual property rights than this Chapter requires, provided that this additional protection and enforcement is not inconsistent with the provisions of this Agreement. Each Party shall be free to determine the appropriate method of implementing the provisions of this Chapter within its own legal system and practice.

ARTICLE 11.4: INTERNATIONAL AGREEMENTS

Each Party affirms its commitment to the TRIPS Agreement and any other multilateral agreement relating to intellectual property to which both Parties are party.

ARTICLE 11.5: NATIONAL TREATMENT

1. In respect of intellectual property rights covered in this Chapter, each Party shall accord to nationals of the other Party treatment no less favourable than it accords to its own nationals with regard to the protection of such intellectual property rights, subject to the exceptions provided under the TRIPS Agreement and those multilateral agreements concluded under the auspices of WIPO to which the Parties are party.

第11.2条：定义

就本章节而言，除非另有相反意图：

(a) 知识产权是指版权和相关权利、商标权、地理标志、工业设计、专利和集成电路布图设计、植物新品种权以及未披露信息，如《与贸易有关的知识产权协定》中定义和描述的；(b) 缔约方国民包括，在涉及相关权利方面，符合《与贸易有关的知识产权协定》第1.3条所列协定中规定的保护资格标准的该缔约方实体；(c) 《与贸易有关的知识产权协定》是指包含于《世界贸易组织协定》附件1C中的《与贸易有关的知识产权协定》；(d) 世界知识产权组织是指世界知识产权组织。

第11.3条：义务为最低义务

每一方应当至少使本章规定生效。一方可以，但无义务提供比本章要求更广泛的知识产权保护及其执行，前提是这种额外的保护与执行与本协议的规定不一致。每一方应自由确定在本国的法律制度和实践内部实施本章规定的适当方法。

条款 11.4：国际协议

每一方重申其对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与知识产权相关的多边协定的承诺。

ARTICLE 11.5: NATIONAL TREATMENT

1. 关于本章涵盖的知识产权，每一方应给予另一方国民不低于其给予本国国民的保护知识产权的待遇，但应符合《与贸易有关的知识产权协定》以及世界知识产权组织主持下缔约方签署的多边协定的例外规定。

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 covered by this Chapter.

3. A Party may derogate from paragraph 1 in relation to its judicial and administrative procedures, including requiring a national of the other Party to designate an address for service 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.

4. Paragraph 1 shall not apply to procedures provided in multilateral agreements to which either Party is a party concluded under the auspices of the WIPO in relation to the acquisition or maintenance of intellectual property rights.

ARTICLE 11.6: TRANSPARENCY

1. To assist with the transparency of the operation of its intellectual property system, each Party shall make its granted or registered patent for invention, utility model, industrial design, plant variety protection, geographical indication and trade mark databases available on the internet.

2. In addition, each Party shall endeavour to publish and make available on the internet patent for invention, trade mark, plant variety protection and geographical indication applications.

ARTICLE 11.7: INTELLECTUAL PROPERTY AND PUBLIC HEALTH

1. The Parties recognise the principles established in the *Declaration on the TRIPS Agreement and Public Health* adopted on 14 November 2001 (hereinafter referred to as the “Doha Declaration”) by the Ministerial Conference of the WTO and confirm that the provisions of this Chapter are without prejudice to the Doha Declaration.

2. The Parties reaffirm their commitment to contribute to the international efforts to the implementation of the Decision of the WTO General Council of 30 August 2003 on the implementation of paragraph 6 of the Doha Declaration, as well as the *Protocol amending the TRIPS Agreement*, done at Geneva on 6 December 2005.

2. 就本条款而言，“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，以及影响本章涵盖的知识产权使用的事项。

3. 一方可以背离第1段，就其司法和行政程序而言，包括要求另一方的国民指定其在领土内的送达地址，或任命其在领土内的代理人，前提是这种背离是：

- (a) 必要的，以确保遵守与本章节不一致的法律法规；并且 (b) 不以构成伪装贸易限制的方式适用。

4. 第1段不适用于任何一方均为缔约方的、在世界知识产权组织主持下缔结的多边协定中规定的、关于知识产权的获取或维持的程序。

条款 11.6: 透明度

1. 为了促进其知识产权制度的运作透明度，每一方应在其互联网上提供其授予或注册的发明专利、实用新型、工业设计、植物新品种保护、地理标志和商标数据库。

2. 此外，每一方应努力在互联网上公布并提供发明专利、商标、植物新品种保护和地理标志申请。

第11.7条：知识产权与公共卫生

1. 各方承认世界贸易组织部长会议于2001年11月14日通过并采纳的《与贸易有关的知识产权协定和公共健康宣言》（以下简称“多哈宣言”）中确立的原则，并确认本章规定不影响多哈宣言。

2. 各方重申其致力于促进实施世界贸易组织总理事会2003年8月30日关于实施多哈宣言第6段的决定以及2005年12月6日在日内瓦签署的修正与贸易有关的知识产权协定议定书的国际努力的承诺。

ARTICLE 11.8: EXHAUSTION

Nothing in this Chapter shall affect the freedom of the Parties to determine whether, and under what conditions, the exhaustion of intellectual property rights applies. The Parties agree to further discuss relevant issues relating to the exhaustion of patent rights.

ARTICLE 11.9: PROCEDURES ON ACQUISITION AND MAINTENANCE

Each Party shall:

- (a) continue to work to enhance its examination and registration systems, including through improving examination procedures and quality systems;
- (b) provide applicants with a communication in writing of the reasons for any refusal to grant or register an intellectual property right;
- (c) provide an opportunity for interested parties to oppose the grant or registration of an intellectual property right, or to seek either revocation, cancellation or invalidation of an existing intellectual property right;
- (d) require that opposition, revocation, cancellation or invalidation decisions be reasoned and in writing; and
- (e) for the purposes of this Article, “writing” and “communication in writing” includes writing and communications in an electronic form.

ARTICLE 11.10: AMENDMENTS, CORRECTIONS AND OBSERVATIONS ON PATENT APPLICATIONS

Each Party shall provide patent applicants with opportunities to make amendments, corrections and observations in connection with their applications in accordance with each Party’s laws, regulations and rules.

ARTICLE 11.11: 18 MONTH PUBLICATION

Each Party shall publish, and make available online, any patent for invention application promptly after the expiry of 18 months from its filing date or from its earliest priority date, if priority has been claimed, unless the application has been published earlier or has been withdrawn, abandoned or refused.

条款 11.8：权利穷竭

本章任何内容均不影响各方确定知识产权权利穷竭是否适用以及适用何种条件的自由。各方同意进一步讨论与专利权穷竭相关的问题。

条款 11.9：取得和维护程序

每一方应当：

- (a) 继续努力完善其审查和注册系统，包括通过改进审查程序和质量体系；
- (b) 向申请人提供书面通知，说明拒绝授予或注册知识产权的原因；
- (c) 为利害关系方提供机会，反对知识产权的授予或注册，或寻求撤销、撤销或无效宣告现有的知识产权；
- (d) 要求反对、撤销、撤销或无效宣告的裁决必须有理由且为书面形式；以及
- (e) 就本条款而言，“书面形式”和“书面通信”包括书面形式和电子形式的通信。

条款 11.10：专利申请的修正、更正和意见

每一方应根据各方法律、法规和规则，为专利申请人提供机会，使其能够就其申请提出修正案、更正和意见。

ARTICLE 11.11: 18个月公布

每一方应当在其申请日届满18个月后或在其最早优先权日（如有优先权声明），迅速公布其发明申请专利，除非该申请已提前公布或已被撤回、放弃或驳回。

ARTICLE 11.12: TYPES OF SIGNS AS TRADE MARKS

The Parties agree to cooperate on the means to protect types of signs as trade marks, including visual and sound signs.

ARTICLE 11.13: CERTIFICATION AND COLLECTIVE TRADE MARKS

Each Party shall provide for the protection of both collective and certification trade marks.

ARTICLE 11.14: WELL-KNOWN TRADE MARKS

The Parties shall provide protection for well-known trade marks at least in accordance with Article 16.2 and 16.3 of the TRIPS Agreement and Article 6 *bis* of the *Paris Convention for the Protection of Industrial Property*, done at Paris on 20 March 1883.

ARTICLE 11.15: GEOGRAPHICAL INDICATIONS

Each Party recognises that geographical indications may be protected through a trade mark or *sui generis* system or other legal means.

ARTICLE 11.16: PLANT BREEDERS’ RIGHTS

The Parties, through their competent agencies, shall cooperate to encourage and facilitate the protection and development of plant breeders’ rights with a view to:

- (a) better harmonising the plant breeders’ rights administrative systems of both Parties, including enhancing the protection of species of mutual interest and exchanging information;
- (b) reducing unnecessary duplicative procedures between their respective plant breeders’ rights examination systems; and
- (c) contributing to the reform and further development of the international plant breeders’ rights laws, standards and practices, including within the South East Asian region.

第11.12条：可作为商标的标志类型

各方同意就保护作为商标的标志类型进行合作，包括视觉标志和声音标志。

第11.13条：认证商标和集体商标

每一方应当规定对集体商标和认证商标的保护。

第11.14条：驰名商标

各方应当至少按照与贸易有关的知识产权协定第十六条第二款和第十六条第三款以及1883年3月20日在巴黎签订的保护工业产权巴黎公约第六十九条的规定，为驰名商标提供保护。

ARTICLE 11.15: 地理标志

每一方承认地理标志可以通过商标或特殊系统或其他法律手段得到保护。

ARTICLE 11.16: 植物新品种’权

缔约方通过其主管机关应合作鼓励和促进植物新品种权的保护和开发，以实现：

- (a) 更好地协调缔约方植物新品种权行政体系，包括加强相互感兴趣的物种的保护和交换信息；(b) 减少其各自植物新品种权审查系统之间不必要的重复程序；以及(c) 促进国际植物新品种权法律、标准和做法的改革和进一步发展，包括在东南亚地区内。

ARTICLE 11.17: GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE

1. Subject to each Party’s international obligations and its laws, the Parties may establish appropriate measures to protect genetic resources, traditional knowledge and folklore.
2. The Parties agree to further discuss relevant issues concerning genetic resources, traditional knowledge and folklore, taking into account future developments in their respective laws and in multilateral agreements.

ARTICLE 11.18: PROTECTION OF UNDISCLOSED INFORMATION²

1. In the course of ensuring effective protection against unfair competition, each Party shall protect undisclosed information in accordance with paragraph 2.
2. Natural and legal persons shall have the possibility of preventing information lawfully within their control from being disclosed to, acquired by, or used by others without their consent in a manner contrary to honest commercial practices³, so long as such information:
 - (a) is secret, in that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;
 - (b) has commercial value because it is secret; and
 - (c) has been subject to reasonable steps under the circumstances, taken by the person lawfully in control of the information, to keep it secret.

ARTICLE 11.19: COLLECTIVE MANAGEMENT OF COPYRIGHT

Each Party shall foster the establishment of appropriate bodies for the collective management of copyright and shall encourage such bodies to operate in a manner that is efficient, publicly transparent and accountable to their members.

² It is understood that, consistent with the TRIPS Agreement, protection of undisclosed information includes protection of confidential information that is otherwise undisclosed and provided in commercial situations, such as architectural drawings or proprietary commercial-in-confidence information.

³ For the purposes of this provision, “a manner contrary to honest commercial practices” shall mean, at least, practices such as breach of contract, breach of confidence and inducement to breach, and includes the acquisition of undisclosed information by third parties who knew, or were grossly negligent in failing to know, that such practices were involved in the acquisition.

第11.17条：遗传资源、传统知识和民间文学艺术

1. 各方应在其国际义务及其法律规定的范围内，建立适当的措施以保护遗传资源、传统知识和民间文学艺术。
2. 各方同意就遗传资源、传统知识和民间文学艺术的相关问题进行进一步磋商，并考虑其各自法律以及多边协定的发展。

第11.18条：未披露信息的保护²

1. 在确保有效防止不正当竞争的过程中，每一方应根据第2段的规定保护未披露信息。
2. 自然人和法人应有权在其控制下的信息合法的情况下，防止该信息未经其同意被披露、获取或以违反诚实商业行为的方式使用³，前提是该信息：
 - (a) 是秘密的，因为它作为一个整体或其组件的精确配置和组装，在通常处理此类信息的圈子中不被普遍知晓或不易被其中的人员获取；
 - (b) 具有商业价值，因为它保密；并且
 - (c) 在情况下已采取了合理步骤，由合法控制该信息的个人采取，以保持其秘密。

第11.19条：版权集体管理

每一方应当促进设立适当的版权集体管理机构，并鼓励此类机构以高效、公开透明的方式运作，并对其成员负责。

² 根据与贸易有关的知识产权协定，人们理解，未披露信息的保护包括对保密信息的保护，这些信息在其他情况下未披露，并在商业情况下提供，例如建筑设计图纸或专有商业秘密信息。

³ 就本条款而言，“违反诚实商业行为的方式”应当指至少，包括违约、违反保密义务和诱使违约等做法，以及第三方在明知或重大过失未能知晓此类做法涉及的情况下获取未公开信息。

ARTICLE 11.20: SERVICE PROVIDER LIABILITY

Each Party may take appropriate measures to limit the liability of, or remedies available against, internet service providers for copyright infringement by the users of their online services or facilities, where the internet service providers take action to prevent access to the materials infringing copyright in accordance with the laws and regulations of the Party.

ARTICLE 11.21: ENFORCEMENT

1. Each Party commits to implementing effective intellectual property enforcement systems with a view to eliminating trade in goods and services infringing intellectual property rights.
2. Each Party shall provide for criminal procedures and penalties in accordance with the TRIPS Agreement to be applied at least in cases of wilful trademark counterfeiting or copyright piracy on a commercial scale. Remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent, and consistent with the level of penalties applied for crimes of a corresponding gravity.

ARTICLE 11.22: BORDER MEASURES

1. Each Party shall ensure that the requirements necessary for a right holder to initiate procedures to suspend the release of goods suspected of being counterfeit trade mark or pirated copyright goods shall not unreasonably deter recourse to these procedures.
2. Where its competent authorities have made a determination that goods are counterfeit trade mark or pirated copyright goods (or have detained such suspected goods), each Party shall provide that its competent authorities have the authority to inform the right holder of at least the names and addresses of the consignor and the consignee, and of the quantity of the goods in question.
3. Each Party shall provide that its customs authorities may initiate border measures *ex officio* with respect to imported or exported goods suspected of being counterfeit trade mark or pirated copyright goods.
4. Each Party shall ensure that its laws, regulations or policies permit relevant competent authorities, on receipt of information or complaints, to take measures in accordance with its laws to prevent the export of counterfeit trademark or pirated copyright goods.

条款 11.20: 服务提供者责任

每一方可以采取适当措施, 限制因其在线服务或设施的用户侵犯版权而对互联网服务提供商产生的责任或可获得的救济措施, 前提是互联网服务提供商根据该方的法律法规采取行动, 以防止对侵犯版权的材料进行访问。

条款 11.21: 执行

1. 每一方承诺实施有效的知识产权执法系统, 旨在消除侵犯知识产权的商品和服务贸易。
2. 每一方应根据与贸易有关的知识产权协定提供刑事程序和处罚, 至少适用于商业规模的故意假冒商标或版权海盗行为。可获得的救济措施应包括足以提供威慑的监禁和/或罚款, 并与相应严重程度的罪行所应用的处罚级别一致。

条款 11.22: 边境措施

1. 每一方应确保, 权利持有人启动暂停涉嫌假冒商标或盗版版权商品释放的程序所必需的要求不会不合理地阻碍对这些程序的援引。
2. 当其主管当局已作出裁决认定商品为假冒商标或盗版版权商品(或已扣押此类涉嫌商品)时, 每一方应提供其主管当局有权将发货人和收货人的姓名和地址以及所涉商品的数量至少通知权利持有人。
3. 每一方应提供其海关当局有权就涉嫌假冒商标或盗版版权商品的进口或出口商品主动采取边境措施。
4. 每一方应确保其法律、法规或政策允许相关主管当局在收到信息或投诉后, 根据其法律采取措施, 以防止出口假冒商标或盗版版权商品。

5. The Parties may exclude from the application of this Article the importation or exportation of small quantities of goods which are considered to be of a non-commercial nature.

ARTICLE 11.23: COOPERATION – GENERAL

1. Each Party shall, on request of the other Party, exchange information:
 - (a) relating to intellectual property policies in their respective administrations;
 - (b) on changes to, and developments in the implementation of, their national intellectual property systems; and
 - (c) on the administration and enforcement of intellectual property rights.
2. Each Party shall, on request of the other Party, consider intellectual property rights issues and questions of interest to private stakeholders.
3. The Parties will consider opportunities for continuing cooperation under established arrangements in areas of mutual interest that aim to improve the operation of the intellectual property rights system, including administrative processes, in each other’s jurisdictions. This cooperation could include, but is not necessarily limited to:
 - (a) work sharing in patent examination;
 - (b) enforcement of intellectual property rights;
 - (c) raising public awareness on intellectual property issues;
 - (d) improvement of patent examination quality and efficiency; and
 - (e) reducing the complexity and cost of obtaining the grant of a patent.
4. Each Party will consider requests for assistance from the other Party in a public health crisis in accordance with Article 11.7.

ARTICLE 11.24: CONSULTATIVE MECHANISM: COMMITTEE ON INTELLECTUAL PROPERTY

1. For the purposes of the effective implementation and operation of this Chapter, the Parties hereby establish a Committee on Intellectual Property (“the Committee”).

5. 各方可以将被认为是非商业性质的少量货物的进口或出口排除在本条款的适用范围之外。

第11.23条：合作 – 总则

1. 每一方应根据另一方的请求，交换信息：
 - (a) 关于各自管理机构中的知识产权政策；(b) 关于其国家知识产权制度的变更及实施发展；以及(c) 关于知识产权的管理和执行。
2. 每一方应根据另一方的请求，考虑与私人利益相关者相关的知识产权问题及利益问题。
3. 各方将考虑在共同利益领域内，根据既定安排继续合作的机会，这些领域旨在改善对方管辖权内的知识产权制度的运营，包括行政程序。这种合作可能包括但不限于：
 - (a) 专利审查中的工作共享；(b) 知识产权执法；(c) 提高公众对知识产权问题的认识；(d) 提高专利审查质量和效率；以及(e) 降低获得专利授权的复杂性和成本。
4. 每一方将根据第11.7条考虑另一方在公共卫生危机中的援助请求。

ART第11.24条：CONSULTATIVE MECHANISM: COMMITTEE ON INTELLECTUAL PROPERTY

1. 为有效实施和运营本章，缔约方特此设立知识产权委员会（“该委员会”）。

2. The functions of the Committee shall be to:
 - (a) review and monitor the implementation and operation of this Chapter;
 - (b) discuss any issues related to intellectual property covered by this Chapter; and
 - (c) report its findings to the FTA Joint Commission.
3. The Committee shall be composed of representatives of each Party.
4. The Committee shall meet at such venues and times and by such means as may be agreed by the Parties.

2. 该委员会的职能应为：
 - (a) 审查和监督本章的实施和运营；
 - (b) 讨论本章涵盖的与知识产权相关的问题；并向自由贸易协定联合委员会报告其发现。
3. 该委员会应由每一方的代表组成。
4. 委员会应根据缔约方商定的地点、时间和方式举行会议。

CHAPTER 12
ELECTRONIC COMMERCE

第12章 电子商务

ARTICLE 12.1: PURPOSE AND OBJECTIVE

1. The Parties recognise the economic growth and opportunities provided by electronic commerce, the importance of avoiding barriers to its use and development, and the applicability of relevant WTO rules.
2. The objective of this Chapter is to promote electronic commerce between the Parties, including by encouraging cooperation on electronic commerce.
3. The Parties shall endeavour to ensure that bilateral trade through electronic commerce is no more restricted than other forms of trade.

ARTICLE 12.2: DEFINITIONS

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 or transaction for the purpose of establishing the party's identity;
- (b) **electronic signature** means data in electronic form in, affixed to or logically associated with, a data message, which may be used to identify the signatory in relation to the data message and to indicate the signatory's approval of the information contained in the data message;
- (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 information** 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 the Government of a Party which must be completed by or for an importer or exporter in relation to the import or export of goods;
- (f) **UNCITRAL** means the United Nations Commission on International Trade Law; and

第12.1条：目的和客观

1. 各方承认电子商务带来的经济增长和机会，避免其使用和发展障碍的重要性，以及相关世界贸易组织规则的可适用性。
2. 本章的目的是促进各方之间的电子商务，包括通过鼓励电子商务合作。
3. 各方应努力确保通过电子商务的双边贸易不受其他贸易形式更多的限制。

第12.2条：定义

对于本章的目的：

- (a) 数字证书是电子文件或文件，由一方签发或以其他方式与电子通信或交易中的缔约方相关联，用于确认该方的身份；(b) 电子签名是指以电子形式存在、附加到或逻辑关联于数据消息中的数据，可用于识别与数据消息相关的签署人，并表明签署人对数据消息中包含的信息的批准；(c) 电子文档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) 个人信息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政府签发或控制的表格，进口商或出口商在进出口货物时必须填写或使用；(f) UNCITRAL是指联合国国际贸易法委员会；以及

- (g) **unsolicited commercial electronic message** means an electronic message (including a voice service) which is sent for commercial purposes to an electronic address without the consent of the recipient (including where consent has been explicitly refused or withdrawn) using an internet carriage service or other telecommunications service.

ARTICLE 12.3: CUSTOMS DUTIES

1. Each Party shall maintain its practice of not imposing customs duties on electronic transmissions between the Parties, consistent with paragraph 5 of the WTO Ministerial Decision of 7 December 2013 in relation to the Work Programme on Electronic Commerce (WT/MIN(13)/32-WT/L/907).
2. Each Party reserves the right to adjust its practice referred to in paragraph 1 in accordance with any further WTO Ministerial Decisions in relation to the Work Programme on Electronic Commerce.

ARTICLE 12.4: TRANSPARENCY

1. Each Party shall promptly publish, or otherwise promptly make publicly available where publication is not practicable, all relevant measures of general application which pertain to, or affect, the operation of this Chapter.
2. Each Party shall respond promptly to all requests by the other Party for specific information on any of its measures of general application within the meaning of paragraph 1.

ARTICLE 12.5: DOMESTIC REGULATORY FRAMEWORKS

1. Each Party shall maintain domestic legal frameworks governing electronic transactions based on the *UNCITRAL Model Law on Electronic Commerce 1996* and taking into account, as appropriate, other relevant international standards.
2. Each Party shall:
 - (a) minimise the regulatory burden on electronic commerce; and
 - (b) ensure that regulatory frameworks support industry-led development of electronic commerce.

- (g) 未经请求的商业电子信息是指未经接收方（包括明确拒绝或撤回同意的情况）的同意，使用互联网承载服务或其他电信服务，以商业目的发送到电子地址的电子信息（包括语音服务）。

条款 12.3: 关税

1. 每一方应维持其不针对缔约方之间的电子传输征收关税的实践，与2013年12月7日世界贸易组织部长级决定中关于电子商务工作计划的第5段（WT/MIN(13)/32-WT/L/907）一致。
2. 每一方保留根据与电子商务工作计划相关的任何进一步的世界贸易组织部长级决定调整第1段所述实践的权力。

条款 12.4: 透明度

1. 每一方应迅速发布，或在发布不可行的情况下迅速使其公开可用，所有与本章运营相关或影响的普遍适用的措施。
2. 每一方应当及时回应另一方就其第1段所述的普遍适用措施中的任何具体信息提出的请求。

第12.5条: 国内监管框架

1. 每一方应当基于联合国国际贸易法委员会1996年电子商务示范法维持管理电子交易的国内法律框架，并适当考虑其他相关国际标准。
2. 每一方应当：
 - (a) 最大限度地减少对电子商务的监管负担；以及
 - (b) 确保监管框架支持电子商务的行业主导发展。

ARTICLE 12.6: ELECTRONIC AUTHENTICATION AND DIGITAL CERTIFICATES

1. Each Party shall maintain laws regulating electronic signatures that permit:
 - (a) parties to electronic transactions to mutually determine the appropriate electronic signature and authentication methods; and
 - (b) electronic authentication service providers, including agencies, to have the opportunity to prove before judicial or administrative authorities that their electronic authentication services comply with the relevant legal requirements.
2. The Parties shall work towards the mutual recognition of digital certificates and electronic signatures.
3. Each Party shall encourage the use of digital certificates in the business sector.

ARTICLE 12.7: ONLINE CONSUMER PROTECTION

Each Party shall, to the extent possible and in a manner it considers appropriate, provide protection for consumers using electronic commerce that is at least equivalent to that provided for consumers of other forms of commerce under their respective laws, regulations and policies.

ARTICLE 12.8: ONLINE DATA PROTECTION

1. Notwithstanding the differences in existing systems for personal information protection in the territories of the Parties, each Party shall take such measures as it considers appropriate and necessary to protect the personal information of users of electronic commerce.
2. In the development of data protection standards, each Party shall, to the extent possible, take into account international standards and the criteria of relevant international organisations.

ARTICLE 12.9: PAPERLESS TRADING

1. Each Party shall accept the electronic versions of trade administration documents as the legal equivalent of paper documents except where:
 - (a) there is a domestic or international legal requirement to the contrary; or

第12.6条：电子认证和数字证书

1. 每一方应维持规范电子签名的法律，该法律允许：
 - (a) 电子交易各方相互确定适当的电子签名和认证方法；以及 (b) 电子认证服务提供者，包括机构，有机会在司法或行政机关面前证明其电子认证服务符合相关法律要求。
2. 各方应努力实现数字证书和电子签名的相互承认。
3. 每一方应鼓励在商业领域使用数字证书。

第12.7条：在线消费者保护

每一方应当，在可能范围内并以它认为适当的方式，为使用电子商务的消费者提供保护，其保护水平至少应与其各自法律、法规和政策下为其他形式商业的消费者提供的保护相当。

第12.8条：在线数据保护

1. 尽管缔约方领土内个人信息保护现有系统存在差异，每一方应当采取其认为适当且必要的措施，以保护使用电子商务的用户的信息。
2. 在制定数据保护标准时，每一方应当，在可能范围内，考虑国际标准以及相关国际组织的标准。

ARTICLE 12.9: PAPERLESS TRADING

1. 每一方应当将贸易管理文件的电子版本视为纸质文件的合法等效文件，除非：
 - (a) 存在与此相反的国内或国际法律要求；或

- (b) doing so would reduce the effectiveness of the trade administration process.
- 2. The Parties shall cooperate bilaterally and in international forums to enhance acceptance of electronic versions of trade administration documents.
- 3. In developing initiatives which provide for the use of paperless trading, each Party shall endeavour to take into account the methods agreed by international organisations.
- 4. Each Party shall endeavour to make all trade administration documents available to the public as electronic versions.

ARTICLE 12.10: COOPERATION ON ELECTRONIC COMMERCE

- 1. The Parties shall encourage cooperation in research and training activities that would enhance the development of electronic commerce, including by sharing best practices on electronic commerce development.
- 2. The Parties shall encourage cooperative activities to promote electronic commerce, including those that would improve the effectiveness and efficiency of electronic commerce.
- 3. The cooperative activities referred to in paragraphs 1 and 2 may include, but are not limited to:
 - (a) sharing information about regulatory frameworks;
 - (b) sharing information about on-line consumer protection, including unsolicited commercial electronic messages; and
 - (c) further areas as agreed between the Parties.
- 4. The Parties shall endeavour to undertake forms of cooperation that build on and do not duplicate existing cooperation initiatives pursued in international forums.

ARTICLE 12.11: DISPUTE SETTLEMENT PROVISIONS

The provisions in Chapter 15 (Dispute Settlement) shall not apply to the provisions of this Chapter.

- (b) 这样做将降低贸易管理程序的有效性。
- 2. 各方应通过双边及国际论坛合作，以增强对贸易管理文件电子版本的接受。
- 3. 在制定旨在促进无纸化贸易的倡议时，每一方应努力考虑国际组织商定的方法。
- 4. 每一方应努力将所有贸易管理文件以电子版本形式向公众提供。

条款 12.10：电子商务合作

- 1. 各方应鼓励开展研究和培训活动，以促进电子商务的发展，包括分享电子商务发展的最佳实践。
- 2. 各方应鼓励合作活动，以促进电子商务，包括那些旨在提高电子商务的有效性和效率的活动。
- 3. 第1条和第2条所述的合作活动可包括但不限于：
 - (a) 分享关于监管框架的信息；(b) 分享关于在线消费者保护的信息，包括未经请求的商业电子信息；以及(c) 各方同意的其他领域。
- 4. 各方应努力开展合作形式，这些形式应建立在现有的国际合作倡议之上，而不是重复在国际论坛上追求的合作倡议。

ARTICLE 12.11: DISPUTE SETTLEMENT PROVISIONS

第15章（争端解决）的规定不适用于本章的规定。

CHAPTER 13
TRANSPARENCY

第十三章 透明度

ARTICLE 13.1: DEFINITIONS

For the purposes of this Chapter, **administrative ruling of general application** means an administrative 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 or quasi-judicial 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 13.2: PUBLICATION

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application respecting any matter covered by this Agreement are promptly published, including on the internet where feasible, 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 laws, regulations, procedures and administrative rulings of general application 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 laws, regulations, procedures and administrative rulings of general application.

ARTICLE 13.3: NOTIFICATION AND PROVISION OF INFORMATION

1. Where a Party considers that any proposed or actual law, regulation, procedure or administrative ruling of general application might materially affect the operation of this Agreement or otherwise substantially affect the other Party's interests under this Agreement, that Party shall notify the other Party, to the extent possible.

2. On request of the other Party, a Party shall promptly provide information and respond to questions pertaining to any actual or proposed law, regulation, procedure or

第十三条 定义

就本章而言，一般行政裁决是指适用于所有落入其范围的一般个人和事实情况，并建立行为规范，但不包括：

- (a) 在行政或准司法程序中作出的、适用于另一方特定个人、商品或服务的裁决或决定；或 (b) 对特定行为或实践作出裁决的裁决。

第十三条之二 发布

1. 每一方应确保其涉及本协定任何事项的法律、法规、程序和具有普遍适用性的行政裁决及时公布，包括在可行的情况下通过互联网公布，或以其他方式提供，以便利益相关者和另一方能够了解。

2. 在可能范围内，每一方应当：

- (a) 提前公布第1段中提到的拟采用的法律、法规、程序和一般行政裁决；以及 (b) 为利益相关者和另一方提供合理的机会，对拟议的法律、法规、程序和一般行政裁决提出意见。

ARTICLE 13.3: NOTIFICATION AND PROVISION OF INFORMATION

1. 当一方认为任何拟议的或实际的一般行政裁决可能实质性影响本协定的运作，或以其他方式实质性影响另一方在本协定下的利益时，该方应通知另一方，在可能范围内。

2. 应另一方请求，一方应迅速提供信息并答复关于任何实际或拟议的法律、法规、程序或

administrative ruling of general application, regardless of whether the requesting Party has been previously notified of it.

3. Any notification or information provided under this Article shall be without prejudice as to whether the law, regulation, procedure or administrative ruling of general application is consistent with this Agreement.

4. The notification referred to under paragraph 1 shall be considered to have been made when an appropriate notification made in accordance with the WTO Agreement is available, or when the relevant information has been made publicly available, including through an official, public and fee-free accessible website of the Party concerned.

5. Any notification, request or information provided under this Article shall be conveyed to the other Party through the relevant contact points.

ARTICLE 13.4: ADMINISTRATIVE PROCEEDINGS

1. Each Party shall ensure that all laws, regulations, procedures and administrative rulings of general application to which this Agreement applies are administered in a consistent, impartial, objective and reasonable manner.

2. With a view to administering in a consistent, impartial, objective and reasonable manner its laws, regulations, procedures and administrative rulings of general application with respect to any matter covered by this Agreement, each Party shall ensure, in its administrative proceedings applying these measures to particular persons, goods or services of the other Party in specific cases that:

- (a) wherever possible, persons of the other Party that are directly affected by a proceeding are provided with reasonable notice 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) such persons are afforded 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) it follows its procedures in accordance with its law.

ARTICLE 13.5: REVIEW AND APPEAL

1. Each Party shall establish or maintain judicial, quasi-judicial, or administrative tribunals or procedures for the purposes of the prompt review and, where warranted,

一般行政裁决的信息，无论请求方是否已事先获通知。

3. 根据本条款提供的任何通知或信息，均不应影响法律、法规、程序或一般行政裁决是否与本协议一致。

4. 第1段所述的通知，在根据世界贸易组织协定作出的适当通知可用时，或当相关信息已公开可用时，包括通过有关缔约方官方、公开且免费访问的网站发布时，应视为已经作出。

5. 根据本条款提供的任何通知、请求或信息，应通过相关联系点传达给另一方。

条款 13.4: 行政程序

1. 每一方应确保适用于本协议的所有法律、法规、程序和一般行政裁决均以一致、公正、客观和合理的方式实施。

2. 为了以一致、公正、客观和合理的方式实施其关于本协议所涵盖事项的普遍适用的法律、法规、程序和行政裁决，每一方应确保，在其适用这些措施于另一方的特定个人、货物或服务的行政程序中，就：

- (a) 在可能的情况下，当程序启动时，直接受该程序影响的另一方法人被提供合理的通知，包括程序的性质、启动程序的法定依据以及任何争议事项的一般描述；(b) 在时间、程序的性质和公共利益允许的情况下，此类法人有机会在最终行政行为作出之前陈述支持其立场的_fact_和_论点_；以及
- (c) 它根据其法律遵守其程序。

ARTICLE 13.5: REVIEW AND APPEAL

1. 每一方应设立或维持司法、准司法或行政仲裁庭或程序，以实现迅速审查，并在必要时对涉及本协议事项的最终行政行为进行纠正。此类仲裁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实质性利益。

correction of final administrative actions regarding matters covered by this 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 the law of the Party, the record compiled by the administrative authority.

3. Each Party shall ensure, subject to appeal or further review as provided in its law, that such decision shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.

此类仲裁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实质性利益。

2. 每一方应确保，在任何此类仲裁庭或程序中，诉讼当事人有权：

- (a) 合理的机会来支持或维护其各自立场；以及 (b) 基于证据和案卷材料的决定，或根据各方的法律要求，由行政机关编制的记录。

3. 每一方应当确保，根据其法律规定的上诉或进一步审查程序，该决定应当由相关办公室或机构实施，并应当规范与所涉行政行为相关的做法。

CHAPTER 14
INSTITUTIONAL PROVISIONS

ARTICLE 14.1: FUNCTIONS OF THE FTA JOINT COMMISSION

1. The FTA Joint Commission shall:
 - (a) consider matters relating to the implementation of this Agreement;
 - (b) consider issues referred to it by the committees and working groups established under this Agreement or by either Party;
 - (c) in accordance with the objectives of this Agreement, explore measures for the further expansion of trade and investment between the Parties;
 - (d) consider any proposal to amend this Agreement and make recommendations to the Parties; and
 - (e) consider any other matter that may affect the operation of this Agreement.
2. The FTA Joint Commission may:
 - (a) establish additional committees and *ad hoc* working groups as necessary and refer matters to any committee or working group for advice;
 - (b) further the implementation of this Agreement through implementing arrangements;
 - (c) seek to resolve differences or disputes that may arise regarding the interpretation or application of this Agreement;
 - (d) seek the advice of non-governmental persons or groups on any matter falling within its responsibilities where this would assist it in discharging its responsibilities; and
 - (e) take such other action in the exercise of its functions as the Parties may agree.

ARTICLE 14.2: RULES OF PROCEDURE OF THE FTA JOINT COMMISSION

1. The FTA Joint Commission shall take decisions on any matter within its functions, as set out in Article 14.1, by mutual agreement.

第14章 机构条款

第十四条第一款：自由贸易协定联合委员会的职能

1. 自由贸易协定联合委员会应：

(a) 审议与本协议实施相关的事项；(b) 审议由本协议设立的委员会和工作组或任何一方提交的问题；(c) 根据本协议的目标，探讨进一步扩大缔约方之间贸易和投资的措施；(d) 审议修改本协议的提案，并向缔约方提出建议；以及(e) 审议可能影响本协议运作的任何其他事项。
2. 自由贸易协定联合委员会可以：

(a) 根据需要设立额外的委员会和临时工作组，并将事项提交任何委员会或工作组以获取建议；(b) 通过实施安排推进本协议的实施；(c) 试图解决关于本协议解释或适用的可能出现的分歧或争端；(d) 在其职责范围内，就其职责履行有帮助的任何事项寻求非政府人士或团体的建议；以及(e) 在行使其职能时采取其他行动，缔约方可达成协议。

ARTICLE 14.2: RULES OF PROCEDURE OF THE FTA JOINT COMMISSION

1. 自由贸易协定联合委员会应根据第14.1条规定的其职能范围内的任何事项，通过协商作出决定。

2. The FTA Joint Commission shall convene in regular session once per year and at other times at the request of either Party. Regular sessions of the FTA Joint Commission shall be chaired successively by each Party. Other sessions of the FTA Joint Commission shall be chaired by the Party hosting the meeting.
3. The FTA Joint Commission shall ordinarily meet at the level of senior officials, unless there is a request by either Party to convene the meeting at Ministerial level.
4. Subject to paragraph 3, each Party shall be responsible for the composition of its delegation to the FTA Joint Commission.
5. The Party chairing a session of the FTA Joint Commission shall provide any necessary administrative support for such session, and shall record any decisions taken by the FTA Joint Commission, copies of which will be provided to the other Party.

ARTICLE 14.3: CONTACT POINT

For the purpose of facilitating communication between the Parties on any matter covered by this Agreement, the following contact points are designated:

- (a) for Australia: the Department of Foreign Affairs and Trade (DFAT); and
- (b) for China: the Ministry of Commerce (MOFCOM).

2. 自由贸易协定联合委员会每年应召开一次定期会议，并在任何一方请求时召开其他会议。自由贸易协定联合委员会的定期会议应依次由每一方主持。自由贸易协定联合委员会的其他会议应由举办会议的一方主持。
3. 自由贸易协定联合委员会通常应部长级举行会议，除非任何一方请求将会议召集在部长级。
4. 除第3段的规定外，每一方应负责其派驻自由贸易协定联合委员会的代表团的组成。
5. 主持自由贸易协定联合委员会会议的一方应提供此类会议所需的任何必要行政支持，并应记录自由贸易协定联合委员会作出的任何决定，并将该等决定的副本提供给另一方。

ARTICLE 14.3: 联系点

为促进各方就本协议涵盖的任何事项进行沟通，特指定以下联络点：

- (a) 对澳大利亚而言：外交贸易部（DFAT）；以及 (b) 对中国而言：商务部（MOFCOM）。

CHAPTER 15
DISPUTE SETTLEMENT

第15章 争议解决

ARTICLE 15.1: COOPERATION

The Parties shall endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

第15.1条 合作

各方应努力就本协议的解释和应用达成一致，并通过合作尽一切努力就任何可能影响其运营的事项达成双方均满意的解决方案。

ARTICLE 15.2: SCOPE OF APPLICATION

Unless otherwise provided in this Agreement, this Chapter shall apply to the settlement of disputes between the Parties regarding the implementation, interpretation and application of this Agreement or wherever a Party considers that:

第15.2条 适用范围

除非本协议另有规定，本章应适用于解决各方就本协议的实施、解释和应用所提出的争议，或任何一方认为：

- (a) a measure of the other Party is inconsistent with its obligations under this Agreement; or
- (b) the other Party has otherwise failed to carry out its obligations under this Agreement.

(a) 另一方采取的措施与其在本协议项下的义务不一致；或 (b) 另一方未能履行其在本协议项下的义务。

ARTICLE 15.3: CONTACT POINTS

1. Each Party shall designate a contact point to facilitate communications between the Parties with respect to any dispute initiated under this Chapter.
2. Any request, notification, written submission or other document made in accordance with this Chapter shall be delivered to the other Party through its designated contact point.

ARTICLE 15.3: CONTACT POINTS

1. 每一方应指定一个联系点，以促进本章节下启动的任何争议中各方之间的沟通。
2. 任何根据本章节提出的请求、通知、书面陈述或其他文件均应通过其指定的联系点交付给另一方。

ARTICLE 15.4: CHOICE OF FORUM

1. Unless otherwise provided in this Article, this Chapter is without prejudice to the rights of the Parties to have recourse to dispute settlement procedures available under other international trade agreements to which they are both parties.
2. Where a dispute regarding any matter arises under this Agreement and under another international trade agreement to which both Parties are party, the complaining Party may select the forum in which to settle the dispute.

第15.4条 争议解决方式的选择

1. 除非本条款另有规定，本章节不妨碍各方根据其均为缔约方的其他国际贸易协定可利用的争端解决程序行使其权利。
2. 当根据本协议和另一项缔约方均为缔约方的国际贸易协议发生关于任何事项的争议时，投诉方可以选择争议解决的论坛。

3. Once the complaining Party has requested the establishment of, or referred a matter to, a dispute settlement panel or arbitral tribunal, the forum selected shall be used to the exclusion of the others.

ARTICLE 15.5: CONSULTATIONS

1. Either Party may request consultations with the other Party with respect to any matter described in Article 15.2 by delivering written notification to the other Party.

2. In this notification, the complaining Party shall set out the reasons for the request, including identification of the measure at issue and an indication of the factual and legal basis for the complaint.

3. If a request for consultations is made, the Party to which the request is made shall reply promptly to the request and shall enter into consultations in good faith, with a view to reaching a mutually satisfactory solution, within a period of no more than:

(a) 10 days after the date of receipt of the request for matters of urgency concerning perishable goods; or

(b) 30 days after the date of receipt of the request for all other matters.

4. The consultations shall be confidential and are without prejudice to the rights of either Party in any further proceedings.

5. In conducting the consultations, the Parties shall:

(a) provide sufficient information to enable a full examination of how the matter might affect the operation and application of this Agreement; and

(b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information.

6. If the Party complained against does not enter into consultations within the timeframe specified in paragraph 3(a) or 3(b), then the complaining Party may proceed directly to request the establishment of an arbitral tribunal.

ARTICLE 15.6: GOOD OFFICES, MEDIATION AND CONCILIATION

1. The Parties may at any time agree to good offices, conciliation or mediation. They may begin at any time and be terminated at any time.

3. 一旦投诉方请求设立争议解决小组或仲裁庭，或提交事项至争议解决小组或仲裁庭，所选的论坛应优先使用，排除其他论坛。

第十五条第5条：磋商

1. 任何一方可就第十五条第2条所述事项，通过向另一方送达书面通知的方式，请求另一方进行磋商。

2. 在此通知中，投诉方应说明请求磋商的理由，包括确定相关措施并说明投诉的事实和法律依据。

3. 如作出磋商请求，收到请求的一方应迅速回复请求，并以真诚的态度进行磋商，以期达成双方均满意的解决方案，期限不超过：

(a) 收到磋商请求后10日内就易腐商品相关紧急事项；或 (b) 收到磋商请求后30日内就所有其他事项。

4. 磋商应保密，且不影响任何一方在进一步程序中的权利。

5. 在进行磋商时，缔约方应：

(a) 提供足够的信息，以便全面审查该事项可能如何影响本协议的运营和应用；以及 (b) 对在磋商过程中交换的任何机密或专有信息，与提供信息的一方相同地对待。

6. 如果被投诉方未在第3段(a)或3(b)中规定的时间范围内进行磋商，则投诉方可直接请求设立仲裁庭。

ARTICLE 15.6: GOOD OFFICES、MEDIATION 和 CONCILIATION

1. 各方可以随时同意翰旋、调解或调解。它们可以随时开始，也可以随时终止。

2. If the Parties agree, good offices, conciliation or mediation may continue while the dispute proceeds for resolution before an arbitral tribunal convened under Article 15.7.

ARTICLE 15.7: ESTABLISHMENT AND COMPOSITION OF AN ARBITRAL TRIBUNAL

1. If the consultations fail to resolve a dispute within:
 - (a) 20 days after the date of receipt of the request for consultations regarding a matter of urgency concerning perishable goods; or
 - (b) 60 days after the date of receipt of the request for consultations regarding any other matter;

the Party that made the request for consultations may request, in writing, the establishment of an arbitral tribunal to consider the matter.

2. The request to establish an arbitral tribunal shall identify:
 - (a) the specific measures at issue; and
 - (b) the factual and legal basis of the complaint, including the provisions alleged to have been breached and any other relevant provisions of this Agreement, sufficient to present the problem clearly.
3. When a request is made by the complaining Party in accordance with paragraph 1, an arbitral tribunal shall be established.
4. An arbitral tribunal shall be composed of three arbitrators.
5. Within 15 days after the establishment of an arbitral tribunal, each Party shall appoint one arbitrator, who may be its national.
6. The Parties shall, by common agreement, designate the third arbitrator within 30 days after the establishment of the arbitral tribunal. The arbitrator thus appointed shall be the Chair of the arbitral tribunal.
7. If any arbitrator of the arbitral tribunal has not been designated or appointed within 30 days after the establishment of the arbitral tribunal, either Party may request that the Director-General of the WTO designate an arbitrator within 30 days of that request.

2. 如果各方同意，翰旋、调解或调解可以在争议根据第15.7条召集的仲裁庭进行解决之前继续进行。

第15.7条：仲裁庭的设立及其组成

1. 如果磋商未能在一个争议内解决：
 - (a) 收到关于易腐商品的紧急事项磋商请求之日起20天内；或 (b) 收到关于任何其他事项的磋商请求之日起60天内；

提出磋商请求的缔约方可以书面请求设立仲裁庭以审议该事项。

2. 设立仲裁庭的请求应明确：
 - (a) 有关的具体措施；以及 (b) 投诉的事实和法律依据，包括据称被违反的规定以及本协议的任何其他相关规定，足以清楚地陈述问题。
3. 当投诉方根据第1段提出请求时，应设立仲裁庭。
4. 仲裁庭应由三名仲裁员组成。
5. 仲裁庭设立后15日内，每一方应任命一名仲裁员，该仲裁员可以是其国民。
6. 各方应在仲裁庭设立后30日内通过共同协议指定第三名仲裁员。如此指定的仲裁员应为仲裁庭主席。
7. 如果仲裁庭的仲裁员在仲裁庭设立后30日内未被指定或任命，任何一方可以请求世界贸易组织总干事在该请求之日起30日内指定一名仲裁员。

8. All arbitrators shall:
- (a) have expertise or experience in law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;
 - (b) be chosen strictly on the basis of objectivity, reliability, and sound judgement;
 - (c) be independent of, and not be affiliated with or take instructions from, either Party;
 - (d) not have dealt with the matter in any capacity; and
 - (e) comply with the code of conduct set out in Annex 15-A.
9. The Chair of the arbitral tribunal shall:
- (a) not be a national of either Party; and
 - (b) not have his or her usual place of residence in the territory of either Party.
10. If an arbitrator appointed in accordance with this Article resigns or becomes unable to act, a successor arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator and the successor shall have all the powers and duties of the original arbitrator. The work of the arbitral tribunal shall be suspended during the appointment of the successor arbitrator.
11. Where an arbitral tribunal is reconvened in accordance with Articles 15.15 through 15.17, the reconvened arbitral tribunal shall, where possible, have the same arbitrators as in the original arbitral tribunal. If the arbitral tribunal cannot be reconvened with its original arbitrators, the procedures for selection of arbitrators set out in this Article shall apply.

ARTICLE 15.8: FUNCTIONS OF ARBITRAL TRIBUNALS

1. The function of an arbitral tribunal is to make an objective assessment of the matter before it, including an objective assessment of:
- (a) the facts of the case;
 - (b) the applicability of the relevant provisions of this Agreement cited by the Parties; and
 - (c) whether:

8. 所有仲裁员应：
- (a) 在法律、国际贸易、本协议涵盖的其他事项或国际贸易协议项下的争议解决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) 独立于任何一方，且不隶属于或接受任何一方的指示； (d) 未以任何身份处理该事项； 以及 (e) 遵守附件15-A中规定的行为准则。
9. 仲裁庭主席应：
- (a) 不是任何一方国家的国民； 以及 (b) 其惯常居住地不在任何一方领土内。
10. 如果根据本条款任命的仲裁员辞职或无法履行职责，应按照原仲裁员和继任仲裁员的任命方式任命继任仲裁员，继任仲裁员应具有原仲裁员的所有权力和职责。在任命继任仲裁员期间，仲裁庭的工作应暂停。
11. 如果根据第15.15条至第15.17条重新组成仲裁庭，重新组成的仲裁庭应尽可能具有与原仲裁庭相同的仲裁员。如果仲裁庭无法与其原仲裁员重新组成，则应适用本条款中规定的仲裁员选择程序。

ARTICLE 15.8: FUNCTIONS OF ARBITRAL TRIBUNALS

1. 仲裁庭的职能是对其面前的事项进行客观评估，包括对以下事项的客观评估：
- (a) 案件的事实； (b) 各方援引的与本协议相关条款的适用性； 以及(c) 是否：

- (i) the measure at issue is inconsistent with the obligations of this Agreement; or
- (ii) a Party has otherwise failed to carry out its obligations under this Agreement.

2. Unless the Parties otherwise agree within 20 days after the date of the establishment of the arbitral tribunal, the terms of reference 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 tribunal pursuant to Article 15.7 and to make findings of law and fact together with the reasons therefor for the resolution of the dispute."

3. The findings of the arbitral tribunal shall be binding on the Parties.

ARTICLE 15.9: RULES OF INTERPRETATION

1. The arbitral tribunal shall interpret this Agreement in accordance with customary rules of interpretation of public international law, including as reflected in the *Vienna Convention on the Law of Treaties*, done at Vienna on 23 May 1969.
2. The arbitral tribunal shall have regard to any relevant interpretation established in rulings and recommendations of the WTO Dispute Settlement Body.
3. The rulings and recommendations of the arbitral tribunal cannot add to or diminish the rights and obligations provided for in this Agreement.

ARTICLE 15.10: RULES OF PROCEDURE OF AN ARBITRAL TRIBUNAL

1. Unless the Parties otherwise agree, the arbitral tribunal shall follow the model rules of procedure set out in Annex 15-B.
2. The arbitral tribunal may, after consulting with the Parties, adopt additional rules of procedure not inconsistent with the model rules.

ARTICLE 15.11: SUSPENSION OR TERMINATION OF PROCEEDINGS

1. The Parties may agree that the arbitral tribunal suspend its work at any time for a period not exceeding 12 months from the date of such agreement. Within this period, the tribunal shall resume its work if requested by either Party. If the work of the arbitral

- (i) 相关措施与本协议的义务不一致；或(ii) 一方未按本协议履行其义务。

2. 除非各方在仲裁庭设立之日起20日内另有约定，否则仲裁事项的范围应为：

"根据本协议的相关条款，审查根据第15.7条设立的仲裁庭的设立请求中所述事项，并作出法律和事实的裁决以及作出裁决的理由，以解决争议。"

3. 仲裁庭的裁决对各方具有约束力。

第15.9条：解释规则

1. 仲裁庭应根据国际公法的习惯解释规则解释本协议，包括1969年5月23日在维也纳签署的《维也纳条约法公约》所反映的规则。
2. 仲裁庭应参考世界贸易组织争端解决机构在任何裁决和建议中确立的相关解释。
3. 仲裁庭的裁决和建议不得增加或减少本协议规定的权利和义务。

第15.10条：仲裁庭的程序规则

1. 除非各方另有约定，仲裁庭应遵循附件15-B中规定的示范程序规则。
2. 仲裁庭经与各方磋商后，可采用与示范规则不一致的程序规则。

ARTICLE 15.11: SUSPENSION OR TERMINATION OF PROCEEDINGS

1. 各方可以同意仲裁庭自协议日期起不超过12个月的期限内随时暂停其工作。在此期间，如果任何一方提出请求，仲裁庭应恢复工作。如果仲裁庭的工作已暂停超过12个月，仲裁庭设立的权力应失效，除非各方另有协议。

tribunal has been suspended for more than 12 months, the authority for establishment of the tribunal shall lapse, unless the Parties otherwise agree.

2. The Parties may agree to terminate the proceedings of the arbitral tribunal in the event that a mutually satisfactory solution to the dispute has been found. In such event the Parties shall jointly notify the Chair of the arbitral tribunal.

3 Before the arbitral tribunal presents its final report, it may at any stage of the proceedings propose to the Parties that the dispute be settled amicably.

ARTICLE 15.12: REPORT OF THE ARBITRAL TRIBUNAL

1. In order to enable the Parties to have an opportunity for review and comment, the arbitral tribunal shall present the Parties with its initial report within 90 days of appointment of the final arbitrator setting out its findings of facts, its reasoning, and its determination as to whether:

- (a) the measure at issue is inconsistent with the obligations of this Agreement;
- (b) a Party has otherwise failed to carry out its obligations under this Agreement.

2. The arbitral tribunal shall base its report on the relevant provisions of this Agreement, the submissions and arguments of the Parties and any information or technical advice it has obtained in accordance with its rules of procedure. The arbitral tribunal may also, on the joint request of the Parties, suggest ways in which the Party complained against could implement the recommendations.

3. In exceptional cases, if the arbitral tribunal considers it cannot present its initial report within 90 days, it shall inform the Parties in writing of the reasons for the delay, together with an estimate of the period within which it will issue its report. Any delay shall not exceed a further period of 30 days, unless the Parties otherwise agree.

4. Each Party may submit written comments to the arbitral tribunal within 10 days of the presentation of the initial report. After considering these written comments by the Parties and making any further examination it considers appropriate, the arbitral tribunal shall present the Parties its final report within 30 days of presentation of the initial report, unless the Parties otherwise agree.

5. The final report of the arbitral tribunal shall be made available to the public within 10 days from the date of its presentation to the Parties.

仲裁庭已暂停超过12个月，仲裁庭设立的权力应失效，除非各方另行同意。

2. 各方可以同意终止仲裁庭的程序，如果已找到对争议的相互满意的解决方案。在这种情况下，各方应联合通知仲裁庭主席。

3 在仲裁庭提交其最终报告之前，它可以随时在程序的任何阶段向各方提议友好解决争议。

条款 15.12：仲裁庭报告

1. 为了使各方有机会进行审查和评论，仲裁庭应在最终仲裁员任命之日起90天内向各方提交其初步报告，其中列明其事实认定、推理及其关于以下问题的裁决：

- (a) 相关措施与本协议的义务不一致；(b) 一方在其他方面未能履行本协议的义务。

2. 仲裁庭应根据本协议的相关条款、当事人的提交和论点以及其根据程序规则获得的信息或技术建议，撰写报告。仲裁庭还可在双方共同请求的情况下，建议被投诉方如何实施建议。

3. 在特殊情况下，如果仲裁庭认为无法在90天内提交初步报告，应书面通知双方延误的原因，并附上预计提交报告的期限。任何延误不得超过额外的30天，除非双方另有约定。

4. 每一方可在初步报告提交后10天内向仲裁庭提交书面意见。仲裁庭在考虑双方提交的这些书面意见并作出其认为适当的进一步审查后，应在初步报告提交后30天内向双方提交最终报告，除非双方另有约定。

5. 仲裁庭的最终报告应在提交给缔约方之日起10日内提供给公众。

ARTICLE 15.13: IMPLEMENTATION OF THE FINAL REPORT

1. Where the arbitral tribunal makes a finding that a measure is inconsistent with this Agreement, or that a Party has otherwise failed to carry out its obligations under this Agreement, the Party complained against shall bring the measure into conformity with this Agreement.
2. Within 30 days of the presentation of the final report of the arbitral tribunal to the Parties, the Party complained against shall inform the complaining Party of its intentions with respect to implementation of the findings of the arbitral tribunal. If it is impracticable to comply immediately with the findings, the Party complained against shall have a reasonable period of time in which to do so.

ARTICLE 15.14: REASONABLE PERIOD OF TIME

1. The reasonable period of time shall be mutually determined by the Parties. Where the Parties fail to agree on the reasonable period of time within 45 days of the presentation of the arbitral tribunal's final report, either Party may refer the matter to the original arbitral tribunal, to the extent this is possible, which shall determine the reasonable period of time.
2. The arbitral tribunal shall provide its determination to the Parties within 30 days after the date of the referral of the matter to it. Prior to making its determination, the arbitral tribunal shall seek written submissions from the Parties and, if requested by either Party, hold a meeting with the Parties where each will be given an opportunity to present its submission. As a guideline, the reasonable period of time should not exceed 15 months from the date of the issuance of the arbitral tribunal's final report. However, that time may be shorter or longer depending upon the particular circumstances.
3. When the arbitral tribunal considers that it cannot provide its determination within this timeframe, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will provide its determination. Any delay shall not exceed a further period of 15 days, unless the Parties otherwise agree.

ARTICLE 15.15: COMPLIANCE REVIEW

1. Where the Parties disagree on the existence or consistency with this Agreement of measures taken to comply with the obligations in Article 15.13.1, such dispute shall be referred to an arbitral tribunal under this Chapter, including wherever possible by resort to the original arbitral tribunal.

第15.13条：最终报告的实施

1. 当仲裁庭认定一项措施与本协议不一致，或一方未履行本协议项下的义务时，被投诉方应将该措施与本协议保持一致。
2. 在仲裁庭向缔约方提交最终报告之日起30日内，被投诉方应通知投诉方其关于实施仲裁庭裁决的意图。如果立即遵守裁决不可行，被投诉方应有一个合理的期限来这样做。

第15.14条：合理期限

1. 合理期限应由缔约方共同确定。在仲裁庭提交最终报告之日起45日内，如果缔约方未能就合理期限达成一致，任何一方都可以将此事提交原仲裁庭，在可能的情况下，仲裁庭应确定合理期限。
2. 仲裁庭应在将此事提交仲裁庭之日起30日内向缔约方提供其裁决。在作出裁决之前，仲裁庭应向缔约方征求书面陈述，并在任何一方要求时与缔约方举行会议，每个缔约方都将有机会提交其陈述。作为指南，合理期限不应超过仲裁庭最终报告发布之日起15个月。然而，具体情况下，该期限可能更短或更长。
3. 当仲裁庭认为它不能在此期限内作出裁决时，应以书面形式通知缔约方延误的原因，并估计其将作出裁决的期限。任何延误不得超过另一个15日的期限，除非缔约方另行同意。

ARTICLE 15.15: COMPLIANCE REVIEW

1. 当缔约方对为履行第15.13.1条义务所采取的措施是否符合本协议的存在或不一致存在分歧时，此类争议应提交本章节项下的仲裁庭，尽可能提交原仲裁庭。

2. Such request may only be made after:
- (a) the expiry of the reasonable period of time; or
 - (b) the Party complained against has given written notification to the complaining Party that it has complied with the obligations in Article 15.13.1.
3. The arbitral tribunal convened under this Article shall reconvene as soon as possible after the delivery of the request and shall issue its final report on the matter within 60 days of the date of delivery of the written notification.
4. The arbitral tribunal shall make an objective assessment of the matter before it, including an objective assessment of:
- (a) the facts of any implementation action taken by the Party complained against to comply with the obligations in Article 15.13.1; and
 - (b) whether the Party complained against has complied with the obligations in Article 15.13.1,

and set out its findings on both elements in its report.

ARTICLE 15.16: COMPENSATION AND SUSPENSION OF CONCESSIONS AND OBLIGATIONS

1. If the Party complained against:
- (a) fails to comply with the findings of the arbitral tribunal within the reasonable period of time;
 - (b) expresses in writing that it will not comply with the findings of the arbitral tribunal, or
 - (c) has been found through the compliance review process set out in Article 15.15 to have not complied with the obligations in Article 15.13.1,

that Party shall, if so requested, enter into negotiations with the complaining Party with a view to reaching a mutually satisfactory agreement on any necessary compensation.

2. If the Parties do not reach agreement on compensation in accordance with paragraph 1 within 20 days, the complaining Party may provide written notification to the Party complained against that it intends to suspend the application to the Party complained against of concessions and obligations under this Agreement of equivalent effect to the level of non-conformity that the arbitral tribunal has found. The notification

2. 此请求只能在以下情况下提出：

(a) 合理期限的届满；或 (b) 被投诉方向投诉方发出书面通知，表明其已履行第15.13.1条规定的义务。

3. 根据本条组建的仲裁庭应在收到请求后尽快召集，并在收到书面通知之日起60天内就相关事项发布最终报告。

4. 仲裁庭应对其审理的事项进行客观评估，包括对以下事项的客观评估：

(a) 被投诉方为履行第15.13.1条规定的义务而采取的实施行为的事实；以及
(b) 被投诉方是否已履行第15.13.1条规定的义务，

并在其报告中说明关于这两个要素的调查结果。

第15.16条：补偿和特许权和义务的暂停

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1. 如果被投诉方：

(a) 在合理期限内未能遵守仲裁庭的裁决；(b) 以书面形式表示将不遵守仲裁庭的裁决，或(c) 经第15.15条规定的合规审查程序认定未遵守第15.13.1条项下的义务，

该方应根据投诉方的请求，与投诉方进行谈判，以就任何必要的补偿达成双方满意的协议。

2. 如果各方未能在第1段规定的20日内就补偿达成协议，投诉方可以向被投诉方提供书面通知，表明其打算暂停向被投诉方申请本协议下与仲裁庭发现的非一致性水平相当的特许权和义务。该通知

shall specify the level of concessions or other obligations that the complaining Party proposes to suspend.

3. The complaining Party may begin suspending concessions and obligations 30 days after it provides notification of its intention to suspend, or after an arbitral tribunal issues its determination under paragraph 6.

4. Any suspension of concessions and obligations shall be restricted to benefits accruing to the other Party under this Agreement.

5. In considering what concessions and obligations to suspend in accordance with paragraph 2, the complaining Party shall apply the following principles:

- (a) the complaining Party should first seek to suspend concessions and obligations in the same sector(s) as that affected by the measure that the arbitral tribunal has found to be inconsistent with the obligations of this Agreement; and
- (b) if the complaining Party considers that it is not practicable or effective to suspend concessions and obligations in the same sector(s), it may suspend concessions and obligations in other sectors. The communication in which it announces such a decision shall indicate the reasons on which it is based.

6. If the Party complained against objects to the level of suspension proposed, or considers that the principles set out in paragraph 5 have not been applied, it may make a written request to reconvene the original arbitral tribunal to examine the matter. The arbitral tribunal shall determine whether the level of concessions and obligations to be suspended by the complaining Party in accordance with paragraph 2 is equivalent to the level of non-conformity. If the arbitral tribunal cannot be established with its original arbitrators, the proceeding set out in Article 15.7 shall be applied.

7. The arbitral tribunal shall present its determination within 60 days of the request made in accordance with paragraph 6 or, if an arbitral tribunal cannot be established with its original arbitrators, from the date on which the last arbitrator is designated. The determination of the arbitral tribunal shall be final and binding and shall be made publicly available.

8. The suspension of concessions and obligations shall be temporary and shall only be applied until such time as the measure found to be inconsistent with this Agreement has been removed, or a mutually satisfactory solution is reached.

应具体说明投诉方提议暂停的特许权或其他义务的水平。

3. 投诉方可以在其提供暂停意向通知后30日内开始暂停特许权和义务，或仲裁庭根据第6段作出裁决后。

4. 任何暂停特许权和义务都应仅限于本协议赋予另一方的利益。

5. 在根据第2段考虑暂停哪些特许权和义务时，投诉方应适用以下原则：

- (a) 投诉方应首先寻求暂停与仲裁庭发现与本协议义务不一致的措施影响的同一部门(们)相关的特许权和义务；以及(b) 如果投诉方认为在同一部门(们)暂停特许权和义务不切实际或无效，它可以暂停其他部门的特许权和义务。其宣布此类决定的通讯应说明其依据的理由。

6. 如果被投诉方反对拟议的暂停水平，或认为第5段中规定的原则未被适用，它可以向原仲裁庭提出书面请求以重新召集以审查该事项。仲裁庭应确定投诉方根据第2段拟暂停的特许权和义务水平是否等同于非一致性水平。如果无法用原仲裁员成立仲裁庭，则应适用第15.7条中规定的手续。

7. 仲裁庭应在根据第6段提出的请求之日起60天内提出其裁决，或者，如果无法以其原仲裁员成立仲裁庭，则应自最后一名仲裁员被指定的日期起提出。仲裁庭的裁决应是终局的和具有约束力的，并应予以公开。

8. 特许权和义务的暂停应是暂时的，并且仅应适用于被认定为与本协议不一致的措施被移除，或达成双方均满意的解决方案之时。

ARTICLE 15.17: POST SUSPENSION REVIEW

1. Where the right to suspend concessions and obligations has been exercised in accordance with Article 15.16, if the Party complained against considers that it has complied with its obligations in Article 15.13.1, it may provide written notice to the complaining Party with a description of how it has complied. If the complaining Party disagrees, it may refer the matter to the original arbitral tribunal within 30 days after receipt of such written notice. If the arbitral tribunal cannot be established with its original arbitrators, the proceeding set out in Article 15.7 shall be applied. Otherwise, the complaining Party shall promptly stop the suspension of concessions and obligations.

2. The arbitral tribunal shall release its report within 60 days after the referral of the matter. If the arbitral tribunal concludes that the Party complained against has eliminated the non-conformity, the complaining Party shall promptly stop the suspension of concessions and obligations.

第15.17条：暂停审查

1. 当根据第15.16条行使暂停特许权和义务的权利时，如果被投诉方认为其已履行第15.13.1条项下的义务，它可以向投诉方提供书面通知，说明其履行情况。如果投诉方不同意，它可以自收到该书面通知之日起30日内将该事项提交原仲裁庭。如果无法以原仲裁员成立仲裁庭，则应适用第15.7条中规定的手续。否则，投诉方应立即停止暂停特许权和义务。

2. 仲裁庭应在事项提交后60天内发布其报告。如果仲裁庭认定被投诉方已消除非一致性，投诉方应立即停止暂停特许权和义务。

ANNEX 15-A
CODE OF CONDUCT

附件15-A 行为准则

Definitions

1. For the purposes of this Annex:
- (a) **assistant** means a person who, under the terms of appointment of an arbitrator, conducts research or provides support for the arbitrator;
 - (b) **arbitrator** means a member of an arbitral tribunal established under Article 15.7;
 - (c) **proceeding**, unless otherwise specified, means the proceeding of an arbitral tribunal under this Chapter; and
 - (d) **staff**, in respect of an arbitrator, means persons under the direction and control of the arbitrator, other than assistants.

Responsibilities to the Process

2. Every arbitrator shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process are preserved. Former arbitrators shall comply with the obligations established in paragraphs 17 through 20.

Disclosure Obligations

3. Prior to confirmation of his or her selection as an arbitrator under this Agreement, a candidate shall disclose any interest, relationship or matter that is likely to affect his or her independence or impartiality or that might reasonably create an appearance of impropriety or bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters.
4. Once selected, an arbitrator shall continue to make all reasonable efforts to become aware of any interests, relationships and matters referred to in paragraph 3 and shall disclose them by communicating them in writing to the FTA Joint Commission for consideration by the Parties. The obligation to disclose is a continuing duty, which requires an arbitrator to disclose any such interests, relationships and matters that may arise during any stage of the proceeding.

定义

1. 附件的目的在于：
- (a) 助理是指根据仲裁员的任命条款，从事研究或为仲裁员提供支持的人员；
 - (b) 仲裁员是指根据第15.7条建立的仲裁庭的成员；(c) 程序，除非另有规定，是指根据本章进行的仲裁庭程序；以及(d) 对于仲裁员，工作人员是指根据仲裁员的指示和控制，但不是助理的人员。

对程序的义务

2. 每位仲裁员应避免不当行为和不当行为的表象，应独立且公正，应避免直接和间接的利益冲突，并应遵守高标准行为，以保持争议解决程序的完整性和公正性。前任仲裁员应遵守第17至20段规定的义务。

披露义务

3. 在根据本协议确认其被选为仲裁员之前，候选人应当披露任何可能影响其独立或公正性或可能合理地在该程序中造成不当行为或偏见印象的利益、关系或事项。为此，候选人应尽一切合理努力了解任何此类利益、关系和事项。
4. 一旦选定，仲裁员应继续尽一切合理努力，了解第3段中提到的任何利益、关系和事项，并通过以书面形式向自由贸易协定联合委员会通报，以便由缔约方审议。披露义务是一项持续性的义务，要求仲裁员披露在任何程序阶段可能出现的任何此类利益、关系和事项。

Performance of Duties by Arbitrators

- 5. An arbitrator shall comply with the provisions of this Chapter and the applicable rules of procedure.
- 6. On selection, an arbitrator shall perform his or her duties thoroughly and expeditiously throughout the course of the proceeding with fairness and diligence.
- 7. An arbitrator shall not deny other arbitrators the opportunity to participate in all aspects of the proceeding.
- 8. An arbitrator shall consider only those issues raised in the proceeding and necessary to rendering a decision and shall not delegate the duty to decide to any other person.
- 9. An arbitrator shall take all appropriate steps to ensure that the arbitrator’s assistant and staff are aware of, and comply with, paragraphs 2, 3, 4, 19, 20 and 21.
- 10. An arbitrator shall not engage in *ex parte* contacts concerning the proceeding.
- 11. An arbitrator shall not communicate matters concerning actual or potential violations of this Annex by another arbitrator unless the communication is to both Parties or is necessary to ascertain whether that arbitrator has violated or may violate this Annex.

Independence and Impartiality of Arbitrators

- 12. An arbitrator shall be independent and impartial. An arbitrator shall act in a fair manner and shall avoid creating an appearance of impropriety or bias.
- 13. An arbitrator shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party or fear of criticism.
- 14. An arbitrator shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of the arbitrator’s duties.
- 15. An arbitrator shall not use his or her position on the arbitral tribunal to advance any personal or private interests. An arbitrator shall avoid actions that may create the impression that others are in a special position to influence the arbitrator. An arbitrator shall make every effort to prevent or discourage others from representing themselves as being in such a position.
- 16. An arbitrator shall not allow past or existing financial, business, professional, family or social relationships or responsibilities to influence the arbitrator’s conduct or judgment.

仲裁员履行职责

- 5. 仲裁员应遵守本章规定和适用程序规则。
- 6. 在选定后，仲裁员应在整个程序过程中勤勉、迅速地履行其职责，并公平、勤勉地进行。
- 7. 仲裁员不得剥夺其他仲裁员参与程序所有方面的机会。
- 8. 仲裁员应仅考虑程序中提出且作出裁决所必需的问题，不得将裁决的职责委托给任何其他人。
- 9. 仲裁员应采取所有适当措施以确保仲裁员’s助理和工作人员知晓并遵守第2、3、4、19、20和21条。
- 10. 仲裁员不得进行与程序有关的单方面接触g.
- 11. 仲裁员不得就另一名仲裁员实际或可能违反本附件的事项进行沟通，除非该沟通是向缔约双方进行的，或有必要查明该仲裁员是否已违反或可能违反本附件。

仲裁员的独立性和公正性

- 12. 仲裁员应独立且公正。仲裁员应以公平的方式行事，并应避免造成不当行为的表象或偏见的印象。
- 13. 仲裁员不得受自身利益、外部压力、政治因素、公众喧嚣、对一方当事人的忠诚或害怕批评的影响。
- 14. 仲裁员不得直接或间接承担任何义务或接受任何利益，这些义务或利益在任何方面都会干扰或看似干扰仲裁员职责的适当履行。
- 15. 仲裁员不得利用其在仲裁庭的职位来谋取任何个人或私人利益。仲裁员应避免采取可能给人留下他人处于影响仲裁员的优势地位印象的行为。仲裁员应尽一切努力防止或制止他人声称处于这种地位。
- 16. 仲裁员不得允许过去的或现有的财务、商业、专业、家庭或社会关系或责任影响仲裁员的经营或判断。

17. An arbitrator shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect the arbitrator's impartiality or that might reasonably create an appearance of impropriety or bias.

Duties in Certain Situations

18. An arbitrator or former arbitrator shall avoid actions that may create the appearance that the arbitrator was biased in carrying out the arbitrator's duties or would benefit from the decision or report of the arbitral tribunal.

Maintenance of Confidentiality

19. An arbitrator or former arbitrator shall not at any time disclose or use any non-public information concerning the proceeding or acquired during the proceeding except for the purposes of the proceeding and shall not, in any case, disclose or use any such information to gain personal advantage, or advantage for others, or to affect adversely the interest of others.

20. An arbitrator shall not disclose an arbitral tribunal report, or parts thereof, prior to its publication.

21. An arbitrator or former arbitrator shall not at any time disclose the deliberations of an arbitral tribunal, or any arbitrator's view, except as required by legal or constitutional requirements.

17. 仲裁员应避免进入任何关系，或获得任何财务利益，该关系可能会影响仲裁员的公正性，或可能合理地造成不当行为的表象或偏见的印象。

特定情况下的职责

18. 仲裁员或前任仲裁员应避免采取任何可能造成仲裁员在履行职责时存在偏见的表象的行为，或从仲裁庭的决定或报告中获益。

保密的维护

19. 仲裁员或前任仲裁员在任何时候不得披露或使用与程序有关的任何非公开信息，或程序期间获得的信息，除非出于程序的目的，并且在任何情况下，不得披露或使用此类信息以谋取个人利益，或为他人谋取利益，或不利地影响他人的利益。

20. 仲裁员不得在仲裁庭报告或其部分发布之前披露仲裁庭报告。

21. 仲裁员或前仲裁员在任何时候均不得披露仲裁庭的审议，或任何仲裁员的意见，但法律或宪法要求除外。

ANNEX 15-B
MODEL RULES OF PROCEDURE FOR THE ARBITRAL TRIBUNAL

Timetable

1. After consulting the Parties, an arbitral tribunal shall, whenever possible within 10 days of the appointment of the final arbitrator, fix the timetable for the arbitral tribunal process. The indicative timetable attached to these Rules should be used as a guide.
2. The arbitral tribunal process shall, as a general rule, not exceed 270 days from the date of establishment of the arbitral tribunal until the date of the final report, unless the Parties otherwise agree.
3. Should the arbitral tribunal consider there is a need to modify the timetable, it shall inform the Parties in writing of the proposed modification and the reason for it.

Written Submissions and other Documents

4. Unless the arbitral tribunal otherwise decides, the complaining Party shall deliver its first written submission to the arbitral tribunal no later than 14 days after the date of appointment of the final arbitrator. The Party complained against shall deliver its first written submission to the arbitral tribunal no later than 30 days after the date of delivery of the complaining Party's first written submission. Copies shall be provided for each arbitrator.
5. Each Party shall also provide a copy of its first written submission to the other Party at the same time as it is delivered to the arbitral tribunal.
6. Within 20 days of the conclusion of the hearing, each Party may deliver to the arbitral tribunal and the other Party a supplementary written submission responding to any matter that arose during the hearing.
7. All written documents provided to the arbitral tribunal or by one Party to the other Party shall also be provided in electronic form.
8. Minor errors of a clerical nature in any request, notice, written submission or other document related to the arbitral tribunal proceeding may be corrected by delivery of a new document clearly indicating the changes.

Operation of the Arbitral Tribunal

9. All arbitrators shall be present at hearings. Only arbitrators may take part in the deliberations of the arbitral tribunal. In consultation with the Parties, assistants, translators or designated note takers may also be present at hearings to assist the arbitral

附件15-B仲裁庭程序示范规则

时间表

1. 经与各方磋商，仲裁庭应在最终仲裁员任命后的10日内，尽可能确定仲裁程序的时间表。应使用本规则附件中的指示时间表作为指南。
2. 仲裁程序一般不应超过仲裁庭设立之日起至最终报告之日止的270日，除非各方另有约定。
3. 若仲裁庭认为有必要修改时间表，应书面通知各方拟议的修改及其理由。

书面陈述及其他文件

4. 除非仲裁庭另有决定，投诉方应在最终仲裁员任命之日起14日内向仲裁庭提交其第一次书面陈述。被投诉方应在投诉方第一次书面陈述送达之日起30日内向仲裁庭提交其第一次书面陈述。应向每位仲裁员提供副本。
5. 每一方应在向仲裁庭提交其第一次书面陈述的同时，向另一方提供其第一次书面陈述的副本。
6. 在听证会结束后20日内，每一方可以向仲裁庭和另一方提交补充书面陈述，以回应听证会期间出现的事项。
7. 提供给仲裁庭或一方提供给另一方的所有书面文件也应以电子形式提供。
8. 与仲裁庭程序相关的任何请求、通知、书面陈述或其他文件中出现的轻微的书性性质错误，可以通过提交一份明确说明更改的新文件来更正。

仲裁庭的运营

9. 所有仲裁员都应出席听证会。只有仲裁员可以参加仲裁庭的审议。经与缔约方磋商，助理、翻译人员或指定记录员也可以出席听证会以协助仲裁庭的工作。仲裁庭建立的任何此类安排经缔约方同意后可以修改。

tribunal in its work. Any such arrangements established by the arbitral tribunal may be modified with the agreement of the Parties.

10. The Chair of the arbitral tribunal shall preside at all of its meetings. The arbitral tribunal may delegate to the Chair the authority to make administrative and procedural decisions.

Hearings

11. The timetable established in accordance with Rule 1 shall provide for at least one hearing for the Parties to present their cases to the arbitral tribunal.

12. The arbitral tribunal may convene additional hearings if the Parties so agree.

13. The hearings of the arbitral tribunal shall be held in closed session.

14. The hearing shall be conducted by the arbitral tribunal in a manner ensuring that the complaining Party and the Party complained against are afforded equal time to present their case. The arbitral tribunal shall conduct the hearing in the following manner: argument of the complaining Party; argument of the Party complained against; the reply of the complaining Party; and the counter-reply of the Party complained against. The Chair may set time limits for oral arguments to ensure that each Party is afforded equal time.

Questions

15. The arbitral tribunal may direct questions to either Party at any time during the proceedings. The Parties shall respond promptly and fully to any request by the arbitral tribunal for such information as the arbitral tribunal considers necessary and appropriate.

16. Where the question is in writing, each Party shall also provide a copy of its response to such questions to the other Party at the same time as it is delivered to the arbitral tribunal. Each Party shall be given the opportunity to provide written comments on the response of the other Party.

Confidentiality

17. The arbitral tribunal’s hearings and the documents submitted to it shall be confidential. Each Party shall treat as confidential information submitted to the arbitral tribunal by the other Party which that Party has designated as confidential.

18. Where a Party designates as confidential its written submissions to the arbitral tribunal, it shall, on request of the other Party, provide the arbitral tribunal and the other Party with a non-confidential summary of the information contained in its written submissions that could be disclosed to the public no later than 15 days after the date of request.

仲裁庭在其工作中。仲裁庭建立的任何此类安排可经各方同意进行修改。

10. 仲裁庭主席应主持其所有会议。仲裁庭可将作出行政和程序性决定的权力委托给主席。

听证会

11. 根据规则1建立的时间表应规定为各方向仲裁庭陈述案件提供至少一次听证会。

12. 如果各方同意，仲裁庭可以召集额外的听证会。 e.

13. 仲裁庭的听证会应秘密举行。

14. 仲裁庭应举行听证会，确保投诉方和被投诉方有相等的时间陈述其案件。仲裁庭应按以下方式举行听证会：投诉方的辩论；被投诉方的辩论；投诉方的回复；以及被投诉方的反诉。主席可以设定口头辩论的时间限制，以确保每一方都有相等的时间。

问题

15. 仲裁庭可以在程序进行中的任何时候向任何一方提出问题。各方应迅速并充分地答复仲裁庭提出的任何请求，以提供仲裁庭认为必要和适当的信息。

16. 如果问题是书面的，每一方也应在将其提交给仲裁庭的同时，向另一方提供其对该问题的答复的副本。每一方都有机会对另一方的答复提供书面意见。

保密性

17. 仲裁庭的听证会和提交给它的文件应当保密。每一方应当将另一方提交给仲裁庭并指定为机密的信息视为机密信息。

18. 当一方将其向仲裁庭提交的书面陈述指定为保密时，应另一方的要求，它应当在收到要求之日起15日内向仲裁庭和另一方提供其书面陈述中所含信息的非保密摘要，该信息可以公开披露。

19. Nothing in these Rules shall prevent a Party from disclosing statements of its own positions to the public.

Role of experts

20. On request of a Party, or on its own initiative, the arbitral tribunal may seek information and technical advice from any individual or body that it deems appropriate, provided that the Parties agree and subject to such terms and conditions as the Parties agree. The arbitral tribunal shall provide the Parties with any information so obtained for comment.

Working language

21. The working language of the arbitral tribunal proceedings, including for written submissions, oral arguments or presentations, the report of the arbitral tribunal and all written and oral communications between the Parties and with the arbitral tribunal, shall be English.

Venue

22. The venue for the hearings of the arbitral tribunal shall be decided by agreement between the Parties. If there is no agreement, the first hearing shall be held in the territory of the Party complained against, and any additional hearings shall alternate between the territories of the Parties.

Expenses

23. Unless the Parties otherwise agree, the expenses of the arbitral tribunal, including the remuneration of the arbitrators, shall be borne by the Parties in equal share.

24. The arbitral tribunal shall keep a record and render a final account of all general expenses incurred in connection with the proceedings, including those paid to its assistants, designated note takers or other individuals that it retains in accordance with Rule 9.

19. 这些规则中的任何内容均不得阻止一方将其自身立场声明公开。

专家的作用

20. 应一方请求或自行决定，仲裁庭可从其认为适当的任何个人或机构获取信息和技术建议，但需经各方同意，并遵守各方商定的条款和条件。仲裁庭应向各方提供所获取的任何信息供其评论。

工作语言

21. 仲裁庭程序的工 作语言，包括书面提交、口头辩论或陈述、仲裁庭的报告以及各方与仲裁庭之间的所有书面和口头沟通，应为英文。

地点

22. 仲裁庭的听证会地点应由各方协议决定。如无协议，第一次听证会应在被投诉方领土内举行，任何其他听证会应在各方的领土之间交替举行。

费用

23. 除非各方另有约定，仲裁庭的费用，包括仲裁员的报酬，应由各方平均分担。

24. 仲裁庭应当保存记录并就与程序相关的所有一般费用作出最终账目，包括支付给其助手、指定记录员或根据第9条保留的其他个人的费用。

Attachment to Annex 15-B
Model Rules of Procedure for the Arbitral Tribunal

Indicative Timetable for the Arbitral Tribunal

Arbitral tribunal established on xx/xx/xxxx.

1. Receipt of first written submissions of the Parties:
 - (i) complaining Party: 14 days after the date of appointment of the final arbitrator;
 - (ii) Party complained against: 30 days after (i);
2. Date of the first hearing with the Parties: 30 days after receipt of the first submission of the Party complained against;
3. Receipt of written supplementary submissions of the Parties: 20 days after the date of the first hearing;
4. Issuance of initial report to the Parties: 30 days after receipt of written supplementary submissions;
5. Deadline for the Parties to provide written comments on the initial report: 10 days after the issuance of the initial report; and
6. Issuance of final report to the Parties: within 30 days of presentation of the initial report.

附件15-B仲裁庭程序示范规则

仲裁庭时间表

仲裁庭成立于 xx/xx/xxxx。

1. 各方第一次书面提交的收到：(i) 投诉方：最终仲裁员任命之日起14日；(ii) 被投诉方：(i)之后30日；
2. 与各方第一次听证会的日期：收到被投诉方第一次提交之日起30日；
3. 各方书面补充提交的收到：第一次听证会之日起20日；
4. 向缔约方发布初步报告：在收到书面补充提交后30日；
5. 各方提供关于初步报告的书面意见的截止日期：在初步报告发布后10日；和
6. 向缔约方发布最终报告：在初步报告提交之日起30日内。

CHAPTER 16
GENERAL PROVISIONS AND EXCEPTIONS

ARTICLE 16.1: DISCLOSURE AND CONFIDENTIALITY OF INFORMATION

1. Nothing in this Agreement shall require 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 interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.
2. Unless otherwise provided in this Agreement, where a Party provides written information to the other Party in accordance with this Agreement and designates the information as confidential, the other Party shall maintain the confidentiality of the information. Such information shall be used only for the purposes specified, and shall not be otherwise disclosed without the specific permission of the Party providing the information, except where such use or disclosure is necessary to comply with legal or constitutional requirements, or for the purpose of judicial proceedings.

ARTICLE 16.2: GENERAL EXCEPTIONS

1. For the purposes of Chapters 2 (Trade in Goods), 3 (Rules of Origin and Implementation Procedures), 4 (Customs Procedures and Trade Facilitation), 5 (Sanitary and Phytosanitary Measures), 6 (Technical Barriers to Trade) and 12 (Electronic Commerce), Article XX of GATT 1994, including its interpretative notes, is incorporated into and made part of this Agreement, *mutatis mutandis*.
2. For the purposes of Chapters 8 (Trade in Services), 10 (Movement of Natural Persons) and 12 (Electronic Commerce), Article XIV of GATS, including its footnotes, is incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 16.3: SECURITY EXCEPTIONS

Article XXI of GATT 1994 and Article XIV *bis* of GATS are incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 16.4: TAXATION

1. For the purposes of this Article, the term “taxation measures” shall not include any customs or import duties.

第16章 总则和例外

第16.1条：信息披露与保密

1. 本协议任何规定均不得要求一方提供机密信息，或允许访问此类信息，若披露此类信息将妨碍执法，或否则违背公共利益，或损害特定企业（公有或私有）的合法商业利益。
2. 除非本协议另有规定，一方根据本协议向另一方提供书面信息并指定该信息为机密信息时，另一方应维持该信息的保密性。此类信息仅能用于指定目的，未经提供信息一方具体许可不得另行披露，但法律或宪法要求或司法程序需要使用或披露的除外。

第十六条第二款 一般例外

1. 为第2章（货物贸易）、第3章（原产地规则和实施程序）、第4章（海关程序和贸易便利化）、第5章（卫生和植物卫生措施）、第6章（技术性贸易壁垒）和第12章（电子商务）之目的，1994年关税及贸易总协定第XX条及其解释性注释经修改后纳入本协议并成为本协议的一部分。
2. 对于第8章（服务贸易）、第10章（自然人移动）和第12章（电子商务）的目的，服务贸易总协定第14条，包括其脚注，经修改后纳入本协议并成为本协议的一部分。

第16.3条：安全例外

1994年关税及贸易总协定第二十一条和服务贸易总协定第十四款A经修改后纳入本协议并成为本协议的一部分。

ARTICLE 16.4: TAXATION

1. 根据本条款的目的，“税收措施”不包括任何海关或进口关税。

2. Unless otherwise provided for in this Article, nothing in this Agreement shall apply to taxation measures.

3. This Agreement shall only grant rights or impose obligations with respect to taxation measures where corresponding rights or obligations are also granted or imposed under the WTO Agreement.

4. Notwithstanding paragraph 3, nothing in this Agreement shall:

- (a) oblige a Party to apply any most-favoured-nation obligation in this Agreement with respect to an advantage accorded by a Party pursuant to a tax convention;
- (b) apply to:
 - (i) a non-conforming provision of any taxation measure that is maintained by a Party on the date of entry into force of this Agreement;
 - (ii) the continuation or prompt renewal of a non-conforming provision of any such taxation measure; or
 - (iii) an amendment to a non-conforming provision of any such taxation measure to the extent that the amendment does not decrease the conformity of the tax measure, as it existed before the amendment, with the Agreement;
- (c) prevent the adoption or enforcement by a Party of any taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes; or
- (d) prevent the adoption or enforcement by a Party of 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 maintain continuous jurisdiction, regulation or supervision over such trust, fund or other arrangement.

5. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency relating to a taxation measure between this Agreement and any such tax convention, the latter shall prevail to the extent of the inconsistency. In the case of a tax convention between the Parties, any consultation about whether any inconsistency exists shall include the competent authorities of each Party under that tax convention.

2. 除非本条款另有规定，本协议中的任何内容均不适用于税收措施。

3. 本协议仅在相应的权利或义务也根据世界贸易组织协定授予或施加的情况下，才授予权利或施加与税收措施有关的义务。

4. 尽管有第3段规定，本协议中的任何内容均不得：

- (a) 强制一方根据税收协定授予的优惠，适用本协议中的任何最惠国义务；
- (b) 适用：
 - (i) 一方在 本协议生效日期 维持的任何与税收措施不符的条款；
 - (ii) 任何此类税收措施不符条款的延续或迅速重新生效；或 (iii) 对任何此类税收措施不符条款的修订，且修订程度未降低该税收措施在修订前与协议的一致性；
- (c) 阻止一方采纳或执行任何旨在确保税收公平或有效征收或征收的税收措施；或
- (d) 阻止一方采纳或执行一项条款，该条款以一方必须持续对养老金信托、超级年金基金或提供养老金、超级年金或类似福利的其他安排保持持续管辖权、监管或监督为条件，从而获得或继续获得与向养老金信托、超级年金基金或提供养老金、超级年金或类似福利的其他安排提供的贡献或收入有关的优惠。

5. 本协议的任何条款均不得影响任何一方在任何税收协定项下的权利和义务。在本协议与任何此类税收协定之间就任何税收措施存在任何不一致的情况下，后者应在不一致范围内优先适用。如缔约方之间存在税收协定，则关于是否存在任何不一致的磋商应包括该税收协定项下各方的主管当局。

ARTICLE 16.5: REVIEW OF AGREEMENT

The Parties shall undertake a general review of the Agreement, with a view to furthering its objectives, within three years of the date of entry into force of this Agreement and at least every five years thereafter unless otherwise agreed by the Parties. The review shall include, but not be limited to, consideration of deepening liberalisation and further expansion of market access.

ARTICLE 16.6: MEASURES TO SAFEGUARD THE BALANCE-OF-PAYMENTS

1. Where a Party is in serious balance-of-payments and external financial difficulties or under threat thereof, it may:

- (a) in the case of trade in goods, in accordance with GATT 1994 and the *Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement, adopt restrictive import measures;
- (b) in the case of trade in services, adopt or maintain restrictions on trade in services in respect of which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments; and
- (c) in the case of investments, adopt or maintain restrictions on payments or transfers related to covered investments as defined in Article 9.1 of Chapter 9 (Investment).

2. Restrictions adopted or maintained under subparagraphs 1(b) or (c) shall:

- (a) be consistent with the IMF Articles of Agreement;
- (b) avoid unnecessary damage to the commercial, economic and financial interests of the other Party;
- (c) not exceed those necessary to deal with the circumstances described in paragraph 1;
- (d) be temporary and be phased out progressively as the situation specified in paragraph 1 improves; and
- (e) be applied on a non-discriminatory basis such that the other Party is treated no less favourably than any non-party.

3. In determining the incidence of such restrictions, a Party may give priority to economic sectors which are more essential to its economic development. However, such

第十六条第五款：协议审查

缔约方应在本协议生效之日起三年内，并在此后至少每五年对协议进行一次一般性审查，以促进其目标的实现，除非缔约方另有约定。审查应包括但不限于考虑深化自由化和进一步扩大市场准入。

第十六条第六款：维护国际收支平衡措施

1. 当一方处于严重的国际收支和外部金融困难或面临其威胁时，它可以：

(a) 在货物贸易的情况下，根据1994年关税及贸易总协定（GATT 1994）以及世界贸易协定附件1A中关于关税及贸易总协定1994年国际收支条款的理解，采取限制性进口措施；(b) 在服务贸易的情况下，采取或维持其已作出具体承诺的服务贸易限制，包括与该等承诺相关的支付或转让；以及(c) 在投资的情况下，采取或维持与附件9第1章（投资）第9条第1款中定义的受保护投资相关的支付或转让限制。

2. 根据第1款(b)或(c)项采取或维持的限制应：

(a) 与国际货币基金组织协定条款一致；(b) 避免对另一方的商业、经济和金融利益造成不必要的损害；(c) 不得超过处理第1段所述情况所必需的程度；(d) 具有临时性，并随着第1段所述情况改善而逐步取消；以及(e) 在非歧视性基础上实施，确保另一方受到的待遇不低于任何非缔约方。

3. 在确定此类限制的影响时，一方可以优先考虑对其经济发展更为重要的经济部门。然而，此类

restrictions shall not be adopted or maintained for the purpose of protecting a particular sector.

4. Any restrictions adopted or maintained by a Party under paragraph 1, or any changes therein, shall be notified promptly to the other Party.

5. The Party adopting or maintaining any restrictions under paragraph 1 shall commence consultations with the other Party in order to review the restrictions applied by it.

ARTICLE 16.7: COMPETITION COOPERATION

1. The Parties recognise the importance of cooperation and coordination to further the promotion of competition, economic efficiency, consumer welfare and the curtailment of anticompetitive practices.

2. The competition authorities of the Parties shall cooperate and coordinate, as appropriate, in enforcing competition laws and policies subject to each Party's confidentiality requirements, including through:

- (a) the exchange of information;
- (b) notification;
- (c) coordination of cross-border enforcement matters and the exchange of views in cases which are subject to the common review of both Parties; and
- (d) technical cooperation.

3. The cooperation referred to in paragraph 2 may be promoted through new or existing mechanisms for cooperation between the competition authorities of the Parties.

4. Without prejudice to the independence of the Parties' competition authorities, the Parties agree to cooperate under this Article in accordance with their respective laws, regulations and procedures, and within their reasonably available resources.

ARTICLE 16.8: GOVERNMENT PROCUREMENT

The Parties shall commence negotiations on government procurement as soon as possible after the completion of negotiations on the accession of China to the *Agreement on Government Procurement*, contained in Annex 4 to the WTO Agreement, with a view to concluding, on a reciprocal basis, commitments on government procurement between the Parties.

限制不得以保护特定部门为目的而采取或维持。

4. 一方根据第1段采纳或维持的任何限制，或其任何变更，应立即通知另一方。

5. 采纳或维持第1段所述任何限制的一方应与另一方开始磋商，以审查其适用的限制。

条款 16.7：竞争合作

1. 各方承认合作与协调对于进一步促进竞争、经济效率、消费者福利以及抑制反竞争行为的重要性。

2. 各方的竞争主管机关应根据每一方的保密要求，适当合作与协调，以执行竞争法律和政策，包括通过以下方式：

- (a) 信息的交换；(b) 通知；(c) 跨境执法事项的协调以及在双方共同审查的事项上进行意见交流；以及 (d) 技术合作。

3. 第2段所述的合作可以通过各方的竞争主管机关之间新的或现有的合作机制来促进。

4. 在不妨碍各方法竞争主管机关独立性的情况下，各方同意根据其各自的法律、法规和程序，并在其合理可用的资源范围内，根据本条款进行合作。

ARTICLE 16.8：政府采购GOVERNMENT PROCUREMENT

各方应在完成世界贸易组织协定附件4中包含的关于中国加入政府采购协定谈判后尽快就政府采购开始谈判，以在互惠基础上就政府采购问题达成承诺。

CHAPTER 17
FINAL PROVISIONS

ARTICLE 17.1: ANNEXES

The Annexes to this Agreement constitute an integral part of this Agreement.

ARTICLE 17.2: ENTRY INTO FORCE

This Agreement shall enter into force 30 days after the date on which the Parties exchange through diplomatic channels written notifications certifying that they have completed their respective necessary internal requirements, or on such other date as the Parties may agree.

ARTICLE 17.3: AMENDMENTS

1. The Parties may agree in writing to amend this Agreement. Any amendment shall enter into force in accordance with the procedures required for entry into force of this Agreement.
2. If any provision of the WTO Agreement or any other agreement to which both Parties are party that has been incorporated into this Agreement is amended, the Parties shall consult on whether to amend this Agreement, unless this Agreement provides otherwise.

ARTICLE 17.4: TERMINATION

1. This Agreement shall remain in force unless either Party notifies the other Party in writing to terminate this Agreement. Such termination shall take effect 180 days following the date of receipt of the notification.
2. Within 30 days of a notification under paragraph 1, either Party may request consultations regarding whether the termination of any provision of this Agreement should take effect on a later date than provided under paragraph 1. Such consultations shall commence within 30 days of a Party's delivery of such request.

ARTICLE 17.5: AUTHENTIC TEXTS

This Agreement is done in duplicate in the Chinese and English languages. Both texts of this Agreement shall be equally authentic.

第十七章 最终条款

第十七条第1条：附件

本协议的附件构成本协议的组成部分。

第十七条第2条：生效

本协议应自各缔约方通过外交渠道交换书面通知之日的30日后生效，该书面通知证明它们已完成了各自必要的内部要求，或自各缔约方同意的其他日期生效。

第十七条第3条：修正案

1. 各方可以书面形式同意修改本协议。任何修正案应根据本协议生效所需程序生效。
2. 如果世界贸易组织协定或任何一方均为缔约方的其他已纳入本协议的协议的任何条款被修改，除非本协议另有规定，各方应就修改本协议进行磋商。

第17.4条：终止

1. 本协议应继续有效，除非任何一方以书面形式通知另一方终止本协议。此类终止应自收到通知之日起180天后生效。
2. 在第1段的规定通知发出后的30天内，任何一方均可请求磋商，商定本协议任何条款的终止是否应晚于第1段规定的日期生效。此类磋商应在缔约方交付此类请求后的30天内开始。

ARTICLE 17.5: AUTHENTIC TEXTS

本协议以中文和英文两种文字写成。本协议的两种文本具有同等效力。

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE at Canberra on this 17th day of June in the year 2015 in the English and Chinese languages.

FOR THE GOVERNMENT OF
AUSTRALIA:

FOR THE GOVERNMENT OF
THE PEOPLE’S REPUBLIC OF CHINA:

作证，签署人经各自政府正式授权，已签署本协议。

于2015年6月17日在堪培拉以英文和中文完成。

澳大利亚政府
澳大利亚：

澳大利亚政府
中华人民共和国：