

**AUSTRALIA-THAILAND  
FREE TRADE AGREEMENT**

**澳大利亚-泰国自由贸易协  
定**

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# AUSTRALIA-THAILAND FREE TRADE AGREEMENT

## PREAMBLE

Australia and the Kingdom of Thailand, hereinafter in this Agreement referred to as the “Parties”;

*Inspired* by the traditional links of friendship and the cordial relations which exist between them, and their shared regional interests and ties;

*Aware* of the increasing importance of trade and investment for the future prosperity of the economies of the Asia-Pacific region;

*Conscious* that open, transparent and competitive markets are the key drivers of economic efficiency, innovation, wealth creation and consumer welfare;

*Recognising* the importance of promoting the flow of capital for economic activity and development and aware of its role in expanding economic relations between them, particularly with respect to investment by investors of one Party in the territory of the other Party;

*Reaffirming* their willingness to strengthen and reinforce the multilateral trading system as reflected in the World Trade Organization (WTO);

*Mindful* of their commitment to the Asia-Pacific Economic Cooperation (APEC) goals of free and open trade and investment;

*Recalling* the contribution made to the development of their bilateral trade relationship of the *Trade Agreement between the Government of Australia and the Government of the Kingdom of Thailand*, done at Bangkok on 5 October 1979 and the *Agreement on Economic Cooperation between the Government of Australia and the Government of the Kingdom of Thailand*, done at Bangkok 6 August 1990;

*Further recalling* the *Agreement on Development Cooperation between the Government of Australia and the Government of the Kingdom of Thailand*, done at Bangkok on 2 February 1989; and

# 澳大利亚-泰国 自由贸易协定

## 序言

澳大利亚和泰国， 本协议中以下简称“缔约方”；

受于传统友谊纽带及双方之间友好关系的启发， 并基于其共同的区域利益和联系；

意识到贸易和投资对亚太地区经济体未来繁荣日益重要；

认识到开放、透明和竞争的市场是经济效率、创新、财富创造和消费者福利的关键驱动力；

认识到促进资本流动对经济活动和发展的重要性， 并意识到其在扩大双方经济关系中的作用， 特别是关于一方投资者在他方领土上的投资；

重申他们加强和巩固多边贸易体系的意愿， 该体系反映在世界贸易组织（WTO）中；

铭记他们对亚太经济合作组织（APEC）自由和开放贸易与投资目标的承诺；

回顾对澳大利亚政府和泰国政府之间贸易协定对发展双边贸易关系的贡献， 于1979年10月5日在曼谷签署的以及澳大利亚政府和泰国政府之间经济合作协定， 于曼谷 1990年8月6日签署的；

进一步回顾该澳大利亚政府与泰国政府间发展合作协定， 于1989年2月2日在曼谷签署； 和

*Desiring* to strengthen the cooperative framework for the conduct of economic relations to ensure it is dynamic and encourages broader and deeper economic cooperation;

Have agreed as follows:

希望加强经济关系合作框架，以确保其充满活力并鼓励更广泛、更深入的经济合作；

已同意如下：

# CHAPTER 1

## OBJECTIVES AND DEFINITIONS

### ARTICLE 101

#### Establishment of the Free Trade Area

The Parties hereby establish a free trade area consistent with Article XXIV of the *General Agreement on Tariffs and Trade 1994* (GATT 1994) and Article V of the *General Agreement on Trade in Services* (GATS).

### ARTICLE 102

#### Objectives

The objectives of the Parties in concluding this Agreement are:

- (a) to liberalise trade in goods and services and to create favourable conditions for the stimulation of trade and investment flows;
- (b) to build upon their commitments under the World Trade Organization and to support its efforts to create a predictable and more free and open global trading system;
- (c) to establish a program of cooperative activities in support of the aims of the Agreement;
- (d) to improve the efficiency and competitiveness of their economies; and
- (e) to support the wider liberalisation and facilitation process in APEC and in particular the efforts of all APEC economies to meet the Bogor goals of free and open trade and investment by 2010 at the latest for industrialised economies and 2020 at the latest for developing economies.

# 第一章

## 目标和定义

### ARTICLE 101

#### 自由贸易区的建立

双方兹根据<code>GATT 1994</code>（1994年关税及贸易总协定）第24条和<code>GATS</code>（服务贸易总协定）第5条，建立自由贸易区。

### ARTICLE 102

#### 目标

双方缔结本协议的目标是：

- (a) 促进货物和服务贸易自由化，并为促进贸易和投资流动创造有利条件；
- (b) 继续推进世界贸易组织项下的承诺，并支持其努力建立可预测的、更加自由和开放的国际贸易体系；
- (c) 建立一项合作活动计划，以支持协定目标的实现；
- (d) 提高其经济效率和国际竞争力；以及
- (e) 支持亚太经合组织范围内更广泛的贸易自由化和便利化进程，特别是支持所有亚太经合组织经济体努力在工业国最迟于2010年、发展中国家最迟于2020年实现自由和开放贸易与投资的目标，即博鳌目标。

**General Definitions**

Unless otherwise defined, for the purposes of this Agreement:

- (a) “Agreement” means the Australia-Thailand Free Trade Agreement;
- (b) “APEC” means Asia-Pacific Economic Cooperation;
- (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) “customs administration” means the competent authority that is responsible under the laws of a Party for the administration of customs laws, regulations and policies;
- (e) “customs duties” includes any customs or import duty and a charge of any kind imposed in connection with the import of a good, including any form of surtax or surcharge in connection with such import, but does not include any:
  - (i) charge equivalent to an internal tax imposed consistently with Article III (2) of GATT 1994;
  - (ii) any anti-dumping or countervailing duty applied consistently with the provisions of GATT 1994, the *WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*, and the *WTO Agreement on Subsidies and Countervailing Measures*; and
  - (iii) fee or other charge in connection with importing commensurate with the cost of services rendered;
- (f) “days” means calendar days;
- (g) “FTA Joint Commission” means the Free Trade Agreement Joint Commission established under Article 1701 of this Agreement;
- (h) “GATS” means the *General Agreement on Trade in Services*, which is part of the WTO Agreement;
- (i) “GATT 1994” means the *General Agreement on Tariffs and Trade 1994*, which is part of the WTO Agreement;
- (j) “government procurement” means the process by which a government obtains the use of or acquires goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale, or use in the production or supply of goods or services for commercial sale or resale;

**一般定义**

除非另有定义，根据本协议的目的：

- (a) “协定”是指澳大利亚-泰国自由贸易协定；
- (b) “APEC”是指亚太经合组织；
- (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、获得或维持法人；或
  - (ii) 在一方领土内设立或维持分支机构或代表处，以向一方领土内的服务提供方提供服务；
- (d) “海关当局”是指根据一方法律负责管理海关法律、法规 and 政策的机构；
- (e) “关税 包括与进口货物相关的任何海关或进口税以及任何种类的费用，包括与该进口相关的任何形式的附加税或附加费，但不包括：
  - (i) 与1994年关税及贸易总协定第III条(2)款一致的内税等值的费用；
  - (ii) 与1994年关税及贸易总协定、1994年关税及贸易总协定第六条实施协定以及补贴和反补贴措施协定一致地适用的任何反倾销或反补贴税；以及
  - (iii) 与提供的服务成本相称的进口相关费用；
- (f) “日 是指日历日；
- (g) “自由贸易协定 联合委员会 是指根据本协定第1701条建立的自由贸易协定 联合委员会；
- (h) “GATS 是指<样式id='17'>服务贸易总协定</样式>，它是世界贸易组织协定的组成部分；
- (i) “GATT 1994 是指<样式id='21'>1994年关税及贸易总协定</样式>，它是世界贸易组织协定的组成部分；
- (j) “政府采购”是指政府为政府目的获取或使用货物或服务的过程，或任何组合 thereof，而不是为了商业销售或转售，或用于商业销售或转售的货物或服务的生产或供应；

- (k) “Harmonised System” means the *Harmonised Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes and Chapter Notes, as adopted by the Parties in their respective tariff laws;
- (l) “investment” means every kind of asset, owned or controlled, directly or indirectly, by an investor, including but not limited to the following:
- (i) movable and immovable property, including rights such as mortgages, liens and other pledges;
  - (ii) shares, stocks, bonds and debentures and any other form of participation in a juridical person;
  - (iii) a claim to money or a claim to performance having economic value;
  - (iv) intellectual property rights, including rights with respect to copyright, patents, trademarks, trade names, industrial designs, trade secrets, know-how and goodwill;
  - (v) business concessions and any other rights required to conduct economic activity and having economic value conferred by law or under a contract, including concession to search for, cultivate, extract or exploit natural resources; and
  - (vi) returns that are invested.

For the purposes of this Agreement, any alteration of the form in which assets are invested or reinvested shall not affect their character as investments, provided that such altered investment is approved by the relevant Party if so required by its laws, regulations or policies;

- (m) “investor of a Party” means:
- (i) a juridical person of a Party; or
  - (ii) a natural person who is a national or a permanent resident of a Party, that has made, is in the process of making, or is seeking to make an investment in the territory of the other Party;
- (n) “juridical person” 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, association, trust, partnership, joint venture or sole proprietorship;
- (o) a juridical person is:
- (i) “owned” by persons of a Party if more than 50 percent of the equity interest in it is beneficially owned by persons of that Party;
  - (ii) “controlled” by persons of a Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;
- (p) “juridical person of a Party” means a juridical person duly constituted or otherwise organised under the applicable law of the Party;

(k) “协调制度”是指<样式id='1'>协调商品描述和编码制度</样式>, 包括其解释通则、章节注释和章节注释, 以及由双方在其各自关税法律中通过的;

(l) “投资”是指投资者直接或间接拥有或控制的每一种资产, 包括但不限于以下内容:

(i) 动产和不动产, 包括抵押权、质权和其他担保物权等权利; (ii) 股份、股票、债券和债券以及参与法人的任何其他形式; (iii) 对金钱的债权或具有经济价值的行为请求权; (iv) 知识产权, 包括版权、专利、商标、商号、工业设计、商业秘密、专有技术和商誉等权利; (v) 经营许可和任何其他依法或依合同授予、具有经济价值且用于开展经济活动的权利, 包括勘探、开发、开采或利用自然资源的许可; 以及

(vi) 投资的收益。

就本协议而言, 除非其法律、法规或政策要求相关方批准, 否则对已投资或再投资资产的形式进行的任何变更, 均不影响其作为投资的性质;

(m) “一方投资者”是指:

(i) 一方法人; 或

(ii) 一方自然人, 其为该方国民或永久居民, 该方已进行、正在进行或寻求在他方领土进行投资;

(n) “法人”是指根据适用法律依法成立或其他组织形式的法律实体, 无论是否以营利为目的, 无论是否为私有或国有, 包括任何公司、协会、信托、合伙企业、合资企业或独资企业;

(o) 法人是:

(i) “由一方人员实际拥有”如果其超过50%的股权由该方人员实际拥有; (ii) “由一方人员控制”如果该方人员有权任命其多数董事或以其他方式合法指示其行动;

(p) “一方法人”是指根据一方适用法律依法成立或以其他组织形式设立的法人;

- (q) “measure” includes any law, regulation, governmental procedure or requirement;
- (r) “non-originating material” means a material that does not qualify as originating in accordance with the relevant provisions of Chapter 4;
- (s) “originating goods” means goods that qualify as originating in accordance with the relevant provisions of Chapter 4;
- (t) “Parties” means Australia and the Kingdom of Thailand;
- (u) “person” means a natural person or a juridical person;
- (v) “preferential tariff treatment” means the customs duty rate that is applicable to an originating good pursuant to Article 203 (3) of Chapter 2;
- (w) “service supplier” means any person that supplies a service;<sup>1</sup>
- (x) “services” includes any services in any sector or sub-sector except services supplied in the exercise of government authority;
- (y) “SPS Agreement” means the *Agreement on the Application of Sanitary and Phytosanitary Measures*, which is part of the WTO Agreement;
- (z) “TBT Agreement” means the *Agreement on Technical Barriers to Trade*, which is part of the WTO Agreement;
- (aa) “territory” means the territory of a Party as well as the exclusive economic zone, seabed and subsoil over which the Party exercises sovereign rights or jurisdiction in accordance with international law;
- (bb) “WTO” means the World Trade Organization;
- (cc) “WTO Agreement” means the *Marrakesh Agreement Establishing the World Trade Organization*, done on 15 April 1994;
- (dd) “WTO Agreement on Textiles and Clothing” means the *Agreement on Textiles and Clothing*, which is part of the WTO Agreement;
- (ee) “WTO Customs Valuation Agreement” means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, which is part of the WTO Agreement; and
- (ff) “WTO Safeguards Agreement” means the *Agreement on Safeguards*, which is part of the WTO Agreement.

(q) “措施”包括任何法律、法规、政府程序或要求;(r) “非原产材料”是指根据第4章的相关条款不符合原产资格的材料； (s) “原产货物”是指根据第4章的相关条款符合原产资格的货物； (t) “缔约方”是指澳大利亚和泰国； (u) “个人”是指自然人或法人； (v) “优惠关税待遇”是指适用

根据第2章第203条第3款向原产地商品适用；(w)“服务供应商”是指提供任何服务的人；<sup>1</sup>(x)“服务”包括任何部门或子部门中的任何服务，不包括在行使政府权力时提供的服务；(y)“SPS协定”是指作为世界贸易组织协定一部分的《卫生和植物卫生措施应用协定》；(z)“TBT协定”是指作为世界贸易组织协定一部分的《贸易技术壁垒协定》；(aa)“领土”是指一方的领土以及根据国际法一方行使主权权利或管辖权的专属经济区、海底和底土；(bb)“WTO”是指世界贸易组织；(cc)“WTO协定”是指马拉喀什建立世界贸易组织的协定

贸易组织，1994年4月15日完成；(dd)“WTO纺织品与服装协定”是指作为世界贸易组织协定一部分的《纺织品与服装协定》；(ee)“WTO海关估价协定”是指作为世界贸易组织协定一部分的《1994年关税及贸易总协定第7条的实施协定》；以及(ff)“WTO保障措施协定”是指《保障措施协定》，

世界贸易组织协定的一部分。

<sup>1</sup> 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 presence be accorded the treatment provided for service suppliers under the Agreement. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory where the service is supplied.

<sup>1</sup> 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）仍应通过这种存在形式获得协定规定的对服务供应商的待遇。这种待遇应扩展到服务提供的存在形式，并且不必扩展到供应商位于服务提供领土以外的任何其他部分。

**Territorial Application**

The free trade area to which this Agreement applies consists of Australia and the Kingdom of Thailand.

**地域适用**

本协议适用的自由贸易区包括澳大利亚和泰国。

## CHAPTER 2

### TRADE IN GOODS

#### ARTICLE 201

##### Scope

Except as otherwise provided, this Chapter applies to trade in goods of a Party.

#### ARTICLE 202

##### National Treatment

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994.

#### ARTICLE 203

##### Elimination of Customs Duties

1. The provisions of this Chapter concerning the elimination of customs duties on imports shall apply to goods originating in the territory of the Parties.
2. A Party shall not increase an existing customs duty or introduce a new customs duty on imports of an originating good.
3. Except as otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on originating goods of the other Party in accordance with its Tariff Schedule at Annex 2. The base rate and the interim rate of customs duty at each stage of reduction for an item are indicated for the item in each Party's Schedule. Reductions shall occur upon entry into force of the Agreement and thereafter on 1 January of each year, as provided for in each Party's Schedule.

## CHAPTER 2

### 货物贸易

#### ARTICLE 201

##### 范围

除另有规定外，本章适用于一方货物贸易。

#### ARTICLE 202

##### 国民待遇

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。

#### ARTICLE 203

##### 关税消除

1. 本章关于消除进口关税的规定适用于原产于各方领土的货物。
2. 一方不得增加现有进口货物的关税或对原产地商品征收新的关税。
3. 除本协议另有规定外，每一方应根据附件2中的关税税则，逐步取消其对另一方原产货物的关税。每一项商品在各阶段减让的关税基础税率和过渡税率，均在其每一方的议程中注明。减让应在协议生效时发生，并在每年的1月1日之后，按照每一方的议程规定进行。

4. Each Party may adopt or maintain import measures to allocate in-quota imports made pursuant to a tariff quota set out in its Schedule, provided that such measures do not have trade restrictive effects on imports additional to those caused by the imposition of the tariff quota.
5. On the written request of the other Party, a Party applying or intending to apply measures pursuant to Paragraph 4 shall consult to consider a review of the administration of those measures.

ARTICLE 204

**Accelerated Tariff Elimination**

1. Each Party declares its readiness to eliminate its customs duties more rapidly than is provided for in Article 203 or otherwise improve the conditions of access of originating goods if its general economic situation, and the economic situation of the economic sector concerned, so permit.
2. On the request of a Party, the Parties shall consult to consider accelerating the elimination of customs duties on originating goods as set out in Annex 2.
3. An agreement by the Parties to accelerate the elimination of customs duties on originating goods shall enter into force after the Parties have exchanged written notification advising that they have completed necessary internal legal procedures and on such date or dates as may be agreed between them.
4. A Party may at any time accelerate unilaterally the elimination of customs duties on originating goods of the other Party set out in its Schedule. A Party considering doing so shall inform the other Party as early as practicable before the new rate of customs duties takes effect.

4. 每一方可以采用或维持进口措施，以分配其议程中规定的关税配额项下的配额内进口，但前提是该措施不会对关税配额的实施所造成的进口限制性影响之外产生贸易限制性影响。
5. 在另一方书面请求下，适用或打算适用第4段所述措施的一方应协商考虑审查这些措施的执行情况。

ARTICLE 204

**加速关税消除**

1. 每一方声明其准备比第203条规定的更迅速地消除其关税，或以其他方式改善原产货物准入条件，如果其一般经济情况以及相关经济部门的经济情况允许的话。
2. 在一方请求下，双方应协商考虑加速消除附件2中规定的原产货物关税。
3. 双方就加速消除原产货物关税达成协议应在一方交换书面通知，告知其已完成必要内部法律程序之日起生效，或在双方商定的日期生效。
4. 一方可以随时单方面加速消除其议程中规定的另一方的原产货物的关税。一方打算这样做时，应在新的关税税率生效前尽早通知另一方。

ARTICLE 205

**Administrative Fees and Formalities**

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 charge applied consistently with Article III (2) of GATT 1994, and anti-dumping and countervailing duties) imposed on or in connection with import or export are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation on imports or exports for fiscal purposes.

ARTICLE 206

**Anti-Dumping Measures**

1. With respect to the application of anti-dumping measures, the Parties reaffirm their commitment to the provisions of the *WTO Agreement on Implementation of Article VI of GATT 1994*.

2. The Parties shall observe the following practices relating to anti-dumping:

- (a) on request of an exporter of the other Party, a Party's investigating authority shall make available the timeframes, procedures and any documents necessary for the offering of an undertaking. A Party's investigating authority shall extend reasonable consideration to price undertakings requested by exporters of the other Party. Furthermore, once a Party's investigating authority recommends accepting a particular price undertaking the authority shall extend that undertaking to the decision maker who shall give positive consideration to the investigative authority's recommendation to the extent possible under the Party's laws and regulations; and
- (b) the timeframe to be used for determining the volume of dumped imports in the investigation or review shall be representative of the imports of both dumped and non-dumped goods, for a reasonable period, and such reasonable period shall normally be 12 months and not less than six months except in exceptional circumstances.

ARTICLE 205

**行政费用和手续**

每一方应根据1994年关税及贸易总协定第八条（1）的规定，确保对进口或出口征收或与之相关的所有费用和收费（关税、与1994年关税及贸易总协定第三条（2）一致地适用的相当于内部税或其他内部费用、以及反倾销和反补贴税除外）的金额限制在提供的服务的大致成本以内，并且不代表对国内商品或财政目的的进口或出口税。

ARTICLE 206

**反倾销措施**

1. 关于反倾销措施的适用，双方重申其对<code style id='1'>1994年关税及贸易总协定第六条的实施协定</code>所规定的条款的承诺。

2. 双方应遵守与反倾销相关的以下做法：

- (a) 应另一方出口商的要求，缔约方调查机构应提供提出承诺所需的时间范围、程序 and 任何必要文件。缔约方调查机构应对另一方出口商提出的价格承诺给予合理考虑。此外，一旦缔约方调查机构建议接受特定的价格承诺，该机构应将该承诺扩展至决策者，决策者应在法律和法规允许的范围内，对调查机构的建议给予积极考虑；以及
- (b) 用于确定调查或审查中倾销进口数量的时间范围，应代表倾销和非倾销货物的进口，为合理期限，该合理期限通常为12个月，但除非出现特殊情况，否则不得少于六个月。

ARTICLE 207

**Subsidies and Countervailing Measures**

The Parties confirm their rights and obligations arising from the WTO *Agreement on Subsidies and Countervailing Measures*.

ARTICLE 208

**Agricultural Export Subsidies**

1. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall work toward an agreement in the WTO to eliminate those subsidies and prevent the introduction in any form of any new export subsidies for agricultural goods.
2. Consistently with their rights and obligations under the WTO Agreement, neither Party shall introduce or maintain any export subsidy on any agricultural good destined for the territory of the other Party.
3. At the earliest possible time, a Party shall give to the other Party advance notice of, and if requested shall consult on, any changes to relevant policies or measures. The Parties agree to enhance communication between their appropriate officials with a view to minimising trade distortions from such policies or measures. Where the affected Party identifies an adverse impact on its agriculture and food industries, the other Party shall take that impact into consideration.

ARTICLE 209

**Non-Tariff Measures**

1. Except as otherwise provided in this Agreement, a Party shall not adopt or maintain any prohibition or restriction on the import of any good of the other Party or on the export or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994.

ARTICLE 207

**补贴和反补贴措施**

双方确认其根据世界贸易组织<code>补贴和反补贴措施协定</code>产生的权利和义务。

ARTICLE 208

**农业出口补贴**

1. 双方共享多边消除农产品出口补贴的目标，并应努力在<code>世界贸易组织</code>中达成一项协定以消除这些补贴，并防止以任何形式引入任何新的农产品出口补贴。
2. 与其在<code>世界贸易组织协定</code>项下的权利和义务相一致，任何一方均不得引入或维持针对他方领土的任何农产品出口补贴。
3. 尽早，一方应向另一方提前通知任何相关政策的变更，并在被要求时与其协商。双方同意通过加强其适当官员之间的沟通，以尽量减少此类政策或措施带来的贸易扭曲。当受影响方确定其农业和食品产业受到不利影响时，另一方应考虑这种影响。

ARTICLE 209

**非关税措施**

1. 除本协议另有规定外，一方不得采取或维持对另一方任何货物的进口禁令或限制，或对预定运往他方领土的任何货物的出口或销售出口禁令或限制，除非依照1994年关税及贸易总协定第十一条的规定。

2. Each Party shall ensure the transparency of its non-tariff measures permitted in Paragraph 1 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.

2. 每一方应确保第1段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旨在或以产生效果的方式制定、采纳或实施，从而对双方之间的贸易造成不必要的障碍。

CHAPTER 3

CUSTOMS PROCEDURES

ARTICLE 301

Purpose and Definitions

- 1. The purpose of this Chapter is to promote the objectives of this Agreement by simplifying and harmonising customs procedures and to ensure their proper application in relation to bilateral trade between the Parties.
- 2. For the purposes of this Chapter, “customs procedures” means the treatment applied by the customs administration of each Party to goods which are subject to customs control.

ARTICLE 302

Scope

This Chapter shall apply, in accordance with the Parties’ respective laws, regulations and policies, to customs procedures required for clearance of goods traded between the Parties.

ARTICLE 303

Customs Valuation

The Parties shall determine the customs value of goods traded between them in accordance with the provisions of Article VII of GATT 1994 and the WTO Customs Valuation Agreement.

第三章

海关程序

ARTICLE 301

目的和定义

- 1. 本章的目的是通过简化和协调海关程序来促进本协定的目标，并确保其在缔约方之间双边贸易中的正确适用。
- 2. 就本章而言，“海关程序”是指每一方海关当局对处于海关监管下的货物所适用的处理方式。

ARTICLE 302

范围

本章应根据双方各自的法律、法规和政策，适用于双方之间货物清关所需的海关程序。

ARTICLE 303

海关估价

双方应根据1994年关税及贸易总协定第七条和世界贸易组织海关估价协定的规定，确定其之间交易的货物的海关估价。

ARTICLE 304

**Customs Procedures and Facilitation**

1. Customs procedures of both Parties shall conform, where possible and to the extent permitted by their respective laws, regulations and policies, to international standards and recommended practices.
2. Each Party shall ensure that its customs procedures and practices are predictable, consistent and transparent and facilitate trade.
3. The customs administrations of both Parties shall periodically review their customs procedures with a view to their further simplification and the development of further mutually beneficial arrangements to facilitate bilateral trade.

ARTICLE 305

**Techniques and Use of Cooperative Arrangements**

1. To the extent permitted by their laws, regulations and policies, the customs administrations of both Parties shall provide each other with mutual assistance in order to prevent breaches of customs legislation and for the protection of the economic, fiscal, social and commercial interests of their respective countries, including ensuring appropriate and efficient customs duty collection.
2. Each Party shall endeavour to provide the other Party with advance notice of any significant modification of laws, regulations or policies governing importations that is likely to substantially affect the operation of this Agreement.

ARTICLE 306

**Review and Appeal**

1. Each Party shall provide easily accessible processes for administrative and judicial review of decisions taken by its customs administration.

ARTICLE 304

**海关程序和便利化**

1. 各方海关程序应尽可能并在其各自的法律、法规 和政策允许的范围内，符合国际标准和建议做法。
2. 每一方应确保其海关程序和做法是可预测的、一致的和透明的，并促进贸易。
3. 双方海关当局应定期审查其海关程序，以期进一步简化程序，并发展更多互利安排以促进双边贸易。

ARTICLE 305

**合作安排的技术和使用**

1. 在其法律、法规和政策允许范围内，缔约双方的海关当局应相互提供协助，以防止海关法规的违反，并保护其各自国家的经济、财政、社会和商业利益，包括确保适当和有效的关税征收。
2. 每一方应努力提前通知另一方有关可能对本协定的运行产生重大影响的进口管理法律、法规或政策的任何重大修改。

ARTICLE 306

**审查和申诉**

1. 每一方应为其海关当局作出的决定提供易于访问的行政和司法审查程序。

2. Requests for review of decisions taken by the customs administration of a Party shall be made in writing or electronically, and shall be accompanied by any information deemed useful to comply with the request.

ARTICLE 307

Advance Rulings

1. Subject to Paragraph 2, each Party shall provide, in writing, advance tariff classification rulings (hereinafter referred as “pre-classification”) to a person described in Sub-paragraph 2(a).
2. Each Party shall adopt or maintain procedures for pre-classification, which shall:
  - (a) provide that an importer in its territory or an exporter or producer in the territory of the other Party may apply for pre-classification before the importation of goods in question;
  - (b) require that an applicant for pre-classification provide a detailed description of the goods and all relevant information needed to process an application for a pre-classification;
  - (c) provide that its customs administration may, at any time during the course of an evaluation of an application for pre-classification, request that the applicant provide additional information within a specified period;
  - (d) provide that pre-classification 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 pre-classification be issued to the applicant expeditiously, or in any case within 30 working days of the receipt of all necessary information.
3. A Party may reject requests for pre-classification where the additional information requested by it in accordance with Sub-paragraph 2(c) is not provided within the specified period.
4. Subject to Paragraph 5, each Party shall apply a pre-classification to all importations of goods covered by the application for that pre-classification imported into its territory within five years of the date the pre-classification is issued, or such other period as required by a Party’s laws, regulations or policies.
5. A Party may modify or revoke a pre-classification upon a determination that the classification was based on an error of fact or law (including human error), or if there is a change in:

2. 对一方海关当局作出的决定的审查请求应以书面或电子方式提出，并应附上任何被认为有助于遵守该请求的信息。

ARTICLE 307

预先裁决

- 根据第2段，每一方应以书面形式向第2(a)款所述的个人提供预先关税分类裁决（以下简称<样式 id='1'>“</样式>预归类<样式 id='3'>”</样式>）。
2. 每一方应制定或维持预归类程序，该程序应：
    - (a) 规定其领土内的进口商或他方领土内的出口商或生产商可在有关货物进口前申请预归类；(b) 要求预归类申请人提供货物的详细描述以及处理预归类申请所需的所有相关信息；(c) 规定其海关当局可在预归类申请评估过程中随时要求申请人在指定期间内提供补充信息；(d) 规定预归类应基于申请人提供的实际情况和情况，以及决策者掌握的其他相关信息；以及(e) 规定预归类应迅速向申请人签发，或在任何情况下，在收到所有必要信息后的30个工作日内签发。
  3. 一方可以拒绝预归类请求，如果其根据第2段(c)所要求的补充信息未在规定期限内提供。
  4. 除第5段的规定外，每一方应将预归类应用于在其领土内进口的、适用该预归类申请的货物进口，且进口日期在预归类签发之日起五年内，或根据一方法律、法规或政策要求的其他期限，。
  5. 一方可以在认定分类是基于事实或法律错误（包括人为错误）的情况下，或如果发生以下情况，修改或撤销预归类：

- (a) domestic law consistent with this Agreement; or
- (b) a material factor; or
- (c) the circumstances on which the ruling is based.

ARTICLE 308

**Treatment of Goods for which a Certificate of Origin has been Issued**

1. The importing Party shall facilitate the importation of goods for which a Certificate of Origin has been issued in accordance with Chapter 4 of this Agreement to the greatest extent permitted under its laws, regulations and policies. In particular, subject to Paragraphs 2 to 4, the importing Party shall not dispute the customs duty payable on such goods at the time of importation or entry for home consumption, provided they are imported and entered in accordance with the relevant Certificate of Origin.
2. To ensure the requirements of Paragraph 1 are met, the importing Party may request the presentation of the Certificate of Origin issued for goods. The customs administration of the importing Party may require the deposit of a security, including a cash security, up to the amount which would be payable on the goods if they did not qualify for preferential tariff treatment.
3. Paragraph 1 does not prevent the importing Party from disputing the customs duty payable on the goods referred to in that Paragraph after the goods have entered for home consumption, in accordance with its laws, regulations and policies.
4. Paragraph 1 does not apply where any goods previously traded by the importer, exporter or producer of the imported goods, or by any person associated with that importer, exporter or producer, are the subject of current verification action, or have been denied preferential tariff treatment, in accordance with Chapter 4 of this Agreement.
5. Where a dispute arises between the Parties as to:
  - (a) the valuation or the tariff classification of goods for which a Certificate of Origin has been issued in accordance with Chapter 4 of this Agreement; or
  - (b) the valuation or the tariff classification of non-originating materials used or consumed in the processing of those goods; or
  - (c) the interpretation of the rules of origin on which the relevant Certificate of Origin was based,

the importing Party shall consult with the exporting Party with a view to resolving the issue prior to taking any action to recover duties.

- (a) 与本协议一致的国内法；或 (b) 实质性因素；或
- (c) 裁决所依据的情况。

ARTICLE 308

**已签发原产地证书的货物的处理**

1. 进口方应根据本协议第4章的规定，在其法律、法规和政策允许的最大范围内，促进已签发原产地证书的货物的进口，。特别是，根据第2段至第4段的规定，如果货物是根据相关的原产地证书进口和入境的，进口方不得在货物进口或以国内消费为目的入境时，对这类货物应缴纳的关税提出争议。
2. 为确保第1段的要求得到满足，进口方可以要求提供为货物签发的原产地证书。进口方的海关当局可以要求提供相当于货物若不符合优惠关税待遇应缴纳的金额的保证金，包括现金保证金。
3. 第1段并不阻止进口方在货物已以国内消费为目的入境后，根据其法律、法规和政策，对第1段所述的货物应缴纳的关税提出争议。
4. 第1段不适用于以下情况：进口商、出口商或进口货物的生产商，或与该进口商、出口商或生产商有任何关联的个人，先前交易的任何货物，目前正在进行核查行动，或根据本协议第4章被拒绝给予优惠关税待遇。
5. 当缔约方之间就以下事项产生争议时：
  - (a) 根据本协议第4章签发的原产地证书所列货物的估价或关税分类；或 (b) 用于加工这些货物的非原产材料的估价或关税分类；或 (c) 相关原产地证书所依据的原产地规则的解释，

进口方应与出口方协商，以期在采取任何行动以追回关税之前解决该问题。

ARTICLE 309

**Paperless Trading and Use of Automated Systems**

1. The customs administrations of both Parties, in implementing initiatives which provide for the use of paperless trading, shall take into account the methods agreed in APEC and the World Customs Organization.
2. The customs administration of each Party shall work towards having electronic means for all its customs reporting requirements as soon as practicable.
3. The introduction of information technology shall, to the greatest extent possible, be carried out in consultation with all relevant parties directly affected.

ARTICLE 310

**Risk Management**

1. The Parties shall administer customs procedures at their respective borders so as to facilitate the clearance of low-risk goods and focus on high-risk goods.
2. The Parties shall apply and develop further risk management techniques in the performance of their customs procedures.

ARTICLE 311

**Publication and Enquiry Points**

1. Each Party shall publish on the Internet or a comparable computer-based telecommunications network or in print form any statutory and regulatory provisions and any administrative procedures applicable or enforceable by its customs administration.
2. Each Party shall designate one or more enquiry points to address enquiries from interested persons of the other Party concerning customs matters, and shall make available on the Internet information concerning procedures for making such enquiries.

ARTICLE 309

**无纸化交易和自动化系统的使用**

1. 双方海关当局在实施旨在提供无纸化交易使用的倡议时，应考虑亚太经合组织和世界海关组织商定的方法。
2. 每一方海关当局应当尽快采用电子方式满足其所有海关申报要求。
3. 信息技术引入应当尽最大可能与所有直接受影响的相关方协商进行。

ARTICLE 310

**风险管理**

1. 双方应在各自边境管理海关程序，以促进低风险货物的清关，并重点关注高风险货物。
2. 双方应在执行海关程序时应用并进一步发展风险管理技术。

ARTICLE 311

**出版和查询点**

1. 每一方应在互联网或类似的基于计算机的电信网络或以印刷形式公布任何适用于或可由其海关当局适用的或可执行的法律和法规以及任何行政程序。
2. 每一方应当指定一个或多个查询点，以处理另一方利益相关者就海关事务提出的查询，并且应当在互联网上提供有关提出此类查询的程序的信息。

CHAPTER 4

RULES OF ORIGIN

ARTICLE 401

Definitions

For the purposes of this Chapter:

- (a) “Certificate of Origin” means a certificate issued in accordance with Article 408 and complying with the requirements of Annex 4.2 (Certificate of Origin Requirements);
- (b) “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;
- (c) “material” means any matter or substance used or consumed in the production of goods, and physically incorporated into or classified with those goods;
- (d) “originating material” means a material that qualifies as originating in accordance with the relevant provisions of this Chapter;
- (e) “registered exporter” means an exporter that is registered with an authorised body as an exporter of originating goods in accordance with Article 407 (2);
- (f) “registered goods” means the particular goods in respect of which a registered exporter is registered in accordance with Article 407 (2);
- (g) “significant change”, in relation to Articles 407 (4) and 408 (2) and Annex 4.2, means a change that may prevent those goods from continuing to satisfy the requirements of Article 402;
- (h) “wholly obtained goods” means:
  - (i) mineral goods extracted in the territory of a Party;
  - (ii) agricultural goods harvested, picked, or gathered in the territory of a Party;
  - (iii) live animals born and raised in the territory of a Party;

第4章

原产地规则

ARTICLE 401

定义

本章的目的：

- (a) “原产地证书”是指根据第408条发行并符合附件4.2（原产地证书要求）要求的证书；
- (b) “公认会计原则”是指一方领土内关于收入、费用、成本、资产和负债的记录、信息披露以及财务报表编制的公认共识或重大权威支持；这些标准可能包括具有普遍适用性的广泛指南以及详细的标准、做法和程序；
- (c) “材料”是指在生产商品过程中使用或消耗的任何物质或物质，并物理地融入或归类于这些商品；
- (d) “原产地材料”是指根据本章相关条款符合原产地资格的材料；
- (e) “注册出口商”是指根据第407条（2）款在授权机构注册为原产货物出口商的出口商；
- (f) “注册货物”是指根据第407条（2）款注册的注册出口商所注册的特定货物；
- (g) “重大变化”，在第407条（4）款和第408条（2）款以及附件4.2中，是指可能导致这些商品无法继续满足第402条要求的变更；
- (h) “完全获得货物”是指：
  - (i) 在一方领土内开采的矿物商品；
  - (ii) 在一方领土内收获、采摘或采集的农产品；
  - (iii) 在一方领土内出生和饲养的活动物；

- (iv) goods obtained from live animals in the territory of a Party;
- (v) goods obtained directly from hunting, trapping, fishing, gathering, or capturing in the territory of a Party;
- (vi) goods (fish, shellfish, plant and other marine life) taken within the territorial sea or the relevant maritime zone of a Party seaward of the territorial sea under that Party’s applicable laws in accordance with the provisions of the *United Nations Convention on the Law of the Sea*, or taken from the high seas by a vessel entitled to fly the flag of that Party;
- (vii) goods obtained or produced on board factory ships entitled to fly the flag of a Party from the goods referred to in subparagraph (vi);
- (viii) goods taken by a Party, or a person of a Party, from the seabed or subsoil beneath the seabed of the territorial sea or the continental shelf of that Party, in accordance with the provisions of the *United Nations Convention on the Law of the Sea*;
- (ix) waste and scrap derived from production in the territory of a Party, or used goods collected in the territory of a Party, provided such goods are fit only for the recovery of raw materials; and
- (x) goods produced entirely in the territory of a Party exclusively from goods referred to in subparagraph (i) through (ix).

ARTICLE 402

Originating Goods

- 1. Particular goods shall originate in the territory of a Party if they:
  - (a) are the wholly obtained goods of that Party; or
  - (b) satisfy any applicable requirements of Annex 4.1, as a result of processes performed entirely in the territory of one or both of the Parties by one or more producers.
- 2. Originating materials from the territory of a Party, used in the production of particular goods in the territory of the other Party, shall be considered to originate in the territory of the other Party.
- 3. Particular goods that do not satisfy a change in tariff classification requirement pursuant to Annex 4.1 are nonetheless originating goods if:

(iv) 从一方领土内的活动物获得的货物； (v) 直接从一方领土内的狩猎、捕捉、捕鱼、采集或捕获获得的货物； (vi) 在一方领海或该方适用法律规定的相关海上区域外，根据《联合国海洋法公约》的规定，在一方领海内或从公海由有权悬挂该方旗帜的船舶捕获的（鱼、贝类、植物和其他海洋生物）； (vii) 在有权悬挂一方旗帜的工厂船上获得的或生产的货物，这些货物是指第（vi）款所述的货物； (viii) 一方或该方人员从领海海底或大陆架下海底，根据《联合国海洋法公约》的规定捕获的货物； (ix) 来自一方领土内生产的废料和碎料，或收集于一方领土内的使用货物，只要这些货物仅适用于回收原材料；以及 (x) 完全在一方领土内，仅从第（i）款至第（ix）款所述的货物中生产的货物。

一方RTICLE 402

原产货物

- 1. 特定货物应当在一方领土内原产，如果它们：
  - (a) 是该方的完全获得货物； 或 (b) 满足附件4.1的任何适用要求，其结果是，由一个或多个生产商在一个或两个方的领土内完全进行的程序。
- 2. 来自一方领土的原产地材料，用于在他方领土内生产的特定货物，应视为在他方领土内原产。
- 3. 不符合附件4.1规定的关税分类变更要求的特定货物，如果：

- (a) the value of all non-originating materials used in the production of the goods that do not undergo the required change in tariff classification does not exceed 10 per cent of the Free on Board (FOB) value of the goods; and
- (b) the goods meet all other applicable criteria of this Article.

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

- (a) the accessories, spare parts, or tools are not invoiced separately from the originating goods;
- (b) the quantities and value of the accessories, spare parts, or tools are customary for the originating goods; and
- (c) if the goods are subject to a regional value content requirement, the value of the accessories, spare parts, or tools was taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the originating goods.

5. Paragraph 4 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.

6. The determination of whether fungible goods or materials are originating goods shall be made either by physical segregation of each of the goods or materials or through the use of any inventory management method, such as averaging, last-in, first-out, or first-in, first out, recognised in the generally accepted accounting principles of the Party in which the production is performed or otherwise accepted by the Party in which the production is performed.

7. An inventory management method selected under Paragraph 6 for particular fungible goods or materials shall continue to be used for those fungible goods or materials throughout the fiscal year of the person that selected the inventory management method.

8. Packaging materials and containers in which goods are packaged for retail sale, if classified with those goods, or for shipment, shall be disregarded in determining whether all the non-originating materials used in the production of those goods have undergone the applicable change in tariff classification set out in Annex 4.1.

(a) 不经关税分类变更要求变更的原产货物生产中所使用的所有非原产材料的价值不超过货物离岸价（FOB）价值的10%；以及 (b) 货物符合本条的所有其他适用标准。

4. 附件、备件或工具随原产货物一同交付，且构成该货物的标准附件、备件或工具的，应视为原产货物，并在确定原产货物生产中所使用的所有非原产材料是否经过适用关税分类变更时予以忽略，前提是：

(a) 附件、备件或工具未与原产货物单独开票； (b) 附件、备件或工具的数量和价值对于原产货物来说是习惯性的；以及 (c) 如果货物受区域价值含量要求约束，附件、备件或工具的价值在计算原产货物的区域价值含量时，已按情况被视为原产地材料或非原产材料。

5. 第4段不适用于附件、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。

6. 对于可替代货物或材料是否为原产货物（原产地商品）的决定，应通过物理隔离每种货物或材料或使用任何库存管理方法（如平均法、后进先出法或先进先出法）来作出，这些方法应被生产所执行的一方（或被生产所执行的一方接受的）的公认会计原则所认可。

7. 根据第6段为特定可替代货物或材料选定的库存管理方法，应继续用于该可替代货物或材料，直至选定该库存管理方法的个人（个人）的财政年度结束。

8. 包装材料以及用于零售销售的货物包装容器，如果与货物一同归类，或用于运输，则应在确定用于生产这些货物的所有非原产材料是否已发生附件4.1中规定的适用关税分类变更时予以忽略。

Regional Value Content

1. Subject to Paragraphs 2 to 4 of this Article and Article 404, where Annex 4.1 requires goods to have a regional value content, the regional value content of particular goods shall be calculated as follows:

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

where:

- (a) “RVC” is the regional value content between the Parties, expressed as a percentage;
- (b) “FOB” is the FOB value of the goods; and
- (c) “VNM” is the CIF (Cost, Insurance and Freight) value of all non-originating materials that:
  - (i) in the form in which they were first supplied to the producer of the goods, were imported into Australia or Thailand; or
  - (ii) in the form in which they were first supplied to a producer in the territory of a Party of non-originating materials that are supplied to the producer of the goods, were imported into Australia or Thailand.

2. Annex 4.1 may specify that the value of non-originating materials produced in developing countries and places may contribute towards the RVC for particular goods. In that case, the value of those materials, as a proportion of the FOB value of the goods equating to no more than the maximum allowable proportion specified in the Headnotes to Annex 4.1 for those goods shall be excluded from the VNM for the purposes of paragraph 1. Prior to entry into force of the Agreement, the Parties shall determine the list of countries and places to be considered developing countries and places for the purpose of this paragraph. The Parties shall, through the Committee on Rules of Origin established in Article 415, review and modify this list in the light of relevant international developments, and determine the date on which any such modifications shall take effect. This Paragraph shall expire 20 years after the date of entry into force of this Agreement.

区域价值含量

1. 根据本条第2至4段和第404条的规定，如果附件4.1要求货物具有区域价值含量，则特定货物的区域价值含量应按如下方式计算：

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

where:

- (a) “RVC”是一方之间的区域价值含量，以百分比表示；(b) “FOB”是货物的离岸价；以及(c) “VNM”是所有非原产材料的成本、保险费和运费价值，这些材料：(i) 以其首次供应给货物生产商的形式，从澳大利亚或泰国进口；或(ii) 以其首次供应给一方领土内非原产材料生产商的形式，且这些非原产材料供应给货物生产商，从澳大利亚或泰国进口。

2. 附件4.1可以规定，发展中国家和地区的非原产材料的价值可以有助于特定货物的区域价值含量。在这种情况下，这些材料的价值，作为货物离岸价的比例，等于附件4.1标题说明中规定的最大允许比例，且不超过该比例，应从非原产材料成本、保险费和运费价值中排除，用于第1段的目的。在本协定生效之前，双方应确定用于本段目的的发展中国家和地区的名单。双方应通过第415条建立的原产地规则委员会，根据相关国际发展情况审查和修改此名单，并确定任何此类修改生效的日期。本段应在本协定生效之日起20年后失效。

3. Packaging materials and containers in which goods are packaged for retail sale, if classified with those goods, shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content.

4. Packaging materials and containers in which goods are packaged for shipment shall be disregarded in calculating the regional value content.

ARTICLE 404

Calculation of Values

1. For the purposes of this Chapter, the FOB value of particular goods is to be determined under Articles 1 to 8, Article 15 and the corresponding interpretative notes of the WTO Customs Valuation Agreement, as adjusted to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incidental to the international shipment of the merchandise from the country of exportation to the port or place of importation.

2. For the purposes of determining whether a material acquired in the territory of a Party is originating, FOB value for that material shall be taken to mean the value of the material, determined in accordance with Articles 1 to 8, Article 15 and the corresponding interpretative notes of the WTO Customs Valuation Agreement, with such reasonable modifications as may be required to reflect the fact that the material was not imported.

3. For the purposes of this Chapter, the CIF value of non-originating materials is to be determined under Articles 1 to 8, Article 15, and the corresponding interpretative notes of the WTO Customs Valuation Agreement, as adjusted to include any costs, charges, or expenses incurred for transportation, insurance, and related services incidental to the international shipment of the goods from the country of exportation to the port or place of importation.

ARTICLE 405

Recording of Costs

For the purposes of this Chapter all costs shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the Party in which the goods are produced or manufactured.

3. 用于零售销售的包装材料和容器，如果与货物归类在一起，应作为原产或非原产材料，视情况而定，在计算区域价值含量时予以考虑。

4. 包装货物的包装材料和容器在计算区域价值含量时应当不计入。

ARTICLE 404

价值计算

1. 本章规定，特定货物的离岸价应根据第1条至第8条、第15条以及世界贸易组织海关估价协定的相应解释性注释确定，并调整以排除为将货物从出口国运至进口港或地点而发生的任何运输、保险和相关服务费用。

2. 为确定一方领土内获得的材料是否为原产材料，该材料的离岸价应指根据第1条至第8条、第15条以及世界贸易组织海关估价协定的相应解释性注释确定的材料价值，并作出必要的合理修改，以反映该材料未被进口的事实。

3. 本章规定，非原产材料的到岸价应根据第1条至第8条、第15条以及世界贸易组织海关估价协定的相应解释性注释确定，并调整以包括为将货物从出口国运至进口港或地点而发生的任何运输、保险和相关服务费用。

ARTICLE 405

成本记录

本章目的下，所有成本应根据货物生产或制造所在一方领土内适用的公认会计原则进行记录和保存。

ARTICLE 406

**Consignment**

Goods shall not be considered to be originating if they undergo subsequent production or any other operation outside the territories of the Parties, other than operations necessary to preserve them in good condition or to transport them to the territory of the other Party, provided that the goods are not traded or used outside the territories of the Parties.

ARTICLE 407

**Registration of Exporters**

1. Subject to Article 409, the exporting Party shall require that, on receipt of an application to register as an exporter of originating goods, an authorised body referred to in Annex 4.2 (Certificate of Origin Requirements) shall, within 60 days of receipt of that application, conduct and conclude such examinations of documentation and facilities as it considers necessary to establish that the particular goods nominated in the application satisfy the requirements of Article 402.
2. Subject to Article 409, the exporting Party shall require that, where an authorised body, after conducting examinations in accordance with Paragraph 1, is satisfied that the particular goods satisfy the requirements of Article 402, the authorised body shall register the applicant as an exporter of originating goods in respect of those particular goods, and shall so notify the exporter within ten working days.
3. The exporting Party shall require that, where an authorised body, after conducting examinations in accordance with Paragraph 1, is not satisfied that the particular goods satisfy the requirements of Article 402, the authorised body shall not register the applicant as an exporter of originating goods in respect of those particular goods, and shall so notify the exporter within ten working days.
4. The exporting Party shall require that a registered exporter must, as expeditiously as possible, notify the authorised body with which it is registered if a significant change occurs in the basis for the registration of particular goods.
5. The exporting Party shall require that, on receipt of advice referred to in Paragraph 4, the authorised body shall, as expeditiously as possible, conduct such examinations of documentation and facilities as it considers necessary to assess whether the registered goods still satisfy the requirements of Article 402.

ARTICLE 406

**货件**

如果货物在缔约方领土之外进行后续生产或任何其他操作（除为保持其良好状态或将其运至另一方领土所必需的操作外），则不得视为原产货物，前提是货物未在缔约方领土之外进行交易或使用。

ARTICLE 407

**出口商注册**

1. 根据第409条，出口方应要求，在收到注册为原产货物出口商的申请后，附件4.2（原产地证书要求）中提到的授权机构应在收到该申请后的60天内，进行并完成其认为必要的文件审查和设施检查，以确定申请中指定的货物满足第402条的要求。
2. 根据第409条，出口方应要求，在授权机构根据第1段进行审查后，如果授权机构满意该货物满足第402条的要求，授权机构应将该申请人注册为原产货物出口商，并在十个工作日内通知出口商。
3. 出口方应当要求，授权机构在根据第1段进行审查后，如果对特定货物是否满足第402条的要求不满意，，则不得将申请人注册为该特定货物的原产货物出口商，并在十个工作日内通知出口商。
4. 出口方应当要求注册出口商必须尽快通知其注册的授权机构，如果特定货物的注册依据发生重大变化。
5. 出口方应当要求，在收到第4段所述建议后，授权机构应当尽快开展其认为必要的文件审查和设施检查，以评估已注册的货物是否仍然满足第402条的要求。

6. Where an authorised body, after conducting examinations in accordance with Paragraph 5, is satisfied that the registered goods satisfy the requirements of Article 402, it shall so notify the registered exporter within ten working days that the registration of the goods shall continue on the basis of the relevant changes.
7. The exporting Party shall require that an authorised body referred to in Annex 4.2 (Certificate of Origin Requirements) may, at any other time not specified, conduct such examinations of documentation and facilities as it considers necessary to ensure that registered goods still satisfy the requirements of Article 402.
8. The exporting Party shall require that, where an authorised body, after conducting examinations in accordance with Paragraphs 5 or 7, or for any other reason, is not satisfied that registered goods satisfy the requirements of Article 402, the authorised body shall de-register the registered exporter as an exporter of originating goods in respect of those goods, and within ten working days shall so notify:
- (a) the exporter;
  - (b) all other authorised bodies referred to in Annex 4.2 (Certificate of Origin Requirements), in the territory of the exporting Party; and
  - (c) the customs administration in the territory of the importing Party.

ARTICLE 408

Certification of Origin

1. Subject to Article 409, the exporting Party shall ensure that a registered exporter has the opportunity to apply to an authorised body referred to in Annex 4.2 (Certificate of Origin Requirements) for a Certificate of Origin in respect of a single shipment of registered goods.
2. Subject to Article 409, on receipt of an application referred to in Paragraph 1, an authorised body shall issue a Certificate of Origin in relation to the registered goods that are the subject of that application, provided that:
- (a) no significant change has occurred in the basis for the registration of those goods; or
  - (b) if a significant change has occurred in the basis for the registration of those goods, the authorised body is satisfied that the goods meet the requirements of Article 402.
3. An authorised body shall not issue a Certificate of Origin:
- (a) for goods that are not registered goods; or

6. 如果授权机构根据第5段的规定进行审查后，认为已注册的货物满足第402条的要求，则应在十个工作日内通知注册出口商，货物注册应继续基于相关变更。
7. 出口方应当要求附件4.2（原产地证书要求）中提到的授权机构，在任何未指明的时间，可以开展其认为必要的文件审查和设施检查，以确保注册货物仍然满足第402条的要求。
8. 出口方应当要求，授权机构在根据第5段或第7段进行审查后，或出于任何其他原因，未满意注册货物满足第402条的要求时，应当将该注册出口商注销为原产货物的出口商，并在十个工作日内通知：
- (a) 出口商；(b) 在出口方领土内提到的附件4.2（原产地证书要求）中提到的所有其他授权机构；以及 (c) 在进口方领土内的海关。

ARTICLE 408

原产地证明

1. 根据第409条，出口方应当确保注册出口商有机会向附件4.2（原产地证书要求）中提到的授权机构申请原产地证书，以证明注册货物的单次运输。
2. 根据第409条，在收到第1段所述的申请后，授权机构应当就该项申请涉及的注册货物签发原产地证书，前提是：
- (a) 这些货物的注册依据未发生重大变化；或 (b) 如果这些货物的注册依据发生了重大变化，授权机构满意这些货物符合第402条的要求。
3. 授权机构不得签发原产地证书：
- (a) for 货物不是注册货物；或

(b) where the circumstances set out in Paragraph 2 are not met.

4. The exporting Party shall require that an application for a Certificate of Origin and a Certificate of Origin must meet the requirements set out in Annex 4.2 (Certificate of Origin Requirements).

5. The exporting Party shall require that a Certificate of Origin may be revoked by notice in writing. A revoked Certificate of Origin shall have no force from the date specified in that notice.

6. The exporting Party shall require that a copy of a notice revoking a Certificate of Origin shall be forwarded to the applicant for the Certificate of Origin and to the importing Party, immediately upon the issue of that notice.

#### ARTICLE 409

##### Exporter Sanctions

1. The exporting Party shall ensure that adequate sanctions are imposed where an exporter:

- (a) secures registration as an exporter of originating goods, or obtains a Certificate of Origin, on the basis of a statement that is false or misleading in any particular, including a statement that is false or misleading due to omission;
- (b) falsifies a Certificate of Origin;
- (c) fails to notify an authorised body of significant changes in accordance with Article 407 (4); or
- (d) commits any other offence in an effort to secure registration as an exporter of originating goods or to obtain a Certificate of Origin.

2. In respect of an exporter referred to in paragraph 1, or in respect of a person who, consistent with the principles set out in the WTO Customs Valuation Agreement,<sup>2</sup> is related to such an exporter, sanctions imposed may include:

- (a) de-registration in respect of some or all registered goods for a particular period; and
- (b) refusal to consider an application for registration as an exporter of originating goods or for a Certificate of Origin for a particular period.

<sup>2</sup> With such modifications as may be required to reflect the fact that the Parties to the transaction are within the same country.

(b) 其中第2段所述的情况未满足。

4. 出口方应当要求 一份原产地证书的申请和一份原产地证书必须符合附件4.2（原产地证书要求）中规定的要求。

5. 出口方应当要求 原产地证书可以通过书面通知撤销。被撤销的原产地证书自该通知中指定的日期起不再具有效力。

6. 出口方应当要求 一份撤销原产地证书的通知副本应当在发出该通知后立即转发给原产地证书的申请以及进口方。

#### ARTICLE 409

##### 出口商处罚

1. 出口方应当确保在出口商存在以下情况时采取足够的制裁措施：

(a) 以任何特定方面存在虚假或误导性陈述为基础，包括因遗漏而导致的虚假或误导性陈述，获得原产货物出口商注册或取得原产地证书；(b) 伪造原产地证书；(c) 未根据第407条(4)的规定通知授权机构有关重大变化；或(d) 试图获得原产货物出口商注册或取得原产地证书而犯有任何其他罪行。

2. 对于第1段所述的出口商，或对于与该出口商相关联且符合世界贸易组织海关估价协定中规定的原则的个人，所施加的制裁可能包括：

(a) 对特定时期部分或全部注册货物进行注销注册；以及 (b) 拒绝考虑将某方注册为原产货物出口商或为特定时期申请原产地证书的申请。

<sup>2</sup> 对交易双方均属同一国家的实际情况进行必要的修改。

3. The exporting Party shall require that, where sanctions are imposed under Paragraph 1, the following are notified within ten working days of the decision to impose sanctions:

- (a) the exporter;
- (b) all authorised bodies referred to in Annex 4.2 (Certificate of Origin requirements) in the territory of the exporting Party; and
- (c) the customs administration in the territory of the importing Party.

ARTICLE 410

Claim for Preferential Treatment

1. Subject to Article 413, the importing Party shall grant preferential tariff treatment to goods imported into its territory from the other Party, provided that the goods are originating goods, the consignment criteria specified in Article 406 have been met, and the importer claiming preferential tariff treatment:

- (a) has a valid Certificate of Origin or a copy thereof relevant to those goods in its possession when claiming preferential tariff treatment; and
- (b) provides a copy of that Certificate of Origin if requested by the importing Party.

2. The importing Party may waive the requirement for a Certificate of Origin in certain circumstances, in accordance with its laws, regulations and policies.

3. The importing Party shall grant preferential tariff treatment to goods imported after the date of entry into force of this Agreement and for which no preferential tariff treatment was earlier applied, if:

- (a) the claim for preferential tariff treatment is made within 12 months from the date of payment of customs duties, subject to the laws, regulations and policies in the importing Party; and
- (b) the importer provides a copy of a valid Certificate of Origin relevant to those goods.

ARTICLE 411

Records

1. Each Party shall require that:

3. 出口方应当要求，在根据第1段实施制裁时，应在制裁决定作出后的十个工作日内通知以下内容：，

- (a) 出口商；(b) 在出口方领土内附件4.2（原产地证书要求）中提到的所有授权机构；以及 (c) 在进口方领土内的海关当局。

ARTICLE 410

优惠待遇申索

1. 依据 第413条，进口方应当 对从另一方进口的货物给予 优惠关税待遇，前提是该货物为原产货物，已满足第406条中规定的装运标准，并且申请新关税待遇的进口商：

- (a) 在申请新关税待遇时拥有其持有的与该货物相关的有效 原产地证书或其副本；以及 (b) 如进口方要求，提供该原产地证书的副本。

2. 进口方可根据其法律， 法规和政策，在特定情况下免除原产地证书的要求。

3. 进口方应当对在本协定生效日期之后进口且此前未适用优惠关税待遇的货物给予优惠关税待遇，如果：

- (a) 优惠关税待遇申索在海关税款支付日期起12个月内提出，并遵守进口方的法律、法规和政策；并且 (b) 进口商提供与该货物相关的有效原产地证书的副本。

ARTICLE 411

记录

1. 每一方应当要求：

- (a) a producer, or an exporter must maintain, for five years from the date of the Certificate of Origin, all records relating to the origin of the goods for which preferential tariff treatment is claimed in the importing Party, including the Certificate of Origin relevant to the goods, or a copy thereof; and
  - (b) an importer claiming preferential tariff treatment shall maintain, for five years after the date of importation of the goods, all records relating to the importation of the goods, including the Certificate of Origin relevant to the goods, or a copy thereof.
2. The records to be maintained pursuant to this Article shall include electronic records. Any such records in electronic form shall be maintained in accordance with the laws, regulations and policies of the relevant Party.

#### ARTICLE 412

### Origin Verification

1. The importing Party may verify the eligibility of goods for preferential tariff treatment in accordance with its laws, regulations and policies.
2. Verification of eligibility for preferential tariff treatment may include either Party taking the following courses of action, in accordance with mutually determined procedures:
- (a) instituting measures to establish the validity of the Certificate of Origin;
  - (b) issuing written questionnaires, to be completed within a period of 30 days, to relevant producers, exporters or importers of goods for which preferential tariff treatment was claimed in the territory of the importing Party, or of the materials used or consumed in the production of those goods;
  - (c) requesting the supply of records relating to the production, manufacture or export of the goods for which preferential tariff treatment was claimed in the territory of the importing Party, or of the materials used or consumed in the production of those goods; and
  - (d) visiting the factory or premises of the producer, importer, exporter or any other party in the territory of a Party associated with the production, import or export of the goods for which preferential tariff treatment was claimed in the territory of the importing Party, or of the materials used or consumed in the production of those goods.
3. The importing Party shall notify the exporting Party in writing when it approaches any party listed in Sub-paragraph (2)(d) within the territory of the exporting Party during an action to verify eligibility.

- (a) 生产商或出口商必须自原产地证书签发之日起五年内，保存所有与进口方所声称的优惠关税待遇相关的货物原产地的记录，包括与货物相关的原产地证书或其副本；以及(b) 声明享受优惠关税待遇的进口商必须在货物进口之日起五年内，保存所有与货物进口相关的记录，包括与货物相关的原产地证书或其副本。

2. 本条规定的应保存的记录应包括电子记录。任何以电子形式存在的此类记录应根据相关方的法律，法规和政策进行保存。

#### ARTICLE 412

### 原产地验证

1. 进口方可根据其法律，法规和政策，验证货物享受优惠关税待遇的资格。
2. 优惠关税待遇的资格验证可包括任何一方根据共同确定的程序采取以下行动：
- (a) 采取措施以确认 原产地证书的有效性；(b) 向在进口方领土内声称享受优惠关税待遇的货物的相关生产商、出口商或进口商，或用于生产这些货物的材料中使用的或消耗的材料，发出书面问卷，要求在30天内完成；(c) 要求提供与进口方领土内声称享受优惠关税待遇的货物的生产、制造或出口相关的记录，或用于生产这些货物的材料中使用的或消耗的材料相关的记录；以及 (d) 访问与进口方领土内声称享受优惠关税待遇的货物的生产、进口或出口有关的一方（生产商、进口商、出口商或任何其他方）的工厂或场所，或用于生产这些货物的材料中使用的或消耗的材料。
3. 进口方应当在核实资格的行动中，以书面形式通知出口方，当其进入出口方领土内任何列于第(2)(d)项下的一段中的当事人时。

4. The importing Party shall not visit the factory or premises of any party listed in Sub-paragraph (2)(d) within the territory of the exporting Party without the prior consent of that party.

5. To the extent allowed by its laws, regulations and policies, the exporting Party shall fully cooperate in any action to verify eligibility and shall require that producers and exporters cooperate in any action to verify eligibility.

6. Action to verify eligibility for preferential tariff treatment shall be completed and a decision shall be made within 90 days of the commencement of such action. Written advice as to whether goods are eligible for preferential tariff treatment must be provided to all relevant parties within 10 days of the decision being made.

ARTICLE 413

Suspension and Denial of Preferential Tariff Treatment

1. Notwithstanding Article 410 (1), the importing Party may suspend the application of preferential tariff treatment to goods that are the subject of origin verification action under Article 412 for the duration of that action, or any part thereof.

2. The importing Party may deny a claim for preferential tariff treatment or recover unpaid duties where:
- (a) the goods do or did not meet the requirements of this Chapter;
  - (b) the producer, exporter, or importer of goods fails or has failed to comply with any of the relevant requirements for obtaining preferential tariff treatment; or
  - (c) action taken under Article 412 failed to verify the eligibility of the goods for preferential tariff treatment.

ARTICLE 414

Review and Appeal

The importing Party shall grant the right of appeal in matters relating to eligibility for preferential tariff treatment to producers, exporters or importers of goods traded or to be traded between the Parties, in accordance with its laws and regulations.

4. 进口方未经该当事人事先同意，不得访问出口方领土内列于第(2)(d)项下任何当事人的工厂或场所。

5. 在其法律、法规和政策允许的范围内，出口方应充分配合任何核实资格的行动，并要求生产商和出口商配合任何核实资格的行动。

6. 核实优惠关税待遇资格的行动应在开始后90天内完成，并作出决定。关于货物是否具有优惠关税待遇资格的书面建议必须在作出决定后10天内提供给所有相关方。

ARTICLE 413

优惠关税待遇的暂停和拒绝

1. 不论第410条(1)如何规定，进口方可以在第412条规定的原产地核查行动期间，或其中任何部分期间，暂停对属于该核查行动货物的优惠关税待遇的适用。

2. 进口方可以在以下情况下拒绝优惠待遇申索或追缴未付关税：

- (a) 货物未满足本章要求；
- (b) 货物的生产商、出口商或进口商未能遵守获得优惠关税待遇的相关要求；或
- (c) 根据《第412条》采取的行动未能核实货物享受优惠关税待遇的资格。

ARTICLE 414

审查和申诉

进口方应当根据其法律和法规，在涉及优惠关税待遇资格的事项中，向缔约方之间交易或将要交易的货物的生产商、出口商或进口商授予申诉权。

**Committee on Rules of Origin**

1. For the purposes of the effective and uniform implementation of this Chapter, a Committee on Rules of Origin (“the Committee”) shall be established. The functions of the Committee shall include:
- (a) the monitoring of the implementation and administration of the provisions of this Chapter;
  - (b) the discussion of any issue that may have arisen in the course of implementation, including any matters that may have been referred to the Committee by the Joint Commission;
  - (c) the discussion of any proposed modifications of the rules of origin under this Chapter; and
  - (d) consultation on issues relating to rules of origin and administrative cooperation.
2. The Committee shall be comprised of representatives of the Parties. It shall meet at least once a year and more often as may be mutually determined from time to time between the Parties.

**原产地规则委员会**

1. 为本章的有效和统一实施之目的，应设立原产地规则委员会（“原产地规则委员会”）。原产地规则委员会的职能包括：
- (a) 监督本章条款的实施和管理；(b) 讨论在实施过程中可能出现的任何问题，包括联合委员会可能提交给原产地规则委员会的任何事项；(c) 讨论本章原产地规则提出的任何修改；以及 (d) 就原产地规则和行政合作事项进行磋商。
2. 原产地规则委员会应由缔约方的代表组成。该委员会每年至少召开一次会议，并在双方共同确定的随时情况下更频繁地召开会议。

CHAPTER 5

SAFEGUARDS

PART I

DEFINITIONS

ARTICLE 501

Definitions

For purposes of this Chapter:

- (a) “domestic industry” means, with respect to an imported good, the producers as a whole of the like or directly competitive good or those producers whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of such good;
- (b) “provisional measure” means a provisional safeguard measure described in Article 505;
- (c) “safeguard measure” means a safeguard measure described in Article 502;
- (d) “special safeguard measure” means a special safeguard measure described in Article 509;
- (e) “serious damage” means a significant overall impairment in the position of a domestic industry; and
- (f) “transition period”, in relation to a particular good, means the period from the entry into force of this Agreement until the date on which the customs duty on that good is to be eliminated in accordance with Annex 2.

第五章

保障措施

第一部分

定义

ARTICLE 501

定义

本章目的：

- (a) “国内产业”是指，对于进口货物，同类或直接竞争货物的整个生产商，或那些同类或直接竞争货物的集体生产构成该货物国内总生产主要部分的生产商；(b) “临时措施”是指第505条所述的临时保障措施；(c) “保障措施”是指第502条所述的保障措施；(d) “特别保障措施”是指第509条所述的特别保障措施；(e) “严重损害”是指国内产业地位的重大整体损害；以及(f) “过渡期”，对于特定货物而言，是指本协定生效之日至根据附件2规定该货物关税应予消除的日期。

PART II

TRANSITIONAL SAFEGUARD MEASURES

ARTICLE 502

Application of a Safeguard Measure

If, as a result of the reduction or elimination of a customs duty pursuant to this Agreement, an originating good of a Party is being imported into the other Party’s territory in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing a like or directly competitive good, the other Party may, to the minimum extent necessary to prevent or remedy serious damage and facilitate adjustment, apply a safeguard measure, consisting of:

- (a) the suspension of the further reduction of any rate of customs duty provided for under this Agreement on the good; or
- (b) an increase of the rate of customs duty on the good to a level not to exceed the lesser of
  - (i) the most-favoured-nation (MFN) applied rate of customs duty in effect at the time the action is taken, or
  - (ii) the MFN applied rate of customs duty in effect on the day immediately preceding the date of entry into force of this Agreement.

ARTICLE 503

Scope and Duration of Transitional Safeguard Measures

1. A Party shall apply a safeguard measure only for such period of time as may be necessary to prevent or remedy serious damage and to facilitate adjustment. A Party may apply a safeguard measure for an initial period of no longer than two years. The period of a safeguard measure may be extended by up to two years provided that the conditions of this Chapter are met. The total period of a safeguard measure, including any extensions thereof, shall not exceed six years. Regardless of its duration or whether it has been subject to extension, a safeguard measure on a good shall terminate within two years following the end of the transition period for such good. No new safeguard measure may be applied to a good after that date.

第二部分

临时保障措施

ARTICLE 502

保障措施的应用

如果，根据本协定，由于关税的减少或消除，一方原产货物被进口到另一方的领土，其数量绝对值或相对于国内生产而言增加，且条件导致对生产同类或直接竞争商品的国内产业造成严重损害，或其威胁，则另一方可采取保障措施，以防止或补救严重损害并促进调整，该措施包括：

- (a) 暂停进一步降低本协定规定的该货物关税税率；或 (b) 提高该货物的关税税率 至不超过以下较低者：(i) 采取行动时生效的最惠国（MFN）关税税率，或 (ii) 本协定生效日前一天生效的最惠国（MFN）关税税率。

ARTICLE 503

临时保障措施的范围和期限

1. 一方应当仅适用为防止或补救严重损害并促进调整所必需的期限的保障措施。一方可以适用不超过两年的初始期限的保障措施。只要符合本章的规定，保障措施的期限可以延长最多两年。保障措施的总期限，包括任何延期，不得超过六年。无论其期限如何或是否已延期，对<code> </code>货物的保障措施应在该货物的过渡期结束后两年内终止。在该日期之后，不得对该货物适用新的保障措施。

2. In order to facilitate adjustment in a situation where the proposed duration of a safeguard measure is over one year, the Party applying the measure shall progressively liberalise it at regular intervals during the application of the measure, including at the time of any extension.
3. A Party shall not apply a safeguard or provisional measure more than once on the same good until a period of time has elapsed following the termination of the earlier safeguard or provisional measure equal to the duration of the earlier measure.
4. A Party may not apply a safeguard or provisional measure on a good that is subject to a measure that the Party has applied pursuant to Article XIX of GATT 1994 and the WTO Safeguards Agreement, the WTO Agreement on Textiles and Clothing, or any other relevant provisions in the WTO Agreement, nor may a Party continue to maintain a safeguard or provisional measure on a good that becomes subject to a measure that the Party applies pursuant to Article XIX of GATT 1994 and the WTO Safeguards Agreement, the WTO Agreement on Textiles and Clothing or any other relevant provisions in the WTO Agreement.
5. On the termination of a safeguard measure, the Party that applied the measure shall apply the rate of customs duty set out in its Tariff Schedule as specified in Annex 2 on the date of termination as if the safeguard measure had never been applied.

ARTICLE 504

Investigation

1. A Party may apply or extend a safeguard measure only following an investigation by the Party’s competent authorities to examine the effect of increased imports of an originating good of the other Party on the domestic industry, as reflected in changes in such relevant economic variables as production, productivity, levels of sales, utilisation of capacity, inventories, market share, exports, wages, employment, domestic prices, profits and investment, none of which is necessarily decisive. When factors other than increased imports of an originating good of the other Party resulting from the reduction or elimination of a customs duty pursuant to this Agreement are simultaneously causing damage to the domestic industry, such damage shall not be attributed to such increased imports.

2. 为了在保障措施的拟议期限超过一年的情况下促进调整，适用该措施的一方应当在措施适用期间，包括任何延期时，定期逐步放宽该措施。
3. 一方不得对同一种货物应用保障措施或临时 措施超过一次，直到在较早的保障措施或临时措施终止后经过的时间等于较早措施的期限。
4. 一方不得对受其根据1994年关税及贸易总协定第十九条和世界贸易组织保障措施协定、世界贸易组织纺织品与服装协定或世界贸易组织协定中任何其他相关条款所应用的措施约束的货物 应用保障措施或临时措施，也不得继续维持对受其根据1994年关税及贸易总协定第十九条和世界贸易组织保障措施协定、世界贸易组织纺织品与服装协定或世界贸易组织协定中任何其他相关条款所应用的措施约束的货物 的保障措施或临时措施。
5. 在保障措施终止时，应用该措施的方应当在其关税税则中附件2中规定的日期，按照该方关税税则中规定的税率征收关税，就好像该保障措施从未应用过一样。

ARTICLE 504

调查

1. 一方仅可在其主管当局对 另一方的原产地商品进口增加对 国内产业的影响进行调查后，适用或延长保障措施，这种影响反映在诸如生产、生产率、销售额水平、生产能力利用率、库存、市场份额、出口、工资、就业、国内价格、利润和投资等相关的经济变量的变化中，其中任何一项均非决定性因素。当除另一方的原产地商品进口增加外，还因本协议规定的海关 关税 的减少或消除而导致的因素同时损害国内产业时，这种损害不应归因于这种进口增加。

2. An investigation under Paragraph 1 shall only take place pursuant to procedures previously established and made public in consonance with Chapter 14 of this Agreement. The investigation shall include reasonable public notice to all interested parties and public hearings or other appropriate means in which importers, exporters and other interested parties could present evidence and their views, including the opportunity to respond to the presentations of other parties and to submit their views, *inter alia*, as to whether or not the application of a safeguard measure would be in the public interest. Upon completion of an investigation, the competent authorities shall promptly publish a report setting forth their findings and reasoned conclusions reached on all pertinent issues of fact and law.

3. Any information which is by nature confidential or which is provided on a confidential basis shall, upon cause being shown, be treated as such by the competent authorities. Such information shall not be disclosed without permission of the party submitting it. Parties providing confidential information may be requested to furnish non-confidential summaries thereof or, if such parties indicate that such information cannot be summarised, the reasons why a summary cannot be provided. However, if the competent authorities find that a request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorise its disclosure in generalised or summary form, the authorities may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.

ARTICLE 505

Provisional Measures

1. In highly unusual and critical circumstances where delay would cause damage which would be difficult to repair, a Party may apply a provisional safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports of an originating good of the other Party as a result of the reduction or elimination of a duty pursuant to this Agreement have caused or are threatening to cause serious damage. The duration of such a provisional measure shall not exceed 200 days, during which period the pertinent requirements of Articles 502, 503 and 504 shall be met. The duration of any such provisional measure shall be counted as part of the total period referred to in Article 503 (1). Any additional customs duties collected as a result of such a provisional measure shall be promptly refunded if the subsequent investigation referred to in Paragraph 1 of Article 504 does not determine that increased imports of an originating good of the other Party have caused or threatened to cause serious damage to a domestic industry. In such a case, the Party that applied the measure shall apply the rate of customs duty set out in its Tariff Schedule as specified in Annex 2 as if the provisional measure had never applied.

2. 第1段项下的调查应仅依照本协议第14章预先建立并公开的程序进行。调查应包括向所有利益相关方提供合理的公众通知，并举行公开听证或其他适当方式，以便进口商、出口商和其他利益相关方能够提供证据和意见，包括有机会对其他方的陈述作出回应并提交其意见，*inter alia*，关于适用保障措施是否符合公共利益。调查完成后，主管当局应迅速发布一份报告，其中说明其发现和就所有相关事实和法律问题得出的合理结论。

3. 任何本质上具有保密性或以机密基础提供的信息，在有正当理由的情况下，应由主管当局视为机密信息。此类信息未经提交方许可不得披露。提供机密信息的缔约方可能被要求提供其非机密摘要，或者如果这些缔约方表明此类信息无法进行摘要，则应说明无法提供摘要的原因。然而，如果主管当局认为保密要求没有正当理由，并且有关一方或不愿意公开信息，或不愿意以概括或摘要形式授权披露，当局可以忽略此类信息，除非能从适当来源向其证明该信息是正确的。

ARTICLE 505

临时措施

1. 在高度异常和关键情况下，如果延迟将造成难以修复的损害，一方可依据初步认定，即有明确证据表明，根据本协议减少或消除关税后，另一方原产地商品的进口增加已造成或威胁造成严重损害，而采取临时保障措施。此类临时措施的期限不得超过200天，在此期间应满足第502条、第503条和第504条的相关要求。此类临时措施的期限应计入第503条第1款所述的总期限。如第504条第1段所述的后续调查未认定另一方原产地商品的进口增加已造成或威胁造成对国内产业的严重损害，则因该临时措施征收的任何额外关税应迅速退还。在这种情况下，采取措施的一方应按照附件2中规定的其关税税则中设定的关税税率，假定该临时措施从未实施。

2. In determining whether such highly unusual and critical circumstances exist, a Party shall have regard to the rate of increase of imports of an originating good of the other Party, both in absolute and relative terms, and the overall level of the Party's imports of the good from the other Party as a share of total imports of the good, as a result of the reduction or elimination of a duty on the good pursuant to this Agreement.

ARTICLE 506

Notification and Consultation

1. A Party shall promptly notify the other Party, in writing, on:
  - (a) initiating an investigation under Article 504;
  - (b) making a finding of serious damage or actual threat thereof caused by increased imports of an originating good of the other Party as a result of the reduction or elimination of a customs duty on the good pursuant to this Agreement;
  - (c) taking a decision to apply or extend a safeguard measure, or to apply a provisional measure; and
  - (d) taking a decision to modify a safeguard measure previously applied.
2. A Party shall provide to the other Party a copy of the public version of the report of its competent authorities required under Article 504 immediately as it is available.
3. In making a notification pursuant to Paragraph 1, the Party applying or extending a safeguard measure shall also provide evidence of serious damage or actual threat thereof caused by increased imports of an originating good of the other Party as a result of the reduction or elimination of a customs duty pursuant to this Agreement, a precise description of the good involved, the details of the proposed measure including as appropriate the grounds for not selecting the measure described in Article 502 (a) , the date of introduction, duration, and timetable for progressive liberalisation of the measure, if applicable. In the case of an extension of a measure, evidence that the domestic industry concerned is adjusting shall also be provided. Upon request, the Party applying or extending a safeguard measure shall provide additional information as the other Party may consider necessary.
4. A Party proposing to apply or extend a safeguard measure shall provide adequate opportunity for prior consultations with the other Party, with a view to, *inter alia*, reviewing the information provided under Paragraph 3, exchanging views on the measure, and reaching an agreement on compensation as set forth in Article 507 (1).

2. 在判定是否存在此类高度异常和关键情况时，一方应考虑另一方原产地商品的进口增长率，包括绝对值和相对值，以及根据本协定减少或消除该商品关税后，该商品从另一方进口的总体水平，作为该商品总进口量的一部分。

ARTICLE 506

通知和磋商

1. 一方应立即以书面形式通知另一方：
  - (a) 根据第504条发起调查；(b) 确认因本协议项下对另一方的原产货物征收的关税减少或消除而导致的进口增加，造成严重损害或实际威胁；(c) 作出适用或延长保障措施，或适用临时措施的决定；以及(d) 作出修改先前适用的保障措施的决定。
2. 一方应立即向另一方提供其主管当局根据第504条要求编制的公开版本报告的副本。
3. 根据第1段进行通知时，适用或延长保障措施的一方还应提供证据，证明因本协议项下对另一方的原产货物征收的关税减少或消除而导致的进口增加，造成严重损害或实际威胁，一份关于所涉货物的精确描述，拟议措施的细节，包括但不限于未选择第502条(a)款所述措施的理由，措施的实施日期、期限和逐步自由化的时间表，如适用。在措施延长期限的情况下，还应提供相关国内产业正在调整的证据。应要求，适用或延长保障措施的一方应提供另一方认为必要的信息。
4. 一方提出适用或延长保障措施时，应给予另一方充分的事先磋商机会，以例如，审查根据第3段提供的信息，就措施交换意见，并就第507条 (1)中规定的补偿达成协定。

5. Where a Party applies a provisional measure referred to in Article 505, on request of the other Party, consultations shall be initiated immediately after such application.
6. The provisions on notification in this Chapter shall not require a Party to disclose confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

ARTICLE 507

Compensation

1. A Party extending a safeguard measure for an overall period beyond three years shall, in consultation with the other Party, provide to the other Party mutually agreed trade liberalising compensation in the form of substantially equivalent concessions during the period of extension of the measure beyond the aforementioned three years. Such consultations shall begin within 30 days of the decision to extend the measure and, in accordance with Article 506 (4), shall take place prior to the extension.
2. If the Parties are unable to reach agreement on compensation within 30 days after the consultations commence, the exporting Party shall be free to suspend the application of substantially equivalent concessions to the trade of the Party extending the safeguard measure.
3. A Party shall notify the other Party in writing at least 30 days before suspending concessions under Paragraph 2.
4. The obligation to provide compensation under Paragraph 1 and the right to suspend substantially equivalent concessions under Paragraph 2 shall terminate on the date of the termination of the safeguard measure.

5. 当一方应另一方请求适用第505条所述的临时措施时，磋商应在申请后立即启动。
6. 本章关于通知的规定不应要求一方披露其披露将妨碍执法或否则违背公共利益或损害特定企业（公营或私营）合法商业利益的机密信息。

ARTICLE 507

补偿

1. 一方实施保障措施的整体期限超过三年的，应与另一方协商，在措施期限延长超过前述三年的期间内，以实质性等价让步的形式向另一方提供双方同意的贸易自由化补偿。此类磋商应在延长措施的决定作出后30日内开始，并根据第506条第4款，应在延长之前进行。
2. 如果双方在磋商开始后30天内未能就补偿达成协议，出口方可以自由暂停向实施保障措施的一方提供实质性等价让步。
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段的规定提供补偿的义务以及根据第2段的规定暂停实质性等价让步的权利，应于保障措施终止之日起终止。

**Global safeguards**

1. Each Party retains its rights and obligations under Article XIX of GATT 1994 and the WTO Agreement on Safeguards and any other relevant provisions in the WTO Agreement. This Agreement does not confer any additional rights or obligations on the Parties with regard to such global safeguard measures, except that a Party taking such a measure may exclude imports of an originating good of the other Party from the action if such imports are not a cause of serious injury or threat thereof or of serious damage or actual threat thereof or of any other such factor as may be provided in Article XIX of GATT 1994 and the WTO Agreement on Safeguards, and any other relevant provisions in the WTO Agreement.
2. A Party considering the imposition of a global safeguard measure on an originating good of the other Party shall initiate consultations with that Party as far in advance of taking any such measure as practicable.

**PART III**

**SPECIAL SAFEGUARD MEASURES FOR CERTAIN SENSITIVE  
AGRICULTURAL PRODUCTS**

**Standards for a Special Safeguard Measure**

1. A Party may, in exceptional circumstances, apply a special safeguard measure to a limited number of specified sensitive agricultural goods, as set down in Annex 5.
2. The Parties shall endeavour to apply special safeguards measures in a manner that is consistent with their commitment under the terms of this Agreement to promote the expansion of bilateral trade in agricultural goods.
3. A Party may impose a special safeguard measure on a good only during the period set down in Annex 5 for that good.

**全球保障措施**

1. 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以及世界贸易协定中任何其他相关条款所享有的权利和义务。本协定并未就此类全球保障措施向缔约方授予任何额外的权利或义务，但采取此类措施的缔约方可以将另一方的原产地商品进口排除在行动之外，如果此类进口不是严重损害或其威胁、严重损害或实际威胁或世界贸易协定第十九条和保障措施协定以及世界贸易协定中任何其他相关条款中规定的任何其他此类因素的原因。
2. 一方考虑对另一方原产 货物实施全球保障措施时，应尽可能提前与该方进行磋商。

**第三部分**

**特定敏感农产品特殊保障措施**

**特殊保障措施标准**

1. 一方可在特殊情况下有限数量特定敏感农产品，按照附件5的规定，采取特别保障措施。
2. 双方应努力以与本协议条款下其促进农产品双边贸易扩张的承诺一致的方式，采取特别保障措施。
3. 一方可以对货物施加特别保障措施，但仅限于附件5中为该货物规定的期间。

4. Such a special safeguard measure may be applied to imports of an agricultural good listed in Annex 5 if the volume of imports of that originating good of the other Party entering the customs territory of the Party during any given calendar year exceeds the specified volume trigger level for that year. The applicable trigger levels are set out in Annex 5.

5. If the conditions in Paragraph 4 are met, a Party may increase the rate of customs duty applicable to the good for the remainder of that calendar year through the application of the customs duty for such good at the current MFN rate or the base rate, whichever is lower.

6. Any supplies of the good in question which were *en route* on the basis of a contract settled before the additional customs duty is imposed under the terms of this Article shall be exempted from any such additional customs duty, provided that they may be counted in the volume of imports of the good in question during the following year for the purposes of triggering the provisions of Paragraph 4 in that year.

7. Each Party shall apply any special safeguard measure in a transparent manner. A Party applying a special safeguard measure shall give notice in writing, including relevant data, to the other Party as far in advance as may be practicable and in any event within ten working days of the implementation of such action.

8. Upon request, the Party imposing the measure shall consult and cooperate in exchanging information as appropriate with the other Party with respect to the conditions of application of the measure.

9. A Party may not apply a special safeguard measure on a good that is subject to a measure that the Party has applied pursuant to Article XIX of GATT 1994 and the WTO Safeguards Agreement or any other relevant provisions in the WTO Agreement or to a measure set forth in Articles 502-508, nor may a Party continue to maintain a special safeguard measure on a good that becomes subject to a measure that the Party applies pursuant to Article XIX of GATT 1994 and the WTO Safeguards Agreement or any other relevant provisions in the WTO Agreement, or to any measure set forth in Articles 502-508.

10. No later than three years following the entry into force of this Agreement, the Parties shall review the operation of this Article, including the appropriateness of the list and trigger levels, including the growth factors set down in Annex 5. The review shall take into account relevant international trade developments.

11. In the event that a Party enters into an agreement or arrangement with a non-Party following entry into force of this Agreement that does not provide for special safeguard measures on a good or goods covered in the relevant section of Annex 5 of this Agreement, and where the non-Party is a substantial supplier of the good or goods, the Parties shall, by mutual consent, enter into consultations on the scope for that good or those goods to be withdrawn from Annex 5.

4. 这种特别保障措施可适用于附件5中列出的某农产品的进口，如果另一方在该日历年进入一方海关领土的原产该货物的进口量超过该年度规定的数量触发水平。适用的触发水平载于附件5。

5. 如果第4段的条件得到满足，一方可以通过对货物适用海关关税，将该货物在该日历年度剩余时间内适用的关税税率提高至当前最惠国税率或基础税率中较低者。

6. 在本条规定的额外关税根据本条条款被征收之前，与本条相关的货物中，在合同已结算且货物正在运输途中时供应的货物，应从任何此类额外关税中免除，前提是该货物可以在该货物在随后一年中计入进口量的情况下，用于在该年触发第4段的条款。

7. 每一方应以透明的方式实施任何特别保障措施。实施特别保障措施的一方应以尽可能提前的方式，并在任何情况下在实施此类行动后的十个工作日内，向另一方书面通知，包括相关数据。

8. 应要求，实施措施的一方应与另一方就措施的适用条件进行协商与合作，并适当交换信息。

9. 一方不得对受一方根据1994年关税及贸易总协定第十九条和世界贸易组织保障措施协定或世界贸易组织协定中任何其他相关条款所采取的措施影响的货物实施特别保障措施，也不得对受一方根据1994年关税及贸易总协定第十九条和世界贸易组织保障措施协定或世界贸易组织协定中任何其他相关条款所采取的措施，或第502条至第508条中规定的措施影响的货物继续维持特别保障措施。

10. 自本协定生效之日起三年内，缔约方应审查本条的实施情况，包括清单和触发水平的适当性，包括附件5中规定的增长因素。审查应考虑相关的国际贸易发展。

11. 如果一方在本协议生效后与一方以外的另一方达成协议或安排，且该协议或安排未就附件5中相关部分所涵盖的货物提供特别保障措施，并且该一方是该货物或货物的重大供应者，则双方应经相互协商，就应从附件5中撤回该货物或这些货物的事项进行磋商。

CHAPTER 6

SANITARY AND PHYTOSANITARY MEASURES AND  
FOOD STANDARDS

ARTICLE 601

Objectives

The objectives of this Chapter are:

- (a) to protect human, animal or plant life or health in the territory of each Party;
- (b) to facilitate safe bilateral trade in food, plants and animals, including their products, and animal feed;
- (c) to strengthen cooperation between Australian and Thai government agencies having responsibility for matters covered by this Chapter and to deepen mutual understanding of each Party’s regulations and procedures; and
- (d) to strengthen collaboration between the Parties in relevant international bodies implementing agreements or developing international standards, guidelines and recommendations relevant to the matters covered by this Chapter.

ARTICLE 602

Definitions

For the purposes of this Chapter:

- (a) “agricultural and food standard” means a mandatory requirement being either a sanitary or phytosanitary measure or other technical regulation, that is made pursuant to relevant laws administered by either Party;
- (b) “sanitary or phytosanitary measure” (SPS measure) shall have the same meaning as in Annex A, paragraph 1, of the SPS Agreement; sanitary or phytosanitary measures include control, inspection and approval procedures, guidelines for use of which are given in Annex C of the SPS Agreement;
- (c) “technical regulation” means a non-SPS measure which shall have the same meaning as in Annex 1 of the TBT Agreement; and

CHAPTER 6

卫生与植物卫生措施和食品标准

ARTICLE 601

目标

本章的目标是：

- (a) 保护每一方领土内的人类、动物或植物的生命或健康；(b) 促进食品、植物和动物及其产品、动物饲料的安全双边贸易；(c) 加强负责本章涵盖事项的澳大利亚和泰国政府机构之间的合作，并加深每一方法规和程序的相互理解；以及(d) 加强缔约方在实施协定或制定与本章涵盖事项相关的国际标准、指南和建议的相关国际机构中的合作。

ARTICLE 602

定义

本章的目的：

- (a) “农业和食品安全标准”是指一方根据相关法律实施的一种强制性要求，该要求可以是卫生或植物卫生措施或其他技术法规；(b) “卫生或植物卫生措施” (SPS措施) 应具有SPS协定附件A第1段中规定的含义；卫生或植物卫生措施包括控制、检验和批准程序，其使用指南在SPS协定附件C中给出；(c) “技术法规”是指非SPS措施，其含义与TBT协定附件1中规定的相同；和

(d) “appropriate level of sanitary or phytosanitary protection” shall have the same meaning as in Annex A of the SPS Agreement.

ARTICLE 603

Scope

1. This Chapter shall apply to all sanitary and phytosanitary measures of a Party that may, directly or indirectly, affect trade in agricultural and food products traded between the Parties, regardless of the origin of those products.

2. It shall also apply to:

- (a) all other agricultural and food standards related to agricultural and food products traded between the Parties;
- (b) assessments of manufacturers or manufacturing processes of agricultural and food products exported from one Party to the other Party; and
- (c) assessments of official control, inspection and approval systems related to agricultural and food products operated by the Parties.

ARTICLE 604

Obligations

1. The Parties reaffirm their existing rights and obligations with respect to each other under the SPS Agreement and the TBT Agreement to the extent that these rights and obligations are applicable to trade in agricultural and food products.

2. Nothing in this Chapter shall prevent a Party from adopting or maintaining, in accordance with its international rights and obligations:

- (a) SPS measures necessary to achieve its appropriate level of protection of human, animal or plant life or health; and
- (b) other technical requirements set out in a Party’s laws, regulations and policies as appropriate to its national circumstances.

3. Each Party, consistent with Paragraphs 1 and 2, shall retain all authority under its laws to implement sanitary and phytosanitary measures and other standards related to this Chapter. This includes the authority to take appropriate measures for goods that do not conform to that Party’s SPS measures and such other standards.

(d) “适当的卫生或植物卫生保护水平”应具有SPS协定附件A中规定的含义。

一方RTICLE 603

范围

1. 本章适用于一方可能直接或间接影响双方之间交易的农产品和食品贸易的卫生和植物卫生措施，无论这些产品的原产地如何。

2. 它还适用于：

- (a) 与双方之间交易的农产品和食品相关的所有其他农业和食品标准；(b) 从一方出口到另一方的一方的农产品和食品的制造商或制造工艺的评估；以及(c) 与一方运营的农产品和食品相关的官方控制、检验和认证制度的评估。

一方RTICLE 604

义务

1. 双方重申其根据SPS协定和TBT协定对彼此现有的权利和义务，这些权利和义务适用于农产品和食品贸易。

2. 本章的任何规定均不得阻止一方根据其国际权利和义务采取或维持：

- (a) 为实现其适当水平的人类、动物或植物生命或健康保护而必要的SPS 措施；以及 (b) 一方根据其国家情况适当制定的法律、法规和政策中规定的技术要求。

3. 每一方，根据第1段和第2段的规定，应保留其法律规定的实施卫生和植物卫生措施以及本章相关的其他标准的所有权力。这包括采取适当措施的权力，以处理不符合该一方SPS措施和此类 其他标准的货物。

ARTICLE 605

**Harmonisation**

1. Noting their commitments under Article 604 (1), the Parties shall endeavour to work towards harmonisation of sanitary and phytosanitary measures and other agricultural and food standards, on as wide a basis as possible, as provided for under Article 3 of the SPS Agreement and Article 2 of the TBT Agreement.
2. Harmonisation shall be pursued without requiring either Party to change its appropriate level of protection of human, animal or plant life or health, that the Party determines to be appropriate in accordance with the relevant provisions of Article 5 of the SPS Agreement.

ARTICLE 606

**Equivalence**

1. The Parties recognise that the principle of equivalence as set down in Article 4 of the SPS Agreement and Article 2 of the TBT Agreement, as applied to SPS measures and other agricultural and food standards, has mutual benefits for both exporting and importing countries.
2. The Parties shall follow the procedures for determining the equivalence of SPS measures and other agricultural and food standards, including control, inspection and approval procedures, developed by the relevant WTO bodies and the Codex Alimentarius Commission, the Office Internationale des Epizooties and the International Plant Protection Convention, as amended from time to time.
3. Compliance by an exported food product with a food standard that has been accepted as equivalent to a food standard of the importing Party shall not remove the need for that product to comply with any other relevant mandatory requirements of the importing Party.

ARTICLE 605

**协调**

1. 鉴于其根据第604条（1）所做的承诺，双方应努力在尽可能广泛的范围内，根据SPS协定第3条和TBT协定第2条的规定，推动卫生和植物卫生措施及其他农业和食品标准的协调。
2. 协调应在不要求任何一方改变其根据SPS协定第5条相关条款确定并认为适当的人类、动物或植物生命或健康保护水平的情况下进行,该保护水平由一方认为适当。

ARTICLE 606

**等效**

1. 双方承认 SPS协定第4条和TBT协定第2条中规定的等效原则，在应用于SPS措施和其他农业和食品标准时，对出口国和进口国均有共同利益。
2. 双方应当遵循相关世界贸易组织机构、食品法典委员会、国际兽疫局和国际植物保护公约制定并经不时修订的关于确定SPS措施和其他农业和食品安全标准的等效性程序，包括控制、检验和批准程序。
3. 出口食品产品符合已被接受为与进口方食品标准等效的食品标准，不应消除该产品需遵守进口方任何其他相关强制性要求的需要。

### Control, Inspection and Approval Procedures

1. The Parties recognise that they operate different systems for giving effect to their international rights and obligations relating to control, inspection and approval procedures.
2. Each Party shall, on the request of the other Party, following the procedures set down from time to time by the relevant WTO bodies and the Codex Alimentarius Commission, the Office Internationale des Epizooties or the International Plant Protection Convention, give consideration to accepting the relevant control, inspection and approval procedures of the other Party, provided that it is satisfied that these achieve the same outcomes as its own regulatory requirements.
3. Each Party shall on request and in accordance with its international obligations and applicable laws, regulations and policies, review its inspection, testing, certification and other relevant import and export approval systems or procedures to ensure these are reasonable and necessary, so as to further facilitate access of traded goods to its territory and minimise the costs of doing business.
4. The Parties shall cooperate on a product trace back system for the notification of non-compliance of imported consignments for commodities subject to SPS measures or other agricultural and food standards requirements, drawing on the guidelines of relevant international organisations where available.
5. In particular:
  - (a) where non-compliance with SPS measures or other agricultural and food standards arises, the importing Party shall notify the exporting Party of the consignment details;
  - (b) unless specifically required by laws, regulations or policies in effect at the time this Agreement enters into force, the importing Party shall avoid suspending trade based on one shipment, but in the first instance shall contact the exporting Party to ascertain how the problem has occurred. The Parties shall consult on what remedial action might be taken by the exporting Party to ensure that further shipments are not affected;
  - (c) the exporting Party shall investigate and advise the importing Party of its findings regarding the non-compliance referred to in Sub-paragraph (a), including any corrective action that will apply to future shipments. The Parties shall, upon the request of either Party, jointly examine the import or export control, inspection and approval procedures concerned; and

### 控制、检验和批准程序

1. 双方承认他们为实施其关于控制、检验和批准程序的国际权利和义务而运行不同的系统。
2. 每一方应根据另一方的要求，遵循世界贸易组织机构和相关食品法典委员会、国际兽医局或国际植物保护公约随时制定的程序，考虑接受另一方的相关控制、检验和批准程序，前提是其满意这些程序能达到与其自身法规要求相同的结果。
3. 每一方应根据其国际义务和适用法律、法规和政策的要求，在请求下审查其检验、测试、认证和其他相关进出口批准系统或程序，以确保这些系统或程序是合理且必要的，以便进一步促进贸易货物进入其领土并尽量减少商业成本。，
4. 双方应根据相关国际组织的指南（如有），就贸易措施或其他农业和食品标准要求下的进口货件不符合要求的通知产品追溯系统进行合作。
5. 特别地：
  - (a) 当出现不符合SPS措施或其他农业和食品标准的情况时，进口方应通知出口方有关货件详情；(b) 除非本协议生效时有效的法律、法规 或政策有明确规定，进口方应避免因一船货物而暂停贸易，但首先应联系出口方以查明问题发生的原因。双方应协商出口方可能采取的补救措施，以确保后续货物不受影响；(c) 出口方应调查并告知进口方关于(a)款所述不符合情况的结果，包括将适用于未来货物的纠正措施。双方应根据任何一方的要求，共同审查相关的进出口控制、检验和审批程序；和

- (d) if, after investigation and review, the Parties mutually determine that the issue is an incident arising from an isolated technical problem, the importing Party shall separate the incident clearly from the overall institutional and procedural arrangements applying to relevant control, inspection and approval systems. In this event, the importing Party shall confine any treatment measures taken only to that particular shipment and shall also endeavour to ensure that the incident is not used as a basis for refusing to accept the arrangements applying to other shipments of the products concerned.

#### ARTICLE 608

### Information Exchange and Cooperation

1. Recognising the importance of close and effective working relationships between the Parties' regulatory and other relevant agencies in giving effect to the objectives of this Chapter, the Parties shall enhance their consultation processes in order to facilitate cooperation.
2. In particular, each Party shall:
  - (a) establish an overall coordination contact point, as well as contact points for relevant specialised areas, to disseminate and exchange information expeditiously and to facilitate timely and favourable consideration of requests for information or clarification from the other Party. The overall coordination contact point shall be included in all consultations made pursuant to this Article;
  - (b) provide notice to the relevant contact points of the other Party of new or proposed changes to its SPS measures and other agricultural and food standards, as far in advance as practicable before the changes come into effect, where these are likely to affect, directly or indirectly, trade between the Parties;
  - (c) where considerations of public, animal or plant health and safety warrant more urgent action, notify the other Party no later than the date the changes enter into force;
  - (d) where it implements emergency management measures in response to a confirmed threat to human, plant or animal life or health, ensure that all pertinent information about the incident is provided to the other Party and the Parties shall consult expeditiously with the aim of minimising disruption to trade.
3. The Parties shall explore opportunities for further cooperation and collaboration on regulatory issues at the bilateral, regional and multilateral levels consistent with the provisions of this Chapter.

- (d) 如果，经调查和审查，双方共同认定该问题是因孤立的技术问题而引发的事件，进口方应 将事件与相关控制、检验和审批系统的整体制度和程序安排明确区分开来。在这种情况下，进口方应将采取的处理措施仅限于该特定货物，并应努力确保该事件不被用作拒绝接受相关产品其他货物的安排的理由。

#### ARTICLE 608

### 信息交换与合作

1. 认识到缔约方监管及其他相关机构之间紧密有效的合作关系对于实现本章目标的重要性，缔约方应加强协商程序，以促进合作。
2. 特别是，每一方应：
  - (a) 建立总体协调联络点以及相关专门领域的联络点，以便迅速传播和交换信息，并促进及时和有利地考虑另一方提出的信息或澄清请求。总体协调联络点应包含在本章规定的所有磋商中；
  - (b) 在其SPS措施和其他农业和食品标准发生新的或拟议的变更之前尽可能提前，通知另一方的相关联络点，如果这些变更可能直接影响或间接影响缔约方之间的贸易；
  - (c) 如果公共、动物或植物健康和安全方面的考虑需要更紧急的行动，则在不迟于变更生效的日期之前通知 另一方；
  - (d) 如果其实施 应急管理措施以应对对人类、植物或动物生命或健康的确认威胁，则确保关于事件的全部相关信息提供给 另一方，缔约方应迅速磋商，以尽量减少对贸易的干扰。
3. 双方应探讨在监管问题上进一步合作和协作的机会，包括双边、区域和多边层面，并应与本章的规定一致。 ，

4. The Parties shall enhance cooperation on priority proposals in relevant areas of technical assistance and capacity-building activities to ensure that existing or future opportunities for funding or other support are used effectively to further the objectives of this Chapter.

ARTICLE 609

**Consultative Forum on Sanitary and Phytosanitary Measures and Food Standards**

1. The Parties shall establish an Expert Group on Sanitary and Phytosanitary Measures and Food Standards as a consultative forum to promote the objective set out in Article 601 (c) and to reflect their commitments under Article 608 (1) to strengthen cooperation between regulatory agencies having responsibility for sanitary and phytosanitary measures and for food standards.
2. The Expert Group, along with the existing Joint Working Group on Agriculture, shall together form an integrated means of enhanced regular and comprehensive consultation and cooperation on agriculture and related matters so as to facilitate safe trade between the Parties.
3. The Expert Group shall meet as often as required and mutually determined by the Parties, but this shall not be less than once a year. In principle, the Parties shall meet biannually during the initial two year work program of the Expert Group. The Expert Group shall meet consecutively with the regular meetings of the Joint Working Group, alternately in each Party’s territory.
4. The Parties may mutually determine an alternative process for addressing any matter and for this purpose shall make full use of the coordination and contact points established under Article 608 (2)(a).
5. The Expert Group may adopt a work program and work procedures independently of the established scope and modalities of the Joint Working Group. The Expert Group shall inform the Joint Working Group of the outcomes from its meetings.
6. The Expert Group may establish temporary task forces to address particular issues.

4. 双方应加强在技术援助和能力建设活动相关领域的优先提案合作，以确保现有或未来的资金或其他支持机会得到有效使用，以进一步实现本章的目标。

ARTICLE 609

**卫生与植物卫生措施及食品标准咨询论坛**

1. 双方应当 建立卫生与植物卫生措施及食品标准专家组 作为一个磋商论坛，以促进第601条(c)中规定的目标，并反映其在第608条(1)下加强监管机构之间在卫生与植物卫生措施和食品标准方面合作所做的承诺。
2. 专家组与现有的农业联合工作组应共同形成一个加强在农业及相关事项上进行定期和全面磋商与合作的整体 方式，以便促进双方之间的安全贸易。
3. 专家组应根据双方根据需要共同确定的频次开会，但每年至少开会一次。原则上，在专家组最初两年的工作计划期间，双方应每两年开会一次。专家组应与联合工作组的定期会议连续开会，交替在每个一方的领土内举行。
4. 双方可以相互确定 处理任何事项的替代程序，为此应充分利用根据第608条（2）（a）款建立的协调点和联络点。
5. 专家组可以独立于联合工作组的既定范围和方式制定工作计划和程序。专家组应将其会议成果通知联合工作组。
6. 专家组可以建立临时工作组以处理特定问题。

7. The Party hosting the Expert Group shall provide the chair for the meeting who shall be a representative from the agriculture ministry of the relevant Party. Delegations to the Expert Group may be composed of relevant technical and policy officials or other designated officials as each Party determines appropriate from time to time. Each Party shall ensure, reflecting the agenda agreed for each meeting, that appropriate representatives with responsibility for SPS measures and food standards participate in meetings of the Expert Group.

8. The Parties shall consult on dates and venues for planned meetings of the Expert Group and Joint Working Group well in advance. Agendas for meetings of the Expert Group shall be mutually determined at least 30 days prior to each meeting.

9. To achieve the objectives of Paragraph 2 on matters related to this Chapter, the Expert Group shall at its first meeting develop and implement a work program, with the initial phase to be completed and reviewed within two years of the signature of this Agreement, with the aim of:

- (a) reviewing progress and monitoring the implementation of this Chapter on an ongoing basis;
- (b) enhancing mutual understanding of each Party's sanitary and phytosanitary measures, agricultural and food standards, and related regulatory processes;
- (c) consulting on matters related to the development or application of SPS measures and other agricultural and food standards that affect or may affect trade between the Parties;
- (d) reviewing and assessing progress of each Party's priority market access interests, which at the time of signature of this Agreement are listed in Annex 6.1;
- (e) consulting on requests for recognition of equivalence of SPS measures or other agricultural and food standards. In respect of control, inspection and approval arrangements, the priority sectors of each Party at the time of signature of this Agreement are listed in Annex 6.2;
- (f) consulting on matters relating to the harmonisation of standards;
- (g) consulting or coordinating positions on matters related to meetings of the WTO SPS Committee, the Codex Alimentarius Commission, the Office Internationale des Epizooties, the International Plant Protection Convention or other forums dealing with human, plant or animal health;
- (h) coordinating and prioritising capacity building and technical cooperation programs related to SPS measures and other relevant agricultural and food standards; and
- (i) progressing resolution of disputes that arise in connection with the matters covered by this Chapter.

7. 担任专家组东道主的一方应提供会议主席，该主席应为相关方农业部门的代表。专家组代表团可由各方可根据情况适当确定的相关技术及政策官员或其他指定官员组成。每一方应确保，根据为每次会议商定的议程，适当安排负责SPS措施和食品标准的代表参加专家组的会议。

8. 双方应提前就专家组和联合工作组的计划会议日期和地点进行协商。专家组的会议议程应至少在每次会议前30天共同确定。

9. 为实现与本章节第2段相关事项的目标，专家组应在首次会议时制定并实施工作计划，初始阶段应在本协议签署之日起两年内完成并审查，目标是：

- (a) 审查进展并持续监测本章的实施情况；
- (b) 增进各方对另一方卫生和植物卫生措施、农业和食品标准及相关监管程序的相互理解；
- (c) 协商与SPS措施或其他影响或可能影响双方贸易的农业和食品标准发展或应用相关的事项；
- (d) 审查和评估各方优先市场准入利益的进展情况，本协议签署时列于附件6.1；
- (e) 协商对SPS措施或其他农业和食品标准等同性的承认请求。在控制、检验和认证安排方面，本协议签署时各方的优先领域列于附件6.2；
- (f) 协商与标准协调相关的事项；
- (g) 协商或协调与WTO卫生与植物卫生委员会、食品法典委员会、国际兽疫局、国际植物保护公约或其他处理人类、植物或动物健康问题的论坛会议相关的事项；
- (h) 协调和优先排序与SPS措施及其他相关农业和食品标准相关的能力建设和技术合作计划；以及
- (i) 推进与本章涵盖事项相关的争议解决。

**Dispute Settlement**

- 1. Matters arising under this Chapter that cannot be settled through consultations within the Expert Group established under Article 609 may be forwarded by either Party for consideration by the FTA Joint Commission.
- 2. Chapter 18 shall not apply to the provisions of this Chapter.

**争端解决**

- 1. 本章下产生的、无法通过根据第609条建立的专家组磋商解决的争议事项，可由任何一方提交自贸协定联合委员会审议。
- 2. 第18章不适用于本章条款。

CHAPTER 7

INDUSTRIAL TECHNICAL BARRIERS TO TRADE

ARTICLE 701

Definitions

All general terms concerning standards and conformity assessment used in this Agreement shall have the meaning given in the definitions contained in the International Organization for Standardization/International Electrotechnical Commission Guide 2 (1996), which cover goods, processes, and services. This Chapter deals only with technical regulations, standards and conformity assessment procedures related to products or processes and production methods. In addition, the following terms and definitions shall apply for the purposes of this Chapter:

- (a) “conformity assessment” means any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled;
- (b) “equivalence” means the state wherein mandatory requirements applied in the exporting Party, though different from the mandatory requirements applied in the importing Party, meet the legitimate objective of the mandatory requirements applied in the importing Party;
- (c) “mandatory requirements” means all mandatory standards and technical regulations in the laws, regulations and policies of the Parties;
- (d) “standard” means a document approved by a recognised body that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method; and
- (e) “technical regulation” means a document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

章节 7

工业技术性贸易壁垒

ARTICLE 701

定义

本协议中使用的所有与标准和合格评定相关的一般术语，其含义应参照国际标准化组织/国际电工委员会指南 2（1996），该指南涵盖货物、工艺和服务。本章仅涉及与产品、工艺和生产方法相关的技术法规、标准和合格评定程序。此外，以下术语和定义应适用于本章的目的：

- (a) “合格评定”是指直接或间接用于确定技术法规或标准中相关要求是否得到满足的任何程序；
- (b) “等同”是指出口方应用的强制性要求虽然与进口方应用的强制性要求不同，但满足进口方应用的强制性要求的合法目标；
- (c) “强制性要求”是指缔约方法律、法规和政策中的所有强制性标准和技术法规；
- (d) “标准”是指由公认机构批准的文件，该文件为共同和重复使用提供产品或相关工艺和生产方法的规则、指南或特性，遵守该标准并非强制性的。它也可以包括或专门涉及适用于产品、工艺或生产方法的术语、符号、包装、标记或标签要求；以及
- (e) “技术法规”是指规定产品特性或其相关工艺和生产方法的文件，包括适用的行政管理规定，遵守该法规是强制性的。它也可以包括或专门涉及术语、符号

包装、标记或标签要求，适用于产品、工艺或生产方法。

ARTICLE 702

Objectives

The objectives of this Chapter are:

- (a) to facilitate trade and investment between the Parties through collaborative efforts which minimise the impact of technical regulations and/or assessments of manufacturers or manufacturing processes on the goods traded between the Parties, in the most appropriate or cost-effective manner;
- (b) to complement bilateral agreements and arrangements between the Parties relating to technical regulations; and
- (c) to build on the mutual recognition arrangements developed within the voluntary sector and APEC context.

ARTICLE 703

Scope and Obligations

1. The Parties affirm with respect to each other their existing rights and obligations relating to technical regulations under the *WTO Agreement on Technical Barriers to Trade* and all other international agreements, including environmental and conservation agreements, to which the Parties are party.
2. Nothing in this Chapter shall prevent a Party from adopting or maintaining, in accordance with its international rights and obligations, and conditions set out in the *WTO Agreement on Technical Barriers to Trade*:
  - (a) technical regulations necessary to ensure its national security requirements; and
  - (b) technical regulations necessary for the protection of human, animal or plant life or health, or the environment, or for the prevention of deceptive practices or to fulfil other legitimate objectives, as specified in the *WTO Agreement on Technical Barriers to Trade*.
3. Each Party shall retain all authority under its laws to implement its technical regulations. This includes the authority to take appropriate measures for goods that do not conform to the Party's technical regulations. Such measures may include withdrawing goods from the market, prohibiting their placement on the market or restricting their free movement, initiating a product recall or prohibiting an import.

ARTICLE 702

目标

本章的目标是：

- (a) 通过合作努力促进缔约方之间的贸易和投资，以最大限度地减少技术法规和/或对制造商或制造工艺的评估对缔约方之间交易的货物的影响，并以最适当或最具成本效益的方式；(b) 补充缔约方之间关于技术法规的双边协议和安排；以及(c) 基于自愿部门和亚太经合组织背景下开发的互认安排。

ARTICLE 703

范围和义务

1. 双方确认相互之间在世贸组织<code>技术性贸易壁垒协定</code>以及所有其他国际协定（包括环境和保护协定）下，就技术法规存在的现有权利和义务。
2. 本章任何规定均不得妨碍一方根据其国际权利和义务以及世界贸易组织 《技术性贸易壁垒协定》 中规定的条件，制定或维持：
  - (a) 为确保其国家安全要求而必要的技术法规；以及 (b) 为保护人类、动物或植物的生命或健康、环境、防止欺骗性做法或实现其他合法目标而必要的技术法规，如世界贸易组织 《技术性贸易壁垒协定》 中所述。
3. 每一方应保留其法律规定的所有权力，以实施其技术法规。这包括采取适当措施的权利，以处理不符合该方技术法规的货物。此类措施可能包括从市场上撤回货物、禁止其上市或限制其自由流动、发起产品召回或禁止进口。

4. The Parties affirm their intention to adopt and to apply, with such modifications as may be necessary, the principles set out in the *APEC Information Notes on Good Regulatory Practice in Technical Regulation* with respect to conformity assessment and approval procedures in meeting their international obligations under the WTO *Agreement on Technical Barriers to Trade*.

ARTICLE 704

Origin

This Chapter applies to all goods traded between the Parties, regardless of the origin of those goods, unless otherwise specified by any technical regulations of a Party.

ARTICLE 705

Harmonisation and Equivalence

- 1. The Parties shall, where appropriate, endeavour to work towards harmonisation of their respective technical regulations, taking into account relevant international standards, recommendations and guidelines, in accordance with their international rights and obligations.
- 2. The Parties shall give positive consideration to accepting as equivalent technical regulations of the other Party, even if these regulations differ from their own, provided they are satisfied that these regulations adequately fulfil the objectives of their own regulations.

ARTICLE 706

Conformity Assessment Procedures

- 1. The Parties shall, recognising the existence of differences in the structure, organisation and operation of conformity assessment procedures in their respective territories, make compatible those procedures to the greatest extent practicable.

4. 双方确认其意图采纳并应用必要的修改，以实施在关于合格评定和批准程序的亚太经合组织技术法规良好监管实践信息说明 中阐述的原则，以履行其在世界贸易组织技术性贸易壁垒协定项下的国际义务。

一方RTICLE 704

原产地

本章适用于缔约方之间交易的货物，无论这些货物的原产地如何，除非任何一方技术法规另有规定。

一方RTICLE 705

协调和等同

- 1. 双方应在适当情况下，根据其国际权利和义务，努力推动各自技术法规的协调，并考虑相关的国际标准、建议和指南。
- 2. 双方应当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，只要它们满意这些法规充分实现了其自身法规的目标。

ARTICLE 706

合格评定程序

- 1. 双方应当，承认其各自领土内合格评定程序在结构、组织和运作方面存在差异，尽可能使这些程序相兼容。

2. Each Party shall, wherever possible, accept the results of a conformity assessment procedure conducted in the territory of the other Party, provided that it is satisfied that the procedure offers an assurance, equivalent to that provided by a procedure it conducts or a procedure conducted in its territory the results of which it accepts, that the relevant good complies with the applicable technical regulation or standard adopted or maintained in the Party's territory.

3. Before accepting the results of a conformity assessment procedure, and to enhance confidence in the continued reliability of each other's conformity assessment results, the Parties may consult on such matters as the technical competence of the conformity assessment bodies involved, as appropriate.

4. Recognising that it should be to the mutual advantage of the Parties, each Party may accredit, approve, license or otherwise recognise conformity assessment bodies in the territory of the other Party on terms no less favourable than those accorded to conformity assessment bodies in its territory.

5. Each Party shall, on request of the other Party, take such reasonable measures as may be available to it to facilitate access in its territory for conformity assessment procedures.

6. Each Party shall give sympathetic consideration to a request by the other Party to negotiate agreements for the recognition of the results of that other Party's conformity assessment procedures in the agreed sector.

7. Each Party shall utilise to the maximum possible extent existing mutual recognition arrangements in relation to the acceptance of conformity assessment processes and procedures.

8. Each Party shall take steps to implement Parts 1, 2 and 3 of the *APEC Mutual Recognition Arrangement for Conformity Assessment of Electrical and Electronic Equipment* with respect to the other Party.

9. Each Party shall give serious consideration, where possible, to participation in any future mutual recognition arrangements developed within APEC.

ARTICLE 707

Technical Cooperation and Contact Point

1. A Party shall, on request of the other Party:

2. 每一方应当，在可能的情况下，接受在他方领土内进行的合格评定程序的结果，前提是其满意该程序提供的保证，等同于其进行的程序或在其领土内进行的程序（其接受该程序的结果）所提供的保证，即相关货物符合其在领土内采用或维持的适用技术法规或标准。

3. 在接受合格评定程序的结果之前，并为了增强对彼此合格评定结果的持续可靠性的信心，双方可以就合格评定机构涉及的技术能力等事项进行协商，如适当。

4. 认识到这对双方都有利，每一方可以在他方领土内，以不低于其领土内授予合格评定机构的条件，认可、批准、授权或以其他方式承认合格评定机构。

5. 每一方应根据他方的请求，采取其所能采取的合理措施，以促进合格评定程序在其领土内的进行。

6. 每一方应根据他方的请求，友好地考虑他方就谈判协议以承认该他方合格评定程序在商定部门的结果的请求。

7. 每一方应尽最大可能利用现有的互认安排，以接受合格评定程序和程序。

8. 每一方应当采取措施，就合格评定电子电气设备亚太经合组织互认安排第1、2和3部分与其他一方实施。

9. 每一方应当在可能的情况下，认真考虑参与在亚太经合组织内开发的任何未来互认安排。

ARTICLE 707

技术合作和联系点

1. 一方应根据另一方的请求：

- (a) provide to that Party technical advice, information and assistance on mutually determined terms and conditions to enhance that Party's technical regulations, standards and conformity assessment procedures; and
- (b) provide to that Party information on its technical cooperation programs regarding technical regulations, standards and conformity assessment procedures relating to specific areas of interest.

2. Each Party shall establish a contact point:

- (a) to have responsibility for co-ordinating with interested parties in their respective territories proposals for enhanced cooperation and responses to such proposals as well as activities for technical cooperation set out under Paragraph 1;
- (b) to consider and facilitate the acceptance of equivalence of standards, sector by sector, on a case by case basis;
- (c) to consider and facilitate mutual recognition arrangements for conformity assessment of specific products as requested by the other Party;
- (d) to broaden the exchange of information; and
- (e) to give favourable consideration to any written request for information.

3. Each Party shall encourage standardising bodies in its territory to cooperate with the standardising bodies in the territory of the other Party in their participation, as appropriate, in standardising activities, such as through membership in international standardising bodies.

- (a) 以共同确定的条件向该方提供技术建议、信息和协助，以增强该方的技术法规、标准和合格评定程序； 以及 (b) 向该方提供关于其技术合作计划的信息，涉及与其特定感兴趣领域相关的技术法规、标准和合格评定程序。

2. 每一方应设立联系点：

- (a) 负责与其各自领土内利益相关方协调加强合作的建议及对此类建议的回应，以及根据第1段规定的技术合作活动； (b) 考虑并促进按部门、个案基础上接受标准的等同性； (c) 考虑并促进另一方请求的特定产品合格评定的互认安排； (d) 扩大信息交换； 以及(e) 对任何书面信息请求给予优惠考虑。

3. 每一方应鼓励其领土内的标准化机构与他方领土内的标准化机构合作，在标准化活动中适当参与， 例如通过加入国际标准化机构。

CHAPTER 8

TRADE IN SERVICES

PART I

OBJECTIVES, DEFINITIONS AND SCOPE

ARTICLE 801

Objectives

The objectives of this Chapter are:

- (a) to liberalise trade in services between the Parties, in accordance with Article V of GATS; and
- (b) to enhance cooperation in trade in services between the Parties in order to improve the efficiency, competitiveness and diversity of services and service suppliers.

ARTICLE 802

Definitions

For the purpose of this Chapter:

- (a) “juridical person of the other Party” means a juridical person which is either:
  - (i) constituted or otherwise organised under the law of the other 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 the other Party; or

第八章

服务贸易

第一部分

目标、定义和范围

ARTICLE 801

目标

本章的目标是：

- (a) 根据 GATS 第 V 条，促进缔约方之间的服务贸易；以及 (b) 加强缔约方之间的服务贸易合作，以提高服务和服务供应商的效率、竞争力和多样性。

ARTICLE 802

定义

本章目的：

- (a) “另一方的法人”是指符合以下任一条件的法人：
  - (i) 根据另一方法律成立或以其他组织形式存在，并在该方领土内从事实质性业务经营；或 (ii) 在通过商业存在提供服务的情况下，为： a. 另一方的自然人；或

b. juridical persons of the other Party identified under subparagraph (i)

- (b) “measure” means any measures by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;
- (c) “measures by the Parties affecting trade in services” means measures 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 and authorities;

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

in fulfilling its obligations under this Chapter, each Party shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities and non-governmental bodies within its territory;

- (d) “natural person of a Party” means a natural person who resides in the territory of the Party or elsewhere and who under the law of that Party is a national of that Party;
- (e) “qualification procedures” means administrative procedures relating to the administration of qualification requirements;
- (f) “qualification requirements” means substantive requirements which a service supplier is required to fulfil in order to obtain certification or a licence;
- (g) “service consumer” means any person that receives or uses a service;
- (h) “supply of a service” includes the production, distribution, marketing, sale and delivery of a service; and
- (i) “trade in services” is defined as the supply of a service:
- (i) from the territory of a Party into the territory of the other Party;
  - (ii) in the territory of a Party to the service consumer of the other Party;
  - (iii) by a service supplier of a Party, through commercial presence in the territory of the other Party;
  - (iv) by a service supplier of a Party, through presence of natural persons of a Party in the territory of the other Party.

b. 根据第 (i) 段识别的对方当事人法人

(b) “措施”是指一方采取的任何措施，无论其形式为法律、法规、规则、程序、决定、行政行为或任何其他形式；

(c) “影响服务贸易的措施”是指采取的措施

(i) 中央、区域或地方政府和机构；以及

(ii) 在中央、区域或地方政府和机构授予的权力范围内行使权力的非政府机构；

包括针对以下方面的措施：

(i) 服务的购买、支付或使用；(ii) 在与服务供应相关的情况下，对服务（缔约方要求向公众普遍提供的）的获取和使用；(iii) 一方人员在他方领土内为提供服务而存在，包括商业存在；

在履行本章规定的义务时，每一方应采取其所采取的合理措施，以确保其领土内的地区和地方政府的当局以及非政府机构遵守这些规定；

(d) “一方当事人的自然人”是指在一方领土内居住或居住在其他地方，并且根据该方法律为该方国民的自然人；

(e) “资格程序”是指与资格要求的管理相关的行政程序；

(f) “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；

(g) “服务消费者”是指接收或使用服务的人；

(h) “服务供应”包括服务的生产、分销、营销、出售和交付；和

(i) “服务贸易”是指服务的供应：(i) 从一方领土供应到他方领土；(ii) 在一方领土供应给另一方的服务消费者；(iii) 由一方服务提供者，通过在另一方领土的商业存在；(iv) 由一方服务提供者，通过一方自然人在另一方领土的存在。

ARTICLE 803

**Scope**

1. This Chapter shall apply to measures by the Parties affecting trade in services.
2. This Chapter shall not apply to:
  - (a) subsidies or grants provided by a Party or to any conditions attached to the receipt or continued receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to domestic services, service consumers or service suppliers;
  - (b) a service supplied in the exercise of governmental authority within the territory of each respective Party, which means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;
  - (c) laws, regulations or policies governing the procurement by governmental agencies of services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the supply of services for commercial sale;
  - (d) measures affecting natural persons seeking access to the employment market of a Party; or
  - (e) measures regarding citizenship, residence or employment on a permanent basis.
3. Nothing in this Chapter shall prevent a Party from maintaining and introducing measures to regulate service sectors within its territory, provided that such measures are applied on a non-discriminatory basis without the intention to nullify or impair the benefits accruing to the other Party under the terms of this Chapter.
4. Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of a specific commitment. The sole fact of requiring a visa for natural persons of certain countries and not for those of others shall not be regarded as nullifying or impairing benefits under a specific commitment.
5. Unless they are specifically defined in this Chapter or in Annex 8, terms used in this Chapter and in Annex 8 that are also used in GATS shall be construed in accordance with their meaning in GATS, *mutatis mutandis*.

ARTICLE 803

**范围**

1. T本章将适用于影响服务贸易的措施。
2. 本章不适用于：
  - (a) 一方提供的或与接收或继续接收此类补贴或拨款相关的任何条件，无论此类补贴或拨款是否专门提供给国内服务、服务消费者或服务供应商；(b) 在每一方领土内行使政府权力时提供的服务，这意味着任何不在商业基础上提供的服务，也不与一个或多个服务供应商竞争的服务；(c) 政府机构为政府目的购买服务而制定的、旨在商业转售或旨在用于商业销售服务供应的法律、法规或政策；(d) 影响寻求进入一方就业市场的人的措施；或(e) 关于公民身份、居留或永久性就业的措施。
3. 本章的任何规定均不得阻止一方维持和引入措施，以规范其领土内的服务部门，前提是此类措施在非歧视性基础上适用，且无意使另一方在本章条款下获得之利益失效或受损。
4. 本章任何规定均不得阻止一方采取措施，以规范另一方的自然人进入其领土或在其领土内临时停留，包括为保护自然人的完整性并确保自然人有序跨境流动而采取的必要措施，前提是此类措施不得以使另一方根据具体承诺条款获得之利益归于无效或受损的方式实施。仅因对某些国家的自然人要求签证而对其他国家的自然人没有要求，不得被视为使具体承诺项下的利益归于无效或受损。
5. 除非在本章或附件8中有特别定义，本章和附件8中使用并在GATS中也使用的术语应根据其在GATS中的含义进行解释，*mutatis mutandis*。

ARTICLE 804

**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 where the Party establishes that the service supplier is owned or controlled by persons of a non-Party.

**PART II**

**GENERAL OBLIGATIONS AND DISCIPLINES**

ARTICLE 805

**Payments and Transfers**

Subject to Article 1605, a Party shall not apply restrictions on international transfers and payment for current transactions<sup>3</sup> relating to its specific commitments.

ARTICLE 806

**Recognition**

1. For the purposes of the fulfilment of its standards or criteria for the authorisation, licensing or certification of services suppliers, each Party may recognise the education or experience obtained, requirements met, or licences or certifications granted in the other Party. Such recognition may be based upon an agreement or arrangement between the Parties. The Parties acknowledge that, wherever appropriate, recognition should be based on multilaterally agreed criteria.

2. The Parties shall encourage their relevant competent bodies to enter into negotiations on recognition of qualification requirements, qualification procedures, licensing or registration procedures with a view to the achievement of early outcomes. Such commitments may be set out as additional commitments in Annex 8.

<sup>3</sup> “Current transactions” refers to current transactions as defined by the International Monetary Fund (IMF)

ARTICLE 804

**拒绝利益**

经事先通知和磋商，一方可拒绝向另一方服务供应商提供本章的利益，前提是该方证明该服务供应商为非缔约方人士拥有或控制。

**第二部分**

**一般义务和纪律**

ARTICLE 805

**支付和转账**

根据第1605条，一方不得对与其具体承诺有关的经常交易的国际转账和支付施加限制<sup>3</sup>。

ARTICLE 806

**承认**

1. 为了履行其服务供应商授权、许可或认证的标准或标准，每一方可以承认另一方获得的教育或经验、满足的要求或授予的许可证或认证。这种承认可以基于双方之间达成的协议或安排。双方承认，在适当的情况下，承认应基于多边同意的标准。

2. 双方应当 鼓励其相关主管部门就资格要求、资格程序、许可或注册程序的承认进行谈判，以期取得早期成果。此类承诺可作为附加承诺列于附件8中。

<sup>3</sup> “经常交易”是指国际货币基金组织（IMF）定义的经常交易

ARTICLE 807

Other Rights and Obligations

1. The Parties are deemed to have the same rights and obligations under this Agreement that they would have under the relevant GATS provisions, *mutatis mutandis*, if the market access and national treatment commitments inscribed in Annex 8 were inscribed in their respective specific commitments annexed to GATS.
2. The relevant GATS provisions are: Articles VI (1), (2), (3), (5) and (6); VIII (1), (2), (5); the Annex on Financial Services; the Annex on Air Transport Services, paragraphs (1), (2), (3), (4), (6); and the Annex on Telecommunications, paragraphs (1) – (5).

PART III

COOPERATION

ARTICLE 808

Areas of Cooperation

1. The Parties shall strengthen and enhance existing cooperation efforts in service sectors and develop cooperation in sectors that are not covered by existing cooperation arrangements, through *inter alia*:
  - (a) research and development;
  - (b) human resource and professional development and apprenticeship;
  - (c) trade in services data management; and
  - (d) small and medium enterprises capacity enhancement.
2. The Parties shall foster the development of cooperation in education, healthcare, and tourism.
3. The Parties shall work cooperatively to promote the facilitation of temporary entry of business people in particular, through developing the capacity to grant applications offshore for business entry.

ARTICLE 807

其他权利和义务

1. 如果附件8中列明的市场准入和国民待遇承诺被列入GATS的各自具体承诺附件中，缔约方应被视为在本协议下享有与在相关GATS条款下享有的相同权利和义务，*mutatis mutandis*,
2. 相关GATS条款包括：第六条（1）、（2）、（3）、（5）和（6）；第八条（1）、（2）、（5）；金融服务附件；航空运输服务附件，第（1）、（2）、（3）、（4）、（6）段；以及电信附件，第（1）至（5）段。

第三部分

合作

ARTICLE 808

合作领域

1. 双方应加强现有服务部门合作并增进合作，同时发展现有合作安排未涵盖领域的合作，具体包括：诸如：
  - (a) 研究与开发；
  - (b) 人力资源和专业发展及学徒制；
  - (c) 服务贸易数据管理；以及
  - (d) 中小企业能力提升。
2. 双方应促进教育、医疗保健和旅游领域的合作发展。
3. 双方应合作促进商务人员临时入境的便利化，特别是通过发展海外申请能力 为商务入境。

**PART IV**

**SPECIFIC COMMITMENTS**

ARTICLE 809

**Market Access**

1. With respect to market access through the modes of supply identified in Article 802 (i), each Party 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 Annex 8.
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 Annex 8, are:
- (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;
  - (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 (this does not cover measures which limit inputs for the supply of services);
  - (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.

**第IV部分**

**具体承诺**

ARTICLE 809

**市场准入**

1. 关于通过第802条(i)中确定的供应方式实现市场准入，每一方应给予另一方的服务和  
服务供应商不低于附件8中规定的条款、限制和条件所提供的待遇。
2. 在市场准入承诺所涉及的部门中，除非附件8中另有规定，否则一方不得维持或采取基  
于区域划分或基于其整个领土的措施，：
- (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，还  
是以经济需求测试的要求形式；(b) 对服务交易总额或资产总额的限制，无论以数量  
配额的形式还是以经济需求测试的要求形式；(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，无论以配额的形式还是以经济需求测试的要求形式（这  
不包括限制服务供应投入的措施）；(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，这些自然人是供应特定服务所必需的，并直接与其  
相关，无论以数量配额的形式还是以经济需求测试的要求形式；(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供应服务的措施；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合计外国投资的总值形式。

**National Treatment**

- 1. In the sectors inscribed in Annex 8, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of the other Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.<sup>4</sup>
- 2. A Party may meet the requirement of 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 shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Party compared to like services or service suppliers of the other Party.

**Additional Commitments**

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Article 809 or 810, including those regarding qualifications, standards, registration or licensing matters. Such commitments shall be inscribed in Annex 8.

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

**国民待遇**

- 1. 在附件8中列明的部门，并遵守其中规定的任何条件和资格，每一方应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，不低于其给予自己的同类服务和服务供应商的待遇。<sup>4</sup>
- 2. 一方可以通过根据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，就像它给予自己的类似服务和服务供应商那样。
- 3. 形式上相同或形式上不同的待遇，如果它修改了竞争条件，使得一方比另一方类似的服务或服务供应商更有利，则应被视为不利待遇。

**附加承诺**

双方可就未根据第809条或第810条列入议程的影响服务贸易的措施谈判承诺，包括有关资格、标准、注册或许可事项的承诺。此类承诺应列入附件8。

4 根据本条假定承担的具体承诺不得解释为要求任何一方补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。

**PART V**

**PROGRESSIVE LIBERALISATION AND  
DEVELOPMENT OF RULES**

**ARTICLE 812**

**Review of Commitments**

1. In pursuance of the objectives of this Chapter, the Parties shall enter into further negotiations on trade in services within three years from the date of entry into force of this Agreement with the aim of enhancing the overall commitments undertaken by the Parties under this Agreement.
2. In negotiating further commitments in accordance with this Article, the Parties shall recognise the provisions of Article V (1) and (3) of GATS.
3. If, after this Agreement enters into force, a Party enters into any agreement on trade in services with a non-Party, it shall consider a request by the other Party for the incorporation in this Agreement of treatment no less favourable than that provided under the former agreement.
4. If, after this Agreement enters into force, a Party further liberalises any of its services sectors, sub-sectors or activities, it shall consider a request by the other Party for the incorporation in this Agreement of the unilateral liberalisation.
5. If, after this Agreement enters into force, a service previously supplied in the exercise of governmental authority is subsequently supplied on a commercial basis or in competition with one or more service suppliers, the Party concerned shall consider a request by the other Party for the incorporation in this Agreement of new commitments relating to that service.

**第五部分**

**逐步自由化和规则发展**

**ARTICLE 812**

**承诺的审查**

1. 为实现本章目标，缔约方应自本协定生效之日起三年内就服务贸易进行进一步谈判，旨在提高缔约方根据本协定所承担的整体承诺。
2. 根据本条进行进一步承诺谈判时，缔约方应承认GATS第V条（1）款和（3）款的规定。
3. 如果本协定生效后，一方与非一方就服务贸易达成任何协议，该方应考虑另一方要求将不低于原协议所提供的待遇纳入本协定的请求。
4. 如果本协议生效后，一方进一步自由化其任何服务部门、子部门或活动，则应考虑另一方要求将单方面自由化纳入本协议的请求。
5. 如果在本协议生效后，一方在行使政府权力时 **previously supplied** 的服务随后以商业方式或与一个或多个服务供应商竞争的方式 **supplied**，有关一方应当考虑另一方要求将与此服务相关的新承诺纳入本协议的请求。

ARTICLE 813

**Schedules of Specific Commitments**

1. Each Party shall set out in a schedule the specific commitments it undertakes under Part IV of this Chapter. With respect to sectors where such commitments are undertaken, each Schedule shall specify:
  - (a) terms, limitations and conditions on market access;
  - (b) conditions and qualifications on national treatment;
  - (c) undertakings relating to additional commitments;
  - (d) where appropriate the time frame for implementation of such commitments; and
  - (e) the date of entry into force of such commitments.
2. Schedules of specific commitments shall be annexed to this Agreement and shall form an integral part thereof.

ARTICLE 814

**Modification of Commitments**

By giving three months written notification to the other Party, a Party may modify its commitments. At the request of the other Party, the modifying Party shall enter into negotiations with a view to reaching agreement on any necessary compensatory adjustment required to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in schedules of specific commitments prior to such negotiations. If agreement is not reached, the matter may be referred to arbitration in accordance with Chapter 18.

ARTICLE 815

**References to GATS**

All references to GATS in this Chapter are to GATS in effect on the date of entry into force of this Agreement. If, after that date, a Party alters its schedule of specific commitments annexed to GATS, GATS is amended or the results of the negotiations provided for in GATS Articles VI (4), X (1), XIII (2) or XV (1) enter into force, this Chapter shall be amended, as appropriate, by agreement between the Parties.

ARTICLE 813

**具体承诺清单**

1. 每一方应当在议程中列出其根据本章第IV部分作出的具体承诺。对于作出此类承诺的部门，每个议程应当规定：
  - (a) 市场准入的条款、限制和条件；(b) 国民待遇的条件和资格；(c) 与附加承诺相关的承诺；(d) 在适当情况下，此类承诺的实施时间框架；以及(e) 此类承诺的生效日期。
2. 具体承诺清单应作为本协议的附件并构成其不可分割的一部分。

ARTICLE 814

**承诺的修改**

通过向另一方发出三个月的书面通知，一方可以修改其承诺。应另一方的请求，修改方应与另一方进行谈判，以就达成任何必要的补偿性调整达成协议，以维持互惠承诺的一般水平，该水平不低于谈判前具体承诺清单中提供的对贸易不利的水平。如果未能达成协议，该事项可按照第18章的规定提交仲裁。

ARTICLE 815

**对GATS的参考**

本章中所有对GATS的参考均指本协定生效日期时有效的GATS。如果在本协定生效日期之后，一方修改其附属于GATS的具体承诺清单，GATS被修订，或GATS第六条（4）、第十条（1）、第十三条（2）或第十五条（1）中规定的谈判结果生效，则本章应根据双方协议进行适当修订。

**Preservation of GATS Rights**

This Agreement shall not diminish the scope of any commitment made by either Party under GATS to which the other Party has access.

**GATS权利的保留**

本协议不得减少任何一方根据GATS作出的承诺的范围， 另一方有权访问该承诺。

CHAPTER 9

INVESTMENT

PART I

DEFINITIONS AND SCOPE

ARTICLE 901

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 as of the date of entry into force of this Agreement or established, acquired or expanded thereafter and which has been admitted by the latter Party in accordance with its laws, regulations and policies;
- (b) “freely useable currency” means a “freely useable currency” as determined by the International Monetary Fund under the Articles of Agreement of the International Monetary Fund and amendments thereafter, or any currency that is used to make international payments and is widely traded in the international principal exchange markets;
- (c) “direct investment” means a direct investment as defined by the International Monetary Fund under its Balance of Payments manual, fifth edition (BMP 5), as amended;
- (d) “measure” means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form, and includes measures 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;

第9章

投资

第一部分

定义和范围

ARTICLE 901

定义

本章的目的：

- (a) “受保护投资”是指，对于一方，在其领土内存在的、自本协定生效日期起设立、获得或扩大的、且已由后者一方根据其法律、法规和政策承认的投资；
- (b) “可自由使用的货币”是指，根据国际货币基金组织协定及其修正案由国际货币基金组织确定的“可自由使用的货币”，或任何用于国际支付并在国际主要外汇市场上广泛交易的货币；
- (c) “直接投资”是指，根据国际货币基金组织在其国际收支手册第五版（BMP 5）及其修正案中定义的直接投资；
- (d) “措施”是指一方采取的任何措施，无论其形式为法律、法规、规则、程序、决定、行政行为或任何其他形式，包括由：
  - (i) 中央、区域或地方政府和机构；
  - (ii) 在中央、区域或地方政府和机构授权范围内行使权力的非政府机构采取的措施；

in fulfilling its obligations under this Chapter, each Party shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities and non-governmental bodies within its territory;

- (e) “permanent resident” means a natural person whose residence in a Party is not limited as to time under its law; and
- (f) “return” means an amount yielded by or derived from an investment, including profits, dividends, interest, capital gains, royalty payments, payments in connection with intellectual property rights, and all other lawful income.

ARTICLE 902

**Application of Chapter**

- 1. This Chapter shall not apply to subsidies or grants provided by a Party or to any conditions attached to the receipt or continued receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to domestic investors and investments.
- 2. This Chapter shall not apply to laws, regulations or policies governing the procurement by governmental agencies of goods and services purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods or the supply of services for commercial sale.
- 3. This Chapter shall not prevent an investor of one Party from taking advantage of the provisions of any law, regulation or policy of the other Party which is more favourable than the provisions of this Chapter.

在履行本章规定的义务时，每一方应采取其所能采取的合理措施，以确保其领土内的地区和地方政府的当局及非政府机构遵守这些义务；

- (e) “永久居民”是指根据一方法律，其在一方居留不受时间限制的自然人；以及(f) “回报”是指由投资产生的或衍生的金额，包括利润、股息、利息、资本利得、特许权使用费、与知识产权相关的付款以及所有其他合法收入。

ARTICLE 902

**章节适用**

- 1. 本章不适用于一方提供的补贴或拨款，或与接收或继续接收此类补贴或拨款相关的任何条件，无论此类补贴或拨款是否专门提供给国内投资者和投资。
- 2. 本章不适用于政府机构为政府目的采购的货物和服务所适用的法律、法规或政策，这些货物和服务并非旨在商业转售，也非旨在用于商业销售的商品生产或服务供应。
- 3. 本章不得阻止一方投资者利用另一方比本章规定更有利的任何法律、法规或政策的规定。

PART II

LIBERALISATION OF INVESTMENTS

ARTICLE 903

Scope

1. This Part applies to measures adopted or maintained by a Party relating to:
- (a) direct investments of investors of the other Party; and
  - (b) investors of the other Party,

unless the measure is a measure by that Party affecting trade in services as set out in Article 803 (1).

ARTICLE 904

Pre-establishment National Treatment

In the sectors inscribed in Annex 8, and subject to any conditions and qualifications set out therein, each Party shall accord to investors of the other Party treatment no less favourable than it accords, in like circumstances, to its own investors, with respect to the establishment and acquisition of investments in its territory.

ARTICLE 905

Denial of Benefits

Subject to prior notification and consultation, a Party may deny the benefits of this Part to an investor of the other Party that is a juridical person of such Party and to investments of such an investor where the Party establishes that the juridical person is owned or controlled by persons of a non-Party.

第二部分

投资的自由化

ARTICLE 903

范围

1. 本部分适用于一方采取或维持的与以下措施有关的措施：
- (a) 另一方投资者的直接投资；以及 (b) 另一方投资者，

除非该措施是影响服务贸易的第803条（1）中规定的一方措施。

ARTICLE 904

设立前国民待遇

在附件8中列明的部门，并遵守其中规定的任何条件和资格，每一方应给予另一方的投资者不低于其给予自身投资者在类似情况下，在设立和获得其领土内的投资方面的待遇。

ARTICLE 905

拒绝利益

根据事先通知和磋商，一方可以拒绝向另一方投资者（该投资者为该方的法人）以及该投资者的投资提供本部分的利益，前提是该方证明该法人为非一方人士拥有或控制。

PART III

POST-ESTABLISHMENT NATIONAL TREATMENT

ARTICLE 906

Scope

This Part applies to measures adopted or maintained by a Party relating to:

- (a) covered investments; and
- (b) investors of the other Party, but only in respect of such investors' management, conduct, operation and sale or other disposition of covered investments,

unless the measure is a measure by that Party affecting trade in services under Article 803 (1).

ARTICLE 907

Post-establishment National Treatment

1. Each Party shall accord to covered investments treatment no less favourable than it accords, in like circumstances, to investments in its territory of its own investors, unless otherwise specified in its specific commitments as set out in Annex 8.
2. Each Party shall accord to investors of the other Party treatment no less favourable than it accords, in like circumstances, to its own investors, unless otherwise specified in its specific commitments as set out in Annex 8.

第三部分

建立后国民待遇

ARTICLE 906

范围

本部分适用于一方采取或维持的与以下措施有关的措施：

- (a) 受保护投资；以及 (b) 另一方的投资者，但仅限于此类投资者对受保护投资的管理、经营、运营和出售或其他处置，

除非该措施是根据第803条（1）款影响服务贸易的该方措施。

ARTICLE 907

建立后国民待遇

1. 每一方应给予受保护投资不低于其在其领土内对其自身投资者所给予的、在类似情况下相同待遇，除非其附件8中列明的具体承诺另有规定。
2. 每一方应当给予另一方的投资者不低于其自身投资者在类似情况下所获得的待遇，除非其在附件8中列出的具体承诺中另有规定。

**PART IV**

**PROMOTION AND PROTECTION OF INVESTMENTS**

ARTICLE 908

**Scope**

1. Except for Paragraph 2 and Article 914, this Part applies to measures adopted or maintained by a Party relating to:
- (a) covered investments which, if so required, have been specifically approved in writing by the competent authorities concerned of the other Party as being entitled to the benefits of an agreement relating to investments; and
  - (b) investors of the other Party, but only in respect of such investors' management, conduct, operation and sale or other disposition of the covered investments referred to in Sub-paragraph (a).
2. Each Party shall accord to:
- (a) investors of the other Party treatment no less favourable than it accords, in like circumstances, to investors of any non-Party; and
  - (b) investments of investors of the other Party treatment no less favourable than it accords, in like circumstances, to investments of investors of any non-Party
- with respect to measures adopted or maintained by a Party relating to the requirements (if any) that need to be satisfied for investors and investments to receive the benefits of an agreement relating to investments, as referred to in Sub-paragraph (1)(a).
3. Where a juridical person of a Party is owned or controlled by a national or a juridical person of any third country, the Parties may decide jointly in consultation not to extend the rights and benefits of this Part to such juridical person.
4. A juridical person duly constituted or otherwise organised under the law of a Party shall not be treated as an investor of the other Party, but any investments in that juridical person by investors of that other Party shall be protected by this Part.
5. This Part shall not apply to a natural person who is a permanent resident but not a national of either Party where the provisions of an investment agreement between the other Party and the country of which the person is a national have already been invoked in respect of the same matter.

**第IV部分**

**促进与保护投资**

ARTICLE 908

**范围**

1. 除第2段 和第914条外， 本部分适用于一方采取或维持的与有关投资协定项下利益的投资受保护投资相关的措施：
- (a) 受保护投资，如果需要，已由另一方的有关主管当局专门书面批准，有权获得有关投资协定的利益；以及 (b) 另一方的投资者，但仅限于就第(a)款所述受保护投资的管理、经营、运营和出售或其他处置而言。
2. 每一方应给予：
- (a) 另一方的投资者应获得不低于其给予任何非缔约方投资者的优惠待遇，在类似情况下；以及 (b) 另一方的投资者的投资应获得不低于其给予任何非缔约方投资者的投资优惠待遇，在类似情况下；
- 关于一方采取或维持的措施，这些措施与投资者和投资为获得投资协定项下的利益所需满足的要求（如有）有关，如第一段（1）（a）所述。
3. 当一方法人被某国民或任何第三国法人拥有或控制时，双方可共同协商决定不将本部分的权利和利益扩展至该法人。
4. 依法成立或根据一方法律以其他组织形式设立的法人不应被视为另一方的投资者，但另一方投资者对该法人的任何投资应受本编保护。
5. 本部分不适用于：一方领土内的永久居民，但该永久居民不是任何一方国民，且在涉及同一事项方面，另一方与该人国籍国之间的投资协定条款已经援引。

**Promotion and Protection of Investments**

- 1. Each Party shall encourage and promote investments in its territory by investors of the other Party.
- 2. Each Party shall ensure fair and equitable treatment in its own territory of investments.
- 3. Each Party shall accord within its territory protection and security to investments.

**Most Favoured Nation Treatment**

- 1. Each Party shall accord to investors of the other Party treatment no less favourable than it accords, in like circumstances, to investors of any non-Party.
- 2. Each Party shall accord to all covered investments treatment no less favourable than it accords, in like circumstances, to investments in its territory of investors of any non-Party.

**Denial of Benefits**

Subject to prior notification and consultation, a Party may deny the benefits of this Part to an investor of the other Party that is a juridical person of such Party and to investments of such an investor where the Party establishes that the juridical person is owned or controlled by persons of a non-Party and has no substantive business operations in the territory of the other Party.

**促进与保护投资**

- 1. 每一方应鼓励和促进另一方投资者在其领土内的投资。
- 2. 每一方应确保在其领土内的投资得到公平公正待遇。
- 3. 每一方应在其领土内给予投资保护与安全。

**最惠国待遇**

- 1. 每一方应给予另一方的投资者不低于其给予任何非缔约方投资者在类似情况下所给予的待遇。
- 2. 每一方应给予所有受保护投资不低于其给予任何非缔约方在其领土内的投资在类似情况下所给予的待遇。

**拒绝利益**

经事先通知和磋商，一方可以拒绝向另一方投资者（该投资者为该方法人）以及该投资者的投资提供本部分规定的利益，前提是该方证明该法人为非一方人士拥有或控制，且在该方领土内没有实质性业务经营。

ARTICLE 912

**Expropriation**

1. Neither Party shall nationalise, expropriate or subject to measures having effect equivalent to nationalisation or expropriation (hereinafter referred to as “expropriation”) the investments of investors of the other Party unless the following conditions are complied with:

- (a) the expropriation is for a public purpose related to the internal needs of that Party and under due process of law;
- (b) the expropriation is non-discriminatory; and
- (c) the expropriation is accompanied by the payment of prompt, adequate and effective compensation.

2. The compensation referred to in Sub-paragraph 1(c) of this Article shall be computed on the basis of the market value of the investment immediately before the expropriation or impending expropriation became public knowledge. Where that value cannot be readily ascertained, the compensation shall be determined in accordance with generally recognised principles of valuation and equitable principles taking into account, where appropriate, the capital invested, depreciation, capital already repatriated, replacement value, currency exchange rate movements and other relevant factors.

3. The compensation shall be paid without undue delay, shall include interest at a commercially reasonable rate and shall be freely transferable between the territories of the Parties in a freely useable currency.

ARTICLE 913

**Compensation for Losses**

When a Party adopts any measures relating to losses in respect of investments in its territory by persons of any other country owing to war or other armed conflict, revolution, a state of national emergency, civil disturbance or other similar events, the treatment accorded to investors of the other Party as regards restitution, indemnification, compensation or other settlement shall be no less favourable than that which the first Party accords to persons of any third country.

ARTICLE 912

**征收**

1. 除非满足以下条件，任何一方不得国有化、征收或实施具有与国有化或征收同等效果的措施（以下简称“征收”）另一方的投资：（1） .....

- (a) 征收是为了该方的内部需求相关的公共利益，并符合正当法律程序；(b) 征收是非歧视性的；以及(c) 征收伴随着及时、充分和有效的补偿支付。

2. 本条第1(c)项所指的补偿应根据征收或即将发生的征收成为公开知晓时的投资市场价值计算。如果该价值难以确定，补偿应根据公认评估原则和公平原则确定，并在适当情况下考虑投资资本、折旧、已汇回资本、重置价值、汇率变动和其他相关因素。

3. 补偿应无不合理延迟地支付，应包括商业合理利率的利息，并应在缔约方领土之间以可自由使用的货币自由转移。

ARTICLE 913

**损失补偿**

当一方针对因战争或其他武装冲突、革命、国家紧急状态、内乱或其他类似事件而由任何其他国家个人在其领土内的投资所遭受的损失采取任何措施时，就恢复原状、赔偿、补偿或其他和解而言，给予另一方投资者的待遇不应低于第一方给予任何第三国个人的待遇。

Payments and Transfers

1. Subject to Article 1605, each Party shall, when requested by an investor of the other Party, permit all funds of that investor related to an investment in its territory to be transferred freely and without undue delay in a freely useable currency into and out of its territory.<sup>5</sup> Such funds include the following:

- (a) the initial capital plus any additional capital used to maintain or expand the investment;
- (b) returns;
- (c) proceeds from the sale or partial sale or liquidation of the investment;
- (d) repayments of a claim to money;
- (e) payment for the losses referred to in Article 913; and
- (f) earnings and other remuneration of personnel engaged from abroad in connection with that investment.

2. Unless otherwise agreed by the investor and the Party concerned, transfers shall be made at the market exchange rate prevailing on the date of transfer in accordance with the laws, regulations and policies of the Party that admitted the investment.

3. Notwithstanding Paragraphs 1 and 2, a Party may prevent a transfer through the equitable, non-discriminatory and in good faith application of its laws relating to:

- (a) bankruptcy, insolvency or the protection of the rights of creditors; or
- (b) ensuring the satisfaction of judgements in adjudicatory proceedings.

Subrogation

1. If a Party or an agency of a Party makes a payment to an investor of that Party under a guarantee, a contract of insurance against non-commercial risks or other form of indemnity it has granted in respect of an investment, the other Party shall recognise the subrogation or transfer of any right or title in respect of such investment. The subrogated or transferred right or claim shall not be greater than the original right or claim of the investor.

<sup>5</sup> This includes funds of an investor of the other Party that are to be used to establish or acquire an investment in the territory of a Party where such a transfer would be required so as not to nullify or impair a commitment of a Party covered by this Chapter.

支付和转账

根据第1605条，每一方在另一方投资者提出请求时，应允许该投资者与其领土内投资的全部资金自由地、无不合理的延迟地以可自由使用的货币转移进出其领土。<sup>5</sup> 此类资金包括以下内容：

- (a) 初始资本加上用于维持或扩大投资所使用的任何追加资本；(b) 收益；(c) 出售、部分出售或清算投资的收益；(d) 对金钱债权的偿还；(e) 第913条所述的损失赔偿；以及(f) 从国外参与该投资的人员的工资和其他报酬。

2. 除非投资者和有关方另有约定，否则转移应根据接受投资的方的法律、法规和政策，在转移日期的市场汇率下进行。

3. 尽管有第1段和第2段的规定，一方可以通过对其与公平、非歧视性及善意适用的法律相关的内容的合理应用来阻止转移。

- (a) 破产、资不抵债或保护债权人权利；或 (b) 确保在司法程序中判决得到满足。

代位权

1. 如果一方或其代理机构根据其提供的担保、非商业风险保险合同或其他形式的赔偿，向该方的投资者支付款项，另一方应承认该投资相关任何权利或所有权的代位或转让。代位或转让的权利或债权不得大于投资者的原始权利或债权。

<sup>5</sup> 这包括另一方的投资者的资金，这些资金用于在一方领土内建立或收购投资，其中此类转让是必需的，以便不使受本章涵盖的一方承诺无效或受损。

2. Where a Party or an agency of a Party has made a payment to an investor of that Party and has taken over rights and claims of the investor, that investor shall not, unless authorised to act on behalf of the Party or the agency of the Party making the payment, pursue those rights and claims against the other Party.

ARTICLE 916

Access to Dispute Settlement Mechanisms

- 1. Each Party shall in accordance with its laws, regulations and policies:
  - (a) provide investors of the other Party who have made investments within its territory and personnel employed by them for activities associated with investments full access to its competent judicial or administrative bodies in order to afford means of asserting claims and enforcing rights in respect of disputes with its own investors;
  - (b) permit its investors to select means of their choice to settle disputes relating to investments with the investors of the other Party, including arbitration conducted in a third country; and
  - (c) ensure the enforcement of any resulting judgments or awards.
- 2. Nothing in this Article requires a Party to recognise or enforce the judgments or awards of the judicial or administrative bodies of the other Party or of a non-Party.

ARTICLE 917

Settlement of Disputes between a Party and an Investor of the other Party

- 1. In the event of a dispute between a Party and an investor of the other Party relating to a covered investment, consultations shall take place between the parties concerned with a view to resolving the case amicably.
- 2. If the dispute in question cannot be resolved through consultations and negotiations<sup>6</sup>, the dispute may, at the choice of the investor, be:
  - (a) initiated before the Party’s competent judicial or administrative bodies, in accordance with the laws and regulations of the Party; or

<sup>6</sup> The consultations and negotiations should, in principle, continue for three months.

2. 如果一方或其代理机构已向该方的投资者支付款项并接管了投资者的权利和债权，该投资者未经授权代表支付款项的一方或其代理机构行事，不得向另一方追索这些权利和债权。

ARTICLE 916

争端解决机制准入

- 1. 每一方应根据其法律、法规和政策：
  - (a) 为在其领土内进行投资且为其工作的人员提供充分进入其主管司法或行政机关的权利，以便其主张与自身投资者之间的争议权利并执行相关权利；(b) 允许其投资者选择其选择的方式解决与另一方投资者的投资相关的争议，包括在第三国进行的仲裁；以及(c) 确保对任何判决或裁决的执行。
- 2. 本条中的任何内容均不要求一方承认或执行另一方或非一方的司法或行政机关的判决或裁决。

ARTICLE 917

一方与另一方投资者之间的争端解决

- 1. 在一方与另一方投资者就受保护投资发生争议时，有关各方应进行磋商，以友好方式解决该案。
- 2. 如果所涉争议不能通过磋商和谈判<sup>6</sup>，争议可由投资者选择，提交：
  - (a) 在一方有管辖权的司法或行政机关启动，并依据一方法律法规；或

<sup>6</sup> 磋商和谈判原则上应持续三个月。

(b) resolved by an international ad hoc arbitral tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).

3. If, after the entry into force of this Agreement, a Party enters into an international agreement with a non-Party<sup>7</sup>, that:

- (a) grants investors of that non-Party the right to submit to arbitration a claim relating to a dispute between that investor and the Party relating to an investment; and
- (b) provides for a means to resolve the dispute that is not included in Paragraph 2;

then the investor of the other Party referred to in Paragraph 1 may, at its choice, use that means of resolving the dispute.

4. Once an action referred to in Paragraph 2 or 3 of this Article has been taken, neither Party shall pursue the dispute through diplomatic channels unless:

- (a) the relevant dispute settlement body has decided that it has no jurisdiction in relation to the dispute in question; or
- (b) the other Party has failed to abide by or comply with any judgment, award, order or other determination made by the relevant dispute settlement body.

5. In any proceeding involving a dispute relating to a covered investment, a Party shall not assert, at any stage of proceedings referred to in Sub-paragraph 2 (b) or Paragraph 3, that the investor concerned has received or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of any alleged loss.

6. Any arbitral tribunal established under this Article shall, in the event of a dispute related to an alleged breach of an obligation of this Chapter, reach its decision on the basis of the provisions of the present Agreement, as well as applicable rules of international and domestic law.

7. All arbitral awards shall be final and binding on the parties to the dispute.

8. All sums received or payable as a result of a settlement shall be freely transferable in a freely useable currency.

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<sup>7</sup> Excluding any international agreement with the members of the Association of South-East Asian Nations.

(b) 由根据联合国国际贸易法委员会仲裁规则（UNCITRAL）设立的国际临时仲裁庭解决。

3. 若本协议生效后，一方与非一方<sup>7</sup>，签订国际协议，该协议：

- (a) 授予该非一方的投资者就其与一方之间关于投资的争议提交仲裁的权利；以及
- (b) 规定了一种不包含在第2段中的争议解决方式；

则第1段所述的另一方的投资者，可自行选择使用该争议解决方式。

4. 一方就本条第2段或第3段所述的行动采取行动后，除非：

- (a) 相关争议解决机构已决定其对所涉争议无管辖权；或
- (b) 另一方未能遵守或遵守相关争议解决机构作出的判决、裁决、命令或其他决定。

5. 在涉及受保护投资的任何程序中，一方在任何阶段均不得主张，根据保险或担保合同，相关投资者已获得或将会获得赔偿或补偿，以弥补其声称的任何损失的全部或部分。

6. 任何根据本条建立的仲裁庭，在涉及本章所谓义务违反的争议时，应依据本协定之规定以及适用的国际法和国内法作出其决定。

7. 所有仲裁裁决应最终并对争议双方具有约束力。

8. 所有作为和解结果收到的或应付的款项，应自由地以可自由使用的货币进行转移。

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<sup>7</sup> 排除与东南亚国家联盟成员的任何国际协定。

9. This Article shall not be construed to allow an investor of a Party to pursue a claim against the other Party in relation to any decision that any foreign investment authority of that Party makes in relation to, or conditions that any foreign investment authority of that Party may have placed on, the establishment, acquisition or expansion of an investment by that investor, or in relation to the enforcement of any such conditions.

PART V

MODIFICATION AND REVIEW OF COMMITMENTS

ARTICLE 918

Modification of Commitments

By giving three months’ written notification to the other Party, a Party may modify its commitments. At the request of the other Party, the modifying Party shall enter into negotiations with a view to reaching agreement on any necessary adjustment required to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in schedules of specific commitments prior to such negotiations. If agreement is not reached, the matter may be referred to arbitration in accordance with Chapter 18.

ARTICLE 919

Review of Commitments

1. If, after this Agreement enters into force, a Party enters into any agreement on investment with a non-Party, it shall consider a request by the other Party for the incorporation in this Agreement of treatment no less favourable than that provided under the former agreement.
2. If, after this Agreement enters into force, a Party further liberalises any of its measures applying to investors or investments, it shall consider a request by the other Party for the incorporation in this Agreement of the unilateral liberalisation.

9. 本条不得解释为允许一方投资者就另一方的外国投资主管部门就该投资者设立、收购或扩张投资所做出的任何决定，或就该主管部门可能对该投资设立、收购或扩张所施加的任何条件，或就任何此类条件的执行，向另一方提出索赔。

第五部分

承诺的修改和审查

一方RTICLE 918

承诺的修改

通过向另一方发出三个月的书面通知，一方可以修改其承诺。应另一方的请求，修改方应与另一方进行谈判，以就达成任何必要的调整达成协议，以维持互惠承诺的一般水平，该水平不低于在谈判前提供的具体承诺清单中规定的贸易水平。如果未能达成协议，该事项可按照第18章的规定提交仲裁。

一方RTICLE 919

承诺的审查

1. 如果在本协议生效后，一方与第三方签订任何投资协定，则应考虑另一方要求在本协议中纳入不低于原协议提供的待遇的请求。
2. 如果本协议生效后，一方进一步放宽其适用于投资者或投资的措施，则应考虑另一方要求将单方面自由化纳入本协议的请求。

CHAPTER 10

MOVEMENT OF NATURAL PERSONS

ARTICLE 1001

Objectives

The objectives of this Chapter are:

- (a) to provide for rights and obligations additional to those set out in Chapter 8 and Chapter 9 in relation to the movement of natural persons between the Parties; and
- (b) to enhance the mobility of natural persons of either Party engaged in the conduct of trade and investment between the Parties, by facilitating temporary business entry and establishing simplified and transparent immigration formalities for business persons.

ARTICLE 1002

Definitions

For the purposes of this Chapter:

- (a) “business visitor” means a natural person of either Party who is:
  - (i) a service seller;
  - (ii) an investor of a Party, or a representative of an investor, seeking temporary entry to establish an investment; or
  - (iii) seeking temporary entry for the purposes of negotiating the sale of goods where such negotiations do not involve direct sales to the general public;
- (b) “contractual service supplier” means a natural person of a Party who satisfies any requirements under the laws, regulations and policies of the other Party or satisfies any recognition of standards requirements or criteria agreed by the Parties to provide such services in the territory of that Party, and:

第十章

自然人流动

ARTICLE 1001

目标

本章的目标是：

- (a) 为缔约方之间自然人的流动提供除第八章和第九章中规定的权利和义务之外的额外权利和义务；以及 (b) 通过促进临时商务入境 和为商务人员建立简化和透明的移民手续， 提高缔约方之间从事贸易和投资的自然人的流动性。

ARTICLE 1002

定义

本章的目的：

- (a) “商务访客”是指任何一方为以下情况的自然人：
  - (i) 服务销售者； (ii) 一方投资者， 或投资者的代表,寻求临时入境以建立投资；或 (iii) 寻求临时入境以协商销售商品， 但此类谈判不涉及直接销售给公众；
- (b) “合同服务供应商”是指一方当事人的自然人 满足另一方或另一方法律,法规和政 策 的任何要求， 或满足任何 标准要求或标准的承认 或标准， 或满足缔约方 就提供此 类服务在另一方领土内达成的任何协议， 并：

- (i) is an employee of a service supplier or a juridical person of a Party not having a commercial presence or investment in the other Party, which has concluded a service contract with a juridical person registered and engaged in substantive business operations in the other Party; or
- (ii) is a national of a Party and employed under an employment contract by a juridical person registered and engaged in substantive business operations in the other Party;

and is seeking temporary entry to provide a service as a manager, executive or specialist;

- (c) “executive” means a natural person within an organisation who primarily directs the management of the organisation, exercises wide latitude in decision making, and receives only general supervision or direction from higher-level executives, the board of directors, or stockholders of the business. An executive would not directly perform tasks related to the actual provision of the service or the operation of an investment;
- (d) “immigration formality” means a visa, work permit, or other document or electronic authority granting a natural person of one Party the right to reside or work in the territory of the other Party;
- (e) “intra-corporate transferee” means an employee of a service supplier, investor or juridical person of a Party established in the territory of the other Party through a branch or affiliate, and who is a manager, executive or specialist;
- (f) “manager” means a natural person within an organisation who primarily directs the organisation or a department or sub-division of the organisation, 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;
- (g) “service seller” means a natural person of a Party who is a sales representative of a service supplier of that Party and is seeking temporary entry to the other Party for the purpose of negotiating the sale of services for that service supplier, where such a representative will not be engaged in making direct sales to the general public or in supplying services directly;
- (h) “specialist” means a natural person within an organisation who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organisation’s service, research equipment, techniques, or management; or a natural person with high-level technical or professional qualifications and skills and experience; and
- (i) “temporary entry” means entry by a business visitor, or an intra-corporate transferee, or a contractual service supplier as the case may be, without the intent to establish permanent residence and for the purpose of engaging in activities which are clearly related to their respective business purposes. Additionally, in the case of a business visitor, the salaries of and any related payments to such a visitor should be paid entirely by the service supplier or juridical person which employs that visitor in the visitor’s home country.

(i) 是服务供应商的雇员或一方法人，该法人没有在另一方进行商业存在或投资，并且已经与在另一方注册的法人签订了服务合同

在另一方从事实质性业务经营；或 (ii) 是一方的国民，并受雇于在另一方注册并从事实质性业务经营的法人；

并且正在寻求临时入境，以作为经理、高管或专家提供服务；

(c) “高管”是指在一个组织内主要负责指导组织管理、在决策方面拥有广泛自由裁量权，并且仅从高级管理人员、董事会或公司股东那里接受一般监督或指示的自然人。高管不会直接执行与服务实际提供或投资运营相关的任务；

(d) “移民手续”是指一方当事人的自然人获得在另一方领土内居留或工作的权利的签证、工作许可或其他文件或电子授权；(e) “公司内部转移人员”是指一方当事人在另一方领土内通过分支机构或附属机构设立的雇员，并且是经理、高管或专家；(f) “经理”是指组织内主要负责指导组织或组织的部门或子部门的自然人，监督和控制其他监督、专业或管理人员的工作，有权招聘和解雇或采取其他人事行动（如晋升或休假授权），并对日常运营行使自由裁量权。这包括一线主管，除非所监督的员工是专业人士；(g) “服务销售者”是指一方当事人的自然人，是该方服务供应商的销售代表，并寻求临时入境另一方，目的是为该服务供应商谈判服务销售，此类代表将不会从事直接销售给公众或直接提供服务；(h) “专家”是指组织内拥有高级技术专长水平的知识水平的自然人，并拥有该组织服务的专有知识、研究设备、技术或管理；或具有高级技术或专业资格和技能及经验的自然人；以及 (i) “临时入境”是指商务访客、公司内部转移人员或合同服务供应商的入境，无意建立永久居留，目的是从事与其各自业务目的明显相关的活动。此外，在商务访客的情况下，该访客的工资和任何相关支付应由在访客的祖国雇佣该访客的服务供应商或法人完全支付。

ARTICLE 1003

**Scope**

1. This Chapter shall apply to measures affecting the movement of natural persons of a Party into the territory of the other Party where such persons are:
- (a) contractual service suppliers of the first Party;
  - (b) intra-corporate transferees of the first Party;
  - (c) service sellers of the first Party;
  - (d) investors of the first Party in respect of an investment of that investor in the territory of the other Party; or
  - (e) natural persons employed by an investor of the first Party in respect of an investment of that investor in the territory of the other Party.
2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, or measures regarding citizenship, residence or employment on a permanent basis.

ARTICLE 1004

**Short-Term Temporary Entry**

A Party shall, upon application by a business visitor of the other Party who meets its criteria for the grant of an immigration formality, grant that business visitor, through the issue of an immigration formality, the right to temporary entry in the granting Party's territory for a period of up to 90 days.

ARTICLE 1005

**Long-Term Temporary Entry**

A Party shall, in accordance with commitments in Annex 8, grant temporary entry to an intra-corporate transferee or a contractual service supplier of the other Party who meets its criteria for the grant of an immigration formality unless there has been a breach of any of the conditions governing temporary entry, or an application for an extension of an immigration formality has been refused on such grounds of national security or public order by the granting Party as it deems fit.

ARTICLE 1003

**范围**

1. 本章应适用于影响一方当事人的自然人进入另一方领土的措施，其中这些人包括：
- (a) 第一方合同服务提供者；(b) 第一方公司内部转移人员；(c) 第一方服务销售者；(d) 第一方投资者，该投资者在另一方领土内的投资；或(e) 受雇于第一方投资者的自然人，该投资者在另一方领土内的投资。
2. 本章不适用于影响寻求进入一方就业市场的自然人的措施，或涉及永久性公民身份、居留或就业的措施。

ARTICLE 1004

**短期临时入境**

一方应根据另一方商务访客的申请，若该访客符合其移民手续的授予标准，通过签发移民手续，授予该商务访客在授予方领土内临时入境的权利，期限最长为90天。

ARTICLE 1005

**长期临时入境**

一方应根据附件8中的承诺，向符合其移民手续授予标准的另一方公司内部转移人员或合同服务供应商授予临时入境，除非存在临时入境条件的任何违规行为，或授予方根据其认为合适的情况，以国家安全或公共秩序为由拒绝延长移民手续的申请。

**Provision of Information**

A Party shall publish or otherwise make available to the other Party such information as will enable the other Party to become acquainted with its measures relating to this Chapter.

**Immigration Measures**

Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of this Chapter. The sole fact of requiring a visa for natural persons of certain countries and not for those of others shall not be regarded as nullifying or impairing benefits under a specific commitment.

**Expeditious Application Procedures**

A Party shall process expeditiously applications for immigration formalities from natural persons of the other Party, including further immigration formality requests or extensions thereof.

**信息提供**

一方应发布或以其他方式向另一方提供此类信息，使另一方能够了解其与本章相关措施。

**移民措施**

本章任何规定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在其领土内临时停留，包括为保护其领土上自然人的完整性和确保自然人跨境有序流动所必需的措施，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。仅因对某些国家的自然人要求签证而对其他国家的自然人没有要求，不应被视为使一项具体承诺项下的利益归于无效或受损。

**快速申请程序**

一方应当迅速处理来自另一方的自然人的移民手续申请，包括进一步的移民手续请求或其延期。

**CHAPTER 11**

**ELECTRONIC COMMERCE**

ARTICLE 1101

**Objectives and Definitions**

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 e-commerce alliances.
3. For the purposes of this Chapter:
  - (a) “electronic version” means a document in an electronic format prescribed by a Party, including a document sent by facsimile transmission; and
  - (b) “trade administration documents” means paper 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.

ARTICLE 1102

**Customs Duties**

Each Party shall maintain its current practice of not imposing customs duties on electronic transmissions between Australia and Thailand.

**第十一章**

**电子商务**

ARTICLE 1101

**目标和定义**

1. 双方承认电子商务带来的经济增长和机遇，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. 本章的目标 是 促进双方之间的电子商务，包括通过鼓励电子商务联盟的合作。
3. 本章的目的：
  - (a) “电子版本”是指一方规定的电子格式文件，包括通过传真传输发送的文件；以及
  - (b) “贸易管理文件”是指由一方政府签发或控制的纸质表格，必须由进口商或出口商填写或提交，以涉及货物的进出口。

ARTICLE 1102

**关税**

每一方应维持其当前做法，即在澳大利亚和泰国之间的电子传输中不征收关税。

ARTICLE 1103

**Domestic Regulatory Frameworks**

1. Each Party shall maintain domestic legal frameworks governing electronic transactions based on the *UNCITRAL Model Law on Electronic Commerce* 1996.
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.

ARTICLE 1104

**Electronic Authentication and Digital Certificates**

1. Each Party shall maintain domestic legislation for electronic authentication that:
  - (a) permits parties to electronic transactions to determine the appropriate authentication technologies and implementation models for their electronic transactions, without limiting the recognition of such technologies and implementation models; and
  - (b) permits parties to electronic transactions to have the opportunity to prove in court that their electronic transactions comply with any legal requirements.
2. The Parties shall work towards the mutual recognition of digital certificates at government level, based on internationally accepted standards.
3. The Parties shall encourage the interoperability of digital certificates in the business sector.

ARTICLE 1105

**Online Consumer Protection**

Each Party shall, to the extent possible and in a manner considered appropriate by each Party, 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 1103

**国内监管框架**

1. 每一方应根据 *UNCITRAL* 电子商务示范法 1996 维持管理电子交易的国内法律框架。
2. 每一方应：
  - (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 1104

**电子认证和数字证书**

1. 每一方应维持电子认证的国内立法，该立法应：
  - (a) 允许电子交易各方确定其电子交易的适当认证技术和实施模式，而不限对这类技术和实施模式的承认；以及 (b) 允许电子交易各方有机会在法庭上证明其电子交易符合任何法律要求。
2. 双方应致力于在政府层面实现数字证书的互认，基于国际公认标准。
3. 双方应鼓励商业领域数字证书的互操作性。

ARTICLE 1105

**在线消费者保护**

每一方应当，在可能范围内并以各方认为适当的方式，为使用电子商务的消费者提供保护，其保护程度至少应等同于其各自法律、法规和政策下为其他形式商业的消费者提供的保护， 法规和政策。

ARTICLE 1106

**Online Personal Data Protection**

1. Notwithstanding the differences in existing systems for personal data protection in the territories of the Parties, each Party shall take such measures as it considers appropriate and necessary to protect the personal data 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 1107

**Paperless Trading**

1. Each Party shall accept the electronic format 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
  - (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.

ARTICLE 1108

**Cooperation on E-Commerce**

1. The Parties shall encourage cooperation in research and training activities that would enhance the development of e-commerce, including by sharing best practices on e-commerce development
2. The Parties shall encourage cooperative activities to promote e-commerce, including those that would improve the effectiveness and efficiency of e-commerce.

ARTICLE 1106

**在线个人数据保护**

1. 尽管缔约方领土内现有的个人数据保护系统存在差异，每一方应采取其认为适当且必要的措施，以保护电子商务用户的个人数据。
2. 在制定数据保护标准时，每一方应在可能范围内，考虑国际标准以及相关国际组织的相关标准。

ARTICLE 1107

**无纸化交易**

1. 除特殊情况外，每一方应接受贸易管理文件的电子格式作为纸质文件的合法等效形式：
  - (a) 存在与此相反的国内或国际法律要求；或 (b) 这样做将降低贸易管理流程的有效性。
2. 双方应在双边和多边论坛上合作，以提高贸易管理文件的电子版本接受度。

ARTICLE 1108

**电子商务合作**

1. 双方应鼓励合作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. 双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。

**Non-Application of Dispute Settlement Provisions**

Except for Article 1102, Chapter 18 shall not apply to the provisions of this Chapter.

**不适用争议解决条款**

除第1102条外，第18章不适用于本章的规定。

CHAPTER 12

COMPETITION POLICY

ARTICLE 1201

Objective and Definitions

1. The aim of this Chapter is to contribute to the fulfilment of the objectives of this Agreement through the promotion of fair competition and the curtailment of anti-competitive practices.
2. For the purposes of this Chapter, “anti-competitive practices” means business conduct or transactions that adversely affect competition, such as:
- (a) anti-competitive horizontal arrangements between competitors;
  - (b) misuse of market power, including predatory pricing;
  - (c) anti-competitive vertical arrangements; and
  - (d) anti-competitive mergers and acquisitions.

ARTICLE 1202

Promotion of Competition

Each Party shall promote competition by addressing anti-competitive practices in its territory, and by adopting and enforcing such means or measures as it deems appropriate and effective to counter such practices.

第12章

竞争政策

ARTICLE 1201

目标和定义

1. 本章的目的是通过促进公平竞争和限制反竞争行为，促进本协定目标的实现。
2. 在本章中，“反竞争行为”是指对竞争产生不利影响的企业行为或交易，例如：
- (a) 竞争者之间的反竞争横向协议；(b) 滥用市场力量，包括掠夺性定价；(c) 反竞争纵向协议；以及(d) 反竞争并购。

ARTICLE 1202

促进竞争

每一方应通过在其领土内处理反竞争行为，并采用和执行其认为适当和有效的此类手段或措施，来促进竞争以对抗此类行为。

**Application of Competition Laws**

- 1. The Parties shall ensure that all businesses are subject to such generic or relevant sectoral competition laws as may be in force in their respective territories.
- 2. Any measures taken by a Party to proscribe anti-competitive practices, and the enforcement actions taken pursuant to those measures, shall be consistent with the principles of transparency, timeliness, non-discrimination, comprehensiveness and procedural fairness.

**Exemptions**

Either Party may exempt specific measures or sectors from this Chapter, provided that such exemptions are transparent and are undertaken on the grounds of public policy or public interest.

**Cooperation and Exchange of Information**

The Parties recognise the importance of cooperation and coordination in achieving effective enforcement outcomes under their respective competition laws. The Parties also recognise the importance of confidentiality in respect of these arrangements. Accordingly, the Parties shall cooperate, where appropriate, on issues of competition law enforcement, including through the exchange of information, notification, consultation, and coordination of enforcement matters that are cross-border in nature.

**竞争法的适用**

- 1. 双方应确保所有企业均受其各自领土内现行有效的通用或相关行业竞争法约束。
- 2. 一方为禁止反竞争行为而采取的措施，以及依据这些措施采取的执法行动，应与透明度、及时性、非歧视、全面性和程序公平的原则一致。

**豁免**

任何一方可从本章中豁免具体措施或行业，但前提是这些豁免具有透明度，并且是基于公共政策或公共利益进行的。

**合作和信息交换**

双方认识到在各自竞争法下实现有效执法成果方面合作与协调的重要性。双方还认识到对这些安排保密的重要性。因此，双方应在适当情况下就竞争法执法问题进行合作，包括通过交换信息、通知、磋商以及对跨境执法事项的协调。

ARTICLE 1206

Consultations and Review

- 1. At the request of either Party, the Parties shall consult with a view to eliminating particular anti-competitive practices that affect trade or investment between the Parties.
- 2. Within three years of the entry into force of this Agreement, the Parties shall consult in order to review the scope and operation of this Chapter with a view to negotiating amendments to this Chapter that may be necessary to ensure the comprehensive protection in their respective territories of the legitimate commercial interests of businesses of the other Party.
- 3. In undertaking any consultations in accordance with Paragraph 2, the Parties shall also discuss the desirability of concluding arrangements for cooperation and mutual assistance in competition policy and enforcement, either as amendments to this Chapter or as separate arrangements between their respective competition authorities.
- 4. Any information or documents exchanged between the Parties in relation to any mutual consultation or review conducted pursuant to the provisions of this Chapter shall be kept confidential. Neither Party shall, except to comply with its domestic legal requirements, release or disclose such information or documents to any person without the written consent of the Party that provided such information or documents. Where the disclosure of such information or documents is necessary to comply with the domestic legal requirements of a Party, that Party shall notify the other Party before such disclosure is made.

ARTICLE 1207

Transparency

The Parties shall publish or otherwise make publicly available their laws promoting fair competition and their laws addressing anti-competitive practices.

ARTICLE 1206

磋商与审查

- 1. 应任何一方的要求，双方应磋商，以消除影响双方贸易或投资的反竞争行为。
- 2. 在本协定生效后三年内，双方应协商，以审查本章的范围和运作，旨在谈判对本章进行必要的修正案，以确保在本方各自领土内对另一方企业的合法商业利益进行全面保护。
- 3. 在根据第2段进行任何磋商时，双方还应对缔结竞争政策和执行方面的合作安排及相互协助的可行性进行讨论，这些安排可以作为本章的修正案，或作为其各自竞争当局之间的单独安排。
- 4. 双方就根据本章规定进行的任何相互磋商或审查而交换的任何信息或文件应予以保密。除遵守其国内法律要求外，任何一方均不得未经提供该信息或文件的另一方书面同意，向任何个人发布或披露该等信息或文件。如披露该等信息或文件是遵守一方国内法律要求所必需的，该方应在披露前通知另一方。

ARTICLE 1207

透明度

双方应发布或以其他方式向公众提供其促进公平竞争的法律和处理反竞争行为的法律。

**General**

- 1. Chapter 18 shall not apply to the provisions of this Chapter.
- 2. In the event of any inconsistency or conflict between any provision in this Chapter and any provision contained in any other Chapter of this Agreement, the latter shall prevail to the extent of such inconsistency or conflict.

**一般**

- 1. 第18章不适用于本章的规定。
- 2. 在本章的任何规定与本协议其他章节的任何规定之间发生任何不一致或冲突的情况下，后者应优先适用，直至该不一致或冲突的范围。

CHAPTER 13

INTELLECTUAL PROPERTY

ARTICLE 1301

Objective

- 1. The objective of this Chapter is to increase the benefits from trade and investment through the protection and enforcement of intellectual property rights.
- 2. “Intellectual property rights” refers to copyright and related rights, rights in trade marks, geographical indications, industrial designs, patents, and lay-out designs (topographies) of integrated circuits, rights in plant varieties, and rights in undisclosed information, as defined and described in the *WTO Agreement on Trade-Related Aspects of Intellectual Property Rights*.

ARTICLE 1302

Observance of International Obligations

The Parties shall fully respect the provisions of the *WTO Agreement on Trade-Related Aspects of Intellectual Property Rights* and any other multilateral agreement relating to intellectual property to which both are parties.

ARTICLE 1303

Measures to Prevent the Export of Goods that Infringe Copyright or Trade Marks

Each Party, on receipt of information or complaints, shall take measures to prevent the export of goods that infringe copyright or trade marks, in accordance with its laws, regulations, or policies.

第十三章

知识产权

ARTICLE 1301

目标

- 1. 本章的目标是通过知识产权的保护和执行来增加贸易和投资的利益。
- 2. “知识产权”是指根据世界贸易组织《与贸易有关的知识产权协定》中定义和描述的版权和相关权利、商标权、地理标志、工业设计、专利、集成电路布图设计（拓扑图）、植物新品种权以及未披露信息权。

ARTICLE 1302

遵守国际义务

双方应充分尊重世界贸易组织《与贸易有关的知识产权协定》以及双方均为缔约方的任何其他有关知识产权的多边协定之条款。

ARTICLE 1303

防止出口侵犯版权或商标的商品的措施

每一方，在收到信息或投诉时，应根据其法律、法规或政策采取措施，以防止出口侵犯版权或商标的商品。

**Cooperation on Enforcement**

The Parties shall cooperate with a view to eliminating trade in goods infringing intellectual property rights, subject to their respective laws, regulations, or policies. Such cooperation may include:

- (a) the notification of contact points for the enforcement of intellectual property rights;
- (b) the exchange, between respective agencies responsible for the enforcement of intellectual property rights, of information concerning the infringement of intellectual property rights;
- (c) policy dialogue on initiatives for the enforcement of intellectual property rights in multilateral and regional fora; and
- (d) such other activities and initiatives for the enforcement of intellectual property rights as may be mutually determined by the Parties.

**Other Cooperation**

The Parties, through their competent agencies, shall:

- (a) exchange information and material on programs pertaining to education in and awareness of intellectual property rights, and to commercialisation of intellectual property, to the extent permissible under their respective laws, regulations and policies; and
- (b) encourage and facilitate the development of contacts and cooperation between their respective government agencies, educational institutions, organisations and other entities concerning the protection and development of intellectual property rights with a view to:
  - (i) improving and strengthening the intellectual property administrative systems in areas such as patents examination and trademarks registration;
  - (ii) stimulating the creation and development of intellectual property by persons of each Party, particularly individual inventors and creators as well as small to medium-sized enterprises (SMEs); and
  - (iii) enhancing the capacity of and opportunity for the owners of intellectual property rights to obtain the maximum utilisation and commercial benefits from those rights.

**执法合作**

双方应根据各自的法律、法规或政策，合作以消除侵犯知识产权的商品贸易。此类合作可包括：

- (a) 就知识产权执法的联系点进行通知；(b) 在各自负责知识产权执法的机构之间交换有关知识产权侵权的情报；(c) 在多边和区域论坛上就知识产权执法的倡议进行政策对话；以及(d) 双方共同确定的知识产权执法的其他活动和倡议。

**其他合作**

双方通过其主管机关应：

- (a) 交换与知识产权教育和意识相关的计划以及知识产权商业化相关的信息和材料，程度以各自的法律、法规和政策允许为限；以及 (b) 鼓励和促进其各自政府机构、教育机构、组织和其它实体在知识产权的保护和发展方面的联系与合作，以实现：
  - (i) 改进和加强诸如专利审查和商标注册等领域的知识产权行政体系；
  - (ii) 刺激 各方法人的知识产权创造和发展，特别是个人发明人和创作者以及中小型企业（SMEs）；
  - 以及 (iii) 增强知识产权所有者的能力和机会，以从这些权利中获得最大限度的利用和商业利益。

## CHAPTER 14

### TRANSPARENT ADMINISTRATION OF LAWS AND REGULATIONS

#### ARTICLE 1401

##### Definition

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 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, service or investment of the other Party in a specific case; or
- (b) a ruling that adjudicates with respect to a particular act or practice.

#### ARTICLE 1402

##### Publication

1. Each Party shall ensure that its laws, regulations, and administrative rulings of general application pertaining to trade in goods, services and investment are promptly published or otherwise made available in such a manner as to enable interested persons from the other Party to become acquainted with them.
2. Each Party shall maintain an official journal or journals and publish any measures referred to in Paragraph 1 in such journals. Each Party shall publish such journals regularly and make copies of them readily available to the public.
3. A Party may comply with Paragraphs 1 and 2 by publication on the Internet.

## 第14章

### 法律法规的透明管理

#### ARTICLE 1401

##### 定义

本章适用，“普遍适用行政裁决”是指适用于所有落入其范围的个人和事实情况，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针对特定个人、货物、服务或特定案件另一方投资的裁决或决定；或 (b) 针对特定行为或做法的裁决。

#### ARTICLE 1402

##### 公布

1. 每一方应确保其关于货物贸易、服务和投资的一般适用法律、法规和行政裁决及时公布或以其他方式提供，以便另一方利益相关者能够了解。
2. 每一方应维持官方公报或官方公报，并在其中公布第1段所述的措施。每一方应定期公布此类公报，并使公众能够方便地获取副本。
3. 一方可通过在互联网上公布来遵守第1段和第2段 t.

4. When possible, a Party shall publish in advance any measure referred to in Paragraph 1 that it proposes to adopt and shall provide, where applicable, interested persons a reasonable opportunity to comment on such proposed measures.

5. Each Party shall endeavour promptly to provide information and to respond to questions from the other Party pertaining to any measure referred to in Paragraph 1.

ARTICLE 1403

Contact Point

1. Each Party shall designate a contact point to facilitate communications between the Parties on any matter covered by this Agreement.

2. Upon request, the contact point shall identify the office responsible for the matter and assist, as necessary, in facilitating communication with the requesting Party.

ARTICLE 1404

Administrative Proceedings

Each Party shall ensure in its administrative proceedings applying to any measure referred to in Article 1402 that:

- (a) wherever possible, persons of the other Party who are directly affected by a proceeding are provided reasonable notice, in accordance with domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated and a general description of the issues in question;
- (b) such persons are afforded a reasonable opportunity to present facts and arguments in support of their positions before any final administrative action, when time, the nature of the proceeding and the public interest permit; and
- (c) its procedures are in accordance with domestic law.

4. 当可能时，一方应提前公布其拟采用的第1段中提到的任何措施，并应向利益相关者提供合理的机会，以对拟采取措施提出意见。

5. 每一方应努力迅速提供信息并答复另一方关于第1段所述任何措施的问题。

ARTICLE 1403

联系点

1. 每一方应指定一个联系点，以便就本协议所涵盖的任何事项进行沟通。

2. 应要求，联系点应确定负责该事项的办公室，并在必要时协助促进与请求方的沟通。

ARTICLE 1404

行政程序

每一方应确保其行政程序在涉及第1402条所述的任何措施时，应：

- (a) 尽可能地，当启动程序时，应根据国内程序为受程序直接影响的另一方法人提供合理通知，包括对程序性质的描述、启动程序的法律依据以及对所涉问题的总体描述；(b) 当时间、程序的性质和公共利益允许时，此类法人应在任何最终行政行为之前获得合理的机会来陈述支持其立场的 факты и аргументы；(c) 其程序符合国内法。

**Review and Appeal**

A Party shall ensure that, where warranted, appropriate domestic procedures are in place to enable prompt review and correction of final administrative actions, other than those taken for prudential reasons, regarding matters covered by this Chapter, that:

- (a) provide for tribunals or panels that are impartial and independent of any office or authority entrusted with administrative enforcement and have no substantial interest in the outcome of the matter;
- (b) provide parties to any proceeding with a reasonable opportunity to present their respective positions;
- (c) provide parties to any proceeding with a decision based on the evidence and submissions of record, or, where required by domestic law, the record compiled by the administrative authority; and
- (d) ensure, subject to appeal or further review under domestic law, that such decisions are implemented by, and govern the practice of, the offices or authorities regarding the administrative action at issue.

**审查和申诉**

一方应确保，在有正当理由的情况下，应建立适当的国内程序，以便能够迅速审查和纠正本章涵盖事项的最终行政行为（除因审慎理由采取的行政行为外），该程序应：

- (a) 为设立公正且独立于任何负责行政执法的机构或部门的法庭或专家组提供保障，且这些法庭或专家组在相关事项的最终结果中无重大利益；(b) 为任何程序的当事人提供合理的机会陈述其立场；(c) 为任何程序的当事人提供基于证据和案卷材料的决定，或根据国内法的要求，提供由行政机关编制的记录；以及(d) 确保在符合国内法规定的上诉或进一步审查的前提下，此类决定由相关机构或部门实施，并规范其关于该行政行为的做法。

## CHAPTER 15

### GOVERNMENT PROCUREMENT

#### ARTICLE 1501

##### **Purpose**

The Parties recognise the importance of government procurement to their economies and the importance of covering government procurement in this Agreement at the earliest opportunity.

#### ARTICLE 1502

##### **Establishment of Working Group**

1. A Working Group consisting of government representatives of the Parties having responsibility for government procurement is hereby established.
2. The Working Group shall meet regularly to discuss all relevant issues.
3. The Working Group shall report to the FTA Joint Commission within 12 months of the entry into force of this Agreement with recommendations on the scope for commencing bilateral negotiations to bring government procurement under this Agreement and the coverage of such negotiations.

#### ARTICLE 1503

##### **Procurement Principles**

In preparation for the outcome of the negotiations mandated by Article 1502, the Parties shall, to the extent possible, promote and apply transparency, value for money, open and effective competition, fair dealing, accountability and due process, and non-discrimination in their government procurement procedures.

## 第十五章

### 政府采购

#### ARTICLE 1501

##### **目的**

双方认识到政府采购对其经济的重要性，并认识到在本协定中尽早涵盖政府采购的重要性。

#### ARTICLE 1502

##### **工作组设立**

1. 现设立一个由负责政府采购的缔约方政府代表组成的工作组。
2. 工作组应定期召开会议以讨论所有相关事宜。
3. 工作组应在本协定生效后12个月内向<FTA 联合委员会报告，并提出关于开始双边谈判以将政府采购纳入本协定以及此类谈判范围的建议。

#### ARTICLE 1503

##### **采购原则**

为准备第1502条规定的谈判结果，双方应尽可能促进和适用透明度、物有所值、公开有效竞争、公平交易、问责制和正当程序，并在其政府采购程序中实行非歧视。

ARTICLE 1504

**Exchange of Information on Government Procurement**

The Parties shall, subject to their laws, regulations and policies, exchange information in respect of their government procurement policies and practices.

ARTICLE 1505

**Dispute Settlement**

Chapter 18 shall not apply to this Chapter unless specifically authorised by the further negotiations mandated by Article 1502.

ARTICLE 1504

**政府采购信息交换**

双方应在其法律,法规 和政策规定的范围内, 就其政府采购政策和实践交换信息。

ARTICLE 1505

**争端解决**

第18章除非经第1502条授权的进一步谈判特别授权, 否则不适用于本章。

CHAPTER 16

GENERAL EXCEPTIONS

ARTICLE 1601

General Exceptions

- 1. For the purposes of Chapters 2 – 7, Article XX of GATT 1994 is incorporated into and made part of this Agreement, *mutatis mutandis*.
- 2. For purposes of Chapters 8 – 10, Article XIV of GATS is incorporated into and made part of this Agreement, *mutatis mutandis*.
- 3. Article XX (e) – (g) of GATT 1994 is incorporated into and made part of Chapter 9, *mutatis mutandis*.

ARTICLE 1602

Security Exceptions

- 1. For the purposes of Chapters 2 – 7, Article XXI of GATT 1994 is incorporated into and made part of this Agreement, *mutatis mutandis*.
- 2. For the purposes of Chapters 8 - 10, Article XIV *bis* of GATS is incorporated into and made part of this Agreement, *mutatis mutandis*.

第16章

一般例外

ARTICLE 1601

一般例外

- 1. 对于第2章至第7章的目的，1994年关税及贸易总协定第20条被纳入并成为本协议的一部分，*mutatis mutandis*。
- 2. 对于第8章至第10章的目的，GATS第14条被纳入并成为本协议的一部分，*mutatis mutandis*。
- 3. 1994年关税及贸易总协定第20条（e）至（g）被纳入并成为第9章的一部分，*mutatis mutandis*。

ARTICLE 1602

安全例外

- 1. 为第2章至第7章之目的，1994年关税及贸易总协定的第21条并入本协定并成为其一部分，*mutatis mutandis*。
- 2. 对于第8章至第10章的目的，GATS第14条bis被纳入并成为本协议的一部分，*mutatis mutandis*。

Disclosure of Information

Nothing in this Agreement shall require a Party to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

Balance of Payments

- 1. In the case of trade in goods, a Party may, in accordance with GATT 1994 and the *Understanding on Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994*, adopt restrictive import measures in order to safeguard its external financial position and its balance of payments.
- 2. The Party adopting any restrictions under this Article shall initiate consultations with the other Party to review the restrictions adopted by it.

Restrictions to Safeguard the Balance of Payments

- 1. In the event of serious balance of payments and external financial difficulties or threat thereof, a Party may adopt or maintain restrictions on payments and transfers of funds of any investor of the other Party related to any investment covered by Chapter 9 and international payments and transfers for current transactions<sup>8</sup> related to its specific commitments under Chapter 8. It is recognised that particular pressures on the balance of payments of a Party in the process of economic development may necessitate the use of restrictions to ensure, *inter alia*, the maintenance of a level of financial reserves adequate for stable economic development.
- 2. The restrictions referred to in Paragraph 1 shall:

<sup>8</sup> “Current transactions” refers to current transactions as defined by the International Monetary Fund.

信息披露

本协议中的任何内容均不得要求一方提供机密信息，其披露将妨碍执法，或否则与公共利益相悖，或损害特定企业的合法商业利益，无论是公共的还是私有的。

国际收支

- 1. 在货物贸易的情况下，一方可依据1994年关税及贸易总协定和<样式 id='1'>国际收支条款谅解</样式> <样式 id='3'>1994年关税及贸易总协定</样式>，采取限制性进口措施，以维护其外部金融地位和国际收支。
- 2. 采取本条限制措施的一方应与另一方磋商，审查其采取的限制措施。

保障国际收支的限制措施

- 1. 在发生严重的国际收支和外部金融困难或其威胁的情况下，一方可以采取或维持对另一方任何投资者与第9章所涵盖的任何投资相关的支付和资金转移的限制，以及与第8章下其具体承诺相关的经常交易的国际支付和转移<sup>8</sup>。承认正在经济发展过程中的任何一方的国际收支面临特殊压力可能需要使用限制措施，以确保，尤其是，维持足以实现稳定经济发展的金融储备水平。
- 2. 第1段中提到的限制应当：

<sup>8</sup> “Current transactions” 指的是国际货币基金组织定义的经常交易。

- (a) be consistent with the Articles of Agreement of the International Monetary Fund;
- (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 national treatment basis and such that the other Party is treated no less favourably than any non-Party.

3. In determining the incidence of such restrictions, the Parties may give priority to economic sectors which are more essential to their economic development. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular sector.

4. Any restrictions adopted or maintained under Paragraph 1, or any changes therein, shall be promptly notified to the other Party.

5. The Party applying any restrictions under Paragraph 1 shall commence consultations with the other Party in order to review the restrictions applied by it.

ARTICLE 1606

Prudential Measures

Nothing in this Agreement shall prevent a Party from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service<sup>9</sup> supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of the Agreement, they shall not be used as a means of avoiding the Party’s commitments or obligations under this Agreement.

<sup>9</sup> A “financial service” is any service of a financial nature offered by a service supplier of a Party, and includes all insurance and insurance-related services, and all banking and other financial services. An illustrative list of financial services is provided in paragraph 5 of the *Annex on Financial Services* to GATS.

- (a) 与国际货币基金组织的协定条款一致； (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) 在国民待遇基础上适用，并确保另一方受到的待遇不低于任何非一方。

3. 在确定此类限制的影响时，缔约方可以优先考虑对其经济发展更为重要的经济部门。然而， 此类限制不得以保护特定部门为目的而采取或维持。

4. 根据第1段规定采取或维持的任何限制， 或对其进行的任何变更， 均应立即通知另一方。

5. 根据第1段规定采取任何限制的一方应与另一方开始磋商， 以审查其采取的限制。

ARTICLE 1606

审慎措施

本协议中任何内容均不得阻止一方出于审慎理由采取措施， 包括为保护投资者、存款人、 保单持有人或受金融服务<sup>9</sup> 供应商信托责任约束的个人， 或为确保金融体系的完整性和稳定性。如果此类措施不符合本协议的条款， 则不得将其作为规避一方在本协议项下的承诺或义务的手段。

<sup>9</sup> A“金融服务”是指一方服务提供者提供的具有金融性质的服务， 包括所有保险和与保险相关的服务， 以及所有银行和其他金融服务。 金融服务的一个示例清单载于GATS的<样式 id='1'>金融服务附件</样式>第5段。

Taxation Measures

1. This Agreement shall only grant rights or impose obligations with respect to taxation measures:
- (a) where a corresponding right or obligation is also granted or imposed by the WTO Agreement; and
  - (b) under Article 912.<sup>10</sup>
2. If there is a dispute described in Article 917 (1) that may relate to a taxation measure, then the Parties, including representatives of their tax administrations, shall hold consultations. Any tribunal established under Article 917 shall accept a decision of the Parties as to whether the measure in question is a taxation measure.
3. In the event of any inconsistency relating to a taxation measure between this Agreement and the *Agreement between Australia and the Kingdom of Thailand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion*, done at Canberra on 31 August 1989, the latter shall prevail. Any consultations between the Parties about whether an inconsistency relates to a taxation measure shall include representatives of the tax administration of each Party.<sup>11</sup>

<sup>10</sup> This Sub-paragraph relates to taxation measures having an effect equivalent to expropriation or nationalisation.

<sup>11</sup> Nothing in this Agreement shall be regarded as obliging a Party to extend to the other Party the benefit of any treatment, preference or privilege arising from any existing or future agreement on the avoidance of double taxation or from the provisions on the avoidance of double taxation in any other international agreement or arrangement by which the Party is bound.

税收措施

1. 本协议仅在税收措施方面授予权利或规定义务：
- (a) 当相应的权利或义务也由世界贸易组织协定授予或规定时；以及(b) 根据第912条。<sup>10</sup>
2. 如果存在第917(1)条所述可能与税收措施有关的争议，则缔约方，包括其税务机构的代表，应进行磋商。根据第917条 设立的任何仲裁庭应接受缔约方关于所涉措施是否为税收措施的决定。
3. 如本协议与在堪培拉于1989年8月31日签订的《澳大利亚与泰国关于避免双重征税和防止偷税漏税的协定》之间就一项税收措施存在任何不一致，则后者应优先适用。双方就一项不一致是否涉及税收措施进行的磋商应包括每一方税务机构的代表。<sup>11</sup>

<sup>10</sup> 本段涉及具有征收或国有化等效影响的税收措施。<sup>11</sup> 本协议的任何规定均不得被视为迫使一方给予另一方任何现有或未来的避免双重征税协议所产生的待遇、优惠或特权，或来自任何其他国际协议或安排中关于避免双重征税的规定，只要该协议或安排对缔约方具有约束力。

CHAPTER 17

INSTITUTIONAL PROVISIONS

ARTICLE 1701

Establishment of the Free Trade Agreement Joint Commission

A Free Trade Agreement Joint Commission (FTA Joint Commission) shall be established to ensure the proper implementation of this Agreement and to review periodically the economic relationship and partnership between the Parties. The FTA Joint Commission may meet at the level of ministers or senior officials, as mutually determined from time to time by the Parties. Each Party shall be responsible for the composition of its delegation.

ARTICLE 1702

Mandate of the Free Trade Agreement Joint Commission

1. The FTA Joint Commission shall:
- (a) review the general functioning of this Agreement;

(b) review and consider specific matters related to the operation and implementation of this Agreement;

(c) consider any proposal to amend this Agreement;

(d) establish, as required, permanent and *ad hoc* subsidiary bodies and refer matters to them for advice and consider matters raised by all subsidiary bodies created under this Agreement;

(e) seek advice from non-governmental persons or groups on any matter falling within its responsibilities where this would help the FTA Joint Commission make an informed decision;

(f) explore measures for the further expansion of trade and investment between the Parties and identify appropriate areas of commercial, industrial and technical cooperation between relevant enterprises and organisations of the Parties; and

(g) take such other action as the Parties may mutually determine.

第十七章

机构条款

ARTICLE 1701

自由贸易协定联合委员会设立

应设立自由贸易协定联合委员会（自贸协定联合委员会），以确保本协议的实施并定期审查双方的经济关系和伙伴关系。自贸协定联合委员会可随时在双方共同确定的部长或高级官员级别举行会议。每一方应负责其代表团的组成。

ARTICLE 1702

自由贸易协定联合委员会授权

1. 自由贸易协定 联合委员会应：
- (a) 审查本协定的通常运作；

(b) 审查并考虑与本协定的运作和实施相关的具体事项；

(c) 考虑任何修改本协定的提议；

(d) 根据需要设立常设和临时的附属机构，并将事项提交给它们以获取建议，并考虑根据本协定创建的所有附属机构提出的所有事项；

(e) 就其职责范围内的事项向非政府人士或团体寻求建议，以便本自由贸易协定联合委员会能够做出明智的决定；

(f) 探索进一步扩大缔约方之间贸易和投资的措施，并确定相关企业和组织之间适当的商业、工业和技术合作领域；以及

(g) 采取缔约方可能共同确定的此类其他行动。

2. The FTA Joint Commission shall develop procedures governing the extent to which representatives from the private sector may participate in its deliberations.

ARTICLE 1703

Meetings of the Free Trade Agreement Joint Commission

- 1. The FTA Joint Commission shall meet within one year of the date of entry into force of this Agreement and then each year, or as otherwise mutually determined by the Parties.
- 2. The sessions of the FTA Joint Commission shall be held alternately in the territory of each Party.

ARTICLE 1704

General Reviews

- 1. The Parties shall undertake a general review at ministerial level of the operation of this Agreement within five years of its entry into force and at least every five years thereafter.
- 2. The conduct of general reviews shall normally coincide with regular meetings of the FTA Joint Commission.

2. 本自由贸易协定联合委员会应制定管理私营部门代表可以参与其审议的程度的管理程序。

ARTICLE 1703

自由贸易协定联合委员会会议

- 1. 自贸协定联合委员会应在本协定生效日期后一年内举行会议，然后每年举行一次，或由双方共同确定。
- 2. 自贸协定联合委员会的会议应交替地在一方的领土举行。

ARTICLE 1704

一般审查

- 1. 双方应在本协议生效后五年内以及在之后至少每五年进行一次部长级的一般性审查，以审查本协议的运行情况。
- 2. 一般性审查通常应与自由贸易协定联合委员会的定期会议同时进行。

CHAPTER 18

CONSULTATIONS AND DISPUTE SETTLEMENT

ARTICLE 1801

Scope

- 1. This Chapter shall apply to the avoidance and settlement of disputes between the Parties concerning the interpretation, implementation or application of this Agreement except for Chapter 6, Chapter 12 and Chapter 15. In relation to Chapter 11, this Chapter shall only apply to Article 1102.
- 2. Subject to Paragraph 4, nothing in this Chapter shall affect the rights of the Parties to have recourse to a dispute settlement procedure available under any other international agreement to which they are parties.
- 3. If a Party decides to have recourse to a dispute settlement procedure under another international agreement, it shall notify the other Party in writing of its intention to bring a dispute to a particular forum before doing so.
- 4. Once a dispute settlement procedure has been initiated between the Parties with respect to a particular dispute under this Chapter or under any other international agreement to which the Parties are parties, that procedure shall be used to the exclusion of any other procedure for that particular dispute. This paragraph does not apply if substantially separate and distinct rights or obligations under different international agreements are in dispute.
- 5. Paragraph 4 shall not apply where the Parties expressly agree to have recourse to dispute settlement procedures under this Chapter and another international agreement.
- 6. For the purposes of this Article, a dispute settlement procedure under the WTO Agreement shall be regarded as initiated by a Party’s request for a panel under Article 6 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*.

第18章

磋商与争端解决

ARTICLE 1801

范围

- 1. 本章适用于双方就本协议的解释、实施或适用所涉及的争议的避免和解决，但不适用于第6章、第12章和第15章。关于第11章，本章仅适用于第1102条。
- 2. 除第4段的规定外，本章的任何内容均不影响双方根据其作为缔约方的任何其他国际协议可援引的争端解决程序的权利。
- 3. 如果一方决定根据另一项国际协议援引争端解决程序，则应在采取该措施之前以书面形式通知另一方其将争议提交特定论坛的意图。
- 4. 一旦就本章项下或任何其他缔约方为缔约方的国际协定项下某一争议，双方启动了争端解决程序，该程序应予适用，且排除对该争议适用任何其他程序。若争议涉及在不同国际协定项下实质上分离且不同的权利或义务，则本段不适用。
- 5. 第4段的规定不适用于双方明确同意援引本章和另一项国际协定项下的争端解决程序的情况。
- 6. 根据本条，关于争端解决规则和程序的谅解项下的世界贸易组织协定争端解决程序应被视为由一方根据本协议第6条请求专家组所启动。

ARTICLE 1802

**Consultations**

1. A Party shall accord adequate opportunity for consultations requested by the other Party with respect to any matter affecting the interpretation, implementation or application of this Agreement.
2. If a request for consultations is made, the Party to which the request is made shall reply to the request within seven days after the date of its receipt and shall enter into consultations within 30 days after the date of receipt of the request, with a view to reaching a mutually satisfactory solution.
3. The Parties shall make every effort to reach a mutually satisfactory resolution through consultations of any matter raised in accordance with this Article.

ARTICLE 1803

**Good Offices, Conciliation and Mediation**

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.
2. Good offices, conciliation or mediation may continue while procedures of an arbitral tribunal established in accordance with this Chapter are in progress.

ARTICLE 1804

**Request to Establish an Arbitral Tribunal**

1. If the consultations referred to in Article 1802 fail to settle a dispute within 60 days of the date after receipt of the request for consultations, the Party which made the request for consultations may make a written request to the other Party to establish an arbitral tribunal.
2. The request to establish an arbitral tribunal shall identify:
  - (a) the specific measures at issue;

ARTICLE 1802

**磋商**

1. 一方应就影响本协议解释、实施或适用的任何事项，给予另一方请求磋商的充分机会。
2. 如果提出磋商请求，收到请求的一方应在收到请求之日起七日内答复，并在收到请求之日起三十日内进行磋商，以期达成双方均可接受的解决方案。
3. 双方应尽一切努力通过磋商解决根据本条提出的事项。

ARTICLE 1803

**翰旋、调解和仲裁**

1. 双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. 翰旋、调解或调解可以在根据本章设立仲裁庭的程序进行期间继续进行。

ARTICLE 1804

**设立仲裁庭的请求**

1. 如果第1802条所述的磋商在收到磋商请求之日起60天内未能解决争议，提出磋商请求的一方可以书面请求另一方设立仲裁庭。
2. 设立仲裁庭的请求应明确：
  - (a) 有关的具体措施；

- (b) the legal basis of the complaint including the provisions of this Agreement alleged to have been breached and any other relevant provisions; and
- (c) the factual basis for the complaint.

ARTICLE 1805

Establishment of an Arbitral Tribunal

1. An arbitral tribunal shall consist of three members. Each Party shall appoint a member within 30 days after the receipt of the request under Article 1804. The two members appointed shall, within 30 days after the appointment of the second of them, designate by common agreement the third member.
2. The Parties shall, within seven days after the date of the designation of the third member, approve or disapprove the appointment of that member, who shall, if approved, chair the tribunal.
3. If the third member has not been designated within 30 days after the date of the appointment of the second member, or if one or both of the Parties disapproves the appointment of the third member, the Parties shall consult each other in order to jointly appoint within a further period of 30 days the chair of the arbitral tribunal.
4. An arbitral tribunal shall be regarded as established on the day on which the appointment of the third member of the tribunal has been approved or agreed by the Parties in accordance with this Article.
5. If a member appointed under this Article resigns or becomes unable to act, a successor member shall be appointed in the same manner as prescribed for the appointment of the member being replaced and the successor shall have all the powers and duties of the member being replaced.
6. A person appointed as a member of an arbitral tribunal:
  - (a) shall have expertise or experience in law, international trade, other matters covered by this Agreement or the settlement of disputes arising under international trade agreements;
  - (b) shall be chosen strictly on the basis of objectivity, reliability, sound judgement and independence; and
  - (c) shall be independent of, and not be affiliated with or take instructions from, either Party.

- (b) 投诉的法律依据，包括据称被违反的本协议条款以及任何其他相关条款；以及
- (c) 投诉的事实依据。

ARTICLE 1805

仲裁庭的设立

1. 仲裁庭应由三名成员组成。每一方应在收到第1804条项下的请求之日起30日内任命一名成员。被任命的两名成员应在其中第二名成员任命之日起30日内，通过共同协议指定第三名成员。
2. 双方应在第三名成员指定之日起七日内批准或不予批准该成员的任命，如果获得批准，该成员应担任仲裁庭的主席。
3. 如果在第二名成员任命之日起30日内未指定第三名成员，或者一方或双方不批准第三名成员的任命，双方应相互协商，在进一步的30日内共同任命仲裁庭的主席。
4. 仲裁庭应被视为在根据本条获得批准或同意指定仲裁庭第三名成员的那一天成立。
5. 如果根据本条被任命的成员辞职或无法履行职责，应按照被替换成员的任命方式任命继任成员，继任成员应具有被替换成员的所有权力和职责。
6. 被任命为仲裁庭成员的个人：
  - (a) 应具备法律、国际贸易、本协议涵盖的其他事项或国际贸易协议项下产生的争端解决的专业知识或经验；(b) 应严格基于客观性、可靠性、公正判断和独立性进行选择；并且(c) 应独立于任何一方，且不与任何一方有关联或接受任何一方的指示。

7. A person appointed as chair of an arbitral tribunal shall not be a national of, nor have his or her usual place of residence in the territory of, nor be employed by, either Party nor have dealt with the dispute in any capacity.

ARTICLE 1806

Functions of Arbitral Tribunals

- 1. An arbitral tribunal established under Article 1804:
  - (a) shall consult the Parties as appropriate and provide adequate opportunities for the development of a mutually satisfactory settlement of the dispute;
  - (b) shall make its award in accordance with this Agreement and applicable rules of international law;
  - (c) shall set out, in its award, its findings of law and fact, together with its reasons; and
  - (d) may, in addition to its findings of law and fact, include in its award options for the Parties to consider in implementing the award.
- 2. The award of an arbitral tribunal shall be final and binding on the Parties.
- 3. An arbitral tribunal shall attempt to make its decision, including its award, by consensus but may also make such decisions by majority vote.

ARTICLE 1807

Proceedings of Arbitral Tribunals

- 1. An arbitral tribunal shall meet in closed session. The Parties shall be present at the meetings only when invited by an arbitral tribunal to appear before it.
- 2. The deliberations of an arbitral tribunal and the documents submitted to it shall be kept confidential. Nothing in this Article shall preclude a Party from disclosing to the public statements of its own positions or its submissions, but a Party shall not disclose information submitted by the other Party to an arbitral tribunal which the latter Party has designated as confidential.

7. 被任命为仲裁庭主席的个人不应是任何一方的国民，也不应在其通常居留地或领土内，也不应受雇于任何一方，且不应以任何身份处理该争议。

ARTICLE 1806

仲裁庭的职能

- 1. 根据 第1804条 设立的仲裁庭：
  - (a) 应当根据适当情况与 双方 协商，并提供充分的机会以达成双方满意的 争议 和解；
  - (b) 应当根据 本协议 和适用的国际法规则作出裁决； (c) 应当在其裁决中列明其法律和事实认定，并说明理由；以及 (d) 除了其法律和事实认定外，还可在其裁决中包括供 双方 考虑以实施裁决的选项。
- 2. 仲裁庭的裁决 对 双方 具有最终约束力。
- 3. 仲裁庭应当尝试通过共识作出其决定，包括其裁决， 但也可通过多数票作出此类决定。

ARTICLE 1807

仲裁庭的程序

- 1. 仲裁庭应当举行闭门会议。双方仅在仲裁庭邀请其出庭时出席会议。
- 2. 仲裁庭的审议及其提交的文件应予以保密。本条任何规定均不得妨碍一方公开其自身立场陈述或其提交的陈述， 但一方不得披露向仲裁庭提交的信息， 该信息由后者一方指定为保密的。

3. The Parties shall transmit to the tribunal written submissions in which they present the facts of their cases and their arguments and shall do so within the following time limits:
- (a) for the Party which requested the establishment of the arbitral tribunal, within 21 days after the date of the establishment of that tribunal; and
  - (b) for the other Party, within 21 days after the date of the transmission of the written submission of the Party which requested the establishment of the arbitral tribunal.
4. At its first substantive meeting with the Parties, an arbitral tribunal shall ask the Party which requested the establishment of the tribunal to present its submission. At the same meeting, the arbitral tribunal shall ask the other Party to present its submission.
5. Formal rebuttals shall be made at the second substantive meeting of an arbitral tribunal. The Party which did not request the establishment of the tribunal shall have the right to present its submission first. Before the meeting, the Parties shall submit written rebuttals to the tribunal.
6. An arbitral tribunal may at any time put questions to the Parties and ask them for explanations either in the course of a meeting or in writing.
7. The Parties shall make available to an arbitral tribunal a written version of their oral statements.
8. The submissions, rebuttals and statements referred to in paragraphs 4 to 6 shall be made in the presence of the Parties. Each Party's written submissions, including any comments on the draft award made in accordance with Article 1809 (2), written versions of oral statements and responses to questions put by an arbitral tribunal, shall be made available to the other Party.
9. An arbitral tribunal shall have no *ex parte* communications concerning a dispute it is considering.
10. At the request of a Party, or on its own initiative, an arbitral tribunal may seek information and technical advice from any person or body that it deems appropriate, provided that the Parties so agree and subject to such terms and conditions as the Parties may set. This paragraph does not apply to information and technical advice provided by any person or body as part of the submissions referred to in paragraphs 4 to 6.
11. An arbitral tribunal shall, in consultation with the Parties, regulate its own procedures governing the rights of Parties to be heard and its own deliberations where such procedures are not otherwise set out in this Chapter.

3. 双方应在以下时间限制内向仲裁庭提交书面陈述，其中陈述其案件事实及其论点：
- (a) 对于请求设立仲裁庭的一方，应在仲裁庭设立之日起21日内；以及 (b) 对于另一方，应在请求设立仲裁庭的一方提交书面申请之日起21日内。
4. 在与双方举行第一次实质性会议时，仲裁庭应要求请求设立仲裁庭的一方提交其申请。在同一会议上，仲裁庭应要求另一方提交其申请。
5. 正式反驳应在仲裁庭的第二次实质性会议上进行。未请求设立仲裁庭的一方有权首先提交其申请。在会议前，双方应向仲裁庭提交书面反驳。
6. 仲裁庭可随时向双方提出问题，并要求其解释，或通过会议或书面形式进行。
7. 双方应当向仲裁庭提供其口头陈述的书面版本。
8. 第4至6段的提交的陈述、反驳和陈述应当由双方在场时作出。每一方的书面提交的陈述，包括根据第1809条第2款作出的关于裁决草案的任何意见、口头陈述的书面版本以及对仲裁庭提出的问题的回答，应当提供给另一方。
9. 仲裁庭不得就其正在审议的争议进行任何单方面通信。
10. 应一方的要求或自行主动，仲裁庭可以寻求其认为适当的任何个人或机构的任何信息和技术建议，但需双方同意，并遵守双方可能规定的条款和条件。本段不适用于第4至6段中提到的任何个人或机构作为提交的陈述的一部分提供的信息和技术建议。
11. 仲裁庭应与缔约方协商，自行规定当事人陈述权及审议的程序，若本章未另行规定该程序。

### **Suspension or Termination of Proceedings**

1. Where the Parties agree, an arbitral tribunal may suspend its work at any time for a period not exceeding 12 months. If the work of an arbitral tribunal has been suspended for more than 12 months, the tribunal's authority for considering the dispute shall lapse unless the Parties agree otherwise.
2. The Parties may agree at any time to terminate the proceedings of an arbitral tribunal established under this Agreement by jointly notifying the chair of that arbitral tribunal.
3. An arbitral tribunal may, at any stage of the proceedings prior to release of its final award, propose that the Parties seek to settle the dispute amicably.

### **Awards of Arbitral Tribunals**

1. Unless the Parties otherwise agree, an arbitral tribunal shall base its award on the submissions and arguments of the Parties and on any information it has obtained in accordance with Article 1807 (10).
2. An arbitral tribunal shall prepare a draft award and accord adequate opportunity for the Parties to review this draft. The Parties may submit to the tribunal written comments on the draft award within 14 days after the date of its receipt. The tribunal shall consider any comments received from the Parties in finalising its award.
3. An arbitral tribunal shall release to the Parties its final award on a dispute within 120 days after the date of its establishment. If the tribunal considers it cannot release its final award within 120 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 award.
4. The final award of an arbitral tribunal shall become a public document within 10 days of its release to the Parties.

### **程序中止或终止**

1. 如双方同意，仲裁庭可随时中止其工作，中止期限不超过12个月。若仲裁庭的工作中止超过12个月，除非双方另有约定，仲裁庭审议争议的权力应终止。
2. 双方可以随时通过联合通知该仲裁庭主席，终止根据本协议设立的仲裁庭的程序。
3. 在最终裁决发布前的程序任何阶段，仲裁庭可以提议双方友好解决争议。

### **仲裁庭裁决**

1. 除非双方另有约定，仲裁庭应依据双方的提交陈述和论点，并依据第1807条（10）的规定获得的信息作出裁决。
2. 仲裁庭应准备裁决草案，并给予双方充分的机会审查该草案。双方应在收到草案之日起14日内向仲裁庭提交关于该草案的书面意见。仲裁庭应在最终确定其裁决时考虑从双方收到的任何意见。
3. 仲裁庭应在成立之日起120日内向双方发布其就争议作出的最终裁决。如果仲裁庭认为其不能在120日内发布最终裁决，则应书面通知双方延迟的原因，并估计其将发布裁决的期限。
4. 仲裁庭的最终裁决应在发布给缔约方后的10日内成为公开文件。

**Implementation**

1. The Parties shall promptly comply with an award of an arbitral tribunal.
2. A Party shall notify the other Party in writing of any action it proposes to take to implement an award of an arbitral tribunal within 30 days after the date of the receipt of the final award by the Parties.
3. If a Party considers that prompt compliance with an award of an arbitral tribunal is impracticable, or if a Party which requested the establishment of an arbitral tribunal considers that an action proposed or subsequently taken by the other Party does not implement the award of the tribunal, the Parties shall immediately enter into consultations with a view to developing a mutually acceptable resolution, such as compensation or any alternative arrangement and agreeing on a reasonable period to implement any such resolution. Compensation and any alternative arrangement are temporary measures, neither of which is preferred to full implementation of the original award.

**Compensation and Suspension of Benefits**

1. If:
  - (a) the Party which requested the establishment of an arbitral tribunal has not received any notice from the other Party under Article 1810 (2); or
  - (b) the Parties are unable to agree on a mutually acceptable resolution under Article 1810 (3) within 30 days of the commencement of consultations under Article 1810 (3); or
  - (c) the Parties have agreed on a mutually acceptable resolution under Article 1810 (3) and the Party which requested the establishment of the arbitral tribunal considers that the other Party has failed to observe the terms of such agreement,

the Party which requested the establishment of an arbitral tribunal may at any time thereafter provide written notice to the other Party that it intends to suspend the application of benefits of equivalent effect to the non-conformity found by the tribunal. The notice shall specify the level of benefits that the Party proposes to suspend. The Party which requested the establishment of an arbitral tribunal may begin suspending benefits 30 days after the date on which it provides notice to the other Party.

**实施**

1. 双方应迅速遵守仲裁庭裁决。
2. 一方应在双方收到最终裁决之日起30日内，以书面形式通知另一方其拟采取的行动以实施仲裁庭裁决。
3. 如果一方认为迅速遵守仲裁庭裁决不可行，或者请求设立仲裁庭的一方认为另一方提出的或随后采取的行动未实施仲裁庭的裁决，双方应立即进行磋商，以达成相互可接受的解决方案，例如补偿或任何替代安排，并商定一个合理的期限来实施任何此类解决方案。补偿和任何替代安排是临时措施，两者均不优于原裁决的完全实施。

**补偿和福利暂停**

1. 如果：
  - (a) 请求设立仲裁庭的一方未收到另一方根据第1810条第2款发出的任何通知；或
  - (b) 双方未能根据第1810条第3款在开始磋商后30天内就相互可接受的解决方案达成一致 根据第1810条第3款开始磋商；或 (c) 双方已根据第1810条第3款就相互可接受的解决方案达成一致，而请求设立仲裁庭的一方认为另一方未能遵守该协议的条款，

请求设立仲裁庭的一方可以在之后随时向另一方提供书面通知，表明其打算暂停对仲裁庭发现的不符适用具有同等效果的福利。通知应说明该方提议暂停的福利水平。请求设立仲裁庭的一方可以在向另一方提供通知之日起30日后开始暂停福利。

2. In considering what benefits to suspend under this Article:
- (a) the Party which requested the establishment of an arbitral tribunal shall first seek to suspend the application of benefits in the same sector or sectors as affected by the matter that the tribunal has found to be inconsistent with this Agreement;
  - (b) the Party which requested the establishment of an arbitral tribunal may suspend the application of benefits in other sectors if it considers that it is not practicable or effective to suspend the application of benefits in the same sector; and
  - (c) the Party which requested the establishment of the arbitral tribunal shall aim to ensure that the level of suspension of benefits is of equivalent effect to the non-conformity found by the tribunal.

Any suspension of benefits under this Article shall be temporary and shall only be applied until such time as the Party that must implement an arbitral tribunal's award has done so, or until a mutually satisfactory solution is reached.

3. If the Party complained against considers that:
- (a) the level of benefits that the other Party has proposed to suspend under paragraph 2 is excessive; or
  - (b) it has eliminated the non-conformity found by the tribunal

it may, within 30 days after the other Party provides notice under Paragraph 1, request that the tribunal be reconvened to consider this matter. The Party complained against shall deliver its request in writing to the other Party. The tribunal shall reconvene within 30 days after delivery of the request to the other Party and shall present its determination to the Parties within 90 days after it reconvenes. If the tribunal determines that the level of benefits proposed to be or actually suspended is excessive, it shall determine the level of benefits it considers to be of equivalent effect to the non-conformity found by the tribunal, adjusted to reflect any loss sustained by a Party as a result of excessive suspension.

4. The compliance tribunal's award shall be final and binding on the Parties.

ARTICLE 1812

**Expenses**

Each Party shall bear the costs of its appointed member and its own expenses. The costs of the chair of an arbitral tribunal and other expenses associated with the conduct of its proceedings shall be borne in equal parts by the Parties.

2. 在考虑根据本条暂停哪些福利时:
- (a) 请求设立仲裁庭的一方应首先寻求暂停受争议事项所涉及的同一部门或数个部门中福利的适用; (b) 请求设立仲裁庭的一方如认为在同一部门暂停福利适用不切实际或无效, 则可在其他部门暂停福利适用; 以及 (c) 请求设立仲裁庭的一方应努力确保福利暂停的水平具有与仲裁庭发现的不符程度相当的效力。

根据本条暂停的福利应为临时性的, 并且仅应适用至必须实施仲裁庭裁决的一方已完成该实施, 或双方达成双方均可接受的解决方案为止。

3. 如果被投诉的一方认为:
- (a) 另一方根据第2段提议暂停的福利水平过高; 或 (b) 它已消除了仲裁庭发现的不符。

在另一方根据第1段提供通知后的30天内, 它可以请求仲裁庭重新召开会议以考虑此事。被投诉的一方应以书面形式将其请求提交给另一方。仲裁庭应在收到另一方请求后的30天内重新召开会议, 并在重新召开会议后90天内向双方提出其裁决。如果仲裁庭认定提议或实际暂停的利益水平过高, 则应确定其认为对仲裁庭发现的不符具有等效效果的利益水平, 并调整以反映任何一方因过度暂停而遭受的损失。

4. 合规仲裁庭的裁决对双方具有最终约束力。

ARTICLE 1812

**费用**

每一方应承担其指定成员的费用以及自身的费用。仲裁庭主席的费用以及与进行其程序有关的其他费用应由双方平均分担。

CHAPTER 19

FINAL PROVISIONS

ARTICLE 1901

Headings

The headings of the Chapters and Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of this Agreement.

ARTICLE 1902

Annexes and Footnotes

The Annexes and Footnotes to this Agreement shall form an integral part of this Agreement.

ARTICLE 1903

Amendments

This Agreement may be amended by agreement in writing by the Parties, and such amendments shall enter into force on such date or dates as may be agreed between them.

第十九章

最终条款

ARTICLE 1901

标题

本协议的章节和文章标题仅为方便引用而插入，不应影响对本协议的解释。

ARTICLE 1902

附件和脚注

本协议的附件和脚注应构成本协议的组成部分。

ARTICLE 1903

修正案

本协议可由缔约方以书面协议的方式修正，且此类修正应自双方同意的日期或日期生效。

ARTICLE 1904

Application

Each Party is fully responsible for the observance of all provisions in this Agreement and shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities.

ARTICLE 1905

Association with the Agreement

This Agreement is open to accession or association, on terms to be agreed between the Parties, by any member of the WTO, or by any other State or separate customs territory.

ARTICLE 1906

Consultations on Inconsistencies with other Agreements

If either Party considers there is any inconsistency between this Agreement and any other agreement to which both Parties are parties, the Parties shall consult each other with a view to finding a mutually satisfactory solution.

ARTICLE 1907

Preferences under other Agreements

1. Except for Article 908 (2), Article 917 (3) and Article 1605, nothing in this Agreement shall be regarded as obliging a Party to extend to the other Party the benefit of any treatment, preference or privilege arising from any existing or any future customs union, free trade area, free trade arrangement, common market, monetary union or similar international agreement or other similar forms of bilateral or regional cooperation to which either of the Parties is or may become party; or as preventing the adoption of an agreement designed to lead to the formation or extension of such a union, area or arrangement or market.

ARTICLE 1904

适用

每一方应对本协议中的所有条款的遵守负全部责任，并应采取其所能采取的合理措施，以确保地区和地方政府的当局遵守这些条款。

ARTICLE 1905

与协议的关联

本协议向世界贸易组织的任何成员或任何其他国家或单独关税区开放加入或与协议的关联，具体条款由双方协商确定。

ARTICLE 1906

与其他协议不一致的磋商

如果一方认为本协议与任何其他双方均为缔约方的协议之间存在任何不一致，双方应相互协商，以寻求双方均可接受的解决方案。

ARTICLE 1907

其他协议下的优惠

1. 除第908条第2款、第917条第3款和第1605条外，本协定中的任何内容均不得被视为强制一方将其从任何现有或未来的关税同盟、自由贸易区、自由贸易安排、共同市场、货币联盟或类似的国际协议或其他类似的双边或区域合作形式中获得的任何待遇、优惠或特权扩展给另一方；或视为阻止缔约方采纳旨在导致形成或扩展此类同盟、区域或安排或市场的协议。

2. Where, by virtue of the Annex on Article II Exemptions to GATS, a Party is exempt from the obligations of Paragraph 1 of Article II of GATS in relation to an agreement or arrangement with a non-Party, nothing in this Agreement shall be regarded as obliging that Party to extend to the other Party the benefit of any treatment, preference or privilege arising from such agreement or arrangement. This Paragraph applies whether or not the treatment, preference or privilege under that agreement or arrangement would itself be subject to the obligations of Paragraph 1 of Article II of GATS except for the Annex on Article II Exemptions to GATS.

ARTICLE 1908

Termination of 1979 Trade Agreement

The *Trade Agreement Between the Government of Australia and the Government of the Kingdom of Thailand*, done at Bangkok on 5 October 1979, shall terminate on the day of entry into force of this Agreement.

ARTICLE 1909

Financial Provisions

Any cooperative activities envisaged or undertaken under this Agreement shall be subject to the availability of resources and to the laws, regulations and policies of the Parties. Costs of cooperative activities shall be borne in such manner as may be mutually determined from time to time between the Parties.

ARTICLE 1910

Entry into Force, Duration and Termination

1. This Agreement shall enter into force 30 days after the date on which the Parties have notified each other in writing that their respective internal procedures for the entry into force of this Agreement have been fulfilled.

2. This Agreement shall remain in force until one Party gives written notice of its intention to terminate it, in which case this Agreement shall terminate twelve months after the date of the notice of termination.

2. 如果根据第II条豁免附件，一方根据第II条第1段的规定，在涉及与非一方达成的协议或安排方面被豁免GATS的义务，本协定中的任何内容均不得被视为强制该方将其从该协议或安排中获得的任何待遇、优惠或特权扩展给另一方。本段规定是否适用，无论该协议或安排项下的待遇、优惠或特权本身是否受第II条第1段的义务约束，除非是第II条豁免附件。

ARTICLE 1908

1979年贸易协议的终止

The 澳大利亚政府和泰王国政府之间的贸易协定, done at Bangkok on 1979年10月5日, shall terminate on the day of entry into force of this Agreement.

ARTICLE 1909

财务条款

任何在本协议项下设想或进行的合作活动均应受限于资源的可用性以及缔约方的法律、法规和政策。合作活动的成本应根据缔约方随时共同确定的 manner 承担。

ARTICLE 1910

生效、持续和终止

1. 本协议应在缔约方书面通知对方其各自本协定生效的内部程序已履行之日起30日生效。

2. 本协议应持续有效，直至一方发出书面终止意向通知，届时本协议将在终止通知之日起十二个月后终止。

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

作证为此，签署人经各自政府正式授权，已签署本协议。

DONE in duplicate at this day of ,  
two-thousand and four, in the English language.

完成一式两份在当日，二千零四，英文。

For Australia

For the Kingdom of Thailand

澳大利亚

泰国

Mr. Mark Vaile  
Minister for Trade

Mr. Watana Muangsook  
Minister of Commerce

马克·Vaile 先生  
贸易部长

瓦塔纳·Muangsook 先生  
商业部长

FINAL  
SUBJECT TO APPROVAL BY GOVERNMENTS

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最终主题须经政府批准

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