

Article 17

Safeguard measures during the transition period

1. Safeguard measures referred to in this Article may be introduced in respect of goods traded in the Area which originate in the territory of a Member State:

- (a) as a last resort when no other solution can be found; and
- (b) only during the transition period being the period in which for such goods any of the following measures imposed other than under this Article remain in force in either Member State:
 - (i) tariffs within the meaning of Article 4 of this Agreement;
 - (ii) quantitative import restrictions or tariff quotas within the meaning of Article 5 of this Agreement;
 - (iii) the performance-based export incentives listed in Annex D of this Agreement; or
 - (iv) measures for stabilisation or support which hinder the development of trading opportunities between the Member States on an equitable basis.

2. A Member State may in writing request consultations with the other Member State if, in its opinion, following the entry into force of this Agreement goods originating in the territory of the other Member State:

- (a) are being imported in such increased quantities and under such conditions as to cause, or to pose an imminent and demonstrable threat to cause, severe material injury to a domestic industry producing like goods; and
- (b) such increased imports are occurring as a result of:
 - (i) government measures taken to liberalise tariffs pursuant to Article 4 of this Agreement or quantitative import restrictions or tariff quotas pursuant to Article 5 of this Agreement; or
 - (ii) other government measures affecting trade in the Area such as encouragement to export by reason of measures for stabilisation or support in the territory of the exporting Member State or differences in measures for stabilisation or support between the Member States.

3. Should either Member State request consultations under paragraph 2 of this Article, the Member States shall consult immediately to seek a mutually acceptable solution which would avoid the application of safeguard measures under this Article. If the Member States do not promptly reach a solution, the Member State into whose territory the goods are being imported shall refer the matter to an industry advisory body for investigation, report and recommendation for appropriate action, consistent with paragraphs 4 and 6 of this Article.

4. The Member States shall consult at the written request of the Member State into whose territory the goods are being imported if its industry advisory body has:

- (a) provided an opportunity for evidence to be presented to it from the other Member State; and
- (b) reported that severe material injury has been caused on an industry-wide basis or that there exists an imminent and demonstrable threat thereof occasioned by increased quantities of goods imported from the territory of the other Member State under the operation of this Agreement in one or more of the circumstances listed in paragraph 2(b) of this Article.

条款 17

过渡期内的保护措施

1. 本条款所指的保护措施可针对在地区内贸易且来自某成员国领土的商品实施：(a) 仅在无法找到其他解决方案时作为最后手段；以及 (b) 仅在过渡期内实施，过渡期是指对于此类商品，任何

在本条款之外实施的以下措施仍将在任一成员国有效：(i) 本协定第 4 条定义的关税；(ii) 本协定第 5 条定义的数量性进口限制或关税配额；(iii) 本协定附件 D 中列出的基于绩效的出口激励措施；或 (iv) 阻碍成员国之间公平发展贸易机会的稳定或支持措施。

2. 如果某成员国认为，在本协定生效后来自另一成员国领土的商品：

(a) 正在以如此增加的数量和条件进口，以致造成或构成迫在眉睫且可证明的威胁，对生产同类商品的国内产业造成严重物质损害；和

(b) 这样增加的进口是由于：

- (i) 根据本协定第4条采取的放宽关税的政府措施或根据本协定第5条采取的数量性进口限制或关税配额；或

(ii) 影响该地区贸易的其他政府措施，例如，由于出口成员国的领土内采取稳定或支持措施而鼓励出口，或成员国之间稳定或支持措施的差异。

3. 如果任何成员国根据本条第2款请求磋商，成员国应立即磋商，以寻求双方可接受的解决方案，该方案将避免根据本条应用保护措施。如果成员国未能迅速达成解决方案，则正在进口商品的成员国应将此事提交行业咨询机构进行调查、报告并提出适当行动的建议，该建议应与本条第4款和第6款一致。

4. 成员国应当应商品正在被进口的成员国的书面请求进行磋商，如果其行业咨询机构有：

(a) 为来自其他成员国的证据提交提供了机会；和

(b) 报告称，在本协定之运作下，从另一成员国领土进口的商品数量增加，导致在全行业范围内造成了严重物质损害，或在本文第2(b)款中列出的某种或多种情况下存在迫在眉睫且可证明的威胁。

5. The Member State which requested the consultations referred to in paragraph 4 of this Article may apply such safeguard measures as it considers most appropriate if:
(a) there has been opportunity for consultation pursuant to paragraph 4 of this Article; and
(b) the Member States did not reach a mutually satisfactory solution after 90 days from the date of request for the consultations referred to in paragraph 3 of this Article.

6. Wherever possible, safeguard measures shall be sought that do not restrict trade. However, notwithstanding Articles 4, 5 and 8 of this Agreement, safeguard measures that restrict trade may be applied provided that:
(a) they shall be the minimum necessary to allow the fullest possible opportunity for trade to continue consistent with amelioration of the problem; and
(b) if involving quantitative import restrictions or tariff quotas they shall be applied only in the most extreme circumstances and where other safeguard measures would provide insufficient amelioration of the problem and shall not be regarded as a means of extending the date for the elimination of quantitative import restrictions or tariff quotas pursuant to paragraph 14 of Article 5 of this Agreement.

7. Where safeguard measures involving the imposition, increase, intensification or retardation of the removal of tariffs within the meaning of Article 4 of this Agreement or quantitative import restrictions or tariff quotas within the meaning of Article 5 of this Agreement are applied in respect of the circumstances described in paragraph 2(b)(i) of this Article, the Member State applying those measures shall:
(a) apply those measures for a period specified at the time of applying those measures which period shall not exceed two years;
(b) at the conclusion of the specified period in respect of the safeguard measures that have been applied, set the same level of tariff and intensity of quantitative import restrictions or tariff quotas as existed on the goods on the day immediately before the day on which the safeguard measures were applied; and
(c) thereafter resume the liberalisation of trade pursuant to paragraph 4 of Article 4 or paragraphs 3 to 7 of Article 5 of this Agreement as appropriate and wherever practicable shall accelerate such liberalisation.

8. Where a Member State has applied safeguard measures in respect of the circumstances described in paragraph 2(b)(i) of this Article, the other Member State may apply measures having equivalent effect in respect of the same industry to achieve conditions of fair competition. Such measures shall be of no longer duration than the safeguard measures themselves.

9. Where safeguard measures are applied in respect of the circumstances described in paragraph 2(b)(ii) of this Article the Member State applying those measures shall:
(a) apply those measures only for so long as the conditions which led to the severe material injury or demonstrable threat thereof persist; and
(b) while those measures apply review annually with the other Member State the need for the continuation of such measures.

5. 请求本文第4款所述磋商的成员国，如果：(a) 已根据本文第4款获得磋商的机会；则可采取其认为最适当的保护措施；

(b) 成员国在收到本条第三段所述磋商请求之日起90天内未能达成相互满意的解决方案。

6. 尽可能地，应寻求不限制贸易的保护措施。然而，尽管本协定第4条、第5条和第8条的规定，如需采取限制贸易的保护措施，则必须满足以下条件：

(a) 这些措施应是允许贸易在符合问题改善的前提下继续进行的最低必要措施；以及 (b) 如涉及数量性进口限制或关税配额，则仅在极端情况下且其他保护措施不足以改善问题时方可适用，并且不得被视为延长本协定第5条第14段所述消除数量性进口限制或关税配额期限的手段。

7. 如对本条第二段(b)(i)所述情况适用本协定第4条所述关税的征收、提高、加强或延缓取消，或本协定第5条所述数量性进口限制或关税配额，则采取这些措施的成员国有：

(a) 适用这些措施，其期限不得超过自适用这些措施之日起两年；

(b) 在已适用的保护措施指定的期限届满时，将关税和数量性进口限制或关税配额的相同水平或强度设定为保护措施适用日前立即对商品适用的水平；和

(c) 此后根据第4条或本协定第5条第3至7款的规定恢复贸易自由化，并应尽可能加速此类自由化。

8. 如果一个成员国已根据本协定第2条(b)(i)款所述情况适用保护措施，则另一成员国可针对同一行业采取具有同等效果的措施，以实现公平竞争条件。此类措施的有效期限不得超过保护措施本身。

9. 当根据本条第2(b)(ii)款所述情况采取保护措施时，实施该措施的成员国应当：(a) 仅在导致严重物质损害或明显威胁的条件持续存在期间采取这些措施；以及 (b) 在这些措施适用期间，每年与其他成员国审查继续采取此类措施的必要性。

10. Measures applied by a Member State pursuant to this Article to goods originating in the territory of the other Member State shall be no more restrictive than measures of the same nature that apply to imports of the same goods from third countries in the usual and ordinary course of trade.

11. In the event of severe material injury or demonstrable threat thereof arising from the operation of this Agreement in respect of any goods and occurring after the transition period applicable to those goods, the Member States shall, pursuant to paragraph 2 of Article 22 of this Agreement, consult promptly upon the written request of either to determine jointly whether remedial action is appropriate.

Article 18
Exceptions

Provided that such measures are not used as a means of arbitrary or unjustified discrimination or as a disguised restriction on trade in the Area, nothing in this Agreement shall preclude the adoption by either Member State of measures necessary:

- (a) to protect its essential security interests;
- (b) to protect public morals and to prevent disorder or crime;
- (c) to protect human, animal or plant life or health, including the protection of indigenous or endangered animal or plant life;
- (d) to protect intellectual or industrial property rights or to prevent unfair, deceptive, or misleading practices;
- (e) to protect national treasures of artistic, historical, anthropological, archaeological, palaeontological or geological value;
- (f) to prevent or relieve critical shortages of foodstuffs or other essential goods;
- (g) to conserve limited natural resources;
- (h) in pursuance of obligations under international commodity agreements;
- (i) to secure compliance with laws and regulations relating to customs enforcement, to tax avoidance or evasion and to foreign exchange control;
- (j) to regulate the importation or exportation of gold or silver;
- (k) for the application of standards or of regulations for the classification, grading or marketing of goods; or
- (l) in connection with the products of prison labour.

Article 19
Termination of earlier Agreements

In so far as they were in force on the day immediately before the day on which this Agreement enters into force, the following Agreements shall terminate on the day of entry into force of this Agreement:

- (a) Trade Agreement between the Commonwealth of Australia and the Dominion of New Zealand, dated 5 September 1933 as amended;ii2
- (b) Exchange of Notes at Canberra on 30 September 1952 constituting an Agreement between the Government of New Zealand and the Government of Australia amending Article X of the Trade Agreement between the Dominion of New Zealand and the Commonwealth of Australia, dated 5 September 1933;

10. 根据本条由成员国对来自其他成员国领土的商品采取的措施，不得比在通常和正常的贸易过程中对来自第三国的同类商品进口适用的同类性质措施更为限制。

11. 在本协定适用于任何商品的情况下，若因本协定之运作而对该商品造成严重物质损害或出现明显威胁，且该威胁发生于适用于该商品之过渡期之后，成员国应根据本协定第22条第2款的规定，应任何一方之书面请求迅速磋商，共同确定是否采取补救措施。

第18条 免
责条款

但若此类措施未用作任意或不正当歧视的手段或伪装的贸易限制手段，本协定任何规定均不得妨碍任何成员国采取必要措施：

(a) 保护其基本安全利益；(b) 保护公共道德，防止混乱或犯罪；(c) 保护人类、动物或植物的生命或健康，包括保护土著或濒危动物或植物生命；(d) 保护知识产权或工业产权，或防止不公平、欺骗性或

误导性行为；(e) 保护具有艺术、历史、人类学、考古学、古生物学或地质学价值的国家珍宝；(f) 防止或缓解食品或其他必需品的严重短缺；(g) 保护有限的自然资源；(h) 履行国际商品协定的义务；(i) 确保遵守与海关执法、逃税和外汇管制有关的法律和法规；(j) 规范黄金或白银的进口或出口；(k) 应用标准或商品分类、分级或营销的法规；或(l) 与囚犯劳动产品有关。

Article 19
早期协定的终止

在本文协定生效的前一天仍然有效的以下协定，应于本文协定生效之日终止：

(a) 澳大利亚联邦与新西兰自治领之间的贸易协定，日期为1933年9月5日，并经修订；ii2

(b) 1952年9月30日在堪培拉进行的换文，构成新西兰政府与澳大利亚政府之间的协定，修订新西兰自治领与澳大利亚联邦之间1933年9月5日签订的贸易协定的第X条；