

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 一体自由贸易区的建立

各缔约方，根据GATT 1994第XXIV条和GATS第V条的规定，在此建立自由贸易区。

第二条 与其他协定的关系

1. 各缔约方确认，在双方均为缔约方的多边协定和双边协定项下，彼此之间现有的权利和义务，包括世界贸易组织协定。
2. 本协定任何规定均不得损害缔约方根据WTO协定或任何其他双方均为缔约方的多边或双边协定所享有的现有权利和义务。
3. 如本协定与任何其他双方均为缔约方的多边或双边协定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3款：一般定义

就本协定而言，除非另有规定：

- (a) 关税是指与商品进口相关的任何关税、进口关税和任何形式的费用，包括任何附加税或附加费，但不包括任何：
 - (i) 与 GATT 1994 第 III 条第 2 款规定一致的内税相当的收费，适用于同类商品或该方直接竞争或可替代的商品，或适用于进口商品已全部或部分制造或生产的商品；
 - (ii) 依照某方法律并根据 GATT 1994 第 VI 条、反倾销协定以及补贴和反补贴措施协定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他收费；

- (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) 天数是指日历日； (c) 现有是指在本协定生效之日有效的； (d) GATS 是指包含在 WTO 协定附件 1B 中的《服务贸易总协定》； (e) GATT 1994 是指包含在 WTO 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、要求或惯例； (g) 国民是指： (i) 对于澳大利亚，是澳大利亚公民，或具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) 个人是指自然人或法人； (i) 领土是指： (i) 对于澳大利亚，澳大利亚的领土： (A) 排除除诺福克岛、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；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和中国国内法在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 指世界贸易组织；和 (k) WTO 协定指马拉喀什建立世界贸易组织协定，于1994年4月15日在马拉喀什签署。