Name of the Equipment(Products)	Main Technical Index and Requirements	Range of Application
56. whole-set equipment for purification of synthetic NH3 with NHD technology	NHD solvent consumption <0.2kg/ton NH_3 Vapor consumption <20kg/ton NH_3 Power consumption <95kwh/ton NH_3 CO_2 content in the purified gas $<0.2\%$; H_2S content in the purified gas <1ppm.	Purification of gases from varied processes, especially for synthetic gas of NH_3, CH_3OH or carbonyl groups with high content of H_2S & CO_2 when using coal as raw material
57. whole-set equipment for recovery and utilization of flaregas	Organic substances are recovered and utilized; Hazardous gases discharged into the air can reach relevant standards.	Flaregas disposal in petrochemical engineering and oil and natural gas fields
58. equipment for comprehensive utilization of methane gas	Solid-liquid separator Separation capacity: about $10m^3/h$ for waste liquids with about 96% of water content; Suspended solids in the filtrant <5000mg/l; UASB anaerobic reactor COD loading rate: $8\sim12$kg/m^3.day; Gas generating rate: $6\sim18m^3/m^3$.day; Desulfuration equipment for methane gas H_2S content in the desulfurated methane gas <20mg/l; Methane gas generator Power : $150\sim500$kw or $15\sim1.6$kwh/m^3 (methane gas)	Anaerobic treatment of industrial wastewater, husbandry effluents, and domestic sewage with medium or high concentration; Comprehensive utilization of methane gas (including that generated from garbage landfill)
Ⅷ. Environmental protection materials and agents		
59. glassfibre filter cloth with high temperature resistance and corrosion proof	Fabric texture : two-dimension Fabric thickness: $0.5\sim0.6$mm; Fabric density : warp yarn: 18 threads/cm filling yarn: 181thread/cm Fabric endurance : warp yarn $\geqslant$24020 (kg/25mm$\times$100) filling yarn $\geqslant$24020(kg/25mm$\times$100) Filtration efficiency : 99% Normal life period $\geqslant$2 years	Fume and smog treatment in coal industry kilns and boilers

设备(产品)名称	主要指标及技术要求	适用范围
60.玻璃纤维膨体纱过滤布	过滤效率:99% 正常使用寿命≥2年 抗拉强度:经≥2000(N/25mm) 纬≥1400(N/25mm); 透气率:35~45$cm^3/cm^2 \cdot S$; 使用温度:≤280℃; 过滤风速:≤0.5~0.8m/min;	水泥、碳黑、化工等行业的工业产品回收,建材、冶金、机械、电力的燃煤锅炉以及垃圾焚烧等领域的高温烟尘、粉尘处理
61.高密度聚乙烯衬层 62.高效复合声学材料	捕尘效率:≥99.95%; 正常使用寿命≥2年 满足垃圾卫生填埋场防渗要求 阻尼材料损耗因数:η>0.2~0.3; 温度应用范围较宽; 吸声系数:a>0.5。	垃圾卫生填埋场场底防渗 噪声控制用材料

Name of the Equipment(Products)	Main Technical Index and Requirements	Range of Application
60. glassfibre filter cloth using bulked yarns	Tensile strength: warp yarn≥2000 (N/25mm) filling yarn≥1400(N/25mm) Air permeability: 35～45cm^3/cm^2.S Working temperature ≤280′C Wind filtering rate ≤0.5～0.8m/min Dust capturing efficiency ≥99.95% Normal life period ≥2 years	Recovery of industrial products from trades of cement, carbon black, chemical engineering etc. Treatment of high temperature smoke and mill dust from coal boilers of building materials, metallurgy, mechanics, power etc and from garbage incineration
61. high density PE (polyethene) linings	It can meet the penetration-proof requirement for garbage landfill	Leakage prevention for sanitary landfill
62. high-efficiency composite acoustic materials	Wasting factor of the damp material >0.2～0.3 Available for a wide range of temperature; Sound absorption coefficient : a>0.5	Noise control material

十四、环境标准与环境监测

XIV Environmental Standards and Monitoring

环境标准管理办法

国家环境保护总局令

第3号

《环境标准管理办法》已于1999年1月5日发国家环境保护总局局务议讨论通过，现予发布施行。

国家环境保护总局局长　解振华

1999年4月1日

第一章　总　　则

第一条　为加强环境标准管理工作，依据《中华人民共和国环境保护法》和《中华人民共和国标准化法》的有关规定，制定本办法。

第二条　本办法适用于环境标准的制定、实施及对实施环境标准的监督。

第三条　为防治环境污染，维护生态平衡，保护人体健康，国务院环境保护行政主管部门和省、自治区、直辖市人民政府依据国家有关法律规定，对环境保护工作中需要统一的各项技术规范和技术要求，制定环境标准。

环境标准分为国家环境标准、地方环境标准和国家环境保护总局标准。

国家环境标准包括国家环境质量标准、国家污染物排放标准（或控制标准）、国家环境监测方法标准、国家环境标准样品标准和国家环境基础标准。

地方环境标准包括地方环境质量标准和地方污染物排放标准（或控制标准）。

第四条　国家环境标准和国家环境保护总局标准在全国范围内执行。国家环境标准发布后，相应的国家环境保护总局标准自行废止。

地方环境标准在颁布该标准的省、自治区、直辖市辖区范围内执行。

第五条　环境标准分为强制性环境标准和推荐性环境标准。

环境质量标准、污染物排放标准和法律、行政法规规定必须执行的其他环境标准属于强制性环境标准，强制性环境标准必须执行。

Measures on the Management of Environmental Standards

Decree of the State Environmental Protection Administration
No. 3

Measures on the Management of Environmental Standards was adopted upon the discussion at the executive meeting of the State Environmental Protection Administration on January 5, 1999 are now promulgated for implement.

Minister Xie Zhenhua
State Environmental Protection Administration
April 1, 1999

Chapter I General Provisions

Article 1 The Measures are formulated for the purpose of strengthening the management of environmental standards, according to related stipulations of the Environmental Protection Law of the People's Republic of China and the Standardization Law of the People's Republic of China.

Article 2 The Measures shall apply to formulating, implementing environmental standards and supervising the implementation of environmental standards.

Article 3 To prevent and control environmental pollution, to safeguard the ecological balance and to protect people's health, the competent departments of environmental protection administrations under the State Council and provincial, autonomous region and municipality governments should, in line with related rules and regulations of the State, formulate environmental standards for various technical code and specifications that require uniformity in environmental protection.

The environmental standards consist of national standards, local standards and the standards of the State Environmental Protection Administration (SEPA standards).

National environmental standards include national environmental quality, national pollutant emission (or control) standards, standards for national environmental monitoring methods, standards for national environmental standard samples and national environmental basic standards.

Local environmental standards cover local environmental quality standards and local pollutant emission (or control) standard.

Article 4 The national environmental standards and the SEPA standards shall be implemented nationwide. Upon issuance of the national environmental standards, the corresponding standards of the SEPA shall be automatically repealed.

The local environmental standards shall be implemented within the scope of the provinces, autonomous regions and municipalities, where the standards are issued.

Article 5 The environmental standards consist of mandatory environmental standard and recommended environmental standards.

The environmental standards, pollutant emission standards and other environmental standards that must be implemented as stipulated in the laws and administrative rules and regulations are part of the mandatory environmental standards. The mandatory environmental standards must be implemented.

Those environmental standards other than the mandatory environmental standards shall be belong to recommended standards which are encouraged to be adopted by the State. If the recommended en-

强制性环境标准以外的环境标准属于推荐性环境标准。国家鼓励采用推荐性环境标准，推荐性环境标准被强制性环境标准引用，也必须强制执行。

第六条 国家环境保护总局负责全国环境标准管理工作，负责制定国家环境标准和国家环境保护总局标准，负责地方环境标准的备案审查，指导地方环境标准管理工作。

县级以上地方人民政府环境保护行政主管部门负责本行政区域内的环境标准管理工作，负责组织实施国家环境标准、国家环境保护总局标准和地方环境标准。

第二章 环境标准的制定

第七条 对下列需要统一的技术规范和技术要求，应制定相应的环境标准：

（一）为保护自然环境、人体健康和社会物质财富，限制环境中的有害物质和因素，制定环境质量标准；

（二）为实现环境质量标准，结合技术经济条件和环境特点，限制排入环境中的污染物或对环境造成危害的其他因素，制定污染物排放标准（或控制标准）；

（三）为监测环境质量和污染物排放，规范采样、分析测试、数据处理等技术，制定国家环境监测方法标准；

（四）为保证环境监测数据的准确、可靠，对用于量值传递或质量控制的材料、实物样品，制定国家环境标准样品；

（五）对环境保护工作中，需要统一的技术术语、符号、代号（代码）、图形、指南、导则及信息编码等，制定国家环境基础标准。

第八条 需要在全国环境保护工作范围内统一的技术要求而又没有国家环境标准时，应制定国家环境保护总局标准。

第九条 省、自治区、直辖市人民政府对国家环境质量标准中未作规定的项目，可以制定地方环境质量标准；对国家污染物排放标准中未作规定的项目，可以制定地方污染物排放标准；对国家污染物排放标准已作规定的项目，可以制定严于国家污染物排放标准的地方污染物排放标准。

第十条 制定环境标准应遵循下列原则：

（一）以国家环境保护方针、政策、法律、法规及有关规章为依据，以保护人体健康和改善环境质量为目标，促进环境效益、经济效益、社会效益的统一；

（二）环境标准应与国家的技术水平、社会经济承受能力相适应；

（三）各类环境标准之间应协调配套；

（四）标准应便于实施与监督；

（五）借鉴适合我国国情的国际标准和其他国家的标准。

第十一条 制定环境标准应遵循下列基本程序：

（一）编制标准制（修）订项目计划；

（二）组织拟订标准草案；

vironmental standards are quoted in the mandatory environmental standards, they must be also implemented compulsorily.

Article 6 The SEPA shall be responsible for managing the national environmental standards, formulating national environmental standards and the SEPA standards, inspecting the local environmental standards for the record, and guiding the management of the local environmental standard.

The competent departments of the environmental protection administrations of the people's governments above the county level shall be responsible for the environmental standards within their jurisdiction. They shall organize the local people to implement the national environmental standards, the SEPA standards and the local environmental standards.

Chapter II Formulation of Environmental Standards

Article 7 Corresponding environmental standards shall be formulated for the following technical code and specifications that require uniformity:

(1) Environmental quality standards shall be formulated to protect the natural environment, people's health and social wealth, and to restrict harmful materials and factors of the environment;

(2) Pollutant emission (or control) standards shall be formulated by combining technical and economic conditions and environmental characteristics. The aim is to meet environmental quality standards, limit pollutants discharged into the environment and other factors of doing harm to the environment;

(3) National standard of methods for monitoring the environment shall be formulated so as to monitor the environmental quality, pollutant emission, standard sampling, analyses and tests, and data processing;

(4) National environmental standard samples shall be formulated for materials and material samples that are used in quantity transmission or quality control, so as to guarantee the accuracy and reliability of the environmental monitoring data; and

(5) National environmental basic standards shall be formulated for technical terms, symbols, codes, graphs, manuals, guiding rules and information codes, which require uniformity in environmental protection.

Article 8 The SEPA standards shall be formulated when the national environmental standards are absent and unified technical specifications are required in nationwide environmental protection.

Article 9 The people's governments at provincial, autonomous region and municipality levels are allowed to formulate local environmental quality standards for those items that are not included in the national environmental quality standards. They are allowed to formulate local pollutant emission standard for those items that are not included in the national pollutant emission standards. For those items that are included in the national pollutant emission standards, these governments are allowed to formulate stricter local pollutant emission standards than that of the national standards.

Article 10 The following principles shall be followed while formulating environmental standards:

(1) The uniformity of environmental efficiacy, economic returns and social benefits shall be promoted on the basis of the principles, policies, laws, rules and related regulations, and for the purpose of protecting people's health and improving the quality of environment;

(2) Environmental standards shall be corresponded to the technical competence of the country and the bearing capability of social economy;

(3) Various environmental standards shall be coordinated and matched;

(4) All standards shall be implemented and supervised in a convenient manner; and

(5) International standards and standards of other countries that are suited to China's situation shall be drawn on.

Article 11 The following basic procedures should be followed while formulating environmental standards:

(1) Making a plan for the formulation (revision) of standards;

（三）对标准草案征求意见；

（四）组织审议标准草案；

（五）审查批准标准草案；

（六）按照各类环境标准规定的程序编号、发布。

第十二条 国家环境保护总局可委托其他组织拟订国家环境标准和国家环境保护总局标准。受委托拟订标准的组织应具备下列条件：

（一）具有熟悉国家环境保护法律、法规、环境标准和拟订环境标准相关业务的专业技术人员；

（二）具有拟订环境监测方法标准相适应的分析实验手段。

第十三条 省、自治区、直辖市人民政府环境保护行政主管部门可根据地方环境管理需要，组织拟订地方环境标准草案，报省、自治区、直辖市人民政府批准、发布。

地方环境标准草案应征求国家环境保护总局的意见。

第十四条 地方环境标准必须自发布之日起两个月内报国家环境保护总局备案。

备案的材料应包括标准发布文件、标准文本及编制说明。

第十五条 国家环境标准和国家环境保护总局标准实施后，国家环境保护总局应根据环境管理的需要和国家经济技术的发展适时进行审查，发现不符合实际需要的，应予以修订或者废止。

省、自治区、直辖市人民政府环境保护行政主管部门应根据当地环境与经济技术状况以及国家环境标准、国家环境保护总局标准制（修）订情况，及时向省、自治区、直辖市人民政府提出修订或者废止地方环境标准的建议。

第三章 环境标准的实施与监督

第十六条 环境质量标准的实施：

（一）县级以上地方人民政府环境保护行政主管部门在实施环境质量标准时，应结合所辖区域环境要素的使用目的和保护目的划分环境功能区，对各类环境功能区按照环境质量标准的要求进行相应标准级别的管理。

（二）县级以上地方人民政府环境保护行政主管部门在实施环境质量标准时，应按国家规定，选定环境质量标准的监测点位或断面。经批准确定的监测点位、断面不得任意变更。

（三）各级环境监测站和有关环境监测机构应按照环境质量标准和与之相关的其他环境标准规定的采样方法、频率和分析方法进行环境质量监测。

（四）承担环境影响评价工作的单位应按照环境质量标准进行环境质量评价。

(2) Organizing the preparation of the drafts of standards;

(3) Collecting comments on the drafts of standard;

(4) Organizing discussion of the drafts of standards;

(5) Examining and approving the drafts of standards; and

(6) Numbering and promulgating the environmental standards according to the procedures as stipulated in various environmental standards.

Article 12 The State Environmental Protection Administration (SEPA) may consign other organizations to work out the national environmental standards and the SEPA standards. The consignee should be conformed with the followings:

(1) Possessing professional technical personnel who are familiar with national environmental protection laws, rules and regulations, environmental standards, and who can draft environmental standards; and

(2) Possessing corresponding analyses and testing means for drawing up the standard for the methods to monitor the environment.

Article 13 The competent departments of the environmental protection administrations of the people's governments at provincial, autonomous region and municipality levels are allowed to, in line with the needs of local environmental management, organize and draw up the draft of local environmental standards. The draft shall be submitted to governments of the province, autonomous region or municipality for approval, and then be promulgated.

Opinions from the SEPA shall be solicited for the draft of local environmental standards.

Article 14 Local environmental standards shall be submitted to the SEPA for the record within two months from the date of promulgation.

The materials for the record shall include the document of promulgated standards, standard text and the interpretations for drawing up the standards.

Article 15 Upon implementation of the national environmental standards and SEPA standards, the SEPA shall, in line with the needs of environmental management and national economic and technological development, make timely examinations of the standards. Any standards that are not in conformity with the actual need shall be amended or nullified.

According to the situation of the local environment, economy and technology, and the formulation (amendment) of national environmental standards and the SEPA standards, the competent departments of environmental protection administration under the people's governments at provincial, autonomous region and municipality levels shall propose amendment or nullification of local environmental standards in time to people's governments at provincial, autonomous region and municipality levels.

Chapter III Implementation and Supervision of Environmental Standards

Article 16 Implementation of environmental quality standards:

(1) While implementing environmental quality standard, the competent departments of environmental protection of local governments above the county level shall divide their jurisdiction area into different functional districts on consideration of the purpose of their utilization and protection of the environmental essential factors. Corresponding management for classified standards shall be conducted according to the requirements of environmental quality standards for different functional districts.

(2) The competent departments of the environmental protection administrations of governments above the county level should, according to State stipulations, select monitoring points and sections. The approved monitoring points and sections should not be changed wilfully.

(3) The environmental monitoring stations at various levels and relevant environmental monitoring institutions shall monitor the environmental quality by using the sampling methods, frequency and analysis methods as stipulated in the environmental quality standards and other related environmental standards relevant to the environmental quality standards.

(4) The units who are responsible for appraising environmental influences shall appraise the envir-

（五）跨省河流、湖泊以及由大气传输引起的环境质量标准执行方面的争议，由有关省、自治区、直辖市人民政府环境保护行政主管部门协调解决，协调无效时，报国家环境保护总局协调解决。

第十七条 污染物排放标准的实施：

（一）县级以上人民政府环境保护行政主管部门在审批建设项目环境影响报告书（表）时，应根据下列因素或情形确定该建设项目应执行的污染物排放标准：

1. 建设项目所属的行业类别、所处环境功能区、排放污染物种类、污染物排放去向和建设项目环境影响报告书（表）批准的时间。

2. 建设项目向已有地方污染物排放标准的区域排放污染物时，应执行地方污染物排放标准，对于地方污染物排放标准中没有规定的指标，执行国家污染物排放标准中相应的指标。

3. 实行总量控制区域内的建设项目，在确定排污单位应执行的污染物排放标准的同时，还应确定排污单位应执行的污染物排放总量控制指标。

4. 建设从国外引进的项目，其排放的污染物在国家和地方污染物排放标准中无相应污染物排放指标时，该建设项目引进单位应提交项目输出国或发达国家现行的该污染物排放标准及有关技术资料，由市（地）人民政府环境保护行政主管部门结合当地环境条件和经济技术状况，提出该项目应执行的排污指标，经省、自治区、直辖市人民政府环境保护行政主管部门批准后实行，并报国家环境保护总局备案。

（二）建设项目的设计、施工、验收及投产后，均应执行经环境保护行政主管部门在批准的建设项目环境影响报告书（表）中所确定的污染物排放标准。

（三）企事业单位和个体工商业者排放污染物，应按所属的行业类型、所处环境功能区、排放污染物种类、污染物排放去向执行相应的国家和地方污染物排放标准，环境保护行政主管部门应加强监督检查。

第十八条 国家环境监测方法标准的实施：

（一）被环境质量标准和污染物排放标准等强制性标准引用的方法标准具有强制性，必须执行。

（二）在进行环境监测时，应按照环境质量标准和污染物排放标准的规定，确定采样位置和采样频率，并按照国家环境监测方法标准的规定测试与计算。

（三）对于地方环境质量标准和污染物排放标准中规定的项目，如果没有相应的国家环境监测方法标准时，可由省、自治区、直辖市人民政府环境保护行政主管部门组织制定地方统一分析方法，与地方环境质量标准或污染物排放标准配套执行。相应的国家环境监测方法标准发布后，地方统一分析方法停止执行。

onmental quality in light of environmental quality standards.

(5) In implementing environmental quality standards the disputes caused by rivers and lakes that cross provinces, or atmospheric transmissions, shall be coordinated and resolved by competent departments of the environmental protection administrations of people's governments at the provincial, autonomous region and municipality levels. When the coordination fails, the disputes shall be reported to the SEPA for resolution.

Article 17 Implementation of pollutant emission standards:

(1) While approving environmental impact statements (table) of a construction project, competent department of the environmental protection administration of people's government above the county level shall define the pollutant emission standards for the project in light of the following factors and situations:

1. Types of construction projects, environmental functional districts in which it is located, types of pollutants to be discharged, locality where pollutants are discharged into, and approved time of the environmental impact statement (table) of the projects.

2. While discharging pollutants into an area where the local pollutant emission standards are available, the project should implement the local standards. If there is no index value in the local pollutant emission standards, the corresponding index value as stipulated in the national pollutant emission standards shall be implemented.

3. If the construction project is in the area where the full amount of discharged pollutants is under control, the index value of the total amount of control for pollutants discharged shall also be implemented for the specific discharging unit of the project while determining it's applicable pollutants emission standards.

4. If the project is imported from abroad and there is no corresponding index value of pollutant emission stipulated in either national or local pollutant emission standards, the unit which imported the project should submit current pollutant emission standards for the pollutants to be discharged from the project and related technical information from the exporter of the project or from other developed countries. The competent departments of environmental protection administration of city (prefecture) governments shall, combining local conditions of environment, economy and technology, suggest pollutant emission standards for the project. The standards shall be submitted to competent departments of environmental protection administration of the people's governments of province, autonomous region and municipality for approval, and to the SEPA for the record.

(2) From the design, construction, acceptance to putting into production, the pollutant emission standards as set in the environmental impact statement (table) which is approved by the competent department of environmental protection administration shall be implemented for the project.

(3) While discharging pollutants, the enterprises, institutions, and individual industrialists and businessmen should carry out corresponding national and local pollutant emission standards according to their trade type, environmental functional districts, types of pollutants discharged and the locality where the pollutants are discharged into. The competent departments of the environmental protection administration shall strengthen inspection and examination.

Article 18 Implementation of standards for national environmental monitoring methods:

(1) The standards for monitoring methods which are quoted from the mandatory standards, such as the environmental quality standards and pollutant emission standards etc. must be implemented.

(2) While monitoring the environment, the sampling positions and sampling frequencies shall be defined in light of environmental quality standards and pollutant emission standards. The tests and calculations should be carried out in accordance with the standards for national environmental monitoring methods.

(3) In case there are no corresponding standards for national environmental monitoring in local environmental quality standards and pollutant emission standards, the competent departments of the environmental protection administration of provincial, autonomous region and municipality governments should develop local, uniform analyses methods. The methods can be implemented with local

（四）因采用不同的国家环境监测方法标准所得监测数据发生争议时，由上级环境保护行政主管部门裁定，或者指定采用一种国家环境监测方法标准进行复测。

第十九条 在下列环境监测活动中应使用国家环境标准样品：

（一）对各级环境监测分析实验室及分析人员进行质量控制考核；

（二）校准、检验分析仪器；

（三）配制标准溶液；

（四）分析方法验证以及其他环境监测工作。

第二十条 在下列活动中应执行国家环境基础标准或国家环境保护总局标准：

（一）使用环境保护专业用语和名词术语时，执行环境名词术语标准；

（二）排污口和污染物处理、处置场所设置图形标志时，执行国家环境保护图形标志标准；

（三）环境保护档案、信息进行分类和编码时，采用环境档案、信息分类与编码标准；

（四）制定各类环境标准时，执行环境标准编写技术原则及技术规范；

（五）划分各类环境功能区时，执行环境功能区划分技术规范；

（六）进行生态和环境质量影响评价时，执行有关环境影响评价技术导则及规范；

（七）进行自然保护区建设和管理时，执行自然保护区管理的技术规范和标准；

（八）对环境保护专用仪器设备进行认定时，采用有关仪器设备国家环境保护总局标准；

（九）其他需要执行国家环境基础标准或国家环境保护总局标准的环境保护活动。

第二十一条 国家环境标准和国家环境保护总局标准由国家环境保护总局负责解释；国家环境保护总局可委托有关技术单位解释。

第二十二条 县级以上人民政府环境保护行政主管部门在向同级人民政府和上级环境保护行政主管部门汇报环境保护工作时，应将环境标准执行情况作为一项重要内容。

第二十三条 国家环境保护总局负责对地方环境保护行政主管部门监督实施污染物排放标准的情况进行检查。

第二十四条 违反国家法律和法规规定，越权制定的国家环境质量标准和污染物排放标准无效。

第二十五条 对不执行强制性环境标准的，依据法律和法规有关规定予以处罚。

environmental quality standards or pollutant emission standards. On issuance of standards for national environmental monitoring methods, the local uniform analysis method should cease being used.

(4) Any disputes of monitoring data arising from adopting standards for environmental monitoring methods of different countries shall be adjudicated by the competent departments of the environmental protection administrations at higher level or take a retest with an appointed country's standard for environmental monitoring method.

Article 19 National environmental standard samples shall be used in the following environmental monitoring activities:

(1) Examining quality control of the laboratory for environmental monitoring analysis, and analysis personnel at various levels;

(2) Calibrating and examining analysis instruments;

(3) Compounding standard solutions; and

(4) Verifying analysis methods and other environmental monitoring activities.

Article 20 National environmental basic standards and SEPA standards shall be implemented in the following activities:

(1) While using technology of environmental protection, the standards for environmental technology should be implemented;

(2) While the graphic symbols are required at pollutant discharge orifice and at pollutants handling and disposing places, the standards for national environmental protection graphic symbols shall be implemented;

(3) The standards for environmental protection files, information classification and coding shall be adopted while classifying and coding files and information of environmental protection;

(4) While formulating various environmental standards, the compiling technical principles and specification of environmental standards shall be adopted;

(5) While zoning various environmental function districts, the technical specifications for zoning environmental function districts shall be implemented;

(6) Relevant technical guidance and codes for environmental appraisal shall be implemented; (While conducting appraisal of ecological and environmental quality impact,)

(7) Technical specifications and standards of natural reserves shall be adopted while constructing and managing these reserves;

(8) SEPA standards concerning instruments and equipment shall be adopted while certifying special instruments and equipment for environmental protection; and

(9) Other environmental protection activities that need the implementation of national environmental basic standards or SEPA standards.

Article 21 The SEPA should be responsible for the interpretation of the national environmental standards and SEPA standards. The SEPA might consign the interpretation to relevant technical units.

Article 22 The competent department of environmental protection administration of the people's government above county level should regard the implementation of environmental standards as an important matter to be reported to the people's government at the same level and the competent department of environmental protection administrations at higher level.

Article 23 The SEPA should be responsible for inspecting the supervision and implementation of pollutant emission standards by the local competent departments of environmental protection administrations.

Article 24 If the national environmental quality standards and pollutant emission standards are formulated without authority and in violation of the provisions of State laws, rules and regulations, they shall become null and void.

Article 25 Those who refuse to implement mandatory environmental standards shall be punished in accordance with relevant provisions of laws, rules and regulations.

第四章　附　　则

第二十六条　本办法中的国家环境保护总局标准是指环境保护行业标准。

第二十七条　国家环境标准和国家环境保护总局标准由国家环境保护总局委托有关出版社出版、发行。

第二十八条　本办法自发布之日起实行。自发布之日起，《中华人民共和国环境保护标准管理办法》即行废止。

第二十九条　本办法由国家环境保护总局解释。

Chapter IV Supplementary Provisions

Article 26 The SEPA standards in these Measures refer to tradé standards of environmental protection.

Article 27 The SEPA shall consign a related publishing house to publish the national environmental standards and SEPA standards.

Article 28 This Measures shall be come into force from the date of promulgation and the Management Measures on Environmental Protection Standards of the People's Republic of China shall be annulled simultaneously.

Article 29 The SEPA should be responsible for the interpretations of this Measures.

全国环境监测管理条例

（1983 年 7 月 21 日，城乡建设环境保护部发布）

第一章　总　　则

第一条　根据《中华人民共和国环境保护法（试行）》第二十六条关于国务院环境保护机构“统一组织环境监测，调查和掌握全国环境状况和发展趋势，提出改善措施”的规定，以及《国务院关于在国民经济调整时期加强环境保护工作的决定》，制定本条例。

第二条　环境监测的任务，是对环境中各项要素进行经常性监测，掌握和评价环境质量状况及发展趋势；对各有关单位排放污染物的情况进行监视性监测；为政府部门执行各项环境法规、标准，全面开展环境管理工作提供准确、可靠的监测数据和资料；开展环境测试技术研究，促进环境监测技术的发展。

第三条　环境监测工作在各级环境保护主管部门的统一规划、组织和协调下进行。各部门、企事业单位的环境测试机构参加环境保护主管部门组织的各级环境监测网。

第二章　环境监测机构

第四条　城乡建设环境保护部设置全国环境监测管理机构；各省、自治区、直辖市和重点省辖市的环境保护部门设置监测处和科；市以下的环境保护部门亦应设置相应的环境监测管理机构或专人，统一管理环境监测工作。

第五条　全国环境保护系统设置四级环境监测站：

一级站：中国环境监测总站；

二级站：各省、自治区、直辖市设置省级环境监测中心站；

三级站：各省辖市设置市环境监测站（或中心站）（行署、盟可视机构调整后情况确定，暂不作规定）；

四级站：各县、旗、县级市、大城市的区设置环境监测站。

Regulations on the Administration of National Environmental Monitoring

(Promulgated by the Ministry of Urban and Rural Construction and Environmental Protection on July 21, 1983)

Chapter 1 General Provisions

Article 1 This Regulations is formulated in accordance with Article 26 of the Environmental Protection Law of the People's Republic of China (for trial implementation) which states that the environmental protection Administration under the State Council shall "organize the environmental monitoring, investigate into and keep well informed of the national environmental status quo and the trends of development and provide advice on improvement", and the Decision of the State Council on Strengthening Environmental Protection during the Period of National Economic Adjustment.

Article 2 The task of environmental monitoring is to carry out regular monitoring of the various elements in the environment, perceive and analysis the environmental quality and the trends of development; monitor the discharge of pollutants by relevant units in a surveillant manner; support the government departments in the implementation of environmental laws and standards and the comprehensive environmental management work by providing accurate and reliable monitoring data and information; and carry out research in environmental testing technologies and promote the development of environmental monitoring technologies.

Article 3 The environmental monitoring administration shall be carried out under the unified planning, organization and coordination of the competent departments of environmental protection administration at all levels. Environmental testing sectors of every department, enterprise and institution shall participate in the environmental monitoring networks organized by the competent departments of environmental protection administration.

Chapter II Environmental Monitoring Organs

Article 4 The Ministry of Urban and Rural Construction and Environmental Protection shall establish the national environmental monitoring administration organs; the environmental protection departments of provinces, autonomous regions, municipalities directly under the Central Government and major municipalities under the provinces shall establish monitoring divisions and sections; and the environmental protection departments below the municipal level shall also establish corresponding environmental monitoring branches or assign special personnels in charge of environmental monitoring.

Article 5 The national environmental protection system includes four levels of environmental monitoring stations;

First－level station: of China National environmental monitoring Centen;

Second－level station: provincial level environmental monitoring central stations established by provinces, autonomous regions and municipalities directly under the Central Government;

Third－level station: municipal level environmental monitoring stations (or central stations) established by municipalities under the provinces, (establishment of monitoring stations by the administrative prefectures and leagues is not regulated here, and will be decided after the Institutions Adjustment); and

Forth－level station: environmental monitoring stations established by counties, banners, county－level municipalities and districts of the municipalities.

第六条 各级环境监测站受同级环境保护主管部门的领导。业务上受上一级环境监测站的指导。

第七条 各级环境监测站的建设规模及主要仪器装备的配置，按附表的范围结合当地情况确定。

各部门、企事业单位的环境监测站的设置及规模，由各主管部门自行确定。

第八条 各级环境监测站是科学技术事业单位。同时根据主管部门的授权范围，对破坏和污染环境的行为行使监督和检查权力。各级环境监测站的事业费纳入同级地方财政预算，其标准为每人每年不少于3000至3500元。

第三章 职责与职能

第九条 各级环境保护主管部门在环境监测管理方面的主要职责是：

1. 领导所辖区域内的环境监测工作，下达各项环境监测任务；

2. 制定环境监测工作及监测站网的建设、发展规划和计划，并监督其实施；

3. 制定环境监测条例、各项工作制度、业务考核制度、人员培养计划及监测技术规范；

4. 组织和协调所辖区域内环境监测网工作，负责安排综合性环境调查和质量评价；

5. 组织编报环境监测月报、年报和环境质量报告书；

6. 组织审核环境监测的技术方案及评定其成果，审定环境质量评价的理论及其实践价值；

7. 组织开展环境监测的国内外技术合作及经验交流。

第十条 中国环境监测总站的主要职责是：

1. 参与制定全国环境监测工作的规划和年度计划；

2. 对各级环境监测站进行业务、技术指导，负责全国环境监测网业务上的组织协调工作，组织环境监测技术交流和各级环境监测技术人员的技术培训及业务考核；

3. 组织研究环境监测数据的统计分析方法，收集、储存、整理、汇总全国环境监测数据资料，编制全国环境监测年鉴，编制环境污染图表，综合分析全国环境质量状况，定期向城乡建设环境保护部提出报告；

4. 负责全国环境监测的质量保证工作，组织开展环境监测新技术、新方法的研究，组织研制、生产、分发环境监测标准参考物质，筛选和确认全国统一采用的环境监测仪器装备；

Article 6 The environmental monitoring stations are under the leadership of environmental protection departments at the same level. They shall follow the instruction of environmental monitoring stations at the next higher level.

Article 7 The construction scale and furnishment of major instruments and devices of the environmental monitoring stations shall be decided according to the attached list and the local conditions.

The establishment and scale of environmental monitoring stations of the departments, enterprises and institutions shall be decided by the competent departments.

Article 8 The environmental monitoring stations are scientific and technological institutions, and are empowered to carry out supervision and inspection of actions causing environmental pollution and damages as authorized by the competent departments. The operating expenses of environmental monitoring stations shall be incorporated into the local financial budget at the same level, and the annual expenses for each person shall not be less than 3,000 to 3,500 Yuan.

Chapter III Duties and Functions

Article 9 Major duties of the competent departments of environmental protection administration at all levels in environmental monitoring include:

1. Steering environmental monitoring work within their jurisdiction and issuing environmental monitoring tasks;

2. Formulating plans for environmental monitoring and the construction and development of environmental monitoring stations networks and overseeing their implementation;

3. Formulating environmental monitoring rules, operation systems, professional performance merit system, personnel training program and monitoring technical standards;

4. Organizing and coordinating the work of environmental monitoring networks within their jurisdiction and being responsible for arranging the comprehensive environmental investigation and quality analysis;

5. Organizing the editing of monthly reports and annual reports of environmental monitoring and reports on environmental quality;

6. Organizing the examination of environmental monitoring technical plans and appraise the results, and analyzing the theories of environmental quality appraisal and their practical value; and

7. Organizing national or international environmental monitoring technological cooperation and experience exchanges.

Article 10 Major duties of the headquarters of China's environmental monitoring are:

1. Participating in the formulation of the national environmental monitoring plans and annual plans;

2. Issuing professional and technical directions to the environmental monitoring stations, being responsible for the organization and coordination in the operation of the national environmental monitoring network, and organizing environmental monitoring technological exchanges and environmental monitoring technicians' trainings and professional performance examination;

3. Organizing the research in statistical and analysis methods of environmental monitoring data, being responsible for the collection, accumulation, filing and gathering of the national environmental monitoring data and materials, editing the national environmental monitoring almanacs, editing the environmental pollution charts, comprehensive analysis of the national environmental quality status, and regularly reporting to the Ministry of Urban and Rural Construction and Environmental Protection;

4. Being responsible for the quality of the national environmental monitoring, organizing the research of new technologies and new methods in environmental monitoring, organizing the research, manufacture, and distribution of standard reference materials in the environmental monitoring, and choosing the environmental monitoring instruments and devices for unified use by the whole country;

5. Undertaking the national comprehensive environmental investigations and severe pollution acci-

5. 承担国家综合性的环境调查和重大污染事故调查，负责国内重大污染事故纠纷和国际间环境纠纷的技术仲裁；

6. 参加制订和修订国家各类环境标准和技术规范；

7. 参加编写全国环境质量报告书；

8. 受城乡建设环境保护部委托，参加国家重大新建、改建、扩建项目环境影响报告书的审查和治理工程环境效益的监测。

第十一条 省级环境监测中心站的主要职能是：

1. 参与制订本区域环境监测工作的规划和年度计划；

2. 收集、整理、汇总和储存本区域的环境监测数据资料，为报出各类监测报告提供基础数据，编报本区域的环境污染年鉴；

3. 对下级环境监测站进行业务、技术指导，负责本区域环境监测网业务上的组织协调工作，组织本区域内环境监测技术交流和下级环境监测技术人员的技术培训及业务考核；

4. 负责本区域环境监测的质量保证工作；

5. 承担本区域内综合性环境调查及环境污染纠纷的技术仲裁；

6. 参加制订和修订地方环境标准和技术规定，承担国家环境标准制订、修订任务和验证工作及提供依据材料；

7. 承担本区域环境质量评价和监测技术的研究，参加编写本区域环境质量报告书；

8. 受环境保护主管部门委托，参加污染事件调查和建设项目影响报告书的审查，进行治理工程环境效益的监测。

第十二条 市级环境监测站的主要职能是：

1. 对本市大气、水体、土壤、生物、噪声、放射性等各种环境要素的质量状况，按国家统一规定的要求，进行经常性监测、分析、收集、储存和整理环境监测数据资料，定期向同级环境保护主管部门和上级监测站呈报本市环境质量状况和污染动态的技术报告；

2. 对本市各有关单位排放污染物的状况进行定期或不定期的监视性测定，建立和健全污染源档案，为加强污染源管理和排污收费提供监测数据。各地排污收集管理单位不另设测试机构；

3. 参加制订本市环境监测规划和计划，完成主管部门为进行环境管理所需要的各项监测任务；

4. 负责本市环境质量评价，参加编写本市环境质量报告书，编制本市环境监测年鉴；

5. 负责本市环境监测网的业务组织和协调，组织技术交流和监测人员培训；

6. 研究野外作业、采样、布点、样品运输、贮存、分析测定等各重要技术环节中存在的问题，促进监测技术的不断发展；

7. 承担国家和地方性环境标准、技术规范、环境测试新技术、新方法的验证任

dents investigation, and being responsible for technical arbitration of disputes arising from major environmental pollution accidents in China and international environmental disputes;

6. Participating in the formulation and revision of the national environmental standards and technical standards;

7. Participating in the editing of the national environmental quality reports; and

8. As commissioned by the Ministry of Urban and Rural Construction and Environmental Protection, participating in the examination of environmental impact statements of the national major new construction, reconstruction and expansion projects, and monitoring the environmental impact of the elimination projects.

Article 11 Major functions of provincial level environmental monitoring central stations include:

1. Participating in the formulation of local environmental monitoring plans and annual plans;

2. Collecting, accumulating, filing and gathering local environmental monitoring data and materials to provide basic data for monitoring reports, and editing local environmental pollution almanacs;

3. Issuing professional and technical directions to environmental monitoring stations at lower levels, being responsible for the organization and coordination in the operation of local environmental monitoring networks, organizing local environmental monitoring technological exchange, training and professional performance examination of environmental monitoring technicians at lower levels;

4. Being responsible for the quality of local environmental monitoring;

5. Undertaking local comprehensive environmental investigations and technical arbitration of environmental pollution disputes;

6. Participating in the formulation and revision of local environmental standards and technical standards, undertaking tasks in the formulation, revision and verification of the national environmental standards and providing proof data;

7. Undertaking local environmental quality evaluation and monitoring technical research, and participating in editing local environmental quality reports; and

8. As commissioned by the competent departments of environmental protection administration, participating in the investigation of pollution accidents and examination of environmental impact statements, and monitoring the environmental impact of the elimination projects.

Article 12 Main functions of municipal level environmental monitoring stations include:

1. Carrying out regular monitoring of the quality status of the air, water body, soil, life－forms, noise, radioactivity and other environmental elements in accordance with the unified requirements of the State, analyzing, gathering, accumulating and filing the environmental monitoring data, and regularly submitting reports on local environmental quality status and the dynamic of pollution to the competent departments of environmental protection administration at the same level and monitoring stations at the next higher level;

2. Conducting regular or irregularly surveillant examination of the local pollutants discharging units, establishing and completing the pollution sources archives, in order to provide monitoring data for strengthening pollution control and collecting pollutants discharge fees. The pollutants discharge collection administration units shall establish no testing branches;

3. Participating in the formulation of local environmental monitoring plans and fulfilling the monitoring tasks necessary for the competent administrative departments in environmental management;

4. Being responsible for the local environmental quality evaluation, participating in editing local environmental quality reports and editing local environmental monitoring almanacs;

5. Being responsible for organization and coordination of local monitoring networks and organizing technical exchange and the training of technicians;

6. Researching into problems in field operation, sampling, spots allocation, transportation of samples, storage, analysis and testing and other important technological links, in order to promote the development of monitoring technologies;

7. Undertaking the verification tasks of the national and local environmental standards, technical standards, new environmental testing technologies and new methods, and participating in the formula-

务，参加地方环境标准的制订、修订；

8. 参加本市污染事件调查，负责环境污染纠纷的技术仲裁。

第十三条 县、旗、县级市、大城市区环境监测站的主要职能是：

1. 对本县（市、区）内各种环境要素的质量状况按照国家统一规定的要求，制订监测计划和进行经常性的监测。定期向上级站报送监测数据，编报本县环境质量报告书；

2. 对县（市、区）内排放污染物的单位进行定期或不定期的监测，建立污染源档案，监督和检查各单位执行各类环境法规和标准的情况，为排污收费等环境管理提供监测数据；

3. 完成环境保护主管部门为进行环境管理所需要的各项监测任务；

4. 参加县（市、区）内污染事件调查，为仲裁环境污染纠纷提供监测数据；

5. 宣传环境保护的方针政策，积极组织和发动群众参加环境监督活动，组织群众性的环境监测网。

第十四条 各部门的专业监测机构（包括海域或流域的监测机构）主要职能是：

1. 参与制订本系统、本部门环境监测规划和计划；

2. 参与国家或地区的环境监测网，按统一计划和要求进行环境监测工作，对所辖方面和范围内的环境状况进行监测；负责组织本系统或本流域的环境监测网的活动；

3. 参加本部门或本地区所承担的各项环境标准制订、修订工作，为其提供制定、修订的依据，参加国家或地方环境标准的讨论和审议；

4. 参加本系统重大污染事件调查；组织检查所属单位遵守各项环境法规和标准的情况；

5. 参加本系统、本部门所属企事业单位新建、改建、扩建工程的环境影响评价；

6. 汇总本系统或本流域环境监测数据资料，绘制污染动态图表，建立污染源档案；

7. 企业事业单位的监测站，负责对本单位的排污情况进行定期监测，及时掌握本单位的排污状况和变化趋势，其监测数据和资料向主管部门报送的同时，要报当地环境监测站，各单位的监测机构参加当地环境监测网工作；

8. 组织本部门行业监测技术研究，培训技术人员和开展技术交流；

9. 卫生、水利、海洋等部门的环境监测站，除负责本系统专业环境监测的职责外，同时要配合地方环境监测站参与环保主管部门组织的有关重大污染事件的调查。

第四章 监测站的管理

第十五条 各级环境监测站实行党委（支部）领导下的站长分工负责制。

tion and revision of local environmental standards; and

8. Participating in investigation of local pollution accidents and being responsible for the technical arbitration of environmental pollution disputes.

Article 13 Major functions of environmental monitoring stations at the county, banner, county - level municipality and district of municipalities are:

1. Formulating monitoring plans and conducting regular monitoring of the quality status of various local environmental elements of in accordance with the unified national requirements, regularly submitting monitoring data to stations at higher levels and editing local environmental quality reports;

2. Conducting regular and irregular monitoring of the local pollutants discharging units, establishing pollution sources archives, supervising and examining the observation of the environmental laws and standards by the units, for the purpose of providing monitoring data for the collecting of pollutants discharge fees and other environmental management;

3. Fulfilling various monitoring tasks necessary for the competent departments of environmental administration in environmental management;

4. Participating in investigation of local pollution accidents in order to provide monitoring data for the arbitration of environmental pollution disputes; and

5. Publicizing guidelines and policies of environmental protection, organizing and mobilizing the citizens to take part in environmental supervision activities and organizing the non - governmental environmental monitoring networks.

Article 14 Major functions of the various professional monitoring organizations under the departments (maritime or river basin monitoring organizations included) include:

1. Participating in the formulation of environmental monitoring plans of their own systems or departments;

2. Participating in the national or local environmental monitoring networks and conducting environmental monitoring of the fields and scope under their jurisdiction; organizing the environmental monitoring networks of their own systems or river basins;

3. Participating in the formulation and revision of environmental standards assigned to their own departments or regions, and providing basis for the formulation or revision, and participating in discussion and examination of the national or local environmental standards;

4. Participating in investigating of major pollution accidents occurring in the system, and examining the observation of the environmental laws and standards by their affiliated units;

5. Participating in the environmental impact assessment of the new construction, reconstruction and expansion construction projects of units in the system or department;

6. Gathering the environmental monitoring data and materials of the systems or water basins, drawing the pollution dynamic charts and establishing pollution sources archives;

7. The monitoring stations of enterprises and institutions are responsible for regularly monitoring of pollutants discharge of their own units, and shall get timely knowledge about the pollutants discharge status and trend of development of their own units. While submitting the monitoring data and materials to the competent departments, these monitoring stations shall report to the local monitoring stations. The monitoring organs of all the units shall participate in local monitoring networks;

8. Organizing monitoring technologies research of their own departments and industries, training of technical personnel and organizing technical exchange; and

9. Environmental monitoring stations of the sanitary, hydraulic, maritime and other departments shall, besides being responsible for the special environmental monitoring of their own systems, coordinate with local environmental monitoring stations to participate in investigation of major pollution accidents organized by the competent departments of environmental protection administration.

Chapter IV Management of Monitoring Stations

Article 15 The monitoring stations at all levels shall carry out the system of station directors' di-

站长应由专业技术干部担任。

第十六条 监测站的人员配置应以专业技术人员为主，其业务技术人员的比例不低于总人数的百分之八十。

中级以上技术人员在业务技术人员中的比例为：一、二级站中不低于50%；三级站中不低于30%，四级站中至少有1至2名。

第十七条 监测技术人员（包括化验分析、研究、管理）的技术职称，按原国务院环境保护领导小组和国务院科技干部局关于“环境保护干部技术职称暂行办法”执行。

监测技术人员待遇与环境科研单位的技术人员相同。

第十八条 国家建立环境监察员制度。各级环境监测站设环境监察员，凡监测站工作人员经考试合格后授予国家各级环境监察员证书，环境监察员证书由城乡建设环境保护部统一制作颁发。

环境监察员是环境监测站对各单位及个人排放污染物的情况和破坏或影响环境质量的行为进行监测和监督检查的代表。

第十九条 环境监测工作人员，由国家统一设计制式服装。各级环境监测站的工作人员在执行监测和监督检查任务时，应穿着国家统一设计的服装，环境监察员要佩带监察员标志。

第二十条 各级监测站应认真作好监测质量管理工作，确保监测数据资料的准确、可靠。

第二十一条 监测数据、资料、成果均为国家所有，任何个人无权独占。未经主管部门许可，任何个人和单位不得引用和发表尚未正式公布的监测数据和资料。属于机密性数据、资料要严格按照保密制度管理。任何监测数据、资料、成果向外界提供，要履行审批手续。

环境监测数据、资料及各类报告，及重要监测技术成果，与其他环境保护科研成果同等对待，参与科研成果评定。

第二十二条 各级环境监测站要加强对监测仪器设备的管理工作。建立健全各项仪器设备和药品试剂的使用和管理制度。重大事故要及时向主管部门报告。

监测用车是环境监测、科研专用设备，不得改作他用。

第二十三条 各级环境监测站的行政、后勤工作，必须保证为监测业务服务，有意刁难业务人员或给监测业务工作制造障碍者，站长有权给予严肃处理。

第二十四条 接触有毒有害物质和从事污染源调查、分析、采样和管理的工作人员，按照规定享受劳动保护待遇和津贴。

vision of work with corresponding responsibility under the leadership of the Party Committee (Party branches) of the CCP.

The station directors shall be chosen from professional technicians.

Article 16 The personnel structure of the monitoring station shall be mainly professional technicians, and the proportion of technical operators shall not be less than 80 percent of the total.

The proportion of technicians at or above the middle level among the technical operators shall be: not less than 50 percent in the first - and second - level stations; not less than 30 in the third - level stations; and there shall be at least one or two technicians in the fourth - level stations.

Article 17 The technical title affairs of monitoring technicians (including laboratory analysis, research and management) shall be carried out in accordance with the Provisional Rules on the Technical Titles of Environmental Protection Cadres promulgated by the Environmental Protection Leading Group under the State Council and the Scientific and Technological Cadres' Bureau under the State Council.

The monitoring technicians shall be equally treated as the technicians in the environmental R & D units.

Article 18 The State establishes the environmental supervisors system. The monitoring stations at all levels shall be equipped with environmental supervisors. Employees at the monitoring stations shall be granted the environmental supervisor certificates of different levels upon passing the qualification test. The environmental supervisor certificates shall be made and granted by the Ministry of Urban and Rural Construction and Environmental Protection.

The environmental supervisors are representatives of the environmental monitoring stations in the monitoring, supervision and inspection of pollution discharge and environmental quality damage and impact by units and individuals.

Article 19 The State shall design uniforms for environmental monitoring employees. Environmental monitoring employees shall wear uniforms in monitoring, supervision and inspection. Environmental supervisors shall wear supervisor badges.

Article 20 The monitoring stations shall be duteous in monitoring quality administration, guaranteeing the accuracy and reliability of monitoring data and materials.

Article 21 The monitoring data, materials and results belong to the State. No individual shall be authorized to plunder them. Without permission of the competent departments, no individuals or units are allowed to cite or publish the monitoring data and materials that have not been officially publicized. The management of confidential data and materials shall be strictly pursuant to the confidential regulations. Provision of the monitoring data, materials and results to the outside shall undergo the procedure of examination and approval.

The environmental monitoring data, materials, various reports and important monitoring technical results shall be equally treated as other environmental scientific research achievements and shall participate in scientific research achievements certifications.

Article 22 The environmental monitoring stations shall strengthen the management of monitoring instruments and devices, establish and complete the regulations for the use and management of instruments, devices and medicines and reagents, and timely report the major accidents to the competent departments.

The vehicles for monitoring are special equipment for environmental monitoring and scientific research and shall not be used otherwise.

Article 23 The administrative and logistic affairs of the environmental monitoring stations shall serve the monitoring operation. The of station directors shall be authorized to punish those deliberately making things difficult for operators and creating obstacles for the monitoring operation.

Article 24 The operators in touch with poisonous and pernicious materials and engaging in investigation, analysis, sampling and management of pollution resources shall enjoy labor protection treatment and subsidies.

第五章　环境监测网

第二十五条　根据国务院（81）27号文件关于“由环境保护部门牵头，把各有关部门的监测力量组织起来，密切配合，形成全国监测网络”的要求，建立环境监测网。

第二十六条　全国环境监测网分为国家网、省级网和市级网三级。

各级环境保护主管部门的环境监测管理机构负责环境监测网的组织和领导工作。中国环境监测总站及地方的省级环境监测中心站、市级环境监测站分别为国家网、省级网和市级网的业务牵头单位。

各大水系、海洋、农业分别成立水系、海洋和农业环境监测网，属于国家网内的二级网。

国家环境监测网由省级环境监测中心站、国家各部门的专业环境监测站及各大水系、海域监测网的牵头单位等组成。省级网、市级网分别由相应的单位组成。

环境监测网中的各成员单位互为协作关系，其业务、行政的隶属关系不变。

监测网内各成员单位的分工及其工作细则，详见环境监测网工作章程。环境监测网工作章程由城乡建设环境保护部另订。

第二十七条　环境监测网的任务是联合协作，开展各项环境监测活动，汇总资料、综合整理，为向各级政府全面报告环境质量状况提供基础数据和资料。

第六章　报告制度

第二十八条　环境监测实行月报、年报和定期编报环境质量报告书的制度。

监测月报目前以一事一报为主，逐步形成一事一报与定期定式相结合的形式。

建立自动连续监测站的地区，要逐渐建立监测日报制度，按照统一格式逐日报告监测数据和环境质量状况。

第二十九条　环境监测月报、年报和环境质量报告书，均由各级环境保护主管部门向同级人民政府及上级环境保护主管部门报出。

各级环境监测站，按环境保护主管部门的要求，定时提供各类报告的基础数据和资料。并一年一度编写监测年鉴。监测年鉴及有关数据在报主管部门的同时，抄送上一级监测站。

Chapter V Environmental Monitoring Networks

Article 25 The environmental monitoring networks are set up according to Document No. 27 (81) of the State Council which states that "the environmental protection departments shall take the lead to organize and closely coordinate the monitoring forces of all relevant departments in establishing the national monitoring networks."

Article 26 The national environmental monitoring networks are categorized as the state, provincial and municipal networks.

The environmental monitoring administration agencies under the competent departments of environmental protection administration at all levels shall be in charge of the organization and administration of the environmental monitoring networks. The headquarters of China's Environmental Monitoring Station, the provincial level environmental monitoring central stations and the municipal level environmental monitoring stations shall take the lead in the operation of the state, provincial and municipal networks respectively.

Environmental monitoring networks shall be established for the major river systems, seas and agriculture, and are second level networks within the state network.

The state environmental monitoring network shall consist of the provincial level environmental monitoring central stations, the special environmental monitoring stations of the departments of the state and leading units of monitoring networks of the river systems and seas. The provincial and municipal monitoring networks shall consist of the corresponding units.

The member units within the environmental monitoring networks shall be cooperative partners, and their professional and administrative subordinate relations shall not be changed.

Detailed information about the division of labor and working rules and regulations of the member units in the environmental monitoring networks shall be found in the working rules of the environmental monitoring networks. The working rules of the environmental monitoring networks shall be formulated by the Ministry of Urban and Rural Construction and Environmental Protection.

Article 27 The environmental monitoring networks shall unite and coordinate with each other, carry out monitoring activities, gather, integrate and analysis data and information, and provide basic data and materials for comprehensive reports on environmental quality to the governments.

Chapter VI Reporting Field

Article 28 Environmental monitoring shall follow the system of monthly reporting, annually reporting and regularly editing of environmental quality reports.

Presently the monthly monitoring report mainly reports one thing at a time, and shall gradually change toward a combination of one report about one thing and regular report and fix forms.

In regions where automatic continuous monitoring stations are established, the system of daily report shall be established, with monitoring data and environmental quality status reported daily in unified forms.

Article 29 The competent departments of environmental protection administration shall submit environmental monitoring monthly reports, annual reports and environmental quality reports to the people's governments at the same level and competent departments of environmental protection administration at higher levels.

The environmental monitoring stations shall regularly provide the basic data and materials for the reports as required by the competent departments of environmental protection administration. The stations shall annually edit the monitoring almanacs. While almanacs and related data are submitted to the competent departments, copies of them shall be sent to the monitoring stations at higher levels.

第七章　附　　则

第三十条　各省、自治区、直辖市城乡建设环境保护厅（环保局）可根据本条例的原则，制订具体实施细则。

第三十一条　本条例自公布之日起生效。本条例关于各级环境监测站的建设规模、人员编制和仪器设备装备标准的附表，为条例的正式内容。

第三十二条　本条例由城乡建设环境保护部负责解释。

Chapter VII Supplementary Provisions

Article 30 The Urban and Rural Construction and Environmental Protection Departments (Bureaus) of provinces, autonomous regions and municipalities directly under the Central Government are authorized to formulate detailed implementation rules in the accordance with this Regulations.

Article 31 This Regulations shall enter into force on the date of promulgation. The attached lists of construction scale, personnel structure and equipment of instruments and devices are formal contents of this Rules.

Article 32 This Regulations shall be interpreted by the Ministry of Urban and Rural Construction and Environmental Protection.

污染源监测管理办法

（国家环保总局1999年11月1日　环发［1999］246号）

第一章　总　　则

第一条　为加强污染源监测管理，根据《中华人民共和国环境保护法》第十一条的规定制定本办法。

第二条　本办法适用于产生和排放污染物单位的排污状况监测。放射性污染源、流动污染源监测不适用本办法。

第三条　污染源监测是指对污染物排放出口的排污监测，固体废物的产生、贮存、处置、利用排放点监测，防治污染设施运行效果监测，“三同时”项目竣工验收监测，现有污染源治理项目（含限期治理项目）竣工验收监测，排污许可证执行情况监测，污染事故应急监测等。

第四条　凡从事污染源监测的单位，必须通过国家环保总局或省级环境保护局组织的资质认证，认证合格后可开展污染源监测工作，资质认证办法另行制订。污染源监测必须统一执行国家环保总局颁布的《污染源监测技术规范》。

第二章　任务分工

第五条　省级以下各级环境保护局负责组织对污染源排污状况进行监督性监测，其主要职能是：

（一）组织编制污染源年度监测计划，并监督实施。

（二）组织开展排污单位的排污申报登记，组织对污染源进行不定期监督监测。

（三）组织编制本辖区污染源排污状况报告并发布。

（四）组织对本地区污染源监测机构的日常质量保证考核和管理。

第六条　各级环境保护局所属环境监测站具体负责对污染源排污状况进行监督性监测，其主要职责是：

（一）具体实施对本地区污染源排污状况的监督性监测，建立污染源排污监测档案。

（二）组建污染源监测网络，承担污染源监测网的技术中心、数据中心和网络中心，并负责对监测网的日常管理和技术交流。

（三）对排污单位的申报监测结果进行审核，对有异议的数据进行抽测，对排污

Measures on the Administration of Pollution Sources Monitoring

(Promulgated by the State Environmental Protection Administration on November 1, 1999)

Chapter Ⅰ General Provisions

Article 1 Pursuant to Article 11 of the Environmental Protection Law of the People's Republic of China, this Rules is formulated for the purpose of strengthening the monitoring of pollution sources.

Article 2 This Measures is applicable to the monitoring of pollution discharge by units that engender and discharge pollutants except for the monitoring of radioactive pollutants and moveable pollution sources.

Article 3 Monitoring of pollution sources refers to the monitoring of pollution discharge at the outlets of pollutants, monitoring of the sites of production, storage, disposal, utilization and discharge of solid wastes, monitoring of the operation of the pollution prevention and control facilities, monitoring at the check and acceptance of "three simultaneities" projects, monitoring at the check and acceptance of projects for pollution elimination and control of existing pollution sources (including projects of pollution elimination and control before a deadline), monitoring of the observance of the pollution discharging licenses, and emergent monitoring at the time of pollution accidents.

Article 4 Units that are engaged in the monitoring of pollution sources must pass the qualification authentication organized by the State Environmental Protection Administration or the environmental protection bureaus at the province level. Only after it passes the authentication, shall a unit become involved in the monitoring work. Rules of the qualification authentication will be formulated later. Units that are engaged in the monitoring of pollution sources must abide by the Technical Standards for the Monitoring of Pollution Sources promulgated by the State Environmental Protection Administration.

Chapter Ⅱ Responsibilities

Article 5 Environmental protection bureaus at or below the province level shall organize supervisory monitoring of the pollution sources, and assume following responsibilities:

(1) To organize the drawing of the annual monitoring plan, and supervise its implementation;

(2) To organize the pollution discharge report and registration of pollution discharging units, and organize irregular supervisory monitoring of pollution sources;

(3) To organize the editing of reports on local pollution discharge, and publish the reports; and

(4) To organize the examination and management of the quality of the routine work of local monitoring organizations.

Article 6 Environmental monitoring stations under the environmental protection bureaus shall in practice carry out supervisory monitoring of the pollution sources, and assume the following responsibilities:

(1) To carry out in practice supervisory monitoring of local pollution sources, and establish the monitoring archives;

(2) To organize the pollution sources monitoring networks, act as the technology, data and network center of the monitoring networks, and be responsible for the routine management of the monitoring networks and technology exchanges;

(3) To examine the monitoring results submitted by the pollution discharging units, carry out sample examination of the disputed data, and carry out quality control of the uninterrupted automatic

单位安装的连续自动监测仪器进行质量控制。

（四）开展污染事故应急监测与污染纠纷仲裁监测，参加本地区重大污染事故调查。

（五）向主管环境保护局报告污染源监督监测结果，提交排污单位经审核合格后的监测数据，供环境保护局作为执法管理的依据。

（六）承担主管环境保护局和上级环境保护局下达的污染源监督监测任务，为环境管理提供技术支持。

第七条 行业主管部门设置的污染源监测机构负责对本部门所属污染源实施监测，行使本部门所赋予的监督权力。其主要职责是：

（一）对本部门所辖排污单位排放污染物状况和防治污染设施运行情况进行监测，建立污染源档案。

（二）参加本部门重大污染事故调查。

（三）对本部门所属企业单位的监测站（化验室）进行技术指导、专业培训和业务考核。

第八条 排污单位的环境监测机构负责对本单位排放污染物状况和防治污染设施运行情况进行定期监测，建立污染源档案，对污染源监测结果负责，并按规定向当地环境保护局报告排污情况。

第三章 污染源监测网络

第九条 各级环境保护局负责组建辖区内的污染源监测网，领导所辖区域的污染源监测工作。

各级环境保护局所属环境监测站是各级污染源监测网的组长单位。负责安排所辖区域污染源监测网成员单位按照职责范围开展监测工作。

第十条 凡通过国家环保总局或省、自治区、直辖市环境保护局组织的资质认证、承认网络章程的监测机构，均可向所在地环境保护局申请加入污染源监测网，经审查合格后，由受理申请的环境保护局批准。参加污染源监测网的各监测机构原有名称、隶属关系、人事管理和经费来源均保持不变。

第十一条 污染源监测网的各成员单位在监测网的统一安排下，可承担本部门、本单位以外的污染源排污监测、防治污染设施运行效果监测和根据环境管理需要开展的各种污染源监测，并对监测结果负责。

第十二条 网络主管环境保护局负责监督污染源监测网做好污染源监测的质量保证工作，并建立相应的质量监督机制，网络主管环境保护局所属环境监测站负责对污染源监测网成员单位进行定期质控考核及技术监督。

monitoring devices installed by the pollution discharging units;

(4) To conduct emergent monitoring at the time of pollution accidents and monitoring in pollution disputes arbitration, and participate in investigations of local serious pollution accidents;

(5) To report the results of supervisory monitoring to the competent environmental protection bureaus, submit the monitoring data provided by the pollution discharging units after examination as the ground for law-enforcement and administration; and

(6) To undertake supervisory monitoring tasks assigned by the competent environmental protection bureau or environmental protection bureaus at the higher levels, and provide technical support for environmental management.

Article 7 Pollution sources monitoring organizations established by the competent profession administration departments shall carry out monitoring of pollution sources under administration of the departments, execute the supervisory powers granted by the departments, and assume following responsibilities:

(1) To carry out monitoring of pollution discharge by units under administration of the departments and operation of pollution prevention and control facilities, and establish the archives of pollution sources;

(2) To participate in the investigation of serious pollution accidents organized by the departments; and

(3) To provide technical guidance, professional training and professional examination to the monitoring stations (laboratories) under the administration of the departments.

Article 8 Environmental monitoring organizations of the pollution discharging units shall carry out regularly monitoring of pollution discharge of the units and operation of the pollution prevention and control facilities, establish the archives of pollution sources, assume responsibility for the monitoring results, and report to the local environmental protection bureau on pollution discharge as required.

Chapter Ⅲ Pollution Sources Monitoring Networks

Article 9 Environmental protection bureaus at all levels shall be responsible for the establishment of local pollution sources monitoring networks and guide local monitoring work.

Environmental monitoring stations under the environmental protection bureaus are core units of the monitoring networks, and shall be responsible for organizing member units of the local monitoring networks in carrying out monitoring work in accordance with their duties.

Article 10 Monitoring organizations that have passed the qualification authentication organized by the State Environmental Protection Administration or environmental protection bureaus of provinces, autonomous regions and municipalities directly under the Central Government and accept the rules of the network, can apply to the local environmental protection bureau to join the monitoring network. The environmental protection bureau that receives the application shall approve it when the applicant passes the examination. Name, relationship of administrative subordination, personnel management and source of funds of the monitoring organizations that joins the monitoring network shall remain unaltered.

Article 11 Member units of the monitoring network can, under the arrangement of the network, undertake the monitoring of pollution discharge by pollution sources and operation of pollution prevention and control facilities outside its administrative department or unit, as well as other kinds of monitoring work necessary for environmental management, and shall be responsible for the results.

Article 12 Environmental protection bureaus in charge of the networks shall supervise the monitoring networks in guaranteeing the quality of the monitoring, and establish relevant quality certification supervision mechanism. Environmental monitoring stations under the environmental protection bureaus in charge of the networks shall conduct regular quality control examination and technical supervision of member units of the networks.

第四章　污染源监测管理

第十三条　排污单位所在地环境保护局应根据排污单位的行业特点、环境管理的需要、排放污染物的类别和国家污染物排放标准，规定排污单位在对其污染物排污口、污染处理设施进行定期监测时，应监测的项目、点位、频次和数据上报等要求。

不具备监测能力的排污单位可委托当地环境保护局所属环境监测站或经环境保护局考核合格的监测机构进行监测。

第十四条　建设项目在正式投产或使用前和现有污染源治理设施建成投入使用前，建设单位必须向负责项目审批的环境保护局申请“三同时”竣工验收监测或治理设施的竣工验收监测，监测由环境保护监测机构负责实施，其监测结果是验收的依据。

第十五条　各级环境保护局所属环境监测站可接受环境污染纠纷当事人的委托进行监测，并应及时向环境保护局报告。纠纷当事人对监测数据有异议时，可向上一级环境保护局所属环境监测站申请进行复核。

第十六条　环境监测人员到排污单位进行现场监测时，必须出示有效证件。被监测单位应协助环境监测人员开展工作，任何单位和个人不得以任何借口加以阻挠。

进入军队或保密单位进行监测，应预先通知其主管部门。监测人员执行任务时，必须严格遵守保密规定，为被监测单位保守秘密。

第五章　污染源监测设施的管理

第十七条　各级环境保护局应按国家环保总局的统一要求，监督所辖地区排污单位规范其污染物排放口，安装统一的标志牌。

第十八条　国家、省、自治区、直辖市和市环境保护局重点控制的排放污染物单位应安装自动连续监测设备，所安装的监测设备必须经国家环保总局质量检测机构的考核认可。

污染源监测设施一经安装，任何单位和个人不得擅自改动，确需改动的必须报原批准安装的环境保护局批准。

第十九条　排污单位应将已安装的污染源监测设施的维护管理纳入本单位管理体系，遵守下列要求：

（一）污染源监测设施应与本单位污染治理设施同时运行，同等维护和保养，同时参与考评。

（二）对污染源监测设施应建立健全岗位责任制、操作规程及分析化验制度。

（三）建立污染源监测设施日常运行情况记录和设备台账，接受所在地环境保护

Chapter Ⅳ Management of Pollution Sources Monitoring

Article 13 Environmental protection bureaus in charge of the pollution discharging units shall, in consideration of the professional features of the pollution discharging units, demands for environmental management, categories of pollutants discharged, and state pollutants discharge standards, decide the items, spots, and frequency of monitoring and report of data by pollution discharging units in regular monitoring of pollutants outlets and pollution treatment facilities.

Pollution discharging units incapable of carrying out monitoring by themselves can entrust the monitoring to environmental monitoring stations under the local environmental protection bureau or monitoring organizations that have passed the examination organized by the environmental protection bureau.

Article 14 Before a construction project is put into regular operation or use or existing pollution sources treatment facilities are completed and put into use, the construction unit shall apply to the environmental protection bureau that approves the project for monitoring at the check and acceptance of the "three-simultaneity" projects. The monitoring shall be carried out by the environmental protection monitoring organizations, with the monitoring results as basis for the check and acceptance.

Article 15 Environmental monitoring stations under the environmental protection bureaus can accept the trust of parties involved in environmental pollution disputes, and promptly report to the environmental protection bureaus. When any party of the dispute raises doubt about the monitoring data, he can apply to the environmental monitoring station under the environmental protection bureau at the next higher level for further review.

Article 16 Environmental monitoring staff shall produce valid identity certificates in on-the-spot monitoring of the pollution discharging units. Units under monitoring shall cooperate with the environmental monitoring staff in carrying out the monitoring. No units or individuals shall hinder the monitoring for any purpose.

Prior notice shall be given to the competent departments in monitoring of military or confidential units. In carrying out monitoring work, the monitoring staff shall carefully observe the rules of confidentiality and keep confidential secrets of the units under monitoring.

Chapter Ⅴ Management of Pollution Sources Monitoring Facilities

Article 17 Environmental protection bureaus shall, in accordance with the requirement of the State Environmental Protection Administration, supervise the pollution discharging units under their administration by regulating the pollutants outlets and installing the uniform signs.

Article 18 Pollution discharging units under key control of the environmental protection bureaus of the state, provinces, autonomous regions, municipalities directly under the Central Government and municipalities, shall install the uninterrupted automatic monitoring devices. The monitoring devices shall be examined and approved by the quality testing organ of the State Environmental Protection Administration.

Once the monitoring facilities are installed, no unit or individual is allowed to make any alternation without approval. When any alternation is actually necessary, it shall be reported to the environmental protection bureau that has approved their installation for approval.

Article 19 Pollution discharging units shall incorporate the maintenance and management of the monitoring facilities into their management system, and observe the following rules:

(1) The monitoring facilities shall be operated simultaneously, maintained comparably and examined concurrently with the pollution treatment facilities of the same unit;

(2) To establish the duty and responsibility system, operation rules and the analysis and testing system of the monitoring facilities; and

(3) To establish the daily record of the operation of the monitoring facilities and the machine account, and accept supervision and inspection by the local environmental protection bureau.

局的监督检查。

第二十条 省以下各级环境保护局可委托所属环境监理机构负责对本地区排污单位安装的污染源监测设施进行监督管理和现场监督检查；所属环境监测站对污染源监测设施进行计量监督和稳定运行的监督抽测，对污染源监测设施采集的监测数据进行综合分析。

第六章 污染源监测结果报告

第二十一条 各级环境保护局负责根据环境管理的需要，明确各类污染源监测数据的有效期限，超过有效期的污染源监测数据不得作为环境管理的依据。

第二十二条 承担由污染源监测网统一安排的污染源监测任务的网络成员单位，应定期向网络负责单位报告污染源监测结果。

已安装自动连续监测设施的污染物排放单位应将监测设备与当地环境保护局监测网直接联网，将监测结果直报环境管理部门。

第二十三条 省以下各级环境保护局所属环境监测站负责定期将污染源监测结果和排污申报数据，在做出适当分析后报告同级环境保护局和上级环境监测站。对在实际监测和数据审核中发现的违法、违规情况，应及时报告同级环境保护局或通报环境监理机构。

第二十四条 各级环境保护局对审核合格或未提出异议的监测数据应直接用于各项环境管理工作。

第七章 处 罚

第二十五条 对在污染源监测中不符合国家有关质量保证规定的污染源监测机构，由其上级环境保护局提出限期整改要求，整改期间的污染源监测数据视为无效数据。屡教不改的，由负责其资质认证的环境保护局取消其污染源监测资格。

对在污染源监测过程中弄虚作假、编造数据的污染源监测单位，由负责其资质认证的环境保护局取消其污染源监测资格。

第二十六条 对逾期未安装污染源监测设施或擅自拆除、闲置污染源监测设施的排污单位，由负责对其进行监督管理的环境保护局责令其限期改正。

第二十七条 监测工作人员在履行职责的过程中弄虚作假，发生违法、违规行为的，由其主管环境保护局依照有关规定追究有关人员的责任。

第八章 附 则

第二十八条 本办法中规定的污染源监督性监测不得收取监测费用，所需费用

Article 20 Environmental protection bureaus at or below the province level can entrust the environmental supervision organizations under their administration with the responsibility of supervisory management and on-the-spot inspection of the monitoring facilities installed by local pollution discharging units; environmental monitoring stations under their administration shall conduct metering supervision and sample supervision of the stable operation of monitoring facilities, and carry out comprehensive analysis of the monitoring data gathered by the monitoring facilities.

Chapter Ⅵ Reporting of the Results of Pollution Sources Monitoring

Article 21 Environmental protection bureaus shall, based on the demands of environmental management, decide the terms of validity of the monitoring data of various pollution sources. The monitoring data shall not be used as the basis of environmental management after the terms of validity.

Article 22 Member units of the monitoring networks that undertake monitoring tasks assigned by the networks shall regularly report to units in charge of the networks on the results of monitoring.

Pollution discharging units that have installed the uninterrupted automatic monitoring devices shall link the monitoring devices directly with the monitoring network of the local environmental protection bureau, and report the monitoring results directly to the environmental management department.

Article 23 Environmental monitoring stations under the environmental protection bureaus at or below the province level shall, regularly report the results of monitoring and the registered pollution discharge data with proper analysis to the environmental protection bureau at the same level and the environmental monitoring station at the next higher level. If unlawful or improper actions are found in the actual monitoring or data examination, they shall promptly report to the environmental protection bureau at the same level or inform the environmental supervision organizations.

Article 24 Monitoring data that have passed examination or are not argued can be directly used by the environmental protection bureaus in environmental management.

Chapter Ⅶ Penalties

Article 25 For monitoring organizations that fail to meet the quality requirements of the state in pollution sources monitoring, the environmental protection bureau in charge of the organizations shall put forward the requirements for rectification within a limited time. The monitoring date produced during this period of time will be deemed invalid. For those refusing to put right the wrong actions despite repeated warning, the environmental protection bureaus responsible for their qualification authentication shall revoke their pollution monitoring qualification.

For monitoring organizations that commit falsification or fabricate data in monitoring, the environmental protection bureaus responsible for their qualification authentication shall revoke their pollution monitoring qualification.

Article 26 For pollution discharging units that fail to install the monitoring facilities before the time limit, dismantles or leave idle the facilities without approval, the environmental protection bureaus responsible for their supervision and management shall order them to put right the wrong actions within a limited time.

Article 27 For environmental monitoring staff that act deceitfully in performing their duty or violate the laws or rules, the competent environmental protection bureaus shall investigate into the liability of those concerned.

Chapter Ⅷ Supplementary Provisions

Article 28 The supervisory monitoring of pollution sources described in this Rules shall be free of charge. The funds required for such monitoring shall be provided by the environmental protection bureaus.

由各级环境保护局负责解决。

建设项目“三同时”竣工验收监测、委托监测、污染纠纷监测等所需经费由排污单位或委托方承担，收费持省级以上物价部门颁发的收费许可证并按国家规定的监测服务收费标准执行。

第二十九条 本办法由国家环保总局负责解释。

第三十条 本办法自公布之日起执行，原《工业污染源监测管理办法（暂行）》（（91）环监字第086号）同时废止。

The funds required for the monitoring at the check and acceptance of "three simultaneity" construction projects, entrusted monitoring and monitoring in pollution disputes shall be burdened by the pollution discharging units or by the consignor. Fees shall be charged only with license issued by the price departments at and above the province level and in accordance with the standards of fees in monitoring service prescribed by the state.

Article 29 This Measures shall be interpreted by the State Environmental Protection Administration.

Article 30 This Measures shall enter into force from the date of promulgation. The former Measures on the Monitoring of Industrial Pollution Sources (for interim implementation) [(91) Huan Jian Zi No. 086] shall be abrogated therefrom.

十五、排污申报管理

XV Report and Registration of Pollutants Discharge

排放污染物申报登记管理规定

国家环境保护局令

第 10 号

《排放污染物申报登记管理规定》已于 1992 年 7 月 3 日经国家环境保护局局务会议讨论通过，现予发布，1992 年 10 月 1 日起施行。

国家环境保护局局长　曲格平

1992 年 8 月 14 日

第一条　为加强对污染物排放的监督管理，根据《中华人民共和国环境保护法》及有关法律法规制定本规定。

第二条　凡在中华人民共和国领域内及中华人民共和国管辖的其它海域内直接或者间接向环境排放污染物、工业和建筑施工噪声或者产生固体废物的企业事业单位（以下简称“排污单位”），按本规定进行申报登记（以下简称“排污申报登记”），法律、法规另有规定的，依照法律、法规的规定执行。

放射性废物、生活垃圾的申报登记不适用本规定。

第三条　县级以上环境保护行政主管部门对排污申报登记实施统一监督管理，排污单位的行业主管部门负责审核所属单位排污申报登记的内容。

第四条　排污单位必须按所在地环境保护行政主管部门指定的时间，填报《排污申报登记表》，并按要求提供必要的资料。新建、改建、扩建项目的排污申报登记，应在项目的污染防治设施竣工并经验收合格后一个月内办理。

第五条　排污单位必须如实填写《排污申报登记表》，经其行业主管部门审核后向所在地环境保护行政主管部门登记注册，领取《排污申报登记注册证》。

排放污染物的个体工商户的排污申报登记，由县级以上地方环境保护行政主管部门规定。

排污单位终止营业的，应当在终止营业后一周内向所在地环境保护行政主管部门办理注销登记，并交回《排污申报登记注册证》。

第六条　排污单位申报登记后，排放污染物的种类、数量、浓度、排放去向、排放地点、排放方式、噪声源种类、数量和噪声强度、噪声污染防治设施或者固体

Provisions on the Administration of Report and Registration of Pollutants Discharge

Decree of the National Environmental Protection Agency
No. 10

Provisions on the Administration of Report and Registration of Pollutants Discharge was adopted at the executive meeting of the National Environmental Protection Agency on July 3, 1992 and is hereby promulgated and effective as of October 1, 1992.

Adinistrator Qu Geping
National Environmental Protection Agency
August 14, 1992

Article 1 This Provisions is formulated pursuant to the Environmental Protection Law of the People's Republic of China and other related laws and regulations, for the purpose of strengthening the supervision and management of pollutants discharge.

Article 2 All enterprises and institutions directly or indirectly discharging pollutants, industrial and construction noises, or producing solid wastes within the territory of the People's Republic of China and other sea areas under the jurisdiction of the People's Republic of China (hereinafter referred to as "pollutants discharging units"), shall carry out report and registration (hereinafter referred to as "pollutants discharge report and registration") as required by this Provisions. Where there are other rules in laws and regulations, the laws and regulations shall apply.

This Provisions does not apply to the report and registration of radioactive wastes and life wastes.

Article 3 The competent departments of environmental protection administration at or above the county level shall conduct unified supervision and management of the report and registration of pollutants discharge. The competent industrial departments of the pollutants discharging units shall be responsible for examination and verification of the content of the report and registration.

Article 4 Pollutants discharging units shall submit the Pollutants Discharge Report and Registration Form within the time limit set by the local competent departments of environmental protection administration, and provide necessary information. Pollutants discharge report and registration of newly constructed, renovated and expanded projects shall be carried out within one month of the completion and check and acceptance of the pollution prevention facilities in the project.

Article 5 Pollutants discharging units shall truthfully fill out the Pollutants Discharge Report and Registration Form, and register with the local competent departments of environmental protection administration after examined and verified by the competent departments of industrial administration, and get the Pollutants Discharge Report and Registration Certificate.

Pollutants discharge report and registration of industry and trade run by individuals that discharge pollutants shall be stipulated by the local competent departments of environmental protection administration at or above the county level.

Pollutants discharging units that terminate their business shall nullify the registration at the local competent departments of environmental protection administration within one week of the termination of business, and return the Pollutants Discharge Report and Registration Certificate.

Article 6 After the report and registration, when substantial changes occur in the registration items, such as changes in the categories, quantities or concentration of pollutants, direction, location and methods of discharge, categories and quantities of noise sources, intensity of noises, noise pollution prevention facilities, and solid wastes storage, utility and disposal site, etc. the pollutants dis-

废物的储存、利用或处置场所等需作重大改变的，应在变更前十五天，经行业主管部门审核后，向所在地环境保护行政主管部门履行变更申报手续，征得所在地环境保护行政主管部门的同意，填报《排污变更申报登记表》，发生紧急重大改变的，必须在改变后三天内向所在地环境保护行政主管部门提交《排污变更申报登记表》。发生重大改变而未履行变更手续的，视为拒报。

第七条 排放污染物超过国家或者地方规定的污染物排放标准的企业事业单位，在向所在地环境保护部门申报登记时，应当写明超过污染物排放标准的原因及限期治理措施。

第八条 需要拆除或者闲置污染物处理设施的，必须提前向所在地环境保护部门申报，说明理由。环境保护部门接到申报后，应当在一个月内予以批复，逾期未批复的，视为同意。

未经环保部门同意，擅自拆除或者闲置污染物处理设施未申报的，视为拒报。

第九条 法律、法规对排污申报登记的时间和内容已有规定的，按已有规定执行。

第十条 建筑施工噪声的申报登记，按《中华人民共和国环境噪声污染防治条例》第二十二条的规定执行。

第十一条 排污单位对所排放的污染物，按国家统一规定进行监测、统计。

第十二条 排污单位的废水排放口、废气排放口、噪声排放源和固体废物储存、处置场所应适于采样、监测计量等工作条件，排污单位应按所在地环境保护行政主管部门的要求设立标志。

第十三条 县级以上环境保护行政主管部门有权对管辖范围内的排污单位进行现场检查，核实排污申报登记内容。被检查单位必须如实反映情况，提供必要的资料。

进行现场检查的环境保护行政主管部门必须为被检查单位保守技术及业务秘密。

第十四条 县级以上环境保护行政主管部门应建立排污申报登记档案，省辖市级以上的环境保护行政主管部门应建立排污申报登记数据库。

第十五条 排污单位拒报或谎报排污申报登记事项的，环境保护行政主管部门可依法处以 300 元以上 3000 元以下罚款，并限期补办排污申报登记手续。

第十六条 《排污申报登记表》、《排污变更申报登记表》、《排污申报登记注册证》的格式和排污申报登记数据库的建设规范由国家环境保护局统一制定。

第十七条 本办法自 1992 年 10 月 1 日起施行。

charging units shall, within fifteen days prior to the changes, upon examination and verification by competent departments of industrial administration, report to local competent departments of environmental protection administration for alternation of the registration, and as approved by local competent departments of environmental protection administration submit the Pollutants Discharge Alternation Report and Registration Form. In case of emergent substantial changes, the units shall submit the Pollutants Discharge Alternation Report and Registration Form to the local competent departments of environmental protection administration within three days of the occurrence of the changes. Those failing to carry out the alternation procedure when substantial changes take place shall be deemed as refusing to report.

Article 7 Enterprises or institutions discharging pollutants in excess of the State or local pollutants discharge standards shall state clearly the cause of the excessive discharge and measures to reduce pollution while reporting and registering at local competent departments of environmental protection administration.

Article 8 When it is necessary to dismantle or leave idle pollutants treatment facilities, the units shall report to the local competent departments of environmental protection administration in advance and state the reasons. The competent departments of environmental protection administration shall reply within one month of receiving the report. The departments' failing to reply the report within the specified time shall be deemed as an approval.

Those dismantling or leaving idle pollutants treatment facilities without approval from the environmental protection departments shall be deemed as refusing to report.

Article 9 When there are other provisions in laws and regulations on the time and content of pollutants discharge report registration, these provisions shall apply.

Article 10 Report and registration of noise in construction site shall be carried out in accordance with Article 22 of the Regulation of the People's Republic of China on the Prevention of Noise Pollution.

Article 11 Pollutants discharging units shall monitor and calculate pollutants they are discharging in accordance with standards stipulated by the State.

Article 12 Outlets of waste water, waste gas, noise emission source, and solid wastes storage and disposal sites shall be fit for management such as taking samples, monitoring gauging, etc. Pollutants discharging units shall put marks at these spots as required by the local competent departments of environmental protection administration.

Article 13 The competent department of environmental protection administration at or above the county level are authorized to conduct on-site inspections of pollutants discharging units within their jurisdiction, to examine and verify the registered pollutants discharge items. The units under inspection shall truthfully report the situation, and provide necessary information.

The competent department of environmental protection administration carrying out the on-site inspection shall keep confidential technological and business secrets of units under inspection.

Article 14 The competent department of environmental protection administration at or above the county level shall establish archives of pollutants discharge report and registration. The competent departments of environmental protection administration at or above the municipality under the province level shall establish database of pollutants discharge report and registration.

Article 15 For pollutants discharging units refusing to report or resorting to trickery and fraud in report on registered items, the competent department of environmental protection administration may impose a fine between 300 and 3,000 Yuan, and order them to carry out the report and registration procedure within a specified period of time.

Article 16 Patterns of the Pollutants Discharge Report and Registration Form, the Pollutants Discharge Alternation Report and Registration Form, and the Pollutants Discharge Report and Registration Certificate, as well as standards for the establishment of database of pollutant discharge report and registration shall be uniformly formulated by the National Environmental Protection Agency.

Article 17 This Provisions shall enter into force on October 1, 1992.

关于全面推行排污申报登记的通知

（1997 年 1 月 13 日，国家环保局　环发［1997］020 号）

排放污染物申报登记是一项法定的行政管理制度，是强化环境管理、提供科学决策的基础。自 1987 年以来，我局先后进行了水、大气、固体废物、噪声申报登记的试点工作，1992 年以国家环保局 10 号令下发了《排放污染物申报登记管理规定》（以下简称“10 号令”）和相应的《排放污染物申报登记表》，要求在全国开展排污申报登记工作。在此基础上又明确提出了水排污申报登记工作应在 1995 年底前大型及特大型城市完成占工业耗水量 75％以上企业、中小城市完成占工业耗水量 85％以上企业的申报登记及其汇总；大气排污申报登记应在 1995 年底以前完成地、市级以上城市的申报登记工作，建立排污申报登记动态档案和管理制度（环控［1995］294 号）；固体废物申报登记应在 1996 年前全面完成（环控［1995］615 号）；环境噪声申报登记在 1996 年 10 月底前完成（环控［1995］294 号）。目前，全国大部分省、市已按要求开始进行水、气、噪声、固体废物的统一排污申报登记工作，其中北京、天津、江苏等省市已经基本完成，但仍有一些省、市进展缓慢。

最近，国务院批准了《国家环境保护“九五”计划和 2010 年远景目标》，为保证计划和目标中“九五”期间全国主要污染物排放总量控制规划的完成，必须抓好排污申报登记这项基础工作，现对在全国范围内全面进行排污申报登记提出以下要求：

1．为使排污申报登记工作有组织有计划地进行，各地应根据工作进展情况，认真制定详细的工作计划和实施方案，并有专人负责此项工作。

2．排污申报登记的范围和要求：

（1）全面进行排污申报登记。排污申报登记范围应严格按 10 号令的规定执行，即一切直接或间接向环境排放污染物、工业和建筑施工噪声或者产生固体废物的企业（包括：县及县以上企业、乡镇企业、“三资”企业）事业单位及个体工商户。

国家确定的实行排放总量控制的 12 种污染物（水：化学需氧量、石油类、氰化物、砷、汞、镉、六价铬；大气：烟尘、粉尘、二氧化硫；固体：工业固体废物排放量）及水中酚应列入排污申报登记必报内容。

Circular on Carrying out Nationwide Report and Registration of Pollutant Discharges

(Promulgated by the National Environmental Protection Agency on January 13, 1997)

Reporting and registering pollutant discharges is a legal administrative system and forms the basis of firming up environmental management and ensuring scientific decisions. The National Environmental Protection Agency has carried out successively the report and registration of water, gas, solid wastes and noise in pilot places since 1987. The National Environmental Protection Agency issued Order 10 (Regulations for the Report and Registration of Pollutant Discharges (hereafter referred to as Order 10) and the related Form to Report and Register Pollutant Discharges in 1992, and clearly demanded that the whole nation shall carry out the report and registration of pollutant discharges. The National Environmental Protection Agency further demanded that enterprises in big-sized cities, whose water consumption accounts for over 75 percent of the total industrial water consumption, and enterprises in medium and small-sized cities, whose water consumption accounts for over 85 percent of the total industrial water consumption, shall finish their report and registration of sewage discharge by the end of 1995. The report and registration of waste air emission in cities above prefecture and above municipal level shall be completed by the end of 1995. Meanwhile, dynamic archives and management system of waste gas emission report and registration shall be established (huan kong No.294, 1995). The report and registration of solid wastes shall be finished by the year of 1996 (huan kong No. 615, 1995). The report and registration of environmental noise shall be completed by the end of October 1996 (huan kong No.294, 1995). At present, most provinces or cities of the country have carried out unified report and registration of pollutant discharges of water, gas, noise and solid wastes in accordance with the requirements. Some provinces or cities such as Jiangsu province, Beijing and Tianjin have basically completed such report and registration; however, some provinces or cities are still conducting such report and registration slowly.

The State Council approved the Ninth Five-Year Plan for National Environmental Protection and Long-Range Objective of the Year 2010 (shortened as "the Plan and Objective") recently. To ensure the fulfillment of the plan to control the total amount of the discharges of main pollutants during the ninth five-year period listed in the Plan and the Objective, it is necessary to carry out the report and registration of pollutant discharges successfully. Requirements concerning nationwide report and registration of pollutant discharges are made as follows:

1. All provinces, autonomous regions and municipalities shall formulate detailed working plans and implementation plans for specific reporting and registering stages and assign persons specially responsible for the implementation of each plan, so that such report and registration can be carried out in an planned and organized way.

2. Ranges and requirements of the report and registration of pollutant discharges:

(1) The nationwide report and registration of pollutant discharges covering:

Ranges listed in Order 10: all enterprises (including enterprises at or above county level, township enterprises and foreign funded enterprises), institutions, or privately owned small enterprises that directly or indirectly discharge pollutants, emit industrial or construction noise, or produce solid wastes; and

The 12 categories of pollutants (namely, water: oxygen consumption needed by chemicals, petrochemicals, cyanide, arsenic, mercury, cadmium, sexivalent chromium; air: smoke and dusk, powder, sulfur dioxide; and solid: emission amount of industrial solid wastes) whose total amount of discharges shall be under control (determined by the State) and phenol in water.

(2) 统一申报，统一软件。尚未开展和正在准备开展排污申报登记的地方应将水、大气、噪声、固体废物四种污染要素同时进行统一申报。

含水、大气、固体废物、噪声的《国家排放污染物申报登记信息管理数据库》软件现已编制完成，将于近期组织培训，推广使用。已经和正在进行排污申报登记的地方必须按照我局编制的排污申报登记数据库软件的统一要求，进行数据录入和数据处理。

各省、自治区、直辖市环保局应于1997年底前完成排污申报登记工作，工作总结于1997年底报我局。

3. 各地应依据10号令并结合本地实际情况，正确界定变更申报的范围，及时了解和掌握排污变化的情况。

4. 为了进一步适应总量控制工作的需要，结合近年试点工作的实践，依据10号令，我们对《全国排放污染物申报登记表》中的部分内容作了适当的修改，现将修改后的《全国排放污染物申报登记表》及其填报说明（见附件）下发，请各地严格按此组织排污申报登记工作。

附：《排放污染物申报登记表》及填报说明（略）

(2)Standardize the report and relevant software. Places that have not conducted or will conduct such report and registration shall make a unified report of the four discharged pollutants (namely, water, air, noise and solid wastes) simultaneously.

Software of National Database on Information Management of the Report and Registration of Pollutant Discharges including the discharges of water, air, noise and solid wastes has been compiled. Training courses will be organized recently to popularize such software. Places that are reporting and registering or have reported and registered shall, in accordance with the unified requirements of such software, conduct data logging and processing.

Environmental protection bureaus of all provinces, autonomous regions and municipalities shall complete such report and registration by the end of 1997 and shall report summaries of such report and registration to the National Environmental Protection Agency the same year end.

3. All places shall, in accordance with Order 10 and according to specific local situations, define accurately the range of modifications in the report of discharges so as to know well the changes in pollutant discharges in time.

4. In order to further the total amount control of discharges, proper amendments have been made, according to Order 10 and also by making reference to pilot work in recent years, to part of the contents of the National Registration Form of Pollutant Discharges. Here is the amended edition of National Registration Form of Pollutant Emissions and its specifications (see the appendix), all provinces, autonomous regions and municipalities shall organize the report and registration of discharges strictly according to such Form and its specifications.

Enclosed: Registration Form of Pollutant Discharges and its specifications (omitted).

关于开展排放口规范化整治工作的通知

（国家环保总局 1999 年 1 月 25 日　环发［1999］24 号）

在全国部分省市开展的排放口规范化整治试点工作，经过参加试点的省市的努力，试点工作已取得成效。试点经验表明，排放口规范化整治，是实施排放污染物总量控制的一项基础工作，起到了强化环境监督监理，加大环境执法力度的作用。为进一步强化对污染源的现场监督管理，确保 2000 年“一控双达标”目标的实施，经研究，决定开展排放口规范化整治工作，现将有关问题通知如下：

一、排放口规范化整治是落实国务院提出的实施污染物排放总量控制和到 2000 年全国工业污染源达标排放，直辖市、省会城市、经济特区城市、沿海开放城市及重点旅游城市功能区达标的要求，对污染源实行法制化、定量化管理的一项重要基础工作。各级环保部门应当高度重视，加强领导，认真组织，环境监理机构要切实承提起具体实施的任务。

二、一切新建、扩建、改建和限期治理的排污单位必须在建设污染治理设施的同时建设规范化排放口，并作为落实环境保护“三同时”制度的必要组成部分和项目验收的内容之一。

三、淮河、海河、辽河、太湖、巢湖、滇池流域等，二氧化硫污染控制区、酸雨控制区和北京市范围内，2000 年限期达标排放的污染源的排放口必须进行规范化整治以适应达标工作的需要。其他有条件的地区和排污单位也应进行排放口规范化整治。

四、各级环保部门应编制排放口规范化整治计划并填报计划表，逐级上报备案。要把督促排污单位进行排放口规范化整治的完成情况作为环境监理工作的考核内容之一，并组织检查。

五、排放口规范化整治要遵循便于采集样品、便于监测计量、便于日常监督管理的原则，严格按排放口规范化整治技术要求进行。

六、污染源排放口必须按照国家颁布的有关污染物强制性排放标准的要求，设置排放口标志牌，排放口标志牌是对排污单位排放污染物实施监测采样和监督管理的法定标志。

七、排放口标志牌由我局实行统一监制。凡生产环境保护图形标志牌和登记证

Circular on Standardizing Pollutant Outlets

(Promulgated by the State Environmental Protection Administration on Janary. 25, 1999)

The efforts to standardize outlet in pilot cities and provinces have produced marked effects. The standardization of outlets is basic to the total amount control of pollutant discharges in that it serves to strengthen environmental supervision and monitoring as well as law enforcement. To further strengthen on-the-spot monitoring and supervision of pollutants and meet the 2000-year targets, the decision to standardize outlets is made through discussion, and a notice is therefore issued concerning the following issues:

1. Outlet standardization is to meet the following demands made by the State Council:

a. to control the total amount of pollutant discharges;

b. to make the industrial pollutant discharges of the whole nation meet the set standard by the year 2000; and

c. To make pollutant discharges in all municipalities directly under the Central Authorities, provincial capitals, cities in special economic zones, coastal open cities, and functional districts in major tourist cities meet the set standard.

The standardization of outlets plays a basic role in bringing law and regulations to the control of pollutants and carrying out quantitative management of such pollutants. Governments at all levels shall pay high attention to such task and assume their role of guidance and organization in earnest, environmental monitoring departments shall shoulder their specific responsibility conscientiously.

2. All newly constructed, renovated or expanded units that discharge pollutants and units that are required to improve pollutant control within given time shall build standardized outlets while constructing treatment facilities. The construction of outlets shall be included in the environmental protection system of the "three simultaneities" and shall be one item of the project to be checked before acceptance.

3. To meet the demands of the set standard, outlets shall be standardized in such areas as:

a. Huai River, Hai River, and Liao River and Tai Lake, Chao Lake and Dian Lake;

b. sulphur dioxide or acid rain polluted areas;

c. urban and suburban Beijing; and

d. outlets required to meet the set standard by the year 2000. Other areas and units shall also carry out the task of standardizing outlets if conditions permit.

4. Environmental departments at all levels shall work out plans to carry out the task of standardizing outlets, fill out relevant forms and report such forms to their superiors for record. When carrying out their assessment tasks, environmental monitoring departments shall also assess how much the units that discharge pollutants have been encouraged to achieve in outlet standardization, such departments are also responsible to organize relevant inspection activities.

5. Outlets shall be standardized according to the principle of "easy to sample, easy to monitor and calculate, and easy to supervise and manage every day" and shall be constructed strictly according to technological requirements.

6. An outlet sign shall be installed at pollutant outlets in accordance with the mandatory standards for pollutant source discharges promulgated by the State. Such sign is the legal symbol of pollutant monitoring, sampling, supervision and management.

7. The State Environmental Protection Administration (SEPA) shall carry out unified supervision of the manufacture of outlet signs. All factories shall submit a permit application for the manufacture of environmental protection signs and registration certificates to SEPA for examination and approval. SE-

的厂家，应提出申请，经我局审查合格后，确定为定点生产厂，发给定点生产许可证，并在《中国环境报》上公布，并实施年审。非定点生产厂一律不得生产排放口标志牌，地方环保部门和排污单位也不得使用非法的排放口标志牌。

八、排放口规范化整治和建设所需资金主要由排污单位自筹，环保部门可以从环保补助资金用于污染治理部分给予适当补助。

附件 1：排放口规范化整治计划表（略）

附件 2：

排放口规范化整治技术要求

根据国家环境保护法律、法规和标准及国家环保总局的有关规定，制定本要求。

排放口规范化整治是实施污染物总量控制计划的基础性工作之一，目的是为了促进排污单位加强经营管理和污染治理；环境监理部门加大执法力度，更好地履行“三查、二调、一收费”的职责，逐步实现污染物排放的科学化、定量化管理。

本要求适用于现有排污单位排放口的规范化整治和新建、扩建项目排放口的规范化建设。

排放口规范化整治应遵循便于采集样品，便于计量监测，便于日常现场监督检查的原则。

排放口规范化整治可分步进行，对列入国家和省、市级重点排污单位和排放总量控制 12 种污染物的排放口应当首先进行整治。

重点排污单位的规范化排放口应安装计量装置和污染治理设施记录仪，并创造条件建立微机监控网络。暂时没有安装的，在排放口的建设或整治时应预留安装位置。一般排污单位的规范化排放口可安装简单的计量和记录装置。

一、污水排放口的整治

排污单位总排放口、排放一类污染物的车间排放口，要按照《污染源监测技术规范》设置规范的、便于测量流量、流速的测流段和采样点。

二、废气排放口的整治

有组织排放的废气。对其排气筒数量、高度和泄漏情况进行整治。

采样口的设置应符合《污染源监测技术规范》要求并便于采样监测。采样口位置无法满足规范要求的，其位置由当地环境监测部门确认。

无组织排放有毒有害气体的，应加装引风装置，进行收集、处理，并标明采样

PA shall, after receiving such permit application, approve such permit application, issue such permit after investigation, publish the issuance of such permit in China Environment News, and conduct annual inspection. Factories without such permit shall not manufacture outlet signs, units that discharge pollutants and local environmental protection departments shall not use illegal outlet signs.

8. Funds for the construction and standardization of outlets shall be raised mainly by such units themselves, environmental protection departments may allocate part of their environmental protection subsidies--- pollution control subsidies to such units.

Appendix 1:

Form of Outlet Standardization (omitted)

Appendix 2:

Technological Requirements for Outlet Standardization

Technological requirements are made in accordance with environmental protection laws and regulations of the State and related SEPA regulations.

Outlet standardization plays a basic role in the total amount control of pollutant discharges and serves to urge units to strengthen their management, administration and control of pollutant discharges. Environmental monitoring departments shall enforce law severely, fulfill their duties devotedly and carry out scientific and quantitative management of pollutant discharges gradually.

Such requirements are applicable to outlet standardization of all units discharging pollutants and construction standardization of newly constructed, renovated or expanded projects.

Outlets shall be standardized according to the principle of "easy to sample, easy to monitor and calculate, and easy to supervise and manage every day".

Outlets shall be standardized step by step. Outlets that shall be given higher priority in standardization include:

a. Outlets whose discharged pollutants fall into 12 categories of pollutants requiring total amount control; and

b. Outlets of the units that are listed as major units responsible for the discharges by the State, provinces and cities.

Standardized outlets of such major units shall install calculating and recording instruments for pollution control facilities, and create conditions for the building of a computer monitor network. Outlets that have not installed such instruments shall leave room for future installment during the process of outlet construction or standardization. Ordinary units can install simple calculating and recording equipment.

1. Standardization of sewage outlets

Chief sewage outlet of the units and sewage outlet of the workshops that discharge first-grade pollutants shall have standardized stretch of water easy to calculate the volume and velocity of flow or spots easy to sample in accordance with Technological Criteria for Pollution Source Monitoring.

2. Standardization of waste gas outlets

Units whose waste gas emits in an organized way shall standardize the quantities, length and leaking condition of waste gas pipes.

Sampling vent-holes shall be set at a position easy to sample and monitor in accordance with Technological Criteria for Pollution Source Monitoring. Should the sampling vent-holes of the units do not meet such Criteria, local environmental monitoring departments will determine the position to set vent-holes for such units.

Units whose poisonous gas emits in an unorganized way shall have air pumping equipment installed to collect and dispose gas and have their sampling spots labeled.

点。

三、固体废物贮存、堆放场的整治

一般固体废物应设置专用贮存、堆放场地。易造成二次扬尘的贮存、堆放场地，应采取喷洒等防治措施。

有毒有害固体废物等危险废物，必须设置专用堆放场地，有防扬散、防流失、防渗漏等防治措施并符合国家标准的要求。

临时性固体废物贮存、堆放场也应根据情况，进行相应整治。

四、固定噪声排放源的整治

凡厂界噪声超出功能区环境噪声标准的，其噪声源均应进行整治。根据不同噪声源情况，可采取减振降噪，吸声处理降噪、隔声处理降噪等措施，使其达到功能区标准要求，并在厂界噪声敏感、且对外界影响最大处设置该噪声源的监测点。

五、排放口立标要求

排污单位经过规范化整治和建设排放口（源）和固体废物贮存、处置场，必须符合国家标准《环境保护图形标志》（GB15562．1－1995）（GB15562．2－1995）规定的排放口标志牌。

排放口标志牌由国家环保总局统一定点监制，有专用的防伪标志。

标志牌设置应距污染物排放口（源）及固体废物贮存（处置）场或采样、监测点附近且醒目处，并能长久保留。可根据情况分别选择设置立式或平面固定式标志牌，在地面设置标志牌上缘距离地面 2 米。

一般性污染物排放口（源）或固体废物贮存、处置场，设置提示性环境保护图形标志牌。

排放剧毒、致癌物及对人体有严重危害物质的排放口（源）或危险废物贮存、处置场，设置警告性环境保护图形标志牌。

标志牌辅助标志上需要填写的栏目，应由环境保护部门统一组织填写，要求字迹工整，字的颜色与标志牌颜色总体协调。

六、排放口建档要求

各级环保部门和排污单位均需使用由国家环保总局统一印制的《中华人民共和国规范化排放口标志登记证》，并按要求认真填写有关内容。

登记证与排放口标志牌配套使用，具有防伪标志。登记证的一览表中的标志牌编号及登记卡上标志牌的编号应与标志牌辅助标志上的编号相一致。编号形式统一规定如下：

污水　WS－X　X　X　X　X

废气　FQ－X　X　X　X　X

3. Standardization of solid waste storing and piling sites

Special sites shall be constructed for the storing and piling of ordinary solid wastes, and preventive measures, such as spraying on such wastes, shall be taken on the sites where dust is possible to be blown about.

Special piling sites shall be constructed for toxic, harmful and dangerous solid wastes and measures shall be taken to prevent such wastes from flying up, running off or leaking according to the standards promulgated by the State.

Temporary sites for the storing and piling of solid wastes shall also be standardized according to specific conditions.

4. Standardization of fixed sources of noise emission

All factories whose noise emissions exceed noise emission standards for functional districts shall standardize their noise emission sources. To meet such standards, such factories can take different measures such as vibration-reduction, sound insulation and absorption devices to reduce noise emission according to specific conditions, and set up noise monitoring stations in areas that are susceptible to noise emission and have most serious noise emission.

5. Requirements for the installment of outlet signs

Standardized outlets and solid waste storing and piling sites shall install outlet signs according to the standards promulgated by the State ("Environmental Protection Labeling" (GB15562.1 - 1995) (GB15562, 2 - 1995)).

Outlet signs are manufactured under the unified supervision of SBEP and have a special symbol for the prevention of counterfeits.

Outlet signs shall be installed in an obvious position near pollutant outlets, solid waste storage (treatment) sites, sampling or monitoring stations and shall be durable. Such signs can be vertical or fastened to a wall according to specific demands. The upper side of vertical signs shall be two meters high above the ground.

Suggestive environmental protection signs shall be installed near ordinary pollutant outlets or solid waste storage and treatment sites.

Warning signs shall be installed near pollution sources or outlets that discharge extremely toxic or carcinogenic substance, or substance extremely harmful to human body and hazardous waste storage and treatment sites.

Those blanks on the supplementary sign of outlet signs that need filling out shall be completed under the unified organization of environmental protection departments and shall be neatly lettered in the color generally harmonious with that of the outlet sign.

6. Requirements for keeping pollutant outlets in record

Environmental departments at all levels and all units that discharge pollutants are required to use Registration Certificate of Standardized Discharge Outlet Sign of the People's Republic of China printed by SBEP, and fill in related columns according to relevant requirements.

A registration certificate is required to be used together with an outlet sign; both have a special symbol for the prevention of counterfeits. The number of an outlet sign in the table of the registration certificate and the registration card shall be the same with the number on its supplementary sign. The outlet sign is numbered in this way:

Sewage	WS-X X X X X
Waste Gas	FQ-X X X X X
Noise	ZS-X X X X X

噪声　ZS－X　X　X　X　X

固体废物　GF－X　X　X　X　X

编号的前两个字母为类别代号，后五位为排放口顺序编号。排放口的顺序编号数字由各地环境保护部门自行规定。

各地环境保护部门根据登记证的内容建立排放口管理档案，如：排污单位名称，排放口性质及编号，排放口地理位置，排放主要污染物种类、数量、浓度，排放去向，立标情况，设施运行情况及整改意见等。

七、管理要求

规范化排放口的相关设施（如：计量、监控装置、标志牌等）属污染治理设施的组成部分，环境保护部门应按照有关污染治理设施的监督管理规定，加强日常监督管理，排污单位应将规范化排放口的相关设施纳入本单位设备管理范围。

排污单位应选派责任心强，有专业知识和技能的兼、专职人员对排放口进行管理，做到责任明确、奖罚分明。

Solid Waste GF-X X X X X

The first two letters stand for pollutant category, and the rest five stand for serial number of outlets. Local environmental protection departments themselves shall determine serial number.

All local environmental protection departments shall file the information on outlet management according to the contents of registration certificates: name of the units that discharge pollutants; nature and serial number of discharge outlets; geographical location of such outlets; category, amount, density and direction of flow of the main pollutants to be discharged; the condition whether outlet signs are installed; the operating condition of facilities; standardization suggestions and so on.

7. Management Requirements

Related facilities at standardized outlets such as calculating and monitoring instruments and outlet signs are part of pollution control facilities. Environmental protection departments shall strengthen their daily monitoring and management of such facilities in accordance with related monitoring and management regulations on pollution control facilities, all units discharging pollutants shall carry out equipment management of such facilities.

Units discharging pollutants shall designate full time or part-time responsible personnel rich in professional knowledge and skills to carry out the management of pollutant outlets, define personnel responsibility and give rewards or impose penalties clearly.

十六、排污收费

XVI Pollution Discharge Fee

征收排污费暂行办法

（1982 年 2 月 5 日国务院发布）

第一条 根据《中华人民共和国环境保护法（试行）》第十八条关于“超过国家规定的标准排放污染物，要按照排放污染物的数量和浓度，根据规定收取排污费”的规定，制定本办法。

第二条 征收排污费的目的，是为了促进企业、事业单位加强经营管理，节约和综合利用资源，治理污染，改善环境。

第三条 一切企业、事业单位，都应当执行国家发布的《工业“三废”排放试行标准》等有关标准。省、自治区、直辖市人民政府批准和发布了地区性排放标准的，位于当地的企业、事业单位应当执行地区性排放标准。

对超过上述标准排放污染物的企业、事业单位要征收排污费；对其他排污单位，要征收采暖锅炉烟尘排污费。

排污单位缴纳排污费，并不免除其应承担的治理污染、赔偿损害的责任和法律规定的其他责任。

第四条 排污单位应当如实地向当地环境保护部门申报、登记排放污染物的种类、数量和浓度，经环境保护部门或其指定的监测单位核定后，作为征收排污费的依据。

第五条 排污费的征收标准，按本办法附表的规定执行。个别工业密集、污染特别严重的大、中城市，经国务院环境保护领导小组批准，对收费标准可作适当调整。

排污单位所排放的废水、废气、废渣中，同一排污口含有两种以上有害物质时，应当按收费最高的一种计算。

地区性排放标准增加的项目，由省、自治区、直辖市人民政府参照本办法附表，规定征收标准。

第六条 对缴纳排污费后仍未达到排放标准的排污单位，从开征第三年起，每年提高征收标准 5%。排污单位经过治理和加强管理，已经达到排放标准，或者显著降低排污数量和浓度，可向当地环境保护部门申请，经监测属实，应当停止或减少收费。

《中华人民共和国环境保护法（试行）》公布以后，新建、扩建、改建的工程项目和挖潜、革新、改造的工程项目排放污染物超过标准的，以及有污染物处理设施而不运行或擅自拆除，排放污染物又超过标准的，应当加倍收费。

各省、自治区、直辖市可按照实际情况，作其他增收或减收的规定。

第七条 排污费按月或按季征收。排污单位不论其隶属关系和所有制关系，都

Interim Measures on the Collection of Pollution Discharge Fee

(Promulgated by the State Council on February 5,1982)

Article 1 This Measures is established in accordance with Article 18 of the "Environmental Protection Law of The P.R. China (For Trial Implementation)"which provides that "In cases where discharged pollutants exceed the specified national standards, a fee shall be charged according to the quantity and concentration of the pollutants discharged as specified in the relevant regulations."

Article 2 The purpose of pollufion charge is to promote enterprises and institutions to sterngthen business management and integrated uses of resources as well as improvement of environment.

Article 3 All enterprises and institutions should implement the relevant standards issued by the State, such as the "Discharge Standards of Industrial 'Three Wastes' (For Trail Implementation)"on the like. Local enterprises and institutions should implement the regional discharge standards approved and issued by the government of province, autonomous region or municipality directly under the Central Government.

The enterprises or institutions discharging pollutant beyond the standards mentioned above should be levied for pollutant discharge, while the other pollutant discharge institutions should be levied for discharge of smoke and dust from space heating boiler.

The pollutant discharge institutions having paid the pollution discharge fee will not be exempted from the duty to control pollution and to compensate damages as well as other duties stipulated by law.

Article 4 The pollutant discharge institutions should report truly to the local environmental protection department and register the kind, quantity and concentration of the discharged pollutants to be used as the basis for charge of pollution discharge fee after examined and approved by the environmental protection department of the appointed monitoring institutions.

Article 5 The pollution charge Rate will be carried out according to the tables appended to this provision. For very few large or medium-sized cities with intensive and specially serious pollution, the pollution charge Rate may be adjusted suitably after approval by the Leading Group of Environmental Protection of The State Council.

When the wastewater, waste gas or solid wastes discharged from the same outlet of the pollutant discharge institutions contains two or more hazardous substances, the highest pollution charge Rate for each of these hazardous pollutants should be applied.

For the items added to the regional discharge standards, the charge Rate will be stipulated by the government of province, autonomous region on municipality to this provision.

Article 6 As to the pollutant discharge institutions which has paid the pollutant discharge fee but have not met the discharge standards for three years, the charge Rate for the pollutant discharge will be raised five percent each year thereafter. The discharge institutions which have met the discharge standards or markedly decreased the quantity and concentration of the discharged pollutants through control and sterngthened management may apply to the local environmental protection department for terminating or reducing the discharge fee.

After the issue of the "Environmental Protection Law of the P.R. China (For Trial Implementation)", double fines will be applied to the engineering project of new construction, reconstruction or extension as that for tapping the latent powere, innovation or reform which has discharge pollutant facilities are not operated or dismantled arbitrarily.

Each province, autonomous region of municipality, directly under the Central Government may make other stipulations to increase or to reduce the discharge Rate based on practical conditions.

Article 7 The pollutant discharge fee will be levied each month or each season. No matter what

应当根据当地环境保护部门的缴费通知单，在20天内向指定银行缴付排污费。逾期不缴的，每天增收滞纳金1‰。

中央部属和省（自治区、直辖市）属排污单位的排污费，缴入省级财政，其他排污单位的排污费缴入当地地方财政。中央部属和省属企业集中的城市，经省人民政府批准，排污费可缴入当地地方财政。

第八条 企业单位缴纳的排污费，可以从生产成本中列支。提高征收标准的部分，全民所有制企业在利润留成或企业基金中列支；实行“利改税，独立核算，自负盈亏”的全民所有制企业和集体所有制企业，在缴纳所得税后的利润中列支。事业单位缴纳的排污费，先从单位包干结余和预算外资金中开支，如有不足，可以从单位事业费中列支。

第九条 征收的排污费，纳入预算内，作为环境保护补助资金，按专项资金管理，不参与体制分成。

环境保护补助资金，由环境保护部门会同财政部门统筹安排使用。要坚持专款专用，先收后用，量入为出，不能超支、挪用。如有节余，可以结转下年使用。

第十条 环境保护补助资金，应当主要用于补助重点排污单位治理污染源以及环境污染的综合性治理措施。

排污单位在采取治理污染措施时，应当首先利用本单位自有财力进行，如确有不足，可报经主管部门审查汇总后，向环境保护部门和财政部门申请从环境保护补助资金中给予一定数额的补助。这种补助一般不得高于其所缴纳排污费的80%。也可以将环境保护补助资金的80%，交由各主管局安排用于补助企业、事业单位治理污染源，由环境保护部门和财政部门进行监督。属于第六条第二款所列情况的单位，不予补助。

环境保护补助资金可适当用于补助环境保护部门监测仪器设备的购置，但不得用于环境保护部门自身的行政经费以及盖办公楼、宿舍等非业务性开支。

第十一条 环境保护补助资金，通过建设银行监督拨款。

第十二条 各省、自治区、直辖市人民政府可根据本办法，制定具体的实施办法。

第十三条 本办法自1982年7月1日起执行。

is the subordination and the ownership, the pollutant discharge institutions should pay to the appointed bank the discharge fee according to the notification of the local environmental protection department within twenty days. If overdue, the fine for delaying payment will be 1‰ for each day.

The fee from the pollutant discharge institutions subordinate to the ministry of The Central Government or to province (autonomous region or municipality directly under the Central Government) will be paid to the provincial finance. In the cities where the pollutant discharge enterprises of this level are centralized, the fee may be paid to the local finance after the approval of the provincial government.

Article 8 The pollutant discharge fee paid by the enterprises may be included into production costs. A part of the fee due to the charge Rate raising may come from the profits reserved for or the fund of these state-owned enterprises. Incase these enterprises have practiced "handing in tax instead of profits, independent accounting and responsibility for its own profits of looses", as well as the enterprises of collective ownership, may pay the discharge fee from the net profits after paying their taxes. For the institutions, the fee may be paid using their own surplus and the funds besides their budget, and also their operating expense in case deficiency.

Article 9 The discharge fee levied will be brought within the budget as a subsidiary fund for environmental protection under special management and not to be divided to other system.

This subsidiary fund is allocated by coordinated arrangement of the environmental protection department jointly with the financial agency, insisting on special use, expense after income, balance of output and input, and no misappropriation. the surplus may be transferred for expense in next year.

Article 10 This subsidiary fund should be used mainly for the control of pollution sources in key discharge institutions and the integrated control of environmental pollution.

In adoption of the control measures of pollution, the discharge institutions should first use their own money, and in case of shortage, a certain amount may be subsidized through application to the environmental protection and financial departments by their competent authorities after examining and collecting with the total amount below 80% of the paid discharge fee. This 80% of the subsidiary fund may also be allocated to these competent authorities to arrange for various discharge institutions, under the supervision of environmental protection and financial departments.

This subsidiary fund may be used adaptably to subsidize the environmental protection departments to buy or install monitoring instruments or equipment; and should not be used for their own administrative expense or other expenditure like construction of official building and dormitories.

Article 11 The subsidiary fund for environmental protection will be supervised and allocated through the bank of construction.

Article 12 The government of province, autonomous region or municipality directly under the Central Government may work out concrete implementation provisions on the basis of this provision.

Article 13 This Measures comes into force from July 1, 1982.

附表：

排污费征收标准

一、废　气

单位：元

有害物质名称		超标排放量每公斤	浓度超过标准每10立方米		
二氧化硫、二硫化碳、硫化氢、氟化物、氮氧化物、氯、氯化氢、一氧化碳		0.04			
硫酸（雾）、铅、汞、铍化物			0.03～0.10		
生产性粉尘	玻璃棉、矿渣棉、石棉、铝化物	0.10			
	电站煤粉、水泥粉尘	0.02			
	炼钢炉粉尘、其他粉尘	0.04			
工业及采暖锅炉烟尘	超标倍数	4以内	4.1～6	6.1～9	9以上
	林格曼浓度	2级	3级	4级	5级
	每吨燃料收费	3.00	4.00	5.00	6.00

注：(1) 蒸汽机车及其他流动污染源的排烟暂不收费。

(2) 火力电站、工业和采暖锅炉的废气，目前暂按烟尘征收排污费，其他有害物质暂不收费。

二、废　水

单位：元/吨水

有害物质或项目名称	浓度超标倍数				
	5以内	5～10	10～20	20～50	50以上
汞、镉、砷、铅及其无机化合物，六价铬化合物	0.15～0.20	0.20～0.30	0.30～0.45	0.45～0.90	0.90～2.00
硫化物、石油类、挥发性酚、氰化物、有机磷、铜、锌、氟及其化合物、硝基苯、苯胺类	0.10～0.15	0.15～0.20	0.20～0.35	0.35～0.60	0.60～1.00
悬浮物，COD、BOD、pH值	0.04～0.06	0.06～0.10	0.10～0.15	0.15～0.20	0.20～0.30
病原体	0.08				

注：pH值超出6～9，每高、低1按超标倍数5以内基数（0.04～0.06）的一倍计。

三、废　渣

单位：元

有害物质名称	向水体倾倒或排放每吨	无防水、防渗措施堆放每吨、月	无专设的堆放场所堆放每吨、月
含汞、镉、砷、六价铬、铅、氰化物、黄磷及其他可溶性剧毒物废渣	36.00	2.00	
电厂粉煤灰	1.20		0.10
其他工业废渣	5.00		0.30

注：(1) 排放或倾倒或无防水、防渗措施堆放剧毒废渣，除收费外，应立即制止其行为，并责成清理。

(2) “电厂粉煤灰”一项，只适用《环境保护法（试行）》公布前，建成投产而未建灰场、已向水体排放的燃煤电厂。其他电厂（包括上述电厂扩建）排放粉煤灰，适用其他工业废渣的标准。

(3) 在尾矿坝、灰场、废渣（包括煤矸石）专用堆放场等设施内堆放的，暂不收费。

Appendix:

Table on the leving standards of pollutant discharge fee

1. Waste gases (Unit: Chinese yuan, RMB.)

Name of the harmful substance		For each Kg of the Overdischarge	For each 10m of the concentration exceeding the standards		
SO_2, CS_2, H_2S, Flouride, NOx, CL_2, HCl, CO		0.04			
H_2SO_4(fog), Pb, Hg, Berillum compound			0.03－0.10		
Productjon dust	Cotton of glass and mineral residue, asbestos, aluminum compounds	0.10			
	Coal dust of power station, cement dust	0.02			
	Dust from steel refining furnace, other dust	0.04			
Industrial and space heating boiler smoke and dust	Times exceeding the standards	<=4	4.1～6	6.1～9	9以上
	Lingmaun Conc.	grade 2	grade 3	grade 4	grade 5
	Fee levied for each ton of fuel	3.00	4.00	5.00	6.00

Note: (1) Steam motor vehicles and other moving pollution sources are free of charge tentatively.
(2) fuel power stations, industrial and space heating boilers are free of charge, at present, based on the standards of smoke and dust while other hazardous substances are free of charge tentatively.

2. Waste residues (Unit: Chinese yuan, RMB)

Name of the harmful substance or items	Multiple of the Concentration exceeding the standards				
	<=5	5～10	10～20	20～50	>=50
Hg, Cd, As, Pb and their inorganic compound, six-Valence Cr	0.15～0.20	0.20～0.30	0.30～0.45	0.45～0.90	0.90～2.00
Sulphide, Petroleum, Volatile Phend, Cyanide, Organic P, Cu, Zn, F and its compound, Nitrobenzene, Aniline	0.10～0.15	0.15～0.20	0.20～0.35	0.35～0.60	0.60～1.00
Suspension, COD、BOD、PH	0.04～0.06	0.06～0.10	0.10～0.15	0.15～0.20	0.20～0.30
Pathogen	0.08				

Notes: In case of PH exceeding 6～9, the fee shall be double on base (0.04～0.06) as for per 1.

3. Waste residues (Unit: Chinese yuan, RMB)

Name of the harmful substance	For each ton dumped into waster bodies	For each ton/month piled up without fire or penetration preventing measures	For each ton/month piled up in non-specialized piling site
Containing Hg, Cd, As, Six-ValenceCr, Pb, Cyanide, Yellow P, and other soluble seriously toxicants	36.00		2.00
Fine coal ash power station	1.20		0.10
Other industrial waste residues	5.00		0.30

Note: (1) Dumping without waster or penetration preventing measures or piling of seriously toxic residues should be forbidden immediately and cleaned up in addition to levying the fee.
(2) the item of fine coal ash from power station is applicable to the coal-burning stations built without piling site and dumping the ash into water bodies before the issue of the《Environmental Protection Law (for Trial Implementation)》for other power stations (including the extension of those station mentioned above), the standards for item of other industrial waste residues are applicable.
(3) Piling in the tailing dam, ash site and the specialized site for waste for waste residues (including coal gangue) may be free of charge tentatively.

关于发布环保系统行政事业性收费项目及标准的通知

（1992 年 4 月 20 日，国家物价局、财政部发布）

根据中央［1990］16 号《中共中央、国务院关于坚决制止乱收费、乱罚款和各种摊派的决定》的精神，对环保系统的行政事业性收费进行了重新审定，经全国治理“三乱”领导小组同意，现将有关规定通知如下：

一、超标排污费。企业、事业单位排放超标污染物，应按规定向环保部门交纳超标排污费。超标废水、噪声、废气和废渣的收费按《超标污水排污费征收标准》（见附件一）、《超标环境噪声排污费征收标准》（见附件二）、《超标废气排污费征收标准》（见附件三）和《超标废渣排污费征收标准》（见附件四）的规定执行。超标污水排污费按月计算；按月还是按季度征收，由省级物价、财政部门商同级环保部门确定。

二、《水污染防治法》规定的排污收费，在国家物价局、财政部未作统一规定之前，暂由省级物价部门会同同级财政部门规定统一收费办法，但不得与超标排污费重复收取。

三、环境监测服务费。各级环境监测部门受企业、事业单位委托而进行的环境监测，可收取环境监测服务费。收费按《环境监测站开展专业服务收费暂行规定》执行（见附件五）。各省级物价、财政部门商同级环保部门根据本规定制定具体实施办法。

四、城市放射性废物送贮费，由省级物价部门会同同级财政部门本着不盈利的原因，根据废物库、容器、运输、服务等项费用核定。

五、建设项目环境影响评价费（建设项目取费）另行下达。

六、国家环境保护局等六部门联合发布的（90）环管字第 359 号《关于发布〈汽车排气污染监督管理办法〉的通知》中有关环保部门对生产、维修和用车大户汽车排气污染的抽检及公安部门的路检收费暂停执行，待国家物价局财政部调查研究后另行规定。对车辆年检、初检（包括汽车排气污染检验）收费，按省级物价、财

Circular Concerning the Promulgation of Items and Standards Concerning the Collection of Administrative Fees in Environmental Protection Field

(Promulgated on April 20, 1992 by the State Administration of Commodity Prices and the Ministry of Finance, and came into force as of May 20, 1992)

In the light of the《Dicision on the Prohibition of Inappropriate Collection of Various Fees and Apportion of the Central Committee of the Chinese Communist Party & the State Council》in 1990, through reexamining the collection of administrative fees in environmental protection system, and approved by the National Three-Inappropriate Prohibition (Leading Group), the provisions concerned are declared herewith:

1. Fees for over-standard discharged pollutants

Any enterprise or institution that discharges over-standard pollutant shall pay for the fees for over-standard discharged pollutants. The charges for waste water, noise, gas as well as solid waste shall be implemented in accordance with《Standards Concerning the Collection of Fees for Over-standard Discharged Waste Water》(Appendix I),《Standards Concerning the Collection of Fees for Over-standard Discharged Noise》(Appendix II),《Standards Concerning the Collection of Fees for Over-standard Discharged Waste Gas》(Appendix III), and《Standards Concerning the Collection of Fees for Over-standard Discharged Solid Waste》(Appendix IV) respectively. Whether the said fees shall be collected by month or by quarter is to be determined by the bureaus of commodity prices and the departments of finance at the province level together with environmental protection departments at the same level through negotiation.

2. Apart from the fees for over-standard discharged wastes, as to the fees for discharging wastes stipulated by《 Law on the Prevention and Control of Water Pollution 》, the bureaus of commodity prices at the province level and the departments of finance at the same level shall temporarily make unified standards for collecting of fees before the State Administration of Commodity Prices and the Ministry of Finance unify the standards, but the fees shall not be collected twice.

3. Fees for environmental monitoring services

Trusted by other enterprises and institutions, monitoring units at various levels can charge for their environmental monitoring services. The charges shall be collected in accordance with《Temporary Regulations Concerning the Collection of Charges for the Professional Monitoring Services of Environmental Monitoring Stations》(Appendix V). The bureaus of commodity prices and the departments of finance at the province level together with the environmental protection departments at the same level shall make the specific method for implementation.

4. The bureaus of commodity prices at the province level and departments of finance at the same level shall determine the fees for the shipping and storage of city radioactive wastes, including the fees for warehouses, containers, shipping services for the wastes as well as other items.

5. The standards and regulations of fees for environmenfal impact qssessment of construction projects toward environment (construction project fees) will be issued separately.

6. The charges collected by the environmental protection departments for exhaust sampling survey of units with high production, a lot of overhauling and using of vehicles as well as the fees for road inspection collected by public security departments, which is stipulated in《Circular Concerning Vehicle Exhaust Pollution Supervision and Management Approach》-No. 359 of Environment Management(90) by the National Environmental Protection Agency togather with other five departments, shall not be collected temporarily before the State Bureau of Commodity Prices and Ministry of Finance make separate regulations through negotiation. The fees for the annual inspection of vehicles and initial inspec-

政部门有关规定执行。

七、上述各项收费收入要按照资金性质，分别纳入财政预算内或预算外管理，执行有关财政规章制度，接受财政部门监督。

八、环保系统的行政事业性收费项目及标准以本通知为准，过去有关收费项目和标准的规定一律废止。各地不得擅自扩大收费范围和提高收费标准。各收费单位应按规定到指定的物价部门办理收费许可证，使用财政部门统一制定的收费票据。

本通知自1992年5月20日起执行。

附件一：

超标污水排污费征收标准

类别	污染物名称	排放污染物超标分界依据（吨水·倍）	超标收费单价(A级)（元/吨水·倍）	超标收费单价(B级)（元/吨水·倍）	B级超征费（元）
第一类	总　汞	2000	2.00	1.00	2000
	总　镉	3000	1.00	0.15	2550
	苯并（a）芘	3000000	0.06	0.03	90000
	总　铬	150000	0.06	0.03	4500
	六价铬	150000	0.09	0.02	10500
	总　砷	150000	0.09	0.02	10500
	总　铅	150000	0.08	0.03	7500
	总　镍	150000	0.08	0.03	7500
第二类	pH值	5000	0.25	0.05	1000
	色　度	100000	0.14	0.04	10000
	悬浮物	800000	0.03	0.01	16000
	生化需氧量	30000	0.18	0.05	3900
	化学需氧量	20000	0.18	0.05	2600
	石油类	25000	0.20	0.06	3500
	动植物油	25000	0.12	0.04	2000
	挥发酚	250000	0.06	0.03	7500
	氰化物	250000	0.07	0.04	7500
	硫化物	250000	0.05	0.02	7500
	氨　氮	25000	0.10	0.03	1750
	氟化物	25000	0.30	0.09	5250

tion (including the inspection of exhaust pollution) shall be collected in accordance with the regulations stipulated by finance departments at the province level.

7. The above mentioned fees and charges shall be managed in finance budget or extrabudget in accordance with financial provisions concerned and supervised by the finance departments.

8. This Circular shall be applicable to all the items and standards concerning the collection of administrative fees in environmental protection system, the previous regulations or rules and standards concerning the collection of fees shall all be abolished. No regions shall expand the scope or increase the standard of the collection of fees. All the fees-collection units shall register for fees-collection license in designated commodity departments and use the fees-collection receipts unified by the finance department concerned.

This circular shall come into force as of May 20, 1992.

Appendix I

Standards Concerning the Collection of Fees for Over-standard Discharged Polluted Water

Category	Name of Pollutants	Limitation for Over-standard Discharged (ton of water ·meltiple)	Unit Price for Over-Standard Discharged Pollutant (Class A) (yuan/ton of water · multiple)	Unit Price for Over-Standard Discharged Pollutant (Class B) (yuan/ton of water · multiple)	Initial Minimal Fees for Class B (yuan)
First Category	Total Hg	2000	2.00	1.00	2000
	Total Cd	3000	1.00	0.15	2550
	Benzopyerne	3000000	0.06	0.03	90000
	Total Cr	150000	0.06	0.03	4500
	Six-Valence Cr	150000	0.09	0.02	10500
	Total As	150000	0.09	0.02	10500
	Total Pb	150000	0.08	0.03	7500
	Total Ammonia	150000	0.08	0.03	7500
Second Category	Ph Value	5000	0.25	0.05	1000
	Colourity	100000	0.14	0.04	10000
	Suspension	800000	0.03	0.01	16000
	BOD	30000	0.18	0.05	3900
	Petroleum	25000	0.20	0.06	3500
	Animal and Vegetable Oil	25000	0.12	0.04	2000
	Volatile Phenol	250000	0.06	0.03	7500
	Cyanide	250000	0.07	0.04	7500
	Sulphide	250000	0.05	0.02	7500
	Ammonia nitrogen	25000	0.10	0.03	1750
	Fluoride	25000	0.30	0.09	5250

类别	污染物名称	排放污染物超标分界依据（吨水·倍）	超标收费单价(A级)（元/吨水·倍）	超标收费单价(B级)（元/吨水·倍）	B级超征费（元）
第二类	磷酸盐（以P计）	250000	0.05	0.02	7500
	甲　醛	200000	0.12	0.06	12000
	苯胺类	200000	0.12	0.06	12000
	硝基苯类	200000	0.10	0.04	12000
	阴离子合成洗涤剂（LAS）	25000	0.30	0.09	5250
	铜	250000	0.04	0.02	5000
	锌	100000	0.06	0.02	4000
	锰	100000	0.06	0.02	4000
	有机磷农药（以P计）	250000	0.07	0.04	7500

说明：

1. 收费额＝超标收费单价×排放污染物超标总量（吨·倍数）。

其中：污染物超标总量（吨·倍数）＝污水排放量×污水中该污染物超标倍数。

排放污染物超标分界依据为排放污染物超标总量（吨·倍数）的分界值。

当排放污染物的超标吨倍数小于或等于排放污染物超标分界依据时，

收费额＝超标收费单价A×排放污染物超标总量（吨·倍数）。

当排放污染物的超标吨倍数大于排放污染物超标分界依据时，

收费额＝超标收费单价B×排放污染物超标总量（吨·倍数）＋B级起征费。

2. pH值的超标总量＝超标污水的pH值与排放标准之差×污水排放量。

3. 在执行《污水综合排放标准》表3的“最高允许排水量或最低允许水循环利用率”时，超标水量按当地最低上水单价收费，并与超标排污费迭加计算，合并征收。

4. 病原体污水超标收费标准为0.14元/吨水。

附件二：

超标环境噪声排污费征收标准

超标值dB（A）	1～3	4～6	7～9	10～12	13以上
征收额（元/月）	200	400	800	1600	3200

说明：1. 一个单位边界上有多处环境噪声超标，征收额应根据最高一处超标声级计征。若有不同地点的作业场所，收费金额逐一计征。

2. 昼、夜均超标的环境噪声，收费金额按本标准分别计算，迭加征收。

3. 声源一月内超标不足十五天的（昼或夜），超标排污费减半征收。

Category	Name of Pollutants	Limitation for Over-standard Discharged (ton of water ·meltiple)	Unit Price for Over-Standard Discharged Pollutant (Class A) (yuan/ton of water · multiple)	Unit Price for Over-Standard Discharged Pollutant (Class B) (yuan/ton of water · multiple)	Initial Minimal Fees for Class B (yuan)
Second Category	Phosphate(by P)	250000	0.05	0.02	7500
	Fomaldehyde	200000	0.12	0.06	12000
	Aniline	200000	0.12	0.06	12000
	Nitrobenzene	200000	0.10	0.04	12000
	Detergent Synthesized by Anion(LAS)	25000	0.30	0.09	5250
	Cu	250000	0.04	0.02	5000
	Zn	100000	0.06	0.02	4000
	Mn	100000	0.06	0.02	4000
	Organic Phosphate Pesticide (by P)	250000	0.07	0.04	7500

Note:

1. The total amount of fees = unit price of the over-standard discharged pollutant × the total amount of the over-discnarged pollutant (ton ·multiple)

Where,

the total amount of the over-standard discharged pollutant · ton(multiple) = total amount of the waste water × the multiple of the over discharged pollutant in the waste water.

The limitation for the over-standard discharges is the demarcation of the total amount (ton · multiple) of the over-standard discharged pollutant.

If the ton · multiple of the over-standard discharged pollutant is less than or equal to the limitation for the over-standard discharges, then:

The total amount of fees = the unit price of the over-standard discharged pollutant A × the total amount of the over-standard discharged pollutant (ton(multiple).

If the ton · multiple of the over-standard discharged pollutant is more than the limitation for the over-standard discharged, then:

The total amount of fees = the unit price of the over-standard discharged pollutant B × the total amount of the over-standard discharged pollutant (ton · multiple) + the initial minimal fees for Class B.

2. The total amount for over-standard pH value = the difference between the pH value of over-standard waste water and standard pH value × the total amount of waste water.

3. In the execution of "the maximal discharging capacity allowed or the minimal utilization ratio of water recycling allowed" in《General Standard for Discharging Waste Water》of table there, the collection of fees for over-standard discharged capacity shall be calculated by the minimal unit price of the supplied water in that region, and the fees for over-standard discharged pollutant shall also be collected.

4. The criteria for the fees of pathogen-polluted water is 0.14 yuan per ton of water.

Appendix II

Standards Concerning the levy of Fees for Over-standard Environmental Noise

Over-standard Value dB(A)	1~3	4~6	7~9	10~12	>13
Levy ameunt yuan/month	200	400	800	1600	3200

Note:

1. On the border of a unit, if there are many sources of discharging over-standard noise, the fees shall be collected for the highest decibel source. While, if the unit has serveral working places at different areas, the fees shall be calculated and collected individually.

2. As for the over-standard environmental noise at night and day, the fees shall be levied by double.

附件三：

超标废气排污费征收标准

单位：元

有害物质名称		超标排放量每公斤	浓度超过标准每10立方米		
二氧化硫、二硫化碳、硫化氢、氟化物、氮氧化物、氯、氯化氢、一氧化碳		0.04			
硫酸（雾）、铅、汞、铍化物			0.03～0.10		
生产性粉尘	玻璃棉、矿渣棉、石棉、铝化物	0.10			
	电站煤粉、水泥粉尘	0.02			
	炼钢炉粉尘、其他粉尘	0.04			
工业及采暖锅炉烟尘	超标倍数	4以内	4.1～6	6.1～9	9以上
	林格曼浓度	2级	3级	4级	5级
	每吨燃料收费	3.00	4.00	5.00	6.00

注：1. 蒸汽机车及其他流动污染源的排烟暂不收费。

2. 火力电站、工业和采暖锅炉的废气，目前暂按烟尘征收排污费，其他有害物质暂不收费。

附件四：

超标废渣排污费征收标准

单位：元

有害物物质名称	向水体倾倒或排放每吨	无防水、防渗措施堆放每吨·月	无专设的堆放场所堆放每吨·月
含汞、镉、砷、六价铬、铅、氰化物、黄磷及其他可溶性剧毒物废渣	36.00	2.00	
电厂粉煤灰	1.20	0.10	
其他工业废渣	5.00		0.30

注：1. 排放或倾倒或无防水、防渗措施堆放剧毒废渣，除收费外，应立即制止其行为，并责成清理。

2. “电厂粉煤灰”一项，只适用《环境保护法（试行）》公布前，建成投产而未建灰场、已向水体排放的燃煤电厂。其他电厂（包括上述电厂扩建）排放粉煤灰，适用其他工业废渣的标准。

3. 在尾矿坝、灰场、废渣（包括煤矸石）专用堆放场等设施堆放的，暂不收费。

3. The source of noise discharging less than 15 days, the fees for the over-standard discharged pollutants shall be halfed.

Appendix III

Standards Concerning the Collection of Fees for Over-standard Discharged Waste Gas

Unit: Yuan

Name of the Harmful Material		Amount of Over-standard Discharges per kilogram	Over-standard Density per 10 cubic meters		
Sulphur Dioxide Carbon Dioxide, Hydrogen Sulphide, Fluoride, anyanghuawu, chlorine, hydrogen chloride, carbon monoxide		0.04			
Sulphuric Acid(including atomized), Lead, Mercury, Beryllide			0.03～0.10		
Production Dust	Glass Wool, Slag Wool, Asbestos, Aluminide	0.10			
	Coal Powder in Power Stations, Cement Powder	0.02			
	Dust in Steel Melting Furnace and Other Dust	0.04			
Industrial and Heating-furnace Dust	Over-standard Multiple	Less Than 4	4.1～6	6.1～9	Over 9
	Lingemanm Blackness	level 2	level 3	level 4	level 5
	Fees for per Ton of Fuel	3.00	4.00	5.00	6.00

Note:

1. Steam engines and other mobile pollution sources are temporarily exempt from collecting fees.

2. Waste gas from thermal power plants, industry and heating furnaces are temporarily collected as smoke and dust, and other harmful substance are temporarily exempt from collecting fees.

Appendix IV

Standards Concerning the Collection of Fees for Over-standard Discharged Solid Waste

Unit: Yuan

Name of Harmful Substance	Discharge in Waters or other Places per ton	Storage without Any Water-proof or Leak-proof Measures per ton·month	Storage without Special Places per ton·month
Hyper-toxic Dissolvable Solid waste Containing Mercury, Cadmium, Arsenic, Six-valenc Chromium, Syanide, Yellow Phosphorous etc.	36.00	2.00	
Coal Dust in Power Plants	1.20	0.10	
Other Industrial Solid wastes	5.00	0.30	

Note:

1. For hyper-toxic solid wastes discharged, dumped, stored without any water-proof or leak-proof measures, in addition to the pollution fees collected, they shall be forbidden discharging, dumping or storing, and shall be cleaned and sorted out.

2. The item "coal dust in power plants" shall only apply to those coal-fueled power plants which were constructed and put into production before the promulgation of《Law of Environmental Protection (trial implementation)》. The coal dust of other power plants (including the above-mentioned plants' later extended factories) will be applied by other standards concerning industrial solid wastes.

3. For those solid wastes dumped in specific piling places, such as tailing dam, ash dumping site, etc., fees are not collected temporary.

附件五：

环境监测站开展专业服务收费暂行规定

全国环境保护系统的各级监测机构，在履行国家赋予的职责、确保完成上级指令性环境监测任务的前提下，积极挖掘内部潜力，开展对外监测和技术服务工作，是对社会应尽的义务，也是改革发展的需要。通过这项工作，可以增强其技术和经济活力，补助事业费的不足，促进自身建设，推动环境监测工作的发展。

依据国家有关政策规定，结合全国环境监测站开展对外监测和技术服务的现状，特制定本暂行规定。

一、基本原则

各级环境监测机构在开展对外监测和技术服务业务时，应加强管理，在不影响上级下达的环境监测和污染源监测任务的前提下，要严格保证服务的质量、合理收费、维护环境监测工作的权威性和声誉。

二、服务范围

1．各项环境背景值调查和环境评价；

2．对外单位委托的样品分析、固定和流动污染源监测以及污染纠纷、事故仲裁监测；

3．治理工程项目的研究设计及其环境效益分析评价；

4．受有关单位委托承担环境保护方面的技术咨询、技术服务、成果转让和其他方面的项目；

5．工业污染源成果综合服务项目，包括污染源档案、各类技术和研究报告、图集、数据库等。

三、收费办法

（一）监测项目收费：

监测项目的收费标准主要依据各类专业监测项目的技术难度、实际消耗成本（材料消耗、仪器（表）设备折旧、水、电、气消耗、直接劳务的消耗和管理费）进行计算，其实际成本按以下项目进行核算。

1．材料费

包括（1）在监测过程中一次性消耗的材料如药品试剂等。其材料费的构成包括材料本身和运费、保管费及合理损耗的分摊费用。

（2）低值易耗品：原值500元以下使用寿命不超过一年者均列入低值易耗品，能多次使用的可分期摊入成本。对于易碎玻璃器皿、小电炉、万用表、工具之类可按小时费用进入成本。

Appendix V

Temporary Regulations Concerning the Charging of Fees for the Professional Services by Environmental Monitoring Stations

On the condition that the monitoring institutions of environmental protection systems at various levels nation wide finish the work entrusted by the State and the tasks assigned by the higher body, they can take active actions to develop their potentials, expand their monitoring and technical support services externally to the whole society. This is also to fulfill the obligations, and also it's necessary for the development of reforming. This work can activate the use of technology and the development of economy, supplement the shortage of operating expenses, improve the construction of this field and promote the development of environmental monitoring system.

In the light of the national policies concerned and the current situations of the environmental monitoring stations' technical support services to the society, the temporary regulations are declare herewith:

1. Basic principles

For the external work, environmental protection institutions at various levels shall reinforce management, shall not disturb the obligatory environment and pollution sources monitoring tasks, and shall guarantee the quality of services, collect fees reasonably, thus ensuring the authority and fame of environment monitoring work.

2. Scope of Services

A. Environment baseline investigation and environment assessment.

B. Samples analysis assigned by other units, stable and mobile pollution sources monitoring and arbitration of the pollution disputes and accident.

C. Research and planning on the project of pollutant disposal as well as assessment and analysis of its environment benefits.

D. Assigned by the unit(s) concerned, technical consultation about environmental protection technical support and transferring of know-how etc.

E. A series of services of industrial pollution sources, including the archives of pollution sources, technical and research reports of all kinds, graphs, databases, etc.

3. Charges for Services

A. Charges for monitoring projects:

The criteria of the charges for monitoring projects are mainly based on the difficulty of monitoring projects in different specialized subjects, real cost consumed (material, the depreciation charge of equipment and machines, water, electricity and gas consumed, direct labor cost and management expenses), the real cost shall be calculated for the following items.

1) Charges for substance

Including * disposable substance like medicines and reagents in the course of monitoring. This includes the substance themselves, freight, charges for storage and the shared expenses for rational wear and tear. * substance which is low in cost and reliable to be worn. These substance include those whose costs are less than 500 yuan and whose life is less than one year. Among them, for the substance which can be used serveral times, their cost may be shared. As for friable glassware, small electric stoves, avometers, tool etc., their cost may be calculated by hours.

2) Charges for water and electricity

The charges include those of water, electricity, oil and gas directly consumed in the course of monitoring. The charges do not include the expenses of public heating and lighting.

2．水电费

指在检验过程中直接消耗的水、电、油、气等费用，不包括公用采暖照明等能源费用。

3．固定资产折旧费

原值在500元以上，使用年限在一年以上（含一年）的仪器（表）设备均列入固定资产。所提折旧的固定资产不包括闲置未用的仪器设备以及不属于检验用的固定资产。其计算折旧费的折旧率按国家有关规定执行。

4．管理费

包括办公费、旅差费、会议费及部分管理和检验人员的工资费用。对人体危害程度较大的监测分析项目（剧毒、致癌、放射性）加收2～5倍的管理费。

（二）监测样品予处理和现场采样的收费规定：

1．所分析项目若需样品分析前处理和使用色质联谱、高频等离子发射光谱、气液相色谱、原子吸收、莹光分光光度计等大型仪器（表）分析项目，可适当收取样品予处理费和开机费。

2．委托单位要求到现场采样或监测分析时，工作人员到现场所需交通工具、开孔、搭架等辅助工作条件，由委托单位解决；委托单位需使用监测车、船可酌情收费。

3．污染事故的现场采样和监测分析，其收费标准可比正常的监测项目收费提高30％～50％。

（三）监测技术服务的收费，可按有关规定与需方以合同方式协商或酌情收费。主要内容有：

1．科研、监测成果转让（包括工业污染源调查成果、档案、各类技术、研究报告、图集、数据库数据等）和环境评价等项目；

2．仲裁样品、科研成果鉴定及其他特殊要求的监测分析；

3．索取环境监测数据和磁带（盘）记录数据；

4．代培监测分析人员。

四、收费的使用

监督检测机构按规定收取费用所得的净收入，主要用于弥补专项拨付购置检测手段（设备、仪器、药品）所需资金和弥补国家拨付的事业费不足。其余商同级财政部门按国家有关规定使用。

3) The depreciation of fixed assets

The instrument (meters) whose original cost is more than 500 yuan, and whose life is more than one year, shall be included in fixed assets.

4) Charges for management

It includes administrative expenses, allowances for business trips, expenses for meetings and the wages for monitoring staff. The charges for relatively large analysis projects harmful to human health (hyper-toxic, carcinogenic, radioactive) shall be one to four times more.

B. Regulations for charges for handling monitoring samples and sampling on the spot

1) If the sample analysis project needs treatment before hand and need to use large instrument (meters) to analyze chromatography, high frequency plasma emission spectrum, gas, liquid chromatography, atom absorption, fluorescent spectro-photometer etc., then appropriate charges for pre-treatment and equipment may be included in the total charges.

2) If the trustor unit requires to sampling and monitoring analyze on the spot, the transportation vehicles for the working staff, the holes and scaffolds needed as auxiliary work, shall be provided by the trustor unit. If the trustor need to use monitoring vehicles and boats, the charges for them may be included in the charges for monitoring analysis.

3) The charges criteria for sampling and monitoring analysis on the spot of the pollution accidents can increase 30% to 50% more as against common monitoring projects.

C. Charges for monitoring technical services can be collected in accordance with regulations concerned and settled in contract through negotiation with the trustor. The charges mainly include:

1) Research, know-how transferring (including industrial pollution source investigation, files, technical research report, graphs, databases etc.) and environmental appraisal etc.

2) Arbitrating samples, checking and appraising results and other monitoring analysis for special requirements.

3) Demanding environmental monitoring data and data recorded in tapes and disks.

4) Training monitoring analysis staff for other units.

4. The usage of the charges collected

The net income of monitoring institutions under the regulations concerned, shall be used in making up the shortage of the money appropriated specially for monitoring means (equipment, instrument, medicines) and making up the inadequate operating expenses appropriated by the state. The left shall be used through negotiation with finance departments at the same level in accordance with the appropriate regulations promulgated by the state.

污染源治理专项基金有偿使用暂行办法

（1988 年 7 月 28 日国务院发布）

第一条 为做好污染源治理，合理使用污染源治理资金，提高社会效益，制定本办法。

第二条 国家设立污染源治理专项基金（以下简称基金）。

基金由省（自治区、直辖市）、市、县环境保护部门设立，分级管理，独立核算，可以拆借使用。

基金实行有偿使用，委托银行贷款。

第三条 基金从依照国务院《征收排污费暂行办法》征收的超标排污费用于补助重点排污单位治理污染源资金中提取，提取比例在百分之二十至三十幅度内，由省、自治区、直辖市人民政府确定。

已经大部或者全部实行基金有偿使用的地方，可以继续按照原办法执行。

历年超标排污费的未用部分应当全部纳入基金。

贷款利息、滞纳金和挪用贷款的罚息除按国家规定支付银行手续费外，其余全部纳入基金。

第四条 基金的贷款对象为缴纳超标排污费的企业。

第五条 基金的使用范围；

（一）重点污染源治理项目；

（二）“三废”综合利用项目；

（三）污染源治理示范工程；

（四）为解决污染，实行并、转、迁企业的污染源治理设施。

第六条 在基金的贷款对象和基金的使用范围内，具备以下条件的企业，可以向环境保护部门申请使用基金：

（一）按规定缴纳超标排污费；

（二）项目经过可行性研究，切实可行；

（三）自筹资金占一定比例；

（四）具备偿还贷款能力。

第七条 具备本办法第六条规定的条件，又属于下列情况之一的，应予优先贷款：

（一）限期治理项目；

（二）污染严重、亟待治理的项目；

（三）自筹资金占投资总额百分之六十以上的项目。

第八条 基金由环境保护部门统一管理，会同财政部门下达贷款计划。财政部

Interim Measures on the Compensatory Use of the Special Fund for Control of Pollution Source

(Promulgated by the State Council on July 28, 1988)

Article 1 This Measuers is established for good control of pollution source and rational use of the fund for the control so as to enhance the social benefit.

Article 2 The project fund for control of pollution source (hereafter refered to as fund) is set up in the state by the environmental protection agencies in provinces (autonomous regions or municipalities directly under the Central Government), cities and counties, and is managed in different levels with independent accounting and discountable lending.

The fund is intrusted to bank in lending for compensatory use.

Article 3 The fund is drawn from the fee levied on over-standard discharge of pollutant which is used to subsidize the key pollutant discharge unit to control the pollution source; and the drawing rate ranges from 20% to 30% determined by the governments in the provincial level.

Where this fund has been put into practice partially or entirely, it may keep on implementing in accordance with the original provision.

The unspent part of the fee levied in the past on over-standard discharge of pollutant should be brought entirely within the fund.

The lending interest, overdue fine and interest-fine for misappropriation should be brought entirely within the fund with the exception of the service charge for the bank according to the government regulations.

Article 4 The objects of application for the fund are the enterprises that pay the fee for over-standard pollutant discharge.

Article 5 The scope of use of the fund:

(1)The control project of key pollution source;

(2)The comprehensive utilization project of "three wastes";

(3)The Demonstrative control engineering for pollution control;

(4)The control facilities for pollution source of the enterprises to be merged , shifted or moved in order to solve the pollution problem.

Article 6 Within the object of application and the scope of use of the fund , the enterprise possessing the following conditions can apply to use the fund from the environmental protection agency:

(1)Handing in the fee for over-standard discharge of pollutant in accordance with the regulations;

(2)Practicable project through feasibility study;

(3)Raising a certain radio of funds itself;

(4) Being able to pay back the loan.

Article 7 A priority of lending should be given to those possessing the conditions mentioned in Article 6 and also belonging to one of the following cases:

(1)The project of control within a set deadline;

(2)The control project of serious pollution urgently needed;

(3)The project of which the self-raising funds occupy above 60% of the total investment .

Article 8 The fund is unified management of the environmental protection agency; and the lending plan is is-sued jointly with the financial agency which allocates each season the stock of the fee of over-standard discharge of pollutant to the "special account of the fund" of the environment protection agency in bank according to the lending plan .

Article 9 The applying enterprise must fill up the "application form of lending for control project

门根据贷款计划从解缴入库的超标排污费中按季拨入环境保护部门在银行开立的“基金专户”。

第九条 申请贷款的企业必须填写《污染源治理专项贷款申请表》，并附可行性研究报告等文件，经企业主管部门预审，环境保护部门委托银行核实偿还能力后，由环境保护部门审批。

企业主管部门，也可以根据本行业实际情况，预审各所属企业的贷款申请后，统一向环境保护部门申请使用基金，并按环境保护部门批准的各企业贷款数额安排使用。

第十条 贷款申请经环境保护部门批准后，贷款企业与银行签定协议，银行根据双方协议按期如数发放贷款。

银行按规定监督贷款的使用，催收本息，并按季向财政、环境保护部门报送贷款发放、回收报表。

第十一条 贷款期限不得超过三年。贷款月利率一年期为千分之二点四，二年期为千分之二点七，三年期为千分之三点零。利息按季结清。

第十二条 建设项目正式投产或者使用前，贷款企业必须向负责审批贷款的环境保护部门提交“污染源治理项目竣工验收报告”。经验收合格的，环境保护部门可以对贷款企业豁免一定数额的贷款本金。豁免的数额一般不高于其历年纳入基金总额扣除历次豁免额后的余额。

第十三条 贷款本息除本办法第十二条规定可以豁免的部分外，可以用下列资金偿还：

（一）自有资金：国营企业的更新改造资金、生产发展基金，集体企业的公积金、合作事业基金和更新改造资金等自留自用资金；

（二）“三废”综合利用利润留成；

（三）上级拨给的污染源治理资金。

企业还款数额较大、全部使用上款规定的资金还款确有困难的，经当地财政部门批准，从项目投产使用之日起，可按贷款项目正式投产前一年度缴纳超标排污费的方式和数额逐年还贷，但从贷款之日起，最长不得超过三年。

第十四条 贷款企业要求变更或者解除贷款协议，应当通知银行，并报原审批贷款的环境保护部门批准。

第十五条 贷款企业应当按期偿还贷款、结算本息。逾期未还的，银行有权限期扣回，并按贷款最高月利率千分之三点零收取利息，同时按月利率千分之一点五加收罚息。

第十六条 贷款企业挪用贷款的，银行有权收回部分或者全部贷款。对挪用部分，按贷款最高月利率千分之三点零收取利息，并按月利率千分之六点零加收罚息。对直接责任者及企业负责人，由其所在单位或者上级主管机关给予行政处分；构成犯罪的，由司法机关依法追究刑事责任。

第十七条 环境保护部门工作人员，玩忽职守、徇私舞弊的，由其所在单位或

of pollution source", appending the report of feasibility study and the like, to be examined and approved by the environmental protection agency, after it has been pre-examined by competent agency of the enterprise and ensured the ability to pay back by the bank entrusted by the environmental protection agency .

The competent agency of the enterprise after pre-examining the application forms from its subordinate enterprises based on the practical situation itself, may also submit a unified application for the fund to the each enterprise according to the approval of the environmental protection agency.

Article 10 After the approval of the application, the application, the applying enterprise will sign an agreement with the bank which will grant exactly the amount on time according to the agreement.

The bank will supervise the use, of loan, urge to pay the capital and interest and submit the report of loan granting and recovery each season to the financial and the environmental protection agencies on the basis of regulations.

Article 11 The deadline of lending can not exceed three years. The monthly rate of interest is 2.4‰for the deadline of one year,2.7‰ for the two years and 3.0‰ for the three years; and the interest should be squaerd up each season.

Article 12 Before the construction project is put into formal operation or use, the application enterprise must submit the "acceptance report on the completion of the control project of pollution source" to the environmental protection agency taking charge of the approval of lending. After accepted to be qualified, the environmental protection agency can exempt the application enterprise a certain amount of the lending capital, which is in general below the surplus of the total of the fund in the past after deducting the exempting amount each year.

Article 13 The lending capital and interest besides the exempted amount defined in the Article 12, may be paid back with the following funds:

(1)Self-owned funds including the funds for ernewal, reform and development of production of the state enterprise and the funds self-reserved for the coopreated enterprises as well as those for ernewal and reform;

(2)Part of the projects from comprehensive utilization of "three wastes" reserved by the enterprise;

(3) Funds allocated by the higher level for control of pollution source.

Since the amount to pay back by the enterprise is rather great, it is difficult to use entirely the funds mentioned in the above article. After approved by the financial agency, it may be paid back each year in the same way as handing in the fee of over-standard discharge of pollutant, from one year before the formal operation of the lending project up to three years at most.

Article 14 In case the application enterprise requires to change or to terminate the lending agreement, it should be noticed to the bank and submitted for approval from the environmental protection agency which has formerly approval the application.

Article 15 the application enterprise should pay back the loan on time and square up both the capital and the interest. If the payment is overdue, the bank has the right to get it back within a stated time, and to raise the monthly intreest to the highest rate of 3.0‰ as well as to get in addition the interest-fine of 1.5‰ monthly rate of interest.

Article 16 In case the application enterprise misappropriates the loan, the bank has the right to get back the loan partially or entirely; and to get the interest of the misappropriated part at the highest monthly rate of 3.0‰ as well as the interest-fine of 6.0‰ monthly rate of interest in addition. The person directly in charge of the case and the leading cader of the enterprise will be punished administratively in the working unit or by the competent agency of higher level; and the responsibility of the criminal offence will be investigated by the judicial organ according to law .

Article 17 The working staff of the environmental protection departments neglecting their and engaging in malpracfices for selfish gains will be punished administratively in the working unit or by the competent agency of higher level; and the responsibility of the criminal offence will be investigated

者上级主管机关给予行政处分；构成犯罪的，由司法机关依法追究刑事责任。

第十八条 各省、自治区、直辖市人民政府可以根据本办法制定实施办法。

第十九条 本办法自 1988 年 9 月 1 日起施行。

by the judicial organ according to law.

Article 18 The people's government of each province, autonomous region or municipality directly under the Central government may work out the implementation provision on the basis of this Measures.

Article 19 This Measures shall come into force from September first, 1988.

关于开展征收工业燃煤二氧化硫排污费试点工作的通知

（1992 年 9 月 14 日，经国务院批准，国家环保局、国家物价局、财政部和国务院经贸办发布

环监［1992］361 号）

《征收工业燃煤二氧化硫排污费试点方案》已经国务院批准，现印发给你们。请根据该方案规定的基本原则，结合当地实际情况，认真做好试点工作，在试点中注意摸索和总结经验，以利在全国推广。

附件：征收工业燃煤二氧化硫排污费试点方案

一九九二年九月十四日

附件：

征收工业燃煤二氧化硫排污费试点方案

由于主要受工业燃煤排放二氧化硫的影响，我国酸雨污染地区不断扩大，对农业、林业及建筑物等的危害日益严重，控制酸雨发展已迫在眉睫。为促进对二氧化硫的治理，筹集治理资金，对工业燃煤二氧化硫排污收费是必要的。为取得经验，决定在国家总的收费办法出台前，先在部分省、市实行征收工业燃煤二氧化硫排污费的试点，具体试点方案如下：

一、按照征收工业燃煤二氧化硫排污费试点地区应选在燃用高硫煤、酸雨严重且有一定经济承受能力的地区的原则，并考虑我国酸雨污染主要是由二氧化硫造成的区域性污染的特点，经研究确定贵州、广东二省及重庆、宜宾、南宁、桂林、柳州、宜昌、青岛、杭州、长沙等九市作为开展征收工业燃煤二氧化硫排污费的试点地区。

二、工业燃煤二氧化硫排污费可按照燃煤排放二氧化硫总量或按燃煤量和煤的含硫量计算，一般排放每公斤二氧化硫收费不超过 0.20 元。具体收费标准和收费范围由省级物价部门会同同级财政、环保、经委（计经委、生产委），根据当地情况制定，报国家物价局、财政部、国家环境保护局、国务院经贸办备案。

Circular on the Trial Leving of Pollution Fee on Sulfur Dioxide from Industrial Coal Consumption

(Approved by the State Council, promulgated by the National Environmental Protection Agency, the National Price Agency, the Ministry of Finance and the Economic and Trade Office of the State Council on September 14, 1992)

The Experimental Plan for the Imposition of Pollution Fee on Sulfur Dioxide from Industrial coal consumption has been approved by the State Council and is issued now to you. Please accomplish conscientiously the experimental work, in accordance with the basic principles specified in the plan and in connection with local conditions, and try to find out and sum up the experiences so as to popularize it throughout the country.

Attachment: The Experimental Plan for the Imposition of Pollution Fee on Sulfur Dioxide of Coal-Fired Industry

Attachment:

The Experimental Plan for the Imposition of Pollution Discharge Fee on Sulfur Dioxide from Industrial Coal consumption

Mainly affected by the discharge of Sulfur Dioxide from industrial coal consumption, the acid rain pollution areas are expanding in China, seriously harming agriculture, forestry and buildings. Control of the spreading of acid rain becomes extreamly urgent. In order to promote the control of sulfur dioxide and raise funds for it, charges imposed on the discharge of sulfur dioxide from industrial coal consumption is indispensable. For the purpose of gaining experiences, it has been decided that experimental imposition of pollution fee on sulfur dioxide from industrial coal consumption shall be implemented in some provinces and cities, prior to the formulation of the overall measures of the state. Following is the specific experimental plan:

1. In line with the principle that the experimental imposition shall be done in the areas where sulphur coal is consumed and acid rain is serious, and where the economy is comparatively more capable, and the characteristic that the acid rain pollution in China is mainly caused by the regional pollution of sulfur dioxide, it has been decided after study that two provinces of Guizhou and Guangdong, and nine cities of Chongqing, Yibin, Nanning, Guilin, Liuzhou, Yichang, Qingdao, Hangzhou and Changsha are taken as the experimental areas for imposing the pollution fee on sulfur dioxide from industrial coal consumption.

2. The pollution fee for sulfur dioxide from industrial coal consumption can be calculated in accordance with the total discharge amount of sulfur dioxide from industrial coal consumption or the coal consumption amount and sulphur content of the coal. Generally speaking, charge for each kilogram of sulfur dioxide will not exceed 0.20 yuan. The specific charge standards and range shall be formulated by the provincial price departments, togather with the financial, environmental protection and economic (planning, production) commissions in connection with local conditions and be reported to the National Price Agency, the Ministry of Finance, National Environmental Protection Agency and the Economic and Trade Office of the State Council for the record.

3. Imposition, management and use of the pollution fee on sulfur dioxide from industrial coal con-

三、工业燃煤二氧化硫排污费的征收、管理和使用按现行超标排污收费管理办法执行。考虑到建设脱硫工程所需费用较多，其中用于补助重点排污单位治理二氧化硫污染源的比例，可适当提高到90%。

sumption shall be implemented in accordance with the measures of pollution discharge fee on exceeding the standards. Taking into consideration the large amount of funds for the desulfurization projects, the percentage of funds for the control of sulfur dioxide pollution sources of major pollutant units can be raised properly to 90 percent.

国务院关于二氧化硫排污收费扩大试点工作有关问题的批复

（1996年4月2日，国务院发布　国函［1996］24号）

你们《关于二氧化硫排污收费试点工作情况的报告》收悉，现批复如下：

一、为推动重点和敏感地区防治二氧化硫污染、控制酸雨污染工作，筹集防治污染资金，在继续认真做好贵州、广东省及重庆、宜宾、南宁、桂林、柳州、宜昌、青岛、杭州、长沙市二氧化硫排污收费试点工作的基础上，可将二氧化硫排污收费试点地区扩大到酸雨控制区和二氧化硫污染控制区。具体区域由国家环保局会同有关部门，根据各地的实际情况，依照《中华人民共和国大气污染防治法》的有关规定划定。扩大试点地区的二氧化硫排污收费，经所在省、自治区、直辖市人民政府批准后从1996年开始征收。

二、二氧化硫排污收费的范围可扩大到燃煤、燃油、工艺废气向外环境排放二氧化硫的企业、事业单位和个体经营者。免征或缓征范围，由各省、自治区、直辖市人民政府确定。

二氧化硫排污收费的标准，可参照《关于开展征收工业燃煤二氧化硫排污费试点工作的通知》（环监［1992］361号）精神，根据实际情况，由各省、自治区、直辖市人民政府制订，报国家环保局、国家计委、财政部、国家经贸委备案。

三、二氧化硫排污费的征收、管理、使用办法仍按现行有关法律法规执行，其中用于重点排污单位专项治理二氧化硫污染的资金比例不得低于90%。

四、请你们会同有关部门进一步落实国务院对国务院环委会《关于征收工业燃煤二氧化硫排污费的请示》的批复（国办通［1992］4号）的有关要求，加快研究，开发和推广适合我国国情的二氧化硫防治技术，做好二氧化硫污染的综合防治工作。

五、请你们会同有关部门抓紧研究建立排污收费制度的有关问题。

Official Reply of the State Council on Relevant Issues concerning the Trial Leving of Sulfur Dioxide Discharge Fee

(Promulgated by the State Council on April 2, 1996)

The following are our reply to your Report on the Trial Leving of Sulfur Dioxide Discharge Fee:

1. In order to promote work of protecting seriously affected and sensitive areas from being polluted by sulfur dioxide and acid rain and to collect funds for environmental protection and control, and on the basis of continuing earnestly the work of experimentally collecting sulfur dioxide Emission fee in the provinces of Guizhou and Guangdong and in the cities of Chongqing, Yibin, Nanning, Guilin, Liuzhou, Yichang, Qingdao, Hangzhou and Changsha, the experimental collection of sulfur dioxide Emission fee may be expanded to acid rain control regions and sulfur dioxide pollution control regions. The specific areas are to be determined by the National Environmental Protection Agency in collaboration with relevant departments, in accordance with conditions of each area and with provisions of the Law of the People's Republic of China on Prevention and Control of Air Pollution. Collection of sulfur dioxide emission fee in the expanded areas shall start from the year 1996 after approval by the respective provincial government, autonomous region or municipality directly under the Central Government.

2. The scope for collecting sulfur dioxide emission fee may be expanded to enterprises, public institutions and individual proprietors which discharge sulfur dioxide resulting from burning coal, oil or from technological waste gas. The scope for enjoying exemption or postponement of paying discharge fee shall be detremined by respective provincial government, autonomous region or municipality directly under the Central Government.

Standards for collecting sulfur dioxide emission fee shall be determined by provincial government, autonomous region or municipality directly under the Central Government in conformity with Circular on Experimental Collecting of Sulfur Dioxide emission Fee in industrial Coal Burning (Environment Supervision File No [1992]361) and in accordance with actual circumstances, and shall be submitted to the National Environmental Protection emission, the sfate Planning Commission, the Ministry of Finance and the State Economic and Trade Commission for the record.

3. Collection, management and use of sulfur dioxide emission fee shall be subject to prevailing laws and regulations, and no less than 90% of the amount of funds thus collected should be used for particular prevention and control of sulfur dioxide pollution in major units.

4. Please collaborate with relevant departments to further put into practice the requirements in the reply of the State Council (the State Council's General Office Circular No. [1992]4) on lmposition of Sulfur Dioxide emission Fee in Industrial Coal Burning proposed by he Enrironmental protecfian commission of the state council. Do your best to research, develop and promote technologies conforming to the reality in China for preventing and controlling sulfur dioxide pollution.

5. Please collaborate with relevant departments to study the relevant questions in stipulating regulations on collecting fees for discharging pollutants.

关于在酸雨控制区和二氧化硫污染控制区开展征收二氧化硫排污费扩大试点的通知

（1998年4月6日，国家环保总局、国家计委、财政部、国家经贸委发布　环发［1998］6号）

根据《国务院关于酸雨控制区和二氧化硫污染控制区有关问题的批复》（国函［1998］5号）和《国务院关于二氧化硫排污收费扩大试点工作有问关题的批复》（国函［1996］24号），现就在酸雨控制区和二氧化硫污染控制区内开展征收二氧化硫排污费扩大试点有关问题通知如下：

一、二氧化硫排污费的征收范围为酸雨控制区和二氧化硫污染控制区内燃煤、燃油和产生工艺废气以及向环境排放二氧化硫的企业、事业单位和个体经营者。

二、二氧化硫排污费的收费标准为排放每公斤二氧公硫收取排污费0.20元。二氧公硫的排放量可以按实际监测或物料衡算方法计算。各省、自治区、直辖市不得擅自提高收取标准，扩大收取范围，具体收费办法应报国家环境保护总局、国家发展计划委员会、财政部、国家经济贸易委员会备案。

三、二氧化硫排污费用于重点排污单位专项治理二氧公硫污染的资金总额不得低于90%。

四、酸雨控制区和二氧化硫污染控制区内二氧化硫排污费从1998年1月1日起征收。

Circular on Expanding Experiments of Leving Pollution Fees for Sulfur Dioxide Emission in the Two Control Zones
(the Acid Rain Zones and SO_2 Pollution Control Zones)

(Jointly issued by the State Environmental Protection Administration, the State Planning Commission, the Ministry of Finance, and the State Economic and Trade Commission on April 6, 1998)

In accordance with the Official Reply of the State Council on Relevant Issues Concerning Acid Rain Control Zones and Sulfur Dioxide Control Zones (Guo Han [1998] No. 5) and the Official Reply of the State Council on Issues Concerning the Expansion of Experiments on Imposing Pollution Fees for Sulfur Dioxide Emission (Guo Han[1996] No. 24), the following is the on expanding experiments of imposing pollution fees for sulfur dioxide discharge in the acid rain and sulfur dioxide control Zones:

1. The scope of imposing fees for sulfur dioxide Emission covers enterprises, institutions and individual operators that burn coal or oil, produce industrial waste gases and discharge sulfur dioxide to the environment in the acid rain and sulfur dioxide control Zones.

2. The collecting standard for sulfur dioxide emission is 0.20 yuan per kilogram of sulfur dioxide. The amount of sulfur dioxide discharged can be calculated in accordance with the result shown by actual monitoring or by measuring the materials consumed. Provinces, autonomous regions and municipalities are not allowed to raise the standard or expand the scope of charges without authorization. Specific measures for charges shall be submitted to the State Environmental Protection Administration, the State Development and Planning Commission, the Ministry of Finance and the State Economic and Trade Commission for the record.

3. The pollution fee allotted to major pollutant disposing units for the special control of sulfur dioxide pollution shall consist no less than 90 percent of the total amount of the fee.

4. The collecting of pollution fee for sulfur dioxide emission in the control Zones shall come into force on January 1,1998.

关于二氧化硫排污收费试点征收标准执行问题的通知

（国家环保总局2000年3月30日　环发［2000］75号）

关于二氧化硫排污收费试点标准执行问题，今年一月我局已请示国务院，国务院明确要求："根据国务院国办通［1992］4号、国函［1996］24号、国函［1998］5号文件规定，国务院决定开展二氧化硫排污收费试点实行的是排污即收费"。"根据《六届全国人大三次会议关于授权国务院在经济体制改革和对外开放方面可以制定暂行规定或条例的决定》精神，国务院决定开展二氧化硫排污收费试点的规定是有效的"。

根据国务院的指示精神，现就二氧化硫排污收费试点工作提出如下要求：

一、各地要继续认真贯彻执行国务院国函［1996］24号、国函［1998］5号文件精神，按照国家环保总局、国家计委、财政部、国家经贸委《关于在酸雨控制区和二氧化硫污染控制区开展征收二氧化硫排污费扩大试点的通知》（环发［1998］6号）的有关规定，做好二氧化硫排污收费试点工作。

二、征收的二氧化硫排污费，要严格按照"收支两条线"的要求及时解缴财政，并按国家规定的比例用于二氧化硫污染治理。

三、各地执行二氧化硫排污收费试点中出现的问题，请及时向我局报告。

Circular on Implementing the Trial Leving Standards of Sulfur Dioxide Discharge Fee

(Issued by the State Environmental Protection Administration on March 30, 2000)

With regard to the problem of implementing the experimental charge standards of sulfur dioxide discharge, the State of Environmental Protection Administration asked for instructions from the State Council in January this year. The State Council clearly demanded: 'In accordance with the provisions of the State Council's GuobanTong [1992] No. 4, Guo Han [1996] No. 24, Guo Han [1998] No. 5 documents, the State Council decided to carry out experimental imposition of pollution discharge fee on sulfur dioxide, that is pollution charges.' In line with the Decision of the Third Plenary Session of the Sixth National People's Congress on Authorizing the State Council to Formulate Interim Provisions or Regulations in the Field of Economic Structural Reform and Opening to the Outside World, the State Council's decision of carrying out the trial leving of sulfur dioxide discharge fee is effective."

In accordance with the instructions of the State Council, the requirements for carrying out the experimental imposition are as follows:

1. The implementation of the gist of the State Council's Guo Han [1996] No. 24 and Guo Han [1998] No. 5 documents shall be continued conscientiously and the experimental imposition of sulfur dioxide discharge fee shall be accomplished in accordance with relevant provisions of the Circular for Carrying Out the Expanded Experimental Imposition of Sulfur Dioxide discharge fee in the Acid Rain Control Zone and Sulfur Dioxide Control Zone (issued by the State Administration of Environmental Protection, the State Planning Commission, the Ministry of Finance and the State Economic and Trade Commission).

2. The sulfur dioxide discharge fee collected shall be turned over to the financial department in strict accordance with the demand for separation between revenue and expenditure, and be applied proportionally to bringing the river under control as the state authority demanded.

3. Problems arising in the course of implementing the experimental imposition of sulfur dioxide discharge fee shall be reported timely to the State Environmental Protection Administration.

关于在杭州等三城市实行总量排污收费试点的通知

（国家环保总局、国家发展计划委员会、财政部　环发［1998］73号）

1982年国务院发布《征收排污费暂行办法》（国发［82］21号），在全国实行了排污收费制度，对控制和治理我国的环境污染发挥了积极作用。但是，由于现行对水、气等污染物排放实行单因子浓度超标排污收费的办法，不能有效减少污染物排放总量，调动排污者治理污染的积极性，故已不适应我国社会主义市场经济条件下环境保护的需要。为落实《国务院关于环境保护若干问题的决定》（国发［1996］31号）中提出的“要按照‘排污费高于污染治理成本’的原则，提高现行排污收费标准，促使排污单位积极治理污染”的要求，推进排污收费制度的改革，在世界银行环境技术援助项目《中国排污收费制度设计及其实施研究》的基础上，根据杭州市、郑州市、吉林市人民政府的要求，经研究，决定在杭州、郑州、吉林三城市进行总量排污收费试点工作，现将有关问题通知如下：

一、总量排污收费试点范围包括水、大气、固体废弃物、固定噪声源、机动车污染和飞机噪声等，收费标准按排污单位排放污染物的种类和数量，以污染当量计算征收排污费。收费标准、污染当量换算关系和排污费计算方法见附件。总量排污收费标准将分步实施、逐步达到目标值。试点期间执行试点征收标准亦按此办理。

二、对超标排污单位一律按照本通知附件征收排污费。对于废水、废气排放已经达到国家或地方规定的污染物排放标准的，经试点城市人民政府批准，可以减半征收排污费。凡已经开征城市污水处理费的，废水排放达到国家或地方规定的污染物排放标准的，暂不再征收水污染物排污费。

三、试点的范围为三城市辖区内的所有排污单位，原征收体制不变。对社会公共福利性质的大、中、小学校（不含校办工厂、职业学校）及幼儿园、托儿所、敬老院，经试点城市人民政府批准，可适当降低收费标准或免征，并报试点城市所在省环保局、物价局、财政厅备案。

四、实行总量排污收费试点后，原超标排污费、污水排污费、二氧化硫排污费等收费标准不再执行。

Circular on Implementing the Trial Leving of Aggregate Pollution Fee in Hangzhou and Two Other Cities

(Promulgated by the State Environmental Protection Administration and the State Development Planning Commission and the Ministry of Finance)

The Interim Measures on Pollution Discharge Fee (Guo Fa [82] No. 21) promulgated by the State Council in 1982 and the implementation of the pollution emission charge system throughout the country have played an active role in preventing and controlling environmental pollution in China. However, the cuerrnt measures of imposing pollution fee on water and gas pollutants exceeding the single-factor concentration standards, can neither reduce effectively the aggregate volume of pollutant discharge, nor rouse the enthusiasm of the dischargers in controlling pollution, and therefore cannot meet the requirements of environmental protection under the socialist market economic conditions in China. In order to implement the Decision of the State Council on Serveral Issues Concerning Environmental Protection (Guo Fa [1996] No. 31), which put forward the principle that 'pollution charges should be higher than the cost of controlling pollution', raise the current standards for pollution charges, impel the discharging units to actively control pollution and carry forward the reform of pollution emission charge system, it has been decided that the experimental imposition of aggregate pollution fee shall be implemented in Hangzhou, Zhengzhou and Jilin, on the basis of the Environmental Technical Assistance Project of the World Bank—the Projecting of Chinese Pollution Charge System and Research of Its Implementation, and in accordance with the application of the people's governments of Hangzhou, Zhengzhou and Jilin. Following are the relevant issues:

1. The scope of experimental aggregate pollution fee includes water, atmosphere, solid waste, fixed noise sources, motor vehicle pollution and aircraft noise. The standards for collecting pollution fee are calculated in accordance with the category and quantity of the discharged pollutants expressed as the pollution equivalent of the discharging units. For the standards of charges, the conversion relation of the pollution equivalent and the method for calculating the pollution charges, please refer to the appendix. The standards for the aggregate pollution fee will be implemented step by step and will gradually reach the desired value. During the experimental period, the experimental charge standards shall be implemented in accordance with this Circular.

2. Pollution fee shall be imposed on the pollutant discharging units that exceed the discharging standards, in accordance with the Appendix of the Circular. Pollution fee may be reduced by 50 percent for units that have met the national or local standards upon approval of the people's governments of the experimental cities. In the cities where the sewage treatment charges have been collected, sewage emission charges will no longer be collected from those that have met the national or local standards for the time being.

3. The experimental imposition involves all the pollutant discharging units within the areas under the jurisdiction of the three cities, and the existing collection system will remain unchanged. With the approval of the people's governments of the experimental cities, universities, primary and middle schools (factories run by schools and professional schools not included), kindergartens, nurseries, and retirement homes can be given a properly reduced standard of charge or be exempted, after reported to the provincial environmental protection bureaus, price bureaus and financial departments of the experimental cities for the record.

4. With the beginning of the experimental imposition of aggregate pollution fee, the original pol-

五、此次试点主要进行收费标准的改革，排污费的管理和使用仍按《征收排污费暂行办法》（国发［82］21号）和《污染源治理专项基金有偿使用暂行办法》（国务院令第10号）有关规定执行。

六、试点时间为1998年7月1日至1999年6月30日，为期1年。试点结束后，应及时总结并报告国家环境保护总局、国家发展计划委员会、财政部。在全国正式实行新标准之前，试点城市继续按试点标准征收排污费。

请你们加强对三城市试点工作的指导，试点城市环保局应提出切实可行的试点方案，经市物价局会同财政局审核同意后，报市人民政府确定，并于1998年6月20日前报国家环境保护总局、国家发展计划委员会、财政部和试点城市所在省环保局、物价局、财政厅备案。

附：总量排污收费征收试点方案

总量排污收费征收试点方案

一、水污染物排放收费标准

（一）收费标准

表1. 水污染物排放收费标准CR

征收标准目标值	试点征收标准
1.4元/污染当量	0.4－0.7元/污染当量

（二）收费额计算方法

水污染物收费额的计算按下列步骤进行：

1. 污染当量的计算　污染当量的计算方法分别为：

（1）一般污染物的计算方式：　$PE_i = \frac{QCi}{D_i}$　（1）

式中：PE_i——第i种污染物的污染当量数；Q——排放口污水排放总量，立方米/月；C_i——第i种污染物的排放浓度，毫克/升；D_i——第i种污染物的当量值（见表7－1）

（2）对pH、色度、大肠菌群数和余氯量，污染当量的计算公式：　$PE_i = \frac{Wi}{Di}$（2）

式中：PE_i——第i种污染物的污染当量数；W_i——为pH、大肠菌群和余氯污水排放量，单位吨/月，色度单位为超标吨水倍/月；D_i——第i种污染物的当量值（见表7－2）

（3）禽畜养殖业、小型企业和饮食服务业等的污染当量的计算公式：$PE = \frac{W}{D}$（3）

lution fee, sewage emission fee and sulfur dioxide emission fee shall no longer be imposed.

5. The purpose is mainly to reform the standards for the charges. Management and use of the pollution fee will still be implemented in accordance with the relevant provisions of the Interim Measures on Pollntion Discharge Fee (Guo Fa [82] No. 21) and the Interim Measures for Compeusatory Use of the Special Funds for Control of Pollution Sources (No. 10 Decree of the State Council).

6. The period for the experimental imposition is one year, from July 1, 1998 to June 30, 1999, and the results shall be timely summed up and reported to the State Environmental Protection Administration, the State Development Planning Commission and the Ministry of Finance after completion. Prior to implementing the new standards for the whole country, the experimental cities will continue to collect pollution fee in accordance with the experimental imposition standards.

Please sterngthen guidance over the experimental work in the three cities, and the environmental protection bureaus in the experimental cities shall effectively put forward plans for it. Upon examination and verification by the municipal price and financial bureaus, the plans shall be submitted to the municipal governments for affirmation and be reported to the State Environmental Protection Administration, the State Development Planning Commission, the Ministry of Finance, the environmental protection bureaus, price bureaus and financial departments of the experimental cities for the record before June 20, 1998.

Attached is the Experimental Plan for Collecting Aggregate Pollution fee.

The Experimental Plan for Collecting Aggregate Pollution Fee

I. Fee Standards for Sewage Pollutants

(I) Fee Standards

Table 1 Fee Standards for Sewage Pollutants CR

Desired value of fee standards	Collecting standards for experiments
1.4 yuan/pollution equivalent	0.4 - 0.7 yuan/pollution equivalent

(II) Method for calculating the amount of fee

The amount of fee for water pollutants is calculated in accordance with the following steps:

1. Calculation of pollution equivalent

The methods for calculating the pollution equivalent are respectively:

(1) The method for calculating general pollutants:

$$PE_i = \frac{QCi}{D_i} \qquad (1)$$

Formula (1): PE_i—the number of pollution equivalent of the ith category pollutant; Q—total sewage discharge through the outfalls, cubic meter/month; C_i—discharge concentration of pollutants of the i_{th} category, mg./liter; D_i—equivalent value of pollutant of the ith category (see Table 7-1)

(2) The formula for calculating the pollution equivalent of pH, chroma, the number of coli-group and the amount of chloride residue:

$$PE_i = \frac{W_i}{Di} \qquad (2)$$

Formula (2): PE_i— the number of pollution equivalent of the ith category pollutant; Wi - the discharge amount of pH, the coli-group and chloride residue sewage in ton/month, unit of chroma is the number of times of tons of water exceeding standard per month; D_i—pollution equivalent value of pollutant of the ith category (see Table 7-2)

(3) The formula of calculating the pollution equivalent of poultry and livestock breeding, small enterprises and catering and service trades is:

式中：PE——污染当量数；W——污染排放特征值（如禽畜为头·月、小型企业和饮食服务业为吨污水、其他为人·月）；D——污染当量值（见表7－3）

2．收费额计算　计算公式为：$LC=\sum_{i}^{n}CR\cdot K_2\cdot PE_i$　　(4)

式中：LC——水污染物排污收费额（元）；CR——收费标准（元/污染当量）（见表1）；K_2——污水排放口所处功能区调整系数（见表9）；PE_i——第i种污染物的污染当量数

（三）说明

1．同一排污口中的BOD和COD，大肠菌群数和总余氯（大肠菌群数和总余氯达到国家排放标准不征收排污费）分别只征收一项，按污染当量数高的一项计算。

2．对于冷却水等排放污染物的污染当量计算，应扣除进水的本底值。

3．禽畜养殖业是否征收排污费可根据当地实际情况确定。

二、大气污染物排放收费标准

（一）收费标准

表2．大气污染物收费标准CR

征收标准目标值	试点征收标准
1.2元/污染当量	0.3－0.6元/污染当量

（二）收费额计算方法

大气污染物收费额的计算按下列步骤进行：

1．污染当量的计算

大气污染物污染当量计算公式为：　$PE_i=\frac{W_i}{D_i}$　　(5)

式中：PE_i——第i种污染物的污染当量数；W_i——第i种污染物的排放量（公斤）；D_i——第i种污染物的污染当量值（见表8）

2．收费额计算　收费额计算公式为：　$LC=\sum_{i}^{n}CR\cdot K_2\cdot PE_i$　　(6)

式中：LC——大气污染物排污收费额（元）；PE_i——第i种污染物的污染当量数；CR——大气污染物排放收费标准（元/污染当量）（见表2）；K_2——废气排放口所处功能区调整系数（见表9）

（三）说明

在确定工艺废气收费额时，在监测难度比较大的情况下，可以通过物料衡算和排放系数确定污染物排放量；对燃煤（油）炉窑只征收二氧化硫和烟尘两个因子。

$$PE = \frac{W}{D} \quad (3)$$

Formula (3): PE— number of pollution equivalent; W — the characteristic value of pollution discharge (such as, number·month for livestock, ton of sewage for small enterprises and catering and service trades, and person·month for others); D — pollution equivalent value (see Table 7-3)

2. Calculation of the amount of fee

The formula is:

$$LC = \sum_{i}^{n} CR \cdot K_2 \cdot PE_i \quad (4)$$

Formula (4): LC - fee for sewage pollutant discharge (yuan); CR - fee standard (yuan/pollution equivalent) (see Table 1); K_2— the adjusting coefficient of the sewage discharge outfalls in the functional areas (see Table 9); PE_i— the number of pollution equivalent of pollutant of the i_{th} category

(III) Explanations

1. As for BOD and COD from the same sewage outfall, only one item of the number of coli-group and total chloride residue (no pollution fee shall be imposed if the number of coli-group and total chloride residue meet the national standards of discharge) shall be levied in accordance with the higher pollution equivalent

2. The background value of inlet water shall be deducted in calculating the pollution equivalent of the discharged pollutants of chilled water.

3. Whether or not to collect pollution fee from poultry and livestock breeding shall be decided in line with the actual local conditions.

II. Fee Standards for Atmospheric Pollutants

(I) Fee standards

Table 2 Fee standards for Atmospheric Pollutants CR

Desired value of fee standards	Collection standards for experiments
1.2 yuan/ pollution equivalent	0.3 - 0.6 yuan /pollution equivalent

(II) Method for calculating the amount of fee

The amount of fee for atmospheric pollutants is calculated in accordance with the following steps:

1. Calculation of pollution equivalent

The formula for the calculation of pollution equivalent of atmospheric pollutants is:

$$PE_i = \frac{W_i}{D_i} \quad (5)$$

Formula(5): PE_i— the number of the pollution equivalent of pollutant of i_{th} category; W_i— discharge amount of pollutants of i_{th} category (kilogrammes); D_i— pollution equivalent value of pollutant of i_{th} category (see Table 8)

2. Calculation of the amount of fee

The formula is:

$$LC = \sum_{i}^{n} CR \cdot K_2 \cdot PE_i \quad (6)$$

Formula (6): LC —fee for the discharge of atmospheric pollutants (yuan); PEi — the number of pollution equivalent of pollutant of the ith category; CR - fee standard for the discharge of atmospheric pollutants (yuan/pollution equivalent) (See Table 2); K_2—the adjusting coefficient of the waste gas outfalls in the functional areas (see Table 9)

(III) Explanations

While determining the amount of fee for the industrial waste gas, the pollution discharge can be determined by the practice of material balance calculation and the discharge coefficient in case of monitoring difficulty; as for coal (oil) fired boilers and kilns, only sulfur dioxide and smoke dust will be considered.

三、固体废物收费标准

表 3. 固体废物收费标准

固体废物类型	收费标准（元/吨）	固体废物类型	收费标准（元/吨）
治炼渣	25	尾矿	15
粉煤灰	30	危险废物	1000
炉渣	25	其他渣	25
煤矸石	5		

对无专用堆放设施的或达不到环境保护要求（即无防渗漏、防扬散、防流失设施）的新增加的工业固体废物和危险废物进行收费，其收费标准见上表。

说明：危险废物是指：

（1）从医院、医疗中心和诊所的服务中产生的临床废物；（2）从药品的生产和制作中产生的废物；（3）废药物和废药品；（4）从生物杀伤剂和植物药物的生产、配制和使用中产生的废物；（5）从木材防腐化学品的制作、配制和使用中产生的废物；（6）从有机溶剂的生产、配制和使用中产生的废物；（7）从含有氰化物热处理的退火作业中产生的废物；（8）不适应原来用途的废矿物油；（9）废油/水、烃/水混合物乳化液；（10）含有或沾染多氯联苯（PCBs）和（或）多氯三联苯（PCTs）和（或）多溴联苯（PBBs）的废物质和废物品；（11）从精炼、蒸馏和任何热解处理中产生的废物焦油状残留物；（12）从油墨、染料、颜料、油漆、真漆、罩光漆的生产、配制和使用中产生的废物；（13）从树脂、胶乳、增塑剂、胶水、胶合剂的生产、配制和使用中产生的废物；（14）从研究或教学活动中产生的尚未鉴定的和（或）新的、并对人类和（或）环境的影响未明的化学废物；（15）其他立法未加管制的爆炸性废物；（16）从摄影化学品和加工材料的生产、配制和使用中产生的废物；（17）从金属和塑料表面处理产生的废物；（18）从工业废物处置作业产生的残余物

四、固定噪声源收费标准

说明：1．一个单位边界上有多处环境噪声超标，征收额应根据最高一处超标声级计征；厂界外如有多点噪声超标，且沿厂界长度超过 100 米，则加一倍收费。

表 4. 固定噪声源收费标准

超标分贝值 dB（A）	1	2	3	4	5	6	7	8
收费额（元/月）	350	440	550	700	880	1100	1400	1760
超标分贝值 dB（A）	9	10	11	12	13	14	15	16 及 16 以上
收费额（元/月）	2200	2800	3520	4400	5600	7040	8800	11200

2．一个单位若有不同地点的作业场所，收费金额逐一计征。

3．昼、夜均超标的环境噪声，收费金额按本标准昼、夜分别计算，叠加征收。

4．声源一月内超标不足 15 天的（昼或夜），超标排污费减半征收。

5．夜间频繁突发和夜间偶然突发厂界超标噪声排污费按等效声级和峰值噪声两和指标中超标分贝值高的一项计算排污费。

6．多个建筑施工阶段同时进行时，按噪声限值最高的施工阶段计算征收超标噪

III. Fee Standards for Solid Waste

Table 3 Fee standards for Solid Waste

Kind of solid waste	Fee standard (yuan/ton)	Kind of solid waste	Fee standard (yuan/ton)
smelting residue	25	tailings	15
flyash	30	Dangerous waste	1000
slag	25	other dregs	25
gangue	5		

As for the newly added industrial solid waste and dangerous waste that have no special piling equipment or fail to reach the environmental requirement (that is, equipment without the prevention of leakage, raising of dust and waste), please see the above Table for the fee standard.

Explanation: Dangerous waste refers to:

(1) Clinic waste generated from hospitals, medical centers and clinic service centers; (2) waste from production and manufacture of drugs; (3) waste medicines and drugs; (4) waste generated from production, preparation and use of biocides and plant drugs; (5) waste generated from production, preparation and use of timber antiseptic chemicals; (6) waste generated from production, preparation and use of organic solutions; (7) waste from annealing and heat treatment of cyanides; (8) waste mineral oil unsuitable for the former use; (9) waste oil/water, hydrocarbon/ water emulsion compounds; (10) waste substances and materials containing PCBs or PCTs or PBBs; (11) waste tar residues generated from refining, distilling or any heat treatment; (12) waste from production, preparation and use of printing ink, dyestuff, pigments, paint, lacquer and coating varnish; (13) waste generated from production, preparation and use of resin, latex, plastifire, glue and cemedin; (14) unknown chemical waste generated from researches or teaching activities which have not been appraised and new chemical waste that is harmful to mankind or the environment; (15) other explosive waste that has not been specified by the law; (16) waste generated from production, preparation and use of photo chemicals and processing materials; (17) waste from surface treatment of minreals and plastics; (18) residues generated from the treatment of industrial waste.

IV. Fee Standards for the Fixed Noise Source

Explanations:

1. If there are more than one places exceeding noise standard in the border area of a unit, the amount of fee shall be calculated in accordance with the place of highest sound level; if there are more than one sources exceeding noise standard outside the factory, ranging over 100 metres along the factory border, corresponding fee shall be doubled.

Table 4 Fee standard for Fixed Noise Source

dB(A)	1	2	3	4	5	6	7	8
Amount of fee (yuan/month)	350	440	550	700	880	1100	1400	1760
dB(A)	9	10	11	12	13	14	15	16 and over
Amount of fee (yuan/month)	2200	2800	3520	4400	5600	7040	8800	11200

2. If a unit has serveral operational sites in different locations, the amount of fee shall be calculated one by one.

3. For day-and-night environmental noises exceeding the standard, the amount of fee shall be calculated separately and be added togather.

4. If the noise from a sound source is lower than the standard for more than 15 days (day and night) in a month, the pollution fee shall be reduced by 50 percent.

5. For noises frequently and occasionally occurring at night at the factory site, the pollution fee shall be calculated in accordance with the higher item in excess of the decibel value in the standard from the sum of the equivalent sound level and the peak value noise.

6. For projects in simultaneous construction, the pollution fee on noise exceeding the standard shall be collected in line with the highest noise limitation value during the construction period.

声排污费。

7. 本标准以每分贝为计征单位，不足一分贝的按四舍五入原则计算。

五、机动车污染收费标准

说明：1. 车型分类依据国标 GB3730.1－88，表中未包括的车辆，按中型车辆征收；

2. 机动车排污收费是对机动车产生的废气和噪声征收的排污费；

3. 对于已经安装机动车尾气净化装置，机动车尾气排放并达到国家排放标准的车辆，不再征收排污费；

4. 摩托车（包括助动车）的排污收费可根据当地实际情况确定。

	车　型	年收费标准
轻型车辆	货车　厂定最大总质量≤6 吨 越野汽车　厂定最大总质量≤5 吨 自卸汽车　厂定最大总质量≤6 吨 客车　车辆长≤7 米；轿车	300 （元/年辆）
中型车辆	货车　厂定最大总质量＞6 吨≤14 吨 越野汽车　厂定最大总质量＞5 吨≤13 吨 自卸汽车　厂定最大总质量＞6 吨≤14 吨 客车　车辆长＞7 米≤10 米	500 （元/年辆）
重型车辆	货车　厂定最大总质量＞14 吨 越野汽车　厂定最大总质量＞13 吨 自卸汽车　厂定最大总质量＞14 吨 客车　车辆长＞10 米	600 （元/年辆）
摩托车（助动车）	排气量≤50 毫升	50
	排气量＞50 毫升	100

六、飞机噪声污染收费标准

表 6. 飞机噪声污染收费标准

机　型	中型喷气机 B737，MD－82，BAE146	远程喷气机 B757，B767，A300，310	宽体喷气机 B747	小型机 运七
收费标准（元/架次）	80	70	80	60

说明：1. 未列出的机型可参照表中相近机型确定；

2. 飞机起降一次为一架次；

3. 飞机噪声排污费由机场代收，统一缴纳当地排污费帐户。

7. In the present standard, the unit for fee collection is decibel. Figuers less than one decibel shall be rounded.

V. Fee Standard for Pollution from Motor Vehicles

Explanations:

1 Vehicle modals are classified in line with the international GB3730.1—88. For those not included in the table, the fee shall be collected in line with the medium-sized vehicles;

2 Pollution fee on motor vehicles is the fee imposed on the waste gas and noise generated from motor vehicles;

3. No pollution fee shall be imposed on motor vehicles equipped with tail gas devices and with tail gas discharge meeting the national standard;

4. Pollution fee on motorcycles (including booster vehicles) may be determined in line with the local conditions.

	Modal	Annual fee standard
Light motor vehicles	freight car (maximum gross weight decided by the factory ≤ 6 tons) cross country car (maximum gross weight decided by the factory ≤ 5 tons) Dumper (maximum gross weight decided by the factory ≤ 6 tons) Passenger car (length of the car≤ metres; sedan)	300 (yuan/ year per car)
Medium-sized vehicles	freight car (maximum gross weight decided by the factory > 6 tons ≤ 14 tons) cross country car (maximum gross weight decided by the factory > 5 tons ≤ 13 tons) dumper (maximum gross weight decided by the factory > 6 tons≤ 14 tons) passenger car (length of the car > 7 metres ≤10 metres)	500 (yuan/ year per car)
Heavy-duty vehicles	freight car (maximum gross weight decided by the factory > 14 tons) cross country car (maximum gross weight decided by the factory >13 tons) dumper (maximum gross weight decided by the factory > 14 tons) passenger car (length of the car > 10 meters)	600 (yuan/ year per car)
Motor-cycles (boosters)	air displacement < 50 mg.	50
	air displacement > 50 mg.	100

VI. Fee Standards for Aircraft Noise Pollution

Table 6 Fee standards for Aircraft Noise Pollution

Modal	Medium-sized jet B737, MD-82, BAE146	long-range jet B757,B767, A300,310	Widened jet B747	Small-sized Yun-7
Fee standard (yuan/ sortie)	80	70	80	60

Explanations:

1. Models not listed can be determined in line with similar modals in the Table;

2. Each take-off and landing of the aircraft mean one sortie;

3. Pollution fee on aircraft noise will be collected by the airport and then submitted to the local account of pollution fee.

表 7－1. 水污染物征收标准当量换算关系：

污染物分类	污染物名称	污染当量值（D）克
第一类污染物	1. 总汞	0.5
	2. 总镉	5
	3. 总铬	40
	4. 六价铬	20
	5. 总砷	20
	6. 总铅	25
	7. 总镍	25
	8. 苯并（a）芘	0.0003
	9. 总铍	10
	10. 总银	20
第二类污染物	11. 悬溪物（SS）	4000
	12. 五日（BOD5）	500
	13. 化学需氧量（COD）	1000
	14. 石油类	100
	15. 动物油类	160
	16. 挥发酚	80
	17. 氰化物	50
	18. 硫化物	125
	19. 氨氮	800
	20. 氟化物	500
	21. 甲醛	125
	22. 苯胺类	200
	23. 硝基苯类	200
	24. 阴离子表面活性剂（LAS）	200
	25. 总铜	100
	26. 总锌	200
	27. 总锰	200
	28. 彩色	200
	29. 总磷	250
	30. 元素磷	50
	31. 有机磷农药（以 P 计）	50
	32. 乐果	50
	33. 甲基对硫磷	50
	34. 马拉硫磷	50
	35. 对硫磷	50
	36. 五氯酚及五氯酚钠（以五氯酚计）	250
	37. 三氯甲烷	40
	38. 可吸附有机卤化物（AOX）（以 CI 计）	250
	39. 四氯化碳	40
	40. 三氯乙烯	40

Table 7-1 Pollution Equivalent Conversion Relations for Fee Standards on Water Pollutants

Classification of pollutants	Name of pollutant	Pollution equivalent value D(gram)
First category of pollutants	1. total mercury	0.5
	2. total cadimium	5
	3. total chromium	40
	4. sexavalence chromium	20
	5. total arsenic	20
	6. total lead	25
	7. total nickel	25
	8. benzopyerne (a)	0.0003
	9. total beryllium	10
	10. total silver	20
Second category of pollutants	11. SS	4000
	12. BOD5	500
	13. COD	1000
	14. petroleum	100
	15. animal oil	160
	16. volatile phenol	80
	17. cyanide	50
	18. sulfide	125
	19. ammonia nitrogen	800
	20. fluoride	500
	21. formaldehyde	125
	22. aniline	200
	23. nitrobenzene	200
	24. LAS	200
	25. total copper	100
	26. total zinc	200
	27. total manganese	200
	28. colour	200
	29. total phosphorus	250
	30. element phosphorus	50
	31. organic phosphorus pesticide (counted in P)	50
	32. Rogor	50
	33. parathion-methyl	50
	34. carbofos	50
	35. parathion	50
	36. Sinotuho and sodium pentachloro-phenate (in terms of pentachloro-phenol)	250
	37. chloroform	40
	38. AOX (in terms of C1)	250
	39. carbon tetrachloride	40
	40. narkosid	40

	41. 四氯乙烯	40
	42. 苯	20
	43. 甲苯	20
	44. 乙苯	20
	45. 邻-二甲苯	20
	46. 对-二甲苯	20
	47. 间-二甲苯	20
	48. 氯苯	20
	49. 邻二氯苯	20
	50. 对二氯苯	20
	51. 对硝基氯苯	20
	52. 2.4-二硝基氯苯	20
	53. 苯酚	20
	54. 间-甲酚	20
	55. 2.4-二氯酚	20
	56. 2.4.6-三氯酚	20
	57. 邻苯二甲酸二丁酯	20
	58. 邻苯二甲酸二辛脂	20
	59. 丙烯腈	125
	60. 总硒	20

表 7-2. 水污染物征收标准当量换算关系

非污染物形式表述污染当量	1.PH 值：	1.0-1，13-14 2.1-2，12-13 3.2-3，11-12 4.3-4，10-11 5.4-5，9-10 6.5-6，	0.06 吨污水 0.125 吨污水 0.25 吨污水 0.5 吨污水 1 吨污水 5 吨污水
	2. 色度		5 吨水·倍
	3. 大肠菌群数（超标）		3.3 吨污水
	4. 余氯量（用氯消毒的医院废水		3.3 吨污水

说明：$PH_5 - PH_6$ 指大于等于 5、小于 6；$PH_9 - PH_{10}$ 指大于 9、等于小于 10，其余类推

表 7-3. 禽畜养殖业、小型企业和饮食服务业等污染当量换算表

禽畜养殖业	1. 牛	0.1 头·月
	2. 猪	1 头·月
	3. 鸡、鸭等家禽	18 羽·月
小型企业	4. 主要污染行业	0.42 吨污水
	5. 一般污染行业	1.8 吨污水

	41. tetrachloroethylene	40
	42. benzene	20
	43. methylbenzene	20
	44. phenylethane	20
	45. ortho-xylene	20
	46. para-xylene	20
	47. meta-xylene	20
	48. chlorobenzol	20
	49. orthodichlorobenzene	20
	50. paracide	20
	51. para-nitrochloro-benzene	20
	52. 2.4 NNCB	20
	53. phenol	20
	54. metacersol	20
	55. 2.4 sodium salt	20
	56. 2.4.6 triclofenate	20
	57. phthalandione dibutyl fat	20
	58. pathalandione dibutyl dioctyle fat	20
	59. vinyl cyanide	125
	60. total selenium	20

Table 7-2 Pollution Equivalent Conversion Relations Fee Standards on Water Pollutants

Pollution equivalent expressing in the form of non- pollutants	1. PH value:	1.0 - 1,13 - 14 2.1 - 2,12 - 13 3. 2 - 3,11 - 12 4. 3 - 4,10 - 11 5. 4 - 5,9 - 10 6. 5 - 6	0.06 ton of sewage 0.125 ton of sewage 0.25 ton of sewage 0.5 ton of sewage 1 ton of sewage 5 tons of sewage
	2. chroma		five tons of water· times
	3. coli-group (in excess of the standard)		3.3 tons of sewage
	4. volumn of chloride residue (hospital waste water with chloride for sterilization)		3.3 tons of sewage

Explanation: PH_5-PH_6 means equal to or higher than 5 and lower than 6; PH_9-PH_{10} means higher than 9 and equal to or lower than 10, ect.

Table 7-3 Pollution Equivalent Conversion Table of Poultry and Livestock, Small Enterprises, and Catering and Service Trades

Poultry and livestock industry	1. cattle	0.1 head. month
	2. pig	one head. month
	3. chicken, duck, etc	18 feathers. month
Small enterprises	4. main pollution trades	0.42 tons of sewage
	5. ordinary pollution trades	1.8 tons of sewage

6. 饮食服务业		0.5 吨污水
7. 医院	消毒	0.14 床·月
		2.8 吨污水
	不消毒	0.07 床·月
		1.4 吨污水
8. 其他		0.7 人·月

说明：1. 难以监测或无监测数据的用此表；2. 离畜养殖业指 10 头奶牛、100 头猪、1000 羽鸡鸭等家禽以上不进行处理的养殖户；3. 小型企业指固定资产原值小于 800 万元的企业。小型企业月征收排污费小于 200 元/月户，按 200 元/月户征收，其中个体工商户月征收额小于 100 元/月户，按 100 元/月户征收，主要污染行业是指造纸、建材、化工、冶炼、印染、农药、电镀、制革、酿造，其他为一般污染行业；4. 其他指流通部门（交通运输、邮电通讯业、商业、物资供销和仓储业）；为生产和生活服务的部门（金融、保险业、综合技术和生产服务业、居民服务业、公用事业和房地产业）；为提高科学文化水平和居民素质服务的部门（卫生、体育、社会福利事业、教育、文艺、广播电视业和科学研究事业）；为社会公共需要服务的部门（国家机关、党政团体、社会团体），其污染当量按每月从业职工人数计算；5. 饮食服务业指月排污水量小于 400 吨，不进行处理的饮食和娱乐服务行业；6. 色度一栏的吨·水倍是指超标吨倍数，计算方法为：排污口污水排放总量×超标倍数。

表 8. 大气污染物污染当量换算表

序　　号	污染物名称	污染当量值 D（公斤）
1	二氧化硫	0.95
2	氮氧化物	0.95
3	一氧化碳	16.7
4	氯气	0.34
5	氯化氢	10.75
6	氟化物	0.87
7	氰化氢	0.005
8	硫酸雾	0.6
9	铬酸雾	0.0007

6. Catering and service trades		0.5 ton of sewage
7. hospital	sterilization	0.14 bed month
		2.8 tons of ewage
	non-sterilization	0.07 bed. month
		1.4 tons of sewage
8. Others		0.7 person. month

Explanations:

1. This Table is used in case of monitoring difficulty or having no monitoring data;

2. Poultry and livestock breeding refers to breeding households that keep more than 10 dairy cattle, 100 pigs or 1,000 chickens or ducks but have no pollution treatment equipment;

3. Small enterprises refer to those with less than 8 million yuan of original value of fixed assets. For small enterprises of calculated pollution fee less than 200 yuan/month/household, the actual pollution fee shall be 200 yuan/month/household; among them, for individual operators of calculated pollution fee less than 100 yuan/month/household, the actual pollution fee shall be 100 yuan/month/household. The main pollution industries refer to papermaking, building material, chemical, metallurgical and smelting, printing and dying, pesticide, electroplating, leather and frementating industries. Others are ordinary pollution industries;

4. Others refer to circulation departments (communication and transportation, post and telecommunication, commerce, material supply and market, and storage), departments serving for production and daily life of the people (finance, insurance, comprehensive technology, production service trade, services for the residents, public utilities and real estate); departments serving for enhancing scientific and cultural level and quality of the residents (public health, physical culture, social welfare, education, art, broadcasting and TV, scientific research sectors); and departments serving for the needs of the public (government organs, Party and government organizations and social groups); their pollution equivalent shall be calculated monthly in terms of the number of workers employed;

5. Catering and service trade refers to the catering and recreational trade of monthly sewage discharge less than 400 tons without pollution treatment;

6. The ton·water times in the chroma column refer to times of tons of water in excess of the standard. The calculation method is: total sewage discharge at the sewage outfalls × times exceeding the standard.

Table 8 Pollution Equivalent Conversion Table of Atmospheric Pollutants

Serial No.	Names of pollutant	equivalent value D (liter)
1	sulfur dioxide	0.95
2	nitrogen oxides	0.95
3	Carbon monoxide	16.7
4	chlorine	0.34
5	hydrochloride	10.75
6	fluoride	0.87
7	hydrogen cyanide	0.005
8	Sulfuric acid mist	0.6
9	chromate acid mist	0.0007

序　　号	污染物名称	污染当量值D（公斤）
10	汞及其化合物	0.0001
11	一般性粉尘	4
12	石棉尘	0.53
13	玻璃棉尘	2.13
14	碳黑尘	0.59
15	铅及其化合物	0.02
16	镉及其化合物	0.03
17	铍及其化合物	0.0004
18	镍及其化合物	0.13
19	锡及其化合物	0.27
20	烟尘	2.18
21	苯	0.05
22	甲苯	0.18
23	二甲苯	0.27
24	苯并（a）芘	0.000002
25	甲醛	0.09
26	乙醛	0.45
27	丙烯醛	0.06
28	甲醇	0.67
29	酚类	0.35
30	沥青烟	0.19
31	苯胺类	0.21
32	氯苯类	0.72
33	硝基苯	0.17
34	丙烯氢	0.22
35	氯乙烯	0.55
36	光气	0.04
37	硫化氢	0.29
38	氨	9.09
39	三甲胺	0.32
40	甲硫醇	0.04
41	甲硫醚	0.28
42	二甲二硫	0.28

Serial No.	Names of pollutant	equivalent value D (liter)
10	mercury and its compounds	0.0001
11	ordinary dust	4
12	asbestos dust	0.53
13	glass wool dust	2.13
14	carbon black dust	0.59
15	lead and its compounds	0.02
16	cadmium and its compounds	0.03
17	beryllium and it compounds	0.0004
18	nickel and its compounds	0.13
19	tin and its compounds	0.27
20	smoke dust	2.18
21	benzol	0.05
22	toluene	0.18
23	xylol	0.27
24	benzopyerne (a)	0.000002
25	formaldehyde	0.09
26	ethanal	0.45
27	acrolein	0.06
28	carbinol	0.67
29	phenol	0.35
30	asphalt ash	0.19
31	aniline	0.21
32	chlorobenzene	0.72
33	nitrobenzene	0.17
34	acroleic hydrogen	0.22
35	chloroethene	0.55
36	carbonyl chloride	0.04
37	hydrothion	0.29
38	ammonia	9.09
39	trimethylamine	0.32
40	methyl hydrosulfide	0.04
41	methyl ether	0.28
42	dimethyl phenyl	0.28

序　　号	污染物名称	污染当量值D（公斤）
43	苯乙烯	25
44	二硫化碳	20

表9. 排放口所处功能区调整系数 K_2

	五类区	四类区	三类区	二类区	一类区
废水收费标准调整系数	1	1.2	1.4	1.6	1.8
废水收费标准调整系数			1	1.2	1.4

Serial No.	Names of pollutant	equivalent value D (liter)
43	styerne	25
44	carbon sulfide	20

Table 9 Adjusting Coefficient K_2 at the Functional Areas of Sewage Outfalls

5th area	4th area	3rd area	2nd area	1st area	
Fee standard Adjusting coefficient for sewage	1	1.2	1.4	1.6	1.8
Fee standard Adjusting coefficient	for sewage		1	1.2	1.4

十七、环境资格管理

XVII Qualification for Environmental Engineering and Facilities

环境工程设计证书管理办法

国家环境保护局令

第15号

《环境工程设计证书管理办法》已于1994年12月22日经国家环境保护局局务会议讨论通过，现予发布，1995年8月1日起施行。

国家环境保护局局长　解振华

1995年2月6日

第一章　总　　则

第一条　为了加强环境污染防治工程（以下简称“环境工程”）设计的管理，提高环境保护投资效益，改善环境质量，制定本办法。

第二条　本办法所称的环境工程设计包括：

（一）废水、废气、固体废物、噪声、电磁、放射性等环境污染防治工程的工艺设计、非标准设备设计和相应的建构筑物等配套工程设计；

（二）废物资源化工程设计；

（三）环境生态工程设计。

第三条　在中华人民共和国境内从事环境工程设计业务的单位必须持有《环境工程设计证书》（以下简称《设计证书》），凭证从事环境工程设计。

第四条　《设计证书》分为甲级、乙级和丙级。

持有甲级《设计证书》的单位，可按《设计证书》规定的专业范围，在全国范围内承接环境工程设计项目。

持有乙级《设计证书》的单位，可按《设计证书》规定的专业范围和工程限额，在全国范围内承接相应的环境工程设计项目。

持有丙级《设计证书》的单位，可按《设计证书》规定的专业范围和工程限额，在所在省、自治区、直辖市辖区内承接相应的环境工程设计项目。

第五条　《设计证书》的专业范围，按废水、废气、固体废物、噪声、电磁、放射性等环境污染防治，废物资源化和生态保护进行行业分类。

第六条　《设计证书》的分级标准和工程限额标准，适用本办法附件《环境工程设计证书分级和行业分类规则》的规定。

Measures on the Management of Certificates for Environmental Engineering Design

Decree on the National Environmental Protection Agency
No. 15

Measures for the Management of Certificates for Environmental Engineering Design was adopted at the executive meeting of the National Environmental Protection Agency on December 22, 1994 and is hereby promulgated and effective of as August 1, 1995.

Minister Xie Zhenhua
National Environmental Protection Agency
February 6, 1995

Chapter I General Provisions

Article 1 These Measures are formulated for the purpose of strengthening the management of the engineering designs for the prevention and control of environmental pollution (hereinafter referred to as the "environmental engineering"), raising the benefits of investment for environmental protection and improving the environmental quality.

Article 2 The environmental engineering designs mentioned in the Measures include:

(1) Technological designs for the engineering projects of the prevention and control of environmental pollution, such as waste water, waste gas, solid waste, noise, electromagnetic and radioactive engineering projects, designs for non-standard equipment and designs for corresponding support buildings and structures;

(2) Engineering designs of waste material resources; and

(3) Environmental and ecological engineering designs.

Article 3 Units that are engaged in environmental engineering design within the territory of the People's Republic of China must hold an Environmental Engineering Design Certificate (hereinafter referred to as the "Design Certificate") and are not allowed to engage in any environmental engineering designs without the Design Certificate.

Article 4 The Design Certificates consist of Class A, Class B and Class C.

Where a unit that holds a Class A Design Certificate, it may undertake the environmental engineering design projects throughout the country in accordance with the business scope as stipulated in the Design Certificate.

Where a unit that holds a Class B Design Certificate, it may undertake corresponding environmental engineering design projects throughout the country in accordance with the professional scope and the engineering limitation as specified in the Design Certificate.

Where a unit that holds a Class C Design Certificate, it may undertake corresponding environmental engineering design projects in its province, autonomous region and municipality directly under the Central Government in accordance with the professional scope and engineering limitation as defined in the Design Certificate.

Article 5 The professional scope of the Design Certificate is classified in line with the prevention and control of environmental pollution of waste water, waste gas, solid waste, noise, electromagnetism and radioactivity, resources of the waste materials and ecological protection.

Article 6 The classification standard and the limitation standard for the Design Certificate are applicable to the provisions of "Gradation of the Design Certificates for Environmental Engineering and Rules for Trade Classification", the appendix of the Measures.

第七条 《设计证书》由国家环境保护局和各省、自治区、直辖市人民政府环境保护行政主管部门，按各自职责审查核发，并实施监督和管理。

第二章 申领《设计证书》的条件和程序

第八条 申领《设计证书》的单位，必须具备下列条件：

（一）有符合国家规定，依照法定程序批准设立该单位的文件，具有独立的法人资格；

（二）有稳定的组织机构和固定的办公、设计及试验场所；

（三）符合所申请的《设计证书》级别和业务范围要求的条件。

第九条 申领甲、乙级《设计证书》适用如下程序：

（一）申请单位向国家环境保护局提出书面申请，领取《环境工程设计证书申请表》一式三份，并按要求填写；

（二）申请单位为国务院各部门直属单位的，应将填写的《环境工程设计证书申请表》报其所属行业主管部门签署意见，然后报国家环境保护局审核；其他申请单位应将填写的《环境工程设计证书申请表》报所在省、自治区、直辖市人民政府行业主管部门和环境保护行政主管部门签署意见，然后报国家环境保护局审核；

（三）国家环境保护局经过审查，对符合条件的，核发甲级或者乙级《设计证书》；对不符合条件的，驳回申请，并告之理由。

第十条 申请丙级《设计证书》适用如下程序：

（一）申请单位向所在省、自治区、直辖市人民政府环境保护行政主管部门提出书面申请，领取《环境工程设计证书申请表》一式三份，并按要求填写；

（二）申请单位将填写的《环境工程设计证书申请表》报所在地（市）级人民政府行业主管部门和环境保护行政主管部门签署意见，然后报省、自治区、直辖市人民政府环境保护行政主管部门审核；

（三）省、自治区、直辖市人民政府环境保护行政主管部门经过审查，对符合条件的核发丙级《设计证书》，并报国家环境保护局备案；对不符合条件的，驳回申请，并告之理由。

Article 7 The Design Certificates shall be examined, issued, supervised and managed by the National Environmental Protection Agency and the competent departments of environmental protection administrations in various provinces, autonomous regions and municipalities directly under the Central Government in line with their own respective duties.

Chapter II Conditions and Procedures for Applying for and Getting the Design Certificate

Article 8 Any unit that applies for and gets a Design Certificate must satisfy the following requirements:

(1) Documents for the establishment of the unit shall comply with the provisions of the State and shall be approved in accordance with legal procedures. The unit shall have the independent qualification of a legal person;

(2) It shall have a stable organization and a fixed place for the office, design and experiment; and

(3) It shall meet the requirements for the class and business scope of the Design Certificate as applied for.

Article 9 The following procedures are applicable to those who apply for Class A and Class B Design Certificates:

(1) The application units shall file a written application to the National Environmental Protection Agency, get an Application Form of the Design Certificate for Environmental Engineering with triplicate copies and fill in it as required;

(2) If the application unit is a unit directly under the department of the State Council, it shall fill in the Application Form of the Design Certificate for Environmental Engineering, submit it to the competent department for its comments and then submit it to the National Environmental Protection Agency for its examination and verification; other units shall fill in the Application Form of the Design Certificate for Environmental Engineering, submit it to the competent departments of environmental protection administrations of the people's governments in the province, autonomous region and municipality directly under the Central Government for its comments and then submit it to the National Environmental Protection Agency for its examination and verification;

(3) After the examination and verification by the National Environmental Protection Agency, those who meet the requirements shall be granted the Class A or Class B Design Certificate. If those who failed to meet the requirements, their applications shall be rejected, but reasons of the rejection shall be given.

Article 10 The following procedures shall be applicable to those who apply for the Class C Design Certificate:

(1) The application unit shall file a written application to the competent department of the environmental protection administration of the people's government in the province, autonomous region and municipality directly under the Central Government, get an Application Form of the Design Certificate for Environmental Engineering with triplicate copies and fill in it as required;

(2) The application unit shall submit the Application Form of the Design Certificate for Environmental Engineering, which has been filled in to the relevant authorities and the competent department of the environmental protection administration of the people's government at the municipal level for their comments and then submit it to the competent department of the environmental protection administration of the people's government in the province, autonomous region and municipality directly under the Central Government for its examination and verification;

(3) After the examination by the competent department of the environmental protection administration of the people's government in the province, autonomous region and municipality, those who meet the requirements shall be granted the Class C Design Certificate and submitted to the National Environmental Protection Agency for the record. If those who failed to meet the requirements, their applications shall be rejected, but reasons of rejection shall be given.

第十一条 本办法施行前已经取得行业工程设计资格证书的单位，在承接本行业的环境工程设计项目时，视为具有本行业环境工程《设计证书》的资格，可不再申领环境工程《设计证书》；但超出原设计资格证书限定的行业范围或级别承接含有环境工程设计内容的工程设计项目的，必须按照本办法第九条和第十条的规定，向环境保护行政主管部门申请环境工程《设计证书》。

第三章 管理和监督

第十二条 环境工程设计单位必须在已取得的环境工程《设计证书》规定的级别、专业范围及工程限额之内承接环境工程设计任务。

未取得环境工程《设计证书》的单位不得承接环境工程设计任务。环境保护行政主管部门在建设项目环境保护设施竣工验收时，对未取得环境工程《设计证书》的单位所设计的环境工程项目的验收申请报告，不予批准。

禁止持有环境工程《设计证书》的单位超出证书规定的级别、专业范围及工程限额承接环境工程设计任务。

第十三条 设计单位在承接环境工程设计任务时，必须将已取得的环境工程《设计证书》交由项目建设单位查验，并将《设计证书》的复印件，依该工程投资限额报相应的环境保护行政主管部门备案。

第十四条 设计单位完成任务后，在提供设计图纸、竣工图纸等主要技术文件时，必须附有《设计证书》复印件，报环境保护行政主管部门一并审核。

第十五条 持有《设计证书》的单位可以联合承接环境工程设计项目。各联合单位所持的《设计证书》级别不同时，以承担主要设计任务的单位所持的《设计证书》级别为准，并由联合单位中所持《设计证书》级别最高的单位对设计项目负责。

第十六条 持不同级别《设计证书》的单位，收取不同标准的设计费用。

设计收费标准另行规定。

第十七条 《设计证书》的持证单位，在机构、人员、资产、技术等资质条件发生较大变化时，应及时向发证机关申报并办理相应变更手续。

第十八条 国家环境保护局对《设计证书》的颁发和使用情况，每三年组织一次全面检查，并可进行不定期的抽查。检查和抽查的主要内容为：

（一）持证单位资质条件的变化情况；

（二）履行合同的情况；

（三）承担项目的情况；

（四）遵守本办法和有关法规的情况。

检查和抽查工作由核发《设计证书》的环境保护行政主管部门负责。

Article 11 Prior to the implementation of the Measures, if a unit that has obtained a design certificate for projects of it trade, it shall be regarded as a unit that has the qualification of possessing the Design Certificate for environmental engineering of it trade when undertaking a design project for environmental engineering of its trade and it needs not to apply for any Design Certificate for environmental engineering any more; however, if the unit shall undertake the design work for an environmental engineering project which goes beyond the scope of its trade or the graded class as defined in the Design Certificate that is held by it. In this case, the unit must file an application to the competent department of the environmental protection administration for the Design Certificate for environmental engineering in accordance with the provisions specified in Articles 9 and 10 of the Measures.

Chapter III Management and Supervision

Article 12 Any units for environmental engineering design shall only undertake the design tasks for environmental engineering within the class, business scope and engineering limitation as defined in the Design Certificate for environmental engineering that they have got.

No design work shall be undertaken by those units that have not got the Design Certificate for environmental engineering. The competent department of environmental protection shall not approve any acceptance reports on the environmental engineering projects which are designed by the units that have not got the Design Certificate for environmental engineering in the completion acceptance of the projects.

Any unit that holds the Design Certificate for environmental engineering is not allowed to undertake any design works for environmental engineering projects which go beyond the class, business scope and the engineering limitation as defined in the certificate.

Article 13 While undertaking the design work for environmental engineering projects, the design units must submit the Design Certificate for environmental engineering that are in their hands to the owner of the project for its examination and submit duplicate of the Design Certificate to the corresponding competent department of the environmental protection administration for the record in line with the size of investment of the project.

Article 14 After the completion of the design work, the design drawings, as-built drawings to be provided as major technical documents by the design unit shall be submitted together with the duplicate of the Design Certificate to the competent department of the environmental protection administration for examination and verification.

Article 15 Every unit that holds the Design Certificate may jointly undertake the design work for environmental engineering projects. If the class of the Design Certificate of each joint unit differs, the class of the Design Certificate of the unit that undertakes the main design work shall prevail, and the unit that holds the highest class of the Design Certificate shall be responsible for the design work for the project.

Article 16 Units that hold different classes of the Design Certificate shall collect different design fee.

The standard for the design fee shall be stipulated separately.

Article 17 If there is a bigger change in the organization, personnel, assets and technology of a unit that hold the Design Certificate, it shall report to the institution that issues Design Certificate on time and go through the corresponding formalities for the alteration.

Article 18 The National Environmental Protection Agency shall make an overall inspection for the issuance and use of the Design Certificate once per three years and may irregularly conduct a selective examination. The main contents of the inspection and selective examination are as follows:

(1) Changes of the qualification factors of the unit that holds the Design Certificate;

(2) Performance of contracts;

(3) Projects being undertook;

(4) Observance of the Measures and relevant rules and regulations.

第四章　处　　罚

第十九条　由于持证单位的设计责任造成重大质量事故、严重环境污染和经济损失的，由发证机关收回《设计证书》或者宣布作废；依照有关法律、法规的规定给予处罚。

第二十条　发证机关主办核发证书的工作人员滥用职权、玩忽职守、徇私舞弊的，由其所在单位或上级主管机关给予行政处分，情节严重的依法追究刑事责任。

第二十一条　持证单位有以下行为之一的，由环境保护行政主管部门视情节轻重，给予通报批评或者责令中止使用《设计证书》；情节严重的，由发证机关降低《设计证书》级别，或者收回《设计证书》，或者宣布作废：

（一）弄虚作假骗取《设计证书》的；

（二）转借或者变相转借《设计证书》经查证属实的；

（三）超出《设计证书》规定的级别、专业范围及工程限额承接环境工程设计任务的；

（四）所完成的环境工程设计质量低劣，达不到国家有关规定和标准的；

（五）资质条件发生较大变化已不符合所持《设计证书》规定的级别和专业范围，未按要求及时申报的；

（六）拒绝接受检查的。

第五章　附　　则

第二十二条　军队系统的设计单位承接地方环境工程设计项目的，执行本办法。

第二十三条　境外设计单位参与承接国内环境工程设计业务，其设计资格由国家环境保护局确认。

第二十四条　《设计证书》和《环境工程设计证书申请表》由国家环境保护局统一印制。

第二十五条　本办法自 1995 年 8 月 1 日起实施。

附件：

环境工程设计证书分级及行业分类规则

一、环境工程设计证书按设计对象分综合证书和专项证书。

（一）专项证书按废水、废气、固体废物、噪声、电磁、放射性、生态工程等专业划分。

（二）综合证书包含以上各个专业。

二、环境工程设计中压力容器的设计资格，按劳动部有关规定办理。

三、本规则不包括放射性废物的处理设计。

The competent department of the environmental protection administration that verifies and issues the Design Certificate shall be responsible for the inspection and selective examination.

Chapter Ⅳ Provisions on Penalties

Article 19 If any major quality problems, serious environmental pollution and economic losses of the project caused by the design deficiency of the unit that holds the Design Certificate, the certificate issuing institution shall withdraw the Design Certificate and impose a penalty in accordance with the provisions of relevant laws and regulations.

Article 20 If any staff members of the certificate issuing institution who in charge of the verification and issuing of the certificate, abuse their power ignore their duty, practice favoritism for personal interests, the unit where they work or the competent department of the higher level shall impose an administrative sanction on them. If the case is serious, they shall be investigated for criminal responsibility.

Article 21 If the unit that holds the Design Certificate is found to be in any of the following circumstances, the competent department of the environmental protection administration shall circulate a notice of criticism or order it to stop using the Design Certificate in line with the seriousness of the case; if the case is serious, the certificate issuing institution shall degrade the class of the Design Certificate or withdraw the Design Certificate:

(1) Those who resort to deceit and gain the Design Certificate by cheating;

(2) It is verified that there are acts of transferring the Design Certificate or transferring the Design Certificate in disguised form;

(3) Those who undertake the design work for environmental engineering projects that go beyond the class, business scope and the engineering limitation as specified in the Design Certificate;

(4) The quality of the completed design for environmental engineering projects is poor and fails to be up to the relevant provisions and standards of the State;

(5) Its qualification has been greatly changed and failed to be in accord with the class and professional scope as defined in the Design Certificate, and failed to submit the report as required in time;

(6)Refusing to be inspected.

Chapter Ⅴ Supplementary Provisions

Article 22 If any design units of the army shall undertake the local environmental engineering design projects, they shall implement the Measures.

Article 23 If an overseas design unit participate in the undertaking of any design work for domestic environmental engineering, design qualifications shall be confirmed by the National Environmental Protection Agency.

Article 24 The Design Certificate shall be printed together with the Application Form of the Design Certificate for Environmental Engineering by the National Environmental Protection Agency.

Article 25 These Measures shall go into effect as of August 1, 1995.

Appendix:

Gradation of the Design Certificates for Environmental Engineering and the Rules on Trade Classification

1. The design certificates for environmental engineering include comprehensive certificates and special certificates in line with the projects to be designed.

(1) The special certificates include disciplines of waste water, waste gas, solid waste, noise, electromagnetism, radioactivity and ecological engineering.

(2) The comprehensive certificates include all the above disciplines.

2. The design qualifications of pressure vessels in the environmental engineering design shall follow the provisions of the Ministry of Labor.

四、设计资格分级标准：

（一）持有甲级《设计证书》的环境工程设计单位，承担环境工程项目设计范围不受地区和工程投资限额的限制。

（二）持有乙级《设计证书》的环境工程设计单位，可以承担工程投资总额500万元以下的下列环境工程项目的设计：

1．废水治理工程

工业废水量不超过3000吨/日、COD不超过3吨/日的废水治理工程。

2．废气治理工程

（1）工业尾气量不超过60000m^3/时的废气治理工程；

（2）容量不超过60吨/时的单台锅炉及一般工业窑炉的消烟除尘设施。

3．固体废弃物治理工程

除有毒有害以外的其他固体废弃物的治理工程。

4．噪声治理项目

（三）持有丙级《设计证书》的环境工程设计单位，可以承担工程投资总额100万元以下的下列环境工程项目的设计：

1．废水治理工程

工业废水量不超过500吨/日、COD不超过0.5吨/日的废水治理工程。

2．废气治理工程

（1）工业尾气量不超过15000m^3/时的废气处理设施；

（2）容量不超过20吨/时的单台锅炉及小型窑炉的消烟除尘设施。

3．固体废弃物治理工程

除有毒有害废弃物外的其他小型固体废弃物的治理工程。

4．噪声治理项目

可以设计工业车间及其他噪音治理工程。

五、申请环境工程甲级《设计证书》的设计单位必须符合如下技术条件：

（一）综合性设计单位

1．有研究开发新工艺能力；有同时承担两项大型环境工程设计项目的能力；独立设计过两项大型环境工程项目，并已投入正常运行，项目效益和社会信誉好；

2．每个主体专业中至少有5名专职固定的设计技术人员，主要配套专业至少有3名具有本专业大专以上学历水平、并设计过2项以上规模及技术复杂程度高于乙级工程的技术人员，或者在本专业科研工作中取得科研成果（指获过省、部级以上奖的成果）的科研人员，并且其中必须有高级工程师2名；其中，凡工程涉及大型结构工程建设的，主体专业必须包括结构工程专业，确保工程安全；

3．专职设计队伍必须合理配套，具有大专以上学历人数约占80%，人员总数在60人以上，其中高级工程师总数不少于10人；

4．具有完备的实验和化验室，有试验化验设备；

3. The Rules do not include the design for the treatment of radioactive waste.

4. Standards for the Gradation of Design Qualifications:

(1) If a design unit holds a Class A Design Certificate, there shall be no limits for it in the regions of and investment limitation for the design work of environmental engineering projects that are undertaken by it.

(2) If a design unit holds a Class B Design Certificate, it may undertake the design work for the following environmental engineering projects with a total investment of less than 5 million yuan each:

a) Projects of waste water treatment

The amount of industrial waste water to be treated shall not exceed 3,000 tons/day and the COD shall not exceed 3 tons/day.

b) Projects of waste gas treatment

(i)The amount of industrial tail gas shall not exceed 60000 cubic meters/hour;

(ii) The smoke elimination and dust removal facilities for a single furnace with a capacity of not more than 60 tons/hour and ordinary industrial furnaces.

c) Projects of solid waste disposal

Other solid waste disposal projects other than toxic and harmful solid waste disposal projects.

d) Projects of noise control

(3) If a design unit holds a Class C Design Certificate, it may undertake the design work for the following environmental engineering projects with a total investment of less than one million yuan each:

a) Projects of waste water treatment

The amount of industrial waste water to be treated shall not exceed 500 tons/day and the COD shall not exceed 0.5 ton/day.

b) Projects of waste gas treatment

(i) Waste gas treatment installations with an amount of industrial tail gas not more than 15,000 cubic meters/hour;

(ii) The smoke elimination and dust removal installations for a single furnace with a capacity of not more than 20 tons/hour and small-sized furnaces.

c) Projects of solid waste disposal

Other small solid waste disposal projects other than toxic and harmful solid waste disposal projects.

d) Projects of noise control

Industrial workshops and other noise control projects may be designed.

5. Any design units that apply for Class A Design Certificates for the environmental engineering shall meet the following requirements:

(1) A comprehensive design unit

a) It shall have the ability to make research and develop new techniques; the ability to simultaneously undertake the design work for two large environmental engineering projects; and shall have the experiences of making design for two large environmental engineering projects independently and the projects have been put into normal operation with good benefit and social reputation;

b) There shall be at least five fixed and full-time designers for each main discipline and for the major supporting disciplines, there shall be at least three technical personnel who have the education background of college and with the experiences of the design work for more than two projects which shall be larger scale and more complex in technique than that of Class B, or scientific research personnel who have achieved scientific and technical achievements in the scientific research work of their discipline (i.e. they were awarded prizes above provincial and ministerial level)and two of them shall be senior engineers; if the project is a large structural building, the main disciplines shall include the structural engineering so as to guarantee the safety of the project;

c) The full-time designers shall be in proper proportions and 80 percent of the designers shall have the educational background of colleges. The total number of personnel shall be more than 60 and

5．具有本行业的技术特长和计算机软件开发能力，能够利用CAD软件做出先进的设计成果；

6．具有引进、吸收国外环境工程高新技术和进行国际技术协作交流能力；

7．有健全的技术和质量管理制度。

（二）专业性设计单位

专业性设计单位的技术条件和综合性设计单位的相应专业的技术条件要求相同。

六、申请环境工程乙级《设计证书》的设计单位必须符合如下技术条件：

（一）综合性设计单位：

1．有同时承担两项中型环境工程设计项目的能力；独立设计过两项中型环境工程项目并已投入正常运行，项目效益和社会信誉好；

2．每个主体专业至少有3名专职固定设计技术人员，配套专业至少有2名具有本专业大专学历水平、并进行过至少2项相当乙级工程的技术人员，或在本专业科研工作中取得科研成果（指通过省、部级技术鉴定的成果）的科研人员，并且其中必须有高级工程师一名；其中，凡工程涉及大、中型结构工程建设的，主体专业必须包括结构工程专业，确保工程安全；

3．人员总数40人，高级工程师不少于5人；

4．具有试验、化验条件；

5．有健全的技术和质量管理制度。

（二）专业性设计单位：

专业性设计单位的技术条件要求和综合性设计单位的相应专业的技术条件要求相同。

七、申请环境工程丙级《设计证书》的设计单位必须符合以下条件：

1．有承担小型环境工程设计项目的能力；独立设计过两项小型环境工程项目并已投入正常运行，项目效益好，社会信誉好；

2．专职固定设计技术人员中每个主体专业至少有二名，配套专业至少有一名大专学历水平，并曾担任过丙级工程设计技术负责人的技术骨干；

3．人员总数20人、高级工程师2人，工程师不少于5人；

4．有与设计资格等级相适应的化验室；

5．有健全的技术和质量管理制度。

八、环境工程专业分类：

（一）废水治理工程

1．纺织类

印染废水、洗毛废水、化纤废水

2．化工类（含石油化工）

有机废水、无机废水、酸性废水、含油废水、含氰废水及其他废水

3．电力类

among them senior engineers shall be not less than ten;

d) There shall be a well equipped laboratory for experiment and test;

e) It shall have the special technical skills of the trade and the ability to develop softwares, and produce advanced design with the CAD software;

f) It shall have the ability to import and absorb high-tech of environmental engineering from abroad and to conduct international technical co-operation and exchanges;

g) It shall have a perfect system for technical management and quality control.

(2) A specialized design unit

The technical requirements for a specialized design unit shall be identical with that of a comprehensive design unit.

6. Any design unit that applies for a Class B Design Certificate for environmental engineering shall satisfy the following technical requirements:

(1) A comprehensive design unit

a) It shall have the ability to simultaneously undertake design work for two medium-sized environmental engineering projects; it shall have the experiences of making design for two medium-sized environmental engineering projects independently and the projects have been put into normal operation with good benefit and social reputation;

b) There shall be at least three fixed and full-time designers for each main discipline and for the major supporting disciplines, there shall be at least two technical personnel who have the education background of colleges and have the experiences of making design for at least two engineering projects which are similar to that of Class B, or scientific research personnel who have achieved scientific and technical achievements in their research work (i.e. their achievements have been technically appraised at the provincial and ministerial level) and one of them shall be a senior engineer; if the project is a large and medium-sized structural building, the main disciplines shall include the structural engineering so as to guarantee the safety of the project;

c) The total number of personnel shall be 40 and among them senior engineers shall be not less than five;

d) It shall have the experimental and chemical examination conditions;

e) It shall have a perfect system for technical management and quality control.

(2) A specialized design unit:

The technical requirements for a specialized design unit shall be identical with that of a comprehensive design unit.

7. Any design units that apply for Class C Design Certificates for environmental engineering shall satisfy the following requirements:

(1) It shall have the ability to undertake the design work for small-sized environmental engineering projects; it shall have the experiences of making design for two small environmental engineering projects independently and the projects have been put into normal operation with good benefit and social reputation;

(2) There shall be at least two fixed and full-time personnel for each main discipline and for the major supporting discipline, there shall be one technical backbone who has the education background of a college and once has been responsible for the design work for Class C engineering projects;

(3) The total number of personnel shall be 20 and among them, two shall be senior engineers and at least five shall be engineers;

(4) It shall have a laboratory which is corresponding to its design qualifications;

(5) It shall have a perfect system for technical management and quality control.

8. Classification of environmental engineering disciplines

(1) Waste water treatment projects

a) Textile industry

Waste water from printing and dyeing, scouring and chemical fiber

b) Chemical industry (including petrochemical)

火电厂废水（高温水、冲灰水）
4．食品轻工类
食品废水、制革废水、酿造废水及其他废水
5．造纸类
黑液、白水
6．采矿类（含煤类）
浮选废水、开采废水
7．建材类
8．机械类
含油废水、乳化液废水、电镀废水、电泳化废水、酸洗废水、碱性废水
9．冶金类
10．制药类
生物制药废水、有机废水、无机废水
11．医院废水
12．生活废水和其他废水
（二）废气治理工程
1．烟尘
2．烟气二氧化硫
3．含硫尾气
二硫化碳、硫醇、硫醚、硫化氢、硫酸雾
4．含氟尾气
5．氮氧化物尾气
6．氯气
氯、氯化氢、盐酸雾
7．金属尾气（含氧化物）
铅、汞、铍及其他
8．建材粉尘
水泥粉尘、耐火材料等
9．有机废气（包括恶臭）
（三）固体废弃物处置工程
1．有毒有害固体废弃物
2．除有毒有害外的固体废物
（四）噪声治理

Organic waste water, inorganic waste water, acid waste water, oily waste water, cyanide wastewater, and other waste water

c) Electrical power industry

Waste water from thermal power plants (high-temperature water, ash washing waste water)

d) Food industry and light industry

Waste water from food processing and tan processing, brew, and other wastewater

e) Papermaking industry

Black liquor, white water

f) Mining industry (including coal)

Wastewater from floatation and extraction

h) Constructional material industry

i) Machinery industry

Oily waste water, waste water from emulsion, electroplating, electrophoreses, acid pickling and alkaline waste water

j) Metallurgical industry

k) Pharmaceutical industry

Waste water from biological pharmaceutical processing, organic waste water, inorganic waste water

l) Waste water from hospital

m) Domestic sewage and other waste water

(2) Waste gas treatment projects

a) Smoke dust

b) Flue sulfur dioxide

c) Sulphur-containing tail gas

Carbon disulfide, mercaptan, sulfide, hydrogen sulphide and sulphuric-acid fog

d) Fluorine-containing tail gas

e) Tail gas with nitrogen oxide

f) Chlorine

Chlorine, hydrogen chloride, acid fog

g) Metal-containing tail gas (including oxide)

Lead, mercury, beryllium and others

h) Dust from construction material

Dust from cement and refractory material

i) Organic waste gas (including offensive smell)

(3) Disposal engineering of solid waste

a) Toxic and harmful solid waste

b) Solid waste other than toxic and harmful solid waste

(4) Noise control

关于环境工程设计证书管理有关问题的通知

（国家环保总局科技标准司 1999 年 9 月 2 日　环科发［1999］65 号）

为贯彻落实建设部第 60 号令《建设工程勘察和设计单位资质管理规定》和国家环保总局第 15 号令《环境工程设计证书管理办法》的有关规定，使环境工程设计资格管理工作规范化，现将环境工程设计证书管理的有关事项通知如下：

一、环境工程设计证书的申请、评审

申请单位须填写《工程勘察、工程设计资格证书申报表》（简称“申报表”，见附件 1）、《现场考察申请表》（见附件 2），同时提交附件材料。具体填写说明见附件 3。

申请单位将申报材料报送省级环境保护行政主管部门和省级勘察设计行政主管部门进行初审，然后上报建设部。其中，国务院有关部门所属的申请单位按隶属关系将申报材料上报其上级主管部门初审，然后上报建设部；环保系统的申请单位将申报材料送省级环境保护行政主管部门、省级勘察设计主管部门初审，然后上报国家环保总局。

我局一般于每年上半年 6 月份、下半年 10 月份统一组织环境工程设计证书资格申请、评审。

环境工程设计证书分级标准目前已经修改定稿，将由建设部统一汇总对外发布。

二、乙级临时环境工程设计证书的转正

申请乙级临时证书转正的单位应按照要求认真填写申报材料，于证书期限终止日期的前半年上报我局科技标准司。乙级临时证书转正申报材料的填报和上报途径与申请设计证书的要求相同。

逾期不申请转正者，视为自动放弃，我局过后将不再受理转正事宜。

三、为加强环境工程设计证书的统一监督管理，今后只进行甲、乙级环境工程设计证书的资格评审工作，不开展丙级环境工程设计证书的资格评审。

Circular on the Management of Certificates for Environmental Engineering Design

(Promulgated by the Department of Science, Technologg and Standards of the State Environmental Protection Administration on September 2, 1999)

In order to implement relevant provisions of Degree No. 60 of the Ministry of Construction on Provisions for Qualification Management of the Units of Survey and Design for Construction Projects and Degree No. 15 of the State Environmental Administration Protection on the Measures for the Management of Certificates for Environmental Engineering Design and normalize the management of design qualification for environmental engineering, this Circular on Matters Relating to the Management of Certificates for Environmental Engineering Design is hereby issued as follows:

1. Application and Evaluation of Certificates for Environmental Engineering Design.

Anyone who applies for the certificate shall be required to fill in the Application Form of the Qualification Certificate for Engineering Survey and Design (hereinafter referred to as the application, see Appendix I), the Application Form of on-the-Spot Investigation (see Appendix II) and, at the same time, the attached material shall be attached. For the requirements for filling in applications forms see Appendix III.

Anyone who applies for the certificate shall submit the application material to the provincial competent department of the environmental protection administration and the provincial competent department of the survey and design administration for preliminary examination and then submit them to the Ministry of Construction. However, those who are from the departments under the State Council shall, in accordance with the relationship of administrative subordination, submit the application material to the competent department of the higher level for preliminary examination and then submit them to the Ministry of Construction; those who are from the environmental protection sector shall submit application material to the provincial competent department of the environmental protection administration and the provincial survey and design administration for preliminary examination and then submit them to the State Environmental Protection Administration .

The State Environmental Administration Protection usually organizes the application and evaluation of design certificate qualification for environmental engineering in June and October each year respectively.

The standards for classifying the design certificate for the Ministry of Construction shall promulgate environmental engineering after they are tabulated.

2. Change Class B of the Temporary Certificate for Environmental Engineering Design for a formal one

Anyone who applies for changing a temporary certificate for a formal one shall fill in the application material in earnest as required and submit the material to the Department of Science Techology and Standards of the State Environmental Protection Administration on the deadline of the certificate of the first half of the year. The requirements for filling in the application form of and the formalities of changing a Class B temporary certificate for a formal one are the same as that of applying for a design certificate.

The State Environmental Protection Administration shall not handle the formalities of changing a Class B temporary certificate for a formal one any longer if anyone who fails to apply for the change within the time limit and he shall be deemed that he has automatically abandoned the application of the change.

3. In order to strengthen the unified supervision and management of the certificates for environ-

四、甲、乙级环境工程设计证书在全国范围内通用，各地环境保护局不得重复颁发环境工程设计证书，不得以登记或其他名义收取费用。

五、环境工程设计证书资格评审工作是一项政策性和技术性很强的工作，请各省市环境保护局和国务院有关部门严格把关，认真配合，共同做好这项工作。

六、工作中如遇问题，请及时与我局科技标准司技术产业处联系。（电话或传真：010—66154038）

附：1.《工程勘察、工程设计资格证书申报表》（略）

2.《现场考察申请表》（略）

3. 环境工程设计证书申报材料填写说明（略）

mental engineering design, only the qualifications of Class A and Class B certificates for the environmental engineering design shall be evaluated and the qualifications of Class C certificates for environmental engineering design shall not be evaluated in the future.

4. Class A and Class B certificates for environmental engineering design shall be universally used throughout the country. No certificates for environmental protection design shall be repeatedly issues and the local environmental protection bureaus shall collect no fees in the name of registration or others.

5. The environmental protection bureaus in all provinces and municipalities and relevant departments under the State Council shall be required to work hard, have close cooperation with each other and make the final check on each certificate to be issued because the qualification evaluation for the design certificates shall be strictly according to the specified policies and technical requirements.

6. A prompt connection shall be made with the Division of Technological Policies and Environmental Industry, Department ot Science, Technoloyy and Standards under the State Environmental Protection Administration if any problems occurred. (Tel. or Fax: 010—66154038)

Appendix I. The Application Form of the Qualification Certificates for Engineering Survey and Design

Appendix II. The Application Form of On-the-Spot Investigation

Appendix III. Requirements for Filling in the Application Forms

环境保护设施运营资质认可管理办法（试行）

（国家环保总局1999年3月26日　环发［1999］76号）

第一章　总　　则

第一条　为加强对环境保护设施运行状况的监督，提高环境保护设施运行管理的水平，发挥环境保护投资效益，促进环境保护设施运营的市场化，根据国务院关于国家环境保护总局建立和组织实施环境保护资质认可制度职责的规定，制定本办法。

第二条　本办法所称环境保护设施运营，是指专门从事环境保护设施运营或污染治理业务的环保企业（服务方）接受排污单位（委托方）的委托，进行环保设施专业化运营或污染物的处理。

环境保护设施运营实行社会化有偿服务，服务方自主经营、自负盈亏，承提委托责任，保证环境保护设施正常运行和污染物达标排放。

第三条　本办法所称环境保护设施运营资质认可，是指国家环境保护行政主管部门对从事环境保护设施运营管理单位的技术能力、资金能力、管理水平、人员业务素质等从业条件的审查和认可。

在中华人民共和国境内从事环境保护设施运营管理的单位，可申请《环境保护设施运营资质证书》（以下简称《运营证书》）。

第四条　《运营证书》暂分为生活污水、工业废水、除尘脱硫、有毒有害废气、生活垃圾和工业固体废弃物六个专业类别。

第五条　《运营证书》由国家环保总局统一管理和核发。各省、自治区、直辖市环境保护行政主管部门配合组织实施。市、县级环境保护行政主管部门负责《运营证书》使用过程中的查验与监督。

第二章　申请条件和程序

第六条　申请《运营证书》的单位，必须具备下列基本条件：

（一）符合国家规定，依照法定程序批准设立，具有独立的法人资格。工业企业内部负责环境保护设施专业化、企业化运营管理的单位可以不具备法人资格。

（二）有稳定的组织机构和固定的工作场所。

Measures on Qualification Authentication for Operating Environmental Protection Facilities (on Trial)

(Promulgated by the State Environmental Protection Administration on March 26, 1999)

Chapter I General Provisions

Article 1 Pursuant to the stipulations of the State Council that the State Environmental Protection Administration (SEPA) shall establish and implement the authentication of the environmental protection qualification, this Measures is formulated for the purpose of strengthening supervision of the operation of environmental protection facilities, improving management of the operation of these facilities, bringing into full play the profits of investment in environmental protection, and promoting the commercialization of the operation of these facilities.

Article 2 For the purpose of this Measures, operation of environmental protection facilities refers to environmental protection enterprises specialized in professional operation of environmental protection facilities or treatment of pollutants (the service provider), as entrusted by pollutants discharging units (the consignor), conducting professional operation of environmental protection facilities or treatment of pollutants. Operation of environmental protection facilities shall be an onerous social service. The service provider shall conduct autonomous management, assume sole responsibility for its profits and losses, bear the liability as entrusted, and guarantee the normal operation of the facilities and sound discharge of pollutants.

Article 3 For the purpose of this Measures, authentication of qualification of operating environmental facilities refers to the examination and approval of the technical capacity, capital capacity, management level and qualification of staff of units engaging in the management and operation of environmental protection facilities by the competent department of environmental protection administration of the state. Units engaging in the management and operation of such facilities within the territory of the People's Republic of China can apply for the Qualification Certificate for Operating Environmental Protection Facilities (hereinafter referred to as the "Operation Certificate").

Article 4 The Operation Certificate falls into six categories, which are domestic sewage, industrial effluent, dust precipitation and desulfurating, toxic and harmful gases, house refuse and industrial solid wastes.

Article 5 The Operation Certificate shall be uniformly administrated and issued by the State Environmental Protection Administration. The competent departments of environmental protection administration of provinces, autonomous regions and municipalities directly under the Central Government shall cooperate with SEPA in its management. The competent departments of environmental protection administration at the municipality and county level are responsible for the examination and supervision of the use of the Operation Certificate.

Chapter Ⅱ Conditions and Procedure of the Application

Article 6 A unit applying for the Operation Certificate shall meet following requirements:

(1) Meeting stipulations of the state, being established according to legal procedure after approval, and assuming the standing of an independent legal person; units within an industrial enterprise and engaged in the professional and commercial management and operation of environmental protection facilities are exempted from the requirement of standing as a legal person;

(2) Having stable organization and permanent working sites;

（三）具有良好的银行资信和财务状况，具备与其业务规模相适应的债务偿还能力。

（四）具有相应的实验或检验设备，有健全的技术和质量管理制度。

（五）具有从事环境保护设施运营管理的经历，并且负责运营的设施正常运行一年以上，达到国家或地方规定的排放标准。

（六）单位主管人员具备相应的工程设计、调试及运营管理经验，对设施的技术原理、工艺流程、运行条件、运行影响因素及处置对策措施有比较全面的了解，同时具有相应专业的工程技术人员和经过系统专业培训的上岗操作人员。

第七条 申请《运营证书》的单位，须填写申请表，并同时提供下列有关申报材料：

（一）企业法人营业执照副本或事业单位法人证书复印件；

（二）办公、实验和检验场所证明；

（三）两个（含两个）以上环境保护设施运营管理的实例，包括：运营项目简介，委托运营合同，用户意见，设施运行监测数据；

（四）上一年度财务状况。

第八条 《运营证书》申请单位按照下列程序办理：

（一）申请单位向国家环保总局提出申请，领取《运营证书申请表》一式三份，并按要求填写。

（二）申请单位应将《运营证书申请表》和申报材料报所在省、自治区、直辖市环境保护行政主管部门初审并签署意见，然后报国家环保总局审核。

（三）国家环保总局经过材料审查和组织现场检查，对符合条件的，核发《运营证书》。

第九条 专业性环境保护企业无环境保护设施运营经历的和工业企业内部负责环境保护设施专业化、企业化运营管理的单位，可参照本办法的规定，申请临时《运营证书》，一年后经审查合格换发《运营证书》。

第三章 管理和监督

第十条 《运营证书》的持证单位，在机构、人员、资产、运营专业范围等资质条件发生较大变化时，应及时向国家环保总局备案，办理变更手续。

第十一条 国家环保总局对《运营证书》的颁发和使用情况，每年组织年检，并进行不定期的抽查。持证单位每年12月份按照检查内容，提供书面材料，到所在省、自治区、直辖市环境保护行政主管部门办理年检手续。检查和抽查的主要内容为：

(3) Possessing sound bank credit, financial status, and being able to pay off debts in compliance with its business scale;

(4) Possessing relevant experimental and testing equipment, and having established the complete technology and quality management systems;

(5) Being experienced in the management and operation of environmental protection facilities, with the facilities it operates running smoothly for over one year and meeting the state or local discharge standards; and

(6) Executive staff of the unit having relevant experience in project design, debug operation and management, and having comprehensive knowledge of the technical theories of the facilities, the process flow, the operational conditions, factors affecting their operation, and counter-measures to deal with problems. Meanwhile, the unit shall have engineering and technical staff of relevant professional fields and operators that have received systematic professional training.

Article 7 A unit applying for the Operation Certificate shall fill in the application form, and provide following application materials:

(1) A copy of its business license of the legal person as an enterprise, or a copy of its certificate of legal person as an institution;

(2) Letters of certificate of its office, experimental labs or testing sites;

(3) Two or more examples of its involvement in the management and operation of environmental protection facilities, including brief introduction to the operation program, operation entrusting contracts, opinion of clients, and facilities operation monitoring data; and

(4) Financial status of the previous year.

Article 8 Application for the Operation Certificate shall follow this procedure:

(1) The applying unit shall apply to the State Environmental Protection Administration, get the Operation Certificate Application Form in triplication, and fill them out as required;

(2) The applying unit shall submit the Operation Certificate Application Form and related application materials to the competent department of environmental protection administration of its local province, autonomous region or municipality directly under the Central Government for preliminary examination, and then submit the materials with conclusion of preliminary examination to the State Environmental Protection Administration for examination; and

(3) Upon examination of the materials and on-site inspection, the State Environmental Protection Administration shall issue the Operation Certificate to those meeting the requirements.

Article 9 Professional environmental protection enterprises without experience in the management and operation of environmental protection facilities, and units within an industrial enterprise and engaged in the professional and commercial management and operation of environmental protection facilities, can refer to this Measures and apply for a Provisional Operation Certificate, and can exchange this for the Operation Certificate one year later upon passing the examination.

Chapter III Management and Supervision

Article 10 When any major change occurs in terms of the organization, staff, assets and professional scope of operation and other qualification factors, holders of the Operation Certificate shall promptly report to the State Environmental Protection Administration for record and undergo the modification procedure.

Article 11 The State Environmental Protection Administration shall organize annual examination of the issuance and use of the Operation Certificate, and conduct irregular sample examinations. Holders of the certificate shall, in December each year, provide materials in writing in accordance with the contents of the examination, and undergo the annual examination procedure at the competent departments of environmental protection administration of its local province, autonomous region or municipality directly under the Central Government. Major contents of the annual and sample examinations includes:

（一）持证单位资质；

（二）工作人员资质；

（三）履行合同情况；

（四）设施运营管理制度及制度执行情况；

（五）设施运营管理状况；

（六）设施排放达标情况。

第十二条 持证单位必须严格按照运营合同的内容负责。如果发现有下列情形之一的，国家环保总局视情况轻重，责令限期整改、给予通报批评或者吊销《运营证书》，对造成严重后果的，有关部门依法追究其经济和法律责任：

（一）因运营管理不当，达不到有关规定和标准，或造成重大环境污染事故和经济损失的；

（二）因条件变化，已无能力开展设施运营活动的；

（三）违反本办法有关规定的，涂改、伪造和转借《运营证书》的；

（四）无正当理由，拒绝接受检查或不按期办理年检的；

（五）连续两次年检不合格的。

第十三条 《运营证书》有效期为三年。获证单位可在《运营证书》期满前半年向所在省、自治区、直辖市环境保护行政主管部门提出延期申请，由其签署意见后报国家环境保护总局。国家环保总局组织对延期申请进行复审，复审合格的，由国家环境保护总局换发新的《运营证书》。

第四章 附 则

第十四条 《运营证书》和《运营证书申请表》由国家环保总局统一印制。

第十五条 本办法由国家环保总局负责解释，并另行制订实施细则。

第十六条 本办法自发布之日起施行。

(1) Qualification of the units holding the certificate;

(2) Qualification of the staff;

(3) Implementation of contracts;

(4) Systems for the management and operation of the facilities, and their implementation;

(5) Status of the management and operation of the facilities; and

(6) Status of discharge.

Article 12 Certificate holders shall strictly abide by the contents of the operation contract. In the following cases, the State Environmental Protection Administration shall, in accordance with the circumstances, order the violator to put right the wrong action, issue a notice of blame or withdraw the Operation Certificate. When serious result occurs, relevant departments shall investigate into the matter and impose financial and legal liabilities according to law:

(1) As a result of improper management or operation, failing to meet relevant requirements or standards, or causing serious pollution accidents or economic losses;

(2) Being unable to conduct operation of the facilities due to condition changes;

(3) Infringing relevant stipulations of this Rules, altering, forging, or lending to others the certificate;

(4) Refusing to accept examinations or failing to undergo the annual examination procedure without sound reasons; or

(5) Failing to pass the annual examination in two successive years.

Article 13 The term of validity of the Operation Certificate is three years. Holders of the certificate can apply to the competent departments of environmental protection administration of its local province, autonomous region or municipality directly under the Central Government for extension of the term within six months prior to the expiry date, and submit the application with conclusion of the local department to the State Environmental Protection Administration. The State Environmental Protection Administration shall conduct reexamination of the extension application, and issue a new Operation Certificate in exchange for the old one to those passing the reexamination.

Chapter IV Supplementary Provisions

Article 14 The Operation Certificate and the Operation Certificate Application Form shall be uniformly printed by the State Environmental Protection Administration.

Article 15 This Measures shall be interpreted by the State Environmental Protection Administration. The Measures for its implementation shall be formulated later.

Article 16 This Measures shall enter into force on the date of promulgation.

十八、环境标志与产品认定

XVIII Certification on Environmental Labels and Products

环境标志产品认证管理办法（试行）

（1994 年 7 月 28 日，国家环保局发布）

第一章　总　　则

第一条　为开展环境标志产品认证工作，保证环境标志产品质量，促进国际贸易和标志产品的国际合作，根据《中华人民共和国产品质量法》、《中华人民共和国产品质量认证管理条例》、《中华人民共和国环境保护法》特制订本办法。

第二条　环境标志产品认证（以下简称认证）是依据环境标志产品标准或技术要求，经认证机构确认并通过颁发认证证书和环境标志，证明某一产品符合相应标准和环境保护要求的活动。

第三条　本办法适用于一切有益于环境的产品认证。

第四条　中华人民共和国境内企业（包括中外合资、合作、外资企业）和境外企业及其代销商（以下简称企业）均可自愿申请环境标志产品认证。

第五条　环境标志产品认证工作受国务院环境保护行政主管部门领导，接受国务院标准化行政主管部门指导。

第二章　环境标志产品种类确定

第六条　任何部门、单位或个人均可向中国环境标志产品认证委员会（以下简称认证委员会）提出可开展环境标志产品认证种类的建议，并填写环境标志产品种类建议表。

第七条　认证委员会秘书处对可开展环境标志产品认证种类的建议进行调研，向认证委员会提出可行性报告。

第八条　认证委员会审查可开展环境标志产品认证种类的可行性报告；确定环境标志产品种类名录，报国务院环境保护行政主管部门和国务院标准化行政主管部门批准。

第三章　申请认证条件

第九条　申请认证的产品（以下简称产品）应具备以下条件：

Measures on the Certification Management of Products Bearing Environmental Labels (On Trial)

(Promulgated by the National Environmental Protection Agency on July 28, 1994)

Chapter I General Provisions

Article 1 These Measures are formulated in accordance with the Law of the People's Republic of China on Product Quality, the Regulations of the People's Republic of China for the Administration of Product Quality Certification and the Environmental Protection Law of the People's Republic of China, in order to develop the certification of products bearing environmental labels, guarantee the quality of such products and promote international trade as well as international cooperation on labeled products.

Article 2 The certification of a product bearing environmental labels (hereinafter refered to as certification) refers to activities conducted according to the standards for a product bearing environmental labels or relevant technical requirements to certify a product's comformity with corresponding standards and environmental protection requirements, by means of the issuance of a certificate and an environmental label to that product by a certifying institution after verification.

Article 3 These Measures shall apply to any product certification that is beneficial to the environment.

Article 4 All enterprises within the territory of the People's Republic of China (including Chinese-foreign equity joint ventures, contractual joint venture, foreign-capital enterprises) and all enterprises outside the territory and their sales agencies (hereinafter referred to as enterprises) may voluntarily apply for certification of products bearing environmental labels.

Article 5 The certification work of products bearing environmental labels shall be placed under the leadership of the competent department of environmental protection administration under the State Council and under the guidance of the competent department of standardization administration under the State Council.

Chapter II Determination of Varieties of Products Bearing Environmental Labels

Article 6 Any department, unit, or individual may recommend the development of certification for a specific variety of products bearing an environmental label to the China Certification Committee of Products Bearing Environmental Labels (hereinafter refered to as the Certification Committee), and complete a suggestion form for the recommended variety of products bearing an environmental label.

Article 7 The Secretariat of the Certification Committee shall conduct investigations and study of the recommended variety of products bearing an environmental label for the development of the product certification, and submit a feasibility report to the Certification Committee.

Article 8 The Certification Committee shall examine the feasibility report on the development of certification for a specific variety of products bearing an environmental label, determine the name of the variety of product bearing environmental label in the catalogue, and then submit it to the competent department of environmental protection administration and the competent department of standardization administration under the State Council for approval.

Chapter III Application Requirements for Certification

Article 9 The products applying for certification (hereinafter refered to as product) shall meet

（一）属国家公布可开展认证的环境标志产品种类名录；

（二）符合国家颁布的环境标志产品标准或技术要求；

（三）能正常批量生产，各项技术指标稳定。

第十条 申请认证产品的企业，必须具备的条件：

（一）中华人民共和国境内企业应持有工商行政主管部门颁发的《企业法人营业执照》；境外企业应持有有关机构的登记注册证明；

（二）具有产品质量认证证书，或产品生产许可证证书或省级以上标准化行政主管部门认可的检验机构出具的一年内产品质量合格证明；

（三）污染物排放应符合国家或地方污染物排放标准；

（四）申请日前一年内，未受到地方环境保护行政主管部门的处罚。

第四章 认证程序

第十一条 凡申请认证的企业，向所在省（自治区、直辖市）环境保护行政主管部门领取《环境标志产品认证申请书》。

第十二条 省（自治区、直辖市）环境保护行政主管部门于30日内对申请书进行审核并提出初审意见。企业将经审核后的申请书报认证委员会秘书处。

境外企业认证程序，另行规定

第十三条 认证委员会秘书处组织检查组，依据相应的环境标志产品检查大纲，对申请认证的产品及其生产过程进行现场检查。

检查组人数一般为2～4名，由国家注册的主任检查员任组长。在企业检查的时间一般为1～2天。检查组应在15天内完成检查报告的编写，报认证委员会秘书处。

第十四条 现场检查通过后，对需要进行检验的产品，由检查组负责对申请认证的产品进行抽样并封样，由企业将抽取的产品送指定的检验机构检验。如样品经确认属运输引起的损坏时，则允许重新抽样。必须在现场检验时，由检验机构派人到现场检验。

检验机构必须在规定时间内，向认证委员会秘书处提交检验报告一式两份，抄送省（自治区、直辖市）环境保护行政主管部门一份。

现场检查前企业应向认证委员会秘书处缴纳认证申请费、现场检查费以及需要进行产品检验的检验费。

第十五条 认证委员会秘书处根据企业申请材料、检查报告、产品检验报告撰写评价意见，报认证委员会审查。

the following requirements:

1. Belong to the catalogue indicating the variety of products bearing environmental labels published by the State, the certification of which can be developed;

2. Conform to the standards for products bearing environmental labels or technical requirements specified by the State; and

3. Be able to be batch-produced with stable technical indices.

Article 10 The enterprise that applies for the certification of a product shall meet the following requirements:

1. Hold a corporate business license issued by an competent department of industry and commerce administration for any enterprise within the territory of the People's Republic of China; the enterprise shall also be a holder of a registration certificate granted by a related institution for any enterprise outside the territory;

2. Hold a product quality certificate, or a production license or a product quality certificate issued within the last year by an examining institution acknowledged by the competent department of standardization administration above the provincial level;

3. The enterprise's pollution discharge shall meet the State and local standards for the discharge; and

4. Have received no punishment from the local competent department of environmental protection administration within a year from the date of the application.

Chapter IV Certification Procedures

Article 11 The enterprise applying for certification may obtain an Application Form for Products Bearing Environmental Labels from the competent department of environmental protection administration at the level of the province (autonomous region or municipality directly under the Central Government) where it is located.

Article 12 The competent department of environmental protection administration at the level of the relevant province (autonomous region or municipality directly under the Central Government) shall examine the Application Form and put forward its preliminary examination opinion within 30 days. The applicant shall subsequently submit the examined Application Form to the Secretariat of the Certification Committee.

Certification procedures for enterprises outside the Chinese territory shall be stipulated separately.

Article 13 The Secretariat of the Certification Committee shall organize an inspection group to conduct an on-the-spot inspection of the product and its production processes in accordance with the inspection outline for corresponding products bearing environmental labels.

The group shall consist of two to four members, and a state-certified inspector shall be assigned as its head. The inspection period in the enterprise shall be one or two days. The group shall finish its inspection report within 15 days, and submit it to the Secretariat of the Certification Committee.

Article 14 After the on-the-spot inspection has been passed, the inspection group shall be responsible for sampling and sealing the product applying for certification that needs testing. The enterprise shall send the sample to a designated testing institution for the test. In case of a sample that is damaged and where the damage is verified as caused by transportation, another sample shall be allowed. The testing institution shall send representatives to conduct an on-the-spot test if necessary.

The testing institution must submit a testing report in duplicate within a prescribed time limit to the Secretariat of Certification Committee, a copy of which shall be sent to the competent department of environmental protection administration under the relevant province (or autonomous region or municipality directly under the Central Government).

Before an on-the-spot inspection, the enterprise shall pay fees for certification application and on-the-spot inspection, and also for necessary product tests.

Article 15 The Secretariat of the Certification Committee shall, based on the application materi-

第十六条 认证委员会召开全体委员会议审查认证材料，批准认证合格的产品及企业名单。

国务院环境保护行政主管部门、国务院标准化行政主管部门发布通过认证的产品及其他企业名单公告。

对未通过认证的产品，由秘书处向企业发出认证不合格通知，并说明理由。同时抄送省（自治区、直辖市）环境保护行政主管部门。

第五章 认证证书和环境标志的使用

第十七条 通过认证的企业，在公告发布后两个月内，到认证委员会秘书处签订环境标志使用合同，缴纳环境标志批准费和年金，领取认证证书。

第十八条 认证证书和环境标志使用有效期为三年。有效期满，愿继续认证的企业应在有效期终止前三个月重新提出申请；不重新认证的企业，不得继续使用认证证书和环境标志。

第十九条 认证证书超过有效期或者其他原因需要企业重新申请认证时，其申请、认证程序与初次申请认证程序相同。

第二十条 通过认证的企业，允许在认证的产品、包装、说明书及广告宣传中使用环境标志。

第二十一条 环境标志图形应按照国务院环境保护行政主管部门发布的式样制作。颜色为单色（一般为绿色），尺寸应依标准图样的比例放大或缩小，不得变形（使用办法另行规定）。

第二十二条 在认证证书有效期内，出现下列情况之一的，应当按照有关规定重新换证：

（一）使用新的商标名称；

（二）认证证书持有者变更；

（三）产品型号、规格变更。

第六章 认证后的监督

第二十三条 在认证证书有效期内，省（自治区、直辖市）环境保护行政主管部门对通过认证的产品及其企业进行监督性检查，每年至少进行一次，并将检查结果及时上报认证委员会。

第二十四条 检验机构对认证合格的产品每年进行一到二次跟踪检验。检验的样品可以从用户、市场或企业中随机抽取。

跟踪检验工作由认证委员会秘书处统一安排。

第二十五条 在认证证书有效期内，凡有下列情况之一者，暂停企业使用认证

als, inspection report and product test report, work out an evaluation, and report it to the Certification Committee for examination.

Article 16 The Certification Committee shall convene a plenary meeting of its members, to examine the certification materials, and give approval to a list of the products and enterprises that are in compliance with the certification standards.

The competent department of environmental protection administration and that of standardization under the State Council shall issue an announcement of the list of the products and enterprises that have passed the certification.

The Secretariat shall notify the failed enterprise of its failure to pass the certification, and explain the reasons for the failed certification therefor. A copy of the notification shall be sent at the same time to the competent department of environmental protection administration of the relevant provinces (or autonomous region or municipality directly under the Central Government).

Chapter V Use of the Certificate and Environmental Label

Article 17 Any enterprise that has passed the certification shall, within two months after the announcement, sign a contract on the use of the environmental label with the Secretariat of the Certification Committee, pay the environmental label approval fee and an annual pension, and then obtain the certificate.

Article 18 The term of validity of the certificate and the use of the environmental label shall be three years. Enterprises that intend to continue use of the certificate on expiry of the period of validity thereof, shall renew the application therefor three months before the expiry date. Enterprises that do not reapply for the certification are not allowed to keep using the certificate and the environmental label.

Article 19 The application and certification procedures are the same as the initial ones for any enterprise required to reapply for the certification due to expiry of the certificate or other reasons.

Article 20 Any enterprise that has passed the certification is allowed to use the environmental label on its products, packaging, specifications and advertisements.

Article 21 The design of the environmental label shall be made according to the pattern promulgated by the competent department of environmental protection administration under the State Council. The label shall be monochromatic (usually green), and its size can be magnified or reduced in proportion to the standard pattern but may not be deformed (the directives for the production of the label shall be separately specified).

Article 22 The certificate shall be renewed in accordance with related stipulations within the term of validity in one of the following cases:

1. Where a new trademark is used;
2. Where the holder of the Certificate changes; and
3. Where the types and specifications of the product change.

Chapter VI Post-Certification Supervision

Article 23 Within the term of validity of a certificate, the competent departments of environmental protection administration under the relevant province (or autonomous region or municipality under the Central Government) shall conduct a supervisory inspection of the certified product and its enterprises at least once a year, and shall report the results of such inspections without delay to the Certification Committee.

Article 24 The relevant inspection institution shall undertake one or two tracking tests of the products proved qualified after certification. Samples for tests can be drawn from users, markets or enterprises.

The Secretariat of the Certification Committee shall arrange the tracking tests in a unified manner.

证书和环境标志：

（一）监督性检查时，发现认证的产品及其生产现状不符合认证要求；

（二）认证证书或环境标志使用不符合规定要求。

第二十六条 暂停使用认证证书和环境标志的建议由省（自治区、直辖市）环境保护行政主管部门提出，报认证委员会批准后由认证委员会向企业发出限期整改通知，同时抄送企业所在省（自治区、直辖市）环境保护行政主管部门。

整改期限最长不超过半年。整改期内企业暂停使用环境标志和认证证书。

第二十七条 企业接到限期整改通知书后，应立即针对存在问题进行整改。整改结束后向省（自治区、直辖区）环境保护行政主管部门提交书面整改报告。

第二十八条 省（自治区、直辖市）环境保护行政主管部门对企业的整改报告进行审查并实地考查，并将达到整改目标的产品及其企业名单报认证委员会。

认证委员会向企业发出恢复使用认证证书和环境标志的通知，增加的检查费用按实际支出由企业负担。

第二十九条 有下列情况之一者，由认证委员会撤销认证证书，禁止使用环境标志，并向全国公告。

（一）监督性检查或跟踪检验判为不合格产品；

（二）整改期满不能达到整改目标；

（三）认证产品质量严重下降，或出现重大质量事故，给用户造成损害；

（四）转让认证证书、环境标志；

（五）拒不交纳年金；

（六）认证委员会认为有必要进行重新认证，而企业不再提出申请。

撤销认证证书的建议由省（自治区、直辖市）环境保护行政主管部门或认证委员会秘书处提出，报认证委员会。经认证委员会批准后向企业发出撤销认证证书通知，并抄送有关省（自治区、直辖市）环境保护行政主管部门。

第三十条 对未经认证或认证不合格而使用环境标志、达不到环境标志产品标准或技术要求仍继续使用环境标志、转让环境标志的企业，按《中华人民共和国产品质量认证管理条例》第十九条的规定处以罚款。

第三十一条 从事认证管理、评审、检查、检验工作的人员违法失职、徇私舞弊、弄虚作假，不能保持公正或者发生严重工作错误的，视其情节轻重，由认证委员会建议国务院标准化行政主管部门撤销注册，收回聘书，停止从事认证工作，由其主管部门给予行政处分；构成犯罪者，依法追究刑事责任。

Article 25 The use of the certificate and the environmental label by an enterprise shall be suspended in any of the following cases:

(1) Where the supervisory inspection discovers that the certified products and their present production situations fail to meet the certification requirements; and

(2) Where the use of the certificate or the environmental label fails to meet the specified requirement.

Article 26 The suspension of the use of the certificate and the environmental label shall be proposed by the competent department of environmental protection administration under the relevant province (or autonomous region or municipality under the Central Government) and submitted to the Certification Committee for approval. On approval, the Certification Committee shall issue a notice to the enterprise ordering rectification within a limited time. A copy of the notice shall be sent at the same time to the competent department of environmental protection administration under the province (or autonomous region or municipality directly under the Central Government) where the enterprise is located.

The time-limit for rectification shall not exceed six months and the enterprises shall temporarily cease the use of certificates and environmental labels within the rectification period.

Article 27 The enterprise, on receiving the notice of rectification, shall immediately proceed to rectify existing problems. After finishing rectification, the enterprise shall submit a rectification report in writing to the competent department of environmental protection administration under the relevant province (or autonomous region or municipality directly under the Central Government).

Article 28 The competent department of environmental protection administration under the relevant provinces (or autonomous region or municipality under the Central Government) shall examine the rectification report of the enterprise, conduct an on-the-spot verification, and submit the names of the product and the enterprise that has attained the rectification goals to the Certificate Committee.

The Certificate Committee shall then issue a notice to the enterprise allowing it to resume the use of the certificate and the environmental label. The additional inspection expenditures shall be borne by the enterprise.

Article 29 Under any of the following cirumstances, the Certification Committee shall cancel the certificate, ban the use of the environmental label and announce these actions to the entire nation:

(1) Where products are judged as unqualified in a supervisory inspection or tracking test;

(2) Where the rectification fails to attain its goals on the expiry of the rectification time-limit;

(3) Where the quality of a certified product seriously deteriorates or serious quality accidents occur causing losses to users;

(4) Where the certificate or the environmental label is transferred;

(5) Where payment of annual pension is refused; and

(6) Where the Certificate Committee deems it necessary for the renewal of the certificate, but the enterprise does not make an application therefor.

The cancellation of the certificate shall be proposed by the competent department of environmental protection administration under the relevant province (or autonomous region or municipality under the Central Government), or by the Secretariat of the Certification Committee and be submitted to the Certification Committee. The Certification Committee, after approval, shall issue to the enterprise a notice of certificate cancellation. A copy of the notice shall be sent to the competent department of environmental protection administration under the relevant province (or autonomous region or municipality under the Central Government).

Article 30 Any use of environmental label by an enterprise that has not gone through certification or failed certification, any instance of the use or transfer of an environmental label by an enterprise that has failed to meet the standards or technical requirements for a product bearing an environmental label shall be punished by a fine according to the stipulations of Article 19 of the Regulations of the People's Republic of China for the Administration of Product Quality Certification.

Article 31 Where any person in charge of certification, examination inspection or testing violates

第三十二条 承担认证检验任务的检验机构出具虚假证明，或者出具错误数据且造成严重影响的，由认证委员会建议国务院环境保护行政主管部门、国务院标准化行政主管部门取消认证检验机构资格，收回资格认证证书；造成损失的，责令其赔偿损失。

第三十三条 承担认证任务的检验机构、检查人员泄漏认证产品的技术秘密，非法占有申请人的科技成果的，由认证委员会建议国务院环境保护行政主管部门、国务院标准化行政主管部门取消认证检验机构资格，撤销检查人员注册资格，收回聘书，责令其赔偿损失，并由其行政主管部门对责任者给予行政处分。

第三十四条 通过认证的产品出厂销售时，其产品不符合环境标志产品技术要求的，生产企业应当负责包修、包换、包退；给用户或者消费者造成损害的，生产企业应当依法承担赔偿责任。

第七章 申 诉

第三十五条 有下列情况之一时，企业和用户可向认证委员会或国务院环境保护行政主管部门投诉：

（一）符合认证条件要求，但认证机构不予受理申请；

（二）对检查、检验或暂停、撤销环境标志产品认证证书有异议；

（三）认证机构或其工作人员有违反认证规定行为；

（四）认证工作违章收费；

（五）用户对认证合格产品有异议。

第三十六条 投诉时应报书面申诉书，申诉书内容包括投诉的理由、意见、要求及必要的证据。

第三十七条 申诉调查工作一般由认证委员会申诉监理部组织进行。自收到申诉之日起三个月内由认证委员会作出处理意见。

对处理不服者可向国务院环境保护行政主管部门申诉。

第三十八条 处理申诉所需要费用（如检验费、咨询费、旅差费等）按实际支出由责任方承担。

第八章 附 则

第三十九条 认证收费遵循不营利原则从申请认证企业收取。具体收费办法、金额按照国家物价局、财政部93（价费字）56号文关于发布《产品质量认证收费管理试行办法》的规定另行制定。

第四十条 申请费、现场检查费、产品检验费由认证委员会视实际工作情况分

the law, neglects his duty, engages in malpractice for personal gain, resorts to deception, commits foul play, or makes serious mistakes in his work, the Certification Committee shall, in accordance with the seriousness of each case, propose to the competent department of standardization administration under the State Council the imposition of registration cancellation, revocation of the letter of appointment, and cessation of his certification work. The relevant administrative department shall impose a disciplinary sanction, and where a crime has taken place, criminal responsibility shall be investigated according to law.

Article 32 Where any inspection institution undertaking to inspect certification issues fakes certificates or falsifies data resulting in serious consequences, the Certification Committee shall propose to the competent department of environmental protection administration and that of standardization under the State Council the imposition of cancellation of the qualification of that institution and the revocation of its qualification certificate. The institution shall also be ordered to pay for any losses incurred as the result of such actions.

Article 33 Where any inspection institution or person undertaking the work of certification divulges technical secrets of a certified product, and illegally seizes the technological results of the applicant, the Certification Committee shall propose to the competent department of environmental protection administration and that of standardization under the State Council the imposition of cancellation of the certification qualification of the institution and the persons' registration qualification, as well as the revocation of the letter of appointment and the payment of the losses incurred. Competent administration sanctions shall be imposed on the responsible persons by the competent administrative department.

Article 34 Wherever any certified products leaving a factory for sale are discovered to be out of compliance with the technical requirements for products bearing environmental labels, the producer shall guarantee the repair, replacement and return of the products. Where damages are caused to users or consumers, the producer shall bear the liability therefor according to the law.

Chapter VII Appeal

Article 35 Enterprises and users may appeal to the Certification Committee or the competent department of environmental protection administration under the State Council in any of the following cases:

1 Where the product conforms to the certification requirements while the certification institution refuses to accept the application;

2 Where disagreement exists as to the inspection, testing or temporary suspension or cancellation of the certificate for products bearing environmental labels;

3 Where the certification institution or its working staff behave in a manner inconsistent with the certification stipulations;

4 Where certification fees are not in line with stipulations; and

5 Where users disagree concerning products deemed in compliance with the standards by certification.

Article 36 Appeals shall be made in writing. Written appeals shall contain reasons, opinions, claims and necessary evidence.

Article 37 The Appeal Supervision Department of the Certification Committee shall organize investigations concerning appeals. The Certificate Committee shall make a decision on the treatment of the case within three months after receiving the appeal.

The party that disagrees with the administration of the case may appeal to the competent department of environmental protection administration under the State Council.

Article 38 The fees actually spent in the appeal (including expenses for tests, consultations and travels) shall be reimbursed by the party held liable.

别拨给相应的机构。

第四十一条 本办法由中国环境标志产品认证委员会负责解释。

第四十二条 本办法自批准之日起生效。

Chapter VIII Supplementary Provisions

Article 39 The certification fees shall be collected from the enterprise applying for certification on a non-commercial basis. The specific charging method and amounts shall be set separately by referring to the Trial Measures for the Management of Product Quality Certificate Fees promulgated in Jia Fei Zi No. 56 (1993) issued by the State Administration of Commodity Pricing and the Ministry of Finance.

Article 40 The fees collected from applicants, on-the-spot inspections and product tests shall be allocated by the Certification Committee to the appropriate institutions, taking into consideration their actual working condition.

Article 41 The China Environmental Label Products Certification Committee is responsible for the interpretation of these Measures.

Article 42 These Measures shall take effect upon approval.

关于发布我国环境标志图形的通知

（1993 年 8 月 25 日，国家环境保护局）

为保护环境，防止生态破坏，促使企业在生产中合理利用资源、能源，采用少废无废工艺，推动有益于环境产品的开发和使用，提高公众的环境保护意识，我局决定对在生产、使用或处置等过程中有污染，但采取一定措施后即消除污染或减少污染，并达到环境标志产品标准的产品授予环境标志。

为此，我局在向全国征集的基础上，经过评选确定了我国的环境标志图形。现予以发布。

我国环境标志图形由青山、绿水、太阳及十个环组成。

环境标志图形的中心结构表示人类赖以生存的环境；外围的“十个环”紧密结合，环环紧扣在一起，表示公众参与，共同保护；同时十个环的“环”字与环境的“环”同字，其寓意为“全民联合起来，共同保护人类赖以生存的环境”。

环境标志图形是一种证明性商标，版权归我局所有。任何企、事业单位或个人均不得擅自印刷、使用。

环境标志的具体申请时间另行通知。

附：环境标志图形

Circular on Publishing the Design of the Environmental Label

(Promnlgated by the National Environmental Protection Agency on August 25, 1993)

For the purpose of protecting the environment, preventing ecological damages, promoting the rational use of resources and energy by enterprises in production and the adoption of techniques with less wastes or no wastes at all, encouraging the development and utilization of environment-friendly products, and enhancing the environmental awareness of the public, the National Environmental Protection Agency has decided to grant the Environmental Label to the product when there may be pollution in the process of its production, use or disposal but the pollution can be eliminated or reduced after certain measures are adopted and the product has met the standards for environmental label products.

For these purposes, after nationwide collection for proposals and careful discussion, the National Environmental Protection Agency has decided the design of the Environmental Label. The design is hereby published.

The design of the Environmental Label consists of the blue mountain, the green water, the sun and ten rings.

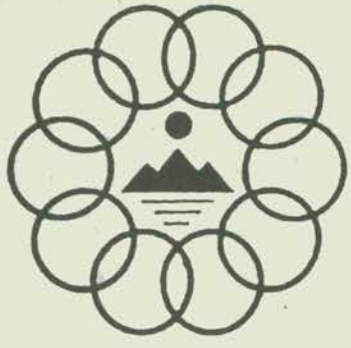
The central part of the design symbolizes the environment on which the mankind depends for life; the outer "ten rings" interlaps and are closely linked, symbolizing public participation and joint protection; at the same time, the Chinese word "huan" in the "ten rings" is homonymic with the Chinese word "huan" in "environment", symbolizing that "all citizens shall pool in their effort to jointly protect the environment on which the mankind depends for life."

The Environmental Label is a verification trademark, and its copyright is owned by the National Environmental Protection Agency. No institution or individual is allowed to print or use the label without authorization.

Specific time of applying for the Environmental Label will be notified later.

Attached is the design of the Environmental Label.

Attachment: Design of the Environmental Label



有机食品认证管理办法

国家环境保护总局令

第 10 号

《有机食品认证管理办法》已于 2001 年 4 月 27 日经国家环境保护总局局务会议通过，现予发布施行。

国家环境保护总局局长　解振华

二〇〇一年六月十九日

第一章　总　则

第一条　为规范有机食品认证管理，促进有机食品健康、有序发展，防止农药、化肥等化学物质对环境的污染和破坏，保障人体健康，保护生态环境，制定本办法。

第二条　本办法所称有机食品是指符合以下条件的农产品及其加工产品：

（一）符合国家食品卫生标准和有机食品技术规范的要求；

（二）在原料生产和产品加工过程中不使用农药、化肥、生长激素、化学添加剂、化学色素和防腐剂等化学物质，不使用基因工程技术；

（三）通过本办法规定的有机食品认证机构认证并使用有机食品标志。

第三条　本办法适用于在中华人民共和国境内从事有机食品认证及有机食品生产经营活动的单位和个人。

第二章　有机食品认证机构管理

第四条　国家对有机食品认证机构实行资格审查制度。

从事有机食品认证工作的单位，必须按本办法规定的程序，向国家环境保护总局设立的有机食品认可委员会申请取得有机食品认证机构资格证书。

第五条　申请有机食品认证机构资格证书的单位应具备以下条件：

（一）具有独立的法人资格；

（二）有 3 名以上具有相关专业高级技术职称和 5 名以上具有相关专业中级技术职称，并专职从事有机食品认证的技术人员；

（三）具备从事有机食品认证活动所需的资金、设施、固定工作场所及其他有关的工作条件。

第六条　申请有机食品认证机构资格证书的单位应向有机食品认可委员会提出

Measurers on the Administration of the Certification for Organic Foods

Decree of the State Environmental Protection Administration

No. 10.

Measures of Administration on the Certification for Organic Foods mas adopted at the executive session of the State Environmental Protection Administration on April 27, 2001 and is hereby promulgated for the implementation.

Minister Xie Zhenhua

State Environmental Protection Administration

June 19, 2001

Chapter I General Principles

Article 1 These Measures were formulated for the purposes of standardizing management of organic food certification, promoting the sound and orderly development of organic foods, preventing pesticides and chemical fertilizers from polluting and undermining the environment, safeguarding peoples' health and protecting the ecological environment.

Article 2 The organic foods stipulated by these Measures refer to agricultural products and processed agricultural products meeting the conditions:

(1) The foods conform to the State food sanitary standards and the demands of technological standards applicable to organic foods;

(2) The foods contain no pesticides, chemical fertilizers, growth hormones, chemical additives, pigments or preservatives, and no genetic engineering technology has been used during production and processing of the foods; and

(3) Organizations for certification of organic foods as stipulated in these Measures have certified the foods and authorized use of the organic food label on the foods.

Article 3 These Measures are applicable to institutions and individuals that engage in authentication, production, and sales of organic foods within the People's Republic of China.

Chapter II Management of Organic Foods Certification Organizations

Article 4 The State implements a strict system to examine the qualifications of organic foods certification organizations.

Institutions that engage in certification of organic foods must apply to the Organic Food Derebpment Center(OFDC) established by the State Environmental Protection Administration to receive organic foods qualification certificates.

Article 5 Institutions that apply for organic foods qualification certificates must satisfy the following conditions:

(1) The institutions must be independent legal persons.

(2) The institutions must have more than three technicians possessing senior technical titles within their fields of specialty and more than five technicians with intermediate-level technical titles in their fields of technical specialty, as well as technical personnel who are specifically engaged in organic food certification; and

(3) The institutions must have funds, facilities, fixed working places and other relevant working conditions for organic foods certification activities.

申请，同时提交下列材料：

（一）法人的资格证明材料；

（二）专职技术人员的资格证明材料；

（三）从事有机食品认证活动的资金、设施、固定工作场所及其他有关的工作条件等情况的证明资料；

（四）有机食品认可委员会要求的其他材料。

第七条 有机食品认可委员会自收到申请材料之日起20日内作出是否受理申请的决定，并书面通知申请单位。对不受理的，应说明理由。

第八条 有机食品认可委员会应在受理申请之日起40日内完成审查。

对经审查，符合有机食品认证机构资格条件的单位，由有机食品认可委员会对其颁发有机食品认证机构资格证书。

取得有机食品认证机构资格证书的单位方可从事有机食品认证活动。

第九条 有机食品认证机构资格证书由有机食品认可委员会制作、颁发。

任何单位和个人不得伪造、涂改、转让有机食品认证机构资格证书。

第十条 有机食品认证机构在从事有机食品认证时应遵循以下原则：

（一）公正、公平、独立；

（二）认证的标准、程序和结果公开；

（三）保守客户的技术和业务秘密。

第十一条 有机食品认证机构应接受有机食品认可委员会对其认证活动的监督和检查。

有机食品认证机构应对其认证的有机食品进行定期检查。

第十二条 有机食品认证机构应自颁发有机食品认证证书后1个月内，将其颁发的认证证书复印件报有机食品认可委员会备案。

有机食品认证机构之间应相互配合，实现认证信息的共享。

第十三条 有机食品认证机构应在每年1月15日前向有机食品认可委员会提交上年度工作报告，并接受有机食品认可委员会组织的年审考核。

第十四条 有机食品认证机构及其工作人员不得从事有机食品的有偿咨询活动或有机食品的生产经营活动。

第十五条 有机食品认证机构应按照本办法规定的原则、程序和有机食品认可委员会规定的技术规范，开展有机食品认证活动，不得弄虚作假或欺骗客户。

第三章 有机食品生产经营认证管理

第十六条 从事有机食品生产经营的单位或个人，必须按本章规定，并根据其拟从事的有机食品经营活动的种类，向有机食品认证机构申请下列种类的有机食品认证，取得相应的有机食品认证证书：

Article 6 Institutions that apply to OFDC to receive qualification certificates must submit to the an application form accompanied by the following materials:

(1) Qualification certificate for the legal person;

(2) Qualification certificates for professional technicians;

(3) Certifiable papers concerning the funds, facilities, fixed working places and other working conditions of the institution; and

(4) Other materials required by

Article 7 OFDC shall make a decision on whether it accepts the application and give a written reply to the applicant institution within 20 days from the day when it receives the application.

Where the application is declined, the reasons for declining the application shall be provided.

Article 8 OFDC shall complete its examination within 40 days from the day when it accepts the application.

After examination, OFDC shall issue qualification certificates to the institutions that conform to the conditions for qualification of organic foods certification organizations.

Institutions can only engage in activities to certify organic foods after they have received the qualification certificates.

Article 9 The organic foods qualification certificate will be prepared and issued by OFDC

Institutions or individuals shall not forge, alter or transfer organic foods certification organization qualification certificates.

Article 10 Organic foods certification organizations must observe the following principles in carrying on their organic foods certification activities:

(1) The organizations must be fair, impartial and independent;

(2) The organizations must make public the certification standards, procedures and results; and

(3) The organizations must maintain the confidentiality of customers' technological and business secrets.

Article 11 The organic foods certification organizations must accept supervision and monitoring of their certification activities by OFDC

The organic foods certification organizations shall regularly inspect the organic foods they certify.

Article 12 Within a month after the organic foods certification organizations issue organic foods certifications, the organizations shall send copies of these certifications to the Organic Foods Approval Commission for record.

The organic foods certification organizations shall coordinate with each other and jointly share certification information.

Article 13 The organic foods certification organizations shall submit their annual work reports to before January 15 each year and accept the annual examination and monitoring by OFDC

Article 14 The organic foods certification organizations and their staff shall not engage in organic foods paid consultation activities or organic foods production and business activities.

Article 15 The organic foods certification organizations shall initiate organic foods certification activities according to the principles and procedures stipulated by these Measures and the technical standards of OFDC and shall not defraud or deceive their customers.

Chapter III Management of Organic Foods Production, Operation and Certification

Article 16 Institutions or individuals that engage in organic foods production, operation and management must apply to organic foods certification organizations, in accordance with the stipulations of this Chapter and based on the type of activities in which they propose to engage, for the following kinds of certification and to obtain corresponding organic foods certificates:

(1) Certification of organic foods production primary facilities;

(2) Certification of organic foods processing; and

(3) Certification of organic foods operation and management.

（一）有机食品基地生产认证；

（二）有机食品加工认证；

（三）有机食品贸易认证。

第十七条 申请有机食品认证的单位或个人，应向有机食品认证机构提出书面认证申请，并提供营业执照或证明其合法经营的其他资质证明。

申请有机食品基地生产认证的，还须提交基地环境质量状况报告及有机食品技术规范中规定的其他相关文件。

申请有机食品加工认证的，还须提交加工原料来源为有机食品的证明、产品执行标准、加工工艺（流程、程序）、市（地）级以上环境保护行政主管部门出具的加工企业污染物排放状况和达标证明，及有机食品技术规范中规定的其他相关文件。

申请有机食品贸易认证的，还须提交贸易产品来源为有机食品的证明及有机食品技术规范中规定的其他相关文件。

第十八条 有机食品认证机构应在收到书面认证申请及有关材料后10日内提出是否受理的意见。对不予受理的，应说明理由。

第十九条 有机食品认证机构应在同意受理之日起的90日内组织完成认证。

经认证合格的，由有机食品认证机构根据其申请及认证的有机食品认证种类，颁发有机食品基地生产证书、有机食品加工证书或有机食品贸易证书（以下统称有机食品认证证书）。

第二十条 有机食品认证证书的格式由有机食品认可委员会统一规定。

有机食品认证证书必须在限定的范围内使用。

任何单位和个人不得伪造、涂改、转让有机食品认证证书。

第二十一条 有机食品认证证书有效期为两年。

有机食品生产经营单位或个人在有机食品认证证书有效期届满后需要继续使用认证证书的，必须在期满前1个月内向原有机食品认证机构重新提出申请；其经营的有机食品未获得重新认证的单位或个人，不得继续使用有机食品认证证书。

第二十二条 有机食品认证的样品检测工作由经有关部门认可的检验和机构承担。

有机食品基地环境质量状况监测工作由地（市）级以上环境保护行政主管部门所属的环境监测站承担。

第二十三条 在有机食品认证证书的有效期内，有下列情形之一的，有机食品生产经营单位或个人应向原有机食品认证机构办理变更手续：

（一）持证单位或个人发生变更的；

（二）产品类型（规格）变更的；

（三）产品名称变更的；

（四）使用新商标的；

Article 17 The institutions or individuals that apply for the certification of organic foods must submit written applications to the organic foods certification organizations, and also provide business licenses or other certificates to demonstrate the legality of their business operations.

In applying for certification of organic foods production primary facilities, it is also necessary to provide reports of the primary facilities' environmental quality and other documents described in the organic foods technical standards.

In applying for certification of organic foods processing, it is necessary to provide in addition certificates proving that the sources of raw materials are organic foods, implemented product standards, processing technology (technological process and procedure), certification of the enterprises' pollutant discharges and compliance with the standards specified by the competent departments of environmental protection administration at or above the municipal (district) level and other relevant documents described in organic foods technical standards.

In applying for certification of organic foods operation and management, it is necessary to provide in addition certificates proving that sources of the products are organic foods and other relevant documents described in the organic foods technical standards.

Article 18 Within 10 days after receipt of the written applications and relevant materials, the organic foods certification organizations shall set forth their views on whether to accept the applications. Where the applications are declined, the reason for declining shall be explained.

Article 19 The organic foods certification organizations shall complete the certification of the activities in question within 90 days of the date on which the organization agrees to accept the application.

After approval of the certification, the organic foods certification organizations shall issue organic foods facilities production certificates, organic foods processing certificates, or organic foods operation and management certificates (hereinafter refered to as organic foods certificates) in accordance with the applications and type of organic foods certification.

Article 20 The form of the organic foods certificates will be unified by OFDC.

The organic foods certificates must be used within the limits thereof.

Institutions or individuals shall not forge, alter or transfer organic foods certification organization qualification certificates.

Article 21 Organic foods certificates are valid for two years.

After the expiration of the certificate's validity, institutions or individuals who produce or otherwise operate organic foods businesses may continuously use their certificates if they apply to the original organic foods certification organizations one month before the expiration of the certificate for renewal; those institutions or individuals that do not receive certificate renewals for their business operations or organic foods are prohibited from using their organic foods certificates.

Article 22 Specimen inspection undertaken for the purpose of authenticating organic foods is undertaken by the inspection organization recognized by the relative government department.

Monitoring of the environmental quality of organic foods primary facilities is undertaken by the environmental monitoring station under the competent department of environmental protection administration at or above the district (municipal) level.

Article 23 Within the validity period of the organic foods certificate, under any of the following situations, the institution or individual engaged in the organic foods business shall handle information change procedures with the original organic foods certification organization:

(1) The institution or individual holding the certificate has changed;

(2) The product category (specification) has changed;

(3) The product name has changed:

(4) A new trade mark is being used; or

(5) The source of raw materials for processing organic foods or the source of the operated/managed organic foods products has changed.

（五）有机食品加工原料来源或有机食品贸易产品来源发生变更的。

第二十四条 有机食品生产经营单位或个人，应遵守下列规定：

（一）接受有机食品认证机构的监督检查；

（二）认证内容发生变更的，应及时向有机食品认证机构报告变更情况，并办理变更手续；

（三）建立有机食品经营管理制度及生产、加工和贸易的档案；

（四）进行有机食品销售宣传时，必须保证宣传内容的真实性；

（五）对本单位从事有机食品业务的工作人员，进行岗位培训。

第二十五条 取得有机食品基地生产证书的单位或个人应当划定地域范围，标注地理位置，设立保护标志，及时予以公告。

第四章 有机食品标志管理

第二十六条 取得有机食品认证证书的单位或个人，可以在其有机食品认证证书规定产品的标签、包装、广告、说明书上使用有机食品标志。

第二十七条 有机食品标志的图形式样由有机食品认可委员会统一规定。

使用有机食品标志时，可根据需要等比例放大或缩小，但不得变形、变色。

使用有机食品标志时，应在标志图形的下方同时标印该产品的有机食品认证证书号码。

第二十八条 有机食品标志必须在限定的范围内使用。

第十十九条 任何单位和个人不得伪造、涂改、转让有机食品标志。

第三十条 在生产、加工或销售过程中有机食品受到污染或与非有机食品发生混淆时，有机食品生产经营单位或个人必须及时通报原有机食品认证机构，对该食品停止使用有机食品标志，并不得再作为有机食品生产、加工或销售。

第五章 罚 则

第三十一条 对违反本办法规定，有下列行为之一的有机食品认证机构，由有机食品认可委员会给予警告，并限期改正；限期未达到要求的，取消其有机食品认证机构资格证书：

（一）违反本办法第九条第二款规定，伪造、涂改、转让有机食品认证机构资格证书的；

（二）年审考核不合格的；

（三）违反本办法第十四条规定，从事有机食品有偿咨询活动或有机食品生产经营活动的；

（四）违反第十五条规定，在认证过程中弄虚作假或欺骗客户的。

Article 24 The institutions or individuals that produce or otherwise engage in operation or management of organic foods must:

(1) Accept supervision and monitoring by the organic foods certification organization;

(2) Make timely reports to the organic foods certification organization upon changes to their certifications, and undertake the appropriate change procedures;

(3) Establish an organic foods operation and management system and maintain production and processing files;

(4) Maintain the truth of information disseminated concerning organic foods; and

(5) provide in-house training for personnel engaged in organic foods work.

Article 25 The institutions or individuals that have obtained certifications of organic foods primary production facilities must define regional scope, label geographical location, establish protective labels, and inform the public in a timely manner.

Chapter IV Management of Organic Foods Labels

Article 26 Institutions or individuals that have obtained organic foods certificates may affix organic foods labels on the labels, packaging, advertisements and directions for their organic foods.

Article 27 The design of organic foods labels shall be indicated by OFDC

Those using organic foods labels may proportionally enlarge or reduce the scale of the labels, but may not deform or change the color of the labels.

Those using organic foods labels must print the number of the organic foods certificate for the food associated with the label under the label.

Article 28 The organic foods labels must be used within the limits thereof.

Article 29 Institutions or individuals shall not forge, alter or transfer organic foods labels.

Article 30 Where, during the process of producing, processing or selling organic foods, the organic foods are polluted or mixed with non-organic foods, the institutions or individuals engaged in organic foods production, operation and management must make a timely report to the original organic foods certification organization, cease use of the organic foods labels for the affected foods and not allow those foods to be produced, processed, or sold as organic foods.

Chapter V Penalty Provisions

Article 31 An organic foods certification organization which violate the provisions of these Measures and engages in one of the following activities, shall be subject to a warning issued by OFDC an order for correction of the violating behavior within a specified time period; in the event that the organization does not correct the violating behavior within the specified time period, the organization's qualification certification shall be cancelled:

(1) The organization violates the provisions of Article 9(2), regarding the forging, alteration, and transfer of organic foods certification organization qualification certificates;

(2) The organization is not in compliance with standards at the year-end examination;

(3) The organization violates the provisions of Article 14 concerning engaging in paid consultative activities or organic foods production, operation and management activities; or

(4) The organization violates the stipulations of Article 15 concerning engaging in fraud and customer deception during the period of certification.

第三十二条 已获认证的有机食品不符合有机食品认证时的标准和规范要求的，由原有机食品认证机构视情况暂扣或撤销有机食品认证证书。

第六章 附 则

第三十三条 本办法自发布之日起施行；原国家环境保护局一九九五年发布的《有机（天然）食品标志管理章程》（试行）同时废止。

附： 有机食品标志图形

Article 32 Where organic foods which have obtained certification do not conform to the standards and specifications indicated for certification, the original organic foods certification organization shall temporarily suspend or withdraw the organic foods certificate, according to the particular facts of the case.

Chapter VI Supplementary Provisions

Article 33 These Measures shall come into force as of the date of promulgation. The Measures on the Management of Organic (Natural) Food Labeling (Provisional) Promul gated by the former National Environmental Protection Agency in 1995 Shall be hereby repeuled.

Enclosed: Logo of organic food

环境保护产品认定管理办法

（国家环境保护总局2001年12月23日修订后公布）

第一章 总 则

第一条 为提高环境保护投资效益、推动环境保护产业技术进步，促进国内外环境技术贸易的发展，有效地开展环境保护产品认定工作，制定本方法。

第二条 环境保护产品认定（以下简称认定）是依据环境保护产品认定技术要求和产品质量标准，经认定机构确认并通过颁布环境保护产品认定证书和标志，证明某一产品符合相应标准和环境保护要求的活动。

第三条 本办法所称环境保护产品是指用于防治环境污染、改善生态环境、保护自然资源的设备、环境监测专用仪器和相关的药剂、材料。

第四条 环境保护产品认定实行第三方认证，采取自愿、公开、公正、透明、非歧视的原则。凡列入环境保护产品认定种类名录的产品，境内外生产企业或代理商均可自愿申请环境保护产品认定。

第五条 国务院环境保护行政主管部门依据环境保护工作发展的需要，发布认定指南、环境保护产品认定技术要求和认定种类名录，规定认定标志的图形式样，指导并监督环境保护产品认定工作。

第二章 认定机构和检测机构

第六条 国务院环境保护行政主管部门对环境保护产品认定机构和检测机构实行资格审查制度。

第七条 从事环境保护产品认定的机构应是被公认独立于供方和购买方的第三方机构，并应具备以下基本条件：

（一）具有独立法人资格；

（二）具有从事环境保护产品认定的专职技术人员；

（三）具备从事环境保护产品认定活动所需的资金、设施、固定工作场所及其它必要的工作条件。

第八条 检测机构应具备以下基本条件：

（一）法人组织或法人组织的分支机构；

Measures on the Certification Management of Environmental Protection Products

(Revised and Promulgated by the State Environmental Protection Administration on December 23, 2001)

Chapter I General Principles

Article 1 These Measures are formulated in order to increase investment efficiency in environmental protection, push forward the technological progress of environmental protection industry, promote the development of domestic and foreign environmental technological trade and effectively launch the certification of environmental protection products.

Article 2 The certification of environmental protection products (hereafter abbreviated "certification"), which is based on the technological requirements of environmental product certification and standard of product quality, is an activity to prove certain product which conforms with the corresponding standard and environmental protection requirement. The certified product shall be issued a certificate and a label of environmental protection product by the certification authority.

Article 3 The environmental protection products in this Measures refer to the equipment for prevention of environmental pollution, improvement of ecological environment and protection of natural resources, instruments specially for environmental monitoring and agents and materials related to environmental protection.

Article 4 The environmental protection products shall be certified by the third party and shall be based upon voluntary, open, fair, transparent and indiscriminate principles. The domestic and foreign enterprises or their agents could voluntarily apply for the certification for all the products listed in the catalogue of certification types of environmental protection products.

Article 5 In accordance with the need of environmental protection, the competent administrative department of the State Council for environmental protection shall issue the guidelines on certification, technological requirements and catalogue of certification types of environmental protection products, stipulate figure pattern of certification label, direct and supervise the certification work of environmental protection products.

Chapter II Certification Authorities and Testing Organs

Article 6 The competent administrative department of the State Council for environmental protection carries out the examination system of qualifications for the certification organizations and testing ones of environmental protection products.

Article 7 The certification organizations shall be the publicly recognized third-parties and shall be independent from supply parties and purchase ones and should conform to the following basic conditions:

(1) Being an independent legal person qualification;

(2) Having the professional technicians who engage in certification of environmental protection products; and

(3) Having funds, facilities, fixed working places and other working conditions necessary for the activities of certification of environmental protection products.

Article 8 The testing organizations should meet the following basic conditions:

(1) Being a legal person organizations or their branches:

（二）符合检测机构的法定条件和具备出具公正数据的资格；

（三）具备从事环境保护产品检测的仪器、设备和人员条件，建有完整的质量管理体系。

第三章　申请认定的条件

第九条　申请环境保护产品认定的企业应具备的条件：

（一）具有独立法人资格；

（二）有齐备的生产条件和必要的检测手段；

（三）有健全的企业质量管理体系；

（四）生产过程满足环境保护要求；

（五）申请日前一年内，申请企业未受到当地环境保护保护行政主管部门的处罚。

第十条　申请认定的产品应具备的条件：

（一）属于环境保护产品认定种类名录中的产品；

（二）符合环境保护产品认定技术要求和产品质量标准；

（三）能正常批量生产，各项技术指标稳定；

（四）符合国家产业政策，不属于限制使用或即将淘汰的产品；

（五）工业产权或专有技术权属明确。

第四章　认定程序

第十一条　申请认定的企业，应按认定种类名录向认定机构提出书面申请，并提交下列资料：

（一）工商行政管理部门核发的有效营业执照复印件；

（二）申请认定产品的工业产权或专有技术权属明确；

（三）申请认定产品执行的现行标准文本；

（四）申请认定产品的用户名录及用户意见；

（五）具备资质的检测机构出具的一年内的产品检测报告；

（六）申请企业所在地环境保护行政主管部门出具的申请日前一年内未受环境保护处罚的证明；

（七）其它申报资料。

境外企业或代理商提交的申请书及资料应有中英文对照。

第十二条　认定机构应在30日内审查申报材料，决定受理认定申请后，向企业发出受理认定申请通知。

(2) Conforming to the legal requirements on testing organizations and qualified for issuing fair testing data; and

(3) Having the testing instruments, equipment and personnel for the certification of environmental protection products and integrated quality management system.

Chapter III Conditions of Applying for Certification

Article 9 The enterprises which apply for the certification of environmental protection products should meet the following conditions:

(1) Having an independent legal person qualification;

(2) Having sufficient production conditions and necessary testing means;

(3) Having competent quality management system of enterprises;

(4) Production process meets the requirements of environmental protection; and

(5) Within the year prior the application, the enterprises have not been punished by the competent local administrative departments for environmental protection.

Article 10 Products that have been applied for certification should meet the following conditions:

(1) Being included in the catalog of certification types of environmental protection products;

(2) Conforming to the requirements of certification technology and standard of product quality;

(3) Capable of normal mass production, with a stable technological index;

(4) Conforming with the national industrial policies, and the products shall not be subject to restriction or shall not be phased out in the near future; and

(5) The products enjoy clear industrial property rights and technological rights.

Chapter IV Procedure of Certification

Article 11 The enterprises applying for certification should submit written applications to the certification organizations according to the catalogue of certification types and the following materials:

(1) A copy of valid business license examined and issued by the department of industrial and commercial administration;

(2) Documents on the clear industrial property rights or special technological rights of products applying for certification;

(3) A copy of current standard of products applying for certification:

(4) The directory of users of products applying for certification and users' comments;

(5) The testing report of products within a year issued by the qualified testing organization;

(6) The certificate issued by the local competent administrative department for environmental protection stating that the enterprise had not been punished within a year prior the application; and

(7) Other applicant materials.

The applications and materials submitted by the overseas enterprises or their agents should be Chinese-English bilingual.

Article 12 The certification organization should examine application materials within 30 days and issue a notice of accepting the certification applications to the enterprises.

Article 13 The certification organizations could examine the enterprises applying for certification on the spot, take a random sample of application products and send it to the testing organization for test.

Article 14 The testing organization should test the samples according to the certification technological requirements or standards of environmental protection products and submit the testing report to the certification organization.

Article 15 The certification organizations should examine the enterprises' applicant materials, on-the-spot check-up reports and testing reports of products, sign and issue certificates of environmen-

第十三条 认定机构组织对申请认定企业进行现场检查，并对申请认定的产品随机抽样，送检测机构检测。

第十四条 检测机构应依据环境保护产品认定技术要求或标准对样品进行检测，并向认定机构提交检测报告。

第十五条 认定机构对企业申请资料、现场检查报告、产品检测报告等进行审查，对通过认定的产品签发环境保护产品认定证书并报国家环境保护行政主管部门备案。

第十六条 对未受理或未通过认定的产品，认定机构应在30天向申请企业发出通知并说明原因。

第五章 认定证书、标志的使用和管理

第十七条 获得认定证书的企业不得涂改、滥用、转让认定证书和标志。在认定证书有效期内，可以在认定产品的包装、说明书及广告宣传中使用认定证书和标志。

第十八条 使用认定标志时，应在标志图形的下方同时标印认定证书号，可根据需要等比例放大或缩小，但不得变形、变色。

第十九条 认定证书有效期为三年，获证企业可在认定证书期满前90天，向认定机构提出延期申请。认定机构对复审合格的产品签发新的认定证书。

第二十条 认定证书超过有效期或者其它原因获证企业需要重新申请认定时，其程序与初次申请认定程序相同。

第二十一条 获证企业有下列情况之一的，认定机构应暂停使用认定证书和标志，并责令其限期整改：

（一）不能保证获证产品符合环境保护产品认定技术要求和产品质量标准的；

（二）转让认定证书的。

第二十二条 获证企业有下列情况之一的，由认定机构收回认定证书，责令停止使用认定标志：

（一）在暂停使用认定证书期限内，不能按要求改正的；

（二）涂改、滥用认定证书或弄虚作假，伪造文件、资料的；

（三）不再生产获得认定的环境保护产品或产品型号、规格发生变更的；

（四）使用新的注册商标或产品名称的。

第六章 监督管理

第二十三条 获得认定的产品，各地方环境保护行政主管部门不得重复认定或

tal protection products that passed certification, and report to the competent administrative department of the State Council for environmental protection for record.

Article 16 Where certain products have not been accepted and have not passed the certification, the certification organization should, within 30 days, so notify the applicant enterprise and give reasons.

Chapter V Use and Management of Certificate and Label

Article 17 The enterprises which have gained certificates shall not alter, abuse and transfer their certificates and labels. Within the valid period they may use the certificates and labels on packaging, product specifications and advertisements.

Article 18 When the certification label is used, the number of certificate should be printed under the label figure. In printing the figure of certification label, the scale of the label can be enlarged or reduced, but its shape and color cannot be changed.

Article 19 The valid period of certificate is three years. The certified enterprises might apply to the certification organizations for an extension 90 days before the expiry of their certificates. The certification organization could issue new certificate to the qualified products after re-examination.

Article 20 In case the certificate has been beyond the valid period or there are other reasons for the certified enterprises to re-apply for certification, the re-application procedure is the same as that of first application for certification.

Article 21 Where the certified enterprises have one of the following circumstances, the certification organization should temporarily suspend their certifications and labels and order them to rectify the misconduct within a definite time:

(1) The certified products failed to be guaranteed to conform to the requirements of certification technology of environmental protection products and standards of product quality; or

(2) The certificate is transferred.

Article 22 When the certified enterprises have one of the following cases, the certification organization should revoke the certificates and order the enterprises to cease to use the certificate label:

(1) Within the temporary suspension of the use of certificate, the certificate owners failed to rectify the misconduct as required;

(2) The certificate owners alter, misuse their certificates, or practise fraud, forge papers and materials;

(3) The certificate owners have ceased to manufacture the certified environmental protection products, or they have changed the types and specifications of the certified products; or

(4) The certificate owners have registered new trade mark or used name for the certified product.

Chapter VI Supervision and Management

Article 23 All the local competent administrative departments for environmental protection shall not duplicate the certification for or collect fee on the certified products under other excuse.

Article 24 The enterprises which have gained certificates should conduct good post-sale service. where they fail to meet the technological requirements and product quality for the certified products, they should take the responsibility to improve and change these products or compensate for the corresponding losses. Otherwise, the certification organizations should suspend their use of certificates or revoke the certificates of their products.

Article 25 When the consumers of certified products meet with the quality problems in their use, they may make complaint directly to the enterprises and put forward their requirements of improvement. Where the enterprises refuse to take the responsibility, the consumers may also make complaint to the certification organizations. The certification organizations should, within 30 days, inves-

以其它名义收取费用。

第二十四条 获认定产品的生产企业应搞好产品售后服务，对达不到认定技术要求和产品质量的，产品生产企业应负责产品改进、更换，或赔偿相应的经济损失。否则，认定机构应暂停使用或撤销产品认定证书。

第二十五条 用户对获得认定的产品在使用中出现质量问题，可直接向产品生产企业反映，并提出改进要求，产品生产企业拒不承担责任的，也可向认定机构投诉，认定机构应在30天内调查、核实并处理。

第二十六条 认定机构及其工作人员，必须严格遵守本办法的规定，坚持公平、公开、科学的原则，认真履行职责。

第二十七条 检测机构及其工作人员应坚持科学、准确、真实的原则，按照规定的检测方法、检测程序和检测范围进行检测。

第二十八条 认定和检测机构应按照有关规定收费并不得向申请企业提出超出其工作范围以外的任何要求。

第二十九条 从事认定及检测工作的机构和人员若有徇私舞弊、弄虚作假，不能保持公正，泄露认定产品的技术秘密，非法占有申请人的技术成果等违法失职行为的，由上级主管部门视情节轻重，责令其限期整改或停止从事与认定相关的工作。构成犯罪的由司法机关依法追究刑事责任。

第三十条 有下列情况之一时，企业和用户可向认定机构提出申诉：

（一）符合认定条件要求，但认定机构不予受理申请；

（二）对检查、检测或暂停、撤销认定证书有异议；

（三）认定机构、检测机构或其工作人员有违规行为；

（四）认定工作违章收费；

（五）用户对获证产品有异议。

第三十一条 认定机构应对申诉进行调查处理并给予答复。对处理结果有异议者可向国务院环境保护行政主管部门投诉。

第七章 附 则

第三十二条 环境保护产品认定收费，参照国家计委、国家质量技术监督局〔1999〕计价格1610号《产品质量认证收费管理办法》执行。

第三十三条 本办法由国务院环境保护行政主管部门负责解释。

为保障本办法的贯彻实施，可制订相应的实施细则。

第三十四条 本办法自2002年1月1日起施行。

tigate into the cases, very the facts and then deal with the complaints.

Article 26 The certification organizations and their staffs should strictly observe the provisions of these Measures, persist in fair, open and scientific principles and seriously fulfill their duties.

Article 27 The testing institutions and their staffs should persist in scientific, accurate and serious principles, and conduct testing according to the stipulated testing method, procedure and scope.

Article 28 The certification organizations and testing institutions shall collect fee in accordance with the related provisions, and they are not allowed to put forward any requirements to the applicant enterprises beyond the working scope.

Article 29 Where the certification organizations, the testing institutions or their staffs engage in malpractice for personal gains, practise fraud, fail to maintain fairness, divulge technological secrets of the certified products or illegally take advantage of the technological achievements of applicants, the high-level competent departments shall, in accordance with the seriousness of the cases, order them to rectify within a definite time or stop their work related to the certification. Where the cases constitute crimes, the cases shall be transferered to the judicial organs to investigate for criminal liabilities.

Article 30 Where there is one of the following circumstances, the enterprises and consumers may appeal to the certification organizations:

(1) The application conforms to the requirements of certification conditions, but the certification organizations failed to accept the application;

(2) The enterprises have objections toward inspection, test or temporary suspension, cancellation of certificate;

(3) The certification organizations and testing institutions have committed acts of irregularity;

(4) The fee collection for certification violates relevant provisions; or

(5) The consumers have objections to the certified products.

Article 31 The certification organizations should investigate into, deal with the appeals and then reply to the appellants. Where there are still objections to the investigation results, the appellants may make complaints to the competent administrative department of the State Council for environmental protection.

Chapter VII Supplementary Provisions

Article 32 The collection of fees for the certification of environmental protection products shall conform to the Measures on the Administration of Fee Collection for Product Quality Certification (Ji Jia Ge No. 1610 [1999])by the State Planning Development Commission and the State Administration for Quality and Technological Supervision.

Article 33 The competent administrative department of the State Council for environmental protection shall be responsible for the interpration of these Measures.

In order to ensure the implementation of these Measures, the corresponding detailed rules could be formulated.

Article 34 These Measures will be implemented as of January 1, 2002.

关于对进入我国市场的境外环保产品实行认定的通知

（国家环保总局 1998 年 3 月 23 日　环发［1998］183 号）

根据我局发布的《环境保护产品认定管理暂行办法》（环科［1997］）251 号），现就进入我国市场的境外环保产品的认定作如下补充规定：

一、境外环保产品是指在我国市场直接销售或代理销售境外生产的《环境保护产品认定管理暂行办法》第三条所列环保产品。

二、境外环保产品由我局认定，地方各级环保部门负责获准认定的境外环保产品在本行政区内使用的日常监督管理。

三、境外环保产品认定由境外企业或代理商向我局申请，并提供下列材料（中、英文本）：

1．申请单位合法经营的证明文件；

2．该产品准予进入所在国市场的证明文件；

3．产品相关标准；

4．产品质量保证书；

5．产品使用说明书。

Circular on the Certification for Foreign Environmental Products that Enter China's Domestic Market

(Promulgated by the State Environmental Protection Administration on March 23, 1998)

Pursuant to the Interim Measures on the Certification of Environmental Products (Huan Ke [1997] No. 251) promulgated by the National Environmental Protection Agency, certification of foreign environmental products that enter China's domestic market is hereby stipulated as supplementation to the Measures:

1. Foreign environmental products refer to products listed in Article 3 of the Interim Measures on the Certification of Environmental Products, that are produced overseas and sold directly or through sales agents in China's domestic market.

2. Foreign environmental products shall be certified by the State Environmental Protection Administration. Local environmental protection departments at all levels shall be responsible for route supervision and management of the use of the certified environmental products within their administrative regions.

3. Application for certification of foreign environmental products shall be filed to the State Environmental Protection Administration by the foreign enterprises or their sales agents, and following materials (in Chinese and English) shall be provided:

(1) Documents certifying that the applying unit is run lawfully;

(2) Documents certifying that the product is allowed to enter the market of its native country;

(3) Relevant product standards;

(4) Quality certificate of the product; and

(5) Specification of the product.

关于调整环境保护产品认定工作有关事项的通知

（国家环保总局2000年6月26日　环发［2000］130号）

根据中央机构编制委员会《关于环保产业管理职能分工意见的通知》（中编办函［1999］141号）的有关精神，国家环境保护总局将对环境保护产品认定工作的职能进行适当调整，现将有关事项通知如下：

一、为适应社会主义市场经济的发展，转变环境保护产品市场管理方式，环境保护产品认定工作将逐步由行政性认定转为第三方认证，在全国建立统一的环境保护产品第三方认证制度；

二、为保持工作的延续性，保证环保产品市场的有序运行，在环境保护产品第三方认证制度正式建立和启动之前，环境保护产品认定工作委托中国环保产业协会组织进行；

三、为避免重复认定，防止地方保护，坚持公平公正原则，自本通知发布之日起，各地环境保护行政主管部门停止环境保护产品认定工作，抓紧做好环境保护产品向第三方认证的过渡，并将执行情况报我局。

四、在深化改革建立新的管理方式，充分发挥市场调控作用的同时，国家环保部门对一些有潜在危害的环保产品或为执法提供技术依据的产品等，要强化监督和管理。在统一实行第三方认证的基础上，改进和完善市场准入制度。

Circular on the Adjustion of Certification for Environmental Protection Products

(Promulgated by the The State Environmental Protection Administration on June 26, 2000)

Pursuant to the Circular on Suggestions to the Division of Duties in the Administration of the Environmental Protection Industry (Letter of the Office of OCCO[1999]No. 141) of the Organization Committee of the Central Organs (OCCO), the Stafe Environmental Proteation Administration (SEPA) will rearrange the duties in the certification of environmental protection products. Relevant matters are notified hereunder:

1. To keep pace with the development of the socialist market economy and transform the management mode of the environmental protection products market, the certification of environmental protection products will gradually shift from administrative certification towards certification by a third party, and the unified system of certification of environmental protection products by a third party will be established nationwide;

2. To maintain the consistency of this work and guarantee the orderly operation of the environmental protection products market, before the formal establishment and functioning of the system of certification of environmental protection products by a third party, the certification work is entrusted to the China Association of Environmental Protection Industry;

3. To avoid redundant certification, prevent protection bias out of localism and adhere to the principles of fairness and justice, as of the date of the promulgation of this Circular, the local competent departments of environmental protection administration shall stop the certification of environmental protection products, and take actions to complete the shift towards certification by a third party, and shall report to SEPA about the progress; and

4. While deepening the reform, establishing the new management mode and bringing into full play the role of the market in adjustment and control, the state environmental protection department shall strengthen the supervision and management of environmental protection products with potential harms and products that provide technical support for law-enforcement. On the basis of the unified implementation of certification by a third party, the market admittance system shall be improved and perfected.

环境保护产品检验机构资质认可管理规定

（国家环保总局1999年4月1日　环发［1999］89号）

一、为加强对环境保护产品检验机构（以下简称检验机构）的监督管理，促进检验机构的业务建设，规范对检验机构的资质认可工作，根据国务院关于国家环保总局建立和组织实施环境保护资质认可制度职责的规定，制定本规定。

二、国家环保总局对检验机构实行资质认可制度，负责制定检验机构资质认可的有关政策和规章，对检验机构申请单位进行资质审查和认可。

获得资质认可的检验机构原隶属关系不变，环境保护产品检验业务受国家环保总局的指导和监督。

三、检验机构应当具备下列条件：

1．法人组织或者法人组织的分支机构；

2．具备检验机构的法定条件；

3．具备从事环境保护产品检测的条件，建有完整的质量管理体系，符合《环境保护产品检验机构资质认可准则》规定的条件；

四、申请资质认可的单位，向国家环保总局领取和填报《环保产品检验机构认可申请书》，并提交质量管理手册和其他有关资料。

五、国家环保总局自接到《环保产品检验机构认可申请书》及有关申报材料之日起45天内进行有关材料审核，并将受理情况通知申请单位。

六、国家环保总局依据《环境保护产品检验机构资质认可准则》的要求，组织有关专家对申请资质认可的检验机构进行检查、评审。

七、国家环保总局对通过评审的检验机构进行审批，并授予环境保护产品检验机构资质认可证书（以下简称证书），证书分为正本和副本。证书内容包括：检验机构名称、地址、认可的业务范围、证书的有效期、证书编号等内容。

八、证书有效期3年。申请延期的检验机构应在证书期满前90天内，向国家环保总局提出申请，国家环保总局根据工作需要进行复审，对符合《环境保护产品检验机构资质认可准则》条件的，核发新证书。到期不申请或复审不合格者取消资格，收回证书。

Provisions on the Administration of Qualification Authentication of the Inspection Institutions for Environmental Protection Products

(Promulgated by the State Environmental Protection Administration on April 1, 1999)

1. Pursuant to the prescription of the State Council that the State Environmental Protection Administration shall be responsible for the establishment and implementation of the environmental protection qualification authentication system, this Rules is formulated for the purpose of strengthening the supervision and management of environmental product inspection agencies (hereinafter referred to as "the inspection agencies"), promoting their business buildup and regulating the qualification authentication of the agencies.

2. The State Environmental Protection Administration applies the qualification authentication system in the management of the inspection agencies, and is responsible for establishing policies and rules for qualification authentication, and conducts qualification examination and authentication of the units applying for inspection license.

Inspection agencies that obtain the qualification authentication will maintain their subordination relationship, and their environmental products inspection business shall be subject to the direction and supervision of the State Environmental Protection Administration.

3. Inspection agencies shall satisfy the following requirements:

(1) Being a legal person or branch of a legal person;

(2) Meeting conditions required by laws as an inspection agency;

(3) Being qualified to engage in the examination of environmental protection products, having established a complete quality management system, and meeting conditions specified in the Guidelines of Qualification Authentication of Environmental Protection Products Inspection Agencies.

4. A unit that applies for the qualification authentication shall obtain the Environmental Protection Products Inspection Agencies Authentication Application Form from the State Environmental Protection Administration, fill it in and return it together with the quality management handbook and relevant materials.

5. The State Environmental Protection Administration shall, within 45 days of receiving the Environmental Protection Products Inspection Agencies Authentication Application Form and relevant materials, examine and check the materials, and notify the applying unit whether it will accept the application.

6. The State Environmental Protection Administration shall, in accordance with the Guidelines of Qualification Authentication of Environmental Protection Products Inspection Agencies, organize experts to carry out examination and assessment of the inspection agency that applies for the qualification authentication.

7. The State Environmental Protection Administration shall approve the application of inspection agencies that pass the assessment and grant the agencies the qualification authentication certificate as environmental protection products inspection agency (hereinafter referred to as "the certificate"). The certificate includes the original and the duplicate copies. Contents of the certificate include name, address and authenticated business scope of the inspection agency, the term of validity and serial number of the certificate.

8. The term of validity of the certificate is three years. Inspection agencies that apply for extension of the certificate shall, within 90 days prior to the expiry of the certificate, apply to the State Environmental Protection Administration. The State Environmental Protection Administration shall carry out re-examination when it is necessary, and shall issue new certificates to inspection agencies that

九、获认可的检验机构必须做到：

1．遵守国家有关法律、法规、遵守国家环保总局有关规定，不得以国家环保总局认可的检验机构的名义从事超出被认可范围的业务活动。

2．保守被检产品的技术秘密，不得非法占有他人的科技成果，不得从事被检产品的开发或对外提供咨询，并承担因其失误所造成的经济损失。

3．应独立、公正、科学、廉洁地开展环境保护产品检验工作，必须对其出具的检测报告负责，不得伪造检验和试验数据或提供虚假结论。

4．每年向国家环保总局报告一次工作，报告内容包括机构及人员状况、认可业务范围的工作情况、工作意见和建议等；情况有重大变化时，应及时报告。

5．认可证书被吊销或暂停时，立即停止被认可范围内的业务工作和宣传活动。

6．准确、及时完成国家环保总局委托的业务工作。

十、检验机构可以向国家环保总局提出终止其认可的要求，在国家环保总局对此做出回复之后方能生效。

十一、检验机构进行产品检验时可按国家有关规定收取检验费。收费标准应向所在地物价管理部门备案。

十二、检验机构只能在获准认可的业务范围内使用认可标志。在宣传其认可资质时，有义务向被检单位申明其获准使用认可标志的业务范围。认可标志可用于：

1．检验机构的认可证书；

2．出具的检测报告和证书；

3．表明其已取得认可资质的文件及宣传品，如机构简介、信封、信纸等。

十三、国家环保总局不定期对检验机构进行监督检查。检验机构所在省、自治区、直辖市环保行政主管部门协助国家环保总局对检验机构进行监督管理。

十四、检验机构有下列情况之一的，国家环保总局视情况分别给予暂停认可证书和印章标志、责令限期整改或吊销证书的处理：

1．违反本管理规定的；

2．工作中达不到《环境保护产品检验机构资质认可准则》要求的；

3．无故拒不承担国家环保总局委托的其他有关业务工作的。

十五、检验机构资质认可证书由国家环保总局统一印制和发放，本规定实施细则另行制订。

十六、本规定自发布之日起施行。

meets the Guidelines of Qualification Authentication of Environmental Protection Products Inspection Agencies. Qualification of those failing to apply before the certificate expires or failing to pass the re-examination shall be revoked, and the certificates withdrawn.

9. An inspection agency that have obtained the authentication shall:

(1) Abide by the laws and regulations of the state and rules of the State Environmental Protection Administration, and shall not engage in business activities beyond the authenticated scope in the name of inspection agency authenticated by the State Environmental Protection Administration;

(2) Keep confidential technological secrets of the inspected products, and shall not illegally seize scientific and technological results of others, and shall not engage in the development of the inspected products or provide external consulting service, and shall bear the economic losses resulting from its fault;

(3) Conduct the environmental products inspection work in an independent, fair, scientific and uncorrupted way, and shall be responsible for the inspection report that it provides, and shall not fabricate the inspection and experimental data or provide the false conclusions;

(4) Report their work once a year to the State Environmental Protection Administration. Content of the report shall include status quo of its organization and staff, work within the authenticated business scope, suggestions and advice. When major changes occur in its status, it shall promptly report;

(5) Suspend business activities within the authenticated scope and advertisement activities when the authenticated certificate is revoked or suspended; and

(6) Accurately and timely accomplish the business tasks entrusted by the State Environmental Protection Administration.

10. An inspection agency may apply to the State Environmental Protection Administration to terminate its authentication, and the termination will come into effect only when the State Environmental Protection Administration replies such an application.

11. Inspection agencies may collect inspection fees in inspection of products pursuant to provisions of the state. The standard of the inspection fees shall be filed to the local price administrative agency for the record.

12. Inspection agencies can use the authentication symbol only within the authenticated business scope; in publicizing its authenticated qualification, the inspection agency has the obligation to make clear its authenticated business scope to the inspected unit. The authentication symbol can be used on:

(1) The authentication certificate of the inspection agency;

(2) The inspection report and certificate it provides; and

(3) Documents and advertisement materials showing that it has obtained the authenticated qualification, such as the introduction to the agency, envelope and letter paper.

13. The State Environmental Protection Administration shall carry out irregular supervision and inspection of inspection agencies. The competent departments of environmental protection administration of the provinces, autonomous regions and municipalities directly under the Central Government where the inspection agencies are located shall cooperate with the State Environmental Protection Administration in the supervision and management of the inspection agencies.

14. In the following circumstances, the State Environmental Protection Administration shall suspend the authenticated certificate and symbol of the inspection agency, order it to put right the violation or revoke its certificate.

(1)Violating this Rules;

(2) Failing to meet the requirement of the Guidelines of Qualification Authentication of Environmental Protection Products Inspection Agencies in its work; or

(3) Refusing to undertake other relevant business tasks entrusted by the State Environmental Protection Administration for no proper reasons.

15. The qualification authentication certificate of inspection agencies shall be uniformly printed and issued by the State Environmental Protection Administration. The rules for implementation of this Provisions shall be formulated later.

16. This Provisions shall come into effect on the date of promulgation.

十九、ISO14000 认证管理

XIX Certification for ISO 14000

关于环境管理体系认证工作若干意见的通知

（1997 年 4 月 15 日，国家环保局　环科［1994］241 号）

为推动 ISO14000 环境管理系列标准的贯彻实施，促进 2000 年所有工业污染源达标排放，深化和规范企业环境管理，我局从 1996 年 7 月起在部分企业开展环境管理体系认证试点工作，并积极筹建“中国环境管理体系认证指导委员会”、“中国环境管理体系认证机构国家认可委员会”（以下简称“机构认可委”）和“中国认证人员国家注册委员会环境管理体系专业委员会”（以下简称“人员注册委”）。为了积极推进、稳妥有序地开展环境管理体系认证工作，在“国家环境管理体系认证管理办法”尚未出台之前，暂对环境管理体系认证的有关工作提出如下意见：

一、国家环境保护局环境管理体系（ISO14000）管理办公室对全国环境管理体系认证工作实行统一监督管理；省、市（地）级环境保护行政主管部门负责对本地区环境管理体系认证工作进行指导，并受理本地区内企业环境管理体系认证申请，负责初审及认证后的监督管理。国务院各有关部委环保办，负责指导直属企业的环境管理体系认证工作，并会同地方环保部门对申请环境管理体系认证的企业进行初审。

环境管理体系认证机构（以下简称“认证机构”）负责认证工作。认证机构的资格认可与管理由机构认可委负责；认证人员（审核员）的资格审查、注册管理与监督管理由人员注册委负责。

环境管理体系认证咨询机构可承担企业环境管理体系建立的咨询工作。

二、未经机构认可委认可的认证机构或备案注册的咨询机构无权开展体系认证工作或咨询工作。

三、国家优先在下列企业开展环境管理体系认证；

1. 有出口创汇产品的；

Circular on Proposals on the Certification of Environmental Management System

(Promulgated by the National Environmental Protection Agency on April 15, 1997)

For the purpose of giving impetus to the thorough implementation of the ISO14000 environmental management standards, promoting the up-to-the-standard discharge of all the industrial pollution sources in 2000, and deepening and standardizing the environmental management of enterprises, the National Environmental Protection Agency (NEPA) has started since July 1996 trial certification work of the environmental management system in some enterprises and actively prepared the establishment of a Certification Guidance Committee of the China Environmental Management System, a State Approving Committee for Certification Institutions of the China Environmental Management System (hereinafter referred to as the "Approving Committee for Institutions") and a Specialized Committee of the Environmental Management System under the State Registration Committee for China's Certification Personnel (hereinafter referred to as the "Personnel Registration Committee"). In order to actively promote and carry out the certification work of the environmental management system in a steady and orderly way, pending the promulgation of the Measures on Certification Management of the State Environmental Management System, the following opinions are hereby formulated to regulate provisionally the work relating to the certification of the environmental management system:

1. The Management Office of the Environmental Management System under NEPA (ISO14000) shall implement a unified supervision and management of the certification work of the nationwide environmental management system; the administrative departments of the environmental protection at the provincial and municipal (prefectural) levels, shall be responsible for giving guidance to the certification work of the environmental management systems in their respective localities, accepting the certification application of local enterprises for the environmental management system, and be in charge of the preliminary examination and the subsequent post-certification supervision and management. The environmental protection offices of various ministries and commissions under the State Council shall be responsible for giving guidance to the certification work of the environmental management system of the enterprises directly under their respective jurisdiction and conduct, in conjunction with the relevant local environmental protection departments, the preliminary examination of the application of the said enterprises for certification of the environmental management system.

The environmental management system certification institutions (hereinafter referred to as the "certification institutions") shall be responsible for the certification work. The Approving Committee for Institutions shall be responsible for the approval and management of the qualification of the certification institutions; the Personnel Registration Committee shall be responsible for the qualification examination, registration management and supervisory control of the certification personnel (examiners).

The consulting institutions of the environmental management system may undertake the consulting work for the establishment of the environmental management system of enterprises.

2. Any certification institution that has not obtained approval by the Approving Committee for institutions, or any consulting institution that has not been registered in the same Committee shall not be entitled to conduct system certification work or consulting work service.

3. The State shall give priority to the environmental management system certification work to be conducted in the following enterprises:

a. enterprises earning foreign exchange by exporting products;

2．环境管理基础较好的大中型企业；

3．列入区域（流域）污染重点控制的企业。

四、获得环境管理体系认证证书的企业可享受国家环保局下列优惠政策：

1．优先获得污染治理资金贷款。

2．申请环境标志产品时免于现场检查。

3．优先评选环保先进企业。

4．优先认定环保产品。

五、申请环境管理体系认证的企业（包括中外合资、合作、外资企业）应具备以下基本条件：

1．遵守国家及地方环境保护法律、法规、标准；

2．排放污染物达到国家或地方规定的污染物排放标准，或已制定了污染物排放达标计划，并经地方环境保护行政主管部门批准；

3．已按 ISO14001 标准建立环境管理体系并运行满 6 个月以上（环境管理体系的建立可由企业自行完成，也可由企业聘请环境管理体系咨询机构完成）。

六、环境管理体系认证的基本程序：

1．企业向所在市（地）或县（市）环境保护行政主管部门领取认证申请表。

2．市（地）或县（市）环境保护行政主管部门接到企业申请后，按照第五条规定的基本条件进行初审，报省环境保护行政主管部门批准。对符合要求者，由市（地）或县（市）环境保护行政主管部门通知企业，同时报国家环境保护局备案。

3．企业在接到市（地）或县（市）环境保护行政主管部门通知后，可自行选择认证机构进行认证，并按规定向认证机构交纳认证费用。

4．认证机构对企业进行认证时，必须通知所在市（地）或县（市）环境保护行政主管部门。市（地）或县（市）环境保护行政主管部门可委派 1～2 名观察员参加认证工作。

5．认证机构完成认证后，将认证报告书及有关材料上报国家环境保护局环境管理体系管理办公室，同时抄送认证企业。

6．国家环境保护局环境管理体系管理办公室对认证机构的认证报告书及有关材料进行审查、认可。

国家环境保护局环境管理体系管理办公室向通过认可的企业颁发环境管理体系认证证书，并加盖国家环境保护局环境管理体系管理办公室认可章。

国家环境保护局对通过认可的企业发布认证公告。

b. large and medium-sized enterprises having a favourable basis for environmental management;

c. enterprises listed as priority in the region (basin) for pollution control .

4. Enterprises that have obtained the environmental management system certification certificates may enjoy the following preferential policies of the NEPA:

a. enjoying priority to obtain loans for the control of pollution;

b. exempt from on-the-spot inspection while applying for products bearing environmental mark;

c. enjoying priority to be chosen as advanced enterprises;

d. enjoying priority in confirmation of their environmental protection products.

5. Enterprises (including Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures and foreign-capital, enterprises) applying for environmental management system certification shall satisfy the following requirements:

a. observing laws, regulations and standards of the State and local authorities on environmental protection;

b. having reached the pollutant discharge standards in their pollutant discharge as prescribed by the State or local authorities or having formulated a plan for pollutant discharge which has been approved by the local administrative of environmental protection;

c. having established an environmental management system in accordance with the ISO14000 standard and operated it for more than six months (the establishment of the environmental management system either be completed by enterprises themselves or completed by an engaged consulting institution of the environmental management system.

6. The basic procedures for the environmental management system certification shall be as follows:

a. The enterprises applying for certification shall obtain a certification application form from the administrative department of environmental protection of the locality at the municipal (prefectural) or county (municipal) level.

b. Upon the receipt of the application of the enterprise, the relevant administrative department of environmental protection at the municipal (prefectural) or county (municipal) level shall conduct an preliminary examination in accordance with the basic conditions specified in Clause 5 and submit it to the relevant provincial administrative department of environmental protection for approval. Where the requirements are satisfied, the relevant administrative department of environmental protection at the municipal (prefectural) or county (municipal) level shall notify the enterprise and report it them to the State Administration of Environmental Protection for the record.

c. Upon the receipt of the notice from the administrative department of environmental protection at the municipal (prefectural) or county (municipal) level, the enterprise may request any certification institutions that it chooses to conduct this certification and pay the certification fee according to stipulations.

d. While conducting certification for the enterprise, the certification institution must notify the local administrative department of environmental protection at the municipal (prefectural) or county (municipal) level, and the latter may send one to two observers to take part in the certification work.

e. Upon completion of the certification, the certification institution shall submit the certification report and relevant materials to the Management Office of the Environmental Management System under NEPA, shall also send copies thereof to the enterprise.

f. The Management Office of the Environmental Management System under NEPA shall examine and approve the certification report and the relevant materials submitted by the certification institution.

The Management Office of the Environmental Management System under NEPA shall issue a certification certificate of the environmental management system to the enterprises which has obtained the approval and affix an approving stamp on the certificate in the name of the Management Office of the Environmental Management System under NEPA.

7．认证证书由国家环境保护局统一印制。

七、国家将有计划地建立环境管理体系认证机构。环境管理体系认证机构的申请及资格认可应符合以下要求：

1．申请认证机构的基本条件：

(1) 具有明确的法人地位（事业或社团法人）；

(2) 具备10名以上（含10名）专职的国家注册审核员，其中至少3名主任审核员；

(3) 具备开展体系认证工作所需资金和设施；

(4) 认证机构不得从事与认证有关的咨询业务。

2．具备条件的单位向机构认可委提出书面申请，提交规定的材料和证明文件。

3．通过资格评定及批准的单位，由机构认可委注册，颁发认证机构认可证书，予以公告，并报国家环境保护局备案。

八、环境管理体系认证国家注册审核员（以下简称国家注册审核员）的申请、资格审查与注册应符合以下要求：

国家注册审核员分为实习审核员、审核员、主任审核员。

1．国家注册审核员申请的基本条件：

(1) 能够正确地执行有关方针、政策、法律法规，熟悉相应的环境管理体系标准和有关规定，并至少从事过二年以上环境保护工作。

(2) 具有大专以上学历，经过国家批准的环境管理体系外审员培训机构培训，并且取得合格证书。

(3) 具有环境科学知识，接受过环保知识培训，具有较强的组织管理和综合评价能力，能够解决审核工作中的实际问题。

2．具备基本条件的人员由本人所在单位出具相关证明，报市级以上环境保护行政主管部门，由市级以上环境保护行政主管部门对其基本条件进行审查后向人员注册委推荐。

3．人员注册委对推荐的人员进行统一考试，考试通过后颁发实习审核员注册证书。

4．实习审核员的升级由环境管理体系认证人员注册管理办法另行规定。

九、环境管理体系认证咨询机构的申请及确认工作应符合以下要求：

1．环境管理体系认证咨询机构申请的基本条件：

(1) 具有明确的法人地位或挂靠在非行政管理部门的技术实体内（需其行政主管部门同意）；

(2) 具备5名以上（含5名）国家注册审核员；

(3) 具备开展体系认证咨询工作的资金和设施。

2．具备条件的单位需由省级以上环境管理保护行政主管部门推荐并向机构认可

NEPA shall issue a certification announcement on the enterprise that has passed the certification.

g. The notification certificate shall be printed exclusively by NEPA.

7. The State shall establish in a planned way the environmental management system certification institutions. The approval for application and qualification of the environmental management system institutions shall meet the following requirements:

1) Basic conditions for the certification institutions application;

a. having a definite status of a legal person (legal person of an institution or of a mass organization);

b. having more than 10 (including 10) full-time state registered examiners and three of them shall be chief examiners;

c. possessing funds and installations required for developing certification work;

d. not allowing the certification institution to engage in any consulting business related to certification.

2) Any unit complying with the requirements shall file a written application and submit as stipulated materials and documentary evidence to the Approving Committee for Institution.

3) The Approving Committee for Institution shall register the unit that has passed the qualification appraisal and obtained the approval, issue to it an approving certificate for certification institution, announce it to the public and report it to NEPA for the record.

8. The application, qualification examination and registration of any State

registered examiner of the environmental management system (hereinafter referred to as State registered examiner) shall satisfy the following requirements:

The State registered examiners are divided into examiners on probation, examiners and chief examiners.

1) The basic conditions for a State registered examiners application shall be:

a. capable of correctly implementing relevant policies, laws and regulations, familiar with the standards and relevant provisions of the corresponding environmental management systems and having an experience in the environmental protection work at least for more than two years.

b. having received higher education as well as training in a training institution for examiners of environmental management system approved by the State, and obtained a qualification certificate.

c. having learnt scientific knowledge of environment, received environmental knowledge training, acquired relatively strong ability in organizational management and comprehensive appraisal and in solving practical problems in examination work.

2) for a person possessing the above basic conditions, the unit where the person works shall produce relevant documentary evidence and report thereon to the related administrative department of environmental protection at or above the municipal level, and the latter shall recommend the person to the Personnel Registration Committee after examining the basic conditions of the said person.

3) The Personnel Registration Committee shall hold a unified examination for the recommended person, and a registration certificate for examiner on probation shall be issued to the person passing the examination.

4) Measures for the promotion of examiners or probation shall be formulated separately by management office of registration for certification personnel of the environmental management system.

9. The application and confirmation of the certification consulting institution of the environmental management system shall meet the following requirements:

1) The basic conditions of the application for establishing a certification 0consulting institution of the environmental management system shall be:

a. having a definite status of a legal person or being affiliated to a technical entity of a non-administrative department (with the approval of the competent administrative department);

b. having more than five (including five) State registered examiners;

c. possessing funds and installations for developing consulting work for system certification.

2) A unit complying with the basic conditions shall be recommended by the relevant administra-

委提出书面申请，并提交证明有咨询能力的有关材料。

3. 机构认可委对申请认证咨询的机构进行审查，并对确认的机构进行备案注册，颁发备案证书，予以公告。

十、国家环保局在环境管理体系认证试点工作期间，环境管理体系认证机构及咨询机构暂由国家环保局根据申请单位的条件确定。

tive department of environmental protection administration at or above the provincial level, and shall file a written application to the Approving Committee for Institutions together with relevant materials which can prove it consulting ability;

3) The Approving Committee for Institutions shall conduct an examination of the institution applying for certification consulting service, register and keep a record of the approved institution, issue a certificate proving the record and then make a public announcement.

10. During the experimental period of the environmental management system certification, NEPA shall determine the environmental management system certification institutions and the consulting institutions for the time being in accordance with the conditions of the applying units.

环境管理体系认证管理规定

（中国环境管理体系认证指导委员会2001年8月6日通过；
国家环保总局2001年8月14日转发执行，环发［2001］122号）

第一章　总则

第一条　为规范环境管理体系认证工作，保证认证质量，促进合理利用自然资源，节能降耗，减少污染物的产生和排放，保护环境，特制订本规定。

第二条　凡在中华人民共和国境内开展与环境管理体系认证相关的活动，必须遵守本规定。

第三条　本规定所称“与环境管理体系认证相关的活动”，是指环境管理体系认证、咨询、认可、培训、注册等工作。

第四条　环境管理体系认证遵循自愿原则，任何组织都可提出申请。

第二章　管理机构

第五条　中国环境管理体素认证指导委员会（以下简称指导委员会）是由国务院批准成立的部际协调机构，负责对环境管理体系认证以及ISO14000系列标准的实施工作进行统一管理。指导委员会办公室设在国家环境保护总局，负责指导委员会的目常工作。

指导委员会下设中国环境管理体系认证机构认可委员会和中国认证人员国家也册委员会环境管理专业委员会，具体负责IS014000系列标准实施的监督管理工作。

第六条　中国环境管理体系认证机构认可委员会（以下简称环认委）负责对环境管理体系认证机构的认可及认可后的监督管理。

第七条　中国认证人员国家注册委员会环境管理专业委员会（以下简称环注委）负责环境管理体系审核员的注册及对培训机构的认可。

第八条　国家环境保护总局依据有关管理规定，负责对环境管理体系咨询机构的备案管理。

Provisions on the Administration of Certification of Environmental Management System (EMS)

(Adopted by the China Guidance Committee for Certification of Environmental Management System on August 6, 2001 and made public by the State Environmental Protection Administration on August 14, 2001)

Chapter 1 General Principles

Article 1 These Provisions are formulated to standardize the certification of environmental management system(EMS), guarantee the quality of certification, promote the reasonable utilization of natural resources, save energy and reduce raw materials consumption, minimize the generation and emission of pollutants and protect the environment.

Article 2 The activities related to the certification of environmental management system within the territory of the People's Republic of China shall abide by these Provisions.

Article 3 The activities related to the certification of environmental management system stated by these Provisions refer to certification, consultation, approval, training and registration of environmental management system.

Article 4 The certification of environmental management system shall follow the voluntary principle and any organization may apply for certification.

Chapter 2 Administration Institutions

Article 5 The China Guidance Committee for Certification of Environmental Management System (hereafter referred to as the Guidance Committee) is a coordination organ at the ministerial level approved by the State Council, responsible for the unified administration on the certification of environmental management system and the implementation of ISO14000 standard. Its office is set up in the State Environmental Protection Administration and in charge of daily work of the Committee.

The Guidance Committee has subordinate Approval Committee for China EMS Certification Institution and the Specialized Environmental Management Committee Under the Registration Committee for China's Certification Personnel is concretely responsible for the supervision over and administration of the implementation of ISO14000 standard.

Article 6 The Approval Committee for China EMS Certification Institution (hereafter referred to as the Approval Committee) is responsible for the approval of the EMS certification institutions, and also for the supervision and administration of the EMS certification institutions after approval.

Article 7 The Specialized Environmental Management Committee under the State Registration Committee for China's Certification Personnel (hereafter referred to as Registration Committee for Environmental Certification Personnel) is responsible for the registration of environmental management system auditors(EMS auditors) and the approval of training institutions.

Article 8 The State Environmental Protection Administration shall be responsible for the record of consultation institutions of environmental management system.

Chapter 3 Administrative Requirements on the EMS Certification

Article 9 The institutions which engage in the EMS certification within the territory of the People's Republic of China shall be approved by the Approval Committee; the personnel who engage in

第三章　环境管理体系认证管理要求

第九条　凡在中华人民共和国境内从事环境管理体系认证的机构须经环认委认可；从事环境管理体系认证或咨询工作的人员及相关培训课程须经环注委注册；环境管理体系咨询机构须到国家环境保护总局备案。

第十条　拟申请环境管理体系认证的组织（以下简称申请认证的组织）可以自主选择有资格的咨询机构和认证机构分别进行环境管理体系咨询和认证。

第十一条　申请认证的组织必须具备以下条件：

（1）依据 IS014001 标准建立的环境管理体系在进行现场审核前应运行三个月以上；

（2）符合国家和地方环境保护法律、法规及规章的要求。

第十二条　申请认证的组织在申请认证审核时，应向认证机构提交如下证明材料：

（1）由具有法定资格的环境监测机构近－年内出具的该组织各项污染物监测结果；

〈2〉该组织所在地地（市）级以上环境保护行政主管部门出具的该组织在近一年内未因坏统违法受到处罚的证明。

环境保护行政主管部门开具的证明应以目常执法监督情况为依据，不应收取任何费用。

第十三条　环境管理体系认证或咨询机构开展环境管理体系认证或咨询活动，应向申请认证的组织所在地省级环境保护行政主管部门提交其认可证书或备案资格证书，经验证、登记后方可开展认证或咨询活动。

环境管理体系咨询机构与有关组织签定环境管理体系咨询合同后，须将咨询项目名称抄送申请认证的组织所在地省级环境保护行政主管部门。

环境管理体系认证机构在与有关组织签定环境管理体系认证合同后、审核工作开始前，须将认证项目名称抄送申请认证的组织所在地省级环境保护行政主管部门。环境管理体系认证工作结束后，认证机构应将审核报告，在 10 个工作日内抄送申请认证的组织所在地的省级环境保护行政主管部门。

第四章　环境管理体系认证活动监督管理

第十四条　指导委员会负贵对中国境内与环境管理体系认证相关的活动监督管

the certification or consultation on environmental management system, and related training curricular shall be registered in the Registration Committee; and the consultation institutions of environmental management system shall get recorded in the State Environmental Protection Administration.

Article 10 The organizations which intend to apply for the EMS certification (hereafter referred to as certification applicant organization) may voluntarily select the qualified consultation institutions and certification institutions to consult and certify.

Article 11 The certification applicant organization shall satisfy the following conditions:

(1) The environmental management system established according to the ISO14001 standard shall be operated over three months before the site verification;

(2) Conforming to the requirements of the State and local environmental protection laws, regulations and rules.

Article 12 When an application for the certification and verification is filed, the applicant organization shall submit the following supporting materials to the certification institution:

(1) The monitoring results on the discharge of various pollutants, provided by the legally qualified environmental monitoring institutions within a recent year;

(2) A testimonial provided by the competent departments of environmental protection at the prefecture (municipal) level that the applicant organization has not been punished because of environmental law violation within a recent year.

The competent departments of environmental protection should provide testimonial in accordance with the daily enforcement supervision and shall not collect any fee.

Article 13 Prior the certification institutions or consultation institutions undertake specific certification or consultation activities of environmental management system, they should submit their approval certificates or recorded qualification certificates to the competent departments of environmental protection at the provincial level, only after the certificates have been verified and registered, can the certification or consultation activities be undertaken.

After any EMS consultation institution signed an EMS consultation contract with the relevant organization, it should send a duplicate of the name of the consultation project to the competent department of environmental protection at the provincial level of this organization.

After any EMS certification institution signed an EMA certification contract with the relevant organization and before the certification begins, it should send a duplicate of the name of the certification project to the competent department of environmental protection at the provincial level of this organization. After the EMS certification ended, the certification institution should send a duplicate of the certification report to the competent department of environmental protection at the provincial level within 10 workdays.

Chapter 4 Supervision and Administration of EMS Certification

Article 14 The Guidance Committee shall be responsible for the supervision and administration of the activities related to the certification of environmental management system within the territory of China, and also for the daily supervision and administration of the work of the Approval Committee and Registration Committee.

Article 15 The Approval Committee shall be responsible for the supervision and administration of the certification institution and also for the settlement of relevant complaints against the certification institutions. Where an EMS certification institution violates these Provisions or its certification quality is not qualified, any social group or individual is entitled to make complaint to the Approval Committee, and the Approval Committee will settle the complaint in accordance with the Administration and Punishment Provisions on the Certification Institution of Environmental Management System.

Article 16 The Registration Committee shall be responsible for the supervision and administration of the EMS auditors and the EMS auditors' training institutions and also for the settlement of relevant complaints against the auditors or auditors' training institutions. In case where any auditor vio-

理，并对环认委和环注委的工作进行自常监督管理。

第十五条 环认委负责对认证机构实施监督管理，并负责处理对认证机构的有关投诉。对于违反本规定或认证质量不合格的环境管理体系认证机构，任何社会团体和个人均有权向环认委投诉，环认委将依据《环境管理体系认证机构管理处罚规则》予以处理。

第十六条 环注委负责对环境管理体系审核员及审核员培训机构实施监督管理，并负责处理对审核员及审核员培训机构的有关投诉。对有违法失职、徇私舞弊、弄虚作假等情况的审核员，由环注委视其情节轻重予以警告或降低审核员级别直至注销注册，并予以公告。

第十七条 环境保护行政主管部门在日常行政监督管理中发现已通过环境管理体系认证的组织有违反环境法律、法规及规章要求的行为时，应依法进行处理，并可通报指导委员会。指导委员会应根据环境保护行政主管部门通报的违法处理结呆，对通过认证的组织进行相应的处理，并将处理结果反馈给通报情况的环境保护行政主管部门。

环境保护行政主管部门在目常的监督管理中发现认证机构或咨询机构来接本规定开展工作的，应当向指导委员会报告，指导委员会应按规定予以调查处理。

第十八条 环境管理体系认证机构应按照国家规定的环境管理体系认证收费标准向申请认证组织收取费用。环认委应对认证机构的收费情况进行监督。

第五章 附则

第十九条 本规定由中国环境管理体系认证指导委员会办公室负责解释。

第二十条 本规定自发布之自起施行。《环境管理体系认证暂行管理规定》同时废止。

lates laws and neglects their duties, engages in malpractices for personal gains, and resorts to deception, the Registration Committee shall issue warnings to, demote them and even revoke his registration in accordance with the circumstances of the cases, and the punishment shall be announced.

Article 17 In case where the competent departments of environmental protection identified that any organization, which already passed the certification of the environmental management system, violated environmental laws, regulations and rules during its daily supervision and administration, it should settle the violation in accordance with relevant laws and then refer the violation to the Guidance Committee. Based upon the violation settlement referred by the competent department of environmental protection, the Guidance Committee should correspondingly deal with the certified organization and conversely feed the handled result back to the competent department of environmental protection which referred such violation.

In case where the competent department of environmental protection identified during its daily supervision and management that any certification institution or consultation institution fails to undertake their functions in accordance with these Provisions, it should report the failure to the Guidance Committee, and the Guidance Committee should investigate into and deal with the failure in accordance with these Provisions.

Article 18 The EMS certification institutions should collect fees from the certification applicant organizations in accordance with the criteria on fee collection for EMS certification stipulated by the State. The Approval Committee should supervise over the fee collection by the certification institution.

Chapter 5 Supplementary Provisions

Article 19 The Guidance Committee of China Environmental Management System is responsible for the interpretation of these provisions.

Article 20 These Provisions shall take effect upon the date of promulgation. The Interim Management Provisions on Certification of Environmental Management System will be simultaneously annulled.

中国环境管理体系咨询机构备案暂行管理规定

（国家环保总局1998年4月8日，环发［1998］12号）

第一章　总　　则

第一条　为加强对环境管理体系咨询机构的管理，规范环境管理体系咨询工作，保证咨询工作的质量，特制定本规定。

第二条　国家对环境管理体系咨询机构实行备案管理。

在中华人民共和国境内从事环境管理体系咨询活动的机构，应当按照本规定，向国家环境保护总局申请环境管理体系咨询机构备案，并接受国家环境保护总局的监督管理。

第二章　备案程序

第三条　申请环境管理体系咨询机构备案的机构（以下简称申请机构）应具备以下基本条件：

一、具有独立法人资格，或是独立法人资格组织的一部分；

二、专职人员中有5名以上经国家注册的环境管理体系审核员；

三、具备开展环境管理体系咨询活动所需的资金、设施及技术资源；

四、建立必须的管理制度。

第四条　申请机构提出备案申请时，应向国家环境保护总局提交备案申请书和下列资料：

一、本机构法律地位的证明材料：

（一）法人资格证书复印件；

（二）如是独立法人组织的一部分，应提交所属法人组织的资格证书复印件及其本机构与所属法人组织关系的证明材料；

二、本机构专职、兼职咨询人员资格证明材料；

三、申请从事咨询业务范围的相关专业能力的证明材料；

四、本机构咨询收费管理办法；

五、本机构的管理手册。

Interim Provisions on the Administration of the Recording of the EMS Consultion Organizations

(Promulgated by the State Environmental Protection Administration on April 8, 1998)

Chapter I General Provisions

Article 1 This Provisions is formulated for the purpose of strengthening the management of the environmental management system(hereinafter referred to as EMS) consulting organizations, regulating the EMS consulting work, and guaranteeing the quality of the work.

Article 2 The state adopts the recording system in the administration of the EMS consulting organizations.

Organizations that are engaged in EMS consulting activities within the territory of the People's Republic of China shall, in compliance with this Rules, file applications to the State Environmental Protection Administration for EMS consulting organization record, and subject to the supervision and administration of the State Environmental Protection Administration.

Chapter II Procedure of Recording

Article 3 An organization that apply for the EMS consulting organization record (hereinafter referred to as "the applying organization") shall meet the following requirements:

(1) It shall be an independent legal person or part of an independent legal person;

(2) Its full-time staff shall consists of at least five EMS assessors registered with the state;

(3) It shall possess the funds, facilities and technical resources necessary for carrying out the EMS consulting activities; and

(4) It shall establish the necessary management systems.

Article 4 While filing an application for record, the applying organization shall submit to the State Environmental Protection Administration the application letter and the following materials:

1. Certification materials of the legal status of the organization:

(1) A duplication of its legal person certificate; and

(2) If it is part of an independent legal person, it shall submit a duplication of the legal person certificate of the legal person it is subordinate to and certification materials of the relationship between the legal person and itself;

2. Qualification certificates of its full-time and part-time consultants;

3. Certificates of relevant professional capacity of engaging in the scope of consulting business it is applying for;

4. Charges of the organization; and

5. Management handbook of the organization.

The management handbook shall include:

(1) Organizational framework of the organization and explanations, including details of its structure, constitution, obligations and authorities, and procedure rules as well as a chart of the relationship between the duties authorities of each functional sectors;

(2) Name, qualification, résumé and responsibilities of its staff;

(3) Training and controlling procedure its consultants;

(4) Scope of consulting business;

(5) Detailed rules and procedures of carrying out the consulting work;

管理手册应包括：

（一）本机构的组织结构及其说明，包括：本机构的组成、章程、职责和职权及程序规则等详细情况，各职能部门职责和职权关系机构图；

（二）本机构人员的姓名、资格、经历、职责等；

（三）本机构咨询人员的培训与控制程序；

（四）本机构的咨询业务范围；

（五）实施咨询工作的详细规则和程序；

（六）本机构文件和记录管理规定；

（七）本机构对咨询组织的保密规定；

（八）本机构的内部管理评审制度；

（九）本机构的不合格控制和确保有效实施纠正措施的程序；

（十）本机构申诉、投诉工作程序。

第五条 国家环境保护总局自收到申请书之日起30日内作出是否受理申请的决定，并书面通知申请机构。若不受理的，应说明不受理的理由。

国家环境保护总局对申请资料进行审查，必要时可派出审查组对申请机构进行现场确认，其费用由申请机构承担。

第六条 申请机构通过审查后，由国家环境保护总局批准备案，颁发环境管理体系咨询备案资格证书，并予以公告。

环境管理体系咨询机构备案资格证书由国家环境保护总局统一印制，统一编号，盖国家环境保护总局环境管理体系咨询机构备案专用章。

第七条 备案资格证书的有效期为4年。

获准备案的环境管理体系咨询机构（以下简称获准备案机构）在备案资格证书有效期届满后需继续保持其备案资格的，应提前90日向国家环境保护总局提出重新备案的申请。

第三章 监督管理

第八条 获准备案机构应严格执行国家法律、法规、标准和规章的有关规定，并保持相应的咨询能力。

第九条 获准备案机构及其咨询人员不得从事环境管理体系认证（审核）活动。

第十条 获准备案机构须在其业务范围内进行咨询活动。需变更其咨询业务范围时，应报国家环境保护总局批准。

第十一条 国家环境保护总局在备案资格证书有效期内，对获准备案机构的咨询能力保持程度进行证实或评审，以验证获准备案机构持续满足备案要求。

第十二条 对擅自变更备案批准的咨询业务范围或经证实评审不合格的获准备案机构，由国家环境保护总局督促其限期改正，逾期不能改正的，取消其备案资格并予以公告。

第十三条 国家环境保护总局受理有关环境管理体系咨询活动的申诉和投诉，负责调解并处理纠纷。

第十四条 申请机构申请备案时应缴纳备案申请费。

获准备案机构每年应交纳管理费用。

第四章 附 则

第十五条 申请费和管理费收取按照国家有关规定执行。

(6) Documents and records management rules;

(7) Confidential rules on organizing the consulting;

(8) Internal management and appraisal systems;

(9) Procedures to control unqualified work and to ensure that effective measures will be taken to put it right; and

(10) Procedures of dealing with appeal and complaint.

Article 5 The State Environmental Protection Administration shall, within 30 days of receiving the application letter, decide on whether to accept it or not, and shall inform the applying organization in writing. If it decides not to accept the application, it shall explain the reasons for such a decision.

The State Environmental Protection Administration shall examine the application materials and, if necessary, send the examination group to make on-spot inspections, and the cost for doing so shall be burdened by the applying organization.

Article 6 When the applying organization passes the examination, the State Environmental Protection Administration shall approve of its being put on the record, issue the EMS consulting organization record certificate, and publicize the fact.

The EMS consulting organization record certificate shall be uniformly printed and numbered by the State Environmental Protection Administration, and affixed with the special seal for EMS consulting organization record of the State Environmental Protection Administration.

Article 7 The term of validity of the record certificate is four years.

When the EMS consulting organization that is recorded (hereinafter referred to as "the recorded organization") needs to extend its record qualification upon the expiry of the record certificate, it shall file an application 90 days in advance to the State Environmental Protection Administration for the re-record.

Chapter Ⅲ Supervision and Management

Article 8 The recorded organizations shall carefully abide by relevant provisions in the laws, rules, standards and regulations, and preserve corresponding consulting capacity.

Article 9 The recorded organizations and their consultants shall not engage in EMS certification (examination and verification) activities.

Article 10 The recorded organizations shall carry out consulting activities within its scope of business. When it needs to alter its scope of consulting business, it shall report to the State Environmental Protection Administration for approval.

Article 11 The State Environmental Protection Administration shall, within the term of validity of the record certificate, conduct examination or assessment of how the recorded organization preserves its consulting capacity for the purpose of verifying the recorded organizations constantly meeting the requirements of record.

Article 12 For a recorded organization that alters its scope of consulting business in the record without approval or is proved to be unqualified after verification examination, the State Environmental Protection Administration shall urge it to put right the violations within a limited time. If the organization fails to do so, the State Environmental Protection Administration shall revoke its record qualification, and publicize the fact.

Article 13 The State Environmental Protection Administration accepts appeals and complaints related to EMS consulting activities, and is responsible for mediation and settlement of disputes.

Article 14 While applying for the record, the applying organization shall pay the record application fee.

The recorded organization shall pay the annual management fee.

Chapter Ⅳ Supplementary Provisions

Article 15 The application fee and the management fee shall be collected in accordance with rel-

第十六条 本规定由国家环境保护总局制定并负责解释。

第十七条 本规定自发布之日起施行。

evant rules of the state.

Article 16 This Provisions is formulated and interpreted by the State Environmental Protection Administration.

Article 17 This Provisions shall enter into force on the date of promulgation.

二十、消耗臭氧层物质管理

XX Import and Export of ODS

消耗臭氧层物质进出口管理办法

（国家环保总局、对外贸易经济合作部和
海关总署1999年12月3日　环发［1999］278号）

第一条　为履行《关于消耗臭氧层物质的蒙特利尔议定书》（伦敦修正案）（以下简称《议定书》），加强对我国消耗臭氧层物质的进出口管理，根据国务院批准的《中国逐步淘汰消耗臭氧层物质国家方案》（修订稿），制定本办法。

第二条　在中华人民共和国领域内从事《议定书》缔约国之间的受控消耗臭氧层物质进出口的经营活动，适用本办法。

本办法所称消耗臭氧层物质，包括消耗臭氧层物质及生产和消费消耗臭氧层物质的相关设备和产品。

第三条　国家环保总局、对外贸易经济合作部和海关总署对受控消耗臭氧层物质的进出口实行统一监督管理。

（一）制定并发布《中国进出口受控消耗臭氧层物质名录》（以下简称《名录》）；对列入《名录》的消耗臭氧层物质，实行进出口配额许可证管理；

（二）制定并发布禁止进出口的消耗臭氧层物质名录。

第四条　申请《名录》中所列消耗臭氧层物质进出口的企业，必须按照国家有关规定，提前三个月向国家环保总局和对外贸易经济合作部提出消耗臭氧层物质进出口配额书面申请，并提供1995—1997年及提出申请时上一年度相应消耗臭氧层物质的进出口、销售和使用情况及其证明。

第五条　对外贸易经济合作部会同国家环保总局负责确定《名录》所列消耗臭氧层物质的国家年度进出口配额总量和申请企业的进出口配额量；受理企业对《名录》中所列消耗臭氧层物质的进出口配额申请；签发《受控消耗臭氧层物质进出口审批单》（以下简称《进出口审批单》）。

第六条　持有国家环保总局和对外贸易经济合作部签发的《进出口审批单》的企业，应向对外贸易经济合作部授权的发证机构申领《进出口许可证》。

对外贸易经济合作部凭国家环保总局和对外贸易经济合作部签发的《进出口审批单》，签发《进出口许可证》。

《进出口许可证》实行一批一证制。进出口许可证的申领和管理按照对外贸易经

Measures on the Import and Export Control of Ozone Depleting Substances(ODS)

(Promulgated by the State Environmental Protection Administration, the Ministry of Foreign Trade and Economic Cooperation and the General Administration of Customs on December 3, 1999)

Article 1 For implementing the Montreal Protocol on Substances that Deplete the Ozone Layer (London Amendment) (hereinafter referred to as the Protocol), tightening the import and export control of the ozone depleting substances, these Measures are formulated in accordance with the China's State Programme on Phase-out of Ozone Depleting Substances (the revised version) approved by the State Council.

Article 2 These Measures are applicable to business activities within the territory of the People's Republic of China on importing and exporting ozone depleting substances between countries signatory to the Protocol.

The ozone depleting substances mentioned in these Measures hereof include ozone depleting substances and the relevant equipment and products consuming ozone depleting substances.

Article 3 The State Environmental Protection Administration, the Ministry of Foreign Trade and Economic Cooperation, and the General Administration of Customs shall exercise unified supervision over and administration of the import and export of ozone depleting substances controlled:

a) Formulating and promulgating the List of ozone depleting substances under Import and Export Control (hereinafter referred to as the List); exercising administration of import and export quota licence control system

b) Formulating and promulgating list of ozone depleting substances under import and export prohibition.

Article 4 The enterprises applying for the import and export of the ozone depleting substances listed in the List must submit the written application for the import and export quota of the ozone depleting substances three months in advance to the State Environmental Protection Administration and the Ministry of Foreign Trade and Economic Cooperation, and, in addition, must provide information and proof for situations of import, export, sales and consumption of ozone depleting substances in 1995-1997 and in year previous to the application.

Article 5 The Ministry of Foreign Trade and Economic Cooperation, together with the State Environmental Protection Administration, are responsible to determine the country's total annual import and export quota of ozone depleting substances listed in the List and the import and export quota for the applying enterprise; to receive and process applications of enterprises for import and export quota on ozone depleting substances listed in the List;, and to sign and issue the Approval Form for Import and Export of controlled ozone depleting substances (hereinafter referred to as the Approval Form of Import and Export).

Article 6 The enterprise which holds the Approval Form of Import and Export issued by the State Environmental Protection Administration and the Ministry of Foreign Trade and Economic Cooperation shall apply for the Import and Export Licence to the licence issuing institution authorized by the Ministry of Foreign Trade and Economic Cooperation.

The Ministry of Foreign Trade and Economic Cooperation signs and issues Import and Export Licence based on the Approval Form of Import and Export issued and signed by the State Environment Protection Administration and the Ministry of Foreign Trade and Economic Cooperation..

The Import and Export Licence practices 'one licence for one batch'. The application and admin-

济合作部有关进出口许可证管理办法执行。

第七条 出口回收的消耗臭氧层物质的企业，须持有国家环保总局签发的回收证明，直接向对外贸易经济合作部授权的发证机构申请出口许可证；

出口回收的消耗臭氧层物质的容器上必须贴有由国家环保总局统一印制的“回收的消耗臭氧层物质”的标志，并准确标示物质名称和含量。

第八条 海关对《名录》所列的受控消耗臭氧层物质的进出口，凭对外贸易经济合作部签发的《进出口许可证》监管验放。

第九条 经营消耗臭氧层物质进出口的企业，必须按照《议定书》有关规定，进行消耗臭氧层物质的进出口贸易；不得转让或买卖进出口配额和进出口许可证。

第十条 违反本办法规定的，由有关部门按照国家有关法律、法规的规定进行处理。

第十一条 国家环保总局、对外贸易经济合作部和海关总署有权对经营企业的进出口经营情况进行监督和检查。

第十二条 国家环保总局、对外贸易经济合作部和海关总署根据管理需要联合设立专门办事机构负责本办法的实施，并制定本办法的实施细则。该办事机构设在国家环保总局。

第十三条 本办法由国家环保总局、对外贸易经济合作部和海关总署根据各自的职责分工进行解释。

第十四条 本办法自发布之日起施行。

istration of the import and export licence shall be implemented according to the relevant administrative measures established by the Ministry of Foreign Trade and Economic Cooperation.

Article 7 Enterprise exporting recycled ozone depleting substances must hold recycle certificate signed and issued by the State Environmental Protection Administration and shall apply for the import and export licence directly to the licence issuing institution authorized by the Ministry of Foreign Trade and Economic Cooperation.

On container of the recycled ozone depleting substances exported, label of Recycled ozone depleting substances uniformly printed and issued by the State Environmental Protection Administration must be stamped, and the appellation and content of the substances must be clearly marked.

Article 8 The customs supervise, inspect, and release the importing and exporting ozone depleting substances listed in the List by the Import and Export Licence signed and issued by the Ministry of Foreign Economic Cooperation and Trade.

Article 9 Enterprises engaged in importing and exporting of ozone depleting substances must operate their import and export trade in accordance with stipulations in the Protocol. , not to transfer or deal in trading the import and export quota and import and export licence

Article 10 The violation against the regulation hereof shall be handled with according to stipulations in the relevant national laws and regulations.

Article 11 The State Environmental Protection Administration, the Ministry of Foreign Trade and Economic Cooperation, and the General Administration of Customs possess the rights to supervise and examine enterprises' import and export operation.

Article 12 The State Environmental Protection Administration, the Ministry of Foreign Trade and Economic Cooperation and the General Administration of Customs will jointly establish a special executive institution in charge of implementation of these Measures and of establishing rules for the implementation of these Measures. The executive institution will be set in the State Environment Protection Administration.

Article 13 These Measures will be interpreted by the State Environmental Protection Administration, the Ministry of Foreign Trade and Economic Cooperation, and the General Administration of Customs according to their duties and responsibilities.

Article 14 These Measures shall go into effect as of the date of promulgation.

关于加强对消耗臭氧层物质进出口管理的规定

（国家环保总局、对外贸易经济合作部、海关总署
2000年4月13日　环发［2000］85号）

第一条　根据《消耗臭氧层物质进出口管理办法》，制定本规定。

第二条　本规定适用于在中华人民共和国领域内从事《关于消耗臭氧层物质的蒙特利尔议定书》（以下简称《议定书》）缔约国之间的受控消耗臭氧层物质（以下简称受控物质）的进出口经营活动；向《议定书》第5条第1款国家可进出口新生和回收的受控物质；向《议定书》第2条国家只能出口回收的受控物质。

第三条　根据国际履约工作的要求和规定以及我国开展消耗臭氧层物质工作进展情况，国家环保总局会同对外贸易经济合作部、海关总署制定、调整和颁布《中国进出口受控消耗臭氧层物质名录》（以下简称《名录》）。

对列入《名录》中的物质，实行进出口配额许可证管理。

第四条　国家环保总局、对外贸易经济合作部和海关总署联合设立国家消耗臭氧层物质进出口管理办公室（以下简称管理办公室），管理办公室设在国家环保总局。

第五条　受控物质进出口是指《名录》所列物质以任何贸易方式（包括无偿提供、捐赠等方式）进出境的经营活动。

第六条　申请进出口受控物质的企业必须是依法成立的，具有进出口经营资格的独立法人。

第七条　企业进出口《名录》所列的物质（包括纯物质和任何含这些物质的混合物），须经管理办公室审查批准。

第八条　根据《中国逐步淘汰消耗臭氧层物质国家方案》及国家行业淘汰计划，管理办公室确定国家受控物质年度进出口配额，并根据当年某种受控物质实际出口情况，适时对该种受控物质年度进口配额进行调整。

对没有特殊规定的物质，管理办公室将根据企业申请的数量和国际公约的有关规定，确定其出口配额。

第九条　每年的十一月份，管理办公室确定下一年度各种受控物质的进出口配额总量，同时受理企业下一年度进出口配额申请。

第十条　申请受控物质进出口配额的企业，须提交以下材料：

（一）进出口受控消耗臭氧层物质配额申请书（附件1，2）。

Provisions on Strengthening the Control of Import and Export of Ozone Depleting Substances

(Promulgated by the State Environmental Protection Administration, the Ministry of Foreign Trade and Economic Cooperation, and the General Administration of Customs on April 13, 2000)

Article 1 These Provisions are formulated in accordance with the Measures on Import and Export Control of Ozone Depleting Substances.

Article 2 These Provisions are applicable to business activities within the territory of the People's Republic of China on import and export of ozone depleting substances between countries signatory to the Montreal Protocol (hereinafter referred to as the Protocol). Both either newly produced and/or recycled ozone depleting substances may be exported to or/and imported from the Article 5 Countries; and only recycled ozone depleting substances may be exported to the Article 2 Countries.

Article 3 According to requirements and stipulations of the international commitments and the progress of control on ozone depleting substances in our country, the State Environmental Protection Administration, together with the Ministry of Foreign Trade and Economic Cooperation and the General Administration of Customs, issued the List of First Group of Ozone Depleting Substances under Import and Export Control (hereinafter referred to as the List).

On the substances listed in the List, the import and export quota licence system is applied.

Article 4 The State Environmental Protection Administration, the Ministry of Foreign Trade and Economic Cooperation and the General Administration of Customs establish jointly a State Administrative Office on Import and Export Control of Ozone Depleting Substances (hereinafter referred to as the Administrative Office), located in the State Environmental Protection Administration.

Article 5 The export and import of ozone depleting substances refers to any terms of trade activities across the national boarder of the substances listed in the List (including terms as non-remunerative grant and donation).

Article 6 The enterprises applying for the import and export of ozone depleting substances must be lawfully established, and independent legal persons with qualification of import and export operation.

Article 7 The import and export by enterprises of substances listed in the List(including pure substances and mixtures containing any of those substances) must be examined and approved by the Administrative Office.

Article 8 In line with the China's State Programme on Phase-out of Ozone Depleting Substances and Sector Programme for ozone depleting substances phaseout in China, the Administrative Office shall decide the annual national import and export quota of ozone depleting substances, and adjust import quotas of specific controlled substances according to the real export situation in the current year of the substances.

The Administrative Office shall determine the export quotas of substances which are not under the specific regulations according to the applied quantity and relevant stipulations in international conventions.

Article 9 In November of each year, the Administrative Office shall determine the total quotas of import and export of ozone depleting substances for the next year, and at the same time accept enterprises' application for the import and export quotas of the next year.

Article 10 Enterprises applying for the quotas shall provide the following materials:

(1)Application Form for Quotas of ozone depleting substances Import and Export (Annex 1 and 2)

（二）提交相应的受控物质上一年度的进出口、销售和使用情况的证明。

（三）第一次申请进出口配额的企业，应提交1995—1997年受控物质的进出口、销售和使用情况的证明；对外贸易经济合作部或经其授权的地方外经贸主管部门批准企业进出口经营资格的文件（正本复印件）。

管理办公室在受理受控物质进出口配额申请时，可以向申请人提出质询和要求补充有关材料。

第十一条 出口回收的受控物质的企业在提交出口申请时，必须向管理办公室提交有效的回收证明。

第十二条 管理办公室在受理企业受控物质进出口配额的申请后，依法进行审查，对符合规定的企业，确定其相应受控物质的进出口配额量；对不符合规定的企业不予下发配额。

第十三条 在国家下发的年度配额指标内，进出口企业需要分批次进出口受控物质时，应填写进出口计划表（附件1，2），并根据进出口计划填写分批进出口受控消耗臭氧层物质申请单（附件3，4），按批向管理办公室提交进出口受控物质书面申请。

第十四条 管理办公室根据分批进出口受控消耗臭氧层物质申请单，审批和签发进出口审批单（附件5，6）。进出口审批单实行一单一批制，有效期为三个月。

第十五条 出口回收的受控物质的容器上，必须贴有国家环保总局统一印制的“回收的消耗臭氧层物质”标志，并准确标示物质名称和含量。

第十六条 企业持进出口审批单，向省级外经贸主管部门申领进出口许可证，中央管理的企业向对外贸易经济合作部配额许可证事务局申领进出口许可证。海关凭进出口许可证监管验放。

第十七条 进出口许可证实行一证一批制，每份进出口许可证只能报关使用一次。进出口许可证的申领和管理按照对外贸易经济合作部发布的有关进出口许可证管理规定执行。

第十八条 本规定由国家环保总局、对外贸易经济合作部和海关总署根据各自的职责分工进行解释。

第十九条 本规定自颁布之日起施行。

附：1.《进口受控消耗臭氧层物质配额申请书》

2.《出口受控消耗臭氧层物质配额申请书》

3.《分批进口受控消耗臭氧层物质申请单》

4.《分批出口受控消耗臭氧层物质申请单》

5.《受控消耗臭氧层物质进口审批单》

6.《受控消耗臭氧层物质出口审批单》

(2) Proof on import and export, sales, and consumption of ozone depleting substances in the former year.

(3)Enterprises applying for the quotas of import and export in first time shall submit proof on information on, import, export and comsumption of ozone depleting substances between 1995-1997; and shall in addition provide the document of qualification for import and export business(copy of texts) issued by the Ministry of Foreign Trade and Economic Cooperation or issued by the local administrative institution for international trade authorized by the Ministry of Foreign Trade and Economic Cooperation

The Administrative Office may pose request for inquiry and supplemented information when accepting the application for the quotas for ozone depleting substances import and export.

Article 11 Before applying for export quotas on recycled ozone depleting substances, the enterprises must submit effective proof for recycling ozone depleting substances to the Administrative Office.

Article 12 After the accepting enterprises' application for ozone depleting substances import and export quotas, the Administrative Office shall examine the enterprises according to the relevant laws and regulations. It shall determine the quantity of quotas for ozone depleting substances import and export for the qualified enterprises; and for those that are not qualified, it shall refuse to grant quotas.

Article 13 Under the annual quota guidelines established by the national government, when the enterprises need to import or/and export batches of ozone depleting substances, they shall fill in Form of the Planned Import and Export ozone depleting substances (Annex 1,2), and shall fill in the Application Form of ozone depleting substances Import and Export (Annex 3,4) according to the import and export plan. And they shall submit written application of ozone depleting substances in batches to the Administrtive Office.

Article 14 Based on the batches of Application Form of Ozone Depleting Substances Import and Export, the Administrative Office examines, approves and issues the Approval Form (Annex 5,6). The Approval Form goes with the principle of one form valid for one batch of import/export. And the valid period for the Approval Form is three months.

Article 15 On the cover of the container of exported ozone depleting substances, the label of Recycled Ozone Depleting Substances issued by the State Environmental Protection Administration must be stamped, as well, the appellation and the content must be clearly marked.

Article 16 The enterprise shall make application for the import and export licence to the provincial foreign trade administrative units with the Approval Form for Import and Export. The enterprises administrated by the central government shall make application for the import and export licence to the Quota and Licence Department of the Ministry of Foreign Trade and Economic Cooperation. The customs carry out supervision, inspection and release according to the Import and Export Licence.

Article 17 The Import and Export Licence practices under the principle of 'one license approved for one batch and can only be applied to customs once. The application and administration of the Import and Export Licence is carried out under the relevant regulations on import and export licence promulgated by the Ministry of Foreign Trade and Economic Cooperation.

Article 18 These Provisions are interpreted by the State Environmental Protection Administration, the Ministry of Foreign Trade and Economic Cooperation and the General Administration of Customs by their duties and responsibilities.

Article 19 These Provisions shall come into force as of date of prommlgation.

Annex:

1. Application Form for Import Licence of Controlled Ozone Depleting Substances
2. Application Form for Export Licence of Controlled Ozone Depleting Substances
3. Application Form for Import Licence of Controlled Ozone Depleting Substances in Batches
4. Application Form for Export Licence of Controlled Ozone Depleting Substances in Batches
5. Approval Form of Controlled Ozone Depleting Substances Import
6. Approval Form of Controlled Ozone Depleting Substances Export

附 1：

编号：

进口受控消耗臭氧层物质
配额申请书

进口单位_____（盖公章）_____

进口 ODS 商品编号_____

进口 ODS 名称_____

进口 ODS 代号_____

进口 ODS 物质来源_____

申请年度进口配额（吨）_____

出口国家_____

国家消耗臭氧层物质进出口管理办公室

年　　月　　日

Annex 1:

ID:

Application Form for Import License of Controlled Ozone Depleting Substances

Importer: _____ (Seal) _____

Imported ozone depleting substances product ID: _____

Imported ozone depleting substances appellation: _____

Imported ozone depleting substances Code: _____

Imported ozone depleting substances source: _____

Annual import quota applied for (MT) _____

Exporter: _____

National Administrative Office on Import and Export of Ozone Depleting Substances
Date:

<table>
<tr><td rowspan="4">进口单位</td><td>单位名称</td><td colspan="3"></td></tr>
<tr><td>单位地址</td><td colspan="3"></td></tr>
<tr><td>联系人</td><td></td><td>联系电话</td><td></td></tr>
<tr><td>主管单位（地区）</td><td colspan="3"></td></tr>
<tr><td colspan="2">申请进口 ODS 名称及代号</td><td></td><td>商品编号</td><td></td></tr>
<tr><td colspan="2">申请年度配额数量（吨）</td><td colspan="3"></td></tr>
<tr><td colspan="5">上一年度进口、销售或使用情况</td></tr>
<tr><td colspan="2">上一年度配额申请书编号</td><td colspan="3"></td></tr>
<tr><td colspan="2">上一年度批准进口 ODS 名称及代号</td><td></td><td>商品编号</td><td></td></tr>
<tr><td colspan="2">上一年度批准进口 ODS 配额（吨）</td><td colspan="3"></td></tr>
<tr><td colspan="2">上一年度 ODS 实际进口量（吨）</td><td colspan="3"></td></tr>
<tr><td colspan="2">上一年度实际销售或使用情况</td><td colspan="3"></td></tr>
<tr><td>备注</td><td colspan="2"></td><td colspan="2">主管部门审查意见及批准数量：

经办人签字：
批准日期：　　年　月　日
有效期：</td></tr>
</table>

Importer	Name			
	Address			
	Contact		Tel	
	Upper Authority (Local)			
Appellation and Code of the Imported ozone depleting substances Applied for			Product ID	
Annual Quota Amount Applied for (MT)				
The Import, Distribution, and Consumption Information of the Previous Year				
ID of Quota Application Form of the Previous Year				
Appellation and Code of ozone depleting substances Approved to Import in the Previous Year			Product ID	
Quota of ozone depleting substances Import Approved in the Previous Year (MT)				
Actual Imported ozone depleting substances Amount in the Previous Year (MT)				
Actual Distribution or Consumption Information				
Memo		Opinion and Amount Approved by Administrative Unit: Handler's Signature: Date of Approval: Valid Period:		

_____年进口计划表

单位名称：

配额申请书编号：

进口 ODS 名称及代号	批次	计划进口时间	计划进口数量（吨）	进口审批单签发数量（吨）	报关实际数量（吨）	备　注

Import Plan Table of the Year of _____

Name of the Enterprise:
ID of Quota Application Form:

Appellation and Code of Imported ozone depleting substances	BatchID	Planned Import Time	Planned Import Amount (MT)	Approved Amount of the Approval Form of Import	Actual Amount Applied to Customs (MT)	Memo

附 2：

编号：

出口受控消耗臭氧层物质
配额申请书

出口单位_____（盖公章）_____

出口 ODS 商品编号_____

出口 ODS 名称_____

出口 ODS 代号_____

出口 ODS 物质来源_____

申请年度出口配额（吨）_____

进口国家_____

国家消耗臭氧层物质进出口管理办公室

年　　月　　日

Annex 2:

ID:

Application Form for Export License of Controlled Ozone Depleting Substances

Exporter: _____ (Seal) _____

Exported ozone depleting substances product ID: _____

Exported ozone depleting substances appellation: _____

Exported ozone depleting substances Code: _____

Exported ozone depleting substances source: _____

Annual Export quota applied for (MT) _____

Importer: _____

National Administration office on fmpert and Expert
of Dzone Depleting Snbstances
Date:

<table>
<tr><td rowspan="4">出口单位</td><td>单位名称</td><td colspan="3"></td></tr>
<tr><td>单位地址</td><td colspan="3"></td></tr>
<tr><td>联系人</td><td></td><td>联系电话</td><td></td></tr>
<tr><td>主管单位（地区）</td><td colspan="3"></td></tr>
<tr><td colspan="2">申请出口 ODS 名称及代号</td><td></td><td>商品编号</td><td></td></tr>
<tr><td colspan="2">申请年度配额数量（吨）</td><td colspan="3"></td></tr>
<tr><td colspan="5">上一年度出口情况</td></tr>
<tr><td colspan="2">上一年度配额申请书编号</td><td colspan="3"></td></tr>
<tr><td colspan="2">上一年度批准出口 ODS 名称及代号</td><td></td><td>商品编号</td><td></td></tr>
<tr><td colspan="2">上一年度批准出口 ODS 配额（吨）</td><td colspan="3"></td></tr>
<tr><td colspan="2">上一年度 ODS 实际出口量（吨）</td><td colspan="3"></td></tr>
<tr><td colspan="2">回收证明</td><td colspan="3"></td></tr>
<tr><td>备注</td><td colspan="2"></td><td colspan="2">主管部门审查意见及批准数量：

经办人签字：

批准日期：　　年　　月　　日

有效期：</td></tr>
</table>

Exporter	Name			
	Address			
	Contact		Tel	
	Upper Authority (Local)			
Appellation and Code of the Exported ozone depleting substances Applied for			Product ID	
Annual Quota Amount Applied for (MT)				
The Export Information of the Previous Year				
ID of Quota Application Form of the Previous Year				
Appellation and Code of ozone depleting substances Approved to Export in the Previous Year			Product ID	
Quota of ozone depleting substances Export Approved in the Previous Year (MT)				
Actual Exported ozone depleting substances Amount in the Previous Year (MT)				
Proof of Recycling				
Memo		Opinion and Amount Approved by Administrative Unit: Handler's Signature: Date of Approval: Valid Period:		

_____年出口计划表

单位名称：

配额申请书编号：

出口 ODS 名称及代号	批次	计划出口时间	计划出口数量（吨）	出口审批单签发数量（吨）	报关实际数量（吨）	备注

Export Plan Table of the Year of _____

Name of the Enterprise:
ID of Quota Application Form:

Appellation and Code of Exported ozone depleting substances	Batch ID	Planned Export Time	Planned Export Amount (MT)	Approved Amount of the Approval Form of Export (MT)	Actual Amount Applied to Customs (MT)	Memo

附 3：

分批进口受控消耗臭氧层物质
申　请　单

进口单位＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿（盖公章）＿＿＿＿＿＿＿＿

对外成交单位＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

进口 ODS 商品编号＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

进口 ODS 名称＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

进口 ODS 代号＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

进口 ODS 物质来源＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

本次进口数量（吨）＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

预计进口时间＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

报关口岸（具体关名）＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

国家消耗臭氧层物质进出口管理办公室

年　　月　　日

Annex 3:

Application Form for Import License of Controlled Ozone Depleting Substances in Batches

Importer: _____ (Seal) _____

Foreign Handler: _____

Imported ozone depleting substances product ID: _____

Imported ozone depleting substances appellation: _____

Imported ozone depleting substances Code: _____

Imported ozone depleting substances source: _____

Import quota of the batch applied for (MT): _____

Planned import date: _____

Port of Entry (full name): _____

National Administrative Office on Import and Export of
Ozone Depleting Substances
Date:

进口单位	单位名称			
	单位地址			
	联系人		联系电话	
	主管单位（地区）			
出口单位	单位名称			
	单位地址			
	国家（地区）			
生产单位	单位名称			
	单位地址			
	国家（地区）			
此次申请出口 ODS 名称及代号			商品编号	
此次申请出口 ODS 数量（吨）				
备注		主管部门审查意见及批准数量： 经办人签字： 批准日期：　　年　　月　　日 有效期：		

Importer	Name			
	Address			
	Contact		Tel	
	Administrative Units (Local)			
Exporter	Exporter			
	Address			
	Country (Region)			
Producer	Name			
	Address			
	Country (Region)			
Appellation and Code of the batch of Imported ozone depleting substances Applied for			Product ID	
The batch of Quota Amount Applied for (MT)				
Memo		Opinion and Amount Approved by Administrative Unit: Handler's Signature: Date of Approval: Valid Period:		

附 4：

分批出口受控消耗臭氧层物质
申　请　单

出口单位＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿（盖公章）＿＿＿＿＿＿＿＿

生产单位＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

对外成交单位＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

出口 ODS 商品编号＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

出口 ODS 名称＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

出口 ODS 代号＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

出口 ODS 物质来源＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

本次出口数量（吨）＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

预计出口时间＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

报关口岸（具体关名）＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

国家消耗臭氧层物质进出口管理办公室

年　　月　　日

Annex 4:

Application Form for Export License of Controlled Ozone Depleting Substances in Batches

Exporter: _____ (Seal) _____

Producer: _____

Foreign Handler: _____

Exported ozone depleting substances product ID: _____

Exported ozone depleting substances appellation: _____

Exported ozone depleting substances Code: _____

Exported ozone depleting substances source: _____

Export quota of the batch applied for (MT): _____

Planned export date: _____

Port of Entry (full name): _____

National Administrative Office on Import and
Export of Ozone Depleting Substances
Date:

<table>
<tr><td rowspan="4">出口单位</td><td>单位名称</td><td colspan="3"></td></tr>
<tr><td>单位地址</td><td colspan="3"></td></tr>
<tr><td>联系人</td><td></td><td>联系电话</td><td></td></tr>
<tr><td>主管单位（地区）</td><td colspan="3"></td></tr>
<tr><td rowspan="3">生产单位</td><td>单位名称</td><td colspan="3"></td></tr>
<tr><td>单位地址</td><td colspan="3"></td></tr>
<tr><td>国家（地区）</td><td colspan="3"></td></tr>
<tr><td rowspan="3">对外成交单位</td><td>单位名称</td><td colspan="3"></td></tr>
<tr><td>单位地址</td><td colspan="3"></td></tr>
<tr><td>国家（地区）</td><td colspan="3"></td></tr>
<tr><td colspan="2">此次申请出口 ODS 名称及代号</td><td></td><td>商品编号</td><td></td></tr>
<tr><td colspan="2">此次申请出口 ODS 数量（吨）</td><td colspan="3"></td></tr>
<tr><td>备注</td><td colspan="2"></td><td colspan="2">主管部门审查意见及批准数量：

经办人签字：

批准日期：　　年　　月　　日

有效期：</td></tr>
</table>

Importer	Name			
	Address			
	Contact		Tel	
	Upper Authority (Local)			
Producer	Name			
	Address			
	Country (Region)			
Foreign Handler	Name			
	Address			
	Country (Region)			
Appellation and Code of the batch of Exported ozone depleting substances Applied for			Product ID	
The batch of Quota Amount Applied for (MT)				
Memo		Opinion and Amount Approved by Administrative Unit: Handler's Signature: Date of Approval: Valid Period:		

附 5：

国家消耗臭氧层物质进出口管理办公室
受控消耗臭氧层物质进口审批单

（第　　号）

进口单位＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

对外成交单位＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

进口 ODS 商品编号＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

进口 ODS 名称＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

进口 ODS 代号＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

进口 ODS 数量（吨）＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

报关口岸（具体关名）＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

有效期限＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿前办理进口许可证有效

批准日期

批准单位　　国家消耗臭氧层物质进出口管理办公室

Annex 5:

Approval Form of Controlled Ozone Depleting Substances Import

ID:

Importer: _____

Foreign Handler: _____

Imported ozone depleting substances product ID: _____

Imported ozone depleting substances appellation: _____

Imported ozone depleting substances Code: _____

Imported ozone depleting substances Amount (MT): _____

Port of Entry (full name): _____

Valid Period: Apply for import license before _____

Date of Approved: _____

Approved by the Wational Administrative office on Import and Export of Ozone Depleting Substance

国家消耗臭氧层物质进出口管理办公室
受控消耗臭氧层物质出口审批单

（第　　号）

出口单位＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

生产单位＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

对外成交单位＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

出口 ODS 商品编号＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

出口 ODS 名称＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

出口 ODS 代号＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

出口 ODS 数量（吨）＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

报关口岸（具体关名）＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

有效期限＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿前办理出口许可证有效

批准日期

批准单位　　国家消耗臭氧层物质进出口管理办公室

Annex 6:

Approval Form of Controlled ozone depleting substances Export

ID:

Exporter: _____

Producer: _____

Foreign Handler: _____

Exported ozone depleting substances product ID: _____

Exported ozone depleting substances appellation: _____

Exported ozone depleting substances Code: _____

Export ozone depleting substances Amount (MT): _____

Port of Entry (full name): _____

Valid Period: Apply for import license before _____

Date of Approved: _____

Approved by the Natinal Administrative Office on Import and Export of Ozone Depleting Snbstance

中国进出口受控消耗臭氧层物质名录（第一批）

（国家环保总局、对外贸易经济合作部、
海关总署2000年1月19日　环发［2000］10号）

根据国家环保总局、对外贸易经济合作部、海关总署联合颁布的《关于印发〈消耗臭氧层物质进出口管理办法〉通知》（环发［1999］278号）的规定，现发布《中国进出口受控消耗臭氧层物质名录（第一批）》（简称《名录》，见附件）。

凡从事《名录》中所列物质进出口业务的企业，必须于2000年1月31日前将本企业已签字的有关《名录》中所列物质的进出口业务合同报送消耗臭氧层物质进出口管理办公室（设在国家环保总局）备案；并于2000年3月31日之前将其合同履行完毕。

从2000年4月1日起，除四氯化碳禁止进口外，对《名录》中其他所列物质实行进出口配额许可证管理制度。具体办法另行发布。

中国进出口受控消耗臭氧层物质名录（第一批）

商品编号	商品名称	代　号	单　位	备　注
2903.1400	四氯化碳		千克	禁止进口
2903.4100	三氯氟甲烷	CFC-11	千克	配额许可证管理
2903.4200	二氯二氟甲烷	CFC-12	千克	配额许可证管理
2903.4300	三氯三氟乙烷	CFC-113	千克	配额许可证管理
2903.4400.10	二氯四氟乙烷	CFC-114、115	千克	配额许可证管理
2903.4510	氯三氟甲烷	CFC-13	千克	配额许可证管理
2903.4600.10	溴氯二氟甲烷	Halon-1211	千克	配额许可证管理
2903.4600.10	溴三氟甲烷	Halon-1301	千克	配额许可证管理

List of Ozone Depleting Substances under Import and Export Control in China (First Group)

(Promulgated by the State Environmental Protection Administration, the Ministry of Foreign Trade and Economic Cooperation, and the General Administration of Customs on January 19, 2000)

In accordance with stipulations in the Circular Concerning the Printing and Distributing of the Measures on Import and Export Control of the Ozone Depleting Substances, the Gatalog of Ozone Depleting Substances under Import and Export Control (First Group) (hereinafter referred to as the Catalog, see Annex) is now promulgated.

All enterprises engaged in the import and export of substances listed in the Catalog must file their trading contracts of importing or exporting substances listed in the Catalog to State Administrative Office on Import and Export Control of Ozone Depleting Substances (located in the State Environmental Protection Administration) for record before January 31,2000, and to complete the performance of the contracts before March 31, 2000.

From April 1, 2000, besides a ban on import of carbon tetrachloride, the import and export quota licence control system will be enforced for the import and export of other substances listed in the Catalog. Rules in detail will be promulgated additionally.

List of Ozone Depleting Substances under Import and Export Control in China (First Group)

Serial Number of the Commodity	Name of the Commodity	Codes	Unit	Remarks
2903.1400	Carbon Tetrachloride		Kg	Ban on Import
2903.4100	Trichlorofluoro Methane	CFC-11	Kg	Quota Licence Control
2903.4200	Dichlorodifluoro Methane	CFC-12	千克	Quota Licence Control
2903.4300	Trichlorotrifluoro Ethane	CFC-113	Kg	Quota Licence Control
2903.4400.10	Dichlorotetrafluoro Ethane	CFC-114、115	Kg	Quota Licence Control
2903.4510	Chlorotriluoro Methane	CFC-13	Kg	Quota Licence Control
2903.4600.10	Bromochlorodifluoro Methane	Halon-1211	Kg	Quota Licence Control
2903.4600.10	Bromotrifluoro Methane	Halon-1301	Kg	Quota Licence Control

中国进出口受控消耗臭氧层物资名录（第二批）

（国家环保总局2001年1月2日发布）

商品编码	商品名称	代号	单位	备注
2903．1400	四氯化碳	CTC	千克	出口许可证管理
2903．1910	1，1，1－三氟乙烷（甲基氯仿）	TCA	千克	进出口配额许可证管理

List of ODS Subject to Import/Export Control in China (Second Batch)

(Promulgated by State Environmental Protection Administration, January 2, 2001)

HS No	Description	Code	Unit	Note
2903.1400	Carbon tetrachloride	CTC	kg	Export License
2903.1910	1,1,1-Trichloroethame (methyl-chloroform)	TCA	kg	Import/Export Quote licese

关于公布“回收的消耗臭氧层物质”标志的通知

（国家环保总局2000年5月15日　环发［2000］102号）

根据国家环保总局、外经贸部和海关总署联合制定的《消耗臭氧层物质进出口管理办法》第七条第二款”出口回收的消耗臭氧层物质的容器上必须贴有由国家环境保护总局统一印制的‘回收的消耗臭氧层物质’的标志，并准确标示物质名称和含量”的规定。我局委托有关部门设计了“回收的消耗臭氧层物质”标志图案，现予以公布。

任何单位和个人须按照《消耗臭氧层物质进出口管理办法》的规定，经国家消耗臭氧层物质进出口管理办公室审批同意后，方可使用“回收的消耗臭氧层物质”标志图案。任何单位和个人未经国家消耗臭氧层物质进出口管理办公室的许可使用，或者利用相同或类似的图案、文字进行商业活动都属违法行为，将按照有关法规处罚。

附件：

“回收的消耗臭氧层物质”标志图案

说明：1、标志中心的球体代表地球。

2、周围绿色色带代表臭氧层，具有保护地球的意义，绿色又代表生命。

3、RECYCLED ODS中文意思是“回收的消耗臭氧层物质”，其中ODS是“Ozone-Depleting Substances”的英文缩写。

Circular on the Announcement of Label for Recycled Ozone Depleting Substances

(Promulgated by the State Environmental Protection Administration on May 15,2000)

According to Article 7 of Measures on Import and Export of Ozone Depleting Substances(ODS), which was jointly issued by the State Environmental Protection Administration (SEPA), the Ministry of Foreign Trade and Economic Cooperation and General Administration of Customs, SEPA has announced the pattern of labeling for recycled ODS.

All enterprises and individuals must observe the provisions of Regulation Concerning Import and Export of ODS. Use of the labeling must be approved by the National Administratire Office for on Import and Export of ODS. Use of the labelingwithout the permit of the Nationd ManaSement Office on Import and Export of ODS will be regarded as violation of the regulation.

The container and cylinder containing recycled, reclaimed, and reused ODS that will be exported must be labeled the recycled ODS labeling, and are given clear indication of amount and content of substances. In order to substantiate to this article, SEPA has designed the recycled ODS labeling (please refer to the attachment), and the recycled ODS labeling has been registered in the Trademark Office, State Administration for Industry and Commerce.

The pattern of the labeling for recycled ODS is attached.

Notes: a. The sphere located in the center of RECYCYLED ODS labeling represents earth.

b. The green ribbon surrounded the sphere represents Ozone Layer and means protection to the earth.

关于禁止新建生产、使用消耗臭氧层物质生产设施的通知

（1997 年 11 月 11 日，国家环保局、国家计委、国家经贸委、国家工商局发布　环发〔1997〕733 号）

臭氧层破坏是当今全球环境问题之一。为保护臭氧层，国际社会于 1987 年制定了《关于消耗臭氧层物质的蒙特利尔议定书》。我国在 1991 年 6 月加入了 1990 年经修正的《关于消耗臭氧层物质的蒙特利尔议定书》。按照有关国际规定，我国应在 1999 年将氯氟化碳（包括 CFC-11、CFC-12、CFC-113、CFC-114 和 CFC-115）的生产量和消费量冻结在 1995-1997 年三年平均水平基础上，到 2010 年将氯氟化碳、哈龙（包括哈龙 1211 和哈龙 1301）等主要消耗臭氧层物质的生产量和消费量削减为零。为切实履行国际公约，1993 年国务院批准了《中国消耗臭氧层物质逐步淘汰国家方案》（以下简称《国家方案》），1994 年我国进一步制定了烟草行业补充方案。在《国家方案》中，我国规定在 2010 年实现氯氟化碳、哈龙等主要消耗臭氧层物质的完全淘汰。为实现《国家方案》确定的目标，必须严格控制生产、使用消耗臭氧层物质生产设施的建设项目。为此，特将有关要求通知如下：

一、自本通知发布之日起，各地不得新建、扩建或改建下列生产装置（线）：

1．氯氟化碳及哈龙化学品生产装置；

2．以氯氟化碳为发泡剂或制冷剂的冰箱、冰柜、汽车空调器、工业商业用冷藏、冷冻设备生产线；

3．以氯氟化碳为发泡剂的聚氨酯泡沫塑料产品、聚乙烯/聚苯乙烯挤出泡沫塑料生产线；

4．使用哈龙作灭火剂的灭火器、灭火系统生产装置；

5．使用氯氟化碳或 1，1，1—三氯乙烷或四氯化碳作为清洗剂的生产装置；

6．使用氯氟化碳作为推进剂的气雾剂制品（医药用品及尚无替代技术的产品除外）生产线；

7．以氯氟化碳作为膨胀剂的烟丝膨胀设备制造线。

本通知发布之前已发文件规定的有关限建内容仍有效。

二、自接到本通知之日起，各级政府有关部门要在各自职责范围内，各司其职，严格把关。

1．各级环境保护部门不得批准上述生产装置（线）建设项目环境影响报告书（表）；

Circular on the Prohibition of Constructing New Facilities for Producing and Using ODS

(Promulgated by the Environmental Protection Agency,
the State Development and Planning Commission,
the State Economic and Trade Commission,
the National Industry and Commerce Administration on November 11, 1997)

Ozone Layer depleting is currently one of the global environment problems. In order to protect the ozone layer, international society established the Montreal Protocol on Substances that Deplete the Ozone Layer in 1987. In June of 1991, our Country acceded to the 1990 Amendment of the Montreal Protocol on Substances that Deplete the Ozone Layer. In accordance with relevant international stipulations, by 1999, our Country shall freeze the quantity of production and consumption of carbon chlorofluorides (including CFC－11, CFC－12, CFC－113, CFC－114 and CFC－115) to the baseline of the average level of production and consumption in 1995－1997, and by 2010, shall decrease the quantity of production and consumption of the carbon chlorofluorides, Halons (Halon－1211, and Halon－1301) and other major ozone depleting substances to zero. In order to conscientiously implement the international convention, the State Council approved the China's State Programme on Phase－out of Ozone Depleting Substances (hereinafter referred to as the State Programme) in 1993, and in 1994, further established the Additional Programme in the Tobacco Sector. In the State Programme, it is stipulated that, by 2010, our Country shall completely eliminate the production and consumption of carbon chlorofluorides, Halons and other major ozone depleting substances. In order to achieve the aim of the State Programme construction projects of production facilities for producing and using ozone depleting substances shall be strictly controlled. The relevant requirements are listed as follows.

A. From the date of this Circular and hereafter, no new construction, expansion, or rebuilding of following production equipment (or product lines) in any place is allowed:

1. Production equipment for producing chemical substances of carbon chlorofluoride and Halon;

2. Production lines for manufacturing refrigerators, automobile air－conditioners, industrial and commercial cooling and refrigeration equipments using carbon chlorofluoride as foaming agent or refrigerant;

3. Production lines for producing polyester amide foaming plastic products, polyethylene/polystyrene extrusion foaming plastic products, using carbon chlorofluoride as foaming agent;

4. Production equipment for manufacturing fire distinguisher and fire fighting system using Halon as fire distinguish agent;

5. Production equipment using carbon chlorofluoride, 1,1,1－trichloroethane, or carbon tetrachloride as cleaning agent;

6. Production lines for producing aerosol products using carbon chlorofluoride as propellant (excluding medication and the products without alternative); and

7. Production lines for manufacturing tobacco expanding equipment using carbon chlorofluoride as expanding agent.

The relevant contents of restrictions on construction in regulations issued before the promulgation of this circular are still in force.

B. From the date this circular being received and hereafter government institutions at all levels shall check on it strictly within their duties and responsibilities.

1. Environmental protection institutions of all levels shall not approve the environmenxal impact report (or form) of conatruetion project of the abore production equipment (lines).

2．各级政府计划、经贸和行业主管部门不得批准上述生产装置（线）建设或投产使用；

3．各级财政、金融部门不得在资金和政策上支持上述生产装置（线）的建设。

三、违反上述规定建设的生产装置（线），由地方环保部门报请同级人民政府责令其拆除。逾期不拆除的，有关部门要对主要责任人进行行政或法律处罚，工商行政管理部门不予办理企业登记注册；已经登记注册的，工商行政管理部门依法办理变更登记或注销登记。对有限公司和股份公司，依照《公司登记管理条例》的规定办理。

四、地方各级政府和有关部门应鼓励企业生产、使用有利于保护臭氧层的产品，并支持开展有利于保护臭氧层的活动。

2. Governmental planning, economic, trade, and sector administrative units of all levels shall not approve the construction or putting into production of the equipment above.

3. Finance and fiscal units of all levels shall not support the construction of the product equipment (lines) above by means of finance or policy.

C. To those production equipment (lines) violating above stipulations , the local environmental protection institution must report to and request from the government of the same level to order the enterprise to dismantle them. For those that refuse to do so in due time as ordered, relevant administrative institution shall give the main responsible person in administrative or legal punishments, and the industry and commercial administration institution shall not provide him/her with the enterprise registration services; for those having been registered, the industry and commercial administrative institutions shall legally cancel or modify the registration. For limited liability companies and joint－stock limited companuies, they shall be handled in accordance with stipulations in The Regulations Concerning Registration of Companies.

D. Local government and relevant institutions of all levels shall encourage enterprises to produce and using products favourable to protection of ozone layer and support programmes of activities benefiting protection of the ozone layer.

关于实施哈龙灭火剂生产配额许可证管理的通知

（1997年12月3日，国家环保局、公安部发布
环发［1997］764号）

为履行《关于消耗臭氧层物质的蒙特利尔议定书》伦敦修正案所规定的国际义务，实施《中国消防行业哈龙整体淘汰计划》，逐步削减哈龙灭火剂的生产，决定对哈龙灭火剂生产实行配额许可证管理。现将有关事项通知如下：

一、自1998年1月1日起，所有生产哈龙灭火剂的企业必须持有哈龙灭火剂生产配额许可证。无生产配额许可证的企业不得组织哈龙灭火剂的生产。哈龙灭火剂配额许可证当年有效。哈龙灭火剂生产企业的当年生产配额是企业可获得实施《关于消耗臭氧层物质的蒙特利尔议定书》多边基金（以下简称“多边基金”）资助额度的主要依据。

国家环境保护局和公安部负责确定国家年度哈龙灭火剂生产配额总量和哈龙生产企业的生产配额即最高年生产许可量。

二、自本通知发布之日起，申请生产配额许可证的企业必须在省级环境保护部门规定的时间内根据生产配额许可证申请书（附件1）的格式，向省级环境保护部门提交申请书一式6份，并抄报省级公安消防监督机构和企业上级主管部门。逾期未提出申请的企业，按自动弃权处理。持有哈龙灭火剂生产许可证的企业方可申请哈龙灭火剂生产配额许可证。

三、省级环境保护部门应会同省级公安消防监督机构在接到企业申请书10天内，提出初审意见，报国家环境保护局审批，并报公安部备案。

国家环境保护局在每年12月15日之前，对符合要求的企业发放下年度的哈龙灭火剂生产配额许可证，并向企业所在的省级环境保护部门和公安消防监督管理机构通报核发结果。

四、国家环境保护局和公安部根据以下因素核定哈龙灭火剂生产企业首次哈龙灭火剂生产配额：

（一）企业前3年的实际生产量、销售量、库存量和出口量；

（二）企业前3年的财务状况和劳动工资；

（三）国家1995年年度配额总量。

Circular on Implementing the Production Quota Permit Control on Fire-extinguishing Agent as Halon

(Promulgated by the National Environmental Protection Agency and Ministry of Public Security on December 3, 1997.)

In order to fulfill international obligations identified in the London Amendment of the Montreal Protocol on Substances that Deplete Ozone Layer, to implement Sector Programme for Halon Phaseout in China and gradually reducing the production of extinguishing agent halon, it is decided to enforce the quota licence control on the production of fire extinguishing agent halon. The relevant requirements are notofied as follows:

1. From January 1, 1998, all the enterprises manufacturing fire extinguishing agent halon must hold production quota licences. Enterprises without the production quota licences are not allowed to organize the production of fire extinguishing agent halon. The quota licence is only valid for the year specified . The production quota granted to the enterprise producing fire extinguishing agent halon in that year is the main basis for that enterprises to obtain the amount of subsidy from the Multilateral Fund of Implementing London Amendment of the Montreal Protocol on Substances that Deplete Ozone Layer (hereinafter referred to as Multilateral Fund)

The National Environmental Protection Agency and Ministry of Public Security are responsible for deciding the total annual national production quota of fire extinguishing agent halon and the production quota, i.e. the maximun production quantity permitted, for each halon producing enterprise.

2. Begin from the date of this Circular, any enterprise applying for the production quota licence must submit six copies of the application form in accordance with the specific format of the production licence application form (see Annex 1) to provincial environment protection institution within the time limit designated by the provincial environment protection institution and submit copies at the same time to provincial fire fighting and supervision institution and the enterprise's higher level administrative institution. Those enterprises which did not make their applications within the time limited are considered as having given up their rights. Only those enterprises which have the halon agent production licence can apply for the halon agent production quota licence.

3. The provincial environment protection institution, jointly with provincial fire fighting and supervision institution, shall, within 10 days after receiving the written application from the enterprise, put forward their opinions of preliminary examination and report to the State Environment Protection Administration for examination and approval and to the Ministry of Public Security for record.

The National Environmental Protection Agency, before December 25 of every year, issues the next year production quota licences of fire extinguishing agent halon to those enterprises which meet the requirements, and notifies approving and issuing results to provincial environment protection institutions and fire fighting and supervision institutions.

4. The National Environmental Protection Agency and the Ministry of Public Security check and ratify the first time production quota of fire extinguishing agent halon for enterprises producing fire extinguishing agent on the basis of following factors:

(1) . the actual volumes of production, sales, storage and export of the enterprise in the last three years;

(2) . the financial situation and employee wages of the enterprise in the last three years;

(3). the total quantity of national quota in 1995.

五、国家环境保护局和公安部根据企业上年度哈龙灭火剂生产配额量、生产配额交易情况及企业执行哈龙灭火剂生产配额许可证情况，确定企业下年度哈龙灭火剂生产配额量，依据以下方法核定企业哈龙灭火剂生产配额量。

（一）已由国家环境保护局确定将在下年度获得多边基金资助，并全部停止哈龙灭火剂生产的企业，核定哈龙灭火剂生产配额量为零。

已由国家环境保护局确定将在下年度获得多边基金资助并部分停止哈龙灭火剂生产的企业，仅核定相应生产部分的年度哈龙灭火剂生产配额量。

（二）哈龙灭火剂生产企业生产配额总量扣除上款确定的哈龙灭火剂生产减少量后仍超过下年度国家配额总量时，将在哈龙灭火剂生产企业的上年度配额基础上等比例削减各个企业的年度哈龙灭火剂生产配额量。

六、哈龙灭火剂生产配额经国家环境保护局批准，可交易使用。实施哈龙灭火剂生产配额交易，必须具备以下条件：

（一）进行交易企业双方必须同时持有哈龙灭火剂生产配额许可证；

（二）用于交易的哈龙灭火剂生产配额是当年尚未使用的；

（三）欲购进哈龙灭火剂生产配额的企业须得到省级环境保护部门的同意。

配额交易分为年度交易和永久性交易两种。实施永久性交易的企业，其变更配额量作为核发企业各自下年度哈龙灭火剂生产配额的依据；哈龙灭火剂生产配额的交易价格，由交易企业自行协商确定。

配额交易企业必须签定交易合同，并须将并易合同上报国家环境保护局批准。国家环境保护局应在接到交易合同7天内，提出审批意见；并应根据批准的交易合同变更交易企业双方的当年哈龙灭火剂生产配额量。同时，向交易企业双方及其所在省级环境保护部门通报哈龙灭火剂生产配额变量情况。

哈龙灭火剂生产企业交易哈龙灭火剂生产配额后，应按照国家环境保护局变更后的哈龙灭火剂生产配额量组织生产。

七、持有哈龙灭火剂生产配额许可证的企业（以下简称“持证企业”）必须按哈龙灭火剂生产配额许可证执行情况报告表（附件2）的要求，在每季度结束后15天内向国家环境保护局报送本季度的有关情况，并抄报省、市（地）级环境保护部门、公安消防监督机构和企业上级主管部门。

八、持证企业应保存有关原始资料包括：哈龙灭火剂生产年报表；哈龙灭火剂生产月报表；哈龙灭火剂销售年报表；哈龙灭火剂销售月报表；哈龙灭火剂财务年报表；氯氟烃22、溴素、氯气等主要原料购入帐；哈龙灭火剂生产操作记录包括投

5. The National Environmental Protection Agency and the Ministry of Public Security, on the basis of the enterprise's production quota of fire extinguishing agent halon, situations in quota trading and situations in its implementation of the production quota of fire extinguishing agent in the former year, decide the enterprise's production quota of fire extinguishing agent halon in the next year, and check and ratify by following means the production quota of fire extinguishing agent halon for the enterprise.

(1) . Those enterprises, which will get the Multilateral Fund support and will cease all their production in the next year by decision of the National Environment Protection Agemcy, will be checked and ratified the zero quota.

Those enterprises, which will get the Multilateral Fund support and will cease part of their production in the next year by decision of the National Environmental Protection Agency, will be checked and ratify the annual production quota of fire extinguishing agent corresponding to the part of production remained.

(2) . If the total quantity of production quota for all enterprises, minus the reduced quantity as determined by above paragraphs, still exceeds the total quantity of national quota of the next year, annual production quota of fire extinguishing agent halon of next year for each enterprise will be reduced proportionally on the basis of the quota of the former year.

6. Production quota of fire extinguishing agent halon can be traded upon approval of the National Environmental Protection Agency. The trading of production quota of fire extinguishing agent halon must meet the following requirements:

(1) Both parties of the trading must have production quota licences of fire extinguishing agent respectively and simultaneously.

(2) The production quota of fire extinguishingagent halon traded must be the quota having not been used in the current year.

(3) The enterprises which want to buy the production quota must obtain the approval of the provincial environment protection institutions.

Production quota trading can be divided into two categories: early trading and permanent trading. For enterprises carrying out the permanent trading, the change of quota quantity will be the basis of checking and ratifying their production quota of fire extinguishing agent of the next year; The trading price of production quota of fire extinguishing agent halon traded will be agreed upon by negotiations between the trading enterprises themselves.

The trading enterprises must sign contracts and reports their trading contracts to the National Environmental Protection Agency for approval. The National Environmental Protection Agency shall give comments within seven days after receiving the contract, and change the enterprise quota according to the contract, and meanwhile. inform the corresponding changes of quota to both trading enterprises and the provincial environment protection institutions.

After trading their quota, the fire extinguishing agent halon producing enterprises shall produce the halon agent according to the new quota as having been changed by the National Environmental Protection Agency.

7. The enterprises that obtain the quota licence (hereinafter referred to as the licensed enterprise) must report to the National Environmental Protection Agency according to the requirement of the report form (Annex II) within 15 days after each quarter, and also submit copies to provincial environment protection institutions, fire fighting and supervision institutions and enterprises' higher level administrative institutions.

8. The licensed enterprises shall preserve relevant original documents including: yearly reports on the production of fire extinguishing agent halon, monthly reports on the production of fire extinguishing agent halon, yearly reports on the sales of fire extinguishing agent halon, monthly reports on the sales of fire extinguishing agent halon, yearly financial reports on fire extinguishing agent halon, accounts of quantity purchased of chlorofluoro hydrogencarbon 22, bromine, chlorine and other major raw materials, production operation records including materials input, products output, filling and

料量、产量、产品灌装记录等。并接受环境保护部门、公安消防监督机构和企业上级主管部门的核查。

九、省、市（地）环境保护部门和公安消防监督机构每年应共同对持证企业的生产情况和上报的数据进行不定期核查，并由省级环境保护部门将检查及处理结果上报国家环境保护局、公安部和企业上级主管部门。

十、国家环境保护局对累计两次超配额生产的企业，除行政处罚外，停发其下年度哈龙灭火剂生产配额许可证，并取消获得多边基金资助的资格。国家环境保护局商公安部可调整使用不能有效组织生产且不进行配额交易的持证企业的配额量。

十一、对不按时报送或不报送有关数据、对瞒报和谎报数据的持证企业、对超配额生产的持证企业、对违章交易哈龙灭火剂生产配额的持证企业以及对无哈龙灭火剂生产配额许可证生产哈龙灭火剂的企业，将根据情节轻重按照国家有关规定进行处罚。

packaging records, etc. All those documents shall be subject to inspections by environment protection institutions, public security, fire firing and supervision institutions and enterprises' higher level administrative institutions.

9. The provincial and municipal (regional) environment protection institutions and fire fighting and supervision institutions shall, in various time of every year, jointly inspect and check the licensed enterprises their situations of production and data they reported. The provincial environment protection institutions shall report the result of inspection and checking to the National Environmental Protection Agency, the Ministry of Public Security and enterprises' higher level administrative institutions.

10. The State Environment Administration will stop issuing production quota for the next year to those enterprises whose production exceeds the quota in two times, and, besides giving them administrative punishment, will disqualify them from applying for the subsidies from the Multilateral Fund . The National Environmental Protection Agency, consulting with the Ministry of Public Security, may readjust the quota of those licensed enterprises which can neither organize production effectively nor participating in quota trading.

11. In case a licensed enterprise failing to report relevant data or failing to report in due time, deceiving and making falsified data, producing in excess of the quota, or dealing in trading of halon production quota in violation of rlevant regulations, and in case an enterprise organizing halon production without halon production quota licence, the National Environmental Protection Agency will investigate its responsibility of violating quota control system and, based on relevant provisions, give punishment according to its seriousness.

关于在气雾剂行业禁止使用氯氟化碳类物质的通知

（1997 年 6 月 5 日，国家环保局、中国轻工总会、国家计委、国家经贸委、公安部、化工部、农业部、国家工商管理局、国家技术监督局发布　环发［1997］366 号）

臭氧层破坏是当前全球环境问题之一。为保护臭氧层，国际社会于 1987 年制定了《关于消耗臭氧层物质的蒙特利尔议定书》（以下简称“议定书”）。我国在 1991 年 6 月加入了 1990 年经修正的“议定书”。按照“议定书”规定，我国应在 1999 年将氯氟化碳（CFCs）生产和消费量冻结在 1995～1997 年 3 年平均值的水平上，到 2010 年完全停止氯氟化碳、哈龙等主要消耗臭氧层物质的生产和使用。

为切实履行国际公约，1993 年国务院批准了《中国消耗臭氧层物质逐步淘汰国家方案》（以下简称“国家方案”）。我国结合替代品、替代技术的发展情况，在“国家方案”中规定，气雾剂行业在 1997 年实现完全淘汰（医用部分除外）。为落实“国家方案”中提出的淘汰目标，国家环境保护局、中国轻工总会、国家计委、国家经贸委、公安部、化工部、农业部、国家工商行政管理局、国家技术监督局联合通告如下：

1．自 1997 年 12 月 31 日起，所有生产下列各类气雾剂产品的企业不得使用氯氟化碳作为推进剂（尚无替代技术的产品除外）：

（1）个人用品类：发类用品、护肤用品、美容用品、芳香用品、盥洗用品；

（2）家庭用品类：室内环境用品、衣物用品、家具、家电用品；

（3）除虫用品类：杀虫用品、驱避用品；

（4）工业用品类：润滑用品、脱模用品、防锈、除锈用品、电气用品、除污用品、汽车用品、喷漆、涂料、上光蜡；

（5）其他用品类：食品、园艺用品、禽畜用品、其他等。

2．自 1998 年 1 月 1 日起，对使用氯氟化碳作为推进剂生产的上述气雾剂产品，有关行业主管部门不予办理产品登记，并由行业主管部门通知工商行政管理机关，一律不予办理企业登记注册；对原已登记注册的企业，由行业主管部门提出处理意见，由工商行政管理机关依法处理。

3．各级计划、经济部门自本通告颁布之日起不得批准使用氯氟化碳作为推进剂的上述气雾剂产品生产装置（线）的建设项目。

4．使用氯氟化碳替代品作推进剂的气雾剂生产企业和灌装中心应加强生产管

Circular on the Prohibition of Using Carbon Chlorofluoride Substance in the Aerosol Sector

(Promulgated by the National Environmental Protection Agency, China General Chamber of Light Industry, the State Planning Commission, the State Economic and Trade Commission, the Ministry of Public Security, the Ministry of Chemical Industry, the Ministry of Agriculture, the National Bureau of Industry and Commerce Administration, the National Bureau of Technology Supervision on June 5, 1997)

The ozone layer depletion is currently one of the global environment problems. In order to protect the ozone layer, the international society established in 1987 the Montreal Protocol on Substances that Deplete the Ozone Layer (hereinafter referred to as the Protocol). Our Country acceded to the 1990 Amendment of the Protocol in June of 1991. In accordance with the stipulations of the Protocol our Country shall freeze the quantity of production and consumption of carbon chlorfluorides (CFCs) at the baseline of average level among three years of 1995 – 1997, and by 2010 shall completely phase out the production and consumption of CFCs, Halons and other major ozone depleting substances

In order to fulfill obligations under the international convention, the State Council approved the China's State Programme on Phase – out of Ozone Depleting Substances (hereinafter referred to as the State Programme) in 1993. In connection with the development of alternative substances and alternative technologies, it is stipulated in the State Programme that, in our country, the complete phase – out of CFCs in the aerosol sector (excluding medication application) shall be accomplished by 1997. In order to meet the aim of phaseout as put forward by the National Programme, the State Environmental Protection Agency, the China General Chamber of Light Industry, the National Planning Commission, the National Economic and Trade Commission, the Ministry of Public Security, the Ministry of Chemical Industry, the Ministry of Agriculture, the National Bureau of Industry and Commerce Administration, the National Bureau of Bureau of Technology Supervision jointly issue the circular as follows.

A. From December 31, 1997 enterprises producing the following aerosol products must not use CFCs as propellant (excluding those without alternative technologies).

1. Personal products: hair caring products, skin caring products, cosmetics, perfume products, washing products;

2. Household products: indoor environmental products, clothing products, furniture, household electric appliance;

3. Pesticidal products: insecticide products, insectifuge and parasiticide;

4. Industrial products: lubricant, antirust, deruster, electric products, cleansing agent, automobile products, spray – painting tools, dope, wax – polish;

5. Other products: food, gardening facilities, farming facilities, others.

B. From 1 January 1, 1998 relevant administrative institutions shall not make registration for the aerosol products mentioned above, and the administrative institutions of the sector shall inform the industry and commerce administrative bureaus not to provide enterprises with registration service. If the enterprise has been registered, the administrative institutions of the sector shall bring forward solution opinions to be executed by the industry and commerce administrative institutions according to laws and regulations..

C. Planning and economic institutions of all levels, from the date of this circular, must not approve construction projects of equipment (lines) producing aerosol products using CFCs as propellant.

理，确保产品质量，并建立健全各项消防安全管理制度，严格遵守国家消防安全法规。

各级公安消防机构对使用替代品作推进剂的气雾剂生产企业要加强监督管理，促进生产安全。

5. 不具备安全生产和精制条件的中、小型气雾剂生产企业，国家鼓励其到符合国家要求的气雾剂灌装中心灌装。

6. 国家对不含有氯氟化碳的气雾剂产品实行环境标志制度，具体的产品目录由国家环境保护局、国家技术监督局联合审批发布。

7. 国家对气雾剂生产企业和市场产品进行监督，对违反上述规定的企业，由地方环保部门会同有关部门依法进行处罚。

8. 各有关部门要积极督促所属企业认真执行上述有关规定，协助企业切实做好氯氟化碳禁用工作。

D. The manufacturer and filling center of aerosol products using alternatives of CFCs as propellant shall strive to strengthen management of production, insure product quality, establish and strengthen various fire protection management regulations, and operate strictly abiding by national fire protection laws and regulations.

Public security institutions and fire protection institutions of all level shall tighten the supervision and administration management on the manufacturer of aerosol products with alternatives of CFCs as propellant, and promote safe production.

E. For medium and small - sized manufacturers of aerosol products without qualification of safe production and refinement, the State encourages them to accomplish filling in the aerosol filling center which is qualified to the national standard.

F. The State will implement environment symbol system on the aerosol products without CFCs. The specific product list will be approved and issued jointly by the National Environmental Protection Agency and the National Bureau of Technology Supervision.

G. The State will impose supervision on aerosol products manufacturers and products in market. Local environmental protection institutions together with relevant institutions will punish the enterprises violating the stipulations above.

H. The relevant institutions of all levels shall actively supervise and urge the administrated enterprises to carefully execute stipulations above and give enterprises assistances to facilitate the accomplishment of CFCs prohibition task.

关于实施全氯氟烃产品（CFCs）生产配额许可证管理的通知

（国家环保总局、国家石油和化学工业局 1999 年 5 月 31 日　环发［1999］128 号）

为履行《关于消耗臭氧层物质的蒙特利尔议定书》伦敦修正案（以下简称“议定书”）所规定的国际义务，实施《中国化工行业全氯氟烃产品（CFCs）生产整体淘汰计划》，逐步削减 CFCs 的生产，决定自 1999 年 1 月 1 日起对 CFCs 生产实行配额许可证管理。现将有关事项通知如下。

一、所有生产 CFCs（附件 1 所列产品种类）的企业必须持有 CFCs 生产配额许可证。无生产配额许可证的企业不得组织 CFCs 的生产。企业年度 CFCs 生产配额从每年 1 月 1 日起计算，当年有效。

二、国家环保总局和国家石油和化学工业局负责确定国家年度 CFCs 生产配额总量和各 CFCs 生产企业的生产配额即最高年生产许可量。国家初始年度 CFCs 生产配额是 50351 吨（消耗臭氧潜能值），各 CFCs 生产企业 CFCs 的生产配额为 1997 年的实际生产量。

三、自本通知发布之日起，申请 CFCs 生产配额许可证的企业必须在 15 天内根据生产配额许可证申请表（附件 2）的格式，向国家环保总局提交申请书（每种 CFCs 填一份）一式 4 份，并同时抄报国家石油和化学工业局、省级环境保护部门、省级石油化工生产管理部门和企业上级主管部门。逾期未提出申请的企业，按自动弃权处理。申请 CFCs 生产配额许可证的企业必须是经国际审计的且在 1997 年有 CFCs 实际生产量的企业。

国家环保总局接到企业申请书后，会同国家石油和化学工业局根据 1999 年国家配额总量和招标结果，核定各 CFCs 生产企业 1999 年生产配额，对符合要求的企业发放 CFCs 配额生产许可证。

四、国家环保总局会同国家石油和化学工业局今后每年根据企业上年度 CFCs 生产配额量、生产配额交易情况及企业执行 CFCs 生产配额许可证情况和下一年度招标结果，确定企业下年度 CFCs 生产配额量，并依据以下方法核定企业下年度 CFCs 生产配额量。

（一）已由国家环保总局通过招标确定的将在下年度全部停止其某种 CFCs 生产的企业，其该种 CFCs 生产配额量为零。

已由国家环保总局通过招标确定的将在下年度部分停止某种 CFCs 生产的企业，

Circular on Implementing the Production Quota Permit Control on Chlorfluoro Hydrocarbon Products (CFCs)

(Promulgated by the State Environmental Protection Administration, the State Administration of Petroleum and Chemical Industries on May 31, 1999)

In order to fulfill the international obligations identified in the London Amendment of the Montreal Protocol on Substances that Deplete the Ozone Layer, to implement the Sector Programme for CFC Production Phaseout in Chemical Industry of China, and to decrease the production of CFCs, it is decided, beginning from January 1, 1999 , to enforce the quota licence system for production of CFCs. The relevant requirements are notified as follows:

1. All enterprises manufacturing CFCs (as listed in Annex I) must hold production quota licences. Enterprises without production quota licences are not allowed to organize CFCs production. The annual CFCs production quota of an enterprise is counted starting from January 1 of each year and is only valid for that year.

2. The State Environment al Protection Administration and the State Administration of Petroleum and Chemical Industries are responsible for determining the annual national total production quota for CFCs and issuing the production quota, i.e. the maximum production volume permitted for that year, to each CFCs production enterprise. The initial national production quota is 50,351 MT ODP and CFCs Production quota for enterprises producing CFCs are their actual production volume in 1997.

3. Begin from the date of this circular, any enterprise applying for the production quota licence must submit to State Environmental Protection Administration four copies of the written application form in specified forhat (Annex II) within 15 days, and, at the same time, submit copies to State Administration of Petroleum and Chemical Industries, the provincial environment protection institution, the provincial administration of petroleum and chemical industries and enterprise's higher level administrative institution. Those enterprises which did not make their applications within the time limited are considered as having given up their rights. Those enterprises applying for CFCs production quota licences must be those enterprises having been internationally audited and having actual production volume.

Upon receipt of applications, the State Environment al Protection Administration, together with the State Administration of Petroleum and Chemical Industries, shall determine the production quota of 1999 for each enterprise according to the national total quota and the bidding outcome in 1999, and issue the production quota licence to the qualified enterprises.

4. The State Environment al Protection Administration, together with the State Administration of Petroleum and Chemical Industries, shall hereafter determine the volume of enterprise production quota in the subsequent year on the basis of the volume of enterprise production quota, situations in quota trading, implementation status of the enterprise's quota license in the former year and the bidding outcome of the next year. CFCs production quota for enterprises in subsequent year shall be allocated in following ways:

a. For those enterprises being decided by the State Environment al Protection Administration during the bidding process to cease totally the production of a certain kind CFCs, the production quota of this kind CFCs will be zero.

For those enterprises being decided by the State Environment al Protection Administration during the bidding process to cease partially the production of a certain kind CFCs, only the annual production quota corresponding to the producing part will be allocated.

仅核定相应生产部分的年度生产配额量。

（二）CFCs生产企业某种CFCs生产配额总量扣除上款确定的CFCs生产减少量后仍超过下年度国家配额总量时，将在CFCs生产企业现有配额基础上等比例削减各个企业的年度CFCs生产配额量，以达到下年度国家配额总水平。

五、国家环保总局会同国家石油和化学工业局在每年的2月底之前完成对各企业当年生产配额量的核定，并发放CFCs配额生产许可证，同时向企业所在的省级环境保护部门、石油化工生产管理部门及其上级主管部门通报核发结果。

每个企业的CFCs配额生产许可证上应注明不同种类的CFCs产品的生产配额量。

六、CFCs生产配额经国家环保总局批准，可交易使用。实施CFCs生产配额交易，必须具备以下条件：

（一）进行交易企业双方必须同时持有同种CFCs生产配额许可证；

（二）用于交易的CFCs生产配额是当年尚未使用的；

（三）非同种CFCs生产配额的交易必须得到国家环保总局的特别批准。

配额交易分为年度交易和永久性交易两种。实施永久性交易的企业，其变更配额量作为核发企业各自下年度CFCs生产配额的依据；CFCs生产配额的交易价格，由参加交易的企业自行协商确定。

进行配额交易的企业双方签定的交易合同，须上报国家环保总局，抄报国家石油和化学工业局，经国家环保总局批准后，方可生效。国家环保总局应在接到交易合同10天内，提出审批意见；应根据批准的交易合同变更交易企业双方的当年CFCs生产配额量；并把CFCs生产配额量变更情况，抄送国家石油和化学工业局、所在省级环境保护部门、石油化工管理部门和企业主管部门。

CFCs生产企业交易生产配额后，应按照国家环保总局变更后的CFCs生产配额组织生产。

七、持有CFCs生产配额许可证的企业（以下简称持证企业）必须按CFCs生产配额执行情况报告表（附件3）的要求，在每季度结束后的15天内向国家环保总局报送本季度各月的生产情况，并抄报国家石油和化学工业局、省级环境保护部门、石油化工生产管理部门和企业上级主管部门。

八、持证企业应保存有关的原始资料：生产年报表；生产月报表；销售年报表；销售月报表；财务年报表；四氯化碳、无水氟化氢等主要原料购入帐；生产操作记录，包括投料量、产量、产品灌装记录等。并接受有关部门的核查。

b. If the total quantity of production quota of a certain kind CFCs for all CFCs production enterprise minus the reducing quantities as determined by above paragraphs, still exceeds the total quantity of national quota, annual production quota of CFCs of the next year for every enterprises will be reduced proportionally on the basis of the quota of the former year, so as to meet the the total national quota level for the following year.

5. Before the end of February of each year, the State Environment al Protection Administration, together with the State Administration of Petroleum and Chemical Industries shall conclude the process of verifying and approving the production quota of the current year for every enterprise and the process of issuing CFCs production quota licence, and notify, in the sane time, the result of verifying and approving to the provincial environment protection institutions, the provincial administration of petroleum and chemical industries and the enterprises' higher level administrative institutions.

The quantity of the production quota for different kind of CFCs products shall be clearly indicated on the enterprise's CFCs production quota licence.

6. CFCs production quota can be traded upon approval of the State Environment al Protection Administration. The trading of CFCs production quota must meet the following requirements:

a. Both trading enterprises must have production quota licences of the same kind CFCs respectively and simultaneously;

b. The production quota of CFCs traded must be the quota having not been used during the current year;

c. Trading quota of different kinds CFCs must be specially approved by the State Environment al Protection Administration.

Production quota trading can be divided into two categories: annual trading and permanent trading. For enterprises carrying on the perment trade, the change of quota quantity will be the basis of checking and ratifying their production quota of CFCs for next year. The trading price of production quota of CFCs traded will be agreed upon by negotiation between the trading enterprises themselves.

The trading contract signed by the two trading enterprises on quota trading must be submitted to the State Environment al Protection Administration and copied to the State Administration of Petroleum and Chemical Industries, and will be effective only after approved by the State Environment al Protection Administration. The State Environment al Protection Administration shall put forward its examination comments within 10 working days after receiving the trading contract; and shall change the production quota of CFCs during the current year for two trading enterprises according to the approved trading contract, and notify to the State Administration of Petroleum and Chemical Industries, the provincial environment protection institutions, the provincial administration of petroleum and chemical industries, and enterprises' higher level administrative institutions on circumstances about the change of CFCs production quota.

The enterprises involved in quota trading shall produce CFCs according to the changed production quota approved by the State Environment al Protection Administration.

7. The enterprise holding a CFCs production quota (hereinafter referred to as the licensed enterprise) must submit the report, in accordance with requirements of the Form of Report on the Implementation of CFCs Production Quota (Annex III), of its monthly CFCs production in the current quarter to the State Environment al Protection Administration within 15 days after the end of each quarter and copies of the report to The State Administration of Petroleum and Chemical Industries, the provincial environment protection institutions , the provincial administration of petroleum and chemical industries and enterprises' higher level administrative institutions.

8. The licensed enterprise shall preserve the relevant original documents including: annual production reports, monthly production reports, annual sales reports, monthly sales reports, annually financial reports, accounts of purchase of raw materials such as carbon tetrachloride, anhydrous hydrogenfluoride, records of production operation including records on raw material input, product output, product filling and packaging, etc. All these documents shall be subject to inspection by relevant official department.

九、国家环保总局及国家石油和化学工业局每年对持证企业的生产情况和上报的数据进行不定期检查。省级环境保护部门和石油化工生产管理部门协助国家环保总局及国家石油和化学工业局对持证企业进行检查。

十、国家环保总局对超配额生产的企业，除行政处罚外，停发其下年度生产配额许可证，直至取消获得多边基金资助的资格。国家环保总局商国家石油和化学工业局可调整使用不能有效组织生产且不进行配额交易的持证企业的配额量。

十一、对不按时报送或不报送有关数据、瞒报和谎报数据、超配额生产、违章交易 CFCs 生产配额的持证企业以及对无 CFCs 生产配额许可证而进行 CFCs 生产的企业，国家环保总局将追究企业违反配额制度的责任，并根据情节轻重按照有关规定进行处罚。

附件：

1. 实施生产配额许可证管理的全氯氟烃产品种类
2. 全氯氟烃产品生产配额许可证申请表
3. 全氯氟烃产品生产配额许可证执行情况报表

附件一：

实施生产配额许可证管理的全氯氟烃产品种类

分　子　式	物质代号	中文名称
CFC13	CFC-11	三氯一氟甲烷
CF2C12	CFC-12	二氯二氟甲烷
C2F3C13	CFC-113	三氯三氟乙烷
C2F4C12	CFC-114	二氯四氟乙烷
C2F5C1	CFC-115	一氯五氟乙烷
CF3C1	CFC-13	一氯三氟甲烷

附件二：

全氯氟烃产品生产配额许可证

申　请　表

（每张表格申请一个品种，复印有效。）

申请单位

申报日期　年　月　日

国家环保总局印制

9. The State Environment al Protection Administration and the State Administration of Petroleum and Chemical Idustries shall inspect each licensed enterprise its situation of CFCs production and data reported at various time in every year. The provincial EPBs and the administration of petroleum and chemical industries shall assist the State Environment al Protection Administration and the State Administration of Petroleum and Chemical Idustries during the inspection.

10. The State Environment al Protection Administration will stop issuing production quota for the next year to those enterprises which have exceeded the production quota and even disqualify them from applying for the fund from the Multilateral Fund, in addition to administrative punishment. The State Environment al Protection Administration, consulting with the State Administration of Petroleum and Chemical Idustries, may readjust the quota of the licensed enterprises which can neither organize production effectively nor participate in quota trading.

11. In cases a licensed enterprise failing to report relevant data or failing to report in due time, deceiving and making falsified data, producing in excess of the quota, or dealing in trading of CFCs production quota in violation of relevant regulations, and in case an enterprise organizing CFCs production without CFCs production quota licence, the State Environment al Protection Administration will investigate for its responsibility of violating quota control system and, based on relevant provisions, give punishment based according to the seriouseness.

Annex I. Controlled CFC List

II. Application Form of CFC Production Quota

III. Implementation of CFC Production Quota

Annex I

Controlled CFC List

Molecular Formula	Code of Substances
$CFC1_3$	CFC-11
CF_2C1_2	CFC-12
$C_2F_3C1_3$	CFC-113
$C_2F_4C1_2$	CFC-114
C_2F_5C1	CFC-115
CF_3C1	CFC-13

Annex II

CFC Production Quota

Application Form

Product Name:

(Separate application form should be submitted for each CFC products)

Applicant:

Date of Application:

Printed by the State Eavironmental Protection Administration

<table>
<tr><td rowspan="5">企业情况</td><td colspan="2">企业全称</td><td colspan="2"></td></tr>
<tr><td colspan="3">地址：</td><td>邮编：</td></tr>
<tr><td colspan="2">企业所有制性质：</td><td colspan="2">上级主管部门：</td></tr>
<tr><td colspan="2">法人代表姓名：</td><td>职务：</td><td>电话：</td></tr>
<tr><td colspan="2">联系人姓名：</td><td>电话：</td><td>传真：</td></tr>
<tr><td rowspan="6">申请配额生产产品及其基本情况</td><td colspan="4">产品名称：</td></tr>
<tr><td colspan="4">申请生产配额量（吨）：</td></tr>
<tr><td colspan="2">生产车间个数：</td><td colspan="2">生产线条数：</td></tr>
<tr><td colspan="2">反应釜容积（升）：</td><td colspan="2">精馏塔直径和高度（mm×mm）：</td></tr>
<tr><td colspan="2">反应釜容积（升）：</td><td colspan="2">精馏塔直径和高度（mm×mm）：</td></tr>
<tr><td colspan="2">年生产能力（吨）：</td><td colspan="2">生产工人数（名）：</td></tr>
<tr><td>申请企业声明</td><td colspan="4">本企业申请全氯氟烃产品生产配额许可证，愿意遵守国家有关全氯氟烃产品生产配额许可证制度管理的规定，接受监督检查。

法人代表（签名）：　　申请企业（盖章）
年　月　日</td></tr>
<tr><td>国家环境保护总局批准意见</td><td colspan="4">批准人（签名）：　　单位（盖章）
年　月　日</td></tr>
</table>

<table>
<tr><td rowspan="5">Enterprise information</td><td colspan="2">Enterprise name in full</td><td></td></tr>
<tr><td colspan="2">Address:</td><td>Postcode:</td></tr>
<tr><td>Nature of ownership:</td><td colspan="2">The upper authority:</td></tr>
<tr><td>Name of legal representative:</td><td>Post</td><td>Tel:</td></tr>
<tr><td>Name of contact person:</td><td>Tel:</td><td>Fax:</td></tr>
<tr><td rowspan="6">Information on products for quota application</td><td colspan="3">Name of product:</td></tr>
<tr><td colspan="3">Production quota applied for (MT):</td></tr>
<tr><td colspan="2">Number of workshops:</td><td>Number of production lines:</td></tr>
<tr><td colspan="2">Volume of Reactor (l):</td><td>Volume of Reactor (l):</td></tr>
<tr><td colspan="2">Diameter and Height of Distillation (mm, m):</td><td>Diameter and High of Distillation (mm, m):</td></tr>
<tr><td colspan="2">Annual production capacity : (ton)</td><td>Number of workers:</td></tr>
<tr><td>Statement of application</td><td colspan="3">This enterprise wishes to abide by the regulation for CFC production quota system and its relevant provisions and to receive supervision and investigation.

Legal representative person (signature)Applicant(seal)day month year</td></tr>
<tr><td>Comments of SEPA</td><td colspan="3">Approved by(signature)

Department(seal)
Date:</td></tr>
</table>

附件三：

全氯氟烃产品生产配额许可证执行情况报表

企业名称：
地　　址：
邮　　编：　　电　话：　　传　真：
法人代表：　　联系人：
生产配额许可证编号：
生产配额许可证许可生产配额量：
生产配额交易情况：买入_____（吨）
生产配额交易情况：卖出_____（吨）

年份：　　单位：吨

月　份	生产量	销售量	出口量	库存量	CCl_4 耗量	无水 HF 耗量
1 月份						
2 月份						
3 月份						
4 月份						
5 月份						
6 月份						
7 月份						
8 月份						
9 月份						
10 月份						
11 月份						
12 月份						

填表人：　　审核：　　企业盖章：

Annex III

Implementation of CFC Production Quota

Name of Enterprise:
Address:
Post code:
Telephone: Fax:
Legal Representative:
Contact Person:
Number of License
Production Quota(MT):_____
Quota Trading: Purchase(MT):_____

Sale(MT):
Year of production reported: Unit: ton

Month	Production(MT)	Sales(MT)	Export(MT)	Stock(MT)	CCl_4 Consumption	Anhydrous HF Consumption
Jan						
Feb						
March						
April						
May						
June						
July						
August						
Sept						
Oct						
Nov						
Dec						

Reported by: **Approved by:** **Enterprise Seal**

关于中国汽车行业新车生产限期停止使用 CFC-12 汽车空调器的通知

（国家环保总局 1999 年 11 月 3 日　环发［1999］267 号）

臭氧层被破坏是当今全球环境问题之一。为保护臭氧层，国际社会于 1989 年制定了《关于消耗臭氧层物质的蒙特利尔议定书》（以下简称《议定书》）。我国于 1991 年 6 月加入了《议定书》的伦敦修正案，对国际社会承诺逐渐削减和淘汰消耗臭氧层物质（ODS）。受控的消耗臭氧层物质（ODS）包括：氟氯化碳（CFC-11、CFC-12、CFC-113 等）、哈龙、四氯化碳、甲基氯仿等。根据《议定书》要求，这些物质应在 2010 年之前全部停止生产和消费。

为切实履行国际公约，1993 年 1 月，国务院批准了《中国消耗臭氧层物质逐步淘汰国家方案》（以下简称《国家方案》），1999 年 11 月 15 日又批准了重新修订的《国家方案》。1995 年，中国汽车行业编制了《中国汽车空调 CFCs 物质替代项目行业战略》（以下简称《行业战略》）。1998 年 11 月，《议定书》多边基金执委会批准了《中国汽车空调 CFC 整体淘汰计划》。

为确保《国家方案》修订稿和《行业战略》的有效实施，保证《中国汽车空调 CFC 整体淘汰计划》的落实，特通知如下：

1．各汽车制造厂及汽车空调器生产厂必须抓紧对 CFC-12 空调器的改造，尽快转产为 HFC-134a 的汽车空调器。

2．从 2002 年 1 月 1 日起，所有新生产的汽车必须停止装配以 CFC-12 为工质的汽车空调器。

3．国家环保总局和国家机械局委托中国汽车产品认证委员会制定汽车空调器认证管理办法，2002 年 1 月 1 日以后只有符合相关标准的 HFC-134a 空调器才能发给认证证书和标志，准予用于新车配套。

4．2002 年 1 月 1 日以后按新的汽车强制性检测标准进行检查，以 CFC-12 为工质的空调车将不予上汽车产品目录。

各地方环保局和机械厅（局）应督促有关企业做好替代改造工作，并进行监督管理。

Circular on Stopping Using CFC-12 Air-conditioner in China's Automobile Industry in Limited Time

(Promulgated by the State Environmental Protection Administration on July 26, 1999)

Ozone layer depleting is currently one of the global environmental problems. In order to protect the ozone layer, international society established the Montreal Protocol on Substances that Deplete the Ozone Layer in 1987 (hereinafter referred to as the Protocol). Our Country acceded to the London Amendment of the Protocol in June 1991 and commited itself to gradually decrease and phaseout ozone depleting substances (ODS). The controlled ozone depleting substances (ODSs) include carbon fluorochloride(CFC-11, CFC-12, CFC-113), Halon, Carbon Tetrachloride, Methyl Chloroform, etc.. According to the requirements of the Protocol the production and consumption of the ODS shall be completely phased out before 2010.

In order to implement the international convention the State Council approved the China's State Programme on Phase-out of Ozone Depleting Substances (hereinafter referred to as the State Programme) in January 1993; and the upgraded State Programme in November 15, 1999. In China's automobile sector Sector Strategy for Automobile Air Conditioner CFCs Alternatives Projects in China was formulated (hereinafter referred to as the Sector Strategy) in 1995. The Executive Committee of the Multilateral Fund of the Montreal Protocol approved the Overall Programme for Automobile Air Conditioner CFCs Phaseout in China.

In order to ensure the implementation of the upgraded State Programme and the Sector Strategy, and the practice of Overall Programme for Automobile Air Conditioner CFCs Phaseout in China, this Circular is issued as follows.

1. Automobile manufacturers and automobile air conditioner manufactures must take measures to hurry up the reforming of CFC-12 air conditioner and quicken steps to shift themselves to the production of HFC-134a air conditioner as soon as possible.

2. From January 1, 2002 all automobile manufacturers must stop to equip the newly manufactured automobiles with air conditioner using CFC-12 as refrigerant.

3. The State Environmental Protection Administration and the State Machinery Industry Bureau entrust China Automobile Products Certificate Committee to establish certificate and administration measures. After January 1, 2002, only when the HFC-134a air conditioners meet proper qualifications can the certification and certificate symbol be issued and be permitted to equip to the new automobiles assembly.

4. Inspection after 1 January 2002 shall be operated under the new compulsive automobile inspection standard. The automobiles with air conditioner using CFC-12 as refrigerant can not be permitted to be listed in the automobile product catalogue.

All the local Environmental Protection Bureaus and the Machinery Industry Offices (Bureaus) shall urge relevant enterprises to implement reforming and substituting tasks, and carry out supervision and administration

二十一、自然保护

XXI Natural Conservation

自然保护区条例

（1994 年 10 月 9 日国务院令第 167 号发布，同年 12 月 1 日起施行）

第一章 总 则

第一条 为了加强自然保护区的建设和管理，保护自然环境和自然资源，制定本条例。

第二条 本条例所称自然保护区，是指对有代表性的自然生态系统、珍稀濒危野生动植物物种的天然集中分布区、有特殊意义的自然遗迹等保护对象所在的陆地、陆地水体或者海域，依法划出一定面积予以特殊保护和管理的区域。

第三条 凡在中华人民共和国领域和中华人民共和国管辖的其他海域内建设和管理自然保护区，必须遵守本条例。

第四条 国家采取有利于发展自然保护区的经济、技术政策和措施，将自然保护区的发展规划纳入国民经济和社会发展计划。

第五条 建设和管理自然保护区，应当妥善处理与当地经济建设和居民生产、生活的关系。

第六条 自然保护区管理机构或者其行政主管部门可以接受国内外组织和个人的捐赠，用于自然保护区的建设和管理。

第七条 县级以上人民政府应当加强对自然保护区工作的领导。

一切单位和个人都有保护自然保护区内自然环境和自然资源的义务，并有权对破坏，侵占自然保护区的单位和个人进行检举、控告。

第八条 国家对自然保护区实行综合管理与分部门管理相结合的管理体制。

国务院环境保护行政主管部门负责全国自然保护区的综合管理。

国务院林业、农业、地质矿产、水利、海洋等有关行政主管部门在各自的职责范围内，主管有关的自然保护区。

县级以上地方人民政府负责自然保护区管理的部门的设置和职责，由省、自治区、直辖市人民政府根据当地具体情况确定。

第九条 对建设、管理自然保护区以及在有关的科学研究中做出显著成绩的单位和个人，由人民政府给予奖励。

Regulations of the People's Republic of China on Nature Reserves

(Adopted at the 24th Executive Meeting of the State Council on September 2, 1994, promulgated by Decree No. 167 of the State Council of the People's Republic of China on October 9, 1994, and effective as of December 1, 1994)

Chapter I General Provisions

Article 1 The Regulations are formulated with a view to strengthening the construction and management of nature reserves and to protect the natural environment and resources.

Article 2 For the purpose of the Regulations, nature reserves refer to such areas, on land, inland water bodies, or marine districts, which represent various types of natural ecological systems, or with a natural concentrated distribution of rare and endangered wild animal or plant species, or where natural traces or other protected objects being of special significance are situated, and so delimited out for special protection and administration according to relevant laws.

Article 3 Establishment and management of nature reserves within the territory of the People's Republic of China or the other sea areas under the jurisdiction of the People's Republic of China must comply with the Regulations.

Article 4 The state shall practice the economic and technological policies and measures favourable to the development of nature reserves, and incorporate the development planning of nature reserves into the national economic and social development plans.

Article 5 The local economic construction, the production activities and everyday life of local residents shall be properly considered when the nature reserves are established and managed.

Article 6 Nature reserves administrative agencies and their competent administrative departments may accept grants from both internal and external organizations and individuals for the establishment and management of nature reserves.

Article 7 The people's governments at or above the county level shall strengthen leadership for the work concerning nature reserves.

All units and individuals shall have the obligation to protect the natural environment and resources within nature reserves and have the right to report on or file charges against units or individuals who have destroyed or seized the nature reserves.

Article 8 The state shall practice a system which combines integrated management with separate departmental management for the management of nature reserves.

The competent department of environmental protection administration under the State Council is responsible for the integrated management of the nature reserves throughout the country.

The competent departments of forestry, agriculture, geology and mineral resources, water conservancy, and marine affairs and other departments concerned are responsible for relevant nature reserves under their jurisdiction.

The people's governments of provinces, autonomous regions and municipalities directly under the central government shall decide, according to the specific condition of the locality, on the establishment and the responsibilities of the administrative departments of nature reserves in the people's governments at or above the county level.

Article 9 The people's governments at various levels shall give awards to units or individuals who have made outstanding contributions to the establishment and management of nature reserves and the related scientific research.

第二章　自然保护区的建设

第十条　凡具有下列条件之一的，应当建立自然保护区：

（一）典型的自然地理区域、有代表性的自然生态系统区域以及已经遭受破坏但经保护能够恢复的同类自然生态系统区域；

（二）珍稀、濒危野生动植物物种的天然集中分布区域；

（三）具有特殊保护价值的海域、海岸、岛屿、湿地、内陆水域、森林、草原和荒漠；

（四）具有重大科学文化价值的地质构造、著名溶洞、化石分布区、冰川、火山、温泉等自然遗迹；

（五）经国务院或者省、自治区、直辖市人民政府批准，需要予以特殊保护的其他自然区域。

第十一条　自然保护区分为国家级自然保护区和地方级自然保护区。

在国内外有典型意义、在科学上有重大国际影响或者有特殊科学研究价值的自然保护区，列为国家级自然保护区。

除列为国家级自然保护区的外，其他具有典型意义或者重要科学研究价值的自然保护区列为地方级自然保护区。地方级自然保护区可以分级管理，具体办法由国务院有关自然保护区行政主管部门或者省、自治区、直辖市人民政府根据实际情况规定，报国务院环境保护行政主管部门备案。

第十二条　国家级自然保护区的建立，由自然保护区所在的省、自治区、直辖市人民政府或者国务院有关自然保护区行政主管部门提出申请，经国家级自然保护区评审委员会评审后，由国务院环境保护行政主管部门进行协调并提出审批建设，报国务院批准。

地方级自然保护区的建立，由自然保护区所在的县、自治县、市、自治州人民政府或者省、自治区、直辖市人民政府有关自然保护区行政主管部门提出申请，经地方级自然保护区评审委员会评审后，由恕、自治区、直辖市人民政府环境保护行政主管部门进行协调并提出审批建议，报省、自治区、直辖市人民政府批准，并报国务院环境保护行政主管部门和国务院有关自然保护区行政主管部门备案。

跨两个以上行政区域的自然保护区的建立，由有关行政区域的人民政府协商一致后提出申请，并按照前两款规定的程序审批。

建立海上自然保护区，须经国务院批准。

Chapter II The Establishment of Nature Reserves

Article 10 In the areas which meet one of the following requirements, a nature reserve shall be established:

(1) typical physiographic areas with representative natural ecosystems, and those similar areas where the natural ecosystems have been damaged to some extent, but can be restored through proper protection;

(2) areas with a natural concentrated distribution of rare and endangered wild animal or plant species;

(3) those areas which are of special protection value, such as marine and coastal areas, islands, wetland, internal water bodies, forests, grassland and deserts;

(4) natural remains which are of scientific or cultural value, such as geological structures, famous karst caves, fossil distribution areas, glaciers, volcanoes, and hot springs;

(5) other natural regions requiring special protection by the approval of the State Council or the people's governments of provinces, autonomous regions or municipalities directly under the central government.

Article 11 The nature reserves are divided into national nature reserves and local nature reserves.

National nature reserves are of typical significance in or out of the country, and have major international influence in science, or are of special value for scientific research.

Local nature reserves are those other than the national ones which are representative and significant for scientific research. Local nature reserves may be managed by local governments at separate levels. The specific measures shall be formulated by the competent department of nature reserves under the State Council or by the people's governments of provinces, autonomous regions or municipalities directly under the central government according to their specific conditions, and shall be submitted to the competent department of environmental protection administration under the State Council for the record.

Article 12 The establishment of a national nature reserve requires an application from the people's government of the province, autonomous region or municipality directly under the central government where the proposed nature reserve is located or by the competent department of nature reserves under the State Council. After the appraisal by the National Nature Reserves Appraisal Committee, the competent department of environmental protection administration under the State Council shall coordinate with relevant department to provide appraisal comments on the application and then submit it to the State Council for approval.

The establishment of a local nature reserve requires an application from the people's government of the county, autonomous county, municipality or autonomous prefecture where the proposed nature reserve is located, or from competent department of nature reserves in the people's government of the relevant province, autonomous region or municipality directly under the central government. After the appraisal by the local nature reserves appraisal committee, the competent department of environmental protection administration in the people's government of the province, autonomous region or municipality directly under the central government shall coordinate with relevant departments to provide appraisal comments on the application and then submit it to the people's government of the province, autonomous region or the municipality directly under the central government for approval, and meanwhile submit it to the competent department of environmental protection administration under the State Council and the relevant competent administrative department of nature reserves under the State Council for the record.

The establishment of a nature reserve involving more than two administrative divisions, requires an application from the people's government of relevant regions after their consultation. Then the application goes through the same procedures described in the preceding two paragraghs.

第十三条 申请建立自然保护区，应当按照国家有关规定填报建立自然保护区申请书。

第十四条 自然保护区的范围和界线由批准建立自然保护区的人民政府确定，并标明区界，予以公告。

确定自然保护区的范围和界线，应当兼顾保护对象的完整性和适度性，以及当地经济建设和居民生产、生活的需要。

第十五条 自然保护区的撤销及其性质、范围、界线的调整或者改变，应当经原批准建立自然保护区的人民政府批准。

任何单位和个人，不得擅自移动自然保护区的界标。

第十六条 自然保护区按照下列方法命名；

国家级自然保护区：自然保护区所在地地名加“国家级自然保护区”。

地方级自然保护区：自然保护区所在地地名加“地方级自然保护区”。

有特殊保护对象的自然保护区，可以在自然保护区所在地地名后加特殊保护对象的名称。

第十七条 国务院环境保护行政主管部门应当会同国务院有关自然保护区行政主管部门，在对全国自然环境和自然资源状况进行调查和评价的基础上，拟订国家自然保护区发展规划，经国务院计划部门综合平衡后，报国务院批准实施。

自然保护区管理机构或者该自然保护区行政主管部门应当组织编制自然保护区的建设规划，按照规定的程序纳入国家的、地方的或者部门的投资计划，并组织实施。

第十八条 自然保护区可以分为核心区、缓冲区和实验区。

自然保护区内保存完好的天然状态的生态系统以及珍稀、濒危动植物的集中分布地，应当划为核心区，禁止任何单位和个人进入；除依照本条例第二十七条的规定经批准外，也不允许进入从事科学研究活动。

核心区外围可以划定一定面积的缓冲区，只准进入从事科学研究观测活动。

缓冲区外围划为实验区，可以进入从事科学试验、教学实习、参观考察、旅游以及驯化、繁殖珍稀、濒危野生动植物等活动。

原批准建立自然保护区的人民政府认为必要时，可以在自然保护区的外围划定一定面积的外围保护地带。

第三章 自然保护区的管理

第十九条 全国自然保护区管理的技术规范和标准，由国务院环境保护行政主

The establishment of maritime nature reserves must be approved by the State Council.

Article 13 In applying for the establishment of nature reserves, it is necessary to complete the nature reserve establishment report according to the relevant regulations of the state.

Article 14 The range and boundary of nature reserves shall be determined by the people's government responsible for the approval of the establishment. The boundaries of nature reserves shall be indicated and announced to the public.

The determination of the range and boundaries of nature reserves shall be given consideration to the integrity and suitability of the protected object as well as the needs of local economic construction, the production activities and the everyday lives of local residents.

Article 15 The cancellation of nature reserves or any change or adjustment made in its property, range or boundaries shall be approved by the people's government responsible for the approval of the establishment of the nature reserves.

No units or individuals shall move the landmarks of nature reserves without authorization.

Article 16 Nature reserves shall be named in the following ways:

National nature reserves: Name of the location + "National Nature Reserves".

Local nature reserves: Name of the location + "Local Nature Reserves".

If a nature reserve has its own special protected object, the name of the object may be added after the name of the location.

Article 17 The competent department of environmental protection administration under the State Council shall, together with the competent administrative department of nature reserves under the State Council, formulate programs for the development of national nature reserves based upon the detailed investigation and evaluation of the natural environment and resources of the whole country. After the overall balancing by the competent planning department under the State Council, these programs shall be submitted to the State Council for final approval and implementation.

The nature reserves administrative agencies or competent administrative department of a particular nature reserve shall draw up the construction plans for nature reserves, which shall be included in the national, local or departmental investment plans according to certain stipulated procedures, and organize their implementation.

Article 18 Nature reserves may be divided into three parts: the core area, buffer zone and experimental zone.

The intact natural ecosystems and the areas where the rare and endangered animals or plants are concentratedly distributed within nature reserves, shall be included in the core area into which no units or individuals are allowed to enter. Scientific research activities are generally prohibited in the core area except for those approved according to Article 27 of the Regulations.

Certain amount of area surrounding the core area may be designated as the buffer zone, where only scientific observations and other research activities are allowed.

The area surrounding the buffer zone may be designated as the experimental zone, where may be entered for various activities such as scientific experiment, educational practice, visit and investigation, tourism, and the domestication and breeding of rare and endangered wild animal or plant species.

If the people's government responsible for the approval of the establishment of the nature reserves thinks it necessary, certain amount of area surrounding the nature reserve may be designated as the outer protection area.

Chapter III Management of Nature Reserves

Article 19 The competent department of environmental protection administration under the State Council shall organize relevant administrative departments of nature reserves under the State Council to formulate national technical regulations and standards for the management of nature reserves.

The relevant competent administrative departments of nature reserves under the State Council

管部门组织国务院有关自然保护区行政主管部门制定。

国务院有关自然保护区行政主管部门可以按照职责分工，制定有关类型自然保护区管理的技术规范，报国务院环境保护行政主管部门备案。

第二十条 县级以上人民政府环境保护行政主管部门有权对本行政区域内各类自然保护区的管理进行监督检查；县级以上人民政府有关自然保护区行政主管部门有权对其主管的自然保护区的管理进行监督检查。被检查的单位应当如实反映情况，提供必要的资料。检查者应当为被检查的单位保守技术秘密和业务秘密。

第二十一条 国家级自然保护区，由其所在地的省、自治区、直辖市人民政府有关自然保护区行政主管部门或者国务院有关自然保护区行政主管部门管理。地方级自然保护区，由其所在地的县级以上地方人民政府有关自然保护区行政主管部门管理。

有关自然保护区行政主管部门应当在自然保护区内设立专门的管理机构，配备专业技术人员，负责自然保护区的具体管理工作。

第二十二条 自然保护区管理机构的主要职责是：

（一）贯彻执行国家有关自然保护的法律、法规和方针、政策；

（二）制定自然保护区的各项管理制度，统一管理自然保护区；

（三）调查自然资源并建立档案，组织环境监测，保护自然保护区内的自然环境和自然资源；

（四）组织或者协助有关部门开展自然保护区的科学研究工作；

（五）进行自然保护的宣传教育；

（六）在不影响保护自然保护区的自然环境和自然资源的前提下，组织开展参观、旅游等活动。

第二十三条 管理自然保护区所需经费，由自然保护区所在地的县级以上地方人民政府安排。国家对国家级自然保护区的管理，给予适当的资金补助。

第二十四条 自然保护区所在地的公安机关，可以根据需要在自然保护区设置公安派出机构，维护自然保护区内的治安秩序。

第二十五条 在自然保护区内的单位、居民和经批准进入自然保护区的人员，必须遵守自然保护区的各项管理制度，接受自然保护区管理机构的管理。

第二十六条 禁止在自然保护区内进行砍伐、放牧、狩猎、捕捞、采药、开垦、烧荒、开矿、采石、挖沙等活动；但是，法律、行政法规另有规定的除外。

第二十七条 禁止任何人进入自然保护区的核心区。因科学研究的需要，必须进入核心区从事科学研究观测、调查活动的，应当事先向自然保护区管理机构提交申请和活动计划，并经省级以上人民政府有关自然保护区行政主管部门批准；其中，

shall, within the field of division of work, formulate the technical regulations on the management of various types of nature reserves, and submit them to the competent department of environmental protection administration under the State Council for the record.

Article 20 The competent departments of environmental protection administration in the people's governments at or above the county level shall have the right to conduct supervision and inspection on the management of all the nature reserves within their administrative division. The relevant competent administrative departments of nature reserves in the people's government at or above the county level shall have the right to conduct supervision and inspection on the management of the nature reserves they are responsible for. The units suject to inspection shall truthfully report the situation to them and provide them with the necessary information. The inspectors shall keep confidential technological know-how and business secrets of the units inspected.

Article 21 The competent administrative departments of the nature reserves of the people's governments of provinces, autonomous regions and municipalities directly under the central government or the competent administrative department of nature reserves under the State Council shall be responsible for the management of the national nature reserves. The competent administrative department of nature reserves in the people's governments at or above the county level shall be responsible for the management of the local nature reserves within their administrative divisions.

The relevant competent administrative departments of nature reserves shall set up a special administrative agency in each nature reserve, provide specialized technical staff who shall be responsible for the management of the nature reserves.

Article 22 The major functions of administrative agencies of nature reserves shall be as follows:

(1) to implement relevant laws, regulations, guidelines and policies formulated by the state on nature conservation;

(2) to formulate various management regulations so as to exert unified management on the nature reserves;

(3) to investigate into the natural resources and set up necessary records accordingly and organize environmental monitoring in order to protect the natural environment and resources in the nature reserves;

(4) to organize or assist relevant departments to make scientific researches on the nature reserves;

(5) to carry out education and public programs on nature conservation;

(6) to organize activities such as visiting and sightseeing tour in the nature reserves on the presupposition that the natural environment and resources of the nature reserve shall not be affected by such activities.

Article 23 The expenses needed for the management of the nature reserves shall be arranged by the people's government at or above the county level of the region where the nature reserves are located. The state shall subsidize the management of national nature reserves appropriately.

Article 24 The public security agency of the region where the nature reserves are located may, according to the necessity, set up representative office within the nature reserves to maintain public order in the areas.

Article 25 The units, residents inside the nature reserves and the personnel allowed to enter into the nature reserves shall comply with various regulations of administration, and subject themselves to the management of the administrative agency of the nature reserves.

Article 26 In nature reserves, such activities as felling, grazing, hunting, fishing, gathering medicinal herbs, reclaiming, burning, mining, stone quarrying and sand dredging etc., shall be prohibited unless it is otherwise provided by relevant laws and regulations.

Article 27 Nobody shall be allowed to enter the core area of nature reserves. Where scientific observations and investigation thereto are necessary for scientific research, the unit concerned shall submit the applications and activity plans to the administrative agency of the nature reserves in advance, and shall be approved by the competent administrative department of nature reserves in the people's government at or above the provincial level. The entrance into the core area of national nature

进入国家级自然保护区核心区的，必须经国务院有关自然保护区行政主管部门批准。

自然保护区核心区内原有居民确有必要迁出的，由自然保护区所在地的地方人民政府予以妥善安置。

第二十八条 禁止在自然保护区的缓冲区开展旅游和生产经营活动。因教学科研的目的，需要进入自然保护区的缓冲区从事非破坏性的科学研究、教学实习和标本采集活动的，应当事先向自然保护区管理机构提交申请和活动计划，经自然保护区管理机构批准。

从事前款活动的单位和个人，应当将其活动成果的副本提交自然保护区管理机构。

第二十九条 在国家级自然保护区的实验区开展参观、旅游活动的，由自然保护区管理机构提出方案，经省、自治区、直辖市人民政府有关自然保护区行政主管部门审核后，报国务院有关自然保护区行政主管部门批准；在地方级自然保护区的实验区开展参观、旅游活动的，由自然保护区管理机构提出方案，经省、自治区、直辖市人民政府有关自然保护区行政主管部门批准。

在自然保护区组织参观、旅游活动的，必须按照批准的方案进行，并加强管理；进入自然保护区参观、旅游的单位和个人，应当服从自然保护区管理机构的管理。

严禁开设与自然保护区保护方向不一致的参观、旅游项目。

第三十条 自然保护区的内部未分区的，依照本条例有关核心区和缓冲区的规定管理。

第三十一条 外国人进入地方级自然保护区的，接待单位应当事先报经省、自治区、直辖市人民政府有关自然保护区行政主管部门批准；进入国家级自然保护区的，接待单位应当报经国务院有关自然保护区行政主管部门批准。

进入自然保护区的外国人，应当遵守有关自然保护区的法律、法规和规定。

第三十二条 在自然保护区的核心区和缓冲区内，不得建设任何生产设施。在自然保护区的实验区内，不得建设污染环境、破坏资源或者景观的生产设施；建设其他项目，其污染物排放不得超过国家和地方规定的污染物排放标准。在自然保护区的实验区内已经建成的设施，其污染物排放超过国家和地方规定的排放标准的，应当限期治理；造成损害的，必须采取补救措施。

在自然保护区的外围保护地带建设的项目，不得损害自然保护区内的环境质量；已造成损害的，应当限期治理。

限期治理决定由法律、法规规定的机关作出，被限期治理的企业事业单位必须按期完成治理任务。

reserves shall be approved by the competent administrative department of nature reserves under the State Council. For residents living in the core area of the nature reserve who are necessitated to move out, the local people's government shall see to the proper settlement for them.

Article 28 Tourism, production and trading activities are prohibited in the buffer zone of nature reserves. In buffer zone of nature reserves, the non-destructive activities such as scientific research, educational practice and specimen collection for teaching or scientific research, applications and activity plans shall be submitted to the administrative agency of the nature reserves in advance, and be approved by the same agency.

All units and individuals who participate in such activities described in the preceding paragraph shall submit a copy of the report of the activity result to the administrative agency of the nature reserves.

Article 29 With respect to the visiting and sightseeing tourist activities in the experimental zone of national nature reserves, the administrative agency of the nature reserves shall put forward the activity program. After it is reviewed by the competent administrative department of nature reserves of the people's government of the province, autonomous region or the municipality directly under the central government, the program shall be submitted to the competent administrative department of nature reserves under the State Council for final approval. With respect to the visiting and sightseeing tourist activities in the experimental zone of local nature reserves, the administrative agency of the nature reserve shall put forward the activity program, and submit it to the competent administrative department of nature reserves of the people's government of the province, autonomous region or the municipality directly under the central government for final approval. Visiting and sightseeing tourist activities in nature reserves shall be conducted according to activity program approved. The management of such activities shall be strengthened. All units and individuals who enter the nature reserves for visiting or sightseeing tour shall submit themselves to the management of the administrative agency of nature reserves.

The visiting and sightseeing tourist projects that violate the protection guidelines of nature reserves shall be prohibited.

Article 30 Where there are no divisions within the nature reserves, that nature reserves shall be managed in accordance with the stipulation concerning the core area or buffer zone in the Regulations.

Article 31 In cases when foreigners wish to enter a local nature reserve, the host unit shall apply in advance for approval by the competent administrative department of nature reserves of the people's government of the province, autonomous region or the municipality directly under the central government. In case of national nature reserves, the host unit shall apply for approval by the competent administrative department of nature reserves under the State Council.

All foreigners who enter nature reserves shall abide by the relevant laws, regulations and rules concerning nature reserves.

Article 32 No production installations shall be built in the core area and buffer zone of nature reserves. In the experimental zone, no production installations that cause environmental pollution or do damage to the natural resources or landscapes shall be built. Other installations to be built in these areas must not exceed the discharge of pollutants prescribed by national or local discharge standards. If the installations that have been built discharge more pollutants than are specified by the national or local discharge standards in the experimental zone of nature reserves, such pollution shall be eliminated or controlled within a prescribed period of time. Remedial measures shall be adopted to the damage caused.

The projects constructed in the outer protection zone of nature reserves must not affect the environmental quality inside the nature reserves. If the damage has been done, the relevant units shall be ordered to eliminate and control the pollution within a prescribed period of time.

The decision to eliminate and control pollution within a prescribed period of time shall be made by the agencies specified by relevant laws and regulations. Any enterprise or institution receiving such an order shall complete its tasks of eliminating and controlling pollution on time.

第三十三条 因发生事故或者其他突然性事件，造成或者可能造成自然保护区污染或者破坏的单位和个人，必须立即采取措施处理，及时通报可能受到危害的单位和居民，并向自然保护区管理机构、当地环境保护行政主管部门和自然保护区行政主管部门报告，接受调查处理。

第四章 法律责任

第三十四条 违反本条例规定，有下列行为之一的单位和个人，由自然保护区管理机构责令其改正，并可以根据不同情节处以100元以上5000元以下的罚款；

（一）擅自移动或者破坏自然保护区界标的；

（二）未经批准进入自然保护区或者在自然保护区内不服从管理机构管理的；

（三）经批准在自然保护区的缓冲区内从事科学研究、教学实习和标本采集的单位和个人，不向自然保护区管理机构提交活动成果副本的。

第三十五条 违反本条例规定，在自然保护区进行砍伐、放牧、狩猎、捕捞、采药、开垦、烧荒、开矿、采石、挖沙等活动的单位和个人，除可以依照有关法律、行政法规规定给予处罚的以外，由县级以上人民政府有关自然保护区行政主管部门或者其授权的自然保护区管理机构没收违法所得，责令停止违法行为，限期恢复原状或者采取其他补救措施；对自然保护区造成破坏的，可以处以300元以上1万元以下的罚款。

第三十六条 自然保护区管理机构违反本条例规定，拒绝环境保护行政主管部门或者有关自然保护区行政主管部门监督检查，或者在被检查时弄虚作假的，由县级以上人民政府环境保护行政主管部门或者有关自然保护区行政主管部门给予300元以上3000元以下的罚款。

第三十七条 自然保护区管理机构违反本条例规定，有下列行为之一的，由县级以上人民政府有关自然保护区行政主管部门责令限期改正；对直接责任人员，由其所在单位或者上级机关给予行政处分；

（一）未经批准在自然保护区开展参观、旅游活动的；

（二）开设与自然保护区保护方向不一致的参观、旅游项目的；

（三）不按照批准的方案开展参观、旅游活动的。

第三十八条 违反本条例规定，给自然保护区造成损失的，由县级以上人民政府有关自然保护区行政主管部门责令赔偿损失。

第三十九条 妨碍自然保护区管理人员执行公务的，由公安机关依照《中华人民共和国治安管理处罚条例》的规定给予处罚；情节严重，构成犯罪的，依法追究刑事责任。

第四十条 违反本条例规定，造成自然保护区重大污染或者破坏事故，导致公

Article 33 If any accident or accidental event takes place, the unit or individual that has caused, or is likely to cause any damage to the nature reserves must adopt immediate remedial measures, and inform the units or residents that are likely to be affected by the accident, and report to the administrative agency of the nature reserves, the competent department of environmental protection administration in the locality and that of the nature reserves to accept necessary investigation and possible disciplinary actions.

Chapter IV Legal Liabilities

Article 34 Any unit or individual who has violated the Regulations in one of the following manners shall be ordered by the administrative agency of the nature reserves to correct their mistakes, and the fine between 100 to 5,000 RMB yuan, according to circumstances of case, may be imposed:

(1) moving or doing damage to the landmarks of nature reserves without approval;

(2) entering the nature reserves without approval, or failing to meet the requirements of the administrative agency while in the nature reserves;

(3) carrying out scientific research, educational practice and specimen collection in the buffer zone of nature reserves with the approval by relevant department but failing to submit a copy of the report of their activity results to the administrative agency of the nature reserves.

Article 35 Any unit or individual who has violated the Regulations in felling, grazing, hunting, fishing, gathering medicinal herbs, reclaiming, burning, mining, stone quarrying and sand dredging etc., shall be punished according to relevant laws, administrative regulations and rules. Besides, the competent administrative department of nature reserves in the people's government at or above the county level or its authorized administrative agencies of the nature reserves may confiscate the violators' illegal gains, order the violators to stop illegal actions, and to restore the original state or adopt other remedial measures within a prescribed period of time. Whoever has caused damage to the nature reserves, the fine between 300 to 10,000 RMB yuan shall be imposed.

Article 36 The administrative agencies of the nature reserves which violate the Regulations, refusing to be supervised and inspected by competent departments of environmental protection administration or the competent administrative department of nature reserves, or failing to provide truthful information during the inspection, shall be fined between 300 to 3,000 RMB yuan by the competent department of environmental protection administration or the competent administrative department of nature reserves in the people's government at or above the county level.

Article 37 Any administrative agency of the nature reserves which violates the Regulations by one of the following acts shall be ordered to correct their mistakes within a prescribed period of time by the competent administrative department of nature reserves in the people's government at or above the county level. Whoever directly responsible for such violations shall be given disciplinary sanctions by the agency to which he belongs or

by the organ at the higher level:

(1) taking visit and sightseeing tour in nature reserves without approval;

(2) setting up visit and tourist projects against the general guidelines of the conservation of nature reserves;

(3) taking visit and sightseeing tour failing to accord with the activity plans approved.

Article 38 Whoever violates the Regulations by causing damage to the nature reserves, shall be ordered to pay reparations for the loss by the competent administrative department of nature reserves in the people's government at or above the county level.

Article 39 Whoever hinders the work of the administrative staff of the nature reserves shall be punished by the public security organ in accordance with Regulations of the People's Republic of China on Administrative Penalties for Public Security. If the circumstances are serious enough to constitute a crime, he shall be prosecuted for criminal responsibility according to law.

Article 40 If a violation of the Regulations causes serious pollution or destructive accidents to

私财产重大损失或者人身伤亡的严重后果，构成犯罪的，对直接负责的主管人员和其他直接责任人员依法追究刑事责任。

第四十一条 自然保护区管理人员滥用职权、玩忽职守、徇私舞弊，构成犯罪的，依法追究刑事责任；情节轻微，尚不构成犯罪的，由其所在单位或者上级机关给予行政处分。

第五章 附 则

第四十二条 国务院有关自然保护区行政主管部门可以根据本条例，制定有关类型自然保护区的管理办法。

第四十三条 各省、自治区、直辖市人民政府可以根据本条例，制定实施办法。

第四十四条 本条例自1994年12月1日起施行。

the nature reserves, leading to the grave consequences of heavy losses of public or private property, or human casualties, and resulting in a criminal offense, the person in charge directly responsible and other person directly responsible for the violation shall be investigated for criminal responsibility according to law.

Article 41 Any person conducting management of nature reserves who abuses his power, neglects his duty or engages in malpractice for personal gains, shall, when a crime is constituted, be investigated for criminal responsibility according to law, or when the circumstances are not serious enough to constitute a crime, be given disciplinary sanctions by the unit to which he belongs or the competent higher authorities.

Chapter V Supplementary Provisions

Article 42 The competent administrative department of nature reserves under the State Council may, in accordance with the Regulations, formulate the administrative rules for different types of nature reserves.

Article 43 The people's governments of provinces, autonomous regions and municipalities directly under the central government may, in accordance with the Regulations, formulate the implementation measures.

Article 44 The Regulations shall enter into force on December 1,1994.

国家重点保护野生动物名录

（1988 年 12 月 10 日国务院批准）

中名	保护级别	
	Ⅰ级	Ⅱ级
兽纲		
灵长目		
懒猴科		
蜂猴（所有种）	Ⅰ	
猴科		
短尾猴		Ⅱ
熊猴	Ⅰ	
台湾猴	Ⅰ	
猕猴		Ⅱ
豚尾猴	Ⅰ	
藏酋猴		Ⅱ
叶猴（所有种）	Ⅰ	
金丝猴（所有种）	Ⅰ	
猩猩科		
长臂猿（所有种）	Ⅰ	
鳞甲目		
鲮鲤科		
穿山甲		Ⅱ
食肉目		
犬科		
豺		Ⅱ
熊科		
黑熊	Ⅱ	
棕熊	Ⅱ	
（包括马熊）		
马来熊	Ⅰ	
浣熊科		
小熊猫		Ⅱ
大熊猫科		
大熊猎	Ⅰ	
鼬科		
石貂		Ⅱ
紫貂	Ⅰ	
黄喉貂	Ⅱ	
貂熊	Ⅰ	
·水獭（所有种）		Ⅱ
·小爪水獭		Ⅱ
灵猫科		
斑林狸	Ⅱ	
大灵猫	Ⅱ	
小灵猫	Ⅱ	
熊狸	Ⅰ	
猫科		
草原斑猫		Ⅱ
荒漠猫		Ⅱ
丛林猫		Ⅱ
猞猁		Ⅱ
兔狲		Ⅱ
金猫		Ⅱ
渔猫		Ⅱ
云豹	Ⅰ	
豹	Ⅰ	
虎	Ⅰ	
雪豹	Ⅰ	
·鳍足目（所有种）	Ⅱ	
海牛目		
儒艮科		
·儒艮	Ⅰ	Ⅱ
鲸目		
喙豚科		
·白暨豚	Ⅰ	
海豚科		
·中华白海豚	Ⅰ	
·其它鲸类		Ⅱ
长鼻目		
象科		
亚洲象	Ⅰ	
奇蹄目		

Lists of Wildlife under Special State Protection

(Approved by the State Council on December 10, 1988)

Latin Name	Class of Protection	
	I	II
MAMMALIA		
PRIMATES		
Lorisidae		
Nycticebus spp.	I	
Cercopithecidae		
Macaca arctoides		II
Macaca assamensis	I	
Macaca cyclopis	I	
Macaca mulatta		II
Macaca nemestrina	I	
Macaca thibetana		II
Presbytis spp.	I	
Rhinopithecus spp.	I	
Pongidae		
Hylobates spp.	I	
PHOLIDOTA		
Manidae		
Manis pentadactyla		II
CARNIVORA		
Canidae		
Cuon alpinus		II
Ursidae		
Selenarctos thibetanus	II	
Ursus arctos	II	
(U. a. pruinosus)		
Helarctos malayanus	I	
Procyonidae		
Ailurus fulgens		II
Ailuropodidae		
Ailuropoda melanoleuca	I	
Mustelidae		
Martes foina		II
Martes zibellina	I	
Martes flavigula	II	
Gulo gulo	I	
Lutra spp.		II
Aonyx cinerea		II
Viverridae		
Prionodon pardicolor	II	
Viverra zibetha	II	
Viverricula indica	II	
Arctictis binturong	I	
Felidae		
Felis lybica(= silvestris)		II
Felis bieti		II
Felis chaus		II
Felis lynx		II
Felis manul		II
Felis temmincki		II
Felis viverrinus		II
Neofelis nebulosa	I	
Panthera pardus	I	
Panthera tigris	I	
Panthera uncia	I	
PINNIPED1A	II	
SIRENIA		
Dugongidae		
Dugong dugong	I	II
CETACEA		
Platanistidae		
Lipotes vexillifer	I	
Delphinidae		
Sousa chinensis	I	
(Cetacea)		II
PROBOSCIDEA		
Elephantidae		
Elephas maximus	I	
PEPISSODACTYLA		

中名	保护级别	
	Ⅰ级	Ⅱ级
马科		
蒙古野驴	Ⅰ	
西藏野驴	Ⅰ	
野马	Ⅰ	
偶蹄目		
驼科		
野骆驼	Ⅰ	
鼷鹿科		
鼷鹿	Ⅰ	
麝科		
麝（所有种）		Ⅱ
鹿科		
河鹿		Ⅱ
黑鹿	Ⅰ	
白唇鹿	Ⅰ	
马鹿		Ⅱ
（包括白臀鹿）		
坡鹿	Ⅰ	
梅花鹿	Ⅰ	
豚鹿	Ⅰ	
水鹿		Ⅱ
麋鹿	Ⅰ	
驼鹿		Ⅱ
牛科		
野牛	Ⅰ	
野牦牛	Ⅰ	
黄羊		Ⅱ
普氏原羚	Ⅰ	
藏原羚		Ⅱ
鹅喉羚		Ⅱ
藏羚	Ⅰ	
高鼻羚羊	Ⅰ	
扭角羚	Ⅰ	
鬣羚		Ⅱ
台湾鬣羚	Ⅰ	
赤斑羚	Ⅰ	
斑羚		Ⅱ
塔尔羊	Ⅰ	
北山羊	Ⅰ	
岩羊		Ⅱ
盘羊		Ⅱ
兔形目		
兔科		
海南兔		Ⅱ
雪兔		Ⅱ
塔里木兔		Ⅱ
啮齿目		
松鼠科		
巨松鼠		Ⅱ
河狸科		
河狸	Ⅰ	
鸟纲		
鹳鹳目		
鹳鹳科		
角鹳鹳		Ⅱ
赤颈鹳鹳		Ⅱ
鴷形目		
信天翁科		
短尾信天翁	Ⅰ	
鹈形目		
鹈鹕科		
鹈鹕（所有种）		Ⅱ
鲣鸟科		
鲣鸟（所有种）		Ⅱ
鸬鹚科		
海鸬鹚		Ⅱ
黑颈鸬鹚		Ⅱ
军舰鸟科		
白腹军舰鸟	Ⅰ	
鹳形目		
鹭科		
黄嘴白鹭		Ⅱ
岩鹭		Ⅱ
海南虎斑鳽		Ⅱ

Latin Name	Class of Protection	
	I	II
Equidae		
Equus hemionus	I	
Equus kiang	I	
Equus przewalskii	I	
ARTIODACTYLA		
Camelidae		
cAMELUS FERUS	I	
(= BACTRIANUS)		
Tragulidae		
Tragulus javanicus	I	
Moschidae		
Moschus spp.		II
Cervidae		
Hydropotes inermis		II
Muntiacus crinifrons	I	
Cervus albirostris	I	
Cervus elaphus		II
(C. e. macneilli)		
Cervus eldi	I	
Cervus nippon	I	
Cervus porcinus	I	
Cervus unicolor		II
Elaphurus davidianus	I	
Alces alces		II
Bovidae		
Bos gaurus	I	
Bos mutus(= grunniens)	I	
Procapra gutturosa		II
Procapra przewalskii	I	
Procapra picticaudata		II
Gazella subgutturosa		II
Pantholops hodgsoni	I	
Saiga tatarica	I	
Budorcas taxicolor	I	
Capricornis sumatraensis		II
Capricornis crispus	I	
Naemorhedus cranbrooki	I	
Naemorhedus goral		II

Latin Name	Class of Protection	
	I	II
Hemitragus jemlahicus	I	
Capra ibex	I	
Pseudois nayaur		II
Ovis ammon		II
LAGOMORPHA		
Leporidae		
Lepus peguensis hainanus		II
Lepus timidus		II
Lepus yarkandensis		II
RODENTIA		
Sciuridae		
Ratufa bicolor		II
Castoridae		
Castor fiber	I	
AVES		
PODICIPEDIFORMES		
Podicipedidae		
Podiceps auritus		II
Podiceps grisegena		II
PROCELLAPRIIFORMES		
Diomedeidae		
Diomedea albatrus	I	
PELECANIFORMES		
Pelecanidae		
Pelecanus spp.		II
Sulidae		
Sula spp.		II
Phalacrocoracidae		
Phalacrocorax pelagicus		II
Phalacrocorax niger		II
Fregatidae		
Fregata andrewsi	I	
CICONIIFORMES		
Ardeidae		
Egretta eulophotes		II
Egretta sacra		II
Gorsachius magnificus		II

中名	保护级别	
	Ⅰ级	Ⅱ级
小苇鳽		Ⅱ
鹳科		
彩鹳		Ⅱ
白鹳	Ⅰ	
黑鹳	Ⅰ	
鹮科		
白鹮		Ⅱ
黑鹮		Ⅱ
朱鹮	Ⅰ	
彩鹮		Ⅱ
白琵鹭		Ⅱ
黑脸琵鹭		Ⅱ
雁形目		
鸭科		
红胸黑雁		Ⅱ
白额雁		Ⅱ
天鹅（所有种）		Ⅱ
鸳鸯		Ⅱ
中华秋沙鸭	Ⅰ	
隼形目		
鹰科		
金雕	Ⅰ	
白肩雕	Ⅰ	
玉带海雕	Ⅰ	
白尾海雕	Ⅰ	
虎头海雕	Ⅰ	
拟兀鹫	Ⅰ	
胡兀鹫	Ⅰ	
其它鹰类		Ⅱ
隼科（所有种）		Ⅱ
鸡形目		
松鸡科		
细嘴松鸡	Ⅰ	
黑琴鸡		Ⅱ
柳雷鸟		Ⅱ
岩雷鸟		Ⅱ
镰翅鸡		Ⅱ

中名	保护级别	
	Ⅰ级	Ⅱ级
花尾榛鸡		Ⅱ
斑尾榛鸡	Ⅰ	
雉科		
雪鸡（所有种）		Ⅱ
雉鹑	Ⅰ	
四川山鹧鸪	Ⅰ	
海南山鹧鸪	Ⅰ	
血雉		Ⅱ
黑头角雉	Ⅰ	
红胸角雉	Ⅰ	
灰腹角雉	Ⅰ	
红腹角雉		Ⅱ
黄腹角雉	Ⅰ	
虹雉（所有种）	Ⅰ	
藏马鸡		Ⅱ
蓝马鸡		Ⅱ
褐马鸡	Ⅰ	
黑鹇		Ⅱ
白鹇		Ⅱ
蓝鹇	Ⅰ	
原鸡		Ⅱ
勺鸡		Ⅱ
黑颈长尾雉	Ⅰ	
白冠长尾雉		Ⅱ
白颈长尾雉	Ⅰ	
黑长尾雉	Ⅰ	
锦鸡（所有种）		Ⅱ
孔雀雉	Ⅰ	
绿孔雀	Ⅰ	
鹤形目		
鹤科		
灰鹤	Ⅱ	
黑颈鹤	Ⅰ	
白头鹤	Ⅰ	
沙丘鹤		Ⅱ
丹顶鹤	Ⅰ	
白枕鹤		Ⅱ

Latin Name	Class of Protection	
	I	II
Ixbrychus minutus		II
Ciconiidae		
Ibis leucocephalus		II
Ciconia ciconia	I	
Ciconia nigra	I	
Threskiornithidae		
Threskiornis aethiopicus		II
Pseudibis papillosa		II
Nipponis nippon	I	
Plegadis falcinellus		II
Platalea leucorodia		II
Platalea minor		II
ANSERIEORMES		
Anatidae		
Branta ruficollis		II
Anser albifrons		II
Cygnus spp.		II
Aix galericulata		II
Mergus squamatus	I	
FALCONIFORMES		
Accipitridae		
Aquila chrysaetos	I	
Aquila heliaca	I	
Haliaeetus leucoryphus	I	
Halieetus albcilla	I	
Haliaeetus pelagicus	I	
Pseudogyps bengalensis	I	
Gypaetus barbatus	I	
(Accipitridace)		II
Falconidae		II
GALLIFORMES		
Tetraonidae		
Tetrao parvirostris	I	
Lyrurus tetrix		II
Lagopus lagopus		II
Lagopus mutus		II
Falcipennis falcipennis		II

Latin Name	Class of Protection	
	I	II
Tetrastes bonasia		II
Tetrastes sewerzowi	I	
Phasianidae		
Tetraogallus spp.		II
Tetraophasis obscurus	I	
Arborophila rufipectus	I	
Arborophila ardens	I	
Ithaginis cruentus		II
Tragopan melanocephalus	I	
Tragopan satyra	I	
Tragopan blythii	I	
Tragopan temminckii		II
Tragopan caboti	I	
Lophophorus spp.	I	
Crossoptilon crossoptilon		II
Crossoptilon aurtun		II
Crossoptilon mantchuricum	I	
Lophura leucomelana		II
Lophura nycthemera		II
Lophura swinhoii	I	
Gallus gallus		II
Pucrasia macrolopha		II
Syrmaticus humiae	I	
Syrmaticus reevesii		II
Syrmaticus ewllioti	I	
Syrmaticus mikado	I	
Chyrsolophus spp.		II
Polyplectron bicalcaratum	I	
Pavo muticus	I	
GRUIFORMES		
Gruidae		
Grus nigricollis	II	
Grus nigricollis	I	
Grus monacha	I	
Grus canadensis		II
Grus japonensis	I	
Grus vipio		II

中名	保护级别	
	Ⅰ级	Ⅱ级
白鹤	Ⅰ	
赤颈鹤	Ⅰ	
蓑羽鹤		Ⅱ
秧鸡科		
长脚秧鸡		Ⅱ
姬田鸡		Ⅱ
棕背田鸡		Ⅱ
花田鸡		Ⅱ
鸨科		
鸨（所有种）	Ⅰ	
形鸻目		
雉鸻科		
铜翅水雉		Ⅱ
鹬科		
小杓鹬		Ⅱ
小青脚鹬		Ⅱ
燕鸻科		
灰燕鸻		Ⅱ
鸥形目		
鸥科		
遗鸥	Ⅰ	
小鸥		Ⅱ
黑浮鸥		Ⅱ
黄嘴河燕鸥		Ⅱ
黑嘴端凤头燕欧		Ⅱ
鸽形目		
沙鸡科		
黑腹沙鸡		Ⅱ
鸠鸽科		
绿鸠（所有种）		Ⅱ
黑颏果鸠		Ⅱ
皇鸠（所有种）		Ⅱ
斑尾林鸽		Ⅱ
鹃鸠（所有种）		Ⅱ
鹦形目		
鹦鹉科（所有种）		Ⅱ
鹃形目		

中名	保护级别	
	Ⅰ级	Ⅱ级
杜鹃科		
鸦鹃（所有种）		Ⅱ
鸮形目（所有种）		Ⅱ
雨燕目		
雨燕科		
灰喉针尾雨燕		Ⅱ
凤头雨燕科		
凤头雨燕		Ⅱ
咬鹃目		
咬鹃科		
橙胸咬鹃		Ⅱ
佛法僧目		
翠鸟科		
蓝耳翠鸟		Ⅱ
鹳嘴翠鸟		Ⅱ
蜂虎科		
黑胸蜂虎		Ⅱ
绿喉蜂虎		Ⅱ
犀鸟科（所有种）		Ⅱ
䴕形目		
啄木鸟科		
白腹黑啄木鸟		Ⅱ
雀形目		
阔嘴鸟科（所有种）		Ⅱ
八色鸫科（所有种）		Ⅱ
爬行纲		
龟鳖目		
龟科		
·地龟		Ⅱ
·三线闭壳龟		Ⅱ
云南闭壳龟		Ⅱ
陆龟科		
四爪陆龟	Ⅰ	
凹甲陆龟		Ⅱ
海龟科		
·蠵龟		Ⅱ
·绿海龟		Ⅱ

Latin Name	Class of Protection	
	I	II
Grus antigone	I	
Grus antigone	I	
Anthropoides virgo		II
Rallidae		
Grex crex		II
Porzana parva		II
Porzana bicolor		II
Coturnicops noveboracensis		II
Otidae		
Otis spp.	I	
CHARADRIIFORMES		
Jacanidae		
Metopidius indicus		II
Soolopacidae		
Numenius borealis		II
Tringa guttifer		II
Glareolidae		
Glareola lactea		II
LARIFORMES		
Laridae		
Larus relictus	I	
Larus minutus		II
Chlidonias niger		II
Sterna aurantia		II
Thalasseus zimmermanni		II
COLUMBIFORMES		
Pteroclididae		
Pterocles orientalis		II
Columbidae		
Treron spp.		II
Ptilinopus leclancheri		II
Ducula spp.		II
Columba palumbus		II
Macropygia spp.		II
PSITTACIFORMES		
Psittacidae		II
CUCULIFORMES		

Latin Name	Class of Protection	
	I	II
Cuculidae		
Centropus spp.		II
STRIGIFORMES		II
APODIFORMES		
Apodidae		
Hirundapus cochinchinensis		II
Hemiprocnidae		
Hemiprocne longipennis		II
TROGONIFORMES		
Trogonidae		
Harpactes oreskios		II
CORACIIFORMES		
Alcedinidae		
Alcedo meninting		II
Pelargopsis capensis		II
Meropidae		
Merops orientalis		II
Merops orientalis		II
Bucertidae		II
PICIFORMES		
Picidae		
Dryocopus javensis		II
PASSERIFORMES		
Eurylaimidae		II
Pittidae		II
REPTILIA		
TESTUDOFORMES		
Emydidae		
Geoemyda spengleri		II
Cuora trifsciata		II
Cuora yunnanensis		II
Testudinidae		
Testudo horsfieldi	I	
Manouria impressa		II
Cheloniidae		
Caretta caretta		II
Chelonia mydas		II

中名	保护级别	
	Ⅰ级	Ⅱ级
·玳瑁		Ⅱ
·太平洋丽龟		Ⅱ
棱皮龟科		
·棱皮龟		Ⅱ
鳖科		
·鼋	Ⅰ	
·山瑞鳖	Ⅱ	
蜥蜴目		
壁虎科		
大壁虎		Ⅱ
鳄蜥科		
蜥鳄	Ⅰ	
巨蜥科		
巨蜥	Ⅰ	
蛇目		
蟒科		
蟒	Ⅰ	
鳄目		
鼍科		
扬子鳄	Ⅰ	
两栖纲		
有尾目		
隐鳃鲵科		
·大鲵·		Ⅱ
蝾螈科		
·细痣疣螈		Ⅱ
·镇海疣螈		Ⅱ
·贵州疣螈		Ⅱ
·大凉疣螈		Ⅱ
·细瘰疣螈		Ⅱ
无尾目		
蛙科		
虎纹蛙		Ⅱ
鱼纲		
声形目		
石首鱼科		
·黄唇鱼		Ⅱ

中名	保护级别	
	Ⅰ级	Ⅱ级
杜父鱼科		
·松江鲈鱼		Ⅱ
海龙鱼目		
海龙鱼科		
·克氏海马鱼		Ⅱ
鲤形目		
胭脂鱼科		
·胭脂鱼		Ⅱ
鲤科		
·唐鱼		Ⅱ
·大头鲤		Ⅱ
·金钱鲃		Ⅱ
·新疆大头鱼	Ⅰ	
·大理裂腹鱼		Ⅱ
鳗鲡目		
鳗鲡科		
·花鳗鲡		Ⅱ
鲑形目		
鲑科		
·川陕哲罗鲑		Ⅱ
·秦岭细鳞鲑		Ⅱ
鲟形目		
鲟科		
·中华鲟	Ⅰ	
·达氏鲟	Ⅰ	
匙吻鲟科		
·白鲟	Ⅰ	
文昌鱼纲		
文昌鱼目		
文昌鱼科		
·文昌鱼		Ⅱ
珊瑚纲		
柳珊瑚目		
红珊瑚科		
·红珊瑚	Ⅰ	
腹足纲		
中腹足目		

Latin Name	Class of Protection	
	I	II
Eretmochelys imbricata		II
Lepidochelys olivacea		II
Dermochelyidae		
Dermochelys coriacea		II
Trionychidae		
Pelochelys bibroni	I	
Trionyx steindachneri	II	
LACERTIFORMES		
Gekkonidae		
Gekko gecko		II
Shinisauridae		
Shinisaurus crocodilurus	I	
Varanidae		
Varanus salvator	I	
SERPENTIFORMES		
Boidae		
Python molurus	I	
CROCODLIFORMES		
Alligatoridae		
Alligator sinensis	I	
AMPHIBIA		
CAUDATA		
Cryptobranchidae		
Andrias davidianus		II
Salamandridae		
Tylototriton asperrimus		II
Tylototriton chinhaiensis		II
Tylototriton kweichowensis		II
Tylototriton taliangensis		II
Tylototriton verrucosus		II
ANURA		
Ranidae		
Rana tigrina		II
PISCES		
PERCIFORMES		
Sciaenidae		
Bahaba flavolabiata		II

Latin Name	Class of Protection	
	I	II
Cottidae		
Trachidermus fasciatus		II
SYNGNATHIFORMES		
Syngnathidae		
Hippocampus kelloggi		II
CYPRINIFORMES		
Catostomidae		
Myxocyprinus asiaticus		II
Cyprinidae		
Tanichthys albonubes		II
Cyprinus pellegrini		II
Sinocyclocheilus grahami grahami		II
Aspiorhynchus laticeps	I	
Schizothorax taliensis		II
ANGUILLIFOMES		
Anguillidae		
Anguilla marmorata		II
SALMONIFORMES		
Salmonidae		
Hucho bleelkeri		II
Brachymystax lenok tsinlingensis		II
ACIPENSERIFORMES		
Acipenseridae		
Acipenser sinensis	I	
Acipenser dabryanus	I	
Polyodontidae		
Psephurusgladius	I	
APPENDICULARIA		
AMPHIOXIFORMES		
Branchiostomatidae		
Branchiotoma belcheri		II
ANTHOZOA		
GORGONACEA		
Coralliidae		
Corallium spp.	I	
GASTROPODA		
MESOGASTROPODA		

中名	保护级别	
	Ⅰ级	Ⅱ级
宝贝科		
·虎斑宝贝		Ⅱ
冠螺科		
·冠螺		Ⅱ
瓣鳃纲		
异柱目		
珍珠贝科		
·大珠母贝		Ⅱ
真瓣鳃目		
砗磲科		
·库氏砗磲	Ⅰ	
蚌科		
·佛耳丽蚌		Ⅱ
头足纲		
四鳃目		
鹦鹉螺科		
·鹦鹉螺	Ⅰ	
昆虫纲		
双尾目		
铗虮科		
伟铗虮		Ⅱ
蜻蜓目		
箭蜓科		
尖板曦箭蜓		Ⅱ
宽纹北箭蜓		Ⅱ

中名	保护级别	
	Ⅰ级	Ⅱ级
缺翅目		
缺翅虫科		
中华缺翅虫		Ⅱ
墨脱缺翅虫		Ⅱ
蛩螽目		
蛩螽科		
中华蛩螽	Ⅰ	
鞘翅目		
步甲科		
拉步甲		Ⅱ
硕步甲		Ⅱ
臂金龟科		
彩臂金龟		Ⅱ
犀金龟科		
叉犀金龟		Ⅱ
鳞翅目		
凤蝶科		
金斑喙凤蝶	Ⅰ	
双尾褐凤蝶		Ⅱ
三尾褐凤蝶		Ⅱ
中华虎凤蝶		Ⅱ
绢蝶科		
阿波罗绢蝶	Ⅱ	
肠鳃纲		
柱头虫科		
·多鳃孔舌形虫	Ⅰ	
玉钩虫科		
·黄岛长吻虫	Ⅰ	

Latin Name	Class of Protection	
	I	II
Cypraeidae		
Cypraea tigris		II
Cassididae		
Cassis cornuta		II
LAMELLIBRANCHIA		
ANISOMYARIA		
Pteriidae		
Pinctada maxima		II
EULAMELLIBRANCHIA		
Tridacnidae		
Tridacna cookiana	I	
Unionidae		
Lamprotula mansuyi		II
CEPHALOPODA		
TETRABRANCHIA		
Nautilidae		
Nautilus pompilius	I	
INSECTA		
DIPLURA		
Japygidae		
Atlasjapyx atlas		II
ODONATA		
Gomphidae		
Heliogomphus retroflexus		II
Ophiogomphus spinicorne		II
ZORAPTERA		
Zorotypidae		
Zorotypus medoensis		II
Zorotypus medoensis		II

Latin Name	Class of Protection	
	I	II
GRYLLOBLATTODAE		
Grylloblattidae		
Galloisiana sinensis	I	
COLEOPTERA		
Carabidae		
Carabus(Coptolabrus)lafossei		II
Carabus(Apotopterus)davidi		II
Euchiridae		
Cheirotonus spp.		II
Dynastidae		
Allomyrina davidis		II
LEPIDOPTERA		
Papilionidae		
Teinopalpus aureus	I	
Bhutanitis mansfieldi		II
Bhutanitis thaidina dongchuancnsis		II
Luehdorfia chinensis huashanensis		II
Parnassidae		
Parnassius apollo	II	
ENTEROPNEUSTA		
Balanoglossidae		
Glossobalanus polybranchioporus	I	
Harrimaniidae		
Saccoglossus hwangtauensis	I	

国家重点保护野生植物名录（第一批）

（国务院 1999 年 8 月 4 日批准）

中名	保护级别	
	Ⅰ级	Ⅱ级
蕨类植物		
观音座莲科		
法斗观音座莲		Ⅱ
二回原始观音座莲		Ⅱ
亨利原始观音座莲		Ⅱ
铁角蕨科		
对开蕨		Ⅱ
蹄盖蕨科		
光叶蕨	Ⅰ	
乌毛蕨科		
苏铁蕨科		Ⅱ
天星蕨科		
天星蕨		Ⅱ
桫椤科（所有种）		Ⅱ
蚌壳蕨科（所有种）		Ⅱ
鳞毛蕨科		
单叶贯众		Ⅱ
玉龙蕨	Ⅰ	
七指蕨科		
七指蕨		Ⅱ
水韭科		
·水韭属（所有种）	Ⅰ	
水蕨科		
·水蕨属（所有种）		Ⅱ
鹿角蕨科		
鹿角蕨		Ⅱ
水龙骨科		
中国蕨		Ⅱ
水龙骨科		
扇蕨		Ⅱ
中国蕨科		
中国蕨		Ⅱ
裸子植物		
三尖杉科		
贡山三尖杉		Ⅱ
篦子三尖杉		Ⅱ
柏科		
翠柏		Ⅱ
红桧		Ⅱ
岷江柏木		Ⅱ
巨柏	Ⅰ	
福建柏		Ⅱ
朝鲜崖柏		Ⅱ
苏铁科		
苏铁属（所有种）	Ⅰ	
银杏科		
银杏	Ⅰ	
松科		
百山祖冷杉	Ⅰ	
秦岭冷杉		Ⅱ
梵净山冷杉	Ⅰ	
元宝山冷杉	Ⅰ	
资源冷杉（大院冷杉）	Ⅰ	
银杉	Ⅰ	
台湾油杉		Ⅱ
海南油杉		Ⅱ
柔毛油杉		Ⅱ
太白红杉		Ⅱ
四川红杉		Ⅱ
油麦吊云杉		Ⅱ
大果青扦		Ⅱ
兴凯赤松		Ⅱ
大别山五针松		Ⅱ
红松		Ⅱ
华南五针松（广东松）		Ⅱ
巧家五针松	Ⅰ	
长白松	Ⅰ	
毛枝五针松		Ⅱ

Lists of Wild Plants under Special State Protection (First Group)

(Approved by the State Council on August 4, 1999)

Latin	Class of Brotection	
	I	II
Pteridophytes		
Angiopteridaceae		
Arngiopteris sparsisora		II
Archangiopteris bipinnata		II
Archangiopteris henryi		II
Aspleniaceae		
Phyllitis japonica		II
Athyriaceae		
Cystoathyrium chinense	I	
Blechnaceae		
Brainea insignis		II
Christeniaceae		
Christensenia assamica		II
Cyatheaceae spp.		II
Dicksoniaceae spp.		II
Dryopteridaceae		
Cyrtomium hemionitis		II
Sorolepidium glaciale	I	
Helminthostachyaceae		
Helminthostachys zeylanica		II
Isoetaceae		
Isoetes spp.	I	
Parkeriaceae		
Ceratopteris spp.		II
Platyceriaceae		
Platycerium wallichii		II
Polypodiaceae		
Neocheiropteris palmatopedata		II
Sinopteridaceae		
Sinopteris grevilleoides		II
Gymnospermae		
Cephalotaxaceae		
Cephalotaxus lanceolata		II
Cephalotaxus oliveri		II
Cupressaceae		
Calocedrus macrolepis		II
Chamaecyparisformosensis		II
Cupressus chengiana		II
Cupressus gigantea	I	
Fokienia hodginsii		II
Thuja koraiensis		II
Cycadaceae		
Cycas spp.	I	
Ginkgoaceae		
Ginkgo biloba	I	
Pinaceae		
Abies beshanzuensis	I	
Abies chensiensis		II
Abies fanjingshanensis	I	
Abies yuanbaoshanensis	I	
Abies ziyuanensis	I	
Cathaya argyrophylla	I	
Keteleeria davidiana var. formosana		II
Keteleeria hainanensis		II
Keteleeria pubescens		II
Larix chinensis		II
Larix mastersiana		II
Picea brachytyla var. complanata		II
Picea neoveitchii		II
Pinus densiflora var. ussuriensis		II
Pinus fenzeliana var. dadeshanensis		II
Pinus koraiensis		II
Pinus kwangtungensis		II
Pinus squamata	I	
Pinus sylvestris var. sylvestriformis	I	
Pinus wangii		II

中名	保护级别	
	Ⅰ级	Ⅱ级
金钱松		Ⅱ
黄杉属（所有种）		Ⅱ
红豆杉科		
台湾穗花杉	Ⅰ	
云南穗花杉	Ⅰ	
白豆杉		Ⅱ
红豆杉属（所有种）	Ⅰ	
榧属（所有种）		Ⅱ
杉科		
水松	Ⅰ	
水杉	Ⅰ	
台湾杉（秃杉）		Ⅱ
被子植物		
芒苞草科		
芒苞草		Ⅱ
槭树科		
梓叶槭		Ⅱ
羊角槭		Ⅱ
云南金钱槭		Ⅱ
泽泻科		
·长喙毛茛泽泻	Ⅰ	
·浮叶慈菇		Ⅱ
夹竹桃科		
富宁藤		Ⅱ
蛇根木		Ⅱ
萝藦科		
驼峰藤		Ⅱ
桦木科		
盐桦		Ⅱ
金平桦		Ⅱ
普陀鹅耳枥	Ⅰ	
天台鹅耳枥		Ⅱ
天目铁木	Ⅰ	
伯乐树科		
伯乐树（钟萼木）	Ⅰ	
花蔺科		
·拟花蔺		Ⅱ

中名	保护级别	
	Ⅰ级	Ⅱ级
忍冬科		
七子花		Ⅱ
石竹科		
金铁锁		Ⅱ
卫矛科		
膝柄木	Ⅰ	
木齿花		Ⅱ
永瓣藤		Ⅱ
连香树科		
连香树		Ⅱ
使君子科		
萼翅藤	Ⅰ	
千果榄仁		Ⅱ
菊科		
·画笔菊		Ⅱ
·革苞菊	Ⅰ	
四数木科		
四数木		Ⅱ
龙脑香料		
东京龙脑香	Ⅰ	
狭叶坡垒	Ⅰ	
无翼坡垒（铁凌）		Ⅱ
坡垒	Ⅰ	
多毛坡垒		Ⅱ
望天树	Ⅰ	
广西青梅		Ⅱ
青皮（青梅）		Ⅱ
茅膏菜科		
·貉藻	Ⅰ	
胡颓子科		
支果油树		Ⅱ
大戟科		
东京桐		Ⅱ
壳斗科		
华南锥		Ⅱ
台湾水青冈		Ⅱ
三棱栎		Ⅱ

Latin	Class of Brotection	
	I	II
Pseudolarix amabilis		II
Pseudotsuga spp.		II
Taxaceae		
Amentotaxus formosana	I	
Amentotaxus yunnanensis	I	
Pseudotaxus chienii		II
Taxus spp.	I	
Torreya spp.		II
Taxodiaceae		
Glyptostrobus pensilis	I	
Metasequoia glyptostroboide	I	
Taiwania cryptomerioides		II
Angiospermae		
Acanthochlamydaceae		
Acanthochlamys bracteata		II
Aceraceae		
Acer catalpifolium		II
Acer yangjuechi		II
Dipteronia dyerana		II
Alismataceae		
Ranalisma rostratum	I	
Sagittaria natans		II
Apocynaceae		
Parepigynum funingense		II
Rauvolfia serpentina		II
Asclepiadaceae		
Merrillanthus hainanensis		II
Betulaceae		
Betula halophila		II
Betula jinpingensis		II
Carpinus putoensis	I	
Carpinus tientaiensis		II
Ostrya rehderiana	I	
Bretschneideraceae		
Bretschneidera sinensis	I	
Butomaceae		
Butomopsis latifolia		II

Latin	Class of Brotection	
	I	II
Caprifoliaceae		
Heptacodium miconioides		II
Caryophyllaceae		
Psammosilene tunicoides		II
Celastrasceae		
Bhesa sinensis	I	
Dipentodon sinicus		II
Monimopetalum chinense		II
Cercidiphyllaceae		
Cercidiphyllum japonicum		II
Combretaceae		
Calycopteris floribunda	I	
Terminalia myriocarpa		II
Compositae		
Ajaniopsis penicilliformis		II
Tatiscaceae	I	
Datiscaceae		
Tetrameles nudiflora		II
Dipterocarpaceae		
Dipterocarpus retusus	I	
Hopea chinensis	I	
Hopea exalata		II
Hopea hainanensis	I	
Hopea mollissima		II
Parashorea chinensis	I	
Vatica guangxiensis		II
Vatica mangachapoi		II
Droseraceae		
Aldrovanda vesiculosa	I	
Elaeagnaceae		
Elaeagnus mollis		II
Euphorbiaceae		
Deutzianthus tonkinensis		II
Fagaceae		
Castanopsis concinna		II
Fagus hayatae		II
Formanodendron doichangensis		II

中名	保护级别	
	Ⅰ级	Ⅱ级
瓣鳞花科		
·瓣鳞花		Ⅱ
龙胆科		
·辐花		Ⅱ
苦苣苔科		
瑶山苣苔	Ⅰ	
单座苣苔	Ⅰ	
秦岭石蝴蝶		Ⅱ
报春苣苔	Ⅰ	
辐花苣苔	Ⅰ	
禾本科		
酸竹		Ⅱ
·沙芦草		Ⅱ
·异颖草		Ⅱ
·短芒披碱草		Ⅱ
·无芒披碱草		Ⅱ
·毛披碱草		Ⅱ
·内蒙古大麦		Ⅱ
·药用野生稻		Ⅱ
·普通野生稻		Ⅱ
·四川狼尾草		Ⅱ
·华山新麦草	Ⅰ	
·三蕊草		Ⅱ
·拟高粱		Ⅱ
·箭叶大油芒		Ⅱ
·中华结缕草		Ⅱ
小二仙草科		
·乌苏里狐尾藻		Ⅱ
金缕梅科		
山铜材		Ⅱ
长柄双花木		Ⅱ
半枫荷		Ⅱ
银缕梅	Ⅰ	
四药门花		Ⅱ
水鳖科		
·水菜花		Ⅱ
唇形科		
子宫草		Ⅱ
樟科		
油丹		Ⅱ
樟树（香樟）		Ⅱ
普陀樟		Ⅱ
油樟		Ⅱ
卵叶桂		Ⅱ
润楠		Ⅱ
舟山新木姜子		Ⅱ
闽楠		Ⅱ
浙江楠		Ⅱ
楠木		Ⅱ
豆科		
·线苞两型豆		Ⅱ
黑黄檀（版纳黑檀）		Ⅱ
降香（降香檀）		Ⅱ
格木		Ⅱ
山豆根（胡豆莲）		Ⅱ
绒毛皂荚		Ⅱ
·野大豆		Ⅱ
·烟豆		Ⅱ
·短绒野大豆		Ⅱ
桦榈木（花梨木）		Ⅱ
红豆树		Ⅱ
缘毛红豆		Ⅱ
紫檀（青龙木）		Ⅱ
油楠（蚌壳树）		Ⅱ
任豆（任木）		Ⅱ
狸藻科		
·盾鳞狸藻		Ⅱ
木兰科		
长蕊木兰	Ⅰ	
地枫皮		Ⅱ
单性木兰	Ⅰ	
鹅掌楸		Ⅱ
大叶木兰		Ⅱ
馨香玉兰		Ⅱ

Latin	Class of Brotection	
	I	II
Frankeniaceae		
Frankenia pulverulenta		II
Gentianaceae		
Lomatogoniopsis alpina		II
Gesneriaceae		
Dayaoshania cotinifolia	I	
Metabriggsia ovalifolia	I	
Petrocosmea qinlinensis		II
Primulina tabacum	I	
Thamnocharis esquirolii	I	
Gramineae		
Acidosasa chinensis		II
Agropron mongolicum		II
Anisachne gracilis		II
Elyus breviaristatus		II
Elymus submuticus		II
Elymus villifer		II
Hordeum innermongolicum		II
Oryza officinalis		II
Oryza rufipogort		II
Pennisetum sichuanense		II
Psathyrostachys huasharica	I	
Sinochasea trigyna		II
Sorghum propinquum		II
Spodiopogon sagittifolius		II
Zoysia sinica		II
Haloragidaceae		
Myriophyllum ussuriense		II
Hamamelidaceae		
Chunia bucklandioides		II
Disanthus cercidifolius var. longipes		II
Semiliquidambar cathayensis		II
Shaniodendron subaequalum	I	
Tetrathyrium subcordatum		II
Hydrocharitaceae		
Ottelia cordata		II
Labiatae		
Skapanthus oreophilus		II
Lauraceae		
Alseodaphne hainanensis		II
Cinnamomum camphora		II
Cinnamomum japonicum		II
Cinnamomum longepaniculatum		II
Cinnamomum rigidissimum		II
Machilus nanmu		II
Neolitsea sericea		II
Phoebe bournei		II
Phoebe chekiangensis		II
Phoebe zhennan		II
Leguminosae		
Amphicarpaea linearis		II
Dalbergia fusca		II
Dalbergia odorifera		II
Erythrophleum fordii		II
Euchresta japonica		II
Gleditsia japonica var. velutina		II
Glycine soja		II
Glycine tabacina		II
Glycine tomentella		II
Ormosia henryi		II
Ormosia hosiei		II
Ormosia howii		II
Pterocarpus indicus		II
Sindora glabra		II
Zenia insignis		II
Lentibulariaceae		
Utricularia punctata		II
Magnoliaceae		
Alcimandar cathcardii	I	
Illicium difengpi		II
Kmeria septentrionalis	I	
Liriodendron chinense		II
Magnolia henryi		II
Magnolia odoratissima		II

中名	保护级别	
	Ⅰ级	Ⅱ级
厚朴		Ⅱ
凹叶厚朴		Ⅱ
长喙厚朴		Ⅱ
圆叶玉兰		Ⅱ
西康玉兰		Ⅱ
宝华玉兰		Ⅱ
香木莲		Ⅱ
落叶木莲	Ⅰ	
大果木莲		Ⅱ
毛果木莲		Ⅱ
大叶木莲		Ⅱ
厚叶木莲		Ⅱ
华盖木	Ⅰ	
石碌含笑		Ⅱ
峨眉含笑		Ⅱ
峨眉拟单性木兰	Ⅰ	
云南拟单性木兰		Ⅱ
合果木		Ⅱ
水青树		Ⅱ
楝科		
粗枝崖摩		Ⅱ
红椿		Ⅱ
毛红椿		Ⅱ
防己科		
藤枣	Ⅰ	
肉豆蔻科		
海南风吹楠		Ⅱ
滇南风吹楠		Ⅱ
云南肉豆蔻		Ⅱ
茨藻科		
·高雄茨藻		Ⅱ
·拟纤维茨藻		Ⅱ
睡莲科		
·莼菜	Ⅰ	
·莲		Ⅱ
·贵州萍逢草		Ⅱ
·雪白睡莲		Ⅱ

中名	保护级别	
	Ⅰ级	Ⅱ级
蓝果树科		
喜树（旱莲木）		Ⅱ
珙桐	Ⅰ	
光叶珙桐	Ⅰ	
云南蓝果树	Ⅰ	
金链木科		
合柱金莲木	Ⅰ	
铁青树科		
蒜头果		Ⅱ
木犀科		
水曲柳		Ⅱ
棕榈科		
董棕		Ⅱ
小钩叶藤		Ⅱ
龙棕		Ⅱ
罂粟科		
·红花绿绒蒿		Ⅱ
斜翼科		
斜翼		Ⅱ
川苔草科		
·川藻（石蔓）		Ⅱ
蓼科		
·金荞麦		Ⅱ
报春花科		
·羽叶点地梅		Ⅱ
毛茛科		
粉背叶人字果		Ⅱ
独叶草	Ⅰ	
马尾树科		
马尾树		Ⅱ
茜草科		
绣球茜		Ⅱ
香果树		Ⅱ
异形玉叶金花	Ⅰ	
丁茜		Ⅱ
芸香科		
黄檗（黄波椤）		Ⅱ

Latin	Class of Brotection	
	I	II
Magnolia officinalis		II
Magnolia officinalis subsp. biloba		II
Magnolia rostrata		II
Magnolia sinensis		II
Magnolia wilsonii		II
Magnolia zenii		II
Manglietia aromatica		II
Manglietia decidua	I	
Manglietia grandis		II
Manglietia hebecarpa		II
Manglietia megaphylla		II
Manglietia pachyphylla		II
Manglietiastrum sinicum	I	
Michelia shiluensis		II
Michelia wilsonii		II
Parakmeria omeiensis	I	
Parakmeria yunnanensis		II
Paramichelia baillonii		II
Tetracentron sinense		II
Meliaceae		
Amoora dasyclada		II
Toona ciliata		II
Toona ciliata var. pubescens		II
Menispermaceae		
Eleutharrhena macrocarpa	I	
Myristicaceae		
Horsfieldia hainanensis		II
Horsfieldia tetratepala		II
Myristica yunnanensis		II
Najadaceae		
Najas browniana		II
Najas pseudogracillima		II
Nymphaeaceae		
Brasenia schreberi	I	
Nelumbo nucifera		II
Nuphar bornetii		II
Nymphaea candida		II

Latin	Class of Brotection	
	I	II
Nyssaceae		
Camptotheca acuminata		II
Davidia involucrata	I	
Davidia involucrata var. vilmoriniana	I	
Nyssa yunnanensis	I	
Ochnaceae		
Sinia rhodoleuca	I	
Olacaceae		
Malania oleifera		II
Oleaceae		
Fraxinus mandshurica		II
Palmae		
Caryota urens		II
Plectocomia microstaschys		II
Trachycarpus nana		II
Papaveraceae		
Meconopsis punicea		II
Plagiopteraceae		
Plagiopteron suaveolens		II
Podostemaceae		
Terniopsis sessilis		II
Polygonaceae		
Fagopyrum dibotrys		II
Primulaceae		
Pomatosace		II
Ranunculaceae		
Dichocarpum hypoglaucum		
Kingdonia uniflora	I	
Rhoipteleaceae		
Rhoiptelea chiliantha		II
Rubiaceae		
Dunnia sinensis		II
Emmenopterys henryi		II
Mussaenda anomala	I	
Trailliaedoxa gracilis		II
Rutaceae		
Phellodendron amurense		II

中名	保护级别	
	Ⅰ级	Ⅱ级
川黄檗（黄皮树）		Ⅱ
杨柳科		
钻天柳		Ⅱ
无患子科		
伞花木		Ⅱ
掌叶木	Ⅰ	
山榄科		
海南紫荆木		Ⅱ
紫荆木		Ⅱ
虎耳草科		
黄山梅		Ⅱ
蛛网萼		Ⅱ
冰沼草科		
·冰沼草		Ⅱ
玄参科		
·胡黄连		Ⅱ
呆白菜（崖白菜）		Ⅱ
茄科		
·山莨菪		Ⅱ
黑三棱科		
·北方黑三棱		Ⅱ
梧桐科		
广西火桐		Ⅱ
丹霞梧桐		Ⅱ
海南梧桐		Ⅱ
蝴蝶树		Ⅱ
平当树		
景东翅子树		Ⅱ
勐仑翅子树		Ⅱ
安息香科		
长果安息香		Ⅱ

中名	保护级别	
	Ⅰ级	Ⅱ级
秤锤树		Ⅱ
瑞香科		
土沉香		Ⅱ
椴树科		
柄翅果		Ⅱ
蚬木		Ⅱ
滇桐		Ⅱ
海南椴		Ⅱ
紫椴		Ⅱ
菱科		
·野菱		Ⅱ
榆科		
长序榆		Ⅱ
榉树		Ⅱ
伞形科		
·珊瑚菜（北沙参）		Ⅱ
马鞭草科		
海南石梓（苦梓）		Ⅱ
姜科		
茴香砂仁		Ⅱ
拟豆蔻		Ⅱ
长果姜		Ⅱ
蓝藻		
念珠藻科藻		
·发菜		Ⅱ
真菌		
麦角菌科		
·虫草（冬虫夏草）		Ⅱ
口蘑科（白蘑科）		
松口蘑（松茸）		Ⅱ

Latin	Class of Brotection	
	I	II
Phellodendron chinense		II
Salicaceae		
Chosenia arbutifolia		II
Sapindaceae		
Eurycorymbus cavaleriei		II
Handeliodendron bodinieri	I	
Sapotaceae		
Madhuca hainanensis		II
Madhuca pasquieri		II
Saxifragaceae		
Kirengeshoma palmata		II
Platrcrater arguta		II
Scheuchzeriaceae		
Scheuchzeria palustris		II
Scrophulariaceae		
Neopicrorhiza scrophulariiflora		II
Triaenophora rupestris		II
Solanaceae		
Anisodus tanguticus		II
Sparganiaceae		
Sparganium hyperboreum		II
Sterculiaceae		
Erythropsis kwangsiensis		II
Firmiana danxiaensis		II
Firmiana hainanensis		II
Heritiera parvifolia		II
Paradombeya sinensis		
Pterospermum kingtungense		II
Pterospermum menglunense		II
Styracaceae		
Changiostyrax dolichocarpa		II

Latin	Class of Brotection	
	I	II
Sinojackia xylocarpa		II
Thymelaeaceae		
Aquilaria sinensis		II
Tiliaceae		
Burretiodendron esquirolii		II
Burretiodendron hsienmu		II
Craigia yunnanensis		II
Hainania trichosperma		II
Tilia amurensis		II
Trapaceae		
Trapa incisa		II
Ulmaceae		
Ulmus elongata		II
Zelkova schneideriana		II
Umbelliferae		
Glehnia littoralis		II
Verbenaceae		
Gmelina hainanensis		II
Zingiberaceae		
Etlingera yunnanense		II
Paramomum petaloideum		II
Siliquamomum tonkinense		II
Cyonophyta		
Nostocaceae		
Nostoc flagelliforme		II
Eumycophyta		
Clavicipitaceae		
Cordyceps sinensis		II
Tricholomataceae		
Tricholoma matsutake		II

农业转基因生物安全管理条例

中华人民共和国国务院令第304号，
2001年5月23日发布，自同日起实施.

第一章　总则

第一条　为了加强农业转基因生物安全管理，保障人体健康和动植物、微生物安全，保护生态环境，促进农业转基因生物技术研究，制定本条例。

第二条　在中华人民共和国境内从事农业转基因生物的研究、试验、生产、加工、经营和进口、出口活动，必须遵守本条例。

第三条　本条例所称农业转基因生物，是指利用基因工程技术改变基因组构成，用于农业生产或者农产品加工的动植物、微生物及其产品，主要包括：

（一）转基因动植物（含种子、种畜禽、水产苗种）和微生物；

（二）转基因动植物、微生物产品；

（三）转基因农产品的直接加工品；

（四）含有转基因动植物、微生物或者其产品成份的种子、种畜禽、水产苗种、农药、兽药、肥料和添加剂等产品。

本条例所称农业转基因生物安全，是指防范农业转基因生物对人类、动植物、微生物和生态环境构成的危险或者潜在风险。

第四条　国务院农业行政主管部门负责全国农业转基因生物安全的监督管理工作。

县级以上地方各级人民政府农业行政主管部门负责本行政区域内的农业转基因生物安全的监督管理工作。

县级以上各级人民政府卫生行政主管部门依照《中华人民共和国食品卫生法》的有关规定，负责转基因食品卫生安全的监督管理工作。

第五条　国务院建立农业转基因生物安全管理部际联席会议制度。

农业转基因生物安全管理部际联席会议由农业、科技、环境保护、卫生、外经贸、检验检疫等有关部门的负责人组成，负责研究、协调农业转基因生物安全管理

Regulations on Administration of Agricultural Genetically Modified Organisms Safety

Decree No. 304 of the State Council of the People's Republic of China,
Promulgated on May 23,2001, and effective as of the date of promulgation

Chapter I General Provisions

Article 1 These Regulations are formulated for the purposes of strengthening the administration of agricultural genetically modified organisms safety, safeguarding the health of human bodies and the safety of animals, plants and microorganisms, protecting the ecological environment, and promoting the research into technologies of agricultural genetically modified organisms.

Article 2 The activities of research, experiment, production, processing, marketing, import and export with respect to agricultural genetically modified organisms within the territory of the People's Republic of China must conform to these Regulations.

Article 3 Agricultural genetically modified organism, as referred to in these Regulations, means animals, plants, microorganisms and their products whose genomic structures have been modified by genetic engineering technologies for the use in agricultural production or processing, which mainly include:

(1) genetically modified animals, plants (including plant seeds, breeding livestock and poultry, aquatic fry and seeds) and microorganisms;

(2) products of genetically modified animals, plants and microorganisms;

(3) products directly processed from genetically modified agricultural products;

(4) seeds, breeding livestock and poultry, aquatic fry and seeds, pesticides, veterinary drugs, fertilizers, additives and other products containing ingredients of genetically modified animals, plants and microorganisms or their products.

Agricultural genetically modified organisms safety, as referred to in these Regulations, means the protection of human being, animals, plants and microorganisms and the ecological environment against the danger or potential risk arising from agricultural genetically modified organisms.

Article 4 The competent agricultural administrative department of the State Council is responsible for the nationwide supervision and administration of agricultural genetically modified organisms safety.

The competent agricultural administrative departments of local people's governments at or above the county level are responsible for the supervision and administration of agricultural genetically modified organisms safety within their respective administrative areas.

The competent public health administrative departments of local people's governments at or above the county level are, in accordance with the relevant provisions of the Food Hygiene Law of the People's Republic of China, responsible for the supervision and administration of the hygiene and safety of genetically modified food within their respective administrative areas.

Article 5 The State Council establishes a system of inter-ministerial joint conference for administration of agricultural genetically modified organisms safety.

The inter-ministerial joint conference for administration of agricultural genetically modified organisms safety shall be composed of responsible persons from the departments of agriculture, science and technology, environmental protection, public health, foreign trade and economic cooperation, inspection and quarantine, and from other relevant departments as well, and shall be responsible for the discussion and coordination of major issues involved in the administration of agricultural genetically modified organisms safety.

工作中的重大问题。

第六条　国家对农业转基因生物安全实行分级管理评价制度。

农业转基因生物按照基对人类、动植物、微生物和生态环境的危险程度，为分Ⅰ、Ⅱ、Ⅲ、Ⅳ四个等级。具体划分标准由国务院农业行政主管部门制定。

第七条　国家建立农业转基因生物安全评价制度。

农业转基因生物安全评价的标准和技术规范，由国务院农业行政主管部门制定。

第八条　国家对农业转基因生物实行标识制度。

实施标识管理的农业转基因生物目录，由国务院农业行政主管部门商国务院有关部门制定、调整并公布。

第二章　研究与试验

第九条　国务院农业行政主管部门应当加强农业转基因生物研究与试验的安全评价管理工作，并设立农业转基因生物安全委员会，负责农业转基因生物的安全评价工作。

农业转基因生物安全委员会由从事农业转基因生物研究、生产、加工、检验检疫及卫生、环境保护等方面的专家组成。

第十条　国务院农业行政主管部门根据农业转基因生物安全评价工作的需要，可以委托具备检测条件和能力的技术检测机构对农业转基因生物进行检测。

第十一条　从事农业转基因生物研究与试验的单位，应当具备与安全等级相适应的安全设施和措施，确保农业转基因生物研究与试验的安全，并成立农业转基因生物安全小组，负责本单位农业转基因生物研究与试验的安全工作。

第十二条　从事Ⅲ、Ⅳ级农业转基因生物研究的，应当在研究开始前向国务院农业行政主管部门报告。

第十三条　农业转基因生物试验，一般应当经过中间试验、环境释放和生产性试验三个阶段。

中间试验，是指在控制系统内或者控制条件下进行的小规模试验。

环境释放，是指在自然条件下采取相应安全措施所进行的中规模的试验。

生产性试验，是指在生产和应用前进行的较大规模的试验。

第十四条　农业转基因生物在实验室研究结束后，需要转入中间试验的，试验单位应当向国务院农业行政主管部门报告。

第十五条　农业转基因生物试验需要从上一试验阶段转入下一试验阶段的，试验单位应当向国务院农业行政主管部门提出申请；经农业转基因生物安全委员会进行安全评价合格的，由国务院农业行政主管部门批准转入下一试验阶段。

Article 6 The State institutes a class-based administration and evaluation system for agricultural genetically modified organisms safety.

Agricultural genetically modified organisms are classified into Classes I, II, III and IV according to the extent of their risks to human beings, animals, plants, microorganisms and the ecological environment. The specific standards for the classification are to be formulated by the competent agricultural administrative department of the State Council.

Article 7 The State establishes a safety evaluation system for agricultural genetically modified organisms.

The standards and technical norms for safety evaluation of agricultural genetically modified organisms are to be formulated by the competent agricultural administrative department of the State Council.

Article 8 The State institutes a labeling system for agricultural genetically modified organisms.

The catalogue of agricultural genetically modified organisms subject to labeling administration shall be determined, adjusted and published by the competent agricultural administrative department of the State Council in consultation with the other relevant departments of the State Council.

Chapter II Research and Testing

Article 9 The competent agricultural administrative department of the State Council shall strengthen the safety evaluation administration of research into and testing of agricultural genetically modified organisms, and set up a bio-safety committee on agricultural genetically modified organisms responsible for safety evaluation of agricultural genetically modified organisms.

The bio-safety committee on agricultural genetically modified organisms shall be composed of the experts who are engaged in biological research, production, processing, inspection and quarantine with respect to agricultural genetically modified organisms, as well as those in the fields of public health and environmental protection, etc.

Article 10 Based on the needs of the safety evaluation of agricultural genetically modified organisms, the competent agricultural administrative department of the State Council may entrust the inspection of agricultural genetically modified organisms to technical inspection bodies with necessary inspecting facilities and capability.

Article 11 Units engaged in research into and testing of agricultural genetically modified organisms shall have facilities and measures commensurate with the safety class so as to ensure the safety of research into and testing of agricultural genetically modified organisms, and shall establish bio-safety groups of agricultural genetically modified organisms which shall be responsible for the safety of the research into and testing of agricultural genetically modified organisms in the units concerned.

Article 12 A unit conducting research into agricultural genetically modified organisms classified as Classes III and IV shall make a report to the competent agricultural administrative department of the State Council prior to the commencement of the research.

Article 13The testing of agricultural genetically modified organisms shall normally go through three stages, i.e. restricted field testing, enlarged field testing and productive testing.

Restricted field testing means a small-scale test conducted within a controlled system or under controlled conditions.

Enlarged field testing means a medium-scale test conducted under natural conditions with appropriate safety measures.

Productive testing means a large-scale test prior to production and application.

Article 14 Where a testing of agricultural genetically modified organisms needs to move on to the stage of restricted field testing after completion of research in the laboratory, the testing unit shall make a report to the competent agricultural administrative department of the State Council.

Article 15 Where a testing of agricultural genetically modified organisms needs to move on from one testing stage to the next one, the testing unit shall make an application to the competent agricultural administrative department of the State Council; if the testing passes the safety evaluation conducted by the bio-safety committee on agricultural genetically modified organisms, the moving on the next testing stage shall be approved by the competent agricultural administrative department of the

试验单位提出前款申请，应当提供下列材料：

（一）农业转基因生物的安全等级和确定安全等级的依据；

（二）农业转基因生物技术检测机构出具的检测报告；

（三）相应的安全管理、防范措施；

（四）上一试验阶段的试验报告。

第十六条　从事农业转基因生物试验的单位在生产性试验结束后，可以向国务院农业行政主管部门申请领取农业转基因生物安全证书。

试验单位提出前款申请，应当提供下列材料：

（一）农业转基因生物的安全等级和确定安全等级的依据；

（二）农业转基因生物技术检测机构出具的检测报告；

（三）生产性试验的总结报告；

（四）国务院农业行政主管部门规定的其他材料。

国务院农业行政主管部门收到申请后，应当组织农业转基因生物安全委员会进行安全评价；安全评价合格的，方可颁发农业转基因生物安全证书。

第十七条　转基因植物种子、种畜禽、水产苗种，利用农业转基因生物生产的或者含有农业转基因生物成份的种子、种畜禽、水产苗种、农药、兽药、肥料和添加剂等，在依照有关法律、行政法规的规定进行审定、登记或者评价、审批前，应当依照本条例第十六条的规定取得农业转基因生物安全证书。

第十八条　中外合作、合资或者外方独资在中华人民共和国境内从事农业转基因生物研究与试验的，应当经国务院农业行政主管部门批准。

第三章　生产与加工

第十九条　生产转基因植物种子、种畜禽、水产苗种，应当取得国务院农业行政主管部门颁发的种子、种畜禽、水产苗种生产许可证。

生产单位和个人申请转基因植物种子、种畜禽、水产苗种生产许可证，除应当符合有关法律、行政法规规定的条件外，还应当符合下列条件：

（一）取得农业转基因生物安全证书并通过品种审定；

（二）在指定的区域种植或者养殖；

（三）有相应的安全管理、防范措施；

（四）国务院农业行政主管部门规定的其他条件。

第二十条　生产转基因植物种子、种畜禽、水产苗种的单位和个人，应当建立生产档案，载明生产地点、基因及其来源、转基因的方法以及种子、种畜禽、水产苗种流向等内容。

State Council.

When making the application referred to in the preceding paragraph, the testing unit shall provide the following materials:

(1) the safety class of agricultural genetically modified organisms and the justifications therefor;

(2) the inspection report issued by a technical inspection body of agricultural genetically modified organisms;

(3) appropriate safety administration and precautionary measures;

(4)the summary report of the previous testing stage.

Article 16 After the completion of productive testing, the unit engaged in testing of agricultural genetically modified organisms may make an application to the competent agricultural administrative department of the State Council for a safety certificate of agricultural genetically modified organisms.

When making the application referred to in the preceding paragraph, the testing unit shall provide the following materials:

(1)the safety class of agricultural genetically modified organisms and the justifications therefor;

(2)the inspection report issued by a technical inspection body of agricultural genetically modified organisms;

(3) a summary report of the productive testing;

(4)other materials as provided for by the competent agricultural administrative department of the State Council.

After receiving the application, the competent agricultural administrative department of the State Council shall organize the bio-safety committee on agricultural genetically modified organisms to conduct the safety evaluation; only after the safety evaluation has been passed may a safety certificate of agricultural genetically modified organisms be issued.

Article 17 Before the examination, registration, evaluation or approval is conducted as provided for in relevant laws and administrative regulations, the safety certificate of agricultural genetically modified organisms shall, as provided for in Article 16 of these Regulations, be obtained for genetically modified plant seeds, breeding livestock and poultry, as well as aquatic fry and seeds, and for the seeds, breeding livestock and poultry, aquatic fry and seeds, pesticides, veterinary drugs, fertilizers, additives and others, which are either produced by using agricultural genetically modified organisms or contain ingredients of agricultural genetically modified organisms.

Article 18 Research into and testing of agricultural genetically modified organisms within the territory of the People's Republic of China conducted by means of Chinese-foreign contractual cooperation, joint capital or sole foreign capital shall be approved by the competent agricultural administrative department of the State Council.

Chapter III Production and Processing

Article 19 A production license shall be obtained for the production of genetically modified seeds, breeding livestock and poultry, or aquatic fry and seeds from the competent agricultural administrative department of the State Council.

In addition to the conditions provided for in relevant laws and administrative regulations, any unit or person applying for the production license of genetically modified seeds, breeding livestock and poultry, or aquatic fry and seeds shall meet the following conditions:

(1) having obtained a safety certificate of agricultural genetically modified organisms and passed variety examination;

(2) planting or breeding in the designated areas;

(3) having adopted appropriate safety administration and precautionary measures;

(4)other conditions provided for by the competent agricultural administrative department of the State Council.

Article 20 Any unit or person producing genetically modified plant seeds, breeding livestock and poultry, or aquatic fry and seeds shall keep production files to clearly record the places of production, genes and their sources and methods for genetic modification, as well as the whereabouts of seeds, breeding livestock and poultry, or aquatic fry and seeds, etc.

第二十一条　单位和个人从事农业转基因生物生产、加工的，应当由国务院农业行政主管部门或者省、自治区、直辖市人民政府农业行政主管部门批准。具体办法由国务院农业行政主管部门制定。

第二十二条　农民养殖、种植转基因动植物的，由种子、种畜禽、水产苗种销售单位依照本条例第二十一条的规定代办审批手续。审批部门和代办单位不得向农民收取审批、代办费用。

第二十三条　从事农业转基因生物生产、加工的单位和个人，应当按照批准的品种、范围、安全管理要求和相应的技术标准组织生产、加工，并定期向所在地县级人民政府农业行政主管部门提供生产、加工、安全管理情况和产品流向的报告。

第二十四条　农业转基因生物在生产、加工过程中发生基因安全事故时，生产、加工单位和个人应当立即采取安全补救措施，并向所在地县级人民政府农业行政主管部门报告。

第二十五条　从事农业转基因生物运输、贮存的单位和个人，应当采取与农业转基因生物安全等级相适应的安全控制措施，确保农业转基因生物运输、贮存的安全。

第四章　经营

第二十六条　经营转基因植物种子、种畜禽、水产苗种的单位和个人，应当取得国务院农业行政主管部门颁发的种子、种畜禽、水产苗种经营许可证。

经营单位和个人申请转基因植物种子、种畜禽、水产苗种经营许可证，除应当符合有关法律、行政法规规定的条件外，还应当符合下列条件：

（一）有专门的管理人员和经营档案；

（二）有相应的安全管理、防范措施；

（三）国务院农业行政主管部门规定的其他条件。

第二十七条　经营转基因植物种子、种畜禽、水产苗种的单位和个人，应当建立经营档案，载明种子、种畜禽、水产苗种的来源、贮存、运输和销售去向等内容。

第二十八条　在中华人民共和国境内销售列入农业转基因生物目录的农业转基因生物，应当有明显的标识。

列入农业转基因生物目录的农业转基因生物，由生产、分装单位和个人负责标识；未标识的，不得销售。经营单位和个人在进货时，应当对货物和标识进行核对。经营单位和个人拆开原包装进行销售的，应当重新标识。

第二十九条　农业转基因生物标识应当载明产品中含有转基因成份的主要原料名称；有特殊销售范围要求的，还应当载明销售范围，并在指定范围内销售。

Article 21 Any unit or person engaged in the production and processing of agricultural genetically modified organisms shall obtain approval from the competent agricultural administrative department of the State Council or the competent agricultural administrative department of a province, an autonomous region and a municipality directly under the Central Government. The specific measures are to be formulated by the competent agricultural administrative department of the State Council.

Article 22 Where farmers breed genetically modified animals or plant genetically modified plants, the units selling seeds, breeding livestock and poultry, or aquatic fry and seeds shall, on behalf of the farmers, go through the examination and approval formalities as provided for in Article 21 of these Regulations. The examination and approval department and the selling unit shall not charge any fees from the farmers.

Article 23 Any unit or person engaged in the production or processing of agricultural genetically modified organisms shall organize the production and processing in accordance with the approved varieties, scopes, safety administration requirements and appropriate technical standards, and shall regularly report the production, processing, safety administration and the whereabouts of the products to the local competent agricultural administrative department of the people's government at the county level.

Article 24 When any genetic accident happens during the process of production and processing of agricultural genetically modified organisms, the unit or person engaged in such production and processing shall immediately take remedial measures and make a report to the competent agricultural administrative department of the people's government at the county level of the place where it or he is situated.

Article 25 The unit or person engaged in the transportation and storage of agricultural genetically modified organisms shall take safety control measures commensurate with the safety class of agricultural genetically modified organisms in order to ensure the safety of transportation and storage of agricultural genetically modified organisms.

Chapter IV Marketing

Article 26 Any unit or person intending to market genetically modified plant seeds, breeding livestock and poultry, or aquatic fry and seeds shall obtain a marketing license from the competent agricultural administrative department of the State Council.

In addition to the conditions provided for in relevant laws and administrative regulations, any marketing unit or person applying for the marketing license of genetically modified seeds, breeding livestock and poultry, or aquatic fry and seeds shall meet the following conditions:

(1) having full-time managerial personnel and marketing files;

(2) having adopted appropriate safety administration and precautionary measures;

(3) other conditions provided for by the competent agricultural administrative department of the State Council.

Article 27 Any unit or person marketing genetically modified plant seeds, breeding livestock and poultry, or aquatic fry and seeds shall keep marketing files to clearly record the sources, transportation, storage and the whereabouts of the seeds, breeding livestock and poultry, or aquatic fry and seeds, etc.

Article 28 Agricultural genetically modified organisms listed in the catalogue of agricultural genetically modified organisms shall be clearly labeled when they are sold in the territory of the People's Republic of China.

Agricultural genetically modified organisms listed in the catalogue of agricultural genetically modified organisms shall be labeled by the unit or person producing or repacking the products. Unlabeled products shall not be sold. When replenishing the stocks of such products, the marketing unit or person shall check the products and their labels. The marketing unit or person shall re-label the products if their original packages have been opened for sale.

Article 29 The label of agricultural genetically modified organisms shall clearly indicate the names of the main raw materials containing genetically modified ingredients in the product. If there are special requirements with respect to the area in which the product can be sold, the area shall also be indi-

第三十条　农业转基因生物的广告，应当经国务院农业行政主管部门审查批准后，方可刊登、播放、设置和张贴。

第五章　进口与出口

第三十一条　从中华人民共和国境外引进农业转基因生物用于研究、试验的，引进单位应当向国务院农业行政主管部门提出申请；符合下列条件的，国务院农业行政主管部门方可批准：

（一）具有国务院农业行政主管部门规定的申请资格；

（二）引进的农业转基因生物在国（境）外已经进行了相应的研究、试验；

（三）有相应的安全管理、防范措施。

第三十二条　境外公司向中华人民共和国出口转基因植物种子、种畜禽、水产苗种和利用农业转基因生物生产的或者含有农业转基因生物成份的植物种子、种畜禽、水产苗种、农药、兽药、肥料和添加剂的，应当向国务院农业行政主管部门提出申请；符合下列条件的，国务院农业行政主管部门方可批准试验材料入境并依照本条例的规定进行中间试验、环境释放和生产性试验：

（一）输出国家或者地区已经允许作为相应用途并投放市场；

（二）输出国家或者地区经过科学试验证明对人类、动植物、微生物和生态环境无害；

（三）有相应的安全管理、防范措施。

生产性试验结束后，经安全评价合格，并取得农业转基因生物安全证书后，方可依照有关法律、行政法规的规定办理审定、登记或者评价、审批手续。

第三十三条　境外公司向中华人民共和国出口农业转基因生物用作加工原料的，应当向国务院农业行政主管部门提出申请；符合下列条件，并经安全评价合格的，由国务院农业行政主管部门颁发农业转基因生物安全证书：

（一）输出国家或者地区已经允许作为相应用途并投放市场；

（二）输出国家或者地区经过科学试验证明对人类、动植物、微生物和生态环境无害；

（三）经农业转基因生物技术检测机构检测，确认对人类、动植物、微生物和生态环境不存在危险；

（四）有相应的安全管理、防范措施。

第三十四条　从中华人民共和国境外引进农业转基因生物的，或者向中华人民共和国出口农业转基因生物的，引进单位或者境外公司应当凭国务院农业行政主管部门颁发的农业转基因生物安全证书和相关批准文件，向口岸出入境检验检疫机构报检；经检疫合格后，方可向海关申请办理有关手续。

cated in the label, and the product in question shall only be sold within such area.

Article 30 Advertisements for agricultural genetically modified organisms may be published, broadcasted, set and posted only after they have been examined and approved by the competent agricultural administrative department of the State Council.

Chapter V Import and Export

Article 31 When introducing agricultural genetically modified organisms into the territory of the People's Republic of China for the purpose of research and testing, the introducing unit shall make an application to the competent agricultural administrative department of the State Council; only the application that meets the following conditions may be approved by the competent agricultural administrative department of the State Council:

(1) having the application qualifications as provided for by the competent agricultural administrative department of the State Council;

(2) the relevant research into and testing of agricultural genetically modified organisms to be introduced has been completed at abroad (or outside the territory of China);

(3) having adopted appropriate safety administration and precautionary measures.

Article 32 Any company outside the territory of China that exports to the People's Republic of China genetically modified plant seeds, breeding livestock and poultry, or aquatic fry and seeds, and plant seeds, breeding livestock and poultry, aquatic fry and seeds, pesticides, veterinary drugs, fertilizers and additives produced by using agricultural genetically modified organisms or containing ingredients of agricultural genetically modified organisms, shall make an application to the competent agricultural administrative department of the State Council; where the following conditions are met, the competent agricultural administrative department of the State Council shall approve the importation of testing materials, and the restricted field testing, enlarged field testing or productive testing shall be conducted in accordance with the provisions of these Regulations.

(1) the exporting country or region has permitted the usage for the same purpose and the putting into market thereof;

(2) the exporting country or region has, through scientific experiment, proved that they are harmless to human beings, animals and plants, microorganisms and ecological environment;

(3) having adopted appropriate safety administration and precautionary measures.

With the completion of the productive testing, only after passing the safety evaluation and obtaining the safety certificate of agricultural genetically modified organisms may the formalities of examination, registration or evaluation and approval be gone through in accordance with the provisions of relevant laws and administrative regulations.

Article 33 Any company outside the territory of China that exports to the People's Republic of China agricultural genetically modified organisms to be used as raw materials for processing shall make an application to the competent agricultural administrative department of the State Council; for those meeting the following conditions and passing the safety evaluation, the competent agricultural administrative department of the State Council shall issue a safety certificate of agricultural genetically modified organisms:

(1) the exporting country or region has permitted the usage for the same purpose and the putting into market thereof;

(2) the exporting country or region has, through scientific experiment, proved that they are harmless to human beings, animals and plants, microorganisms and ecological environment;

(3) the technical inspection body of agricultural genetically modified organisms has confirmed, upon inspection, that there is no danger to human beings, animals, plants, microorganisms and ecological environment;

(4) having adopted appropriate safety administration and precautionary measures .

Article 34 When introducing agricultural genetically modified organisms from outside the territory of the People's Republic of China or exporting agricultural genetically modified organisms to the People's Republic of China, the introducing unit or the company outside the territory of China shall make

第三十五条　农业转基因生物在中华人民共和国过境转移的，货主应当事先向国家出入境检验检疫部门提出申请；经批准方可过境转移，并遵守中华人民共和国有关法律、行政法规的规定。

第三十六条　国务院农业行政主管部门、国家出入境检验检疫部门应当自收到申请人申请之日起270日内作出批准或者不批准的决定，并通知申请人。

第三十七条　向中华人民共和国境外出口农产品，外方要求提供非转基因农产品证明的，由口岸出入境检验检疫机构根据国务院农业行政主管部门发布的转基因农产品信息，进行检测并出具非转基因农产品证明。

第三十八条　进口农业转基因生物，没有国务院农业行政主管部门颁发的农业转基因生物安全证书和相关批准文件的，或者与证书、批准文件不符的，作退货或者销毁处理。进口农业转基因生物不按照规定标识的，重新标识后方可入境。

第六章　监督检查

第三十九条　农业行政主管部门履行监督检查职责时，有权采取下列措施：

（一）询问被检查的研究、试验、生产、加工、经营或者进口、出口的单位和个人、利害关系人、证明人，并要求其提供与农业转基因生物安全有关的证明材料或者其他资料；

（二）查阅或者复制农业转基因生物研究、试验、生产、加工、经营或者进口、出口的有关档案、账册和资料等；

（三）要求有关单位和个人就有关农业转基因生物安全的问题作出说明；

（四）责令违反农业转基因生物安全管理的单位和个人停止违法行为；

（五）在紧急情况下，对非法研究、试验、生产、加工、经营或者进口、出口的农业转基因生物实施封存或者扣押。

第四十条　农业行政主管部门工作人员在监督检查时，应当出示执法证件。

第四十一条　有关单位和个人对农业行政主管部门的监督检查，应当予以支持、配合，不得拒绝、阻碍监督检查人员依法执行职务。

第四十二条　发现农业转基因生物对人类、动植物和生态环境存在危险时，国务院农业行政主管部门有权宣布禁止生产、加工、经营和进口，收回农业转基因生物安全证书，销毁有关存在危险的农业转基因生物。

a declaration for inspection and quarantine to the exit-entry inspection and quarantine agency at the port on the strength of the safety certificate of agricultural genetically modified organisms issued by the competent agricultural administrative department of the State Council and the relevant documents of approval. Only for those passing the quarantine an application may be made to the Customs for going through relevant formalities.

Article 35 When agricultural genetically modified organisms are to be transferred via the territory of the People's Republic of China, the owner of the goods shall in advance make an application to the exit-entry inspection and quarantine department of the State; such transfer may be carried out only after it has been approved and shall comply with the provisions of the relevant laws and administrative regulations of the People's Republic of China.

Article 36 The competent agricultural administrative department of the State Council and the exit-entry inspection and quarantine department of the State shall, within 270 days from the date of receipt of the application, make a decision of approval or disapproval, and notify the applicant of the result.

Article 37 When agricultural products are exported to outside the territory of the People's Republic of China and the foreign party requests a certificate of non-agricultural agricultural genetically modified organisms, the exit-entry inspection and quarantine agency at the port shall undertake the inspection and issue a certificate of non-agricultural agricultural genetically modified organisms in accordance with the information of genetically modified agricultural products published by the competent agricultural administrative department of the State Council.

Article 38 Agricultural genetically modified organisms that are imported without a safety certificate of agricultural genetically modified organisms issued by the competent agricultural administrative department of the State Council and the relevant documents of approval, or not conforming to the certificate or the documents of approval, shall be rejected or destroyed. Where agricultural genetically modified organisms to be imported are not labeled as required, the goods cannot enter the territory of China until being re-labeled.

Chapter VI Supervision and Inspection

Article 39 When performing its functions and duties of supervision and inspection, a competent agricultural administrative department has the power to take the following measures:

(1) enquiring the units, individuals, interested parties or witnesses that are being inspected and involved in the research, testing, production, processing, marketing, importation or exportation, and requesting them to provide certifying materials relating to agricultural genetically modified organisms or other materials;

(2) consulting or duplicating the files, account books or materials relating to the research, testing, production, processing, marketing, importation or exportation of agricultural genetically modified organisms;

(3) requesting the units or individuals concerned to make explanations on issues relating to agricultural genetically modified organisms safety;

(4) ordering the units or individuals violating the safety administration of agricultural genetically modified organisms to stop illegal activities;

(5) under emergency circumstances, sealing up or seizing agricultural genetically modified organisms involved in illegal research, testing, production, processing, marketing, importation or exportation.

Article 40 Staff members of competent agricultural administrative departments shall present their credentials for law enforcement when undertaking supervision and inspection.

Article 41 The units or individuals concerned shall support and cooperate with the competent agricultural administrative departments in their supervision and inspection, and shall not refuse and obstruct the supervision and inspection personnel to perform their duties according to law.

Article 42 When discovering that agricultural genetically modified organisms endanger human beings, animals, plants or ecological environment, the competent agricultural administrative department of the State Council has the power to make a declaration to prohibit the production, processing, marketing or importation thereof, to take back the safety certificate of agricultural genetically modified or-

第七章　罚则

第四十三条　违反本条例规定，从事Ⅲ、Ⅳ级农业转基因生物研究或者进行中间试验，未向国务院农业行政主管部门报告的，由国务院农业行政主管部门责令暂停研究或者中间试验，限期改正。

第四十四条　违反本条例规定，未经批准擅自从事环境释放、生产性试验的，已获批准但未按照规定采取安全管理、防范措施的，或者超过批准范围进行试验的，由国务院农业行政主管部门或者省、自治区、直辖市人民政府农业行政主管部门依据职权，责令停止试验，并处1万元以上5万元以下的罚款。

第四十五条　违反本条例规定，在生产性试验结束后，未取得农业转基因生物安全证书，擅自将农业转基因生物投入生产和应用的，由国务院农业行政主管部门责令停止生产和应用，并处2万元以上10万元以下的罚款。

第四十六条　违反本条例第十八条规定，未经国务院农业行政主管部门批准，从事农业转基因生物研究与试验的，由国务院农业行政主管部门责令立即停止研究与试验，限期补办审批手续。

第四十七条　违反本条例规定，未经批准生产、加工农业转基因生物或者未按照批准的品种、范围、安全管理要求和技术标准生产、加工的，由国务院农业行政主管部门或者省、自治区、直辖市人民政府农业行政主管部门依据职权，责令停止生产或者加工，没收违法生产或者加工的产品及违法所得；违法所得10万元以上的，并处违法所得1倍以上5倍以下的罚款；没有违法所得或者违法所得不足10万元的，并处10万元以上20万元以下的罚款。

第四十八条　违反本条例规定，转基因植物种子、种畜禽、水产苗种的生产、经营单位和个人，未按照规定制作、保存生产、经营档案的，由县级以上人民政府农业行政主管部门依据职权，责令改正，处1000元以上1万元以下的罚款。

第四十九条　违反本条例规定，转基因植物种子、种畜禽、水产苗种的销售单位，不履行审批手续代办义务或者在代办过程中收取代办费用的，由国务院农业行政主管部门责令改正，处2万元以下的罚款。

第五十条　违反本条例规定，未经国务院农业行政主管部门批准，擅自进口农业转基因生物的，由国务院农业行政主管部门责令停止进口，没收已进口的产品和违法所得；违法所得10万元以上的，并处违法所得1倍以上5倍以下的罚款；没有违法所得或者违法所得不足10万元的，并处10万元以上20万元以下的罚款。

ganisms, or to destroy the dangerous agricultural genetically modified organisms in question.

Chapter VII Penalty Provisions

Article 43 Those who, in violation of these Regulations, conduct research into agricultural genetically modified organisms classified as Class III or IV or conduct restricted field testing without making a report to the competent agricultural administrative department of the State Council shall be ordered by the competent agricultural administrative department of the State Council to suspend the research or restricted field testing, and to make corrections within the specified time limit.

Article 44 Those who, in violation of these Regulation, conduct enlarged field testing or productive testing without approval, or with approval but failing to take safety administration and precautionary measures in accordance with the relevant provisions, or conduct testing beyond the approved scope, shall be ordered to stop the testing, and shall be imposed a fine of not less than 10,000 yuan but not more than 50,000 yuan by the competent agricultural administrative department of the State Council or the competent agricultural administrative department of the people's government of the province, autonomous region and municipality directly under the Central Government in accordance with their respective functions and powers.

Article 45 Those who, in violation of these Regulations, put agricultural genetically modified organisms into production or application after the completion of productive testing but without obtaining the safety certificate of agricultural genetically modified organisms, shall be ordered to stop the production or application, and shall be imposed a fine of not less than 20,000 yuan but not more than 100,000 yuan by the competent agricultural administrative department of the State Council.

Article 46 Those who, in violation of the provisions of Article 18 of these Regulations, conduct research into or testing of agricultural genetically modified organisms without the approval of the competent agricultural administrative department of the State Council, shall be ordered by the competent agricultural administrative department of the State Council to stop the research and testing, and to undergo anew examination and approval formalities within the specified time limit.

Article 47 Those who, in violation of these Regulations, produce or process agricultural genetically modified organisms without approval, or conduct the production or processing not conforming to the approved varieties, scopes, requirements for safety administration and technical standards, shall be ordered to stop the production or processing by the competent agricultural administrative department of the State Council or the competent agricultural administrative department of the people's government of the province, autonomous region or municipality directly under the Central Government in accordance with their respective functions and powers. The illegally produced or processed products and the illegal income shall be confiscated. If the illegal income is not less than 100,000 yuan, a fine of not less than one but not more than five times the illegal income shall be imposed concurrently; if there is no illegal income or the illegal income is less than 100,000 yuan, a fine of not less than 100,000 yuan but not more than 200,000 yuan shall be imposed concurrently.

Article 48 If a unit or person engaged in the production or marketing of genetically modified plant seeds, breeding livestock and poultry, or aquatic fry and seeds, in violation of these Regulations, fails to make and keep production or marketing files, it or he shall be ordered to make corrections and imposed a fine of not less than 1,000 yuan but not more than 10,000 yuan by the competent agricultural administrative department of the people's government at or above the county level in accordance with its functions and powers.

Article 49 If a marketing unit of genetically modified plant seeds, breeding livestock and poultry, or aquatic fry and seeds, in violation of these Regulations, fails to fulfill the obligations of going through the examination and approval formalities on behalf of the farmers or charges fees for such fulfillment, it or he shall be ordered to make corrections and imposed a fine of not more than 20,000 yuan by the competent agricultural administrative department of the State Council.

Article 50 Those who, in violation of these Regulations, import agricultural genetically modified organisms without the approval of the competent agricultural administrative department of the State Council, shall be ordered to stop the importation by the competent agricultural administrative department of the State Council. The imported products and the illegal income shall be confiscated. If the il-

第五十一条　违反本条例规定，进口、携带、邮寄农业转基因生物未向口岸出入境检验检疫机构报检的，或者未经国家出入境检验检疫部门批准过境转移农业转基因生物的，由口岸出入境检验检疫机构或者国家出入境检验检疫部门比照进出境动植物检疫法的有关规定处罚。

第五十二条　违反本条例关于农业转基因生物标识管理规定的，由县级以上人民政府农业行政主管部门依据职权，责令限期改正，可以没收非法销售的产品和违法所得，并可以处1万元以上5万元以下的罚款。

第五十三条　假冒、伪造、转让或者买卖农业转基因生物有关证明文书的，由县级以上人民政府农业行政主管部门依据职权，收缴相应的证明文书，并处2万元以上10万元以下的罚款；构成犯罪的，依法追究刑事责任。

第五十四条　违反本条例规定，在研究、试验、生产、加工、贮存、运输、销售或者进口、出口农业转基因生物过程中发生基因安全事故，造成损害的，依法承担赔偿责任。

第五十五条　国务院农业行政主管部门或者省、自治区、直辖市人民政府农业行政主管部门违反本条例规定核发许可证、农业转基因生物安全证书以及其他批准文件的，或者核发许可证、农业转基因生物安全证书以及其他批准文件后不履行监督管理职责的，对直接负责的主管人员和其他直接责任人员依法给予行政处分；构成犯罪的，依法追究刑事责任。

第八章　附则

第五十六条　本条例自公布之日起施行。

legal income is not less than 100,000 yuan, a fine of not less than one but not more than five times the illegal income shall be imposed concurrently; if there is no illegal income or the illegal income is less than 100,000 yuan, a fine of not less than 100,000 yuan but not more than 200,000 yuan shall be imposed concurrently.

Article 51 Those who, in violation of these Regulations, import, carry or post agricultural genetically modified organisms without making a declaration for inspection and quarantine to the exit-entry inspection and quarantine agencies at the ports, or transfer agricultural genetically modified organisms via the territory of China without the approval of the exit-entry inspection and quarantine department of the State, shall be punished by the exit-entry inspection and quarantine agencies at the ports or by the exit-entry inspection and quarantine department of the State by applying mutates mutandis the relevant provisions of the law on the entry and exit animal and plant quarantine.

Article 52 Those who violate the provisions of these Regulations on labeling management of agricultural genetically modified organisms shall be ordered to make corrections within the specified time limit by the competent agricultural administrative departments of the people's governments at or above the county level in accordance with their respective functions and powers, the illegally marketed products and illegal income may be confiscated and a fine of not less than 10,000 yuan but not more than 50,000 yuan may be imposed.

Article 53 Those who forge, falsify, transfer or sell and buy any relevant certifying documents relating to agricultural genetically modified organisms shall have the certifying documents in question confiscated and be imposed a fine of not less than 20,000 yuan but not more than 100,000 yuan by the competent agricultural administrative department of the people's governments at or above the county level in accordance with their respective functions and powers; if a crime is constituted, criminal liability shall be investigated according to law.

Article 54 Those who, in violation of these Regulations, cause an accident in the process of research, testing, production, processing, storage, transportation, marketing, import or export of agricultural genetically modified organisms, thus resulting in any damage, shall bear the liability for compensation according to law.

Article 55 Where the competent agricultural administrative department of the State Council or the competent agricultural administrative department of the people's government of a province, an autonomous region or a municipality directly under the Central Government, in violation of these Regulations, issues licenses, safety certificates of agricultural genetically modified organisms or other documents of approval, or fails to perform the duties of supervision and administration after issuing the licenses, safety certificates of agricultural genetically modified organisms or other documents of approval, the person in charge who has direct responsibility and other direct responsible persons shall be given administrative sanctions according to law; if a crime is constituted, criminal liability shall be investigated according to law.

Chapter VIII Supplementary Provisions

Article 56 These Regulations shall take effect as of the date of promulgation.

二十二、放射环境管理

XII Radiation Environment

放射性同位素与射线装置放射防护条例

（1989年10月24日发布　国务院令第44号）

第一章　总　　则

第一条　为加强对放射性同位素与射线装置放射防护的监督管理，保障从事放射工作的人员和公众的健康与安全，保护环境，促进放射性同位素和射线技术的应用与发展，制定本条例。

第二条　本条例适用于中华人民共和国境内从事生产、使用、销售放射性同位素与射线装置的单位和个人。

第三条　国务院卫生、环境保护和公安部门按照各自的职能和本条例的有关规定，对放射性同位素与射线装置生产、使用、销售中的放射防护（简称放射工作）实施监督管理。

第四条　任何单位和个人对违反本条例的行为有权检举和控告。

第二章　许可登记

第五条　国家对放射工作实行许可登记制度，许可登记证由卫生、公安部门办理。

第六条　新建、改建、扩建放射工作场所的放射防护设施，必须与主体工程同时设计审批，同时施工，同时验收投入使用。放射防护设施的设计，必须经所在省、自治区、直辖市的卫生行政部门会同公安等部门审查同意。竣工后须经卫生、公安、环境保护等有关部门验收同意，获得许可登记证后方可启用。

涉及放射性废水、废气、固体废物治理的工程项目，必须在申请审查的同时，提交经环境保护部门批准的环境影响评价文件，竣工后必须经卫生、公安、环境保护等部门验收同意。

第七条　任何单位在从事生产、使用、销售射线装置前，必须向省、自治区、直辖市的卫生行政部门申请许可；在从事生产、使用、销售放射性同位素和含放射源的射线装置前，必须向省、自治区、直辖市的卫生行政部门申请许可，并向同级

REGULATIONS ON RADIATION PROTECTION FOR RADIOISOTOPES AND RADIATION-EMITTING FACILITIES

(Promulgated by the State Council as Decree No. 44 on October 24, 1989, came into force on the same date of promulgation)

Chapter Ⅰ General Provisions

Article 1 The present Regulations are enacted to strengthen regulating on the radiation protection for radioisotopes and radiation-emitting facilities, to ensure safety and health of the public and persons undertaken the work with ionizing radiation, to protect environment, and to promote the utilization and development of radioisotopes and radioactive ray technologies.

Article 2 The present Regulations are applicable to the organizations and persons, that undertake manufacture, use and supply of radioisotopes and radiation-emitting facilities.

Article 3 The departments of public health, environment protection and public security under the State Council, are responsible for surveillance and supervision of the radiation protection in the activities of manufacture, use and supply of radioisotopes and radiation-emitting facilities (hereinafter referred to as radiation works), in according with their respective responsibilities and relevant enactment of the present Regulations.

Article 4 Any organizations or persons have right to accuse and take lawsuit against the behavior violating the present Regulations.

Chapter Ⅱ Permission and Registration

Article 5 The State adopts a permission and registration system for the radiation works. The departments of public health and public security are responsible for issuing the Authorized Registration.

Article 6 The newly constructed, reconstructed or expanded radiation protecting facilities in a radiation working site shall be, simultaneously with the principle project, subject to design approval, construction acceptance and operation. The design of the radiation protecting facilities must be reviewed and approved by the public health department, in conjunction with the public security department in the province, autonomous region or municipality where the facilities are located. After the completion of the construction, the facilities can not be put into operation until accepted and approved by the departments of public health, public security and environmental protection, and obtained the Authorized Registration.

For the project involving treatment of radioactive liquid, gaseous and solid wastes, an environmental impact assessment document approved by the environmental protection department shall be submitted simultaneously with application. After the completion of the construction, the projects shall be accepted and approved by the departments of public health, public security and environmental protection.

Article 7 Any organization, before undertaking manufacture, use or supply of radiation-emitting facilities, shall apply for the Authorized Registration from the public health department in province, autonomous region or municipality. Any organization, before undertaking manufacture, use or supply of radioisotopes or facilities equipped with radioactive source, shall apply for the Authorized Registration from the public health department in the province, autonomous region or municipality, and shall register in the public security department at the same level. If involving the releases of the ef-

公安部门登记。涉及到放射性废水、废气、固体废物排放的，还必须先向省、自治区、直辖市的环境保护部门递交环境影响报告表（书），经批准后方可申请许可登记。领得许可登记证后方可从事许可登记范围内的放射工作。

第八条 凡申请许可、登记的放射工作单位，必须具备下列基本条件：

（一）具有与所从事的放射工作相适应的场所、设施和装备，并提供相应的资料；

（二）从事放射工作的人员必须具备相适应的专业及防护知识和健康条件，并提供相应的证明材料；

（三）有专职、兼职放射防护管理机构或者人员以及必要的防护用品和监测仪器，并提交人员名单和设备清单；

（四）提交严格的有关安全防护管理规章制度的文件。

第九条 放射工作许可登记证每一至二年进行一次核查，核查情况由原审批部门记录在许可登记证上。

从事放射工作的单位在需要改变许可登记的内容时，需持许可登记证件到原审批部门办理变更手续。终止放射工作时必须向原审批部门办理注销许可登记手续。

第三章 放射防护管理

第十条 从事放射工作单位的上级行政管理部门，负责管理本系统的放射防护工作，并应定期对本系统执行国家放射防护法规和标准进行检查。

从事放射工作单位的负责人，应当采取有效措施使本单位的放射防护工作符合国家有关规定和标准。

第十一条 放射性同位素的生产、使用、贮存场所和射线装置的生产、使用场所必须设置防护设施。其入口处必须设置放射性标志和必要的防护安全联锁、报警装置或者工作信号。

在室外、野外从事放射工作时，必须划出安全防护区域，并设置危险标志，必要时设专人警戒。

在地面水和地下水中进行放射性同位素试验时，必须事先经所在地省级环境保护、卫生行政部门批准。

第十二条 放射性同位素不得与易燃、易爆、腐蚀性物品放在一起，其贮存场所必须采取有效的防火、防盗、防泄漏的安全防护措施，并指定专人负责保管。贮存、领取、使用、归还放射性同位素时必须进行登记、检查，做到帐物相符。

fluent of radioactive liquid, gaseous and solid wastes, the organization shall submit in advance an environmental impact assessment form (report) to the environmental protection department in corresponding province, autonomous region or municipality. The Authorized Registration can be applied only after the environmental impact assessment form (report) has been approved. Only after obtaining the Authorized Registration, the organization may undertake radiation works within the scope of the Authorized Registration.

Article 8 Any organization that apply for the Authorized Registration for radiation works shall meet essential requirements as follows:

(1) It shall have the place, installations and equipment appropriate to the radiation works to be undertaken. The corresponding information should be provided;

(2) The persons who are authorized to undertake radiation works shall have appropriate knowledge of their profession and radiation protection, and shall have good health. The corresponding certificate material should be provided;

(3) It shall have full-time or part-time management organization or persons for radiation protection, and have necessary protective goods and monitoring instruments. The name list of staff and the equipment inventory should be submitted;

(4) It shall submit documents related to strict management rules and regulations for safety and protection.

Article 9 The Authorized Registration should be reviewed and examined once every one or two years and the results should be recorded in the Authorized Registration by the original departments that issue such Authorized Registration.

If the contents of the Authorized Registration need be modified, the organization undertaking radiation works should go to the departments that issue such Authorized Registration with the Authorized Registration to implement modification formalities. When the radiation works is terminated, the organization shall implement cancellation formalities for the Authorized Registration in the departments that issue such Authorized Registration.

Chapter Ⅲ Management of Radiation Protection

Article 10 The higher competent authority of the organizations undertaking radiation works is responsible for the management of radiation protection within the system of its responsibility. It should make periodic examinations regarding compliance with the State radiation protection regulations and standards within the system of its responsibility.

The responsible person of the organization undertaking radiation works should take effective measures to ensure that the radiation works are compliance with relevant the State regulations and standards on radiation protection.

Article 11 Protective facilities must be installed in the places where the radioisotopes are manufactured, used or stored, or where the radiation emitting facilities are manufactured or used. The entrance to the radiation working site shall be posted with radiological caution sign and equipped with necessary safety interlock, alarm devices or working signal.

For any radiation works implemented in outdoors or field, a controlled area for safety and protection shall be designated and posted with danger signs. If necessary, dedicated persons should be arranged for safe guard.

Any radioisotope experiments in the surface water and underground water shall be subject to approval beforehand by the departments of environmental protection and public health in the province where the experiment will be carry out.

Article 12 Radioisotopes shall not be stored together with articles of combustible, explosive or corrosive nature, and the storage site shall be protected against fire, stealing or leakage by taking effective safety measures. Radioisotopes should be secured and managed by dedicated persons. Radioisotopes shall be registered and examined on the occasions of storage, receipt, use or return to ensure the

第十三条 从事放射性同位素的订购、销售、转让、调拨和借用的单位或者个人，必须持有许可登记证并只限于在许可登记的范围内从事上述活动，并向同级卫生、公安部门备案。严禁非经许可或者在许可登记范围之外从事上述活动。

第十四条 进口装备有放射性同位素的仪表的单位或者个人，必须向当地卫生、公安、环境保护部门登记备案；进口含有超过放射性豁免水平的矿品、成品、消费品的单位或者个人，应当向口岸所在地的省级卫生行政部门申请放射性监测检查。

凡从事含有放射性的来料加工工作的单位和个人，涉及到放射性废水、废气、固体废物排放的，必须事先向所在省、自治区、直辖市的环境保护部门递交环境影响报告表（书），经批准后，到所在县以上卫生行政部门申请办理许可证，并向公安部门登记。

第十五条 托运、承运和自行运输放射性同位素或者装过放射性同位素的空容器，必须按国家有关运输规定进行包装和剂量检测，经县以上运输和卫生行政部门核查后方可运输。

第十六条 生产装有放射性同位素的设备、射线装置、放射防护器材，必须符合放射防护要求，不合格的产品不得出厂。

第十七条 生产含有放射性物质的消费品、物料和伴有产生X射线的电器产品，必须符合放射防护要求，不合格的产品不得销售。

第十八条 用放射性同位素和射线装置辐照食品、药品、化妆品、医疗器材和其他应用于人体的制品，必须符合国家卫生法规和标准的规定。

第十九条 对受检者和患者使用放射性同位素或者射线进行诊断、治疗、检查时，必须严格控制受照剂量，避免一切不必要的照射。

第二十条 放射工作单位必须严格执行国家对放射工作人员个人剂量监测和健康管理的规定。

第二十一条 对已从事和准备从事放射工作的人员，必须接受体格检查，并接受放射防护知识培训和法规教育，合格者方可从事放射工作。

第四章 放射事故管理

第二十二条 国家对放射性同位素与射线事故（简称放射事故），实行分级管理和报告、立案制度。

第二十三条 发生放射事故的单位，必须立即采取防护措施，控制事故影响，保护事故现场，并向县以上卫生部门、公安部门报告。对可能造成环境污染事故的，

conformity between account and physical inventories.

Article 13 Any organization or persons undertaking purchase, sale, transfer, allocation or borrowing of radioisotopes shall have the Authorized Registration. And their activities are limited within the scope prescribed in the Authorized Registration and shall be on file in the departments of public health and public security at the same level. It is strictly forbidden to undertake above-mentioned activities without authorization or beyond the scope prescribed in the Authorized Registration.

Article 14 Any organization or persons who import instruments equipped with radioisotopes shall register and be on file in departments of public health, public security and environmental protection at provincial level. Any organization or persons who import minerals, products or consumer goods containing radioactivity beyond the level of exemption shall make application for radiation monitoring and examination to the public health department at the level of province, where the Custom is located.

If involving releases of the effluent of radioactive liquid, gaseous or solid wastes, the organization or persons who undertake product processing by using abroad materials that contain radioactive substance shall submit in advance the environmental impact assessment form (report) to the environmental protection department in the province, autonomous region or municipality where the organization or persons reside. After approved, the organization or persons can apply the Authorized Registration in the public health department at or above county level, and should register in the public security department at the same level.

Article 15 If radioisotopes or empty containers which previously contained radioisotopes are to be shipped, carried or exclusive transported, they shall be packed in accordance with the State relevant regulations of transportation and the dose shall be measured. The transportation is not allowed until examined by the departments of transportation and public health at or above the county level.

Article 16 To manufacture appliances equipped with radioisotopes, or radiation-emitting facilities or radiation protection devices shall be in conformity to the requirements for radiation protection. Any product that does not meet the standard can not be out of the factory.

Article 17 To manufacture consumer goods or materials that contain radioactive substance, or electric products that accompanied with generating X-rays, shall be in conformity to the requirements for radiation protection. Any product that does not meet the standard can not be sold in the market.

Article 18 Irradiation for food, drugs, cosmetics, medical appliances and other products applied to human body by radioisotopes or radiation-omitting facilities shall comply with the provisions of the State regulations and standards for public health.

Article 19 During medical diagnosis, therapy or examination for persons who accept examination or patients by using radioisotopes or radiation-emitting facilities, exposure doses shall be strictly controlled and all unnecessary exposures be avoided.

Article 20 Any organization undertaking radiation works shall strictly implement the State regulations concerning personnel dose monitoring and health management for radiation workers.

Article 21 All persons who has undertaken or will undertake radiation works shall accept physical examination, and accept training and education on the knowledge of radiation protection and laws and regulations. Only the qualified persons are permitted to undertake radiation works.

Chapter Ⅳ Management of Radiation Accidents

Article 22 The State manages the accidents of radioisotopes and radiation-emitting facilities (hereinafter referred to as radiation accidents) at different levels, and adopts a system of report and case investigation.

Article 23 Any organization in which a radiation accident has occurred shall immediately take protective measures to control the consequences of the accident and to protect the site of the accident, and shall report to the departments of public health and public security at or above the county level. In case of the contamination to the environment by the accident, the organization shall report to the local

必须同时向所在地环境保护部门报告。

第二十四条 发生放射事故的单位或者个人，应当赔偿受害者的经济损失及医学检查治疗费用，并支付处理放射事故的各种费用。但如果能够证明该损害是由受害人故意造成的，不承担赔偿责任。

第五章 放射防护监督

第二十五条 县以上卫生行政部门负责本辖区内放射性同位素与射线装置的放射防护监督，其主要职责是：

（一）负责对放射工作监督检查；

（二）组织实施放射防护法规；

（三）会同有关部门调查处理放射事故；

（四）组织放射防护知识的宣传、培训和法规教育；

（五）处理放射防护监督中的纠纷。

第二十六条 各省、自治区、直辖市的环境保护部门对放射性同位素和含有放射源的射线装置在应用中排放放射性废水、废气、固体废物实施监督，其主要职责是：

（一）审批环境影响报告表（书）；

（二）对废水、废气、固体废物处理进行审查和验收；

（三）对废水、废气、固体废物排放实施监督监测；

（四）会同有关部门处理放射性环境污染事故。

第二十七条 县以上公安部门对放射性同位素应用中的安全保卫实施监督管理，主要职责是：

（一）登记放射性同位素和放射源；

（二）检查放射性同位素及放射源保存、保管的安全性；

（三）参与放射事故处理。

第二十八条 县以上卫生行政部门设放射防护监督员。放射防护监督员由从事放射防护工作，并具有一定资格的专业人员担任，由省级卫生行政部门任命。

第二十九条 放射防护监督员有权按照规定对本辖区内放射工作进行监督和检查，并可以按照规定采样和索取有关资料，有关单位不得拒绝和隐瞒；对涉及保密的资料应当按照国家保密规定执行，并负有保密责任。

第三十条 放射防护监督员必须严守法纪、秉公执法，不得玩忽职守、徇私舞弊。

第六章 处 罚

第三十一条 对违反本条例的单位或者个人，县以上卫生行政部门，可以视其

environmental protection department at the same time.

Article 24 The organization or persons that be responsible for the radiation accident shall pay compensation for the economic loss and the expenses of medical examinations and treatment costs of the victims, and defray all the expenses of handling the radiation accident. However, in case of proving that the damage was caused deliberately by the victims themselves, the organization or persons will not bear the responsibility of compensation.

Chapter Ⅴ Supervision of Radiation Protection

Article 25 The public health departments at or above the county level are responsible, in their respective Jurisdiction, for the supervision of radiation protection for the radioisotopes and radiation-emitting facilities. On them devolve the main responsibilities of:

(1) supervising and inspecting radiation works;

(2) organizing and implementing the regulations for radiation protection;

(3) investigating and handling radiation accidents jointly with other departments concerned;

(4) organizing the publicity and training in radiation protection, and education in relevant laws and regulations;

(5) settling the disputes concerning supervision of radiation protection.

Article 26 The environment protection departments in provinces, autonomous regions and municipalities exercise supervision over the releases of the effluents of radioactive liquid, gaseous and solid wastes in the use of radioisotopes or radiation-emitting facilities containing radiation source. On them devolve the main responsibilities of':

(1) conducting review and approval of the environmental impact assessment form (report);

(2) undertaking investigation, examination and approval with regard to the treatment of liquid, gaseous and solid wastes;

(3) supervising and monitoring the releases of the effluents of liquid, gaseous and solid wastes;

(4) handling accidents involving radioactive contamination to the environment jointly with the departments concerned.

Article 27 The public security department at or above the county level shall be responsible for the supervision and management of safety and security in the use of radioisotopes. On them devolve the main responsibilities of

(1) registering radioisotopes and radiation sources;

(2)inspecting the security in holding and storing radioisotopes and radiation sources;

(3) taking part in handling radiation accidents .

Article 28 Radiation protection supervisors are designated in public health departments at or above the county level. Those who serve as radiation protection supervisors shall be professionals having experience in radiation protection and specific qualifications. The public health departments at the provincial level appoint the radiation protection supervisors.

Article 29 Radiation protection supervisors are authorized, in accordance with the provisions, to supervise and inspect radiation works within their respective jurisdiction, and may, in accordance with the provisions, collect samples and ask for relevant information, while the organizations concerned must not refuse such requests. For any withhold information, the supervisors shall follow the regulations for safeguarding secrets of the State in dealing with classified material and bear the responsibility of maintaining secrecy.

Article 30 Radiation protection supervisors shall observe law and discipline strictly, enforce the law justly and shall not be derelict in their duties and not engage in self-seeking.

Chapter Ⅵ Penalty

Article 31 The public health department at or above the county level may, in accordance with the seriousness of the case, issue a warning to a organization or person who has violated the present

情节轻重，给予警告并限期改进、停工或者停业整顿，或者处以罚款和没收违法所得，直至会同公安部门吊销其许可登记证的行政处罚。

在放射性废水、废气、固体废物排放中造成环境污染事故的单位和个人，由省、自治区、直辖市的环境保护部门，按照国家环境保护法规的有关规定执行处罚。

第三十二条 当事人对卫生、环境保护部门给予的行政处罚不服的，在接到通知书之日起15日内，可以向决定处罚的行政部门的上一级行政部门申请复议，但对放射防护控制措施的决定，应当立即执行。

对复议结果不服的，在收到复议书之日起15日内，可以向人民法院起诉；对行政处罚不履行又逾期不起诉的，由决定处罚的行政部门申请人民法院强制执行。

第三十三条 由于违反本条例而发生放射事故尚未造成严重后果的，可以由公安机关按照《治安管理处罚条例》予以处罚，对造成严重后果，构成犯罪的，由司法机关依法追究刑事责任。

利用放射性同位素或者射线装置进行破坏活动或者有意伤害他人，构成犯罪的，由司法机关依法追究刑事责任。

第七章 附 则

第三十四条 本条例中下列用语的含义：

放射性同位素——指不包括作为核燃料、核原料、核材料的其他放射性物质。

射线装置——指X线机、加速器及中子发生器。

伴有产生X线的电器产品——指不以产生X线为目的，但在生产或使用过程中产生X线的电器产品。

第三十五条 国务院卫生行政部门会同环境保护、公安部门根据本条例制定实施细则。

第三十六条 本条例由国务院卫生行政部门会同环境保护、公安部门负责解释。

第三十七条 本条例自发布之日起施行。1979年2月24日卫生部、公安部、国家科委发布的《放射性同位素工作卫生防护管理办法》同时废止。

Regulations, and impose an order to make improvements within a prescribed time, to suspend work or business operation for rectification, or impose a fine and confiscate the unlawful income, or go so far as to, jointly with public security department, applying administrative sanction of revoking the Authorized Registration.

Any organization or persons responsible for any accident of environmental contamination during release of effluents of radioactive liquid, gaseous or solid wastes, shall be punished by the environmental protection department of respective province or autonomous region or municipality in accordance with the relevant provisions of the State regulations for environmental protection.

Article 32 Any party who refuses to accept the administrative sanction imposed by the departments of public health or environmental protection may, within fifteen days of receiving the notice thereof, apply to the administration department at the level next higher than that of the penalty-issuing administration department for reconsideration; but the party concerned shall forthwith carry out the decisions on controlling measures for radiation protection. Any party who refuses to accept the reconsideration decision may, within fifteen days of receiving the notice of the reconsideration decision, bring a lawsuit before a court of law. If a party neither serves the punishment nor brings a lawsuit before a court of law within the prescribed time, the administration department that has made the decision on punishment may apply to a court for compulsory execution.

Article 33 Any person who, in violation of the present Regulations, gives rise to an radiation accident without serious consequences, shall be punished by the public security department in accordance with the Regulations for Management of Public Order and Penalty. If the consequences of the accident are serious enough to constitute a crime, the responsible person shall be prosecuted for his/her criminal responsibility by judicial organs in accordance with law. Any person who engages in sabotage or intentionally injures other people by means of radioisotopes or radiation-emitting facilities, thereby constituting a crime, shall be prosecuted for his/her criminal responsibility by judicial organs in accordance with law.

Chapter Ⅶ Supplementary Provisions

Article 34 The following terms used in the present Regulations have the meanings hereby assigned to them.

"Radioisotopes" means any radioactive substance except such used as nuclear fuel, nuclear raw material or nuclear material.

"Radiation-emitting facilities" means X-ray equipment, accelerators and neutron generators.

"Electric devices generating concomitant X-rays" means such devices that do not serve the purpose of generating X-rays, but do generate X-rays in the course of manufacture or use.

Article 35 The public health administration department under the State Council shall, jointly with environmental protection department and public security department, formulate the implementing rules for the of the present Regulations.

Article 36 The public health administration department under the State Council jointly with environmental protection department and public security department shall be responsible for interpreting the present Regulations.

Article 37 The present Regulations shall go into effect on the day of issuance. The Provisions for Hygienic Protection in Work with Radioisotopes promulgated by Ministry of Public Health, Ministry of Public Security and State Scientific and Technological Commission on February 24, 1979, shall be invalidated as of the day the present Regulations come into force.

放射环境管理办法

国家环境保护局令

第3号

《放射环境管理办法》已于1990年5月28日经国家环境保护局局务会议讨论通过，现予发布施行。

国家环境保护局局长　曲格平

1990年6月22日

第一条　为了加强对核设施、放射性同位素应用和伴生放射性矿物资源利用项目（以下简称为伴有辐射项目）的监督管理，保护环境，保障公众健康，依据《中华人民共和国环境保护法》、《放射性同位素与射线装置放射防护条例》等有关法规，制定本办法。

第二条　本办法适用于在中华人民共和国领域及其管辖区域内一切伴有辐射项目的建设单位、营运单位和个人。

第三条　放射环境管理实行国家和省、自治区、直辖市（下称省级）两级管理。

国家环境保护局对全国的放射环境保护工作实施统一监督管理。

省级人民政府环境保护行政主管部门对本辖区的放射环境保护工作实施统一监督管理，并根据本地区的实际情况加强放射环境管理队伍建设和组织落实。

第四条　国家环境保护局负责拟定放射环境管理的政策和法规，制定放射环境标准并监督实施；负责核设施环境影响报告书的审批和指导省级环境保护行政主管部门的放射环境管理工作。

放射环境管理的具体任务由省级环境保护行政主管部门负责实施，主要是：

（一）对伴有辐射项目的环境影响报告书（表）（核设施除外）进行审批；

（二）对伴有辐射项目的防治污染设施进行监督和检查验收，审查发放排污许可证；

（三）对伴有辐射项目运行时的环境影响实行监测与监督；

（四）核事故的应急响应工作；

（五）对放射性污染物的排放实行收费；

（六）对城市放射性废物实行集中管理；

（七）调解因放射性污染引起的民事纠纷；

（八）会同宣传教育部门负责组织放射环境管理的宣传、专业培训和考核。

Measures on the Management of Radiation Environment

Decree of the National Environmental Protection Agency

No. 3

Measures on the Management of Radiation Environment was adopted at the executive session of the National Environmental Protection Agency on May 28, 1990 and is hereby promulgated for implementation.

Administrator Qu geping

National Environmental Protection Agency

June 22, 1990

Article 1 The Measures are enacted in accordance with "Environmental Protection law of the People's Republic of China" and "Regulations on Radiation Protection For Radioisotopes and Radiation-Emitting Facilities", in order to strengthen the supervision and regulation for nuclear facilities, radioisotopes application, and the projects associated with radioactive mineral resources application (hereinafter referred to as the projects associated with radiation), to protect environment and the public health.

Article 2 The Measures are applicable to all the construction organizations, operational organizations and persons involved the projects associated with radiation within the territory of the People's Republic of China and the regions under its jurisdiction.

Article 3 The radiation environment management is implemented at two levels, the State level and the level of province, autonomous region or municipality directly under the Central Government (hereinafter referred to as the provincial level).

The National Environmental Protection Agency (NEPA) implements the unified supervision and management of nationwide radiation environmental protection activities.

The environmental protection departments of the people's governments at the provincial level implement the unified supervision and management of radiation environmental protection activities in the respective regions under their jurisdiction, and enhance the establishment of management teams and the organizations for radiation environment management based on the practical situations of their own areas.

Article 4 The NEPA is responsible for making policies, regulations and standards for radiation environment management and supervising the implementation; The NEPA is responsible for reviewing and approving the environmental impact assessment reports of nuclear installations, and providing guidance to the environmental protection departments at the provincial level on the activities of radiation environment management.

The specific tasks of radiation environment management are implemented by the environmental protection departments at the provincial level, mainly including:

1. Reviewing and approving the environmental impact assessment report (form) of the project associated with radiation (the nuclear installations excluded);
2. Supervising, examining and accepting the facilities for the prevention and control of pollution of the projects associated with radiation; reviewing and issuing the permit of pollutant discharge;
3. Monitoring and supervising the environmental impact during operation of the project associated with radiation;
4. Conducting the emergency response activities against a nuclear accident;
5. Collecting fees for discharging radioactive pollutant;
6. Implementing the integrated management of waste discharged in pollutants cities;
7. Mediating the civil disputes caused by radioactive contamination; and
8. Taking responsibility for organizing public information, professional training and qualification

第五条 新建、改建、扩建和退役的伴有辐射项目必须执行环境影响报告书（表）审批制度。

第六条 核设施的环境影响报告书，由国家环境保护局审批。环境影响报告书送审时应同时抄送核设施所在地的省级环境保护行政主管部门。

第七条 放射性同位素应用和伴生放射性矿物资源利用项目的环境影响报告书（表），由省级环境保护行政主管部门审批。环境影响报告书（表）送审时应同时抄送所在地的市、县环境保护行政主管部门。

第八条 在本办法公布之前，已经营运但未经环境影响报告书（表）审批的伴有辐射项目（包括已转产、退役的），必须在规定的期限内补报环境影响现状报告书（表）。

第九条 环境影响报告书（表）的审批按国家有关规定收费。

第十条 一切伴有辐射项目的环境保护设施，必须与主体工程同时设计，同时施工，同时投产使用。放射性废物处置设施可以迟后建设，但应当实行预留款制度。

第十一条 伴有辐射项目的环境保护设施的竣工验收，必须有放射环境管理的专业人员参加，经验收合格后，由原审批环境影响报告书（表）的环境保护行政主管部门发给合格证。

第十二条 省级环境保护行政主管部门必须对辖区内一切伴有辐射项目的环境影响状况进行监督性监测和常规管理。

第十三条 一切伴有辐射项目的营运单位必须加强对放射性气体、液体和固体污染物的防治，减少产生量，向环境排放放射性气体和液体必须严格遵守国家有关排放规定。

第十四条 核设施产生的中、低水平放射性废物，其最终处置必须送永久处置场所处置，在设施内暂存期间必须加强管理，确保暂存的废物可以安全回取。

第十五条 放射性同位素应用中产生的固体废物和废放射源，必须定期送所在地省级环境保护行政主管部门指定的城市放射性废物库贮存。城市放射性废物库的运行须经国家环境保护局批准，并接受其监督。

第十六条 伴生放射性矿物资源利用项目产生的废渣及副产品的使用，必须符合《建筑材料用工业废渣放射性物质限制标准（BG 6763—86）》，超过标准的不得批准用作建筑材料。大量的放射性废渣应建坝贮存或送至核工业部门的尾矿坝贮存，小量的放射性废渣应送所在省的城市放射性废物库贮存。

第十七条 放射性污染物件、材料的回收利用，必须经严格的去污处理，达到防护要求并须经所在地及接受地省级环境保护行政主管部门批准。

examination on radiation environment management together with publicity and education departments.

Article 5 Any newly constructed, reconstructed, expanded or decommissioned project associated with radiation shall implement review and approval system of environmental impact assessment report(form).

Article 6 The environmental impact assessment reports of nuclear installations shall be reviewed and approved by the NEPA. A copy of the environmental impact assessment report shall be submitted simultaneously to the environmental protection departments at the provincial level where the nuclear installation is located.

Article 7 The environmental impact assessment report (form) for radioisotopes application, and the projects associated with radioactive mineral resources application shall be reviewed and approved by the environmental protection departments at the provincial level. A copy of the report (form) shall be submitted simultaneously to the environmental protection departments at the city or county level where the applicant is located.

Article 8 Those projects associated with radiation which were already under operation (including those that have changed its mature production or already decommissioned) before the issuance of the Measures, but have not submitted their environmental impact reports (forms) for review and approval, shall submit the report (form) within a specified time limit.

Article 9 The review and approval of environmental impact assessment report (form) are charged according to the relevant stipulations of the State.

Article 10 All the environmental protecting facilities of projects associated with radiation shall be designed, constructed, and put into operation simultaneously with the principal part of the engineering project. The radwaste disposal facilities may be constructed at later time, but the funding should be arranged in advance.

Article 11 The checking and acceptance of the completion of environmental protection facilities for projects associated with radiation shall include professional staff from radiation environment management. When the project is accepted, the certificate of compliance shall be issued by the original environmental protection department that has reviewed and approved the environmental impact assessment report (form).

Article 12 The environmental protection departments at the provincial level shall conduct supervisory monitoring and regular management of the environmental impacts of all the projects associated with radiation in the regions under their jurisdiction.

Article 13 All the units under operation having projects associated with radiation shall enhance prevention and control of radioactive gas, liquid and solid contaminants, and reduce their production. The relevant State provisions shall be strictly observed when the radioactive gas or liquid is discharged into the environment.

Article 14 The low and intermediate-level radwastes produced by nuclear installations shall be sent to the permanent disposal site for final disposal. Such radwastes shall be strictly managed during temporary storage in the installation and it shall be ensured that the radwastes can be retrieved safely.

Article 15 Solid radwastes and spent radiation sources produced during the application of radioisotopes shall be sent periodically to and stored in the urban radwaste repository designated by the environmental protection departments at the provincial level. The operation of the urban radwaste repositories shall be approved and supervised by the NEPA.

Article 16 The use of the residues and by-products, arising from the projects associated with radioactive mineral application, shall be in compliance with "The Limitation Standards for Radioactive Substances in the Industrial Residues Used as Building Materials (GB 6763-86)". Any material in which radioactive substance composition exceeds the limit shall not be approved as building material. The radioactive residues in large quanlity shall be stored in the specially built pond or sent to the tailing ponds of nuclear industrial units for storage. Those of small quantity shall be sent to and stored in the local urban radwaste repository.

Article 17 Before the articles and materials contaminated by radioactivity are recycled and re-

第十八条 省级环境保护行政主管部门必须做好辖区内大型核设施的事故应急准备，制定切实可行的应急响应方案。

第十九条 在发生放射性污染事故的紧急情况下，省级环境保护行政主管部门应及时组织环境监测，确定污染范围和污染程度，提出应急行动建议，会同有关部门对污染事故进行处理，并对污染清除工作进行监督。

第二十条 发生放射性污染事故的营运单位必须采取紧急救治措施，并按国务院有关规定向省级环境保护行政主管部门和所在地的环境保护行政主管部门报告。

发生重大放射性污染事故，必须立即向国家环境保护局报告。

第二十一条 对伴有辐射项目向环境排放放射性物质实行排污收费。收费工作由省级环境保护行政主管部门负责实施。排污费的征收、管理和使用按国家有关规定执行。

第二十二条 对在放射环境管理中做出显著成绩的单位和个人，环境保护行政主管部门应给予表扬和奖励。

第二十三条 对违反本办法的单位和个人，环境保护行政主管部门可以依法给予处罚。

第二十四条 本办法下列用语的含义是：

（一）放射环境管理是指为防治核设施、放射性同位素应用以及伴生放射性矿物资源利用项目污染环境所进行的环境管理。

（二）核设施是指核电厂、核供气供热厂、生产堆、动力堆、研究堆等有裂变反应堆的设施，临界装置，核聚变试验装置，从核燃料开采到后处理的核燃料循环设施，核武器生产及试验设备，放射性废物的处理和处置设施，高能加速器等。

（三）放射性同位素应用是指利用放射性物质或放射源进行生产、科研、教学和医疗等的活动。

（四）伴生放射性矿物资源是指某种矿石或矿砂资源中，除了含所需的矿用成分外，同时伴生有高于规定水平的天然放射性物质。

第二十五条 本办法由国家环境保护局负责解释。

第二十六条 本办法自发布之日起施行。

used, they shall be strictly decontaminated and reached the requirements of the radiation proof. The provincial environmental protection departments in both provinces of delivery and reception shall approve and reuse of this kind of articles and materials.

Article 18 The environmental protection departments at the provincial level shall accomplish accident emergency preparedness for the large-scale nuclear installations in the province, and formulate practicable emergency response plan.

Article 19 In case of an emergency of a radioactive contamination accident, the environmental protection department at the provincial level shall immediately organize environmental monitoring, define the area and seriousness of the contamination, put forward proposal of emergency actions, handle the contamination accident together with relevant departments, and supervise the decontamination process.

Article 20 The operating unit responsible for the radioactive contamination accident shall take immediate remedial actions, and report to the environmental protection departments at both provincial level and local level according to the relevant regulations of the State Council.

In case of a major radioactive contamination accident, the operating unit shall immediately report to NEPA.

Article 21 Any project associated with radiation shall pay discharge fee for discharging radioactive substances to the environment. The environmental protection department at the provincial level are in charge of collecting the discharging fee. The collection, management and use of discharging fee shall be carried out in accordance with the State relevant regulations.

Article 22 The environmental protection departments at provincial level should commend and award those units and persons that have made remarkable achievements in radiation environment management.

Article 23 Any units or persons violating the present Measures shall be punished by the environmental protection departments at the provincial level in accordance with the relevant law.

Article 24 The implications of the following terms used in this Measures are as follows:

1. "The radiation environment management" refers to the environmental supervision and management of preventing and controlling the environment contamination from the nuclear facilities, radioisotope application, and the projects associated with radioactive mineral resources application.

2. "Nuclear facilities" refers to those facilities with fission reactions such as nuclear power plants, nuclear heating plants, production reactors, power reactors, and research reactors; critical facilities; nuclear fusion testing facilities; nuclear fuel cycle facilities from nuclear mineral exploitation to spent fuel reprocessing; nuclear weapon production and test facilities; radwaste treatment and disposal facilities; and high energy accelerators, etc.

3. "Radioisotope application" refers to the activities of production, research and development, teaching, and medical treatment by using radioactive substances or radioactive sources.

4. "Associated radioactive mineral resources" refers to a certain kind of mineral ore or sand in which, besides the objective mineral compositions, the natural radioactive substances with radioactivity higher than the prescribed level co-exist simultaneously.

Article 25 The NEPA is responsible for the interpretation of this Measures.

Article 26 This Measures shall come into force from the date of promulgation.

城市放射性废物管理办法

（1987 年 7 月 16 日，国家环境保护局发布）

第一章　总　　则

第一条　为促进放射性同位素和辐射技术广泛地应用，加强对由此产生的放射性废物和废放射源的管理，保护环境，保障人体健康，根据《中华人民共和国环境保护法（试行）》，制定本办法。

第二条　凡产生放射性废物和废放射源的工业、农业、医疗、科研、教学及其他应用放射性同位素和辐射技术的单位，均应遵守本办法。

第三条　各省、自治区、直辖市的环境保护部门，应设置专门机构，配备专业人员，负责归口城市放射性废物的监督管理和环境监测工作。

第四条　城市放射性废物管理工作属于社会公益性事业，其所需事业经费批编时应纳入地方财政。废物库的管理人员应按国家有关规定享受相应的劳动保护和保健待遇。

第二章　放射性废物分类

第五条　含人工放射性核素、比活度大于 2×10^{4}Bq/kg（5×10^{-7}Ci/kg），或含天然放射性核素、比活度大于 7.4×10^{4}Bq/kg（2×10^{-6}Ci/kg）的污染物，应作为放射性废物看待。小于此水平的放射性污染物应妥善处置。

第六条　表面污染水平超过国家辐射防护规定限值、又不进一步去污利用的污染物，视污染的具体情况，或作放射性废物送贮，或妥善处置。

第七条　根据废物中所含核素的半衰期，将城市放射性废物分为三类：

短半衰期废物（$T_{1/2}\leqslant$60 天）；

中等半衰期废物（60 天$<T_{1/2}\leqslant$5.3 年）；

长半衰期废物（$T_{1/2}>$5.3 年）。

第八条　城市放射性废物通常可分为下列六种形式：

一、各种污染材料（金属、非金属）和劳保用品；

二、各种污染的工具设备；

三、零星低放废液的固化物；

四、试验的动物尸体或植株；

五、废放射源；

六、含放射性核素的有机闪烁液（大于 37Bq/L，1×10^{-9}Ci/L）。

Measures on the Management of Urban Radioactive Wastes

(Promulgated by the National Environment Protection Agency on July 16, 1987)

Chapter Ⅰ General Provisions

Article 1 The present Measures are enacted in accordance with "The Environmental Protection Law of the People's Republic of China", in order to promote widespread applications of radioisotopes and radiation technologies, and to strengthen management for radioactive wastes and spent radiation sources arising from these activities, to protect the environment and the public health.

Article 2 The Measures are applicable to all organizations that generate radioactive wastes and spent radiation sources in the application of radioisotopes and radiation technologies in industry, agriculture, medical treatment, scientific research, education and others.

Article 3 Every environment protection department in the province, autonomous region or municipality shall establish specific section with professional personnel, to take the responsibility of supervision and environmental monitoring over the radioactive wastes generated from nuclear technology application in the local area.

Article 4 The management of radioactive wastes generated from nuclear technology applications is socially benefit. Required expenditure shall be covered by the local financial budget. The staff in the urban radioactive waste repository should receive relevant labor protection and health subsidies according to the State relevant regulations.

Chapter Ⅱ Classification of Radioactive Wastes

Article 5 Contaminated materials containing artificial radionuclides with specific activities more than 2(104 Bq/kg (5x10-7 Ci/kg), or containing naturally occurring radionuclides with specific activities more than 7.4(104 Bq/kg (2x10-6 Ci/kg), should be controlled as radioactive wastes. Contaminated materials containing radionuclides below mentioned defined limits should be managed carefully.

Article 6 Contaminated materials without further decontamination and reuse, and with surface contamination level above the limits defined in the State Radiation Protection Regulation, may be sent for storage as radioactive wastes or disposed of accordingly, based on the case of specific contamination.

Article 7 The urban radioactive wastes are classified into three categories according to half-lives of the radionuclides contained in the wastes:

Short half-lived waste ($T_{1/2} \leqslant 60d$),

Medium half-lived waste ($60d < T_{1/2} \leqslant 5.3a$), *and*

Long half-lived waste ($T_{1/2} > 5.3$a).

Article 8 The urban radioactive wastes include six types:

1. Contaminated materials (metals and non-metals) and personal protection items;
2. Contaminated tools and equipment;
3. Solidified waste forms of miscellaneous low level radioactive liquids;
4. Animal carcasses and excreta;
5. Spent radiation sources; and
6. Organic scintillation liquids containing radionuclides more than 37 Bq/L ($1x10^{-9}C_i/L$).

第九条 设有焚烧炉的废物库，根据焚烧炉的具体特点，应要求产生放射性废物的单位将可燃废物和不可燃废物分开收集。

第三章 产生放射性废物单位的责任

第十条 产生放射性废物的单位应采取各种必要措施，尽量减少放射性废物的产生量或减小体积。

第十一条 放射性废物和废放射源在本单位暂存期间，应严格管理，有效控制，保证人员安全和环境不受污染。

第十二条 产生放射性废物的单位不得自行在环境中处置放射性废物和废放射源，必须由城市放射性废物管理单位集中收处。

第十三条 产生放射性废物的单位，应到所在省、自治区、直辖市的环境保护部门或其授权单位办理登记手续（见附表 1），按本办法对本单位的废物进行收集、包装和送贮（处）前的暂存。

第十四条 放射性废物的收集：

一、放射性废物应按第七条至第九条的要求分类收集，并装入带有分类标记的专用口袋内（容器内）；

二、严禁将放射性废物混装到一般垃圾中，也不得将一般垃圾混入放射性废物中；

三、废放射源应单独收集存放，不得混在一般放射性废物中；

四、含放射性核素的有机闪烁液，应用不锈钢或玻璃钢罐贮存；

五、产生放射性废物的单位，应设专门场所存放放射性废物，并设置电离辐射标志。

第十五条 放射性废物的包装：

一、装放射性废物的专用塑料口袋应密封，不破漏；

二、含有尖刺及棱角的放射性废物，应先装入硬纸盒或其他包装材料中，然后再放到塑料袋内；

三、每袋废物的表面剂量率应不超过 0.1msv/h（10mrem/h）每袋体积不超过 30L，重量不超过 20kg。

第十六条 放射性废物的送贮（处）：

一、废物应干燥，游离液体率不大于 1%；

二、废物性能应稳定，无挥发性、易燃、易爆等不稳定性物质，无强氧化剂、腐蚀剂等物质；

三、试验植株应脱水、干化或灰化；

四、动物尸体应固化于水泥中，或防腐、干化、灰化；

五、废放射源应放在包装容器中，损坏的密封源应重新包装，并附上有关的卡片；

六、包括体外表面的污染控制水平分别为：

$$\alpha < 0.04 q/cm^2;\ \beta < 0.4 Bq/cm^2;$$

七、暂时不用的放射源，为了安全起见，可送废物库代管，用时再取回。

第四章 放射性废物的收运

第十七条 放射性废物一般由废物库管理单位定期派专人和专用车辆到产生单

Article 9 The urban radioactive waste repository equipped with incinerator should require the waste generators to separate combustible wastes from incombustible wastes and be collected separately.

Chapter Ⅲ Responsibilities of the Waste Generator

Article 10 The waste generator shall take any necessary measures to reasonably minimize the generation amount and volume of radioactive wastes.

Article 11 During the temporary storage of radioactive waste and spent radiation sources at the waste generator's site, the waste generator should implement strict management and effective control to assure human safety and prevent contamination to the environment.

Article 12 Any waste generator can not dispose of the wastes and spent radiation sources. The radioactive wastes and spent radiation sources shall be collected and disposed by the urban radioactive waste management organization.

Article 13 The waste generator should register at the environment protection department in province, autonomous region and municipality or its authorized organizations (See Table 1 in the Attachment). Before storage or disposal of radioactive wastes in the urban radioactive waste repository, the waste generator shall collect, package, and temporary storage according to requirements of the present Rules.

Article 14 The collection of radioactive wastes

1. Radioactive wastes should be collected separately according to the requirements defined in Article 7 to 9, and put into special bags (containers) with category marks.

2. Prohibit mixing of radioactive waste with non-radioactive trash.

3. Spent radiation sources should be stored separately, and can not be mixed with other radioactive wastes.

4. Organic scintillation liquid containing radionuclides above the limits shall be stored in stainless steel container or glass steel container.

5. The waste generator should establish specific facility for storage of the radioactive wastes. The facility should be posted with ionizing radiation caution sign.

Article 15 The package of radioactive wastes

1. The special plastic bag for radioactive waste should be sealed and leak-proof.

2. Radioactive wastes with sharp ends or edges should be firstly enveloped in hard paper boxes or other materials, then placed into plastic bags.

3. The surface dose rate of each radioactive waste bag should not excess 0.1mSv/h (10mrem/h), with volume not excess 30 L and weight not excess 20 kg.

Article 16 The storage (disposal) of radioactive waste

1. The radioactive waste should be dry enough with free liquid rate less than 1%.

2. The radioactive waste should be stable, without volatile, flammable, and explosive materials, and without strong oxidant and corrosive material.

3. Excreta should be de-watered, dried or ashed.

4. Animal carcasses should be solidified with cement or be treated with anti-corrosion measurement, dried and ashed.

5. Spent radiation source should be placed into the container. Destroyed spent radiation source should be repackaged and attached relevant notes.

6. Surface contamination level of the container is controlled as follows:

$$\alpha < 0.04 q/cm^2 ; \beta < 0.4 Bq/cm^2$$

7. For the purpose of safety, radiation sources disused temporarily may be stored in the urban radioactive waste repository and retrieved when needed.

Chapter Ⅳ Collection and Transportation of Radioactive Waste for Storage

Article 17 In general, the urban radioactive waste repository has special personnel and vehicle

位去收运。特殊情况，由双方商定。

第十八条 运输放射性废物必须使用具有一定安全设施，并符合辐射防护要求的专用汽车。

第十九条 准备送贮（处）的放射性废物，应事先填好登记卡片（见附表2、3、4），卡片一式三份。收运人员根据卡片和本办法进行验收，合格后方能接收。对不合格的，有权拒绝接收。

第二十条 送贮（处）的放射性废物，一律装入200L标准容器内，废放射源应装入包装容器中。产生废物单位应协助收运人员将废物妥善装好。标准桶装满废物后，其表面剂量率应不超过0.2mSv/h（20mrem/h）。

第二十一条 专用运输汽车外表面的剂量率应低于0.2mSv/h（20mrem/h），驾驶室内的剂量率应低于0.025mSv/h（2.5mrem/h）。

第二十二条 收运人员（特别是驾驶员），应严格遵守危险品运输交通规则，确保废物运输中的安全；交通监理部门应予协助。

第二十三条 每次收运废物后，工作人员应进行体表污染检查，合格后方能离开废物库区。汽车和工具也应进行污染检查。当污染超过国家标准规定的限值时，必须进行去污。

第五章 放射性废物库的管理

第二十四条 各省、自治区、直辖市的放射性废物库，原则上只贮存本辖区范围内的城市放射性废物。对于外辖区的废物，由管理单位与产生单位协商，并报管理一方人民政府批准。

第二十五条 入库废物应逐一检查验收，登记卡片归档存放（见附表5）。卡片存放时间不应小于废物达到无害化的时间。

第二十六条 入库废物应按规定分类存放。凡在本库安全贮存期内不能衰减到小于2×10^{4}Bq/kg（5×10^{-7}Ci/kg）的废物和废放射源，只能在本库暂存，保证可回取，待将来转运到最终处置场（库）去。

第二十七条 废物贮存时应注意堆积方式。废物坑盖上方0.5m处的剂量率应不高于0.05mSv/h（5mrem/h）；在库房内堆积时，离废物堆表面一米处的剂量率应不高于0.1mSv/h（10mrem/h）；库房外壁20cm处应小于2.5μSv/h（0.25mrem/h）。

第二十八条 经监测证明，废物存放期间衰减到小于2×10^{4}Bq/kg（5×10^{-7}Ci/kg）后，上报省、自治区、直辖市环境保护部门批准，可作为一般垃圾在库区内挖掘简易埋藏坑掩埋。

to collect radioactive waste at the waste generator site regularly. In special case, both sides may negotiate and reach an agreement.

Article 18 The transportation of radioactive waste shall use specially designed vehicle with essential safety installation and in compliance with radiation protection requirements.

Article 19 Upon preparation of the radioactive wastes for storage (disposal), the waste generator shall fill registration cards (See Table 2, 3 and 4 in the Attachment), three copies for each card. The receiving persons should examine and accept the radioactive wastes according to the registration cards and the present Rules. For unqualified waste, the receiving persons have right to refuse acceptance.

Article 20 The radioactive waste for storage (disposal) shall be put into a standard 200 liter container and the spent radiation sources should be placed into a special container. The waste generator should help the receiving persons to put the radioactive wastes into containers safely and properly. Surface dose rate on the standard container filled with radioactive waste should not excess 0.2 mSv/h (20mrem/h).

Article 21 The outer surface dose rate of the vehicle for the radioactive wastes transportation should be less than 0.2 mSv/h (20mrem/h). Dose rate in the driver's cab should be less than 0.025 mSv/h (2.5mrem/h).

Article 22 The receiving persons (especially the driver) should strictly follow the traffic rule for hazardous material transportation and ensure the safety of the radioactive wastes transportation. The traffic supervision department should provide assistance.

Article 23 Surface and body contamination of the receiving persons shall be examined after each collection and transportation of radioactive wastes. The persons can not leave the radioactive waste repository until they pass the examination. The vehicle and tools used should be examined too. Decontamination shall be conducted if the contamination excesses the limits defined in the State Radiation Protection Regulation.

Chapter Ⅴ Management of the Urban Radioactive Waste Repository

Article 24 Basically, the urban radioactive waste repository in each province, autonomous region, or municipality will only accept and store the radioactive wastes generated in the region under their jurisdiction. For storage of radioactive wastes generated outside the region, it shall be determined upon mutual negotiation between the management organization of repository and the waste generator. Approval is required from the people's government on the management organization's side.

Article 25 The radioactive wastes entered into the urban radioactive waste repository should be examined and accepted piece by piece. The registration cards should be filed (See Table 5 in the Attachment) for a period longer than the radioactive wastes that come into unhazardous level.

Article 26 The radioactive wastes entered into the urban radioactive waste repository should be stored according to the categories. Those wastes and spent radiation sources which can not decay to the level less than 2(104 Bq/kg (5x10-7 Ci/kg) during the life time of the repository, can only be stored temporarily in the repository. Retrieval should be ensured for future transfer to the permanent disposal site (facility).

Article 27 The radioactive waste containers shall be properly stacked during the storage. The dose rate 0.5m above the waste pit cap should be no more than 0.05mSv/h (5mrem/h). In the storeroom, the dose rate 1m far away from the waste stacks should be no more than 0.1mSv/h (10mrem/h). The dose rate 20cm far away from the outside wall of storeroom should be less than 2.5 (Sv/h (0.25mrem/h).

Article 28 After proved by monitoring, if the radioactive wastes decay to the level less than 2 (104Bq/kg (5x10-7 Ci/kg) during the storage period, they may be buried in simple pits within the boundary of the repository site upon approval of the environmental protection department in the province, autonomous region, or municipality.

第二十九条 设有尾矿废渣坝（坑）的库区，应在坝（坑）装满后妥善掩埋，植被，并设立永久标记。

第三十条 废物库区内应合理分区并严加看管，防止发生各种危害活动。加强绿化，并统筹规划，充分利用潜力，发挥经济效益。

第六章 监督管理

第三十一条 各省、自治区、直辖市的环境保护部门，应加强对放射性废物管理工作的领导和监督，关心管理人员的工作，及时解决工作中出现的问题，并加强对产生废物单位的监督指导。

第三十二条 废物库管理人员应加强责任感，严格规章制度，加强技术培训，不断总结经验，提高管理水平。

第三十三条 废物库工作人员所受的剂量当量应低于国家标准规定的限值。应当避免一切不必要的照射，并使一切必要的照射保持在可合理达到的最低水平。

第三十四条 在环境中处置放性废物时，对公众中任一成员造成的年有效剂量当量不应超过 0.25mSv/h（25mrem）。

第三十五条 应当定期对库区内和库区周围环境进行监测，监测方法和监测介质按有关规定执行。每年对监测结果（包括个人剂量监测）评价一次，连同该库运营情况，向省、自治区、直辖市环境保护部门报告。

发生事故时，应按有关规定立即进行处理并上报。

第七章 收 费

第三十六条 送贮（处）放射性废物的单位，应按城市放射性废物管理单位的规定，一次交清废物送贮（处）费用。

第三十七条 废物送贮（处）费用由建库费用、容器费用、运输费用、服务费用、长期管理费用等组成。

第三十八条 制订收费标准时，应以废物体积、比活度、贮存期及第三十七条的因素为依据。

第三十九条 送贮（处）废物的具体收费标准，由废物库管理单位根据上述原则，结合本地区情况制定，报各省、自治区、直辖市环境保护部门批准，并报国家环境保护部门备案。

第八章 奖 惩

第四十条 对于认真遵守和执行本办法的各项规定，在放射性废物和废物库的

Article 29 The tailing sludge pounds (pits) within the repository shall be covered properly and planted when fulfilled with wastes. Permanent signs should be established.

Article 30 The area within the boundary of the repository shall be zoned properly and controlled strictly to prevent destroy and sabotage. The area shall be afforested and planed properly in order to utilize as much as possible and promote the economic effectiveness.

Chapter Ⅵ Management of Supervision and Monitoring

Article 31 The Environmental protection department in each province, autonomous region, or municipality shall enhance supervision over radioactive waste management, pay special attention to the work of the management staff in the repository, solve the problems in the work and strength supervision over and guide to the waste generators.

Article 32 The management staff of the radioactive waste repository shall strength the sense of responsibility, establish strict procedures and rules, strength technical training, summarize experiences continuously and improve management.

Article 33 The dose rate received by the staff of the radioactive waste repository shall be less than the limits defined in the national standards. Unnecessary exposure shall be prevented and all necessary exposure shall be kept in the most minimum level as low as reasonably achievable.

Article 34 The annual effective dose to the public shall not be more than 0.25mSv (25mrem) for the radioactive waste disposal in the environment.

Article 35 The environment monitoring in and around the repository shall be carried out on regular basis. The monitoring procedures and contents shall be in compliance with relevant standards and requirements. The monitoring results (including monitoring to the individual dose) shall be evaluated annually. The evaluation report and the operation report of the repository shall be reported to the environmental protection department in the province, autonomous region or municipality.

Accident shall be handled promptly and reported to the higher administrative departments according to relevant regulations.

Chapter Ⅶ Fee Collection

Article 36 The waste generator who transfers radioactive wastes to the urban radioactive waste repository should pay the expenses for transportation and storage (disposal) in a sum lump according to the rules of management organization of the repository.

Article 37 The expense of radioactive wastes storage (disposal) is consist of costs of the repository construction, containers, transportation, service and long-term maintenance.

Article 38 Formulating fee collection standards should base on volume, specific activity of the radioactive waste and storage duration, as well as the factors defined in Article 37.

Article 39 The management organization of the radioactive waste repository shall establish the detailed fee collection standards of radioactive waste storage (disposal) according to the above mentioned principles and taking consideration with the local conditions. The fee collection standards should be approved by environmental protection department in the province, autonomous region and municipality and shall be reported to the State Environment Protection Administration for file.

Chapter Ⅷ Rewards and Punishments

Article 40 The higher competent authorities and environment protection departments should give rewards to the organizations and persons, who comply conscientiously for and execute the stipulations in the present Rules, and make remarkable achievements in management of radioactive waste and the urban radioactive waste repository.

Article 41 Environment protection departments, in collaboration with relevant departments, may impose a fine, impose an order to compensate damages, or go so far as to, prosecute for his/her

管理方面作出显著成绩的单位和个人，主管部门和环境保护部门应给予奖励。

第四十一条 有下列情形之一者，环境保护部门会同有关部门，根据具体情况，可给予罚款、责令赔偿损失，直至依法追究法律责任。

一、违反本办法的规定，在环境中乱放或自行掩埋放射性废物和废放射源，或者自行焚烧放射性废物者；

二、对放射性废物和废放射源管理不严，引起环境污染或人员损伤，造成不良社会影响者；

三、破坏放射性废物库设施，乱拿放射性废物或废放射源者；

四、不按规定交纳废物贮（处）费者；

五、违反本办法的其他行为。

第九章 附 则

第四十二条 各省、自治区、直辖市的环境保护部门，可根据本办法，结合本地区的具体情况，制定相应的管理细则。

第四十三条 本办法由国家环境保护局负责解释。

第四十四条 本办法自发布之日起实行。

criminal responsibility to any one of following cases based on specific condition of case by case.

1. Violate the stipulations in the present Rules, to place in disorder or bury radioactive waste and spent radiation sources or incinerates unjustified radioactive waste.

2. Cause environment pollution or human injury and create negative effects on the society due to careless management of radioactive waste and spent radiation sources.

3. Destroy the waste storage facility and take unjustified radioactive waste or spent radiation sources without authorization.

4. Do not pay the required expenses for storage (disposal) of radioactive wastes.

5. Other actions violating the present Measures.

Chapter Ⅸ Supplementary Provisions

Article 42 Based on the Measures and considering the specific situations, the environmental protection department in each province, autonomous region or municipality may formulate relevant detailed implementation rules.

Article 43 The National Environmental Protection Agency is responsible for the interpretation of the Measures.

Article 44 The Measures shall come into force from the date of promulgation.

电磁辐射环境保护管理办法

国家环境保护局令

第 18 号

《电磁辐射环境保护管理办法》已于 1997 年 1 月 27 日经国家环境保护局局务会议讨论通过，现予发布施行。

国家环境保护局局长　解振华

1997 年 3 月 25 日

第一章　总　　则

第一条　为加强电磁辐射环境保护工作的管理，有效地保护环境，保障公众健康，根据《中华人民共和国环境保护法》及有关规定，制定本办法。

第二条　本办法所称电磁辐射是指以电磁波形式通过空间传播的能量流，且限于非电离辐射，包括信息传递中的电磁波发射，工业、科学、医疗应用中的电磁辐射，高压送变电中产生的电磁辐射。

任何从事前款所列电磁辐射的活动，或进行伴有该电磁辐射的活动的单位和个人，都必须遵守本办法的规定。

第三条　县级以上人民政府环境保护行政主管部门对本辖区电磁辐射环境保护工作实施统一监督管理。

第四条　从事电磁辐射活动的单位主管部门负责本系统、本行业电磁辐射环境保护工作的监督管理工作。

第五条　任何单位和个人对违反本管理办法的行为有权检举和控告。

第二章　监督管理

第六条　国务院环境保护行政主管部门负责下列建设项目环境保护申报登记和环境影响报告书的审批，负责对该类项目执行环境保护设施与主体工程同时设计、同时施工、同时投产使用（以下简称“三同时”制度）的情况进行检查，并负责该类项目的竣工验收：

（一）总功率在 200 千瓦以上的电视发射塔；

（二）总功率在 1000 千瓦以上的广播台、站；

（三）跨省级行政区电磁辐射建设项目；

（四）国家规定的限额以上电磁辐射建设项目。

第七条　省、自治区、直辖市（以下简称“省级”）环境保护行政主管部门负责除第六条规定所列项目以外、豁免水平以上的电磁辐射建设项目和设备的环境保护申报登记和环境影响报告书的审批；负责对该类项目和设备执行环境保护设施“三同时”制度的情况进行检查并负责竣工验收；参与辖区内由国务院环境保护行政主

Measures on the Management of Electromagnetic Radiation Environmental Protection

Decree of the National Environmental Protection Agency

No. 18

Measures on the Management of Electromagnetic Radiation Environmental Protection was adopted at the executive session of the National Environmental Protection Agency on January 27, 1997 and is hereby promulgated for implementation.

Administrotor Xie Zhenhua

National Environmental Protection Agency

March 25, 1997

Chapter Ⅰ General Provisions

Article 1 The Measures are enacted in accordance with "The Environmental Protection law of the People's Republic of China", in order to strengthen the environmental protection on electromagnetic radiation, to protect environment and the public health.

Article 2 The Electromagnetic Radiation (EMR) in the Measures refers to, but only limited non-ionizing radiation, the energy flow propagated in space in form of electromagnetic wave, including electromagnetic wave transmission in communication and information, electromagnetic radiation coming from application in industry, science and medical service, and electromagnetic radiation coming from electrical power transmission with high voltage.

The Measures are applicable to all organizations and persons that undertake the activities of EMR mentioned above, or conduct activities associated with EMR.

Article 3 The environmental protection departments of the people's governments above the county level implement unified supervision management for EMR environmental protection in the local area.

Article 4 The higher competent authorities of the organizations that undertake activities of EMR are responsible for supervising management of EMR environmental protection in their own industry sectors.

Article 5 Any organizations or persons have right to accuse and take lawsuit against the behavior violating the present Rules.

Chapter Ⅱ Inspection and Management

Article 6 The environmental protection administrative department of the State Council is responsible for the registration of environment protection, approval of the Environmental Impact Assessment (EIR) Report, inspection of the design, construction, operation of environmental protection facilities with the principle part of the project simultaneously (Three simulfaneifies), and acceptance of the projects as follows,

1. Television tower that total power is over 200kW.
2. Broadcast transmitter that total power is over 1000kW.
3. EMR construction projects that effects could beyond the administration in one province.
4. The larger EMR construction project that investment is over the limited quota of the State.

Article 7 The environmental protection department in province, autonomous region, or municipality (hereinafter referred to as province level) is responsible for the registration of environment pro-

管部门负责的环境影响报告书的审批、环境保护设施“三同时”制度执行情况的检查和项目竣工验收以及项目建成后对环境影响的监督检查；负责辖区内电磁辐射环境保护管理队伍的建设；负责对辖区内因电磁辐射活动造成的环境影响实施监督管理和监督性监测。

第八条 市级环境保护行政主管部门根据省级环境保护行政主管部门的委托，可承担第七条所列全部或部分任务及本辖区内电磁辐射项目和设备的监督性监测和日常监督管理。

第九条 从事电磁辐射活动的单位主管部门应督促其下属单位遵守国家环境保护规定和标准，加强对所属各单位的电磁辐射环境保护工作的领导，负责电磁辐射建设项目和设备环境影响报告书（表）的预审。

第十条 任何单位和个人在从事电磁辐射的活动时，都应当遵守并执行国家环境保护的方针政策、法规、制度和标准，接受环境保护部门对其电磁辐射环境保护工作的监督管理和检查；做好电磁辐射活动污染环境的防治工作。

第十一条 从事电磁辐射活动的单位和个人建设或者使用《电磁辐射建设项目和设备名录》（见附件）中所列的电磁辐射建设项目或者设备，必须在建设项目申请立项前或者在购置设备前，按本办法的规定，向有环境影响报告书（表）审批权的环境保护行政主管部门办理环境保护申报登记手续。

有审批权的环境保护行政主管部门受理环境保护申报登记后，应当将受理的书面意见在30日内通知从事电磁辐射活动的单位或个人，并将受理意见抄送有关主管部门和项目所在地环境保护行政主管部门。

第十二条 有审批权的环境保护行政主管部门应根据申报的电磁辐射建设项目所在地城市发展规划、电磁辐射建设项目和设备的规模及所在区域环境保护要求，对环境保护申报登记作出以下处理意见：

（一）对污染严重、工艺设备落后、资源浪费和生态破坏严重的电磁辐射建设项目与设备，禁止建设或者购置。

（二）对符合城市发展规划要求、豁免水平以上的电磁辐射建设项目，要求从事电磁辐射活动的单位或个人履行环境影响报告书审批手续。

（三）对有关工业、科学、医疗应用中的电磁辐射设备，要求从事电磁辐射活动的单位或个人履行环境影响报告表审批手续。

第十三条 省级环境保护行政主管部门根据国家有关电磁辐射防护标准的规定，负责确认电磁辐射建设项目和设备豁免水平。

第十四条 本办法施行前，已建成或在建的尚未履行环境保护申报登记手续的电磁辐射建设项目，或者已购置但尚未履行环境保护申报登记手续的电磁辐射设备，凡列入《电磁辐射建设项目和设备名录》中的，都必须补办环境保护申报登记手续。对不符合环境保护标准，污染严重的，要采取补救措施，难以补救的要依法关闭或搬迁。

tection for construction projects above the exempting level and except for those projects listed in Article 6, and responsible for approving EIA Report. The environmental protection department in province level is responsible for inspecting the implementation of "three simultaneities", and accepting the projects, and responsible for taking part in the process of EIA Report approval, inspection and acceptance of those projects that are undertaken by the environmental protection administrative department of the State Council, and responsible for inspection and examination for the environment impact after construction of those projects. The environmental protection department in province level is responsible for training local environmental manage staffs and responsible for implementing supervision and management, and conducting supervisory monitoring for local environmental impact caused by EMR activities.

Article 8 The environment protection departments in city level, under the entrust of the environment protection departments in the province level, may undertake a part of or all of the tasks listed in Article 7 and responsible for routine supervision and management, and conducting supervisory monitoring for local environmental impact of EMR projects.

Article 9 The higher competent authorities of the organizations that undertake activities of EMR should supervise and request the organizations under its leadership to comply with the environmental protection regulation and standards, should strengthen the ERM environment protection management, and should be responsible for the preliminary endorsement of the EIA Report (Form) of the ERM construction project.

Article 10 When undertake EMR activities, the organizations or persons should comply with the State environmental protection policies, law, regulation and standard, accept the inspection and management on EMR environment protection from the environment protection department, and protect the environment from pollution of EMR.

Article 11 Before constructing EMR project or using the EMR instruments listed in "The list of EMR projects and instruments" (See Appendix), the organizations and persons that undertake the EMR activities shall complete environment protection registration proceeding in the environment protection department that is responsible for approval of EIA Report (Form), based on the present Rules.

Within 30 days of receiving application and registration, the environment protection department that is responsible for approval of EIA Report (Form) should send the written comments to the organizations or persons that undertake EMR activities, and send a copy to both the higher competent authority and local environment protection department.

Article 12 Based on the development plan of the city where applied EMR project locates in, the scale of the EMR project and instruments, and the requirements of environmental protection in local area, the environment protection department that is responsible for approval of EIA Report (Form) should make decision on the application and registration as follows:

1. The EMR construction projects and instruments, which have backward process and instruments, severe environment pollution, wasteful of resources, and destroying ecology seriously, should be prohibited.

2. For those EMR projects that are above the exemption level and in accordance with the requirements of local development plan, the organization or persons should complete the approval proceeding for EIA Report.

3. For those EMR instruments that are used in industry, scientific research and medical service, the organization or persons should complete the approval proceeding for EIA Form.

Article 13 The environment protection department in province level is responsible for confirming the EMR projects and the exemption level according to the provisions in the State EMR protection standards.

Article 14 For those EMR projects or instruments listed in "The list of EMR projects and instruments", which had been built or bought before publication of the regulation, the owners shall supplement environment protection registration, if they did not apply and register in relevant environment protection departments. For those projects or instruments that could not satisfy the environment pro-

第十五条 按规定必须编制环境影响报告书（表）的，从事电磁辐射活动的单位或个人，必须对电磁辐射活动可能造成的环境影响进行评价，编制环境影响报告书（表），并按规定的程序报相应环境保护行政主管部门审批。

电磁辐射环境影响报告书分两个阶段编制。第一阶段编制《可行性阶段环境影响报告书》，必须在建设项目立项前完成。第二阶段编制《实际运行阶段环境影响报告书》，必须在环境保护设施竣工验收前完成。

工业、科学、医疗应用中的电磁辐射设备，必须在使用前完成环境影响报告表的编写。

第十六条 从事电磁辐射活动的单位主管部门应当对环境影响报告书（表）提出预审意见。有审批权的环境保护行政主管部门在收到环境影响报告书（表）和主管部门的预审意见之日起180日内，对环境影响报告书（表）提出审批意见或要求；逾期不提出审批意见或要求的，视该环境影响报告书（表）已被批准。

凡是已通过环境影响报告书（表）审批的电磁辐射设备，不得擅自改变经批准的功率。确需改变经批准的功率的，应重新编制电磁辐射环境影响报告书（表），并按规定程序报原审批部门重新审批。

第十七条 从事电磁辐射环境影响评价的单位，必须持有相应的专业评价资格证书。

第十八条 电磁辐射建设项目和设备环境影响报告书（表）确定需要配套建设的防治电磁辐射污染环境的保护设施，必须严格执行环境保护设施“三同时”制度。

第十九条 从事电磁辐射活动的单位和个人必须遵守国家有关环境保护设施竣工验收管理的规定，在电磁辐射建设项目和设备正式投入生产和使用前，向原审批环境影响报告书（表）的环境保护行政主管部门提出环境保护设施竣工验收申请，并按规定提交验收申请报告及第十五条要求的两个阶段的环境影响报告书等有关资料。验收合格的，由环境保护行政主管部门批准验收申请报告，并颁发《电磁辐射环境验收合格证》。

第二十条 从事电磁辐射活动的单位和个人必须定期检查电磁辐射设备及其环境保护设施的性能，及时发现隐患并及时采取补救措施。

在集中使用大型电磁辐射发射设施或高频设备的周围，按环境保护和城市规划要求划定的规划限制区内，不得修建居民住房和幼儿园等敏感建筑。

第二十一条 电磁辐射环境监测的主要任务是：

（一）对环境中电磁辐射水平进行监测；

（二）对污染源进行监督性监测；

（三）对环境保护设施竣工验收的各环境保护设施进行监测；

（四）为编制电磁辐射环境影响报告书（表）和编写环境质量报告书提供有关监测资料；

（五）为征收排污费或处理电磁辐射污染环境案件提供监测数据，进行其他有关电磁辐射环境保护的监测。

第二十二条 电磁辐射建设项目的发射设备必须严格按照国家无线电管理委员

tection standards and pollute environment seriously, the owners should take complementary measurement, otherwise the projects should be closed or relocated according to relevant regulations.

Article 15 For those that must formulate EIA Report (Form), the organizations or persons that undertake EMR activities shall assess the environment impact caused possibly by EMR activities, formulate the EIA Report (Form), and submit for review and approval to relevant environment protection department.

The EIA Report for EMR project should be formulated in two stages. The first stage is before approving the construction project, "The EIA Report in feasibility stage" shall be completed. The second stage is before completing and accepting the environment protection facility for EMR project, "The EIA Report in operation stage" shall be completed.

The EIA Form for EMR instruments used in industry, scientific research and medical service shall be completed before operation.

Article 16 The higher competent authority of the organizations that undertake activities of EMR should have a preliminary endorsement for the EIA Report (Form). The environment protection department that is responsible for approval of EIA Report (Form) should approve or rise request within 180 days after receiving the EIA Report (Form) and the preliminary endorsement from the higher competent authority. If no response from the environment protection department within 180 days, the EIA Report (Form) is regarded as approval.

Any EMR instruments that have get approval for EIA Report (Form) shall not change the rated power without approval. If needed, the owner should reformulate the EIA Report (Form) and submit for re-approval to the original approval department.

Article 17 Any organization that undertake environment impact assessment for EMR activities shall have the professional qualification certificate for environment assessment.

Article 18 The "Three same time rules" for environment protection facilities shall be strictly implemented if these facilities have been defined in the EIA Report (Form) of the EMR projects or instruments for protecting the environment pollution from the EMR activities.

Article 19 The organizations and persons that undertake EMR activities shall comply with the provisions of the State regulations on completion and acceptance of environment protection facilities. Before an EMR project or instrument put into operation, the owner should submit the application report of acceptance for environment protection facility to original environment protection department that has approved the EIA Report (Form) and submit the EIA Report as requested in Article 15. After accepted and satisfied, the environment protection department would approve the application report of acceptance and issue the EMR Environmental Acceptance Certificate.

Article 20 The organizations and persons that undertake EMR activities shall examine periodically the functions of EMR equipment and environment protection facilities, find in time the potential failure and take effective complementary measurements immediately.

For the purpose of environmental protection and requirement of development plan in the city, a restricted area where high power EMR equipment or high frequency equipment is used intensively may be arranged. The sensitive buildings such as resident buildings and nursery houses could not be build in the restricted area.

Article 21 The main tasks for EMR environmental monitoring are:

1. Measuring the EMR field strength level in the environment.

2. Supervisory monitoring for EMR pollution sources.

3. Inspecting the environmental protection facilities that have accepted in environment protection facilities completion.

4. Providing the measurement data for compiling the EIA report (form) and compiling environment quality report.

5. Providing the measurement data for collecting discharge fee or dealing with the incidents of EMR environment pollution.

Article 22 The transmission facilities of EMR projects shall operate within the rated power and

会批准的频率范围和额定功率运行。

工业、科学和医疗中应用的电磁辐射设备，必须满足国家及有关部门颁布的“无线电干扰限值”的要求。

第三章　污染事件处理

第二十三条　因发生事故或其他突然性事件，造成或者可能造成电磁辐射污染事故的单位，必须立即采取措施，及时通报可能受到电磁辐射污染危害的单位和居民，并向当地环境保护行政主管部门和有关部门报告，接受调查处理。

环保部门收到电磁辐射污染环境的报告后，应当进行调查，依法责令产生电磁辐射的单位采取措施，消除影响。

第二十四条　发生电磁辐射污染事件，影响公众的生产或生活质量或对公众健康造成不利影响时，环境保护部门应会同有关部门调查处理。

第四章　奖励与惩罚

第二十五条　对有下列情况之一的单位和个人，由环境保护行政主管部门给予表扬和奖励：

（一）在电磁辐射环境保护管理工作中有突出贡献的；

（二）对严格遵守本管理办法，减少电磁辐射对环境污染有突出贡献的；

（三）对研究、开发和推广电磁辐射污染防治技术有突出贡献的。

对举报严重违反本管理办法的，经查属实，给予举报者奖励。

第二十六条　对违反本办法，有下列行为之一的，由环境保护行政主管部门依照国家有关建设项目环境保护管理的规定，责令其限期改正，并处罚款：

（一）不按规定办理环境保护申报登记手续，或在申报登记时弄虚作假的；

（二）不按规定进行环境影响评价、编制环境影响报告书（表）的；

（三）拒绝环保部门现场检查或在被检查时弄虚作假的。

第二十七条　违反本办法规定擅自改变环境影响报告书（表）中所批准的电磁辐射设备的功率时，由审批环境影响报告书（表）的环境保护行政主管部门依法处以1万元以下的罚款；有违法所得的，处违法所得3倍以下的罚款，但最高不超过3万元。

第二十八条　违反本办法的规定，电磁辐射建设项目和设备的环境保护设施未建成，或者未经验收合格即投入生产使用的，由批准该建设项目环境影响报告书（表）的环境保护行政主管部门依法责令停止生产或者使用，并处罚款。

第二十九条　承担环境影响评价工作的单位，违反国家有关环境影响评价的规定或在评价工作中弄虚作假的，由核发环境影响评价证书的环境保护行政主管部门依照国家有关建设项目环境保护管理的规定，对评价单位没收评价费用或取消其评价资格，并处罚款。

the frequency range approved by the State Radio Management Board.

The EMR equipment used in industries, scientific research and medical service shall satisfy the requirements of the "radio interfere restriction level" issued by the State and relevant departments.

Chapter Ⅲ Management of Pollution Incidents

Article 23 In case of an accident or other sudden events, the responsible organization that has caused or has possibility to cause the EMR pollution accident shall immediately take protective measures and inform the public and units that have the possible pollution hazards from EMR accident. The responsible organization shall report to the local environment protection department and relevant departments, and accept the accident investigation.

After receiving the report of environment pollution by EMR, the environment protection department should implement investigation, and request the responsible organization to take measures to eliminate the effects.

Article 24 The environment protection department, in cooperation with relevant departments, should investigate and deal with the EMR pollution events if the events affect the production and life quality of the public or have adverse effects to the public health.

Chapter Ⅳ Rewards and Punishments

Article 25 The environment protection departments should give rewards to the organizations and persons in one of performances as follows:

1. Outstanding contribution to the management for EMR environmental protection.

2. Outstanding contribution to comply conscientiously for and execute the stipulations in the present Rules and reduce the EMR pollution to the environment.

3. Outstanding contribution to the EMR protection technologies in research, development and promoting utilization.

The environment protection department should have reward, after investigation, to the person who disclose serious violation activities of the present Rules.

Article 26 According to the State regulations on environment protection management for construction projects, the environment protection department may impose a fine, impose an order to make improvements within a prescribed time to any one of cases as follows:

1. Violate the stipulations in the present Rules, do not complete environment protection registration proceeding in the environment protection department or provide deception information in registration.

2. Violate the stipulations in the present Rules, do not assess the environment impact and do not formulate the environment impact assessment report (form).

3. Refuse to accept the on-site inspection of the environment protection department or provide deception information during the inspection.

Article 27 For any organization or person that violates the present Rules and changes, without approval, the rated power of the EMR facilities defined in EIA Report (Form), the environment protection department will impose a fine below RMB10,000. If the organization or person has illegal income, the fine will be below 3 times of the illegal income, however the highest fine should be no more than RMB 30,000.

Article 28 For any organization or person that violates the present Rules and puts the principle EMR project and instrument into operation without completing the construction of or without accepting of environment protection facility, the environment protection department that approved the EIA Report (Form) will impose an order of suspend production or use, and impose a fine.

Article 29 If any organization that undertakes the environment impact assessment violates the provisions of the State regulations on EIA and provides deception information, the environment protection department that issues Certificate of Environment Impact Assessment will confiscate its income of

第三十条 违反本办法规定，造成电磁辐射污染环境事故的，由省级环境保护行政主管部门处以罚款。有违法所得的，处违法所得3倍以下的罚款，但最高不超过3万元；没有违法所得的，处1万元以下的罚款。

造成环境污染危害的，必须依法对直接受到损害的单位或个人赔偿损失。

第三十一条 环境保护监督管理人员滥用职权、玩忽职守、徇私舞弊或泄漏从事电磁辐射活动的单位和个人的技术和业务秘密的，由其所在单位或上级机关给予行政处分；构成犯罪的，依法追究刑事责任。

第五章 附 则

第三十二条 电磁辐射环境影响报告书（表）的编制、审评，污染源监测和项目的环保设施竣工验收的费用，按国家有关规定执行。

第三十三条 本管理办法中豁免水平是指，国务院环境保护行政主管部门对伴有电磁辐射活动规定的免于管理的限值。

第三十四条 本管理办法自颁布之日起施行。

附件：

电磁辐射建设项目和设备名录

一、发射系统

1. 电视（调频）发射台及豁免水平以上的差转台
2. 广播（调频）发射台及豁免水平以上的干扰台
3. 豁免水平以上的无线电台
4. 雷达系统
5. 豁免水平以上的移动通信系统

二、工频强辐射系统

1. 电压在100千伏以上送、变电系统
2. 电流在100安培以上的工频设备
3. 轻轨和干线电气化铁道

三、工业、科学、医疗设备的电磁能应用

1. 介质加热设备
2. 感应加热设备
3. 豁免水平以上的电疗设备
4. 工业微波加热设备
5. 射频测射设备

建设上列电磁辐射建设项目应在建设项目立项前办理环境保护申报登记手续，使用上列电磁辐射设备应在购置设备前办理环境保护申报登记手续。

豁免水平的确认由省级环境保护行政主管部门依据《电磁辐射防护规定》GB8702—88有关标准执行。

EIA or cancel its EIA qualification, and impose a fine.

Article 30 For any organization or person that violates the present Rules and causes environment pollution accident of the EMR, the environment protection department in province level will impose a fine. If the organization or person has illegal income, the fine will be below 3 times of the illegal income, however the highest fine should be no more than RMB30,000. If no illegal income, the fine will be below RMB10,000.

The organization or persons that be responsible for the hazard of EMR environment pollution shall pay compensation for the economic loss to the victims according to provisions of relevant laws.

Article 31 If any inspection and management staff in environment protection misuses the power, derelicts in duty and not engage in self-seeking or discloses the technology or business secrets of the organizations and persons that undertake EMR activities, he/she should be impose administrative discipline by the organization where he/she serves for or the higher authority; thereby constituting a crime, shall be prosecuted for his/her criminal responsibility by judicial organs in accordance with law.

Chapter Ⅴ Supplementary Provisions

Article 32 The expenses for the compilation and review of environment impact assessment report (form), the measurement of pollution sources and acceptance of the environment protection facilities should be arranged according to the State relevant regulations.

Article 33 The exemption level in the Measures refers to the limit of exempting management for EMR activities. The environment protection administrative department in the State Council makes the exemption level.

Article 34 The Measures shall come into force from the date of promulgation.

Appendix

The List of EMR Projects and Instruments

I. Transmission system
1. Television (FM) transmitter
2. Broadcast (FM) transmitter
3. Radio station
4. Radar system
5. Mobil communication system above the exemption level

II Low frequency and strong radiation system
1. Power transmission system above 100 KV
2. Low frequency equipment with electric current above 100A
3. Electric motor rail system.

III Industrial, scientific, medical instruments
1. Media heating equipment
2. Induct heating equipment
3. Electric medical therapy equipment.
4. Industrial microwave heating equipment
5. Frequency radio equipment.

For constructing the EMR project listed above, the environment protection registration should be completed before approving the project. For using the EMR instrument listed above, the environment protection registration should be completed before purchasing the instrument.

The environment protection department in province level should confirm the exemption level according to " The Regulations on Protection for Electric Magnetic Radiation", GB8702-88.

二十三、环境执法

XXIII Environmental Enforcement

环境保护行政处罚办法

国家环境保护总局令

第7号

《环境保护行政处罚办法》已于1999年7月8日经国家环保总局局务会议通过，现予发布施行。

国家环境保护总局局长　解振华

1999年8月6日

第一章　总　　则

第一条　为了规范环境保护行政处罚行为，保障和监督环境保护行政主管部门有效实施环境管理，保护公民、法人或者其他组织的合法权益，根据《中华人民共和国行政处罚法》和有关法律、法规，制定本办法。

第二条　环境保护行政处罚的种类：

（一）警告；

（二）罚款；

（三）没收违法所得；

（四）责令停止生产或者使用；

（五）吊销许可证或者其他具有许可性质的证书；

（六）环境保护法律、法规规定的其他种类的行政处罚。

第三条　环境保护行政主管部门对环境违法行为查证属实后，应当责令当事人改正或者限期改正，并依法给予行政处罚。

第四条　环境保护行政主管部门实施行政处罚，以环境保护法律、法规和规章为依据。

第五条　实施环境保护行政处罚必须遵循公正、公开的原则，坚持处罚与教育相结合。

环境保护行政处罚实行调查取证与决定处罚分开。

第六条　对同一环境违法行为，不得给予两次以上罚款的行政处罚。

环境保护行政主管部门作出罚款处罚，实行决定罚款与收缴罚款分离。

第七条　环境保护行政主管部门在对环境违法行为实施处罚时，应当在法定的处罚种类和幅度范围内，综合考虑以下情节：

Measures on Administrative Penalty for Environmental Protection

Decree of the State Environmenatal Protection Administration

No. 7

The Measures on Environmental Protection Administrative Penalty was adopted at the executive session of the State Environmental Protection Administration on July 8, 1999 and is hereby promulgated for implementation.

Minister Xie Zhenhua

State Environmental Protection Administration

August 6, 1999

Chapter I General Provisions

Article 1 Pursuant to the Law of the People's Republic of China on Administrative Penalty and other relevant laws and regulations, these Measures are enacted for the purpose of standardizing environmental protection administrative penalties, ensuring and supervising the effective exercise of environmental management by the competent departments of environmental protection administration and protecting the lawful rights and interests of citizens, legal persons and other organizations.

Article 2 Types of environmental protection administrative penalties shall include:

(1) Disciplinary warnings;

(2) Fines;

(3) Confiscation of illegal gains;

(4) Orders for suspension of production or use;

(5) Rescission of permits or other certificates of similar character; and

(6) Other types of administrative penalties as prescribed by the environmental protection laws, regulations and rules.

Article 3 After investigation and confirmation of an act in violation of environmental law, the competent departments of environmental protection administration shall order the violator to put rectify the illegal act or do so within a specified time limit, and impose administrative penalties according to the law.

Article 4 The competent departments of environmental protection administration shall impose administrative penalties in accordance with the environmental protection laws, regulations and rules.

Article 5 Environmental administrative penalties shall be imposed according to the principles of fairness and openness, and penalties shall be combined with education.

Investigation and evidence collection shall be separated from decision-making in imposing administrative penalties.

Article 6 For the same illegal act, administrative penalties constituting fines shall not be imposed more than once.

When the competent department of environmental protection administration imposes an administrative penalty constituting a fine, the decision-making process shall be separated from the process of collecting the fine.

Article 7 When the competent department of environmental protection administration imposes penalties for violation of environmental laws and regulations, it shall comprehensively consider the following factors and make decisions based on the types and scope of penalties stipulated by the laws and

（一）当事人的过错程度；

（二）违法行为造成的危害后果；

（三）当事人改正违法行为的态度和所采取的改正措施；

（四）当事人的违法行为是初犯还是再犯。

第八条 县级以上环境保护行政主管部门的法制工作机构，统一管理本部门的环境保护行政处罚工作。

第二章 行政处罚的实施主体与管辖

第九条 县级以上环境保护行政主管部门在法定职权范围内实施环境保护行政处罚。

第十条 环境保护行政主管部门可以在其法定职权范围内委托环境监理机构实施行政处罚。受委托的环境监理机构在委托范围内，以委托其处罚的环境保护行政主管部门名义实施行政处罚。

委托处罚的环境保护行政主管部门，负责监督受委托的环境监理机构实施行政处罚的行为，并对该行为的后果承担法律责任。

第十一条 县级以上地方环境保护行政主管部门管辖本行政区域的环境保护行政处罚案件。

第十二条 下列环境保护行政处罚案件，由本条规定的环境保护行政主管部门管辖：

（一）对违反环境影响评价制度，或者需要配套建设的环境保护设施未与主体工程同时投入使用的建设项目的行政处罚，由负责审批该项目环境影响报告书（表）或者环境影响登记表的环境保护行政主管部门决定。

（二）对逾期未完成限期治理任务的企业事业单位的罚款处罚，由作出限期治理决定的人民政府所属的环境保护行政主管部门决定。

（三）对无经营许可证或者不按照经营许可证的规定从事危险废物经营活动的行政处罚，由负责发证的环境保护行政主管部门决定。

第十三条 造成跨行政区域污染的行政处罚案件的管辖，由污染行为发生地和污染结果发生地的环境保护行政主管部门协商；协商不成的，报请共同的上一级环境保护行政主管部门指定管辖。

两个以上环境保护行政主管部门都有管辖权的行政处罚案件，由最先发现或者最先接到举报的环境保护行政主管部门管辖。

第十四条 对行政处罚案件的管辖权发生争议时，争议双方应报请共同的上一级环境保护行政主管部门指定管辖。

第十五条 下级环境保护行政主管部门对其管辖范围内的行政处罚案件实施处

regulations:

(1) Seriousness of the violations:

(2) Harmful consequences caused by the illegal act(s);

(3) Attitude of the violator(s) and measures taken by the violator(s) to correct the illegal act; and

(4) Whether the violation(s) constitute(s) a first offence or recidivism.

Article 8 The legal affairs division of the competent department of environmental protection administration at or above the county level shall be responsible for the unified management of the department's administrative penalties for environmental law violations.

Chapter II Organs Imposing the Administrative Penalty and Their Jurisdiction

Article 9 The competent departments of environmental protection administration at or above the county level shall impose administrative penalties for environmental law violations within their scope of statutory functions and powers.

Article 10 A competent department of environmental protection administration may, within its scope of functions and powers prescribed by law, entrust an environmental supervision and management institution with the imposition of administrative penalties. The entrusted environmental supervision and management institution shall, within the scope of this authorization, impose administrative penalties in the name of the entrusting competent department of environmental protection administration.

The entrusting competent department of environmental protection administration shall be responsible for supervising the imposition of administrative penalties by the entrusted environmental supervision and management institution, and shall bear legal responsibility for the consequences of penalties that are imposed by the entrusted institution.

Article 11 The local competent departments of environmental protection administration at or above the county level shall have jurisdiction over cases involving administrative penalties for environmental law violations within its administrative area.

Article 12 For the following cases of administrative penalties for environmental law violations, the competent departments of environmental protection administration prescribed by this Article shall have jurisdiction:

(1) Administrative penalties imposed on a party, that develops a construction project, of which violates the environmental impact assessment system or the planned environmental protection facilities of which are not put into use simultaneously with the principal construction, shall be decided by the competent department of environmental protection administration that examines the environmental impact statement, environmental impact form, or the environmental impact registration form for the project;

(2) Fines imposed on an enterprise or institution that fails to prevent and control pollution by a specified deadline shall be decided by the competent department of environmental protection administration of the people's government that prescribes the deadline; and

(3) Administrative penalties imposed on a party that engages in the hazardous waste business without a business license or in violation of the business license shall be decided by the competent department of environmental protection administration in charge of the issuance of the license.

Article 13 Jurisdiction over an administrative penalty cases that involve transboundary administrative region pollution shall be decided, after negotiation, by the competent departments of environmental protection administration at the places where the act of pollution takes place and where the pollution incurs consequences; if a dispute arises over jurisdiction, the matter shall be reported to their common superior competent department of environmental protection administration for designation of jurisdiction.

When two or more competent departments of environmental protection administration have juris-

罚有困难的，可以报请上级环境保护行政主管部门指定管辖。

上级环境保护行政主管部门认为下级环境保护行政主管部门实施处罚确有困难或者不能独立行使处罚权的，经通知下级环境保护行政主管部门和当事人，可以对下级环境保护行政主管部门管辖范围内的案件直接实施行政处罚。

上级环境保护行政主管部门可以将其管辖范围内的案件交由下级环境保护行政主管部门直接实施行政处罚。

第十六条 环境保护法律、法规规定不属于环境保护行政主管部门管辖的案件，应当移送有管辖权的部门管辖。

第十七条 地方各级环境保护行政主管部门实施罚款处罚的权限，适用如下规定：

（一）县级人民政府环境保护行政主管部门可处以1万元以下的罚款，超过1万元的罚款，报上级环境保护行政主管部门批准。

（二）省辖市级人民政府环境保护行政主管部门可以处以5万元以下罚款，超过5万元的罚款，报上一级环境保护行政主管部门批准。

（三）省、自治区、直辖市人民政府环境保护行政主管部门可处以20万元以下罚款。

国家环保总局实施罚款处罚的权限，适用环境保护法律、行政法规的规定。

第三章 行政处罚的程序

第一节 简易程序

第十八条 环境保护行政主管部门对违法事实确凿、情节轻微并有法定依据，对公民处以50元以下、对法人或者其他组织处以1000元以下罚款或者警告的行政处罚，可以当场作出行政处罚决定。

第十九条 当场作出行政处罚决定时，环境保护执法人员不得少于两人，并应遵守下列简易程序：

（一）执法人员应向当事人出示行政执法证件；

（二）现场查清当事人的违法事实，并制作现场检查笔录；

（三）向当事人说明违法的事实、行政处罚的理由和依据；

（四）听取当事人的陈述和申辩；

（五）填写预定格式、编有号码的行政处罚决定书，由执法人员签名或者盖章，并将行政处罚决定书当场交付当事人；

（六）告知当事人如对当场作出的行政处罚决定不服，可以依法申请行政复议或者提起行政诉讼。

执法人员当场作出的行政处罚决定，必须在决定之日起3日内报本部门法制工

diction over one administrative penalty case, the competent department of environmental protection administration that discovers the environmental pollution first or receives the pollution report first shall have jurisdiction over the matter.

Article 14 If a dispute arises concerning jurisdiction over an administrative penalty case, the parties at issue shall report the matter to their common superior department of environmental protection administration for designation of jurisdiction.

Article 15 If the competent department of environmental protection administration at a low level of administrative authority has difficulty in imposing a penalty in an administrative penalty case within its jurisdiction, it may report the matter to the competent department of environmental protection administration at a higher level for designation of jurisdiction.

If the competent department of environmental protection administration at the higher level believes that the competent department of environmental protection administration at the lower level has difficulty in imposing a penalty or is incapable of imposing a penalty independently, it may inform the competent department of environmental protection administration at the lower level and the party concerned of this determination and directly impose on the party in question an administrative penalty within the jurisdiction of the competent department of environmental protection administration at the lower level.

The competent department of environmental protection administration at the higher level may transfer a case under its jurisdiction to the competent department of environmental protection administrative at the lower level for direct imposition of administrative penalty.

Article 16 Cases that are not under the jurisdiction of the competent departments of environmental protection administration as prescribed by the environmental protection laws and regulations shall be transferred to the department that has proper jurisdiction.

Article 17 The authority of local competent departments of environmental protection administration to impose fines shall be limited pursuant to these provisions:

(1) The competent department of environmental protection administration of the people's government at the county level may impose fines not exceeding 10,000 Yuan; fines over 10,000 Yuan shall be reported to the competent department of environmental protection administration at the higher level for approval.

(2) The competent department of environmental protection administration at the municipality under the provincial government may impose fines not exceeding 50,000 Yuan; fines over 50,000 Yuan shall be reported to the competent department of environmental protection administration at the higher level for approval.

(3) The competent department of environmental protection administration at the provincial and autonomous region levels, and the level of municipalities directly under the Central Government, may impose fines not exceeding 200,000 Yuan.

The authority of State Environmental Protection Administration to impose fines is described under relevant environmental protection laws and regulations.

Chapter III Procedures for Imposition of Administrative Penalties

Section I Summary Procedures

Article 18 Where the facts about a violation of law are well-attested, where the violation is deemed minor, where there is a legal basis for finding the violation, and where the citizen involved is to be fined not more than 50 Yuan or the legal person or other organizations involved is to be fined not more than 1,000 Yuan or where a disciplinary warning is to be given, such administrative penalties may be decided on-the-spot by the competent department of environmental protection administration.

Article 19 When a decision to impose an administrative penalty is made on-the-spot, the presiding environment protection law-enforcement officers shall not be less than two, and they shall observe the following summary procedures:

作机构备案。

第二节　一般程序

第二十条　除本办法第十八条规定可以适用简易程序当场作出决定的行政处罚外，环境保护行政主管部门实施的其他行政处罚均应遵守本办法规定的一般程序。

第二十一条　环境保护行政主管部门对通过检查发现或者接到举报、控告、移送的环境违法行为，应予审查，并在7日内决定是否立案。

第二十二条　环境保护行政主管部门对登记立案的环境违法行为，必须指定专人负责，及时组织调查取证。

执法人员调查取证时，应当向当事人或者有关人员出示行政执法证件。询问或者调查应当制作笔录。

第二十三条　环境保护执法人员在调查过程中，有权进入现场进行调查和取证，查阅或者复制排污单位的排污记录和其他有关资料。

环境保护行政主管部门及其执法人员应当为被调查单位或者个人保守有关技术秘密和业务秘密。

第二十四条　环境保护行政主管部门对立案查处的环境违法行为，需要进行环境监测的，应当组织环境监测机构或者经环境保护行政主管部门确认的其他监测机构进行监测。环境监测机构和经确认的其他监测机构，应当出具环境监测结果报告。

环境监测结果报告经环境保护行政主管部门审查属实，可以作为查处环境违法行为的证据。

第二十五条　调查终结，环境保护行政主管部门组织调查的机构应当提出已查明违法行为的事实和证据以及依法给予行政处罚的初步意见，送本部门法制工作机构审查。

第二十六条　环境保护行政主管部门法制工作机构应对案件的以下内容进行审查：

（一）违法事实是否清楚；

（二）证据是否确凿；

（三）调查取证是否符合法定程序；

（四）适用法律是否正确；

（五）处罚种类和幅度是否适当；

（六）当事人陈述和申辩的理由是否成立。

经审查发现违法事实不清、证据不足或者调查取证不符合法定程序时，应当通知执行调查任务的执法人员补充调查取证或者依法重新调查取证。

审查终结，法制工作机构应当提出处理意见，报本部门负责人审批。

(1) The officers shall show the party concerned their law enforcement identification certificates;

(2) The officers shall ascertain the facts associated with the violation on-the-spot and make a written record of the on-the-spot inspection;

(3) The officers shall explain to the party concerned the facts of violation, the grounds and basis according to which the administrative penalty(ies) is/are to be decided;

(4) The officers shall listen to the party's(ies)' statement and defense;

(5) The officers shall fill out an established and serial-numbered form of decision for administrative penalties to be signed or stamped by the officers. The form of decision for administrative penalties shall be given to the party concerned on-the-spot; and

(6) The officers shall notify the party that if he refuses to accept the decision of administrative penalties completed on-the-spot, he may apply for administrative review or bring an administrative lawsuit in accordance with the law.

The decision on administrative penalties made by the law enforcement officers on-the-spot shall be submitted to the legal affairs division of their department for record within three days after making the decision.

Section Ⅱ Standard Procedures

Article 20 Except for administrative penalties which may be imposed on-the-spot as provided in Article 18 of these Measures, the competent department of environmental protection administration shall follow standard procedures provided in these Measures in imposing other administrative penalties.

Article 21 When the competent department of environmental protection administration discovers through inspection or receives a report about or accusation concerning a violation of environmental law or receives a transferred case, it shall examine the case and decide within seven days whether to place it on file.

Article 22 The competent department of environmental protection administration shall appoint persons to be specially in charge of the registered violation of environmental law and promptly organize investigation and evidence collection in regard thereto.

In investigation and evidence collection, the law enforcement officers shall show their identification certificates to the party or persons concerned. Written record shall be made of the inquiry or investigation.

Article 23 During the investigation, the law-enforcement officers are authorized to enter the site to investigate and collect evidence, and inspect or copy as necessary the pollutant discharge record and other relevant materials of the pollutant discharging unit.

The competent department of environmental protection administration and its law enforcement officers shall keep confidential the technical and business secrets of the unit or individual being inspected.

Article 24 When it is necessary to monitor a violation of environmental law already on file, the competent department of environmental protection administration shall appoint an environmental monitoring institution or other monitoring institution certified by the department to conduct environmental monitoring. The environmental monitoring institution and other certified monitoring institutions shall provide a report on the outcome of the environmental monitoring.

The report on the outcome of the environmental monitoring examined and verified by the competent department of environmental protection administration may be used as evidence for punishing a violation of environmental law.

Article 25 After the investigation is concluded, the investigation group appointed by the competent department of environmental protection administration shall provide verified facts and evidence concerning the environmental law violation, prepare an initial proposal for imposition of administrative penalties, and refer this information to the legal affairs division of its own department for examination.

Article 26 The legal affairs division of the competent department of environmental protection administration shall examine the following aspects of a case:

(1) whether the facts concerning the violation are clear;

(2) whether the evidence is irrefutable;

第二十七条 环境保护行政主管部门的负责人经过审议，分别作出如下处理：

（一）违法事实不能成立或者违法行为轻微，依法可以不予行政处罚的，不予行政处罚。

（二）违法事实成立，决定给予行政处罚的，由本部门法定代表人签发《环境保护行政处罚决定书》，对其中重大环境违法行为给予处罚或者给予较重行政处罚的，本部门的负责人应当集体讨论决定。

（三）法律、法规和规章规定行政处罚必须报请上级环境保护行政主管部门批准时，应以书面形式报告，经批准后方可作出处罚决定。

（四）法律、法规和规章规定由人民政府实施处罚的，应在提出处罚意见后，连同全部案件材料报人民政府决定是否实施行政处罚。

（五）环境违法行为触犯刑法，涉嫌构成犯罪的，将案件移送司法机关，依法追究刑事责任。

第二十八条 环境保护行政主管部门依法作出行政处罚决定后，由法制工作机构负责制作行政处罚决定书。

第二十九条 环境保护行政处罚决定书，应当载明法律规定的事项。

环境保护行政主管部门就罚款制作的行政处罚决定书，应当载明当事人应当缴纳的罚款数额、期限及缴纳方法，并应明确对当事人逾期缴纳罚款是否加处罚款。

第三十条 环境保护行政处罚案件自立案之日起，应当在3个月内作出处理决定。特殊情况需要延长时间的，环境保护行政主管部门应当书面告知案件当事人，并说明理由。

第三十一条 作出行政处罚决定的环境保护行政主管部门应在作出处罚决定之日起的7日内，将行政处罚决定书送达被处罚人，并根据需要将副本抄送与案件有关的单位。

受送达人应在送达回执上记明收到日期，并签名或者盖章。受送达人在送达回执上的签收日期即送达日期。

受送达人拒绝签收的，送达人应当邀请有关人员到场见证，说明情况，并在送达回执上记明拒收理由和日期，把处罚决定书留置受送达人处，即视为送达。受送达人不在，可由其所在单位的领导或者成年家属代为签收。

邮寄送达以挂号回执上注明的日期为送达日期。

(3) whether the investigation and evidence collection conformed with legal procedures;

(4) whether the application of the law is correct:

(5) whether the type and scope of the penalty are proper; and

(6) whether the relevant party's statement or defense is tenable.

When, after examination, it is determined that the facts associated with the violation are unclear, the evidence inadequate, or that the investigation or evidence collection does not conform to legal procedures, the law enforcement officers carrying out the investigation shall be requested to conduct additional investigation and evidence collection, or conduct the investigation and evidence collection anew, according to the law.

When the examination is concluded, the legal affairs division shall issue recommendations on the imposition of administrative penalties and submit these to the head of the competent department of environmental protection administration for examination and approval.

Article 27 After examination, the head of the competent department of environmental protection administration shall make the following decisions in light of the particular circumstances of the case:

(1) No administrative penalties will be imposed where the facts regarding an illegal act are not established or the violation is minor and can be exempted from administrative penalties according to the law;

(2) A Decision on Environmental Administrative Penalties shall be executed by the legal representative of the department where the facts regarding an illegal act are established and imposition of administrative penalties is decided. Before imposing a heavier penalty for an environmental law violation of a grave nature, the leading-members of the department shall make a collective-decision on the issue through discussion;

(3) Where the laws, regulations and administrative rules stipulate that the administrative penalty shall be reported to the competent department of environmental protection administration at the higher level for approval, the competent department of environmental protection administration at the lower level shall submit a report in written form and a decision on penalty can be made only after the report is approved by the higher-level administrative authority;

(4) Where the laws, regulations and administrative rules stipulate that administrative penalties shall be imposed by the people's government, recommendations on penalties shall be submitted to the people's government with all the files of the case to assist in a decision on whether to impose administrative penalties; and

(5) Where the environmental illegal act is suspected of constituting a crime and may violate the Criminal Law, the case shall be transferred to the judicial organs for investigation of criminal liability according to the law.

Article 28 When the competent department of environmental protection administration makes a decision on administrative penalties, the legal affairs division shall prepare the decision for administrative penalties in written form.

Article 29 The form of decision for environmental administrative penalties shall clearly record the particulars stipulated by law.

The instrument of decision for administrative penalties constituting fines made by the competent department of environmental protection administration shall clearly state the amount of the fine(s) imposed on the party concerned, the time limit and methods to pay the fine(s), and shall make clear whether an additional fine for belated payment of the fine(s) will be added if the party fails to pay the fine within the specified time limit.

Article 30 An environmental administrative penalty case shall be concluded within three months from the time the case is entered into the official file. Under special circumstances, when it is necessary to extend this time limit, the competent department of environmental protection administration shall notify the party concerned in written form and explain the reasons.

Article 31 The competent department of environmental protection administration that makes the decision on administrative penalties shall, within seven days of making the decision, serve the instrument of decision on the punished person and send copies to units related to the case ,as necessary.

第三节　听证程序

第三十二条　依照环境保护法律、法规、规章作出责令停止生产或者使用、吊销许可证或者较大数额罚款等重大行政处罚决定之前，应当适用本节规定的听证程序。

第三十三条　环境保护行政主管部门对于适用听证程序的行政处罚案件，在作出行政处罚决定前应当向当事人送达听证告知书。

听证告知书应当载明下列事项：

（一）当事人的姓名或者名称；

（二）已查明的环境违法事实、处罚理由和依据；

（三）环境保护行政主管部门拟作出的行政处罚决定；

（四）告知当事人有申请听证的权利；

（五）告知申请听证的期限和听证组织机关。

听证告知书可以直接送达、委托送达或者以邮寄挂号信方式送达。

第三十四条　当事人要求听证的，可以在听证告知书的送达回执上注明听证要求，或者在3日内以书面形式提出听证申请。

第三十五条　当事人申请听证的，环境保护行政主管部门应当受理，并在收到当事人听证申请的5日内，确定主持人，决定听证的时间和地点。在听证举行的7日前，将听证通知书送达当事人，并由当事人在送达回执上签字。

听证通知书应当载明下列事项：

（一）当事人的姓名或者名称；

（二）举行听证的时间、地点和方式；

（三）听证主持人、案件调查人员的姓名；

（四）告知当事人有权申请听证主持人回避；

（五）告知当事人预先准备证据、通知证人等事项。

第三十六条　听证主持人由环境保护行政主管部门的法制工作机构的非本案调查人员担任。

当事人有权申请听证主持人回避，并说明理由。其回避申请由主持人报本部门负责人决定是否接受，并告知理由。

当事人申请听证主持人回避，应当在收到听证通知书之日起3日内提出。

第三十七条　听证由当事人、调查人员、证人以及与本案处理结果有直接利害关系的第三人参加。

当事人可以委托1至2人代理参加听证。听证代理人应当向组织听证的环境保护行政主管部门提交委托人的授权委托书。

第三十八条　听证应当按下列程序进行：

（一）主持人宣布听证会场纪律，告知当事人的权利和义务，询问并核实听证参加人的身份，宣布听证开始；

The recipient of the decision shall acknowledge receipt of the instrument indicating the date of receipt and his name or stamp on the receipt. Date of receipt recorded by the recipient on the paper is the date of service.

Where the recipient refuses to sign or accept the instrument, the deliverer shall invite relevant persons to serve as witnesses, explain the matter and record the reason and date of refusal of receipt on the instrument and leave the instrument of decision of penalty at the place of the recipient, and the decision of penalty is thereby deemed served. When the recipient is not present, a leader of his unit or an adult member of his family may sign and accept the instrument on his behalf.

When a decision is served through mail, the date recorded on the returned receipt of the registered letter is deemed the date of service.

Section Ⅲ Hearing Procedure

Article 32 Prior to the decision on an administrative penalty that involves suspension of production or use, rescission of business license, or the imposition of a "relatively large fine," the hearing procedure prescribed in this Section shall apply.

Article 33 Before making a decision on an administrative penalty case to which a hearing procedure applies, the competent department of environmental protection administration shall serve a notification of hearing to the party concerned.

The notification of hearing shall make clear the following particulars:

(1) Name or appellation of the party concerned;

(2) Facts of the environmental violation ascertained, and the grounds and bases of penalty(ies);

(3) The possible penalty decision by the competent department of environmental protection administration;

(4) Notification of the party concerned of the right to request a hearing; and

(5) Notification of the party concerned of the time limit during which such a request may be made and the name of the organ that arranges the hearing.

The notification of hearing may be served directly, entrusted to other organs for service, or served through a registered letter.

Article 34 If the party concerned requests a hearing, he may clearly state his request on the receipt, or put forward his request of hearing in written form within three days.

Article 35 When the party requests a hearing, the competent department of environmental protection administration shall accept the request, decide on the invidivual presiding over the hearing, and the time and place of the hearing within five days of receiving the request. The notification of hearing shall be served to the party concerned seven days prior to the hearing, and the party concerned shall sign the receipt.

The notification of hearing shall make clear the following particulars:

(1) Name or appellation of the party concerned;

(2) Time, place and form of the hearing;

(3) Names of those presiding over and the investigator of the case;

(4) Notification of the party concerned of the right to apply for recusal of the individual presiding over the hearing; and

(5) Notification of the party concerned to prepare evidence and inform witnesses in advance of the hearing.

Article 36 The individual presiding over the hearing shall be a member of the legal affairs division of the competent department of environmental protection administration, and he shall not be the investigator of the case.

The party concerned has the right to apply for recusal of the individual presiding over the hearing and shall state his reasons therefor. The application for recusal shall be reported to the head of the department by the individual to preside over the hearing, and the head of the department shall decide on whether to accept the application for recusal and let the party concerned know the reasons therefor.

The application for recusal of the individual presiding over the hearing shall be put forward within

（二）听证笔录人员宣布听证案件的案由、听证主持人的姓名和工作单位及职务；

（三）调查人员提出当事人违法的事实、证据、处罚依据以及行政处罚建议；

（四）当事人就案件的事实进行陈述和申辩，提出有关证据，对调查人员提出的证据进行质证；

（五）调查人员和当事人双方辩论；

（六）听取当事人的最后陈述；

（七）主持人宣布听证结束。

在听证过程中，主持人可以向调查人员、当事人、证人或者第三人发问，有关人员应当如实回答。

第三十九条 组织听证的环境保护行政主管部门，对听证必须安排笔录。

听证结束后，听证笔录应交当事人审核无误后签字或者盖章。

第四十条 听证终结后，主持人应及时将听证结果报告本部门负责人。环境保护行政主管部门应根据本办法第二十七条的规定作出处理决定。

第四章 行政处罚的执行

第四十一条 环境保护行政处罚决定依法作出后，当事人应当在处罚决定书确定的期限内，履行处罚决定。

申请行政复议或者提起行政诉讼的，不停止行政处罚决定的执行。

第四十二条 当事人逾期不申请行政复议、不提起行政诉讼、又不履行处罚决定的，由作出处罚决定的环境保护行政主管部门申请人民法院强制执行。

第四十三条 当事人到期不缴纳罚款的，作出处罚决定的环境保护行政主管部门可以依照《中华人民共和国行政处罚法》第五十一条的规定，对当事人每日按罚款数额的3%加处罚款。

当事人对加收罚款有异议的，应当先缴纳罚款和因逾期缴纳罚款所加收的罚款，再依法申请行政复议。

第四十四条 执行终了的行政处罚案件应当一案一档，由案件承办人员将案件的有关材料立卷归档。

第四十五条 县级以上环境保护行政主管部门应当建立行政处罚的备案制度。

下级环境保护行政主管部门对上级指定办理的处罚案件、适用听证程序的处罚案件或者经过行政诉讼的处罚案件，应当在行政处罚结案后二十日内向上级环境保护行政主管部门备案。

第四十六条 环境保护行政主管部门通过接受当事人的申诉和检举，或者通过备案审查等途径，发现下级环境保护行政主管部门作出的行政处罚违法或者显失公正的，可以责令改正。

第四十七条 环境保护行政主管部门经过行政复议，发现下级环境保护行政主管部门作出的行政处罚违法或者显失公正的，可以依法撤销或者变更。

three days of receiving the notification of hearing.

Article 37 The hearing will be attended by the party concerned, the investigator, the witness and a third person directly related to the outcome of the case in interests.

The party concerned shall have the right to appoint no more than two agents to represent him at the hearing. The agent(s) at the hearing shall submit to the competent department of environmental protection administration an authorized power of attorney.

Article 38 The hearing shall proceed as follows:

(1) The individual presiding over the hearing announces the instructions for the hearing, notifies the party concerned of his rights and obligations, checks the identity of the participants, and declares the opening of the hearing;

(2) The person responsible for recording the hearing reads out the brief of the case, name of the working unit and position of the individual presiding over the hearing;

(3) The investigator provides the facts and evidence of the violation, bases of punishment and proposal for administrative penalties;

(4) The party concerned states the facts of the case and defends himself, provides relevant evidence and cross-examines the evidence provided by the investigator;

(5) The investigator and the party concerned present their arguments;

(6) The final statements are read by the parties concerned; and

(7) The individual presiding over the hearing declares the conclusion of the hearing.

During the process of the hearing, the individual presiding over the hearing may ask the investigator, the party concerned, the witness, or third persons questions, and the persons shall truthfully answer these questions.

Article 39 The competent department of environmental protection administration that organizes the hearing shall arrange for preparation of a transcript of the hearing.

When the hearing is concluded, the hearing transcript shall be given to the parties concerned for review and he shall sign or affix his seal on the transcript if he accepts it.

Article 40 After the hearing, the individual presiding over the hearing shall promptly report the result of the hearing to the head of the department. The competent department of environmental protection administration shall make decision in accordance with Article 27 of these Measures.

Chapter IV Enforcement of Administrative Penalties

Article 41 After a decision on environmental administrative penalties has been made in accordance with the law, the party concerned shall execute the penalty decision within the time limit specified by the instrument of the decision of penalty.

Where the party concerned applies for administrative review or brings an administrative lawsuit, enforcement of the administrative penalty decision shall not be suspended.

Article 42 Where the party concerned fails to apply for administrative review, fails to bring an administrative lawsuit, and also fails to execute the penalty decision within the specified time limit, the competent department of environmental protection administration that has made the decision shall apply to the people's court for compulsory execution of the decision.

Article 43 Where the party concerned fails to pay the fine within the specified time limit, the competent department of environmental protection administration that has made the decision may impose an additional fine of 3 percent of the amount of fine per day in accordance with Article 51 of the Law of the People's Republic of China on Administrative Penalties.

Where the party objects to the additional fine, he shall first pay the fine and the additional fine imposed for belated payment, and then apply for administrative reconsideration according to the law.

Article 44 Administrative penalty cases that are closed shall be put filed one case per file, and the case manager shall put all materials related to the case into that file.

Article 45 The competent department of environmental protection administration at or above the

第四十八条 县级以上环境保护行政主管部门应当建立行政处罚案件统计制度，并按照国家环保总局有关环境统计的规定向上级环境保护行政主管部门报送本行政区的行政处罚情况。

第五章 附 则

第四十九条 本办法第三十二条所称“较大数额罚款”，是指对个人处以5000元以上罚款、对法人或者其他组织处以50000元以下罚款。.

各省、自治区、直辖市通过的地方法规或者地方政府规章对“较大数额罚款”的限额另有规定的，可以不受上述数额的限制。

第五十条 环境保护行政处罚的主要法律文书格式，由国家环保总局统一制定。

第五十一条 关于环境行政处罚的其他事项，本办法未作规定的，适用《中华人民共和国行政处罚法》的有关规定。

第五十二条 核安全监督管理的行政处罚，按照国家有关核安全监督管理的规定执行。

第五十三条 本办法自公布之日起施行，原国家环保局1992年7月7日发布的《环境保护行政处罚办法》同时废止。

county level shall establish a system of administrative penalty record.

The competent department of environmental protection administration at the lower level shall, within 20 days of the conclusion of the case, report the cases designated by higher authorities, penalty cases that were the subjects of hearings, or penalty cases that were the subject of administrative lawsuits to the competent department of environmental protection administration at the higher level for record.

Article 46 When the competent department of environmental protection administration, through receiving the party's appeal and accusation, through examining the case file, or through other means, determines that an administrative penalty imposed by the competent department of environmental protection administration at a lower level violates the law or is unfair, it may order the department at the lower level to correct the violation or unfair decision.

Article 47 Where the competent department of environmental protection administration, through administrative review, determines that the administrative penalty decided by the competent department of environmental protection administration at the lower level violates the law or is obviously unfair, it may repeal the decision or alter the decision according to the law.

Article 48 The competent department of environmental protection administration at or above the county level shall establish a statistical system for administrative penalty cases and report to the competent department of environmental protection administration at the higher level statistics on administrative penalties within its administrative region, as required by the State Environmental Protection Administration.

Chapter V Supplementary Provisions

Article 49 The "relatively large fine" described in Article 32 of these Measures refers to a fine of over 5,000 Yuan imposed on an individual and a fine over 50,000 Yuan imposed on a legal person or other organization.

Where there are local regulations adopted by provinces, autonomous regions and municipalities directly under the Central Government regarding the amount of a "relatively large fine," or the local government issues additional regulations in this regard, the amount of the fine need not be confined to the amount mentioned above.

Article 50 Forms of the major legal documents related to environmental administrative penalties shall be uniformly formulated by the State Environmental Protection Administration.

Article 51 For aspects of environmental administrative penalties that are not stipulated by these Measures, the general provisions of the Law of the People's Republic of China on Administrative Penalties shall apply.

Article 52 Administrative penalties associated with the supervision and management of nuclear security shall be implemented in accordance with the rules regarding the supervision and management of nuclear security stipulated by the State.

Article 53 These Measures shall come into force as of the date of promulgation, and the Measures on Environmental Administrative Penalties, promulgated by the former National Environmental Protection Agency on July 7, 1992, shall be repealed on the same day.

环境保护法规解释管理办法

国家环境保护总局令

第1号

《环境保护法规解释管理办法》已于1998年12月3日经国家环境保护总局局务会议讨论通过，现予发布施行。

国家环境保护总局局长　解振华

1998年12月8日

第一条　为规范环境保护法律、行政法规和部门规章的解释工作（以下简称“法规解释”），根据《全国人民代表大会常务委员会关于加强法律解释工作的决议》和《国务院办公厅关于行政法规解释权限和程序问题的通知》的有关规定，制定本办法。

第二条　环境保护法律的条文本身需要进一步明确界限或者作出补充规定的问题，按照《全国人民代表大会常务委员会关于加强法律解释工作的决议》办理。

环境保护行政法规的条文本身需要进一步明确界限或者作出补充规定的问题，按照《国务院办公厅关于行政法规解释权限和程序问题的通知》办理。

第三条　环境保护法律、行政法规具体适用的问题，部门规章理解和执行中的问题，以及环境保护法律、行政法规授权国务院环境保护行政主管部门解释的问题，由国家环境保护总局解释。

第四条　国家环境保护总局公布的法规解释，具有普遍执行的效力，可作为各级环境保护行政主管部门和其他依照法律规定行使环境保护监督管理权的部门的执法依据，可以在有关环境法律文书中直接引用。

第五条　国家环境保护总局对地方各级环境保护行政主管部门执行国家环境法规解释的情况进行监督，发现执行国家环境法规解释的具体行政行为与解释相违背的，责成其改正或者依法予以撤销。

第六条　有下列情形之一的，国家环境保护总局应当作出法规解释：

（一）地方环境保护行政主管部门向国家环境保护总局提出法规解释请示的；

（二）其他国家机关建议或者商请国家环境保护总局作出法规解释的；

（三）国家环境保护总局根据环境行政执法工作的实际情况，认为需要作出法规解释的；

（四）需要作出法规解释的其他情形。

Measures on the Administration of Interpretation on Environmental Regulations

Decree of the State Environmental Protection Administration

No. 1

Measures on the Administration of Interpretation on Environmental Regulations was adopted at the executive session of the State Environmental Protection Administration on December 3, 1998 and is hereby promulgated for implementation.

Minister Xie Zhenhua

State Environmental Protection Administration

December 8, 1998

Article 1 The Measures on the Interpretation of the Environmental Protection Laws and Regulations are made in order to standardize the interpretation of the environmental protection laws, the administrative rules and regulations and ministerial regulations (hereinafter referred to as "the interpretation of the laws and regulations") in the light of the related stipulations in the Resolution on Strengthening the Interpretation of the Laws by the Standing Committee of the National People's Congress and the Circular on the Issues of the Authorized Interpretation Limits and Procedures of the Administrative Rules and Regulations by the General Office of the State Council.

Article 2 The text of the environmental protection laws itself needs further clear limits or supplementary regulations should be made in accordance with the Resolution on Strengthening the Interpretation of the Laws by the Standing Committee of the National People's Congress.

The text of the administrative rules and regulations on environmental protection itself needs further clear limits or supplementary regulations should be made in accordance with the Circular on the Issues of the Authorized Interpretation Limits and Procedures of the Administrative Rules and Regulations by the General Office of the State Council.

Article 3 The problems arising from concrete application of the environmental protection laws and administrative rules and regulations, the problems in understanding and implementation of ministerial regulations, and the problems of the interpretation of the environmental protection laws and administrative rules and regulations authorized to the competent department of environmental protection administration under the State Council, are all interpreted by the State Environmental Protection Administration.

Article 4 The interpretation of the rules and regulations promulgated by the State Environmental Protection Administration has universal effectiveness in the implementation and can be used as the basis for the implementation of the laws by the competent departments of environmental protection administration at various levels and other departments which exercise the supervision authority over environmental protection in accordance with the laws and regulations and can also be directly introduced in legal documents on environmental protection enforcement.

Article 5 The State Environmental Protection Administration supervises the circumstances on the interpretation of environmental protection laws and regulations in the implementation by the competent departments of environmental protection administration at various levels, and can also instruct them to correct their behavior or order them to be dismissed if their actual administrative behavior in their implementation of the interpretation of state environmental protection laws and regulations is found to go against the interpretation itself. .

Article 6 The interpretation of environmental protection laws and regulations should be formulated by State Environmental Protection Administration if there is any item as follows:

第七条 省、自治区、直辖市环境保护行政主管部门（以下简称省级环境保护行政主管部门）在报请国家环境保护总局作出法规解释时，除提出请示解释的问题外，应当同时提出本部门的意见，并附送有关本案的主要背景材料。

报请国家环境保护总局作出法规解释的请示，应当一事一请示。

第八条 省级环境保护行政主管部门报请国家环境保护总局作出法规解释，应当以正式文件提出请示，以其他形式提出的请示，不作为办理法规解释的依据。

第九条 省级以下的地方环境保护行政主管部门认为需要报请国家环境保护总局作出法规解释的，应当按程序报省级环境保护行政主管部门审核决定，并由省级环境保护行政主管部门向国家环境保护总局提出请示；因特殊情况必须越级请示的，应当抄送被越过的上级环境保护行政主管部门。

第十条 国家环境保护总局法规部门管理和组织办理法规解释。

国家环境保护总局有关司（办）配合法规部门办理涉及其职责范围的法规解释。

第十一条 法规解释按照以下程序进行：

（一）根据本办法第六条所列情形，法规部门确定法规解释项目；

（二）法规部门组织、研究提出法规解释草案，涉及核安全法规解释的问题，由总局核安全部门提出解释草案；

（三）法规部门组织论证，必要时可征求国家有关机关的意见，提出法规解释送审稿；

（四）按照程序将解释送审稿报总局局长签发。

第十二条 对已经确定的法规解释项目，应当在两个月内完成。

对于重大和复杂的问题的解释，时限可以适当延长。

第十三条 法规解释文件分别使用以下形式：

（一）对环境保护法律、行政法规的解释，以国家环境保护总局文件的形式作出。

(1) any local competent department of environmental protection administration applies for the interpretation of environmental protection laws and regulations to the State Environmental Protection Administration;

(2) any other state organ suggests or consults to apply for the interpretation of environmental protection laws and regulations to the State Environmental Protection Administration;

(3) the State Environmental Protection Administration considers it necessary to give the interpretation of environmental protection laws and regulations acceding to the circumstances on the administrative implementation of environmental protection laws and regulations;

(4) it is necessary to formulated the interpretation of environmental protection laws and regulations for other circumstances.

Article 7 Where any competent department of environmental protection administration at the levels of province, autonomous region or municipality directly under the Central Government (hereinafter referred to as "competent department of environmental protection administration at provincial level" submits an application for the interpretation of environmental protection laws and regulations to the State Environmental Protection Administration, its own opinions and the attached main background materials concerned with the case should be submitted at the same time besides the problems it applies for the interpretation.

The application for the interpretation of environmental protection laws and regulations submitted to the State Environmental Protection Administration should be made once only for one matter.

Article 8 The application for the interpretation of environmental protection laws and regulations submitted to the State Environmental Protection Administration by any competent department of environmental protection administration at provincial level should be made in the form of official documents. If the application is made in other form, it can not be as the basis for handling the interpretation of environmental protection laws and regulations.

Article 9 Where an application for the interpretation of environmental protection laws and regulations is deemed necessary to submit to the State Environmental Protection Administration by competent department of environmental protection administration below provincial level, the application should be first submitted to its competent department of environmental protection administration at provincial level for examination and resolution according to the procedures; the above application for the interpretation of environmental protection laws and regulations submitted to the State Environmental Protection Administration should be made by its competent department of environmental protection administration at provincial level. If an application is necessary to bypass its immediate leadership for some specific circumstances, the application should be copied to the competent department of environmental protection administration at a higher level to be bypassed.

Article 10 The department for policies and Regulations of the State Environmental Protection Administration manages and organizes handling the interpretation of environmental protection laws and regulations.

The other department of the State Environmental Protection Administration should support the Bureau for Policies and Laws and Regulations in handling the interpretation of environmental protection laws and regulations related to their functions.

Article 11 The interpretation of environmental protection laws and regulations should be handled according to the following procedures:

(1) the items to be interpreted should be determined by the department for laws and regulations according to the items listed in Article 6 of the regulations;

(2) if the interpretation draft of environmental protection laws and regulations put forward through the organization and study by the department for laws and regulations involves the interpretation of nuclear security laws and regulations, the interpretation should be made by the department for nuclear security of the State Environmental Protection Administration;

(3) when the department for laws and regulations organizes argumentation, the opinions from state departments concerned should be solicited so as to put forward an interpretation draft of laws and

（二）对环境保护部门规章的解释，以国家环境保护总局函的形式作出。

第十四条 国家环境保护总局作出的法规解释，除发送提出请示的部门外，可视情况在全国公开发行的主要环境报刊上公布，必要时抄送国家有关机关。

第十五条 国家环境保护总局和原国家环境保护局作出的法规解释，如与新颁布的环境保护法律、行政法规或者部门规章不一致的，原已作出的法规解释自动失效。

第十六条 国家环境保护总局应适时对法规解释文件进行清理。对需要修改、补充或者废止的法规解释，参照本办法有关制定解释的程序办理。

第十七条 环境保护国家标准、行业标准由国家环境保护总局负责解释，并由总局标准部门参照本办法规定的程序组织办理。

第十八条 地方环境保护行政主管部门请示或者其他国家机关建议国家环境保护总局解释的问题，如不属于环境保护法规解释的范围，由有关司（办）按职责分工办理。

第十九条 环境保护地方性法规、地方政府规章和地方标准的解释，由地方环境保护行政主管部门按规定的权限，参照本办法办理。

第二十条 本办法自发布之日起施行。

regulations to be submitted for examination;

(4) the interpretation draft should be submitted to minister of the State Environmental Protection Administration to sign and issue.

Article 12 The fixed project on the interpretation of laws and regulations should be completed within two months. The time limit can be appropriately prolonged.

Article 13 The forms of the documents used for the interpretation of laws and regulations are separately as follows:

(1) the form of the documents of the State Environmental Protection Administration should be used for the interpretation of environmental protection laws and administrative laws and regulations;

(2) the form of letters of the State Environmental Protection Administration should be used for the interpretation of rules and regulations of the departments for environmental protection.

Article 14 The interpretation of laws and regulations made by the State Environmental Protection Administration can be, in addition to sending to the department applied to, published on the main nationwide public environmental protection newspaper and publications, which depend on then circumstances, and copied to the State organs concerned if it is necessary.

Article 15 Where the interpretation of laws and regulations formulated by the State Environmental Protection Administration and the former National Environmental Protection Agency is inconsistent with newly promulgated state environmental protection laws and administrative rules and regulations or ministerial rules and regulations, the original interpretation automatically ceases to be in force.

Article 16 The State Environmental Protection Administration should timely check up on the documents on the interpretation of laws and regulations. The interpretation of laws and regulations needing to be amended, supplemented or abolished should be handled by reference to the procedures of interpretation in the regulations.

Article 17 The state standards on environmental protection and the industrial standards on environmental protection should be interpreted by the State Environmental Protection Administration, and the interpretation is made by reference to the procedures stipulated in the regulations which is organized by the department for standards of the State Environmental Protection Administration.

Article 18 Where the problems that any local competent department of environmental protection administration applies for the interpretation to the State Environmental Protection Administration or the problems that other state organs suggest the State Environmental Protection Administration make interpretation do not belong to the scope of the interpretation of environmental protection laws and regulations, they should be handled by related departments (offices) in accordance with their respective functions.

Article 19 The interpretation of local environmental protection laws and regulations, local governments' environmental protection rules and regulations and local standards on environmental protection should be made by reference to the regulations by the local administrative departments within their authority

Article 20 The regulations will come into force upon promulgation.

报告环境污染与破坏事故的暂行办法

（1987 年 9 月 10 日，国家环境保护局发布）

第一条 为建立环境污染与破坏事故报告制度，及时掌握事故情况，加强环境监督管理，特制定本办法。

第二条 各级环境保护部门按照职权范围，有责任向同级人民政府和上级环境保护部门及时、准确地报告辖区内发生的环境污染与破坏事故。

各级环境保护部门应当组织有关部门和单位做好报告环境污染与破坏事故的工作。

第三条 本办法所称环境污染与破坏事故，是指由于违反环境保护法规的经济、社会活动与行为，以及意外因素的影响或不可抗拒的自然灾害等原因致使环境受到污染，国家重点保护的野生动植物、自然保护区受到破坏，人体健康受到危害，社会经济与人民财产受到损失，造成不良社会影响的突发性事件。

第四条 环境污染与破坏事故根据类型可分为水污染事故、大气污染事故、噪声与振动危害事故、固体废弃物污染事故、农药与有毒化学品污染事故、放射性污染事故及国家重点保护的野生动植物与自然保护区破坏事故等。

第五条 环境污染与破坏事故根据程度分为：

（一）一般环境污染与破坏事故。由于污染或破坏行为造成直接经济损失在千元以上、万元以下（不含万元）的。

（二）较大环境污染与破坏事故，凡符合下列情形之一者，为较大环境污染与破坏事故：

1. 由于污染和破坏行为造成直接经济损失在万元以上、5 万元以下（不含 5 万元）；

2. 人员发生中毒症状；

3. 因环境污染引起厂群冲突；

4. 对环境造成危害。

（三）重大环境污染与破坏事故。凡符合下列情形之一者，为重大环境污染与破坏事故：

1. 由于污染或破坏行为造成直接经济损失在 5 万元以上，10 万元以下（不含 10 万元）；

2. 人员发生明显中毒症状、辐射伤害或可能导致伤残后果；

3. 人群发生中毒症状；

4. 因环境污染使社会安定受到影响；

5. 对环境造成较大危害；

6. 捕杀、砍伐国家二类、三类保护的野生动植物。

Interim Measures on Reporting Environmental Pollution and Damage Accidents

(Promulgated by the National Environmental Protection Agency on September10, 1987)

Article 1 This Measures is formulated for establishing the environmental pollution and damage accidents reporting system for timely knowledge of the environmental accidents and strengthening environmental supervision and management.

Article 2 The environmental protection departments at all levels shall, in accordance with their authorities, timely and accurately report to the people's governments at the same level and environmental protection departments at the next higher level about environmental pollution and damage accidents taking place within their jurisdiction.

Environmental protection departments at all levels shall organize relevant departments and units in carrying out the report work.

Article 3 Environmental pollution and damage accidents in this Measures refer to emergent events where due to economic or social activities and actions in violation of the environmental protection regulations, unexpected factors, irresistible natural disasters or other causes, the environment is polluted, wildlife and natural reserves under special State protection are damaged, human health is threatened, social economic and people's property suffer losses, and negative social influences widely spread.

Article 4 Environmental pollution and damage accidents can be classified as water pollution accidents, atmosphere pollution accidents, noise and vibration hazards accidents, solid wastes pollution accidents, chemical fertilizer and poisonous chemicals pollution accident, radiation pollution accidents, wildlife and natural reserves under special State protection damage accidents, etc.

Article 5 Environmental pollution and damage accidents can be classified into the following grades:

(1) Ordinary environmental pollution and damage accident, with direct economic losses resulted from the accident between 1,000 Yuan and 10,000 Yuan (not including 10,000 Yuan).

(2) Comparatively severe environmental pollution and damage accidents, with one of the following results:

1. Direct economic losses resulted from the accident are between 10,000 Yuan and 50,000 Yuan (not including 50,000 Yuan);
2. Any people suffer from poisoning symptoms;
3. Conflict occurs between the manufacturer and habitants due to environmental pollution;
4. The environment is endangered.

(3) Severe environmental pollution and damage accidents, with one of the following results:

1. Direct economic losses resulted from the accident are between 50,000 Yuan and 100,000 Yuan (not including 100,000 Yuan);
2. Any people suffer from obvious poisoning symptoms, radiation damages, or the possibility of deformity;
3. Any crowd suffers from poisoning symptoms;
4. Social stability is threatened by environmental pollution;
5. Comparatively severe damages to the environment;
6. Second or third grade State protected wildlife is hunted or felled.

(4) Very severe environmental pollution and damage accidents, with one of the following results:

1. Direct economic losses resulted from the accident exceed 100,000 Yuan;
2. Any crowd suffers from obvious poisoning symptoms or radiation damages;

（四）特大环境污染与破坏事故。凡符合下列情形之一者，为特大环境污染与破坏事故：

1. 由于污染或破坏行为造成直接经济损失在10万元以上；

2. 人群发生明显中毒症状或辐射伤害；

3. 人员中毒死亡；

4. 因环境污染使当地经济、社会的正常活动受到严重影响；

5. 对环境造成严重危害；

6. 捕杀、砍伐国家一类保护的野生动植物。

第六条 环境污染与破坏事故发生后，当地环境保护部门应当立即赴现场调查，并对事故的性质和危害作出恰当的认定。

凡属一般或较大环境污染与破坏事故，均由县级（含县级）以上环境保护部门确认；凡属重大或特大环境污染与破坏事故，均由地、市级以上的环境保护部门确认。

对本办法第五条中未作出具体规定的环境污染与破坏事故，地、市级以上的环境保护部门可根据实际情况作出重大或特大事故的确认。

第七条 凡属重大环境污染与破坏事故，地、市级环境保护部门除应及时报告同级人民政府外，还应同时报告省级环境保护部门；凡属特大环境污染与破坏事故，地、市环境保护部门除应及时报告同级人民政府和省级环境保护部门外，还应同时报告国家环境保护局。

第八条 重大或特大的环境污染与破坏事故的报告分为速报、确报和处理结果报告三类。速报从发现事故后起，48小时以内上报；确报在查清有关基本情况后立即上报；处理结果报告在事故处理完后立即上报。

速报可通过电话、电报，必要时应派人直接报告。确报可通过电话或书面报告。处理结果报告采用书面报告。报告应采取适当的方式，避免在当地群众中造成影响。

第九条 速报内容主要包括：环境污染与破坏事故的类型、发生时间、地点、污染源、主要污染物质，经济损失数额大、人员受害情况、捕杀与砍伐国家重点保护的野生动植物的名称和数量、自然保护区受害面积及程度等初步情况。

确报在速报的基础上报告有关确切数据，事故发生的原因、过程及采取的应急措施等基本情况。

处理结果报告在确报的基础上，报告处理事故的措施、过程和结果，事故潜在或间接的危害、社会影响、处理后的遗留问题，参加处理工作的有关部门和工作内容，出具有关危害与损失的证明文件等详细情况。

第十条 报告单位应当保证报告内容的准确性与可靠性。当发现报告内容与实际情况有出入时，报告单位应立即将纠正情况如实上报。

第十一条 一般和较大环境污染与破坏事故纳入各级环境保护部门的环境统计；重大和特大环境污染与破坏事故除纳入各级环境保护部门的环境统计以外，省级环境保护部门每半年汇总一次，分别于7月20日以前和1月20日以前报告国家环境保护局（汇总报表附后）。

3. Any people die of poisoning;

4. Normal economic and social activities of the region are seriously disturbed by environmental pollution;

5. The environment is seriously damaged;

6. First grade State protected wildlife is hunted or felled.

Article 6 Upon the occurrence of an environmental pollution and damage accident, the local environmental protection department shall promptly arrive at the site of the accident and properly decide on the nature of the accident and the damages.

Ordinary and comparatively severe environmental pollution and damage accidents shall be decided by environmental protection departments at or above the county level; severe and very severe environmental pollution and damage accidents shall be decided by environmental protection departments at or above the region and municipality level.

For environmental pollution and damage accidents that are not specified in Article 5, environmental protection departments at or above the region and municipality level can decide on whether they are severe or very severe accidents according to the actual conditions.

Article 7 For severe environmental pollution and damage accidents, environmental protection departments at or above the region and municipality level shall, besides timely reporting to the people's governments at the same level, report to environmental protection departments at the province level at the same time; for very severe environmental pollution and damage accidents, environmental protection departments at or above the region and municipality level shall, besides timely reporting to the people's governments at the same level and the province level, report to the National Environmental Protection Agency.

Article 8 Reports of severe or very severe environmental pollution and damage accidents are categorized as immediate report, accurate report and settlement report. An immediate report shall be submitted within 48 hours of discovering the accidents; an accurate report shall be submitted upon clear examination of the basic circumstances; and settlement report shall be submitted upon settlement of the accidents.

An immediate report may be submitted through telephone, telegraph, or by staff when necessary; an accurate report can be submitted through telephone or in written form; and a settlement report shall be submitted in written form. The reports shall assume proper forms to avoid negative influences on local inhabitants.

Article 9 Contents of an immediate report shall include type, time and place of the environmental pollution and damage accidents, pollution sources, major pollutants, economic losses, casualties, sorts and amount of wildlife under special State protection hunted or felled, severity of pollution and damage to natural reserves and other primary information.

An accurate report shall be based on the immediate report, and report about accurate data, causes and process of the accident, emergency measures adopted and other basic information.

A settlement shall be based on the accurate report, and report about measures adopted, process and result of the settlement, potential or indirect harms of the accident, social impact, aftermath, departments involved in the settlement of the accident and their work, proof documents about the damage and losses and others detailed information.

Article 10 Departments submitting the reports shall guarantee its accuracy and liability. Upon realization of any discrepancy between the report and the actual conditions, the reporter shall promptly report about the actuality for rectification.

Article 11 Ordinary and comparatively severe environmental pollution and damage accidents shall be included in the environmental statistics of environmental protection departments at all levels. Severe and very severe environmental pollution and damage accidents, besides being included in the environmental statistics of environmental protection departments at all levels, shall be collected by environmental protection departments at the province level every half year and the data collection shall be submitted to the National Environmental Protection Agency on July 20 and January 20 each year re-

报告环境污染与破坏事故汇总表

单位：　　填表日期：　　年　　月　　日

事故类型	发生时间	地　点	发生原因	污染源	主要污染物质	人员受害情况		直接经济损失（万元）
						人　数	症　状	

捕杀或砍伐国家重点保护动植物			自然保护区受害状况			采取的应急措施	处理结果		
肇事人员情况	名称	数量	肇事人员情况	面积	损害情况		结案日期	结果	主要遗留问题

spectively (attached with the Data Collection Form).

Environmental Pollution and Damage Accidents Data Collection Form

Reporter: Date:

Type of accident	Time	Place	Causes	Pollution sources	Major pollutants	Casualties Number	Symptoms		losses (10,000 Yuan)
							Direct	economic	

Hunting and felling of wildlife under special State protection			Information of the troublemakers			Emergency measure adopted	Settlement		
Damages to natural reserves	Sort	Number	Information of the troublemakers	Coverage	Damages		Date of Settlement	Result	Major problems unsolved

二十四、刑法和民法

XXIV Criminal Law and Civil Law

中华人民共和国刑法（摘录）

（1979年7月1日第五届全国人民代表大会第二次会议通过，
1997年3月14日第八届全国人民代表大会第五次会议修改，
1999年12月25日中华人民共和国主席令第27号修正
2001年8月31日第九届全国人民代表大会常务委员会第二十次会议修正）

第二篇　分　　则

第三章　破坏社会主义市场经济秩序罪

第二节　走　私　罪

第一百五十五条　下列行为，以走私罪论处，依照本节的有关规定处罚：

（一）直接向走私人非法收购国家禁止进口物品的，或者直接向走私人非法收购走私进口的其他货物、物品，数额较大的；

（二）在内海、领海运输、收购、贩卖国家禁止进出口物品的，或者运输、收购、贩卖国家限制进出口货物、物品，数额较大，没有合法证明的；

（三）逃避海关监管将境外固体废物运输进境的。

第六章　妨害社会管理秩序罪

第六节　破坏环境资源保护罪

第三百三十八条　违反国家规定，向土地、水体、大气排放、倾倒或者处置有放射性的废物、含传染病病原体的废物、有毒物质或者其他危险废物，造成重大环境污染事故，致使公私财产遭受重大损失或者人身伤亡的严重后果的，处3年以下有期徒刑或者拘役，并处或者单处罚金；后果特别严重的，处3年以上7年以下有期徒刑，并处罚金。

第三百三十九条　违反国家规定，将境外的固体废物进境倾倒、堆放、处置的，处5年以下有期徒刑或者拘役，并处罚金；造成重大环境污染事故，致使公私财产遭受重大损失或者严重危害人体健康的，处5年以上10年以下有期徒刑，并处罚金；后果特别严重的，处10年以上有期徒刑，并处罚金。

未经国务院有关主管部门许可，擅自进口固体废物用作原料，造成重大环境污染事故，致使公私财产遭受重大损失或者严重危害人体健康的，处5年以下有期徒刑

Criminal Law of the People's Republic of China (excerpts)

(Adopted at the Second Session of the Fifth National People's Congress on July 1, 1979, revised at the Fifth Session of the Eighth National People's Congress on March 14, 1997, revised for the second time in accordance with Order No.27 of the President of the People's Republic of China on December 25, 1999, revised at the 23rd Session of the 9th National People's Congress on August 31, 2001)

Part Two Specific Provisions

Chapter III Crimes of Undermining the Socialist Market Economic Order

Section 2 Crimes of Smuggling

Article 155 Whoever commits any of the following acts shall be deemed to have committed the crime of smuggling and shall be punished according to the provisions of this Section:

(1) directly and illegally purchasing from smugglers articles forbidden by the state from being imported or directly and illegally purchasing from smugglers other smuggled imported goods and articles, involving relatively large quantities or values; or

(2) transporting, purchasing and selling in inland seas and territorial waters articles forbidden by the state from being imported or exported or goods and articles subject to state restrictions on import and export, involving relatively large quantities and values and without legal certifications; or

(3) evading the supervision and administration by the Customs and transporting the solid waste from abroad into China.

Chapter Ⅵ Crimes of Obstructing the Administration of Public Order

Section 6 Crimes of Undermining Protection of Environmental Resources

Article 338 Whoever, in violation of the state's stipulations, discharges, dumps or disposes radioactive wastes, wastes of carrying infectious pathogens, poisonous substances or other dangerous substances to land, water or air, and causes a serious accident of environmental pollution shall, if the offence causes serious consequences of great losses of public or private property or bodily injury or death of another person, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine; if the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine.

Article 339 Whoever, in violation of the state's stipulations, dumps, piles up or disposes solid wastes abroad inside China shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and concurrently be sentenced to a fine. If the offence causes a serious environmental pollution accident and heavy losses to public or personal property or does great injury to people's health, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years and concurrently be sentenced to a fine. If the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years and concurrently be sentenced to a fine.

或者拘役，并处罚金；后果特别严重的，处5年以上10年以下有期徒刑，并处罚金。

以原料利用为名，进口不能用作原料的固体废物的，依照本法第一百五十五条的规定定罪处罚。

第三百四十条 违反保护水产资源法规，在禁渔区、禁渔期或者使用禁用的工具、方法捕捞水产品，情节严重的，处3年以下有期徒刑、拘役、管制或者罚金。

第三百四十一条 非法猎捕、杀害国家重点保护的珍贵、濒危野生动物的，或者非法收购、运输、出售国家重点保护的珍贵、濒危野生动物及其制品的，处5年以下有期徒刑或者拘役，并处罚金；情节严重的，处5年以上10年以下有期徒刑，并处罚金；情节特别严重的，处10年以上有期徒刑，并处罚金或者没收财产。

违反狩猎法规，在禁猎区、禁猎期或者使用禁用的工具，方法进行狩猎，破坏野生动物资源，情节严重的，处3年以下有期徒刑、拘役、管制或者罚金。

第三百四十二条 违反土地管理法规，非法占用耕地、林地等农用地，改变被占用土地用途，数量较大，造成耕地、林地等农用地大量毁坏的，处5年以下有期徒刑或者拘役，并处或者单处罚金。

第三百四十三条 违反矿产资源法的规定，未取得采矿许可证擅自采矿的，擅自进入国家规划矿区，对国民经济具有重要价值的矿区和他人矿区范围采矿的，擅自开采国家规定实行保护性开采的特定矿种，经责令停止开采后拒不停止开采，造成矿产资源破坏的，处3年以下有期徒刑、拘役或者管制，并处或者单处罚金；造成矿产资源严重破坏的，处3年以上7年以下有期徒刑，并处罚金。

违反矿产资源法的规定，采取破坏性的开采方法开采矿产资源，造成矿产资源严重破坏的，处5年以下有期徒刑或者拘役，并处罚金。

第三百四十四条 违反森林法的规定，非法采伐，毁坏珍贵树木的，处3年以下有期徒刑、拘役或者管制，并处罚金；情节严重的，处3年以上7年以下有期徒刑，并处罚金。

第三百四十五条 盗伐森林或者其他林木，数量较大的，处3年以下有期徒刑、拘役或者管制，并处或者单处罚金；数量巨大的，处3年以上7年以下有期徒刑，并处罚金；数量特别巨大的，处7年以上有期徒刑，并处罚金。

违反森林法的规定，滥伐森林或者其他林木，数量较大的，处3年以下有期徒刑、拘役或者管制，并处或者单处罚金；数量巨大的，处3年以上7年以下有期徒刑，并处罚金。

以牟利为目的，在林区非法收购明知是盗伐、滥伐的森木，情节严重的，处3年以下有期徒刑、拘役或者管制，并处或者单处罚金；情节特别严重的，处3年以上7年以下有期徒刑，并处罚金。

盗伐、滥伐国家级自然保护区内的森林或者其他林木的，从重处罚。

Whoever takes the liberty to import solid wastes as raw materials without approval by relevant departments under the State Council and causes a serious environmental pollution accident shall, if the offence causes heave losses to public or personal property or causes great injury to people's physical health, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and concurrently be sentenced to a fine; if the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years and concurrently be sentenced to a fine.

Whoever in the name of utilizing raw materials imports solid wastes that cannot be utilized as raw materials shall be decided a crime and punished according to the provisions of Article 155 of this law.

Article 340 Whoever, in violation of laws or administrative regulations on the protection of aquatic resources, fishes for aquatic products in an area where fishing is prohibited, during a period when fishing is prohibited or using implements or methods that are prohibited shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or a fine.

Article 341 Whoever illegally catches or kills the species of wildlife under special state protection which are rare or near extinction, or illegally purchases, transports or sells the species of wildlife under special state protection which are rare or near extinction and their products shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and concurrently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years and concurrently be sentenced to a fine; if the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years and concurrently be sentenced to a fine or confiscation of property.

Whoever, in violation of game laws or regulations, hunts in a game reserve, during a period when hunting is prohibited or using implements or methods that are prohibited, thereby damaging wildlife resources shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or a fine.

Article 342 Whoever, in violation of laws or regulations on land administration, illegally occupies agricu Hural land as cultivated land chang the use of occupied land, if the amount involved is relatively huge and the offence causes serious damage to a large amount of agricultural land as cultivated land, forest lagd, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine.

Article 343 Whoever, in violation of the provisions of the Mineral Resources Law, mines without a mining licence, enters without authorization and mines in mining areas that the state has planned to develop, in mining areas with ores of significant value to the national economy, or in other's mining areas, or exploits special kinds of minerals that the state has prescribed for protective exploitation, and refuses to stop mining after he is ordered to do so shall, if the offence causes damage to mineral resources, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine. If the offence causes serious damage to mineral resources, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years and concurrently be sentenced to a fine.

Whoever, in violation of the provisions of the Mineral Resources Law, exploits mineral resources in a destructive way and causes heavy damage to mineral resources shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine.

Article 344 Whoever, in violation of the provisions of the Forestry Law, illegally cuts down or destroys rare and precious trees shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine.

Article 345 Whoever illegally cuts down trees, bamboo, etc. shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than three years, criminal deten-

第三百四十六条 单位犯本节第三百三十八条至第三百四十五条规定之罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照本节各该条的规定处罚。

……

第九章 渎 职 罪

第四百零八条 负有环境保护监督管理职责的国家机关工作人员严重不负责任，导致发生重大环境污染事故，致使公私财产遭受重大损失或者造成人身伤亡的严重后果的，处3年以下有期徒刑或者拘役。

tion or public surveillance, and concurrently or independently be sentenced to a fine; if the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine; if the amount involved is especially huge, the offender shall be sentenced to fixed-term imprisonment of not less than seven years and concurrently be sentenced to a fine.

Whoever, in violation of the provisions of the Forestry Law, denudes forests or other woodlands shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine; if the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine.

Whoever, for the purpose of profit, illegally purchases forest trees which are clearly known by him to be cut down or denuded in forest areas shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine; if the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years and concurrently be sentenced to a fine.

Whoever illegally cuts down or denudes forests or other woodlands in the nature reservation regions at the national level shall be given a heavier punishment.

Article 346 If a unit commits any crime mentioned in the provisions from Article 338 to Article 345 of this Section, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of respective articles of this Section.

Chapter IX Crimes of Dereliction of Duty

Article 408 Any state functionary in charge of supervision and control on environment protection who neglects his duties so seriously that a great environmental pollution accident happens and causes heavy losses to public or private property or another person's bodily injury or death or other serious consequences shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

中华人民共和国民法通则（摘录）

（1986年4月12日第六届全国人民代表大会第四次会议通过
1986年4月12日中华人民共和国主席令第三十七号公布
自1987年1月1日起施行）

第五章　民事权利

第一节　财产所有权和与财产所有权有关的财产权

第七十一条　财产所有权是指所有人依法对自己的财产享有占有、使用、收益和处分的权利。

……

第八十三条　不动产的相邻各方，应当按照有利生产、方便生活、团结互助、公平合理的精神，正确处理截水、排水、通行、通风、采光等方面的相邻关系。给相邻方造成妨碍或者损失的，应当停止侵害，排除妨碍，赔偿损失。

……

第四节　人身权

第九十八条　公民享有生命健康权。

第六章　民事责任

第一节　一般规定

第一百零六条　公民、法人违反合同或者不履行其他义务的，应当承担民事责任。

公民、法人由于过错侵害国家的、集体的财产，侵害他人财产、人身的，应当承担民事责任。

没有过错，但法律规定应当承担民事责任的，应当承担民事责任。

……

第一百一十条　对承担民事责任的公民、法人需要追究行政责任的，应当追究行政责任；构成犯罪的，对公民、法人的法定代表人应当依法追究刑事责任。

第三节　侵权的民事责任

General Principles of the Civil Law of the People's Republic of China(excerpts)

(Adopted at the Fourth Session of the Sixth National People's Congress, promulgated by Order No.37 of the President of the People's Republic of China on April 12, 1986, and effective as of January 1,1987)

Chapter V Civil Rights

Section 1 Property Ownership and Related Property Rights

Article 71 "Property ownership" means the owner's rights to lawfully possess, utilize, profit from and dispose of his property.

Article 81 State-owned forests, mountains, grasslands, unreclaimed land, beaches, water surfaces and other natural resources may be used according to law by units under ownership by the whole people; or they may also be lawfully assigned for use by units under collective ownership. The state shall protect the usufruct of those resources, and the usufructuary shall be obliged to manage, protect and properly use them.

State-owned mineral resources may be mined according to law by units under ownership by the whole people and units under collective ownership; citizens may also lawfully mine such resources. The state shall protect lawful mining rights.

The right of citizens and collectives to lawfully contract for the management of forests, mountains, grasslands, unreclaimed land, beaches and water surfaces that are owned by collectives or owned by the state but used by collectives shall be protected by law. The rights and obligations of the two contracting parties shall be stipulated in the contract in accordance with the law.

State-owned mineral resources and waters as well as forest land, mountains, grasslands, unreclaimed land and beaches owned by the state and those that are lawfully owned by collectives may not be sold, leased, mortgaged or illegally transferred by any other means. (Note (1))

Article 83 In the spirit of helping production, making things convenient for people's lives, enhancing unity and mutual assistance, and being fair and reasonable, neighbouring users of real estate shall maintain proper neighbourly relations over such matters as water supply, drainage, passageway, ventilation and lighting. Anyone who causes obstruction or damage to his neighbour, shall stop the infringement, eliminate the obstruction and compensate for the damage.

Section 4 Personal Rights

Article 98 Citizens shall enjoy the rights of life and health.

Chapter VI Civil Liability

Section 1 General Stipulations

Article 106 Citizens and legal persons who breach a contract or fail to fulfil other obligations shall bear civil liability.

Citizens and legal persons who through their fault encroach upon state or collective property or the property or person of other people shall bear civil liability.

Civil liability shall still be borne even in the absence of fault, if the law so ,stipulates.

Article 110 Citizens or legal persons who bear civil liability shall also be held for administrative responsibility if necessary. If the acts committed by citizens and legal persons constitute crimes, criminal responsibility of their legal representatives shall be investigated in accordance with the law.

……

第一百一十九条 侵害公民身体造成伤害的，应当赔偿医疗费、因误工减少的收入、残废者生活补助费等费用；造成死亡的，并应当支付丧葬费、死者生前扶养的人必要的生活费等费用。

……

第一百二十三条 从事高空、高压、易燃、易爆、剧毒、放射性、高速运输工具等对周围环境有高度危险的作业造成他人损害的，应当承担民事责任；如果能够证明损害是由受害人故意造成的，不承担民事责任。

第一百二十四条 违反国家保护环境防止污染的规定，污染环境造成他人损害的，应当依法承担民事责任。

第一百二十五条 在公共场所、道旁或者通道上挖坑、修缮安装地下设施等，没有设置明显标志和采取安全措施造成他人损害的，施工人应当承担民事责任。

第一百二十六条 建筑物或者其他设施以及建筑物上的搁置物、悬挂物发生倒塌、脱落、坠落造成他人损害的，它的所有人或者管理人应当承担民事责任，但能够证明自己没有过错的除外。

第一百二十七条 饲养的动物造成他人损害的，动物饲养人或者管理人应当承担民事责任；由于受害人的过错造成损害的，动物饲养人或者管理人不承担民事责任；由于第三人的过错造成损害的，第三人应当承担民事责任。

第一百三十条 二人以上共同侵权造成他人损害的，应当承担连带责任。

第一百三十一条 受害人对于损害的发生也有过错的，可以减轻侵害人的民事责任。

第一百三十二条 当事人对造成损害都没有过错的，可以根据实际情况，由当事人分担民事责任。

……

第四节 承担民事责任的方式

第一百三十四条 承担民事责任的方式主要有：

（一）停止侵害；

（二）排除妨碍；

（三）消除危险；

（四）返还财产；

（五）恢复原状；

（六）修理、重作、更换；

（七）赔偿损失；

（八）支付违约金；

（九）消除影响、恢复名誉；

（十）赔礼道歉。

以上承担民事责任的方式，可以单独适用，也可以合并适用。

人民法院审理民事案件，除适用上述规定外，还可以予以训诫、责令具结悔过、收缴进行非法活动的财物和非法所得，并可以依照法律规定处以罚款、拘留。

Section 3 Civil Liability for Infringement of Rights

Article 119 Anyone who infringes upon a citizen's person and causes him physical injury shall pay his medical expenses and his loss in income due to missed working time and shall pay him living subsidies if he is disabled; if the victim dies, the infringe shall also pay the funeral expenses, the necessary living expenses of the deceased's dependents and other such expenses.

Article 123 If any person causes damage to other people by engaging in operations that are greatly hazardous to the surroundings, such as operations conducted high aboveground, or those involving high pressure, high voltage, combustibles, explosives, highly toxic or radioactive substances or high-speed means of transport, he shall bear civil liability; however, if it can be proven that the damage was deliberately caused by the victim, he shall not bear civil liability.

Article 124 Any person who pollutes the environment and causes damage to others in violation of state provisions for environmental protection and the prevention of pollution shall bear civil liability in accordance with the law.

Article 125 Any constructor who engages in excavation, repairs or installation of underground facilities in a public place, on a roadside or in a passageway without setting up clear signs and adopting safety measures and thereby causes damage to others shall bear civil liability.

Article 126 If a building or any other installation or an object placed or hung on a structure collapses, detaches or drops down and causes damage to others, its owner or manager shall bear civil liability, unless he can prove himself not at fault.

Article 127 If a domesticated animal causes harm to any person, its keeper or manager shall bear civil liability. If the harm occurs through the fault of the victim, the keeper or manager shall not bear civil liability; if the harm occurs through the fault of a third party, the third party shall bear civil liability.

Article 130 If two or more persons jointly infringe upon another person's rights and cause him damage, they shall bear joint liability.

Article 131 If a victim is also at fault for causing the damage, the civil liability of the infringe may be reduced.

Article 132 If none of the parties is at fault in causing damage, they may share civil liability according to the actual circumstances.

Section 4 Methods of Bearing Civil Liability

Article 134 The main methods of bearing civil liability shall be:

(1) cessation of infringements;
(2) removal of obstacles;
(3) elimination of dangers;
(4) return of property;
(5) restoration of original condition;
(6) repair, reworking or replacement;
(7) compensation for losses;
(8) payment of breach of contract damages;
(9) elimination of ill effects and rehabilitation of reputation; and
(10) extension of apology.

The above methods of bearing civil liability may be applied exclusively or concurrently.

When hearing civil cases, a people's court, in addition to applying the above stipulations, may serve admonitions, order the offender to sign a pledge of repentance, and confiscate the property used in carrying out illegal activities and the illegal income obtained therefrom. It may also impose fines or detentions as stipulated by law.

二十五、贸易、投资、税收法规中的环境保护规定

XXV Trade, Investment, Tax and Environmental Protection

对外贸易法（摘录）

（1994年5月12日第八届全国人民代表大会常务委员会第七次会议通过，
1994年5月12日中华人民共和国主席令第22号公布，
1994年7月1日起施行）

第三章　货物进出口与技术进出口

第十五条　国家准许货物与技术的自由进出口。但是，法律、行政法规另有规定的除外。

第十六条　属于下列情形之一的货物、技术，国家可以限制进口或者出口：

（一）为维护国家安全或者社会公共利益，需要限制进口或者出口的；

（二）国内供应短缺或者为有效保护可能用竭的国内资源，需要限制出口的；

（三）输往国家或者地区的市场容量有限，需要限制出口的；

（四）为建立或者加快建立国内特定产业，需要限制进口的；

（五）对任何形式的农业、牧业、渔业产品有必要限制进口的；

（六）为保障国家国际金融地位和国际收支平衡、需要限制进口的；

（七）根据中华人民共和国所缔结或者参加的国际条约、协定的规定，需要限制进口或者出口的。

第十七条　属于下列情形之一的货物、技术，国家禁止进口或者出口：

（一）危害国家安全或者社会公共利益的；

（二）为保护人的生命或者健康，必须禁止进口或者出口的；

（三）破坏生态环境的；

（四）根据中华人民共和国所缔结或者参加的国际条约、协定的规定，需要禁止进口或者出口的。

第十八条　国务院对外经济贸易主管部门应当会同国务院有关部门，依照本法第十六条、第十七条的规定，制定、调整并公布限制成者禁止进出口的货物、技术目录。

国务院对外经济贸易主管部门或者由其会同国务院有关部门，经国务院批准，可以在本法第十六条、第十七条规定的范围内，临时决定限制或者禁止前款规定目录以外的特定货物、技术的进口或者出口。

第十九条　对限制进口或者出口的货物，实行配额或者许可证管理；对限制进

Foreign Trade Law of the People's Republic of China (excerpts)

(Adopted at the Seventh Session of the Standing Committee of the Eighth National People's Congress on May 12, 1994, promulgated by Order No. 22 of the President of the People's Republic of China on May 12, 1994, and effective as of July 1, 1994)

Chapter III Import and Export of Commodities and Technology

Article 15 Subject to provisions otherwise stipulated in the relevant laws and regulations, the State shall permit free import and export of commodities and technology.

Article 16 The State may impose restrictions on the import or export of the commodities and technology coming under the following categories:

(1) those the import or export of which needs to be restricted in the light of the national security or the social and public interests;

(2) those the export of which needs to be restricted in consideration of the shortage in domestic market or for a significant protection of the resources which may be exhausted in the country;

(3) those the export of which needs to be restricted in consideration of the market capacity of the destination country or region;

(4) those the import of which needs to be restricted for the purpose of building or speeding up the building of the specific domestic industry;

(5) those agricultural, stock or fishery products in any form whose import needs to be restricted;

(6) those the import of which needs to be restricted for the purpose of ensuring the international financial standing of the State and/or in consideration of the balance between international income and expenditure of the state; and

(7) those the import or export of which shall be restricted according to the provisions of any international treaty or agreement concluded or acceded to by the People's Republic of China.

Article 17 The State shall prohibit the import or export of the commodities and technology coming under the following categories:

(1) those which will endanger the national security or those which are prejudicial to the social and public interests;

(2) those which must be prohibited from import or export in need of protecting human life or health;

(3) those which will destroy the ecological environment; and

(4) those which shall be prohibited from import or export according to the provisions of any international treaty or agreement concluded or acceded to by the People's Republic of China.

Article 18 The competent department of foreign economic relations and trade of the State Council shall, jointly with other departments concerned of the State Council and according to the provisions of Article 16 and 17 of this Law, formulate, adjust and publish a list of commodities and technology whose import or export shall be restricted or prohibited.

The competent department of foreign economic relations and trade of the State Council may, by itself or jointly with other departments concerned of the State Council, with the approval of the State Council, make a decision at the last moment to restrict or prohibit the import or export of certain specific commodities and technology which fall in categories listed in Article 16 and 17 of this Law but are not included in the list as mentioned in the preceding paragraph.

Article 19 Those commodities whose import or export is restricted shall be administered by a

口或者出口的技术，实行许可证管理。

实行配额或者许可证管理的货物、技术，必须依照国务院规定经国务院对外经济贸易主管部门或者由其会同国务院有关部门许可，方可进口或者出口。

第二十条 进出口货物配额，由国务院对外经济贸易主管部门或者国务院有关部门在各自的职责范围内，根据申请者的进出口实绩、能力等条件，按照效益、公正、公开和公平竞争的原则进行分配。

配额的分配方式和办法由国务院规定。

第二十一条 对文物、野生动植物及其产品等货物、物品，其他法律、行政法规有禁止进出口或者限制进出口规定的，依照有关法律、行政法规的规定办理。

第四章 国际服务贸易

第二十二条 国家促进国际服务贸易的逐步发展。

第二十三条 中华人民共和国在国际服务贸易方面根据所缔结或者参加的国际条约、协定中所作的承诺，给予其他缔约方、参加方市场准入和国民待遇。

第二十四条 国家基于下列原因之一，可以限制国际服务贸易：

（一）为维护国家安全或者社会公共利益；

（二）为保护生态环境；

（三）为建立或者加快建立国内特定的服务行业；

（四）为保障国家外汇收支平衡；

（五）法律、行政法规规定的其他限制。

第二十五条 属于下列情形之一的国际服务贸易，国家予以禁止：

（一）危害国家安全或者社会公共利益的；

（二）违反中华人民共和国承担的国际义务的；

（三）法律、行政法规规定禁止的。

quota or license system; those technology whose import or export is restricted shall be administered by a license system.

The commodities and technology which are administered with a quota or license system may be imported or exported only after the competent department of foreign economic relations and trade of the State Council has, by itself or jointly with other departments concerned of the State Council, permitted in accordance with the provisions of the State Council .

Article 20 Import and export quotas shall be allotted on the principle of benefit, impartiality, openness and fair competition and in the light of the situations of the applicants such as the achievements and capacity of import and export and so on by the competent department of foreign economic relations and trade or other departments concerned of the State Council within their respective authority.

The way and measures in and with which the quotas be allotted shall be prescribed by the State Council.

Article 21 Where any other laws or regulations impose prohibitions or restrictions on import and export of any goods or articles such as cultural relics, wild animals and plants and the products thereof and so on, those laws or regulations shall be applied.

Chapter IV International Service Trade

Article 22 The State shall promote the development of international service trade step by step.

Article 23 In regard of international service trade, the People's Republic of China shall, according to the promise made in the international treaties or agreements which she has concluded or acceded to, accord market access and the national treatment to the other signatories and acceding parties of the treaties or agreements.

Article 24 The State may impose restrictions on some international service trade for the purpose of

(1) safeguarding the national security or the social and public interests;

(2) protecting the ecological environment;

(3) building or speeding up the building of any certain domestic service trade;

(4) ensuring the balance between the foreign exchange income and expenditure of the State; or

(5) other purposes prescribed by laws or regulations.

Article 25 The State shall impose prohibitions on the international service trade coming under the following categories:

(1) those which will endanger the national security or whose which are prejudicial to the social and public interests;

(2) those which are contrary to the international obligations of the People's Republic of China; and

(3) those which are prohibited by any other law or regulations.

个人所得税法（摘录）

（1980年9月10日第五届全国人民代表大会第三次会议通过，根据1993年10月31日第八届全国人民代表大会常务委员会第四次会议《关于修改〈中华人民共和国个人所得税法〉的决定》第一次修正，根据1999年8月30日第九届全国人民代表大会常务委员会第十一次会议《关于修改〈中华人民共和国个人所得税法〉的决定》第二次修正）

第二条 下列各项个人所得，应纳个人所得税：

一、工资、薪金所得；

二、个体工商户的生产、经营所得；

三、对企事业单位的承包经营、承租经营所得；

四、劳务报酬所得；

五、稿酬所得；

六、特许权使用费所得；

七、利息、股息、红利所得；

八、财产租赁所得；

九、财产转让所得；

十、偶然所得；

十一、经国务院财政部门确定征税的其它所得。

第四条 下列各项个人所得，免纳个人所得税：

一、省级人民政府、国务院部委和中国人民解放军军以上单位，以及外国组织、国际组织颁发的科学、教育、技术、文化、卫生、体育、**环境保护**等方面的奖金；

二、国债和国家发行的金融债券利息；

三、按照国家统一规定发给的补贴、津贴；

四、福利费、抚恤金、救济金；

五、保险赔款；

六、军人的转业费、复员费；

七、按照国家统一规定发给干部、职工的安家费、退职费、退休工资、离休工资、离休生活补助费；

八、依照我国有关法律规定应予免税的各国驻华使馆、领事馆的外交代表、领事官员和其他人员的所得；

九、中国政府参加的国际公约、签订的协议中规定免税的所得；

十、经国务院财政部门批准免税的所得。

第五条 有下列情形之一的，经批准可以减征个人所得税：

Law on Individual Income Tax of the People's Republic of China (excerpts)

(Adopted at the Third Session of the Fifth National People's Congress on September 10, 1980, revised for the first time in accordance with the Decision on Amending the Individual Income Tax Law of the People's Republic of China adopted at the Fourth Session of the Standing Committee of the Eighth National People's Congress on October 31, 1993, and revised for the second time in accordance with the Decision on Amending the Individual Income Tax Law of the People's Republic of China adopted at the 11th Session of the Standing Committee of the Ninth National People's Congress on August 30,1999)

Article 2 Individual income tax shall be paid on the following categories of individual income:

(1) income from wages and salaries;

(2) income from production or business operation conducted by self - employed industrial and commercial households;

(3) income from contracted or leased operation of enterprises or institutions;

(4) income from remuneration for personal services;

(5) income from author's remuneration;

(6) income from royalties;

(7) income from interest, dividends and bonuses;

(8) income from the lease of property;

(9) income from the transfer of property;

(10) incidental income; and

(11) income from other sources specified as taxable by the department of finance under the State Council.

Article 4 The following categories of individual income shall be exempted from individual income tax:

(1) awards for achievements in such fields as science, education, technology, culture, public health, sports and environmental protection granted by the people's governments at or above the provincial level, ministries and commissions under the State Council, units of the Chinese People's Liberation Army at or above the corps level or by foreign or international organizations;

(2) interest income on national debt obligations and other financial debentures issued by the state;

(3) subsidies and allowances given according to the uniform regulations of the State;

(4) welfare benefits, pensions for the family of the deceased and relief payments;

(5) insurance indemnities;

(6) military severance pay and demobilization pay received by members of the armed forces;

(7) settlement pay, severance pay, retirement pay, as well as full - pay retirement pension for veteran cadres and their living allowances, received by cadres, staff and workers according to the uniform regulations of the State;

(8) income, exempted from tax according to the provisions of the relevant laws of China, of diplomatic representatives and consular officers and other personnel of foreign embassies and consulates in China.

(9) income exempted from tax as stipulated in the international conventions to which the Chinese Government has acceded or in agreements it has signed; and

(10) income exempted from tax with the approval of the department of finance under the State Council.

Article 5 In any of the following circumstances, individual income tax may be reduced upon ap-

一、残疾、孤老人员和烈属的所得；
二、因严重自然灾害造成重大损失的；
三、其他经国务院财政部门批准减税的。

proval:

(1) income of the disabled, the aged without families, or family members of martyrs;

(2) suffering great losses from serious natural disasters;

(3) other cases in which tax reduction is approved by the department of finance under the State Council.

外商投资企业和外国企业所得税法实施细则（摘录）

（1991年6月30日国务院令第85号发布，1991年7月1日起施行）

第五章　源泉扣缴

第六十六条　税法第十九条第三款第（四）项所规定的特许权使用费减征、免征所得税的范围如下：

（一）在发展农、林、牧、渔业生产方面提供下列专有技术所收取的使用费：

1．改良土壤、草地，开发荒山，以及充分利用自然资源的技术；

2．培育动植物新品种和生产高效低毒农药的技术；

3．对农、林、牧、渔业进行科学生产管理，保持生态平衡，增强抗御自然灾害能力等方面的技术。

（二）为科学院、高等院校以及其他科研机构进行或者合作进行科学研究、科学实验，提供专有技术所收取的使用费。

（三）在开发能源、发展交通运输方面提供专有技术所收取的使用费。

（四）在节约能源和**防治环境污染**方面提供的专有技术所收取的使用费。

（五）在开发重要科技领域方面提供下列专有技术所收取的使用费：

1．重大的先进的机电设备生产技术；

2．核能技术；

3．大规模集成电路生产技术；

4．光集成、微波半导体和微波集成电路生产技术及微波电子管制造技术；

5．超高速电子计算机和微处理机制造技术；

6．光导通讯技术；

7．远距离超高压直流输电技术；

8．煤的液化、气化及综合利用技术。

Implementing Rules on the Income Tax Law of the People's Republic of China for Enterprises With Foreign Investment and Foreign Enterprises (excerpts)

(Promulgated by Decree No. 85 of the State Council on June 30, 1991, and effective as of July 1, 1991)

Chapter V Withholding at Source

Article 66 The scope of the reduction of or exemption from income tax on royalties provided for in Article 19, paragraph 3, Item (4) of the Tax Law is as follows:

(1) royalties received in providing proprietary technology for the development of farming, forestry, animal husbandry and fisheries:

(a) technology provided to improve soil and grasslands, develop barren mountainous regions and make full use of natural conditions;

(b) technology provided for the supplying of new varieties of animals and plants and for the production of pesticides of high effectiveness and low toxicity;

(c) technology provided such as to advance scientific production management in respect of farming, forestry, fisheries and animal husbandry, to preserve the ecological balance, and to strengthen resistance to natural calamities;

(2) royalties received in providing proprietary technology for scientific institutions, institutions of higher learning and other scientific research units to conduct or cooperate in carrying out scientific research or scientific experimentation;

(3) royalties received in providing proprietary technology for the development of energy resources and expansion of communications and transportation;

(4) royalties received in providing proprietary technology in respect of energy conservation and the prevention and control of environmental pollution;

(5) royalties received in providing the following proprietary technology in respect of the development of important fields of science and technology:

(a) production technology for major and advanced mechanical and electrical equipment;

(b) nuclear power technology;

(c) production technology for large-scale integrated circuits;

(d) production technology for photoelectric integrated circuits, microwave semi-conductors and microwave integrated circuits, and manufacturing technology for microwave electron tubes;

(e) manufacturing technology for ultra-high speed computers and microprocessors;

(f) optical telecommunications technology;

(g) technology for longdistance, ultra-high voltage direct current power transmission; and

(h) technology for the liquefaction, gasification and comprehensive utilization of coal.

中外合作经营企业法实施细则（摘录）

（1995 年 8 月 7 日国务院批准
1995 年 9 月 4 日对外贸易经济合作部令第 6 号发布）

第二章　合作企业的设立

第九条　申请设立合作企业，有下列情形之一的，不予批准：

（一）损害国家主权或者社会公共利益的；

（二）危害国家安全的；

（三）对**环境造成污染损害**的；

（四）有违反法律、行政法规或者国家产业政策的其他情形的。

Implementing Rules on the Law of the People's Republic of China on Chinese-foreign Contractual Joint Ventures (excerpts)

(Approved by the State Council on August 7, 1995, and promulgated by Decree No. 6 of the Ministry of Foreign Trade and Economic Cooperation on September 4, 1995)

Chapter II Establishment of Contractual Joint Ventures

Article 9 Under any of the following circumstances, approval will not be granted to an applicant for establishment of a contractual joint venture:

(1) Harming state sovereignty or social public interests;

(2) Endangering state safety;

(3) Causing pollution to the environment;

(4) Other circumstances which violate the law, administrative regulations or state industrial policies.

外资企业法实施细则（摘录）

（一九九0年十月二十八日国务院批准
一九九0年十二月十二日对外经济贸易部令第一号发布）

第二章　设立程序

第十五条　设立外资企业的申请书应当包括下列内容：

（一）外国投资者的姓名或者名称、住所、注册地和法定代表人的姓名、国籍、职务；

（二）拟设立外资企业的名称、住所；

（三）经营范围、产品品种和生产规模；

（四）拟设立外资企业的投资总额、注册资本、资金来源、出资方式和期限；

（五）拟设立外资企业的组织形式和机构、法定代表人；

（六）采用的主要生产设备及其新旧程度、生产技术、工艺水平及其来源；

（七）产品的销售方向、地区和销售渠道、方式以及在中国和国外市场的销售比例；

（八）外汇资金的收支安排；

（九）有关机构设置和人员编制，职工的招用、培训、工资、福利、保险、劳动保护等事项的安排；

（十）**可能造成环境污染的程度和解决措施**；

（十一）场地选择和用地面积；

（十二）基本建设和生产经营所需资金、能源、原材料及其解决办法；

（十三）项目实施的进度计划；

（十四）拟设立外资企业的经营期限。

Implementing Rules on the Law of the People's Republic of China on Foreign-capital Enterprises (excerpts)

(Approved by the State Council on October 28, 1990, and promulgated by Decree No. 1 of the Ministry of Economic Relations Foreign and Trade on December 12, 1990)

Chapter II Procedures for Establishment

Article 15 The written application for the establishment of a foreign - capital enterprise shall include the following contents:

(1) the name or designation, the residence and the place of registration of the foreign investor, and the name, nationality, and position of the legal representative;

(2) the name and residence of the foreign - capital enterprise;

(3) the scope of business operations, the varieties of products, and the scale of production;

(4) the total amount of investment, the registered capital, the source of funds, and the method of investment contribution and the operation period;

(5) the organizational form and organs, and the legal representative of the foreign-capital enterprise;

(6) the primary production equipment to be used and the degrees of depreciation, production technology, technological level and their sources;

(7) the sales orientation and areas, the sales channels and methods, and the sales proportion between China's market and foreign markets;

(8) the arrangements for the revenues and expenditures in foreign exchange;

(9) the arrangements for the establishment of relevant organs and the authorized size of working personnel, the engagement and use of workers and staff members, their training, salaries and wages, material benefits, insurance, and labour protection;

(10) the degrees of probable environmental pollution and the measures for tackling pollution;

(11) the selection of sites and the area of land to be used;

(12) the funds, energy resources, raw and processed materials needed in capital construction and in production and business operations and the solutions thereof;

(13) the progress plan for the construction of the project; and

(14) the period of business operations of the foreign - capital enterprise to be established.

中外合资经营企业法实施条例（摘录）

（一九八三年九月二十日国务院发布，一九八六年一月十五日修订）

第五条 申请设立合营企业有下列情况之一的，不予批准：

（一）有损中国主权的；

（二）违反中国法律的；

（三）不符合中国国民经济发展要求的；

（四）**造成环境污染的；**

（五）签订的协议、合同、章程显属不公平，损害合营一方权益的。

Implementing Rules on the Law of the People's Republic of China on Chinese-foreign Equity Joint Ventures (excerpts)

(Promulgated by the State Council on September 20, 1983 and revised on January 15, 1986)

Article 5 Application for establishing joint ventures shall not be approved if they involve any of the following circumstances:

(1) detriment to China's sovereignty;

(2) violation of Chinese Law;

(3) nonconformity with the requirements of the development of China's national economy;

(4) environmental pollution;

(5) obvious inequity in the agreements, contracts and articles of association signed, impairing the rights and interests of one of the parties.

海商法（摘录）

（一九九二年十一月七日第七届全国人民代表大会常务委员会第二十八次会议通过，一九九二年十一月七日中华人民共和国主席令第六十四号公布，一九九三年七月一日起施行）

第九章　海难救助

第一百七十七条　在救助作业过程中，救助方对被救助方负有下列义务：

（一）以应有的谨慎进行救助；

（二）以应有的谨慎**防止或者减少环境污染损害**；

（三）在合理需要的情况下，寻求其他救助方援助；

（四）当被救助方合理地要求其他救助方参与救助作业时，接受此种要求，但是要求不合理的，原救助方的救助报酬金额不受影响。

第一百七十八条　在救助作业过程中，被救助方对救助方负有下列义务：

（一）与救助方通力合作；

（二）以应有的谨慎**防止或者减少环境污染损害**；

（三）当获救的船舶或者其他财产已经被送至安全地点时，及时接受救助方提出的合理的移交要求。

第一百七十九条　救助方对遇险的船舶和其他财产的救助，取得效果的，有权获得救助报酬；救助未取得效果的，除本法第一百八十二条或者其他法律另有规定或者合同另有约定外，无权获得救助款项。

第一百八十条　确定救助报酬，应当体现对救助作业的鼓励，并综合考虑下列各项因素：

（一）船舶和其他财产的获救的价值；

（二）救助方在**防止或者减少环境污染损害方面的技能和努力**；

（三）救助方的救助成效；

（四）危险的性质和程度；

（五）救助方在救助船舶、其他财产和人命方面的技能和努力；

（六）救助方所用的时间、支出的费用和遭受的损失；

（七）救助方或者救助设备所冒的责任风险和其他风险；

（八）救助方提供救助服务的及时性；

（九）用于救助作业的船舶和其他设备的可用性和使用情况；

（十）救助设备的备用状况、效能和设备的价值。

救助报酬不得超过船舶和其他财产的获救价值。

……

第一百八十二条　对**构成环境污染损害**危险的船舶或者船上货物进行的救助，

Maritime Code of the People's Republic of China (excerpts)

(Adopted at the 28th Session of the Standing Committee of the Seventh National People's Congress on November 7, 1992, promulgated by Order No. 64 of the President of the People's Republic of China on November 7, 1992 and effective as of July 1, 1993)

.....

Chapter IX Salvage at Sea

Article 177 During the salvage operation, the salvor shall owe a duty to the salved party to:

(1) Carry out the salvage operation with due care;

(2) Exercise due care to prevent or minimize the pollution damage to the environment;

(3) Seek the assistance of other salvors where reasonably necessary;

(4) Accept the reasonable request of the salved party to seek the participation in the salvage operation of other salvors. However, if the request is not wellfounded, the amount of payment due to the original salvor shall not be affected.

Article 178 During the salvage operation, the party salved is under an obligation to the salvor to:

(1) Cooperate fully with the salvor;

(2) Exercise due care to prevent or minimize the pollution damage to the environment;

(3) Promptly accept the request of the salvor to take delivery of the ship or property salved when such ship or property has been brought to a place of safety.

Article 179 Where the salvage operations rendered to the distressed ship and other property have had a useful result, the salvor shall be entitled to a reward. Except as otherwise provided for by Article 182 of this Code or by other laws or the salvage contract, the salvor shall not be entitled to the payment if the salvage operations have had no useful result.

Article 180 The reward shall be fixed with a view to encouraging salvage operations, taking into full account the following criteria:

(1) Value of the ship and other property salved;

(2) Skill and efforts of the salvors in preventing or minimizing the pollution damage to the environment;

(3) Measure of success obtained by the salvors;

(4) Nature and extent of the danger;

(5) Skill and efforts of the salvors in salving the ship, other property and life;

(6) Time used and expenses and losses incurred by the salvors;

(7) Risk of liability and other risks run by the salvors or their equipment;

(8) Promptness of the salvage services rendered by the salvors;

(9) Availability and use of ships or other equipment intended for salvage operations;

(10) State of readiness and efficiency of the salvors' equipment and the value thereof.

The reward shall not exceed the value of the ship and other property salved.

.....

Article 182 If the salvor has carried out the salvage operations in respect of a ship which by itself or its goods threatened pollution damage to the environment and has failed to earn a reward under Article 180 of this Code at least equivalent to the special compensation assessable in accordance with this Article, he shall be entitled to special compensation from the owner of that ship equivalent to his ex-

救助方依照本法第一百八十条规定获得的救助报酬，少于依照本条规定可以得到的特别补偿的，救助方有权依照本条规定，从船舶所有人处获得相当于救助费用的特别补偿。救助人进行前款规定的救助作业，取得防止或者减少环境污染损害效果的，船舶所有人依照前款规定应当向救助方支付的特别补偿可以另行增加，增加的数额可以达到救助费用的百分之三十。受理争议的法院或者仲裁机构认为适当，并且考虑到本法第一百八十条第一款的规定，可以判决或者裁决进一步增加特别补偿数额；但是，在任何情况下，增加部分不得超过救助费用的百分之一百。

本条所称救助费用，是指救助方在救助作业中直接支付的合理费用以及实际使用救助设备、投入救助人员的合理费用。确定救助费用应当考虑本法第一百八十条第一款第（八）、（九）、（十）项的规定。

在任何情况下，本条规定的全部特别补偿，只有在超过救助方依照本法第一百八十条规定能够获得的救助报酬时，方可支付，支付金额为特别补偿超过救助报酬的差额部分。

由于救助方的过失未能**防止或者减少环境污染**损害的，可以全部或者部分地剥夺救助方获得特别补偿的权利。

本条规定不影响船舶所有人对其他被救助方的追偿权。

……

第九章　海事赔偿责任限制

第二百零四条　船舶所有人、救助人，对本法第二百零七条所列海事赔偿请求，可以依照本章规定限制赔偿责任。

前款所称的船舶所有人，包括船舶承租人和船舶经营人。

第二百零五条　本法第二百零七条所列海事赔偿请求，不是向船舶所有人、救助人本人提出，而是向他们对其行为，过失负有责任的人员提出的，这些人员可以依照本章规定限制赔偿责任。

……

第二百零八条　本事规定不适用于下列各项：

（一）对救助款项或者共同海损分摊的请求；

（二）中华人民共和国参加的国际油污损害民事责任公约规定的**油污损害的赔偿**请求；

（三）中华人民共和国参加的国际核能损害责任限制公约规定的核能损害的赔偿请求；

（四）核动力船舶造成的核能损害的赔偿请求；

（五）船舶所有人或者救助人的受雇人提出的赔偿请求，根据调整劳务合同的法律，船舶所有人或者救助人对该类赔偿请求无权限制赔偿责任，或者该项法律作了高于本章规定的赔偿限额的规定。

第二百零九条　经证明，引起赔偿请求的损失是由于责任人的故意或者明知可能造成损失而轻率地作为或者不作为造成的，责任人无权依照本章规定限制赔偿责任。

penses as herein defined.

If the salvor has carried out the salvage operations prescribed in the preceding paragraph and has prevented or minimized pollution damage to the environment, the special compensation payable by the owner to the salvor under paragraph 1 of this Article may be increased by an amount up to a maximum of 30% of the expenses incurred by the salvor. The court which has entertained the suit or the arbitration organization may, if it deems fair and just and taking into consideration the provisions of paragraph 1 of Article 180 of this Code, render a judgment or an award further increasing the amount of such special compensation, but in no event shall the total increase be more than 100% of the expenses incurred by the salvor.

The salvor's expenses referred to in this Article means the salvor's outofpocket expenses reasonably incurred in the salvage operation and the reasonable expenses for the equipment and personnel actually used in the salvage operation. In determining the salvor's expenses, the provisions of subparagraphs (8), (9) and (10) of paragraph 1 of Article 180 of this Code shall be taken into consideration.

Under all circumstances, the total special compensation provided for in this Article shall be paid only if such compensation is greater than the reward recoverable by the salvor under Article 180 of this Code, and the amount to be paid shall be the difference between the special compensation and the reward.

If the salvor has been negligent and has thereby failed to prevent or minimize the pollution damage to the environment, the salvor may be totally or partly deprived of the right to the special compensation.

Nothing in this Article shall affect the right of recourse on the part of the shipowner against any other parties salved.

.....

Chapter XI Limitation of Liability for Maritime Claims

Article 204 Shipowners and salvors may limit their liability in accordance with the provisions of this Chapter for claims set out in Article 207 of this Code.

The shipowners referred to in the preceding paragraph shall include the charterer and the operator of a ship.

Article 205 If the claims set out in Article 207 of this Code are not made against shipowners or salvors themselves but against persons for whose act, neglect or default the shipowners or salvors are responsible, such persons may limit their liability in accordance with the provisions of this Chapter.

.....

Article 208 The provisions of this Chapter shall not be applicable to the following claims:

(1) Claims for salvage payment or contribution in general average;

(2) Claims for oil pollution damage under the International Convention on Civil Liability for Oil Pollution Damage to which the People's Republic of China is a party;

(3) Claims for nuclear damage under the International Convention on Limitation of Liability for Nuclear Damage to which the People's Republic of China is a party;

(4) Claims against the shipowner of a nuclear ship for nuclear damage;

(5) Claims by the servants of the shipowner or salvor, if under the law governing the contract of employment, the shipowner or salvor is not entitled to limit his liability or if he is by such law only permitted to limit his liability to an amount greater than that provided for in this Chapter.

Article 209 A person liable shall not be entitled to limit his liability in accordance with the provisions of this Chapter, if it is proved that the loss resulted from his act or omission done with the intent to cause such loss or recklessly and with knowledge that such loss would probably result.

海事诉讼特别程序法（摘录）

（1999年12月25日第九届全国人民代表大会常务委员会第十三次会议通过，
1999年12月25日中华人民共和国主席令第28号公布）

第二章　管　　辖

第七条　下列海事诉讼，由本条规定的海事法院专属管辖：

（一）因沿海港口作业纠纷提起的诉讼，由港口所在地海事法院管辖；

（二）因船舶排放、泄漏、倾倒油类或者其他有害物质，海上生产、作业或者拆船、修船作业造成海域污染损害提起的诉讼，由污染发生地、损害结果地或者采取**预防污染措施**地海事法院管辖；

（三）因在中华人民共和国领域和有管辖权的海域履行的海洋勘探开发合同纠纷提起的诉讼，由合同履行地海事法院管辖。

……

第三章　海事请求保全

第二十一条　下列海事请求，可以申请扣押船舶：

（一）船舶营运造成的财产灭失或者损坏；

（二）与船舶营运直接有关的人身伤亡；

（三）海难救助；

（四）船舶对环境、海岸或者有关利益方造成的损害或者损害威胁；为预防、减少或者消除此种损害而采取的措施；为此种损害而支付的赔偿；**为恢复环境**而实际采取或者准备采取的合理措施的费用；第三方因此种损害而蒙受或者可能蒙受的损失；以及与本项所指的性质类似的损害、费用或者损失；

（五）与起浮、清除、回收或者摧毁沉船、残骸、搁浅船、被弃船或者使其无害有关的费用，包括与起浮、清除、回收或者摧毁仍在或者曾在该船上的物件或者使其无害的费用，以及与维护放弃的船舶和维持其船员有关的费用；

……

第八章　审判程序

第九十七条　对**船舶造成油污损害**的赔偿请求，受损害人可以向造成油污损害的船舶所有人提出，也可以直接向承担船舶所有人油污损害责任的保险人或者提供

Special Maritime Procedure Law of the People's Republic of China (excerpts)

(Adopted at the 13th Session of the Standing Committee of the Ninth National People's Congress on December 25 1999, promulgated by Order No. 28 of the President of the People's Republic of China on December 25 1999

.....

Chapter II Jurisdiction

Article 7 The following maritime litigation shall be under the exclusive jurisdiction of the maritime courts specified in this Article:

(1) A lawsuit brought on a dispute over harbour operations shall be under the jurisdiction of the maritime court of the place where the harbour is located;

(2) A lawsuit brought on a dispute over pollution damage for a ship's discharge, omission or dumping of oil or other harmful substances, or maritime production, operations, ship scrapping, repairing operations shall be under the jurisdiction of the maritime court of the place where oil pollution occurred, where injury result occurred or where preventive measures were taken;

(3) A lawsuit brought on a dispute over a performance of a maritime exploration and development contract within the territory of the People's Republic of China and the sea areas under its jurisdiction shall be under the jurisdiction of the maritime court of the place where the contract is performed.

.....

Chapter III Maritime Claims Preservation

Article 21 The following maritime claims may applied for arresting ships:

(1) the destruction of or damage to the property occurred in the operation of the ship;

(2) the loss of life or personal injury directly relating to the operation of the ship;

(3) salvage payment;

(4) the damage or threat of damage caused by the ship to the environment, seashore or the relevant interested parties; the measures taken for prevention, reduction and elimination of such damage; payment for compensation of such damage; the reasonable cost for the measures taken actually or preparing to take for restoring the environment; loses the third party suffered or will probably suffer due to such damage; and the damage, fees or loses which are similar in nature specified in this Item;

(5) fees relating to floating, elimination, recycling and destruction of sunken ships, shipwreck, stranded objects, abandoned ships or making them harmless, including fees relating to floating, elimination, recycling and destruction of the objects which still are or were abroad such ships or making them harmless, and fees relating to maintenance of abandoned ships and suppurating the crew members;

.....

Chapter VIII Trial Procedures

Article 97 With respect to a claim for indemnity against oil pollution damage caused by a ship, the person suffering for the damage may make the claim to the shipowner causing the oil pollution damage, or directly make the claim to the insurer bearing the liability for oil pollution damage of the

财务保证的其他人提出。

油污损害责任的保险人或者提供财务保证的其他人被起诉的，有权要求造成油污损害的船舶所有人参加诉讼。

……

第九章　设立海事赔偿责任限制基金程序

第一百零一条　船舶所有人、承租人、经营人、救助人、保险人在发生海事事故后，依法申请责任限制的，可以向海事法院申请设立海事赔偿责任限制基金。

船舶造成**油污损害的**，船舶所有人及其责任保险人或者提供财务保证的其他人为取得法律规定的责任限制的权利，应当向海事法院设立油污损害的海事赔偿责任限制基金。

设立责任限制基金的申请可以在起诉前或者诉讼中提出，但最迟应当在一审判决作出前提出。

第一百零二条　当事人在起诉前申请设立海事赔偿责任限制基金的，应当向事故发生地、合同履行地或者船舶扣押地海事法院提出。

第一百零三条　设立海事赔偿责任限制基金，不受当事人之间关于诉讼管辖协议或者仲裁协议的约束。

第一百零四条　申请人向海事法院申请设立海事赔偿责任限制基金，应当提交书面申请。申请书应当载明申请设立海事赔偿责任限制基金的数额、理由，以及已知的利害关系人的名称、地址和通讯方法，并附有关证据。

第一百零五条　海事法院受理设立海事赔偿责任限制基金申请后，应当在七日内向已知的利害关系人发出通知，同时通过报纸或者其他新闻媒体发布公告。

通知和公告包括下列内容：

（一）申请人的名称；

（二）申请的事实和理由；

（三）设立海事赔偿责任限制基金事项；

（四）办理债权登记事项；

（五）需要告知的其他事项。

第一百零六条　利害关系人对申请人申请设立海事赔偿责任限制基金有异议的，应当在收到通知之日起七日内或者未收到通知的在公告之日起三十日内，以书面形式向海事法院提出。

海事法院收到利害关系人提出的书面异议后，应当进行审查，在十五日内作出裁定。异议成立的，裁定驳回申请人的申请；异议不成立的，裁定准予申请人设立海事赔偿责任限制基金。

当事人对裁定不服的，可以在收到裁定书之日起七日内提起上诉。第二审人民法院应当在收到上诉状之日起十五日内作出裁定。

第一百零七条　利害关系人在规定的期间内没有提出异议的，海事法院裁定准

shipowner or to other person providing financial suretyship.

Where the insurer bearing the liability for oil pollution damage of the shipowner or the other person providing financial suretyship against whom an action is filed, he is entitled to require the shipowner causing the oil pollution damage to participate in the proceedings.

Chapter IX Procedures for Constituting a Limitation Fund for Maritime Claims Liability

Article 101 Where limitation of liability is applied according to law after the occurrence of a maritime accident, the shipowner, charter, operator, salvor and insurer may apply to the maritime court to constitute a limitation fund for maritime claims liability.

Where any oil pollution damage is caused by a ship, the shipowner and the insurer of liability or other persons providing financial suretyship shall, for a purpose of obtaining the right to limitation of liability stipulated by law, constitute a limitation fund for maritime claims liability of oil pollution damage with the maritime court.

An application for constituting a limitation fund for liability may be submitted before bring an action or during the proceedings, but it shall be submitted at least before the making of the judgment of first instance.

Article 102 Where an application for constituting a limitation fund for maritime claims liability is to be submitted before bring an action, the parties shall submit it to the maritime court of the place where the accident is occurred, the place where the contract is performed or the place where the ship is arrested.

Article 103 The constitution of a limitation fund for maritime claims liability shall not be restricted by an agreement between the parties on litigation jurisdiction or arbitration.

Article 104 When applying to constitute a limitation fund for maritime claims liability, the applicant shall submit a written application. The application shall specify the quantity of and the reasons for the limitation fund for maritime claims liability, as well as the names, addresses and corresponding methods of the known interested parties, and shall have relevant evidence attached.

Article 105 After entertaining an application for constituting a limitation fund for maritime claims liability, the maritime court shall, within seven days, issue a notice to the known interested parties, and publish a public announcement in newspapers or through other news media.

The notice and public announcement shall include the following contents:

(1)name of the applicant;

(2)facts of and reasons for the application;

(3)matters for which the limitation fund for maritime claims liability is to be constituted;

(4)matters concerning the undertaking of registration of the creditors' rights;

(5) other matter that need to be made known.

Article 106 Where an interested party objects the application of an applicant for constituting a limitation fund for maritime claims liability, the party shall, within seven days from the date of the receipt of the notice or within thirty days from the date of the public announcement for those who have not received the notice, raise the objection in written form to the maritime court.

After receiving a written objection submitted by the interested party, the maritime court shall examine it and make an order within fifteen days. Where the objection is established, it shall order the application of the applicant to be rejected; if the objection is not established, it shall order to approve the applicant to constitute a imitation fund for maritime claims liability.

Where the parties are not satisfied with an order, they may file an appeal within seven days from the date of the receipt of the order. The people's court of second instance shall make an order within fifteen days from the date of the receipt of appeal petition.

Article 107 Where the interested parties do not raise any objections within the prescribed time period, the maritime court shall order to approve the applicant to constitute a limitation fund for maritime claims liability.

予申请人设立海事赔偿责任限制基金。

第一百零八条 准予申请人设立海事赔偿责任限制基金的裁定生效后，申请人应当在海事法院设立海事赔偿责任限制基金。

设立海事赔偿责任限制基金可以提供现金，也可以提供经海事法院认可的担保。

海事赔偿责任限制基金的数额，为海事赔偿责任限额和自事故发生之日起至基金设立之日止的利息。以担保方式设立基金的，担保数额为基金数额及其在基金设立期间的利息。

以现金设立基金的，基金到达海事法院指定帐户之日为基金设立之日。以担保设立基金的，海事法院接受担保之日为基金设立之日。

第一百零九条 设立海事赔偿责任限制基金以后，当事人就有关海事纠纷应当向设立海事赔偿责任限制基金的海事法院提起诉讼，但当事人之间订有诉讼管辖协议或者仲裁协议的除外。

第一百一十条 申请人申请设立海事赔偿责任限制基金错误的，应当赔偿利害关系人因此所遭受的损失。

Article 108 After an order approving an applicant to constitute a limitation fund for maritime claims liability takes effect, the applicant shall constitute a limitation fund for maritime claims liability with the maritime court.

In constituting a limitation fund for maritime claims liability, the applicant may provide cash, or provide guaranty approved by the maritime court.

The quantity of a limitation fund for maritime claims shall be the sum of such an amount of the limitation of liability for maritime claims, together with the interests therefrom from the date of the occurrence of the accident until the date of the constitution of the fund. Where the fund is constituted in a form of guaranty, the quantity of the guaranty shall be the quantity of the fund together with the interests therefrom during the existence of the fund.

Where the fund is constituted in a form of cash, the date on which the fund reaches the account designated by the maritime court shall be the date of the constitution of the fund. Where the fund is constituted in a form of guaranty, the date on which the guaranty is accepted by the maritime court shall be the date of the constitution of the fund.

Article 109 After the constitution of a limitation fund for maritime claims, for any maritime disputes, the parties shall bring an action in the maritime court constituting a limitation fund for maritime claims, except that the parties reach an agreement on litigation jurisdiction or arbitration.

Article 110 Where the application for constituting a limitation fund for maritime claims is wrong, the applicant shall indemnify the losses therefrom suffered by the interested parties.

城市规划法

（全国人大常委会1989年12月26日通过并颁布，自1990年4月1日起施行）

第二条 制定和实施城市规划，在城市规划区内进行建设，必须遵守本法。

第三条 本法所称城市，是指国家按行政建制设立的直辖市、市、镇。

本法所称城市规划区，是指城市市区、近郊区以及城市行政区域内因城市建设和发展需要实行规划控制的区域。城市规划区的具体范围，由城市人民政府在编制的城市总体规划中划定。

第六条 城市规划的编制应当依据国民经济和社会发展规划以及当地的自然环境、资源条件、历史情况、现状特点，统筹兼顾，综合部署。

城市规划确定的城市基础设施建设项目，应当按照国家基本建设程序的规定纳入国民经济和社会发展计划，按计划分步实施。

第十四条 编制城市规划应当注意保护和改善城市生态环境，防止污染和其他公害，加强城市绿化建设和市容环境卫生建设，保护历史文化遗产、城市传统风貌、地方特色和自然景观。

第二十三条 城市新区开发和旧区改建必须坚持统一规划、合理布局、因地制宜、综合开发、配套建设的原则。各项建设工程的选址、定点，不得妨碍城市的发展，危害城市的安全，污染和破坏城市环境，影响城市各项功能的协调。

第二十九条 城市规划区内的土地利用和各项建设必须符合城市规划，服从规划管理。

第三十条 城市规划区内的建设工程的选址和布局必须符合城市规划。设计任务书报请批准时，必须附有城市规划行政主管部门的选址意见书。

第三十一条 在城市规划区内进行建设需要申请用地的，必须持国家批准建设项目的有关文件，向城市规划行政主管部门申请定点，由城市规划行政主管部门核定其用地位置和界限，提供规划设计条件，核发建设用地规划许可证。建设单位或者个人在取得建设用地规划许可证后，方可向县级以上地方人民政府土地管理部门申请用地，经县级以上人民政府审查批准后，由土地管理部门划拨土地。

第三十二条 在城市规划区内新建、扩建和改建建筑物、构筑物、道路、管线

Urban Planning Law

(Adopted and promulgated by the Standing Committee of NPC
on December 26, 1989, effective as of April 1, 1990)

Article 2 This Law shall be observed when the plan for a city is being formulated or implemented, or when construction is being carried out within a planned urban area.

Article 3 The term "city" used in this Law applies to a municipality directly under the Central Government, a city or a town established as one of the administrative divisions of the state.

The term "a planned urban area" used in this Law applies to an urban district, an inner suburban district or an area needed for urban development and construction as one of the administrative divisions of a city. The scope of a planned urban area shall be determined by the people's government of a city, while compiling a comprehensive plan for the city.

Article 6 The compilation of the plan for a city shall be based on the plan for national economic and social development as well as the natural environment, resources, historical conditions and present characteristics of the city. The plan shall be a comprehensive one which gives balanced consideration to all factors.

The construction of items of urban infrastructure as defined in the plan for a city shall be incorporated into the plan for national economic and social development in accordance with the specified procedure for national capital construction, and shall be carried out step by step in a planned way.

Article 14 In the compilation of the plan for a city, attention shall be paid to the protection and improvement of the city's ecological environment, the prevention of pollution and other public hazards, the development of greenery and afforestation, the improvement of the appearance and environmental sanitation of urban areas, the preservation of historic and cultural sites, the traditional cityscape, the local characteristics and the natural landscape.

In the compilation of the plan for a city in a national autonomous area, attention shall be paid to the preservation of ethnic traditions and local characteristics.

Article 23 In the development of new urban areas and the redevelopment of existing urban areas, the principles of unified planning, a rational layout, consideration of local conditions, comprehensive development and the coordinated construction of support facilities must be adhered to. The selection and determination of sites for construction projects may not hinder the development of a city, endanger its safety, cause pollution or a deterioration of its environment or

affect the coordination of its various functions.

Article 29 The use of land and all development projects within a planned urban area must conform to the plan for a city and must be subjected to planning administration.

Article 30 The location and layout of construction projects within a planned urban area must conform to the plan for a city. The design programme submitted for approval must be accompanied by the statement of opinion on the location issued by the competent department of city planning administration.

Article 31 When applying for the use of land for a construction project in a planned urban area, the unit or individual undertaking construction must produce documents stating the approval of the project by the relevant government authorities and apply to the competent department of city planning administration for the determination of a location for the construction project. The competent department of city planning administration shall determine the site and its boundary, provide the facilities for planning and designing, and issue a permit for the planned use of land for construction.

Only after acquiring the permit for the planned use of land for construction, may the unit or indi-

和其他工程设施，必须持有关批准文件向城市规划行政主管部门提出申请，由城市规划行政主管部门根据城市规划提出的规划设计要求，核发建设工程规划许可证件。建设单位或者个人在取得建设工程规划许可证件和其他有关批准文件后，方可申请办理开工手续。

vidual undertaking construction apply for the use of land to the land administration department of the local people's government at or above the county level. After the application is examined and approved by the people's government at or above the county level, land shall be allocated by the department of land administration.

Article 32 For the construction of a new building, structure, road, pipeline and cable or any other engineering works, its extension or its alteration within a planned urban area, application shall be submitted to the competent department of the city planning administration together with the related documents of approval. The competent department of city planning administration shall issue a permit for a planned construction project according to the planning and design requirements defined in the plan for the city.

The unit or individual undertaking construction may not apply for the performance of the procedure for the beginning of construction until after acquiring the permit for a planned construction project.

第二编

中国签署的国际环境条约中的有关贸易条款

PART II

Trade Provisions in Multilateral Environmental Agreements

控制危险废物越境转移及其处置巴塞尔公约（摘录）

（1989 年 3 月 22 日通过。1991 年 9 月 4 日，全国人大常委会决定批准该公约；1992 年 8 月 20 日，该公约对中国生效。）

第 4 条　一般义务

1.（a）各缔约国行使其权利禁止危险废物或其他废物进口处置时，应按照第 13 条的规定将其决定通知其他缔约国。

（b）各缔约国在接获按照以上（a）项发出的通知后，应禁止或不许可向禁止这类废物进口的缔约国出口危险废物和其他废物。

（c）对于尚未禁止进口危险废物和其他废物的进口国，在该进口国未以书面同意某一出口时，各缔约国应禁止或不许可此类废物的出口。

2. 各缔约国应采取适当措施：

（a）考虑到社会、技术和经济方面，保证将其国内产生的危险废物和其他废物减至最低限度；

（b）保证提供充分的处置设施用以从事危险废物和其他废物的环境无害管理，不论处置场所位于何处，在可能范围内，这些设施应设在本国领土内；

（c）保证在其领土内参与危险废物和其他废物管理的人员视需要采取步骤，防止在这类管理工作中产生危险废物和其他废物的污染，并在产生这类污染时，尽量减少其对人类健康和环境的影响；

（d）保证在符合危险废物和其他废物的环境无害和有效管理下，把这类废物越境转移减至最低限度，进行此类转移时，应保护环境和人类健康，免受此类转移可能产生的不利影响；

（e）禁止向属于一经济和（或）政治一体化组织而且在法律上完全禁止危险废物或其他废物进口的某一缔约国或一组缔约国，特别是发展中国家，出口此类废物，或者，如果有理由相信此类废物不会按照缔约国第一次会议决定的标准以环境无害方式加以管理时，也禁止向上述国家进行此种出口；

（f）规定向有关国家提供附件五——A 所要求的关于拟议的危险废物和其他废物越境转移的资料，详细说明拟议的转移对人类健康和和环境的影响；

（g）如果有理由相信危险废物和其他废物将不会以对环境无害的方式加以管理时，防止此类废物的进口；

（h）直接地并通过秘书处同其他缔约国和其他有关组织合作从事各项活动，包括传播关于危险废物和其他废物越境转移的资料，以期改善对这类废物的环境无害

Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal(excerpts)

(Adopted on 22 March 1989, approved by the Standing Comrnittee of the National People' sCongress on 4 September 1991 and became effective to China as of 20 Angust 1992)

Article 4
General Obligations

1. (a) Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13.

(b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.

(c) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes.

2. Each Party shall take the appropriate measures to:

(a) Ensure that the generation of hazardous wastes and other wastes within it is reduced to a minimum, taking into account social, technological and economic aspects;

(b) Ensure the availability of adequate disposal facilities, for the environmentally sound management of hazardous wastes and other wastes, that shall be located, to the extent possible, within it, whatever the place of their disposal;

(c) Ensure that persons involved in the management of hazardous wastes or other wastes within it take such steps as are necessary to prevent pollution due to hazardous wastes and other wastes arising from such management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment;

(d) Ensure that the transboundary movement of hazardous wastes and other wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in amanner which will protect human health and the environment against

the adverse effects which may result from such movement;

(e) Not allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic and/or political integration organization that are Parties, particularly developing countries, which have prohibited by their legislation all imports, or if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner, according to criteria to be decided on by the Parties at their first meeting.

(f) Require that information about a proposed transboundary movement of hazardous wastes and other wastes be provided to the States concerned, according to Annex V A, to state clearly the effects of the proposed movement on human health and the environment;

(g) Prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner;

(h) Co-operate in activities with other Parties and interested organizations, directly and through the Secretariat, including the dissemination of information on the transboundary movement of hazardous wastes and other wastes, in order to improve the environmentally sound management of such

管理并防止非法运输。

3. 各缔约国认为危险废物或其他废物的非法运输为犯罪行为。

4. 各缔约国应采取适当的法律、行政和其他措施，以期实施本公约的各项规定，包括采取措施以防止和惩办违反本公约的行为。

5. 缔约国应不许可将危险废物或其他废物从其领土出口到非缔约国，亦不许可从一非缔约国进口到其领土。

6. 各缔约国协议不许可将危险废物或其他废物出口到南纬 60°以南的区域处置，不论此类废物是否涉及越境转移。

7. 此外，各缔约国还应：

(a) 禁止在其国家管辖下所有的人从事危险废物或其他废物的运输或处置工作，但得到授权或许可从事这类工作的人不在此限；

(b) 规定涉及越境转移的危险废物和其他废物须按照有关包装、标签和运输方面普遍接受和承认的国际规则和标准进行包装、标签和运输，并应适当计及国际上公认的有关惯例；

(c) 规定在危险废物和其他废物的越境转移中，从越境转移起点至处置地点皆须随附一份转移文件。

8. 每一缔约国应规定，拟出口的危险废物或其他废物必须以对环境无害的方式在进口国或他处处理。公约所涉废物的环境无害管理技术准则应由缔约国在其第一次会议上决定。

9. 各缔约国应采取适当措施，以确保危险废物和其他废物的越境转移仅在下列情况下才予以许可：

(a) 出口国没有技术能力和必要的设施、设备能力或适当的处置场所以无害环境而且有效的方式处置有关废物；或

(b) 进口国需要有关废物作为再循环或回收工业的原材料；或

(c) 有关的越境转移符合由缔约国决定的其他标准，但这些标准不得背离本公约的目标。

10. 产生危险废物和其他废物的国家遵照本公约以环境无害方式管理此种废物的义务不得在任何情况下转移到进口国或过境国。

11. 本公约不妨碍一缔约国为了更好地保护人类健康和环境而实施与本公约条款一致并符合国际

第 6 条　缔约国之间的越境转移

wastes and to achieve the prevention of illegal traffic;

3. The Parties consider that illegal traffic in hazardous wastes or other wastes is criminal.

4. Each Party shall take appropriate legal, administrative and other measures to implement and enforce the provisions of this Convention, including measures to prevent and punish conduct in contravention of the Convention.

5. A Party shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party.

6. The Parties agree not to allow the export of hazardous wastes or other wastes for disposal within the area south of 60 degrees South latitude, whether or not such wastes are subject to transboundary movement.

7. Furthermore, each Party shall:

(a) Prohibit all persons under its national jurisdiction from transporting or disposing of hazardous wastes or other wastes unless such persons are authorized or allowed to perform such types of operations;

(b) Require that hazardous wastes and other wastes that are to be the subject of a transboundary movement be packaged, labelled, and transported in conformity with generally accepted and recognized international rules

and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices;

(c) Require that hazardous wastes and other wastes be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal.

8. Each Party shall require that hazardous wastes or other wastes, to be exported, are managed in an environmentally sound manner in the State of import or elsewhere. Technical guidelines for the environmentally sound management of wastes subject to this Convention shall be decided by the Parties at their first meeting.

9. Parties shall take the appropriate measures to ensure that the transboundary movement of hazardous wastes and other wastes only be allowed if:

(a) The State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites in order to dispose of the wastes in question in an environmentally sound and efficient manner; or

(b) The wastes in question are required as a raw material for recycling or recovery industries in the State of import; or

(c) The transboundary movement in question is in accordance with other criteria to be decided by the Parties, provided those criteria do not differ from the objectives of this Convention.

10. The obligation under this Convention of States in which hazardous wastes and other wastes are generated to require that those wastes are managed in an environmentally sound manner may not under any circumstances be transferred to the States of import or transit.

11. Nothing in this Convention shall prevent a Party from imposing additional requirements that are consistent with the provisions of this Convention, and are in accordance with the rules of international law, in order better to protect human health and the environment.

12. Nothing in this Convention shall affect in any way the sovereignty of States over their territorial sea established in accordance with international law, and the sovereign rights and the jurisdiction which States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

13. Parties shall undertake to review periodically the possibilities for the reduction of the amount and/or the pollution potential of hazardous wastes and other wastes which are exported to other States, in particular to developing countries.

.....

1. 出口国应通过出口国主管当局的渠道以书面通知或要求产生者或出口者通知有关国家的主管当局。该通知书应以进口国可接受的一种语方载列附件五—A 所规定的声明和资料。仅需向每个有关国家发送一份通知书。

2. 进口国应以书面答复通知者，表示无条件或有条件同意转移、不允许转移、或要求进一步资料。进口国最后答复的副本应送交有关缔约国的主管当局。

3. 出口缔约国在得到书面证实下述情况之前不应允许产生者或出口者开始越境转移；

(a) 通知人已得到进口国的书面同意；并且

(b) 通知人已得到进口国证实存在一份出口者与处置者之间的契约协议，详细说明对有关废物的环境无害管理办法。

4. 每一过境缔约国应迅速向通知人表示收到通过。它可在收到通知后 60 天内以书面答复通知人表示无条件或有条件同意转移、不允许转移，或要求进一步资料。出口国在收到过境国的书面同意之前，应不准许开始越境转移。不过，如果在任何时候一缔约国决定对危险废物或其他废物的过境转移一般地或在特定条件下不要求事先的书面同意，或修改它在这方面的要求，该国应按照第 13 条立即将决定通知其他缔约国。在后一情况下，如果过境国收到某一通知后 60 天内，出口国尚未收到答复，出口国可允许通过该过境国进行出口。

5. 废物的越境转移在该废物只被：

(a) 出口国的法律确定为或视为危险废物时，对进口者或处置者及进口国适用的本条第 9 款的各项要求应分别比照适用于出口者和出口国；

(b) 进口国或进口和过境缔约国的法律确定为或视为危险废物时，对出口者和出口国适用的本条第 1、3、4、6 款应分别比照适用于进口者或处置者和进口国；或

(c) 过境缔约国的法律确定为或视为危险废物时，第 4 款的规定应对该国适用。

6. 出口国可经有关国家书面同意，在具有同一物理化学特性的危险废物或其他废物通过出口国的同一出口海关并通过进口国的同一进口海关——就过境而言，通过过境国的同一进口和出口海关——定期装运给同一个处置者的情况下，允许产生者或出口者使用一总通知。

7. 有关国家可书面同意使用第 6 款所指的总通知，但须提供某些资料，例如关于预定装运的危险废物或其他废物的确切数量或定期清单。

8. 第 6 和第 7 款所指的总通知和书面同意可适用于最多在 12 个月期限内的危险废物或其他废物的多次装运。

Article 6
Transboundary Movement between Parties

1. The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes Such notification shall contain the declarations and information specified in Annex V A, written in a language acceptable to the State of import. Only one notification needs to be sent to each State concerned.

2. The State of import shall respond to the notifier in writing, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. A copy of the final response of the State of import shall be sent to the competent authorities of the States concerned which are Parties.

3. The State of export shall not allow the generator or exporter to commence the transboundary movement until it has received written confirmation that:

(a) The notifier has received the written consent of the State of import; and

(b) The notifier has received from the State of import confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.

4. Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit. However, if at any time a Party decides not to require prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Parties of its decision pursuant to Article 13. In this latter case, if no response is received by the State of export within 60 days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.

5. In the case of a transboundary movement of wastes where the wastes are legally defined as or considered to be hazardous wastes only:

(a) By the State of export, the requirements of paragraph 9 of this Article that apply to the importer or disposer and the State of import shall apply mutatis mutandis to the exporter and State of export, respectively;

(b) By the State of import, or by the States of import and transit which are Parties, the requirements of paragraphs 1, 3, 4 and 6 of this Article that apply to the exporter and State of export shall apply mutatis mutandis to the importer or disposer and State of import, respectively; or

(c) By any State of transit which is a Party, the provisions of paragraph 4 shall apply to such State.

6. The State of export may, subject to the written consent of the States concerned, allow the generator or the exporter to use a general notification where hazardous wastes or other wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs office of exit of the State of export via the same customs office of entry of the State of import, and, in the case of transit, via the same customs office of entry and exit of the State or States of transit.

7. The States concerned may make their written consent to the use of the general notification referred to in paragraph 6 subject to the supply of certain information, such as the exact quantities or periodical lists of hazardous wastes or other wastes to be shipped.

8. The general notification and written consent referred to in paragraphs 6 and 7 may cover multiple shipments of hazardous wastes or other wastes during a maximum period of 12 months.

9. The Parties shall require that each person who takes charge of a transboundary movement of

9. 各缔约国应要求每一个处理危险废物或其他废物越境转移的人在发送或收到有危险废物时在运输文件上签名。缔约国还应要求处置者将他已收到危险废物的情况，并在一定时候将他完成通知书上说明的处置的情况通知出口者和出口国主管当局。如果出口国内部没有收到这类资料，出口国主管当局或出口者应该将情况通知进口国。

10. 本条所规定的通知和答复皆应递送有关缔约国的主管当局或有关非缔约国的适当政府当局。

11. 危险废物或其他废物的任何越境转移都应有保险、保证或进口或过境缔约国可能要求的其他担保。

第 8 条　再进口的责任

在有关国家遵照本公约规定已表示同意的危险废物或其他废物的越境转移未能按照契约的条件完成的情况下，如果在进口国通知出口国和秘书处之后 90 天内或在有关国家同意的另一期限内不能作出环境上无害的处置替代安排，出口国应确保出口者将废物运回出口国。为此，出口国和任何过境缔约国不应反对、妨碍或阻止该废物运回出口国。

hazardous wastes or other wastes sign the movement document either upon delivery or receipt of the wastes in question. They shall also require that the disposer inform both the exporter and the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall so notify the State of import.

10. The notification and response required by this Article shall be transmitted to the competent authority of the Parties concerned or to such governmental authority as may be appropriate in the case of non-Parties.

11. Any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any State of transit which is a Party.

.....

Article 8

Duty to Re-import

When a transboundary movement of hazardous wastes or other wastes to which the consent of the States concerned has been given, subject to the provisions of this Convention, cannot be completed in accordance with the terms of the contract, the State of export shall ensure that the wastes in question are taken back into the State of export, by the exporter, if alternative arrangements cannot be made for their disposal in an environmentally sound manner, within 90 days from the time that the importing State informed the State of export and the Secretariat, or such other period of time as the States concerned agree. To this end, the State of export and any Party of transit shall not oppose, hinder or prevent the return of those wastes to the State of export.

.....

《控制危险废物越境转移及其处置巴塞尔公约》修正案

（巴塞尔公约缔约国会议第三次会议1995年9月18日—22日在日内瓦通过。全国人大常委会1999年10月31日批准该修正案）

增添新的序言部分第7段之二：

“确认危险废物的越境转移，特别是向发展中国家越境转移，其危险率高，不能构成本公约对解除险废物所规定的无害环境管理”。

增添新的第4A条：

1. 附件七所列每一缔约方应一律禁止向未列于附件七的国家越境转移预定按照附件四—A的作业方式处置的危险废物。

2. 附件七所列每一缔约方，应于1997年12月31日之前逐步减少，并自该日以后，一律禁止向未列于附件七的国家越境转移预定按照附件四—B的作业方式处置的本公约第1条第1款（a）项所规定的危险废物。

附件七

各缔约方以及属于经济合作与发展组织、欧洲共同体的其他国家、列支敦士登。

Amendment to the Basel Convention

(Adopted by the 3rd Meeting of the Conference of the Parties to the Basel Convention Geneva, 18－22 September 1995; ratified by the Standing Committee of the National People's Congress of China on October 31, 1999.)

Insert new preambular paragraph 7 bis:

Recognizing that transboundary movements of haxardous wastes, especially to edveloping countries, have a high risk for not constituting an environmentally sound management of hazardous wastes as required by this Convention;

Insert new Article 4A:

1. Each Party listed in Annex VII shall prohibit all transboundary movements of hazardous wastes which are destined for operations according to Annes IV A, to States not listed in Annes VII.

2. Each Party listed in Annes VII shall phase out by 31 December 1997, and prohibit as of that date, all transboundary movements of hazardous wastes under Article 1(i)(a) of the Convention which are destined for operations according to AnnesIV B to States not listed in Annes VII. Such transboundary movement shall not be prohibited unless the wastes in question are characterised as hazardous under the Convention.

Annex VII

Parties and other States which are members of OECD, EC, Liechtenstein.

关于在国际贸易中对某些危险化学品和农药采用事先知情同意程序的鹿特丹公约（摘录）

（1998年9月11日在鹿特丹通过。1998年9月11日中国政府代表签署该公约。）

本公约缔约方，

铭记联合国环境规划署（环境署）和联合国粮食及农业组织（粮农组织）在实施环境署《经修正的关于化学品国际贸易资料交流的伦敦准则》（以下简称“经修正的伦敦准则”）和粮农组织的《农药和销售与使用国际行为守则》（以下简称“国际行为守则”）中规定的自愿性事先知情同意程序方面所开展的工作。

确认到贸易和环境政策应相辅相成，以实现可持续发展。

强调不得将本公约的任何规定理解为缔约方根据适用于化学品国际贸易或环境保护的任何现行国际协定所享有的权利和所承担的义务有任何改变。

兹协议如下：

第3条　公约的范围

1. 本公约适用于：

(a) 禁用或严格限用的化学品；

(b) 极为危险的农药制剂。

2. 本公约不适用于：

(a) 麻醉药品和精神药物；

(b) 放射性材料；

(c) 废物；

(d) 化学武器

(e) 药品，包括人用和兽用药品；

(f) 用作食物添加剂的化学品；

(g) 食物；

(h) 其数量不可能影响人类健康或环境的化学品，但以下列情况为限：

(i) 为了研究或分析而进口，或者

(ii) 个人为自己使用而进口、且就个人使用而言数量合理。

第4条　指定的国家主管部门

Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (excerpts)

(Adopted at Rotterdam on 11 September 1998, and sisned by China on 11 September 1998)

The Parties to this Convention,

.....

Mindful of the work undertaken by the United Nations Environment Programme (UNEP) and the Food and Agriculture Organization of the United Nations (FAO) in the operation of the voluntary Prior Informed Consent procedure, as set out in the UNEP Amended London Guidelines for the Exchange of Information on Chemicals in International Trade (hereinafter referred to as the "Amended London Guidelines") and the FAO International Code of Conduct on the Distribution and Use of Pesticides (hereinafter referred to as the "International Code of Conduct"),

.....

Recognizing that trade and environmental policies should be mutually supportive with a view to achieving sustainable development,

Emphasizing that nothing in this Convention shall be interpreted as implying in any way a change in the rights and obligations of a Party under any existing international agreement applying to chemicals in international trade or to environmental protection,

.....

HAVE AGREED AS FOLLOWS.

.....

Article 3
Scope of the Convention

1. This Convention applies to:

(a) Banned or severely restricted chemicals; and

(b) Severely hazardous pesticide formulations.

2. This Convention does not apply to:

(a) Narcotic drugs and psychotropic substances;

(b) Radioactive materials;

(c) wastes;

(d) Chemical weapons;

(e) Pharmaceuticals, including human and veterinary drugs;

(f) Chemicals used as food additives;

(g) Food;

(h) Chemicals in quantities not likely to affect human health or the environment provided they are imported:

(i) For the purpose of research or analysis; or

(ii) By an individual for his or her own personal use in quantities reasonable for such use.

Article 4
Designated national authorities

1. 各缔约方应指定一个或数个国家主管部门。国家主管部门应获得授权，在行使本公约所规定的行政职能时代表缔约方行事。

2. 各缔约方应力求确保国家主管部门有足够的资源以有效地履行其职责。

3. 各缔约方应在不迟于本公约对其生效之日将国家主管部门的名称和地址通知秘书处。各缔约方应在国家主管部门的名称和地址有变动时立即通知秘书处。

4. 秘书处应立即向缔约方通报其根据第3款收到的通知。

第8条

自愿性事先知情同意程序中的化学品

缔约方大会如果确信在其第一次会议召开之前已列入自愿性事先知情同意程序、但不在附件三之列的任何化学品已符合列入附件三的所有要求，则应在其第一次会议上决定将此化学品列入附件三。

1. Each Party shall designate one or more national authorities that shall be authorized to act on its behalf in the performance of the administrative functions required by this Convention.

2. Each Party shall seek to ensure that such authority or authorities have sufficient resources to perform their tasks effectively.

3. Each Party shall, no later than the date of the entry into force of this Convention for it, notify the name and address of such authority or authorities

to the Secretariat. It shall forthwith notify the Secretariat of any changes in the name and address of such authority or authorities.

4. The Secretariat shall forthwith inform the Parties of the notifications it receives under paragraph 3.

.....

Article 8

Chemicals in the voluntary Prior Informed Consent procedure

For any chemical, other than a chemical listed in Annex III, that has been included in the voluntary Prior Informed Consent procedure before the date of the first meeting of the Conference of the Parties, the Conference of the Parties shall decide at that meeting to list the chemical in Annex III, provided that it is satisfied that all the requirements for listing in that Annex have been fulfilled.

关于持久性有机污染物的斯德哥尔摩公约[①]

（2000 年 12 月 19 日通过，2001 年 5 月 23 日中国签署该公约。）

本公约各缔约方，

确认本公约与贸易和环境领域内的其他国际协定彼此相辅相成，

兹协议如下：

第 3 条
采取措施，减少或消除源自有意生产和使用的排放

1. 每一缔约方应：

(a) 禁止和/或采取必要的法律和行政措施，以消除：

(i) 附件 A 中所列并受该附件的规定制约的化学品的生产和使用；和

(ii) 依照第 2 款的规定，禁止附件 A 中所列化学品的进口和出口；和

(b) 依照附件 B 的规定限制该附件中所列化学品的生产和使用。

2. 每一缔约方应采取措施确保：

(a) 对于附件 A 或 B 所列化学品，只有在下述情况下才予进口：

(i) 目的是按照第 6 条第 1 款 (d) 项的规定，以无害环境方式进行处置；或

(ii) 用于附件 A 或 B 规定准许该缔约方使用的某一用途或目的；

(b) 对于目前在任何生产或使用方面享有具体豁免的附件 A 所列化学品，或目前在任何生产或使用的具体豁免方面其目的可予接受的附件 B 所列化学品，考虑到现行的国际事先知情同意文书的相关规定，只有在下述情况下才予出口：

(i) 目的是按照第 6 条第 1 款 (d) 项的规定，以无害环境方式进行处置；

(ii) 出口到按附件 A 或附件 B 规定获准使用该化学品的某一缔约方；或

(iii) 出口到向并非本公约缔约方、但已向出口缔约方提供了一份年度证书的国家。此种证书应具体列明所涉化学品的拟议用途，并表明该进口国家针对所进口的此种化学品承诺：

a. 采取必要措施，为保护环境和人类健康尽最大限度减少或防止排放；

b. 遵守第 6 条第 1 款的规定；和

c. 酌情遵守附件 B 第二部分第 2 段的规定。

此种证书中还应包括任何适当的佐证文件，诸如法律条文、管制规章或行政或政策准则等。出口缔约方应自收到该证书之日起六十天内将之转交秘书处。

(c) 如所涉化学品系所有具体生产和使用豁免对所有缔约方均已不再有效的附

① 由于中国尚未批准本公约，故中文正式文本尚不可得。此中文本系从 http://www.unep.ch 下载而得。

Stockholm Convention on Persistent Organic Pollutants(excerpts)

(Adopted on December 19,2000;signed by china on May 23,2001)
(23 May 2001)

The Parties to this Convention,

.....

Recognizing that this Convention and other international agreements in the field of trade and the environment are mutually supportive,

.....

Have agreed as follows:

.....

Article 3

Measures to reduce or eliminate releases from intentional production and use

1. Each Party shall:

(a) Prohibit and/or take the legal and administrative measures necessary to eliminate:

(i) Its production and use of the chemicals listed in Annex A subject to the provisions of that Annex; and

(ii) Its import and export of the chemicals listed in Annex A in accordance with the provisions of paragraph 2; and

(b) Restrict its production and use of the chemicals listed in Annex B in accordance with the provisions of that Annex.

2. Each Party shall take measures to ensure:

(a) That a chemical listed in Annex A or Annex B is imported only:

(i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6; or

(ii) For a use or purpose which is permitted for that Party under Annex A or Annex B;

(b) That a chemical listed in Annex A for which any production or use specific exemption is in effect or a chemical listed in Annex B for which any production or use specific exemption or acceptable purpose is in effect, taking into account any relevant provisions in existing international prior informed consent instruments, is exported only:

(i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;

(ii) To a Party which is permitted to use that chemical under Annex A or Annex B; or

(iii) To a State not Party to this Convention which has provided an annual certification to the exporting Party. Such certification shall specify the intended use of the chemical and include a statement that, with respect to that chemical, the importing State is committed to:

a. Protect human health and the environment by taking the necessary measures to minimize or prevent releases;

b. Comply with the provisions of paragraph 1 of Article 6; and

c. Comply, where appropriate, with the provisions of paragraph 2 of Part II of Annex B.

The certification shall also include any appropriate supporting documentation, such as legislation, regulatory instruments, or administrative or policy guidelines. The exporting Party shall transmit the certification to the Secretariat within sixty days of receipt.

(c) That a chemical listed in Annex A, for which production and use specific exemptions are no longer in effect for any Party, is not exported from it except for the purpose of environmentally sound

件 A 所列化学品，则不得从该缔约方出口此种化学品，除非其目的是按照第 6 条第 1 款（d）项的规定，以无害环境方式予以处置；

（d）为本款的目的，“非本公约缔约方国家”一语，就某一特定化学品而言，应包括那些尚未同意就该化学品而言受本公约制约的国家或区域经济一体化组织。

第 4 条
具体豁免登记薄

1. 兹建立一个登记薄，用以验明享有附件 A 或附件 B 所列具体豁免的缔约方。登记薄不应用来验明那些运用着对于所有缔约方均可得以运用的附件 A 或附件 B 规定的缔约方。登记薄应由秘书处负责保存并应开放供公众查阅。

2. 登记薄应含有以下内容：

（a）转录自附件 A 和附件 B 的具体豁免类型清单；

（b）享有附件 A 或附件 B 所列某一具体豁免的缔约方名单；和

（c）每一登记在册的具体豁免的终止日期清单。

3. 任何国家均可在成为缔约方时，向秘书处发出书面通知，要求登记附件 A 或附件 B 所列一种或多种类型的具体豁免。

4. 除非缔约方在登记薄中列明的终止日期较此为早，或依照第 7 款准予续延，否则所有具体豁免的登记的有效期，就某一特定化学品而言，均应自本公约生效之日起为期五年。

5. 缔约方大会应在其第一次会议上就登记薄中所列豁免的审查程序作出决定。

6. 在对登记薄中的豁免清单进行审查之前，有关缔约方应向秘书处提交一份报告，说明其继续有必要得到该项豁免的理由。该报告应由秘书处分发给所有缔约方。应根据所得到的所有信息对所登记的各项豁免进行审查。缔约方大会可就此事项向所涉缔约方提出它认为适宜的建议。

7. 缔约方大会可按所涉缔约方的请求决定续延某一项具体豁免的终止日期，但最长不超过五年。缔约方大会在作出决定时，应适当地考虑到发展中国家缔约方和经济转型缔约方的特殊国情。

8. 缔约方可随时在向秘书处提交书面通知后从登记薄中撤销某一具体豁免条目。此种撤销应按该项书面通知中所具体列明的日期开始生效。

9. 一旦某一特定类别的具体豁免已无任何登记在册的缔约方，则其后便不得再行就该项豁免作出任何新的登记。

第 8 条
把化学品列入附件 A、附件 B 和附件 C

1. 任一缔约方均可向秘书处提交将某一化学品列入本公约附件 A、附件 B 和/或附件 C 的提案。提案中应列有附件 D 中所规定的资料。缔约方在编制提案时可得到其他缔约方和/或秘书处的协助。

2. 秘书处应核实提案中是否列有附件 D 所规定的资料。如果秘书处查明提案中列有所规定的资料，则应将之转交持久性有机污染物审查委员会。

3. 审查委员会应综合兼顾和平衡地考虑到所提供的所有资料，以灵活而又透明的方式审查提案并对之采用附件 D 所规定的甄选标准。

disposal as set forth in paragraph 1 (d) of Article 6;

(d) For the purposes of this paragraph, the term "State not Party to this Convention" shall include, with respect to a particular chemical, a State or regional economic integration organization that has not agreed to be bound by the Convention with respect to that chemical.

Article 4
Register of specific exemptions

1. A Register is hereby established for the purpose of identifying the Parties that have specific exemptions listed in Annex A or Annex B. It shall not identify Parties that make use of the provisions in Annex A or Annex B that may be exercised by all Parties. The Register shall be maintained by the Secretariat and shall be available to the public.

2. The Register shall include:

(a) A list of the types of specific exemptions reproduced from Annex A and Annex B;

(b) A list of the Parties that have a specific exemption listed under Annex A or Annex B; and

(c) A list of the expiry dates for each registered specific exemption.

3. Any State may, on becoming a Party, by means of a notification in writing to the Secretariat, register for one or more types of specific exemptions listed in Annex A or Annex B.

4. Unless an earlier date is indicated in the Register by a Party, or an extension is granted pursuant to paragraph 7, all registrations of specific exemptions shall expire five years after the date of entry into force of this Convention with respect to a particular chemical.

5. At its first meeting, the Conference of the Parties shall decide upon its review process for the entries in the Register.

6. Prior to a review of an entry in the Register, the Party concerned shall submit a report to the Secretariat justifying its continuing need for registration of that exemption. The report shall be circulated by the Secretariat to all Parties. The review of a registration shall be carried out on the basis of all available information. Thereupon, the Conference of the Parties may make such recommendations to the Party concerned as it deems appropriate.

7. The Conference of the Parties may, upon request from the Party concerned, decide to extend the expiry date of a specific exemption for a period of up to five years. In making its decision, the Conference of the Parties shall take due account of the special circumstances of the developing country Parties and Parties with economies in transition.

8. A Party may, at any time, withdraw an entry from the Register for a specific exemption upon written notification to the Secretariat. The withdrawal shall take effect on the date specified in the notification.

9. When there are no longer any Parties registered for a particular type of specific exemption, no new registrations may be made with respect to it.

.....

Article 8
Listing of chemicals in Annexes A , B and C

1. A Party may submit a proposal to the Secretariat for listing a chemical in Annexes A, B and/or C. The proposal shall contain the information specified in Annex D. In developing a proposal, a Party may be assisted by other Parties and/or by the Secretariat.

2. The Secretariat shall verify whether the proposal contains the information specified in Annex D. If the Secretariat is satisfied that the proposal contains the information so specified, it shall forward the proposal to the Persistent Organic Pollutants Review Committee.

3. The Committee shall examine the proposal and apply the screening criteria specified in Annex D in a flexible and transparent way, taking all information provided into account in an integrative and balanced manner.

4. If the Committee decides that:

4. 如果委员会决定：

(a) 它认定提案符合甄选标准，则应通过秘书处向所有缔约方和观察员通报该提案和委员会的评价，并请它们提供附件 E 中所规定的资料；或

(b) 它认定提案不符合甄选标准，则应通过秘书处就此通知所有缔约方和观察员，并向所有缔约方通报该提案和委员会的评价，随后将该提案搁置。

5. 任何缔约方均可再次向审查委员会提交曾被该委员会根据以上第 4 款搁置的提案。再次提交的提案可包括该缔约方所关注的任何问题以及提请该委员会对之作进一步审议的理由。如果经过这一程序后，审查委员会再次搁置该提案，则缔约方可质疑审查委员会的决定，而缔约方大会应在下一届会议上审议该事项。缔约方大会可根据附件 D 所列甄选标准并考虑到审查委员会的评价以及任何缔约方或观察员提交的补充资料，决定继续处理该提案。

6. 如果委员会决定定提案符合甄选标准，或缔约方大会决定应继续处理该提案，则委员会应计及所收到的相关附加资料，对提案进行进一步的审查，并应根据附件 E 拟订风险简介草案。委员会应通过秘书处将风险简介草案提交所有缔约方和观察员，收集它们的技术性评议意见，并在计及这些意见后，完成风险简介的编写。

7. 如果审查委员会根据附件 E 规定的风险简介决定：

(a) 该化学品由于其长距离的环境迁移而很可能会导致对人类健康和/或环境产生较严重的不利影响因而有理由对之采取全球行动，仍应继续处理该提案。即使缺乏充分的科学肯定性，亦不应妨碍继续对该提案进行处理。委员会应通过秘书处请所有缔约方和观察员提出与附件 F 所列各种考虑因素有关的资料。委员会继而应拟订一项风险管理评价报告，其中包括按照附件 F 对该化学品可能实行的管制措施进行的分析；或

(b) 不应继续处理该项提案，则它应通过秘书处将风险简介提供所有缔约方和观察员，并搁置该项提案。

8. 对根据以上第 7 款（b）项搁置的任何提案，任一缔约方均可要求缔约方大会考虑指示委员会请提案缔约方和其他缔约方在不超过一年的期限内提供补充资料。在该期限之后，委员会应在所收到的任何资料的基础上，按缔约方大会决定的优先次序，根据以上第 6 款重审该提案。如果经过这一程序之后，审查委员会再次搁置该提案，则所涉缔约方可质疑委员会的决定，而缔约方大会应在其下一届会议上审议该事项。缔约方大会可根据按照附件 E 所编写的风险简介并考虑到委员会的评价及任何缔约方和观察员提交的补充资料，决定继续处理该提案。如果缔约方大会决定应继续处理该提案，则审查委员会便应编写出有关的风险管理评价。

9. 审查委员会应根据第 6 款所述风险简介和第 7 款（a）项或第 8 款所述风险管理评价，建议是否应由缔约方大会审议拟列入附件 A、附件 B 和/或附件 C 的该化学品。缔约方大会在充分考虑到该委员会的建议、包括任何科学上的不确定性之后，应本着预先防范方针决定是否将该化学品列入附件 A、附件 B 和/或附件 C，并在其中同时列入与之相关的具体管制措施。

(a) It is satisfied that the screening criteria have been fulfilled, it shall, through the Secretariat, make the proposal and the evaluation of the Committee available to all Parties and observers and invite them to submit the information specified in Annex E; or

(b) It is not satisfied that the screening criteria have been fulfilled, it shall, through the Secretariat, inform all Parties and observers and make the proposal and the evaluation of the Committee available to all Parties and the proposal shall be set aside.

5. Any Party may resubmit a proposal to the Committee that has been set aside by the Committee pursuant to paragraph 4. The resubmission may include any concerns of the Party as well as a justification for additional consideration by the Committee. If, following this procedure, the Committee again sets the proposal aside, the Party may challenge the decision of the Committee and the Conference of the Parties shall consider the matter at its next session. The Conference of the Parties may decide, based on the screening criteria in Annex D and taking into account the evaluation of the Committee and any additional information provided by any Party or observer, that the proposal should proceed.

6. Where the Committee has decided that the screening criteria have been fulfilled, or the Conference of the Parties has decided that the proposal should proceed, the Committee shall further review the proposal, taking into account any relevant additional information received, and shall prepare a draft risk profile in accordance with Annex E. It shall, through the Secretariat, make that draft available to all Parties and observers, collect technical comments from them and, taking those comments into account, complete the risk profile.

7. If, on the basis of the risk profile conducted in accordance with Annex E, the Committee decides:

(a) That the chemical is likely as a result of its long-range environmental transport to lead to significant adverse human health and/or environmental effects such that global action is warranted, the proposal shall proceed. Lack of full scientific certainty shall not prevent the proposal from proceeding. The Committee shall, through the Secretariat, invite information from all Parties and observers relating to the considerations specified in Annex F. It shall then prepare a risk management evaluation that includes an analysis of possible control measures for the chemical in accordance with that Annex; or

(b) That the proposal should not proceed, it shall, through the Secretariat, make the risk profile available to all Parties and observers and set the proposal aside.

8. For any proposal set aside pursuant to paragraph 7 (b), a Party may request the Conference of the Parties to consider instructing the Committee to invite additional information from the proposing Party and other Parties during a period not to exceed one year. After that period and on the basis of any information received, the Committee shall reconsider the proposal pursuant to paragraph 6 with a priority to be decided by the Conference of the Parties. If, following this procedure, the Committee again sets the proposal aside, the Party may challenge the decision of the Committee and the Conference of the Parties shall consider the matter at its next session. The Conference of the Parties may decide, based on the risk profile prepared in accordance with Annex E and taking into account the evaluation of the Committee and any additional information provided by any Party or observer, that the proposal should proceed. If the Conference of the Parties decides that the proposal shall proceed, the Committee shall then prepare the risk management evaluation.

9. The Committee shall, based on the risk profile referred to in paragraph 6 and the risk management evaluation referred to in paragraph 7 (a) or paragraph 8, recommend whether the chemical should be considered by the Conference of the Parties for listing in Annexes A, B and/or C. The Conference of the Parties, taking due account of the recommendations of the Committee, including any scientific uncertainty, shall decide, in a precautionary manner, whether to list the chemical, and specify its related control measures, in Annexes A, B and/or C.

联合国气候变化框架公约（摘录）

（该公约 1992 年 5 月 9 日订于纽约。
全国人大常委会 1992 年 11 月 7 日决定批准该公约。）

第 3 条　原则

各缔约方在为实现本公约的目标和履行其各项规定而采取行动时，除其它外，应以下列作为指导：

5. 各缔约方应当合作促进有利的和开放的国际经济体系，这种体系将促成所有缔约方特别是发展中国家缔约方的可持续经济增长和发展，从而使它们有能力更好地应付气候变化的问题。为对会气候变化而采取的措施，包括单方面措施，不应当成为国际贸易上的任意或无理的歧视手段或者隐敝的限制。

United Nations Framework Convention on Climate Change (excerpt)

(Adopted at Newyork on 9 May 1992 and Apprved by the Starding Committel of the National Peopleis Congress on 7 Novernbei 1992)

ARTICLE 3
Principles

In their actions to achieve the objective of the Convention and to implement its provisions, the Parties shall be guided, inter alia, by the following:

5. The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

.....

联合国气候变化框架公约京都议定书（摘录）

（1997 年 12 月 10 日在京都通过。中国政府代表于 1998 年 5 月 29 日签署该议定书。）

本议定书缔约方，

第二条

1. 附件一所列每一缔约方，为履行第三条中关于排放量限制和削减指标的承诺以促进可持续发展，均应：

（a）根据本国情况执行和/或进一步精心制订政策和措施，诸如：

（一）增强国家经济有关部门的能源效率；

（二）保护和增强《蒙特利尔议定书》未予管制的温室气体的汇和库，同时考虑到其依有关的国际环境协议作出的承诺；促进可持续森林管理做法、造林和重新造林；

（三）在考虑到气候变化的情况下促进可持续农业形式；

（四）促进、研究、发展和增加使用可再生能源、二氧化碳螯合技术和对环境无害的先进新技术；

（五）逐渐减少或逐步消除市场缺点、对违反《公约》目标和采用市场手段的所有温室气体排放部门的财政鼓励、免税措施和补贴；

（六）鼓励在有关部门作出适当改革，旨在促进用以限制或削减《蒙特利尔议定书》未予管制的温室气体的排放的政策和做法；

（七）采取措施在运输部门限制和/或削减《蒙特利尔议定书》未予管制的温室气体排放；

（八）在废物管理部门以及在能源的生产、运输和销售方面藉回收和使用以减少甲烷的排放；

3. 附件一所列缔约方应依本条努力执行政策和措施，尽量减少各种不利影响，包括对气候变化的不利影响、对国际贸易的影响、以及对其他缔约方——尤其是发展中国家缔约方和《公约》第四条第 8 款和第 9 款中所指明的那些缔约方的社会、环境和经济影响，同时考虑到《公约》第三条。作为本议定书缔约方会议的《公约》缔约方会议可以酌情采取进一步行动促进本款规定的实施。

4. 作为本议定书缔约方会议的《公约》缔约方会议如决定就上述第 1 款（a）项中所指任何政策和措施进行协调是有益助的，同时考虑到国家情况和潜在作用不一，则应考虑设法推动对这些政策和措施的协调。

第六条

1. 为了履行依第三条规定的承诺，附件一件列任一缔约方可以向任何其他这类缔约方转让或从它们获得由旨在任何经济部门削减温室气体的各种源的人为排放或增强各种汇的人为清除的项目产生的任何排放削减单位，但：

Kyoto Protocol to the United Nations Framework Convention on Climate Change(excerpts)

(Adopted at Kyoto on 10 December 1997 and signed by the Chinese Gorernment on 29 May 1998)

Article 2

1. Each Party included in Annex I, in achieving its quantified emission limitation and reduction commitments under Article 3, in order to promote sustainable development, shall:

(a) Implement and/or further elaborate policies and measures in accordance with its national circumstances, such as:

(i) Enhancement of energy efficiency in relevant sectors of the national economy;

(ii) Protection and enhancement of sinks and reservoirs of greenhouse gases not controlled by the Montreal Protocol, taking into account its commitments under relevant international environmental agreements; promotion of sustainable forest management practices, afforestation and reforestation;

(iii) Promotion of sustainable forms of agriculture in light of climate change considerations;

(iv) Research on, and promotion, development and increased use of, new and renewable forms of energy, of carbon dioxide sequestration technologies and of advanced and innovative environmentally sound technologies;

(v) Progressive reduction or phasing out of market imperfections, fiscal incentives, tax and duty exemptions and subsidies in all greenhouse gas emitting sectors that run counter to the objective of the Convention and application of market instruments;

(vi) Encouragement of appropriate reforms in relevant sectors aimed at promoting policies and measures which limit or reduce emissions of greenhouse gases not controlled by the Montreal Protocol;

(vii) Measures to limit and/or reduce emissions of greenhouse gases not controlled by the Montreal Protocol in the transport sector;

(viii) Limitation and/or reduction of methane emissions through recovery and use in waste management, as well as in the production, transport and distribution of energy;

3. The Parties included in Annex I shall strive to implement policies and measures under this Article in such a way as to minimize adverse effects, including the adverse effects of climate change, effects on international trade, and social, environmental and economic impacts on other Parties, especially developing country Parties and in particular those identified in Article 4, paragraphs 8 and 9, of the Convention, taking into account Article 3 of the Convention. The Conference of the Parties serving as the meeting of the Parties to this Protocol may take further action, as appropriate, to promote the implementation of the provisions of this paragraph.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol, if it decides that it would be beneficial to coordinate any of the policies and measures in paragraph 1(a) above, taking into account different national circumstances and potential effects, shall consider ways and means to elaborate the coordination of such policies and measures.

Article 6

1. For the purpose of meeting its commitments under Article 3, any Party included in Annex I may transfer to, or acquire from, any other such Party emission reduction units resulting from projects aimed at reducing anthropogenic emissions by sources or enhancing anthropogenic removals by sinks of

（a）任何这类项目须经有关缔约方批准；

（b）任何这类项目须能削减源的排放，或增强汇的清除，这一削减或增强是对任何以其他方式发生的任何削减或增强的补助；

（c）缔约方如果不遵守其依第五条和第七条规定的义务，则不可以获得任何排放削减单位；

（d）排放削减单位的获得应是对为履行第三条规定的承诺而采取的本国行动的补充。

2. 作为本议定书缔约方会议的《公约》缔约方会议在第一届会议或在其后尽早实际可行时为履行本条、包括为核查和报告进一步制订指南。

3. 附件一所列缔约方可以授权法律实体在该缔约方的负责下参加可导致依本条产生、转让或获得排放削减单位的行动。

4. 如依第八条的有关规定查明缔约方执行本款所指的要求有问题，排放削减单位的转让和获得在查明问题可继续进行，但任何缔约方直到任何这类遵守问题获得解决之前不可使用任何排放削减单位来履行依第三条规定的其承诺。

第十二条

1. 兹此规定一种清洁发展机制。

2. 清洁发展机制的目的是协助未列入附件一的缔约方实现可持续发展和增进《公约》的最终目标，并协助附件一所列缔约方遵守其依第三条规定的排放量限制和削减承诺。

3. 依清洁发展机制：

（a）未列入附件一的缔约方将获益于产生经证明的排放削减的项目活动；

（b）附件一所列缔约方可利用通过此种项目活动增加的经证明的削减促进遵守由作为本议定书缔约方会议的《公约》缔约方会议确定的依第三条规定的其排放量限制和削减承诺。

4. 清洁发展机制须由作为本议定书缔约方会议的《公约》缔约方会议授权和指导，并由清洁发展机制的执行理事会监督。

5. 每一项目活动产生的排放削减须经作为本议定书缔约书会议的《公约》缔约方会议授权决定的经营实体根据以下各项作出证明：

（a）经每一有关缔约方批准的自愿参加；

（b）与减缓气候变化相关的实际、可衡量的长期效益；

（c）排放削减是对在无经证明的项目活动的情况下会发生的任何排放减少的额外补助。

6. 如有必要，清洁发展机制应协助安排经证明的项目活动的筹资。

7. 作为本议定书缔约方会议的《公约》缔约方会议应在第一届会议上拟订程序以期通过项目活动的独立审计和核查确保透明度、效率和会计责任。

8. 作为本议定书缔约方会议的《公约》缔约方会议应确保通过经证明项目活动产生的收益份额应用以支付行政开支和协助特别易受气候变化不利影响之害的发展

greenhouse gases in any sector of the economy, provided that:

(a) Any such project has the approval of the Parties involved;

(b) Any such project provides a reduction in emissions by sources, or an enhancement of removals by sinks, that is additional to any that would otherwise occur;

(c) It does not acquire any emission reduction units if it is not in compliance with its obligations under Articles 5 and 7; and

(d) The acquisition of emission reduction units shall be supplemental to domestic actions for the purposes of meeting commitments under Article 3.

2. The Conference of the Parties serving as the meeting of the Parties to this Protocol may, at its first session or as soon as practicable thereafter, further elaborate guidelines for the implementation of this Article, including for verification and reporting.

3. A Party included in Annex I may authorize legal entities to participate, under its responsibility, in actions leading to the generation, transfer or acquisition under this Article of emission reduction units.

4. If a question of implementation by a Party included in Annex I of the requirements referred to in this Article is identified in accordance with the relevant provisions of Article 8, transfers and acquisitions of emission reduction units may continue to be made after the question has been identified, provided that any such units may not be used by a Party to meet its commitments under Article 3 until any issue of compliance is resolved.

Article 12

1. A clean development mechanism is hereby defined.

2. The purpose of the clean development mechanism shall be to assist Parties not included in Annex I in achieving sustainable development and in contributing to the ultimate objective of the Convention, and to assist Parties included in Annex I in achieving compliance with their quantified emission limitation and reduction commitments under Article 3.

3. Under the clean development mechanism:

(a) Parties not included in Annex I will benefit from project activities resulting in certified emission reductions; and

(b) Parties included in Annex I may use the certified emission reductions accruing from such project activities to contribute to compliance with part of their quantified emission limitation and reduction commitments under Article 3, as determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

4. The clean development mechanism shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Protocol and be supervised by an executive board of the clean development mechanism.

5. Emission reductions resulting from each project activity shall be certified by operational entities to be designated by the Conference of the Parties serving as the meeting of the Parties to this Protocol, on the basis of:

(a) Voluntary participation approved by each Party involved;

(b) Real, measurable, and long-term benefits related to the mitigation of climate change; and

(c) Reductions in emissions that are additional to any that would occur in the absence of the certified project activity.

6. The clean development mechanism shall assist in arranging funding of certified project activities as necessary.

7. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, elaborate modalities and procedures with the objective of ensuring transparency, efficiency and accountability through independent auditing and verification of project activities.

8. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall ensure that a share of the proceeds from certified project activities is used to cover administrative expenses as

中国家缔约方支付适应费用。

9. 对于清洁发展机制的参与，包括上述第 3 款（a）项所指的活动及获得经证明的排放削减，可包括私有和/或公有实体，并需遵照清洁发展机制执行理事会可能提出的任何指导。

10. 在自 2000 年起直至第一个承诺期开始这段时期内实现的经证明的排放削减可用以协助在第一个承诺内遵约。

11. 作为本议定缔约方会议的《公约》缔约方会议应在第四届会议分析上述第 10 款所涉影响。

第十七条

作为本议定书缔约方会议的《公约》缔约方会议应在第一届会议通过适当且有效的程序和机制用以断定和处理不遵守本议定书的情势，包括就后果列出一个指示性清单，同时考虑到不遵守的原因、类型、程序和次数，依本条可引起具拘束性后果的任何程序和机制应以本议定书修正案的方式通过。

well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.

9. Participation under the clean development mechanism, including in activities mentioned in paragraph 3(a) above and in the acquisition of certified emission reductions, may involve private and/or public entities, and is to be subject to whatever guidance may be provided by the executive board of the clean development mechanism.

10. Certified emission reductions obtained during the period from the year 2000 up to the beginning of the first commitment period can be used to assist in achieving compliance in the first commitment period.

.....

Article 17

The Conference of the Parties shall define the relevant principles, modalities, rules and guidelines, in particular for verification, reporting and accountability for emissions trading. The Parties included in Annex B may participate in emissions trading for the purposes of fulfilling their commitments under Article 3. Any such trading shall be supplemental to domestic actions for the purpose of meeting quantified emission limitation and reduction commitments under that Article.

关于消耗臭氧层物质的蒙特利尔议定书（摘录）

（1987 年 9 月 16 日订于蒙特利尔，并经 1990 年的伦敦修正案修正。
该修正后的议定书于 1992 年 8 月 20 日对我国生效。）

第四条　同非缔约国贸易的控制

1. 从 1990 年 1 月 1 日起，每一缔约国应禁止从非本议定书缔约国的任何国家进口附件 A 所列控制物质。

1 之二. 在本款生效之日以后 1 年内，每一缔约国应禁止向非本议定书缔国的任何国家进口附件 B 所列任何控制物质。

2. 从 1993 年 1 月 1 日起，每一缔约国应禁止向非本议定书缔约国的任何国家出口附件 B 所列任何物质。

2 之二. 在本款生效之日起一年后，每一缔约国应禁止向非本议定书缔约国的任何国家出口附件 B 年列任何控制物质。

3. 从 1993 年 1 月 1 日，缔约国应依照公约第十条规定的程序，在一附件内列出含有附件 A 所列控制物质的产品清单。未曾依照该程序对该附件提出异议的缔约国，应在该附件生效后 1 年内禁止从非本议定书缔约国的任何国家进口此种产品。

3 之二. 在本款生效之日起 3 年内，各缔约国应依照公约第十条规定的程序，在一附件内列出含有附件 B 所列控制物质的产品清单。未曾依照该程序对该附件提出异议的缔约国，应在该附件生效后 1 年内禁止从非本议定书缔约国的任何国家进口此种产品。

4. 到 1994 年 1 月 1 日，缔约国应确定是否禁止或限制从非本议定书缔约国的国家进口在生产过程中使用附件 A 所列控制物质但不含有此种物质的产品。如果确定可行，缔约国应依照公约第十条规定的程序，在一份附件内列出此种产品的清单。未曾依照该程序对附件提出异议的缔约国，应在该附件生效后 1 年内，禁止或限制从非本议定书缔约国的任何国家进口此种产品。

4 之二. 在本款生效之日起 5 年内，缔约国应确定是否禁止或限制从非本议定书缔约国的国家进口在生产过程中使用附件 B 所列控制物质但不含有此种物质的产品。如果确定可行，缔约国应依照公约第十条规定的程序，在一份附件内列出此种产品的清单。未曾依照该程序对附件提出异议的缔约国，应在该附件生效后 1 年内，禁止或限制从非本议定书缔约国的任何国家进口此种产品。

5. 每一缔约国承诺尽量以可行的步骤劝阻向非本议定书缔约国的任何国家出口生产和利用控制物质的技术。

6. 每一缔约国应勿为了向非本议定书缔约国的国家出口便利控制物质生产的产品、设备、工厂或技术而提供新的津贴、援助、信贷、担保或保险方案。

Montreal Protocol on Substances that Deplete the Ozone Layer(excerpts)

(Adopted in Montreal on 16 September 1987, as adjusted and amended by the London Amendment in 1990, which became effective to China as of 20 August 1992.)

.....

Article 4

Control of trade with non-Parties

1. As of 1 January 1990, each party shall ban the import of the controlled substances in Annex A from any State not party to this Protocol.

1 bis. Within one year of the date of the entry into force of this paragraph, each Party shall ban the import of the controlled substances in Annex B from any State not party to this Protocol.

2. As of 1 January 1993, each Party shall ban the export of any controlled substances in Annex A to any State not party to this Protocol.

3. By 1 January 1992, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances in Annex A. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

3 bis. Within three years of the date of the entry into force of this paragraph, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances in Annex B. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

4. By 1 January 1994, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Annex A. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

4 bis. Within five years of the date of the entry into force of this paragraph, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Annex B. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those procedures shall ban or restrict, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

5. Each Party undertakes to the fullest practicable extent to discourage the export to any State not party to this Protocol of technology for producing and for utilizing controlled substances in Annexes A, B, C and E.

6. Each Party shall refrain from providing new subsidies, aid, credits, guarantees or insurance programmes for the export to States not party to this Protocol of products, equipment, plants or technology that would facilitate the production of controlled substances in Annexes A, B, C and E.

7. Paragraphs 5 and 6 shall not apply to products, equipment, plants or technology that improve

7. 第5款和第6款的规定不适用于可改进控制物质的密封、回收、再循环或销毁、可促进发展替代物质、或者以其他方式有助于减少控制物质排放的产品、设备、工厂或技术。

8. 虽有本条的规定，非本议定书缔约国的任何国家如经缔约国会议确定充分遵守第二、第二A至二E条和本条规定并已按照第七条规定提交数据以为佐证，则可以允许从该国作以上第一，一之二、三之二、[及] 四和四之二各款所指的进口，或对该国作第二和二之二两款所指的出口。

9. 为本条的目的，“非本议定书缔约国的国家”一词，以任何特定的控制物质而言，应包括尚未同意受当时对该物质生效的控制措施约束的每一国家或区域经济一体化组织。

the containment, recovery, recycling or destruction of controlled substances, promote the development of alternative substances, or otherwise contribute to the reduction of emissions of controlled substances in Annexes A, B, C and E.

8. Notwithstanding the provisions of this Article, imports and exports referred to in paragraphs 1 to 4 ter of this Article may be permitted from, or to, any State not party to this Protocol, if that State is determined, by a meeting of the Parties, to be in full compliance with Article 2, Articles 2A to 2I and this Article, and have submitted data to that effect as specified in Article 7.

9. For the purposes of this Article, the term "State not party to this Protocol" shall include, with respect to a particular controlled substance, a State or regional economic integration organization that has not agreed to be bound by the control measures in effect for that substance.

生物多样性公约（摘录）

（1992 年 6 月 5 日订于里约热内卢，
1992 年 11 月 7 日，全国人大常委会决定批准该公约。）

第 8 条
就地保护

第一缔约国应尽可能并酌情：

(j) 依照国家立法，尊重、保存和维持土著和地方社区体现传统生活方式而与生物多样性的保护和持久使用相关的知识、创新和做法并促进其广泛应用，由此等知识、创新和做法的拥有者认可和参与其事并鼓励公平地分享因利用此等知识、创新和做法而获得的惠益；

第 10 条
生物多样性组成部分的持久使用

第一缔约国尽可能并酌情：

(b) 采取关于使用生物资源的措施，以避免或尽量减少对生物多样性的不利影响；

第 15 条
遗传资源的取得

1. 确认各国对其自然资源拥有的主权权利，因而可否取得遗传资源的决定权属于国家政府，并依照国家法律行使。

2. 每一缔约国应致力创造条件，便利其他缔约国取得遗传资源用于无害环境的用途，不对这种取得施加违背本公约目标的限制。

3. 为本公约的目的，本条以及第 16 和 19 条所指缔约国提供的遗传资源仅限于这种资源原产国的缔约国或按照本公约取得该资源的缔约国所提供的遗传资源。

4. 取得经批准后，应按照共同商定的条件并遵照本条的规定进行。

5. 遗传资源的取得须经提供这种资源的缔约国事先知情同意，除非该缔约国另有决定。

6. 每一缔约国使用其他缔约国提供的遗传资源从事开发和进行科学研究时，应力求这些缔约国充分参与，并于可能时在这些缔约国境内进行。

7. 每一缔约国应按照第 16 和 19 条，并于必要时利用第 20 和 21 条设立的财务机制，酌情采取立法、行政和政策性措施，以期与提供遗传资源的缔约国公平分享研究和开发此种资源的成果以及商业和其他方面利用此种资源所获的利益。这种分享应按照共同商定的条件。

Convention on Biological Diversity(excerpts)

(Adopted at Rio Janeiro on 5 June 1992, approvecl by the Standing Committee of the National Peeple's Congress on 7 November 1992, and became effective to China as of 29 December)

Article 8
In-situ Conservation

Each Contracting Party shall, as far as possible and as appropriate:

.....

(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;

.....

Article 10
Sustainable Use of Components of Biological Diversity

Each Contracting Party shall, as far as possible and as appropriate:

.....

(b) Adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity;

.....

Article 15
Access to Genetic Resources

1. Recognizing the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.

2. Each Contracting Party shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and not to impose restrictions that run counter to the objectives of this Convention.

3. For the purpose of this Convention, the genetic resources being provided by a Contracting Party, as referred to in this Article and Articles 16 and 19, are only those that are provided by Contracting Parties that are countries of origin of such resources or by the Parties that have acquired the genetic resources in accordance with this Convention.

4. Access, where granted, shall be on mutually agreed terms and subject to the provisions of this Article.

5. Access to genetic resources shall be subject to prior informed consent of the Contracting Party providing such resources, unless otherwise determined by that Party.

6. Each Contracting Party shall endeavour to develop and carry out scientific research based on genetic resources provided by other Contracting Parties with the full participation of, and where possible in, such Contracting Parties.

第 16 条
技术的取得和转让

1. 每一缔约国认识到技术包括生物技术，且缔约国之间技术的取得和转让均为实现本公约目标必不可少的要素，因此承诺遵照本条规定向其他缔约国提供和/或便利其取得并向其转让有关生物多样性保护和持久使用的技术或利用遗传资源而不对环境造成重大损害的技术。

2. 以上第 1 款所指技术的取得和向发展中国家转让，应按公平和最有利条件提供或给予例利包括共同商定时，按减让和优惠条件提供或给予例利，并于必要时按照第 29 和 21 条设计的财务机制。此种技术属于专利上和其它知识产权的范围时，这种取得和转让所根据的条件应承认且符合知识产权的充分有效保护。本款的应用应符合以下第 3、4 和 5 款的规定。、3. 每缔约国应酌情采取立法、行政或政策措施，以期根据共同商定的条件向提供遗传资源的缔约国，特别是其中的发展中国家，提供利用这些遗 2 传资源的技术和转让此种技术，其中包括受到专利和其他知识产权保护的技术，必要时通过第 20 和 21 条的规定，遵照国际法，以符合以下第 4 和 5 款规定的方式进行。

4. 每一缔约国应酌情采取立法、行政或政策措施，以期私营部门为第 1 款所指技术的取得、共同开发和转让提供便利，以惠益于发展中国家的政府机构和私营部门，并在这方面遵守以上第 1、2 和 3 款规定的义务。

5. 缔约国认识到专利和其它知识产权可能影响到本公约的实施，因而应在这方面遵照国家立法和国际法进行合作，以确保此种权利有助于而不违反本公约的目标。

第 19 条
生物技术的处理及其惠益的分配

1. 每一缔约国应酌情采取立法、行政和政策措施，让提供遗传资源用一生物技术研究的缔约国，特别是其中的发展中国家，切实参与此种研究活动；可行时，研究活动宜在这些缔约国中进行。

2. 每一缔约国应采取一切可行措施，以赞助和促进那些提供遗传资源的缔约国，特别是其中的发展中国家，在公平的基础上优先取得基开其提供资源的行物技术所产生成果和惠益。此种取得应按共同商定的条件进行。

3. 缔约国应考虑是否需要一项议定书，规定适当程序，特别包括事先知情协议，适用于可能对生物多样性的保护和持久使用产生不利影响的由生物技术改变的任何活生物体的安全转让、处理和使用，并考虑该议定书的形式。

4. 每一个缔约国应直接或要求其管辖下提供以上第 3 款所指生物体的任何自然人和法人，将该缔约国在处理这种生物体方面规定的使用和安全条例的任何现有资料以及有关该生物体可能产生的不利影响的任何现有资料，提供给将要引进这些生

7. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, and in accordance with Articles 16 and 19 and, where necessary, through the financial mechanism established by Articles 20 and 21 with the aim of sharing in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms.

Article 16
Access to and Transfer of Technology

1. Each Contracting Party, recognizing that technology includes biotechnology, and that both access to and transfer of technology among Contracting Parties are essential elements for the attainment of the objectives of this Convention, undertakes subject to the provisions of this Article to provide and/or facilitate access for and transfer to other Contracting Parties of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and do not cause significant damage to the environment.

2. Access to and transfer of technology referred to in paragraph 1 above to developing countries shall be provided and/or facilitated under fair and most favourable terms, including on concessional and preferential terms where mutually agreed, and, where necessary, in accordance with the financial mechanism established by Articles 20 and 21. In the case of technology subject to patents and other intellectual property rights, such access and transfer shall be provided on terms which recognize and are consistent with the adequate and effective protection of intellectual property rights. The application of this paragraph shall be consistent with paragraphs 3, 4 and 5 below.

3. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that Contracting Parties, in particular those that are developing countries, which provide genetic resources are provided access to and transfer of technology which makes use of those resources, on mutually agreed terms, including technology protected by patents and other intellectual property rights, where necessary, through the provisions of Articles 20 and 21 and in accordance with international law and consistent with paragraphs 4 and 5 below.

4. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that the private sector facilitates access to, joint development and transfer of technology referred to in paragraph 1 above for the benefit of both governmental institutions and the private sector of developing countries and in this regard shall abide by the obligations included in paragraphs 1, 2 and 3 above.

5. The Contracting Parties, recognizing that patents and other intellectual property rights may have an influence on the implementation of this Convention, shall cooperate in this regard subject to national legislation and international law in order to ensure that such rights are supportive of and do not run counter to its objectives.

.....

Article 19
Handling of Biotechnology and Distribution of its Benefits

1. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, to provide for the effective participation in biotechnological research activities by those Contracting Parties, especially developing countries, which provide the genetic resources for such research, and where feasible in such Contracting Parties.

2. Each Contracting Party shall take all practicable measures to promote and advance priority access on a fair and equitable basis by Contracting Parties, especially developing countries, to the results and benefits arising from biotechnologies based upon genetic resources provided by those Contracting Parties. Such access shall be on mutually agreed terms.

3. The Parties shall consider the need for and modalities of a protocol setting out appropriate pro-

物体的缔约国。

第 22 条
与其它国际公约的关系

1. 本公约的规定不得影响任何缔约国在任何现有国际协定下的权利和义务，除非行使这些权利和义务将严重破坏或威胁生物多样性。

2. 缔约国在海洋环境方面实施本公约不得抵触各国在海洋法下的权利和义务。

cedures, including, in particular, advance informed agreement, in the field of the safe transfer, handling and use of any living modified organism resulting from biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity.

4. Each Contracting Party shall, directly or by requiring any natural or legal person under its jurisdiction providing the organisms referred to in paragraph 3 above, provide any available information about the use and safety regulations required by that Contracting Party in handling such organisms, as well as any available information on the potential adverse impact of the specific organisms concerned to the Contracting Party into which those organisms are to be introduced.

.....

Article 22

Relationship with Other International Conventions

1. The provisions of this Convention shall not affect the rights and obligations of any Contracting Party deriving from any existing international agreement, except where the exercise of those rights and obligations would cause a serious damage or threat to biological diversity.

2. Contracting Parties shall implement this Convention with respect to the marine environment consistently with the rights and obligations of States under the law of the sea.

卡塔赫纳生物安全议定书（摘录）

（《生物多样性公约》缔约方大会第一次特别会议2000年1月28日通过，
中国政府代表于2000年8月8日签署）

本议定书缔约方，

认识到贸易协定与环境协定应相辅相成，以期实现可持续发展，

兹协议如下：

第2条
一般规定

4. 不得将本议定书中的任何条款解释为限制缔约方为确保对生物多样性的保护和可持续使用采取比本议定书所规定的更为有力的保护行动的权利，但条件是此种行动须符合本议定书的各项目标和条款并符合国际法为缔约方规定的各项其他义务。

第7条
提前知情同意程序的适用

1. 在不违反第5条和第6条的情况下，第8至第10条和第12条中所列提前知情同意程序应在拟有意向进口缔约方的环境中引入改性活生物体的首次有意越境转移之前予以适用。

2. 以上第1款中所述“有意向环境中引入”并非指拟直接用作食物或饲料或用于加工的改性活生物体。

3. 第11条应在拟直接用作食物或饲料或用于加工的改性活生物体首次越境转移之前予以适用。

4. 提前知情同意程序不应适用于经作为本议定书缔约方会议的缔约方大会的一项决定认定在亦顾及对人类健康构成的风险的情况下不太可能对生物多样性的保护和可持续使用产生不利影响的改性活生物体的有意越境转移。

第8条
通知

1. 出口缔约方应在首次有意越境转移属于第7条第1款范围内的改性活生物体之前，通知或要求出口者确保以书面形式通知进口缔约方的国家主管部门。通知中至少应列有附件一所列明的资料。

2. 出口缔约方应确保订有法律条文，规定出口者所提供的资料必须准确无误。

第9条
对收到通知的确认

1. 进口缔约方应于收到通知后九十天内以书面形式向发出通知者确认已收到通知。

2. 应在此种确认中表明：

Cartagena Protocol on Biosafety to the convention on Biological Dirersity(excerpts)

(Adopted on January 29, 2000, and signed by China on 8 August 2000)

The Parties to this Protocol,

.....

Recognizing that trade and environment agreements should be mutually supportive with a view to achieving sustainable development,

.....

Have agreed as follows:

.....

Article 2
General Provisions

4. Nothing in this Protocol shall be interpreted as restricting the right of a Party to take action that is more protective of the conservation and sustainable use of biological diversity than that called for in this Protocol, provided that such action is consistent with the objective and the provisions of this Protocol and is in accordance with that Party's other obligations under international law.

.....

Article 7
Application fo The Advance Informed Agreement Procedure

1. Subject to Articles 5 and 6, the advance informed agreement procedure in Articles 8 to 10 and 12 shall apply prior to the first intentional transboundary movement of living modified organisms for intentional introduction into the environment of the Party of import.

2. "Intentional introduction into the environment" in paragraph 1 above, does not refer to living modified organisms intended for direct use as food or feed, or for processing.

3. Article 11 shall apply prior to the first transboundary movement of living modified organisms intended for direct use as food or feed, or for processing.

4. The advance informed agreement procedure shall not apply to the intentional transboundary movement of living modified organisms identified in a decision of the Conference of the Parties serving as the meeting of the Parties to this Protocol as being not likely to have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

Article 8
Norification

1. The Party of export shall notify, or require the exporter to ensure notification to, in writing, the competent national authority of the Party of import prior to the intentional transboundary movement of a living modified organism that falls within the scope of Article 7, paragraph 1. The notification shall contain, at a minimum, the information specified in Annex I.

2. The Party of export shall ensure that there is a legal requirement for the accuracy of information provided by the exporter.

Article 9

(a) 收到通知的日期；

(b) 通知中是否初步看来列有第 8 条所述资料；

(c) 可否根据进口缔约方的国内规章制度或根据第 10 条中列明的程序采取下一步行动。

3. 以上第 2（c）款所述国内规章制度应与本议定书相一致。

4. 即使进口缔约方未能对通知作出确认，亦不应意味着其对越境转移表示同意。

第 10 条

决定程序

1. 进口缔约方所作决定应符合第 15 条的规定。

2. 进口缔约方应在第 9 条所规定的时限内书面通知发出通知者可否在下述情况下进行有意越境转移：

(a) 只可在得到进口缔约方的书面同意后；或

(b) 于至少九十天后未收到后续书面同意。

3. 进口缔约方应在收到通知后二百七十天内向发出通知者及生物安全资料交换所书面通报以上第 2（a）款中所述决定并表明：

(a) 有条件或无条件地核准进口，其中包括说明此项决定将如何适用于同一改性活生物体的后续进口；

(b) 禁止进口；

(c) 根据其国内规章条例或根据附件一要求提供更多的有关资料；在计算进口缔约方作出答复所需时间时，不应计入进口缔约方用于等候获得更多的有关资料所需的天数；或

(d) 通知发出通知者已将本款所列明的期限适当延长。

4. 除非已予以无条件核准，否则根据以上第 3 款所作的决定应列出作出这一决定的理由。

5. 即使进口缔约方未能在收到通知后二百七十天内通报其决定，亦不应意味着该缔约方对有意越境转移表示同意。

6. 在亦顾及对人类健康构成的风险的情况下，即使由于在改性活生物体对进口缔约方的生物多样性的保护和可持续使用所产生的潜在不利影响的程度方面未掌握充分的相关科学资料和知识，因而缺乏科学定论，亦不应妨碍该缔约方酌情就以上第 3 款所指的改性活生物体的进口问题作出决定，以避免或尽最大限度减少此类潜在的不利影响。

7. 作为本议定书缔约方会议的缔约方大会应在其第一次会议上就旨在便利进口缔约方决策的适当程序和机制作出决定。

第 11 条

关于拟直接作食物或饲料或加工之用的改性活生物体的程序

1. 一缔约方如已针对为供直接作食物或饲料或加工之用而拟予以越境转移的改性活生物体的国内用途、包括投放市场作出最终决定，则应在作出决定后十五天之内通过生物安全资料交换所将之通报各缔约方。此种通知应至少列有附件二所规定的信息资料。该缔约方应将上述信息资料的书面副本提供给事先已告知秘书处它无

Acknowledgement of Receipt of Notification

1. The Party of import shall acknowledge receipt of the notification, in writing, to the notifier within ninety days of its receipt.

2. The acknowledgement shall state:

(a) The date of receipt of the notification;

(b) Whether the notification, prima facie, contains the information referred to in Article 8;

(c) Whether to proceed according to the domestic regulatory framework of the Party of import or according to the procedure specified in Article 10.

3. The domestic regulatory framework referred to in paragraph 2 (c) above, shall be consistent with this Protocol.

4. A failure by the Party of import to acknowledge receipt of a notification shall not imply its consent to an intentional transboundary movement.

Article 10

Decision Procedure

1. Decisions taken by the Party of import shall be in accordance with Article 15.

2. The Party of import shall, within the period of time referred to in Article 9, inform the notifier, in writing, whether the intentional transboundary movement may proceed:

(a) Only after the Party of import has given its written consent; or

(b) After no less than ninety days without a subsequent written consent.

3. Within two hundred and seventy days of the date of receipt of notification, the Party of import shall communicate, in writing, to the notifier and to the Biosafety Clearing-House the decision referred to in paragraph 2 (a) above:

(a) Approving the import, with or without conditions, including how the decision will apply to subsequent imports of the same living modified organism;

(b) Prohibiting the import;

(c) Requesting additional relevant information in accordance with its domestic regulatory framework or Annex I; in calculating the time within which the Party of import is to respond, the number of days it has to wait for additional relevant information shall not be taken into account; or

(d) Informing the notifier that the period specified in this paragraph is extended by a defined period of time.

4. Except in a case in which consent is unconditional, a decision under paragraph 3 above, shall set out the reasons on which it is based.

5. A failure by the Party of import to communicate its decision within two hundred and seventy days of the date of receipt of the notification shall not imply its consent to an intentional transboundary movement.

6. Lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of a living modified organism on the conservation and sustainable use of biological diversity in the Party of import, taking also into account risks to human health, shall not prevent that Party from taking a decision, as appropriate, with regard to the import of the living modified organism in question as referred to in paragraph 3 above, in order to avoid or minimize such potential adverse effects.

7. The Conference of the Parties serving as the meeting of the Parties shall, at its first meeting, decide upon appropriate procedures and mechanisms to facilitate decision-making by Parties of import.

Article 11

Procedure for Living Modified Organisms Intended for Direct Use as Food of Feed , of for Processing

1. A Party that makes a final decision regarding domestic use, including placing on the market, of a living modified organism that may be subject to transboundary movement for direct use as food or

法通过生物安全资料交换所交流信息资料的每一缔约方的国家联络点。此项规定不应适用于关于实地测试的决定。

2. 根据以上第 1 款作出决定的缔约方应确保订有法律条文，规定申请者所提供的资料必须准确无误。

3. 任何缔约方均可从附件二第（b）段中指明的主管部门索要其他资料。

4. 缔约方可根据符合本议定书目标的国内规章条例，就拟直接作食物或饲料或加工之用的改性活生物体的进口作出决定。

5. 每一缔约方如订有适用于拟直接作食物或饲料或加工之用的改性活生物体的进口的任何国家法律、规章条例和准则，应向生物安全资料交换所提供此种资料的副本。

6. 发展中国家缔约方或经济转型国家缔约方如未订有以上第 4 款所述的国内规章条例，可在行使其国内司法管辖权时通过生物安全资料交换所宣布，它已根据以上第 1 款提供了相关资料的、并拟于意在直接作食物或饲料或加工之用的改性活生物体的首次进口之前作出的决定，将根据下列情况作出：

（a）根据附件三进行的风险评估；及

（b）在不超过二百七十天的可预测的时间范围内作出决定。

7. 缔约方未能依照以上第 6 款发出通知不应意味着该缔约方同意或拒绝进口某种拟直接作食物或饲料或加工之用的改性活生物体，除非该缔约方另有明确说明。

8. 在亦顾及对人类健康构成的风险的情况下，即使由于在改性活生物体对进口缔约方生物多样性的保护和可持续使用产生的潜在不利影响的程度方面未掌握充分的相关科学资料和知识，因而缺乏科学定论，亦不应妨碍进口缔约方酌情就拟直接作食物、饲料或加工之用的该改性活生物体的进口作出决定，以避免或尽最大限度减少此类潜在的不利影响。

9. 缔约方可表明它在拟直接作食物或饲料或加工之用的改性活生物体方面需要得到的财务和技术援助及其在相关的能力建设方面的需要。缔约方应相互合作，以根据第 22 和第 28 条满足这些需要。

第 12 条
对决定的复审

1. 进口缔约方可随时根据对生物多样性的保护和可持续使用的潜在不利影响方面的新的科学资料，并顾及对人类健康构成的风险，审查并更改其已就改性活生物体的有意越境转移作出的决定。在此种情形中，该缔约方应于三十天之内就此通知先前曾向其通报此种决定中所述改性活生物体的转移活动的任何发出通知者以及生物安全资料交换所，并应说明作出这一决定的理由。

2. 出口缔约方或发出通知者如认为出现了下列情况，便可要求进口缔约方对其已依照第 10 条针对该次进口所作出的决定进行复审：

（a）发生了可能会影响到当时作出此项决定时所依据的风险评估结果的情况变化；或

（b）又获得了其他相关的科学或技术信息资料；

3. 进口缔约方应于九十天内对此种要求作出书面回复并说明其所作决定的依据。

4. 进口缔约方可自行斟酌决定是否要求对后续进口进行风险评估。

feed, or for processing shall, within fifteen days of making that decision, inform the Parties through the Biosafety Clearing-House. This information shall contain, at a minimum, the information specified in Annex II. The Party shall provide a copy of the information, in writing, to the national focal point of each Party that informs the Secretariat in advance that it does not have access to the Biosafety Clearing-House. This provision shall not apply to decisions regarding field trials.

2. The Party making a decision under paragraph 1 above, shall ensure that there is a legal requirement for the accuracy of information provided by the applicant.

3. Any Party may request additional information from the authority identified in paragraph (b) of Annex II.

4. A Party may take a decision on the import of living modified organisms intended for direct use as food or feed, or for processing, under its domestic regulatory framework that is consistent with the objective of this Protocol.

5. Each Party shall make available to the Biosafety Clearing-House copies of any national laws, regulations and guidelines applicable to the import of living modified organisms intended for direct use as food or feed, or for processing, if available.

6. A developing country Party or a Party with an economy in transition may, in the absence of the domestic regulatory framework referred to in paragraph 4 above, and in exercise of its domestic jurisdiction, declare through the Biosafety Clearing-House that its decision prior to the first import of a living modified organism intended for direct use as food or feed, or for processing, on which information has been provided under paragraph 1 above, will be taken according to the following:

(a) A risk assessment undertaken in accordance with Annex III; and

(b) A decision made within a predictable timeframe, not exceeding two hundred and seventy days.

7. Failure by a Party to communicate its decision according to paragraph 6 above, shall not imply its consent or refusal to the import of a living modified organism intended for direct use as food or feed, or for processing, unless otherwise specified by the Party.

8. Lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of a living modified organism on the conservation and sustainable use of biological diversity in the Party of import, taking also into account risks to human health, shall not prevent that Party from taking a decision, as appropriate, with regard to the import of that living modified organism intended for direct use as food or feed, or for processing, in order to avoid or minimize such potential adverse effects.

9. A Party may indicate its needs for financial and technical assistance and capacity-building with respect to living modified organisms intended for direct use as food or feed, or for processing. Parties shall cooperate to meet these needs in accordance with Articles 22 and 28.

Article 12

Review of Decisions

1. A Party of import may, at any time, in light of new scientific information on potential adverse effects on the conservation and sustainable use of biological diversity, taking also into account the risks to human health, review and change a decision regarding an intentional transboundary movement. In such case, the Party shall, within thirty days, inform any notifier that has previously notified movements of the living modified organism referred to in such decision, as well as the Biosafety Clearing-House, and shall set out the reasons for its decision.

2. A Party of export or a notifier may request the Party of import to review a decision it has made in respect of it under Article 10 where the Party of export or the notifier considers that:

(a) A change in circumstances has occurred that may influence the outcome of the risk assessment upon which the decision was based; or

(b) Additional relevant scientific or technical information has become available.

3. The Party of import shall respond in writing to such a request within ninety days and set out

第 13 条
简化程序

1. 只要已依循本议定书的目标，为确保以安全方式从事改性活生物体的有意越境转移采取了适宜的措施，进口缔约方便可提前向生物安全资料交换所表明：

(a) 向该缔约方的有意越境转移可在何种情况下于向进口缔约方发出转移通知的同时同步进行；以及

(b) 拟免除对向该缔约方进口的改性活生物体采用提前知情同意程序。

以上第（a）项中所述通知可适用于其后向同一缔约方进行的类似转移。

2. 应在以上第 1（a）款所述通知中予以提供的有意越境转移资料应为附件一中具体列明的资料。

第 14 条
双边、区域及多边协定和安排

1. 缔约方可在符合本议定书目标的前提下，与其他缔约方或非缔约方就有意越境转移改性活生物体问题订立双边、区域及多边协定和安排，但条件是此种协定和安排所规定的保护程度不得低于本议定书所规定的保护程度。

2. 各缔约方应通过生物安全资料交换所相互通报各自在本议定书生效日期之前或之后订立的任何此种双边、区域及多边协定和安排。

3. 本议定书的各项条款不得妨碍此类协定或安排的缔约方之间根据此种协定和安排进行的有意越境转移。

4. 任何缔约方均可决定其国内的规章条例适用于对它的某些特定进口，并应向生物安全资料交换所通报其所作决定。

第 15 条
风险评估

1. 依照本议定书进行的风险评估应按附件三的规定并以在科学上合理的方式做出，同时应考虑采用已得到公认的风险评估技术。此种风险评估应以根据第 8 条所提供的资料和其他现有科学证据作为评估所依据的最低限度资料，以期确定和评价改性活生物体可能对生物多样性的保护和可持续使用产生的不利影响，同时亦顾及对人类健康构成的风险。

2. 进口缔约方应确保为依照第 10 条作出决定而进行风险评估。它可要求出口者进行此种风险评估。

3. 如果进口缔约方要求由发出通知者承担进行风险评估的费用，则发出通知者应承担此种费用。

第 16 条
风险管理

1. 缔约方应参照《公约》第 8（g）条的规定，制定并保持适宜的机制、措施和战略，用以制约、管理和控制在本议定书风险评估条款中指明的、因改性活生物体的使用、处理和越境转移而构成的各种风险。

2. 应在必要范围内规定必须采取以风险评估结果为依据的措施，以防止改性活

the reasons for its decision.

4. The Party of import may, at its discretion, require a risk assessment for subsequent imports.

Article 13
Simplified Procedure

1. A Party of import may, provided that adequate measures are applied to ensure the safe intentional transboundary movement of living modified organisms in accordance with the objective of this Protocol, specify in advance to the Biosafety Clearing-House:

(a) Cases in which intentional transboundary movement to it may take place at the same time as the movement is notified to the Party of import; and

(b) Imports of living modified organisms to it to be exempted from the advance informed agreement procedure.

Notifications under subparagraph (a) above, may apply to subsequent similar movements to the same Party.

2. The information relating to an intentional transboundary movement that is to be provided in the notifications referred to in paragraph 1 (a) above, shall be the information specified in Annex I.

Article 14
Bilateral, Regional and Multilaterat Agreements and Arrangements

1. Parties may enter into bilateral, regional and multilateral agreements and arrangements regarding intentional transboundary movements of living modified organisms, consistent with the objective of this Protocol and provided that such agreements and arrangements do not result in a lower level of protection than that provided for by the Protocol.

2. The Parties shall inform each other, through the Biosafety Clearing-House, of any such bilateral, regional and multilateral agreements and arrangements that they have entered into before or after the date of entry into force of this Protocol.

3. The provisions of this Protocol shall not affect intentional transboundary movements that take place pursuant to such agreements and arrangements as between the parties to those agreements or arrangements.

4. Any Party may determine that its domestic regulations shall apply with respect to specific imports to it and shall notify the Biosafety Clearing-House of its decision.

Article 15
Risk Assessment

1. Risk assessments undertaken pursuant to this Protocol shall be carried out in a scientifically sound manner, in accordance with Annex III and taking into account recognized risk assessment techniques. Such risk assessments shall be based, at a minimum, on information provided in accordance with Article 8 and other available scientific evidence in order to identify and evaluate the possible adverse effects of living modified organisms on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

2. The Party of import shall ensure that risk assessments are carried out for decisions taken under Article 10. It may require the exporter to carry out the risk assessment.

3. The cost of risk assessment shall be borne by the notifier if the Party of import so requires.

Article 16
Risk Mmnagement

1. The Parties shall, taking into account Article 8 (g) of the Convention, establish and maintain appropriate mechanisms, measures and strategies to regulate, manage and control risks identified in the risk assessment provisions of this Protocol associated with the use, handling and transboundary movement of living modified organisms.

生物体在进口缔约方领土内对生物多样性的保护和可持续使用产生不利影响，同时亦顾及对人类健康构成的风险。

3. 每一缔约方均应采取适当措施，防止于无意之中造成改性活生物体的越境转移，其中包括要求于某一改性活生物体的首次释放之前进行风险评估等措施。

4. 在不妨碍以上第2款的情况下，每一缔约方均应做出努力，确保在把无论是进口的还是于当地研制的任何改性活生物体投入预定使用之前，对其进行与其生命周期或生殖期相当的一段时间的观察。

5. 缔约方应开展合作，以期：

(a) 确定可能对生物多样性的保护和可持续使用产生不利影响的改性活生物体或改性活生物体的某些具体特性，同时亦顾及对人类健康构成的风险；和

(b) 为处理此种改性活生物体或其具体特性采取适当措施。

第18条
处理、运输、包装和标志

1. 为了避免对生物多样性的保护和可持续使用产生不利影响，同时亦顾及对人类健康构成的风险，每一缔约方应采取必要措施，要求对凡拟作属于本议定书范围内的有意越境转移的改性活生物体，均参照有关的国际规则和标准，在安全条件下予以处理、包装和运输。

2. 每一缔约方应采取措施，要求：

(a) 拟直接作食物或饲料或加工之用的改性活生物体应附有单据，明确说明其中“可能含有”改性活生物体且不打算有意将其引入环境之中；并附上供进一步索取信息资料的联络点。作为本议定书缔约方会议的缔约方大会应在不迟于本议定书生效后两年就此方面的详细要求、包括对其名称和任何独特标识的具体说明作出决定；

(b) 预定用于封闭性使用的改性活生物体应附有单据，明确将其标明为改性活生物体；并具体说明安全处理、储存、运输和使用的要求，以及供进一步索取信息资料的联络点，包括接收改性活生物体的个人和机构的名称和地址；

(c) 拟有意引入进口缔约方的环境的改性活生物体和本议定书范围内的任何其他改性活生物体应附有单据，明确将其标明为改性活生物体；具体说明其名称和特征及相关的特性和/或特点、关于安全处理、储存、运输和使用的任何要求、以及供进一步索取信息资料的联络点，并酌情提供进口者和出口者的详细名称和地址；以及列出关于所涉转移符合本议定书中适用于出口者的规定的声明。

3. 作为本议定书缔约方会议的缔约方大会应与其他相关的国际机构协商，考虑是否有必要以及以何种方式针对标识、处理、包装和运输诸方面的习惯做法制定标准。

第26条
社会-经济因素

1. 缔约方在按照本议定书或按照其履行本议定书的国内措施作出进口决定时，可根据其国际义务，考虑到因改性活生物体对生物多样性的保护和可持续使用的影

2. Measures based on risk assessment shall be imposed to the extent necessary to prevent adverse effects of the living modified organism on the conservation and sustainable use of biological diversity, taking also into account risks to human health, within the territory of the Party of import.

3. Each Party shall take appropriate measures to prevent unintentional transboundary movements of living modified organisms, including such measures as requiring a risk assessment to be carried out prior to the first release of a living modified organism.

4. Without prejudice to paragraph 2 above, each Party shall endeavour to ensure that any living modified organism, whether imported or locally developed, has undergone an appropriate period of observation that is commensurate with its life-cycle or generation time before it is put to its intended use.

5. Parties shall cooperate with a view to:

(a) Identifying living modified organisms or specific traits of living modified organisms that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health; and

(b) Taking appropriate measures regarding the treatment of such living modified organisms or specific traits.

.....

Article 18

Handling, Transport, Packaging and Identification

1. In order to avoid adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party shall take necessary measures to require that living modified organisms that are subject to intentional transboundary movement within the scope of this Protocol are handled, packaged and transported under conditions of safety, taking into consideration relevant international rules and standards.

2. Each Party shall take measures to require that documentation accompanying:

(a) Living modified organisms that are intended for direct use as food or feed, or for processing, clearly identifies that they "may contain" living modified organisms and are not intended for intentional introduction into the environment, as well as a contact point for further information. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall take a decision on the detailed requirements for this purpose, including specification of their identity and any unique identification, no later than two years after the date of entry into force of this Protocol;

(b) Living modified organisms that are destined for contained use clearly identifies them as living modified organisms; and specifies any requirements for the safe handling, storage, transport and use, the contact point for further information, including the name and address of the individual and institution to whom the living modified organisms are consigned; and

(c) Living modified organisms that are intended for intentional introduction into the environment of the Party of import and any other living modified organisms within the scope of the Protocol, clearly identifies them as living modified organisms; specifies the identity and relevant traits and/or characteristics, any requirements for the safe handling, storage, transport and use, the contact point for further information and, as appropriate, the name and address of the importer and exporter; and contains a declaration that the movement is in conformity with the requirements of this Protocol applicable to the exporter.

3. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall consider the need for and modalities of developing standards with regard to identification, handling, packaging and transport practices, in consultation with other relevant international bodies.

Article 26

Socio-Economic Considerations

1. The Parties, in reaching a decision on import under this Protocol or under its domestic measures implementing the Protocol, may take into account, consistent with their international obliga-

响而产生的社会-经济因素，特别是涉及到生物多样性对土著和地方社区所具有的价值方面的社会－经济因素。

2. 鼓励各缔约方开展合作，针对改性活生物体所产生的任何社会－经济影响、特别是对土著和当地社区的影响进行研究和交流信息。

tions, socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities.

2. The Parties are encouraged to cooperate on research and information exchange on any socio-economic impacts of living modified organisms, especially on indigenous and local communities.

濒危野生动植物种国际贸易公约（摘录）

（1973 年 3 月 3 日订于华盛顿，1981 年 4 月 8 日对我国生效。）

第二条
基本原则

……

（一）附录一应包括所有受到和可能受到贸易的影响而有灭绝危险的物种。这种物种的标本的贸易必须加以特别严格的管理，以防止进一步危害其生存，并且只有在特殊的情况下才能允许进行贸易。

（二）附录二应包括：

1. 所有那些目前虽未濒临灭绝，但如对其贸易不严加管理，以防止不利其生存的利用，就可能变成

（四）除遵守本公约各项规定外，各成员国均不应允许就附录一、附录二、附录三所列物种标本进行贸易。

第三条
附录一所列物种标本的贸易规定

（一）附录一所列物种标本的贸易，均应遵守本条各项规定。

（二）附录一所列物种的任何标本的出口，应事先获得并交验出口许可证。只有符合下列各项条件时，方可发给出口许可证：

1. 出口国的科学机构认为，此项出口不致危害该物种的生存；

2. 出口国的管理机构确认，该标本的获得并不违反本国有关保护野生动植物的法律；

3. 出口国的管理机构确认，任一出口的活标本会得到妥善装运，尽量减少伤亡、损害健康，或少遭虐待；

4. 出口国的管理机构确认，该标本的进口许可证已经发给。

（三）附录一所列物种的任何标本的进口，均应事先获得并交验进口许可证和出口许可证，或再出口证明书。只有符合下列各项条件时，方可发给进口许可证：

1. 进口国的科学机构认为，此项进口的意图不致危害有关物种的生存；

2. 进口国的科学机构确认，该活标本的接受者在笼舍安置和照管方面是得当的；

3. 进口国的管理机构确认，该标本的进口，不是以商业为根本目的。

Convention on International Trade in Endangered Species of Wild Fauna and Flora (excerpts)

(Adopted in Washington on March 1973 and became effective to China as of 8 April 1981)

Article 2
Fundamental Principles

.....

1. Appendix I shall include all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.

2. Appendix II shall include:

a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and

b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in subparagraph (a) of this paragraph may be brought under effective control.

3. Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purposes of preventing or restricting exploitation, and as needing the cooperation of other parties in the control of trade.

4. The Parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.

Article 3
Regulation of Trade in Specimens of Species Included in Appendix I

1. All trade in specimens of species included in Appendix I shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix I shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;

b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora;

c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and

d) a Management Authority of the State of export is satisfied that an import permit has been granted for the specimen.

3. The import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate. An import permit shall only be granted when the following conditions have been met:

a) a Scientific Authority of the State of import has advised that the import will be for purposes which are not detrimental to the survival of the species involved;

b) a Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and

（四）附录一所列物种的任何标本的再出口，均应事先获得并交验再出口证明书。只有符合下列各项条件时，方可发给再出口证明书：

1. 再出口国的管理机构确认，该标本系遵照本公约的规定进口到本国的；

2. 再出口国的管理机构确认，该项再出口的活标本会得到妥善装运，尽量减少伤亡、损害健康，或少遭虐待；

3. 再出口国的管理机构确认，任一活标本的进口许可证已经发给。

（五）从海上引进附录一所列物种的任何标本，应事先获得引进国管理机构发给的证明书。只有符合下列各项条件时，方可发给证明书：

1. 引进国的科学机构认为，此项引进不致危害有关物种的生存；

2. 引进国的管理机构确认，该活标本的接受者在笼舍安置和照管方面是得当的；

3. 引进国的管理机构确认，该标本的引进不是以商业为根本目的。

第四条
附录二所列物种标本的贸易规定

（一）附录二所列物种标本的贸易，均应遵守本条各项规定。

（二）附录二所列物种的任何标本的出口，应事先获得并交验出口许可证。只有符合下列各项条件时，方可发给出口许可证：

1. 出口国的科学机构认为，此项出口不致危害该物种的生存；

2. 出口国的管理机构确认，该标本的获得并不违反本国有关保护野生动植物的法律；

3. 出口国的管理机构确认，任一出口的活标本会得到妥善装运，尽量减少伤亡、损害健康，或少遭虐待。

（三）各成员国的科学机构应监督该国所发给的附录二所列物种标本的出口许可证及该物种标本出口的实际情况。当科学机构确定，此类物种标本的出口应受到限制，以便保持该物种在其分布区内的生态系中与它应有作用相一致的地位，或者大大超出该物种够格成为附录一所属范畴的标准时，该科学机构就应建议主管的管理机构采取适当措施，限制发给该物种标本出口许可证。

（四）附录二所列物种的任何标本的进口，应事先交验出口许可证或再出口证明书。

（五）附录二所列物种的任何标本的再出口，应事先获得并交验再出口证明书。只有符合下列各项条件时，方可发给再出口证明书。

1. 再出口国的管理机构确认，该标本的进口符合本公约各项规定；

2. 再出口国的管理机构确认，任一活标本会得到妥善装运，尽量减少伤亡、损害健康，或少遭虐待。

（六）从海上引进附录二所列物种的任何标本，应事先从引进国的管理机构获得

c) a Management Authority of the State of import is satisfied that the specimen is not to be used for primarily commercial purposes.

4. The re-export of any specimen of a species included in Appendix Ishall require the prior grant and presentation of a reexport certificate. A re-export certificate shall only be granted when the followingconditions have been met:

a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention;

b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and

c) a Management Authority of the State of re-export is satisfied that an import permit has been granted for any living specimen.

5. The introduction from the sea of any specimen of a species included in Appendix I shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:

a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved;

b) a Management Authority of the State of introduction is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and

c) a Management Authority of the State of introduction is satisfied that the specimen is not to be used for primarily commercial purposes.

Article 4

Regulation of Trade in Specimens of Species Included in Appemdix II

1. All trade in specimens of species included in Appendix II shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix II shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;

b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and

c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

3. A Scientific Authority in each Party shall monitor both the export permits granted by that State for specimens of species included in Appendix II and the actual exports of such specimens. Whenever a Scientific Authority determines that the export of specimens of any such species should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I, the Scientific Authority shall advise the appropriate Management Authority of suitable measures to be taken to limit the grant of export permits for specimens of that species.

4. The import of any specimen of a species included in Appendix II shall require the prior presentation of either an export permit or a re-export certificate.

5. The re-export of any specimen of a species included in Appendix II shall require the prior grant and presentation of a reexport certificate. A re-export certificate shall only be granted when the following conditions have been met:

a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention; and

b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

发给的证明书。只有符合下列各项条件时，方可发给证明书：

1. 引进国的科学机构认为，此项引进不致危害有关物种的生存；

2. 引进国的管理机构确认，任一活标本会得到妥善处置，尽量减少伤亡、损害健康，或少遭虐待。

（七）本条第（六）款所提到的证明书，只有在科学机构与其他国家的科学机构或者必要时与国际科学机构进行磋商后，并在不超过一年的期限内将全部标本如期引进，才能签发。

第五条
附录三所列物种标本的贸易规定

（一）附录三所列物种标本的贸易，均应遵守本条各项规定。

（二）附录三所列物种的任何标本，从将该物种列入附录三的任何国家出口时，应事先获得并交验出口许可证。只有符合下列各项条件时，方可发给出口许可证：

1. 出口国的管理机构确认，该标本的获得并不违反该国保护野生动植物的法律；

2. 出口国的管理机构确认，任一活标本会得到妥善装运，尽量减少伤亡、损害健康，或少遭虐待。

（三）除本条第（四）款涉及的情况外，附录三所列物种的任何标本的进口，应事先交验原产地证明书。如该出口国已将物种列入附录三，则应交验该国所发给的出口许可证。

（四）如系再出口，由再出口国的管理机构签发有关该标本曾在该国加工或正在进行再出口的证明书，以此向进口国证明有关该标本的再出口符合本公约的各项规定。

第六条
许可证和证明书

（一）根据第三条、第四条和第五条的各项规定签发的许可证和证明书必须符合本条各项规定。

（二）出口许可证应包括附录四规定的式样中所列的内容，出口许可证只用于出口，并自签发之日起半年内有效。

（三）每个出口许可证或证明书应载有本公约的名称、签发出口许可证或证明书的管理机构的名称和任何一种证明印鉴，以及管理机构编制的控制号码。

（四）管理机构发给的许可证或证明书的副本应清楚地注明其为副本。除经特许者外，该副本不得代替原本使用。

（五）交付每批标本，均应备有单独的许可证或证明书。

（六）任一标本的进口国管理机构，应注销并保存出口许可证或再出口证明书，以及有关该标本的进口许可证。

6. The introduction from the sea of any specimen of a species included in Appendix II shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:

a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved; and

b) a Management Authority of the State of introduction is satisfied that any living specimen will be so handled as to minimize the risk of injury, damage to health or cruel treatment.

7. Certificates referred to in paragraph 6 of this Article may be granted on the advice of a Scientific Authority, in consultation with other national scientific authorities or, when appropriate, international scientific authorities, in respect of periods not exceeding one year for total numbers of specimens to be introduced in such periods.

Article 5
Regulation of Trade in Specimens of Species Included in Appendix III

1. All trade in specimens of species included in Appendix III shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix III from any State which has included that species in Appendix III shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

a) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and

b) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

3. The import of any specimen of a species included in Appendix III shall require, except in circumstances to which paragraph 4 of this Article applies, the prior presentation of a certificate of origin and, where the import is from a State which has included that species in Appendix III, an export permit.

4. In the case of re-export, a certificate granted by the Management Authority of the State of re-export that the specimen was processed in that State or is being re-exported shall be accepted by the State of import as evidence that the provisions of the present Convention have been complied with in respect of the specimen concerned.

Article 6
Pprmits and Certificates

1. Permits and certificates granted under the provisions of Articles III, IV and V shall be in accordance with the provisions of this Article.

2. An export permit shall contain the information specified in the model set forth in Appendix IV, and may only be used for export within a period of six months from the date on which it was granted.

3. Each permit or certificate shall contain the title of the present Convention, the name and any identifying stamp of the Management Authority granting it and a control number assigned by the Management Authority.

4. Any copies of a permit or certificates issued by a Management Authority shall be clearly marked as copies only and no such copy may be used in place of the original, except to the extent endorsed thereon.

5. A separate permit or certificate shall be required for each consignment of specimens.

6. A Management Authority of the State of import of any specimen shall cancel and retain the export permit or re-export certificate and any corresponding import permit presented in respect of the import of that specimen.

7. Where appropriate and feasible a Management Authority may affix a mark upon any specimen

（七）在可行的适当地方，管理机构可在标本上盖上标记，以助识别。此类“标记”系指任何难以除去的印记、铅封或识别该标本的其他合适的办法，量防止无权发证者进行伪造。

第七条
豁免与贸易有关的其他专门规定

（一）第三条、第四条和第五条的各项规定不过用于在成员国领土内受海关控制的标本的过境或转运。

（二）出口国或再出口国的管理机构确认，某一标本是在本公约的规定对其生效前获得的，并具有该管理机构为此签发的证明书。则第三条、第四条和第五条的各项规定不适用于该标本。

（三）第三条、第四条和第五条的各项规定不适用于作为个人或家庭财产的标本，但这项豁免不得用于下列情况：

1. 附录一所列物种的标本，是物主在其常住国以外获得并正在向常住国进口；

2. 附录二所列物种的标本：

（1）它们是物主在常住国以外的国家从野生状态中获得；

（2）它们正在向物主常住国进口；

（3）在野生状态中获得的这些标本出口前，该国应事先获得出口许可证。

但管理机构确认，这些物种标本是在本公约的规定对其生效前获得的，则不在此限。

（四）附录一所列的某一动物物种的标本，系为了商业目的而由人工饲养繁殖的，或附录一所列的某一植物物种的标本，系为了商业目的，而由人工培植的，均应视为附录二内所列的物种标本。

（五）当出口国管理机构确认，某一动物物种的任一标本是由人工饲养繁殖的，或某一植物物种的标本是由人工培植的，或确认它们是此类动物或植物的一部分，或是它们的衍生物，该管理机构出具的关于上述情况的证明书可以代替按第三条、第四条或第五条的各项规定所要求的许可证或证明书。

（六）第三条、第四条和第五条的各项规定不适用于在本国管理机构注册的科学家之间或科学机构之间进行非商业性的出借、馈赠或交换的植物标本或其他浸制的、干制的或埋置的博物馆标本，以及活的植物材料，但这些都必须附以管理机构出具的或批准的标签。

（七）任何国家的管理机构可不按照第三条、第四条和第五条的各项规定，允许用作巡回动物园、马戏团、动物展览、植物展览或其他巡回展览的标本，在没有许可证或证明书的情况下运送，但必须做到以下各点：

1. 出口者或进口者向管理机构登记有关该标本的全部详细情况；

2. 这些标本系属于本条第（二）款或第（五）款所规定的范围；

3. 管理机构已经确认，所有活的标本会得到妥善运输和照管，尽量减少伤亡、损害健康，或少遭虐待。

第八条
成员国应采取的措施

（一）成员国应采取相应措施执行本公约的规定，并禁止违反本公约规定的标本

to assist in identifying the specimen. For these purposes "mark" means any indelible imprint, lead seal or other suitable means of identifying a specimen, designed in such a way as to render its imitation by unauthorized persons as difficult as possible.

Article 7
Exemptions and Other Speclal Provisions Relating to Trade

1. The provisions of Articles III, IV and V shall not apply to the transit or trans-shipment of specimens through or in the territory of a Party while the specimens remain in Customs control.

2. Where a Management Authority of the State of export or reexport is satisfied that a specimen was acquired before the provisions of the present Convention applied to that specimen, the provisions of Articles III, IV and V shall not apply to that specimen where the Management Authority issues a certificate to that effect.

3. The provisions of Articles III, IV and V shall not apply to specimens that are personal or household effects. This exemption shall not apply where:

a) in the case of specimens of a species included in Appendix I, they were acquired by the owner outside his State of usual residence, and are being imported into that State; or

b) in the case of specimens of species included in Appendix II:

(i) they were acquired by the owner outside his State of usual residence and in a State where removal from the wild occurred;

(ii) they are being imported into the owner's State of usual residence; and

(iii) the State where removal from the wild occurred requires the prior grant of export permits before any export of such specimens; unless a Management Authority is satisfied that the specimens were acquired before the provisions of the present Convention applied to such specimens.

4. Specimens of an animal species included in Appendix I bred in captivity for commercial purposes, or of a plant species included in Appendix I artificially propagated for commercial purposes, shall be deemed to be specimens of species included in Appendix II.

5. Where a Management Authority of the State of export is satisfied that any specimen of an animal species was bred in captivity or any specimen of a plant species was artificially propagated, or is a part of such an animal or plant or was derived therefrom, a certificate by that Management Authority to that effect shall be accepted in lieu of any of the permits or certificates required under the provisions of Articles III, IV or V.

6. The provisions of Articles III, IV and V shall not apply to the non-commercial loan, donation or exchange between scientists or scientific institutions registered by a Management Authority of their State, of herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material which carry a label Issued or approved by a Management Authority.

7. A Management Authority of any State may waive the requirements of Articles III, IV and V and allow the movement without permits or certificates of specimens which form part of a travelling zoo, circus, menagerie, plant exhibition or other travelling exhibition provided that:

a) the exporter or importer registers full details of such specimens with that Management Authority;

b) the specimens are in either of the categories specified in paragraphs 2 and 5 of this Article; and

c) the Management Authority is satisfied that any living specimen will be so transported and cared for as to minimize the risk of injury, damage to health or cruel treatment.

Article 8
Measures to by Taken by the Parties

1. The Parties shall take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof. These shall include measures:

a) to penalize trade in, or possession of, such specimens, or both; and

b) to provide for the confiscation or return to the State of export of such specimens.

贸易，包括下列各项措施：

1. 处罚对此类标本的贸易，或者没收它们，或两种办法兼用；

2. 规定对此类标本进行没收或退还出口国。

（二）除本条第（一）款所规定的措施外，违反本公约规定措施的贸易标本，予以没收所用的费用，如成员国认为必要，可采取任何办法内部补偿。

（三）成员国应尽可能保证物种标本在贸易时尽快地通过一切必要的手续。为便利通行，成员国可指定一些出口岸，以供对物种标本进行检验放行。各成员国还须保证所有活标本，在过境、扣留或装运期间，得到妥善照管，尽量减少伤亡、损害健康，或少遭虐待。

（四）在某一活标本由于本条第（一）款规定而被没收时：

1. 该标本应委托给没收国的管理机构代管；

2. 该管理机构经与出口国协商后，应将标本退还该出口国，费用由该出口国负担，或将其送往管理机构认为合适并且符合本公约宗旨的拯救中心，或类似地方；

3. 管理机构可以征询科学机构的意见，或者，在其认为需要时，与秘书处磋商以加快实现根据本款第 2 项所规定的措施，包括选择拯救中心或其他地方。

（五）本条第（四）款所指的拯救中心，是指由管理机构指定的某一机构，负责照管活标本，特别是没收的标本。

（六）各成员国应保存附录一、附录二、附录三所列物种标本的贸易记录，内容包括：

1. 出口者与进口者的姓名、地址；

2. 所发许可证或证明书的号码、种类，进行这种贸易的国家，标本的数量、类别，根据附录一、附录二、附录三所列物种的名称，如有要求，在可行的情况下，还包括标本的大小和性别。

（七）各成员国应提出执行本公约情况的定期报告，递交秘书处：

1. 包括本条第（六）款第 2 项所要求的情况摘要的年度报告；

2. 为执行本公约各项规定而采取的立法、规章和行政措施的双年度报告。

（八）本条第（七）款提到的情况，只要不违反有关成员国的法律，应予公布。

……

2. In addition to the measures taken under paragraph 1 of this Article a Party may, when it deems it necessary, provide for any method of internal reimbursement for expenses incurred as a result of the confiscation of a specimen traded in violation of the measures taken in the application of the provisions of the present Convention.

3. As far as possible, the Parties shall ensure that specimens shall pass through any formalities required for trade with a minimum of delay. To facilitate such passage, a Party may designate ports of exit and ports of entry at which specimens must be presented for clearance. The Parties shall ensure further that all living specimens, during any period of transit, holding or shipment, are properly cared for so as to minimize the risk of injury, damage to health or cruel treatment.

4. Where a living specimen is confiscated as a result of measures referred to in paragraph 1 of this Article:

a) the specimen shall be entrusted to a Management Authority of the State of confiscation;

b) the Management Authority shall, after consultation with the State of export, return the specimen to that State at the expense of that State, or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purposes of the present Convention; and

c) the Management Authority may obtain the advice of a Scientific Authority, or may, wherever it considers it desirable, consult the Secretariat in order to facilitate the decision under sub-paragraph (b) of this paragraph, including the choice of a rescue centre or other place.

5. A rescue centre as referred to in paragraph 4 of this Article means an institution designated by a Management Authority to look after the welfare of living specimens, particularly those that have been confiscated.

6. Each Party shall maintain records of trade in specimens of species included in Appendices I, II and III which shall cover:

a) the names and addresses of exporters and importers; and

b) the number and type of permits and certificates granted; the States with which such trade occurred; the numbers or quantities and types of specimens, names of species as included in Appendices I, II and III and, where applicable, the size and sex of the specimens in question.

7. Each Party shall prepare periodic reports on its implementation of the present Convention and shall transmit to the Secretariat:

a) an annual report containing a summary of the information specified in sub-paragraph (b) of paragraph 6 of this Article; and

b) a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of the present Convention.

8. The information referred to in paragraph 7 of this Article shall be available to the public where this is not inconsistent with the law of the Party concerned.

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跨界鱼类种群和高度洄游鱼类种群的养护与管理协定（摘录）

（本协定1995年12月4日通过。我国于1996年11月6日签署。同时对协定第21条第7款、第22条第1款（f）项的理解作了声明。）

第四部分
非成员和非参与方

第17条
非组织成员和非安排参与方

1. 不属于某个分区域或区域渔业管理组织的成员或某个分区域或区域渔业管理安排的参与方，且未另外表示同意适用该组织或安排订立的养护和管理措施的国家并不免除根据《公约》和本协定对有关跨界鱼类种群和高度洄游鱼类种群的养护和管理给予合作的义务。

2. 这种国家不得授权悬挂本国国旗的船只从事捕捞受该组织或安排所订立的养护和管理措施管制的跨界鱼类种群或高度洄游鱼类种群。

3. 分区域或区域渔业管理组织的成员国或分区域或区域渔业管理安排的参与国，应个别或 共同要求第1条第3款所指，在有关地区有渔船的捕鱼实体，同该组织或安排充分合作，执行其订立的养护和管理措施，以期使这些措施尽可能广泛地实际适用于有关地区的捕鱼活动。这些捕鱼实体从参加捕捞所得利益应与其为遵守关于种群的养护和管理措施所作承诺相称。

4. 这些组织的成员国或安排的参与国应就悬挂非组织成员国或非安排参与国国旗，并从事捕鱼作业，捕捞有关种群的渔船的活动交换情报。他们应采取符合本协定和国际法的措施，防阻这种船只从事破坏分区域或区域养护和管理措施效力的活动。

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第六部分
遵守和执法

第21条
执法的分区域和区域合作

3. 如任何组织或安排未在本协定通过后两年内订立这种程序，在订立这种程序以前，根据第1款进行的登临和检查，以及其后的任何执法行动，应按照本条和第22条列举的基本程序执行。

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Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks(excerpts)

(Adopted on 4 December 1995 and signed by China on 6 Novernber 1996)

.....

PART IV
Non-Members and Non-Participants

Article 17

Non-members of organizations and non-Participants in arrangements

1. A State which is not a member of a subregional or regional fisheries management organization or is not a participant in a subregional or regional fisheries management arrangement, and which does not otherwise agree to apply the conservation and management measures established by such organization or arrangement, is not discharged from the obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and management of the relevant straddling fish stocks and highly migratory fish stocks.

2. Such State shall not authorize vessels flying its flag to engage in fishing operations for the straddling fish stocks or highly migratory fish stocks which are subject to the conservation and management measures established by such organization or arrangement.

3. States which are members of subregional or regional fisheries management organizations or participants in subregional or regional fisheries management arrangements shall, individually or jointly, request the fishing entities referred to in article 1, paragraph 3, which have fishing vessels in the relevant area to cooperate fully with such organization or arrangement in implementing the conservation and management measures it has established, with a view to having such measures applied de facto as extensively as possible to fishing activities in the relevant area Such fishing entities shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with conservation and management measures in respect of the stocks.

4. States which are members of such organizations or participants in such arrangements shall exchange information with respect to the activities of fishing vessels flying the flags of States which are neither members of the organization nor participants in the arrangement and which are engaged in fishing operations for the relevant stocks. They shall take measures consistent with this Agreement and international law to deter activities of such vessels which undermine the effectiveness of subregional or regional conservation and management measures.

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PART VI
Compliance and Enforcement

Article 21

Subregional and regional cooperation in enforcement

3. If, within two years of the adoption of this Agreement, any organization or arrangement has not established such procedures, boarding and inspection pursuant to paragraph 1, as well as any subsequent enforcement actions, shall, pending the establishment of such procedures, be conducted in accordance with this article and the basic procedures set out in article 22

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Article 23

第 23 条
港口国采取的措施

1. 港口国有权利和义务根据国际法采取措施，提高分区域、区域和全球养护和管理措施的效力。港口国采取这类措施时不得在形式上或事实上歧视任何国家的船只。

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第九部分
非本协定缔约方

第 33 条
非本协定缔约方

1. 缔约国应鼓励非本协定缔约方成为本协定缔约方和制定符合本协定各项规定的法律和规章。

2. 缔约国应采取符合本协定和国际法的措施，防阻悬挂非缔约方国旗的船只从事破坏本协定的有效执行的活动。

Measures taken by a port State

1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the vessels of any State.

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PART IX
Non-Parties to This Agreement

Article 33
Non-parties to this Agreement

1. States Parties shall encourage non-parties to this Agreement to become parties thereto and to adopt laws and regulations consistent with its provisions.

2. States Parties shall take measures consistent with this Agreement and international law to deter the activities of vessels flying the flag of non-parties which undermine the effective implementation of this Agreement.

1994 年国际热带木材协定（摘录）

（本协定 1994 年 1 月 26 日订于日内瓦，
1996 年 6 月 19 日，中国政府核准该协定。）

第一章　目　　标

第 1 条
目　　标

确认《关于所有类型森林的经营、养护和永续开发的无法律约束力的全球协商一致意见的权威性原则声明》原则 1（a）确定的成员对其自然资源的主权，1994 年国际热带木材协定（以下称“本协定”）确定目标如下：

（b）提供论坛，以便开展磋商，促进非歧视的木材贸易作法；

（c）为永续发展进程作出贡献；

（d）增进成员的能力，以执行争取在 2000 年之前实现热带木材和木材产品的出口均取自永续经营资源这一战略；

（e）促进来自可持续的来源的热带木材国际贸易的扩大和多样化，为此要改进国际市场的结构条件，一方面要顾及消费量的长期增长和供应的持续性，另一方面要顾及价格，价格要反映永续的森林经营的代价，并且使成员能从中获利，对之一视同仁，并改善市场准入；

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第 36 条
不歧视

本协定的任何规定均不构成授权采取措施限制或禁止木材及其制品的国际贸易，特别是涉及木材及其制品的进口和利用的措施。

International Tropical Timber Agreement(excerpts)

(adopted in Geneva on 26 January 1994 and approved by the Chintse Government on 19 June 1996)

...

Chapter I Objectives

Article 1
Objectives

Recognizing the sovereignty of members over their natural resources, as defined in Principle 1 (a) of the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests, the objectives of the International Tropical Timber Agreement, 1994 (hereinafter referred to as "this Agreement") are:

(b) To provide a forum for consultation to promote non discriminatory timber trade practices;

(c) To contribute to the process of sustainable development;

(d) To enhance the capacity of members to implement a strategy for achieving exports of tropical timber and timber products from sustainably managed sources by the year 2000;

(e) To promote the expansion and diversification of international trade in tropical timber from sustainable sources by improving the structural conditions in international markets, by taking into account, on the one hand, a long term increase in consumption and continuity of supplies, and, on the other, prices which reflect the costs of sustainable forest management and which are remunerative and equitable for members, and the improvement of market access;

(h) To improve market intelligence with a view to ensuring greater transparency in the international timber market, including the gathering, compilation, and dissemination of trade related data, including data related to species being traded;

(k) To improve marketing and distribution of tropical timber exports from sustainably managed sources;

(l) To encourage members to develop national policies aimed at sustainable utilization and conservation of timber producing forests and their genetic resources and at maintaining the ecological balance in the regions concerned, in the context of tropical timber trade;

(m) To promote the access to, and transfer of, technologies and technical cooperation to implement the objectives of this Agreement, including on concessional and preferential terms and conditions, as mutually agreed; and

.....

Article 36
Non-discrimination

Nothing in this Agreement authorizes the use of measures to restrict or ban international trade in, and in particular as they concern imports of and utilization of, timber and timber products.

关于禁止和防止非法进出口文化财产和非法转让其所有权的方法的公约（摘录）

（本公约 1970 年 11 月 17 日订于巴黎，并于 1972 年 4 月 24 日生效。
本公约于 19990 年 1 月 25 日对中国生效。）

第三条

本公约缔约国违反本公约所列的规定而造成的文化财产之进出口或所有权转让均属非法。

……

第五条

为确保保护文化财产免于非法进出口和所有权的非法转让，本公约缔约国承担若尚未设立保护文化遗产的国家机构，可根据本国的情况，在其领土之内建立一个或一个以上的国家机构，配备足够的人数的合格工作人员，以有效地行使下述职责：

1. 协助制订旨在切实保护文化遗产特别是防止重要文化财产的非法进出口和非法转让的法律和规章草案；

2. 根据全国受保护财产清册，制订并不断更新一份其出口将造成文化遗产的严重枯竭的重要的公共及私有文化财产的清单；

3. 促进发展或成立为保证文化财产的保存和展出所需之科学及技术机构（博物馆、图书馆、档案馆、实验室、工作室……）；

4. 组织对考古发掘的监督，确保在原地保存某些文化财产，并保护某些地区，供今后考古研究之用；

5. 为有关各方面（博物馆长、收藏家、古董商等）的利益，制订符合于本公约所规定道德原则的规章；并采取措施保证遵守这些规章；

6. 采取教育措施，鼓励并提高对各国文化遗产的尊重，并传播关于本公约规定的知识；

7. 注意对任何种类的文化财产的失踪进行适当宣传。

第六条

本公约缔约国承担：

1. 发放适当证件，出口国将在该证件中说明有关文化财产的出口已经过批准。根据规定出口的各种文化财产，均须附有此种证件；

2. 除非附有上述出口证件，禁止文化财产从本国领土出口；

3. 通过适当方法宣传这种禁止，特别要在可能出口或进口文化财产的人们中间

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property(excerpts)

(Adopted at Paris on 17 November 1970 and becarne effeltive to China as of 25 January 1990)

...

Article 3

The import, export or transfer of ownership of cultural property effected contrary to the provisions adopted under this Convention by the States Parties thereto, shall be illicit.

.....

Article 5

To ensure the protection of their cultural property against illicit import, export and transfer of ownership, the States Parties to this Convention undertake, as appropriate for each country, to set up within their territories one or more national services, where such services do not already exist, for the protection of the cultural heritage, with a qualified staff sufficient in number for the effective carrying out of the following functions:

a. contributing to the formation of draft laws and regulations designed to secure the protection of the cultural heritage and particularly prevention of the illicit import, export and transfer of ownership of important cultural property;

b. establishing and keeping up to date, on the basis of a national inventory of protected property, a list of important public and private cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage;

c. promoting the development or the establishment of scientific and technical institutions (museums, libraries, archives, laboratories, workshops . . .) required to ensure the preservation and presentation of cultural property;

d. organizing the supervision of archaeological excavations, ensuring the preservation "in situ" of certain cultural property, and protecting certain areas reserved for future archaeological research;

e. establishing, for the benefit of those concerned (curators, collectors, antique dealers, etc.) rules in conformity with the ethical principles set forth in this Convention; and taking steps to ensure the observance of those rules;

f. taking educational measures to stimulate and develop respect for the cultural heritage of all States, and spreading knowledge of the provisions of this Convention;

g. seeing that appropriate publicity is given to the disappearance of any items of cultural property.

Article 6

The States Parties to this Convention undertake:

a. To introduce an appropriate certificate in which the exporting State would specify that the export of the cultural property in question is authorized. The certificate should accompany all items of cultural property exported in accordance with the regulations;

b. to prohibit the exportation of cultural property from their territory unless accompanied by the abovementioned export certificate;

c. to publicize this prohibition by appropriate means, particularly among persons likely to export or import cultural property.

进行宣传。

第七条

本公约缔约国承担：

1. 采取与本国立法相一致的必要措施防止本国领土内的博物馆及类似机构获取来源于另一缔约国并于本公约在有关国家生效后非法出口的文化财产。本公约对两国均已生效后，尽可能随时把自两国中的原主缔约国非法运出文化财产的建议通知该原主缔约国。

2.

(1) 本公约对有关国家生效后，禁止进口从本公约另一缔约国的博物馆或宗教的或世俗的公共纪念馆或类似机构中窃取的文化财产，如果该项财产业已用文件形式列入该机构的财产清册；

(2) 本公约对有关两个国家生效后，根据两国中的原主缔约国的要求，采取适当措施收回并归还进口的此类文化财产，但要求国须向不知情的买主或对该财产具有合法权利者给予公平的赔偿。要求收回和归还失物必须通过外交部门进行，提出要求一方应提供使确定其收回或归还失物的要求的必要文件及其他证据，费用自理。各方不得对遵照本条规定而归还的文件财产征收关税和其他费用。归还和运送文化财产过程中所需的一切费用均由提出要求一方负担。

……

第十条

本公约缔约国承担：

1. 通过教育、情报和防范手段，限制非法从本公约缔约国运出的文化财产的移动，并视各国情况，责成古董商保持一份记录，载明每项文化财产的来源、提供者的姓名与住址以及每项售出的物品的名称与价格，并须把此类财产可能禁止出口的情况告知该项文化财产的购买人，违者须受刑事或行政制裁。

2. 努力通过教育手段，使公众心目中认识到，并进一步理解文化财产的价值和偷盗、秘密发掘与非法出口对文化财产造成的威胁。

第十一条

一个国家直接或间接地由于被他国占领而被迫出口文化财产或转让其所有权应被视为非法。

第十二条

本公约缔约国应尊重由其负责国际关系的领土内的文化财产，并应采取一切适当措施禁止并防止在这些领土内非法进出口文化财产和非法转让其所有权。

第十三条

本公约缔约国还应在符合其本国法律的情况下承担：

1. 通过一切适当手段防止可能引起文化财产的非法进出口的这一类财产的所有

Article 7

The States Parties to this Convention undertake:

a. To take the necessary measures, consistent with national legislation, to prevent museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been illegally exported after entry into force of this Convention, in the States concerned. Whenever possible, to inform a State of origin Party to this Convention of an offer of such cultural property illegally removed from that State after the entry into force of this Convention in both States;

b.

i. to prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to this Convention after the entry into force of this Convention for the States concerned, provided that such property is documented as appertaining to the inventory of that institution;

ii. at the request of the State Party of origin, to take appropriate steps to recover and return any such cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property. Requests for recovery and return shall be made through diplomatic offices. The requesting Party shall furnish, at its expense, the documentation and other evidence necessary to establish its claim for recovery and return. The Parties shall impose no customs duties or other charges upon cultural property returned pursuant to this Article. All expenses incident to the return and delivery of the cultural property shall be borne by the requesting Party.

.....

Article 10

The States Parties to this Convention undertake:

a. To restrict by education, information and vigilance, movement of cultural property illegally removed from any State Party to this Convention and, as appropriate for each country, oblige antique dealers, subject to penal or administrative sanctions, to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each item sold and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject;

b. to endeavour by educational means to create and develop in the public mind a realization of the value of cultural property and the threat to the cultural heritage created by theft, clandestine excavations and illicit exports.

Article 11

The export and transfer of ownership of cultural property under compulsion arising directly or indirectly from the occupation of a country by a foreign power shall be regarded as illicit.

Article 12

The States Parties to this Convention shall respect the cultural heritage within the territories for the international relations of which they are responsible, and shall take all appropriate measures to prohibit and prevent the illicit import, export and transfer of ownership of cultural property in such territories.

Article 13

The States Parties to this Convention also undertake, consistent with the laws of each State:

a. To prevent by all appropriate means transfers of ownership of cultural property likely to promote the illicit import or export of such property;

b. to ensure that their competent services co-operate in facilitating the earliest possible restitution of illicitly exported cultural property to its rightful owner;

c. to admit actions for recovery of lost or stolen items of cultural property brought by or on behalf of the rightful owners;

权转让；

2. 保证本国的主管机关进行合作，使非法出口的文化财产尽早归还其合法所有者；

3. 受理合法所有者或其代表提出的关于找回失落的或失窃的文化财产的诉讼；

4. 承认本公约缔约国有不可取消的权利规定并宣布某些文化财产是不能让与的，因而据此也不能出口，若此类财产已经出口务须促使将这类财产归还给有关国家。

……

第十五条

在本公约对有关国家生效前，本公约之任何规定不应妨碍缔约国之间自行缔结有关归还从其原主国领土上不论以何种理由搬走之文化财产的特别协定，或制止它们继续执行业已缔结的有关协定。

d. to recognize the indefeasible right of each State Party to this Convention to classify and declare certain cultural property as inalienable which should therefore ipso facto not be exported, and to facilitate recovery of such property by the State concerned in cases where it has been exported.

……

Article 15

Nothing in this Convention shall prevent States Parties thereto from concluding special agreements among themselves or from continuing to implement agreements already concluded regarding the restitution of cultural property removed, whatever the reason, from its territory of origin, before the entry into force of this Convention for the States concerned.

里约环境与发展宣言（摘录）

（联合国环境与发展大会于1992年6月14日在里约热内卢通过。）

原则12

为了更好地处理环境退化问题，各国应该合作促进一个支持性和开放的国际经济制度，这个制度将会导致所有国家实现经济成长和可持续发展。为环境目的而采取的贸易政策措施不应该成为国际贸易中的一种任意或无理歧视的手段或伪装的限制。应该避免在进口国家管理范围以外单方面采取对付环境挑战的行动。解决跨越国界或全球性环境问题的环境措施应尽可能为国际协调一致为基础。

原则14

各国应有效合作阻碍或防止任何造成环境严重退化或证实有害人类健康的活动和物质迁移和转让到他国。

原则16

考虑到污染者原则上应承担污染费用的观点，国家当局应该努力促使内部负担环境费用和经济手段的运用，并且适当地照顾到公众利益，而不歪曲国际贸易和投资。

原则19

各国应将可能具有不利跨越国界的环境影响的活动向可能受到影响的国家预先和及时地提供通知和有关资料，并应在早期阶段诚意地同这些国家进磋商。

Rio Declaration on Environment and Development (excerpts)

(Adopted on June 14, 1992)

.....

Principle 12

States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation.

Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus.

.....

Principle 14

States should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health.

.....

Principle 16

National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.

.....

Principle 19

States shall provide prior and timely notification and relevant information to potentially affected States on activities that may have a significant adverse transboundary environmental effect and shall consult with those States at an early stage and in good faith.

二十一世纪议程（摘录）

（1992 年联合国环境与发展大会通过）

第一篇　社会和经济方面

第 2 章　发展中国家加速可持续发展的国际合作和有关的国内政策

导言

2．3　国际经济应以下列方式为实现环境与发展目标提供支持性的国际环境：

（1）通过贸易自由化促进可持续发展；

（2）使贸易与环境相辅相成；

（3）向发展中国家提供充足的财政资源，并处理国际债务；

（4）鼓励有利于环境与发展的宏观经济政策。

2．4　各国政府认识到，现在有一种新的全球努力，要将国际经济准备的要素与人类对安全稳定的自然环境的需求联系起来。因此，各国政府在现有的国际论坛以及在每一个国家国内政策中，就环境与贸易及各发展领域的交叉点建立共识。

方案领域

一、通过贸易促进可持续发展

行动依据

2．5　一个开放的、公平的、安全的、非歧视性的、可预测的、符合可持续发展目标的并能使全球生产按照相对优势得到最佳分配的多边贸易制度，对所有贸易伙伴都是有益的。此外，改善发展中国家出口品进入市场的机会，同时采取健全的宏观经济和环境政策，将会结环境产生积极的影响，并因而对可持续之发展作出重要贡献。

2．6　经验表明，可持续发展需要推行健全的经济政策和管理的决心，需要有一个既有效又可以预测的公共行政制度，需要把环境的考虑因素纳入决策过程，并且需要根据各国的具体情况，朝民主政府的方向前进，让所有有关各方充分参与，这些条件对于实现下列政策方向和目标是必不可少的。

2．7　按生产、就业和出口收入来衡量，商品部门在许多发展中国家的经济中占最主要的地位。80 年代世界商品经济的一个重要特点是，国际市场上大部分商品的实际价格普遍偏低甚至低于实际价格，使许多生产国的商品出口收入大为减少。这些国家通过国际贸易为可持续发展所需的投资调动资源的能力，可能因上述发展

Agenda 21 (excerpts)

(Adopted by the United Nations Conference on Environment and Development, 1992)

Section 1: Social and Economic Dimensions

International Cooperation to Accelerate Sustainable Development in Developing Countries and Related Domestic Policies

Introduction

2.3. The international economy should provide a supportive international climate for achieving environment and development goals by:

(a) Promoting sustainable development through trade liberalization;

(b) Making trade and environment mutually supportive;

(c) Providing adequate financial resources to developing countries and dealing with international debt;

(d) Encouraging macroeconomic policies conducive to environment and development

2.4 Governments recognize that there is a new global effort to relate the elements of the international economic system and mankind's need for a safe and stable natural environment. Therefore, it is the intent of Governments that consensus-building at the intersection of the environmental and trade and development areas will be ongoing in existing international forums, as well as in the domestic policy of each country.

PROGRAMME AREAS

A. Promoting sustainable development through trade

Basis for action

2.5. An open, equitable, secure, non-discriminatory and predictable multilateral trading system that is consistent with the goals of sustainable development and leads to the optimal distribution of global production in accordance with comparative advantage is of benefit to all trading partners. Moreover, improved market access for developing countries' exports in conjunction with sound macroeconomic and environmental policies would have a positive environmental impact and therefore make an important contribution towards sustainable development.

2.6. Experience has shown that sustainable development requires a commitment to sound economic policies and management, an effective and predictable public administration, the integration of environmental concerns into decision-making and progress towards democratic government, in the light of country-specific conditions, which allows for full participation of all parties concerned. These attributes are essential for the fulfilment of the policy directions and objectives listed below.

2.7. The commodity sector dominates the economies of many developing countries in terms of production, employment and export earnings. An important feature of the world commodity economy in the 1980s was the prevalence of very low and declining real prices for most commodities in international markets and a resulting substantial contraction in commodity export earnings for many producing

情况以及因限制它们进入出口市场的关税和非关税障碍（包括关税逐步上升）而被减弱。排除国际贸易方面现存的不正常情况是至关重要的。要达到这一目标，就需要逐步大量减少包括国内制度、进入市场机会和出口补贴在内的农业以及工业和其他部门的支助和保护措施，以免较有效的生产者，特别是发展中国家的生产者蒙受重大损失。因此，在农业、工业和其他部门，还有这类首创精神的余地：促进贸易自由化和制订使生产对环境与发展需要更为敏感的政策。因此，贸易自由化应在全球范围内跨越各经济部门执行，以促成可持续发展。

2．8　一些事态发展影响到国际贸易环境，它们创造了新的挑战和机会，也使得多边经济合作变得更为重要。近年来，世界贸易的增长速度一直高于世界产出。然而，世界贸易扩展的分布并不平均，只有数目有限的几个发展中国家的出口明显增长。保护主义压力和单方的政策行动仍然危害着开放的多边贸易体制的运行，尤其影响到发展中国家的出口利益。经济一体化进程近年来已经加强，应可给全球贸易带来动力，增加发展中国家的贸易和发展机会。近年来，越来越多的发展中国家进行勇敢的政策改革，实行雄心勃勃的自主贸易自由化；另一方面，中欧和东欧国家正进行广泛的改革和影响深远的结构调整，为它们加入世界经济和国际贸易体制铺平道路。它们日益注意加强企业的作用，实行竞争政策以促进竞争性市场。普惠制已证明是有用的贸易政策手段，但其目标尚有待实现；有关电子数据交换的贸易促进战略对于提高公私营部门的效率很有成效。环境政策与贸易问题之间的相互影响是多方面的，但迄今尚未得到充分评估。多边贸易谈判乌拉圭回合早日取得均衡和全面的成果，将世界贸易进一步开放和扩展，增加发展中国家的贸易和发展机会，为国际贸易制度提供更大的安全性和可预测性。

目　　标

2．9　在未来岁月中，各国政府考虑到多边贸易谈判乌拉圭回合的结果，应继续努力实现下列目标：

（1）促进建立下一个开放的、非歧视的和公平的多边国际贸易制度，使所有国家，特别是发展中国家能够改善其经济结构，并通过可持续的经济发展，提高其人民的生活水平；

（2）改善发展中国家出口品进入市场的机会；

（3）改善商品市场的运行和在国家和国际各级制订健全、兼容和一致的商品政策，使商品部门能对可持续发展作出最大的贡献，同时要考虑到环境方面的问题；

（4）促进和支持可以经济增长和环境保护相辅相成的国内和国际政策。

活　　动

1．国际和区域合作协调

促进考虑到发展中国家需要的国际贸易制度

2．10　因此，国际社会应当：

countries. The ability of those countries to mobilize, through international trade, the resources needed to finance investments required for sustainable development may be impaired by this development and by tariff and non-tariff impediments, including tariff escalation, limiting their access to export markets. The removal of existing distortions in international trade is essential. In particular, the achievement of this objective requires that there be substantial and progressive reduction in the support and protection of agriculture-covering internal regimes, market access and export subsidies-as well as of industry and other sectors, in order to avoid inflicting large losses on the more efficient producers, especially in developing countries. Thus, in agriculture, industry and other sectors, there is scope for initiatives aimed at trade liberalization and at policies to make production more responsive to environment and development needs. Trade liberalization should therefore be pursued on a global basis across economic sectors so as to contribute to sustainable development.

2.8. The international trading environment has been affected by a number of developments that have created new challenges and opportunities and have made multilateral economic cooperation of even greater importance. World trade has continued to grow faster than world output in recent years. However, the expansion of world trade has been unevenly spread, and only a limited number of developing countries have been capable of achieving appreciable growth in their exports. Protectionist pressures and unilateral policy actions continue to endanger the functioning of an open multilateral trading system, affecting particularly the export interests of developing countries. Economic integration processes have intensified in recent years and should impart dynamism to global trade and enhance the trade and development possibilities for developing countries. In recent years, a growing number of these countries have adopted courageous policy reforms involving ambitious autonomous trade liberalization, while far-reaching reforms and profound restructuring processes are taking place in Central and Eastern European countries, paving the way for their integration into the world economy and the international trading system. Increased attention is being devoted to enhancing the role of enterprises and promoting competitive markets through adoption of competitive policies. The GSP has proved to be a useful trade policy instrument, although its objectives will have to be fulfilled, and trade facilitation strategies relating to electronic data interchange (EDI) have been effective in improving the trading efficiency of the public and private sectors. The interactions between environment policies and trade issues are manifold and have not yet been fully assessed. An early, balanced, comprehensive and successful outcome of the Uruguay Round of multilateral trade negotiations would bring about further liberalization and expansion of world trade, enhance the trade and development possibilities of developing countries and provide greater security and predictability to the international trading system.

Objectives

2.9. In the years ahead, and taking into account the results of the Uruguay Round of multilateral trade negotiations, Governments should continue to strive to meet the following objectives:

(a)To promote an open, non-discriminatory and equitable multilateral trading system that will enable all countries-in particular, the developing countries-to improve their economic structures and improve the standard of living of their populations through sustained economic development;

(b)To improve access to markets for exports of developing countries;

(c)To improve the functioning of commodity markets and achieve sound, compatible and consistent commodity policies at national and international levels with a view to optimizing the contribution of the commodity sector to sustainable development, taking into account environmental considerations;

(d)To promote and support policies, domestic and international, that make economic growth and environmental protection mutually supportive.

Activities

(A)International and regional cooperation and coordination

Promoting an international trading system that takes account of the needs of developing countries

2.10. Accordingly, the international community should:

(a)Halt and reverse protectionism in order to bring about further liberalization and expansion of world trade, to the benefit of all countries, in particular the developing countries;

（1）制止和扭转保护主义，使世界贸易进一步自由化和扩展，使所有国家、尤其是发展中国家得以从中获益；

（2）建立一个公平、稳固、非歧视和可以预测的国际贸易制度；

（3）及时促进把所有国家纳入世界经济和国际贸易制度；

（4）保证环境与贸易政策相辅相成，以实现可持续发展；

（5）通过多边贸易谈判乌拉圭回合早日取得的均衡和全面的成果，加强国际贸易政策制度。

2．11　国际社会应当致力录求方式方法，改进商品市场的运行和增加其透明度，在考虑到国家经济结构、天然资源和市场机会等因素的宏观经济框架内，使发展中国家商品部门更加多样化，在考虑到可持续发展的必要条件的前提下，更好地管理自然资源。

2．12　因此，所有国家均应履行先前关于制止和扭转保护主义的承诺，并特别是在发展中国家关心的领域进一步扩大进入市场的机会。发达国家进行适当的结构调整，将有助于扩大进入市场的机会。发展中国家应继续进行已经着手的贸易政策改革和结构调整。因此，亟需改善商品进入市场的条件，特别是逐步消除限制尤其是要消除对发展中国家初级商品和加工商品进口的壁垒以及大幅度逐渐减少诸如生产和出口补贴等导致无竞争能力的生产各种政策支持。

2．与管理有关的活动

制定为可持续发展而最大限度增加贸易自由化好处的国内政策

2．13　发展中国家要从贸易制度自由化获得益处须斟酌情况实施下列政策：

（1）创造一种支持性的兼顾国内市场生产和出口市场生产的国内环境和消除不利于出口的倾斜性政策，不鼓励效益差的进口替代；

（2）促进提高进出口贸易效率以及国内市场运行所需的政策框架和基础设施。

2．14　在商品方面，发展中国家应当采取符合市场效率的下列政策：

（1）扩大加工、分销和改进销售方法及商品部门的竞争能力；

（2）多种经营，以便减少对商品出口的依赖；

（3）商品的价格形成应反映生产因素的高效率利用和可持续利用，包括反映环境、社会资源成本。

3．数据和资料

鼓励数据收集和研究

2．15　关税和贸易总协家、贸发会议和其他有关机构，应当继续收集适当的贸易数据和信息。请联合国秘书长加强由联合国贸易和发展会议管理的贸易管制措施信息系统。

增进商品贸易方面的国际合作和使这个部门多样化

2．16　关于商品贸易，各国政府应当斟酌情况直接或通过适当的国际组织：

（1）谋求商品市场的优化运行机制。尤其是通过个别商品的投资计划、前景和

(b)Provide for an equitable, secure, non-discriminatory and predictable international trading system;

(c)Facilitate, in a timely way, the integration of all countries into the world economy and the international trading system;

(d)Ensure that environment and trade policies are mutually supportive, with a view to achieving sustainable development;

(e)Strengthen the international trade policies system through an early, balanced, comprehensive and successful outcome of the Uruguay Round of multilateral trade negotiations.

2.11. The international community should aim at finding ways and means of achieving a better functioning and enhanced transparency of commodity markets, greater diversification of the commodity sector in developing economies within a macroeconomic framework that takes into consideration a country's economic structure, resource endowments and market opportunities, and better management of natural resources that takes into account the necessities of sustainable development.

2.12. Therefore, all countries should implement previous commitments to halt and reverse protectionism and further expand market access, particularly in areas of interest to developing countries. This improvement of market access will be facilitated by appropriate structural adjustment in developed countries. Developing countries should continue the trade-policy reforms and structural adjustment they have undertaken. It is thus urgent to achieve an improvement in market access conditions for commodities, notably through the progressive removal of barriers that restrict imports, particularly from developing countries, of commodity products in primary and processed forms, as well as the substantial and progressive reduction of types of support that induce uncompetitive production, such as production and export subsidies.

(B)Management related activities

Developing domestic policies that maximize the benefits of trade liberalization for sustainable development

2.13. For developing countries to benefit from the liberalization of trading systems, they should implement the following policies, as appropriate:

(a)Create a domestic environment supportive of an optimal balance between production for the domestic and export markets and remove biases against exports and discourage inefficient import-substitution;

(b)Promote the policy framework and the infrastructure required to improve the efficiency of export and import trade as well as the functioning of domestic markets.

2.14. The following policies should be adopted by developing countries with respect to commodities consistent with market efficiency:

(a)Expand processing, distribution and improve marketing practices and the competitiveness of the commodity sector;

(b)Diversify in order to reduce dependence on commodity exports;

(c)Reflect efficient and sustainable use of factors of production in the formation of commodity prices, including the reflection of environmental, social and resources costs.

(C)Data and information

Encouraging data collection and research

2.15. GATT, UNCTAD and other relevant institutions should continue to collect appropriate trade data and information. The Secretary-General of the United Nations is requested to strengthen the Trade Control Measures Information System managed by UNCTAD.

Improving international cooperation in commodity trade and the diversification of the sector

2.16. With regard to commodity trade, Governments should, directly or through appropriate international organizations, where appropriate:

(a)Seek optimal functioning of commodity markets, inter alia, through improved market transparency involving exchanges of views and information on investment plans, prospects and markets for individual commodities. Substantive negotiations between producers and consumers should be pursued

市场方面的意见和信息的交流，增加市场透明度。生产者与消费者之间应进行实质性谈判，以期达成可行的、更为有效的、并充分考虑到市场趋势的国际协定或安排，以及研究团体。在这方面，应特别注意关于可可、咖啡、糖和热带木材的协定。应强调国际商品协定和安排的重要性。应考虑到生产、销售和推销商品有关的职业保健和安全事项、技术转让和服务问题以及环境因素；

（2）继续为发展中国家商品出口收入不足而应用补偿机制，以期鼓励多种经营的努力；

（3）应要求在商品政策的设计和实施以及收集和利用商品市场信息等方面，向发展中国家提供援助；

（4）支持发展中国家为推进提高进出口贸易效率所需的政策框架和基本设施而作的努力；

（5）支持发展中国家在国家、区域和国际各级的多种经营倡议。

实施手段

1．筹资和费用估算

2．17　大会秘书处估算出实施本方案领域的活动的平均总费用为88亿美元（1993～2000年），来自国际社会赠款或减让性条款。但这仅是表示性和数量级的估算，并未经各国政府审核。实际的费用和财政款项，包括任何非减让性款项，除其他情况外，将视各国政府为实施活动而决定采取的具体的战略和方案而定。

2．能力建设

2．18　上文提及的技术合作活动，旨在加强各国设计和实施商品政策的能力、利用和管理国家资源的能力、搜集和使用商品市场信息的能力。

二、使贸易和环境相辅相成

行动依据

2．19　环境与贸易政策应是相辅相成的。开放的多边贸易制度能够更有效地分配和使用资源，从而有助于增加生产和收入，且减少对环境的要求。因此，它为经济增长和发展以及改善环境提供更多所需的资源。另一方面，良好的环境为持续增长和支持不断扩充的贸易提供了必要的生态资源和其他资源。开放的多边贸易制度在健全的环境政策支持下，对环境可以产生积极的影响，并有助于持续发展。

2．20　环境领域的国际合作日益增加，在一些多边环境协定中，贸易条款已经在对付全球环境挑战中发挥作用。在某些特定情况下，在认为有需要时，已采取贸易措施来加强环境条例，以促进保护环境的效能。这些条例应当针对环境退化的根本原因，以求不导致不合理的贸易限制。这一挑战在于确保贸易和环境政策的一致性以及促进持续发进程。但是，应注意到，适合发达国家的环境标准，可能使发展中国家付出不必要的社会代价和经济代价。

目　　标

2．21　各国政府应当设法通过总协定、贸发会议和其他国际组织等多边论坛实

with a view to achieving viable and more efficient international agreements that take into account market trends, or arrangements, as well as study groups. In this regard, particular attention should be paid to the agreements on cocoa, coffee, sugar and tropical timber. The importance of international commodity agreements and arrangements is underlined. Occupational health and safety matters, technology transfer and services associated with the production, marketing and promotion of commodities, as well as environmental considerations, should be taken into account;

(b)Continue to apply compensation mechanisms for shortfalls in commodity export earnings of developing countries in order to encourage diversification efforts;

(c)Provide assistance to developing countries upon request in the design and implementation of commodity policies and the gathering and utilization of information on commodity markets;

(d)Support the efforts of developing countries to promote the policy framework and infrastructure required to improve the efficiency of export and import trade;

(e)Support the diversification initiatives of the developing countries at the national, regional and international levels.

Means of implementation

(A)Financing and cost evaluation

2.17. The Conference secretariat has estimated the average total annual cost (1993-2000) of implementing the activities in this programme area to be about $8.8 billion from the international community on grant or concessional terms. These are indicative and order-of-magnitude estimates only and have not been reviewed by Governments. Actual costs and financial terms, including any that are non-concessional, will depend upon, inter alia, the specific strategies and programmes Governments decide upon for implementation.

(B)Capacity-building

2.18. The above-mentioned technical cooperation activities aim at strengthening national capabilities for design and implementation of commodity policy, use and management of national resources and the gathering and utilization of information on commodity markets.

B. Making Trade and Environment Mutually Supportive

Basis for Action

2.19. Environment and trade policies should be mutually supportive. An open, multilateral trading system makes possible a more efficient allocation and use of resources and thereby contributes to an increase in production and incomes and to lessening demands on the environment. It thus provides additional resources needed for economic growth and development and improved environmental protection. A sound environment, on the other hand, provides the ecological and other resources needed to sustain growth and underpin a continuing expansion of trade. An open, multilateral trading system, supported by the adoption of sound environmental policies, would have a positive impact on the environment and contribute to sustainable development.

2.20. International cooperation in the environmental field is growing, and in a number of cases trade provisions in multilateral environment agreements have played a role in tackling global environmental challenges. Trade measures have thus been used in certain specific instances, where considered necessary, to enhance the effectiveness of environmental regulations for the protection of the environment. Such regulations should address the root causes of environmental degradation so as not to result in unjustified restrictions on trade. The challenge is to ensure that trade and environment policies are consistent and reinforce the process of sustainable development. However, account should be taken of the fact that environmental standards valid for developed countries may have unwarranted social and economic costs in developing countries.

Objectives

2.21. Governments should strive to meet the following objectives, through relevant multilateral forums, including GATT, UNCTAD and other international organizations:

(a)To make international trade and environment policies mutually supportive in favour of sustainable development;

现下列目标：

（1）使国际贸易和环境政策相辅相成，促进持续发展；

（2）阐明总协定、贸发会议和其他国际组织在处理贸易和有关环境问题中的作用，并适当时包括调解程序和解决争端办法；

（3）鼓励国际生产力和竞争能力，并鼓励工业在处理环境与发展问题方面发挥建设性作用。

活　　动

1．制定一项环境/贸易和发展议程

2．22　各国政府应鼓励总协定、贸发会议和其他有关的国际及区域经济机构按照其任务和主管范围审查以下建议和原则：

（1）制订促进人们更加了解贸易和环境的关系的适当研究计划，以期促进持续发展；

（2）促进贸易、发展和环境各界之间的对话；

（3）在利用与环境有关的贸易措施时，确保其透明度和符合国际义务；

（4）解决环境与发展问题的根本原因，避免采取导致不合理贸易限制的环境措施；

（5）设法避免以限制、扰乱贸易等措施来抵消因环境标准和条例方面的差别引起的成本差额，因为实行这些措施可能引起不正常的贸易和增加保护主义倾向；

（6）保证有关环境的条例和标准（包括卫生和安全标准）不会成为任意的或不合理的贸易差别待遇或变相贸易限制；

（7）确保在实行环境标准以及使用任何贸易措施进考虑到影响发展中国家环境和贸易政策的特殊因素。应当提出，对最先进国家适用的标准可能不适合发展中国家，并对其构成不必要的社会代价；

（8）鼓励发展中国家通过特别过渡时期规定等机制参加多边协定；

（9）避免采取进口国管辖权以外的应会环境挑战的片面行动。处理跨国界或全球环境问题的措施应尽可能以国际共识为基础。为实现某些环境目标而采取的国内措施可能需要贸易措施之补充，才能有效。如果为了执行环境政策而需采取贸易政策措施，则应实施某些原则和规则。这些原则和规则包括：不歧视原则；选用的贸易措施应对贸易造成最低限制；有义务确保使用与环境有关的贸易措施时要有透明度，国家规章要充分通告周知；在发中国家努力实现国际议定的环境目标时，有必要考虑到发展中国家的特别情况和发展需要；

（10）制订较明确关系，必要时阐明总协定的规定与环境领域采取的一些多边措施的关系；

（11）确保在形成、谈判和实施贸易政策时能让公众投入，作为参照各国的具体情况促进更高透明度的办法；

（12）确保环境政策提供适当的法律和机构体制，以便满足可能由生产和贸易专门化方面的改变而产生的保护环境的新需要。

(b)To clarify the role of GATT, UNCTAD and other international organizations in dealing with trade and environment-related issues, including, where relevant, conciliation procedure and dispute settlement;

(c)To encourage international productivity and competitiveness and encourage a constructive role on the part of industry in dealing with environment and development issues.

Activities

(A)Developing an environment/trade and development agenda

2.22. Governments should encourage GATT, UNCTAD and other relevant international and regional economic institutions to examine, in accordance with their respective mandates and competences, the following propositions and principles:

(a)Elaborate adequate studies for the better understanding of the relationship between trade and environment for the promotion of sustainable development;

(b)Promote a dialogue between trade, development and environment communities;

(c)In those cases when trade measures related to environment are used, ensure transparency and compatibility with international obligations;

(d)Deal with the root causes of environment and development problems in a manner that avoids the adoption of environmental measures resulting in unjustified restrictions on trade;

(e)Seek to avoid the use of trade restrictions or distortions as a means to offset differences in cost arising from differences in environmental standards and regulations, since their application could lead to trade distortions and increase protectionist tendencies;

(f)Ensure that environment-related regulations or standards, including those related to health and safety standards, do not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade;

(g)Ensure that special factors affecting environment and trade policies in the developing countries are borne in mind in the application of environmental standards, as well as in the use of any trade measures. It is worth noting that standards that are valid in the most advanced countries may be inappropriate and of unwarranted social cost for the developing countries;

(h)Encourage participation of developing countries in multilateral agreements through such mechanisms as special transitional rules;

(i)Avoid unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country. Environmental measures addressing transborder or global environmental problems should, as far as possible, be based on an international consensus. Domestic measures targeted to achieve certain environmental objectives may need trade measures to render them effective. Should trade policy measures be found necessary for the enforcement of environmental policies, certain principles and rules should apply. These could include, inter alia, the principle of non-discrimination; the principle that the trade measure chosen should be the least trade-restrictive necessary to achieve the objectives; an obligation to ensure transparency in the use of trade measures related to the environment and to provide adequate notification of national regulations; and the need to give consideration to the special conditions and developmental requirements of developing countries as they move towards internationally agreed environmental objectives;

(j)Develop more precision, where necessary, and clarify the relationship between GATT provisions and some of the multilateral measures adopted in the environment area;

(k)Ensure public input in the formation, negotiation and implementation of trade policies as a means of fostering increased transparency in the light of country-specific conditions;

(l)Ensure that environmental policies provide the appropriate legal and institutional framework to respond to new needs for the protection of the environment that may result from changes in production and trade specialization.

关于森林问题的原则声明（摘录）

（本声明的全称为“关于所有类型森林的管理、保存和可持续开发的无法律约束力的全球协商一致意见权威性原则声明”，由联合国环境与发展大会于1992年6月14日在里约通过。）

13.（a）森林产品的贸易应该根据非歧视性的多边商定条例和程序以及符合国际贸易法和惯例的规定。在这方面，应推动林产品公开的自由国际贸易。

（b）降低或消除关税壁垒和阻碍，提供附加值较高的林产品及其本地加工品进入市场的机会和有利价格应予鼓励，以便使生产国更好地保存和管理其可再生的森林的资源。

（c）将环境成本和效益纳入市场力量和机制内，以便实现森林保存和可持续开发，是在国内和国际均予以鼓励的工作。

（d）森林保存和可持续开发政策应与经济、贸易和其它有关政策结合。

（e）应避免可能导致森林退化的财务、贸易、工业、运输和其它政策和做法。应鼓励旨在管理、保存和可持续地开发森林的适当政策，包括适当情况下提供奖励。

14.（a）与国际义务或协议有所抵触和/或禁止木材或其它森林产品国际贸易的单方面措施应当撤销或避免，以求实现长期可持续的森林管理。

Statement of Principles on Forests(excerpts)

(Adopted at Rio de Janeiro by the United Nations Conference on Environment and Developrnent on June 14, 1992 and its full-name is Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and SustainableDevelopment of All Types of Forests)

.....

13. (a) Trade in forest products should be based on non-discriminatory and multilaterally agreed rules and procedures consistent with international trade law and practices. In this context, open and free international trade in forest products should be facilitated.

(b) Reduction or removal of tariff barriers and impediments to the provision of better market access and better prices for higher value-added forest products and their local processing should be encouraged to enable producer countries to better conserve and manage their renewable forest resources.

(c) Incorporation of environmental costs and benefits into market forces and mechanisms, in order to achieve forest conservation and sustainable development, should be encouraged both domestically and internationally.

(d) Forest conservation and sustainable development policies should be integrated with economic, trade and other relevant policies.

(e) Fiscal, trade, industrial, transportation and other policies and practices that may lead to forest degradation should be avoided. Adequate policies, aimed at management, conservation and sustainable development of forests, including, where appropriate, incentives, should be encouraged.

14. Unilateral measures, incompatible with international obligations or agreements, to restrict and/or ban international trade in timber or other forest products should be removed or avoided, in order to attain long-term sustainable forest management.

第三编

中国入世法律文件中的环境保护规定

PART Ⅲ
Environment-related Provisions in the Legal Instruments on China's Accession into WTO

全国人民代表大会常务委员会
关于我国加入世界贸易组织的决定

（2000 年 8 月 25 日第九届全国人民代表大会常务委员会第十七次会议通过，
2001 年 11 月 9 日公布）

第九届全国人民代表大会常务委员会第十五次会议听取并审议了对外贸易经济合作部受国务院委托所作的《关于我国加入世界贸易组织进展情况的报告》，对我国政府为我国加入世界贸易组织所作的努力予以充分肯定。

会议认为：我国作为世界上最大的发展中国家，加入世界贸易组织，有利于我国改革开放和经济发展，也是建立完整开放的国际贸易体系的需要。我国加入世界贸易组织，只能以发展中国家的身份加入，并坚持权利与义务平衡、循序渐进开放市场的原则，以确保国家控制国民经济命脉，维护国家经济安全和国家主权。

根据第十五次会议以后我国加入世界贸易组织谈判的新的进展情况，本次会议决定：

同意国务院根据上述原则完成加入世界贸易组织的谈判和委派代表签署的中国加入世界贸易组织议定书，经国家主席批准后，完成我国加入世界贸易组织的程序。

Decision of NPC Standing Committee on China's Accession to WTO

(Adopted at the 17th Session of the Standing Committee of the 9th National People's Congress on August 25, 2000, promulgated on November 9, 2001)

The 15th Session of the Standing Committee of the 9th National People's Congress heard and reviewed the Progress Report on China's Accession to the World Trade Organization delivered by the Ministry of Foreign Trade and Economic Cooperation at the behest of the State Council and fully endorsed the efforts made by the Chinese Government to seek WTO membership for the country.

The Session was of the view that China is the world's largest developing country and its accession to the WTO will contribute to the country's reform, opening up and economic development and also serve the need for the establishment of a complete and open international trading system. China can join the World Trade Organization only as a developing country and by adhering to the principles of balance between rights and obligations and of step - by - step market opening so as to ensure state control of national economic lifeline and safeguard national economic security and state sovereignty.

In the light of the latest development in the negotiations on China's accession to the WTO following the 15th Session, this Session decides to agree that the State Council, in accordance with the afore - mentioned principles, conclude the WTO accession negotiations and designate its representative to sign the Protocol on China's Accession to the World Trade Organization, thus completing the procedures on China's WTO accession subject to the ratification of the President of the country.

关于中华人民共和国加入的决定

（世界贸易组织部长级会议2001年11月10日于多哈通过）

部长级会议，

考虑到《马拉喀什建立世界贸易组织协定》第12条第2款和第9条第1款，以及总理事会议定的在《马拉喀什建立世界贸易组织协定》第

条和第9条下的决策程序（WT/L93），

注意到1995年12月7日中华人民共和国关于加入《马拉喀什建立世界贸易组织协定》的申请，

注意到旨在确定中华人民共和国加入《马拉喀什建立世界贸易组织协定》条件的谈判结果，并已制定关于中华人民共和国加入的议定书，

决定如下：

中华人民共和国可根据本决定所附议定书中所列条款和条件加入《马拉喀什建立世界贸易组织协定》。

Accession of the People's Republic of China

Decision of 10 November 2001

The Ministerial Conference,

Having regard to paragraph 2 of Article XII and paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization, and the Decision-Making Procedures under Articles IX and XII of the Marrakesh Agreement Establishing the World Trade Organization agreed by the General Council (WT/L/93),

Taking note of the application of the People's Republic of China for accession to the Marrakesh Agreement Establishing the World Trade Organization dated 7 December 1995,

Noting the results of the negotiations directed toward the establishment of the terms of accession of the People's Republic of China to the Marrakesh Agreement Establishing the World Trade Organization and having prepared a Protocol on the Accession of the People's Republic of China,

Decides as follows:

The People's Republic of China may accede to the Marrakesh Agreement Establishing the World Trade Organization on the terms and conditions set out in the Protocol annexed to this decision.

中华人民共和国加入议定书

（世界贸易组织部长级会议 2001 年 11 月 10 日于多哈通过）

序　言

世界贸易组织（“WTO”），按照 WTO 总理事会根据《马拉喀什建立世界贸易组织协定》（“《WTO 协定》”）第 12 条所给予的批准，与中华人民共和国（“中国”），

忆及中国是《1947 年关税与贸易总协定》的创始缔约方，注意到中国是《乌拉圭回合多边贸易谈判结果最后文件》的签署方，注意到载于 WT/ACC/CHN/49 号文件的中国加入工作组报告书（“工作组报告书”），

注意到有关中国 WTO 成员资格的谈判结果，

协议如下：

第一部分　总则

第 1 条　总体情况

1. 自加入时起，中国根据《WTO 协定》第 12 条加入该协定，并由此成为 WTO 成员。2. 中国所加入的《WTO 协定》应为经在加入之日前已生效的法律文件所更正、修正或修改的《WTO 协定》。本议定书，包括工作组报告书第 342 段所指的承诺，应成为《WTO 协定》的组成部分。3. 除非本议定书另有规定，否则中国应实施《WTO 协定》所附的、应在自该协定生效之日起开始的一段时间内履行的多边贸易协定中的义务，如同中国在该协定生效之日已接受该协定。

4. 中国可维持与《服务贸易总协定》（“GATS”）第 2 条第 1 款规定不一致的措施，只要此类措施已记录在本议定书所附《第 2 条豁免清单》中，并满足 GATS《关于第 2 条豁免的附件》中的条件。

第 2 条　贸易制度的管理

(A) 统一管理

1.《WTO 协定》和本议定书的规定应适用于中国的全部关税领土，包括边境贸易地区、少数民族自治地区、经济特区、沿海开放城市、经济技术开发区以及其他在关税、国内税和法规方面已建立特殊制度的地区（以下统称“特殊经济区”）。

Protocol on the Accession of the People's Republic of China

(Adopted by the Ministerial Conference of WTO at Doha, on 10 November 2001)

Preamble

The World Trade Organization ("WTO"), pursuant to the approval of the Ministerial Conference of the WTO accorded under Article XII of the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement"), and the People's Republic of China ("China"),

Recalling that China was an original contracting party to the General Agreement on Tariffs and Trade 1947,

Taking note that China is a signatory to the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations,

Taking note of the Report of the Working Party on the Accession of China in document WT/ACC/CHN/49 ("Working Party Report"),

Having regard to the results of the negotiations concerning China's membership in the WTO,

Agree as follows:

Part I - General Provisions

1. General

1. Upon accession, China accedes to the WTO Agreement pursuant to Article XII of that Agreement and thereby becomes a Member of the WTO.

2. The WTO Agreement to which China accedes shall be the WTO Agreement as rectified, amended or otherwise modified by such legal instruments as may have entered into force before the date of accession. This Protocol, which shall include the commitments referred to in paragraph 342 of the Working Party Report, shall be an integral part of the WTO Agreement.

3. Except as otherwise provided for in this Protocol, those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with entry into force of that Agreement shall be implemented by China as if it had accepted that Agreement on the date of its entry into force.

4. China may maintain a measure inconsistent with paragraph 1of Article II of the General Agreement on Trade in Services ("GATS") provided that such a measure is recorded in the List of Article II Exemptions annexed to this Protocol and meets the conditions of the Annex to the GATS on Article II Exemptions.

2. Administration of the Trade Regime

(A) Uniform Administration

1. The provisions of the WTO Agreement and this Protocol shall apply to the entire customs territory of China, including border trade regions and minority autonomous areas, Special Economic Zones, open coastal cities, economic and technical development zones and other areas where special regimes for tariffs, taxes and regulations are established (collectively referred to as "special economic areas").

2. China shall apply and administer in a uniform, impartial and reasonable manner all its laws,

2. 中国应以统一、公正和合理的方式适用和管理中央政府有关或影响货物贸易、服务贸易和与贸易有关的知识产权（“TRIPS”）或外汇管制的所有法律、法规及其他措施以及国家以下一级政府发布或适用的地方性法规、规定及其他措施（以下统称为“法律、法规及其他措施”）。

3. 中国国家以下一级地方政府的地方性法规、法定及其他措施应符合在《WTO 协定》和本议定书中所承担的义务。

4. 中国应建立一种机制，使个人和企业可据此提请国家主管机关注意贸易制度未统一适用的情况。

(B) 特殊经济区

1. 中国应将所有与其特殊经济区有关的法律、法规及其他措施通知 WTO，列明这些地区的名称，并表明界定这些地区的地理界线。中国应迅速，但无论如何应在 60 天内，将特殊经济区的增加或改变通知 WTO，包括通知与此有关的法律、法规及其他措施。

2. 对于自特殊经济区输入中国关税领土其他地区的产品，包括物理结合的部件，中国应适用通常适用于输入中国关税领土其他地区的进口产品的所有影响进口产品的税费和措施，包括进口限制及海关和关税费用。

3. 除非本议定书另有规定，否则在对此类特殊经济区内的企业提供优惠安排时，WTO 关于非歧视和国民待遇的规定应得到全面遵守。

(C) 透明度

1. 中国承诺只执行已公布的、且其他 WTO 成员、个人和企业可容易获得的有关或影响货物贸易、服务贸易和与贸易有关的知识产权或外汇管制的法律、法规及其他措施。此外，应请求，在所有有关或影响货物贸易、服务贸易和与贸易有关的知识产权或外汇管制的法律、法规及其他措施实施或执行前，中国应使 WTO 成员可获得此类措施。在紧急情况下，应使法律、法规及其他措施最迟在实施或执行时可获得。

2. 中国应设立或指定一正式刊物，用于公布所有有关或影响货物贸易、服务贸易和与贸易有关的知识产权或外汇管制的法律、法规及其他措施，并且在其法律、法规或其他措施在该刊物上公布之后，应在此类措施实施之前提供一段可向有关主管机关提出意见的时间，但涉及国家安全的法律、法规及其他措施、确定外汇汇率或货币政策的特定措施以及一旦公布则会影响法律实施的其他措施除外。中国应定期出版该刊物，并使个人和企业可容易获得该刊物各期。

3. 中国应设立或指定一咨询点，应任何个人、企业或 WTO 成员的请求，在咨询点可获得根据本议定书第 2 条（C）节第 1 款要求予以公布的措施有关的所有信息。对此类提供信息请求的答复一般应在收到请求后 30 天内作出。在例外情况下，可在收到请求后 45 天内作出答复。延误的通知及其原因应以书面形式向利害关系方提供。向 WTO 成员作出的答复应全面，并应代表中国政府的权威观点。应向个人

regulations and other measures of the central government as well as local regulations, rules and other measures issued or applied at the sub-national level (collectively referred to as "laws, regulations and other measures") pertaining to or affecting trade in goods, services, trade-related aspects of intellectual property rights ("TRIPS") or the control of foreign exchange.

3. China's local regulations, rules and other measures of local governments at the sub-national level shall conform to the obligations undertaken in the WTO Agreement and this Protocol.

4. China shall establish a mechanism under which individuals and enterprises can bring to the attention of the national authorities cases of non-uniform application of the trade regime.

(B) Special Economic Areas

1. China shall notify to the WTO all the relevant laws, regulations and other measures relating to its special economic areas, listing these areas by name and indicating the geographic boundaries that define them. China shall notify the WTO promptly, but in any case within 60 days, of any additions or modifications to its special economic areas, including notification of the laws, regulations and other measures relating thereto.

2. China shall apply to imported products, including physically incorporated components, introduced into the other parts of China's customs territory from the special economic areas, all taxes, charges and measures affecting imports, including import restrictions and customs and tariff charges, that are normally applied to imports into the other parts of China's customs territory.

3. Except as otherwise provided for in this Protocol, in providing preferential arrangements for enterprises within such special economic areas, WTO provisions on non-discrimination and national treatment shall be fully observed.

(C) Transparency

1. China undertakes that only those laws, regulations and other measures pertaining to or affecting trade in goods, services, TRIPS or the control of foreign exchange that are published and readily available to other WTO Members, individuals and enterprises, shall be enforced. In addition, China shall make available to WTO Members, upon request, all laws, regulations and other measures pertaining to or affecting trade in goods, services, TRIPS or the control of foreign exchange before such measures are implemented or enforced. In emergency situations, laws, regulations and other measures shall be made available at the latest when they are implemented or enforced.

2. China shall establish or designate an official journal dedicated to the publication of all laws, regulations and other measures pertaining to or affecting trade in goods, services, TRIPS or the control of foreign exchange and, after publication of its laws, regulations or other measures in such journal, shall provide a reasonable period for comment to the appropriate authorities before such measures are implemented, except for those laws, regulations and other measures involving national security, specific measures setting foreign exchange rates or monetary policy and other measures the publication of which would impede law enforcement. China shall publish this journal on a regular basis and make copies of all issues of this journal readily available to individuals and enterprises.

3. China shall establish or designate an enquiry point where, upon request of any individual, enterprise or WTO Member all information relating to the measures required to be published under paragraph 2(C)1 of this Protocol may be obtained. Replies to requests for information shall generally be provided within 30 days after receipt of a request. In exceptional cases, replies may be provided within 45 days after receipt of a request. Notice of the delay and the reasons therefor shall be provided in writing to the interested party. Replies to WTO Members shall be complete and shall represent the authoritative view of the Chinese government. Accurate and reliable information shall be provided to individuals and enterprises.

(D) Judicial Review

1. China shall establish, or designate, and maintain tribunals, contact points and procedures for the prompt review of all administrative actions relating to the implementation of laws, regulations, judicial decisions and administrative rulings of general application referred to in Article X:1 of the GATT

和企业提供准确和可靠的信息。

(D) 司法审查

1. 中国应设立或指定并维持法庭、联络点和程序，以便迅速审查所有与 GATT 1994 第 10 条第 1 款、GATS 第 6 条和《TPIPS 协定》相关条款所指的普遍适用的法律、法规、司法裁决和行政决定的实施有关的所有行政行为。此类法庭应是公正的，并独立于被授权进行行政实施的机构，且不应对有关事项的结果有任何实质利益。

2. 审查程序应包括给予受待审查的任何行政行为影响的个人或企业进行上诉的机会，且不因上诉而受到处罚。如初始上诉权需向一行政机构提出，则应在所有情况下提供就裁决选择向司法机构进行上诉的机会。关于上诉的裁决应通知上诉人，作出该决定的理由应以书面形式提供。上诉人还应被告知可进一步上诉的任何权利。

第 3 条　非歧视

除非本议定书另有规定，否则在下列方面给予外国个人、企业和外商投资企业的待遇不得低于给予其他个人和企业的待遇：

(a) 生产所需投入物、货物和服务的采购，及其货物据以在国内市场或供出口而生产、营 销或销售的条件；及

(b) 国家和国家以下一级主管机关以及公有或国有企业在包括运输、能源、基础电信、其他生产设施和要素等领域所供应的货物和服务的价格和可用性。

第 4 条　特殊贸易安排

自加入时起，中国应取消与第三国和单独关税区之间、与《WTO 协定》不符的所有特殊贸易安排，包括易货贸易安排，或使其符合《WTO 协定》。

第 5 条　贸易权

1. 在不损害中国以与符合《WTO 协定》的方式管理贸易的权利的情况下，中国应逐步放宽贸易权的获得及其范围，以便在加入后 3 年内，使所有在中国的企业均有权在中国的全部关税领土内从事所有货物的贸易，但附件 2A 所列依照本议定书继续实行国营贸易的货物除外。此种贸易权应为进口或出口货物的权利。对于所有此类货物都应根据 GATT 1994 第 3 条，特别是其中第 4 款的规定，在国内销售、标价出售、购买、运输、分销或使用方面，包括直接接触最终用户方面，给予国民待遇。对于附件 2B 所列货物，中国应根据该附件中所列时间表逐步取消在给予贸易权方面的限制。中国应在过渡期内完成执行这些规定所必需的立法程序。

2. 除非本议定书另有规定，否则对于所有外国个人和企业，包括未在中国投资或注册的外国个人和企业，在贸易权方面应给予不低于给予在中国的企业的待遇。

第 6 条　国营贸易

1. 中国应保证国营贸易企业的进口购买程序完全透明，并符合《WTO 协定》，

1994, Article VI of the GATS and the relevant provisions of the TRIPS Agreement. Such tribunals shall be impartial and independent of the agency entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

2. Review procedures shall include the opportunity for appeal, without penalty, by individuals or enterprises affected by any administrative action subject to review. If the initial right of appeal is to an administrative body, there shall in all cases be the opportunity to choose to appeal the decision to a judicial body. Notice of the decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing. The appellant shall also be informed of any right to further appeal.

3. Non-Discrimination

Except as otherwise provided for in this Protocol, foreign individuals and enterprises and foreign-funded enterprises shall be accorded treatment no less favourable than that accorded to other individuals and enterprises in respect of:

(a) the procurement of inputs and goods and services necessary for production and the conditions under which their goods are produced, marketed or sold, in the domestic market and for export; and

(b) the prices and availability of goods and services supplied by national and sub-national authorities and public or state enterprises, in areas including transportation, energy, basic telecommunications, other utilities and factors of production.

4. Special Trade Arrangements

Upon accession, China shall eliminate or bring into conformity with the WTO Agreement all special trade arrangements, including barter trade arrangements, with third countries and separate customs territories, which are not in conformity with the WTO Agreement.

5. Right to Trade

1. Without prejudice to China's right to regulate trade in a manner consistent with the WTO Agreement, China shall progressively liberalize the availability and scope of the right to trade, so that, within three years after accession, all enterprises in China shall have the right to trade in all goods throughout the customs territory of China, except for those goods listed in Annex 2A which continue to be subject to state trading in accordance with this Protocol. Such right to trade shall be the right to import and export goods. All such goods shall be accorded national treatment under Article III of the GATT 1994, especially paragraph 4 thereof, in respect of their internal sale, offering for sale, purchase, transportation, distribution or use, including their direct access to end-users. For those goods listed in Annex 2B, China shall phase out limitation on the grant of trading rights pursuant to the schedule in that Annex. China shall complete all necessary legislative procedures to implement these provisions during the transition period.

2. Except as otherwise provided for in this Protocol, all foreign individuals and enterprises, including those not invested or registered in China, shall be accorded treatment no less favourable than that accorded to enterprises in China with respect to the right to trade.

6. State Trading

1. China shall ensure that import purchasing procedures of state trading enterprises are fully transparent, and in compliance with the WTO Agreement, and shall refrain from taking any measure to influence or direct state trading enterprises as to the quantity, value, or country of origin of goods purchased or sold, except in accordance with the WTO Agreement.

2. As part of China's notification under the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994, China shall also provide full information on the pricing mechanisms of its state trading enterprises for exported goods.

且应避免采取任何措施对国营企业购买或、价值或原产国施加影响或指导，除非依照《WTO 协定》。

2. 作为根据 GATT 1994 年和《关于解释 1994 年关税与贸易总协定第 17 条的谅解》所作通知的一部分，中国还应提供有关其国营贸易企业出口货物定价机制的全部信息。

第 7 条　非关税措施

1. 中国应执行附件 3 包含的非关税措施分阶段取消时间表。在附件 3 中所列期限内，该附件中所列措施所提供的保护在规模、范围或期限方面不得增加或扩大，且不得实施任何新的措施，除非符合《WTO 协定》的规定。

2. 在实施 GATT 1994 第 3 条、第 11 条和《农业协定》的规定时，中国应取消且不得采取、重新采取或实施不能根据《WTO 协定》的规定证明合理的非关税措施。对于在加入之日以后实施的、与本议定书或《WTO 协定》相一致的非关税措施，无论附件 3 是否提及，中国在对此类措施进行分配或管理时，应严格遵守《WTO 协定》的规定，包括 GATT 1994 及其第 13 条以及《进口许可程序协定》的规定，包括通知要求。

3. 自加入时起，中国应遵守《TRIMs 协定》，但不援用《TRIMs 协定》第 5 条的规定。中国应取消并停止实施通过法律、法规或其他措施实施的贸易平衡要求和外汇平衡要求、当地含量要求和出口实绩要求。此外，中国将不执行设置此类要求的合同条款。在不损害本议定书有关规定的情况下，中国应保证国家和国家以下一级主管机关对进口许可证、配额、关税配额的分配或对进口、进口权或投资权的任何其他批准方式，不以下列内容为条件：此类产品是否存在与之竞争的国内供应者；任何类型的实绩要求，例如当地含量、补偿、技术转让、出口实绩或在中国进行研究与开发等。

4. 进出口禁止和限制以及影响进出口的许可程序要求只能由国家主管机关或由国家主管机关授权的国家以下一级主管机关实行和执行。不得实施或执行不属国家主管机关或国家主管机关授权的国家以下一级主管机关实行的措施。

第 8 条　进出口许可程序

1. 在实施《WTO 协定》和《进口许可程序协定》的规定时，中国应采取以下措施，以便遵守这些协定：

(a) 中国应定期在本议定书第 2 条（C）节第 2 款所指的正式刊物中公布下列内容：

——按产品排列的所有负责授权或批准进出口的组织的清单，包括国家主管机关授权的组织，无论是通过给予许可证还是其他批准；

——获得此类进出口许可证或其他批准的程序和标准，以及决定是否发放进出口许可证或其他批准的条件；

7. Non-Tariff Measures

1. China shall implement the schedule for phased elimination of the measures contained in Annex 3. During the periods specified in Annex 3, the protection afforded by the measures listed in that Annex shall not be increased or expanded in size, scope or duration, nor shall any new measures be applied, unless in conformity with the provisions of the WTO Agreement.

2. In implementing the provisions of Articles III and XI of the GATT 1994 and the Agreement on Agriculture, China shall eliminate and shall not introduce, re-introduce or apply non-tariff measures that cannot be justified under the provisions of the WTO Agreement. For all non-tariff measures, whether or not referred to in Annex 3, that are applied after the date of accession, consistent with the WTO Agreement or this Protocol, China shall allocate and otherwise administer such measures in strict conformity with the provisions of the WTO Agreement, including GATT 1994 and Article XIII thereof, and the Agreement on Import Licensing Procedures, including notification requirements.

3. China shall, upon accession, comply with the TRIMs Agreement, without recourse to the provisions of Article 5 of the TRIMs Agreement. China shall eliminate and cease to enforce trade and foreign exchange balancing requirements, local content and export or performance requirements made effective through laws, regulations or other measures. Moreover, China will not enforce provisions of contracts imposing such requirements. Without prejudice to the relevant provisions of this Protocol, China shall ensure that the distribution of import licences, quotas, tariff-rate quotas, or any other means of approval for importation, the right of importation or investment by national and sub-national authorities, is not conditioned on: whether competing domestic suppliers of such products exist; or performance requirements of any kind, such as local content, offsets, the transfer of technology, export performance or the conduct of research and development in China.

4. Import and export prohibitions and restrictions, and licensing requirements affecting imports and exports shall only be imposed and enforced by the national authorities or by sub-national authorities with authorization from the national authorities. Such measures which are not imposed by the national authorities or by sub-national authorities with authorization from the national authorities, shall not be implemented or enforced.

8. Import and Export Licensing

1. In implementing the WTO Agreement and provisions of the Agreement on Import Licensing Procedures, China shall undertake the following measures to facilitate compliance with these agreements:

(a) China shall publish on a regular basis the following in the official journal referred to in paragraph 2(C)2 of this Protocol:

- by product, the list of all organizations, including those organizations delegated such authority by the national authorities, that are responsible for authorizing or approving imports or exports, whether through grant of licence or other approval;
- procedures and criteria for obtaining such import or export licences or other approvals, and the conditions for deciding whether they should be granted;
- a list of all products, by tariff number, that are subject to tendering requirements, including information on products subject to such tendering requirements and any changes, pursuant to the Agreement on Import Licensing Procedures;
- a list of all goods and technologies whose import or export are restricted or prohibited; these goods shall also be notified to the Committee on Import Licensing;
- any changes to the list of goods and technologies whose import and export are restricted or prohibited.

Copies of these submissions in one or more official languages of the WTO shall be forwarded to the WTO for circulation to WTO Members and for submission to the Committee on Import Licensing

——按照《进口许可程序协定》，按税号排列的受招标要求管理的全部产品清单，包括关于受此类招标要求管理产品的信息及任何变更；

——限制或禁止进出口的所有货物和技术的清单；这些货物也应通知进口许可程序委员会；

——限制或禁止进出口的货物和技术清单的任何变更；

用一种或多种 WTO 正式语文提交的这些文件的副本应在每次公布后 75 天内送交 WTO，供散发 WTO 成员并提交进口许可程序委员会。

(b) 中国应将加入后仍然有效的所有许可程序和配额要求通知 WTO，这些要求应按协调制度税号分别排列，并附与此种限制有关的数量（如有数量），以及保留此种限制的理由或预定的终止日期。

(c) 中国应向进口许可程序委员会提交其关于进口许可程序的通知。中国应每年向进口许可程序委员会报告其自动进口许可程序的情况，说明产生这些要求的情况，并证明继续实行的理由。该报告还应提供《进口许可程序协定》第 3 条中所列信息。

(d) 中国发放的进口许可证的有效期至少应为 6 个月，除非例外情况使此点无法做到。在此类情况下，中国应将要求缩短许可证有效期的例外情况迅速通知进口许可程序委员会。

2. 除非本议定书另有规定，否则对于外国个人、企业和外商投资企业在进出口许可证和配额分配方面，应给予不低于给予其他个人和企业的待遇。

第 9 条　价格控制

1. 在遵守以下第 2 款的前提下，中国应允许每一部门交易的货物和服务的价格由市场力量决定，且应取消对此类货物和服务的多重定价做法。

2. 在符合《WTO 协定》，特别是 GATT 1994 第 3 条和《农业协定》附件 2 第 3、4 款的情况下，可对附件 4 所列货物和服务实行价格控制。除非在特殊情况下，并需通知 WTO，否则不得对附件 4 所列货物或服务以外的货物或服务实行价格控制，且中国应尽最大努力减少和取消这些控制。

3. 中国应在正式刊物上公布实行国家定价的货物和服务的清单及其变更情况。

第 10 条　补贴

1. 中国应通知 WTO 在其领土内给予或维持的、属《补贴与反补贴措施协定》（“《补贴协定》”）第 1 条含义内的、按具体产品排列的任何补贴，包括《补贴协定》第 3 条定义的补贴。所提供的信息应尽可能具体，并遵循《补贴协定》第 25 条所提及的关于补贴问卷的要求。

2. 就实施《补贴协定》第 1 条第 2 款和第 2 条而言，对国有企业提供的补贴将被视为专向性补贴，特别是在国有企业是此类补贴的主要接受者或国有企业接受此类补贴的数量之大不成比例的情况下。

within 75 days of each publication.

(b) China shall notify the WTO of all licensing and quota requirements remaining in effect after accession, listed separately by HS tariff line and with the quantities associated with the restriction, if any, and the justification for maintaining the restriction or its scheduled date of termination.

(c) China shall submit the notification of its import licensing procedures to the Committee on Import Licensing. China shall report annually to the Committee on Import Licensing on its automatic import licensing procedures, explaining the circumstances which give rise to these requirements and justifying the need for their continuation. This report shall also provide the information listed in Article 3 of the Agreement on Import Licensing Procedures.

(d) China shall issue import licences for a minimum duration of validity of six months, except where exceptional circumstances make this impossible. In such cases, China shall promptly notify the Committee on Import Licensing of the exceptional circumstances requiring the shorter period of licence validity.

2. Except as otherwise provided for in this Protocol, foreign individuals and enterprises and foreign-funded enterprises shall be accorded treatment no less favourable than that accorded to other individuals and enterprises in respect of the distribution of import and export licences and quotas.

9. Price Controls

1. China shall, subject to paragraph 2 below, allow prices for traded goods and services in every sector to be determined by market forces, and multi-tier pricing practices for such goods and services shall be eliminated.

2. The goods and services listed in Annex 4 may be subject to price controls, consistent with the WTO Agreement, in particular Article III of the GATT 1994 and Annex 2, paragraphs 3 and 4 of the Agreement on Agriculture. Except in exceptional circumstances, and subject to notification to the WTO, price controls shall not be extended to goods or services beyond those listed in Annex 4, and China shall make best efforts to reduce and eliminate these controls.

3. China shall publish in the official journal the list of goods and services subject to state pricing and changes thereto.

10. Subsidies

1. China shall notify the WTO of any subsidy within the meaning of Article 1 of the Agreement on Subsidies and Countervailing Measures ("SCM Agreement"), granted or maintained in its territory, organized by specific product, including those subsidies defined in Article 3 of the SCM Agreement. The information provided should be as specific as possible, following the requirements of the questionnaire on subsidies as noted in Article 25 of the SCM Agreement.

2. For purposes of applying Articles 1.2 and 2 of the SCM Agreement, subsidies provided to state-owned enterprises will be viewed as specific if, inter alia, state-owned enterprises are the predominant recipients of such subsidies or state-owned enterprises receive disproportionately large amounts of such subsidies.

3. China shall eliminate all subsidy programmes falling within the scope of Article 3 of the SCM Agreement upon accession.

11. Taxes and Charges Levied on Imports and Exports

1. China shall ensure that customs fees or charges applied or administered by national or sub-national authorities, shall be in conformity with the GATT 1994.

2. China shall ensure that internal taxes and charges, including value-added taxes, applied or administered by national or sub-national authorities shall be in conformity with the GATT 1994.

3. China shall eliminate all taxes and charges applied to exports unless specifically provided for in

3. 中国应自加入时起取消属《补贴协定》第3条范围内的所有补贴。

第11条　对进出口产品征收的税费

1. 中国应保证国家主管机关或国家以下一级主管机关实施或管理的海关规费或费用符合GATT 1994。

2. 中国应保证国家主管机关或国家以下一级主管机关实施或管理的国内税费，包括增值税，符合GATT 1994。

3. 中国应取消适用于出口产品的全部税费，除非本议定书附件6中有具体规定或按照GATT 1994第8条的规定适用。

4. 在边境税调整的规定方面，对于外国个人、企业和外商投资企业，自加入时起应被给予不低于给予其他个人和企业的待遇。

第12条　农业

1. 中国应实施中国货物贸易承诺和减让表中包含的规定，以及本议定书具体规定的《农业协定》的条款。在这方面，中国不得对农产品维持或采取任何出口补贴。

2. 中国应在过渡性审议机制中，就农业领域的国营贸易企业（无论国家还是国家以下一级）之间以及在农业领域按国营贸易企业经营的其他企业之间的财政和其他转移作出通知。

第13条　技术性贸易壁垒

1. 中国应在正式刊物上公布作为技术法规、标准或合格评定程序依据的所有正式还是非正式标准。

2. 中国应自加入时起，使所有技术法规、标准和合格评定程序符合《TBT协定》。

3. 中国对进口产品实施合格评定程序的目的应仅为确定其是否符合与本议定书和《WTO协定》规定相一致的技术法规和标准。只有在合同各方授权的情况下，合格评定机构方可对进口产品是否符合该合同商业条款进行评定。中国应保证此种针对产品是否符合同商业条款的检验不影响此类产品通关或进口许可证的发放。

4. (a) 自加入时起，中国应保证对进口产品和国产品适用相同的标准、技术法规和合格评定程序。为保证从现行体制的顺利过渡，中国应保证自加入时起，所有认证、安全许可和质量许可机构和部门获得对进口产品和国产品实施此类活动的授权；加入1年后，所有合格评定机构和部门获得对进口产品和国产品进行合格评定的授权。对机构或部门的选择应由申请人决定。对于进口产品和国产品，所有机构和部门应颁发相同的标志，收取相同的费用。它们还应提供相同的处理时间和申诉程序。进口产品不得受制于一种以上的合格评定程序。中国应公布并使其他WTO成员、个人和企业可获得有关其各合格评定机构和部门相应职责的全部信息。

(b) 不迟于加入后18个月，中国应仅依据工作范围和产品种类，分配其各合格

Annex 6 of this Protocol or applied in conformity with the provisions of Article VIII of the GATT 1994.

4. Foreign individuals and enterprises and foreign-funded enterprises shall, upon accession, be accorded treatment no less favourable than that accorded to other individuals and enterprises in respect of the provision of border tax adjustments.

12. Agriculture

1. China shall implement the provisions contained in China's Schedule of Concessions and Commitments on Goods and, as specifically provided in this Protocol, those of the Agreement on Agriculture. In this context, China shall not maintain or introduce any export subsidies on agricultural products.

2. China shall, under the Transitional Review Mechanism, notify fiscal and other transfers between or among state-owned enterprises in the agricultural sector (whether national or sub-national) and other enterprises that operate as state trading enterprises in the agricultural sector.

13. Technical Barriers to Trade

1. China shall publish in the official journal all criteria, whether formal or informal, that are the basis for a technical regulation, standard or conformity assessment procedure.

2. China shall, upon accession, bring into conformity with the TBT Agreement all technical regulations, standards and conformity assessment procedures.

3. China shall apply conformity assessment procedures to imported products only to determine compliance with technical regulations and standards that are consistent with the provisions of this Protocol and the WTO Agreement. Conformity assessment bodies will determine the conformity of imported products with commercial terms of contracts only if authorized by the parties to such contract. China shall ensure that such inspection of products for compliance with the commercial terms of contracts does not affect customs clearance or the granting of import licences for such products.

4. (a) Upon accession, China shall ensure that the same technical regulations, standards and conformity assessment procedures are applied to both imported and domestic products. In order to ensure a smooth transition from the current system, China shall ensure that, upon accession, all certification, safety licensing, and quality licensing bodies and agencies are authorized to undertake these activities for both imported and domestic products, and that, one year after accession, all conformity assessment bodies and agencies are authorized to undertake conformity assessment for both imported and domestic products. The choice of body or agency shall be at the discretion of the applicant. For imported and domestic products, all bodies and agencies shall issue the same mark and charge the same fee. They shall also provide the same processing periods and complaint procedures. Imported products shall not be subject to more than one conformity assessment. China shall publish and make readily available to other WTO Members, individuals, and enterprises full information on the respective responsibilities of its conformity assessment bodies and agencies.

(b) No later than 18 months after accession, China shall assign the respective responsibilities of its conformity assessment bodies solely on the basis of the scope of work and type of product without any consideration of the origin of a product. The respective responsibilities that will be assigned to China's conformity assessment bodies will be notified to the TBT Committee 12 months after accession.

14. Sanitary and Phytosanitary Measures

China shall notify to the WTO all laws, regulations and other measures relating to its sanitary and phytosanitary measures, including product coverage and relevant international standards, guidelines and recommendations, within 30 days after accession.

评定机构的相应职责，而不考虑产品的原产地。分配给中国各合格评定机构的相应职责将在加入后 12 个月通知 TBT 委员会。

第 14 条　卫生与植物卫生措施

中国应在加入后 30 天内，向 WTO 通知其所有有关卫生与植物卫生措施的法律、法规及其他措施，包括产品范围及相关国际标准、指南和建议。

第 15 条　确定补贴和倾销时的价格可比性

GATT 1994 第 6 条、《关于实施 1994 年关税与贸易总协定第 6 条的协定》（“《反倾销协定》”）以及《补贴协定》应适用于涉及原产于中国的进口产品进入一 WTO 成员的程序，并应符合下列规定：

(a) 在根据 GATT 1994 第 6 条和《反倾销协定》确定价格可比性时，该 WTO 进口成员应依据下列规则，使用接受调查产业的中国价格或成本，或者使用并非根据对中国国内价格或成本进行严格比较的方法：

(i) 如受调查的生产者能够明确证明，生产该同类产品的产业在制造、生产和销售该产品方面具备市场经济条件，则该 WTO 进口成员在确定价格可比性时，应使用受调查产业的中国价格或成本；

(ii) 如受调查的生产者不能明确证明生产该同类产品的产业在制造、生产和销售该产品方面具备市场经济条件，则该 WTO 进口成员可使用并非根据对中国国内价格或成本进行严格比较的方法。

(b) 在根据《补贴协定》第二、三及五部分者的程序中，在处理第 14 条 (a) 项、(b) 项、(c) 项和 (d) 项所述补贴时，应适用《补贴协定》的有关规定；但是，如此种适用遇有特殊困难，则该 WTO 进口成员可使用确定和衡量补贴利益的方法，并应考虑到中国国内现有情况和条件并非总能作为适当基准的可能性。在适用此类方法时，只要可行，该 WTO 进口成员在考虑使用中国以外的情况和条件之前，应对此类现有情况和条件进行调整。

(c) 该 WTO 进口成员应向反倾销措施委员会通知依照 (a) 项使用的方法，并应向补贴与反补贴措施委员会通知依照 (b) 项使用的方法。

(d) 一俟中国根据该 WTO 进口成员的国内法证实其是一个市场经济体，(a) 项的规定即应终止，只要截至加入之日，该 WTO 进口成员的国内法中包含有关市场经济的标准。无论如何，(a) 项 (ii) 目的规定应在加入之日后 15 年终止。此外，如中国根据该 WTO 进口成员的国内法证实一特定产业或部门具备市场经济条件，则 (a) 项中的非市场经济条款不得再对该产业或部门适用。

第 16 条　对具体产品采取的过渡性保障机制

1. 如原产于中国的产品在进口至任何 WTO 成员领土时，其增长的数量或所依据的条件对生产同类产品或直接竞争产品的国内生产者造成或威胁造成市场扰乱，

15. Price Comparability in Determining Subsidies and Dumping

Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:

(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;

(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.

(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector.

16. Transitional Product-Specific Safeguard Mechanism

1. In cases where products of Chinese origin are being imported into the territory of any WTO Member in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products, the WTO Member so affected may request consultations with China with a view to seeking a mutually satisfactory solution, including whether the affected WTO Member should pursue application of a measure under the Agreement on Safeguards. Any such request shall be notified immediately to the Committee on Safeguards.

2. If, in the course of these bilateral consultations, it is agreed that imports of Chinese origin are such a cause and that action is necessary, China shall take such action as to prevent or remedy the market disruption. Any such action shall be notified immediately to the Committee on Safeguards.

3. If consultations do not lead to an agreement between China and the WTO Member concerned within 60 days of the receipt of a request for consultations, the WTO Member affected shall be free, in

则受此影响的 WTO 成员可请求与中国进行磋商，以期寻求双方满意的解决办法，包括受影响的成员是否应根据《保障措施协定》采取措施。任何此种请求应立即通知保障措施委员会。

2. 如在这些双边磋商过程中，双方同意原产于中国的进口产品是造成此种情况的原因并有必要采取行动，则中国应采取行动以防止或补救此种市场扰乱。任何此类行动应立即通知保障措施委员会。

3. 如磋商未能使中国与有关 WTO 成员在收到磋商请求后 60 天内达成协议，则受影响的 WTO 成员有权在防止或补救此种市场扰乱所必需的限度内，对此类产品撤销减让或限制进口。任何此类行动应立即通知保障措施委员会。

4. 市场扰乱应在下列情况下存在：一项产品的进口快速增长，无论是绝对增长还是相对增长，从而构成对生产同类产品或直接竞争产品的国内产业造成实质损害或实质损害威胁的一个重要原因。在认定是否存在市场扰乱时，受影响的 WTO 成员应考虑客观因素，包括进口量、进口产品对同类产品或直接竞争产品价格的影响以及此类进口产品对生产同类产品或直接竞争产品的国内产业的影响。

5. 在根据第 3 款采取措施之前，采取此项行动的 WTO 成员应向所有利害关系方提供合理的公告，并应向进口商、出口商及其他利害关系方提供充分机会，供其就拟议措施的适当性及是否符合公众利益提出意见和证据。该 WTO 成员应提供关于采取措施决定的书面通知，包括采取该措施的理由及其范围和期限。

6. 一 WTO 成员只能在防止和补救市场扰乱所必需的时限内根据本条采取措施。如一措施是由于进口水平的相对增长而采取的，而且如该项措施持续有效的期限超过 2 年，则中国有权针对实施该措施的 WTO 成员的贸易暂停实施 GATT 1994 项下实质相当的减让或义务。但是，如一措施是由于进口的绝对增长而采取的，而且如该措施持续有效的期限超过 3 年，则中国有权针对实施该措施的 WTO 成员的贸易暂停实施 GATT 1994 项下实质相当的减让或义务。中国采取的任何此种行动应立即通知保障措施委员会。

7. 在迟延会造成难以补救的损害的紧急情况下，受影响的 WTO 成员可根据一项有关进口产品已经造成或威胁造成市场扰乱的初步认定，采取临时保障措施。在此种情况下，应在采取措施后立即向保障措施委员会作出有关所采取措施的通知，并提出进行双边磋商的请求。临时措施的期限不得超过 200 天，在此期间，应符合第 1 款、第 2 款和第 5 款的有关要求。任何临时措施的期限均应计入第 6 款下规定的期限。

8. 如一 WTO 成员认为根据第 2 款、第 3 款或第 7 款采取的行动造成或威胁造成进入其市场的重大贸易转移，则该成员可请求与中国和/或有关 WTO 成员进行磋商。此类磋商应在向保障措施委员会作出通知后 30 天内举行。如此类磋商未能在作出通知后 60 天内使中国与一个或多个有关 WTO 成员达成协议，则请求进行磋商的

respect of such products, to withdraw concessions or otherwise to limit imports only to the extent necessary to prevent or remedy such market disruption. Any such action shall be notified immediately to the Committee on Safeguards.

4. Market disruption shall exist whenever imports of an article, like or directly competitive with an article produced by the domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury to the domestic industry. In determining if market disruption exists, the affected WTO Member shall consider objective factors, including the volume of imports, the effect of imports on prices for like or directly competitive articles, and the effect of such imports on the domestic industry producing like or directly competitive products.

5. Prior to application of a measure pursuant to paragraph 3, the WTO Member taking such action shall provide reasonable public notice to all interested parties and provide adequate opportunity for importers, exporters and other interested parties to submit their views and evidence on the appropriateness of the proposed measure and whether it would be in the public interest. The WTO Member shall provide written notice of the decision to apply a measure, including the reasons for such measure and its scope and duration.

6. A WTO Member shall apply a measure pursuant to this Section only for such period of time as may be necessary to prevent or remedy the market disruption. If a measure is taken as a result of a relative increase in the level of imports, China has the right to suspend the application of substantially equivalent concessions or obligations under the GATT 1994 to the trade of the WTO Member applying the measure, if such measure remains in effect more than two years. However, if a measure is taken as a result of an absolute increase in imports, China has a right to suspend the application of substantially equivalent concessions or obligations under the GATT 1994 to the trade of the WTO Member applying the measure, if such measure remains in effect more than three years. Any such action by China shall be notified immediately to the Committee on Safeguards.

7. In critical circumstances, where delay would cause damage which it would be difficult to repair, the WTO Member so affected may take a provisional safeguard measure pursuant to a preliminary determination that imports have caused or threatened to cause market disruption. In this case, notification of the measures taken to the Committee on Safeguards and a request for bilateral consultations shall be effected immediately thereafter. The duration of the provisional measure shall not exceed 200 days during which the pertinent requirements of paragraphs 1, 2 and 5 shall be met. The duration of any provisional measure shall be counted toward the period provided for under paragraph 6.

8. If a WTO Member considers that an action taken under paragraphs 2, 3 or 7 causes or threatens to cause significant diversions of trade into its market, it may request consultations with China and/or the WTO Member concerned. Such consultations shall be held within 30 days after the request is notified to the Committee on Safeguards. If such consultations fail to lead to an agreement between China and the WTO Member or Members concerned within 60 days after the notification, the requesting WTO Member shall be free, in respect of such product, to withdraw concessions accorded to or otherwise limit imports from China, to the extent necessary to prevent or remedy such diversions. Such action shall be notified immediately to the Committee on Safeguards.

9. Application of this Section shall be terminated 12 years after the date of accession.

17. Reservations by WTO Members

All prohibitions, quantitative restrictions and other measures maintained by WTO Members against imports from China in a manner inconsistent with the WTO Agreement are listed in Annex 7. All such prohibitions, quantitative restrictions and other measures shall be phased out or dealt with in accordance with mutually agreed terms and timetables as specified in the said Annex.

18. Transitional Review Mechanism

1. Those subsidiary bodies1 of the WTO which have a mandate covering China's commitments

WTO 成员在防止或补救此类贸易转移所必需的限度内，有权针对该产品撤销减让或限制自中国的进口。此种行动应立即通知保障措施委员会。

9. 本条的适用应在加入之日后 12 年终止。

第 17 条　WTO 成员的保留

WTO 成员以与《WTO 协定》不一致的方式针对自中国进口的产品维持的所有禁止、数量限制和其他措施列在附件 7 中。所有此类禁止、数量限制和其他措施应依照该附件所列共同议定的条件和时间表逐步取消或加以处理。

第 18 条　过渡性审议机制

1. 具有涵盖中国在《WTO 协定》或本议定书项下承诺的授权的 WTO 下属机构，应在加入后 1 年内，并依照以下第 4 款，在适合其授权的情况下，审议中国实施《WTO 协定》和本议定书相关条款的情况。中国应在审议前向每一下属机构提供相关信息，包括附件 1A 所列信息。中国也可在具有相关授权的下属机构中提出与第 17 条下任何保留或其他 WTO 成员在本议定书中所作任何其他具体承诺有关的问题。每一下属机构应迅速向根据《WTO 协定》第 4 条第 5 款设立的有关理事会报告审议结果（如适用），有关理事会应随后迅速向总理事会报告。

2. 总理事会应在加入后 1 年内，依照以下第 4 款，审议中国实施《WTO 协定》和本议定书条款的情况。总理事会应依照附件 1B 所列框架，并按照根据第 1 款所进行的任何审议的结果，进行此项审议。中国也可提出与第 17 条下任何保留或其他 WTO 成员在本议定书中所作任何其他具体承诺有关的问题。总理事会可在这些方面向中国或其他成员提出建议。

3. 根据本条审议问题不得损害包括中国在内的任何 WTO 成员在《WTO 协定》或任何诸边贸易协定项下的权利和义务，并不得排除或构成要求磋商或援用《WTO 协定》或本议定书中其他条款的先决条件。

4. 第 1 款和第 2 款规定的审议将在加入后 8 年内每年进行。此后，将在第 10 年或总理事

会决定的较早日期进行最终审议。

第二部分　减让表

1. 本议定书所附减让表应成为与中国有关的、GATT 1994 所附减让和承诺表及 GATS 所附具体承诺表。减让表中所列减让和承诺的实施期应按有关减让表相关部分列明的时间执行。

2. 就 GATT 1994 第 2 条第 6 款（a）项所指的该协定日期而言，本议定书所附减让和承诺表的适用日期应为加入之日。

under the WTO Agreement or this Protocol shall, within one year after accession and in accordance with paragraph 4 below, review, as appropriate to their mandate, the implementation by China of the WTO Agreement and of the related provisions of this Protocol. China shall provide relevant information, including information specified in Annex 1A, to each subsidiary body in advance of the review. China can also raise issues relating to any reservations under Section 17 or to any other specific commitments made by other Members in this Protocol, in those subsidiary bodies which have a relevant mandate. Each subsidiary body shall report the results of such review promptly to the relevant Council established by paragraph 5 of Article IV of the WTO Agreement, if applicable, which shall in turn report promptly to the General Council.

2. The General Council shall, within one year after accession, and in accordance with paragraph 4 below, review the implementation by China of the WTO Agreement and the provisions of this Protocol. The General Council shall conduct such review in accordance with the framework set out in Annex 1B and in the light of the results of any reviews held pursuant to paragraph①. China also can raise issues relating to any reservations under Section 17 or to any other specific commitments made by other Members in this Protocol. The General Council may make recommendations to China and to other Members in these respects.

3. Consideration of issues pursuant to this Section shall be without prejudice to the rights and obligations of any Member, including China, under the WTO Agreement or any Plurilateral Trade Agreement, and shall not preclude or be a precondition to recourse to consultation or other provisions of the WTO Agreement or this Protocol.

4. The review provided for in paragraphs 1 and 2 will take place after accession in each year for eight years. Thereafter there will be a final review in year 10 or at an earlier date decided by the General Council.

Part II - Schedules

1. The Schedules annexed to this Protocol shall become the Schedule of Concessions and Commitments annexed to the GATT 1994 and the Schedule of Specific Commitments annexed to the GATS relating to China. The staging of concessions and commitments listed in the Schedules shall be implemented as specified in the relevant parts of the relevant Schedules.

2. For the purpose of the reference in paragraph 6(a) of Article II of the GATT 1994 to the date of that Agreement, the applicable date in respect of the Schedules of Concessions and Commitments annexed to this Protocol shall be the date of accession.

Part III - Final Provisions

1. This Protocol shall be open for acceptance, by signature or otherwise, by China until 1 January 2002.

2. This Protocol shall enter into force on the thirtieth day following the day of its acceptance.

3. This Protocol shall be deposited with the Director-General of the WTO. The Director-General shall promptly furnish a certified copy of this Protocol and a notification of acceptance by China thereof, pursuant to paragraph 1 of Part III of this Protocol, to each WTO Member and to China.

4. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Doha this tenth day of November two thousand and one, in a single copy, in the English, French and Spanish languages, each text being authentic, except that a Schedule annexed hereto may

① Council for Trade in Goods, Council for Trade-Related Aspects of Intellectual Property Rights, Council for Trade in Services, Committees on Balance-of-Payments Restrictions, Market Access (covering also ITA), Agriculture, Sanitary and Phytosanitary Measures, Technical Barriers to Trade, Subsidies and Countervailing Measures, Anti-Dumping Measures, Customs Valuation, Rules of Origin, Import Licensing, Trade-Related Investment Measures, Safeguards, Trade in Financial Services.

第三部分　最后条款

1. 本议定书应开放供中国在2002年1月1日前以签字或其他方式接受。

2. 本议定书应在接受之日后第30天生效。

3. 本议定书应交存WTO总干事。总干事应根据本议定书第三部分第1款的规定，迅速向

每一WTO成员和中国提供一份本议定书经核正无误的副本和中国接受本议定书通知的副本。

4. 本议定书应依照《联合国宪章》第102条的规定予以登记。

2001年11月10日订于多哈，正本一份用英文、法文和西班牙文写成，三种文本具有同等效力，除非所附减让表中规定该减让表只以以上文字中的一种或多种为准。

附件清单

- 附件1A：中国在过渡性审议机制中提供的信息
- 附件1B：总理事会依照《中国加入议定书》第18条第2款处理的问题
- 附件2A1：国营贸易产品（进口）
- 附件2A2：国营贸易产品（出口）
- 附件3：非关税措施取消时间表
- 附件4：实行价格控制的产品和服务
- 附件5A：根据《补贴与反补贴措施协定》第25条作出的通知
- 附件6：实行出口税的产品
- 附件7：WTO成员的保留
- 附件8：第152号减让表—中华人民共和国
- 附件9：服务贸易具体承诺减让表
  第2条最惠国豁免清单

specify that it is authentic in only one or more of these languages.

Annex

- Annex 1A: Information to be Provided by China in the Context of the Transitional Review Mechanism
- Annex 1B: Issuse to be Addressed by the General Council in Accordance with Section 18.2 of China's Protocol of Accession
- Annex 2A1: Products Subject to State Trading(Import)
- Annex 2A2: Products Subject to State Trading(Export)
- Annex 2B: Products Subject to Designated Trading
- Annex 3: Non-Tariff Measures Subject to Phased Elimination
- Annex 4: Products and Services Subject to Proce Controls
- Annex 5A: Notification Prusuant to Aricle XXV of the Agreement on Subsidies and Countervailing Measures
- Annex 5B: Subsidies to be Phased Out
- Annex 6: Products Subject to Export Duty
- Annex 7: Reservations by WTO Members
- Annex 8: Schedule CL II-People's Republic of China
- Annex 9: Schedule of Specific Commitments on Services
  List of Article II MFN Exemptions

附件 1A
中国在过渡性审议机制中提供的信息

（环保条款摘录）

中国应当根据加入议定书第 18 条第 1 款就下列事项提供信息。要求的信息应当按年度提供，中国和成员方同意无须要求审议的某些事项除外。

二、经济政策

1. 非歧视（向货物贸易理事会作出通知）

(a) 废止和停止关于国民待遇的所有与 WTO 不致的法律、法规及其他措施

(b) 废止或修改适用于下列产品的国内销售、许诺销售、购买、运输、分销或使用的法律、法规及其他措施，以提供完全的 GATT 国民待遇：售后服务、药品、香烟、酒类、化学品和锅炉压力容器（对于药品、化学品及酒类，有权仪自加入时起为期 1 年的过渡期，以便修正或废止有关法律）

四、影响货物贸易的政策

7. 技术性贸易壁垒（向技术性贸易壁垒委员会提供）

(j) 根据技术性贸易壁垒（TBT）工作组报告书第 3（t）部分规定的条件，在中国加入后 1 年内，制定和实施关于为保护环境而对化学品进行评估和控制的新法律和相关法规，该法律和法规应保证实行完全的国民待遇，并保证完全符合国际惯例。

Annex 1A
Information① to Be Provided by China in the Context of the Transitional Review Mechanism

(Excerpt of Environment-related Article)

China is requested to provide information on the following in accordance with Article 18.1 of the Protocol of Accession. The requested information should be provided annually, except in those cases where China and the Members agree that it is no longer required for the review.

II. ECONOMIC POLICIES

1. Non-Discrimination(to be notified to the Council for Trade in Goods)

(a) the repeal and cessation of all WTO inconsistent laws, regulations and other measures on national treatment

(b) the repeal or modification to provide full GATT national treatment in respect of laws, regulations and other measures applying to internal sale, offering for sale, purchase, transportation, distribution or use of: after sales service, pharmaceutical products, cigarettes, spirits, chemicals and boiler and pressure vessels(for pharmaceutical products, chemicals and spirits there is a reservation of the right to use a transitional period of one year from the date of accession in order to amend or repeal relevant legislation)

IV. POLICIES AFFECTING TRADE IN GOODS

7. Technical Barriers to Trade (to be notified to the Committee on Technical Barriers to Trade)

(j) enactment and implementation of a new law and relevant regulations regarding assessment and control of chemicals for the protection of the environment in which complete national treatment and full consistency with international practices would be ensured within one year after China's accession following conditions set out in 3(t) of the TBT Working Party Report

① This "information" refers to information other than that required by the general notification requirements for WTO Members. To avoid duplication, it is understood that Members will accept information provided on an annual basis by China to other WTO bodies as satisfying the information requirements in Annex 1.

附件 2A2
国营贸易产品（出口）
（有关环境的产品摘录）

产品	序号	税号	产品描述	国营贸易公司
钨矿砂 锑产品	19 20130	26209010 26209090 81100030	主要含钨的矿灰及残渣 含其他金司及化合物的矿灰及残渣 锑废碎料；锑粉	1. 中国五矿进出口公司 2. 中国有色进出口公司 3. 中国稀土金属集团公司
丝	58	50031000	未流（包括不适于缫丝的蚕茧、纱及回收纤维）	中国丝绸进出口总公司

Annex 2A2
Products Subject to State Trading(Export)

(Excerpt of Environment-related Products)

PRODUCTS	NO	HS NO	DESCRIPTION OF PRODUCTS	STATE TRADING ENTERPRISES
TUNGSTENORD ANTIMONY PRODUCTS	19 20 130	26209010 26209090 81100030	Ash & residues containing mainly tungsten & compound thereof Ash & residues containing metals & compound thereof, nes Antimony waste and scrap; Antimony powders	1. China National Metals and Minerals Import & Export Co. 2. China National Nonferrous Import & Export Co. 3. China Rare Earth and Metal Group Co.
SILK	58	50031000	(including cocoons unsuitable for reeling, yarn waste and garneted stock), not carded or combed	China National Silk Import & Export Co.

附件3
非关税措施取消时间表

表一
进口许可证、进口配额和进口招标产品
（环保产品摘录）

序号	税号	产品描述	L	Q	T	取消期限	配额种类
308	87059020	可移动放射性检查车	L	Q		2002	
309	87059030	可移动环境监测仪器	L	Q		2002	
358	90158000	其他大地测量、水道测量、海洋、水文、气象或者地球物理用仪器及装置，不包括罗盘			T	加入时	
367	90222100	测量或检验粘性、多孔性、膨胀性、表面张力及类似性能的仪器及装置，测量或检验热量、声量或光量的仪器及装置（包括曝光表）；其他未列明的理化分析仪器及装置			T	加入时	

注释：

“L”指进口许可征；

“Q”指进口配额；

“T”指机电产品特定进口招标要求。

Annex 3
Non-Tariff Measures Subject to Phased Elimination

Table One
Products Subject to Import Licence, Import Quota and Import Tendering
(Excerpt of products for environmental protection)

Serial NO	HS NO	DESCRI PTION OF PRODUCTS	L	Q	T	Phasing-out Period	Quota Category
308	87059020	Mobile radiological units	L	Q		2002	7
309	87059030	Mobile environmental monitoring units	L	Q		2002	7
358	90158000	Surveying, hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses, not elsewhere specified or included			T	upon accession	
367	90278090	Instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like, measuring or checking quantities of heat, sound or light; Instruments and apparatus for physical or chemical analysis, nes			T	upon accession	

Notes:

"L" stands for "import license";
"Q" stands for "import quota"; and
"T" stands for "specific import tendering requirements for machinery and electronic" products.

附件 4
实行出口税的产品
（摘录）

实行政府定价的公用事业（摘录）

NO	CPC	公用事业
2	1800	自来水价格
5	1800	灌溉用水价格

实行政府定价的服务（摘录）

NO	CPC	服务	注释
2	964	旅游景点门票费	指受保护的重要历史遗迹和自然景观。

实行政府指定价的服务（摘录）

NO	CPC	服务	注释
2	861 862 8671 8672	专业服务收费	包括建筑和工程服务、法律服务、资产评估服务、鉴定、仲裁、公证和检验服务。

Annex 4
Products and Services Subject to Price Control

(Excerpt)

Public Utilities Subject to Government Pricith(excerpt)

NO	CPC	PUBLIC UTILITIES
2	1800	Price of tap water.
5	1800	Price of water supplied by irrigation works.

Service Sectors Subject to Government Pricing(excerpt)

NO	CPC	SERVICE	NOTES
2	964	Entrance fee for tour sites	Referring to significant historical relics and natural landscape under protection.

Service Sectors Subject to Government Pricing(excerpt)

NO	CPC	SERVICE	NOTES
1	7214 745** 731 7111 7112 743 7131 7139	Transport services charges	Including rail transport of both passenger and freight, air transport of freight, port services, and pipeline transport.
2	861 862 8671 8672	Professional	Including architectural and engineering services, legal services, assets assessment services, authentication, arbitration, notarization and inspection.
3	621	Charges for commission agents' services	Including commission for trademark, advertisement taxation and bidding agents.

附件 5
根据《补贴与反补贴措施协定》第 25 条作出的通知
（有关环境的补贴摘录）

十八、对废物利用企业优惠所得税待遇

1. 补贴计划的名称
   对废物利用企业优惠所得税待遇
2. 通知所涵盖的时间
   1993 年至今
3. 政策目标和/或补贴的目的
   鼓励资源循环
4. 补贴的背景和主管机关
   国家税务总局和地方税务主管机关
5. 给予补贴的法律依据
   《中华人民共和国和国企业所得税暂行条例》
6. 补贴的形式
   所得税减免
7. 提供补贴的对像和方式
   对于利用废气、废水和固体废物作出主要生产投入的的企业，所得税应减免 5 年
8. 单位补贴量，或如不可能提供，则为该补贴的总额或年度予算额无具体统计数字
9. 补贴的期限和/或所附任何其他时限
   1993 年—
10. 可据以评估补贴的贸易影响和统计数据
    无法提供

二十四、投资政府鼓励领域的投资者者口技术和设备的关税和增值税免除

1. 补贴计划的名称
   投资政府鼓励领域的投资者进口技术和设备的关税和增值税免除
2. 通知所涵盖的时间
   1998 年—2000 年
3. 政策目标和/或补贴的目的

Annex 5A

Notification Pursuant to Article XXV of the Agreement on Subsidies and Counter-vailing Measures

(excerpt of environment-related subsidies)

XVIII. PREFERENTIAL INCOME TAX TREATMENT TO ENTERPRISIS

1. Title of the subsidy program
Preferential income tax treatment to enterprises utilizing waste.
2. Period covered by the notification
1993-now.
3. Policy ojective and/or purpose of the subsidy
To encourage resources recycle.
4. Background and authority for the subsidy
State Administration of Taxation and local taxation authorities.
5. Legislation under which it is granted
Provisional regulation of the People's Republic of China on Enterprises Income Tax.
6. Form of the subsidy
Income tax reduction and exemption.
7. To whom and how the subsidy is provided
For enterprises utilizing waste gas. waste water and solid waste as major production inputs, income tax shall be reduced or exempted for five years.
8. Subsidy per unit, or in cases where this is no possible, the total amount or the annual amount budgete for that subsidy
No specific statistics available.
9. Duration of the subsidy and/or any other time-limits attached to it
1993
10. Statistical data permitting anassessment ofthe trade effects of a subsidy
Not available.

XXIV. TARIFF AND VAT EXEMPTION FOR IMPORTED TECHNOLOGY AND EQUIPMENT OF THE INVESTERS INVESTING IN AREAS ENCOURAGED BY THE GOVERNMENT

1. Title of the subsidy program
Tariff and VAT exemption for imported technologies and equipment imported by investors in the industrial aras encouraged by the state.
2. Period coverd by the notification
1998 – 2000.
3. Policy objective and/or purpose of the subsidy
Reduce the investment cost of importing technologies and equipment from abroad, so as to attract foreign direct investment and promote domestic in vestment as well.
4. Background and authority for the subsidy
The State Council.
5. Legislation under which it is granted
The circular No. 37(1997)issued by the State Council.

减少自国外进口技术和设备的投资成本，以吸引国外直接投资，同时促进国内投资

4. 补贴的背景和主管机关

国务院

5. 给予补贴的法律依据

国务院 1997 年 37 号通知

6. 补贴的形式

进口技术和设备的关税和增值税免除

7. 提供补贴的对象和方式

对于在《外商投资产业指导目录》（国家计委、国家经贸委和外经贸部联合发布）中属鼓励类产业领域时行投资的外国投资者，其进口技术和设备可享受免征关税和增值税的待遇。

对于在《当前国家产业政策鼓励发展的产业、产品和技术目录》（由国家发展计划委员会发布）中属鼓励类产业领域进行投资的国内投资者，其进口技术和制备可享受免征关税的增值税的待遇。

8. 单位补贴量，或如不可能提供，则为该补贴的总额或年度预算额

无具体统计数字

9. 补贴的期限和/或所附任何其他时限

1998 年—2000 年

10. 可据以评估补贴的贸易影响的统计数据

补贴鼓励了技术和设备的进口，未计算具体进口量

6. Form of the subsidy
Tariff and VAT exemption for imported technologies and equipment.
7. To whom and how the subsidy is provide
For foreign investors investion in the encouraged industrial areas defined by the "The Industrial catalogues for Foreign Direct Investmen"(jointly issued by SDPC SETC and MOFTEC). their imported technologies and equipment can enjoy treatment of tariff and VAT exemption.
For domestic investors investing in the encouraged industrial areas defined by the "The Catalogues of Current Priorities of Industrial Sectors, Products and Technologies Encouraged by the State"(issued by The State Developmen Planning Commission), their imported technologies and equipment can enjoy treatment oftariff and VAT exemption.
8. Subsidy per unit. or in cases where this is not possible, the total amount or the annual amount budgete for that subsidy
No specific statistics available.
9. Duration of the subsidy and/or any other time-limits attached to it
1998 - 2000.
10. Statistical data permitting an assessment of the trade offects of a subsidy
The importation of technologies and equipment has been encouraged by the subsidies, no specific import volume has been calculated.

附件 6
实行出口税的产品
（有关环境的产品摘录）

NO	税号	产品描述	出口税率（%）
3	05069010	骨粉及骨废料	40. 0
26	72041000	铸铁废碎料	40.0
27	72042100	不锈钢废碎料	40.0
28	72042900	其他合金钢废碎料	40.0
29	72043000	镀锡钢铁废碎料	40.0
30	72044100	车、刨、铣、磨、锯、锉、剪、冲加工过程中产生的废料，不论是否成捆	40.0
31	72044900	其他钢铁废碎料	40.0
32	72045000	供再熔的碎料钢铁锭	40.0
42	74040000	铜废碎料	30. 0
65	76020000	铝废碎料	30.0
84	81100030	锑废碎料、粉末	20.0

注释：

中国确认本附件中所含关税水平为最高水平，不得超过。中国进一步确认将不提高现行实施税率，但例外情况除外。如出现此类情况，中国将在提高实施关税前，与受影响的成员进行磋商，以期找到双方均可接受的解决办法。

Annex 6

Products Subject to Export Duty

(Excerpts of Environment-related Products)

NO	HS NO	DESCRIPTION OF PRODUCTS	EXPORT DUTY RATE(%)
.....			
26	72041000	Waste & scrap,of cast iron	40.0
27	72042100	Waste & scrap,of stainless steel	40.0
28	72042900	Waste & scrap,of alloy steel,other than stainless steel	40.0
29	72043000	Waste & scrap,of tinned iron or steel	40.0
30	72044100	Ferrous waste & scrap,nes, from turnings ,shavings,chips,milling waste,sawdust,filings,trimmings and stampings,whether or not in bundles	40.0
31	72044900	Ferrous waste & scrap of iron or steel,nes	40.0
32	72045000	Remelting scrap ingots of iron or steel	40.0
.....			
65	76020000	Aluminium waste & scrap	30.0
.....			
84	81100030	Antimony waste and scrap;Antimony powders	20.0

Note:

China confirmed that the tariff levels included in this Annex are maximum levels which will not be exceeded. China confirmed furthermore that it would not increase the presently applied rates, except under exceptional circumstances. If such circumstances occurred,China would consult with affected members prior to increasing applied tariffs with a view to finding a mutually acceptable solution.

附件 8

第 152 号减让表—中华人民共和国

本减让表仅以英文为准

（有关环境的货物贸易减让表摘录）

第一部分　最惠国税率

第 1 节　农产品

第 1－A 节　关税

税号	商品描述	加入之日约束税率	最终约束税率	实施期	现行减让的确定	最初谈判权	首次并入GATT减让表的减让	早期最初谈判权	其他税费
……									
0501	未经加工的人发，不论是否洗涤；废人发：								
05010000	未经加工的人发，不论是否洗涤；废人发：	16.7	15	2002		US		0	
0502	猪鬃、猪毛；獾先及其他制刷用兽先；上述鬃毛的废料： －猪鬃、猪毛及其废料：								
05021010	－猪鬃	20				US		0	

Annex 8
Schedule CLII——People's Republic of China
This Schedule is authentic only in the English language

(Schedule of Concession on Trade in Goods, Excerpt of Environment-related Goods)

PART I-MOST-FAVOURED-NATION TARIFF
SECTION I-Agricultural Products
SECTION I-A Tariffs

HS	Description	Bound rate atdate of accession	Final bound rate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
.....									
0501	Human hair, unworked, whether or not washed or scoured; waste of human hair:								
05010000	Human hair, unworked, whether or not washed or scoured; waste of human hair	16.7	15	2002		US			0
0502	Pigs', hogs' or boars' bristles and hair; badger hair and other brush making hair; waste of such bristles or hair: - Pigs', hogs' or boars' bristles and hair and waste thereof:								
05021030	-Waste	20				US			0

税号	商品描述	加入之日约束税率	最终约束税率	实施期	现行减让的确定	最初谈判权	首次并入GATT减让表的减让	早期最初谈判权	其他税费
05021020	－猪毛	20				US		0	
05021030	－废料	20				US		0	
05029020	－废料	20				US		0	
0503	马毛及废马毛，不论是否制成有或无衬垫的毛片：								
……									
0505	带有羽毛或羽绒的鸟皮及鸟体其他部分；羽毛及不完整羽毛（不论是否修边）、羽绒，仅经洗涤、消毒或为了保藏而作过处理，但未经进一步加工；羽毛或不完整羽毛的粉末及废料：								
05059010	－羽毛或不完整羽毛的粉末及废粉		10 16	2004		US		0	

HS	Description	Bound rate atdate of accession	Final bound rate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
	- Other:					US			0
	- Badger hair and other brush making					US			0
05029011	- Goat Hair	20				US			0
05029012	- Weasel tail Hair	20				US			0
05029019	- Other	20				US			0
05029020	- Waste	20				US			0
0503	Horsehair and horsehair waste, whether or not put up as a layer with or without supporting material:								
05030010	- Horse's manes or tails	15				US			0
05030090	- Other	15				US			0
.....									
0505	Skins and other parts of birds, with their feathers or down, feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation; powder and waste of feathers or parts of								
05051000	- Feathers of a kind used for stuffing; down	16	10	2004		CU, KR, US			0
	- Other:								
05059010	- Powder and waste of feathers or parts of feathers	16	10	2004		US			0

税号	商品描述	加入之日约束税率	最终约束税率	实施期	现行减让的确定	最初谈判权	首次并入GATT减让表的减让	早期最初谈判权	其他税费
0506	骨及角柱,未经加工或经脱脂、简单整理(但未切割成形)、酸处理或脱胶;上述产品的粉末及废料:								
05061000	-经酸处理的骨胶原及骨	12				US		0	
	-其他:								
05069010	-骨粉、骨废料	13.8	12	2004		AU,US		0	
05069090	-其他	12				US		0	
0507	兽牙、龟壳、鲸须、鲸须毛、角、鹿角、蹄、甲、爪及喙,未经加工或仅简单整理但未切割成形;上述产品的粉末及废料:								
05071000	-兽牙;兽牙粉末及废料	13	10	2004		US		0	
	-其他:								
05079010	-羚羊角及其粉末和废料	3				US		0	

HS	Description	Bound rate atdate of accession	Final bound rate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
05059090	- Other	16	10	2004		US			0
0506	Bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinized; powder and waste of these products:								
05061000	-Ossein and bones treated with acid	12				·US			0
	- Other:								
05069010	- Powder and waste of bones	13.8	12	2004		AU,US			0
05069090	- Other	12				US			0
0507	Ivory, tortoise-shell, whalebone and whalebone hair, horns, antlers, hooves, nails, claws and beaks, unworked or simply prepared but not cut to shape; powder and waste of these products:								
05071000	- Ivory; ivory powder and waste	13	10	2004		US			0
	- Other:								
05079010	- Antelope horns and powder or waste thereof	3				US			0
05079020	- Pilose antlers and powder thereof	12	11	2006		NI,US			0
05079090	- Other	10				US			0

税号	商品描述	加入之日约束税率	最终约束税率	实施期	现行减让的确定	最初谈判权	首次并入GATT减让表的减让	早期最初谈判权	其他税费
0508	珊瑚及类似品，未经加工或仅简单整理但未经进一步加工；软体动物壳、甲壳动物壳、棘皮动物壳、墨鱼骨，未经加工或仅简单整理但未切割成形；上述壳、骨的粉末及废料：								
05080010	－粉末及废料	12				JP,US		0	
……									
1802	可可荚、壳、皮及废料								
18020000	可可荚、壳、皮及废料	10				US		0	
……									
2303	制造淀粉过程中的残渣及类似残渣，甜菜渣、甘蔗渣及制糖过程中的其他残渣，酿造及蒸馏过程中的糟粕及残渣，不论是否制成团粒：								
23031000	－制造淀粉过程中的残渣及类似的残渣	5				US		0	
23032000	－甜菜渣、甘蔗渣及制糖过程中的其他残渣	5				US		0	
23033000	－酿造及蒸馏过程中的糟粕及残渣	5				JP,US		0	
……									

HS	Description	Bound rate atdate of accession	Final bound rate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
0508	Coral and similar materials, unworked or simply prepared bus not otherwise worked; shells of molluscs, crustaceans or echinoderms and cuttle-bone, unworked or simply prepared but not cut to shape, powder and waste thereof:								
05080010	-Powder and waste	12				JP,US			0
05080090	-Other	12				JP,US			0
.....									
1802	Cocoa shells, husks, skins and other cocoa waste:								
18020000	Cocoa shells, husks, skins and other cocoa waste	10				US			0
.....									
2303	Residues of starch manufacture and similar residues, beet-pulp, begasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets:								
23031000	- Residues of starch manufacture and similar residues	5				US			0
23032000	- Beet-pulp, bagasses and other waste of sugar manufacture	5				US			0
23033000	- Brewing or distilling dregs and waste	5				JP,US			0

税号	商品描述	加入之日约束税率	最终约束税率	实施期	现行减让的确定	最初谈判权	首次并入GATT减让表的减让	早期最初谈判权	其他税费
2308	动物饲料用的其他税号未列名的植物原料、废料、残渣及副产品，不论是否制成团粒：								
23081000	－橡果及七叶树果	5			US			0	
23089000	－其他	5			JP,US			0	
……									
5003	废丝(包括不适于缫丝的蚕茧、废纱及回收纤维)：								
50031000	－未梳	9			JP,US			0	
50039000	－其他	9			IN,US			0	
……									
5103	羊毛或动物细毛或粗毛的废料，包括废纱线，但不包括回收纤维： －羊毛或动物细毛的落毛：								
51031010	－羊毛落毛	38			AU,CL,NZ,US,VY			0	
51031090	－其他	9			KG,US			0	
	－羊毛或动物细毛的其他废料：								
51032010	－羊毛废料	14.3	13.5	2003	AU,KG,US			0	
51032090	－其他	9			KG,US			0	
51033000	－动物粗毛废料	9			KG,US			0	
……									

HS	Description	Bound rate atdate of accession	Final bound rate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
.....									
2308	Vegetable materials and vegetable waste, vegetable residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included:								
23081000	- Acorns and horse-chestnuts	5				US			0
23089000	- Other	5				JP,US			0
.....									
5003	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock):								
50031000	- Not carded or combed	9				JP,US			0
50039000	- Other	9				IN,US			0
.....									
5103	Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock:								
	- Noils of wool or of fine animal hair:								
51031010	- Of wool	38				AU, CL, NZ,US,VY			0
51031090	- Other	9				KG,US			0
	- Other waste of wool or of fine animal hair:								
51032010	- Of wool	14.3	13.5	2003		AV,KG,US			0

税号	商品描述	加入之日约束税率	最终约束税率	实施期	现行减让的确定	最初谈判权	首次并入GATT减让表的减让	早期最初谈判权	其他税费
5202	废棉(包括废棉纱线及回收纤维)：								
52021000	－废棉纱线(包括废棉线)	10				US		0	
	－其他：								
52029100	－回收纤维	10				JP,US		0	
52029900	－其他	10				US			
……									
5301	亚麻、生的或加工但未经纺制，亚麻粗纤维和废料(包括纱线废料和扯松的原料)								
53011000	－生的或经沤制的亚麻	6				US		0	
53012100	－破开的或打成的	6				JP,US			
53012900	－其他	6				US		0	
53013000	－亚麻短纤及废麻	6				US		0	
5302	大麻，生的或加工但未经纺制，大麻粗纤维和废料(包括纱线废料和扯松的原料)								
53021000	－生的或经沤制的大麻	6				US		0	
53029000	－其他	6				JP,US		0	

HS	Description	Bound rate atdate of accession	Final bound rate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
51032090	- Other	9				KG,US			0
51033000	- Waste of coarse animal hair	9				KG,US			0
.....									
5202	Cotton waste (including yarn waste and garnetted stock):				JP,US			0	
52021000	- Yarn waste(including thread waste)	10				US			0
	- Other:								
52029100	- Garnetted stock	10				US			0
52029900	- Other	10							
.....									
5301	Flax, raw or processed but not spun; flax tow and waste (including yarn waste and garnetted stock):								
53011000	- Flax, raw or retted	6				JP,US			0
53012100	- Broken or scutched	6							
53012900	- Other	6							
523013000	- Flax tow and waste								
5302	True hemp(Cannabis sativa L), raw or processed but not spun; tow and waste of true hemp(including yarn waste and garnetted stock):								
53021000	- True hemp, raw or retted	6				US			0
53029000	- Other	6				JP,US			0

第一部分　最惠国税率
第二节　其他产品

税号	商品描述	加入之日约束税率	最终约束税率	实施期	现行减让的确定	最初谈判权	首次并入GATT减让表的减让	早期最初谈判权	其他税费
2571	通常作混凝土粒料、铺路、铁道路基或其他路基用的卵石、砾石及碎石，圆石子及燧石，不是否热处理；矿渣，浮渣及类似的工作残渣，不论是否混有本税号第一部分所列的材料；沥青碎石；税号 2515/2516 所列各种石料的碎粒、碎屑及粉末，不是否热处理：								
25171000	－通常作混凝土粒料、铺路、铁道路基或其他路基用的卵石、砾石及碎石，圆石子及燧石，不是否热处理	4				US			0
25172000	－矿渣、浮渣及类似的工业残渣，不论是否混有子目号 251710 所列的材料	4				US			0

Part I-Most-Favoured-Nation Teriff

Section Ⅱ -Other Products

HS	Description	Bound rate at date of accession	Final borndrate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
2571	Pebbles, broken or crushed stone, of a kind commonly used for concrete agregated, for road metalling or for railway or other ballast, shingle and flint, whether or not heat – treated; macadam of slag, dross or simitar industrlal waste, whether or								
25171000	– Pebbles, gravel, broken or crushed stone, of a klnd commonly used for concrete aggregates, for road metalling or for railway or other ballast, shingle and flint, whether or not head – treated	4				US			0
25172000	– Macadam of stag, dross or similar industrial waste, whether or not incorporating the materials cited in subheading No. 2517.10								

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……									
2618	冶炼钢铁产生的粒状熔渣(熔渣砂):								
26180000	冶炼钢铁产生的粒状熔渣(熔渣砂)	6				US			0
2619	冶炼钢铁所产生的熔渣、浮渣(粒状熔渣除外)、氧化皮及其他废料:								
26190000	冶炼钢铁所产生的熔渣、浮渣(粒状6熔渣除外)、氧化皮及其他废料	6				US			0
2620	含有金属或金属化合物的矿灰及残渣(冶炼钢铁所产生的灰、渣除外):								
	-主要含锌:								
	-含硬锌	6				US			0
2621	其他矿渣及矿灰,包括海藻灰(海草灰):								
26210000	其他矿渣及矿灰,包括海藻灰(海草灰)	6				US			0
……									
3915	塑料的废碎 料及下脚料:								
39151000	-乙烯聚合物的	13.9	6.5	2008		US			0
39152000	-苯乙烯聚合物的	13.9	6.5	2008		JP,US			0
39153000	-氯乙烯聚合物的	13.9	6.5	2008		JP,US			0
39159000	-其他塑料的	13.9	6.5	2008		AU,JP,US			0
……									

HS	Description	Bound rate at date of accession	Final borndrate	Implemention	Present concession established	INR	Concession first incor porated in a GATT Schedule	Earlier INRs	DDCs
.....									
2618000	Granulated slag (slag sand) from the manufacture of iron or steel	6				US			0
2619	Slag, dross (other than granulated slag), scaling and other waste from the manufacture of iron or steel:								
261900	Slag, dross (other than granulated slag), scaling and other waste from the manufacture of iron or steel	6				US			0
2620	Ash and residues(other than from the manufacture of iron or steel). containing metals or metal compounds:								
	- Containing mainly zinc:								
26201100	- Hard zinc spelter	6				US			0
2621	Other slag and ash, including seaweed ash(kelp):								
26210000	Other slag and ash, including seaweed ash(kelp)	6				US			0
.....									
3951	Waste, parings and scrap, of plastics:								
39151000	- Of polymersof sthylene	13.9	6.5	2008		US			0
39152000	- Of polymers of styrene	13.9	6.5	2008		JP, US			0
39153000	- Of polymers of vinyl chloried	13.9	6.5	2008		JP, US			0
39159000	- Of other plastics	13.9	6.5	2008		AU, JP, US			0
.....									

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4003	再生橡胶,初级形状或板、片、带:								
40030000	再生橡胶,初级形状或板、片、带:	11.5	8	2003		US			0
4004	橡胶(硬质橡胶的除外)的废碎料、下脚料及其粉、粒:								
40040000	橡胶(硬质橡胶的除外)的废碎料、下脚料及其粉、粒	8				US			0
……									
4017	各种形状的硬质橡胶(例如,纯硬质胶),包括废碎料;硬质橡胶制品:								
40170010	-各种形状的硬质橡胶,包括废碎料	11.5	8	2003		JP,US			0
…									
4110	皮革或再生皮革的边角废料;不适宜作皮革制品用;皮革粉末:								
41100000	皮革或再生皮革的边角废料;不适宜作皮革制品用;皮革粉末	11.4				US			0
…									

HS	Description	Bound rate at date of accession	Final borndrate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
4003	Reclalmed rubber in primary forms or in plates, sheets or strip:								
40030000	Reclaimed rubber in primary forms or in plates, sheets or strip	11.5	8	2003		US			0
4004	Waste, parinas and scrap of rubber (other than hard rubber) amd powders and oranules obtained therafrom:								
40040000	Waste, parings and scrap ot rubber (other than hard rubber) and powders and granules obtained therefrom	8				US			0
.....									
4017	Hard rubber (for example, ebonite) in all forms, including waste and scrap; articles of hard rubber:								
40170010	– Hard rubber in all forms, including waste and scrap	11.5	8	2003		JP, US			0
.....									
4110	Parings and other waste of leather or of composition leather, not suitable for the manufacture of leather artlcles; leather dust, powder and flour:								
41100000	Parings and other waste of leather or of compositon leather, not suitable for the manufacture of leather articles; leather dust, powder and flour	14				US			0
.....									

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4401	薪柴(圆木段、块、枝、成捆或类似形状);木片或木粒;锯末、木废料及碎片,不是否粘结成圆木段、块、片或类似形状:								
44011000	-薪柴(圆木段、块、枝成捆或类似形状)	7				LV,US			0
	-木片或木粒:								
44012100	-针叶木	1				LV,US			0
44012200	-非针叶木	1				LV,US			0
44013000	-锯末、木废料及碎片,不论是否粘结	1				LV,US			0
……									
4706	从回收(废碎)纸或纸板提取的纤维浆或其他纤维状纤维素浆:								
47061000	-棉短绒纸浆	0				US			0
47062000	-从回收(废碎)纸或纸板提取的纤维浆	0				US			0
4707	回收(废碎)纸或纸板:								

HS	Description	Bound rate at date of accession	Final borndrate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
4401	Fuel wood, in logs, inbillets, intwigs, in faggots or in simitar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms:								
44011000	– Fuel wood, in logs, in billets, in twlgs, in faggots or in similar forms	7				LV, US			0
	– Wood in chips or particles:								
44012100	– Coniferous	1				LV, US			0
440122000	– Non – Coniferous	1				LV, US			0
44013000	– Sawdust and wood waste and scrap, wheher or Not agglomerated in logs, brlquettes, pellets or slmilar forms								
.....									
4706	Pulps of fibres derlved from recovered (waste and scrappaper or paperboard or of other fibrous cellulosic materlal:)								
4761000	– Cotton linters pulp	0				US			0
47062000	– Pulps of fibres derived from recovered (waste and scrap) paper or paperboard	0				US			0
4707	Recovered (waste and scrap) paper or paperboard:								

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47071000	-未漂白的年皮纸或纸板的废碎品及瓦楞纸或纸板的废碎品	0				US			0
47072000	-主要由漂白化学木浆制成未经本体染然的其他纸和纸板的废碎品	1				CA,US			0
47073000	-主要由机械浆制成的纸或纸板(例如,报纸、杂志及类似印刷品)的废碎品	1				NZ,US	0		
47079000	-其他,包括未分选的废碎品	1				US			0
……									
7204	钢铁废碎料;供再熔的碎料钢铁锭:								
72041000	-铸铁废碎料	2				CH,JP,US			0
	-合金钢废碎料:								
72042100	-不锈钢废碎料	0				CH,JP,KR,US			0
72042900	-其他	0				CH,JP,US			0
72043000	-镀锡钢铁废碎料	2				CH,JP,US			0
	-其他废碎料:								
72044100	-车、刨、铣、磨、锯、锉、剪、冲加工过程中产生的废料,不论是否成捆	2				PU,CH,JP,US			0
72044900	-其他	0				AU,CH,JP,US			0
72045000	-供再熔的碎料钢铁锭	0				CH,JP,US			0
……									
7404	铜废碎料:								
74040000	铜废碎料	1.5				AU,US,VE			0

HS	Description	Bound rate at date of accession	Final borndrate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
47071000	– Of unbleached kraft paper or paperboard or of corrugated paper or paperboard	0				US			0
47072000	– Of other paper or paperboard made mainly of bleached chemical pulp, not coloured in the mass					CA, US			0
47073000	– Of paper or paperboard made mainly of mechanicalpulp (for example, newspapers, journals and similar prlnted matter)	1				NZ, US			0
47079000	– Other, including unsorted waste ans scrap	1				US			0
7204	Ferrous waste and scrap; remelting scrap ingots of iron steel:								
72041000	– Waste and scrap of cast iron	2				CH, JP, US			0
	– Waste and scrapof alloy steel:								
72042900	– Other	0				CH, JP, US			0
72043000	– Waste and scrap of tinned iron or steel	2				CH, JP, US			0
	– Other waste and scrap:								
72044100	– Turnings, shavings, chips, milling Waste, sawdust, filings, trimmings and stampings, whether or not in bundles	2				AU, CH, JP, US			0
72044900	– Other	0				AU, CH, JP, US			0
72045000	– Remelting scrap ingots	0				CH, JP, US			
.....									
7404	Copper waste ans scrap:								
74040000	Copper waste ans scrap	1.5				AU, US, VE			0

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7503	镍废碎料：								
75030000	镍废碎料	1.5				US			0
7602	铝废碎料：								
76020000	铝废碎料	3	1.5	2002		AU,US			0
……									
7802	铅废碎料：								
78020000	铅为料	1.5				JP,US			0
7902	锌废碎料：								
79020000	锌废碎料	1.5				JP,US			0
……									
8002	锡废碎料：								
80010000	锡废碎料	1.5				JP,US			0
8101	钨及其制品，包括废碎料：								
81019100	－未锻轧钨，包括简单烧结而成的条、杆；废碎料	3				JP,US			0
8102	钼及其制品，包括废碎料：								
81029100	－未锻轧钼，包括螯烧结而成的条、杆、废碎料	3				US			0
8103	钽及其制品，包括废碎料：								
81031000	－未锻轧钽，包括简单烧结而成的条、杆；废碎料；粉末	6				US			0
8104	镁及其制品，包括废碎料：								

HS	Description	Bound rate at date of accession	Final borndrate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
7503	Nickel waste and scrap:								
75030000	Nickel waste ans scrao	1.5				US			0
7602	Aluminium waste ans scrap:								
76020000	Aluminium waste and scrap	3	1.5	2002		AU,US			0
.....									
7802	Lead waste ans scrap:								
78020000	Lead waste ans scrap	1.5				JP,US			0
.....									
8002	Tin waste and scrap:								
80020000	Tin waste and scrap	1.5				JP,US			0
8101	Tungste(wolfram)and articles thereof, including waste and scrap:								
81019100	- Unwrought tungsten, including bars and ords obtained simply by sintering; waste and scrap	3				JP,US			0
8102	Molybdenum and articles thereof, including waste and scrap:								
81029100	- Unwrought molybdenum, including bars and rods obtained simply by sintering; waste and scrap	3				US			0
8103	Tantatum and articles theteof, including wasta and scrap:								
81031000	- Unwrought tantalum, inchuding bars and ords obtained simply by sintering; waste and scrap; powders	6				US			0
8104	Magnesium and articles theroof, including waste and scrap:								

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81041000	-废碎料	1.5				US			0
8105	钴锍及其他冶炼钴时所得的中间产品;钴及其制品,包括废碎料:								
81051000	-钴锍及其他冶炼钴时所得的中间产品;未锻轧钴;废碎料;粉末	4				US			0
8106	饿及其制品,包括废碎料:								
81060010	-未锻轧铋;废碎料;粉末	3				US			0
8107	镉及其制品,包括废碎料:								
81071000	-未锻轧镉;废碎料;粉末	3				CA,US			0
8108	钛及其制品,包括废碎料:								
81081020	-废碎料	3				JP,US			0
8109	锆及其制品,包括废碎料:								
81091000	-未锻轧锆;废碎料;粉末	3				JP,US			0
8100	锑及其制品,包括废碎料:								
81100030	-废碎料;粉末	3				JP,KG,US			0
8111	锰及其制品,包括废碎料:								

HS	Description	Bound rate at date of accession	Final borndrate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
8104200	- Waste and scrap	1.5				US			0
8105	Cobalt mattes and other intermediate products of cobalt mefallurgy; cobalt and articles thereof, including waste and scrap;								
81051000	- Cobalt mattes and other intermediale products of cobalt metallurgy;	4				US			0
8107	Cadmlum and articles thereof, including waste and scrap;								
80171000	- Unwrought cadmium; waste and scrap:powders	3				CA,US			0
8108	Titanlum and articles thereof, including waste and scrap:·								
81081020	- Waste and scrap	3				JP,US			0
8109	Zirconium and articles thereof, including waste and scrap:								
81091000	- Unwrought zirconium; waste and scrap;powders	3				JP,US			0
8110	Antimony and articles thereof, including waste and scrap;								
8110030	- Antimony waste and scrape; powders	3				JP,KG,US			0
8111	Manganese and articles thereof, i8ncluding waste and scrap;								

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81110010	-未锻轧锰;废碎料:粉末	3				SG,US			0
8112	铍、铬、锗、钒、镓、铪、铟、铼、铌、铊及其制品,包括废碎料:								
81121100	-未锻轧铍,废碎料;粉末	3				JP,US			0
81129100	-未锻轧;废碎料;粉末	3				US			0
8113	金属陶瓷及其制品,包括废碎料:								
81130000	金属陶瓷及其制品,包括废碎料	8.4				JP,US			0
……									
8401	核反应堆;核反应堆的未辐照燃料元件(释热元件);同位素分离机器及装置:								
84011000	-核反应堆								
84012000	-同位素分离机器、装置及其零件	1				US			0
	-未辐照燃料元件(释热元件):								
8401310	-未辐照燃料元件	2				US			0

HS	Description	Bound rate at date of accession	Final borndrate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
81110010	- Unwrought manganese; waste and scrap; powders	3				SG, US			0
8112	Beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium, and articles of these metals, including waste and scrap;								
81121100	- Unwuought; waste and scrap; powders	3				UP, US			0
81129100	- Unwrought; waste and scrap; powders	3				US			0
8112	Cremates and articles thereof, including waste and scrap;								
81130000	Cremates and articles thereof, including waste and scrap	8.4				JP, US			0
.....									
8401	Nuclear reactors; fuel elements (cartridges), non-irradiated, for nuclear reactors; machinery and apparatus for isotopic separation;								
84011000	- Nuclear reactors	2				US			0
84012000	- Machinery and apparatus for isotopic separation, and parts thereof	1				US			0
	- Fuel elements (cartridges), non-irradiated;								
84013010	- Fuel element, non-irradiated	2				US			0

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84013090	-未辐照烯料元件的零件	1				US			0
84014000	-核反应堆零件	1				US			0
85481000	原电池、原电池组及蓄电池的废碎料;废电电池、废原电池组及废蓄电池	8				CH,JP,US			0
……									
8705900	-放射线检查车	9				US			0
87059030P	-环境监测车	12				JP,US			0
……									
9015	大地测量(包括摄影测量)、水道测量、海洋、水文、气象或地球物理用仪器及装置,不包括罗德;测距仪:								
90151000	-测距仪	9				JP,US			0
90152000	-经纬仪及视距仪	9				JP,US			0
90153000	-水平仪	9				JP,US,			0
90154000	-摄影测量用仪器及装置	9				US			0
90158000	-其他仪器及装置	5				JP,KG,US			0
90159000	-零件、附件	5				AU,CA,US			0

HS	Description	Bound rate at date of accession	Final borndrate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
84013090	- Parts for fuel elements non-irradiated	1				US			0
84014000	- Parts of nuctear reactors	1				US			0
85481000	- Waste and scrap of primary cells, primary batteries, and electric accumulators; spent primary cells, spent primary batteries, and spent electric accumulators	8				CH,JP,US			0
.....									
87059020	- Mobile radiological units	9				US			0
87059030	- Mobile environmentel monitoing units	12				JP,US			0
.....									
9015	Surveying (including photogram metrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefindrs:								
90151000	- Rangefinders	9				JP,US			0
90152000	- Theodolites ane tachometers	9				JP,US			0
90153000	- Levels	9				JP,US			0
90154000	- Photogram metrical surveying instruments and appliances	9				US			0
90158000	- Other instruments and appliances	5				JP,KG,US			0
90159000	- Parts and accessories	5				AU,CA,US			0

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9026	液体或气体的流量、液位、压力或其他变化量的测量或检验仪器及装置(例如,流量计、液位计、压力表、热量计),但不包括税号 90.14、90.15、90.28 或 90.32 的仪器及装置:								
90261000	-测量、检验液体流量或液位的仪器及装置	6	0	2003		CA,CH,JP,US			0
90262000	-测量、检验压力的仪器及	6	0	2003		AU,CH,JP,US			0
90268000	-其他仪器及装置	6	9	2003		CH,JP,US			0
90269000	-零件、附件	3	0	2002		CH,JP,US			0
9027	理化分析仪器及装置(例如,偏振仪、折光仪、分光低度、气体或烟雾分析仪),测量或检验粘性、多孔性、膨胀性、表面张力及类似性能的仪器及装置;测量或检验热量、声量或光量的仪器及装置(包括曝光表);检镜切片机:								
90271000	-气体或烟雾分析仪	8.7	7	2002		CH,JP,NO,US			0
90272000	-色普仪及电泳仪	6	0	2003		AU,CH,JP,NO,US			0
90273000	-使用光学射线(紫外线、可见光、红外线)的分光仪、分光光度计及摄谱仪	6	0	2003		AU,CH,JP,NO,US			0

HS	Description	Bound rate at date of accession	Final borndrate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
9026	lnstruments and apparatus for measuring or checking the flow, levet, pressure or other variabtes of liquids or gases(for example, flow meters, level gauges, manometers, heat meters), excluding instruments and apparatus of heading No 9014, 9015, 9028 or 9032;								
90261000	– For measuring or checking the flow or level of liquids	6	0	2003		CA, CH, JP, US			0
90262000	– For measuring or checking pressure	6	0	2003		AU, CH, JP, US			0
90268000	– Other instruments or appparatus	6	0	2003		CH, JP, US			0
90269000	– Parts and accessories	3	0	2003		CH, JP, US			0
9027	lnstruments and apparatus for physical or chemical analysis (for example, polarimeters, refractometers, specrtometers, gas or smoke analysis apparatus); instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension of								
90271000	– Gas or smoke analysis apparatus	8.7	7	2002		CH, JP, NO, US			0
900272000	– Chromatography and electrophoresis instruments	6	0	2003		AU, CH, JP, NO, US			0
90273000	– Spectrometers, spectrophoto meters and spectrographs using optical radiation(UV, visible, IR)	6	0	2003		AU, CH, JP, NO, US			0

税号	商品描述	加入之日约束税率	最终约束税率	实施期	现行减让的确定	最初谈判权	首次并入GATT减让表的减让	早期最初谈判权	其他税费
90274000	-曝光表	14				CH,JP,US			0
90275000	-使用光学射线(紫外线、可见光、红外线)的其他仪器及装置	6	0	2003		CH,JP,NO,US			0
	-其他仪器及装置:								
90278010	-质普仪	6	0	2003		AU,CH,JP,NO,US			0
90287090	-其他	6	0	2003		AU,CH,JP,NO,US			0
90279000	-检镜切片机;零件;附件	3	0	2002		CH,JP,NO,US			0
ex90279000	税号9027的理化分析仪器零件,但气体或烟雾分析仪、曝光表和检镜切片机的零件除外								
……									
96011000	-已加工的兽牙及其制品	21.7	20	2002		US			0
96019000	-其他	21.7	20	2002		US			0

HS	Description	Bound rate at date of accession	Final borndrate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
90274000	- Exposure meters	14				CH,JP,US			0
90275000	- Other instruments and apparatus using optical radiation (UV, visible, IR)	6	0	2003		CH, JP, NO,US			0
	- Other instruments and apparatus								
90278010	- Mass spectrograph	6	0	2003		AU,CH,JP,NO,US			0
90278090	- Other	6	0	2003		AU,CH,JP,NO,US			0
90279000	- Microtomes;parts and accessories	3	0	2002		CH,JP,NO,US			0
ex90279000	Parts and accessories of products of heading 9027, other than for gas or smoke analysis apparatus and microtomes;Printed Circuit Assemblies for products falling within the ITA, including such assemblies for external connections such as cards that conform to the PCMCIA standard.	3	0	2002		CH, JP, NO,US			0
.....									
9601	Worked ivory, bone, tortoise-shell, hom, antlers, coral, mother-of-pearl and other animal carving material, and articles of these materials (including articles obtained by moulding) :								
96011000	- Worked ivory and articles of ivory	21.7	20	2002		US			0
96019000	- Other	21.7	20	2002		US			0

税号	商品描述	加入之日约束税率	最终约束税率	实施期	现行减让的确定	最初谈判权	首次并入GATT减让表的减让	早期最初谈判权	其他税费
9602	已加工植物质或矿物质调刻材料及制品；蜡、硬脂、天然树胶、天然树脂或塑型膏制成的模塑或制品以及其他税号未列名的模塑或制品；已加工的未硬化明胶(税号35.03的明胶除外)及未硬化明胶制品：								
96020010	－装药用胶囊	10.5				JP,US			0
96020090	－其他	25				EC,JP,US			0
……									
9705	具有动物学、植物学、矿物学、解剖学、历史学、考古学、古生物学、人种学或钱币学意义的收集品及珍藏品：								
97050000	具有动物学、植物学、矿物学、解剖学、历史学、考古学、古生物学、人种学或钱币学意义的收集品及珍藏品	0				US			0
9706	超过一百年的古物：								
97060000	超过一百年的古物	0				US			0

HS	Description	Bound rate at date of accession	Final borndrate	Implemention	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	DDCs
9602	Worked vegetable or mineral carving material and articles of these materials; moulded or carved articles of wax, of stearin, of natural gums or natural resins or of modeling pastes, and other moulded or carved articles, not elsewhere specified or include:								
96020010	- Phamaceutical capsules	10.5				JP, US			0
96020090	- Other	25				EC, JP, US			0
.....									
9705	Collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic or numismatic interest;								
97050000	Collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic or numlsmatlc lnterest	0				US			0
9706	Antiques of an age exceeding one hundred years:								
97060000	Antiques of an age exceeding one hundred years	0				US			0

第三部分　非关税减让

B节　其他非关税减让

税号	商品描述	减让
90158000	其他大地测量、水道测量、海洋、水文、气象或者地球物理用仪器及装置，不包括罗盘。	加入之日取消招标要求
90278090	测量或检验粘性、多孔性、膨胀性、表面张力及类似性能的仪器及装置，测量或检验热量、声量或光量的仪器及装置（包括曝光表）；其他未列明的理化分析仪器及装置	加入之日取消招标要求

Part Ⅲ Non-Tariff Concessions

Section B——Other Non-Tariff Concessions

Tariff item number	Description of products	Concessions
90158000	Surveying, hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses, not elsewhere specified or included	Elimination of tendering requirements on date of accession
90278090	Instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like, measuring or checking physical or chemical analyis, nes	Elimination of tendering requirements on date of accession

附件 9
服务贸易具体承诺减让表

第 2 条最惠国待遇豁免清单（环境服务贸易摘录）

本减让表以英文为准

服务提供方式：(1) 跨境支付；　(2) 境外支付；
(3) 商业存在；　(4) 自然人流动

部门或分部门	市场准入限制	国民待遇限制	附加承诺
二、特殊承诺			
6. 环境服务			
(不包括环境质量监测和污染源检查) A. 污水（处理）服务 (CPC 9401) B. 固体废物处理服务 (CPC 9402) C. 废气清理服务 (CPC 9404) D. 降低噪音服务 (CPC 9405) E. 自然和风景保护服务 (CPC 9406) F. 其他环境保护服务 (CPC 9409) G. 卫生服务 (CPC 9403)	(1) 除环境咨询服务外，不作承诺。 (2) 没有限制 (3) 允许外国服务提供者仅限于以合资企业的形式从事环境服务，允许外资拥有多数股权。 (4) 除水平承诺中内容外，不作承诺。	(1) 没有限制 (2) 没有限制 (3) 没有限制 (4) 除水平承诺中内容外，不作承诺。	
11. 运输服务			
A. 海运服务 国际运输（货运和客运） (CPC 7211、7212，国内海运服务除外)	……	……	下列港口服务以合理和非歧视的条款和条件使国际海运提供者可获得： …… 4. 垃圾收集和压舱废物处理 ……

Annex 9
Schedule of Specific Commitments on Services
List of Article II MFN Exemptions

This Schedule is authentic only in the English Language

(Excerpts of environment-related services)

Modes of supply: (1) Cross-border supply (2) Consumption abroad
(3) Commercial presence (4) Presence of natural persons

Sector or sub-sector	Limitations on market access	Limitation on national treatment	Additional commitments
Ⅱ. SPECIFIC COMMITMENTS			
6. ENVIRONMENTAL SERVICES			
(excluding environmental quality monitoring and pollution source inspection) A. Sewage Services (CPC 9401) B. Solid Waste Disposal Services (CPC 9402) C. Cleaning Services of Exhaust Gases (CPC 9404) D. Noise Abatement Services (CPC 9405) E. Nature and Landscape Protection Services (CPC 9406) F. Other Environmental Protection Services (CPC 9409) G. Sanitation Services (CPC 9403)	(1) Unbound except for environmental consultation services. (2) None (3) Foreign services suppliers engaged in environmental services are permitted to provide services only in the form of joint ventures, with foreign majority ownership permitted. (4) Unbound except as indicated in Horizontal Commitments.	(1) None (2) None (3) None (4) Unbound except as indicated in Horizontal Commitments	
11. TRANSPORT SERVICES			
A. Maritime Transport Services International transport (freight and passengers) (CPC 7211 and 7212 less cabotage transport services)	……	……	The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions: …… 4. Garbage collecting and bullast waste disposal

世界贸易组织

中国加入工作组报告书

（环保部分摘录）

二、经济政策

1、非歧视（包括国民待遇）

23. 具体而言，中国代表确认将在国家和国家以下一级采取措施，包括废除或修改法律，从而在适用于国内销售、标价出售、购买、运输、分销或使用以下产品或服务的法律、法规及其他措施方面，提供完全的 GATT 国民待遇：

……

－化学品，包括适用于进口产品的登记程序，如根据中国《化学品首次进口及有毒化学品进出口环境管理规定》适用的程序；

……

中国代表表示，对于上述药品、酒类和化学品，中国将保留使用自加入之日起 1 年过渡期的权利，以便修正或废除有关法律。工作组注意到这些承诺。

三、政策制定和执行的体制

4、司法审查

76. 一些工作组成员表示，中国应指定独立法庭、联络点和程序，以便迅速审查所有与 GATT 1994 第 10 条第 1 款所指的普遍适用的法律、法规、司法裁决和行政决定的实施有关的行政行为，包括与进出口许可证、非关税措施和关税配额管理、合格评定程序及其他措施有关的行政措施。这些成员寻求作出明确确认，即某些类型的措施，例如与标准和化学品登记有关的决定，应接受司法审查。一些工作组成员还表示，接受审查的行政行为还应包括根据《TRIPS 协定》和 GATS 有关规定要求进行审查的任何行为。这些成员表示，此类法庭应独立于被授权对该事项进行行政实施的机构，且不应对该事项的结果有任何实质利益。

四、影响货物贸易的政策

B. 进口法规

WTO

Report of the Working Party on the Accession of China

(Excerpts of environmental-related articles)

II. ECONOMIC POLICIES

1. Non-Discrimination (including national treatment)

23. In particular, the representative of China confirmed that measures would be taken at national and sub-national level, including repeal or modification of legislation, to provide full GATT national treatment in respect of laws, regulations and other measures applying to internal sale, offering for sale, purchase, transportation, distribution or use of the following:

.....

– Chemicals, including registration procedures applicable to imported products, such as those applied under China's "Provisions on the Environmental Administration of Initial Imports of Chemical Products and Imports and Exports of Toxic Chemical Products";

.....

The representative of China stated that in the cases of pharmaceuticals, spirits and chemicals cited above, China would reserve the right to use a transitional period of one year from the date of accession in order to amend or repeal the relevant legislation. The Working Party took note of these commitments.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES

4. Judicial Review

76. Some members of the Working Party stated that China should designate independent tribunals, contact points, and procedures for the prompt review of all administrative actions relating to the implementation of laws, regulations, judicial decisions and administrative rulings of general application referred to in Article X:1 of the GATT 1994, including administrative actions relating to import or export licences, non-tariff measures and tariff-rate quota administration, conformity assessment procedures and other measures. These members sought explicit confirmation that certain types of measures, such as decisions relating to standards and chemical registration, would be subject to judicial review. Some members of the Working Party also stated that the administrative actions subject to review should also include any actions required to be reviewed under the relevant provisions of the TRIPS Agreement and the GATS. These members stated that such tribunals should be independent of the agencies entrusted with administrative enforcement of the matter and should not have any substantial interest in the outcome of the matter.

IV. POLICIES AFFECTING TRADE IN GOODS

B. IMPORT REGULATION

6. Tariff Exemptions

109. The representative of China noted that inaccordance with international practiices and provi-

6、关税免除

109. 中国代表表示，依照国际惯例和中国的《海关法》，下列货物可以减征或免征进口关税：

(a) 应征关税额在人民币 10 元以下的货物；
(b) 无商业坐标的广告品货样；
(c) 国际组织或外国政府无偿赠送的物资；
(d) 以任何运输方式装载的过境运输工具途中使用的燃料、物料和饮食用品；
(e) 因故退还的原出口货物；
(f) 结关前已经损坏的货物；
(g) 中国缔结或参加的国际条约规定减征或免征关税的货物；
(h) 暂时进口的货物；
(i) 进口加工计划项下的进口货物；
(j) 无代价抵偿货物；
(k) 政府鼓励发展的内外资项目；
(l) 科教与残疾人用品。

8、进口数量限制，包括禁止和配额

121. 对于工作组成员提出的关于提供信息的请求，中国代表指出，中国禁止或限制某些商品的进口，包括武器、弹药和炸药、麻醉品、毒品、猥亵品以及与中国关于食品、药品和动植物的技术法规不一致的食品、药品和动植物。

C. 出口法规

2、出口许可程序和出口限制

158. 中国代表表示，中国对部分农产品、资源性产品和化学品实行出口许可证制度。..... 确定出口许可证管理商品主要依据《外贸法》规定的有关原则：(1) 为维护国家安全或社会公共利益；(2) 国内供应短缺或者为有效保护可能用竭的国内资源；(3) 输往国家或地区的市场容量有限；(4) 我国所缔结或参加的国际条约、协定规定的义务。

163. 中国代表表示，中国禁止出口麻醉品、毒品、与国家机密有关的资料及珍稀动植物。

D. 影响货物贸易的国内政策

3、技术性贸易壁垒

177. 中国代表表示，中国已建立了一个 TBT 通知机构和两个咨询点，并已通知 TBT 委员会。自加入时起，将公布关于已采用和拟议的技术法规、标准和合格评

sions of China's Customs Law, import duty reductions or exemptions were available for the following goods:

(a) A consignment of goods, on which custons duties were estimated below RMB 10 yuan;

(b) advertising articles and samples, which were of no commercial value;

(c) goods and materials, which were renderde gratios by international organizations or foreign governments;

(d) fuels stores, beverages and provisions for use en route loaded by any means of transport, which were in transit across the border;

(e) exported goods being replaced;

(f) goods damaged proir to Custons release;

(g) goods covered by international treaties providing for tariff reductions and exemptions which China had entred into or acceded to;

(h) goods temporarily imported;

(h) goods imported under inward processing programmes;

(i) goods imported under inward processing programmes;

(j) goods imported at zero cost for replacement purposes;

(k) domestic-or foreign-funded projects encouraged by the government;

(l) articles for scientific research, education and the disabled.

8. Quantitative Import Restrictions, including Prohibitions and Quotas

121. In response to requests for information from members of the Working Party, the representative of China noted that China prohibited or restricted the importation of certain commodities, including weapons, ammunition and explosives, narcotic drugs, poisons, obscene materials and those foodstuffs, medicines, animals and plants which were inconsistent with China's technical regulations on food, medicines, animals and plants.

C. EXPORT REGULATIONS

2. Export Licensing and Export Restrictions

158. The representative of China said that China applied its export licence system to certain agricultural products, resource products and chemicals. ……The main criteria used in determining whether a product was subject to export licensing, as set down in the Foreign Trade Law, were: (1) maintenance of national security or public interests; (2) protection against shortage of supply in the domestic market or exhaustion of natural resources; (3) limited market capacity of importing countries or regions; or (4) obligations stipulated in international treaties.

163. The representative of China stated that China prohibited export of narcotic drugs, poisons, materials containing State secrets, precious and rare animals and plants.

D. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS

3. Technical Barriers to Trade

177. The representative of China stated that China had wet up a TBT notification authority and two enquiry points which had been notified to the TBT Committee. Upon accession, notices of adopted and proposed technical regulations, standards and conformity assessment procedures would be published. The names of the publication where this information could be found would be included in China's Statement of Implementation and Administration under Articale 15.2 of the TBT Agreement, which would be submitted upon accession. The Working Party took note of this commitment.

178. The representative of China stated that, further to China's implementation of WTO provisions, internal mechanisms would exist, upon accession, to inform and consult with, on an ongoing ba-

定程序的通知。公布这一信息的出物名称将包括在将在加入时提交的《TBT 协定》第 15 条第 2 款下《中国实施和管理声明》中。工作组注意到这一承诺。

178. 中国代表表示，除中国实施 WTO 的规定外，自加入时起将建立内部机制，不断地将在 GATT1994 和《TBT 协定》项下的权利和义务向政府部门和各部委（国家和地方）以及私营部门进行通知和咨询。对于一些工作组成员提出的就拟议中的标准和技术法规进行公开咨询和提出意见的机会问题，中国代表确认，自加入时起，中国的程序将会地表明存在此种机会，且将对所提意见给予适当考虑，而不考虑其来源。中国代表还确认，自加入时起，中国将按照《TBT 协定》和 TBT 委员会通过的相关决定的建议，允许公众对拟议中的技术法规、标准和合格评定程序提出意见的最低时限。工作组注意到这些承诺。

179. 若干工作组成员要求提供关于国际标准用作现有中国标准基础的程度、中国使用人造为新标准基础的详细计算以及中国审议现有标准使之与相关国际标准相协调的详细计划。

180. 对此，中国代表表示，作为 ISO、IEC 和 ITU 等组织的正式成员，中国积极参加了有关国际标准的制定。凭借中国在评论机构改革方面的努力，中国将在加入后不迟于 4 个月内，通知接受《良好行为规范》。中国代表表示，为政府标准化机构规定和明确的政策，以定期审议现有标准，特别是使之酌情与相关国际标准相协调。此外，中国将加速对现有的自愿性国家、地方和行业标准的修订工作，以便使之与国际标准相协调。工作组注意到这些承诺。

181. 一些工作组成员担心中国所使用的“技术法规”和“标准”的表述并不一定与《TBT 协定》中的定义相一致，例如，中国有时使用“标准”一词指应属“技术规律”定义的强制性要求。这些成员注意到中国在中央政府以外的其他各级，特别是在地区、部门和企业一级制定了一些不同类型的措施，被称为“标准”。

182. 对此，中国代表表示，在其根据《TBT 协定》所作通知中，包括根据第 15 条第 2 款所作通知和在其中提及的出版物中，以及在对现有措施进行修订过程中，中国将按照《TBT 协定》项下的含义使用“技术法规”和“标准”的表述。工作组注意到这些承诺。

183. 一些工作组成员还担心，中国没有使用相关的和可获得的国际标准作为其一些现有技术法规的基础。若干工作组成员请求提供关于国际标准用作现有技术法规基础的程度、中国使用国际标准作为新技术法规基础的详细计划以及中国审议现有技术法规以使之与相关国际标准或其相关部分相协调的详细计划。

184. 对此，中国代表表示，自 1980 年以来中国将积极采用国际标准作为技术法规基础视为加快工作现代化和促进经济增长的基本政策。中国代表确认，这一政策还要求每 5 年对技术进行一次审议，特别是为了保证依照《TBT 协定》第 2 条第 4 款使用国际标准。他还确认，中国将把这一政策作为其根据《TBT 协定》第 15 条

sis, government agencies and ministries(at national and sub-national levels), and private sector interests on the rights and obligations under the GATT 1994 and the TBT Agreement. Concerning questions from some memers of the Working Party on the opportunity for public consultation and comment on proposed standards and technical regulations, the representative of China confirmed that, upon accession, China's procedures would clearly indicate that such opportunity existed and that comments would be given due consideration regardless of origin. The representative of China also confirmed that, upon accession, Chinawould have in place minimum timeframes for allowing public comment on proposed technical regulations, standars and conformity assessment procedures as set out in the TBT Agreement and relevant decisions and recommendations adopted by the TBT Committee. The Working Party took note of these commitments.

179. Several members of the Working Party requested information on the extent to which international standards were used as the basis for existing Chinese standards, details on China's plans for usinginternational standards as the basis for new standards, and details on China's plans for reviewing existing standards so as to harmonize them with relevant international standards.

180. In response, the representative of China stated that, as a full member of, for example, ISO, IEC and ITU, China actively participated in the development of relevant international standards. With China's efforts in restructuring government agencies, China would, not laterthan four months after accession, notify caaeptance of the Code of Good Practice. The representative of China stated that for government standardizing bodies, a clear policy existed to periodically review existing standards, *inter alia*, to harmonize them with relevant interational standards where appropriate. Furthermore, China would speed up its process of revising the current voluntary national, local and sectoral standardsso as to harmonize them with international standards. The WorkingParty took note of these commitments.

181. Somemembers of the Working Party expressed concern that China's use of the terms"technicalregulations" and "standards" was not always consistent withthe definitions found in the TBT Agreement, e. g., China sometimes used the word"standards"to refer to mandatory requirements that fell within the definition of "technical regulations". These members noted that China had developed a number of different types of measures, referred to as"standards", at levels other than the central government, in particular, regional, sectoral, and enterprise levels.

182. In response, the representative of China stated that China, in its notifications under the TBT Agreement, including its notifications under Article 15.2 and in publications referenced therein, and in modifications of existing measures, would use the terms "technical regulations" and "standards"accordingto their meanings under the TBT Agreement. The Working Party took note of these commitments.

183. Some members of the Working Party also expressed concern that China did not use relevant and available international standards as the basis for some of its existing technical regulations. Several members asked for information on the extent to which international standards were used as the basis for existing technical regulations, details on China'splans for using international standards as the basis for new technical regulations, and details on China's plans for reviewingexistingtechnical regulations so as to harmonize standards referenced in them with international standards or their relevant parts.

184. In respones, the representative of China stated that since 1980, China had taken the active adoption of international standards as the basis for technical regulations as a basic policy of accelerating industrial modernization and promoting economic growth. The representative of China confirmed that this policy also required technical regulations to be reviewed every five years, *inter alia*, to ensure that international standards were used in acoudance with Article 2.4 of the Agreement. He also confirmed that China would provide this policy as part of its notification under Article 15.2 of the Agreement. He noted that as a result of China's efforts in the past 20 years, the use of international standards as the basis for technical regulations had increased from 12 per cent to 40 per cent. China had begun formulating a standardization development programme in a bid to meet the challenges of the 21st century and the requirements provided for in the TBT Agreement, and had undertaken to further increase the use of international standards as the basis for technical regulations by 10 per cent in five years. The representative of China also confirmed that China would make publicly available procedures to implement Article

第2款所作通知的一部分。他指出，由于中国在过去20年的努力，中国使用国际标准作为技术法规基础的比例已经从12%上升到40%。为了迎接21世纪的挑战和满足《TBT协定》所规定的要求，中国已开始制定一项标准发展计划，并承诺进一步提高使用国际标准作为技术法规基础的比例，在5年内再增加10%。中国代表还确认，中国将使实施《TBT协定》第2条第7款的程序可公开获得。工作组注意到这些承诺。

185. 在牢记《TBT协定》相关规定的同时，一些工作组成员要求中国确定获得授权可以采用技术法规和合格评定程序的、直接在中央政府以下各地方政府机构以及非政府组织。中国代表答复表示，中国将在加入时，作为其按照《TBT协定》第15条第2款所作通知的一部分，提供一份相关地方政府机构和非政府机构的清单。工作组注意到这一承诺。

196. 一些工作组成员对下列事项提出了具体关注：(a) 化学品首次进口登记……。对此，中国代表表示，中国将在加入之前实施下列措施，除非另有说明：

(a) 化学品首次进口登记

——在加入后1年内，制定和实施关于为保护环境而对化学品进行评定和控制的新法律和相关法规，其中保证完全的国民待遇，并保证完全符合国际惯例。

——保证以上新法律和法规所附“化学品名录”中所列化学品免于登记义务，并保证根据新法律及其法规对国产品和进口产品制定统一的评定程序。

4、卫生与植物卫生措施

198. 一些工作组成员对中国使用卫生与植物卫生（“SPS”）程序作为非关税壁垒表示关心，并提出了中国的措施与WTO《实施卫生与植物卫生措施协定》(“《SPS协定》”）不一致的具体事例。成员们寻求中国保证仅在保护人类和动植物的生命或健康所必需的限度内使用SPS措施，且此类措施应充分基于科学原则。

199. 中国代表表示，根据《SPS协定》的规定，中国仅在保护人类和动植物的生命或健康所必需的限度内实施SPS措施。他还指出，中国绝大部分SPS措施是基于国际标准、指南和建议的。中国将不会以作为对贸易的变相限制的方式实施SPS措施。依照《SPS协定》，中国将保证如无充分的科学依据，则不保留SPS措施。工作组注意到这些承诺。

五、与贸易有关的知识产权制度

A. 总体情况

2、负责政策制定和执行的机构

253. 中国代表表示，目前不同的机构负责知识产权保护政策的制定和执行。国

2.7 of the Agreement. The Working Party took note of these commitments.

185. Bearing in mind the relevant provisions of the TBT Agreement, some members of the Working Party asked hina to identify local government bodies, directly below the central government level, and non-governmentl organizations, that were authorized to adopt technical regulations or conformity assessment procedures. The representative of China replied that China would provide a list of relevant local governmental and non-governmental bodies, upon accession, as part of its notification under Artical 15.2 of the TBT Agreement. The Working Party took note of this commitment.

196. Some members of the Working Party raised specific concerns regarding such matters as (a) registration of initial imports of chemical products, ……. In response, the representative of China stated that China would implement the following measures prior to accession, unless otherwise indicated:

(a) Registration of Initial Imports of Chemical Products

– Enact and implement, within one year after its accession, a new law and relevant regulations regardin assessment and control of chemicals for the protection of the environment, in which complete national treatment and full consistency with international practices would be ensured.

– Ensure that chemicals listed in the "inventory chemicals" annexed to the above new law and its regulations would be exempted from a registration obligation and that a unified assessment procedure would be established for domestic and imported products under the new law and its regulations.

4. Sanitary and Phytosanitary Measures

198. Some Members of the Working Party expressed concerns in relation to the use by China of sanitary and phytosanitary ("SPS") procedures as non-tariff barriers and raised specific instances where they considered that China's measures were not consistent with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement"). Members sought assurances that Chin would only use SPS measures to the extent necessary to protect human, animal or plant life or health and that such measures would be based fully on scientific principles.

199. The representative of China stated that pursuant to the provisions of the SPS Agreement, Chin applied SPS measures only to the extent necessary to protect the life and health of human beings animals and plants. He also noted that most of China's SPS measures were based on international standards, guidelines and recommendations. China would not apply SPS measures in a manner which would act as a disguised restriction on trade. In accordance with the SPS Agreement, China would ensure that SPS measures would not be maintained without sufficient scientific evidence. The Working Party took note of these commitments.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

A. GENERAL

2. Responsible agencies for policy formulation and implementation

253. The representative of China stated that, at present, different agencies were responsible for IPR policy formulation and implementation. The State Intellectual Property Office ("SIPO") was responsible for patent approval; the Trademarks Office under the State Administration for Industry and Commerce ("SAIC") was responsible for trademarks registration; ..... the Ministry of Agriculture and the State Administration of Forestry were responsible for protection of plant varieties; .....

B. SUBSTANTIVE STANDARDS OF PROTECTION, INCLUDING PROCEDURES FOR THE ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY RIGHTS

家知识产权局（“SIPO”）负责专利的批准；国家工商行政管理局（“SAIC”）下属的商标局负责商标注册；……农业部和国家林业局负责植物新品种的保护；……

B. 保护的实质标准，包括取得和维持知识产权的程序

5、专利

269. 中国代表指出，就专利保护范围和植物新品种保护而言，中国已经满足了《TRIPS 协定》第 27 条的要求。排除专利保护的范围局限于“科学发现、智力活动的规则和方法，疾病的诊断和治疗方法，动物和植物品种以及用原子核变换方法获得的物质”。

270. 他进一步指出，中国《专利法》第 5 条规定，对违反国家法律、社会公德或损害公共利益的发明创造，不授予专利权。尽管从字面意义上讲，中国《专利法》第 5 条与《TRIPS 协定》存在差别，但是在实践中，在审查专利申请时，对“违反国家法律”的解释被限定为，“如果中国法律禁止销售某种专利产品、或禁止销售以某种已获专利的方法生产的产品，则不能依据《专利法》第 5 条对该产品的发明或该生产方法的发明拒绝授予专利权”。因此，他总结说，实质上，中国所适用的《专利法》第 5 条与《TRIPS 协定》并没有区别。尽管如此，中国将修改《专利法实施细则》，以保证这一规定的执行与《TRIPS 协定》第 27. 2 款完全相符，该款规定：“各成员可拒绝对某些发明授予专利权，如在其领土内阻止对这些发明的商业利用是维护公共秩序或道德，包括保护人类、动物或植物的生命或健康或避免对环境造成严重损害所必需的，只要此种拒绝授予并非仅因为此种利用为其法律所禁止。”工作组注意到这一承诺。

6、植物新品种保护

279. 中国代表确认，中国是 1978 年《植物新品种保护公约》（“UPOV”）的缔约国。1997 年 3 月，国务院制定并颁布了《植物新品种保护条例》，从而以与《TRIPS 协定》要求相一致的独特方式对植物新品种提供了保护。完成育种工作的单位或个人对被授予植物新品种权的新品种享有专有权。未经新品种权利所有人（简称“新品种权利人”）许可，任何单位或个人不得为商业目的生产或销售获授权新品种的繁育材料，或为商业目的在生产另一新品种的繁育材料中反复使用获授权新品种的繁育材料。该条例还规定了非自愿许可的条件。新品种权的保护期限为，从授权之日起，葡萄、森林树种、果树和装饰树种 20 年，其他植物 15 年。

8、对未披露信息，包括商业秘密和试验数据的要求

282. 一些工作组成员对中国为防止提交中国主管机关以获得药品和农业化学物质销售许可的未披露试验数据和其他数据受到不正当商业利用和披露而提供的保护表示关注。他们指出，中国的法律虽然似乎禁止政府官员披露信息，但是并未按

5. Patents

269. The representative of China stated that so far as the range of patent protection and protectio for new plant varieties were concerned, China had already met the requirements of Article 27 of the TRIPS Agreement. When amending the Patent Law in 1992, China modified Article 25 therein with reference to the relevant stipulations in the draft of the TRIPS Agreement and expanded the coverage of patent protection to food, beverages, flavourings, pharmaceuticals and materials obtained by chemical methods. The scope of patent exclusions would be limited to "scientific discoveries, rules and methods of intellectual activities, diagnostic and therapeutic methods for the treatment of diseases, animal and plant varieties, as well as materials obtained by the change of nucleus".

270. He further stated that Article 5 of China's Patent Law stipulated that inventions that violate laws of China or social morality or prejudice public interest would not be entitled to patent right. While literally there was a difference between Article 5 of China's Patent Law and the TRIPS Agreement, in practice, during the review of patent applications, the interpretation of "violating laws of China" had been restricted to "if laws of China prohibit the sale of a certain patented product, or prohibit the sale of products manufactured by a patented method, the granting of patent right cannot be denied to this product invention or this invention of product manufacturing method by relying on Article 5 of the Patent Law". Hence, in essence, he concluded that there was no difference between Article 5 of the Patent Law as applied and the TRIPS Agreement. Nonetheless, China would amend the Implementing Rules of the Patent Law to ensure that this provision would be implemented in full compliance with Article 27.2 of the TRIPS Agreement, which stipulated that: "Members may exclude from patentabilit inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect ordre public or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by their law". The Working Party took note of this commitment.

6. Plant variety protection

279. The representative of China confirmed that China was a party to the 1978 text of the Universa Convention on the Protection of Plant Varieties ("UPOV"). In March 1997, the State Council formulated and promulgated the Regulation on the Protection of New Plant Varieties, thus offering protection for new plant varieties in a sui generis form consistent with the requirements of the TRIPS Agreement. A unit or an individual that had accomplished the breeding enjoyed an exclusive right in thei right-granted variety. No unit or individual could, without permission from the owner of the variety rights (referred to as "the variety rights owner"), produce or market for commercial purposes the propagation material of the rights-granted variety, or repeatedly use for commercial purposes the propagation material of the rights-granted variety in the production of the propagation material of another variety. The conditions of non-voluntary licensing were set out in the regulation. The period of protection of variety rights, from the date of grant of the rights, would be 20 years for vines, forest trees, fruit trees and ornamental trees and 15 years for other plants.

8. Requirements on undisclosed information, including trade secrets and test data

282. Some members of the Working Party expressed concern about China's protection against unfair commercial use and disclosure of undisclosed test and other data submitted to authorities on China to obtain marketing approval for pharmaceuticals and agricultural chemicals. They noted that China's laws appeared to prohibit the release of information by government officials tut did not include provisions regarding the prevention of unfair commercial use, as required under Artical 39.3 of the TRIPS Agreement. Some members requested that China specificlaay provide in its law and regulations that it would protect against unfair commercial use of undisclosed test or other data submitted in support of

《TRIPS 协定》第 39 年第 3 款的要求，包含并于防止不正当商业利用的规定。一些成员要求中国在其法律和法规中明确规定，中国将防止对为获得使用新化学成份的药品或农业化学物质的销售许可而提交的未披露试验数据或其他数据受到不正当商业利用，规定在数据提交人得到销售许可之日起至少 6 年内，除提交此类数据的人以外，任何人未经最初提交数据的人许可，不得以此数据为基础申请产品的销售许可。

284. 中国代表进一步确认，为遵守《TRIPS 协定》第 39 第第 3 款，中国将对为申请使用新化学成份药品或农业化学品的销售许可而按要求提交中国主管机关的未披露试验数据或其他数据提供有效保护，以防止不天当商业利用，但披露这些数据是讼共利益所必需的或已采取保护措施防止该数据受到不正当商业利用的情况除外。这种保护包括，采用并制定法律和示规，以保证自中国政府向数据提供者授予销售许可之日起至少 6 年内，除数据提供者外，未经数据提供者允许，任何人不得以数据为基础申请产品销售许可。在此期间，对于任何第二个申请销售许可的人，只有当其提交的数据时方可被授予销售许可。所有使用新化学成份的药品或农业化学物质均可受到此种数据保护，无论其是否受专利保护。工作组注意到这些承诺。

七、其他问题

3、透明度

324. 一些成员对适用于《WTO 协定》和议定书（草案）所涵盖事项的法律、法规及其他措施缺乏透明度表示关注。特别是，一些成员指出，在找到和获得各部委以及各省和其他地方主管机关的法规或采取的其他措施的副本方面存在困难。法规和其他措施的透明度，特别是地方各级主管机关的法律和其他措施的透明度至关重要，因为这些地主同关经常对中央政府更原则性的法律、法规及其他措施如何实施作出具体规定，并经常在不同管辖范围内出现差异。这些成员强调需要及时收到此种信息，以便政府和贸易商能够为符合此类规定作好准备，并可以实施和执行此类措施方面行使自己的权利。这些成员强调此种提前公布对于增加安全和可预测的贸易关系的重要性。这些成员注意到，国际互联网和其他手段的发展保证了所有各级政府机关的信息可以汇集一处，并可以容易获得。创立和维持单一和权威性的刊物和咨询点将大大便利信息传播，并有助于促进遵守。

applications for marketing approval of pharmaceutical or of agricultural chemical products which utilize new chemical entities, by providing that no person other than the person that submitted such data may, without the permission of the person initially submitting the data, rely on such data in support of an application for product approval for a period of at least six years from the date on which marketing approval to the person that submitted the data had been granted.

284. The representative of China further confirmed that China would, in compliance with Article 39.3 the TRIPS Agreement, provide effective protection against unfair commercial use of undisclosed test or other data submitted to authorities on China as required in support of applications for marketing approvalof pharmaceutical or of agricultural chemical products which utilized new chemical entites, except where the disclosure of suchdata was necessery to protecy the public, or where steps were taken to ensure that the data are protected against unfai commercialuse. This protection would include introduction and enactment of lasw and regulationsto make sure that no person, other than the person who submitted such data, could, without the permissionof the person who submitted the data, rely on such data in support of an applicationfor product approval for a period of at least six yearsfrom the date on which China granted marketing approval to the person submitting the data. During this period, any second applicant for market authorization would only be granted market authorization if he submits his own data. This protectionof data would be available to all pharnaceutical and agricultural products which utilize new chemical entities, irrespective of whether they were patent-protected or not. The Working Parth took note of these commitments.

VII. OTHER ISSUES

3. Transparency

324. Some members of the Working Party expressed concern about the lack of transparency regardingthe laws, regulations and other measures that applied to matters covered in the WTO Agreement and the Draft Protocol. In particular, some members noted the difficulty in finding and obtaining copies of regulations and other measures undertaken by various ministries as well as those taken by provincial and other local authorities. Transparency of regulation and other measures, particularly of subnational authorities, was essential since these authorities often provided the details on how the more general laws, regulations and other measures of the central government would be implemented and often differed among various jurisdictions. Those members emphasized the need to receive such information in a timaly fashion so that governments and traders could be prepared to comply with such provisions and could exercise their rights in respect of implementation and enforcement of such measures. The same members emphasized the importance of such pre-publication to enhancing secure, predictable trading relation. Those members noted the development of the Internet and other means to ensure that information from all government bodies at all levels could be assembled in one place and made readily available. The creation and maintenance of a single, authoritative journal and enquiry point would greatly facilitate dissemination of information and help promote compliance.

第四编

世贸组织规则与环境保护

PART Ⅳ

Rules of the WTO and Environmental Protection

一、马拉喀什建立世界贸易组织协定

I. Marrakesh Agreement Establishing the World Trade Organization

马拉喀什建立世界贸易组织协定（1994）

（有关环境保护的条款摘录）

本协定各参加方，

认识到在处理它们在贸易和经济领域的关系时，应以提高生活水平、保证充分就业、保证实际收入和有效需求的大幅稳定增长以及扩大货物和服务的生产和贸易为目的，同时应**依照可持续发展的目标**，考虑对世界资源的最佳利用，寻求既**保护和维护环境**，又以与它们各自在不同经济发展水平的需要和关注相一致的方式，加强为此采取的措施，

进一步认识到需要作出积极努力，以保证发展中国家、特别是其中的最不发达国家，在国际贸易增长中获得与其经济发展需要相当的份额，

期望通过达成互惠互利安排，实质性削减关税和其他贸易壁垒，消除国际贸易关系中的歧视待遇，从而为实现这些目标作出贡献，

因此决定建立一个完整的、更可行的和持久的多边贸易体制，以包含《关税与贸易总协定》、以往贸易自由化努力的结果以及乌拉圭回合多边贸易谈判的全部结果，

决心维护多边贸易体制的基本原则，并促进该体制目标的实现，

协议如下：

第 1 条
WTO 的建立

特此建立世界贸易组织（下称“WTO”）。

第 2 条
WTO 的范围

1. WTO 在与本协定附件所含协定和相关法律文件有关的事项方面，为处理其成员间的贸易关系提供共同的组织机构。

2. 附件 1、附 2 和附件 3 所列协定及相关法律文件（下称“多边贸易协定”）为本协定的组成部分，对所有成员具有约束力。

3. 附件 4 所列协定及相关法律文件（下称“诸边贸易协定”），对于接受的成员，也属本协定的一部分，并对这些成员具有约束力。诸边贸易协定对于未接受的成员既不产生权利也不产生义务。

4. 附件 1A 所列《1994 年关税与贸易总协定》（下称“GATT 1994”）在法律上不同于 1947 年 10 月 30 日的《关税与贸易总协定》，后者附在《联合国贸易与就业会议筹备委员会第二次会议结束时通过的最后文件》之后，以后又历经更正、修正或修

MARRAKESH AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION(1994)

(Adopted in Marrakesh on April 15,1994)

The *Parties* to this Agreement,

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,

Recognizing further that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development,

Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations,

Resolved, therefore, to develop an integrated, more viable and durable multilateral trading system encompassing the General Agreement on Tariffs and Trade, the results of past trade liberalization efforts, and all of the results of the Uruguay Round of Multilateral Trade Negotiations,

Determined to preserve the basic principles and to further the objectives underlying this multilateral trading system,

Agree as follows:

Article I

Establishment of the Organization

The World Trade Organization (hereinafter referred to as "the WTO") is hereby established.

Article II

Scope of the WTO

1. The WTO shall provide the common institutional framework for the conduct of trade relations among its Members in matters related to the agreements and associated legal instruments included in the Annexes to this Agreement.

2. The agreements and associated legal instruments included in Annexes 1, 2 and 3 (hereinafter referred to as "Multilateral Trade Agreements") are integral parts of this Agreement, binding on all Members.

3. The agreements and associated legal instruments included in Annex 4 (hereinafter referred to as "Plurilateral Trade Agreements") are also part of this Agreement for those Members that have accepted them, and are binding on those Members. The Plurilateral Trade Agreements do not create either obligations or rights for Members that have not accepted them.

4. The General Agreement on Tariffs and Trade 1994 as specified in Annex 1A (hereinafter referred to as "GATT 1994") is legally distinct from the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified (hereinafter referred to as "GATT 1947").

改（下称“GATT 1947”）。

第 3 条
WTO 的职能

1. WTO 应便利本协定和多边贸易协定的实施、管理和运用，并促进其目标的实现，还应为诸边贸易协定提供实施、管理和运用的体制。

2. WTO 在根据本协定附件所列协定处理的事项方面，应为其成员间就多边贸易关系进行的谈判提供场所。WTO 还可按部长级会议可能作出的决定，为其成员间就它们多边贸易关系的进一步谈判提供场所，并提供实施此类谈判结果的体制。

3. WTO 应管理本协定附件 2 所列《关于争端解决规则与程序的谅解》（下称“《争端解决谅解》”或“DSU”）。

4. WTO 应管理本协定附件 3 规定的《贸易政策审议机制》（下称“TPRM”）。

5. 为实现全球经济决策的更大一致性，WTO 应酌情与国际货币基金组织和国际复兴开发银行及其附属机构进行合作。

第 4 条
WTO 的结构

1. 设立由所有成员的代表组成的部长级会议，应至少每 2 年召开一次会议。部长级会议应履行 WTO 的职能，并为此采取必要的行动。如一成员提出请求，部长级会议有权依照本协定和有关多边贸易协定中关于决策的具体要求，对任何多边贸易协定项下的所有事项作出决定。

2. 设立由所有成员的代表组成的总理事会，酌情召开会议。在部长级会议休会期间，其职能应由总理事会行使。总理事会还应行使本协定指定的职能。总理事会应制定自己的议事规则，并批准第 7 款规定的各委员会的议事规则。

3. 总理事会应酌情召开会议，履行《争端解决谅解》规定的争端解决机构的职责。争端解决机构可有自己的主席，并制定其认为履行这些职责所必需的议事规则。

4. 总理事会应酌情召开会议，履行 TPRM 中规定的贸易政策审议机构的职责。贸易政策审议机构可有自己的主席，并应制定其认为履行这些职责所必需的议事规则。

5. 设立货物贸易理事会、服务贸易理事会和与贸易有关的知识产权理事会（下称“TRIPS 理事会”），各理事会应根据总理事会的总体指导运作。货物贸易理事会应监督附件 1A 所列多边贸易协定的实施情况。服务贸易理事会应监督《服务贸易总协定》（下称“GATS”）的实施情况。TRIPS 理事会应监督《与贸易有关的知识产权协定》（下称“《TRIPS 协定》”）的实施情况。各理事会应履行各自协定和总理事会指定的职能。它们应自行制定各自的议事规则，但需经总理事会批准。各理事会

Article III

Functions of the WTO

1. The WTO shall facilitate the implementation, administration and operation, and further the objectives, of this Agreement and of the Multilateral Agreements, and shall also provide the framework for the implementation, administration and operation of the Plurilateral Trade Agreements.

2. The WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes to this Agreement. The WTO may also provide a forum for further negotiations among its Members concerning their multilateral trade relations, and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference.

3. The WTO shall administer the Understanding on Rules and Procedures Governing the Settlement of Disputes(hereinafter referred to as the "Dispute Settlement Understanding"or "DSU")in Annex 2 to this Agreement.

4. The WTO shall administer the Trade Policy Review Mechanism (hereinafter referred to as the "TPRM")provided for in Annex 3 to this Agreement.

5. With a view to achieving greater coherence in global economic policy-making, the WTO shall cooperate, as appropriate, with the International Monetary Fund and with the International Bank for Reconstruction and Development and its affiliated agencies.

Article IV

Structure of the WTO

1. There shall be a Ministerial Conference composed of representatives of all the Members, which shall meet at least once every two years. The Ministerial Conference shall carry out the functions of the WTO and take actions necessary to this effect. The Ministerial Conference shall have the authority to take decisions on all matters under any of the Multilateral Trade Agreements, if so requested by a Member, in accordance with the specific requirements for decision-making in this Agreement and in the relevant Multilateral Trade Agreement.

2. There shall be a General Council composed of representatives of all the Members, which shall meet as appropriate. In the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council. The General Council shall also carry out the functions assigned to it by this Agreement. The General Council shall establish its rules of procedure and approve the rules of procedure for the Committees provided for in paragraph 7.

3. The General Council shall convene as appropriate to discharge the responsibilities of the Dispute Settlement Body provided for in the Dispute Settlement Understanding. The Dispute Settlement Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfilment of those responsibilities.

4. The General Council shall convene as appropriate to discharge the responsibilities of the Trade Policy Review Body provided for in the TPRM. The Trade Policy Review Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfilment of those responsibilities.

5. There shall be a Council for Trade in Goods, a Council for Trade in Services and a Council for Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the "Council for TRIPS"), which shall operate under the general guidance of the General Council. The Council for Trade in Goods shall oversee the functioning of the Multilateral Trade Agreements in Annex 1A. The Council for Trade in Services shall oversee the functioning of the General Agreement on Trade in Services(hereinafter referred to as "GATS"). The Council for TRIPS shall oversee the functioning of the Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the "Agreement on TRIPS"). These Councils shall carry out the functions assigned to them by their respective agreements and by the General Council. They shall establish their respective rules of procedure subject to the approval of the General Council. Membership in these Councils shall be open to represen-

的成员资格应对所有成员的代表开放。各理事会应在必要时召开会议，以行使其职能。

6. 货物贸易理事会、服务贸易理事会和 TRIPS 理事会应按要求设立附属机构。各附属机构应自行制定各自的议事规则，但需经各自的理事会批准。

7. 部长级会议应设立贸易与发展委员会、国际收支限制委员会和预算、财务与行政委员会，各委员会应行使本协定和多边贸易协定指定的职能，以及总理事会指定的任何附加职能。部长级会议还可设立具有其认为适当的职能的其他委员会。作为其职能的一部分，贸易与发展委员会应定期审议多边贸易协定中有利于最不发达国家成员的特殊规定，并向总理事会报告以采取适当行动。各委员会的成员资格应对所有成员的代表开放。

8. 诸边贸易协定项下规定的机构履行这些协定指定的职责，并在 WTO 的组织机构内运作。各机构应定期向总理事会报告其活动。

第 5 条

与其他组织的关系

1. 总理事会应就与职责上同 WTO 有关的政府间组织进行有效合作作出适当安排。

2. 总理事会可就与涉及 WTO 有关事项的非政府组织进行磋商和合作作出适当安排。

第 6 条

秘书处

1. 设立由总干事领导的 WTO 秘书处（下称“秘书处”）。

2. 部长级会议应任命总干事，并通过列出总干事的权力、职责、服务条件和任期的条例。

3. 总干事应任命秘书处职员，并依照部长级会议通过的条例，确定他们的职责和服务条件。

4. 总干事和秘书处职员的职责纯属国际性质。在履行其职责时，总干事和秘书处职员不得寻求或接受 WTO 之外任何政府或任何其他权力机关的指示。他们应避免任何可能对其国际官员身份产生不利影响的行动。WTO 成员应尊重总干事和秘书处职员职责的国际性质，不得寻求在他们履行职责时对其施加影响。

第 8 条

WTO 的地位

1. WTO 具有法律人格，WTO 每一成员均应给予 WTO 履行其职能所必需的法定资格。

2. WTO 每一成员均应给予 WTO 履行其职能所必需的特权和豁免。

3. WTO 每一成员应同样给予 WTO 官员和各成员代表独立履行与 WTO 有关的职能所必需的特权和豁免。

tatives of all Members. These Councils shall meet as necessary to carry out their functions.
6. The Council for Trade in Goods, the Council for Trade in Services and the Council for TRIPS shall establish subsidiary bodies as required. These subsidiary bodies shall establish their respective rules of procedure subject to the approval of their respective Councils.
7. The Ministerial Conference shall establish a Committee on Trade and Development, a Committee on Balance-of-Payments Restrictions and a Committee on Budget, Finance and Administration, which shall carry out the functions assigned to them by this Agreement and by the Multilateral Trade Agreements, and any additional functions assigned to them by the General Council, and may establish such additional Committees with such functions as it may deem appropriate. As part of its functions, the Committee on Trade and Development shall periodically review the special provisions in the Multilateral Trade Agreements in favour of the least-developed country Members and report to the General Council for appropriate action. Membership in these Committees shall be open to representatives of all Members.
8. The bodies provided for under the Plurilateral Trade Agreements shall carry out the functions assigned to them under those Agreements and shall operate within the institutional framework of the WTO. These bodies shall keep the General Council informed of their activities on a regular basis.

Article V
Relations with Other Organizations

1. The General Council shall make appropriate arrangements for effective cooperation with other intergovernmental organizations that have responsibilities related to those of the WTO.
2. The General Council may make appropriate arrangements for consultation and cooperation with nongovernmental organizations concerned with matters related to those of the WTO.

Article VI
The Secretariat

1. There shall be a Secretariat of the WTO (hereinafter referred to as "the Secretariat") headed by a Director-General.
2. The Ministerial Conference shall appoint the Director-General and adopt regulations setting out the powers, duties, conditions of service and term of office of the Director-General.
3. The Director-General shall appoint the members of the staff of the Secretariat and determine their duties and conditions of service in accordance with regulations adopted by the Ministerial Conference.
4. The responsibilities of the Director-General and of the staff of the Secretariat shall be exclusively international in character. In the discharge of their duties, the Director-General and the staff of the Secretariat shall not seek or accept instructions from any government or any other authority external to the WTO. They shall refrain from any action which might adversely reflect on their position as international officials. The Members of the WTO shall respect the international character of the responsibilities of the Director-General and of the staff of the Secretariat and shall not seek to influence them in the discharge of their duties.

Article VIII
Status of the WTO

1. The WTO shall have legal personality, and shall be accorded by each of its Members such legal capacity as may be necessary for the exercise of its functions.
2. The WTO shall be accorded by each of its Members such privileges and immunities as are necessary for the exercise of its functions.
3. The officials of the WTO and the representatives of the Members shall similarly be accorded by each of its Members such privileges and immunities as are necessary for the independent exercise of their functions in connection with the WTO.
4. The privileges and immunities to be accorded by a Member to the WTO, its officials, and the representatives of its Members shall be similar to the privileges and immunities stipulated in the Convention

4. WTO 每一成员给予 WTO、其官员及其成员的代表的特权和豁免应与 1947 年 11 月 21 日联合国大会批准的《专门机构特权及豁免公约》所规定的特权和豁免相似。
5. WTO 可订立一总部协定。

第 9 条
决策

1. WTO 应继续实行 GATT 1947 所遵循的经协商一致作出决定的做法[①]。除非另有规定，否则如无法经协商一致作出决定，则争论中的事项应通过投票决定。在部长级会议和总理事会会议上，WTO 每一成员拥有一票。如欧洲共同体行使投票权，则其拥有的票数应与属 WTO 成员的欧洲共同体成员国的数目[②] 相等。部长级会议和总理事会的决定应以所投票数的简单多数作出，除非本协定或有关多边贸易协定另有规定。[③]
2. 部长级会议和总理事会拥有通过对本协定和多边贸易协定所作解释的专有权力。对附件 1 中一多边贸易协定的解释，部长级会议和总理事会应根据监督该协定实施情况的理事会的建议行使其权力。通过一项解释的决定应由成员的四分之三多数作出。本款不得以损害第 10 条中有关修正规定的方式使用。
3. 在特殊情况下，部长级会议可决定豁免本协定或任何多边贸易协定要求一成员承担的义务，但是任何此类决定应由成员的四分之三[④] 多数作出，除非本款另有规定。

(a) 有关本协定的豁免请求，应根据经协商一致作出决定的做法，提交部长级会议审议。部长级会议应确定一不超过 90 天的期限审议该请求。如在此期限内未能协商一致，则任何给予豁免的决定应由成员的四分之三多数作出。[④]

(b) 有关附件 1A、附件 1B 或附件 1C 所列多边贸易协定及其附件的豁免请求，应首先分别提交货物贸易理事会、服务贸易理事会或 TRIPS 理事会，在不超过 90 天的期限内审议。在该期限结束时，有关理事会应向部长级会议提交一份报告。

4. 部长级会议给予豁免的决定应陈述可证明该决定合理的特殊情况、适用于实施豁免的条款和条件以及豁免终止的日期。所给予的期限超过 1 年的任何豁免应在给予后不迟于 1 年的时间内由部长级会议审议，并在此后每年审议一次，直至豁免终止。每次审议时，部长级会议应审查证明豁免合理的特殊情况是否仍然存在及豁免所附条款和条件是否得到满足。部长级会议根据年度审议情况，可延长、修改或终止该项豁免。

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① 如在作出决定时，出席会议的成员均未正式反对拟议的决定，则有关机构应被视为经协商一致对提交其审议的事项作出了决定。
② 欧洲共同体及其成员国的票数决不能超过欧洲共同体成员国的数目。
③ 对于作为争端解决机构召集的总理事会的决定，应仅依照《争端解决谅解》第 2 条第 4 款的规定作出。
④ 对于受过渡期或分阶段执行期限约束的任何义务，如提出豁免请求的成员在有关期限结束时未履行该义务，则关于豁免的决定只能经协商一致作出。

on the Privileges and Immunities of the Specialized Agencies, approved by the General Assembly of the United Nations on 21 November 1947.

5. The WTO may conclude a headquarters agreement.

Article IX

Decision-Making

1. The WTO shall continue the practice of decision-making by consensus followed under GATT 1947. [①] Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. At meetings of the Ministerial Conference and the General Council, each Member of the WTO shall have one vote. Where the European Communities exercise their right to vote, they shall have a number of votes equal to the number of their member States[②] which are Members of the WTO. Decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast, unless otherwise provided in this Agreement or in the relevant Multilateral Trade Agreement. [③]

2. The Ministerial Conference and the General Council shall have the exclusive authority to adopt interpretations of this Agreement and of the Multilateral Trade Agreements. In the case of an interpretation of a Multilateral Trade Agreement in Annex 1, they shall exercise their authority on the basis of a recommendation by the Council overseeing the functioning of that Agreement. The decision to adopt an interpretation shall be taken by a three-fourths majority of the Members. This paragraph shall not be used in a manner that would undermine the amendment provisions in Article X.

3. In exceptional circumstances, the Ministerial Conference may decide to waive an obligation imposed on a Member by this Agreement or any of the Multilateral Trade Agreements, provided that any such decision shall be taken by three fourths[④] of the Members unless otherwise provided for in this paragraph.

(a) A request for a waiver concerning this Agreement shall be submitted to the Ministerial Conference for consideration prusuant to the practice of decision-making by consensus. The Ministerial Conference shall establish a time period, which shall not exceed 90 days, to consider the request. If consensus is not reached during the time period, any decision to grant a waiver shall be taken by three fourths[④] of the Members.

(b) A request for a waiver concerning the Multilateral Trade Agreements in Annexes 1A or 1B or 1C and their annexes shall be submitted initially to the Council for Trade in Goods, the Council for Trade in Services or the Council for TRIPS, respectively, for consideration during a time period which shall not exceed 90 days. At the end of the time period, the relevant Council shall submit a report to the Ministerial Conference.

4. A decision by the Ministerial Conference granting a waiver shall state the exceptional circumstances justifying the decision, the terms and conditions governing the application of the waiver, and the date on which the waiver shall terminate. Any waiver granted for a period of more than one year shall be reviewed by the Ministerial Conference not later than one year after it is granted, and thereafter annually until the waiver terminates. In each review, the Ministerial Conference shall examine whether the exceptional circumstances justifying the waiver still exist and whether the terms and conditions attached to the waiver have been met. The Ministerial Conference, on the basis of the annual review, may extend, modify or terminate the waiver.

5. Decisions under a Plurilateral Trade Agreement, including any decisions on interpretations and waiv-

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① The body concerned shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting when the decision is taken, formally objects to the proposed decision.

② The number of votes of the European Communities and their member States shall in no case exceed the number of the member States of the European Communities.

③ Decisions by the General Council when convened as the Dispute Settlement Body shall be taken only in accordance with the provisions of paragraph 4 of Article 2 of the Dispute Settlement Understanding.

④ A decision to grant a waiver in respect of any obligation subject to a transition period or a period for staged implementation that the requesting Member has not performed by the end of the relevant period shall be taken only by consensus.

5. 诸边贸易协定项下作出的决定，包括有关解释和豁免的任何决定，应按该协定的规定执行。

附件清单

附件 1

附件 1A　货物贸易多边协定

1994 年关税与贸易总协定
农业协定
实施卫生与植物卫生措施协定
纺织品与服装协定
技术性贸易壁垒协定
与贸易有关的投资措施协定
关于实施 1994 年关税与贸易总协定第 6 条的协定
关于实施 1994 年关税与贸易总协定第 7 条的协定
装运前检验协定
原产地规则协定
进口许可程序协定
补贴与反补贴措施协定
保障措施协定

附件 1B　服务贸易总协定及附件

附件 1C　与贸易有关的知识产权协定

附件 2

关于急端解决规则与程序的谅解

附件 3

贸易政策审议机制

附件 4

诸边贸易协定[①]

民用航空器贸易协定
政府采购协定
国际奶制品协定
国际牛肉协定

① 《国际奶制品协定》和《国际牛肉协定》已于 1997 年年底终止。

ers, shall be governed by the provisions of that Agreement.

LIST OF ANNEXES

ANNEX 1

ANNEX 1A MULTILATERAL AGREEMENTS ON TRADE IN GOODS

General Agreement on Tariffs and Trade 1994
Agreement on Agriculture
Agreement on the Application of Sanitary and Phytosanitary Measures
Agreement on Textiles and Clothing
Agreement on Technical Barriers to Trade
Agreement on Trade-Related Investment Measures
Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
Agreement on Preshipment Inspection
Agreement on Rules of Origin
Agreement on Import Licensing Procedures
Agreement on Subsidies and Countervailing Measures
Agreement on Safeguards

ANNEX 1B GENERAL AGREEMENT ON TRADE IN SERVICES AND ANNEXES

ANNEX 1C AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

ANNEX 2

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ANNEX 3

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PLURILATERAL TRADE AGREEMENTS[①]

Agreement on Trade in Civil Aircraft
Agreement on Government Procurement
International Dairy Agreement
International Bovine Meat Agreement

① The International Dairy Agreement and the International Bovine Meat Agreement were terminated at the end of 1997.

1994 年税与贸易总协定

（有关环境保护的条款摘录）

1.《1994 年关税与贸易总协定》（“GATT 1994”）包括：

（a）《联合国贸易与就业会议筹备委员会第二次会议结束时通过的最后文件》所附 1947 年 10 月 30 日的《关税与贸易总协定》的各项条款（不包括《临时适用议定书》），该协定历经《WTO 协定》生效之日前已实施的法律文件的条款更正、修正或修改；

（b）《WTO 协定》生效之日前在 GATT 1947 项下已实施的以下所列法律文件的条款：

（i）与关税减让相关的议定书和核准书；

（ii）加入议定书（不包括（a）关于临时适用和撤销临时适用的规定及（b）规定应在与议定书订立之日已存在的立法不相抵触的最大限度内临时适用 GATT 1947 第二部分的条款）；

（iii）根据 GATT 1947 第 25 条给予的、且在《WTO 协定》生效之日仍然有效的关于豁免的决定[①]；

（iv）GATT 1947 缔约方全体的其他决定；

2. 解释性说明：

（a）AGTT1947 的条款所指的“缔约方”应视为读作“成员”。所指的“欠发达缔约方”和“发达缔约方”应视为分别读作“发展中国家成员”和“发达国家成员”。所指的“执行秘书”应视为读作“WTO 总干事”。

（b）第 15 条第 1 款、第 15 条第 2 款、第 15 条第 8 款、第 38 条及关于第 12 条和第 18 条的注释中，以及 GATT 1994 年第 15 条第 2 款、第 15 条第 3 款、第 15 条第 6 款、第 15 条第 7 款和第 15 条第 9 款关于特殊外汇协定的规定中所指的采取联合行动的缔约方全体，应视为指 WTO。GATT 1994 的条款指定采取联合行动的缔约方全体履行的其他职能应由部长级会议进行分配。

（c）（i）GATT 1994 的英文、法文和西班牙文文本均为正式文本。

（ii）GATT 1994 的法文文本应按以 MTN. TNC/14 号文件附件 A 所列更正词语为准。

（iii）GATT 1994 的西班牙文正式文本应为《基本文件资料选编》第 4 卷中的文本，但应以 MTN. TNC/41 号文件附件 B 所列更正词语为准。

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① 本规定适用的豁免列入 1993 年 12 月 15 日 MTN/FA 号文件第二部分 第 11 至 12 页脚注 7 中和 1994 年 3 月 21 日 MTN/FA/Corr. 6 号文件中。部长会议应在其第一届会议上制定一份本规定适用的豁免的修改清单，增加在 1993 年 12 月 15 日之后至《WTO 协定》生效之日前根据 GATT 1947 所给予的豁免，并删除届时将期满的豁免。

GENERAL AGREEMENT ON TARIFFS AND TRADE 1994
(excerpt of environment-related articles)

1. The General Agreement on Tariffs and Trade 1994("GATT 1994")shall consist of:
   (a) the provisions in the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatiry Committee of the United Nations Conference on Trade and Employment (excluding the Protocol of Provisional Application), as rectified, amended of modified by the terms of legal instruments which have entered into force before the date of entry into force of the WTO Agreement;
   (b) the provisions of the legal instruments set forth below that have entered into force under the GATT 1947 before the date of entry into force of the WTO Agreement:
      (i) protocols and certifications relating to tariff concessions;
      (ii) protocols of accession (excluding the provisions (*a*) concerning provisional application and withdrawal of provisional application and (*b*) providing that Part II of GATT 1947 shall be applied provisionally to the fullest extent not inconsistent with legislation existing on the date of the Protocol);
      (iii) decisions on waivers granted under Article XXV of GATT 1947 and still in force on the date of entry into force of the WTO Agreenent①;
      (iv) other decisions of the CONTRACTING PARTIES to GATT 1947;
2. *Explanatory Notes*
   (a) The references to "contracting party"in the provisions of GATT 1994 shall be deemed to raed "Member". The references to "less-developed contracting party" and "developed contracting party"shall be deemed to read "developing country Mimber"and "developed country Member". The references to "Executive Secretary" shall be deemed to read "Director-General of the WTO".
   (b) The referencer to the CONTRACTING PARTIES acting jointly in Articles XV:1, XV:2, XV:8, XXXVIII and the Notes *Ad* Article XII and XVIII; and in the provisions on special exchange agreements in Articles XV:2,XV:3,XV:6,XV:7 and XV:9 of GATT 1994 shall be deemed to be references to the WTO. The other functions that the provisions of GATT 1994 assign to the CONTRACTING PARTIES acting jointly shall be allocated by the Ministerial Conference.
   (c) (i) The text of GATT 1994 shall be authentic in English,French and Spanish.
      (ii) The text of GATT 1994 in the French language shall be subject to the rectifications of terms indicated in Annex A to document MTN.TNC/41.
      (iii) The authentic text of GATT 1994 in the Spanish language shall be the text in Volume VI of the Basic Instruments and Selected Documents series, subject to the rectifiactions of terms indicated in Annex B to document MTN.TNC/41.

① The waivers covered by this provision are listed in footnote 7 on pages 11 and 12 in Part II of document MTN/FA of 15 December 1993 and in MTN/FA/Corr.6 of 21 March 1994. The Ministerial Conference shall establish at its first sessiong a revised list of waivers covered by this provision that adds any waivers granted under GATT 1947 after 15 December 1993 and before the date of entry into force of the WTO Agreement, and deletes the waivers which will have expired by that time.

农业协定

（有关环境保护的条款摘录）

各成员，

决定为发动符合《埃斯特角城宣言》所列谈判目标的农产品贸易改革进程而建立基础；

忆及它们在乌拉圭回合中期审评时所议定的长期目标是“建立一个公平的、以市场为导向的农产品贸易体制，并应通过支持和保护承诺的谈判及建立增强的和更行之有效的 GATT 规则和纪律发动改革进程”；

又忆及“上述长期目标是在议定的期限内，持续对农业支持和保护逐步进行实质性的削减，从而纠正和防止世界农产品市场的限制和扭曲”；

承诺在以下每一领域内达成具体约束承诺：市场准入；国内支持；出口竞争；并就卫生与植物卫生问题达成协议；

同意在实施其市场准入承诺时，发达国家成员将充分考虑发展中国家成员的特殊需要和条件，对这些成员有特殊利益的农产品在更大程度上改进准入机会和条件，包括在中期审评时议定的给予热带农产品贸易的全面自由化，及鼓励对以生产多样化为途径停止种植非法麻醉作物有特殊重要性的产品；

注意到应以公平的方式在所有成员之间作出改革计划下的承诺，并注意到非贸易关注，包括粮食安全和**保护环境**的需要，注意到各方一致同意发展中国家的特殊和差别待遇是谈判的组成部分，同时考虑改革计划的实施可能对最不发达国家和粮食净进口发展中国家产生的消极影响；

特此协议如下：

……

第三部分

第 4 条

市场准入

1．减让表所含市场准入减让涉及关税约束和削减，并涉及其中列明的其他市场准入承诺。

2．各成员不得维持、采取或重新使用已被要求转换为普通关税的任何措施[①]，除非第 5 条和附件 5 中另有规定。

……

① 这些措施包括进口数量限制、进口差价税、最低进口价格、酌情发放进口许可证、通过国营贸易企业维持的非关税措施、自动出口限制及除普通关税外的类似边境措施，无论这些措施是否根据特定国家背离 GATT 1947 的规定而保留，但不包括根据国际收支条款或 GATT 1994 其他总体的、非特指农产品的规定或《WTO 协定》附件 1A 所列其他多边贸易协定的规定而维持的措施。

AGREEMENT ON AGRICULTURE

(except of environment-related articles)

Members,

Having decided to establish a basis for initiating a process of reform of trade in agriculture in line with the objectives of the negotiations as set out in the Punta del Este Declaration;

Recalling that their long-term objective as agreed at the Mid-Term Review of the Uruguay Round"is to establish a fair and market-oriented agricultural trading system and that a reform process should be initiated throu gh the negotiation of commitments on support and protection and through the establishment of strengthened and more operationally effective GATT rules and disciplines";

Recalling further that"the above-mentioned long-term objective is to provide for substantial progressive reductions in agricultural support and protection sustained over an agreed period of time, resulting in correcting and preventing restrictions and distortions in world agricultural markets";

Committed to achieving specific binding commitments in each of the following areas: market access; domestic support; export competition; and to reaching an agreement on sanitary and phytosanitary issues;

Having agreed that in implementing their commitments on market access, developed country Members would take fully into account the particular needs and conditions of developing country Members by providing for a greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical agricultural products as agreed at the Mid-Term Review, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops;

Noting that commitments under the reform programme should be made in an equitable way among all Members, having regard to non-trade concerns, including food security and the need to protect the environment, having regard to the agreement that special and differential treatment for developing countries is an integralelement of the negotiations, and taking into account the possible negative effects of the implementation of the reform programme on least-developed and net food-importing developing countries;

Hereby *agree* as follows:

.....

PART III

Article *4*

Market access

1. Market access concessions contained in Schedules relate to bindings and reductions of tariffs, and to other market access commitments as specified therein.

2. Members shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties①, except as otherwise provided for in Article 5 and Annex 5.

.....

PART IV

Article 6

① These measures include quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, non-tariff measures maintained through state-trading enterprises, voluntary export restraints, and similar border measures other than ordinary customs duties, whether or not the measures are maintained under country-specific derogations from the provisions of GATT 1947, but not measures maintained under balance-of-payments provisions or under other general, nonagriculture-specific provisions of GATT 1994 or of the other Multilateral Trade Agreements in Annex 1A to the WTO Agreement.

第四部分

第6条

国内支持承诺

1. 每一成员减让表第四部分所含国内支持削减承诺应适用于其所有有利于农业生产者的国内支持措施，但按照本条和本协定附件2所列标准不需进行削减的国内措施除外。这些承诺以综合支持总量和“年度和最终承诺水平”表示。

2. 依照中期审评协议，政府直接或间接鼓励农业和农村发展的援助措施属发展中国家发展计划的组成部分，对于发展中国家成员中农业可普遍获得的投资补贴和发展中国家成员中低收入或资源贫乏生产者可普遍获得的农业投入补贴，应免除在其他情况下本应对此类措施适用的国内支持削减承诺，对于发展中国家成员鼓励对以生产多样化为途径停止种植非法麻醉作物而给予生产者的国内支持也应免除削减承诺。符合本款标准的国内支持不需包括在一成员关于其现行综合支持总量的计算之中。

3. 如一成员在任何一年中其以现行综合支持总量表示的有利于农业生产者的国内支持未超过该成员减让表第四部分列明的相应年份或最终约束承诺水平，则该成员应被视为符合其国内支持削减承诺。

4. (a) 对于下列两项内容，成员不需将其包括在其现行综合支持总量的计算中，也不需削减：

(i) 其他情况下本应要求包括在一成员关于其现行综合支持总量计算中的特定产品的国内支持，如此类支持未超过该成员一基本农产品在相关年度内生产总值的5%；及

(ii) 在其他情况下本应包括在一成员关于其现行综合支持总量计算中的非特定产品的国内支持，如此类支持未超过该成员农业生产总值的5%。

(b) 对于发展中国家成员，本款下规定的微量百分比应为10%。

5. (a) 在下列条件下，限产计划下给予的直接支付不在削减国内支持的承诺之列：

(i) 此类支付按固定面积和产量给予；或

(ii) 此类支付按基期生产水平的85%或85%以下给予；或

(iii) 牲畜支付按固定头数给予。

(b) 免除符合以上标准的直接支付的削减承诺，应反映在将这些直接支付的价值排除在一成员关于其现行综合支持总量的计算之外。。

第7条

国内支持的一般纪律

1. 每一成员应保证，使那些符合本协定附件2所列标准而不需受削减承诺限制的有利于农业生产者的任何国内支持措施继续符合这些标准。

2. (a) 任何有利于农业生产者的国内支持措施，包括对该措施的任何修改，以及随后采取的、不能证明其符合本协定附件2的标准或不能根据本协定任何其他规定而免除削减的任何措施，均应包括在该成员关于其现行综合支持总量的计算中。

Domestic Support Commitments

1. The domestic support reduction commitments of each Member contained in Part IV of its Schedule shall apply to all of its domestic support measures in favour of agricultural producers with the exception of domestic measures which are not subject to reduction in terms of the criteria set out in this Article and in Annex 2 to this Agreement. The commitments are expressed in terms of Total Aggregate Measurement of Support and "Annual and Final Bound Commitment Levels".

2. In accordance with the Mid-Term Review Agreement that government measures of assistance, whether direct or indirect, to encourage agricultural and rural development are an integral part of the development programmes of developing countries, investment subsidies which are generally available to agriculture in developing country Members and agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members shall be exempt from domestic support reduction commitments that would otherwise be applicable to such measures, as shall domestic support to producers in developing country Members to encourage diversification from growing illicit narcotic crops. Domestic support meeting the criteria of this paragraph shall not be required to be included in a Member's calculation of its Current Total AMS.

3. A Member shall be considered to be in compliance with its domestic support reduction commitments in any year in which its domestic support in favour of agricultural producers expressed in terms of Current Total AMS does not exceed the corresponding annual or final bound commitment level specified in Part Ⅳ of the Member's Schedule.

4. (a) A Member shall not be required to include in the calculation of its Current Total AMS and shall not be required to reduce:
   (i) product-specific domestic support which would otherwise be required to be included in a Member's calculation of its Current AMS where such support does not exceed 5 per cent of that Member's total value of production of a basic agricultural product during the relevant year; and
   (ii) non-product-specific domestic support which would otherwise be required to be included in a Member's calculation of its Current AMS where such support does not exceed 5 per cent of the value of that Member's total agricultural production.

   (b) For developing country Members, the *de minimis* percentage under this paragraph shall be 10 per cent.

5. (a) Direct payments under production-limiting programmes shall not be subject to the commitment to reduce domestic support if:
   (i) such payments are based on fixed area and yields; or
   (ii) such payments are made on 85 per cent or less of the base level of production; or
   (iii) livestock payments are made on a fixed number of head.

   (b) The exemption from the reduction commitment for direct payments meeting the above criteria shall be reflected by the exclusion of the value of those direct payments in a Member's calculation of its Current Total AMS.

Article 7

General Disciplines on Domestic Support

1. Each Member shall ensure that any domestic support measures in favour of agricultural producers which are not subject to reduction commitments because they qualify under the criteria set out in Annex 2 to this Agreement are maintained in conformity therewith.

2. (a) Any domestic support measure in favour of agricultural producers, including any modification to such measure, and any measure that is subsequently introduced that cannot be shown to satisfy the criteria in Annex 2 to this Agreement or to be exempt from reduction by reason of any other provision of this Agreement shall be included in the Member's calculation of its Current Total AMS.

   (b) Where no Total AMS commitment exists in Part Ⅳ of a Member's Schedule, the Member shall

(b) 如一成员减让表第四部分无综合支持总量承诺，则该成员给予农业生产者的支持不得超过第 6 条第 4 款所列的有关微量水平。

附件 2（摘录）

国内支持：免除削减承诺的基础

1. 要求免除削减承诺的国内支持措施应满足如下基本要求，即无贸易扭曲作用和对生产的作用，或此类作用非常小。因此，要求免除削减承诺的所有措施应符合下列基本标准：

(a) 所涉支持应通过公共基金供资的政府计划提供（包括放弃的政府税收），而不涉及来自消费者的转让；且

(b) 所涉支持不得具有对生产者提供价格支持的作用；

另加下列特定政策标准和条件。

政府服务计划

2. 一般服务

此类政策涉及与向农业或农村提供服务或利益的计划有关的支出（或放弃的税收）。它们不得涉及对生产者或加工者的直接支付。此类计划包括但不仅限于下列清单，应符合以上第 1 款中的总体标准和下列特定政策条件：

(a) 研究，包括一般研究、**与环境计划有关的研究**以及与特定产品有关的研究计划；

(b) 病虫害控制，包括一般的和特定产品的病虫害控制措施，如早期预警制度、检疫和根除；

(c) 培训服务，包括一般和专门培训设施；

(d) 推广和咨询服务，包括提供可便利信息和研究结果向生产者和消费者传播的方法；

(e) 检验服务，包括一般检验服务和为健康、安全、分级或标准化为目的特定产品检验；

(f) 营销和促销服务，包括与特定产品有关的市场信息、咨询和促销，但不包括未列明目的的、销售者可用以降低售价或授予购买者直接经济利益的支出；以及

(g) 基础设施服务，包括：电力网络、道路和其他运输方式、市场和港口设施、供水设施、堤坝和排水系统以及与环境计划有关的基础设施工程。在所有情况下，支出应只直接用于基本工程的提供和建设，并且除可普遍获得的公用设施网络化建设外，不得包括提供补贴的农场设施。支出不得包括对投入或运营成本的补贴或优惠使用费。

12. 环境计划下的支付

(a) 获得此类支付的资格应确定为明确规定的政府环境或保护计划的一部分，

not provide support to agricultural producers in excess of the relevant *de minimis* level set out in paragraph 4 of Article 6.

ANNEX 2 (Excerpt)

DOMESTIC SUPPORT: THE BASIS FOR EXEMPTION FROM THE REDUCTION COMMITMENTS

1. Domestic support measures for which exemption from the reduction commitments is claimed shall meet the fundamental requirement that they have no, or at most minimal, trade-distorting effects or effects on production. Accordingly, all measures for which exemption is claimed shall conform to the following basic criteria:

(a) the support in question shall be provided through a publicly-funded government programme (including government revenue foregone) not involving transfers from consumers; and,

(b) the support in question shall not have the effect of providing price support to producers;

plus policy-specific criteria and conditions as set out below.

Government Service Programmes

2. General services

Policies in this category involve expenditures (or revenue foregone) in relation to programmes which provide services or benefits to agriculture or the rural community. They shall not involve direct payments to producers or processors. Such programmes, which include but are not restricted to the following list, shall meet the general criteria in paragraph 1 above and policy-specific conditions where set out below:

(a) research, including general research, research in connection with environmental programmes, and research programmes relation to particular products;

(b) pest and disease control, including general and product-specific pest and disease control measures, such as early-warning systems, quarantine and eradication;

(c) training services, including both general and specialist training facilities;

(d) extension and advisory services, including the provision of means to facilitate the transfer of information and the results of research to producers and consumers;

(e) inspection services, including general inspection services and the inspection of particular products for health, safety, grading of standardization purposes;

(f) marketing and promotion services, including market information, advice and promotion relating to particular products but excluding expenditure for unspecified purposes that could be used by sellers to reduce their selling price or confer a direct economic benefit to purchasers; and

(g) infrastructural services, including: electricity reticulation, roads and other means of transport, market and port facilities, water supply facilities, dams and drainage schemes, and infrastructural works associated with environmental programmes. In all cases the expenditure shall be directed to the provision or construction of capital works only, and shall exclude the subsidized provision of on-farm facilities other than for the reticulation of generally available public utilities. It shall not include subsidies to inputs or operating costs, or preferential user charges.

12. Payments under environmental programmes

(a) Eligibility for such payments shall be determined as part of a clearlydefined government environmental or conservation programme and be dependent on the fulfilment of specific conditions under the government programme, including conditions related to production methods or inputs.

并应取决于对该政府计划下特定条件的满足，包括与生产方法或投入有关的条件。

(b) 此类支付的数量应限于为遵守政府计划而所涉及的额外费用或收入损失。

(b) The amount of payment shall be limited to the extra costs or loss of income involved in complying with the government programme.

实施卫生与植物卫生措施协定

各成员，

重申不应阻止各成员为**保护人类、动物或植物的生命或健康**而采用或实施必需的措施，但是这些措施的实施方式不得构成在情形相同的成员之间进行任意或不合理歧视的手段，或构成对国际贸易的变相限制；

期望改善各成员的人类健康、动物健康和植物卫生状况；

注意到卫生与植物卫生措施通常以双边协议或议定书为基础实施；

期望有关建立规则和纪律的多边框架，以指导卫生与植物卫生措施的制定、采用和实施，从而将其对贸易的消极影响减少到最低程度；

认识到国际标准、指南和建议可以在这方面作出重要贡献；

期望进一步推动各成员使用协调的、以有关国际组织制定的国际标准、指南和建议为基础的卫生与植物卫生措施，这些国际组织包括食品法典委员会、国际兽疫组织以及在《国际植物保护公约》范围内运作的有关国际和区域组织，但不要求各成员改变其对人类、动物或植物的生命或健康的适当保护水平；

认识到发展中国家成员在遵守进口成员的卫生与植物卫生措施方面可能遇到特殊困难，进而在市场准入及在其领土内制定和实施卫生与植物卫生措施方面也会遇到特殊困难，期望协助它们在这方面所做的努力；

因此期望对适用 GATT 1994 关于使用卫生与植物卫生措施的规定，特别是第 20 条（b）项[①] 的规定详述具体规则；

特此协议如下：

第 1 条
总则

1. 本协定适用于所有可能直接或间接影响国际贸易的卫生与植物卫生措施。此类措施应依照本协定的规定制定和适用。

2. 就本协定而言，适用附件 A 中规定的定义。

3. 各附件为本协定的组成部分。

4. 对于不属本协定范围的措施，本协定的任何规定不得影响各成员在《技术性贸易壁垒协定》项下的权利。

第 2 条
基本权利和义务

① 在本协定中，所指的第 20 条（b）项也包括该条的起首部分。

AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

Members,

Reaffirming that no Member should be prevented from adopting or enforcing measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Members where the same conditions prevail or a disguised restriction on international trade;

Desiring to improve the human health, animal health and phytosanitary situation in all Members;

Noting that sanitary and phytosanitary measures are often applied on the basis of bilateral agreements or protocols;

Desiring the establishment of a multilateral framework of rules and dis ciplines to guide the development. adoption and enforcement of saritary and phyto sanitary mea sures in order to minimice their negatire effects on trade;

Recognizing the important contribution that international standards, guidelines and recommendations can make in this regard;

Desiring to further the use of harmonized sanitary and phytosanitary measures between Members, on the basis of international standards, guidelines and recommendations developed by the relevant international organizations, including the Codex Alimentarius Commission, the International Office of Epizootics, and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention, without requiring Members to change their appropriate level of protection of human, animal or plant life or health;

Recognizing that developing country Members may encounter special difficulties in complying with the sanitary or phytosanitary measures of importing Members, and as a consequence in access to markets, and also in the formulation and application of sanitary or phytosanitary measures in their own territories, and desiring to assist them in their endeavours in this regard;

Desiring therefore to elaborate rules for the application of the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b)[①];

Hereby agree as follows:

Article 1

General Provisions

1. This Agreement applies to all sanitary and phytosanitary measures which may, directly or indirectly, affect international trade. Such measures shall be developed and applied in accordance with the provisions of this Agreement.
2. For the purposes of this Agreement, the definitions provided in Annex A shall apply.
3. The annexes are an integral part of this Agreement.
4. Nothing in this Agreement shall affect the rights of Members under the Agreement on Technical Barriers to Trade with respect to measures not within the scope of this Agreement.

Article 2

Basic Rights and Obligations

1. Members have the right to take sanitary and phytosanitary measures necessary for the protection of

① In this Agreement, referencc to Article XX(b) includes also the chapeau of that Article.

1. 各成员有权采取为保护人类、动物或植物的生命或健康所必需的卫生与植物卫生措施，只要此类措施与本协定的规定不相抵触。

2. 各成员应保证任何卫生与植物卫生措施仅在为保护人类、动物或植物的生命或健康所必需的限度内实施，并根据科学原理，如无充分的科学证据则不再维持，但第5条第7款规定的情况除外。

3. 各成员应保证其卫生与植物卫生措施不在情形相同或相似的成员之间，包括在成员自己领土和其他成员的领土之间构成任意或不合理的歧视。卫生与植物卫生措施的实施方式不得构成对国际贸易的变相限制。

4. 符合本协定有关条款规定的卫生与植物卫生措施应被视为符合各成员根据GATT 1994有关使用卫生与植物卫生措施的规定所承担的义务，特别是第20条（b）项的规定。

第3条
协调

1. 为在尽可能广泛的基础上协调卫生与植物卫生措施，各成员的卫生与植物卫生措施应根据现有的国际标准、指南或建议制定，除非本协定、特别是第3款中另有规定。

2. 符合国际标准、指南或建议的卫生与植物卫生措施应被视为为保护人类、动物或植物的生命或健康所必需的措施，并被视为与本协定和GATT 1994的有关规定相一致。

3. 如存在科学理由，或一成员依照第5条第1款至第8款的有关规定确定动植物卫生的保护水平是适当的，则各成员可采用或维持比根据有关国际标准、指南或建议制定的措施所可能达到的保护水平更高的卫生与植物卫生措施。[②] 尽管有以上规定，但是所产生的卫生与植物卫生保护水平与根据国际标准、指南或建议制定的措施所实现的保护水平不同的措施，均不得与本协定中任何其他规定相抵触。

4. 各成员应在力所能及的范围内充分参与有关国际组织及其附属机构，特别是食品法典委员会、国际兽疫组织以及在《国际植物保护公约》范围内运作的有关国际和区域组织，以促进在这些组织中制定和定期审议有关卫生与植物卫生措施所有方面的标准、指南和建议。

5. 第12条第1款和第4款规定的卫生与植物卫生措施委员会（本协定中称“委员会”）应制定程序，以监控国际协调进程，并在这方面与有关国际组织协同努力。

第4条
等效

1. 如出口成员客观地向进口成员证明其卫生与植物卫生措施达到进口成员适当的卫

② 就第3条第3款而言，存在科学理由的情况是，一成员根据本协定的有关规定对现有科学信息进行审查和评估，确定有关国际标准、指南或建议不足以实现适当的动植物卫生保护水平。

human, animal or plant life or health, provided that such measures are not inconsistent with the provisions of this Agreement.

2. Members shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence, except as provided for in paragraph 7 of Article 5.

3. Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between their own territory and that of other Members. Sanitary and phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on international trade.

4. Sanitary or phytosanitary measures which conform to the relevant provisions of this Agreement shall be presumed to be in accordance with the obligations of the Members under the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX(b).

Article 3

Harmonization

1. To harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist, except as otherwise provided for in this Agreement, and in particular in paragraph 3.

2. Sanitary or phytosanitary measures which conform to international standards, guidelines or recommendations shall be deemed to be necessary to protect human, animal or plant life or health, and presumed to be consistent with the relevant provisions of this Agreement and of GATT 1994.

3. Members may introduce or maintain sanitary or phytosanitary measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, if there is a scientific justification, or as a consequence of the level of sanitary or phytosanitary protection a Member determines to be appropriate in accordance with the relevant provisions of paragraphs 1 through 8 of Article 5. ② Notwithstanding the above, all measures which result in a level of sanitary or phytosanitary protecting different from that which would be achieved by measures based on international standards, guidelines or recommendations shall not be inconsistent with any other provision of this Agreement.

4. Members shall play a full part, within the limits of their resources, in the relevant international organizations and their subsidiary bodies, in particular the Codex Alimentarius Commission, the International Office of Epizootics, and the international and regional organizations operating within the framework of the International Plant Protection Convention, to promote within these organizations the development and periodic review of standards, guidelines and recommendations with respect to all aspects of sanitary and phytosanitary measures.

5. The Committee on Sanitary and Phytosanitary Measures provided for in paragraphs 1 and 4 of Article 12 (referred to in this Agreement as the "Committee") shall develop a procedure to monitor the process of international harmonization and coordinate efforts in this regard with the relevant international organizations.

Article 4

Equivalence

1. Members shall accept the sanitary or phytosanitary measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures

② For the purposes of paragraph 3 of Article 3, there is a scientific justification if, on the basis of an examination and evaluation of available scientific information in conformity with the relevant provisions of this Agreement, a Member determines that the relevant international standards, guidelines or recommendations are not suffcient to achieve its appropriate level of sanitary or phytosanitary protection.

生与植物卫生保护水平，则各成员应将其他成员的措施作为等效措施予以接受，即使这些措施不同于进口成员自己的措施，或不同于从事相同产品贸易的其他成员使用的措施。为此，应请求，应给予进口成员进行检查、检验及其他相关程序的合理机会。

2．应请求，各成员应进行磋商，以便就承认具体卫生与植物卫生措施的等效性问题达成双边和多边协定。

第5条
风险评估和适当的卫生与植物卫生保护水平的确定

1．各成员应保证其卫生与植物卫生措施的制定以对人类、动物或植物的生命或健康所进行的、适合有关情况的风险评估为基础，同时考虑有关国际组织制定的风险评估技术。

2．在进行风险评估时，各成员应考虑可获得的科学证据；有关工序和生产方法；有关检查、抽样和检验方法；特定病害或虫害的流行；病虫害非疫区的存在；**有关生态和环境条件**；以及检疫或其他处理方法。

3．各成员在评估对动物或植物的生命或健康构成的风险并确定为实现适当的卫生与植物卫生保护水平以防止此类风险所采取的措施时，应考虑下列有关经济因素：由于虫害或病害的传入、定居或传播造成生产或销售损失的潜在损害；在进口成员领土内控制或根除病虫害的费用；以及采用替代方法控制风险的相对成本效益。

4．各成员在确定适当的卫生与植物卫生保护水平时，应考虑将对贸易的消极影响减少到最低程度的目标。

5．为实现在防止对人类生命或健康、动物和植物的生命或健康的风险方面运用适当的卫生与植物卫生保护水平的概念的一致性，每一成员应避免其认为适当的保护水平在不同的情况下存在任意或不合理的差异，如此类差异造成对国际贸易的歧视或变相限制。各成员应在委员会中进行合作，依照第12条第1款、第2款和第3款制定指南，以推动本规定的实际实施。委员会在制定指南时应考虑所有有关因素，包括人们自愿承受人身健康风险的例外特性。

6．在不损害第3条第2款的情况下，在制定或维持卫生与植物卫生措施以实现适当的卫生与植物卫生保护水平时，各成员应保证此类措施对贸易的限制不超过为达到适当的卫生与植物卫生保护水平所要求的限度，同时考虑其技术和经济可行性。③

7．在有关科学证据不充分的情况下，一成员可根据可获得的有关信息，包括来自有关国际组织以及其他成员实施的卫生与植物卫生措施的信息，临时采用卫生与植物卫生措施。在此种情况下，各成员应寻求获得更加客观地进行风险评估所必需的额外信息，并在合理期限内据此审议卫生与植物卫生措施。

8．如一成员有理由认为另一成员采用或维持的特定卫生与植物卫生措施正在限制或可能限制其产品出口，且该措施不是根据有关国际标准、指南或建议制定的，或不

③ 就第5条第6款而言，除非存在如下情况，否则一措施对贸易的限制不超过所要求的程度：存在从技术和经济可行性考虑可合理获得的另一措施，可实现适当的卫生与植物卫生保护水平，且对贸易的限制大大减少。

achieve the importing Member's appropriate level of sanitary or phytosanitary protection. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

2. Members shall, upon request, enter into consultations with the aim of achieving bilateral and multilateral agreements on recognition of the equivalence of specified sanitary or phytosanitary measures.

Article 5

Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection

1. Members shall ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations.

2. In the assessment of risks, Members shall take into account available scientific evidence; relevant processes and production methods; relevant inspection, sampling and testion methods; prevalence of specific diseases or pests; existence of pest-or disease-free areas; relevant ecological and environmental conditions; and quarantine or other treatment.

3. In assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of sanitary or phytosanitary protection from such risk, Members shall take into account as relevant economic factors: the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease; the costs of control or eradication in the territory of the importing Member; and the relative cost-effectiveness of alternative approaches to limiting risks.

4. Members should, when determining the appropriate level of sanitary or phytosanitary protection, take into account the objective of minimizing negative trade effects.

5. With the objective of achieving consistency in the application of the concept of appropriate level of sanitary or phytosanitary protection against risks to human life or health, or to animal and plant life or health, each Member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations, if such distinctions result in discrimination or a disguised restriction on international trade. Members shall cooperate in the Committee, in accordance with paragraphs 1, 2 and 3 of Article 12, to develop guidelines to further the practical implementation of this provision. In developing the guidelines, the Committee shall take into account all relevant factors, including the exceptional character of human health risks to which people voluntarily expose themselves.

6. Without prejudice to paragraph 2 of Article 3, when establishing or maintaining sanitary or phytosanitary measures to achieve the appropriate level of sanitary or phytosanitary protection, Members shall ensure that such measures are not more trade-restrictive than required to achieve their appropriate level of sanitary or phytosanitary protection, taking into account technical and economic feasibility. ③

7. In cases where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, including that from the relevant international organizations as well as from sanitary or phytosanitary measures applied by other Members. In such circumstances, Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure accordingly within a reasonable period of time.

8. When a Member has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by another Member is constraining, or has the potential to constrain, its exports and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, an explanation of the reasons for such sanitary or

③ For purposes of paragraph 6 of Article 5, a measure is not more trade-restrictive than required unless there is another measure, reasonably available taking into account technical and economic feasibility, that achieves the appropriate level of sanitary or phytosanitary protection and is significantly less restrictive to trade.

存在此类标准、指南或建议，则可请求说明此类卫生与植物卫生措施的理由，维持该措施的成员应提供此种说明。

第 6 条
适应地区条件，包括适应病虫害非疫区和低度流行区的条件

1. 各成员应保证其卫生与植物卫生措施适应产品的产地和目的地的卫生与植物卫生特点，无论该地区是一国的全部或部分地区，或几个国家的全部或部分地区。在评估一地区的卫生与植物卫生特点时，各成员应特别考虑特定病害或虫害的流行程度、是否存在根除或控制计划以及有关国际组织可能制定的适当标准或指南。
2. 各成员应特别认识到病虫害非疫区和低度流行区的概念。对这些地区的确定应根据地理、生态系统、流行病监测以及卫生与植物卫生控制的有效性等因素。
3. 声明其领土内地区属病虫害非疫区或低度流行区的出口成员，应提供必要的证据，以便向进口成员客观地证明此类地区属、且有可能继续属病虫害非疫区或低度流行区。为此，应请求，应使进口成员获得进行检查、检验及其他有关程序的合理机会。

第 7 条
透明度

各成员应依照附件 B 的规定通知其卫生与植物卫生措施的变更，并提供有关其卫生与植物卫生措施的信息。

第 8 条
控制、检查和批准程序

各成员在实施控制、检查和批准程序时，包括关于批准食品、饮料或饲料中使用添加剂或**确定污染物允许量的国家制度**，应遵守附件 C 的规定，并在其他方面保证其程序与本协定规定不相抵触。

第 9 条
技术援助

1. 各成员同意以双边形式或通过适当的国际组织便利向其他成员、特别是发展中国家成员提供技术援助。此类援助可特别针对加工技术、研究和基础设施等领域，包括建立国家管理机构，并可采取咨询、信贷、捐赠和赠予等方式，包括为寻求技术专长的目的，为使此类国家适应并符合为实现其出口市场的适当卫生与植物卫生保护水平所必需的卫生与植物卫生措施而提供的培训和设备。
2. 当发展中国家出口成员为满足进口成员的卫生与植物卫生要求而需要大量投资时，后者应考虑提供此类可使发展中国家成员维持和扩大所涉及的产品市场准入机会的技术援助。

phytosanitary measure may be requested and shall be provided by the Member maintaining the measure.

Article 6

Adaptation to Regional Conditions, Including Pest-or Disease-Free Areas and Areas of Low Pest or Disease Prevalence

1. Members shall ensure that their sanitary or phytosanitary measures are adapted to the sanitary or phytosanitary characteristics of the area-whether all of a country, pary of a country, or all or parts of several countries-from which the product originated and to which the product is destined. In assessing the sanitary or phytosanitary characteristics of a region, Members shall take into account, *inter alia*, the level of prevalence of specific diseases or pests, the existence of eradication or control programmes, and appropriate criteria or guidelines which may be developed by the relevant international organizations.
2. Members shall, in particular, recognize the concepts of pest-or disease-free areas and areas of low pest or disease prevalence. Determination of such areas shall be based on factors such as geography, ecosystems, epidemiological surveillance, and the effectiveness of sanitary or phytosanitary controls.
3. Exporting Members claiming that areas within their territories are pest-or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Member that such areas are, and are likely to remain, pest-or disease-free areas or areas of low pest or disease prevalence, respectively. For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.

Article 7

Transparency

Members shall notify changes in their sanitary or phytosanitary measures and shall provide information of their sanitary or phytosanitary measures in accordance with the provisions of Annex B.

Article 8

Control, Inspection and Approval Procedures

Members shall observe the provisions of Annex C in the operation of control, inspection and approval procedures, including national systems for approving the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs, and otherwise ensure that their procedures are not inconsistent with the provisions of this Agreement.

Article 9

Technical Assistance

1. Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, *inter alia*, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.
2. Where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved.

Article 10

第 10 条
特殊和差别待遇

1. 在制定和实施卫生与植物卫生措施时，各成员应考虑发展中国家成员、特别是最不发达国家成员的特殊需要。

2. 如适当的卫生与植物卫生保护水平有余地允许分阶段采用新的卫生与植物卫生措施，则应给予发展中国家成员有利害关系产品更长的时限以符合该措施，从而维持其出口机会。

3. 为保证发展中国家成员能够遵守本协定的规定，应请求，委员会有权，给予这些国家对于本协定项下全部或部分义务的特定的和有时限的例外，同时考虑其财政、贸易和发展需要。

4. 各成员应鼓励和便利发展中国家成员积极参与有关国际组织。

第 11 条
磋商和争端解决

1. 由《争端解决谅解》详述和适用的 GATT 1994 第 22 条和第 23 条的规定适用于本协定项下的磋商和争端解决，除非本协定另有具体规定。

2. 在本协定项下涉及科学或技术问题的争端中，专家组应寻求专家组与争端各方磋商后选定的专家的意见。为此，在主动或应争端双方中任何一方请求下，专家组在其认为适当时，可设立一技术专家咨询小组，或咨询有关国际组织。

3. 本协定中的任何内容不得损害各成员在其他国际协定项下的权利，包括援用其他国际组织或根据任何国际协定设立的斡旋或争端解决机制的权利。

第 12 条
管理

1. 特此设立卫生与植物卫生措施委员会，为磋商提供经常性场所。委员会应履行为实施本协定规定并促进其目标实现所必需的职能，特别是关于协调的目标。委员会应经协商一致作出决定。

2. 委员会应鼓励和便利各成员之间就特定的卫生与植物卫生问题进行不定期的磋商或谈判。委员会应鼓励所有成员使用国际标准、指南和建议。在这方面，委员会应主办技术磋商和研究，以提高在批准使用食品添加剂或确定食品、饮料或饲料中污染物允许量的国际和国家制度或方法方面的协调性和一致性。

3. 委员会应同卫生与植物卫生保护领域的有关国际组织，特别是食品法典委员会、国际兽疫组织和《国际植物保护公约》秘书处保持密切联系，以获得用于管理本协定的可获得的最佳科学和技术意见，并保证避免不必要的重复工作。

4. 委员会应制定程序，以监测国际协调进程及国际标准、指南或建议的使用。为此，委员会应与有关国际组织一起，制定一份委员会认为对贸易有较大影响的与卫生与植物卫生措施有关的国际标准、指南或建议清单。在该清单中各成员应说明那

Special and Differential Treatment

1. In the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of de eloping country Members, and in particular of the least-developed country Members.

2. Where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports.

3. With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement, taking into accoutn their financial, trade and development needs.

4. Members should encourage and facilitate the active participation of developing country Members in the relevant international organizations.

Article 11

Consultations and Dispute Settlement

1. The provisions of Articles XXII and XXIII of GATT *1994* as elaborated and applied by the Dispute Settlement Understanding shall apply to consultations and the settlement of disputes under this Agreement, except as otherwise specifically provided herein.

2. In a dispute under this Agreement involving scientific or technical issues, a panel should seek advice from experts chosen by the panel in consultation with the parties to the dispute. To this end, the panel may, when it deems it appropriate, establish an advisory technical experts group, or consult the relevant international organizations, at the request of either party to the dispute or on its own initiative.

3. Nothing in this Agreement shall impair the rights of Members under other international agreements, including the right to resort to the good offices or dispute settlement mechanisms of other international organizations or established under any international agreement.

Article 12

Administration

1. A Committee on Sanitary and Phytosanitary Measures is hereby established to provide a regular forum for consultations. It shall carry out the functions necessary to implement the provisions of this Agreement and the furtherance of its objectives, in particular with respect to harmonization. The Committee shall reach its decisions by consensus.

2. The Committee shall encourage and facilitate *ad hoc* consultations or negotiations among Members on specific sanitary or phytosanitary issues. The Committee shall encourage the use of international standards, guidelinse or recommendations by all Members and , in this regard, shall sponsor technical consultation and study with the objective of increasing coordination and integration between international and national systems and approaches for approving the use of food additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs.

3. The Committee shall maintain close contact with the relevant international organizations in the field of sanitary and phytosanitary protection, especially with the Codex Alimentarius Commission, the International Office of Epizootics, and the Secretariat of the International Plant Protection Convention, with the objective of securing the best available scientific and technical advice for the administration of this Agreement and in order to ensure that unnecessary duplication of effort is avoided.

4. The Committee shall develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations. For this purpose, the Committee should, in conjunction with the relevant international organizations, establish a list of international standards, guidelinse or recommendations relating to sanitary or phytosanitary measures which the Commit-

些被用作进口条件或在此基础上进口产品符合这些标准即可享有对其市场准入的国际标准、指南或建议。在一成员不将国际标准、指南或建议作为进口条件的情况下，该成员应说明其中的理由，特别是它是否认为该标准不够严格，而无法提供适当的卫生与植物卫生保护水平。如一成员在其说明标准、指南或建议的使用为进口条件后改变其立场，则该成员应对其立场的改变提供说明，并通知秘书处以及有关国际组织，除非此类通知和说明已根据附件 B 中的程序作出。

5. 为避免不必要的重复，委员会可酌情决定使用通过有关国际组织实行的程序、特别是通知程序所产生的信息。

6. 委员会可根据一成员的倡议，通过适当渠道邀请有关国际组织或其附属机构审查有关特定标准、指南或建议的具体问题，包括根据第 4 款对不使用所作说明的依据。

7. 委员会应在《WTO 协定》生效之日后 3 年后，并在此后有需要时，对本协定的运用和实施情况进行审议。在适当时，委员会应特别考虑在本协定实施过程中所获得的经验，向货物贸易理事会提交修正本协定文本的建议。

第 13 条
实施

各成员对在本协定项下遵守其中所列所有义务负有全责。各成员应制定和实施积极的措施和机制，以支持中央政府机构以外的机构遵守本协定的规定。各成员应采取所能采取的合理措施，以保证其领土内的非政府实体以及其领土内相关实体为其成员的区域机构，符合本协定的相关规定。此外，各成员不得采取其效果具有直接或间接要求或鼓励此类区域或非政府实体、或地方政府机构以与本协定规定不一致的方式行事作用的措施。各成员应保证只有在非政府实体遵守本协定规定的前提下，方可依靠这些实体提供的服务实施卫生与植物卫生措施。

第 14 条
最后条款

对于最不发达国家成员影响进口或进口产品的卫生与植物卫生措施，这些国家可自《WTO 协定》生效之日起推迟 5 年实施本协定的规定。对于其他发展中国家成员影响进口或进口产品的现有卫生与植物卫生措施，如由于缺乏技术专长、技术基础设施或资源而妨碍实施，则这些国家可自《WTO 协定》生效之日起推迟 2 年实施本协定的规定，但第 5 条第 8 款和第 7 条的规定除外。

tee determines to have a major trade impact. The list should include an indication by Members of those international standards, guidelines or recommendations which they apply as conditions for import or on the basis of which imported products conforming to these standards can enjoy access to their markets. For those cases in which a Member does not apply an international standard, guideline or recommendation as a condition for import, , the Member should provide an indication of the reason therefor, and, in particular, whether it considers that the standard is not stringent enough to provide the appropriate level of sanitary or phytosanitary protection. If a Member revises its position, following its indication of the use of a standard, guideline or recommendation as a condition for import, it should provide an explanation for its change and so inform the Secretariat as well as the relevant international organizations, unless such notification and explanation is given according to the procedures of Annex B.

5. In order to avoid unnecessary duplication, the Committee may decide, as appropriate, to use the information generated by the procedures, particularly for notification, which are in operation in the relevant international organizations.

6. The Committee may, on the basis of an initiative from one of the Members, through appropriate channels invite the relevant international organizations or their subsidiary bodies to examine specific matters with respect to a particular standard, guideline or recommendation, including the basis of explanations for non-use given according to paragraph 4.

7. The Committee shall review the operation and implementation of this Agreement three years after the date of entry into force of the WTO Agreement, and thereafter as the need arises. Where appropriate, the Committee may submit to the Council for Trade in Goods proposals to amend the text of this Agreement having regard, *inter alia* , to the experience gained in its implementation.

Article 13

Implementation

Members are fully responsible under this Agreement for the observance of all obligations set forth herein. Members shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of this Agreement by other than central government bodies. Members shall take such reasonable measures as may be available to them to ensure that non-governmental entities within their territories, as well as regional bodies in which relevant entities within their territories are members, comply with the relevant provisions of this Agreement. In addition, Members shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such regional or non-governmental entities, or local governmental bodies, to act in a manner inconsistent with the provisions of this Agreement. Members shall ensure that they rely on the services of non-governmental entities for implementing sanitary or phytosanitary measures only if these entities comply with the provisions of this Agreement.

Article 14

Final Provisions

The least-developed country Members may delay application of the provisions of this Agreement for a period of five years following the date of entry into force of the WTO Agreement with respect to their sanitary or phytosanitary measures affecting importation or imported products. Other developing country Members may delay application of the provisions of this Agreement, other than paragraph 8 of Article 5 and Article 7, for two years following the date of entry into force of the WTO Agreement with respect to their existing sanitary or phytosanitary measures affecting importation or imported products, where such application is prevented by a lack of technical expertise, technical infrastructure or resources.

ANNEX A

附件 A

定义④

1．卫生与植物卫生措施—用于下列目的的任何措施：

(a) 保护成员领土内的动物或植物的生命或健康免受虫害、病害、带病有机体或致病有机体的传入、定居或传播所产生的风险；

(b) 保护成员领土内的人类或动物的生命或健康免受食品、饮料或饲料中的添加剂、**污染物**、毒素或致病有机体所产生的风险；

(c) 保护成员领土内的人类的生命或健康免受动物、植物或动植物产品携带的病害，或虫害的传入、定居或传播所产生的风险；或

(d) 防止或控制成员领土内因虫害的传入、定居或传播所产生的其他损害。

卫生与植物卫生措施包括所有相关法律、法令、法规、要求和程序，特别包括：最终产品标准；工序和生产方法；检验、检查、认证和批准程序；检疫处理，包括与动物或植物运输有关的或与在运输过程中为维持动植物生存所需物质有关的要求；有关统计方法、抽样程序和风险评估方法的规定；以及与粮食安全直接有关的包装和标签要求。

2．协调—不同成员制定、承认和实施共同的卫生与植物卫生措施。

3．国际标准、指南和建议

(a) 对于粮食安全，指食品法典委员会制定的与食品添加剂、兽药和除虫剂残余物、**污染物**、分析和抽样方法有关的标准、指南和建议，及卫生惯例的守则和指南；

(b) 对于动物健康和寄生虫病，指国际兽疫组织主持制定的标准、指南和建议；

(c) 对于植物健康，指在《国际植物保护公约》秘书处主持下与在《国际植物保护公约》范围内运作的区域组织合作制定的国际标准、指南和建议；以及

(d) 对于上述组织未涵盖的事项，指经委员会确认的、由其成员资格向所有 WTO 成员开放的其他有关国际组织公布的有关标准、指南和建议。

4．风险评估—根据可能适用的卫生与植物卫生措施评价虫害或病害在进口成员领土内传入、定居或传播的可能性，及评价相关潜在的生物学后果和经济后果；或评价食品、饮料或饲料中存在的添加剂、污染物、毒素或致病有机体对人类或动物的健康所产生的潜在不利影响。

5．适当的卫生与植物卫生保护水平—制定卫生与植物卫生措施以保护其领土内的人类、动物或植物的生命或健康的成员所认为适当的保护水平。

注：许多成员也称此概念为“可接受的风险水平”。

6．病虫害非疫区—由主管机关确认的未发生特定虫害或病害的地区，无论是一国的全部或部分地区，还是几个国家的全部或部分地区。

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④ 就这些定义而言，“动物”包括鱼和野生动物；“植物”包括森林和野生植物；“虫害”包括杂草；“污染物”包括杀虫剂、兽药残余物和其他杂质。

*DEFINITIONS*④

1. *Sanitary or phytosanitary measure*-Any measure applied:
   (a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
   (b) to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;
   (c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or
   (d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.

Sanitary or phytosanitary measures include all relevant laws, decrees, regulations, requirements and procedures including, *inter alia*, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety.

2. *Harmonization*-The establishment, recognition and application of common sanitary and phytosanitary measures by different Members.

3. *International standards, guidelines and recommendations*
   (a) for food safety, the standards, guidelines and recommendations established by the Codex Alimentarius Commission relating to food additives, veterinary drug and pesticide residues, contaminants, methods of analysis and sampling, and codes and guidelines of hygienic practice;
   (b) for animal health and zoonoses, the standards, guidelines and recommendations developed under the auspices of the International Office of Epizootics;
   (c) for plant health, the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with regional organizations operating within the framework of the International Plant Protection Convention; and
   (d) for matters not covered by the above organizations, appropriate standards, guidelines and recommendations promulgated by other relevant international organizations open for membership to all Members, as identified by the Committee.

4. *Risk assessment*-The evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing Member according to the sanitary or phytosanitary measures which might be applied, and of the associated potential biological and economic consequences; or the evaluation of the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, beverages or feedstuffs.

5. *Appropriate level of sanitary or phytosanitary protection*-The level of protection deemed appropriate by the Member establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory.

NOTE: Many Members otherwise refer to this concept as the "acceptable level of risk".

6. *Pest-or disease-free area*-An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease does not occur.

NOTE: A pest-or disease-free area may surround, be surrounded by, or be adjacent to an area-wthether

④ For the purpose of these definitions, "animal" includes fish and wild fauna; "plant" includes forests and wild flora; "pests" include weeds; and "contaminants" include pesticide and veterinary drug residues and extraneous matter.

注：病虫害非疫区可以包围一地区、被一地区包围或毗连一地区，可在一国的部分地区内，或在包括几个国家的部分或全部地理区域内，在该地区内已知发生特定虫害或病害，但已采取区域控制措施，如建立可限制或根除所涉虫害或病害的保护区、监测区和缓冲区。

7. **病虫害低度流行区**—由主管机关确认的特定虫害或病害发生水平低、且已采取有效监测、控制或根除措施的地区，该地区可以是一国的全部或部分地区，也可以是几个国家的全部或部分地区。

附件 B

卫生与植物卫生法规的透明度

法规的公布

1. 各成员应保证迅速公布所有已采用的卫生与植物卫生法规[⑤]，以使有利害关系的成员知晓。

2. 除紧急情况外，各成员应在卫生与植物卫生法规的公布和生效之间留出合理时间间隔，使出口成员、特别是发展中国家成员的生产者有时间使其产品和生产方法适应进口成员的要求。

咨询点

3. 每一成员应保证设立一咨询点，负责对有利害关系的成员提出的所有合理问题作出答复，并提供有关下列内容的文件：

(a) 在其领土内已采用或提议的任何卫生与植物卫生法规；

(b) 在其领土内实施的任何控制和检查程序、生产和检疫处理方法、杀虫剂允许量和食品添加剂批准程序；

(c) 风险评估程序、考虑的因素以及适当的卫生与植物卫生保护水平的确定；

(d) 成员或其领土内相关机构在国际和区域卫生与植物卫生组织和体系内，及在本协定范围内的双边和多边协定和安排中的成员资格和参与情况，及此类协定和安排的文本。

4. 各成员应保证在如有利害关系的成员索取文件副本，除递送费用外，应按向有关成员本国国民[⑥] 提供的相同价格（如有定价）提供。

通知程序

5. 只要国际标准、指南或建议不存在或拟议的卫生与植物卫生法规的内容与国际标准、指南或建议的内容实质上不同，且如果该法规对其他成员的贸易有重大影响，则各成员即应：

(a) 提早发布通知，以使有利害关系的成员知晓采用特定法规的建议；

(b) 通过秘书处通知其他成员法规所涵盖的产品，并对拟议法规的目的和理由

⑤ 卫生与植物卫生措施包括普遍适用的法律、法令或命令。

⑥ 本协定中所指的“国民”一词，对于 WTO 的单独关税区成员，应被视为在该关税区内定居或拥有真实有效的工业或商业机构的自然人或法人。

within part of a country or in a geographic region which includes parts of or all of several countries-in which a specific pest or disease is known to occur but is subject to regional control measures such as the establishment of protection, surveillance and buffer zones which will confine or eradicate the pest or disease in question.

7. *Area of low pest or disease prevalence*-An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease occurs at low levels and which is subject to effective surveillance, control or eradication measures.

ANNEX B
TRANSPARENCY OF SANITARY AND PHYTOSANITARY REGULATIONS

Publication of Regulations

1. Members shall ensure that all sanitary and phytosanitary regulations[5] which have been adopted are published promptly in such a manner as to enable interested Members to become acquainted with them.

2. Except in urgent circumstances, Members shall allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products and methods of production to the requirements of the importing Member.

Enquiry Points

3. Each Member shall ensure that one enquiry point exists which is responsible for the provision of answers to all reasonable questions from interested Members as well as for the provision of relevant documents regarding:

(a) any sanitary or phytosanitary regulations adopted or proposed within its territory;

(b) any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures which are operated within its territory;

(c) risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;

(d) the membership and participation of the Member, or of relevant bodies within its territory, in international and regional sanitary and phytosanitary organizations and systems, as well as in bilateral and multilateral agreements and arrangements within the scope of this Agreement, and the texts of such agreements and arrangements.

4. Members shall ensure that where copies of documents are requested by interested Members, they are supplied at the same price (if any), apart from the cost of delivery, as to the nationals[6] of the Member concerned.

Notification Procedures

5. Whenever an international standard, guideline or recommendation does not exist or the content of a proposed sanitary or phytosanitary regulation is not substantially the same as the content of an international standard, guideline or recommendation, and if the regulation may have a significant effect on trade of other Members, Members shall:

(a) publish a notice at an early stage in such a manner as to enable interested Members to become acquainted with the proposal to introduce a particular regulation;

(b) notify other Members, through the Secretariat, of the products to be covered by the regulation together with a brief indication of the objective and rationale of the proposed regulation.

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[5] Sanitary and phytosanitary measures such as laws, decrees or ordinances which are applicable generally.

[6] When "nationals" are referred to in this Agreement, the term shall be deemed, in the case of a separate customs territory Member of the WTO, to mean persons, natural or legal, who are domiciled or who have a real and effective industrial or commercial establishment in that customs territory.

作出简要说明。此类通知应在仍可进行修正和考虑提出的意见时提早作出；

(c) 应请求，向其他成员提供拟议法规的副本，只要可能，应标明与国际标准、指南或建议有实质性偏离的部分；

(d) 无歧视地给予其他成员合理的时间以提出书面意见，应请求讨论这些意见，并对这些书面意见和讨论的结果予以考虑。

6. 但是，如一成员面临健康保护的紧急问题或面临发生此种问题的威胁，则该成员可省略本附件第5款所列步骤中其认为有必要省略的步骤，只要该成员：

(a) 立即通过秘书处通知其他成员所涵盖的特定法规和产品，并对该法规的目标和理由作出简要说明，包括紧急问题的性质；

(b) 应请求，向其他成员提供法规的副本；

(c) 允许其他成员提出书面意见，应请求讨论这些意见，并对这些书面意见和讨论的结果予以考虑。

7. 提交秘书处的通知应使用英文、法文或西班牙文。

8. 如其他成员请求，发达国家成员应以英文、法文或西班牙文提供特定通知所涵盖的文件，如文件篇幅较长，则应提供此类文件的摘要。

9. 秘书处应迅速向所有成员和有利害关系的国际组织散发通知的副本，并提请发展中国家成员注意任何有关其特殊利益产品的通知。

10. 各成员应指定一中央政府机构，负责在国家一级依据本附件第5款、第6款、第7款和第8款实施有关通知程序的规定。

一般保留

11. 本协定的任何规定不得解释为要求：

(a) 使用成员语文以外的语文提供草案细节或副本或公布文本内容，但本附件第8款规定的除外；或

(b) 各成员披露会阻碍卫生与植物卫生立法的执行或会损害特定企业合法商业利益的机密信息。

附件C

控制、检查和批准程序⑦

1. 对于检查和保证实施卫生与植物卫生措施的任何程序，各成员应保证：

(a) 此类程序的实施和完成不受到不适当的迟延，且对进口产品实施的方式不严于国内同类产品；

(b) 公布每一程序的标准处理期限，或应请求，告知申请人预期的处理期限；主管机构在接到申请后迅速审查文件是否齐全，并以准确和完整的方式通知申请人所有不足之处；主管机构尽快以准确和完整的方式向申请人传达

⑦ 控制、检查和批准程序特别包括抽样、检查和认证程序。

Such notifications shall take place at an early stage, when amendments can still be introduced and comments taken into account;

(c) provide upon request to other Members copies of the proposed regulation and , whenever possible, identify the parts which in substance deviate from international standards, guidelines or recommendations;

(d) without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account.

6. However, where urgent problems of health protection arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in paragraph 5 of this Annex as it finds necessary, provided that the Member:

(a) immediately notifies other Members, through the Secretariat, of the particular regulation and the products covered, with a brief indication of the objective and the rationale of the regulation, including the nature of the urgent problem(s);

(b) provides, upon request, copies of the regulation to other Members;

(c) allows other Members to make comments in writing, discusses these comments upon request, and takes the comments and the results of the discussions into account.

7. Notifications to the Secretariat shall be in English, French or Spanish.

8. Developed country Members shall, if requested by other Members, provide copies of the documents or, in case of voluminous documents, summaries of the documents covered by a specific notification in English, French or Spanish.

9. The Secretariat shall promptly circulate copies of the notification to all Members and interested international organizations and draw the attention of developing country Members to any notifications relating to products of particular interest to them.

10. Members shall designate a single central government authority as responsible for the implementation, on the national level, of the provisions concerning notification procedures according to paragraphs 5, 6, 7 and 8 of this Annex.

General Reservations

11. Nothing in this Agreement shall be construed as requiring:

(a) the provision of particulars or copies of drafts or the publication of texts other than in the language of the Member except as stated in paragraph 8 of this Annex; or

(b) Members to disclose confidential information which would impede enforcement of sanitary or phytosanitary legislation or which would prejudice the legitimate commercial interests of particular enterprises.

ANNEX C

*CONTROL, INSPECTION AND APPROVAL PROCEDURES*⑦

1. Members shall ensure, with respect to any procedure to check and ensure the fulfilment of sanitary or phytosanitary measures, that:

(a) such procedures are undertaken and completed without undue delay and in no less favourable manner for imported products than for like domestic products;

(b) the standard processing period of each procedure is published or that the anticipated processing period is communicated to the applicant upon request; when receiving an application, the competent body promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of all deficiencies; the competent body transmits as soon as possible the results of the procedure in a precise and complete manner to the applicant

⑦ Control, inspection and approval procedures include, *inter alia*, procedures for sampling, testing and certification.

程序的结果，以便在必要时采取纠正措施；即使在申请存在不足之处时，如申请人提出请求，主管机构也应尽可能继续进行该程序；以及应请求，将程序所进行的阶段通知申请人，并对任何迟延作出说明；

(c) 有关信息的要求仅限于控制、检查和批准程序所必需的限度，包括批准使用添加剂或为确定食品、饮料或饲料中污染物的允许量所必需的限度；

(d) 在控制、检查和批准过程中产生的或提供的有关进口产品的信息，其机密性受到不低于本国产品的遵守，并使合法商业利益得到保护；

(e) 控制、检查和批准一产品的单个样品的任何要求仅限于合理和必要的限度；

(f) 因对进口产品实施上述程序而征收的任何费用与对国内同类产品或来自任何其他成员的产品所征收的费用相比是公平的，且不高于服务的实际费用；

(g) 程序中所用设备的设置地点和进口产品样品的选择应使用与国内产品相同的标准，以便将申请人、进口商、出口商或其代理人的不便减少到最低程度；

(h) 只要由于根据适用的法规进行控制和检查而改变产品规格，则对改变规格产品实施的程序仅限于为确定是否有足够的信心相信该产品仍符合有关规定所必需的限度；以及

(i) 建立审议有关运用此类程序的投诉的程序，且当投诉合理时采取纠正措施。

如一进口成员实行批准使用食品添加剂或制定食品、饮料或饲料中污染物允许量的制度，以禁止或限制未获批准的产品进入其国内市场，则进口成员应考虑使用有关国际标准作为进入市场的依据，直到作出最后确定为止。

2. 如一卫生与植物卫生措施规定在生产阶段进行控制，则在其领土内进行有关生产的成员应提供必要协助，以便利此类控制及控制机构的工作。

3. 本协定的内容不得阻止各成员在各自领土内实施合理检查。

so that corrective action may be taken if necessary; even when the application has deficiencies, the competent body proceeds as far as practicable with the procedure if the applicant so requests; and that upon request, the applicant is informed of the stage of the procedure, with any delay being explained;

(c) information requirements are limited to what is necessary for appropriate control, inspection and approval procedures, including for approval of the use of additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs;

(d) the confidentiality of information about imported products arising from or supplied in connection with control, inspection and approval is respected in a way no less favourable than for domestic products and in such a manner that legitimate commercial interests are protected;

(e) any requirements for control, inspection and approval of individual specimens of a product are limited to what is reasonable and necessary;

(f) any fees imposed for the procedures on imported products are equitable in relation to any fees charged on like domestic products or products originating in any other Member and should be no higher than the actual cost of the service;

(g) the same criteria should be used in the siting of facilities used in the procedures and the selection of samples of imported products as for domestic products so as to minimize the inconvenience to applicants, importers, exporters or their agents;

(h) whenever specifications of a product are changed subsequent to its control and inspection in light of the applicable regulations, the procedure for the modified product is limited to what is necessary to determine whether adequate confidence exists that the product still meets the regulations concerned; and

(i) a procedure exists to review complaints concerning the operation of such procedures and to take corrective action when a complaint is justified.

Where an importing Member operates a system for the approval of the use of food additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs which prohibits or restricts access to its domestic markets for products based on the absence of an approval, the importing Member shall consider the use of a relevant international standard as the basis for access until a final determination is made.

2. Where a sanitary or phytosanitary measure specifies control at the level of production, the Member in whose territory the production takes place shall provide the necessary assistance to facilitate such control and the work of the controlling authorities.

3. Nothing in this Agreement shall prevent Members from carrying out reasonable inspection within their own territories.

技术性贸易壁垒协定

各成员，

注意到乌拉圭回合多边贸易谈判；

期望促进 GATT 1994 目标的实现：

认识到国际标准和合格评定体系可以通过提高生产效率和便利国际贸易的进行而在这方面作出重要贡献；

因此期望鼓励制定此类国际标准和合格评定体系；

但是期望保证技术法规和标准，包括对包装、标志和标签的要求，以及对技术法规和标准的合格评定程序不给国际贸易制造不必要的障碍；

认识到不应阻止任何国家在其认为适当的程度内采取必要措施，保证其出口产品的质量，或**保护人类、动物或植物的生命或健康**及**保护环境**，或防止欺诈行为，但是这些措施的实施方式不得构成在情形相同的国家之间进行任意或不合理歧视的手段，或构成对国际贸易的变相限制，并应在其他方面与本协定的规定相一致；

认识到不应阻止任何国家采取必要措施以保护其基本安全利益；

认识到国际标准化在发达国家向发展中国家转让技术方面可以作出的贡献；

认识到发展中国家在制定和实施技术法规、标准及对技术法规和标准的合格评定程序方面可能遇到特殊困难，并期望对它们在这方面所作的努力给予协助；

特此协议如下：

第 1 条

总则

1.1 标准化和合格评定程序通用术语的含义通常应根据联合国系统和国际标准化机构所采用的定义，同时考虑其上下文并按照本协定的目的和宗旨确定。

1.2 但就本协定而言，应适用附件 1 中所列术语的含义。

1.3 所有产品，包括工业品和农产品，均应遵守本协定的规定。

1.4 政府机构为其生产或消费要求所制定的采购规格不受本协定规定的约束，而应根据《政府采购协定》的范围由该协定处理。

1.5 本协定的规定不适用于《实施卫生与植物卫生措施协定》附件 A 定义的卫生与植物卫生措施。

1.6 本协定中所指的所有技术法规、标准和合格评定程序，应理解为包括对其规则的任何修正或产品范围的任何补充，但无实质意义的修正和补充除外。

AGREEMENT ON TECHNICAL BARRIERS TO TRADE

Members,

Having regard to the Uruguay Round of Multilateral Trade Negotiations;

Desiring to further the objectives of GATT 1994;

Recognizing the important contribution that international standards and conformity assessment systems can make in this regard by improving efficiency of production and facilitating the conduct of international trade;

Desiring therefore to encourage the development of such international standards and conformity assessment systems;

Desiring however to ensure that technical regulations and standards, including packaging, marking and labelling requirements, and procedures for assessment of conformity with technical regulations and standards do not create unnecessary obstacles to international trade;

Recognizing that no country should be prevented from taking measures necessary to ensure the quality of its exports, or for the protection of human, animal or plant life or health, of the environment, or for the prevention of deceptive practices, at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade, and are otherwise in accordance with the provisions of this Agreement;

Recognizing that no country should be prevented from taking measures necessary for the protection of its essential security interest;

Recognizing the contribution which international standardization can make to the transfer of technology from developed to developing countries;

Recognizing that developing countries may encounter special difficulties in the formulation and application of technical regulations and standards and procedures for assessment of conformity with technical regulations and standards, and desiring to assist them in their endeavours in this regard;

Hereby *agree as* follows:

Article 1

General Provisions

1.1 General terms for standardization and procedures for assessment of conformity shall normally have the meaning given to them by definitions adopted within the United Nations system and by international standardizing bodies taking into account their context and in the light of the object and purpose of this Agreement.

1.2 However, for the purposes of this Agreement the meaning of the terms given in Annex 1 applies.

1.3 All products, including industrial and agricultural products, shall be subject to the provisions of this Agreement.

1.4 Purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies are not subject to the provisions of this Agreement but are addressed in the Agreement on Government Procurement, according to its coverage.

1.5 The provisions of this Agreement do not apply to sanitary and phytosanitary measures as defined in Annex A of the Agreement on the Application of Sanitary and Phytosanitary Measures.

1.6 All references in this Agreement to technical regulations, standards and conformity assessment procedures shall be construed to include any amendments thereto and any additions to the rules or the product coverage thereof, except amendments and additions of an insignificant nature.

技术法规和标准

第 2 条

中央政府机构制定、采用和实施的技术法规

对于各自的中央政府机构：

2.1 各成员应保证在技术法规方面，给予源自任何成员领土进口的产品不低于其给予本国同类产品或来自任何其他国家同类产品的待遇。

2.2 各成员应保证技术法规的制定、采用或实施在目的或效果上均不对国际贸易造成不必要的障碍。为此目的，技术法规对贸易的限制不得超过为实现合法目标所必需的限度，同时考虑合法目标未能实现可能造成的风险。此类合法目标特别包括：国家安全要求；防止欺诈作为；**保护人类健康或安全、保护动物或植物的生命或健康及保护环境**。在评估此类风险时，应考虑的相关因素特别包括：可获得的科学和技术信息、有关的加工技术或产品的预期最终用途。

2.3 如与技术法规采用有关的情况或目标已不复存在，或改变的情况或目标可采用对贸易限制较少的方式加以处理，则不得维持此类技术法规。

2.4 如需制定技术法规，而有关国际标准已经存在或即将拟就，则各成员应使用这些国际标准或其中的相关部分作为其技术法规的基础，除非这些国际标准或其中的相关部分对达到其追求的合法目标无效或不适当，例如由于基本气候因素或地理因素或基本技术问题。

2.5 应另一成员请求，一成员在制定、采用或实施可能对其他成员的贸易有重大影响的技术法规时应按照第 2 款到第 4 款的规定对其技术法规的合理性进行说明。只要出于第 2 款明确提及的合法目标之一并依照有关国际标准制定、采用和实施的技术法规，即均应予以作出未对国际贸易造成不必要障碍的可予驳回的推定。

2.6 为在尽可能广泛的基础上协调技术法规，各成员应在其力所能及的范围内充分参与有关国际标准化机构就各自已采用或准备采用的技术法规所涵盖的产品制定国际标准的工作。

2.7 各成员应积极考虑将其他成员的技术法规作为等效法规加以接受，即使这些法规不同于自己的法规，只要它们确信这些法规足以实现与自己的法规相同的目标。

2.8 只要适当，各成员即应按照产品的性能而不是按照其设计或描述特征来制定技术法规。

2.9 只要不存在有关国际标准或拟议的技术法规中的技术内容与有关国际标准中的技术内容不一致，且如果该技术法规可能对其他成员的贸易有重大影响，则各成员即应：

2.9.1 在早期适当阶段，以能够使其他成员中的利害关系方知晓的方式，在出版物上发布有关提议采用某一特定技术法规的通知；

2.9.2 通过秘书处通知其他成员拟议的法规所涵盖的产品，并对拟议的法规的目的和理由作出简要说明。此类通知应在早期适当阶段作出，以便进行

TECHNICAL REGULATIONS AND STANDARDS

Article 2

Preparation, Adoption and Application of Technical Regulations by Central Government Bodies

With respect to their central government bodies:

2.1 Members shall ensure that in respect of technical regulations, products imported from the territory of any Member shall be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country.

2.2 Members shall ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. For this purpose, technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create. Such legitimate objectives are, *inter alia*: national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment. In assessing such risks, relevant elements of consideration are, *inter alia*: available scientific and technical information, related processing technology of intended end-uses of products.

2.3 Technical regulations shall not be maintained if the circumstances or objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a less trade-restrictive manner.

2.4 Where technical regulations are required and relevant international standards exist or their completion is imminent, Members shall use them, or the relevant parts of them, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems.

2.5 A Member preparing, adopting or applying a technical regulation which may have a significant effect on trade of other Members shall, upon the request of another Member, explain the justification for that technical regulation in terms of the provisions of paragraphs 2 to 4. Whenever a technical regulation is prepared, adopted or applied for one of the legitimate objectives explicitly mentioned in paragraph 2, and is in accordance with relevant international standards, it shall be rebuttably presumed not to create an unnecessary obstacle to international trade.

2.6 With a view to harmonizing technical regulations on as wide a basis as possible, Members shall play a full part, within the limits of their resources, in the preparation by appropriate international standardizing bodies of international standards for products for which they either have adopted, or expect to adopt, technical regulations.

2.7 Members shall give positive consideration to accepting as equivalent technical regulations of other Members, even if these regulations differ from their own, provided they are satisfied that these regulations adequately fulfil the objectives of their own regulations.

2.8 Wherever appropriate, Members shall specify technical regulations based on product requirements in terms of performance rather than design or descriptive characteristics.

2.9 Whenever a relevant international standard does not exist or the technical content of a proposed technical regulation is not in accordance with the technical content of relevant international standards, and if the technical regulation may have a significant effect on trade of other Members, Members shall:

2.9.1 publish a notice in a publication at an early appropriate stage, in such a manner as to enable interested parties in other Members to become acquainted with it, that they propose to introduce a particular technical regulation;

2.9.2 notify other Members through the Secretariat of the products to be covered by the proposed technical regulation, together with a brief indication of its objective and rationale. Such notifications shall take place at an early appropriate stage, when amendments can still be in-

修正和考虑提出的意见；

2.9.3 应请求，向其他成员提供拟议的技术法规的细节或副本，只要可能，即应确认与有关国际标准有实质性偏离的部分；

2.9.4 无歧视地给予其他成员合理的时间以提出书面意见，应请求讨论这些意见，并对这些书面意见和讨论的结果予以考虑。

2.10 在遵守第9款引言部分规定的前提下，如一成员面临**涉及安全、健康、环境保护**或国家安全等紧急问题或面临发生此类问题的威胁，则该成员可省略第9款所列步骤中其认为有必要省略的步骤，但是该成员在采用技术法规时应：

2.10.1 立即通过秘书处将特定技术法规及其涵盖的产品通知其他成员，并对该技术法规的目的和理由作出简要说明，包括紧急问题的性质；

2.10.2 应请求，向其他成员提供该技术法规的副本；

2.10.3 无歧视地给予其他成员合理的时间以提出书面意见，应请求讨论这些意见，并对这些书面意见和讨论的结果予以考虑。

2.11 各成员应保证迅速公布已采用的所有技术法规，或以可使其他成员中的利害关系方知晓的其他方式提供。

2.12 除第10款所指的紧急情况外，各成员应在技术法规的公布和生效之间留出合理时间间隔，使出口成员、特别是发展中国家成员的生产者有时间使其产品和生产方法适应进口成员的要求。

第3条
地方政府机构和非政府机构
制定、采用和实施的技术法规

对于各自领土内的地方政府和非政府机构：

3.1 各成员应采取其所能采取的合理措施，保证此类机构遵守第2条的规定，但第2条第9.2款和第10.1款所指的通知义务除外。

3.2 各成员应保证依照第2条第9.2款和第10.1款的规定对直属中央政府的地方政府的技术法规作出通知，同时注意到内容与有关成员中央政府以往通知的技术法规的技术内容实质相同的地方技术法规不需作出通知。

3.3 各成员可要求与其他成员的联系通过中央政府进行，包括第2条第9款和第10款所指的通知、提供信息、提出意见和进行讨论。

3.4 各成员不得采取要求或鼓励其领土内的地方政府机构或非政府机构以与第2条规定不一致的方式行事的措施。

3.5 在本协定项下，各成员对遵守第2条的所有规定负有全责。各成员应制定和实施积极的措施和机制，以支持中央政府机构以外的机构遵守第2条的规定。

troduced and comments taken into account;

2.9.3 upon request, provide to other Members particulars or copies of the proposed technical regulation and, whenever possible, identify the parts which in substance deviate from relevant international standards;

2.9.4 without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account.

2.10 Subject to the provisions in the lead-in to paragraph 9, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in paragraph 9 as it finds necessary, provided that the Member, upon adoption of a technical regulation, shall:

2.10.1 notify immediately other Members through the Secretariat of the particular technical regulation and the products covered, with a brief indication of the objective and the rationale of the technical regulation, including the nature of the urgent problems;

2.10.2 upon request, provide other Members with copies of the technical regulation;

2.10.3 without discrimination, allow other Members to present their comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account.

2.11 Members shall ensure that all technical regulations which have been adopted are published promptly or otherwise made available in such a manner as to enable interested parties in other Members to become acquainted with them.

2.12 Except in those urgent circumstances referred to in paragraph 10, Members shall allow a reasonable interval between the publication of technical regulations and their entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products or methods of production to the requirements of the importing Member.

Article 3

Preparation, Adoption and Application of Technical Regulations by Local Government Bodies and Non-Governmental Bodies

With respect to their local government and non-governmental bodies within their territories:

3.1 Members shall take such reasonable measures as may be available to them to ensure compliance by such bodies with the provisions of Article 2, with the exception of the obligation to notify as referred to in paragraphs 9.2 and 10.1 of Article 2.

3.2 Members shall ensure that the technical regulations of local governments on the level directly below that of the central government in Members are notified in accordance with the provisions of paragraphs 9.2 and 10.1 of Article 2, noting that notification shall not be required for technical regulations the technical content of which is substantially the same as that of previously notified technical regulations of central government bodies of the Member concerned.

3.3 Members may require contact with other Members, including the notifications, provision of information, comments and discussions referred to in paragraphs 9 and 10 of Article 2, to take place through the central government.

3.4 Members shall not take measures which require or encourage local government bodies or non-governmental bodies within their territories to act in a manner inconsistent with the provisions of Article 2.

3.5 Members are fully responsible under this Agreement for the observance of all provisions of Article 2. Members shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of Article 2 by other than central government bodies.

第 4 条
标准的制定、采用和实施

4.1 各成员应保证其中央政府标准化机构接受并遵守本协定附件 3 中的《关于制定、采用和实施标准的良好行为规范》（本协定中称“《良好行为规范》”）。它们应采取其所能采取的合理措施，保证其领土内的地方政府和非政府标准化机构，以及它们参加的或其领土内一个或多个机构参加的区域标准化组织接受并遵守该《良好行为规范》。此外，成员不得采取直接或间接要求或鼓励此类标准化机构以与《良好行为规范》不一致的方式行事的措施。各成员关于标准化机构遵守《良好行为规范》规定的义务应予履行，无论一标准化组织是否已接受《良好行为规范》。

4.2 对于已接受并遵守《良好行为规范》的标准化机构，各成员应承认其遵守本协定的原则。

符合技术法规和标准
第 5 条
中央政府机构的合格评定程序

5.1 各成员应保证，在需要切实保证符合技术法规或标准时，其中央政府机构对源自其他成员领土内的产品适用下列规定：

5.1.1. 合格评定程序的制定、采用和实施，应在可比的情况下以不低于给予本国同类产品的供应商或源自任何其他国家同类产品的供应商的条件，使源自其他成员领土内产品的供应商获得准入；此准入使产品供应商有权根据该程序的规则获得合格评定，包括在该程序可预见时，在设备现场进行合格评定并能得到该合格评定体系的标志；

5.1.2. 合格评定程序的制定、采用或实施在目的和效果上不应对国际贸易造成不必要的障碍。此点特别意味着：合格评定程序或其实施方式不得比给予进口成员对产品符合适用的技术法规或标准所必需的足够信任更为严格，同时考虑不符合技术法规或标准可能造成的风险。

5.2 在实施第 1 款的规定时，各成员应保证：

5.2.1 合格评定程序尽可能迅速的进行和完成，并在顺序上给予源自其他成员领土内的产品不低于本国同类产品的待遇；

5.2.2 公布每一合格评定程序的标准处理时限，或应请求，告知申请人预期的处理时限；主管机构在收到申请后迅速审查文件是否齐全，并以准确和完整的方式通知申请人所有不足之处；主管机构尽快以准确和完整的方式向申请人传达评定结果，以便申请人在必要时采取纠正措施；即使在申请存在不足之处时，如申请人提出请求，主管机构也应尽可能继续进行合格评定；以及应请求，通知申请人程序进行的阶段，并对任何迟延进行说明；

Article 4

Preparation, Adoption and Application of Standards

4.1 Members shall ensure that their central government standardizing bodies accept and comply with the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 to this Agreement (referred to in this Agreement as the "Code of Good Practice"). They shall take such reasonable measures as may be available to them to ensure that local government and non-governmental standardizing bodies within their territories, as well as regional standardizing bodies of which they or one or more bodies within their territories are members, accept and comply with this Code of Good Practice. In addition, Members shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such standardizing bodies to act in a manner inconsistent with the Code of Good Practice. The obligations of Members with respect to compliance of standardizing bodies with the provisions of the Code of Good Practice shall apply irrespective of whether or not a standardizing body has accepted the Code of Good Practice.

4.2 Standardizing bodies that have accepted and are complying with the Code of Good Practice shall be acknowledged by the Members as complying with the principles of this Agreement.

CONFORMITY WITH TECHNICAL REGULATIONS AND STANDARDS

Article 5

Procedures for Assessment of Conformity by Central Government Bodies

5.1 Members shall ensure that, in cases where a positive assurance of conformity with technical regulations or standards is required, their central government bodies apply the following provisions to products originating in the territories of other Members:

5.1.1 conformity assessment procedures are prepared, adopted and applied so as to grant access for suppliers of like products originating in the territories of other Members under conditions no less favourable than those accorded to suppliers of like products of national origin or originating in any other country, in a comparable situation; access entails supplies' right to an assessment of conformity under the rules of the procedure, including, when foreseen by this procedure, the possibility to have conformity assessment activities undertaken at the site of facilities and to receive the mark of the system;

5.1.2 conformity assessment procedures are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. This means, *inter alia*, that conformity assessment procedures shall not be more strict or be applied more strictly than is necessary to give the importing Member adequate confidence that products conform with the applicalbe technical regulations or standards, taking account of the risks non-conformity would create.

5.2 When implementing the provisions of paragraph 1, Members shall ensure that:

5.2.1 conformity assessment procedures are undertaken and completed as expeditiously as possible and in a no less favourable order for products originating in the territories of other Members than for like domestic products;

5.2.2 the standard processing period of each conformity assessment procedure is published or that the anticipated processing period is communicated to the applicant upon request; when receiving an application, the competent body promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of all deficiencies; the competent body transmits as soon as possible the results of the assessment in a precise and complete manner to the applicant so that corrective action may be taken if necessary; even when the application has deficiencies, the competent body proceeds as far as practicable with the conformity assessment if the applicant so requests; and that, upon request, the

5.2.3 对信息的要求仅限于合格评定和确定费用所必需的限度；

5.2.4 由此类合格评定程序产生或提供的与其有关的源自其他成员领土内产品的信息，其机密性受到与本国产品同样的遵守，其合法商业利益得到与本国产品相同的保护；

5.2.5 对源自其他成员领土内的产品进行合格评定所征收的任何费用与对本国或源自任何其他国家的同类产品所征收的费用相比是公平的，同时考虑因申请人与评定机构所在地不同而产生的通讯、运输及其他费用；

5.2.6 合格评定程序所用设备的设置地点及样品的提取不致给申请人或其代理人造成不必要的不便；

5.2.7 只要在对一产品是否符合适用的技术法规或标准作出确定后改变其规格，则对改变规格产品的合格评定程序即仅限于为确定对该产品仍符合有关技术法规或标准是否有足够的信任所必需的限度；

5.2.8 建立一个程序，以审查有关实施合格评定程序的投诉，且当一投诉被证明属合理时采取纠正措施。

5.3 第1款和第2款的任何规定均不得阻止各成员在其领土内进行合理的现场检查。

5.4 如需切实保证产品符合技术法规或标准、且国际标准化机构发布的相关指南或建议已经存在或即将拟就，则各成员应保证中央政府机构使用这些指南或建议或其中的相关部分，作为其合格评定程序的基础，除非应请求作出适当说明，指出此类指南、建议或其中的相关部分特别由于如下原因而不适合于有关成员：国家安全要求；防止欺诈行为；**保护人类健康或安全、保护动物或植物生命或健康及保护环境**；基本气候因素或其他地理因素；基本技术问题或基础设施问题。

5.5 为在尽可能广泛的基础上协调合格评定程序，各成员应在力所能及的范围内充分参与有关国际标准化机构制定合格评定程序指南和建议的工作。

5.6 只要不存在国际标准化机构发布的相关指南或建议，或拟议的合格评定程序的技术内容与国际标准化机构发布的相关指南或建议不一致，并且此合格评定程序可能对其他成员的贸易产生重大影响，则各成员即应：

5.6.1 在早期适当阶段，以能够使其他成员中的利害关系方知晓的方式，在出版物上发布有关提议采用的特定合格评定程序的通知；

5.6.2 通过秘书处通知其他成员拟议的合格评定程序所涵盖的产品，并对该程序的目的和理由作出简要说明。此类通知应在早期适当阶段作出，以便仍可进行修正和考虑提出的意见；

5.6.3 应请求，向其他成员提供拟议的程序的细节或副本，只要可能，即应确认与有关国际标准化机构发布的指南或建议有实质性偏离的部分；

applicant is informed of the stage of the procedure, with any delay being explained;

5.2.3 information requirements are limited to what is necessary to assess conformity and determine fees;

5.2.4 the confidentiality of information about products originating in the territories of other Members arising from or supplied in connection with such conformity assessment procedures is respected in the same way as for domestic products and in such a manner that legitimate commercial interests are protected;

5.2.5 any fees imposed for assessing the conformity of products originating in the territories of other Members are equitable in relation to any fees chargeable for assessing the conformity of like products of national origin or originating in any other country, taking into account communication, transportation and other costs arising from differences between location of facilities of the applicant and the conformity assessment body;

5.2.6 the siting of facilities used in conformity assessment procedures and the selection of samples are not such as to cause unnecessary inconvenience to applicants or their agents;

5.2.7 whenever specifications of a product are changed subsequent to the determination of its conformity to the applicable technical regulations or standards, the conformity assessment procedure for the modified product is limited to what is necessary to determine whether adequate confidence exists that the product still meets the technical regulations or standards concerned;

5.2.8 a procedure exists to review complaints concerning the operation of a conformity assessment procedure and to take corrective action when a complaint is justified.

5.3 Nothing in paragraphs 1 and 2 shall prevent Members from carrying out reasonable spot checks within their territories.

5.4 In cases where a positive assurance is required that products conform with technical regulations or standards, and relevant guides or recommendations issued by international standardizing bodies exist or their completion is imminent, Members shall ensure that central government bodies use them, or the relevant parts of them, as a basis for their conformity assessment procedures, except where, as duly explained upon request, such guides or recommendations or relevant parts are inappropriate for the Members concerned, for, *inter alia*, such reasons as: national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; fundamental technological or infrastructural problems.

5.5 With a view to harmonizing conformity assessment procedures on as wide a basis as possible, Members shall play a full part, within the limits of their resources, in the preparation by appropriate international standardizing bodies of guides and recommendations for conformity assessment procedures.

5.6 Whenever a relevant guide or recommendation issued by an international standardizing body does not exist or the technical content of a proposed conformity assessment procedure is not in accordance with relevant guides and recommendations issued by international standardizing bodies, and if the conformity assessment procedure may have a significant effect on trade of other Members, Members shall:

5.6.1 publish a notice in a publication at an early appropriate stage, in such a manner as to enable interested parties in other Members to become acquainted with it, that they propose to introduce a particular conformity assessment procedure;

5.6.2 notify other Members through the Secretariat of the products to be covered by the proposed conformity assessment procedure, together with a brief indication of its objective and rationale. Such notifications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account;

5.6.3 upon request, provide to other Members particulars or copies of the proposed procedure and, whenever possible, identify the parts which in substance deviate from relevant guides or recommendations issued by international standardizing bodies;

5.6.4 无歧视地给予其他成员合理的时间以提出书面意见，应请求讨论这些意见，并对这些书面意见和讨论的结果予以考虑。

5.7 在遵守第6款引言部分规定的前提下，如一成员面临**涉及安全、健康、环境保护**或国家安全等紧急问题或面临发生此类问题的威胁，则该成员可省略第6款所列步骤中其认为有必要省略的步骤，但该成员在采用该程序时应：

5.7.1. 立即通过秘书处将特定程序及其涵盖的产品通知其他成员，并对该程序的目的和理由作出简要说明，包括紧急问题的性质；

5.7.2. 应请求，向其他成员提供该程序规则的副本；

5.7.3. 无歧视地给予其他成员合理的时间以提出书面意见，应请求讨论这些意见，并对这些书面意见和讨论的结果予以考虑。

5.8 各成员应保证迅速公布已采用的所有合格评定程序，或以可使其他成员中的利害关系方知晓的其他方式提供。

5.9 除第7款提及的紧急情况外，各成员应在有关合格评定程序要求的公布和生效之间留出合理时间间隔，使出口成员、特别是发展中国家成员的生产者有时间使其产品和生产方法适应进口成员的要求。

第6条
中央政府机构对合格评定的承认

对于各自的中央政府机构：

6.1 在不损害第3款和第4款规定的情况下，各成员应保证，只要可能，即接受其他成员合格评定程序的结果，即使这些程序不同于它们自己的程序，只要它们确信这些程序与其自己的程序相比同样可以保证产品符合有关技术法规或标准。各方认识到可能需要进行事先磋商，以便就有关事项达成相互满意的谅解，特别是关于：

6.1.1 出口成员的有关合格评定机构的适当和持久的技术资格，以保证其合格评定结果的持续可靠性得到信任；在这方面，应考虑通过认可等方法核实其遵守国际标准化机构发布的相关指南或建议，作为拥有适当技术资格的一种表示；

6.1.2 关于接受该出口成员指定机构出具的合格评定结果的限制。

6.2 各成员应保证其合格评定程序尽可能允许第1款的规定得到实施。

6.3 鼓励各成员应其他成员请求，就达成相互承认合格评定程序结果的协议进行谈判。成员可要求此类协议满足第1款的标准，并在便利有关产品贸易的可能性方面使双方满意。

6.4 鼓励各成员以不低于给予自己领土内或任何其他国家领土内合格评定机构的条件，允许其他成员领土内的合格评定机构参加其合格评定程序。

5.6.4 without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account.

5.7 Subject to the provisions in the lead-in to paragraph 6, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Member, that Member may omit such of the steps enumerated in paragraph 6 as it finds necessary, provided that the Member, upon adoption of the procedure, shall:

5.7.1 notify immediately other Members through the Secretariat of the particular procedure and the products covered, with a brief indication of the objective and the rationale of the procedure, including the nature of the urgent problems;

5.7.2 upon request, provide other Members with copies of the rules of the procedure;

5.7.3 without discrimination, allow other Members to present their comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account.

5.8 Members shall ensure that all conformity assessment procedures which have been adopted are published promptly or otherwise made available in such a manner as to enable interested parties in other Members to become acquainted with them.

5.9 Except in those urgent circumstances referred to in paragraph 7, Members shall allow a reasonable interval between the publication of requirements concerning conformity assessment procedures and their entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products or methods of production to the requirements of the importing Member.

Article 6

Recognition of Conformity Assessment by Central Government Bodies

With respect to their central government bodies:

6.1 Without prejudice to the provisions of paragraphs 3 and 4, Members shall ensure, whenever possible, that results of conformity assessment procedures in other Members are accepted, even when those procedures differ from their own, provided they are satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to their own procedures. It is recognized that prior consultations may be necessary in order to arrive at a mutually satisfactory understanding regarding, in particular:

6.1.1 adequate and enduring technical competence of the relevant conformity assessment bodies in the exporting Member, so that confidence in the continued reliability of their conformity assessment results can exist; in this regard, verified compliance, for instance through accreditation, with relevant guides or recommendations issued by international standardizing bodies shall be taken into account as an indication of adequate technical competence;

6.1.2 limitation of the acceptance of conformity assessment results to those produced by designated bodies in the exporting Member.

6.2 Members shall ensure that their conformity assessment procedures permit, as far as practicable, the implementation of the provisions in paragraph 1.

6.3 Members are encouraged, at the request of other Members, to be willing to enter into negotiations for the conclusion of agreements for the mutual recognition of results of each other's conformity assessment procedures. Members may require that such agreements fulfil the criteria of paragraph 1 and give mutual satisfaction regarding their potential for facilitating trade in the products concerned.

6.4 Members are encouraged to permit participation of conformity assessment bodies located in the territories of other Members in their conformity assessment procedures under conditions no less favourable than those accorded to bodies located within their territory or the territory of any other country.

第 7 条
地方政府机构的合格评定程序

对于各自领土内的地方政府机构：

7.1 各成员应采取其所能采取的合理措施，保证此类机构符合第 5 条和第 6 条的规定，但第 5 条第 6.2 款和第 7.1 款所指的通知义务除外。

7.2 各成员应保证依照第 5 条第 6.2 款和第 7.1 款的规定对直属中央政府的地方政府的合格评定程序作出通知，同时注意到内容与有关成员中央政府以往通知的合格评定程序的技术内容实质相同的合格评定程序不需作出通知。

7.3 各成员可要求与其他成员联系通过中央政府进行，包括第 5 条第 6 款和第 7 款所指的通知、提供信息、提出意见和进行讨论。

7.4 各成员不得采取要求或鼓励其领土内的地方政府机构以与第 5 条和第 6 条规定不一致的方式行事的措施。

7.5 在本协定项下，各成员对遵守第 5 条和第 6 条的所有规定负有全责。各成员应制定和实施积极的措施和机制，以支持中央政府机构以外的机构遵守第 5 条和第 6 条的规定。

第 8 条
非政府机构的合格评定程序

8.1 各成员应采取其所能采取的合理措施，保证其领土内实施合格评定程序的非政府机构遵守第 5 条和第 6 条的规定，但关于通知拟议的合格评定程序的义务除外。此外，各成员不得采取具有直接或间接要求或鼓励此类机构以与第 5 条和第 6 条规定不一致的方式行事的效果的措施。

8.2 各成员应保证只有在非政府机构遵守第 5 条和第 6 条规定的情况下，其中央政府机构方可依靠这些机构实施的合格评定程序，但关于通知拟议的合格评定程序的义务除外。

第 9 条
国际和区域体系

9.1 如需要切实保证符合技术法规或标准，只要可行，各成员即应制定和采用国际合格评定体系并作为该体系成员或参与该体系。

9.2 各成员应采取其所能采取的合理措施，保证其领土内的相关机构加入或参与的国际和区域合格评定体系遵守第 5 条和第 6 条的规定。此外，各成员不得采取任何具有直接或间接要求或鼓励此类体系以与第 5 条和第 6 条规定不一致的方式行事的效果的措施。

9.3 各成员应保证只有在国际或区域合格评定体系遵守适用的第 5 条和第 6 条规定的情况下，其中央政府机构方可依靠这些体系。

Article 7

Procedures for Assessment of Conformity by Local Government Bodies

With respect to their local government bodies within their territories:

7.1 Members shall take such reasonable measures as may be available to them to ensure compliance by such bodies with the provisions of Articles 5 and 6, with the exception of the obligation to notify as referred to in paragraphs 6.2 and 7.1 of Article 5.

7.2 Members shall ensure that the conformity assessment procedures of local governments on the level directly below that of the central government in Members are notified in accordance with the provisions of paragraphs 6.2 and 7.1 of Article 5, noting that notifications shall not be required for conformity assessment procedures the technical content of which is substantially the same as that of previously notified conformity assessment procedures of central government bodies of the Members concerned.

7.3 Members may require contact with other Members, including the notifications, provision of information, comments and discussions referred to in paragraphs 6 and 7 of Article 5, to take place through the central government.

7.4 Members shall not take measures which require or encourage local government bodies within their territories to act in a manner inconsistent with the provisions of Articles 5 and 6.

7.5 Members are fully responsible under this Agreement for the observance of all provisions of Articles 5 and 6. Members shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of Articles 5 and 6 by other than central government bodies.

Article 8

Procedures for Assessment of Conformity by Non-Governmental Bodies

8.1 Members shall take such reasonable measures as may be available to them to ensure that non-governmental bodies within their territories which operate conformity assessment procedures comply with the provisions of Articles 5 and 6, with the exception of the obligation to notify proposed conformity assessment procedures. In addition, Members shall not take measures which have the effect of , directly or indirectly, requiring or encouraging such bodies to act in a manner inconsistent with the provisions of Articles 5 and 6.

8.2 Members shall ensure that their central government bodies rely on conformity assessment procedures operated by non-governmental bodies only if these latter bodies comply with the provisions of Articles 5 and 6, with the exception of the obligation to notify proposed conformity assessment procedures.

Article 9

International and Regional Systems

9.1 Where a positive assurance of conformity with a technical regulation or standard is required, Members shall, wherever practicable, formulate and adopt international systems for conformity assessment and become members thereof or participate therein.

9.2 Members shall take such reasonable measures as may be available to them to ensure that international and regional systems for conformity assessment in which relevant bodies within their territories are members or participants comply with the provisions of Articles 5 and 6. In addition, Members shall not take any measures which have the effect of , directly or indirectly, requiring or encoruaging such systems to act in a manner inconsistent with any of the provisions of Articles 5 and 6.

9.3 Members shall ensure that their central government bodies rely on international or regional conformity assessment systems only to the extent that these systems comply with the provisions of Articles 5 and 6, as applicable.

信息和援助

第 10 条

关于技术法规、标准和合格评定程序的信息

10.1 每一成员应保证设立咨询点，能够回答其他成员和其他成员中的利害关系方提出的所有合理询问，并提供有关下列内容的文件：

10.1.1 中央或地方政府机构、有执行技术法规法定权力的非政府机构、或此类机构加入或参与的区域标准化机构在其领土内采用或拟议的任何技术法规；

10.1.2 中央或地方政府机构，此类机构加入或参与的区域标准化机构在其领土内采用或拟议的任何标准；

10.1.3 中央或地方政府机构、或有执行技术法规法定权力的非政府机构，或此类机构加入或参与的区域机构在其领土内实施的任何或拟议的合格评定程序；

10.1.4 成员或其领土内中央或地方政府机构加入或参与国际和区域标准化机构和合格评定体系的情况，及参加本协定范围内的双边和多边安排的情况；并应能提供关于此类体系和安排的规定的合理信息；

10.1.5 按照本协定发布通知的地点，或提供关于何处可获得此类信息的信息；以及

10.1.6 第 3 款所述咨询点的地点。

10.2 但是如一成员因法律或行政原因设立一个以上的咨询点，则该成员应向其他成员提供关于每一咨询点职责范围的完整和明确的信息。此外，该成员应保证送错咨询点的任何询问应迅速转交正确的咨询点。

10.3 每一成员均应采取其所能采取的合理措施，保证设立一个或一个以上的咨询点，能够回答其他成员和其他成员中的利害关系方提出的所有合理询问，并提供有关下列内容的文件或关于从何处获得这些文件的信息：

10.3.1 非政府标准化机构或此类机构加入或参与的区域标准化机构在其领土内采取或拟议的任何标准；及

10.3.2 非政府机构或此类机构加入或参与的区域机构在其领土内实施的任何合格评定程序或拟议的合格评定程序；

10.3.3 其领土内非政府机构加入或参与国际和区域标准化机构和合格评定体系的情况，以及参加在本协定范围内的双边和多边安排的情况；并应能提供关于此类体系和安排的规定的合理信息。

10.4 各成员应采取其所能采取的合理措施，保证如其他成员或其他成员中的利害关系方依照本协定的规定索取文件副本，除递送费用外，应按向有关成员本国或任

INFORMATION AND ASSISTANCE

Article 10

Information About Technical Regulations, Standards and Conformity Assessment Procedures

10.1 Each Member shall ensure that an enquiry point exists which is able to answer all reasonable enquiries from other Members and interested parties in other Members as well as to provide the relevant documents regarding:

10.1.1 any technical regulations adopted or proposed within its territory by central or local government bodies, by non-governmental bodies which have legal power to enforce a technical regulation, or by regional standardizing bodies of which such bodies are members or participants;

10.1.2 any standards adopted or proposed within its territory by central or local government bodies, or by regional standardizing bodies of which such bodies are members or participants;

10.1.3 any conformity assessment procedures, or proposed conformity assessment procedures, which are operated within its territory by central or local government bodies, or by non-governmental bodies which have legal power to enforce a technical regulation, or by regional bodies of which such bodies are members or participants;

10.1.4 the membership and participation of the Member, or of relevant central or local government bodies within its territory, in international and regional standardizing bodies and conformity assessment systems, as well as in bilateral and multilateral arrangements within the scope of this Agreement; it shall also be able to provide reasonable information on the provisions of such systems and arrangements;

10.1.5 the location of notices published pursuant to this Agreement, or the provision of information as to where such information can be obtained; and

10.1.6 the location of the enquiry points mentioned in paragraph 3.

10.2 If, however, for legal or administrative reasons more than one enquiry point is established by a Member, that Member shall provide to the other Members complete and unambiguous information on the scope of responsibility of each of these enquiry points. In addition, that Member shall ensure that any enquiries addressed to an incorrect enquiry point shall promptly be conveyed to the correct enquiry point.

10.3 Each Member shall take such reasonable measures as may be available to it to ensure that one or more enquiry points exist which are able to answer all reasonable enquiries from other Members and interested parties in other Members as well as to provide the relevant documents or information as to where they can be obtained regarding:

10.3.1 any standards adopted or proposed within its territory by non-governmental standardizing bodies, or by regional standardizing bodies of which such bodies are members or participants; and

10.3.2 any conformity assessment procedures, or proposed conformity assessment procedures, which are operated within its territory by non-governmental bodies, or by regional bodies of which such bodies are members or participants;

10.3.3 the membership and participation of relevant non-governmental bodies within its territory in international and regional standardizing bodies and conformity assessment systems, as well as in bilateral and multilateral arrangements within the scope of this Agreement; they shall also be able to provide reasonable information on the provisions of such systems and arrangements.

10.4 Members shall take such reasonable measures as may be available to them to ensure that where copies of documents are requested by other Members or by interested parties in other Members, in accordance with the provisions of this Agreement, they are supplied at an equitable price (if any) which

何其他成员国民[①] 提供的相同价格（如有定价）提供。

10.5 如其他成员请求，发达国家成员应以英文、法文或西班牙文提供特定通知所涵盖的文件，如文件篇幅较长，则应提供此类文件的摘要。

10.6 秘书处在依照本协定的规定收到通知后，应迅速向所有成员和有利害关系的国际标准化和合格评定机构散发通知的副本，并提请发展中国家成员注意任何有关其特殊利益产品的通知。

10.7 只要一成员与一个或多个任何其他国家就与技术法规、标准或合格评定程序有关的问题达成可能对贸易有重大影响的协议，则至少一名属该协议参加方的成员即应通过秘书处通知其他成员该协议所涵盖的产品，包括对该协议的简要说明。鼓励有关成员应请求与其他成员进行磋商，以达成类似的协议或为参加此类协议作出安排。

10.8 本协定的任何内容不得解释为要求：

10.8.1 使用成员语文以外的语文出版文本；

10.8.2 使用成员语文以外的语文提供草案细节或草案的副本，但第 5 款规定的除外；或

10.8.3 各成员提供它们认为披露后会违背其基本安全利益的任何信息。

10.9 提交秘书处的通知应使用英文、法文或西班牙文。

10.10 各成员应指定一中央政府机构，负责在国家一级实施本协定关于通知程序的规定，但附件 3 中的规定除外。

10.11 但是如由于法律或行政原因，通知程序由中央政府的两个或两个以上主管机关共同负责，则有关成员应向其他成员提供关于每一机关职责范围的完整和明确的信息。

第 11 条
对其他成员的技术援助

11.1 如收到请求，各成员应就技术法规的制定向其他成员、特别是发展中国家成员提供建议。

11.2 如收到请求，各成员应就建立国家标准化机构和参加国际标准化机构的问题向其他成员、特别是发展中国家成员提供建议，并按双方同意的条款和条件给予它们技术援助，还应鼓励本国标准化机构采取同样的做法。

11.3 如收到请求，各成员应采取其所能采取的合理措施，安排其领土内的管理机构向其他成员、特别是发展中国家成员提供建议，并按双方同意的条款和条件就下列内容给予它们技术援助：

11.3.1 建立管理机构或技术法规的合格评定机构；及

11.3.2 能够最好地满足其技术法规的方法。

① 本协定中所指的“国民”一词，对于 WTO 的单独关税区成员，应被视为在该关税区内定居或拥有真实有效的工业或商业机构的自然人或法人。

shall, apart from the real cost of delivery, be the same for the nationals[①] of the Member concerned or of any other Member.

10.5 Developed country Members shall, if requested by other Members, provide, in English, French or Spanish, translations of the documents covered by a specific notification or, in case of voluminous documents, of summaries of such documents.

10.6 The Secretariat shall, when it receives notifications in accordance with the provisions of this Agreement, circulate copies of the notifications to all Members and interested international standardizing and conformity assessment bodies, and draw the attention of developing country Members to any notifications relating to products of particular interest to them.

10.7 Whenever a Member has reached an agreement with any other country or countries on issues related to technical regulations, standards or conformity assessment procedures which may have a significant effect on trade, at least one Member party to the agreement shall notify other Members through the Secretariat of the products to be covered by the agreement and include a brief description of the agreement. Members concerned are encouraged to enter, upon request, into consultations with other Members for the purposes of concluding similar agreements or of arranging for their participation in such agreements.

10.8 Nothing in this Agreement shall be construed as requiring:

10.8.1 the publication of texts other than in the language of the Member;

10.8.2 the provision of particulars or copies of drafts other than in the language of the Member except as stated in paragraph 5; or

10.8.3 Members to furnish any information, the disclosure of which they consider contrary to their essential security interests.

10.9 Notifications to the Secretariat shall be in English, French or Spanish.

10.10 Members shall designate a single central government authority that is responsible for the implementation on the national level of the provisions concerning notification procedures under this Agreement except those included in Annex 3.

10.11 If, however, for legal or administrative reasons the responsibility for notification procedures is divided among two or more central government authorities, the Member concerned shall provide to the other Members complete and unambiguous information on the scope of responsibility of each of these authorities.

Article 11

Technical Assistance to Other Members

11.1 Members shall, if requested, advise other Members, especially the developing country Members, on the preparation of technical regulatons.

11.2 Members shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of national standardizing bodies, and participation in the international standardizing bodies, and shall encourage their national standardizing bodies to do likewise.

11.3 Members shall, if requested, take such reasonable measures as may be available to them to arrange for the regulatory bodies within their territories to advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding:

11.3.1 the establishment of regulatory bodies, or bodies for the assessment of conformity with technical regulation; and

11.3.2 the methods by which their technical regulations can best be met.

11.4 Members shall, if requested, take such reasonable measures as may be available to them to ar-

① "Nationals" here shall be deemed, in the case of a separate customs territory Member of the WTO, to mean persons, natural or legal, who are domiciled or who have a real and effective industrial or commercial establishment in that customs territory.

11.4 如收到请求，各成员应采取其所能采取的合理措施，安排向其他成员、特别是发展中国家成员提供建议，并就在提出请求的成员领土内建立已采用标准的合格评定机构的问题，按双方同意的条款和条件给予它们技术援助。

11.5 如收到请求，各成员应向其他成员、特别是发展中国家成员提供建议，并就这些成员的生产者如希望利用收到请求的成员领土内的政府机构或非政府机构实施的合格评定体系所应采取步骤的问题，按双方同意的条款和条件给予它们技术援助。

11.6 如收到请求，加入或参与国际或区域合格评定体系的成员应向其他成员、特别是发展中国家成员提供建议，并就建立机构和法律体制以便能够履行因加入或参与此类体系而承担义务的问题，按双方同意的条款和条件给予它们技术援助。

11.7 如收到请求，各成员应鼓励其领土内加入或参与国际或区域合格评定体系的机构向其他成员、特别是发展中国家成员提供建议，并就建立机构以使其领土内的有关机构能够履行因加入或参与而承担义务的问题，考虑它们提出的关于提供技术援助的请求。

11.8 在根据第1款向其他成员提供建议和技术援助时，各成员应优先考虑最不发达国家成员的需要。

第12条
对发展中国家成员的特殊和差别待遇

12.1 各成员应通过下列规定和本协定其他条款的相关规定，对参加本协定的发展中国家成员提供差别和更优惠待遇。

12.2 各成员应特别注意本协定有关发展中国家成员的权利和义务的规定，并应在执行本协定时，包括在国内和在运用本协定的机构安排时，考虑发展中国家成员特殊的发展、财政和贸易需要。

12.3 各成员在制定和实施技术法规、标准和合格评定程序时，应考虑各发展中国家成员特殊的发展、财政和贸易需要，以保证此类技术法规、标准和合格评定程序不对发展中国家成员的出口造成不必要的障碍。

12.4 各成员认识到；虽然可能存在国际标准、指南和建议，但是在其特殊的技术和社会经济条件下，发展中国家成员可采用某些技术法规、标准或合格评定程序，旨在保护与其发展需要相适应的本国技术、生产方法和工艺。因此，各成员认识到不应期望发展中国家成员使用不适合其发展、财政和贸易需要的国际标准作为其技术法规或标准、包括试验方法的依据。

12.5 各成员应采取其所能采取的合理措施，以保证国际标准化机构和国际合格评定体系的组织和运作方式便利所有成员的有关机构积极和有代表性地参与，同时考虑发展中国家的特殊问题。

12.6 各成员应采取其所能采取的合理措施，以保证国际标准化机构应发展中国家成员的请求，审查对发展中国家成员有特殊利益产品制定国际标准的可能性，并在

range for advice to be given to other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of bodies for the assessment of conformity with standards adopted within the territory of the requesting Member.

11.5 Members shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the steps that should be taken by their producers if they wish to have access to systems for conformity assessment operated by governmental or non-governmental bodies within the territory of the Member receiving the request.

11.6 Members which are members or participants of international or regional systems for conformity assessment shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of the institutions and legal framework which would enable them to fulfil the obligations of membership or participation in such systems.

11.7 Members shall, if so requested, encourage bodies within their territories which are members or participants of international or regional systems for conformity assessment to advise other Members, especially the developing country Members, and should consider requests for technical assistance from them regarding the establishment of the institutions which would enable the relevant bodies within their terrtories to fulfil the obligations of membership or participation.

10.8 In providing advice and technical assistance to other Members in terms of paragraphs 1 to 7, Members shall give priority to the needs of the least-developed country Members.

Article 12

Special and Differential Treatment
of Developing Country Members

12.1 Members shall provide differential and more favourable treatment to developing country Members to this Agreement, through the following provisions as well as through the relevant provisions of other Articles of this Agreement.

12.2 Members shall give particular attention to the provisions of this Agreement concerning developing country Members' rights and obligations and shall take into account the special development, financial and trade needs of developing country Members in the implementation of this Agreement, both nationally and in the operation of this Agreement's institutional arrangements.

12.3 Members shall, in the preparation and application of technical regulations, standards and conformity assessment procedures, take account of the special development, financial and trade needs of developing country Members, with a view to ensuring that such technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to exports from developing country Members.

12.4 Members recognize that, although international standards, guides or recommendations may exist, in their particular technological and socio-economic conditions, developing country Members adopt certain technical regulations, standards or conformity assessment procedures aimed at preserving indigenous technology and production methods and processes compatible with their development needs. Membertherefore vecognize that developing country Members should not be eopected to use international standards as a basis for their technical regulations or standards, including test methods, which are not appropriate to their development, financial and trade needs.

12.5 Members shall take such reasonable measures as may be available to them to ensure that international standardizing bodies and international systems for conformity assessment are organized and operated in a way which facilitates active and representative participation of relevant bodies in all Members, taking into account the special problems of developing country Members.

12.6 Members shall take such reasonable measures as may be available to them to ensure that international standardizing bodies, upon request of developing country Members, examine the possibility of,

可行时制定这些标准。

12.7 各成员应依照第 11 条的规定，向发展中国家成员提供技术援助，以保证技术法规、标准和合格评定程序的制定和实施不对发展中国家成员出口的扩大和多样化造成不必要的障碍。在确定技术援助的条款和条件时，应考虑提出请求的成员、特别是最不发达国家成员所处的发展阶段。

12.8 各方认识到发展中国家成员在制定和实施技术法规、标准和合格评定程序方面可能面临特殊问题，包括机构和基础设施问题。各方进一步认识到发展中国家成员特殊的发展和贸易需要以及它们所处的技术发展阶段可能会妨碍它们充分履行本协定项下义务的能力。因此，各成员应充分考虑此事实。为此，为保证发展中国家成员能够遵守本协定，授权根据本协定第 13 条设立的技术性贸易壁垒委员会（本协定中称“委员会”），应请求，就本协定项下全部或部分义务给予特定的、有时限的例外。在审议此类请求时，委员会应考虑发展中国家成员在技术法规、标准和合格评定程序的制定和实施方面的特殊问题、它们特殊的发展和贸易需要以及所处的技术发展阶段，这些均可妨碍它们充分履行本协定项下义务的能力。委员会应特别考虑最不发达国家成员的特殊问题。

12.9 在磋商过程中，发达国家成员应记住发展中国家成员在制定和实施标准、技术法规和合格评定程序过程中遇到的特殊困难，为帮助发展中国家成员在这方面的努力，发达国家成员应考虑前者特殊的财政、贸易和发展需要。

12.10 委员会应定期审议本协定制定的在国家和国际各级给予发展中国家的特殊和差别待遇。

机构、磋商和争端解决

第 13 条
技术性贸易壁垒委员会

13.1 特此设立技术性贸易壁垒委员会，由每一成员的代表组成。委员会应选举自己的主席，并应在必要时召开会议，但每年应至少召开一次会议，为各成员提供机会，就与本协定的运用或促进其目的的实现有关的事项进行磋商，委员会应履行本协定或各成员所指定的职责。

13.2 委员会设立工作组或其他适当机构，以履行委员会依照本协定相关规定指定的职责。

13.3 各方理解，应避免本协定项下的工作与政府在其他技术机构中的工作造成不必要的重复。委员会应审查此问题，以期将此种重复减少到最低限度。

第 14 条
磋商和争端解决

and, if practicable, prepare international standards concerning products of special interest to developing country Members.

12.7 Members shall, in accordance with the provisions of Article 11, provide technical assistance to developing country Members to ensure that the preparation and application of technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to the expansion and diversification of exports from developing country Members. In determining the terms and conditions of the technical assistance, account shall be taken of the stage of development of the requesting Members and in particular of the least-developed country Members.

12.8 It is recognized that developing country Members may face special problems, including institutional and infrastructural problems, in the field of preparation and application of technical regulations, standards and conformity assessment procedures. It is further recognized that the special development and trade needs of developing country Members, as wall as their stage of technological development, may hinder their ability to discharge fully their obligations under this Agreement. Members, therefore, shall take this fact fully into account. Accordingly, with a view to ensuring that developing country Members are able to comply with this Agreement, the Committee on Technical Barriers to Trade provided for in Article 13(referred to in this Agreement as the "Committee")is enabled to grant, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement. When considering such requests the Committee shall take into account the special problems, in the field of preparation and application of technical regulations, standards and conformity assessment procedures, and the special development and trade needs of the developing country Member, as well as its stage of technological development, which may hinder its ability to discharge fully its obligations under this Agreement. The Committee shall, in particular, take into account the special problems of the least-developed country Members.

12.9 During consultations, developed country Members shall bear in mind the special difficulties experienced by developing country Members in formulating and implementing standards and technical regulations and conformity assessment procedures, and in their desire to assist developing country Members with their efforts in this direction, developed country Members shall take account of the special needs of the former in regard to financing, trade and development.

12.10 The Committee shall examine periodically the special and differential treatment, as laid down in this Agreement, granted to developing country Members on national and international levels.

INSTITUTIONS, CONSULTATION AND DISPUTE SETTLEMENT

Article 13

The Committee on Technical Barriers to Trade

13.1 A Committee on Technical Barriers to Trade is hereby established, and shall be composed of representatives from each of the Members. The Committee shall elect its own Chairman and shall meet as necessary, but no less than once a year, for the purpose of affording Members the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives, and shall carry out such responsibilities as assigned to it under this Agreement or by the Members.

13.2 The Committee shall establish working parties or other bodies as may be appropriate, which shall carry out such responsibilities as may be assigned to them by the Committee in accordance with the relevant provisions of this Agreement.

13.3 It is understood that unnecessary duplication should be avoided between the work under this Agreement and that of governments in other technical bodies. The Committee shall examine this problem with a view to minimizing such duplication.

Article 14

Consultation and Dispute Settlement

14.1 Consultations and the settlement of disputes with respect to any matter affecting the operation

14.1 就影响本协定运用的任何事项的磋商和争端解决应在争端解决机构的主持下进行，并应遵循由《争端解决谅解》详述和适用的 GATT 1994 第 22 条和第 23 条的规定，但应在细节上作必要修改。

14.2 专家组可自行或应一争端方请求，设立技术专家小组，就需要由专家详细研究的技术性问题提供协助。

14.3 技术专家小组应按附件 2 的程序管理。

14.4 如一成员认为另一成员未能根据第 3 条、第 4 条、第 7 条、第 8 条和第 9 条取得令人满意的结果，且其贸易利益受到严重影响，则可援引上述争端解决的规定。在这方面，此类结果应等同于如同在所涉机构为一成员时达成的结果。

最后条款

第 15 条

最后条款

保留

15.1 未经其他成员同意，不得对本协定的任何条款提出保留。

审议

15.2 每一成员应在《WTO 协定》对其生效之日后，迅速通知委员会已有或已采取的保证本协定实施和管理的措施。此后，此类措施的任何变更也应通知委员会。

15.3 委员会应每年对本协定实施和运用的情况进行审议，同时考虑本协定的目标。

15.4 在不迟于《WTO 协定》生效之日起的第 3 年年末及此后每 3 年期期末，委员会应审议本协定的运用和实施情况，包括与透明度有关的规定，以期在不损害第 12 条规定及为保证相互经济利益和权利与义务的平衡所必要的情况下，提出调整本协定项下权利和义务的建议。委员会应特别注意在实施本协定过程中所取得的经验，酌情向货物贸易理事会提出修正本协定文本的建议。

附件

15.5 本协定的附件构成本协定的组成部分。

附件 1

本协定中的术语及其定义

国际标准化组织/国际电工委员会（ISO/IEC）指南 2 第 6 版：1991 年，《关于标准化及相关活动的一般术语及其定义》中列出的术语，如在本协定中使用，其含义应与上述指南中给出的定义相同，但应考虑服务业不属于本协定的范围。

但是就本协定而言，应适用下列定义：

1. 技术法规

规定强制执行的产品特性或其相关工艺和生产方法、包括适用的管理规定在内的文件。该文件还可包括或专门关于适用于产品、工艺或生产方法的专门术语、符号、包装、标志或标签要求。

of this Agreement shall take place under the auspices of the Dispute Settlement Body and shall follow, *mutatis mutandis*, the provisions of Articles XXII and XXIII of GATT1994, as elaborated and applied by the Dispute Settlement Understanding.

14.2 At the request of a party to a dispute, or at its own initiative, a panel may establish a technical expert group to assist in questions of a technical nature, requiring detailed consideration by experts.

14.3 Technical expert groups shall be governed by the procedures of Annex 2.

14.4 The dispute settlement provisions set out above can be invoked in cases where a Member considers that another Member has not achieved satisfactory results under Articles 3, 4, 7, 8and 9 and its trade interests are significantly affected. In this respect, such results shall be equivalent to those as if the body in question were a Member.

FINAL PROVISIONS

Article 15

Final Provisions

Reservations

15.1 Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members.

Review

15.2 Each Member shall, promptly after the date on which the WTO Agreement enters into force for it, inform the Committee of measures in existence or taken to ensure the implementation and administration of this Agreement. Any changes of such measures thereafter shall also be notified to the Committee.

15.3 The Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof.

15.4 Not later than the end of the third year from the date of entry into force of the WTO Agreement and at the end of each three-year period thereafter, the Committee shall review the operation and implementation of this Agreement, including the provisions relating to transparency, with a view to recommending an adjustment of the rights and obligations of this Agreement where necessary to ensure mutual economic advantage and balance of rights and obligations, without prejudice to the provisions of Article 12. Having regard, *inter alia*, to the experience gained in the implementation of the Agreement, the Committee shall, where appropriate, submit proposals for amendments to the text of this Agreement to the Council for Trade in Goods.

Annexes

15.5 The annexes to this Agreement constitute an integral part thereof.

ANNEX 1

TERMS AND THEIR DEFINITIONS FOR THE PURPOSE OF THIS AGREEMENT

The terms presented in the sixth edition of the ISO/IEC Guide 2:1991, General Terms and Their Definitions Concerning Standardization and Related Activities, shall, when used in this Agreement, have the same meaning as given in the definitions in the said Guide taking into account that services are excluded from the coverage of this Agreement.

For the purpose of this Agreement, however, the following definitions shall apply:

1. *Technical regulation*

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.

解释性说明

ISO/IEC 指南 2 中的定义未采用完整定义方式，而是建立在所谓“板块”系统之上的。

2. 标准

经公认机构批准的、规定非强制执行的、供通用或重复使用的产品或相关工艺和生产方法的规则、指南或特性的文件。该文件还可包括或专门关于适用于产品、工艺或生产方法的专门术语、符号、包装、标志或标签要求。

解释性说明

ISO/IEC 指南 2 中定义的术语涵盖产品、工艺和服务。本协定只涉及与产品或工艺和生产方法有关的技术法规、标准和合格评定程序。ISO/IEC 指南 2 中定义的标准可以是强制性的，也可以是自愿的。就本协定而言，标准被定义为自愿的，技术法规被定义为强制性文件。国际标准化团体制定的标准是建立在协商一致基础之上的。本协定还涵盖不是建立在协商一致基础之上的文件。

3. 合格评定程序

任何直接或间接用以确定是否满足技术法规或标准中的相关要求的程序。

解释性说明

合格评定程序特别包括：抽样、检验和检查；评估、验证和合格保证；注册、认可和批准以及各项的组合。

4. 国际机构或体系

成员资格至少对所有成员的有关机构开放的机构或体系。

5. 区域机构或体系

成员资格仅对部分成员的有关机构开放的机构或体系。

6. 中央政府机构

中央政府、中央政府各部和各部门或所涉活动受中央政府控制的任何机构。

解释性说明

对于欧洲共同体，适用有关中央政府机构的规定。但是，欧洲共同体内部可建立区域机构或合格评定体系，在此种情况下，应遵守本协定关于区域机构或合格评定体系的规定。

7. 地方政府机构

中央政府机构以外的政府机构（如州、省、地、郡、县、市等），其各部或各部门或所涉活动受此类政府控制的任何机构。

8. 非政府机构

中央政府机构和地方政府机构以外的机构，包括有执行技术法规的法定权力的非政府机构。

附件 2

技术专家小组　　下列程序适用于依照第 14 条

Explanatory note

The definition in ISO/IEC Guide 2 is not self-contained, but based on the socalled "building block" system.

2. *Standard*

Document approved by a recognized 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.

Explanatory note

The terms as defined in ISO/IEC Guide 2 cover products, processes and services. This Agreement deals only with technical regulations, standards and conformity assessment procedures related to products or processes and production methods. Standards as defined by ISO/IEC Guide 2 may be mandatory or voluntary. For the purpose of this Agreement standards are defined as voluntary and technical regulations as mandatory documents. Standards prepared by the international standardization community are based on consensus. This Agreement covers also documents that are not based on consensus.

3. *Conformity assessment procedures*

Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

Explanatory note

Conformity assessment procedures include, *inter alia*, procedures for sampling, testing and inspection; evaluation, verification and assurance of conformity; registration, accreditation and approval as well as their combinations.

4. *International body or system*

Body or system whose membership is open to the relevant bodies of at least all Members.

5. *Regional body or system*

Body or system whose membership is open to the relevant bodies of only some of the Members.

6. *Central government body*

Central government, its ministries and departments or any body subject to the control of the central government in respect of the activity in question.

Explanatory note

In the case of the European Communities the provisions governing central government bodies apply. However, regional bodies or conformity assessment systerms may be established within the European Communities, and in such cases would be subject to the provisions of this Agreement on regional bodies or conformity assessment systems.

7. *Local government body*

Government other than a central government (e.g. states, provinces, Länder, cantons, municipalities, etc.), its ministries or departments or any body subject to the control of such a government in respect of the activity in question.

8. *Non-governmental body*

Body other than a central government body or a local government body, including a non-governmental body which has legal power to enforce a technical regulation.

ANNEX 2

TECHNICAL EXPERT GROUPS

The following procedures shall apply to technical expert groups established in accordance with the

的规定设立的技术专家小组。

1. 技术专家小组受专家组的管辖。其职权范围和具体工作程序应由专家组决定，并应向专家组报告。

2. 参加技术专家小组的人员仅限于在所设领域具有专业名望和经验的个人。

3. 未经争端各方一致同意，争端各方的公民不得在技术专家小组中任职，除非在例外情况下专家组认为非其参加不能满足在特定科学知识方面的需要。争端各方的政府官员不得在技术专家小组中任职。技术专家小组成员应以个人身份任职，不得作为政府代表，也不得作为任何组织的代表。因此，政府或组织不得就技术专家小组处理的事项向其成员发出指示。

4. 技术专家小组可向其认为适当的任何来源进行咨询及寻求信息和技术建议。在技术专家小组向在一成员管辖范围内的来源寻求此类信息或建议之前，应通知该成员政府。任何成员应迅速和全面地答复技术专家小组提出的提供其认为必要和适当信息的任何请求。

5. 争端各方应可获得提供给技术专家小组的所有有关信息，除非信息属机密性质。对于向技术专家小组提供的机密信息，未经提供该信息的政府、组织或个人的正式授权不得发布。如要求从技术专家小组处获得此类信息，而技术专家小组未获准发布此类信息，则提供该信息的政府、组织或个人将提供该信息的非机密摘要。

6. 技术专家小组应向有关成员提供报告草案，以期征求它们的意见，并酌情在最终报告中考虑这些意见，最终报告在提交专家组时也应散发有关成员。

附件 3

关于制定、采用和实施标准的良好行为规范

总则

A. 就本规范而言，应适用本协定附件 1 中的定义。

B. 本规范对下列机构开放供接受：WTO 一成员领土内的任何标准化机构，无论是中央政府机构、地方政府机构，还是非政府机构；一个或多个成员为 WTO 成员的任何政府区域标准化机构；以及一个或多个成员位于 WTO 一成员领土内的任何非政府区域标准化机构（本规范中称“标准化机构”）。

C. 接受和退出本规范的标准化机构，应将该事实通知设在日内瓦的 ISO/IEC 信息中心。通知应包括有关机构的名称和地址及现在和预期的标准化活动的范围。通知可直接送交 ISO/IEC 信息中心，或酌情通过 ISO/IEC 的国家成员机构，或最好通过 ISONET 的相关国家成员或国际分支机构。

实质性规定

D. 在标准方面，标准化机构给予源自 WTO 任何其他成员领土产品的待遇不得低于给予本国同类产品和源自任何其他国家同类产品的待遇。

provisions of Article 14.

1. Technical expert groups are under the panel's authority. Their terms of reference and detailed working procedures shall be decided by the panel, and they shall report to the panel.

2. Participation in technical expert groups shall be restricted to persons of professional standing and experience in the field in question.

3. Citizens of parties to the dispute shall not serve on a technical expert group without the joint agreement of the parties to the dispute, except in exceptional circumstances when the panel considers that the need for specialized scientific expertise cannot be fulfilled otherwise. Government officials of parties to the dispute shall not serve on a technical expert group. Members of technical expert groups shall serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments or organizations shall therefore not give them instructions with regard to matters before a technical expert group.

4. Technical expert groups may consult and seek information and technical advice from any source they deem appropriate. Before a technical expert group seeks such information or advice from a source within the jurisdiction of a Member, it shall inform the government of that Member. Any Member shall respond promptly and fully to any request by a technical expert group for such information as the technical expert group considers necessary and appropriate.

5. The parties to a dispute shall have access to all relevant information provided to a technical expert group, unless it is of a confidential nature. Confidential information provided to the technical expert group shall not be released without formal authorization from the government, organization or person providing the information. Where such information is requested from the technical expert group but release of such information by the technical expert group is not authorized, a non-confidential summary of the information will be provided by the government, organization or person supplying the information.

6. The technical expert group shall submit a draft report to the Members concerned with a view to obtaining their comments, and taking them into account, as appropriate, in the final report, which shall also be circulated to the Members concerned when it is submitted to the panel.

ANNEX 3

CODE OF GOOD PRACTICE FOR THE PREPARATION, ADOPTION AND APPLICATION OF STANDARDS

General Provisions

A. For the purposes of this Code the definitions in Annex 1 of this Agreement shall apply.

B. This Code is open to acceptance by any standardizing body within the territory of a Member of the WTO, whether a central government body, a local government body, or a non-governmental body; to any governmental regional standardizing body one or more members of which are Members of the WTO; and to any non-governmental regional standardizing body one or more members of which are situated within the territory of a Member of the WTO (referred to in this Code collectively as "standardizing bodies" and individually as "the standardizing body").

C. Standardizing bodies that have accepted or withdrawn from this Code shall notify this fact to the ISO/IEC Information Centre in Geneva. The notification shall include the name and address of the body concerned and the scope of its current and expected standardization activities. The notification may be sent either directly to the ISO/IEC Information Centre, or through the national member body of ISO/IEC or, preferably, through the relevant national member or international affiliate of ISONET, as appropriate.

Substantive Provisions

D. In respect of standards, the standardizing body shall accord treatment to products originating in the territory of any other Member of the WTO no less favourable than that accorded to like products of national origin and to like products originating in any other country.

E. 标准化机构应保证不制定、不采用或不实施在目的或效果上给国际贸易制造不必要障碍的标准。

F. 如国际标准已经存在或即将拟就，标准化机构应使用这些标准或其中的相关部分作为其制定标准的基础，除非此类国际标准或其中的相关部分无效或不适当，例如由于保护程度不足，或基本气候或地理因素或基本技术问题。

G. 为在尽可能广泛的基础上协调标准，标准化机构应以适当方式，在力所能及的范围内，充分参与有关国际标准化机构就其已采用或预期采用标准的主题制定国际标准的工作。对于一成员领土内的标准化机构，只要可能，即应通过一代表团参与一特定国际标准化活动，该代表团代表已采用或预期采用主题与国际标准化活动有关的标准的该成员领土内所有标准化机构。

H. 一成员领土内的标准化机构应尽一切努力，避免与领土内其他标准化机构的工作或与有关国际或区域标准化机构的工作发生重复或重叠。它们还应尽一切努力就其制定的标准在国内形成协商一致。同样，区域标准化机构也应尽一切努力避免与有关国际标准化机构的工作发生重复或重叠。

I. 只要适当，标准化机构即应按产品的性能而不是设计或描述特征制定以产品要求为基础的标准。

J. 标准化机构应至少每 6 个月公布一次工作计划，包括其名称和地址、正在制定的标准及前一时期已采用的标准。标准的制定过程自作出制定标准的决定时起至标准被采用时止。应请求，应以英文、法文或西班文提供具体标准草案的标题。有关工作计划建立的通知应在国家或在区域（视情况而定）标准化活动出版物上予以公布。

应依照国际标准化组织信息网的任何规则，在工作计划中标明每一标准与主题相关的分类、标准制定过程已达到的阶段以及引以为据的国际标准。各标准化机构应至迟于公布其工作计划时，向设在日内瓦的 ISO/IEC 信息中心通知该工作计划的建立。

通知应包括标准化机构的名称和地址、公布工作计划的出版物的名称和期号、工作计划适用的期限、出版物的价格（如有定价）以及获得出版物的方法和地点。通知可直接送交 ISO/IEC 信息中心，或最好酌情通过国际标准化组织信息网的相关国家成员或国际分支机构。

K. ISO/IEC 的国家成员应尽一切努力成为 ISONET 的成员或指定另一机构成为其成员，并争取获得 ISONET 成员所能获得的最高级类型的成员资格。其他标准化机构应尽一切努力与 ISONET 成员建立联系。

L. 在采用一标准前，标准化机构应给予至少 60 天的时间供 WTO 一成员领土内的利害关系方就标准草案提出意见。但在出现有关安全、健康或环境的紧急问题或出现此种威胁的情况下，上述期限可以缩短。标准化机构应不迟于征求意见开始时，在 J 款提及的出版物上发布关于征求意见期的通知。该通知应尽可能说明标准草案是否偏离有关国际标准。

E. The standardizing body shall ensure that standards are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade.

F. Where international standards exist or their completion is imminent, the standardizing body shall use them, or the relevant parts of them, as a basis for the standards it develops, except where such international standards or relevant parts would be ineffective or inappropriate, for instance, because of an insufficient level of protection or fundamental climatic or geographical factors or fundamental technological problems.

G. With a view to harmonizing standards on as wide a basis as possible, the standardizing body shall, in an appropriate way, play a full part, within the limits of its resources, in the preparation by relevant international standardizing bodies of international standards regarding subject matter for which it either has adopted, or expects to adopt, standards. For standardizing bodies within the territory of a Member, participation in a particular international standardization activity shall, whenever possible, take place through one delegation representing all standardizing bodies in the territory the have adopted, or expect to adopt, standards for the subject matter to which the international standardization activity relates.

H. The standardizing body within the territory of a Member shall make every effort to avoid duplication of, or overlap with, the work of other standardizing bodies in the national territory or with the work of relevant international or regional standardizing bodies. They shall also make every effort to achieve a national consensus on the standards they develop. Likewise the regional standardizing body shall make every effort to avoid duplication of, or overlap with, the work of relevant international standardizing bodies.

I. Wherever appropriate, the standardizing body shall specify standards based on product requirements in terms of performance rather than design or descriptive characteristics.

J. At least once every six months, the standardizing body shall publish a work programme containing its name and address, the standards it is currently preparing and the standards which it has adopted in the preceding period. A standard is under preparation from the moment a decision has been taken to develop a standard until that standard has been adopted. The titles of specific draft standards shall, upon request, be provided in English, French or Spanish. A notice of the existence of the work programme shall be published in a national or, as the case may be, regional publication of standardization activities.

The work programme shall for each standard indicate, in accordance with any ISONET rules, the classification relevant to the subject matter, the stage attained in the standard's development, and the references of any international standards taken as a basis. No later than at the time of publication of its work programme, the standardizing body shall notify the existence thereof to the ISO/IEC Information Centre in Geneva.

The notification shall contain the name and address of the standardizing body, the name and issue of the publication in which the work programme is published, the period to which the work programme applies, its price (if any), and how and where it can be obtained. The notification may be sent directly to the ISO/IEC Information Center, or, preferably, through the relevant national member or international affiliate of ISONET, as appropriate.

K. The national member of ISO/IEC shall make every effort to become a member of ISONET or to appoint another body to become a member as well as to acquire the most advanced membership type possible for the ISONET member. Other standardizing bodies shall make every effort to associate themselves with the ISONET member.

L. Before adopting a standard, the standardizing body shall allow a period of at least 60 days for the submission of comments of the draft standard by interested parties within the territory of a Member of the WTO. This period may, however, be shortened in cases where urgent problems of safety, health or environment arise or threaten to arise. No later than at the start of the comment period, the standardizing body shall publish a notice announcing the period for commenting in the publication referred to in paragraph J. Such notification shall include, as far as practicable, whether the draft standard deviates from relevant international standards.

M. On the request of any interested party within the territory of a Member of the WTO, the standard-

M. 应 WTO 一成员领土内任何利害关系方请求，标准化机构应迅速提供或安排提供一份供征求意见的标准草案副本。除实际递送费用外，此项服务的收费对国内外各方应相同。

N. 标准化机构在进一步制定标准时，应考虑在征求意见期内收到的意见。如收到请求，应尽可能迅速地对通过已接受本《良好行为规范》的标准化机构收到的意见予以答复。答复应包括对该标准偏离有关国际标准必要性的说明。

O. 标准一经采用，即应迅速予以公布。

P. 应 WTO 一成员领土内任何利害关系方请求，标准化机构应迅速提供或安排提供一份最近工作计划或其制定标准的副本。除实际递送费用外，此项服务的收费对国内外各方应相同。

Q. 标准化机构对已接受本《良好行为规范》的标准化机构就本规范的实施提出的交涉，应给予积极考虑并提供充分的机会就此进行磋商。并应为解决任何投诉作出客观努力。

izing body shall promptly provide, or arrange to provide, a copy of a draft standard which it has submitted for comments. Any fees charged for this service shall, apart from the real cost of delivery, be the same for foreign and domestic parties.

N. The standardizing body shall take into account, in the further processing of the standard, the comments received during the period for commenting. Comments received through standardizing bodies that have accepted this Code of Good Practice shall, if so requested, be replied to as promptly as possible. The reply shall include an explanation why a deviation from relevant international standards in necessary.

O. Once the standard has been adopted, it shall be promptly published.

P. On the request of any interested party within the territory of a Member of the WTO, the standardizing body shall promptly provide, or arrange to provide, a copy of its most recent work programme or of a standard which it produced. Any fees charged for this service shall, apart from the real cost of delivery, be the same for foreign and domestic parties.

Q. The standardizing body shall afford sympathetic consideration to, and adequate opportunity for, consultation regarding representations with respect to the operation of this Code presented by standardizing bodies that have accepted this Code of Good Practice. It shall make an objective effort to solve any complaints.

与贸易有关的投资措施协定

各成员，

考虑到部长们在《埃斯特角城宣言》中同意“在审查与投资措施的贸易限制作用和扭曲作用有关的 GATT 条款的运用情况之后，谈判应酌情详述为避免此类对贸易的不利影响而可能需要的进一步规定”；

期望促进世界贸易的扩大和逐步自由化，便利跨国投资，以便提高所有贸易伙伴、特别是发展中国家成员的经济增长，同时保证自由竞争；

考虑到发展中国家成员、特别是最不发达国家成员特殊的贸易、发展和财政需要；

认识到某些投资措施可能产生贸易限制作用和扭曲作用；

特此协议如下：

第 1 条
范围

本协定仅适用于与货物贸易有关的投资措施（本协定中称“TRIMs)。

第 2 条
国民待遇和数量限制

1. 在不损害 GATT 1994 项下其他权利和义务的情况下，各成员不得实施任何与 GATT 1994 第 3 条或第 11 条规定不一致的 TRIM。

2. 本协定附件列出一份与 GATT 1994 第 3 条第 4 款规定的国民待遇义务和 GATT 1994 第 11 条第 1 款规定的普遍取消数量限制义务不一致的 TRIMs 例示清单。

第 3 条
例外

GATT 1994 项下的所有例外均应酌情适用于本协定的规定。

第 4 条
发展中国家成员

发展中国家成员有权以 GATT 1994 第 18 条、《关于 1994 年关税与贸易总协定国际收支条款的谅解》和 1979 年 11 月 28 日通过的《关于为国际收支目的而采取贸易措施的宣言》(BISD 26 册 205 至 209 页》允许该成员偏离 GATT 1994 第 3 条和第 11 条规定的程度和方式，暂时偏离第 2 条的规定。

第 5 条
通知和过渡性安排

1. 各成员应在《WTO 协定》生效之日起 90 天内，将其正在实施的、与本协定规定

AGREEMENT ON TRADE-RELATED INVESTMENT MEASURES

Members,

Considering that Ministers agreed in the Punta del Este Declaration that "Following an examination of the operation of GATT Articles related to the trade-restrictive and distorting effects of investment measures, negotiations should elaborate, as appropriate, further provisions that may be necessary to avoid such adverse effects on trade";

Desiring to promote the expansion and progressive liberalisation of world trade and to facilitate investment across international frontiers so as to increase the economic growth of all trading partners, particularly developing country Members, while ensuring free competition;

Taking into account the particular trade, development and financial needs of developing country Memers, particularly those of the least-developed country Members;

Recognizing that certain investment measures can cause trade-restrictive and distorting effects;

Hereby *agree* as follows:

Article 1

Coverage

This Agreement applies to investment measures related to trade in goods only (referred to in this Agreement as "TRIMs")。

Article 2

National Treatment and Quantitative Restrictions

1. Without prejudice to other rights and obligations under GATT 1994, no Memher shall apply any TRIM that is inconsistent with the provisions of Article Ⅲ or Article Ⅺ of GATT 1994.

2. An illustrative list of TRIMs that are inconsistent with the obligation of national treatment provided for in paragraph 4 of Article Ⅲ of GATT 1994 and the obligation of general elimination of quantitative restrictions provided for in paragraph 1 of Article Ⅺ of GATT 1994 is contained in the Annex to this Agreement.

Article 3

Exceptions

All exceptions under GATT 1994 shall apply, as appropriate, to the provisions of this Agreement.

Article 4

Developing Country Members

A developing country Member shall be free to deviate temporarily from the provisions of Article 2 to the extent and in such a manner as Articld ⅩⅧ of GATT 1994, the Understanding on the Balance-of-Payments Provisions of GATT 1994, and the Declaration on Trade Measures Taken for Balance-of-Payments Purposes adopted on 28 November 1979(BISD 26S/205-209)permit the Member to deviate from the provisions of Articles Ⅲ and Ⅺ of GATT 1994.

Article 5

Notification and Transitional Arrangements

1. Members, within 90 days of the date of entry into force of the WTO Agreement, shall notify the Council for Trade in Goods of all TRIMs they are applying that are not in conformity with the provi-

不一致的所有 TRIMs 通知货物贸易理事会。在通知这些普遍或具体适用的 TRIMs 时，应同时说明其主要特征。[①]

2. 每一成员均应取消根据第 1 款进行通知的所有 TRIMs，发达国家成员应在《WTO 协定》生效之日起 2 年内取消，发展中国家成员应在 5 年内取消，最不发达国家成员应在 7 年内取消。

3. 如一发展中国家成员，包括一最不发达国家成员可证明其在实施本协定规定方面存在特殊困难，则货物贸易理事会可应请求延长其取消根据第 1 款进行通知的 TRIMs 的过渡期。在考虑该请求时，货物贸易理事会应考虑所涉成员特殊的发展、财政和贸易需要。

4. 在过渡期内，一成员不得修改根据第 1 款进行通知的任何 TRIM 的条件，使之不同于《WTO 协定》生效之日通行的条件，从而增加其与第 2 条规定不一致的程度。在《WTO 协定》生效之日前 180 天内采用的 TRIMs 不能获得第 2 款规定的过渡期安排的利益。

5. 尽管有第 2 条的规定，但是一成员为不使受根据第 1 款进行通知的一项 TRIM 约束的已建企业处于不利地位，在（i）该新投资的产品与已建企业的产品属同类产品，且（ii）在有必要避免扭曲新投资与现有企业之间竞争条件的情况下，仍可在过渡期内对新投资实施相同的 TRIM。任何如此对新投资实施的 TRIM 均应通知货物贸易理事会。该 TRIM 的条件在竞争效果上应与适用于已建企业的 TRIM 的条件相同，并应同时终止。

第 6 条
透明度

1. 对于 TRIMs，各成员重申它们在 GATT 1994 第 10 条中、在 1979 年 11 月 28 日通过的《关于通知、磋商、争端解决和监督的谅解》包含的关于“通知”的承诺中以及在 1994 年 4 月 15 日通过的《关于通知程序的部长决定》中，就透明度和通知所承诺的义务。

2. 每一成员均应通知秘书处刊载 TRIMs 的出版物，包括其领土内地区及地方政府和主管机关实施的 TRIMs。

3. 每一成员应对另一成员就与本协定有关的任何事项提出的提供信息的请求给予积极考虑，并提供充分的磋商机会。根据 GATT 1994 第 10 条，不要求任何成员披露会妨碍执法或违背公共利益或损害特定公私企业合法商业利益的信息。

第 7 条
与贸易有关的投资措施委员会

1. 特此设立与贸易有关的投资措施委员会（本协定中称“委员会”），对所有成员开放。委员会应选举自己的主席和副主席，每年应至少召开一次会议，或在任何成员请求下召开会议。

2. 委员会应履行货物贸易理事会所指定的职责，并为各成员就与本协定运用和执行有关的任何事项进行磋商提供机会。

① 如 TRIMs 是根据酌定权实施的，则其每一次具体适用均应通知。但可能损害特定企业合法商业利益的信息不必披露。

sions of this Agreement. Such TRIMs of general or specific application shall be notified, along with their principal features. ①

2. Each Member shall eliminate all TRIMs which are notified under paragraph 1 within two years of the date of entry into force of the WTO Agreement in the case of a developed country Member, within five years in the case of a developing country Member, and within seven years in the case of a least-developed country Member.

3. On request, the Council for Trade in Goods may extend the transition period for the elimination of TRIMs notified under paragraph 1 for a developing country Member, including a least-developed country Member, which demonstrates particular difficulties in implementing the provisions of this Agreement. In considering such a request, the Council for Trade in Goods shall take into account the individual development, financial and trade needs of the Member in question.

4. During the transition period, a Member shall not modify the terms of any TRIM which it notifies undr paragraph 1 from those prevailing at the date of entry into force of the WTO Agreement so as to increase the degree of inconsistency with the provisions of Article 2. TRIMs introduced less than 180 days before the date of entry into force of the WTO Agreement shall not benefit from the transitional arrangements provided in paragraph 2.

5. Notwithstanding the provisions of Article 2, a Member, in order not to disadvantage established enterpises which are subject to a TRIM notified under paragraph 1, may apply during the transition period the same TRIM to a new investment (*i*) where the products of such investment are like products to those of the established enterprises, and (*ii*) where necessary to avoid distorting the conditions of competition between the new investment and the established enterprises. Any TRIM so applied to a new investment shall be notified to the Council for Trade in Goods. The terms of such a TRIM shall be equivalent in their competitive effect to those applicable to the established enterprises, and it shall be terminated at the same time.

Article 6

Transparency

1. Members reaffirm, with respect to TRIMs, their commitment to obligations on transparency and notification in Article X of GATT 1994, in the undertaking on "Notification" contained in the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance adopted on 28 November 1979 and in the Ministerial Decision on Notification Procedures adopted on 15 April 1994.

2. Each Member shall notify the Secretariat of the publications in which TRIMs may be found, including those applied by regional and local governments and authorities within their territories.

3. Each Member shall accord sympathetic consideration to requests for information, and afford adequate opportunity for consultation, on any matter arising from this Agreement raised by another Member. In conformity with Article X of GATT 1994 no Member is required to disclose 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 7

Committee on Trade-Related Investment Measures

1. A Committee on Trade-Related Investment Measures (referred to in this Agreement as the "Committee") is hereby established, and shall be open to all Members. The Committee shall elect its own Chairman and Vice-Chairman, and shall meet not less than once a year and otherwise at te request of any Member.

2. The Committee shall carry out responsibilities assigned to it by the Council for Trade in Goods and shall afford Members the opportunity to consult on any matters relating to the operation and implemen-

① In the case of TRIMs applied under discretionary authority, each specific application shall be notified. Information that would prejudice the legitimate commercial interests of particular enterprises need not be disclosed.

3. 委员会监督本协定的运用和执行，并每年就此向货物贸易理事会报告。

第 8 条
磋商和争端解决

由《争端解决谅解》详述和适用的 GATT 1994 第 22 条和第 23 条的规定适用于本协定项下磋商和争端解决。

第 9 条
货物贸易理事会的审议

在不迟于《WTO 协定》生效之日后 5 年，货物贸易理事会应审议本协定的运用情况，并酌情建议部长级会议修正本协定的文本。在审议过程中，货物贸易理事会应考虑本协定是否应补充有关投资政策和竞争政策的规定。

附件
例示清单

1. 与 GATT 1994 第 3 条第 4 款规定的国民待遇义务不一致的 TRIMs 包括根据国内法律或根据行政裁定属强制性或可执行的措施，或为获得一项利益而必须遵守的措施，且该措施：

(a) 要求企业购买或使用国产品或自任何国内来源的产品，无论按照特定产品、产品数量或价值规定，还是按照其当地生产在数量或价值上所占比例规定；或

(b) 要求企业购买或使用的进口产品限制在与其出口的当地产品的数量或价值相关的水平。

2. 与 GATT 1994 第 11 条第 1 款规定的普遍取消数量限制义务不一致的 TRIMs 包括根据国内法律或行政裁定属强制性或可执行的措施，或为获得一项利益而必须遵守的措施，且该措施：

(a) 普遍限制企业对用于当地生产或与当地生产相关产品的进口，或将进口限制在其出口的当地产品的数量或价值相关的水平；

(b) 通过将企业可使用的外汇限制在与可归因于该企业外汇流入相关的水平，从而限制该企业对用于当地生产或与当地生产相关产品的进口；或

(c) 限制企业产品出口或供出口产品的销售，无论是按照特定产品、产品数量或价值规定，还是按照当地产品在数量或价值上所占比例规定。

tation of this Agreement.

3. The Committee shall monitor the operation and implementation of this Agreement and shall report thereon annually to the Council for Trade in Goods.

Article 8

Consultation and Dispute Settlement

The provisions of Articles XXII and XXIII of GATT 1994, as elaborated and applied by the Dispute Settlement Understanding, shall apply to consultations and the settlement of disputes under this Agreement.

Article 9

Review by the Council for Trade in Goods

Not later than five years after the date of entry into force of the WTO Agreement, the Council for Trade in Goods shall review the operation of this Agreement and, as appropriate, propose to the Ministerial Conference amendments to ist text. In the course of this review, the Council for Trade in Goods shall consider whether the Agreement should be complemented with provisions on investment policy and competition policy.

ANNEX

ILLUSTRATIVE LIST

1. TRIMs that are inconsistent with the obligation of national treatment provided for in paragraph 4 of Article Ⅲ of GATT 1994 include those which are mandatory or enforceable under domestic law or under administrative rulings, or compliance with which is necessary to obtain an advantage, and which require:

(a) the purchase or use by an enterprise of products of domestic origin or from any domestic source, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production; or

(b) that an enterprise's purchases or use of imported products be limited to an amount related to the volume or value of local products that it exports.

2. TRIMs that are inconsistent with the obligation of general elimination of quantitative restrictions provided for in paragraph 1 of Article Ⅺ of GATT 1994 include those which are mandatory or enforceable under domestic law or under administrative rulings, or compliance with which is necessary to obtain an advantage, and which restrict:

(a) the importation by an enterprise of products used in or related to its local production, generally or to an amount related to the volume or value of local production that in exports;

(b) the importation by an enterprise of products used in or related to its local production by restricting its access to foreign exchange to an amount related to the foreign exchange inflows attributable to the enterprise; or

(c) the exportation or sale for export by an enterprise of products, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production.

装运前检验协定

各成员：

注意到部长们于1986年9月20日同意，乌拉圭回合多边贸易谈判旨在“进一步放宽和扩大世界贸易”、“加强GATT的作用”以及“增加GATT体制对不断演变的国经济环境的反应能力”；

注意到一些发展中国家成员求助于装运前检验；

认识到发展中国家需要在核实进口货物的质量、数量或价格所必需的时间和限度内采取该做法；

注意到此类程序的实施不得造成不必要的迟延或不公平的待遇；

注意到此种检验根据定义是在出口成员的领土内实施的；

认识到需要制定有关用户成员和出口成员权利和义务的议定的国际框架；

认识到GATT1994的原则和义务适用于WTO成员政府授权的装运前检验实体的活动；

认识到宜使装运前检验实体的经营及与装运前检验相关的法律、法规具有透明度；

期望迅速、有效和公正地解决出口商和装运前检验实体之间在本协定项下产生的争端；

特此协议如下：

第1条
范围—定义

1．本协定适用于在各成员领土内实施的所有装运前检验活动，无论此类活动是由一成员的政府还是由任何政府机构签约或授权的。

2．“用户成员”指政府或任何政府机构签约或授权使用装运前检验活动的成员。

3．装运前检验活动指与对将出口至用户成员领土的货物的质量、数量、价格，包括汇率和融资条件，和/或海关归类进行核实有关的所有活动。

4．“装运前检验实体”指由一成员签约或授权实施装运前检验活动的任何实体。[①]

第2条
用户成员的义务
非歧视

1．用户成员应保证装运前检验活动以非歧视的方式实施、在实施这些活动中使用的程序和标准是客观的，且对受此类活动影响的所有出口商平等适用。用户成员应保

① 各方理解，本规定并不要求各成员有义务允许其他成员的政府实体在其领土内实施装运前检验活动。

AGREEMENT ON PRESHIPMENT INSPECTION

Members,

Noting that Ministers on 20 September 1986 agreed that the Uruguay Round of Multilateral Trade Negotations shall aim to "bring about further liberalization and expansion of world trade", "strengthen the role of GATT"and"increase the responsiveness of the GATT system to the evolving intemational economic environment";

Noting that a number of developing country Members have recourse to preshipment inspection;

Recognizing the meed of developing countries to do so for as long and in so far as it is necessary to verify the quality, quantity orprice of imported goods;

Mindful that such programmes must be carried out without giving rise to unnecessary delays or unequal treatment;

Noting that this inspection is by definition carried out on the territory of exporter Members;

Recognizing the need to establish an agreed intemational framework of rights and obligations of both user Members and exporter Members;

Recognizing that the principles and obligations of GATT 1994 apply to those activities of preshipment inspection entities that are mandated by govemments that are Members of the WTO;

Recognizing that it is desirable to provide transparency of the operation of preshipment inspection entities and of laws and regulations relating to preshipment inspection;

Desiring to provide for the speedy, effective and equitable resolution of disputes between exporters and preshipment inspection entities arising under this Agreement;

Hereby agree as follows;

Article 1

Coverage-Definitions

1. This Agreement shall apply to preshipment inspection activities carried out on the territory of Members, whether such activities are contracted or mandated by the govemment, or any govemment bydy, of a Member.

2. The term"user Member"means a Member of which the govermment or any govemment body contracts for or mandates the use of preshipment inspection activities.

3. Preshipment inspection activities are all activities relating to the verification of the quality, the quantity, the price, including currency exchange rate and financial terms, and/or the customs classification of goods to be exported to the territory of the user Member.

4. The term"preshipment inspection entity"is any entity contracted or mandated by a Member to carry out preshipment inspection activities①.

Article 2

Obligations of User Members

Non-discrimination

1. User Members shall ensure that preshipment inspection activities are carried out in a non-discriminatory manner, and that the procedures and criteria employed in the conduct of these activities are objective and are applied on an equal basis to all exproters affected by such activities. They shall ensure uniform performance of inspection by all the inspectors of the preshipment inspection entities contract-

① It is understood that this provision does not obligate Members to allow govement entities of other Members to conduct preshipment inspection activities on their territory.

证其签约或授权的装运前检验实体的所有检验人员统一执行检验。

政府要求

2. 用户成员应保证在进行与其法律、法规和要求相关的装运前检验活动的过程中，在 GATT1944 第 3 条第 4 款的规定与此有关的情况下，应遵守这些规定。

检验地点

3. 用户成员应保证所有装运前检验活动，包括签发检验结果清洁报告书或不予签发的通知书，均应在货物出口的关税领土内进行，如因所涉及的产品性质复杂而无法在该关税领土内实施检验，或如果双方同意，则可在制造该货物的关税领土内进行。

标准

4. 用户成员应保证关于数量和质量的检验应依照买卖双方在购货合同中规定的标准实施，如无此类标准，则适用有关国际标准。[①]

透明度

5. 用户成员应保证装运前检验活动以透明的方式实施。

6. 用户成员应保证在出口商最初接洽装运前检验实体时，该实体向出口商提供一份出口商遵守检验要求所必需的全部信息的清单。如出口商提出请求，则装运前检验实体应提供实际信息。该信息应包括用户成员与装运前检验活动有关的法律和法规，还应包括用于检验及价格和汇率核实目的的程序和标准、出口商相对于检验实体的权利以及根据第 21 款制定的上诉程序。现有程序的额外程序性要求或变更不得适用于装运货物，除非在安排检验日期时已将这些变更通知有关出口商。但是，在 GATT1944 第 20 条和第 21 条所处理类型的紧急情况下，此类额外要求或变更可在通知出口商之前对装运货物实施。但是此援助并不免除出口商在遵守用户成员的进口法规方面的义务。

7. 用户成员应保证本条第 6 款所指的信息应以方便的方式使出口商获得，装运前检验实体设立的检验办公室应作为信息点，在其中可获得此信息。

8. 用户成员应以能够使其他政府和贸易商知晓的方式，迅速公布与装运前检验活动有关的所有适用法律和法规。

机密商业信息的保护

9. 用户成员应保证装运前检验实体应将在实施装运前检验过程中收到的所有未经公布、第三方不能普遍获得或在公共领域不能普遍获得的信息视为商业机密。用户成员应保证其装运前检验实体为此保留程序。

① 国际标准指成员资格对所有 WTO 成员开放的政府或非政府机构采用的标准，其公认的活动之一是在标准化领域。

ed or mandated by them.

Governmental Requirements

2. User Members shall ensure that in the course of preshipment inspection activities relating to their laws, regulations and requirements, the provisions of paragraph 4 of Article III of GATT 1994 are respected to the extent that these are relevant.

Site of Inspection

3. User Members shall ensure that all preshipment inspection activities, including the issuance of a Clean Report of Findings or a note of non-issuance, are performed in the customs territory form which the goods are exported or, if the inspection cannot be carried out in that customs territory given the complex nature of the products involued, or if both parties agree, in the customs territory in which the goods are manufactured.

Standards

4. User Members shall ensure that quantity and quality inspections are performed in accordance with the standards defined by the seller and the buyer in the purchase agreement and that, in the absence of such standards, relevant intemational standards② apply.

Transparency

5. User Members shall ensure that preshipment inspection activities are conducted in a transparent manner.

6. User Members shall ensure that, when initially contacted by exporters, preshipment inspection entities provide to the exporters a list of all the information which is necessary for the exproters to comply with inspection requirements. The preshipment inspection entities shall provide the actual information when so requested by exporters. This information shall include a reference to the laws and regulations of user Members relating to preshipment inspection activities, and shall also include the procedures and criteria used for inspection and for price and currency exchange-rate verification purposes, the exporters' rights vis-à-vis the inspection entities, and the appeals procedures set up under paragraph 21. Additional procedural requirements or changes in existing procedures shall not be applied to a shipment unless the exporter concerned is informed of these changes at the time the inspection date is arranged. However, in emergency situations of the types addressed by Articles XXand XXI of GATT 1994, such additional requirements or changes may be applied to a shipment before the exporter has been informed. This assistance shall not, however, relieve exporters from their obligations in respect of compliance with the import regulations of the user Members.

7. User Members shall ensure that the information referred to in paqagraph 6 is made available to exporters in a convenient manner, and that the preshipment inspection offices maintained by preshipment inspection entities serve as information points where this information is available.

8. User Members shall publish promptly all applicable laws and regulations relatin to preshipment inspection activities in such a manner as to enable other govemments and traders to become acquainted with them.

Protection of Confidential Business Information

9. User Members shall ensure that preshipment inspection entities treat all information received in the course of the preshipment inspection as business confidential to the extent that such information is not already published, generally available to third parties, or otherwise in the public domain. User Members shall ensure that preshipment inspection entities maintain procedures to this end.

② An intemational standard is a standard adopted by a govemmental or non-govemmental body whose membership is open to all Members, one of whose recognized activities is in the field of standardization.

10. 应请求，用户成员应向各成员提供其为实施第 9 款而采取措施的信息。本款规定不得要求任何成员披露会危害装运前检验计划的有效性或损害特定公私企业的合法商业利益的机密信息。

11. 用户成员应保证装运前检验实体不对任何第三方泄露机密商业信息，但是装运前检验实体同与其签约或其授权进行检验的政府实体分享该信息的情况除外。用户成员应保证它们自与其签约或向其授权进行检验的装运前检验实体收到的机密商业信息得到充分保护。装运前检验实体只有在机密信息为信用证或其他支付方式或由于通关、进口许可或外汇管制的目的而通常需要的情况下，方可同与其签约或其授权进行检验的政府实体分享此类信息。

12. 用户成员应保证装运前检验实体不要求出口商提供有关下列内容的信息：

(a) 与已获专利、已获许可或未披露的方法有关、或与正在申请专利的方法有关的制造数据；

(b) 未公布的技术数据，但为证明符合技术法规或标准所必需的数据除外；

(c) 内部定价，包括生产成本；

(d) 利润水平；

(e) 出口商与其供应商之间的合同条款，除非其他方法无法使实体进行所涉检验。在此种情况下，实体应只要求为此目的所必需的信息。

13. 对于第 12 款所指的信息，装运前检验实体不得另行要求提供；但出口商为说明一特定情况可自愿发布。

利益冲突

14. 用户成员应保证装运前检验实体保留程序以避免以下各方之间的利益冲突，同时记住第 9 款至第 13 款有关保护机密商业信息的规定：

(a) 在装运前检验实体与任何与所涉装运前检验实体有关的实体之间，包括装运前检验实体在其中有财务或商业利益的任何实体，或在所涉装运前检验实体中有财务利益且其装运货物将由该装运前检验实体进行检验的任何实体；

(b) 在装运前检验实体与其他任何实体之间，包括需进行装运前检验的其他实体，但是签约或授权进行检验的政府实体除；

(c) 在装运前检验实体内部从事除要求实施检验程序之外的其他活动的各部门之间。

迟延

15. 用户成员应保证装运前检验实体在检验装运货物时避免无理迟延。用户成员应保证，一旦装运前检验实体与出口商商定检验日期，装运前检验实体即应在该日期进行检验，除非在出口商和装运前检验实体双方同意的基础上重新安排日期，或装

10. User Members shall provide information to Members on request on the measures they are taking to give effect to paragraph 9. The provisions of this paragraph shall not require any Member to disclose confidential information the diclosure of which would jeopardize the effectiveness of the preshipment inspection programmes or would prejudice the legitimate commercial interest of particular enterprises, public or private.

11. User Members shall ensure that preshipment inspection entities do notdivulge confidential business information to any third party, except that preshipment inspection entityes may share this information with the govemment entities that have contracted or mandated them. User Members shall ensure that confidential business information which they receive form preshipment inspection entities contracted or mandated by them is adequately safeguarded. Preshipment inspection entities shall share confidential business information with the govemments contracting or mandating them only to the extent that such information is customarily required for letters of credit or other forms of payment or for cusroms, import licensing or exchange control purposes.

12. User Members shall ensure that preshipment inspection entities do not request exporters to provide information regarding:

(a) manufacturing data related to patented, licensed or undisclosed processes, or to processes for which a patent is pending;

(b) unpublished technical data other than data necessary to demonstrate compliance with technical regulations or standards;

(c) internal pricing, including manufacturing costs;

(d) profit levels;

(e) the terms of contracts between exporters and their suppliers unless it is not otherwise possible for the entity to conduct the inspection in question. In such cases, the entity shall only request the information necessary for this purpose.

13. The information referred to in paragraph 12, which preshipment inspection entities shall not otherwise request, may be released voluntarily by the exporter to illustrate a specific case.

Conflicts of Interest

14. User Members shall ensure that preshipment inspection entities, bearing in mind also the provisions on protection of confidential business information in paragraphs 9 through 13, maintain procedures to avoid conflicts of interest:

(a) between preshipment inspection entities and any related entities of the preshipment inspection entities in question, including any netites in which the latter have a financial or commercial interest or any entities which have a financial interest in the preshipmnet inspection entities in question, and whose shipments the preshipment inspection entities are to inspect;

(b) between preshipment inspection entities and any other entities, including other entities subject to preshipment inspection, with the exception of the govemment entities contracting or mandating the inspections;

(c) with divisions of preshipment inspection entities engaged in activities other than those required to carry out the inspection proces.

Delays

15. User Members shall ensure that preshipment inspection entities avoid unreasonable delays in inspection of shipments. User Members shall ensure that, once a preshipment inspection entity and an exporter agree on an inspection date, the preshipment inspection entity conducts the inspection on that date unless it is rescheduled on a muttually agreed basis between the exporter and the preshipment inspection entity, or the preshipment inspection entity is preventde from doing so by the exporter or by

运前检验实体被出口商或不可抗力[①] 妨碍无法实施检验。

16. 用户成员应保证，在收到最终单证和完成检验后，装运前检验实体在 5 个工作日内签发检验结果清洁报告书，或提供详细书面说明列明不予签发的理由。用户成员应保证，在后一种情况下，装运前检验实体应给予出口商提交书面意见的机会，如出口商提出请求，应在双方方便的最早日期安排复验。

17. 用户成员应保证，只要出口商提出请求，装运前检验实体承诺在实际检验日期前，根据出口商和进口商之间的合同、形式发票以及适用的关于进口授权的申请，对价格和在适用的情况下对汇率进行初步核实。用户成员应保证，只要货物与进口单证和/或进口许可证相符，即不撤消装运前检验实体在该初步核实基础上已接受的价格或汇率。它们应保证，在进行初步核实后，装运前检验实体应立即以书面形式通知出口商它们接受价格和/或汇率或不予接受的详细原因。

18. 用户成员应保证，为避免支付的迟延，装运前检验实体应尽快将检验结果清洁报告书送交出口商或出口商的指定代表。

19. 用户成员应保证，如检验结果清洁报告出现笔误，则装运前检验实体应尽快更正错误，并将更正的信息送交有关方。

价格核实

20. 用户成员应保证，为防止高报价、低报价和欺诈，装运前检验实体应根据下列准则实施价格核实[②]；

(a) 装运前检验实体只有在它们能够证明其关于价格不符合要求的调查结果是根据符合（b）至（e）项所列标准的核实程序作出的，方可拒绝出口商和进口商之间议定的合同价格；

(b) 装运前检验实体为核实出口价格而进行的价格比较应根据在相同或大致相同时间、根据竞争和可比的销售条件、符合商业惯例的自同一出口国供出口的相同或类似货物的一个或多个价格进行，并扣除任何适用的标准折扣。该比较应根据下列规定：

(i) 仅使用可提供有效比较基础的价格，同时考虑与进口国和用以进行价格比较的一个或多个国家有关的经济因素；

(ii) 装运前检验实体不得依靠供出口到不同进口国的货物的价格而对装运货物任意强加最低价格；

(iii) 装运前检验实体应考虑（c）项所列的特定因素；

(iv) 在上述程序的任何阶段，装运前检验实体应向出口商提供对价格进行说明的机会；

(c) 在实施价格核实时，装运前检验实体应适当考虑销售合同的条款和与交易有关的普遍适用的调整因素；这些因素应包括但不仅限于：销售的商业水平和销售数量、交货期和交货条件、价格升级条款、质量标准、特殊设计

① 各方理解，就本协定而言，“不可抗力”指“使合同无法履行的不可抗拒的强制或强迫、无法预料的事物的趋势”。

② 在装运前检验实体与海关估价有关的服务方面，用户成员的义务应为它们在《WTO 协定》附件 1A 所列 GATT1994 和其他多边贸易协定中所接受的义务。

*force majeure*③

16. User Members shall ensure that, following receipt of the final documents and completion of the inspection, preshipment inspection entities, within five working days, either issue a Clean Report of Findings or provide a detailed written explanation specifying the reasons for non-issuance. User Members shall ensure that, in the latter case, preshipment inspection entities give exporters the opportunity to present their views in writing and, if exporters so request, arrange for re-inspection at the earliest mutually convenient date.

17. User Members shall ensure that, whenever so requested by the exporters, preshipment inspection entities undertake, prior to the date of hysical inspection, a preliminary verification of price and, where applicable, of currency exchange rate, on the basis of the contract between exporter and importer, the *pro forma* invoice and, where applicable, the application for import authorization. User Members shall ensure that a price or currency exchange rate that has been accepted by a preshipment inspection entity on the basis of such preliminary verification is not wirhdrawn, providing the goods conform to the import documentation and/or import licence. They shall ensure that, after a preliminary verification has taken place, preshipment inspection entities immediately inform exporters in writing either of their aceptance or of their detailed reasons for non-acceptance of the price and/or currency exchange rate.

18. User Members shall ensure that, in order to avoid delays in payment, preshipment inspection entities send to exporters or to designated representatives of the exporters a Clean Report of Findings as expeditiously as possible.

19. User Members shall ensure that, in the event of a clerical error in the Clean Report of Findings, preshipment inspection entities correct the error and forward the corrected information to the appropriate pa..ies as expeditiously as possible.

Price Verification

20. User Members shall ensure that, in order to pervent over-and under-invoicing and fraud, preshipment inspection entities conduct price verification④ according to the following guidelines:

(a) preshipment inspection entities shall only reject a contract price agreed between an exporter and an importer if they can demonstrate that their findings of an unsatisfactory price are based on a verification process which is in conformity with the criteria set out in subparagraphs (b) through(e);

(b) the preshipment inspection entity shall base its price comparison for the verification of the export price on the price(s) of identical or similar goods offered for export from the same country of exportation at or about the same time, under competitive and comparable conditions of sale, in conformity wity customary commercial practices and net of any applicable standard discounts. Such comparison shall be based on the following:

(i) only prices providing a valid basis of comparison shall be used, taking into acount the relevant economic factors pertaining to the counrtry of importation and a country or countries used for price comparison;

(ii) the preshipment inspection entity shall not rely upon the price of goods offered for export to different countries of importation to arbitrarily impose the lowest price upon the shipment;

(iii) the preshipment inspection entity shall take into account the specific elements listed in subparagraph(c);

(iv) at any stage in the process described above, the preshipment inspection entity shall provide the exporter with an opportunity to explain the price;

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③ It is understood that, for the purposes of this Agreement, "*force majeure*" shall mean "irresistible compulsion or coercion, unforeseeable, unforeseeable course of events excusing from fulfilment of contract".

④ The obligations of user Members with respect to the services of preshipment inspection entities in connection with customs valuation shall be the obligations which they have accepted in GATT 1994 and the other Multilateral Trade Agreements included in Annex 1A of the WTO Agreement.

特征、特殊装运或包装规格、订货数量、现货销售、季节影响、许可费或其他知识产权费以及作为合同一部分提供的、但未接通常做法单独开列发票的服务；还应包括与出口商价格有关的某些因素，如出口商与进口商之间的合同关系等；

(d) 运输费用的核实应仅与销售合同中列明的、出口国中运输方式的议定价格有关；

(e) 下列因素不得用于价格核实目的：

(i) 进口国生产的货物在该国的销售价格；

(ii) 来自出口国以外一国供出口货物的价格；

(iii) 生产成本；

(iv) 任意的或虚构的价格或价值。

上诉程序

21. 用户成员应保证装运前检验实体制定程序以接受和考虑出口商提出的不满意见并对此作出决定，用户成员还应依照第 6 款和第 7 款的规定使出口商可获得有关此类程序的信息。用户成员应保证依据下列准则制订和保留此类程序：

(a) 装运前检验实体应指定一名或多名官员，在正常的营业时间内，在设立装运前检验管理办公室的每一城市或第一港口接收、考虑出口商的申诉或不满意见，并对此作出决定；

(b) 出口商应以书面形式向指定的一名或多名官员提供所涉具体交易的事实、不满意见的性质以及建议的解决办法；

(c) 指定的一名或多名官员对出口商的不满意见应给予积极考虑，并应在收到(b) 项所指的文件后尽快作出决定。

背离

22. 作为对第 2 条规定的背离，用户成员应规定，除分批装运外，如装运货物的价值低于用户成员规定的适用于该批货物的最低价格，则不得对其进行检验，量特殊情况除外。此最低价值应成为根据第 6 款规定向出口商提供信息的一部分。

第 3 条

出口成员的义务

非歧视

1. 出口成员应保证其与装运前检验活动有关的法律和法规以非歧视的方式实施。

透明度

2. 出口成员应以能够使其他政府和贸易商知晓的方式，迅速公布所有与装运前检验活动有关的适用法律和法规。

技术援助

(c) when conducting price verification, preshipment inspection entities shall make appropriate allowances for the terms of the sales contract and generally applicable adjusting factors pertaining to the transaction; these factors shall include but not be limited to the commercial level and quantity of the sale, delivery periods and conditions, price escalation clauses, quality specifications, special design features, special shipping or packing specifications, order size, spot sales, seasonal influences, licence or other intellectual property fees, and services rendered as part of the contract if these are not customarily invoiced separately; they shall also include certain elements relating to the exporter's price, such as the contractual relationship between the exporter and importer;

(d) the verification of transportation charges shall relate only to the agreed price of the mode of transport in the country of exportation as indicated in the sales contract;

(e) the following shall not be used for price verification purposes:

(i) the selling price in the country of importation of goods produced in such country;

(ii) the price of goods for exprot form a country other than the country of exportation;

(iii) the cost of production;

(iv) arbitrary or fictitious prices or values.

Appeals Procedures

21. User Members shall ensure that preshipment inspection entities extablish procedures to receive, consider and render decisions concerning grievances raised by exporters, and that information concerning such procedures is made available to exporters in accordance with the provisions of paragraphs 6 and 7. User Members shall ensure that the procedures are developed and maintained in accordance with the following guidelines:

(a) preshipment inspection entities shall designate one or more officials who shall be available during normal business hours in each city or port in which they maintain a preshipment inspection administrative office to receive, consider and render decisions on exporters'appeals or grievances;

(b) exporters shall provide in writing to the designated officia(s) the facts concerning the specific transaction in question, the nature of the grievance and a suggested solution;

(c) the designated official(s) shall afford sympathetic consideration to exporters'grievances and shall render a decision as soon as possible after receipt of the documentation referred to in subparagraph(b).

Derogation

22. By derogation to the provisions of Article 2, user Members shall provide that, with the exception of part shipments, shipments whose value is less than a minimum value applicable to such shipments as defined by the user Member shall not be inspected, except in exceptional circumstances. This minimum value shall form part of the information furnished to exporters under the provisions of paragraph 6.

Article 3

Obligations of Exporter Members

Non-discrimination

1. Exproter Members shall ensure that their laws and regulations relating to preshipment inspection activities are aplied in a non-discriminatory manner.

Transparency

2. Exporter Members shall publish promptly all aplicable laws and regulations relating to preshipment inspection activities in such a manner as to enable other governments and traders to become acquainted with them.

3. 如收到请求，出口商应按双方同意的条件向用户成员提供旨在实现本协定目标的技术援助。[①]

第 4 条
独立审查程序

各成员应鼓励装运前检验实体和出口商共同解决双方的争端。但是，在依照第 2 条第 21 款的规定提交不满意见 2 个工作日后，双方中每一方均可将争端提交进行独立审查。各成员应采取其所能采取的合理措施以保证为此制定和保留下列程序：

(a) 就本协定而言，这些程序应由一代表装运前检验实体的组织和一代表出口商的组织联合组成的独立实体管理；

(b) (a) 项所指的独立实体应制定下列专家名单：

(i) 由一代表装运前检验实体的组织提名的一组成员；

(ii) 由一代表出口商的组织提名的一组成员；

(iii) 由 (a) 项所指的独立实体提名的一组独立贸易专家。

此名单中专家的地理分布应能使任何根据此程序提出的争端得到迅速处理。该名单应在《WTO 协定》生效起 2 个月内制定并每年进行更新。该名单应可公开获得，并应通知秘书处，并散发所有成员；

(c) 希望提出争端的一出口商或一装运前检验实体应与 (a) 项所指的独立实体联系，并要求组成专家组、独立实体应负责设立专家组。专家组应由 3 名成员组成。专家组成员的选择应避免不必要的费用和迟延。第一名成员应由有关装运前检验实体自上述名单的 (i) 组中选出，只要该成员不附属于该实体。第二名成员应由有关出口商自上述名单的 (ii) 组中选出，只要该成员不附属于该出口商。第三名成员应由 (a) 项所指的独立实体自上述名单的 (iii) 组中选出。不得对自上述名单的 (iii) 组中选出的任何独立贸易专家提出异议；

(d) 自上述名单的 (iii) 组中选出的独立贸易专家应担任专家组主席。独立贸易专家应作出必要的决定，以保证专家组迅速解决争端，例如决定案件的事实是否要求专家组成员召开会议，如要求召开会议，决定在哪里召开会议，同时考虑实施所涉检验的地点；

(e) 如争端各方同意，则也可由 (a) 项所指的独立实体自上述名单的 (iii) 组中选出一独立贸易专家审查所涉争端。该专家应作出必要的决定，以保证迅速解决争端，例如考虑实施所涉检验的地点；

(f) 审查的对象应为确定在进行产生争端的检验过程中，争端各方是否遵守本协定的规定。程序应迅速，并为双方提供机会以便亲自或以书面形式提出意见；

① 各方理解，该技术援助可在双边、诸边或多边基础上提供。

Technical Assistance

3. Exporter Members shall offer to provide to user Members, if requested, technical assistance directed towards the achievement of the objectiives of this Agreement on mutually agreed terms⑤.

Article 4

Independent Review Procedures

Members shall encourage preshipment inspection entities and exporters mutually to resolve their disputes. However, two working days after submission of the grievance in accordance with the provisions of paragraph 21 of Article 2, either party may refer the dispute to independent review. Members shall take such reasonable measures as may be available to them to ensure that the following procedures are established and maintained to this end:

(a) these procedures shall be administered by an independent entity constituted jointly by an organization representing preshipment inspection entities and an organization representing exporters for the purposes of this Agreement;

(b) the independent entity referred to in subparagraph (a) shall establish a list of experts as follows;

(i) a section of members nonimated by an organization representing preshipment inspection entities;

(ii) a section of members nominated by an organization representing exporters;

(iii) a section of independent trade experts, nominated by the independent entity referred to in subparagraph (a).

The geographical distribution of the experts on this list shall be such as to enable any disputes raised under these procedures to be dealt with expeditionusly. This list shall be drawn up within two months of the entry into force of the WTO Agreement and shall be updated annually. The list shall be publicly available. It shall be notified to the Secretariat and circulated toall Members;

(c) an exporyer or preshipment inspection entity withing to raise a dispute shall contact the independent entity referred to in subparagraph (a) and request the formation of a panel. The independent entity shall be responsible for establishing a panel. This panel shall consist of three members. The members of the panel shall be chosen so as to avoid unnecessary costs and delays. The first member shall be chosen from section (i) of the above list by the preshipment inspection entity concerned, provided that this member is not afliated to that entity. The second member shall be chosen from section (ii) of the above list by the exporter concemed, provided that this member is not affiliated to that exporter. The third member shall be chosedn from section (iii) of the above list by the indepenent entity referred to in subparagraph (a). No objections shall be made to any independent trade expert drawn form section (iii) of the above list;

(d) the independent trade expert drawn from section (iii) of the above list shall serve as the chairman of the panel. The inependent trade expert shall take the necessary decisions to ensure an expeditious settlement of the dispute by the panel, for instance, whether the facts of the case require the panelists to meet and, if so, where such a meeting shall take place, taking into account the site of the inspection in question;

(e) if the parties to the dispute so agree, one independent trade expert coule be selected from section (iii) of the above list by the indepenent entity referred to in subparagraph (a) to review the dispute in question. This expert shall take the necessary decisions to ensure an expeditious settlement of the dispute, for instance taking into account the site of the inspection in question;

(f) the object of the review shall be to establish whether, in the course of the inspection in dis-

⑤ It is understood that such technical assistance may be given on a bilateral, plurilateral or multilateral basis.

(g) 3 人专家组的决定应以多数票作出。关于争端的决定应在提出独立审查的请求后的 8 个工作日内作出，并告知争端各方。时限可经争端各方同意而予以延长。专家组或独立贸易专家应根据案件的是非曲直分配费用；

(h) 专家组的决定对属争端方的装运前检验实体和出口商具有约束力。

第 5 条

通知

各成员应在《WTO 协定》对其生效时，向秘书处提交其实施本协定的法律和法规的副本，以及与装运前检验有关的其他法律和法规的副本。对于与装运前检验有关的法律和法规的变更，在未正式公布前不得实施。这些变更在公布后应立即通知秘书处。秘书处应将该信息的可获性通知各成员。

第 6 条

审议

在《WTO 协定》生效之日起第 2 年年底及此后第 3 年，部长级会议应审议本协定的条款及实施和运用情况，同时考虑本协定的目标及其运用过程中取得的经验。作为此类审议的结果，部长级会议可修正本协定的条款。

第 7 条

磋商

应请求，各成员应就影响本协定实施的任何事项与其他成员进行磋商。在此种情况下，应适用由《争端解决谅解》详述和适用的 GATT 1994 第 22 条的规定。

第 8 条

争端解决

成员间有关本协定运用的任何争端应遵守由《争端解决谅解》详述和适用的 GATT 1994 第 23 条的规定。

第 9 条

最后条款

1. 各成员应为实施本协定而采取必要措施。

2. 各成员应保证其法律和法规不违反本协定的条款。

pute, the parties to the dispute have complied with the provisions of this Agreement. The rpocedures shall beexpeditious and provide the opportunity for both parties to present their views in person or in writing;

(g) decisions by a three-member panel shall be taken by majority vote. The decision on the dispute shall be rendered within eight working days of the request for independent review and be communicated to the parties to the dispute. This time-limit could be extended upon agreement by the parties to the dispute. The panel or indepenent trade expert shall apportion the costs, based on the merits of the case;

(h) the decision of the panel shall be binding upon the preshipment inspection entity and the exporter which are parties to the dispute.

Article 5

Notification

Members shall submit to the Secretariat copies of the laws and regulations by which they put this Agreement into force, as well as copies of any other laws and regulations relating to preshipment inspection, when the WTO Agreement enters into force with respect to the Member concerned. No changes in the laws and regulations relating to preshipment inspcetion shall be enforced before such changes have been officially published. They shall be notified to the Secretariat immediately after their publication. The Secretariat shall inform the Members of the availability of this information.

Article 6

Review

At the end of the second year form the date of entry into force of the WTO Agreement and every three years thereafter, the Ministerial Conference shall review the provisions, implementation and operation of this Agreement, taking into account the objectives thereof and experience gained in its operation. As a result of such review, the Ministerial Conference may amend the provisions of the Agreement.

Article 7

Consultation

Members shall consult with other Members upon request with rewpect to any matter affecting the operation of this Agreement. In such casse, the provisions of Article XXII of GATT 1994, as elaborated and applied by the Dippute Settlement Understanding, are applicable to this Agreement.

Article

Dispute Settlement

Any disputes among Members regarding the operation of this Agreement shall be subject to the provisions of Article XXIII of GATT 1994, as elaborated and applied by the Dispute Settlement Understanding.

Article 9

Final Provisions

1. Members shall take the necessary measures for the implementation of the present Agreement.
2. Members shall ensure that their laws andregulations shall not be contrary to the provisions of this Agreement.

进口许可程序协定

各成员，

注意到多边贸易谈判；

期望促进 GATT 1994 目标的实现；

考虑到发展中国家成员特殊的贸易、发展和财政需要；

认识到用于某些目的的自动进口许可的有用性，且此种许可不应用以限制贸易；

认识到进口许可可用以管理根据 GATT 1994 的有关规定采取的措施；

认识到 GATT 1994 的规定可适用于进口许可程序；

期望保证进口许可的使用方式不违背 GATT 1994 的原则和义务；

认识到进口许可的不适当使用可以阻碍国际贸易的流动；

确信进口许可、特别是非自动进口许可，应以透明和可预测的方式实施；

认识到非自动进口许可程序的行政负担不应超过为管理有关措施所绝对必需的限度；

期望简化国际贸易中使用的行政程序和做法，并使之具有透明度，并保证公平、公正地实施和管理此类程序和做法；

期望规定一磋商机制，并迅速、有效和公正地解决本协定项下产生的争端；

特此协议如下：

第 1 条
总则

1. 就本协定而言，进口许可定义为用以实施进口许可制度的行政程序[①]，该制度要求向有关行政机关提交申请或其他文件（报关所需文件除外），作为货物进入进口成员关税领土的先决条件。

2. 各成员应保证用以实施进口许可制度的行政程序符合本协定解释的 GATT 1994 的有关规定，包括其附件和议定书，以期防止因不适当实施这些程序而产生的贸易扭曲，同时考虑发展中国家成员的经济发展目的及财政和贸易需要。[②]

3. 进口许可程序规则的实施应保持中性，并以公平、公正的方式进行管理。

4. (a) 与提交申请的程序有关的规则和所有信息，包括个人、公司和机构提出申请的资格、受理的一个或多个管理机关以及受许可要求限制的产品清单，均应

① 包括被称为“许可”的程序及其他类似行政程序。

② 本协定的任何规定不得解释为意味着通过许可程序所实施措施的依据、范围或期限在本协定项下可受到质疑。

AGREEMENT ON IMPORT LICENSING PROCEDURES

Members,

Having regard to the Multilateral Trade Negotiations;

Desiring to further the objectives of GATT 1994;

Taking into account the particular trade, development and financial needs of developing country Members;

Recognizing the usefulness of automatic import licensing for certain purposes and that such licensing should not be used to restrict trade;

Recognizing that import licensing may be employed to administer measures such as those adopted pursuant to the relevant provisions of GATT 1994;

Recognizing the provisions of GATT 1994 as they apply to import licensing procedures;

Desiring to ensure that import licensing procedures are not utilized in a manner contrary to the principles and obligations of GATT 1994;

Recognizing that the flow of international trade could be impeded by the inappropriate use of import licensing procedures;

Convinced that import licensing, particularly non-automatic import licensing, should be implemented in a transparent and predictable manner;

Recognizing that non -automatic licensing procedures should be no more administratively burdensome that absolutely necessary to administer the relevant measure;

Desiring to simplify, and bring transparency to, the administrative procedures and practices used in international trade, and to ensure the fair and equitable application and administration of such procedures and practices;

Desiring to provide for a consultative mechanism and the speedy, effective and equitable resolution of disputes arising under this Agreement;

Hereby *agree* as follows:

Article 1

General Provisions

1. For the purpose of this Agreement, import licensing is defined as administrative procedures① used for the operation of import licensing régimes requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body as a prior condition for importation into the customs territory of the importing Member.

2. Members shall ensure that the administrative procedures used to implement import licensing régimes are in conformity with the relevant provisions of GATT 1994 including its annexes and protocols, as interpreted by this Agreement, with a view to preventing trade distortions that may arise from an inappropriate operation of those procedures, taking into account the economic development purposes and financial and trade needs of developing country Members②

3. The rules for import licensing procedures shall be neutral in application and administered in a fair and equitable manner.

4. (a) The rules and all information concerning procedures for the submission of applications, including the eligibility of persons, firms and institutions to make such applications, the administra-

① Those procedures referred to as"licensing" as well as other similar administrative procedures.

② Nothing in this Agreement shall be taken as implying that the basis, scope or duration of a measure being implemented by a licensing procedure is subject to question under this Agreement.

在向第4条规定的进口许可程序委员会（本协定中称“委员会”）作出通知的信息来源中予以公布，以使政府[3]和贸易商知晓。只要可行，此类公布应在该要求的生效日期前21天作出，但无论如何不得迟于该生效日期。对于有关许可程序的规则或受进口许可限制的产品清单的任何例外、减损或变更，也应以同样方式在上述相同时限内予以公布。这些出版物的副本应可使秘书处获得。

(b) 应请求，应给予希望提出书面意见的成员讨论这些意见的机会。有关成员应对这些意见和讨论结果给予应有的考虑。

5. 申请表格和在适用情况下的展期申请表格应尽可能简单。凡被认为属许可制度的正常运行所绝对必要的文件和信息均可在申请时要求提供。

6. 申请程序和在适用情况下的展期申请程序应尽可能简单。应允许申请者有一段合理的期限提交许可证申请。如有截止日期，则该期限应至少为21天，并应规定如在此期限内未收到足够的申请，则该期限可以延长。申请者应只需接洽与申请有关的一个行政机关。如确实不可避免而需接洽一个以上的行政机关，则申请者应无需接洽三个以上的行政机关。

7. 任何申请不得由于文件中出现的未造成所含基本数据改变的微小错误而被拒绝。对于在文件或程序中出现的显然不是由于欺骗意图或重大过失而造成的任何遗漏或差错，所给予的处罚不得超过提出警告所必需的限度。

8. 得到许可的进口产品不得由于运输过程中产生的差异、散装货装载时偶然产生的差异以及其他与正常商业做法一致的微小差异而导致货物的价值、数量或重量与许可证标明的数额有微小差异而被拒绝。

9. 许可证持有者用以支付得到许可证的进口产品所必需的外汇，应与无需进口许可证货物的进口商在相同基础上获得。

10. 对于安全例外，适用GATT 1994第21条的规定。

11. 本协定的规定不得要求任何成员披露会妨碍执法或违背公共利益或损害特定公私企业合法商业利益的机密信息。

第2条

自动进口许可[4]

1. 自动进口许可定义为在所有情况下均批准申请，且符合第2款（a）项规定的进口许可。

2. 除第1条第1款至第11款和本条第1款的规定适用于自动进口许可程序外，下列

[3] 就本协定而言，“政府”一词被视为包括欧洲共同体的主管机关。
[4] 要求交纳对进口产品无限制作用的保证金的进口许可程序应被视为属第1款和第2款的范围。

tive body(ies) to be approached, and the lists of products subject to the licensing requirement shall be published, in the sources notified to the Committee on Import Licensing provided for in Article 4 (referred to in this Agreement as "the Committee"), in such a manner as to enable governments[③] and traders to become acquainted with them. Such publication shall take place, whenever practicable, 21 days prior to the effective date of the requirement but in all events not later than such effective date. Any exception, derogations or changes in or from the rules concerning licensing procedures or the list of products subject to import licensing shall also be published in the same manner and within the same time periods as specified above. Copies of these publications shall also be made available to the Secretariat.

(b) Members which wish to mke comments in writing shall be provided the opportunity to discuss these comments upon request. The concerned Member shall give due consideration to these comments and results of discussion.

5. Application forms and, where applicable, renewal forms shall be as simple as possible. Such documents and information as are considered strictly necessary for the proper functioning of the licensing régime may be required on application.

6. Application procedures and , where applicable, renewal procedures shall be as simple as possible. Applicants shall be allowed a reasonable period for the submission of licence applications. Where there is a closing date, this period should be at least 21 days with provision for extension in circumstances where insufficient appliations have been received within this period. Applicants shall have to approach only one administrative body in connection with an application. Where it is strictly indispensable to approach more than one administrative body, applicants shall not need to approach more than three administrative bodies.

7. No application shall be refused for minor documentation errors which do not alter basic data contained therein. No penalty greater than necessary to serve merely as a warning shall be imposedin respect of any omission or mistake in documentation or procedures which is obviously made without fraudulent intent or gross negligence.

8. Licensed imports shall not be refused for minor variations in value, quantity or weight from the amount designated on the licence due to differences occurring during shipment, differences incidental to bulk loading and other minor differences consistent with normal commercial practice.

9. The foreign exchange necessary to pay for licensed imports shall be made available to licence holders on the same basis as to importers of goods not requiring import licences.

10. With regard to security exceptions, the provisions of Article XXI of GATT 1994 apply.

11. The provisions of this Agreement shall not require any Member to disclose confidential information 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 2

Automatic Import Licensing[④]

1. Automatic import licensing is defined as import licensing where approval of the application is granted in all cases, and which is in accordance with the requirements of paragraph 2(a).

2. The following provisions[⑤], in addition to those in paragraphs 1 through 11 of Aricle 1 and paragraph 1 of this Article, shall apply to automatic import licensing procedures:

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③ For the purpose of this Agreement, the term "governments" is deemed to include the competent authorities of the European Communities.

④ Those import licensing procedures requiring a security which have no restrictive effects on imports are to be considered as falling within the scope of paragraphs 1 and 2.

⑤ A developing country Member, other than a developing country Member which was a Party to the Agreement on Import Licensing Procedures done on 12 April 1979, which has specific difficulties with the requirements of subparagraphs (a)(ii) and (a)(iii) may, upon notification to the Committee, delay the application of these subparagraphs by not more than two years from the date of entry into force of the WTO Agreement for such Member.

规定[5] 也适用于该程序：

(a) 自动许可程序的管理方式不得对受自动许可管理的进口产品产生限制作用。除非符合下列条件，否则自动许可程序应被视为对贸易有限制作用：

(i) 任何个人、公司或机构只要满足进口成员有关从事受自动许可管理产品的进口经营的法律要求，均有同等资格进行申请，并获得进口许可证；

(ii) 许可证申请可在货物结关前任何一工作日提交；

(iii) 以适当和完整的表格提交的许可证申请，在管理上可行的限度内，应在收到后立即批准，最多不超过 10 个工作日；

(b) 各成员认识到，只要不能获得其他适当程序，自动进口许可程序即可能是必要的。只要导致采用自动进口许可的情况存在，且只要其管理目的无法以更适当的方式实现，则自动许可程序即可予以维持。

第 3 条
非自动进口许可

1. 除第 1 条第 1 款至第 11 款的规定适用于非自动进口许可外，下列规定也适用于该程序。非自动进口许可程序定义为不属第 2 条第 1 款定义范围的进口许可。

2. 除实行限制所造成的贸易限制作用或贸易扭曲作用之外，非自动许可不得对进口产品产生此类作用。非自动许可程序在范围和期限上应符合使用该程序所实施的措施，且其行政负担不得超过为管理该措施所绝对必要的限度。

3. 在许可要求的目的不是实施数量限制的情况下，各成员应公布充分的信息，以使其他成员和贸易商了解发放和/或分配许可证的依据。

4. 如一成员规定个人、公司或机构可请求例外于或背离许可证要求，则该成员应将此事实包括在根据第 1 条第 4 款公布的信息中，还应包括如何提出该请求的信息，且在可能的情况下，应指出在何种情况下该请求可予以考虑。

5. (a) 应对有关产品的贸易有利害关系的任何成员请求，各成员应提供关于下列内容的所有有关信息：

(i) 限制的管理情况；

(ii) 近期发放的进口许可证；

(iii) 许可证在供应国之间的分配情况；

(iv) 如可行，有关受进口许可管理产品的进口统计数字（即价值和/或数量）。发展中国家成员不需因此承担额外的行政或财政负担；

(b) 通过许可管理配额的成员应在第 1 条第 4 款指定的期限内，并以使政府和贸易商知晓的方式，公布按数量和/或价值实施的配额总量、配额的发放和截止日期以及有关的任何变更；

(c) 对于配额在供应国之间进行分配的情况，实施限制的成员应将目前分配的

[5] 不属 1979 年 4 月 12 日订立的《进口许可程序协定》参加方的一发展中国家成员，如对 (a) 项 (ii) 目和 a 项 (iii) 目的要求有具体困难，则在通知委员会后，可在不超过《WTO 协定》对其生效之日起 2 年内推迟适用以上两目的规定。

(a) automatic licensing procedures shall not be administered in such a manner as to have restricting effects on imports subject to automatic licensing. Automatic licensing procedures shall be deemed to have trade-restricting effects unless, *inter alia*:

(i) any person, firm or institution which fulfils the legal requirements of the importing Member for engaging in import operations involving products subject to automatic licensing is equally eligible to apply for and to obtain import licences;

(ii) applications for licences may be submitted on any working day prior to the customs clearance of the goods;

(iii) applications for licences when submitted in appropriate and complete form are approved immediately on receipt, to the extent administratively feasible, but within a maximum of 10 working days;

(b) Members recognize that automatic import licensing may be necessary whenever other appropriate procedures are not available. Automatic import licensing may be maintained as long as the circumstances which gave rise to its introduction prevail and as long as its underlying administrative purposes cannot be achieved in a more appropriate way.

Article 3

Non-Automatic Import Licensing

1. The following provisions, in addition to those in paragraphs 1 through 11 of Article 1, shall apply to non-automatic import licensing procedures. Non-automatic import licensing procedures are defined as import licensing not falling within the definition contained in paragraph 1 of Article 2.

2. Non-automatic licensing shall not have trade-restrictive or -distortive effects on imports additional to those caused by the imposition of the restriction. Non-auto-matic licensing procedures shall correspond in scope and duration to the measure they are used to implement, and shall be no more administratively burdensome than absolutely necessary to administer the measure.

3. In the case of licensing requirements for purposes other than the implementation of quantitative restrictions, Members shall publish sufficient information for other Members and traders to know the basis for granting and/or allocating licences.

4. Where a Member provides the possibility for persons, firms or institutions to request exceptions or derogations from a licensing requirement, it shall include this fact in the information published under paragraph 4 of Article 1 as well as information on how to make such a request and, to the extent possible, and indication of the circumstances under which requests would be considered.

5. (a) Members shall provide, upon the request of any Member having an interest in the trade in the product concerned, all relevant information concerning:

(i) the administration of the restrictions;

(ii) the import licences granted over a recent period;

(iii) the distribution of such licences among supplying countries;

(iv) where practicable, import statistics (i.e. value and/or volume) with respect to the products subject to import licensing. Developing country Members would not be expected to take additional administrative or financial burdens on this account;

(b) Members administering quotas by means of licensing shall publish the overall amount of quotas to be applied by quantity and/or value, the opening and closing dates of quotas, and any change thereof, within the time periods specified in paragraph 4 of Article 1 and in such a manner as to enable governments and traders to become acquainted with them;

(c) in the case of quotas allocated among supplying countries, the Member applying the restrictions shall promptly inform all other Members having an interest in supplying the product concerned of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and shall publish this information within the time periods specified in paragraph 4 of Article 1 and in such a manner as to enable governments and traders to become acquainted with them;

配额中给予各供应国份额的数量或价值迅速通知对有关产品的供应有利害关系的所有其他成员，并应在第 1 条第 4 款指定的期限内，以使政府和贸易商知晓的方式公布此信息；

(d) 如出现有必要提前配额发放日期的情况，则第 1 条第 4 款所指的信息应在该条指定的期限内，以使政府和贸易商知晓的方式公布此信息；

(e) 任何满足进口成员的法律和管理要求的个人、公司或机构均有同等资格申请许可证并予以考虑。如许可证申请未获批准，则应请求，申请人应被告知其中的原因，且申请人有权依照进口成员的国内立法或程序进行上诉或进行审查；

(f) 除因该成员无法控制的原因而不能做到外，如收到申请即应予以考虑，即以先来先领的方式进行管理，则处理申请的期限不得超过 30 天，如所有申请同时予以考虑，则处理申请的期限不得超过 60 天。在后一种情况下，处理申请的期限应被视为自宣布的申请期限的截止日期的次日开始；

(g) 许可证的有效期应合理，不得过短而妨碍进口。许可证的有效期不得妨碍自远地来源的进口，但进口产品需满足无法预料的短期要求的情况除外；

(h) 在管理配额时，各成员不得阻止依照已发放的许可证实施进口，也不得阻碍对配额的充分使用；

(i) 在发放许可证时，各成员应考虑宜对达到经济数量的产品发放许可证；

(j) 分配许可证时，各成员应考虑申请人的进口实绩。在这方面，应考虑以往对申请人发放的许可证是否在最近一代表期内得到充分使用。如许可证未得到充分使用，则该成员应审查其中的原因，并在分配新的许可证时考虑这些原因。还应考虑保证许可证合理地分配给新的进口商，同时考虑宜对达到经济数量的产品发放许可证。在这方面，应特别考虑自发展中国家成员、特别是最不发达国家成员进口产品的进口商；

(k) 在配额通过不在供应国之间进行分配的许可管理的情况下，许可证持有者[6]有权选择进口产品的来源。对于配额在供应国之间分配的情况，许可证应明确规定国别（一国或多国）；

(l) 在适用第 1 条第 8 款的规定时，如进口超过前一许可证水平，则可在以后的许可证分配中做出补偿性调整。

第 4 条
机构

特此设立进口许可程序委员会，由每一成员的代表组成。委员会应选举自己的主席和副主席，并在必要时召开会议，为各成员提供就与本协定的运用或促进其目标的实现有关的任何事项进行磋商的机会。

⑥ 有时称为“配额持有者”。

(d) where situations arise which make it necessary to provide for an early opening date of quotas, the information referred to in paragraph 4 of Article 1 should be published within the time periods specified in paragraph 4 of Article 1 and in such a manner as to enable governments and traders to become acquainted with them;

(e) any person, firm or institution which fulfils the legal and administrative requirements of the importing Member shall be equally eligible to apply and to be considered for a licence. If the licence application is not approved, the applicant shall, on request, be given the reason therefor and shall have a right of appeal or review in accordance with the domestic legislation or procedures of the importing Member;

(f) the period for processing applications shall, except when not possible for reasons outside the control of the Member, not be longer than 30 days if applications are considered as and when received, i.e. on a first-come first-served basis, and no longer than 60 days if all applications are considered simultaneously. In the latter case, the period for processing applications shall be considered to begin on the day following the closing date of the announced application period;

(g) the period of licence validity shall be of reasonable duration and not be so short as to preclude imports. The period of licence validity shall not preclude imports from distant sources, except in special cases where imports are necessary to meet unforeseen short-term requirements;

(h) when administering quotas, Members shall not prevent importation form being effected in accordance with the issued licences, and shall not discourage the full utilization of quotas;

(i) when issuing licences, Members shall take into account the desirability of issuing licences for products in economic quantities;

(j) in allocating licences, the Member should consider the import performance of the applicant. In this regard, consideration should be given as to whether licences issued to applicants in the past have been fully utilized during a recent representative period. In cases where licences have not been fully utilized, the Member shall examine the reasons for this and take these reasons into consideration when allocating new licences. Consideration shall also be given to ensuring a reasonable distribution of licences to new importers, taking into account the desirability of issuing licences for products in economic quantities. In this regard, special consideration should be given to those importers importing products originating in developing country Members and, in particular, the least-developed country Members;

(k) in the case of quotas administered through licences which are not allocated among supplying countries, licence holders⑥ shall be free to choose the sources of imports. In the case of quotas allocated among supplying countries, the licene shall clearly stipulate the country or countries;

(l) in applying paragraph 8 of Article 1, compensating adjustments may be made in future licence allocations where imports exceeded a previous licence level.

Article 4

Institutions

There is hereby established a Committee on Import Licensing composed of representatives from each of the Members. The Committee shall elect its own Chairman and Vice-Chairman and shall meet as necessary for the purpose of affording Members the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives.

Article 5

Notification

1. Members which institute licensing procedures or changes in these procedures shall notify the Committee of such within 60 days of publication.

⑥ Sometimes referred to as "quota holders".

第 5 条
通知

1. 制定许可程序或更改这些程序的成员应在公布后 60 天内就此通知委员会。
2. 关于制定进口许可程序的通知应包括下列信息：
   (a) 受许可程序管理的产品清单；
   (b) 有关资格信息的联络点；
   (c) 申请书提交的一个或多个行政机关；
   (d) 如公布许可程序，公布日期和出版物名称；
   (e) 表明许可程序根据第 2 条和第 3 条所含定义属自动许可程序还是非自动许可程序；
   (f) 对于自动进口许可程序，其管理目的；
   (g) 对于非自行进口许可程序，表明通过许可程序所实施的措施；
   (h) 许可程序的预计期限，如该期限可有一定可能性进行估计，如不能进行估计，则说明不能提供此信息的原因。
3. 如上述要素发生变更，则应在关于进口许可程序变更的通知中予以说明。
4. 各成员应将公布第 1 条第 4 款所要求信息的一种或多种出版物通知委员会。
5. 任何利害关系成员，如认为另一成员未依照第 1 款至第 3 款的规定将制定许可程序或其变更的情况通知委员会，则可将此问题提请该另一成员注意。如此后通知未迅速作出，则该成员可自动将许可程序或其变更情况，包括所有有关和可获得的信息作出通知。

第 6 条
磋商和争端解决

有关影响本协定运用的任何事项的磋商和争端解决，应遵守由《争端解决谅解》详述和适用的 GATT 1994 第 22 条和第 23 条的规定。

第 7 条
审议

1. 委员会应在必要时，但至少每 2 年一次，对本协定的实施和运用进行审议，同时考虑本协定的目标及其中包含的权利和义务。
2. 作为委员会审议的依据，秘书处应根据第 5 条的规定提供的信息、对年度进口许可程序问卷⑦ 的答复以及可获得的其他有关可靠信息，准备一份事实报告。该报告应提供上述信息的提要，特别应表明审议所涉期间内的任何变更或情况发展，包括委员会同意的任何其他信息。
3. 各成员承诺迅速和全面地完成关于进口许可程序的年度问卷。
4. 委员会应向货物贸易理事会通知在此类审议所涉期间的发展情况。

第 8 条

⑦ 该文件最初于 1971 年 3 月 23 日以 GATT 1947L/3515号文件散发。

2. Notifications of the institution of import licensing procedures shall include the following information:

(a) list of products subject to licensing procedures;
(b) contact point for information on eligibility;
(c) administrative body(ies) for submission of applications;
(d) date and name of publication where licensing procedures are published;
(e) indication of whether the licensing procedure is automatic or non-automatic according to definitions contained in Articles 2 and 3;
(f) in the case of automatic import licensing procedures, their administrative purpose;
(g) in the case of non-automatic import licensing procedures, indication of the measure being implemented through the licensing procedure;and
(h) expected duration of the licensing procedure if this can be estimated with some probability, and if not, reason why this information cannot be provided.

3. Notifications of changes in import licensing procedures shall indicate the elements mentioned above, if changes in such occur.

4. Members shall notify the Committee of the publication(s) in which the information required in paragraph 4 of Article 1 will be published.

5. Any interested Member which considers that another Member has not notified the institution of a licensing procedure or changes therein in accordance with the provisions of paragraphs 1 through 3 may bring the matter to the attention of such other Member. If notification is not made promptly thereafter, such Member may itself notify the licensing procedure or changes therein, including all relevant and available information.

Article 6

Consultation and Dispute Settlement

Consultations and the settlement of disputes with respect to any matter affecting the operation of this Agreement shall be subject to the provisions of Articles XXII and XXIII of GATT 1994, as elaborated and applied by the Dispute Settlement Understanding.

Article 7

Review

1. The Committee shall review as necessary, but at least once every two years, the implementation and operation of this Agreement, taking into account the objectives thereof, and the rights and obligations contained therein.

2. As a basis for the Committee review, the Secretariat shall prepare a factual report based on information provided under Articls 5, responses to the annual questionnaire on import licensing procedures⑦ and other relevant reliable information which is available to it. This report shall provide a synopsis of the aforementioned information, in particular indicating any changes or developments during the period under review, and including any other information as agreed by the Committee.

3. Members undertake to complete the annual questionnaire on import licensing procedures promptly and in full.

4. The Committee shall inform the Council for Trade in Goods of developments during the period covered by such reviews.

Article 8

Final Provisions

Reservations

1. Reservations may not be entered in respect of any of the provisions of this Agreement without the

⑦ Originally circulated as GATT 1947 document L/3515 of 23 March 1971.

最后条款

保留

1. 未获其他成员同意，不得对本协定的任何规定提出保留。

国内立法

2. (a) 每一成员应在不迟于《WTO 协定》对其生效之日，保证其法律、法规和行政程序符合本协定的规定。

(b) 每一成员应将与本协定有关的国内法律和法规及这些法律和法规管理方面的任何变更通知委员会。

consent of the other Members.

Domestic Legislation

2. (a) Each Member shall ensure, not later than the date of entry into force of the WTO Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement.

(b) Each Member shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.

补贴与反补贴措施协定

（有关环境保护的条款摘录）

各成员特此协议如下：

第一部分：总则

第1条

补贴的定义

1.1 就本协定而言，如出现下列情况应视为存在补贴：

(a) (1) 在一成员（本协定中称“政府”）领土内，存在由政府或任何公共机构提供的财政资助，即如果：

(i) 涉及资金的直接转移（如赠款、贷款和投股）、潜在的资金或债务的直接转移（如贷款担保）的政府做法；

(ii) 放弃或未征收在其他情况下应征收的政府税收（如税收抵免之类的财政鼓励）[①]；

(iii) 政府提供除一般基础设施外的货物或服务，或购买货物；

(iv) 政府向一筹资机构付款，或委托或指示一私营机构履行以上 (i) 至 (iii) 列举的一种或多种通常应属于政府的职能，且此种做法与政府通常采用的做法并无实质差别；

或

(a) (2) 存在 GATT 1994 第 16 条意义上的任何形式的收入或价格支持；

及

(b) 则因此而授予一项利益。

1.2 如按第 1 款定义的补贴依照第 2 条的规定属专向性补贴，则此种补贴应符合第二部分或符合第三部分或第五部分的规定。

第二部分：禁止性补贴

第3条

禁止

3.1 除《农业协定》的规定外，下列属第 1 条范围内的补贴应予禁止：

(a) 法律或事实上[②] 视出口实绩为惟一条件或多种其他条件之一而给予的

① 依照 GATT 1994 第 16 条（第 16 条的注释）和本协定附件 1 至附件 3 的规定，对产品免征其同类产品供国内消费时所负担的关税或国内税，或免除此类关税或国内税的数量不超过增加的数量，不得视为一种补贴。

② 如事实证明补贴的给予虽未在法律上视出口实绩而定，而事实上与实际或预期出口或出口收入联系在一起，则符合此标准。将补贴给予从事出口的企业这一事实本身不得成为被视为属本规定含义范围内的出口补贴的原因。

AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES

(excerpt of environment-related articles)
(Adopted October 30,1974)

Members hereby *agree* as follows:

PARTI:GENERAL PROVISIONS

Article 1

Defintion of a Subsidy

1.1 For the purpose of this Agreement, a subsidy shall be deemed to exist if :

(a)(1) there is a financial contribution by a government or any public body within the territory of a Member (referred to in this Agreement as "government"),i.e. where:

(i) a government practice involves a direct transfer of funds (e.g. grants, loans, and equity infusion), potential direct transfers of funds of liabilities (e.g. loan guarantees);

(ii) government revenue that is otherwise due is foregone or not collected (e.g. fiscal incentives such as tax credits)①;

(iii) does not cover the cost of replacing and operating the assisted investment, which must be fully borne by firms;and

(iv) a government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions illustrated in (i) to(iii) above which would normally be vested in the government and the practice ,in no real sense,differs from practices normally followed by governments;

or

(a)(2) there is any form of income or price support in the sense of Article XVI of GATT 1994; and

(b) a benefit is thereby conferred.

1.2 A subsidy as definde in paragraph 1 shall be subject to the provesons of Part II or shall be subject to the provisions of Part III or V only if such a subsidy is specific in accordance with the provisions of Article 2.

PART II:PROHIBITED SUBSIDIES

Article 3

Prohibition

3.1 Except as provided in the Agreement on Agriculture, the folloling subsudies, within the meaning of Article 1, shall be prohibied:

(a) subsidies contingent,in law or in fact②, whether solely or as ine of several other conditions,

① In accordance with the provisions of Article XVIof GATT 1994 (Note to Article XVI)and the provisions of Annexes I through III of this Agreement,the exemption of an exported product from duties or taxes borne by the like product when destinde for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued,shall not be deened to be a subsidy.

② This standard in met when the facts demonstrate that the granting of a subsidy,without having been made legally contingent upon export performance,is in fact tied to actual or anticipated exportation or export earnings. The mere fact that a subsiky is granted to enterprises which export shall not for that reason alone be considered to be an export subsidy within the meaning of this provision.

补贴，包括附件 1 列举的补贴[①]；

(b) 视使用国产货物而非进口货物的情况为惟一条件或多种其他条件之一而给予的补贴。

3.2 一成员不得给予或维持第 1 款所指的补贴。

第四部分：不可诉补贴

第 8 条

不可诉补贴的确认

8.2 尽管有第三部分和第五部分的规定，但是下列补贴属不可诉补贴：

(c) **为促进现有设施[②] 适应法律和/或法规实行的新的环境要求而提供的援助，**这些要求对公司产生更多的约束和财政负担，只要此种援助是：

(i) 一次性的临时措施；且

(ii) 限于适应所需费用的 20%；且

(iii) 不包括替代和实施受援投资的费用，这些费用应全部同公司负担；且

(iv) 与公司计划减少废弃物和污染有直接联系且成比例，不包括任何可实现的对制造成本的节省；且

(v) 能够适应新设备和/或生产工艺的公司均可获得。

第 9 条

磋商和授权的补救

9.1 如在实施第 8 条第 2 款所指的补贴计划过程中，尽管存在该计划与该款规定的标准相一致的事实，但是一成员有理由认为该计划已导致对其国内产业的严重不利影响，例如造成难以补救的损害，则该成员可请求与给予或维持该补贴的成员进行磋商。

9.2 应根据第 1 款提出的磋商请求，给予或维持该补贴计划的成员应尽快进行此类磋商。磋商的目的应为澄清有关情况的事实并达成双方接受的解决办法。

9.3 如在提出磋商请求后 60 天内，根据第 2 款进行的磋商未能达成双方接受的解决办法，则提出磋商请求的成员可将此事项提交委员会。

9.4 如一事项提交委员会处理，委员会应立即审议所涉及的事实和第 1 款所指的关于影响的证据。如委员会确定存在此类影响，则可建议提供补贴的成员修改该计划，以消除这些影响。委员会应在此事项根据第 3 条提交其之日起 120 天内作出结论。如建议在 6 个月内未得到遵守，则委员会应授权提出请求的成员采取与确定存在的不利影响的程度和性质相当的反措施。

① 附件 1 所指的不构成出口补贴的措施不得根据本规定和本协定任何其他规定而被禁止。

② “现有设施”一词指实行新的环境要求时已运行至少 2 年的设施。

upon export performance, including those illustratde in Annex I[①];

(b) subsidies contingent, whether solely or as one of sveeral other conditions , upon the use of domestic over imported goods.

3.2 A Member shall neither grant nor maintain subsidies referred to in paragraph 1.

PART IV: NON-ACTIONABLE SUBSIDIES

rticle 8

AIdentification of Non-Actionable Subsidies

8.2 Notwithstanding the provisions of Parts III and V, the following subsidies shall be non-actionabel:

(c) assistance to promote adaptation of existing facilities [②]to new environmental requerements imposed by law and/of regulations which result in greater constraints and financial burden on firms, provided that the assistance:

(i) is a one -time non-recurring measure; and

(ii) is limited to per cent of the cost of adaptation; and

(iii) does not cover the cost of replacing and operating the assisted

(iv) is directly linked to and proportionate to a firm's planed reduction of nuisances and pollution, and does not cover any manufacturing cost savings which may be achieved; and

(v) is available to al firms which can adopt the new equipment and/or production processes.

Article 9

Consultations and Authorized Remedise

9.1 If, in the course of implementation of a programme referred to in paragraph 2 of Artcle 8, notwithstanding the fact that the programme is consistent with the criteria laid down in that paragraph, a Member has reasons to believe that thisprogramme has resulted in serious adverse effects to the domestic industry of that Member, such as to cause damage which would be difficult to repair, such Member may request consultations with the Member granting or maintaining the subsidy.

9.2 Upon request for consultations under paragraph 1 , the Member granting or maintaining the subsidy programme in question shall enter into such consultations as quickly as plssible. The purpose of the consultations shall be to clarify the facts of the situation and to arrive at a mutually acceptable sulution.

9.3 If no mutually acceptable solution has been reached in consultations under paragraph 2 within 60 days of the request for such consultations, the requesting Member may refer the matter to the Committee.

9.4 Where a matter is referred to the Committee, the Committee shall immmediately review the facts involved and the evidence of the effects referred to in paragraph 1. If the Committee determines that such effects exist , it may recommend to the subsidizing Member to modify this programme in such a way as to remove these effects. The Commettee shall present its conclusions within 120 days from the date is not followed within six months. the Committee shall authorize the requesting Member to take appropriate countermeasuers commensurate with the nature and degree of the effects determined to exist.

① Measures referred to in Annes Ias not constiuting export subsidies shall not be prohibited under this or and other provision of this Agreement.

② The term"existing facilities" means facilities which have been in operation ofr at least two years at the time when new environmental requerements are imposed.

附件 1B
服务贸易总协定

（有关环境保护的条款摘录）

各成员，

认识到服务贸易对世界经济增长和发展日益增加的重要性；

希望建立一个服务贸易原则和规则的多边框架，以期在透明和逐步自由化的条件下扩大此类贸易，并以此为手段促进所有贸易伙伴的经济增长和发展中国家的发展；

期望在给予国家政策目标应有尊重的同时，通过连续回合的多边谈判，在互利基础上促进所有参加方的利益，并保证权利和义务的总体平衡，以便早日实现服务贸易自由化水平的逐步提高；

认识到各成员为实现国家政策目标，有权对其领土内的服务提供进行管理和采用新的法规，同时认识到由于不同国家服务法规发展程度方面存在的不平衡，发展中国家特别需要行使此权利；

期望便利发展中国家更多地参与服务贸易和扩大服务出口，特别是通过增强其国内服务能力、效率和竞争力；

特别考虑到最不发达国家由于特殊的经济状况及其在发展、贸易和财政方面的需要而存在的严重困难；

特此协议如下；

第一部分
范围和定义
第 1 条
范围和定义

1. 本协定适用于各成员影响服务贸易的措施。
2. 就本协定而言，服务贸易定义为：
   (a) 自一成员领土向任何其他成员领土提供服务；
   (b) 在一成员领土内向任何其他成员的服务消费者提供服务；
   (c) 一成员的服务提供者通过在任何其他成员领土内的商业存在提供服务；
   (d) 一成员的服务提供者通过在任何其他成员领土内的自然人存在提供服务。
3. 就本协定而言：
   (a) “成员的措施”指：
      (i) 中央、地区或地方政府和主管机关所采取的措施；及
      (ii) 由中央、地区或地方政府或主管机关授权行使权力的非政府机构所采取的措施。

      在履行本协定项下的义务和承诺时，每一成员应采取其所能采取的合理措施，以保证其领土内的地区、地方政府和主管机关以及非政府机构遵守这些义务和承诺。

ANNEX 1B
GENERAL AGREEMENT ON TRADE IN SERVICES

(excerpt of environment-related articles)

Members,

Recognizing the growing importance of trade in services for the growth and development of the world economy;

Wishing to establish a multilateral framework of principles and rules for trade in services with a view to the expansion of such trade under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries;

Desiring the early achievement of progressively higher levels of liberalization of trade in services through successive rounds of multilateral negotiations aimed at promoting the interests of all participants on a mutualy advantageous basis and at securing an overall balance of rights and obliations, while giving due respect to national policy objectives;

Recognizing the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives and, given asymmetries existing with respect to the degree of development of services regulations in different countries, the particular need of developing countries to exercise this right;

Desiring to facilitate the increasing participation of developing countries in trade in services and the expansion of their service exports including, *inter alia*, through the strengthening of their domestic services capacity and its efficiency and competitiveness;

Taking particular account of the serious difficulty of the least-developed countries in view of their special economic situation and their development, trade and financial needs;

Hereby *agree* as follows:

PART I
SCOPE AND DEFINITION

Article I
Scope and Definition

1. This Agreement applies to measures by Members affecting trade in services.
2. For the purposes of this Agreement, trade in services in defined as the supply of a service:
   (a) from the territory of one Member into the terrritory of any other Member;
   (b) in the territory of one Member to the service consumer of any other Member;
   (c) by a service supplier of one Member, through commercial presence in the territory of any other Member;
   (d) by a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member.
3. For the purposes of this Agreement:
   (a) "measures by Members" 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 or authorities.

   In fulfilling its obligations and commitments under the Agreement, each Member shall take

(b)“服务”包括任何部门的任何服务，但在行使政府职权时提供的服务除外；
(c)“行使政府职权时提供的服务”指既不依据商业基础提供，也不与一个或多个服务提供者竞争的任何服务。

第二部分
一般义务和纪律

第 2 条
最惠国待遇

1. 关于本协定涵盖的任何措施，每一成员对于任何其他成员的服务和服务提供者，应立即和无条件地给予不低于其给予任何其他国家同类服务和服务提供者的待遇。
2. 一成员可维持与第 1 款不一致的措施，只要该措施已列入《关于第 2 条豁免的附件》，并符合该附件中的条件。
3. 本协定的规定不得解释为阻止任何成员对相邻国家授予或给予优惠，以便利仅限于毗连边境地区的当地生产和消费的服务的交换。

第 3 条
透明度

1. 除紧急情况外，每一成员应迅速公布有关或影响本协定运用的所有普遍适用的措施，最迟应在此类措施生效之时。一成员为签署方的有关或影响服务贸易的国际协定也应予以公布。
2. 如第 1 款所指的公布不可行，则应以其他方式使此类信息可公开获得。
3. 每一成员应迅速并至少每年向服务贸易理事会通知对本协定项下具体承诺所涵盖的服务贸易有重大影响的任何新的法律、法规、行政准则或现有法律、法规、行政准则的任何变更。
4. 每一成员对于任何其他成员关于提供属第 1 款范围内的任何普遍适用的措施或国际协定的具体信息的所有请求应迅速予以答复。每一成员还应设立一个或多个咨询点，以应请求就所有此类事项和需遵守第 3 款中的通知要求的事项向其他成员提供具体信息。此类咨询点应在《建立世界贸易组织协定》（本协定中称“《WTO 协定》”）生效之日起 2 年内设立。对于个别发展中国家成员，可同意在设立咨询点的时限方面给予它们适当的灵活性。咨询点不必是法律和法规的保存机关。
5. 任何成员可将其认为影响本协定运用的、任何其他成员采取的任何措施通知服务贸易理事会。

第 3 条之二
机密信息的披露

本协定的任何规定不得要求任何成员提供一经披露即妨碍执法或违背公共利益或损害特定公私企业合法商业利益的机密信息。

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;

(b) "services" includes any service in any sector except services supplied in the exercise of governmental authority;

(c) "a service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers.

PART II
GENERAL OBLIGATIONS AND DISCIPLINES

Article II
Most-Favoured-Nation Treatment

1. With respect to any measure covered by this Agreement, each Member shall accord immediately and unconditionally to services and service suppliers of any other Member treatment no less favourable than that in accords to like services and service suppliers of any other country.

2. A Member may maintain a measure inconsistent with paragrah 1 provided that such a measure is listed in, and meets the conditions of, the Annex on Article II Exemptions.

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

Article III
Transparency

1. Each Member shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Agreement. International agreements pertaining to or affecting trade in services to which a Member is a signatory shall also be published.

2. Where publication as referred to in paragraph 1 is not practicable, such information shall be made otherwise publicly available.

3. Each Member shall promptly and at least annually inform the Council for Trade in Services of the introduction of any new, or any changes to existing, laws, regulations or administrative guidelines which significantly affect trade in services covered by its specific commitments under this Agreemeent.

4. Each Member shall respond promptly to all requests by any other Member for specific information on any of its measures of general application or international agreements within the meaning of paragraph 1. Each Member shall also establish one or more enquiry points to provide specific information to other Members, upon request,on all such matters as well as those subject to the notification requirement in paragraph 3. Such enquiry points shall be established within two years from the date of entry into force of the Agreement Establishing the WTO (referred to in this Agreement as the "WTO Agreement"). Appropriate flexibility with respect to the time-limit within which such enquiry points are to be established may be agreed upon for individual developing country Members. Enquiry points need not be depositories of laws and regulations.

5. Any Member may notify to the Council for Trade in Services any measure, taken by any other Member, which it considers affects the operation of this Agreement.

Article III bis
Disclosure of Confidential Information

Nothing in this Agreement shall require any Member 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.

第 4 条
发展中国家的更多参与

1. 不同成员应按照本协定第三部分和第四部分的规定，通过谈判达成有关以下内容的具体承诺，以便利发展中国家成员更多地参与世界贸易：

(a) 增强其国内服务能力、效率和竞争力，特别是通过在商业基础上获得技术；

(b) 改善其进入分销渠道和利用信息网络的机会；以及

(c) 在对其有出口利益的部门和服务提供方式实现市场准入自由化。

2. 发达国家成员和在可能的限度内的其他成员，应在《WTO 协定》生效之日起 2 年内设立联络点，以便利发展中国家成员的服务提供者获得与其各自市场有关的、关于以下内容的信息：

(a) 服务提供的商业和技术方面的内容；

(b) 专业资格的登记、认可和获得；以及

(c) 服务技术的可获性。

3. 在实施第 1 款和第 2 款时，应对最不发达国家成员给予特别优先。鉴于最不发达国家的特殊经济状况及其发展、贸易和财政需要，对于它们在接受谈判达成的具体承诺方面存在的严重困难应予特殊考虑。

第 6 条
国内法规

1. 在已作出具体承诺的部门中，每一成员应保证所有影响服务贸易的普遍适用的措施以合理、客观和公正的方式实施。

2. (a) 每一成员应维持或尽快设立司法、仲裁或行政庭或程序，在受影响的服务提供者请求下，对影响服务贸易的行政决定迅速进行审查，并在请求被证明合理的情况下提供适当的补救。如此类程序并不独立于作出有关行政决定的机构，则该成员应保证此类程序在实际中提供客观和公正的审查。

(b) (a) 项的规定不得解释为要求一成员设立与其宪法结构或其法律制度的性质不一致的法庭或程序。

3. 对已作出具体承诺的服务，如提供此种服务需要得到批准，则一成员的主管机关应在根据其国内法律法规被视为完整的申请提交后一段合理时间内，将有关该申请的决定通知申请人。在申请人请求下，该成员的主管机关应提供有关申请情况的信息，不得有不当延误。

4. 为保证有关资格要求和程序、技术标准和许可要求的各项措施不致构成不必要的服务贸易壁垒，服务贸易理事会应通过其可能设立的适当机构，制定任何必要的纪律。此类纪律应旨在特别保证上述要求：

(a) 依据客观的和透明的标准，例如提供服务的能力和资格；

(b) 不得比为保证服务质量所必需的限度更难以负担；

(c) 如为许可程序，则这些程序本身不成为对服务提供的限制。

Article IV

Increasing Participation of Developing Countries

1. The increasing participation of developing country Members in world trade shall be facilitated through negotiated specific commitments, by different Members pursuant to Parts III and IV of this Agreement, relating to:

(a) the strengthening of their domestic services capacity and its efficiency and competitiveness, *inter alia* through access to technology on a commercial basis;

(b) the improvement of their access to distribution channels and information networks;and

(c) the liberalization of market access in sectors and modes of supply of export interest to them.

2. Developed country Members, and to the extent possible other Members, shall establish contact points within two years from the date of entry into force of the WTO Agreement to facilitate the access of developing country Members' service suppliers to information, related to their respective markets, concerning:

(a) commercial and technical aspects of the supply of services;

(b) registration, recognition and obtaining of professional qualifications;and

(c) the availability of services technology.

3. Special priority shall be given to the least-developed country Members in the implementation of paragraphs 1 and 2. Particular account shall the taken of the serious difficulty of the least-developed countries in accepting negotiated specific commitments in view of their special economic situation and their development, trade and financial needS.

Article VI

Domestic Regulation

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

2. (a) Each Member shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Member shall ensure that the procedures in fact provide for an objective and impartial review.

(b) The provisions of subparagraph(a) shall not be construed to require a Member to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

3. Where authorization is required for the supply of a service on which a specific commitment has been made, the competent authorities of a Member shall, within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the competent authorities of the Member shall provide, without undue delay, information concerning the status of the application.

4. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, the Council for Trade in Services shall, through appropriate bodies it may establish, develop any necessary disciplines. Such disciplines shall aim to ensure that such requirements are, *inter alia* :

(a) based on objective and transparent criteria, such as competence and the ability to supply the service;

(b) not more burdensome than necessary to ensure the quality of the service;

(c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

5. (a) 在一成员已作出具体承诺的部门中，在按照第 4 款为这些部门制定的纪律生效之前，该成员不得以以下方式实施使此类具体承诺失效或减损的许可要求、资格要求和技术标准：

(i) 不符合第 4 款 (a) 项、(b) 项或 (c) 项中所概述的标准的；且

(ii) 在该成员就这些部门作出具体承诺时，不可能合理预期的。

(b) 在确定一成员是否符合第 5 款 (a) 项下的义务时，应考虑该成员所实施的有关国际组织[③] 的国际标准。

6. 在已就专业服务作出具体承诺的部门，每一成员应规定适当程序，以核验任何其他成员专业人员的能力。

第 7 条
承认

1. 为使服务提供者获得授权、许可或证明的标准或准则得以全部或部分实施，在遵守第 3 款要求的前提下，一成员可承认在特定国家已获得的教育或经历、已满足的要求、或已给予的许可或证明。此类可通过协调或其他方式实现的承认，可依据与有关国家的协定或安排，也可自动给予。

2. 属第 1 款所指类型的协定或安排参加方的成员，无论此类协定或安排是现有的还是在将来订立，均应向其他利害关系成员提供充分的机会，以谈判加入此类协定或安排，或与其谈判类似的协定或安排。如一成员自动给予承认，则应向任何其他成员提供充分的机会，以证明在该其他成员获得的教育、经历、许可或证明以及满足的要求应得到承认。

3. 一成员给予承认的方式不得构成在适用服务提供者获得授权、许可或证明的标准或准则时在各国之间进行歧视的手段，或构成对服务贸易的变相限制。

4. 每一成员应：

(a) 在《WTO 协定》对其生效之日起 12 个月内，向服务贸易理事会通知其现有的承认措施，并说明此类措施是否以第 1 款所述类型的协定或安排为依据；

(b) 在就第 1 款所指类型的协定或安排进行谈判之前，尽早迅速通知服务贸易理事会，以便向任何其他成员提供充分的机会，使其能够在谈判进入实质性阶段之前表明其参加谈判的兴趣；

(c) 如采用新的承认措施或对现有措施进行重大修改，则迅速通知服务贸易理事会，并说明此类措施是否以第 1 款所指类型的协定或安排为依据。

5. 只要适当，承认即应以多边议定的准则为依据。在适当的情况下，各成员应与有关政府间组织或非政府组织合作，以制定和采用关于承认的共同国际标准和准则，以及有关服务行业和职业实务的共同国际标准。

③ “有关国际组织”指成员资格对至少所有 WTO 成员的有关机构开放的国际机构。

5. (a) In sectors in which a Member has undertaken specific commitments, pending the entry into force of disciplines developed in these sectors pursuant to paragraph 4, the Member shall not apply licensing and qualification requirements and technical standards that nullify or impair such specific commitments in a manner which:
   (i) does not comply with the criteria outlined in subparagraphs4(a),(b)or(c);and
   (ii) could not reasonably have been expected of that Member at the time the specific commitments in those sectors were made.
   (b) In determining whether a Member is in conformity with the obligation under paragraph 5(a), account shall be taken of international standards of relevant international organizations[③] applied by that Member.
6. In sectors where specific commitments regarding professional services are undertaken, each Member shall provide for adequate procedures to verify the competence of professionals of any other Member.

Article VII

Recognition

1. For the purposes of the fulfilment, in whole or in prt, of its standards or criteria for the authorization, licensing or certification of services suppliers, and subject to the requirements of paragaph 3, a Member may recognize the education or experience obtained, requirements met, or licenses or certifications granted in a particular country. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the country concerned or may be accorded autonomously.
2. A Member that is a party to an agreement or arrangement of the type referred to in pargraph 1, whether existing or future, shall afford adequate opportunity for other interested Members to negotiate their accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a Member accords recognition autonomously, it shall afford adequate opportunity for any other Member to demonstrate that education, experience, licences, or certifications obtained or requirements met in that other Member's territory should be recognized.
3. A Member shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorization, licensing or certification of services suppliers,or a disguised restriction on trade in services.
4. Each Member shall:
   (a) within 12 months from the date on which the WTO Agreement takes effect for it, inform the Council for Trade in Services of its existing recognition measures and state whether such measures are based on agreements or arrangements of the type referred to in paragraph 1;
   (b) promptly inform the Council for Trade in Services as far in advance as possible of the opening of negotiations on an agreement or arrangement of the type referred to in paragraph 1 in order to provide adequate opportunity to any other Member to indicate their interest in participating in the negotiations before they enter a substantive phase;
   (c) promptly inform the Council for Trade in Sevices when it adopts new recognition measures or significantly modifies existing ones and state whether the measures are based on an agreement or arrangement of the type referred to in paragraph 1.
5. Wherever appropriate,recognition should be based on multilaterally agreed criteria. In appropriate cases, Members shall work in cooperation with relevant intergovernmental and non-governmental organizations towards the establishment and adoption of common international standards and criteria for recognition and common international standards for the practice of relevant services trades and professions.

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③ The term"relevant international organizations" refers to international bodies whose membership is open to the relevant bodies of at least all Members of the WTO.

第 14 条
一般例外

在此类措施的实施不在情形类似的国家之间构成任意或不合理歧视的手段或构成对服务贸易的变相限制的前提下，本协定的任何规定不得解释为阻止任何成员采取或实施以下措施：

(a) 为保护公共道德或维护公共秩序[5] 所必需的措施；

(b) **为保护人类、动物或植物的生命或健康所必需的措施；**

(c) 为使与本协定的规定不相抵触的法律或法规得到遵守所必需的措施，包括与下列内容有关的法律或法规：

(i) 防止欺骗和欺诈行为或处理服务合同违约而产生的影响；

(ii) 保护与个人信息处理和传播有关的个人隐私及保护个人记录和账户的机密性；

(iii) 安全；

(d) 与第 17 条不一致的措施，只要待遇方面的差别旨在保证对其他成员的服务或服务提供者公平或有效地[6] 课征或收取直接税；

(e) 与第 2 条不一致的措施，只要待遇方面的差别是约束该成员的避免双重征税的协定或任何其他国际协定或安排中关于避免双重征税的规定的结果。

第 14 条之二
安全例外

1. 本协定的任何规定不得解释为：

(a) 要求任何成员提供其认为如披露则会违背其根本安全利益的任何信息；或

(b) 阻止任何成员采取其认为对保护其根本安全利益所必需的任何行动：

(i) 与直接或间接为军事机关提供给养的服务有关的行动；

(ii) 与裂变和聚变物质或衍生此类物质的物质有关的行动；

(iii) 在战时或国际关系中的其他紧急情况下采取的行动；或

(c) 阻止任何成员为履行其在《联合国宪章》项下的维护国际和平与安全的义务而采取的任何行动。

2. 根据第 1 款 (b) 项和 (c) 项采取的措施及其终止，应尽可能充分地通知服务贸易理事会。

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⑤ 只有在社会的某一根本利益受到真正的和足够严重的威胁时，方可援引公共秩序例外。

⑥ 旨在保证公平或有效地课征和收取直接税的措施包括一成员根据其税收制度所采取的以下措施：
(i) 认识到非居民的纳税义务由源自或位于该成员领土内的应征税项目确定的事实，而对非居民服务提供者实施的措施；或
(ii) 为保证在该成员领土内课税或征税而对非居民实施的措施；或
(iii) 为防止避税或逃税而对非居民或居民实施的措施，包括监察措施；或
(iv) 为保证对服务消费者课征或收取的税款来自该成员领土内的来源而对在另一成员领土内或自另一成员领土提供的服务的消费者实施的措施；或
(v) 认识到按世界范围应征税项目纳税的服务提供者与其他服务提供者之间在课税基础性质方面的差异而区分这两类服务提供者的措施；或
(vi) 为保障该成员的课税基础而确定、分配或分摊居民或分支机构，或有关联的人员之间，或同一人的分支机构之间收入、利润、收益、亏损、扣除或信用的措施。

第 14 条 (d) 款和本脚注中的税收用语或概念，根据采取该措施的成员国内法律中的税收定义和概念，或相当的或类似的定义和概念确定。

Article XIV

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any Member of measures:

(a) necessary to protect public morals or to maintain public order;⑤

(b) necessary to protect human, animal or plant life or health;

(c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on services contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

(iii) safety;

(d) inconsistent with Article XVII, provided that the difference in treatment is aimed at ensuring the equitable or effective⑥ imposition or collection or direct taxes in respect of services or service suppliers of other Members;

(e) inconsistent with Article II, provided that the difference in treatment is the result of an agreement on the avoidance of double taxation or provisions on the avoidance of double taxation in any other international agreement or arrangement by which the Member is bound.

Article XIV bis

Security Exceptions

1. Nothing in this Agreement shall be construed:

(a) to require any Member to furnish any information, the disclosure of which it considers contrary to its essential security interests;or

(b) to prevent any Member from taking any action which it considers necessary for the protection of tis essential security interests:

(i) relating to the supply if services as carried out directly or indirectly for the purpose of provisioning a military establishment;

(ii) relating to fissionable and fusionable materials or the materials from which they are derived;

(iii) taken in time of war or other emergency in international relations;or

(c) to prevent any Member from taking any action in pursuance of its obligations uner the United Nations Charter for the maintenance of international peace and security.

2. The Council for Trade in Services shall be informed to the fullest extent possible of measures taken under paragraphs 1(b) and (c)and of their termination.

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⑤ The public order exception may be involed only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

⑥ Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Member under its taxation system which:

(i) apply to non-resident service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Member's territory;or

(ii) apply to non-residents in order to ensure the imposition or collection of taxes in the Member's territory;or

(iii) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures;or

(iv) apply to consumers of services supplied in or from the territory of another Member in order to ensure the imposition or collection of taxes on such consumers derived from sources in the Member's territory;or

(v) distinguish service suppliers subject to tax on worldwide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them;or

(vi) determine, allocate or apportion income, profit, gain,loss,deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Member's tax base.

Tax terms or concepts in paragraph (d) of Article XIV and in this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the Member taking the measure.

第三部分
具体承诺

第 16 条
市场准入

1. 对于通过第 1 条确认的服务提供方式实现的市场准入，每一成员对任何其他成员的服务和服务提供者给予的待遇，不得低于其在具体承诺减让表中同意和列明的条款、限制和条件。⑧

2. 在作出市场准入承诺的部门，除非在其减让表中另有列明，否则一成员不得在其一地区或在其全部领土内维持或采取按如下定义的措施：

(a) 无论以数量配额、垄断、专营服务提供者的形式，还是以经济需求测试要求的形式，限制服务提供者的数量；

(b) 以数量配额或经济需求测试要求的形式限制服务交易或资产总值；

(c) 以配额或经济需求测试要求的形式，限制服务业务总数或以指定数量单位表示的服务产出总量；⑨

(d) 以数量配额或经济需求测试要求的形式，限制特定服务部门或服务提供者可雇用的、提供具体服务所必需且直接有关的自然人总数；

(e) 限制或要求服务提供者通过特定类型法律实体或合营企业提供服务的措施；以及

(f) 以限制外国股权量高百分比或限制单个或总体外国投资总额的方式限制外国资本的参与。

第 17 条
国民待遇

1. 对于列入减让表的部门，在遵守其中所列任何条件和资格的前提下，每一成员在影响服务提供的所有措施方面给予任何其他成员的服务和服务提供者的待遇，不得低于其给予本国同类服务和服务提供者的待遇。⑩

2. 一成员可通过对任何其他成员的服务或服务提供者给予与其本国同类服务或服务提供者的待遇形式上相同或不同的待遇，满足第 1 款的要求。

3. 如形式上相同或不同的待遇改变竞争条件，与任何其他成员的同类服务或服务提供者相比，有利于该成员的服务或服务提供者，则此类待遇应被视为较为不利的待遇。

第 28 条
定义

就本协定而言：

(a) “措施”指一成员的任何措施，无论是以法律、法规、规则、程序、决定、行政行为的形式还是以任何其他形式；

(b) “服务的提供”包括服务的生产、分销、营销、销售和交付；

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⑧ 如一成员就通过第 1 条第 2 款（a）项所指的方式提供服务作出市场准入承诺，且如果资本的跨境流动是该服务本身必需的部分，则该成员由此已承诺允许此种资本跨境流动。如一成员就通过第 1 条第 2 款（c）项所指的方式提供服务作出市场准入承诺，则该成员由此已承诺允许有关的资本转移进入其领土内。

⑨ 第 2 款（c）项不涵盖一成员限制服务提供投入的措施。

⑩ 根据本条承担的具体承诺不得解释为要求任何成员对由于有关服务或服务提供者的外国特性而产生的任何固有的竞争劣势作出补偿。

PART III
SPECIFIC COMMITMENTS

Article XVI
Market Access

1. Wich respect to market access through the modes of supply identified in Aricle I, each Member shall accord services and service suppliers of any other Member treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule. ⑧

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

(a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;

(b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(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; ⑨

(d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;

(e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and

(f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or, aggregate foreign investment.

Article XVII
National Treatment

1. In the sectors inscribed in its Schedule, and subject to any conditions and qualifications set out therein, each Member shall accord to services and service suppliers of any other Member, 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 supplies. ⑩

2. A Member may meet the requirement of paragraph 1 by according to services and service suppliers of any other Member, either formally identical treatment or formally different treatment to that it accords to its owm 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 Member compared to like services or service suppliers of any other Member.

Article XXVIII
Definitions

For the purpose of this Agreement:

(a) "measure" means any measure by a Member, whether in the form of a law, regulation, rule,

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⑧ If a Member undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph 2(a) of Article I and if the cross-border movement of capital is an essential part of the service itself, that Member is thereby committed to allow such movement of capital. If a Member undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph 2(c) of Article I, it is thereby committed to allow related transfers of capital into its territory.

⑨ Subparagraph 2(c) does not cover measures of a Member which limit inputs for the supply of services.

⑩ Specific commitments assumed under this Aricle shall not be construed to require any Member to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services of service suppliers.

(c)“各成员影响服务贸易的措施”包括关于下列内容的措施：
(i) 服务的购买、支付或使用；
(ii) 与服务的提供有关的、各成员要求向公众普遍提供的服务的获得和使用；
(iii) 一成员的个人为在另一成员领土内提供服务的存在，包括商业存在；
(d)“商业存在”指任何类型的商业或专业机构，包括为提供服务而在一成员领土内：
(i) 组建、收购或维持一法人，或
(ii) 创建或维持一分支机构或代表处；
(e) 服务“部门”，
(i) 对于一具体承诺，指一成员减让表中列明的该项服务的一个、多个或所有分部门，
(ii) 在其他情况下，则指该服务部门的全部，包括其所有的分部门；
(f)“另一成员的服务”，
(i) 指自或在该另一成员领土内提供的服务，对于海运服务，则指由一艘根据该另一成员的法律进行注册的船只提供的服务，或由经营和/或使用全部或部分船只提供服务的该另一成员的人提供的服务；或
(ii) 对于通过商业存在或自然人存在所提供的服务，指由该另一成员服务提供者所提供的服务；
(g)“服务提供者”指提供一服务的任何人；[12]
(h)“服务的垄断提供者”指一成员领土内有关市场中被该成员在形式上或事实上授权或确定为该服务的独家提供者的任何公私性质的人；
(i)“服务消费者”指得到或使用服务的任何人；
(j)“人”指自然人或法人；
(k)“另一成员的自然人”指居住在该另一成员或任何其他成员领土内的自然人，且根据该另一成员的法律：
(i) 属该另一成员的国民；或
(ii) 在该另一成员中有永久居留权，如该另一成员；
1. 没有国民；或
2. 按其在接受或加入《WTO 协定》时所作通知，在影响服务贸易的措施方面，给予其永久居民的待遇与给予其国民的待遇实质相同，只要各成员无义务使其给予此类永久居民的待遇优于该另一成员给予此类永久居民的待遇。此种通知应包括该另一成员依照其法律和法规对永久居民承担与其他成员对其国民承担相同责任的保证；
(l)“法人”指根据适用法律适当组建或组织的任何法人实体，无论是否以盈利为目的，无论属私营所有还是政府所有，包括任何公司、基金、合伙企业、合资企业、独资企业或协会；
(m)“另一成员的法人”指：
(i) 根据该另一成员的法律组建或组织的、并在该另一成员或任何其他成

[12] 如该服务不是由法人直接提供，而是通过如分支机构或代表处等其他形式的商业存在提供，则该服务提供者（即该法人）仍应通过该商业存被给予在本协定项下规定给予服务提供者的待遇。此类待遇应扩大至提供该服务的存在方式，但不需扩大至该服务提供者位于提供服务的领土以外的任何其他部分。

procedure, decision, administrative action, or any other form;

(b) "supply of a service" includes the production, distribution, marketing, sale and delivery of a service;

(c) "measures by Members affecting trade in services" include measures in respect of

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

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

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

(d) "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 Member for the purpose of supplying a service;

(e) "sector" of a service means,

(i) with reference to a specific commitment, one or more ,or all, subsectors of that service, as specified in a Member's Schedule,

(ii) otherwise, the whole of that service sector, including all of its subsectors;

(f) "service of another Member" means a service which is supplied,

(i) from or in the territory of that other Member, or in the case of maritime transport, by a vessel registered under the laws of that other Member, or by a person of that other Member which supplies the service through the operation of a vessel and/or its use in whole or in part;or

(ii) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of that other Member;

(g) "service supplier" means any person that supplies a service;⑫

(h) "monopoly supplier of a service" means any person, public or private, which in the relevant market of the territoy of a Member is authorized or established formally or in effect by that Member as the sole supplier of that service;

(i) "service consumer" means any person that receives or uses a service;

(j) "person" means either a natural person or a juridical person;

(k) "natural person of another Member" means a natural person who resides in the territory of that other Member or and other Member, and who under the law of that other Member:

(i) is a national of that other Member;or

(ii) has the right of permanent residence in that other Member, in the case of a Member which:

1. does not have nationals;or

2. accords substantially the same treatment to its permanent residents as it does to its nationals in respect of measures affecting trade in services, as notified in its acceptance of or accession to the WTO Agreement, provided that no Member is obligated to accord to such permanent residents treatment more favourable than would be accorded by that other Member to such permanent residents. Such notification shall include the assurance to assume, with respect to those permanent residents, in accordance with its laws and regulations, the same responsibilities that other Member bears with respect to its nationals;

(l) "juridical person"means any legal entity duly constituted or otherwise organized under applica-

⑫ 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.

员领土内从事实质性业务活动的法人；或

(ii) 对于通过商业存在提供服务的情况：

1. 由该成员的自然人拥有或控制的法人；或

2. 由 (i) 项确认的该另一成员的法人拥有或控制的法人；

(n) 法人：

(i) 由一成员的个人所“拥用”，如该成员的人实际拥有的股本超过 50%，

(ii) 由一成员的个人所“控制”，如此类人拥有任命其大多数董事或以其他方式合法指导其活动的权力；

(iii) 与另一成员具有“附属”关系，如该法人控制该另一人，或为该另一人所控制；或该法人和该另一人为同一人所控制；

(o)“直接税”指对总收入、总资本或对收入或资本的构成项目征收的所有税款，包括对财产转让收益、不动产、遗产和赠与、企业支付的工资或薪金总额以及资本增值所征收的税款。

第 29 条

附件

本协定的附件为本协定的组成部分。

ble law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

(m) "juridical person of another Member" means a juridical person which is either:

(i) constituted or otherwise organized under the law of that other Member, and is engaged in substantive business operations in the territory of that Member or any other Member; or

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

1. natural persons of that Member; or
2. juridical persons of that other Member identified under subparagraph(i);

(n) a juridical person is:

(i) "owned" by persons of a Member if more than 50 per cent of the equity interest in it is beneficially owned by persons of that Member;

(ii) "controlled" by persons of a Member if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;

(iii) "affiliated" with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;and

(o) "direct taxes" comprise all taxes on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, and taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

Article XXIX

Annexes

The Annexes to this Agreement are an integral part of this Agreement.

附件 1C
与贸易有关的知识产权协定

（有关环境保护的条款摘录）

各成员，

期望减少对国际贸易的扭曲和阻碍，并考虑到需要促进对知识产权的有效和充分保护，并保证实施知识产权的措施和程序本身不成为合法贸易的障碍；

认识到，为此目的，需要特定有关下列问题的新的规则和纪律：

(a) GATT 1994 的基本原则和有关国际知识产权协定或公约的适用性；

(b) 就与贸易有关的知识产权的效力、范围和使用，规定适当的标准和原则；

(c) 就实施与贸易有关的知识产权规定有效和适当的手段，同时考虑各国法律制度的差异；

(d) 就在多边一级防止和解决政府间争端规定有效和迅速的程序；

(e) 旨在最充分地分享谈判结果的过渡安排；

认识到需要一个有关原则、规则和纪律的多边框架，以处理冒牌货的国际贸易问题；

认识到知识产权属私权；

认识到各国知识产权保护制度的基本公共政策目标，包括发展目标和技术目标；

还认识到最不发达国家成员在国内实施法律和法规方面特别需要最大的灵活性，以便它们能够创造一个良好和可行的技术基础；

强调通过多边程序达成加强的承诺以解决与贸易有关的知识产权争端从而减少紧张的重要性；

期望在 WTO 与世界知识产权组织（本协定中称“WIPO”）以及其他有关国际组织之间建立一种相互支持的关系；

特此协议如下：

第一部分
总则和基本原则

第 1 条
义务的性质和范围

1. 各成员应实施本协定的规定。各成员可以，但并无义务，在其法律中实施比本协定要求更广泛的保护，只要此种保护不违反本协定的规定。各成员有权在其各自的法律制度和实践中确定实施本协定规定的适当方法。

2. 就本协定而言，“知识产权”一词指作为第二部分第 1 节至第 7 节主题的所有类

ANNEX 1C
AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

(excerpt of environment-related articles)

Members,

Desiring to reduce distortions and impediments to international trade, and taking into account the need to promote effective and adequate protection of intellectual property rights, and to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade;

Recognizing, to this end, the need for new rules and disciplines concerning:

(a) the applicability of the basic principles of GATT 1994 and of relevant international intellectual property agreements or conventions;

(b) the provision of adequate standards and principles concerning the availability, scope and use of trade-related intellectual property rights;

(c) the provision of effective and appropriate means for the enforcement of trade-related intellectual property rights, taking into account differences in national legal systems;

(d) the provision of effective and expeditious procedures for the multilateral prevention and settlement of disputes between governments; and

(e) transitional arrangements aiming at the fullest participation in the results of the negotiations;

Recognizing the need for a multilateral framework of principles, rules and disciplines dealing with international trade in counterfeit goods;

Recognizing that intellectual property rights are private rights;

Recognizing the underlying public policy objectives of national systems for the protection of intellectual property, including developmental and technological objectives;

Recognizing also the special needs of the least-developed country Members in respect of maximum flexibility in the domestic implementation of laws and regulations in order to enable them to create a sound and viable technological base;

Emphasizing the importance of reducing tensions by reaching strengthened commitments to resolve disputes on trade-related intellectual property issues through multilateral procedures;

Desiring to establish a mutually supportive relationship between the WTO and the World Intellectual Property Organization (referred to in this Agreement as "WIPO")as well as other relevant international organizations;

Hereby agree as follows:

PART I
GENERAL PROVISIONS AND BASIC PRINCIPLES

Article 1

Nature and Scope of Obligations

1. Members shall give effect to the provisions of this Agreement. Members may, but shall not be obliged to, implement in their law more extensive protection than is required by this Agreement, provided that such protection does not contravene the provisions of this Agreement. Members shall be free to determine the appropriate method of implementing the provisions of this Agreement within their own legal system and practice.

2. For the purposes of this Agreement, the term"intellectual property" refers to all categories of intel-

别的知识产权。

3. 各成员应对其他成员的国民给予本协定规定的待遇。[①] 就有关的知识产权而言，其他成员的国民应理解为符合《巴黎公约》（1967）、《伯尔尼公约》（1971）、《罗马公约》和《关于集成电路的知识产权条约》规定的保护资格标准的自然人或法人，假设所有 WTO 成员均为这些公约的成员。[②] 任何利用《罗马公约》第 5 条第 3 款或第 6 条第 2 款中规定的可能性的成员，均应按这些条款中所预想的那样，向与贸易有关的知识产权理事会（“TRIPS 理事会”）作出通知。

第 2 条
知识产权公约

1. 就本协定的第二部分、第三部分和第四部分而言，各成员应遵守《巴黎公约》（1967）第 1 条至第 12 条和第 19 条。

2. 本协定第一部分至第四部分的任何规定不得背离各成员可能在《巴黎公约》、《伯尔尼公约》、《罗马公约》和《关于集成电路的知识产权条约》项下相互承担的现有义务。

第 3 条
国民待遇

1. 在知识产权保护[③] 方面，在遵守《巴黎公约》（1967）、《伯尔尼公约》（1971）、《罗马公约》或《关于集成电路的知识产权条约》中各自规定的例外的前提下，每一成员给予其他成员国民的待遇不得低于给予本国国民的待遇。就表演者、录音制品制作者和广播组织而言，此义务仅适用于本协定规定的权利。任何利用《伯尔尼公约》第 6 条或《罗马公约》第 16 条第 1 款（b）项规定的可能性的成员，均应按这些条款中所预想的那样，向 TRIPS 理事会作出通知。

2. 各成员可利用第 1 款下允许的在司法和行政程序方面的例外，包括在一成员管辖范围内指定送达地址或委派代理人，但是这些例外应为保护遵守与本协定规定发生不相抵触的法律和法规所必需，且这种做法的实施不会对贸易构成变相限制。

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① 本协定中所指的“国民”一词，对于 WTO 的单独关税区成员，指在该关税区内定居或拥有真实有效的工业或商业机构的自然人或法人。

② 在本协定中，《巴黎公约》指《保护工业产权巴黎公约》；《巴黎公约》（1967）指 1967 年 7 月 14 日该公约的斯德哥尔摩文本。《伯尔尼公约》指《保护文学艺术作品伯尔尼公约》，《伯尔尼公约》（1971）指 1971 年 3 月 24 日该公约的巴黎文本。《罗马公约》指 1961 年 10 月 26 日在罗马通过的《保护表演者、录音制品制作者和广播组织的国际公约》。《关于集成电路的知识产权公约》（《IPIC 条约》）指 1983 年 5 月 26 日在华盛顿通过的该条约。《WTO 协定》指《建立世界贸易组织协定》。

③ 在第 3 条和第 4 条中，“保护”一词应包括影响知识产权的效力、取得、范围、维持和实施的事项，以及本协定专门处理的影响知识产权的使用的事项。

lectual property that are the subject of Sections 1 through 7 of Part Ⅱ。

3. Members shall accord the treatment provided for in this Agreement to the nationals of other Members.[①] In respect of the relevant intellectual property right, the nationals of other Members shall be understood as those natural or legal persons that would meet the criteria for eligibility for protection provided for in the Paris Convention (1967), the Berne Convention(1971), the Rome Convention and the Treaty on Intellectual Property in Respect of Integrated Circuits, were all Members of the WTO members of those Conventions.[②] Any Member availing itself of the possibilities provided in paragraph 3 of Article 5 or paragraph 2 of Article 6 of the Rome Convention shall make a notification as foreseen in those provisions to the Council for Trade-Related Aspects of Intellectual Property Rights(the"Council for TRIPS")。

Article 2

Intellectual Property Conventions

1. In respect of PartsII, III and IV of this Agreement, Members shall comply with Articles1 through 12, and Article 19, of the Paris Convention(1967)。

2. Nothing in PartsI to IV of this Agreement shall derogate from existing obligations that Members may have to each other under the Paris Convention, the Berne Convention, the Rome Convention and the Treaty on Intellectual Property in Respect of Integrated Circuits.

Article 3

National Treatment

1. Each Member shall accord to the nationals of other Members treatment no less favourable than that it accords to its own nationals with regard to the protection[③] of intellectual property, subject to the exceptions already provided in, respectively, the Paris Convention(1967), the Berne Convention(1971), the Rome Convention or the Treaty on Intellectual Property in Respect of Integrated Circuits. In respect of performers, producers of phonograms and broadcasting organizations, this obligation only applies in respect of the rights provided under this Agreement. Any Member availing itself of the possibilities provided in Article 6 of the Berne Convention (1971) or paragraph 1(b) of Article 16 of the Rome Convention shall make a notification as foreseen in those provisions to the Council for TRIPS.

2. Members may avail themselves of the exceptions permitted under paragraph 1 in relation to judicial and administrative procedures, including the designation of an address for service or the appointment of an agent within the jurisdiction of a Member, only where such exceptions are necessary to secure compliance with laws ans regulations which are not inconsistent with the provisions of this Agreement and where such practices are not applied in a manner which would constitute a disguised restriction on trade.

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① When"nationals"are referred to in this Agreement, they shall be deemed, in the case of a separate customs territory Member of the WTO, to mean persons, natural or legal, who are domiciled or who have a real and effective industrial or commercial establishment in that customs territory.

② In this Agreement, "Paris Convention"refers to the Paris Convention for the Protection of Industrial Property; "Paris Convention (1967)"refers to the Stockholm Act of this Convention of 14 July 1967. "Berne Convention"refers to the Berne Convention for the Protection of Literary and Artistic Works; "Berne Convention(1971)"refers to the Paris Act of this Convention of 24 July 1971. "Rome Convention"refers to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, adopted at Rome on 26 October 1961. "Treaty on Intellectual Property in Respect of Integrated Circuits"(IPIC Treaty) refers to the Treaty on Intellectual Property in Respect of Integrated Circuits, adopted at Washington on 26 May 1989. "WTO Agreement" refers to the Agreement Establishing the WTO.

③ For the purposes of Articles 3 and 4, "protection" shall include matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights as well as those matters affecting the use of intellectual property rights specifically addressed in this Agreement.

第 4 条
最惠国待遇

对于知识产权保护，一成员对任何其他国家国民给予的任何利益、优惠、特权或豁免，应立即无条件地给予所有其他成员的国民。一成员给予的属下列情况的任何利益、优惠、特权或豁免，免除此义务：

(a) 自一般性的、并非专门限于知识产权保护的关于司法协助或法律实施的国际协定所派生；

(b) 依照《伯尔尼公约》(1971) 或《罗马公约》的规定所给予，此类规定允许所给予的待遇不属国民待遇性质而属在另一国中给予待遇的性质；

(c) 关于本协定项下未作规定的有关表演者、录音制品制作者以及广播组织的权利；

(d) 自《WTO 协定》生效之前已生效的有关知识产权保护的国际协定所派生，只要此类协定向 TRIPS 理事会作出通知，并对其他成员的国民不构成任意的或不合理的歧视。

第 5 条
关于取得或维持保护的多边协定

第 3 条和第 4 条的义务不适用于在 WIPO 主持下订立的有关取得或维持知识产权的多边协定中规定的程序。

第 6 条
权利用尽

就本协定项下的争端解决而言，在遵守第 2 条和第 4 条规定的前提下，本协定的任何规定不得用于处理知识产权的权利用尽问题。

第 7 条
目标

知识产权的保护和实施应有助于促进技术革新及技术转让和传播，有助于技术知识的创造者和使用者的相互利益，并有助于社会和经济福利及权利与义务的平衡。

第 8 条
原则

1. 在制定或修改其法律和法规时，各成员可采用对保护公共健康和营养，促进对其社会经济和技术发展至关重要部门的公共利益所必需的措施，只要此类措施与本协定的规定相一致。

2. 只要与本协定的规定相一致，可能需要采取适当措施以防止知识产权权利持有人滥用知识产权或采取不合理地限制贸易或对国际技术转让造成不利影响的做法。

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第 5 节：专利
第 27 条
可授予专利的客体

Article 4

Most-Favoured-Nation Treatment

With regard to the protection of intellectual property, any advantage, favour, privilege or immunity granted by a Member to the nationals of any other country shall be accorded immediately and unconditionally to the nationals of all other Members. Exempted from this obligation are any advantage, favour, privilege or immunity accorded by a Member:

(a) deriving from international agreements on judicial assistance or law enforcement of a general nature and not particularly confined to the protection of intellectual property;

(b) granted in accordance with the provisions of the Berne Convention (1971) or the Rome Convention authorizing that the treatment accorded be a function not of national treatment but of the treatment accorded in another country;

(c) in respect of the rights of performers, producers of phonograms and broadcasting organizations not provided under this Agreement;

(d) deriving from international agreements related to the protection of intellectual property which entered into force prior to the entry into force of the WTO Agreement, provided that such agreements are notified to the Council for TRIPS and do not constitute an arbitrary or unjustifiable discrimination against nationals of other Members.

Article 5

Multilateral Agreements on Acquisition or Maintenance of Protection

The obligations under Articles 3 and 4 do not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of intellectual property rights.

Article 6

Exhaustion

For the purposes of dispute settlement under this Agreement, subject to the provisions of Articles 3 and 4 nothing in this Agreement shall be used to address the issue of the exhaustion of intellectual property rights.

Article 7

Objectives

The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.

Article 8

Principles

1. Members may, in formulating or amending their laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, provided that such measures are consistent with the provisions of this Agreement.

2. Appropriate measures, provided that they are consistent with the provisions of this Agreement, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology.

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Section 5: Patents

Article 27

Patentable Subject Matter

1．在遵守第2款和第3款规定的前提下，专利可授予所有技术领域的任何发明，无论是产品还是方法，只要它们具有新颖性、包含发明性步骤，并可供工业应用。[5] 在遵守第65条第4款、第70条第8款和本条第3款规定的前提下，对于专利的获得和专利权的享受不因发明地点、技术领域、产品是进口的还是当地生产的而受到歧视。

2．各成员可拒绝对某些发明授予专利权，如在其领土内阻止对这些发明的商业利用是维护公共秩序或道德，包括保护**人类、动物或植物的生命或健康或避免对环境造成严重损害所必需的**，只要此种拒绝授予并非仅因为此种利用为其法律所禁止。

3．各成员可拒绝对下列内容授予专利权：

（a）人类或动物的诊断、治疗和外科手术方法；

（b）除微生物外的植物和动物，以及除非生物和微生物外的**生产植物和动物的主要生物方法**。但是，各成员应规定通过专利或一种有效的特殊制度或通过这两者的组合来保护植物品种。本项的规定应在《WTO协定》生效之日起4年后进行审议。

第28条
授予的权利

1．一专利授予其所有权人下列专有权利：

（a）如一专利的客体是产品，则防止第三方未经所有权人同意而进行制造、使用、标价出售、销售或为这些目的而进口[6] 该产品的行为；

（b）如一专利的客体是方法，则防止第三方未经所有权人同意而使用该方法的行为，并防止使用、标价出售　销售或为这些目的而进口至少是以该方法直接获得产品的行为。

2．专利所有权人还有权转让或以继承方式转移其专利并订立许可合同。

第34条
方法专利：举证责任

1．就第28条第1款（b）项所指的侵害所有权人权利的民事诉讼而言，如一专利的客体是获得一产品的方法，则司法机关有权责令被告方证明其获得相同产品的方法不同于已获专利的方法。因此，各成员应规定至少在下列一种情况下，任何未经专利所有权人同意而生产的相同产品，如无相反的证明，则应被视为是通过该已获专利方法所获得的；

（a）如通过该已获专利方法获得的产品是新的；

（b）如存在实质性的可能性表明该相同产品是由该方法生产的，而专利所有权人经过合理努力不能确定事实上使用了该方法。

2．只有满足（a）项所指条件或只有满足（b）项所指条件，任何成员方有权规定第

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⑤ 在本条中，一成员可将“发明性步骤”和“可供工业应用”这两项措辞分别理解为与“非显而易见的”和“有用的”同义。

⑥ 此权利与根据本协定授予的关于使用、销售、进口或分销货物的权利一样，应遵守第6条的规定。

1. Subject to the provisions of paragraphs 2 and 3, patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application. ④Subject to paragraph 4 of Article 65, paragraph 8 of Article 70 and paragraph 3 of this Article, patents shall be available and patent rights enjoyable without discrimination as to the place of invention, the field of technology and whether products are imported or locally produced.

2. Members may exclude from patentability inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect *ordre public* or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by their law.

3. Members may also exclude from patentability:

(a) diagnostic, therapeutic and surgical methods for the treatment of humans or animals;

(b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, Members shall provide for the protection of plant varieties either by patents or by an effective *sui generis* system or by any combination thereof. The provisions of this subparagraph shall be reviewed four years after the date of entry into force of the WTO Agreement.

Article 28

Rights Conferred

1. A patent shall confer on its owner the following exclusive rights:

(a) where the subject matter of a patent is a produt, to prevent third parties not having the owner's consent from the acts of: macking, using, offering for sale, selling, or importing⑤ for these purposes that product;

(b) where the subject matter of a patent is a process, to prevent third parties not having the owner's consent from the act of using the process, and from the acts of: using, offering for sale, selling, or importing for these purposes at least the product obtained directly by that process.

2. Patent owners shall also have the right to assign, or transfer by succession, the patent and to conclude licensing contracts.

Article 34

Process Patents: Burden of Proof

1. For the purposes of civil proceedings in respect of the infringement of the rights of the owner referred to in paragraph 1 (b) of Article 28, if the subject matter of a patent is a process for obtaining a product, the judicial authorities shall have the authority to order the defendant to prove that the process to obtain an identical product is different from the patented process. Therefore, Members shall provide, in at least one of the following circumstances, that any identical product when produced without the consent of the patent owner shall, in the absence of proof to the contrary, be deemed to have been obtained by the patented process:

(a) if the product obtained by the patented process is new;

(b) if there is a substantial likelihood that the identical product was made by the process and the owner of the patent has been unable through reasonable efforts to determine the process actually used.

2. Any Member shall be free to provide that the burden of proof indicated in paragraph 1 shall be on the alleged infringer only if the condition referred to in subparagraph (a) is fulfilled or only if the con-

④ For the purposes of this Article, the terms "inventive step" and "capable of industrial application" may be deemed by a Member to be synonymous with the terms "non-obvious" and "useful" respectively.

⑤ This right, like all other rights conferred under this Agreement in respect of the use, sale, importation or other distribuiton of goods, is subject to the provisions of Article 6.

1 款所指的举证责任在于被指控的侵权人。

3. 在引述相反证据时，应考虑被告方在保护其制造和商业秘密方面的合法权益。

dition referred to in subparagraph (b) is fulfilled.

3. In the adduction of proof to the contrary, the legitimate interests of defendants in protecting their manufacturing and business secrets shall be taken into account.

附件 2
关于争端解决规则与程序的谅解

各成员特此协议如下：

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第 4 条
磋商

1. 各成员确认决心加强和提高各成员使用的磋商程序的有效性。

2. 每一成员承诺对另一成员提出的有关在前者领土内采取的、影响任何适用协定运用的措施的交涉给予积极考虑，并提供充分的磋商机会。[①]

3. 如磋商请求是按照一适用协定提出的，则请求所针对的成员应在收到请求之日起 10 天内对该请求作出答复，并应在收到请求之日起不超过 30 天的期限内真诚地进行磋商，以达成双方满意的解决办法，除非双方另有议定。如该成员未在收到请求之日起 10 天内作出答复，或未在收到请求之日起不超过 30 天的期限内或双方同意的其他时间内进行磋商，则请求进行磋商的成员可直接开始请求设立专家组。

4. 所有此类磋商请求应由请求磋商的成员通知 DSB 及有关理事会和委员会。任何磋商请求应以书面形式提交，并应说明提出请求的理由，包括确认所争论的措施，并指出起诉的法律根据。

5. 在依照一适用协定的规定进行磋商的过程中，在根据本谅解采取进一步行动之前，各成员应努力尝试对该事项作出令人满意的调整。

6. 磋商应保密，并不得损害任何一方在任何进一步诉讼中的权利。

7. 如在收到磋商请求之日起 60 天内，磋商未能解决争端，则起诉方可请求设立专家组。如磋商各方共同认为磋商已不能解决争端，则起诉方可在 60 天期限内请求设立专家组。

8. 在紧急案件中，包括涉及易腐货物的案件，各成员应在收到请求之日起不超过 10 天的期限内进行磋商。如在收到请求之日起 20 天的期限内，磋商未能解决争端，则起诉方可请求设立专家组。

9. 在紧急案件中，包括有关易腐货物的案件，争端各方、专家组及上诉机构应尽一切努力尽最大可能加快诉讼程序。

10. 在磋商中，各成员应特别注意发展中国家成员的特殊问题和利益。

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① 如任何其他适用协定有关一成员领土内的地区或地方政府或主管机关所采取措施的规定包含与本款规定有差异的规定，则以此类其他适用协定的协定为准。

ANNEX 2
UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES(excerpt)

Members, hereby agree as follows:

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Article 4

Consultations

1. Members affirm their resolve to strangthen and improve the effectiveness of the consultation procedures employed by Members.

2. Each Member undertakes to accord sympathetic consideration to and afford adequate opportunity for consultation regarding any representations made by another Member concerning measures affecting the operation of any covered agreement taken within the territory of the former. ①

3. If a request for consultations is made pursuant to a covered agreement, the Member to which the request is made shall, unless otherwise mutually agreed, reply to the request within 10 days after the date of its receipt and shall enter into consultations in good faith within a period of no more than 30 days after the date of receipt of the request, with a view to reaching a mutually satisfactory solution. If the Member does not respond within 10 days after the date of receipt of the request, or does not enter into consultations within a period of no more than 30 days, or a period otherwise mutually agreed, afterthe date of receipt of the request, then the Member that requested the holding of consultations may proceed directly to request the establishment of a panel.

4. All such requests for consultions shall be notified to the DSB and the relevant Councils and Committees by the Member which requests consultations. Any request for consultations shall be submitted in writing and shall give the reasons for the request, including identification of the measures at issue and an indication of the legal basis for the complaint.

5. In the ourse of consultations in accrdance with the provisions of a covered agreement, before resorting to further action under this Understanding, Members should attempt to obtain satisfactory adjustment of the matter.

6. Consultations shall be confidential, and without prejudice to the rights of any Member in any further proceedings.

7. If the consultations fail to settle a dispute within 60 days after the date of receipt of the request for consultations, the complaining party may request the establishment of a pane. The complaining party may request a panel during the 60-day period if the consulting parties jointly consider that consultations have failed to settle the disputs.

8. In cases of urgency, including those which concern perishable goods, Members shall enter into consultations within a period of no more than 10 days after the date of receipt of the request. If the consultations have failed to settle the dispute within a period of 20 days after the date of receipt of the request, the complaining party may request the establishment of a panel.

9. In cases of urgency, including those which oncern perishable goods, the parties to the dispute, panels and the Appellate Body shall make every effort to accelerate the proceedings to the greatest extent possible.

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① Where the provisions of any other covered agreement concerning measures taken by regional or local governmentsor authorities within the territory of a Member contain provisions different from the provisions of this paragraph. the provisions of such other covered agreement sall prevail.

11. 只要进行磋商的成员以外的一成员认为按照 GAAA 1994 第 22 条第 1 款和 GATS 第 22 条第 1 款或其他适用协定的相应规定[②] 所进行的磋商涉及其实质贸易利益，则该成员即可在根据上述条款进行磋商的请求散发之日起 10 天内，将其参加磋商的愿望通知进行磋商的成员和 DSB。该成员应被允许参加入磋商，只要磋商请求所针对的成员同意实质利益的主张是有理由的。在这种情况下，它们应如此通知 DSB。如参加磋商的请求未予接受，则申请成员有权根据 GATT 1994 第 22 条第 1 款或第 23 条第 1 款、GATS 第 22 条第 1 款或第 23 条第 1 款或其他适用协定的相应规定提出磋商请求。

第 5 条

斡旋、调解和调停

1. 斡旋、调解和调停是在争端各方同意下自愿采取的程序。

2. 涉及斡旋、调解和调停的诉讼程度，特别是争端各方在这些诉讼程序中所采取的立场应保密，并不得损害双方中任何一方根据这些程序进行任何进一步诉讼程序的权利。

3. 争端任何一方可随时请求进行斡旋、调解或调停。此程序可随时开始，随时终止。一旦斡旋、调解或调停程序终止，起诉方即可开始请求设立专家组。

4. 如斡旋、调解或调停在收到磋商请求之日起 60 天内开始，则起诉方在请求设立专家组之前，应给予自收到磋商请求之日起 60 天的时间。如争端各方共同认为斡旋、调解或调停过程未能解决争端，则起诉方可在 60 天期限内请求设立专家组。

5. 如争端各方同意，斡旋、调解或调停程序可在专家组程序进行的同时继续进行。

6. 总干事可依其职权提供斡旋、调解或调停，以期协助各成员解决争端。

第 6 条

专家组的设立

1. 如起诉方提出请求，则专家组应最迟在此项请求首次作为一项议题列入 DSB 议程的会议之后的 DSB 会议上设立，除非在此次会上 DSB 经协商一致决定不设立专家组[③]

2. 设立专家组的请求应以书面形式提出。请求应指出是否已进行磋商、确认争论中

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② 适用协定中相应的磋商规定如下：
《农业协定》第 19 条；《实施卫生与植物卫生措施协定》第 11 条第 1 款；《纺织品与服装协定》第 8 条第 4 款；《技术性贸易壁垒协定》第 14 条第 1 款；《与贸易有关的投资措施协定》第 8 条；《关于实施 1994 年关税与贸易总协定第 6 条的协定》第 17 条第 2 款；《关于实施 1994 年关税与贸易总协定第 7 条的协定》第 19 条第 2 款；《装运前检验协定》第 7 条；《原产地规则协定》第 7 条；《进口许可程序协定》第 6 条；《补贴与反补贴措施协定》第 30 条；《保障措施协定》第 14 条；《与贸易有关的知识产权协定》第 64 条第 1 款；以及每一诸边贸易协定主管机构确定并通知 DSB 的诸边贸易协定中任何相应的磋商规定。

③ 如起诉方提出请求，DSB 应在提出请求后 15 天内为此召开会议，只要提前至少 10 天发出会议通知。

10. During consultations Members should give special attention to the particular problems and interests of developing country Members.

11. Whenever a Member other than the consulting Members considers that it has a substantial trade interest in consultations being held pursuant to pargraph 1 of Article XXII of GATT 1994, paragraph 1 of Article XXII of GATS, or the corresponding provisions in other coverde agreements①, such Member may notify the consulting Members and the DSB, within 10 days after the date of the circulation of the request for consultations under said Article, of its desire to be joined in the consultations. Such Member shall be joined in the consultations, provided that the Member to which the request for consultations was addressed agrees that the claim of substantial interest is well-founded. In that event they shall so inform the DSB. If the request to be joined in the consultations is not accepted, the applicant Member shall be free to request consultations under paragraph 1 of Article XXII or paragraph 1 of Article XXIII of GATT 1994, paragraph 1 of Article XXII or paragraph 1 of Article XXIII of GATS, or the corresponding provisions in other covered agreements.

Article 5

Good Offices, Conciliation and Mediation

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree.

2. Proceedings involving good offices, conciliation and mediation, and in particular positions taken by the parties to the dispute during these proceedings, shall be confidential, and without prejudice to the rights of either party in any further proceedings under these procedures.

3. Good offices, conciliation or mediation may be requested at any time by any party to a dispute. They may begin at any time and be terminated at any time. Once procedures for good offices, conciliation or mediation are terminated, a complaining party may then proceed with a request for the establishment of a panel.

4. When good offices, conciliation or mediation are antered into within 60 days after the date of receipt of a request for consultations, the complaining party must allow a period of 60 days after the date of receipt of the request for consultations before requesting the establishment of a panel. The complaining party may request the establishment of a panel during the 60-day period if the parties to the dispute jointly consider that the good offices, conciliation or mediation process has failed to settle the dispute.

5. If the parties to a dispute agree, procedures for good offices, conciliation or mediation may continue while the panel process proceeds.

6. The Director-Generalmay, acting in an *ex officio* capacity, offer good offices, conciliation or mediation with the view to assisting Members to settle a dispute.

Article 6

Establishment of Panels

1. If the complaining party so requests, a panel shall be established at the latest at the DSB meeting following that at which the request first appears as an item on the DSB's agenda, unless at that meetion the DSB decides by consensus not to establish a panel. ②

2. The request for the establishment of a panel shall be made in writing. It shall indicate whether con-

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① The corresponding consultation provisions in the covered agreements are listed hereunder.
Agreement on Agriculture, Article 19; Agreement on the Application of Sanitary and Phytosanitary Measures, paragraph 1 of Article 11; Agreement on Textiles and Clothing, paragraph 4 of Article 8; Agreement on Technical Barriers to Trade, paragraph 1 of Article 14; Agreement on Trade-Related Investment Measures, Article 8; Agreement on Implementation of Article VI of GATT 1994, paragraph 2 of Article 17; Agreement on Implementation of Article VII of GAtt 1994, pagagraph 2 of Article 19; Agreement on Preshipment Inspection, Article 7; Agreement on Rules of Origin, Article 7; Agreement on Import Licensing Procedures, Article 6; Agreement on Subsidies and Countervailing Measures, Article 30; Agreement on Safeyuards, Article 14; Ageement on Trade-Related Aspects of Intellectul Property Rights, Article 64.1; and any corresponding consultation provisions in Plurilateral Trade Agreements as determined by the competent bodies of each Agreement and as notified to the DSB.

② If the complaining party so requests, a meeting of the DSB shall be convened for this purpose within 15 days of the request, provided that at least 10 days advance notice of the meeting is given.

的措施并提供一份足以明确陈述问题的起诉的法律根据概要。在申请方请求设立的专家组不具有标准职权范围的情况下，书面请求中应包括特殊职权范围的拟议案文。
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第11条
专家组的职能

专家组的职能是协助DSB履行本谅解和适用协定项下的职责。因此，专家组应对其审议的事项作出客观评估，包括对该案件事实及有关适用协定的适用性和与有关适用协定的一致性的客观评估，并作出可协助DSB提出建议或提出适用协定所规定的裁决的其他调查结果。专家组应定期与争端各方磋商，并给予它们充分的机会以形成双方满意的解决办法。
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第17条
上诉审议
常设上诉机构

1.DSB应设立一常设上诉机构。上诉机构应审理专家组案件的上诉。该机构应由7人组成，任何一个案件应由其中3人任职。上诉机构人员任职应实行轮换。此轮换应在上诉机构的工作程序中予以确定。
2.DSB应任命在上诉机构任职的人员，任期4年，每人可连任一次。但是，对于在《WTO协定》生效后即被任命的7人，其中3人的任期经抽签决定应在2年期满后终止。空额一经出现即应补足。如一人被任命接替一任期未满人员，则此人的任期即为前任余下的任期。
3. 上诉机构应由具有公认权威并在法律、国际贸易和各适用协定所涉主题方面具有公认专门知识的人员组成。他们不得附属于任何政府。上诉机构的成员资格应广泛代表WTO的成员资格。上诉机构任职的所有人员应随时待命，并应随时了解争端解决活动和WTO的其他有关活动。他们不得参与审议任何可产生直接或间接利益冲突的争端。
4. 只有争端各方，而非第三方，可对专家组报告进行上诉。按照第10条第2款已通知DSB其对该事项有实质利益的第三方，可向上诉机构提出书面陈述，该机构应给予听取其意见的机会。
5. 诉讼程序自一争端方正式通知其上诉决定之日起至上诉机构散发其报告之日止通常不得超过60天。在决定其时间表时，上诉机构应考虑第4条第9款的规定（如有关）。当上诉机构认为不能在60天内提交报告时，应书面通知DSB迟延的原因及提交报告的估计期限。但该诉讼程序决不能超过90天。
6. 上诉应限于专家组报告涉及的法律问题和专家组所作的法律解释。
7. 如上诉机构要求，应向其提供适当的行政和法律支持。
8. 上诉机构任职人员的费用，包括旅费和生活津贴，应依照总理事会在预算、财务与行政委员会所提建议基础上通过的标准，从WTO预算中支付。

sultations were held, identify the specific measures at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly. In case the applicant requests the establishment of a panel with other than standard terms of reference, the written request shall include the proposed text of special terms of reference.

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Article 11

Function of Panels

The function of panels is to assist the DSB in discharging its responsibilities under this Understanding and the covered agreements. Accordingly, a panel should make an objective assessment of the matter before it. including an objective assessment of the facts of the case and the applicability of and conformity with the relevant covered agreements, and make such other findings as will assist the DSB in making the recommendations or in giving the rulings provided for in the covered agreements. Panels should consult regularly with the parties to the dispute and give them adequate opportunity to develop a mutually satisfactory solution.

Article 17

Appellate Review

Standing Appellate Body

1. A standing Appellate Body shall be established by the DSB. The Appellate Body shall hear appeals from panel cases. It shall be composed of seven persons, three of whom shall serve on any one case. Persons serving on the Appellate Body shall serve in rotation. Such rotation shall be determined in the wording procedures of the Appellate Body.

2. The DSB shall appoint persons to serve on the Apllellate Body for a four-year term, and each person may be reappinted once. However, the terms of three of the seven persons appointed immediately after the entry into force of the WTO Agreement shall expire at the end of two years, to be determined by lot. Vacancies shall be filled as they arise. A person appointed to replace a person whose term of office has not expired shall hold office for the remainder of the predecessor's term.

3. The Appellate Body shall comprise persons of recognized authority, with demonstrated expertise in law, international trade and the subject matter of the covered agreements generally. They shall be unaffiliated with any government. The Appellate Body membership shall be broadly representative of membership in the WTO. All persons serving on the Appellate Body shall be available at all times and on short notice, and shall stay abreast of dispute settlement activities and other relevant activities of the WTO. They shall not participate in the consideration of any disputes that would create a direct or indirect conflict of interest.

4. Only parties to the dispute, not third parties, may appeal a panel report. Third parties which have notified the DSB of a substantial interest in the matter pursuant to paragraph 2 of Article 10 may make written submissions to, and be given an opportunity to be heard by, the Appellate Body.

5. As a general rule, the proceedings shall not exceed 60 days from the date a party to the dispute foumally notifies its decision to appeal to the date the Appellate Body circulates its report. In fixing its timatable the Appellate Body shall ake into account the provisions of paragraph 9 of Article 4, if relevant. When the Appellate Body considers that it cannot provide its report within 60 days, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. In no case shall the proceedings exceed 90 days.

6. An appeal shal be limited to issues of law covered in the panel report and legal interpretations developed by the panel.

7. The Appellate Body shall be provided with apporprate administrative and legal support as it requires.

8. The expenses of persons serving on the Appellate Body, including travel and subsistence allowance, shall be met from the WTO budget in accordance with criteria to be adopted by the General Council,

上诉审议的程序

9. 工作程序应由上诉机构经与 DSB 主席和总干事磋商后制定，并告知各成员供参考。

10. 上诉机构的程序应保密。上诉机构报告应在争端各方不在场的情况下，按照提供的信息和所作的陈述起草。

11. 上诉机构报告中由任职于上诉机构的个人发表的意见应匿名。

12. 上诉机构应在上诉程序中处理依照第 6 款提出的每一问题。

13. 上诉机构可维持、修改或撤销专家组的法律调查结果和结论。

上诉机构报告的通过

14. 上诉机构报告应由 DSB 通过，争端各方应无条件接受，除非在报告散发各成员后 30 天内，DSB 经协商一致决定不通过该报告。[④] 此通过程序不损害各成员就上诉机构报告发表意见的权利。

第 19 条
专家组和上诉机构的建议

1. 如专家组或上诉机构认定一措施与一适用协定不一致，则应建议有关成员[⑤] 使该措施符合该协定。[⑥] 除其建议外，专家组或上诉机构还可就有关成员如何执行建议提出办法。

2. 依照第 3 条第 2 款，专家组和上诉机构在其调查结果和建议中，不能增加或减少适用协定所规定的权利和义务。

第 20 条
DSB 决定的时限

除非争端各方另有议定，自 DSB 设立专家组之日起至 DSB 审议通过专家组报告或上诉机构报告之日止的期限，在未对专家组报告提出上诉的情况下一般不得超过 9 个月；在提出上诉的情况下通常不得超过 12 个月。如专家组或上诉机构按照第 12 条第 9 款或第 17 条第 5 款延长提交报告的时间，则所用的额外时间应加入以上期限。

第 21 条
对执行建议和裁决的监督

1. 为所有成员的利益而有效解决争端，迅速符合 DSB 的建议或裁决是必要的。

2. 对于需进行争端解决的措施，应特别注意影响发展中国家成员利益的事项。

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④ 如未安排在此期间召开 DSB 会议，则应为此召开一次 DSB 会议。
⑤ “有关成员”为专家组或上诉机构的建议所针对的争端方。
⑥ 对于有关不涉及违反 GATT 1994 和任何其他适用协定案件的建议，见第 26 条。

based on recommendations of the Committee on Budget, Finance and Administration.

Procedures for Appellate Review

9. Working procedures shall be drawn up by the Appellate Body in consultation with the Chairman of the DSB and the Director-General, and communicated to the Members for their information.

10. The proceedings of the Appellate Body shall be confidential. The reports of the Appellate Body shall be drafted without the presence of the parties to the dispute and in the light of the information provided and the statements made.

11. Opinions expressed in the Appellate Body report by individuals serving on the Appellate Body shall be anonymous.

12. The Appellete Body shall address each of the issues raised in accordance with paragraph 6 during the appellate proceeding.

13. The Appellate Body may uphold. modify or reverse the legal findings and conclusions of the panel.

Adoption of Appellate BodyReports

14. An Appellate Body report shall be adopted by the DSB and unconditionally accepted by the parties to the dispute unless the DSB decides by consensus not to adopt the Appellate Body report within 30 days following its circulation to the Members.[①] This adoption procedure is without prejudice to the right of Members to express their views on an Appellate Body report.

Article 19

Panel and Appellate Body Recommendations

1. Where a panel or the Appellate Body concludes that a measure is inconsistent with a covered agreement, it shall recommend that the Member concerned[②] bring the measure into conformity with that agreement.[③] In addition to its recommendations, the panel or Appellate Body may suggest ways in which the Member concerned could implement the recommendations.

2. In accordance with paragraph 2 of Article 3, in their findings and recommendations, the panel and Appellate Body cannot add to or diminish the rights and obligations provided in the covered agreements.

Article 20

Time-frame for DSB Decisions

Unless otherwise agreed to by the parties to the dispute, the period from the date of establishment of the panel by the DSB until the date the DSB considers the panel or appellate report for adoption shall as a general rule not exceed nine months where the panel report is not appealed or 12 months where the report is appealed. Where either the panel or the Appellate Body has acted, pursuant to paragraph 9 of Article 12 or paragraph 5 of Article 17, to extend the time for providing its report, the additional time taken shall be added to the above periods.

Article 21

Surveillance of Implementation of Recommendations and Rulings

1. Prompt compliance with recommendations or rulings of the DSB is essential in order to ensure effective resolution of disputes to the benefit of all Members.

2. Particular attention should be paid to matters affecting the interests of developing country Members with respect to measures which have been subject to dispute settlement.

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① If a meeting of the DSB is not scheduled during this period, such a meeting of the DSB shall be held for this purpose

② The"Member concerned" is the party to the dispute to which the panel or Appellate Body recommendations are directed.

③ With respect to recommendations in cases not involving a violation of GATT 1994or any other covered agreement, see Atricle 26.

3. 在专家组或上诉机构报告通过后 30 天内[⑦] 召开的 DSB 会议上，有关成员应通知 DSB 关于其执行 DSB 建议和裁决的意向。如立即遵守建议和裁决不可行，有关成员应有一合理的执行期限。合理期限应为：

(a) 有关成员提议的期限，只要该期限获 DSB 批准；或，在如未获批准则为，

(b) 争端各方在通过建议和裁决之日起 45 天内双方同意的期限；或，如未同意则为，

(c) 在通过建议和裁决之日起 90 天内通过有约束力的仲裁确定的期限。[⑧] 在该仲裁中，仲裁人[⑨] 的指导方针应为执行专家组或上诉机构建议的合理期限不超过自专家组或上诉机构报告通过之日起 15 个月。但是，此时间可视具体情况缩短或延长。

4. 除专家组或上诉机构按照第 12 条第 9 款或第 17 条第 5 款延长提交报告的时间外，自 DSB 设立专家组之日起至合理期限的确定之日止的时间不得超过 15 个月，除非争端各方另有议定。如专家组或上诉机构已延长提交报告的时间，则所用的额外时间应加入 15 个月的期限；但是除非争端各方同意存在例外情况，否则全部时间不得超过 18 个月。

5. 如在是否存在为遵守建议和裁决所采取的措施或此类措施是否与适用协定相一致的问题上存在分歧，则此争端也应通过援用这些争端解决程序加以决定，包括只要可能即求助于原专家组。专家组应在此事项提交其后 90 天内散发其报告。如专家组认为在此时限内不能提交其报告，则应书面通知 DSB 迟延的原因和提交报告的估计期限。

6. DSB 应监督已通过的建议或裁决的执行。在建议或裁决通过后，任何成员可随时在 DSB 提出有关执行的问题。除非 DSB 另有决定，否则执行建议或裁决的问题在按照第 3 款确定合理期限之日起 6 个月后，应列入 DSB 会议的议程，并应保留在 DSB 的议程上，直到该问题解决。在 DSB 每一次会议召开前至少 10 天，有关成员应向 DSB 提交一份关于执行建议或裁决进展的书面情况报告。

7. 如有关事项是由发展中国家成员提出的，则 DSB 应考虑可能采取何种符号情况的进一步行动。

8. 如案件是由发展中国家成员提出的，则在考虑可能采取何种适当行动时，DSB 不但要考虑被起诉措施所涉及的贸易范围，还要考虑其对有关发展中国家成员经济的影响。

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⑦ 如未安排在此期间召开 DSB 会议，则应为此召开一次 DSB 会议。
⑧ 如在将此事项提交仲裁后 10 天内，各方不能就仲裁人达成一致，则仲裁人应由总干事经与各方磋商后在 10 天内任命。
⑨ “仲裁人”一词应理解为一个人或一小组。

3. At a DSB meeting held within 30 days[①] after the date of adoption of the panel or Appellate Body report, the Member concerned shall inform the DSB of its intertions in respect of implementation of the recommendations and rulings of the DSB. If it is impracticable to comply immediately with the recommendations and rulings, the Member concerned shall have a reasonable period of time in which to do so. The reasonable period of time shall be:

(a) the period of time proposed by the Member concerned, provided that such period is approved by the DSB:or, in the absence of such approval,

(b) a period of time mutually agreed by the parties to the dispute within 45 days after the date of adoption of the recommendations and rulings; or, in the absence of such agreement,

(c) a period of time determined through binding arbitration within 90 days after the date of adoption of the recommendations and rulings. [②]In such arbiration, a guideline for the arbitrator[③] should be that the reasonable period of time to implement panel or Appellate Body recommendations should not exceed 15 months from the date of adoption of a panel or Appellate Body report. However. that time may be shorter or longer, depending upon the particular crcumstances.

4. Except where the panel or the Appellate Body has extended, pursuant to paragraph 9 of Article 12 or paragraph 5 of Article 17, the time of providing its report, the period from the date of extablishment of the panel by the DSB until the date of determination of the reasonable period of time shall not exceed 15 months unless the parties to the dispute agree otherwise. Where either the panel or the Appellate Body has acted to extend the time of providing its report, the additional time taden shall be added to the 15-month period; provided that unless the parties to the dispute agree that there are exceptional circumstances, the total time shall not exceed 18 months.

5. Where there is disagreement as to the existence or consistency with a covered agreement of measures taden to comply with the recommendations and rulings such dispute shall be decided through recourse to ghese dispute settlement procedures, including wherever possible resort to the original panel. The panel shall circulate its report within 90 days after the date of referral of the matter to it. When the panel considers that it cannot provide its report within this time frame, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its report.

6. The DSB shall keep under surveillance the implementation of adopted recommendations of rulings. The issue of implementation of the recommendations of rulings may be raised at the DSB by any Member at any time following their adoption. Unless the DSB decides otherwise, the issue of implementation of the recommendations or rulings shall be placed on the agenda of the DSB meeting after six months following the date of establishment of the reasonable period of time pursuant to paragraph 3 and shall remain on the DSB's agenda until the issue is resolved. At least 10 days prior to each such DSB meeting, the Member concerned shall provide the DSB with a status report in writing of its progress in the implementation of the recommendations or rulings.

7. If the metter is one which has been raised by a developing country Menber, the DSB shall consider what further action it might take which would be appropriate to the circumstances.

8. If the case is one brought by a developing country Member, in considering what appropriate action might be taken, the DSB shall take into account not only the trade coverage of measures complained of, but also their impact on the economy of developing country Menbers concerned.

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① If a meeting of the DSB is not scheduled during this period, such a meeting of the DSB shall be held for this purpose.

② If the parties cannot agree on arbitrator within 10 days after reterring the matter to arbitration, the arbitratior shall be appointed by the Director-General within 10 days, after consulting the parties.

③ The expression "arbitrator" shall be interpreted as referring either to an individual or a group.

附件 3
贸易政策审议机制

各成员特此协议如下：

A. 目标

(i) 贸易政策审议机制（“TPRM”）的目的在于通过提高各成员贸易政策和做法的透明度并使之得到更好的理解，有助于所有成员更好地遵守多边贸易协定和适用的诸边贸易协定的规则、纪律和在各协定项下所作的承诺，从而有助于多边贸易体制更加平稳地运行。为此，审议机制可以对各成员的全部贸易政策和做法及其对多边贸易体制运行的影响进行定期的集体评价和评估。但是，该机制无意作为履行各协定项下具体义务或争端解决程序的基础，也无意向各成员强加新的政策承诺。

(ii) 根据审议机制所进行的评估，在有关的范围内，均以有关成员更广泛的经济和发展需要、政策和目标及其外部环境为背景进行。但是，审议机制的职能是审查一成员的贸易政策和做法对多边贸易体制的影响。

B. 国内透明度

各成员认识到政府在贸易政策问题上决策的国内透明度对各成员的经济和多边贸易体制具有的固有价值，并同意在各自体制内鼓励和促进提高透明度，同时承认国内透明度的落实必须以自愿为基础，并考虑每一成员的法律和政治体制。

C. 审议程序

(i) 特此设立贸易政策审议机构（下称“TPRB”），负责实施贸易政策审议。

(ii) 所有成员的贸易政策和做法均应接受定期审议。各成员对多边贸易体制运行的影响是确定审议频率的决定因素，此种影响按其在一最近代表期的世界贸易中所占份额确定。按此确认的前 4 个贸易实体（欧洲共同体计为一实体）每 2 年审议一次，其后的 16 个实体每 4 年审议一次。其他成员每 6 年审议一次，但可对最不发达国家成员确定更长的期限。各方理解，对于包括一个以上成员、拥有共同对外政策的实体的审议，应涵盖其影响贸易的政策的所有部分，包括各成员的有关政策和做法。作为例外，如一成员贸易政策或做法的变更可能对其贸易伙伴产生重大影响。则 TPRB 在进行磋商后，可要求该有关成员提前进行下一次审议。

(iii) 在 TPRB 会议上的讨论应按 A 款所列目标进行。讨论的重点应为成员的贸

ANNEX 3
TRADE POLICY REVIEW MECHANISM

Members hereby *agree* as follows:

A. Objectives

(i) The purpose of the Trade Policy Review Mechanism("TPRM")is to contribute to improved adherence by all Members to rules, disciplines and commitments made under the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements, and hence to the smoother functioning of the multilateral trading system, by achieving greater transparency in, and understanding of, the trade policies and practices of Members. Accordingly, the review mechanism enables the regular collective appreciation and evaluation of the full range of individual Members' trade policies and practices and their impact on the functioning of the multilateral trading system. It is not, however, intended to serve as a basis for the enforcement of specific obligations under the Agreements or for dispute settlement procedures, or to impose new policy commitments on Members.

(ii) The assessment carried out under the review mechanism takes place, to the extent relevant, against the background of the wider economic and developmental needs, policies and objectives of the Member concerned, as well as of its external environment. However, the function of the review mechanism is to examine the impact of a Member's trade policies and practices on the multilateral trading system.

B. Domestic transparency

Members recognize the inherent value of domestic transparency of government decision-making on trade policy matters for both Members' economies and the multilateral trading system, and agree to encourage and promote greater transparency within their own systems, acknowledging that the implementation of domestic transparency must be on a voluntary basis and take account of each Member's legal and political systems.

C. Procedures for review

(i) The Trade Policy Review Body(referred to herein as the "TPRB")is hereby established to carry out trade policy reviews.

(ii) The trade policies and practices of all Members shall be subject to periodic review. The impact of individual Members on the functioning of the multilateral trading system, defined in terms of their share of world trade in a recent representative period, will be the determining factor in deciding on the frequency of reviews. The first four trading entities so identified (counting the European Communities as one)shall be subject to review every two years. The next 16 shall be reviewed every four years. Other Members shall be reviewed every six years, except that a longer period may be fixed for least-developed country Members. It is understood that the review of entities having a common external policy covering more than one Member shall cover all components of policy affecting trade including relevant policies and practices of the individual Members. Exceptionally, in the event of changes in a Member's trade policies or practices that may have a significant impact on its trading partners, the Member concerned may be requested by the TPRB, after consultation, to bring forward its next review.

(iii) Discussions in the meetings of the TPRB shall be governed by the objectives set forth in paragraph A. The focus of these discussions shall be on the Member's trade policies and practices, which are the subject of the assessment under the review mechanism.

(iv) The TPRB shall establish a basic plan for the conduct of the reviews. It may also discuss and

易政策和做法，即审议机制下评估的主题。

(iv) TPRB 应为实施审议制定基本计划。还可讨论和注意各成员更新的报告。TPRB 应通过与直接有关的成员进行磋商，制定每年的审议计划。主席在与接受审议的一个或多个成员磋商后，可选出讨论人，讨论人以个人身份行事，负责引导在 TPRB 中进行的讨论。

(v) TPRB 的工作应以下列文件为基础：

(a) 由接受审议的一个或多个成员提供的一份 D 款所指的全面报告；

(b) 由秘书处自行负责根据其可获得的和一个或多个有关成员提供的信息起草的报告。秘书处应寻求一个或多个有关成员对其贸易政策和做法进行澄清。

(vi) 由接受审议的成员和秘书处提交的报告，与 TPRB 有关会议的记录一起，应在审议后迅速公布。

(vii) 这些文件将送交部长级会议，部长级会议应注意到这些文件。

D. 报告

为实现尽可能最充分的透明度，每一成员应定期向 TPRB 报告。全面报告应根据将由 TPRB 决定的议定格式，描述有关成员实施的贸易政策和做法。该格式最初应以由《1989 年 7 月 19 日决定》(DISD36 册 406 至 409 页) 所确定的“国别报告提纲格式”为基础，并作必要修正，将报告的范围扩展到附件 1 所列多边贸易协定和适用的诸边贸易协定所涵盖的贸易政策的所有方面。此格式可由 TPRB 根据经验进行修改。在两次审议之间，各成员应在其贸易政策发生任何重大变更时提供简要报告；每年将根据议定的格式提供更新的统计信息。对于最不发达国家成员在编写其报告时所遇到的困难应予特别考虑。应请求，秘书处应使发展中国家成员、特别是最不发达国家成员可获得技术援助。报告中所含信息应尽最大可能与根据多边贸易协定和适用的诸边贸易协定的规定作出的通知相协调。

E. 与 GATT1994 和 GATS 国际收支条款的关系

各成员认识到有必要将还需根据 GATT1994 或 GATS 国际收支条款进行全面磋商的政府的负担减少到最低程度。为此，TPRB 主席在与有关成员和国际收支限制委员会主席磋商后，应作出可使贸易政策审议的正常节奏与国际收支磋商的时间表相协调的行政安排，但不得将贸易政策审议推迟达 12 个月以上。

F. 对机制的评审

TPRB 应在《WTO 协定》生效后 5 年内对 TPRM 的运用情况进行一次评审。评审结果将提交部长级会议。TPRB 随后还可按其确定或按部长级会议要求的时间间隔对 TPRM 进行评估。

take note of updated reports from Members. The TPRB shall establish a programme of reviews for each year in consultation with the Members directly concerned. In consultation with the Member or Members under review, the Chairman may choose discussants who, acting in their personal capacity, shall introduce the discussions in the TPRB.

(v) The TPRB shall base its work on the following documentation:

(a) a full report, referred to in paragraph D, supplied by the Member or Members under review;

(b) a report, to be drawn up by the Secretariat on its own responsibility, based on the information available to it and that provided by the Member or Members concerned. The Secretariat should seek clarification from the Member or Members concerned of their trade policies and prctices.

(vi) The reports by the Member under review and by the Secretariat, together with the minutes of the respective meeting of the TPRB, shall be published promptly after the review.

(vii) These documents will be forwarded to the Ministerial Conference, which shall take note of them.

D. Reporting

In order to achieve the fullest possible degree of transparency, each Member shall report regularly to the TPRB. Full reports shall describe the trade policies and practices pursued by the Member or Members concerned, based on an agreed format to be decided upon by the TPRB. This format shall initially be based on the Outline Format for Country Reports established by the Decision of 19 July 1989 (BISD36S/406-409), amended as necessary to extend the coverage of reports to all aspects of trade policies covered by the Multilateral Trade Agreements in Annex 1 and, where applicable, the Plurilateral Trade Agreements. This format may be revised by the TPRB in the light of experience. Between reviews, Members shall provide brief reports when there are any significant changes in their trade policies; an annual update of statistical information will be provided according to the agreed format. Particular account shall be taken of difficulties presented to least-developed country Members in compiling their reports. The Secretariat shall make available technical assistance on request to developing country Members, and in particular to the least-developed country Members. Information contained in reports should to the greatest extent possible be coordinated with notifications made under provisions of the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements.

E. Relationship with the balance-of-payments provisions of GATT 1994 and GATS

Members recognize the need to minimize the burden for governments also subject to full consultations under the balance-of-payments provisions of GATT 1994 or GATS. To this end, the Chairman of the TPRB shall, in consultation with the Member of Members concerned, and with the Chairman of the Committee on Balance-of-Payments Restrictions, devise administrative arrangements that harmonize the normal rhythm of the trade policy reviews with the timetable for balance-of-payments consultations but do not postpone the trade policy review by more than 12 months.

F. Appraisal of the Mechanism

The TPRB shall undertake an appraisal of the operation of the TPRM not more than five years after the entry into force of the Agreement Establishing the WTO. The results of the appraisal will be presented to the Ministerial Conference. It may subsequently undertake appraisals of the TPRM at intervals to be determined by it or as requested by the Ministerial Conference.

G. 国际贸易环境发展情况综述

TPRB 每年还应对影响多边贸易体制的国际贸易环境的发展情况作出综述。综述将以总干事的年度报告为辅助，该报告列出 WTO 的主要活动，并指出影响贸易体制的重大政策问题。

G. Overview of Developments in the International Trading Environment

An annual overview, of developments in the international trading environment which are having an impact on the multilateral trading system shall also be undertaken by the TPRB. The overview is to be assisted by an annual report by the Director-General setting out major activities of the WTO and highlighting significant policy issues affecting the trading system.

附件 4
政府采购协定

第 23 条
本协定的例外

1. 本协定的任何规定不得解释为妨碍任何参加方在与武器、弹药或军事物资的采购有关或与国家安全或国防目的所必需的采购有关的基本安全利益方面，采取其认为必需的任何行动或不披露任何信息。

2. 在遵守关于此类措施的实施方式不构成对条件相同的国家造成任意或不合理歧视的手段或不构成对国际贸易的变相限制要求的前年下，本协定的任何规定不得解释为妨碍任何参加方采取或实施下列措施：**为保护**公共道德、秩序或安全、**人类和动植物的生命和健康**或知识产权所必需的措施；或与残疾人、慈善机构或监狱囚犯产品或服务有关的措施。

ANNEX 4
Agreement on Government Procurement

(Excerpts of environment-related artical)

Article XXIII

Exceptions to the Agreement

1. Nothing in this Agreement shall be construed to prevent any Party from taking any action or not disclosing any information which it considers necessary for the protection of its essential security interests relation to the procurenent of arms, ammunition or war5 materials, or to procurement indispensable for national security of for national defence purposes.

2. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent any Party from inposing or enforcing measures; necessary to protect public morals, order or safety, **human, animal of plant life or health or** intellectual property; or relating to the products or services of handicapped persons, of philanthropic institutions or of prison labour.

二、关税与贸易总协定

II General Agreement on Tariffs and Trade

关税与贸易总协定（1947 年）

澳大利亚联邦、比利时王国、巴西合众国、缅甸、加拿大、锡兰、智利共和国、中国、古巴共和国、捷克斯洛伐克共和国、法兰西共和国、印度、黎巴嫩、卢森堡大公园、荷兰王国、新西兰、挪威王国、巴基斯坦、南罗得西亚、叙利亚、南非联邦、大不列颠及北爱尔兰联合王国和美利坚合众国政府：

认识到在处理它们在贸易和经济领域的关系时，应以提高生活水平、保证充分就业、保证实际收入和有效需求的大幅稳定增长、实现世界资源的充分利用以及扩大货物的生产和交换为目的，

期望通过达成互惠互利安排，实质性削减关税和其他贸易壁垒，消除国际贸易中的歧视待遇，从而为实现这些目标作出贡献，

通过它们的代表达成协议如下：

第一部分

第 1 条

普遍最惠国待遇

1. 在对进口或出口、有关进口或出口或对进口或出口产品的国际支付转移所征收的关税和费用方面，在征收此类关税和费用的方法方面，在有关进口和出口的全部规章手续方面，以及在第 3 条第 2 款和第 4 款所指的所有事项方面，* 任何缔约方给予来自或运往任何其他国家任何产品的利益、优惠、特权或豁免应立即无条件地给予来自或运往所有其他缔约方领土的同类产品。

2. 任何有关进口关税或费用的优惠，如不超过本条第 4 款规定的水平并属下列描述的范围，则不需根据本条第 1 款的规定予以取消：

(a) 本协定附件 A 所列只在两个或两个以上领土之间实施的优惠，但需遵守该附件中所列条件；

(b) 本协定附件 B、附件 C 和附件 D 所列、只在 1939 年 7 月 1 日以共同主权、保护关系或宗主权相结合的两上或两个以上领土之间实施的优惠，但需遵守这些附件中所列条件；

(c) 只在美利坚合众国与古巴共和国之间实施的优惠；

(d) 只在本协定附件 E 和附件 F 所列相邻国家之间实施的优惠。

3. 第 1 款的规定不得适用于原属奥托曼帝国、后于 1923 年 7 月 24 日与该帝国分离的国家之间的优惠，只要此类优惠根据第 25 条第 5 款[①] 的规定获得批准，在此方面应按照第 29 条第 1 款的规定实施第 25 条第 5 款。

① 正式文本误为“第 5 款（a）项”。

THE GENERAL AGREEMENT ON TARIFFS AND TRADE(excerpt)

(Adopted on October 30, 1947)

The Governments of the Commonwealth of Australia, the Kingdom of Belgium, the United States of Brazil, Burma, Canada, Ceylon, the Republic of Chile, the Republic of China, the Republic of Cuba, the Czechoslovak Republic, the French Republic, India, Lebanon, the Grand-Duchy of Luxemburg, the Kingdom of the Netherlands, New Zealand, the Kingdom of Norway, Pakistan, Southern Rhodesia, Syria, the Union of South Africa, the United Kingdom of Great Britain and Northern Ireland, and the United States of America:

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods,

Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international commerce,

Have through their Representatives agreed as follows:

PART I

Article I

General Most-Favoured-Nation Treatment

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article Ⅲ, any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.

2. The provisions of paragraph 1 of this Article shall not require the elimination of any preferences in respect of import duties or charges which do not exceed the levels provided for in paragraph 4 of this Article and which fall within the following descriptions:

(a) Preferences in force exclusively between two or more of the territories listed in Annex A, subject to the conditions set forth therein;

(b) Preferences in force exclusively between two or more territories which on July 1, 1939, were connected by common sovereignty or relations of protection or suzerainty and which are listed in Annexes B, C and D, subject to the conditions set forth therein;

(c) Preferences in force exclusively between the United States of America and the Republic of Cuba;

(d) Preferences in force exclusively between neighbouring countries listed in Annexes E and F.

3. The provisions of paragraph 1 shall not apply to preferences between the countries formerly a part of the Ottoman Empire and detached from it on July 24, 1923, provided such preferences are approved under paragraph 5① of Article XXV, which shall be applied in this respect in the light of paragraph 1 of Article XXIX.

4. The margin of preference * on any product in respect of which a preference is permitted under para-

① The authentic text erroneously reads "subparagraph 5 (a)".

4．根据本条第 2 款允许享受优惠的任何产品的优惠幅度＊，如在本协定所附有关减让表中未明确列为最高优惠幅度，则该优惠幅度不得超过以下水平：

(a) 对于该减让表中所列任何产品的关税或费用，该优惠幅度不得超过其中规定的最惠国税率与优惠税率之间的差额；如未规定优惠税率，则应将 1947 年 4 月 10 日已实施的优惠税率作为本款中的优惠税率，如未规定最惠国税率，则该幅度不得超过 1947 年 4 月 10 日已存在的最惠国税率与优惠税率之间的差额；

(b) 对于有关减让表中未列明的任何产品的关税或费用，该优惠幅度不得超过 1947 年 4 月 10 日已存在的最惠国税率与优惠税率之间的差额。

对于附件 G 中所列缔约方，本款（a）项和（b）项所指的 1947 年 4 月 10 日这一日期，应以该附件中所列相应日期代替。

第二部分

第 3 条＊

国内税和国内法规的国民待遇

1．各缔约方认识到，国内税和其他国内费用、影响产品的国内销售、标价出售、购买、运输、分销或使用的法律、法规和规定以及要求产品的混合、加工或使用的特定数量或比例的国内数量法规，不得以为国内生产提供保护的目的对进口产品或国产品适用。＊

2．任何缔约方领土的产品进口至任何其他缔约方领土时，不得对其直接或间接征收超过对同类国产品直接或间接征收的任何种类的国内税或其他国内费用。此外，缔约方不得以违反第 1 款所列原则的方式，对进口产品或国产品实施国内税和其他国内费用。＊

3．对于与第 2 款的规定不一致、但根据 1947 年 4 月 10 日已实施的一贸易协定明确授权征收的任何现有国内税，该协定规定征税产品的进口关税已经约束不再提高，征收该项国内税的缔约方有权推迟对该项税适用第 2 款的规定，直至其在该贸易协定中的义务得到解除，以便允许在补偿取消国内税保护因素的必要限度内提高该项税。

4．任何缔约方领土的产品进口至任何其他缔约方领土时，在有关影响其国内销售、标价出售、购买、运输、分销或使用的所有法律、法规和规定方面，所享受的待遇不得低于同类国产品所享受的待遇。本款的规定不得阻止国内差别运输费的实施，此类运输费仅根据运输工具的经济营运，而不根据产品的国别。

5．缔约方不得制定或维持与产品的混合、加工或使用的特定数量或比例有关的任何国内数量法规，此类法规直接或间接要求受其管辖的任何产品的特定数量或比例必须由国内来源供应。此外，缔约方不得以违反第 1 款所列原则的其他方式实施国内数量法规。

6．第 5 款的规定不得适用于 1939 年 7 月 1 日、1947 年 4 月 10 日或 1948 年 3 月 24 日在任何缔约方领土内已实施的任何国内数量法规，具体日期由有关缔约方选择；

graph 2 of this Article but is not specifically set forth as a maximum margin of preference in the appropriate Schedule annexed to this Agreement shall not exceed:

(a) in respect of duties of charges on any product described in such Schedule, the difference between the most-favoured-nation and preferential rates provided for therein; if no preferential rate is provided for, the preferential rate shall for the purposes of this paragraph be taken to be that in force on April 10, 1947, and, if no most-favoured-nation rate is provided for, the margin shall not exceed the difference between the most-favoured-nation and preferential rates existing on April 10, 1947;

(b) in respect of duties or charges on any product not described in the appropriate Schedule, the difference between the most-favoured-nation and preferential rates existing on April 10, 1947.

In the case of the contracting parties named in Annex G, the date of April 10, 1947, referred to in subparagraph (a) and (b) of this paragraph shall be replaced by the respective dates set forth in that Annex.

PART II

Article III *

National Treatment on Internal Taxation and Regulation

1. The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production. *

2. The products of the territory of any contracting party imported into the territory of any other contracting party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products. Moreover, no contracting party shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1. *

3. With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2, but which is specifically authorized under a trade agreement, in force on April 10, 1947, in which the import duty on the taxed product is bound against increase, the contracting party imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as it can obtain release from the obligations of such trade agreement in order to permit the increase of such duty to the extent necessary to compensate for the elimination of the protective element of the tax.

4. The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provisions of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

5. No contracting party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no contracting party shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1. *

6. The provisions of paragraph 5 shall not apply to an internal quantitative regulation in force in the territory of any contracting party on July 1, 1939, April 10, 1947, or March 24, 1948, at the option of that contracting party; *Provided* that any such regulation which is contrary to the provisions of paragraph 5 shall not be modified to the detriment of imports and shall be treated as a customs duty for the purpose of negotiation.

7. No internal quantitative regulation relating to the mixture, processing or use of products in specified

但是任何此类违反本条第5款规定的法规不得进行修改从而损害进口产品，并应在谈判中将其视为关税。

7. 任何与产品的混合、加工或使用的特定数量或比例有关的国内数量法规，不得以在外部供应来源之间分配任何此种数量或比例的方式实施。

8. (a) 本条的规定不得适用于政府机构购买供政府使用、不以商业转售为目的或不以用以生产供商业销售为目的的产品采购的法律、法规或规定。

(b) 本条的规定不阻止仅给予国内生产者的补贴的支付，包括自以与本条规定相一致的方式实施的国内税费所得收入中产生的对国内生产者的支付和政府购买国产品所实行的补贴。

9. 各缔约方认识到，国内最高价格控制措施，尽管符合本条的其他规定，但是可对供应进口产品的缔约方的利益产生损害效果。因此，实施此类措施的缔约方应考虑出口缔约方的利益，以期最大限度地避免此类损害效果。

10. 本条的规定不得阻止任何缔约方制定或维持与已曝光电影片有关的、且满足第4条要求的国内数量法规。

10条
贸易法规的公布和实施

1. 任何缔约方实施的关于下列内容的普遍适用的法律、法规、司法判决和行政裁定应迅速公布，使各国政府和贸易商能够知晓：产品的海关归类或海关估价；关税税率、国内税税率和其他费用；有关进出口产品或其支付转账、或影响其销售、分销、运输、保险、仓储检验、展览、加工、混合或其他用途的要求、限制或禁止。任何缔约方政府或政府机构与另一缔约方政府或政府机构之间实施的影响国际贸易政策的协定也应予以公布。本款的规定不得要求任何缔约方披露会妨碍执法或违背其公共利益或损害特定公私企业合法商业利益的机密信息。

2. 任何缔约方不得在产生以下结果的普遍适用的措施正式公布之前采取此类措施：根据既定和统一做法提高进口产品的关税税率或其他费用，或对进口产品或进口产品的支付转账实施新的或更难于负担的要求、限制或禁止。

3. (a) 每一缔约方应以统一、公正和合理的方式管理本条第1款所述的所有法律、法规、判决和裁定。

(b) 每一缔约方应维持或尽快设立司法、仲裁或行政庭或行政程序，目的特别在于迅速审查和纠正与海关事项有关的行政行为。此类法庭或程序应独立于受委托负责行政实施的机构，它们的决定应由此类机构执行，并应适用于此类机构的做法，除非进口商在规定的上诉时间内向上级法院或法庭提出上诉；但是如有充分理由认为该决定与既定法律原则或事实不一致，则该机构的中央管理机构可采取步骤在另一诉讼程序中审查此事项。

amounts or proportions shall be applied in such a manner as to allocate any such amount or proportion among external sources of supply.

8. (a) The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial sale.

(b) The provisions of this Article shall not prevent the payment of subsidies exclusively to domestic producers, including payments to domestic producers derived from the proceeds of internal taxes or charges applied consistently with the provisions of this Article and subsidies effected through governmental purchases of domestic products.

9. The contracting parties recognize that internal maximum price control measures, even though conforming to the other provisions of this Article, can have effects prejudicial to the interests of contracting parties supplying imported products. Accordingly, contracting parties applying such measures shall take account of the interests of exporting contracting parties with a view to avoiding to the fullest practicable extent such prejudicial effects.

10. The provisions of this Article shall not prevent any contracting party from establishing or maintaining internal quantitative regulations relating to exposed cinematograph films and meeting the requirements of Article IV.

Article X

Publication and Administration of Trade Regulations

1. Laws, regulations, judicial decisions and administrative rulings of general application, made effective by any contracting party, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale, distribution, transportation, insurance, warehousing inspection, exhibition, processing, mixing or other use, shall be published promptly in such a manner as to enable governments and traders to become acquainted with them. Agreements affecting international trade policy which are in force between the government or a governmental agency of any contracting party and the government or governmental agency of any other contracting party shall also be published. The provisions of this paragraph shall not require any contracting party to disclose confidential information 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.

2. No measure of general application taken by any contracting party effecting an advance in a rate of duty or other charge on imports under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports, or on the transfer of payments therefor, shall be enforced before such measure has been officially published.

3. (a) Each contracting party shall administer ina uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1 of this Article.

(b) Each contracting party shall maintain, or institute as soon as practicable, judicial, arbitral or administrative tribunals or procedures for the purpose, *inter alia*, of the prompt review and correction of administrative action relating to customs matters. Such tribunals or procedures shall be independent of the agencies entrusted with administrative enforcement and their decisions shall be implemented by and shall govern the practice of, such agencies unless an appeal is lodged with a court or tribunal of superior jurisdiction within the time prescribed for appeals to be lodged by importers; *Provided* that the central administration of such agency may take steps to obtain a review of the matter in another proceeding if there is good cause to believe that the decision is inconsistent with established principles of law or the actual facts.

(c) The provisions of subparagraph(*b*)of this paragraph shall not require the elimination or substitution of procedures in force in the territory of a contracting party on the date of this Agree-

（c）（b）项的规定不得要求取消或代替本协定订立之日一缔约方领土内已实施的程序，尽管此类程序不能完全或正式独立于受委托进行行政管理的机构，但事实上为行政行为提供了客观和公正的审查。应请求，使用此类程序的任何缔约方应向缔约方全体提供所有有关信息，以便它们确定此类程序是否符合本项的要求。

第11条*
普遍取消数量限制

1．任何缔约方不得对任何其他缔约方领土产品的进口或向任何其他缔约方领土出口或销售供出口的产品设立或维持除关税、国内税或其他费用外的禁止或限制，无论此类禁止或限制通过配额、进出口许可证或其他措施实施。

2．本条第1款的规定不得适用于下列措施：

（a）为防止或缓解出口缔约方的粮食或其他必需品的严重短缺而临时实施的出口禁止或限制；

（b）为实施国际贸易中的商品归类、分级和销售标准或法规而必需实施的进出口禁止或限制；

（c）对以任何形式*进口的农产品和鱼制品的进口限制，此类限制对执行下列政府措施是必要的：

（i）限制允许生产或销售的同类国产品的数量，或如果不存在同类国产品的大量生产，则限制可直接替代进口产品的可生产或销售的国产品的数量；或

（ii）消除同类国产品的暂时过剩，或如果不存在同类国产品的大量生产，则消除可直接替代进口产品的同类国产品的暂时过剩，使国内消费者的某些群体免费或以低于现行市场水平的价格获得此种过剩；或

（iii）限制允许生产的任何动物产品的数量，此种产品的生产全部或主要直接依赖进口商品，如该商品的国内生产相对可忽略不计。

根据本款（c）项对任何产品的进口实施限制的任何缔约方，应公布今后特定时期内允许进口产品的全部数量或价值及数量或价值的任何变化。此外，与在不存在限制的情况下国内总产量和总进口量的可合理预期的比例相比，根据以上（i）目实施的任何限制不得减少总进口量相对于国内总产量的比例。在确定此比例时，该缔约方应适当考虑前一代表期的比例及可能已经影响或正在影响有关产品贸易的任何特殊因素*。

第20条
一般例外

在遵守关于此类措施的实施不在情形相同的国家之间构成任意或不合理歧视的手段或构成对国际贸易的变相限制的要求前提下，本协定的任何规定不得解释为阻止任何缔约方采取或实施以下措施：

（a）为保护公共道德所必需的措施；

（b）**为保护人类、动物或植物的生命或健康所必需的措施；**

（c）与黄金或白银进出口有关的措施；

（d）为保证与本协定规定不相抵触的法律或法规得到遵守所必需的措施，包括

ment which in fact provide for an objective and impartial review of administrative action even though such procedures are not fully or formally independent of the agencies entrusted with administrative enforcement. Any contracting party employing such procedures shall, upon request, furnish the CONTRACTING PARTIES with full information thereon in order that they may determine whether such procedures conform to the requirements of this subparagraph.

Article XI *

General Elimination of Quantitative Restrictions

1. No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.

2. The provisions of paragraph 1 of this Article shall not extend to the following:

(a) Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party;

(b) Import and export prohibitions or restrictions necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade;

(c) Import restrictions on any agricultural or fisheries product, imported in any form, * necessary to the enforcement of governmental measures which operate:

(i) to restrict the quantities of the like domestic product permitted to be marketed or produced, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted; or

(ii) to remove a temporary surplus of the like domestic product, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted, by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level; or

(iii) to restrict the quantities permitted to be produced of any animal product the production of which is directly dependent, wholly or mainly, on the imported commodity, if the domestic production of that commodity is relatively negligible.

Any contracting party applying restrictions on the importation of any product pursuant to subparagraph (*c*) of this paragraph shall give public notice of the total quantity or value of the product permitted to be imported during a specified future period and of any change in such quantity or value. Moreover, any restrictions applied under (i) above shall not be such as will reduce the total of imports relative to the total of domestic production, as compared with the proportion which might reasonably be expected to rule between the two in the absence of restrictions. In determining this proportion, the contracting party shall pay due regard to the proportion prevailing during a previous representative period and to any special factors * which may have affected or may be affecting the trade in the product concerned.

Article XX

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

(a) necessary to protect public morals;

(b) necessary to protect human, animal or plant life or health;

(c) relating to the importations or exportations of gold or silver;

(d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforce-

与海关执法、根据第 2 条第 4 款和第 17 条实行有关垄断、保护专利权、商标和版权以及防止欺诈行为有关的措施；

(e) 与监狱囚犯产品有关的措施；

(f) 为保护具有艺术、历史或考古价值的国宝所采取的措施；

(g) **与保护可用尽的自然资源有关的措施，如此类措施与限制国内生产或消费一同实施；**

(h) 为履行任何政府间商品协定项下义务而实施的措施，该协定符合提交缔约方全体且缔约方全体不持异议的标准，或该协定本身提交缔约方全体且缔约方全体不持异议；*

(i) 在作为政府稳定计划的一部分将国内原料价格压至低于国际价格水平的时期内，为保证此类原料给予国内加工产业所必需的数量而涉及限制此种原料出口的措施；但是此类限制不得用于增加该国内产业的出口或增加对其提供的保护，也不得偏离本协定有关非歧视的规定；

(j) 在普遍或局部供应短缺的情况下，为获取或分配产品所必需的措施；但是任何此类措施应符合以下原则：即所有缔约方在此类产品的国际供应中有权获得公平的份额，且任何此类与本协协定其他规定不一致的措施，应在导致其实施的条件不复存在时即行停止。缔约方全体应不迟于 1960 年 6 月 30 日审议对本项的需要。

第 21 条
安全例外

本协定的任何规定不得解释为：

(a) 要求任何缔约方提供其认为如披露则会违背其基本安全利益的任何信息；或

(b) 阻止任何缔约方采取其认为对保护其基本国家安全利益所必需的任何行动：

(i) **与裂变和聚变物质或衍生这些物质的物质有关的行动；**

(ii) 与武器、弹药和作战物资的贸易有关的行动，及与此类贸易所运输的直接或间接供应军事机关的其他货物或物资有关的行动；

(iii) 在战时或国际关系中的其他紧急情况下采取的行动；或

(c) 阻止任何缔约方为履行其在《联合国宪章》项下的维护国际和平与安全的义务而采取的任何行动。

ment of monopolies operated under paragraph 4 of Article II and Article XVII, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;

(e) relating to the products of prison labour;

(f) imposed for the protection of national treasures of artistic, historic or archaeological value;

(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;

(h) undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the CONTRACTING PARTIES and not disapproved by them or which is itself so submitted and not so disapproved; *

(i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan; *Provided* that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination;

(j) essential to the acquisition or distribution of products in general or local short supply; *Provided* that any such measures shall be consistent with the principle that all contracting parties are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of the Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist. The CONTRACTING PARTIES shall review the need for this sub-paragraph not later than 30 June 1960.

Article XXI

Security Exceptions

Nothing in this Agreement shall be construed

(a) to require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests; or

(b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests

(i) relating to fissionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(iii) taken in time of war or other emergency in international relations; or

(c) to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

三、部长决定与宣言

Ⅲ Ministerial Decisions and Declarations

关于通知程序的决定*

部长们，

决定建议部长级会议通过下述关于改进和审议通知程序的决定：

各成员，

期望改进《建立世界贸易组织协定》（下称“《WTO协定》”）项下的通知程序的运转，从而有助于提高各成员贸易政策的透明度及为此制定的监督安排的有效性；

忆及《WTO协定》项下有关公布和通知的义务，包括根据具体加入议定书、豁免以及各成员订立的其他协议的条件所承担的义务；

协议如下：

一、一般通知义务

各成员确认它们在多边贸易协定项下和适用的诸边贸易协定项下承诺的关于公布和通知的义务。

各成员忆及1979年11月28日通过的《关于通知、磋商、争端解决和监督的谅解》（BISD 26册210页）所述的承诺。它们在该谅解中承诺在最大限度内通知各自采取的影响GATT1994运用的贸易措施，该通知本身不损害关于这些措施与多边贸易协定项下和适用的诸边贸易协定项下权利和义务一致性和相关性的看法，各成员同意酌情按照所附措施清单的指导。各成员因此同意对此类措施的采用或修改应遵守1979年谅解的通知要求。

二、通知登记中心

应设立一个由秘书处负责的通知登记中心。在各成员继续遵循现有通知程序的同时，秘书处应保证登记中心记录提供的信息中有关成员所采取措施的目的、贸易范围和作出通知所根据的要求等内容。登记中心应按成员和义务相互对照其记录。

登记中心应每年通知每一成员要求其在下一年中承担的定期通知义务。

登记中心应提请各成员注意未履行的定期通知要求。

应任何有资格收到有关通知的成员的请求，应使该成员可获得登记中心中有关各项通知的信息。

三、对通知义务和程序的审议

货物贸易理事会将对《WTO协定》附件1A所列各项协定中的通知义务和程序

* 1993年12月15日贸易法制委员会通过。

Decision on Notification Procedures

(Adopted by the Trade Negotiations Committee on 15 December 1993)

Ministers,

Decide to recommend adoption by the Ministerial Conference of the decision on improvement and review of notification procedures set out below:

Members,

Desiring to improve the operation of notification procedures under the Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement"), and thereby to contribute to the transparency of Members' trade policies and to the effectiveness of surveillance arrangements established to that end;

Recalling obligations under the WTO Agreement to publish and notify, including obligations assumed under the terms of specific protocols of accession, waivers, and other agreements entered into by Members;

Agree as follows:

I. General obligation to notify

Members affirm their commitment to obligations under the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements, regarding publication and notification.

Members recall their undertakings set out in the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance adopted on 28 November 1979 (BISD 26S/210). With regard to their undertaking therein to notify, to the maximum extent possible, their adoption of trade measures affecting the operation of GATT 1994, such notification itself being without prejudice to views on the consistency of measures with or their relevance to rights and obligations under the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements, Members agree to be guided, as appropriate, by the annexed list of measures. Members therefore agree that the introduction or modification of such measures is subject to the notification requirements of the 1979 Understanding.

II. Central registry of notifications

A central registry of notifications shall be established under the responsibility of the Secretariat. While Members will continue to follow existing notification procedures, the Secretariat shall ensure that the central registry records such elements of the information provided on the measure by the Member concerned as its purpose, its trade coverage, and the requirement under which it has been notified. The central registry shall cross-reference its records of notifications by Member and obligation.

The central registry shall inform each Member annually of the regular notification obligations to which that Member will be expected to respond in the course of the following year.

The central registry shall draw the attention of individual Members to regular notification requirements which remain unfulfilled.

Information in the central registry regarding individual notifications shall be made available on request to any Member entitled to receive the notification concerned.

III. Review of notification obligations and procedures

The Council for Trade in Goods will undertake a review of notification obligations and procedures

进行审议。审议将由一工作小组进行，工作小组的成员资格对所有成员开放。工作小组将在《WTO 协定》生效之日起立即设立。

该工作小组的职权范围为：

- 对《WTO 协定》附件 1A 所列各项协定规定的各成员的所有现有通知义务进行一次全面审议，以期最大可能地使这些义务简化、标准化和强化，并加强与这些义务的一致性，同时记住提高各成员贸易政策透明度及为此而制定的监督安排的有效性的总体目标，并记住一些发展中国家成员为履行通知义务可能需要的协助；
- 不迟于《WTO 协定》生效后 2 年向货物贸易理事会提出建议。

附件

应通知措施的指示性清单[①]

关税（包括约束幅度和范围、普惠制规定、适用于自由贸易区/关税同盟成员的税率、其他优惠）

关税配额和附加税

数量限制，包括自愿出口限制和影响进口的有序销售安排

许可程序和掺配要求等其他非关税措施；差价税

海关估价

原产地规则

政府采购

技术性贸易壁垒

保障措施

反倾销措施

反补贴措施

出口税

出口补贴、免税和优惠性出口融资

自由贸易区、包括保税仓库内生产

出口限制，包括自愿出口限制和有序销售安排

其他政府援助，包括补贴、免税

国营贸易企业的作用

与进出口有关的外汇管制

政府授权的补偿贸易

《WTO 协定》附件 1A 所列多边贸易协定涵盖的其他任何措施

① 本清单不改变《WTO 协定》附件 1A 所列多边贸易协定和《WTO 协定》附件 4 所列适用的诸边贸易协定中的现有通知要求。

under the Agreements in Annex 1A of the WTO Agreement. The review will be carried out by a working group, membership in which will be open to all Members. The group will be established immediately after the date of entry into force of the WTO Agreement.

The terms of reference of the working group will be:

to undertake a thorough review of all existing notification obligations of Members established under the Agreements in Annex 1A of the WTO Agreement, with a view to simplifying, standardizing and consolidating these obligations to the greatest extent practicable, as well as to improving compliance with these obligations, bearing in mind the overall objective of improving the transparency of the trade policies of Members and the effectiveness of surveillance arrangements established to this end, and also bearing in mind the possible need of some developing country Members for assistance in meeting their notification obligations;

to make recommendations to the Council for Trade in Goods not later than two years after the entry into force of the WTO Agreement.

ANNEX

INDICATIVE LIST[①] OF NOTIFIABLE MEASURES

Tariffs(including range and scope of bindings, GSP provisions, rates applied to members of free-trade areas/customs unions, other preferences)
Tariff quotas and surcharges
Quantitative restrictions, including voluntary export restraints and orderly marketing arrangements affecting imports
Other non-tariff measures such as licensing and mixing requirements; variable levies
Customs valuation
Rules of origin
Government procurement
Technical barriers
Safeguard actions
Anti-dumping actions
Countervailing actions
Export taxes
Export subsidies, tax exemptions and concessionary export financing
Free-trade zones, including in-bond manufacturing
Export restrictions, including voluntary export restraints and orderly marketing arrangements
Other government assistance, including subsidies, tax exemptions
Role of state-trading enterprises
Foreign exchange controls related to imports and exports
Government-mandated countertrade
Any other measure covered by the Multilateral Trade Agreements in Annex 1A to the WTO Agreement

① This list does not alter existing notification requirements in the Multilateral Trade Agreements in Annex 1A to the WTO Agreement or, where applicable, the Plurilateral Trade Agreements in Annex 4 of the WTO Agreement.

关于服务贸易与环境的决定*

部长们，

决定建议服务贸易理事会在其第一次会议上通过以下决定。

服务贸易理事会，

承认为保护环境所必要的措施可能会与本协定的规定发生抵触；且注意到由于保护环境的必要措施的典型特点是以保护人类、动物或植物的生命或健康为目标的，是否需要作出超出第 14 条（b）款内容的规定尚不明确；

决定如下：

1. 为确定是否需要为考虑此类措施而对该协定第 14 条进行任何修改，要求贸易与环境委员会就服务贸易与环境之间的关系，包括可持续发展问题进行审查并提出报告，同时提出建议（若有的话）委员会还应审查关于环境问题的政府间协定的相关性及其与该协定的关系。

2. 委员会应向在《建立世界贸易组织协定》生效后首届 2 年一次的部长级会议报告其工作结果。

* 1993 年 12 月 15 日贸易法制委员会通过

Decision on Trade in Services and the Environment

(Adopted by theTrade Negotiations Committee on 15 December 1993)

Ministers,

Decide to recommend that the Council for Trade in Services at its first meetng adopt the decision set out below.

The Council for Trade in Services,

Acknowledging that measures necessary to protect the environment may conflict with the provisions of the Agreement; and

Noting that since measures necessary to protect the environment typically have as their objective the protection of human, animal or plant life or health, it is not clear that there is a need to provide for more than is contained in paragraph(b) of Article XIV;

Decides as follows:

1. In order to determine whether any modification of Article XIV of the Agreement is required to take account of such measures, to request the Committee on Trade and Environment to examine and report, with recommendations if any, on the relationship between services trade and the environment including the issue of sustainable development. The Committee shall also examine the relevance of intergovernmental agreements on the environment and their relationship to the Agreement.

2. The Committee shall report the results of its work to the first biennial meeting of the Ministerial Conference after the entry into force of the Agreement Establishing the World Trade Organization.

关于贸易与环境的决定*

部长们，

值此签署《乌拉圭回合多边贸易谈判结果最后文件》之际，于 1994 年 4 月 15 日在马拉喀什召开会议，

忆及《建立世界贸易组织协定》的序言写明各成员“认识到在处理它们在贸易和经济领域的关系时，应以提高生活水平、保证充分就业、保证实际收入和有效需求的大幅稳定增长以及扩大货物和服务的生产和贸易为目的，同时应依照可持续发展的目标，考虑对世界资源的最佳利用，寻求既保护和维护环境，又以与它们各自在不同经济发展水平的需要和关注相符的方式，加强为此采取的措施，”

注意到：

- 《里约环境与发展宣言》、（21 世纪议程）及 GATT 理事会主席于 1992 年 12 月向第 48 届缔约方全体大会提交的声明所反映的 GATT 的后续活动，以及环境措施与国际贸易工作组、贸易与发展委员会和 GATT 理事会的工作；
- 《关于服务贸易与环境的决定》中设想的工作计划；以及
- 《与贸易有关的知识产权协定》的相关规定，

考虑到在维护和保障一个开放、非歧视和公正的多边贸易体制与采取行动保护环境及促进可持续发展之间不应存在、也无必要存在任何政策矛盾，

期望协调贸易与环境领域的政策，此工作不应超出多边贸易体制的权限，应仅限于贸易政策和可能对其成员产生重大贸易影响的与贸易有关的环境政策，

决定：

- 指示 WTO 总理事会的第一次会议设立贸易与环境委员会，该委员会对所有 WTO 成员开放，并向在 WTO 建立后召开的第一届 2 年一次的部长级会议提出报告，届时将按照委员会的建议审议委员会的工作和职权范围，
- 贸易谈判委员会 1993 年 12 月 15 日决定的部分内容如下：

“（a）确认贸易措施与环境措施之间的关系，以促进可持续发展；

（b）在符合多边贸易体制的开放、公正和非歧视性质的前提下，就是否需对该体制的规定进行修改提出适当建议，特别是关于：

- 制定用以加强贸易与环境措施之间积极的相互作用的规则的需要，促进可持续发展的需要，特别考虑发展中国家、尤其是其中的最不发达国家的需要；及

* 1993 年 4 月 15 日马拉喀什贸易法制委员会会议上部长们通过。

Decision on Trade and Environment

(Adopted by Ministers at the Meeting of the Trade Negotiations Committee in Marrakesh on 14 April 1994)

Ministers,

Meeting on the occasion of signing the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations at Marrakesh on 15 April 1994,

Recalling the preamble of the Agreement establishing the World Trade Organization (WTO), which states that members' "relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,"

Noting:

- the Rio Declaration on Environment and Development, Agenda 21, and its follow-up in GATT, as reflected in the statement of the Chairman of the Council of Representatives to the CONTRACTINGPARTIES at their 48th Session in December 1992, as well as the work of the Group on Environmental Measures and International Trade, the Committee on Trade and Development, and the Council of Representatives;
- the work programme envisaged in the Decision on Trade in Services and the Environment; and
- the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights,

Considering that there should not be, nor need be, any policy contradiction between upholding and safeguarding an open, non-discriminatory and equitable multilateral trading system on the one hand, and acting for the protection of the environment, and the promotion of sustainable development on the other,

Desiring to coordinate the policies in the field of trade and environment, and this without exceeding the competence of the multilateral trading system, which is limited to trade policies and those trade-related aspects of environmental policies which may result in significant trade effects for its members,

Decide:

- to direct the first meeting of the General Council of the WTO to establish a Committee on Trade and Environment open to all members of the WTO to report to the first biennial meeting of the Ministerial Conference after the entry into force of the WTO when the work and terms of reference of the Committee will be reviewed, in the light of recommendations of the Committee,
- that the TNC Decision of 15 December 1993 which reads, in part, as follows:

"(a) to identify the relationship between trade measures and environmental measures, in order to promote sustainable development;

(b) to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system, as regards, in particular:

- the need for rules to enhance positive interaction between trade and environmental measures, for the promotion of sustainable development, with special consideration to the needs of developing

- 避免保护主义贸易措施，遵守有效的多边纪律，以保证多边贸易体制响应《21 世纪议程》和《里约宣言》、特别是宣言第 12 条原则中列出的环境目标；及
- 监督用于环境目的的贸易措施、具有重大贸易影响的与贸易有关的环境措施以及适用于这些措施的多边纪律的有效执行；”

此决定与上述序言性语言一起构成贸易与环境委员会的职权范围，

- 在这些职权范围内，并为使国际贸易与环境政策相互支持，委员会最初将处理下列事项，并可提出任何与此相关的问题：
- 多边贸易体制的规定与为环境目的而采取的贸易措施之间的关系，包括按照多边环境协定采取的措施；
- 具有重大贸易影响的、与贸易和环境政策有关的环境政策与多边贸易体制的规定之间的关系：
- 多边贸易体制的规定与下列各项内容之间的关系：
  (a) 为环境目的而征收的税费；
  (b) 与产品有关的环境要求，包括标准、技术法规、包装、标签和再利用；
- 多边贸易体制中有关用于环境目的的贸易措施及具有重大贸易影响的环境措施和要求的透明度的规定；
- 多边贸易体制的争端解决机制与多边环境协定的争端解决机制之间的关系；
- 环境措施对市场准入的影响，特别是对于发展中国家、尤其是其中的最不发达国家而言的此种影响，以及取消贸易限制和扭曲对环境的效益；
- 国内禁止性货物的出口问题，
- 贸易与环境委员会在上述职权范围内，将考虑把《关于服务贸易与环境的决定》所设想的工作和《与贸易有关的知识产权协定》的有关规定作为其工作的组成部分，
- 在 WTO 总理事会第一次会议召开之前，贸易与环境委员会的工作应由世界贸易组织筹备委员会（PCWTO）承担，并对筹备委员会的所有成员开放，
- 提请筹备委员会的小组委员会和届时建立的贸易与环境委员会，就《WTO 协定》第 5 条所指的政府间和非政府间组织的关系作出适当安排的问题向有关机构提供建议。

countries, in particular those of the least developed among them; and

- the avoidance of protectionist trade measures, and the adherence to effective multilateral disciplines to ensure responsiveness of the multilateral trading system to environmental objectives set forth in Agenda 21 and the Rio Declaration, in particular Principle 12; and
- surveillance of trade measures used for environmental purposes, of trade-related aspects of environmental measures which have significant trade affects, and of effective implementation of the multilateral disciplines governing those measures;"

constitutes, along with the preambular language above, the terms of reference of the Committee on Trade and Environment,

- that, within these terms of reference, and with the aim of making international trade and environmental policies mutually supportive, the Committee will initially address the following matters, in relation to which any relevant issue may be raised:
- the relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements;
- the relationship between environmental policies relevant to trade and environmental measures with significant trade effects and the provisions of the multilateral trading system;
- the relationship between the provisions of the multilateral trading system and:

(a) charges and taxes for environmental purposes;

(b) requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labelling and recycling;

- the provisions of the multilateral trading system with respect to the transparency of trade measures used for environmental purposes and environmental measures and requirements which have significant trade effects;
- the relationship between the dispute settlement mechanisms in the multilateral trading system and those found in multilateral environmental agreements;
- the effect of environmental measures on market access, especially in relation to developing countries, in particular to the least developed among them, and environmental benefits of removing trade restrictions and distortions;
- the issue of exports of domestically prohibited goods,
- that the Committee on Trade and Environment will consider the work programme envisaged in the Decision on Trade in Services and the Environment and the relevant provisions of the Agreement on Trade Related Aspects of Intellectual Property Rights as an integral part of its work, within the above terms of reference,
- that, pending the first meeting of the Genaral Council of the WTO, the work of the Committee on Trade and Environment should be carried out by a Sub-Committee of the Preparatory Committee of the World Trade Organization(PCWTO), open to all members of the PCWTO,
- to invite the Sub-Committee of the Preparatory Committee, and the Committee on Trade and Environment when it is established, to provide input to the relevant bodies in respect of appropriate arrangements for relations with inter-governmental and nongovernmental organizations referred to in Article V of the WTO.

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