

CHAPTER 9

CAPITAL MOVEMENTS, PAYMENTS AND TRANSFERS
AND TEMPORARY SAFEGUARD MEASURES

ARTICLE 9.1

Current account

Without prejudice to other provisions of this Agreement, each Party shall allow, in freely convertible currency¹, and in accordance with the Articles of Agreement of the International Monetary Fund, as applicable, any payments and transfers with regard to transactions on the current account of the balance of payments which fall within the scope of this Agreement.

ARTICLE 9.2

Capital movements

1. Without prejudice to other provisions of this Agreement, each Party shall allow, with regard to transactions on the capital and financial account of the balance of payments, the free movement of capital for the purpose of liberalisation of investments and other transactions as provided for in Chapter 8.
2. The Parties shall consult each other with a view to facilitating the movement of capital between them in order to promote trade and investment.

¹ For the purposes of this Chapter, "freely convertible currency" means a currency that can be freely exchanged against currencies that are widely traded in international foreign exchange markets and widely used in international transactions. For greater certainty, currencies that are widely traded in international foreign exchange markets and widely used in international transactions include freely usable currencies as designated by the IMF in accordance with the Articles of Agreement of the International Monetary Fund.

第九章

资本流动、支付和转移以及临时保护措施

条款 9.1

经常账户

在不损害本协定其他规定的情况下，每一缔约方应允许以自由兑换货币¹，并按照国际货币基金组织的协定条款，如适用，进行任何关于国际收支经常账户下属于本协定范围的支付和转移。

条款 9.2

资本流动

1. 不影响本协定其他条款，每一缔约方应就国际收支资本和金融账户的交易，允许资本自由流动，以促进第八章规定的投资及其他交易的自由化。
2. 各方应相互协商，以促进彼此之间的资本流动，从而促进贸易和投资。

¹ 就本章而言，“自由兑换货币”是指可以自由兑换成在国际外汇市场上广泛交易并在国际交易中广泛使用的货币。为明确起见，在国际外汇市场上广泛交易并在国际交易中广泛使用的货币包括国际货币基金组织协定条款所指定的自由使用货币。

ARTICLE 9.3

Application of laws and regulations relating to capital movements, payments or transfers

1. Articles 9.1 and 9.2 shall not be construed as preventing a Party from applying its laws and regulations relating to:
- (a) bankruptcy, insolvency or the protection of the rights of creditors;
 - (b) issuing, trading or dealing in securities, or futures, options and other derivatives;
 - (c) financial reporting or record keeping of capital movements, payments or transfers where necessary to assist law enforcement or financial regulatory authorities;
 - (d) criminal or penal offences, or deceptive or fraudulent practices;
 - (e) ensuring compliance with orders or judgments in adjudicatory proceedings; or
 - (f) social security, public retirement or compulsory savings schemes.
2. The laws and regulations referred to in paragraph 1 shall not be applied in an inequitable, arbitrary or discriminatory manner, or otherwise constitute a disguised restriction on capital movements, payments or transfers.

ARTICLE 9.4

Temporary safeguard measures

1. A Party may adopt or maintain restrictive measures with regard to capital movements, payments or transfers:

条款 9.3

Application of laws and regulations relating to 资本流动, 支付或转移 s

1. 条款 9.1 和 9.2 不得解释为阻止一方适用其有关:
- (a) 破产、资不抵债或债权人权利保护;
 - (b) 发行、交易或处理证券, 或期货、期权和其他衍生品;
 - (c) 资本流动、支付或转移的财务报告或记录保存, 如有必要以协助执法或金融监管机构;
 - (d) 刑事或刑事犯罪, 或欺骗或欺诈行为;
 - (e) 确保在司法程序中遵守命令或判决; 或
 - (f) 社会保障、公共退休或强制储蓄计划。
2. 第1段所指的法律和法规不得以不公平、任意或歧视的方式适用, 或以其他方式构成对资本流动、支付或转移的变相限制。

第9.4条

临时保护措施

1. 一方可以采取或维持对资本流动、支付或转移的限制性措施:

(a) in the event of serious balance of payments or external financial difficulties, or threat thereof;¹
or

(b) if, in exceptional circumstances, capital movements, payments or transfers cause or threaten to cause serious macroeconomic difficulties related to monetary and exchange rate policies.

2. The measures referred to in paragraph 1 shall:

(a) be consistent with the Articles of Agreement of the International Monetary Fund, as applicable;

(b) not exceed those necessary to deal with the situations described in paragraph 1;

(c) be temporary and be phased out progressively as the situation described in paragraph 1 improves;

(d) avoid unnecessary damage to the commercial, economic and financial interests of the other Party; and

(e) be non-discriminatory compared to third countries in like situations.

3. In the case of trade in goods, each Party may adopt restrictive measures pursuant to Article 2.20 for balance-of-payments purposes.

4. In the case of trade in services, each Party may adopt restrictive measures in order to safeguard its external financial position or balance of payments. Those measures shall be in accordance with the conditions set out in Article XII of GATS.

¹ The Parties acknowledge that serious balance of payments or external financial difficulties, or threat thereof, as referred to in subparagraph (a) may be caused among other factors by serious macroeconomic difficulties related to monetary and exchange rate policies, or threat thereof, as referred to in subparagraph (b).

(a) 在发生严重的国际收支或外部金融困难，或其威胁的情况下；¹或

(b) 如果在特殊情况下，资本流动、支付或转账导致或威胁导致与国际收支相关的货币和汇率政策相关的严重宏观经济困难。2. 第1段所述的措施应：(a) 与国际货币基金组织的协定条款一致，如适用；(b) 不得超过处理第1段所述情况所需的措施；(c) 具有临时性，并在第1段所述情况改善时逐步取消；(d) 避免对另一方的商业、经济和金融利益造成不必要的损害；以及 (e) 与处于类似情况下的第三国相比，具有非歧视性。

3. 在货物贸易的情况下，每一方可以根据第2.20条采取限制性措施，以平衡国际收支为目的。

4. 在服务贸易的情况下，每一方可以采取限制性措施，以维护其外部金融地位或国际收支。这些措施应符合《服务贸易总协定》第十二条规定的条件。

¹ 各方承认，在第 (a) 款中提到的严重国际收支或外部金融困难，或其威胁，可能由其他因素，包括与第 (b) 款中提到的与国际货币基金组织的货币和汇率政策相关的严重宏观经济困难，或其威胁，所导致。(b)。

5. A Party maintaining or having adopted measures referred to in paragraphs 1 and 2 shall promptly notify the other Party of them.

6. If restrictions are adopted or maintained pursuant to this Article, the Parties shall promptly hold consultations in the Committee on Trade in Services, Investment Liberalisation and Electronic Commerce established pursuant to Article 23.3, unless consultations are held in other fora. The consultations shall assess the balance of payments or external financial difficulties or other macroeconomic difficulties that led to the respective measures, taking into account, *inter alia*, such factors as:

- (a) the nature and extent of the difficulties;
- (b) the external economic and trading environment; and
- (c) alternative corrective measures which may be available.

7. The consultations pursuant to paragraph 6 shall address the compliance of any restrictive measures with paragraphs 1 and 2. Those consultations shall be based on all available relevant findings of statistical or factual nature by the IMF, and the conclusions shall take into account the assessment by the IMF of the balance of payments and the external financial situation or other macroeconomic difficulties of the Party concerned.

5. 维持或已采取第1段和第2段所述措施的一方应立即将它们通知另一方。

6. 如果根据本条款采取或维持限制措施，缔约方应立即在根据第23.3条设立的服务贸易、投资自由化和电子商务委员会中举行磋商，除非在其他场合举行磋商。磋商应评估导致相关措施的国际收支或外部金融困难或其他宏观经济困难，并考虑，诸如以下因素：

- (a) 困难的性质和程度；
- (b) 外部经济和贸易环境；以及
- (c) 可用的替代纠正措施。

7. 根据第6段的磋商应解决任何限制性措施是否符合第1段和第2段。这些磋商应以国际货币基金组织提供的所有相关统计或事实性质的研究结果为基础，结论应考虑国际货币基金组织对有关缔约方的国际收支和外部金融状况或其他宏观经济困难的评估。