**The 14th Trade Policy Review of the United States of America**

**第14次美国贸易政策审议**

# Questions from China

# 中国的问题

**Part I. Questions based on Report by the Secretariat (WT/TPR/S/382) 第第一部分 基于秘书处报告（WT/TPR/S/382）提出的问题**

**Question 1 问题1**

Summary (1) 总结（1）

the focus of U.S. trade policy has shifted to adopting policies that are intended to support its national security and strengthen its economy.

美国贸易政策的重点已转变为采取政策支持其国家安全并强化其经济。

1. National security is the most basic value pursuit of a country, but its extension and connotation cannot be arbitrarily expanded to harm free trade. Please explain the criteria that the U.S. uses to measure national security in the fields of trade and investment, and please tell how the U.S. can effectively restrict and prevent the abuse of national security? “国家安全”是每个国家最基本的价值追求，但不能肆意扩大外延内涵，危害自由贸易。请美方详细说明在贸易和投资领域中对“国家安全”的衡量标准，并解答如何有效限制和防止滥用“国家安全”？

**RESPONSE:** The views of the United States regarding the relationship between U.S. trade policy and national security are articulated in the *2018 Trade Policy Agenda and 2017 Annual Report of the President of the United States on the Trade Agreements Program*, available at: <https://ustr.gov/sites/default/files/files/Press/Reports/2018/AR/2018%20Annual%20Report%20FINAL.PDF>.

**答复**：美国关于贸易政策与国家安全之间相互关系的观点已在《美国总统2018年贸易政策议程》和《美国总统关于贸易协定项目的2017年年度报告》中阐明，详见：<https://ustr.gov/sites/default/files/files/Press/Reports/2018/AR/2018%20Annual%20Report%20FINAL.PDF>。

**Questions 2-6 问题2-6**

Summary (3) 总结（3）

Fiscal policy turned pro-cyclical in 2018, with the enactment of the Tax Cuts and Jobs Act of 2017, the Bipartisan Budget Act of 2018 and the Consolidated Appropriations Act of 2018. Tax rates were lowered for businesses and individuals: the top corporate tax rate was reduced from 35% to 21%, and the tax system was changed from global to territorial. Federal budget deficits are projected to continue increasing, from 4.2% of GDP in 2018 to 5.1% in 2022. 2018年，美国的财政政策开始转向顺周期，通过了《2017年减税和就业法案》、《2018年两党预算法案》和《2018年综合拨款法案》等文件。企业和个人的税率因此而被降低：最高企业税率已从35%下降到21%，税制也从属人原则转变成了属地原则。联邦预算赤字预计将继续增加，从2018年占GDP 4.2%的水平上升到2022年占GDP 5.1%的水平。

1. What is the consideration for the change of the tax system from global to territorial? How specifically does this change take place? 税制由全球征税向属地原则转变是基于什么样的考虑？具体如何转变？

**RESPONSE:** The 2017 U.S. tax reform legislation, referred to informally as the Tax Cuts and Jobs Act of 2017 (TCJA or the “Act”), aligned the U.S. international tax system more closely with territorial tax systems of other jurisdictions. In particular, the United States established a participation exemption system, while also strengthening its controlled foreign corporation (CFC) regime. In addition, the Act imposed a one-time transition tax on certain earnings of CFCs. The full text of the Act and the accompanying Conference Report have been published and are available at: <https://www.congress.gov/bill/115th-congress/house-bill/1>.

**答复**：2017年的美国税改法（俗称《2017年减税和就业法案》）使得美国的全球税制与其它国家的属地税制更加接近了。值得一提的是，美国建立了一项参与豁免制度，同时强化了受控外国公司制度。此外，该法案对受控外国公司的某些收入实施了一次性的过渡税作法。该法案全文及相关会议报告均已出版，具体见：<https://www.congress.gov/bill/115th-congress/house-bill/1>。

1. What is the main content of individual income tax reform? What are the individual tax policies to attract innovative talent in science and technology? 个人所得税改革的主要内容是什么？有哪些吸引科技创新人才的个税政策？

**RESPONSE:** The TCJA lowered marginal tax rates at nearly every income level and increased the standard deduction. The TCJA also expanded support for families with children by increasing the maximum value of the child credit (CTC) and the additional child credit (ACTC) and made the credits available to more families. Individual income tax credits and deductions supporting education and training were not changed by the TCJA. As a result of the TCJA, most families will see a decrease in their federal income taxes. Lower marginal rates improve incentives for people to seek employment or to work harder. To learn more please see: <https://www.jct.gov/publications.html?func=startdown&id=5060>.

**答复：**《2017年减税和就业法案》降低了几乎所有收入层次的边际税率，同时提高了标准扣除额。该法案还提高了儿童退税和额外儿童退税的最高额度，并使这项退税惠及更多家庭，从而为抚养子女的家庭提供了更多支持。但是，该法案没有改变教育和培训方面的个税减免规定。因此，大多数家庭的联邦收入所得税都将因该法案的实施而减少。欲了解更多详情，请参见：<https://www.jct.gov/publications.html?func=startdown&id=5060>。

1. How does the reduction of the individual income tax better adjust incomes? How does it ease the burden on people from different social classes? 个人所得税税率降低后如何更好发挥收入调节功能？不同阶层的减负情况如何？

**RESPONSE:** The Joint Committee on Taxation (JCT) estimated that the TCJA will provide a total tax cut of $259 billion in 2019, including $180 billion from individual income tax reform and $79 billion from business tax reform. The new law will reduce the federal tax burden by nearly $1,500 per family and benefit taxpayers across all income levels. The vast majority of families will receive a tax cut. The nonpartisan Tax Policy Center estimated that about 80 percent of all families will receive a federal tax cut in 2018, and only 5 percent will see their taxes rise. About 15 percent of all families will have no change in their federal taxes in 2018.

**答复**：据美国国会税务联合委员会估算，《2017年减税和就业法案》2019年的总减税额将达2590亿美元，其中1800亿美元将来自个税改革，而790亿美元将来自企业税改革。新法将为每个家庭减少达1500美元的联邦税负，并惠及所有收入层次的纳税人。绝大多数的家庭都将获得减税。另据非党派的税收政策中心估算，2018年，约80%的美国家庭都将获得联邦税减免待遇，只有5%的家庭将出现税负增加的现象。2018年，约15%的美国家庭联邦税负不会发生任何变化。

According to the JCT, TCJA will deliver an 8 percent reduction in federal tax burdens in 2019, and several low- and middle-income groups will receive a tax reduction of more than 8 percent. In contrast, taxpayers earnings $1 million or more—representing the top 0.3 percent of taxpayers—will have a less-than-average, or 5.9 percent, tax cut. In addition, the new law slightly changes how federal taxes are allocated across income groups.据国会税务联合委员会估算，《2017年减税和就业法案》将在2019年为美国纳税人降低8%的联邦税负，若干中低收入群体的减税幅度将超过8%。相比之下，年收入在100万美元或100万美元以上的纳税人（即收入最高的0.3%的纳税人）的减税幅度将低于平均水平，为5.9%。此外，新法还略微改变了联邦税负在各收入群体之间的分担方式。

For more information please see: Joint Committee on Taxation, Distributional Effects of the Conference Agreement for H.R.1, the Tax Cuts and Jobs Act (<https://www.jct.gov/publications.html?func=startdown&id=5054>); Tax Policy Center, Distribution Analysis of the Conference Agreement for the Tax Cuts and Jobs Act (<http://www.taxpolicycenter.org/publications/distributional-analysis-conference-agreement-tax-cuts-and-jobs-act/full>); and Joint Committee on Taxation, Distributional Effects of the Conference Agreement for H.R.1, the Tax Cuts and Jobs Act (<https://www.jct.gov/publications.html?func=startdown&id=5054>). 欲了解更多信息，请见：税务联合委员会，《税务联合委员会就众议院1号法案即<减税和就业法案>所达成协议的分配影响》（<https://www.jct.gov/publications.html?func=startdown&id=5054>）；税收政策中心，《税务联合委员会就<减税和就业法案>所达成协议的分配影响分析》（<http://www.taxpolicycenter.org/publications/distributional-analysis-conference-agreement-tax-cuts-and-jobs-act/full>）；税务联合委员会，《税务联合委员会就众议院1号法案即<减税和就业法案>所协议的分配影响》（<https://www.jct.gov/publications.html?func=startdown&id=5054>）。

1. What is the effect of the Tax Cuts and Jobs Act (TCJA), implemented since Jan. 2018, on reducing the tax burden on enterprises and individuals? Has this policy generated large-scale investment reflux? 2018年1起实施的《减税和就业法》（TCJA）对降低企业和个人税收政策的效果如何？该项政策是否产生大规模的投资回流？

**RESPONSE:** In many respects it is too early to evaluate the growth effects of the TCJA. However, the TCJA reduced personal income tax rates, increased the standard deduction, and increased credits which reduced marginal tax rates on labor, which should encourage an increase in the labor supply that leads to higher growth. Similarly, by reducing the corporate tax rate, allowing full expensing for 5 years followed by a phase down, and adding a tax deduction for certain pass-through business income, the TCJA will reduce the after-tax cost of capital. As a result of these changes, both employment and capital investment are projected to increase. GDP growth has been robust in 2018, and was estimated to be 3.5 percent in the third quarter of 2018, down slightly from the second quarter at 4.2 percent. Similarly, business fixed investment increased 8.2 percent in the second quarter and 6.6 percent in the third.

**答复**：从许多方面看，现在就评估《2017年减税和就业法案》对增长的影响仍为时过早。但是，该法案降低了个税税率，提高了标准扣除额，同时提高了能够降低劳务边际税率的免税额，因而可以鼓励劳动力供应的增加并导致增长率的提高。同样，通过降低企业税率，允许企业在分阶段退出之前5年内进行完全费用化操作，并为某些税负转嫁企业收入新增了减税安排，该法案将降低企业的税后资本成本。由于这些变革，就业和资本投入预计都将增加。2018年，美国的GDP增长强劲，第三季度增长率估计达3.5%，较第二季度的4.2%略有降低。同样，企业固定投资在第三季度增长了8.2%，而第三季度则增长了6.6%。

1. Have the implementation rules with regard to the GILTI, FDII, and BEAT newly introduced by the TCJA been released? If yes, please provide detailed information. In addition, how does the government ensure their consistency with WTO rules and international tax agreements? 该法案新增的“全球无形资产低税所得”（GILTI）税、“海外无形资产所得”（FDII）税、“税基侵蚀与反滥用”税（BEAT）的实施细则是否已经出台，如何确保其与WTO规则和国际税收协定的一致性？

**RESPONSE:** The IRS has already issued proposed guidance with respect to the global intangible low-taxed income (GILTI) regime. The notice of proposed rulemaking was published in the *Federal Register* at 83 FR 51072. The IRS hopes to issue additional proposed guidance relating to the GILTI and foreign-derived intangible income (FDII) and the base erosion and anti-abuse tax (BEAT), by the end of this year or early next year. As part of the regulatory process, the public has an opportunity to provide comments on proposed regulations prior to their finalization. In addition, that guidance is subject to extensive review as part of the regulatory process, including coordination within the U.S. government.

**答复**：目前，美国国家税务局已就全球无形资产低税所得税制度发布建议指南。拟定规则相关通知已通过83 FR 51072号联邦公报发布。美国国家税务局希望在今年年底或明年初就全球无形资产低税所得税、海外无形资产所得税、税基侵蚀和反滥用税等发布新的建议指南。作为监管程序的一部分，公众有机会在定稿之前就这些建议法规发表意见。此外，作为监管程序的一部分，上述指南均须接受广泛审议，包括与美国政府进行协调等。

**Question 7 问题7**

Summary (10) 总结（10）

At the time of completion of this report, the United States was renegotiating NAFTA, with the aims of modernizing the Agreement, and reducing the U.S. trade deficit with NAFTA partners. In August 2018, the United States and Mexico reached an agreement in principle to amend NAFTA. In October, an agreement with Canada was announced. ...The United States withdrew from the proposed Trans-Pacific Partnership (TPP) in 2017.

本报告完稿时，美国正就《北美自由贸易协定》进行重新谈判，以推动该协定的现代化并缩小美国与《北美自由贸易协定》相关贸易伙伴之间的贸易赤字。2018年8月，美国与墨西哥就《北美自由贸易协定》的修订原则上达成一致。10月，美国与加拿大之间的协议正式公布……2017年，美国退出了《跨太平洋伙伴关系协定》。

1. The text of TPP announced by the U.S. highly overlaps with that of the newly reached USMCA. Please explain why the U.S. signed the USMCA after withdrawing from the TPP, given the similarity between the USMCA and TPP. 美国宣布的TPP和新达成的USMCA文本重合度很高，请美方解释为何在退出TPP后又签署和TPP内容相似的USMCA？

**RESPONSE:** The USMCA updates and improves the NAFTA and includes provisions that go substantially further than the TPP in many priority areas for the United States.

**答复：**USMCA对NAFTA进行了更新和改进，在美国认定的许多重点领域比TPP的要求要高得多。

**Question 8 问题8**

Summary (15) 总结（15）

The highest tariffs, sometimes exceeding 100%, are applied on certain agricultural items (e.g., tobacco and peanuts). Outside of agriculture, above-average applied rates are mainly found in textiles, clothing and footwear 最高税率（有时甚至超过100%）正适用于某些农产品，如烟草和花生。在农业之外，超过平均水平的执行税率主要存在于纺织、服装和鞋具等领域。

1. Is there any plan to address the issue of high tariffs in agricultural negotiation? 请问美方是否有计划在谈判中对农产品高关税做出改善?

**RESPONSE:** The United States, on average, has some of the lowest bound and applied tariffs amongst all WTO Members. In the agricultural negotiations, the United States remains committed to the trade-liberalizing reform process that all Members agreed to and continues to call upon all Members to improve their transparency so that Members may engage in negotiations in a substantive manner.

**答复：**平均来看，美国的某些约束税率和适用关税率在所有WTO成员中都是最低的。在农业谈判中，美国仍然致力于所有成员国均已表示同意的贸易自由化改革进程，并呼吁所有成员国提高透明度，以便大家能够进入实质性谈判。

**Question 9 问题9**

Summary (19) 总结（19）

During the review period, the United States reverted to conducting Section 232 investigations to determine the effects of imports of any article on national security, and to recommend the application of countermeasures, including an increase in tariffs, to the President. 审议期间，美国重新启动了232条款的调查，以确定任何进口产品对国家安全的影响，并向总统建议适用包括提高关税在内的反制措施。

1. On Apr. 5, 2018, China submitted a consultation request to the DSB regarding the United States imposition of tariff on certain steel and aluminium products imported from China, and on Oct. 18, 2018, China requested the establishment of a panel. China believes that the measures taken by the United States violates Articles 2.1, 2.2, 4.1, 4.2, 5.1, 7, 11.1 (a), 12.1, 12.2, and 12.3 of the *Agreement on Safeguards*, and Articles I:1, XIX:1, XIX:2, II:1 (a), X:3 (a) and II:1 (b) of GATT. Could the United States please explain how the measures comply with WTO rules? 2018年4月5日，中国就美国对钢铁和铝制品进口征收关税措施向DSB提请磋商请求，并于2018年10月18日要求成立专家组，中国认为美国这一措施违反《保障措施协定》第2.1、第2.2、第4.1、第4.2、第5.1、第7、第11.1（a）、第12.1、第12.2和第12.3条以及GATT第I：1、第XIX：1、第XIX：2、第II：1（a）、第X：3（a）和第II：1（b）条。请美国就该项措施合规性做出合理解释。

**RESPONSE:** As China notes, this question concerns issues that are the subject of dispute settlement proceedings under the *Understanding on the Rules and Procedures Governing the Settlement of Disputes* ("DSU"). We refer China to the statements of the United States at the 29 October 2018 and 21 November 2018 meetings of the Dispute Settlement Body.

**答复：**正如中国指出的那样，本问题涉及《关于争端解决规则和程序的谅解》规定的争端解决程序相关事项。我们提请中国参见美国在争端解决机构2018年10月29日和2018年11月21日会议上所作的声明。

**Question 10 问题10**

Summary (20) 总结（20）

In August 2017, an investigation under Section 301 of the Trade Act of 1974 was initiated into China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. On 15 June 2018, USTR issued a list of products covering 1,102 separate tariff lines, valued at approximately US$50 billion, which would be subject to an additional *ad valorem* tariff of 25%. The measure entered into effect on 6 July for 818 lines, covering approximately US$34 billion worth of imports from China; public comment was sought on the application of the duty on 284 tariff lines, covering some US$16 billion worth of imports. China responded to the initial action by imposing increased duties on goods imported from the United States. 2017年8月，美国根据其1974年《贸易法案》第301节的规定对中国关于技术转让、知识产权和创新的法律、政策和作法发起了调查。2018年6月15日，美国贸易代表办公室发布了一份涉及1102个独立税目、金额约为500亿美元的产品清单，并表示这份清单上的产品将被征收25%的额外从价关税。2018年7月6日，这项措施已对上述清单中818个税目的产品生效，涉及约340亿美元的中国进口产品。与此同时，美国就剩余284个税目相关产品是否适用上述措施公开征求了意见，涉及约160亿美元的中国进口产品。针对美方的初步行动，中国对进口自美国的产品征收了额外关税，作出了争锋相对的回应。

1. On March 23, 2018, the United States submitted a consultation request to the WTO regarding Chinas intellectual property issue, seeking to resolve disputes within the WTO framework. The WTO forbids unilateral retaliation (Article 23 of DSU). The measures taken by the United States under Section 301 clearly violates WTO rules. Could the United States please provide justification for the measures against China taken under Section 301? 2018年3月23日，美国曾就中国知识产权问题向WTO提请磋商请求，寻求在WTO框架内解决争议，WTO还规定“不得单方面报复”（《争端解决谅解》第23条），美国实施的301措施显然违反了WTO相关规则。请美国就此行为的合规性做出解释。

**RESPONSE:** China is well aware of the justification for the measures taken in connection with the U.S. investigation of China’s acts, policies, and practices related to technology transfer, intellectual property, and innovation. The proceedings were conducted transparently, with multiple published notices, and opportunities for public comment. Chinese interests participated in the investigation, submitting written comments and oral testimony. The U.S. findings are explained in detail in a 20‑page report issued in March 2018. The full report is publicly available on the USTR website,at: <https://ustr.gov/sites/default/files/Section%20301%20FINAL.PDF>. The United States has encouraged all Members to review it. In November 2018, the United States issued a 50‑page supplemental report, available at: <https://ustr.gov/sites/default/files/enforcement/301Investigations/301%20Report%20Update.pdf>. The supplemental report explains that China has not fundamentally altered its unfair, unreasonable, and market-distorting practices that were the subject of the March 2018 report. Indeed, certain practices, such as cyber-enabled theft of intellectual property, appear to have grown worse. In addition to these public reports, the United States has repeatedly raised these issues in bilateral discussions with the Government of China.

**答复：**对于美方为调查中国技术转让、知识产权和创新相关法律、政策和作法而采取措施的正当性而言，中方其实早已心知肚明。相关程序的进行是透明的，美方为此发布了多项通知，并为公众发表意见提供了机会。中方利益也参与了调查，提交了书面意见和口头证词。美方结论在2018年3月发布的一份长达20页的报告中进行了详细阐述。这份报告的全文可在美国贸易代表办公室的网站上下载（<https://ustr.gov/sites/default/files/Section%20301%20FINAL.PDF>）。美国鼓励所有成员国对其进行审议。2018年11月，美国发布了一份长达50页的补充报告，其下载地址为：<https://ustr.gov/sites/default/files/enforcement/301Investigations/301%20Report%20Update.pdf>。这份补充报告指出，中国没有从根本上改变2018年3月报告所述的不公平、不合理和具有市场扭曲性质的作法。实际上，中国的某些作法——如网上知识产权盗窃——似乎变本加厉了。除公开报告外，美国还在与中国政府的双边讨论中反复提到了这些问题。

The U.S. reports contain extensive evidence that China engages in four types of practices involving technology transfer and intellectual property. To summarize: 美方报告包含了大量证据，证明中国从事了四类涉及技术转让和知识产权的行为。具体总结如下：

* First, China uses foreign ownership restrictions, such as joint venture requirements and foreign equity limitations, and various administrative review and licensing processes, to require or pressure technology transfer from foreign companies. China’s foreign ownership restrictions prohibit foreign investors from operating in certain industries unless they partner with a Chinese company, and in some cases, unless the Chinese partner is the controlling shareholder. China’s requirements preclude foreign companies from entering the market on their own terms, and lay the foundation for China to require or pressure the transfer of technology. Pressure is applied through China’s administrative licensing and approvals processes, which foreign investors must complete in order to establish and operate a business in China. Vague provisions and uncertainty about the applicable rules provide Chinese authorities with wide discretion to use administrative processes to coerce technology transfer. 首先，中国利用外资股权限制（如合资要求和外资参股限制等）和各种行政审查和许可程序，要求或迫使外国公司进行技术转让。中国的外资股权限制禁止外国投资者在某些行业进行经营，除非其与中国公司进行合伙或在某些情况下中国公司必须充当控股股东。中国的要求排除了外国公司以其自身条款进入中国市场的可能性，同时为中国要求或迫使外国公司进行技术转让奠定了基础。这种压力是通过中国的行政许可和审批程序施加的，外国公司必须履行所有这些程序才可在中国设立和经营企业。此外，模棱两可的规定和规则适用方面的不确定性为中国当局利用行政程序胁迫外国公司进行技术转让提供了广泛的自由裁量权。
* Second, China’s regime of technology regulations forces U.S. companies seeking to license technologies to Chinese entities to do so on non-market-based terms that favor Chinese recipients. China imposes a different set of rules for imported technology transfers originating from outside China, such as from foreign entities attempting to do business in China. These rules do not apply to technology transfers occurring between two domestic Chinese companies. 其次，中国的技术法规迫使那些寻求以许可方式将技术转让给中国实体的美国公司不得不以有利于中国技术接受者的非市场条款进行这种技术转让。中国对来自境外（如试图在中国经商的外国实体）的技术转让实施了不同的规则。这些规则并不适用于两家中国公司之间进行的技术转让。
* Third, China directs and unfairly facilitates the systematic investment in, and acquisition of, foreign companies and assets by Chinese companies to obtain cutting-edge technologies and intellectual property and generate the transfer of technology to Chinese companies. The role of the state in directing and supporting this outbound investment strategy is pervasive, and evident at multiple levels of government – central, regional, and local. China has devoted massive amounts of financing to encourage and facilitate outbound investment in areas it deems strategic. To implement these policies, China employs tools such as investment approval mechanisms and a system of “encouraged” sectors to channel and support outbound investment. 再次，中国直接和不公平地为中国公司系统地投资和收购外国公司和资产提供便利，以获取最先进的技术和知识产权，并使其向中国公司转让技术。国家指导和支持这一境外投资策略的情况非常普遍，而且在中央、地区和地方等各级政府均很明显。中国提供大量资金鼓励和便利其海外投资投向哪些中国认为具有战略意义的领域。为落实这些政策，中国采用了投资审批机制和“鼓励”行业体系等工具来引导和支持境外投资。
* Fourth, China conducts and supports unauthorized intrusions into, and theft from, the computer networks of foreign companies to access their sensitive commercial information and trade secrets. Through these cyber intrusions, China has gained unauthorized access to a wide range of commercially-valuable business information, including trade secrets, technical data, negotiating positions, and sensitive and proprietary internal communications. China has used cyber-enabled theft and cyber intrusions to serve its industrial policy objectives.最后，中国对外国公司的计算机网络进行或支持未经授权的入侵和窃取，以获取敏感的商业信息和商业秘密。通过这些网络入侵，中国已经获得了许多具有商业价值的商业信息，包括商业秘密、技术数据、谈判立场以及敏感和专有的内部通讯。中国通过网络窃取和网络入侵来实现其工业政策目标。

These policies harm every Member, and every industry in every Member, that relies on technology for maintaining competitiveness in world markets and increasing its people’s standard of living. 这些政策伤害了每个成员，以及他们的每个行业。毕竟，他们是依靠技术来维持其在全球市场的竞争力、进而提高自己人民的生活水平的。

From the outset of the investigation, the United States was clear that where an act, policy, or practice appeared to involve WTO rules, the United States would pursue the matter through WTO dispute settlement. The second area of investigation – involving technology licensing – appears to be amenable to WTO dispute settlement. In particular, China’s technology licensing measures appear to be inconsistent with China’s obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Accordingly, the United States is pursuing a WTO dispute on these issues. (*China — Certain Measures Concerning the Protection of Intellectual Property Rights* (DS542)). 从调查一开始，美方就明确表示，只要某一法案、政策或实践似乎涉及WTO规则，美方都将通过WTO的争端解决机制寻求相关问题的解决。调查的第二个领域——即技术许可的问题——似乎与WTO的争端解决机制更相宜。中国的技术许可措施似乎与其在《与贸易有关的知识产权协定》下的义务不相一致。因此，美方已就这些问题向WTO提出了争议（中国：关于知识产权保护的某些措施（DS542））.

As China is well aware, the U.S. measures taken in the investigation are not connected to the matters covered in the ongoing WTO dispute initiated by the United States. 正如中方完全清楚的那样，美方在调查中采取的措施与美方发起的且目前正在进行的WTO争端所涉事项毫不相关。

**Question 11 问题11**

Summary (32) 总结（32）

The 2017 Restoring Internet Freedom Order reversed the policy applied in the sector, and returned to the lighter-touch framework that had been in place before. The Order, among other things, ended utility-style regulation of the Internet in favour of market-based policies, restored broadband Internet access service to the information service classification, eliminated certain reporting requirements, and restored the authority of the Federal Trade Commission (FTC) to police the privacy practices of Internet service providers (ISPs).2017年的《恢复互联网自由命令》颠覆了互联网行业一直适用的政策，使其回到了之前实施的宽松监管框架。这项命令与其它规定一起终结了将互联网视为公用事业的法规，转而支持基于市场的互联网政策。与此同时，这项命令将宽带互联网接入服务重新归入了信息服务类，取消了某些报告要求，并恢复了联邦贸易委员会对互联网服务提供商的隐私政策进行监管的权力。

1. Please introduce the implementation of the 2017 Restoring Internet Freedom Order in the country, including in each state? What are the main problems that exist during the implementation of the order? What are the specific measures taken by the FTC to monitor the privacy behavior of Internet service providers? 请介绍新法令在全国范围包括各州的实施情况，存在的主要问题是什么？联邦贸易委员会(FTC)对互联网服务供应商的隐私行为监管具体政策措施有哪些？

**RESPONSE:** The 2017 Restoring Internet Freedom Order has been in effect nationwide since June 11, 2018. More information about the order can be found on the FCC website, at: <https://www.fcc.gov/restoring-internet-freedom>. The FCC and FTC have signed a Memorandum of Understanding regarding Restoring Internet Freedom, which describes specific measures the FTC may take. More information is available at: <https://www.ftc.gov/news-events/press-releases/2017/12/ftc-fcc-outline-agreement-coordinate-online-consumer-protection>.

**答复：**2017年的《恢复互联网自由命令》自2018年6月11日起开始在全国范围内生效。关于这项目命令的更多信息可在美国联邦通信委员会网站（<https://www.fcc.gov/restoring-internet-freedom>）上找到。为实施《恢复互联网自由》这项命令，美国联邦通信委员会与美国联邦贸易委员会签署了一份《谅解备忘录》，描述了联邦贸易委员会可采取的具体措施。更多信息可参见：<https://www.ftc.gov/news-events/press-releases/2017/12/ftc-fcc-outline-agreement-coordinate-online-consumer-protection>。

**Questions 12-14 问题12-14**

Summary (36) 总结（36）

The regulatory framework of maritime transport and air transport services has not changed during the period under review and restrictions to cabotage remain. Regarding maritime transport, preferences are accorded to U.S.-flag vessels to encourage a privately-owned and operated U.S.‑flag merchant marine. The United States maintains two maritime transport programmes related to national defense: the Maritime Security Program (MSP) and the Voluntary Intermodal Sealift Agreement (VISA) Program. 审议期间，海运和空运服务监管框架没有发生变化，关于国内运输权的限制仍然存在。就海运而言，悬挂美国国旗的船舶享有优先权，以鼓励私人所有的、悬挂美国国旗商船的发展。美国保有两个国防相关海运项目，即海事安全计划和自愿多式联运协定计划。

1. What are the pre-conditions for a vessel to fly the U.S. flag? Can the vessel owned by a foreign-invested enterprise in the U.S. (including sole proprietorship, joint venture) fly the U.S. flag? 船舶悬挂美国旗需满足的具体条件？外商在美投资企业（含独资、合资）拥有的船舶能否悬挂美国旗？

**RESPONSE:** U.S. flag vessels must be owned and operated by qualified U.S. citizens or U.S. documentation citizens. See, 46 U.S.C. § 12102; 46 U.S.C. § 50501; 46 U.S.C. § 8103.

**答复：**悬挂美国国旗的船舶必须由具有资格的美国公民或美国登记类公民所有和经营。参见《美国法典》第46卷第12102节、《美国法典》第46卷第50501节、《美国法典》第46卷第8103等节。

A vessel owned by a U.S. documentation citizen is eligible for a registry endorsement and may operate in the trade between the United States and foreign countries. A business entity may be entirely owned by noncitizen stockholders and qualify as a U.S. documentation citizen.由美国登记类公民所有的船舶可寻求美国政府的登记注册，然后即可从事美国与外国之间的贸易业务。某一商业实体可完全由非美国公民的股东所有并成为美国登记类公民。

A U.S.documentation citizen must be U.S. domiciled and must be managed by U.S. citizens. Specifically, for a corporation to document a vessel in the United States:美国登记类公民必须在美国有住所且必须由美国公民进行管理。具体地，如果某一公司要在美国登记船舶：

1. it must be incorporated under the laws of the United States or a state; 该公司必须根据美国或美国一州的法律成立；

2. its chief executive officer, by whatever title, and the chairman of the board of directors, must be U.S. citizens; and 该公司首席执行官，无论其头衔如何，和董事会主席必须为美国公民；且

3. no more than a minority of the number of directors necessary to constitute a quorum can be noncitizens. 构成该公司法定人数的董事中非美国公民者只能占少数。

For a general partnership to document a vessel, each and every general partner must be a U.S. documentation citizen. 46 U.S.C. § 12103(b)(3). In addition, unlike a corporation, U.S. citizens must own at least 50 percent of the "equity interest in the partnership" for a general partnership to document a U.S.-flag vessel. 46 U.S.C. § 12103(b)(3).如普通合伙企业希望在美国登记船舶，则其每一普通合伙人均必须为美国登记类公民（46 U.S.C. § 12103(b)(3)）。此外，与公司不一样的是，普通合伙企业要登记悬挂美国国旗的船舶，美国公民必须拥有“合伙企业股东权益”的至少50%。

1. Can a foreign-invested enterprise in the U.S. (including sole proprietorship, joint venture) be engaged in the U.S. coastal transport or the U.S. international relay service? 外商在美投资成立的企业（含独资、合资）能否从事美国沿海运输或美国“沿海捎带（international relay）”业务？

**RESPONSE:** Certain coastwise laws restrict the transportation, dredging, and towing between points in the United States to vessels owned and operated by qualified U.S. citizens. (See, 46 U.S.C. § 55102; 46 U.S.C. § 55103; 46 U.S.C. § 55109; 46 U.S.C. § 55111; 46 U.S.C. § 55118; 46 U.S.C. § 80104.)

**答复：**某些沿海事务相关法律规定，美国不同地点之间的运输、疏浚和拖带业务只能由具资格的美国公民所有和经营的船舶从事。（参见46 U.S.C. § 55102; 46 U.S.C. § 55103; 46 U.S.C. § 55109; 46 U.S.C. § 55111; 46 U.S.C. § 55118; 46 U.S.C. § 80104）

A business entity must comply both with structural criteria—such as being organized in the United States—and a facts and circumstances assessment of U.S. citizen control in order to qualify as a U.S. citizen. 要成为美国公民，商业实体必须满足诸如在美国成立之类的结构性条件和由美国公民控制之类的事实和情形评估。

A business entity must satisfy two structural requirements in order to qualify as a U.S. citizen eligible to own and operate a vessel in the U.S. coastwise trade. First, a business entity must be eligible to document a vessel in the United States with the U.S. Coast Guard. 46 U.S.C. § 55102(b)(2). Such an entity can be referred to as a "U.S. documentation citizen." Second, a U.S. documentation citizen must be owned at least 75 percent by U.S. documentation citizens eligible to own and operate a vessel in the coastwise trade. 46 U.S.C. § 12112; 46 U.S.C. § 50501; 46 U.S.C. § 55102(b)(2).要成为有资格拥有和经营美国沿海贸易船舶的美国公民，商业实体必须满足两项结构性要求。首先，根据46 U.S.C. § 55102(b)(2)的规定，商业实体必须具备在美国海岸警卫队登记船舶的资格。具备资格并成功登记后，这类实体即被称为“美国登记类公民”。其次，根据46 U.S.C. § 12112; 46 U.S.C. § 50501; 46 U.S.C. § 55102(b)(2)等节的规定，美国登记类公民至少75%的股权必须由有资格拥有和经营沿海贸易船舶的美国登记类公民所有。

A business entity as a U.S. documentation citizen must be U.S. domiciled and must be managed by U.S. citizens. Specifically, for a corporation to document a vessel in the United States: 作为美国登记类公民的商业实体必须在美国有住所且必须由美国公民进行管理。具体地，如果某一公司要在美国登记船舶：

1. it must be incorporated under the laws of the United States or a state; 该公司必须根据美国或美国一州的法律成立；

2. its chief executive officer, by whatever title, and the chairman of the board of directors, must be U.S. citizens; and 该公司首席执行官，无论其头衔如何，和董事会主席必须为美国公民；且

3. no more than a minority of the number of directors necessary to constitute a quorum can be noncitizens. 构成该公司法定人数的董事中非美国公民者只能占少数。

A U.S. documentation citizen corporation that does not seek the right to engage in the coastwise trade or to participate in certain programs restricted to U.S. citizens (e.g., the Maritime Security and the Capital Construction Fund programs (46 U.S.C. chs. 531, 535)) can be 100 percent owned by noncitizens. 不寻求获得沿海贸易权或参与某些仅限于美国公民的计划（如海运安全计划和基本建设基金计划等（46 U.S.C第531、535章））的美国登记类公民公司实体可100%地由非美国公民所有。

For a general partnership to document a U.S.-flag vessel, each general partner must be a U.S. documentation citizen (See, 46 U.S.C. § 12103(b)(3); 46 C.F.R. §§ 67.35, 221.3(c)(3)) and U.S. citizens must own at least 50 percent of the "equity interest in the partnership." (See, 46 C.F.R. § 67.35; see also 46 U.S.C. § 12103(b)(3); 46 C.F.R. § 221.3(c)(3)). 如普通合伙企业希望登记悬挂美国国旗的船舶，则其每一普通合伙人都必须是美国登记类公民（参见46 U.S.C. § 12103(b)(3); 46 C.F.R. §§ 67.35, 221.3(c)(3)等节），且美国公民必须持有“普通合伙企业股东权益”的至少50%（参见46 C.F.R. § 67.35和46 U.S.C. § 12103(b)(3)，46 C.F.R. § 221.3(c)(3)）。

A U.S. documentation citizen qualifies to own or operate a Jones Act vessel if 75 percent of the ownership is retained by U.S. citizens. (See, 46 U.S.C. § 50501; 46 C.F.R. § 67.31(a)). 如75%的股权由美国公民持有，则美国登记类公民公司实体具备拥有或经营《琼斯法案》所述船舶的资格（参见46 U.S.C. § 50501，46 C.F.R. § 67.31(a)等节）。

An exception to the general rule requiring 75 percent of stock to be owned by U.S. citizens is delineated at 46 U.S. Code § 12118, which permits certain U.S. corporations to own unpowered barges and small self-propelled vessels if such vessels are: (i) used to carry the cargo or personnel of the owner's affiliated group in the coastwise trade; or (ii) bareboat chartered to an unrelated coastwise-eligible citizen subject to the jurisdiction of the Surface Transportation Board in the Department of Transportation for use in the coastwise trade, other than in a noncontiguous domestic trade. In order to qualify under this exception, a corporation must certify that: (1) it is incorporated under the laws of the United States or any state, territory, district, or possession thereof; (2) a majority of its officers and directors are U.S. citizens; (3) at least 90 percent of its employees are residents of the United States; (4) it is engaged primarily in a manufacturing or mineral industry in the United States; (5) the aggregate book value of its vessels does not exceed 10 percent of the aggregate book value of all the corporation's assets; and (6) at least 75 percent of the raw materials used or sold by the corporation are purchased or produced in the United States. 对于75%的股权须由美国公民持有这一一般规定，《美国法典》第46卷第12118规定了一个例外情形。这项规定允许某些美国公司拥有某些无动力驳船和小型自航船，但以上述船舶满足下列条件为前提：（i）该船舶仅用于在沿海贸易中运输其所有人关联集团的货物或人员；或（ii）该船舶系租赁给具有沿海贸易资格的不相关公民、用于除非连续国内贸易之外的沿海贸易且受美国交通部地面运输委员会管辖的光船。要适用这一例外规定，公司必须证明其：（1）系根据美国或其任何州、领地、地区或属地法律成立；（2）大部分高管和董事均系美国公民；（3）至少90%的雇员为美国居民；（4）主要在美国从事制造业或矿业；（5）船舶账面总价值不超过公司所有资产账面总价值的10%；（6）使用或销售的原材料至少有75%是在美国境内采购或生产的。

1. What is the background, main contents and current progress of the Voluntary Intermodal Sealift Agreement? “自愿多式联运协定”（Voluntary Intermodal Sealift Agreement）出台的背景、主要内容和目前成效是什么？

**RESPONSE:** The Voluntary Intermodal Sealift Agreement (VISA) program is a partnership between the U.S. Government and the maritime industry to provide the Department of Defense (DOD) with “assured access” to commercial sealift and intermodal capacity to support the emergency deployment and sustainment of U.S. military forces. Intermodal capacity includes dry cargo ships, equipment, terminal facilities and intermodal management services.

**答复：**自愿多式联运协定计划是美国政府与海运行业之间的一个合作项目，旨在为国防部“可靠使用”商业海运和多式联运能力支持其紧急部署和维持美国军队提供保障。多式联运能力包括干货船、设备、码头设施和多式联运管理服务等。

The VISA program is authorized under the Maritime Administration’s authorities under the Defense Production Act of 1950, and the Maritime Security Act of 2003, and was approved as a DOD commercial sealift readiness program on January 30, 1997. The VISA document is available in Federal Register/Vol. 79, No. 209, 64462-64470, dated October 29, 2014. 自愿多式联运协定计划是根据1950年《国防生产法案》和2003年《海运安全法案》授予海运管理局的权力实施的。1997年1月30日，该计划又被批准为国防部商业海运准备计划。自愿多式联运协定相关文件可参见2014年10月29日的联邦公报（第79卷，209号64462-64470）。

**Question 15问题15**

Summary (37) 总结（37）

Only U.S.-built ships qualify for domestic service; the United States was granted an exemption from GATT rules for measures prohibiting the use, sale, or lease of foreign-built or foreign-reconstructed vessels in commercial applications between points in national waters or the waters of an exclusive economic zone. 只有美国制造的船只具备从事国内服务的资格。GATT规则赋予了美国以豁免权，使其可采取措施禁止在其国内水域或专属经济区内不同地点之间的商业行为

中使用、销售或租赁外国制造或改造的船舶。

1. What are the U.S. policies and requirements on foreign investors in building and operating ports in the U.S.? 美国对外商在美投资建设、经营港口业务的政策要求是什么？

**RESPONSE:** The Committee on Foreign Investment in the United States (CFIUS) is an interagency committee of the United States Government that is authorized to review certain transactions involving foreign investment in the United States in order to determine the effect of such transactions on U.S. national security. CFIUS has the authority to review certain transactions—and assess and mitigate any identified national security risk—involving foreign investment in U.S. ports. Each transaction that is notified to CFIUS is reviewed—exclusively for national security purposes—based upon the specific facts and circumstances of the transaction.

**答复**：外国在美投资委员会是美国政府的一个跨机构委员会。根据授权，其职责为对某些涉及外国在美投资活动的交易进行审查，以确定其对美国国家安全的影响。外国在美投资委员会有权对涉及外国在美国港口进行投资的活动进行审查，以评估和降低任何已发现国家安全风险。向外国在美投资委员会通报的所有交易都要根据其具体事实和情形接受国家安全方面的审查，但仅仅是国家安全方面的审查而已。

**Question 16 问题16**

Summary (39) 总结（39）

The United States does not have a general e-commerce law; however, e-commerce is subject to a number of federal and state measures that address various aspects of it. Two federal agencies oversee different aspects of e-commerce: the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC).美国没有一般的电子商务法。一些联邦和州政府措施对电子商务的不同方面实施着管制。负责监管电子商务不同方面的两个联邦机构分别为联邦贸易委员会和联邦通信委员会。

1. Could the United States please introduce specific meaures regarding e-commerce at both federal and state level? 请问联邦和州两级涉及电子商务的措施具体包含哪些？

**RESPONSE:** If China intended to request that we identify measures, please see Table 4.32 and the answer to question 116.

**答复**：如果中国是想要我们明确具体措施的话，那么请参见表4.32和我们对问题116的答复。

**Question 17 问题17**

3.1.5.3 Controls, special procedures, or diplomatic measures (3.50) 管制、特殊程序或外交措施（3.50）

The Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury administers nearly 30 programmes that involve economic and trade sanctions directed against specific countries or measures generally designed to counter terrorism, transnational criminal organizations, cyber-related crimes, drugs trafficking, human rights abuses, corruption, trade in rough diamonds, or the proliferation of weapons of mass destruction. 美国财政部外国资产管制办公室管理着近30个针对特定国家的经济和贸易制裁项目或旨在打击恐怖主义、跨国犯罪组织、网络相关犯罪、毒品贩运、人权侵犯、腐败、未加工钻石交易、大规模杀伤性武器扩散的一般措施。

1. The sanctions imposed by the OFAC are mainly designed to counter terrorism, transnational criminal organizations, cyber-related crimes, drugs trafficking, human rights abuses, corruption, or the proliferation of weapons of mass destruction. However, the U.S. has also imposed sanctions on Iran, Russia, etc. against certain industries such as energy, shipping, and automobile. Please introduce the implementation of industrial sanctions and provide the justification for the industrial sanctions. 美国财政部外国资产管制办公室（OFAC）实施的制裁主要针对恐怖主义、跨国犯罪、网络犯罪、走私毒品、侵犯人权、腐败、大规模杀伤性武器扩散等。但目前美国对伊朗、俄罗斯等国还实施了能源、船舶、汽车等行业的制裁，请美方介绍实施行业制裁的项目及其正当性。

**RESPONSE:** The U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) administers and enforces comprehensive and targeted economic sanctions programs in furtherance of U.S. national security and foreign policy objectives. These sanctions programs implement multiple legal authorities, such as statutes, or Executive Orders issued by the President. These authorities are further reflected by OFAC in its regulations which are published in the Code of Federal Regulations (Title 31, Chapter V of the U.S. Code of Federal Regulations), and on OFAC's website at: <https://www.treasury.gov/ofac>. OFAC’s targeted sanctions on Russia were first imposed in 2014 in response to Russia’s destabilizing activities in eastern Ukraine as well as Russia’s purported annexation of the Crimea region of Ukraine. These sanctions will remain in place until Russia implements its commitments under the Minsk agreements and Russia withdraws from Crimea. The energy-related sanctions on Russia include targeted blocking sanctions against individuals and entities as well as targeted sectoral sanctions on Russia’s energy sector. For additional information on OFAC’s Ukraine/Russia-related sanctions program, please see OFAC’s website at: [https://www.treasury.gov/resource‑center/sanctions/Programs/Pages/ukraine.aspx](https://www.treasury.gov/resourcecenter/sanctions/Programs/Pages/ukraine.aspx). In addition, OFAC implements sanctions targeting certain activities related to Iran’s energy, shipping, shipbuilding, and automotive sectors. These sectoral sanctions are part of a comprehensive sanctions program that targets the Iranian regime’s malign behavior including its support for terrorism, proliferation of weapons of mass destruction, and human rights abuses. For additional information on sanctions imposed on Iran, including on specific sectors, please visit OFAC’s Frequently Asked Questions at: <https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_iran.aspx>.

**答复**：美国财政部外国资产管制办公室负责管理和执行全面但有针对性的经济制裁项目，以推动美国的国家安全和外交政策目标。这些制裁项目执行的是多种来源的合法权力，如成文法或美国总统签署的行政命令等赋予的权力。这些权力在外国资产管制办公室制定的、经《美国联邦法规》（第31篇第V章）和外国资产管制办公室官方网站（<https://www.treasury.gov/ofac>）发布的法规中得到了进一步体现。外国资产管制办公室对俄罗斯实施的针对性制裁是2014年因俄罗斯在乌克兰东部地区实施破坏活动并吞并乌克兰克里米亚地区而首次实施的。在俄罗斯履行《明斯克协议》相关承诺并从克里米亚撤出之前，这些制裁将持续生效。针对俄罗斯的能源制裁包括对个人和实体实施的针对性拦截制裁及针对俄罗斯能源部门的行业制裁。关于乌克兰/俄罗斯相关制裁项目的详情，请参见外国资产管制办公室网站：[https://www.treasury.gov/resource‑center/sanctions/Programs/Pages/ukraine.aspx](https://www.treasury.gov/resourcecenter/sanctions/Programs/Pages/ukraine.aspx)。此外，外国资产管制办公室还执行着针对伊朗能源、海运、造船和汽车行业某些活动的制裁。这些行业制裁是针对伊朗当局的恶意行为包括支持恐怖主义、扩散大规模杀伤性武器、侵犯人权等行为实施的一个全面制裁项目的组成部分。关于对伊朗包括其具体行业实施的制裁详情，请参见外国资产管制办公室的常见问题答复：<https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_iran.aspx>。

**Questions 18-21 问题18-21**

3.1.6.1 Anti-dumping and countervailing measures (3.55)反倾销和反补贴措施（3.55）

It is noted that the U.S. has introduced amendments to U.S. AD and CVD laws to modify the provisions addressing the selection and corroboration of certain information that may be used as facts otherwise available with an adverse inference in an AD or CVD proceeding. 据称，美国引入了反倾销和反补贴法律的修正案，以修改可在反倾销或反补贴程序中用作不利推定的某些信息的选择和验证有关的规定。

1. China has noted that the US has added procedural stipulations of adverse inference for the determination of the degree of dumping and subsidization. Please clarify the specific standards of adverse inference? 中方注意到美方新的修订增加了使用“不利推定”规则确定倾销和补贴幅度的程序性规定，请美方进一步澄清关于“不利推定”的实质标准是什么？

**RESPONSE:** As notified in G/ADP/N/1/USA/Suppl.20 – G/SCM/N/1/USA/1/Suppl.20 (dated 16 July 2015), the United States amended certain aspects of its law related to AD/CVD proceedings. For specific instances involving adverse inferences, please refer to the documents of a particular proceeding, which can be found at: <https://access.trade.gov/login.aspx>.

**答复**：如G/ADP/N/1/USA/Suppl.20 – G/SCM/N/1/USA/1/Suppl.20（2015年7月16日）这一文件通报的那样，美国对其反倾销/反补贴程序相关法律的某些方面进行了修订。关于不利推定的具体案例，请参考下列网址提供的具体诉讼文件：<https://access.trade.gov/login.aspx>。

1. Where the investigated companies or member governments have made the best efforts to give assistance even though the information provided may be not perfect, could the investigators apply adverse inference to it or not? 在被调查企业或成员政府已尽最大努力提供配合的情况下，尽管提供的信息并不完美，调查机关是否能够对其适用“不利推定”？

**RESPONSE:** The use of facts available is based on the facts and circumstances of a specific proceeding. For specific instances involving adverse inferences, please refer to the documents of a particular proceeding, which can be found at: <https://access.trade.gov/login.aspx>.

**答复**：既有事实的运用是以特定诉讼的事实和情节为依据的。关于不利推定的具体案例，请参考下列网址提供的具体诉讼文件：<https://access.trade.gov/login.aspx>。

1. In the USs countervailing investigations against China, China has always been actively cooperating, providing fully valid information to prove that China does not use export buyers credit, but the US never admits that. Instead, in almost all countervailing investigations, the US imposed a high tax rate of 10.54% based on the so-called adverse inference. Whats the USs rationale for such decisions? 在美对华反补贴调查中，中国政府一直积极配合调查，提供充分有效的信息证明未使用“出口买方信贷”，但美方始终不予承认，在几乎所有反补贴调查案件中通过适用“不利推定”，在该项目上裁出10.54%的高额税率，请问美方的依据是什么？

**RESPONSE:** The use of facts available is based on the facts and circumstances of a specific proceeding. For specific instances involving an adverse, please refer to the documents of a particular proceeding, which can be found at: <https://access.trade.gov/login.aspx>.

**答复**：既有事实的运用是以特定诉讼的事实和情节为依据的。关于不利推定的具体案例，请参考下列网址提供的具体诉讼文件：<https://access.trade.gov/login.aspx>。

1. In 2018, in the case of Guizhou Tyre Co., Ltd. v. United States (Slip Op 18-140), the US Court of International Trade ruled that its inappropriate for the USDOC to apply adverse inference to EIBCs buyers credit program in its countervailing investigations, because the Chinese government had fully answered the USDOCs inquiry clarifying that the credit program was not used and fundamental information was not missing. There is no valid proof to justify the USDOCs ruling to the contrary. Does this mean the USs previous application of adverse inference to the program was inappropriate? How will US investigation agencies restrain from the abuse of adverse inference? 2018年，美国国际贸易法院在贵州轮胎股份有限公司v.美国案件中（Slip Op. 18-140），已经裁定美商务部在反补贴调查中对中国进出口银行买方信贷项目适用“不利推定”是不合理的，因为中国政府已充分回答了商务部的问卷，反映了该项目并未使用，基础性信息并不缺失。商务部与此相反的裁决并无确凿证据支持。请问这是否意味着美方此前在该项目上适用“不利推定”的做法都是不合理的？美调查机关将如何约束对“不利推定”的滥用？

**RESPONSE:** The litigation with respect to *Guizhou Tyre* remains pending and there has been no final and conclusive resolution by the courts.

**答复**：关于贵州轮胎的诉讼目前仍然悬而未决，法院尚未就其作出终局性裁决。

**Questions 22-24 问题22-24**

3.1.6.1 Anti-dumping and countervailing measures (3.55)反倾销和反补贴措施（3.55）

(iii) Section 504 amends Sections 771(15) and 773 of the Tariff Act of 1930, to modify the definition of ordinary course of trade and the provisions governing the treatment of a particular market situation (PMS) in AD proceedings. （iii）504节对《1930年关税法案》的第771（15）和773节进行了修订，变更了正常贸易过程的定义及反倾销诉讼中关于特殊市场情形的处理相关规定。

1. Please elaborate on the specific modifications on the particular market situation(PMS) clause. 请明确对“特殊市场情形”条款做了哪些修改。

**RESPONSE:** As notified in G/ADP/N/1/USA/Suppl.20 – G/SCM/N/1/USA/1/Suppl.20 (dated 16 July 2015), the United States amended certain aspects of its law related to AD/CVD proceedings.

**答复**：如G/ADP/N/1/USA/Suppl.20 – G/SCM/N/1/USA/1/Suppl.20（2015年7月16日）这一文件通报的那样，美国对其反倾销/反补贴程序相关法律的某些方面进行了修订。

Determinations involving a particular market situation are made on a case-by-case basis, and are based on the facts and circumstances of a particular proceeding. Instances involving such a determination can be found at: <https://access.trade.gov/login.aspx>. 关于特殊市场情形的裁决是逐案作出的，且以特定诉讼的事实和情节为依据。关于这类裁决的具体案例可参见：<https://access.trade.gov/login.aspx>。

1. In the US antidumping investigation against South Koreas OCTG in 2016, the USDOC, based on the particular market situation(PMS), replaced the cost price of the hot rolled steel, one of the raw materials. Are there any WTO rules or domestic laws that justify such practice by the US? 在2016年美国对韩国油井管（OCTG）反倾销案中，美国商务部通过认定“特殊市场情形”，替代了原材料之一热轧钢的成本价格，请问美方认为其做法有何世贸规则和国内法律依据？

**RESPONSE:** This question concerns issues that are the subject of dispute settlement proceedings under the *Understanding on the Rules and Procedures Governing the Settlement of Disputes* ("DSU").

**答复：**本问题涉及《关于争端解决规则和程序的谅解》规定的争端解决程序相关事项。

1. In the USDOCs antidumping investigation against South Korea OCTG, was it the first time for the United States to adopt an alternative cost price? Does such practice reflect modifications of the PMS clause? In future antidumping investigations, will this practice continue? 美国商务部在韩国油井管反倾销案中的替代成本的做法是否是美国第一次采用？这种做法是否体现了美国关于“特殊市场情形”的修订内容？在将来的反倾销调查中，是否为继续采用这种做法？

**RESPONSE:** This question concerns issues that are the subject of dispute settlement proceedings under the DSU.

**答复**：本问题涉及《关于争端解决规则和程序的谅解》规定的争端解决程序相关事项。

**Questions 25-27 问题25-27**

3.1.6.1 Anti-dumping and countervailing measures (3.57) 反倾销和反补贴措施（3.57）

Section 421 of the EAPA requires the CBP Commissioner to initiate an investigation within 15 business days of the receipt of a properly filed allegation from an interested party or referral from another Federal agency that reasonably suggests that merchandise covered by an AD/CVD order has entered the customs territory of the United States through evasion.《执行与保障法案》第421节要求美国海关及边境保卫局局长在收到相关方合理提出的指控或另一联邦机构作出的、合理表明反倾销和反补贴税令范围内的商品已通过逃税方式进入美国境内的提示后15个业务日内启动调查。

1. What are the major modes of investigation that the CBP usually launches against commodities that allegedly evade antidumping and countervailing duties? Can the CBP launch such an investigation according to its authority? What were the specific modes of the 10 investigations launched by the CBP against tax evasion since the EAPA took effect in 2016? 美国海关针对逃避反倾销税和反补贴税的商品发起调查的方式有几种？是否可以依职权主动发起？2016年《执行与保障法案》生效以来，美国海关发起的10起反逃税调查都是以何种方式发起的？

**RESPONSE:** Enforce and Protect Act (EAPA) investigations serve to determine whether a U.S. importer has evaded the payment of required AD/CVD duties. If U.S. Customs and Border Protection determines that the merchandise is subject to an AD/CVD order and that payment of duties should have been made, it will take measures to protect the revenue to ensure that the U.S. importer pays the required duties.

**答复**：《执行与保障法案》相关调查旨在确定美国进口商是否逃避了反倾销/发补贴关税的支付义务。如美国海关及边境保卫局认定某一商品受反倾销/反补贴令的约束且相关关税本应支付，则其将采取关税保护措施，以确保美国进口商支付其应付关税。

More generally, details on all of U.S. Customs and Border Protection’s duty evasion investigations under EAPA can be found at: <https://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-eapa>. 关于美国海关及边境保卫局根据《执行与保障法案》开展的所有反逃税调查的详情可参考<https://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-eapa>。

1. The CBP can initiate an investigation based on the referral from another Federal agency. What agencies does another Federal agency usually refer to? 美国海关可根据其他联邦机构的提示发起调查，其他联邦机构一般指哪些部门？

**RESPONSE:** As indicated in 19 U.S.C. sec. 1517(b)(3), a referral can be made “by any other Federal agency, including the Department of Commerce or the United States International Trade Commission.”

**答复**：如《美国法典》第19卷1517(b)(3)节所示，提示可由“其他任何联邦机构包括商务部和美国国际贸易委员会等”作出。

1. With respect to the claim that reasonably suggests that merchandise covered by an AD/CVD order has entered the customs territory of the United States through evasion, what are the criteria with which the U.S. defines reasonable? Are there specific standards in U.S. laws regarding the launch of investigations against tax evasion? 所谓“合理表明了反倾销和反补贴税令范围内的商品通过逃税的方式进入美国境”，合理的标准是什么？美国法律对于发起反逃税调查的立案标准有无明确规定？

**RESPONSE:** The determination to initiate a duty evasion investigation is made on a case-by-case basis, based on the evidence before U.S. Customs and Border Protection. Specific details on all of CBP’s duty evasion investigations under EAPA can be found at: <https://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-eapa>.

**答复**：发起反逃税调查的决定是以美国海关及边境保卫局掌握的证据为依据逐案作出的。关于美国海关及边境保卫局根据《执行与保障法案》开展的所有反逃税调查的详情可参考<https://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-eapa>。

**Questions 28-30 问题28-30**

3.1.6.1.1.2 Anti-dumping and countervailing measures – Administrative procedures (3.66)反倾销和反补贴措施——行政程序（3.66）

This includes determining that a petition is filed by an interested party and has industry support, for which it must meet two criteria: (a) domestic producers or workers who support the petition must account for at least 25% of the total production of the domestic like product; and (b) the domestic producers or workers who support the petition must account for more than 50% of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. 这包括某一申诉系由利害关系方提出且有行业支持的认定。为此，申诉必须满足两个标准：（a）支持申诉的国内生产商或工人必须占国内同类产品总产值的至少25%；及（b）支持申诉的国内生产商或工人必须占表示支持或反对申诉的那部分行业所生产的国内同类产品产值的50%以上。

1. Do workers or the workers organizations (such as the labor union) enjoy the equal qualification with producers as applicants? 工人或工人组织（如工会）是否与生产商具有同等的申请人资格？

**RESPONSE:** Yes, workers may be considered as part of the domestic industry for determining industry support.

**答复**：是的。在认定行业支持时，工人可视为国内行业的一部分。

1. When the workers and producers qualification as applicants and representativeness are assessed, is it to conduct the accumulative assessment on both the representativeness of the workers and producers or to conduct the independent assessment respectively? Is it to conduct the assessment on the workers and producers qualification as applicants on the basis of the producers representativeness assessment, or the workers representativeness assessment, or on the basis of both the workers and the producers representativeness assessment? 在进行申请人资格和代表性评估时，是对工人、生产商代表性进行累积评估，还是分别独立评估？是以生产商的代表性评估是否满足申请人资格，还是以工人的代表性为依据进行评估，或者以二者的累积进行评估？

**RESPONSE:** The determination of whether there is sufficient industry support is made on a case-by-case basis, based on the facts and circumstances in the petition and consistent with U.S. law and international obligations. Instances involving such determinations can be found at: <https://access.trade.gov/login.aspx>.

**答复**：是否有足够的行业支持这一问题的认定是以申诉的事实和情节为依据、根据美国法律规定和国际义务逐案作出的。这类认定的具体案例可参见<https://access.trade.gov/login.aspx>。

1. How to determine the representativeness of the producers if the producers keep silent rather than taking the clear standing on support? Would the investigation be initiated at the requests of the workers or workers organization (such as labor union) when the portion of the producers expressing support for, or opposition to fail to meet the above-mentioned standards? 在生产商保持沉默、不明确表态支持的情况下，如何确定生产商的代表性？生产商表示反对、支持率不足上述标准的情况下，是否可以依据工人或工人组织（如工会）的申请立案调查？

**RESPONSE:** The determination of whether there is sufficient industry support is made on a case-by-case basis, based on the facts and circumstances in the petition and consistent with U.S. law and international obligations. Instances involving such determinations can be found at: <https://access.trade.gov/login.aspx>.

**答复**：是否有足够的行业支持这一问题的认定是以申诉的事实和情节为依据、根据美国法律规定和国际义务逐案作出的。这类认定的具体案例可参见<https://access.trade.gov/login.aspx>。

**Questions 31-33 问题31-33**

3.1.6.1.1.2 Anti-dumping and countervailing measures – Administrative procedures (3.66) 反倾销和反补贴措施——行政程序（3.66）

AD and CVD investigations may be initiated at the request of petitioners, or may be self-initiated by the USDOC, although this has seldom been the case. There was one such case during the period under review: on 28 November 2017, the USDOC announced the self-initiation of AD and CVD investigations of imports of common alloy aluminium sheet from China. Prior to 2017, there had been three such self-initiations by the USDOC since 1980, most recently in 1991. 反倾销和反补贴调查可根据申诉人的请求发起，也可由美国商务部自行发起——尽管很少出现这样的情况。但是，当前审议期间确实曾发生一起这样的案例：2017年11月28日，美国商务部宣布对来自中国的常用铝合金产品启动自主反倾销和反补贴调查。1980年至2017年间，美国商务部曾发起过三起这样的调查，其中最近的一次是在1991年。

1. Will the USDOC collect relevant information and evidences while self-initiating an investigation? And how? 美国商务部在进行自主立案时，是否进行相关信息和证据收集？如何进行？

**RESPONSE:** Yes, in instances where the U.S. Department of Commerce determines to self-initiate an investigation, the U.S. Department of Commerce collects and reviews any necessary information required by U.S. law. The specific manner in which it will collect necessary information will depend upon the facts and circumstances of each individual case.**答复**：是的。在决定自行发起调查的情况下，美国商务部会收集和评估美国法律要求的所有必要信息。必要信息收集的具体方式取决于每一个别案例的事实和情节。

1. Will the USDOC disclose the relevant information and evidences on the case while self-initiating an investigation? 美国商务部在自主立案时，是否对立案依据的相关信息和证据进行披露？

**RESPONSE:** Public information regarding any specific petitions and initiations, including self-initiations, can be found at: <https://access.trade.gov/login.aspx>.

**答复**：关于所有具体申诉和调查启动情况的公开信息——包括美国商务部自行启动调查的信息——可参见<https://access.trade.gov/login.aspx>。

1. How to make sure that the information and evidences, on which the investigation is based , are in compliance with laws and regulations while investigaton authorities self-initiating an investigation if the relevant producers or industrial organizations fail to file anti-dumping and countervailing petition or submit the relevant evidences? 在相关行业生产商或行业组织并未提出反倾销、反补贴申请并提交相关证据的情况下，调查机关自主进行立案，如何确保立案所依据的信息和证据符合法律规定？

**RESPONSE:** Determinations regarding initiation of an investigation, including self-initiation, are made pursuant to the requirements in U.S. law.

**答复**：关于启动调查包括美国商务部自行调查的决定都是根据美国法律的要求作出的。

**Questions 34-37 问题34-37**

3.1.6.1.1.2 Anti-dumping and countervailing measures – Administrative procedures (3.67)反倾销和反补贴措施——行政程序（3.67）

For the determination of the margin of dumping, the ITA compares prices in the United States to a Normal Value (NV), the calculation of which varies according to the circumstances. For example, the NV may be based on the company's actual costs and prices in the comparison market, which can be either the respondent's home country or some other suitable third country or, if the ITA does not find a suitable comparison market, it may base the NV on the Constructed Value (CV) which is a cost-based build-up of a surrogate price. 为认定倾销幅度，美国商务部国际贸易管理局将美国价格与正常价值进行比较，而正常价值的计算是因具体情形的不同而不同的。比如，正常价值可能是以公司实际成本和比较市场的价格为依据确定的，而比较市场既可能是被申诉人的母国，也可能是其它适当的第三国。在国际贸易管理局找不到适当比较市场的情况下，正常价值甚至可能是根据构建价值确定的，而构建价值则是根据成本以替代价格为依据形成的。

1. What method is employed while calculating the Normal Value in anti-dumping investigation against China? What are the specific rules on the constructed value? 美国在对华反倾销调查中计算正常价值时采用的是什么方法？具体的价格构建规则是什么？

**RESPONSE:** This question concerns issues that are the subject of dispute settlement proceedings under the DSU.

**答复**：本问题涉及《关于争端解决规则和程序的谅解》规定的争端解决程序相关事项。

1. What are the WTO rules and legal basis for US investigators to adopt the above-mentioned methods? 美国调查机关采取上述方法的世贸规则依据和法律基础是什么？

**RESPONSE:** This question concerns issues that are the subject of dispute settlement proceedings under the DSU.

**答复**：本问题涉及《关于争端解决规则和程序的谅解》规定的争端解决程序相关事项。

1. According to Article 15 of the Protocol on the Accession of the People's Republic of China, as from Dec. 11, 2016, WTO members cannot use third-country prices to determine the degree of dumping in anti-dumping investigations against China. The USs practice violates this WTO obligation. Could the U.S. please provide reasonable explanation for this? 根据《中国加入世贸组织议定书》第15条的规定，在2016年12月11日后，世贸成员在对华反倾销调查中，不得再采用第三国价格计算倾销幅度。美方做法涉嫌违反上述世贸义务，美方对此有何解释？

**RESPONSE:** This question concerns issues that are the subject of dispute settlement proceedings under the DSU.

**答复**：本问题涉及《关于争端解决规则和程序的谅解》规定的争端解决程序相关事项。

1. What are the criteria for selecting a surrogate country? Is there a list of surrogate countries for China? In some cases, the United States selected some nations as surrogate countries whose economic development clearly mismatches Chinas. How does the U.S. explain and justify such selections? 在替代国选择上，有何标准？是否有针对中国的替代国名单？美方在一些案件中选用了明显与中国经济发展水平不相适就的国家作为替代国，对此美方有何解释和依据？

**RESPONSE:** Determinations regarding surrogate country selection are made on a case-by-case basis, and based on the facts and circumstances in the administrative record. Determinations made in a specific proceeding can be found at: <https://access.trade.gov/login.aspx>.

**答复**：关于替代国选择的决定是根据管理记录中的事实和情节逐案作出的。关于具体诉讼作出的决定可参见<https://access.trade.gov/login.aspx>。

**Questions 38-39 问题38-39**

3.1.6.1.2 Anti-dumping measures (3.77) 反倾销措施（3.77）

Of the 333 AD measures in place (excluding suspension agreements) at 17 July 2018, 215 had been renewed after a sunset review, that is, they had been in place for over five years. The average duration of an AD measure in place at the end of 2017 was some 11 years. At the end of 2017, 61 AD and 5 CVD measures had been in place for more than 20 years; and 159 AD and 14 CVD measures had been in place for over 10 years. The longest-lasting AD measure in place dates from 1977, and is applied on pressure sensitive plastic tape from Italy; a measure on pre-stressed concrete steel wire strand from Japan dates from 1978. 在截至2018年7月17日仍然有效的333项反倾销措施中（不包括中止协议），215项已通过日落复审进行了更新。也就是说，这些措施已经实施了5年以上。2017年末仍然有效的反倾销措施的平均持续时间为11年左右。2017年末，61项反倾销措施和5项反补贴措施已经实施了20年以上，159项反倾销措施和14项反补贴措施已经实施了10年以上。实施期限最长的反倾销措施可追溯至1977年，是对意大利产的压敏塑料袋实施的，而针对日本产的预应力混凝土结构用钢绞线实施的一项措施则可追溯至1978年。

1. As of end of 2017, how many CAD and AD measures which have been in place for more than 30 years? Which members and what products are those CAD and AD measures applied on? 截至2017年底，有多少个反补贴措施、多少个反倾销措施实施期超过30年？ 分别针对哪些成员、什么产品？

**RESPONSE:** Information regarding the duration of specific AD/CVD orders can be found at: <https://usitc.gov/trade_remedy.htm>, under Research Tools.

**答复**：特定反倾销/反补贴令持续时间方面的信息可参见<https://usitc.gov/trade_remedy.htm>这一网站的“研究工具”项。

1. What is the substantial review standard for US sunset review? In particular, in the case for which the term of measure implementation has repeatedly extended, how to determine the damages suffered by the domestic industries under protection? 美方日落复审的实体审查标准是什么？尤其是措施实施期一再延长的案件中所保护的国内产业损害情况是如何认定的？

**RESPONSE:** The determination for specific sunset reviews can be found at: <https://usitc.gov/trade_remedy.htm> (U.S. International Trade Commission) and <https://access.trade.gov/login.aspx> (U.S. Department of Commerce).

**答复**：日落复审具体案例的裁决可参见<https://usitc.gov/trade_remedy.htm>（美国国际贸易委员会）和<https://access.trade.gov/login.aspx>（美国商务部）。

**Questions 40-41 问题40-41**

3.1.6.1.4, Table 3.8, EAPA Investigations表3.8 《执行与保障法案》相关调查

in the line of Evasion of the AD duty order on Hydrofluorocarbon Blends from China, the CBPs final determination is Pending a determination on a scope referral to the USDOC.

在关于中国产氢氟烃混合物的反倾销税逃税令中，美国海关及边境保卫局的最终裁决是：等待美国商务部就范围作出裁决。

1. What are the stipulations in the U.S. laws regarding the work division and links of the USDOCs anti-circumvention investigation and the CBPs investigation against tax evasion? 美国法律关于商务部的反规避调查和海关的反逃税调查的分工和衔接上有何规定？

**RESPONSE:** Anti-circumvention proceedings conducted by the U.S. Department of Commerce and duty evasion investigations conducted by U.S. Customs and Border Protection are separate legal proceedings governed by separate laws with separate legal requirements.

**答复**：美国商务部实施的反规避程序与美国海关及边境保卫局进行的逃税调查是根据不同法律进行的独立法律程序，具有不同的法律要求。

1. If the CBP received a request for investigation of tax evasion of a commodity after the USDOC rules that the commodity is not within the coverage of the anti-dumping or countervailing tax act, will the CBP set out to initiate the investigation and request the USDOC to remake a ruling? Or will it consider the case to be settled and set the case aside? 如在美国海关收到反逃税调查申请前，美国商务部已经裁定该商品不在反倾销或反补贴税令范围，美国海关此后收到针对该商品的反逃税调查申请，此时，是否还会立案调查？并要求美国商务部重新裁决？抑或遵循“一事不再理”原则，不予立案？

**RESPONSE:** The determination of whether to initiate and conduct an investigation of AD/CVD duty evasion is based on the facts and circumstances at issue. Pursuant to 19 U.S.C. sec. 1517(b)(4), if U.S. Customs and Border Protection is unable to determine whether the merchandise at issue is covered merchandise under the statute, then it can refer the matter to the U.S. Department of Commerce to determine whether the merchandise is covered merchandise.

**答复**：是否启动和实施反倾销/反补贴税逃税调查的决定是根据相关事实和情节作出的。根据《美国法典》第19篇第1517(b)(4)的规定，如美国海关及边境保卫局无法认定相关产品是否属于该法律规定的涉事商品，则其可将其提交美国商务部，由美国商务部作出其是否属于涉事商品的裁决。

**Questions 42-46问题42-46**

3.1.6.2.1.2 Safeguard investigations 2016-18, Crystalline Silicon Photovoltaic Cells (3.93)保障措施调查（2016-2018），晶体硅光伏电池（3.93）

1. On 27 November 2017, USTR requested additional information from the USITC to assist him in making a determination. 在2017年11月27日，USTR曾向USITC要求补充信息，以协助其作出裁决。

**RESPONSE:** That is correct, as notified in G/SG/N/8/USA/9/Suppl.2 (dated 4 December 2017).

**答复**：对，如G/SG/N/8/USA/9/Suppl.2（2017年12月4日）这一通报所述。

1. In the PV 201 Investigation, the USTR once requested additional information from the USITC. What specific information does the additional information refer to? 在光伏201调查中，USTR曾向USITC要求补充信息，此处补充信息具体指哪些信息？

**RESPONSE:** As indicated in the above-referenced notification, “the President requested additional information from the ITC to assist him in determining the appropriate and feasible action to take that will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs. Specifically, the President requested that the ITC identify any unforeseen developments that led to the articles at issue being imported into the United States in such increased quantities as to be a substantial cause of serious injury.”

**答复**：如上述通报所示，“总统要求国际贸易委员会提供额外信息，以协助其就拟采取的适当、可行行动作出决定，从而协助国内产业积极适应进口竞争并提供更多的经济和社会效益，而不是产生更大的成本。具体而言，总统要求国际贸易委员会明确导致涉事产品被增加进口至美国、从而导致严重伤害的任何未预见进展”。

1. What were the responsibilities of the USTR and USITC respectively in the 201 Investigation? 在201调查中，USTR和USITC的职责分别是什么？

**RESPONSE:** With regards to safeguards, the responsibilities of the U.S. International Trade Commission and United States Trade Representative can be found at: G/SG/N/1/USA/1 (dated 6 April 1995).

**答复**：在保障措施领域，美国国际贸易委员会和美国贸易代表办公室的职责可参见G/SG/N/1/USA/1（1995年4月6日）这一文件。

1. Does the United States have any laws regarding unforeseeable development? If yes, what are the names of such laws? In practice, which department is in charge of the investigation? How does the department conduct analysis and what elements need to be analyzed? 美国内法律是否有关于“不可预见发展”的规定？如果有，具体法律名称是什么？实践中，具体由哪个部门负责调查？具体负责调查的部门是如何进行分析的，需要对哪些要素进行分析？

**RESPONSE:** The U.S. International Trade Commission conducts safeguard investigations under Section 201 – 204 of the Trade Act of 1974 (19 U.S.C. § 2251 – 2254). The authority and requirements for such investigations can be found in these provisions.

**答复**：美国国际贸易委员会是根据《1974年贸易法案》第201-204节的规定开展保障措施调查的（19 U.S.C. § 2251 – 2254）。这些调查的权限和要求可参见上述规定。

1. Prior to taking 201 Measure against photovoltaic products, the US has already applied CAD and AD measures on them. How could the US investigators deal with the double remedy? 美国在对光伏产品采取201措施之前，已经对此产品采取了反倾销措施和反补贴措施，请问调查机关如何处理重复救济的问题？

**RESPONSE:** The factors that the U.S. International Trade Commission took into account in making its serious injury determination can be found at: <https://usitc.gov/trade_remedy/publications/safeguard_pubs.htm>.

**答复：**美国国际贸易委员会在严重伤害认定作出过程中考虑的因素可参见 <https://usitc.gov/trade_remedy/publications/safeguard_pubs.htm>。

**Question 47 问题47**

3.1.7.1.2 and 3.1.7.1.3 Section 232 investigations – Steel investigation and Aluminium investigation (3.109 and 3.116) 3.1.7.1.2和3.1.7.1.3 第232节调查——钢铁调查和铝产品调查（3.109和3.116）

The United States has imposed additional 25% and 10% ad valorem tariff on steel articles and certain aluminium articles respectively on most of the WTO Members, pursuant to Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862). 根据《1962年贸易扩张法案》第232节的规定（19 U.S.C. 1862），美国对大多数WTO成员国的钢铁产品和某些铝产品征收了25%和10%的额外从价关税。

1. As a result of the United States imposition of tariff pursuant to Section 232, its tariff on imported steel and aluminium products exceeds the bound rate in the United States tariff concession commitment and thus allegedly violates Articles 2.1(a) and 2.1(b) of the GATT1994. How will the US explain and justify this imposition of tariff? What WTO rules and legal basis did the U.S. refer to in making such a decision that goes against its concession commitment? 美方加征232关税的做法，致使其对进口钢铝产品征收的关税超过美方的关税减让承诺的约束税率水平，涉嫌违反GATT1994第2.1(a)和2.1(b)条的规定。美方对此有何解释和说明？美方违反减让承诺的做法有何世贸规则依据和法律基础？

**RESPONSE:** This question concerns issues that are the subject of dispute settlement proceedings under the DSU. Please refer to information provided by the United States at the 23 March 2018 meeting of the Council for Trade in Goods, and the statements of the United States at the 29 October 2018 and 21 November 2018 meetings of the Dispute Settlement Body.

**答复**：本问题涉及《关于争端解决规则和程序的谅解》规定的争端解决程序相关事项。请参考美方在货物贸易理事会2018年3月23日会议上提供的信息及美方在争端解决机构2018年10月29日和11月21日会议上所作的声明。

**Questions 48-50 问题48-50**

3.1.7.1.2 and 3.1.7.1.3 Section 232 investigations – Steel investigation and Aluminium investigation (3.110 and 3.116)

3.1.7.1.2和3.1.7.1.3 232调查——钢铁调查和铝产品调查（3.110和3.116）

It is noted that the United States has exempted certain limited number of WTO Members from its additional import tariff measures on steel articles and certain aluminium articles. This is because the United States had agreed in principle with Argentina, Australia, and Brazil on satisfactory alternative means to address the threatened impairment to its national security posed by steel articles imported from these countries. 美方指出，美方就其施加于钢铁产品和某些铝产品的额外进口关税措施为某些WTO成员国如阿根廷、澳大利亚和巴西提供了豁免权。这是因为，美方在此之前方已就这些国家钢铁产品给其国家安全带来的潜在破坏达成了原则上令人满意的替代解决方式。

1. Please elaborate on the specific content of satisfactory alternative means agreed between the United States and each of the WTO Members exempted from its additional tariff on certain steel and aluminium products pursuant to Section 232. 请逐一说明美方与被豁免钢铝232关税的各个世贸成员之间达成的“令人满意的替代方式”的具体内容。

**RESPONSE:** Proclamations issued by the President on 30 April 2018 (Proclamation 9740) and 31 May 2018 (Proclamations 9758 and 9759) describe the satisfactory alternative means between the United States and certain other countries, in light of which the President determined that imports from these countries no longer threaten to impair U.S. national security. The texts of these proclamations are available at <https://www.whitehouse.gov/> and <https://www.federalregister.gov/>.

**答复**：美国总统2018年4月30日发布的声明（9740号声明）和2018年5月31日发布的声明（9758号和9759号声明）描述了美国与某些其它国家之间达成的令人满意的替代解决方式。鉴于这种替代解决方式，总统认定来自这些国家的进口不再对美国国家安全构成威胁。这些声明的文本可参见<https://www.whitehouse.gov/> 和<https://www.federalregister.gov/>。

1. Please explain specifically how the alternative means resolve the threats posed by imported steel and aluminium products to the United States national security? 请逐一说明替代方式是如何解决进口钢铝产品对美国国家安全存在损害威胁问题的。

**RESPONSE:** Please refer to the Presidential Proclamations issued on 30 April 2018 (Proclamation 9740) and 31 May 2018 (Proclamations 9758 and 9759).

**答复：**请参见2018年4月30日（9740号声明）和2018年5月31日（9758号和9759号声明）发布的总统声明。

1. The United States exemption of certain WTO Members from the tariff imposed pursuant to Section 232 allegedly violates Article 1.1 of GATT1994 regarding most-favored-nation treatment. How does the United States explain and justify this? What WTO rules and legal basis did the U.S. refer to for such action? 美方对个别世贸成员豁免232关税的做法，涉嫌违反GATT1994第1.1条关于最惠国待遇的规定，美方对此有何解释和说明？美方认为该做法有何世贸规则依据和法律基础？

**RESPONSE:** This question concerns issues that are the subject of dispute settlement proceedings under the DSU. Please refer to information provided by the United States at the 23 March 2018 meeting of the Council for Trade in Goods, and the statements of the United States at the 29 October 2018 and 21 November 2018 meetings of the Dispute Settlement Body.

**答复**：本问题涉及《关于争端解决规则和程序的谅解》规定的争端解决程序相关事项。请参考美方在货物贸易理事会2018年3月23日会议上提供的信息及美方在争端解决机构2018年10月29日和11月21日会议上所作的声明。

**Questions 51-53 问题51-53**

3.1.7.2.3 Section 301 cases (3.131)301条款相关案件（3.131）

Subsequently, USTR, with the assistance of the interagency Section 301 Committee, prepared a report that concluded that the acts, policies, and practices of the Chinese Government related to technology transfer, IP, and innovation are unreasonable or discriminatory, and burden or restrict U.S. commerce. USTR estimated that China's policies had resulted in harm to the U.S. economy of at least US$50 billion per year.随后，在跨机构301条款委员会的协助下，美国贸易代表办公室制作了一份报告，得出了中国政府关于技术转让、知识产权和创新的法律、政策和实践都是不合理或歧视性的、并因此给美国商业带来了负担或限制这一结论。据美国贸易代表办公室估算，中方政策每年至少使美国经济遭受了500亿美元的损失。

In 2000, the DSB ruled that Section 301 seemingly violated Article 23 of DSU. However, as the U.S. definitively, formally, and again unconditionally reiterated its commitment in the Statement of Administrative Actions, that is, the U.S. government would implement Section 301 in a way consistent with its WTO obligations, the panel eventually ruled that Section 301 did not violate WTO rules. The 301 measure taken by the U.S. against China clearly violates WTO rules and its commitment. 2000年，WTO争端解决机构通过裁决，认为“301条款”表面上违反DSU第23条，但在美国“明确、正式、再次无条件”地重申其《行政行动声明》中的承诺，即美国政府将以符合其世贸组织义务的方式实施“301条款 ”，专家组才判定“301条款”不违反世贸规则。当前美国对中国采取“301措施”，明显违反世贸规则及其承诺。

1. The tariff imposed by the U.S. on Chinese products exported to the U.S. pursuant to Section 301 clearly violates WTO rules. Does the U.S. have any adjustment plans? 美方依据“301条款”对中国输美产品加征关税的措施明显违反世贸规则。请问美方有何调整方案？

**RESPONSE:** The United States refers China to the U.S. response to China’s question #10. **答复：**请中方参见美方对中方问题10的答复。

1. Please explain how the U.S. calculated the loss of at least USD 50 billion caused by Chinese policies to the U.S. annually. 请美方说明中方政策每年对美国造成至少500亿美元损失的计算方法。

**RESPONSE:** The United States refers China to the U.S. response to China’s question #10. **答复：**请中方参见美方对中方问题10的答复。

1. In each notice of tariff that the U.S. imposes on Chinese products exported to the U.S. pursuant to Section 301, the U.S. claims that such tariff is justified. Has the U.S. conducted any assessment? If yes, please provide the assessment methods and basis. 美方每次依据“301”条款对中国输美产品加征关税的公告中，都认为此次关税措施是合理的。请问美方是否进行过评估？如有，请提供评估方法及依据。

**RESPONSE:** The United States refers China to the U.S. response to China’s question #10. **答复：**请中方参见美方对中方问题10的答复。

**Question 54 问题54**

3.1.7.2.3.1 Section 301 cases – China technology transfer regime301条款相关案件：中国的技术转让机制

1. China has no law that requires foreign enterprises to transfer their technologies to Chinese partners. In the 301 report, the US accuses China of mandating technological transfer but gave no specific case to back up this accusation. Can the US provide any specific case? 中国没有任何法律规定外国企业转让它的技术给中国合作伙伴，美方在301报告中指责中方存在所谓的“强制技术转让”，却没有提供任何具体案例。请问美方是否能提供具体案例？

**RESPONSE:** The United States refers China to the U.S. response to China’s question #10. **答复：**请中方参见美方对中方问题10的答复。

**Questions 55-56 问题55-56**

3.2.3 Export prohibitions, restrictions, and licensing (3.141) 出口禁令、限制和许可（3.141）

The United States maintains export restrictions, including prohibitions, licensing requirements or additional controls on a variety of exports and re-exports for reasons of national security, foreign policy considerations, the non-proliferation of nuclear materials, and other temporary objectives. 由于国家安全、外交政策考量、不扩散核材料及其它临时性目标等原因，美国对各种出口和再出口产品实施了出口限制，具体包括禁令、许可要求或额外管制等手段。

The U.S. Department of Commerce released a statement on Oct. 29 adding Chinese company Fujian Jinhua Integrated Circuit Co. (JHICC) to the export control list and saying that this move was taken for national security reasons. The statement mentioned that the chips produced by JHICC are for civil use and the company had not yet launched production. The purpose of taking this measure is to protect the long term economic viability of U.S. suppliers of these essential components of U.S. military systems. 美国商务部于10月29日发布声明，将中国福建晋华集成电路有限公司列入出口管制的清单，声明中表示该措施是出于国家安全。声明中也说明，晋华公司生产的是民用芯片，晋华公司尚未完成投产，采取该措施是为了保护美国军用系统关键组件美国供应商的长期经济生存能力。

1. The U.S. recently added Chinese company Fujian Jinhua Integrated Circuit Co. (JHICC) to its export control entity list. What are the main reasons and rationale for this decision? In the case of JHICC, does the U.S. consider commercial competition to be the main factor? Does the U.S. governments use of administrative measures to directly intervene the commercial competition between U.S. companies and foreign companies to protect U.S. companies interests constitute an act of government intervention in the market? 美方近期将中国福建晋华集成电路有限公司列入出口管制实体清单，请问主要原因和依据是什么？在福建晋华案例中，美方是否将商业竞争关系作为主要考量因素？美方通过行政手段直接干预美国企业与外国企业之间的商业竞争，维护美国企业利益，是否属于政府干预市场的行为？

**RESPONSE:** The entity listing imposes a license requirement for exports to Fujian Jinhua. The United States placed Fujian Jinhua on its Entity List because Fujian Jinhua poses a significant risk of becoming involved in activities that are contrary to the national security interests of the United States. Fuijian JinHua is nearing the completion of substantial production capacity for dynamic random access memory integrated circuits. The additional production, in light of the likely U.S.-origin technology, threatens the longer term economic viability of US suppliers of these essential components of U.S. military systems. Placing Fujian Jinhua on the entity list will limit Fujian Jinhua’s ability to threaten the supply chain for essential components in U.S. military systems.

**答复：**实体清单将福建晋华置于出口许可要求之下。美方将福建晋华置于实体清单之上，是因为福建晋华可能卷入违背美国国家安全利益的活动，从而对美国国家安全构成重大风险。福建晋华目前正接近于完成其动态随机存储器集成电路大规模产能的建设。鉴于其可能源自美国的技术，福建晋华带来的额外产能威胁了美国军用系统关键组件美国供应商的长期经济生存能力。将福建晋华列入实体清单将限制其威胁美国军用系统关键组件供应链的能力。

1. On what grounds does the U.S. believe that JHICC's production jeopardizes its national security? Does it mean that as long as a foreign enterprise produces products that U.S. suppliers may provide to the military, the U.S. national security is threatened? 请问美国认定晋华的生产危害美国国家安全的理由是什么？是不是只要外国企业生产了美国供应商可能向军方提供的产品，都有可能会威胁美国国家安全？

**RESPONSE:** Fuijian JinHua is nearing the completion of substantial production capacity for dynamic random access memory integrated circuits. The additional production, in light of the likely U.S.-origin technology, threatens the longer term economic viability of U.S. suppliers of these essential components of US military systems. Placing Fujian Jinhua on the entity list will limit Fujian Jinhua’s ability to threaten the supply chain for essential components in U.S. military systems.

**答复：**福建晋华目前正接近于完成其动态随机存储器集成电路大规模产能的建设。鉴于其可能源自美国的技术，福建晋华带来的额外产能威胁了美国军用系统关键组件美国供应商的长期经济生存能力。将福建晋华列入实体清单将限制其威胁美国军用系统关键组件供应链的能力。

**Questions 57-58 问题57-58**

3.2.3 Export prohibitions, restrictions, and licensing (3.142) 出口禁令、限制和许可（3.142）

The ECRA is now the principal implementing statute for the export controls BIS had administered pursuant to the Executive Order issued under the IEEPA. 目前，《出口管制改革法案》是美国商务部工业安全局根据《国际紧急经济权力法案》下发布的行政命令实施出口管制的主要法规依据。

1. Please introduce the main reforms in the ECRA compared with existing legislation, including the controlled export mode, scope of export items (such as categories in the Commerce Control List and product categories), control requirements, etc. 请介绍ECRA与原有立法相比的主要改革内容。包括管制的出口模式、出口物项（items）的范围（例如商业控制清单上的种类（CCL）、产品类别等）、管制要求等。

**RESPONSE:** The Export Control Reform Act of 2018 (ECRA), Pub. L. No. 115-232, tit. 17, subtitle B, 132 Stat. 2208 (2018) is the principal statute for the Bureau of Industry and Security’s (BIS) administration of controls for dual-use and less sensitive military items. The Export Administration Regulations remain in effect. Among other things, ECRA mandated an interagency process to identify and control emerging and foundational technology, increased civil penalties, enhanced law enforcement authorities, and provided for the confidentiality of export licensing and other information. With respect to emerging and foundational technology, ECRA requires the Departments of Commerce, State, Defense, and Energy, and other agencies as appropriate to lead a regular, ongoing interagency process to identify emerging and foundational technologies not currently subject to multilateral export controls but that may raise national security concerns, and to assess whether more restrictive controls are warranted. The bill also directs BIS to utilize its Emerging Technology Technical Advisory Committee to identify emerging and foundational technologies likely to emerge over the next five to ten years.

**答复**： 《2018年出口管制改革法案》（Pub. L. No. 115-232, tit. 17, subtitle B, 132 Stat. 2208 (2018)）是美国商务部工业安全局对军民两用和较不敏感军用物品实施管制的主要法规依据。另外，《出口管理条例》仍然有效。《出口管制改革法案》批准了一个旨在识别和管制新兴和基础性技术的跨机构程序，提高了民事处罚力度，强化了执法机构并规定了出口许可及其它信息的保密要求。在新兴和基础性技术方面，《出口管制改革法案》要求美国商务部、国务院、国防部和能源部及其它相关部门主导一个定期、持续的跨机构程序，以识别目前不受多边出口管制约束但可能对国家安全造成威胁的那些新兴和基础性技术，并评估是否应实施更加严格的管制。该法案还要求美国商务部工业安全局利用其新兴技术专业咨询委员会识别未来5-10年内可能出现的新兴和基础性技术。

ECRA also provided BIS export enforcement agents enhanced law enforcement authorities, including the authority to conduct undercover and overseas operations and to utilize electronic surveillance. ECRA also addressed additional important issues, including the authority for the Secretary to appoint administrative law judges to hear administrative enforcement cases. 《出口管制改革法案》还赋予了美国商务部工业安全局的出口执法人员以更大的执法权力，包括开展便衣和海外行动的权力和利用电子监视手段的权力。此外，《出口管制改革法案》还涉及其他重要事项，如授予国务卿任命行政法官听取行政执行案件的权力。

1. According to the ECRA of 2018, exports that involve sensitive commodities and technologies need to obtain prior approval from the Department of Commerce. After this act was passed, the BIS of the U.S. Department of Commerce introduced the strictest technological export control plan in history to control the exports of 14 technologies related to national security and cutting-edge science and technology, involving AI, chips, quantum computing, robots, face print and voice print technologies, etc. Does the U.S. intend to continue using this Act to restrict Chinese enterprises investment in the USs sensitive technologies? Will this Act hamper the technological development of the world? 根据《2018年出口管制改革法（ECRA）》，涉及敏感商品和技术的出口需要预先获得商务部的批准，该法通过后，美国商务部工业和安全局（BIS）出台了一份历来最严格的技术出口管制方案，方案拟管制14项涉及国家安全和前沿科技的技术出口，涉及人工智能、芯片、量子计算、机器人、面印和声纹技术等。请问，美国是否将持续运用这一法案来限制中国企业在美国“敏感技术”上的投资？这一法案是否会阻碍世界范围内的技术发展进程？

**RESPONSE:** As noted above, ECRA requires an interagency process to identify emerging and foundational technologies not currently subject to multilateral export controls but that may raise national security concerns, and to assess whether more restrictive controls are warranted. On November 19, 2018, BIS published in the *Federal Register* an Advance Notice of Proposed Rulemaking (ANPRM), seeking public comment on criteria for identifying emerging technologies that are essential to U.S. national security. See 83 Fed. Reg. 58201 (Nov. 19, 2018).

**答复：**如上所述，《出口管制改革法案》要求实施一个定期、持续的跨机构程序，以识别目前不受多边出口管制约束但可能对国家安全造成威胁的那些新兴和基础性技术，并评估是否应实施更加严格的管制。2018年11月19日，美国商务部工业安全局通过联邦公报发布了一份《关于规则制定建议的提前通知》，就对美国国家安全至关重要的新兴技术的识别标准向公众征求意见。详情请参见联邦公报“83 Fed. Reg. 58201”（2018年11月19日）。

The notice included a representative sample of general categories of technology for which Commerce seeks public comment on whether they are emerging technologies that are essential to the national security of the United States. The ANPRM did not impose additional controls on those technologies. Rather, comments on the ANPRM will help inform the interagency process to identify and describe such emerging technologies. Comments are due December 19, 2018. This process will result in the development of proposed rules identifying specific emerging technologies. 在上述通知中，美国商务部提出了一些有代表性的一般技术类型，并就其是否属于对国家安全至关重要的新兴技术向公众征求意见。这份通知并没有对这些技术实施更多管制。但是，关于这份通知的公众意见将有助于为旨在识别和描述新兴技术的跨机构程序提供指导。公众评论期限截止时间为2018年12月19日。这个程序的结果将是就特定新兴技术的识别制定一些建议性质的规则。

**Questions 59-60问题59-60**

3.3.1 Incentives (3.165, 3.166) 激励措施（3.165，3.166）

On 23 May 2018, the CFDA was migrated to the website <https://beta.SAM.gov>, where the search engine is now referred to as "Assistance Listings". According to a database maintained by SelectUSA, some 108 federal programmes and incentives exist specifically to promote small businesses, provide support to existing or prospective exporters, and assist enterprises with regulatory compliance. 2018年5月23日，联邦国内资助目录（CFDA）被迁移到网站<https://beta.SAM.gov>，其搜索引擎现在被称为“资助清单”。根据“选择美国”投资峰会（SelectUSA）维护的数据库，大约有108个联邦项目和激励措施专门用于促进小企业，为现有或潜在的出口商提供支持，并协助企业遵守法规。

A database developed by the Council for Community and Economic Research (C2ER), accessible at: <http://selectusa.stateincentives.org/?referrer=selectusa>, includes information on 1,790 programmes enacted in the 50 states. Such support is provided in the form of tax credits, tax exemptions, grants, loans or loan participation, or other forms of assistance. 由社区和经济研究委员会（C2ER）开发的数据库，其网址为：<http://selectusa.stateincentives.org/?referrer=selectusa>，提供了关于在全国50个州授权实施的1,790个项目的信息。此类支持以税收抵免、税收豁免、补助、贷款或参与贷款或其他资助形式提供。

1. With regard to the subsidy programs in all the subsidy notificaitons that the U.S. has submitted to the WTO, including tax credit programs, are they consistent with those specified on the above two websites, namely <https://beta.SAM.gov> and <http://selectusa.stateincentives.org/?referrer=selectusa>? If there are inconsistencies, whats the reason? 美国历次向世贸组织提交的补贴通报中的补贴项目，包括税收优惠项目是否与上述https://beta.SAM.gov和http://selectusa.stateincentives.org/?referrer=selectusa两个网站中的项目一致？如果不一致，原因是什么？

**RESPONSE:** The two cited websites are intended for a different purpose than U.S. notifications under the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement). The criteria for inclusion on both websites do not take into account the definitional elements of “financial contribution” and “benefit” as set out in Article 1 of the Subsidies Agreement or the concept of “specificity” as defined in Article 2 of the Subsidies Agreement.

**答复：**这两个网站的预期用途与美国根据世贸组织《补贴与反补贴措施协定》（反补贴协定）向世贸组织提交的补贴通报不同。这两个网站的收录标准没有考虑到反补贴协定第1条规定的“财政资助”和“优惠”的定义要素，或反补贴协定第2条所界定的“专项性”概念。

1. Besides the above two websites, are there any other channels for us to learn about U.S. subsidy programs? If yes, please specify them. 除上述两个网站外，是否还有其他的渠道可以了解美国的补贴项目？若有，请具体提供。

**RESPONSE:** In the United States, transparency is central to the proper functioning of the legal system and there is a plethora of sources to learn about incentive programs. For example, all laws and regulations in the United States at the federal and state level of government are published and readily accessible by the public.

**答复：**在美国，透明度对于法律体系的正常运作至关重要，而且可以通过很多渠道来了解激励措施项目。举例来说，美国联邦和州政府的所有法律法规都对外公布，并且公众可以随时无障碍查阅。

**Question 61问题61**

3.3.2 Standards and other technical requirements (3.171) 标准及其它技术要求（3.171）

A private, non-profit organization, the American National Standards Institute (ANSI), coordinates and administers the VCS system. ANSI is the sole U.S. member body to the International Organization for Standardization (ISO) and, through the U.S. National Committee, to the International Electrotechnical Commission (IEC). 美国国家标准学会（ANSI）是一家私营非营利组织，负责协调和管理自愿一致性标准（VCS）体系。美国国家标准学会是国际标准化组织（ISO）的唯一美国成员机构，并且（通过美国国家委员会（U.S. National Committee））也是国际电工委员会（IEC）的唯一美国成员机构。

1. Please introduce the composition of the ANSI, its operation mode, the standard formulation process, and the relationship between the government and the ANSI. Can foreign enterprises participate in the ANSI? What are the qualification requirements? 请介绍ANSI的组成、运作方式和标准制定流程以及政府与ANSI之间的关系？外国企业是否能参与ANSI以及有何资质要求？

**RESPONSE:** Members of ANSI are associated with one of six categories: company, educational, government, individual, international, and organizational, as defined in the ANSI By-Laws. While ANSI membership includes government agencies, the government is merely a participant in the U.S. standards system, it does not control it. Foreign enterprises may participate in ANSI. Applicants for ANSI membership must complete an application and pay dues. An applicant may be admitted to ANSI in a specified category of membership by vote of the Executive Committee of the Board. The Executive Committee may consider a prospective member’s ability to meet member obligations, based on past dealing with such individual or entity.

**答复：**如美国国家标准学会章程中所定义的，美国国家标准学会的会员可以划分为以下六个类别：企业、教育机构、政府机构、个人、国际机构、组织。虽然美国国家标准学会的会员包括政府机构，但政府仅仅是美国标准体系的参与者，但没有控制权。外国企业可以参与美国国家标准学会。美国国家标准学会的会员资格申请人必须填写申请表并缴纳会费。申请人可以通过执行委员会的投票，以特定类别的成员资格获得美国国家标准学会的认可。执行委员会可能会根据以往与此类个人或实体的接触，评估潜在会员履行会员义务的能力。

For clarity, we note that ANSI does not develop standards. For the criteria ANSI utilizes to assess accreditation for an organization, please see the document, "ANSI Essential Requirements: Due process requirements for American National Standards," which is available at: <http://www.ansi.org/essentialrequirements>. 为明确起见，美国国家标准学会本身不制订标准。对于美国国家标准学会用于评估组织认证的标准，请参阅文档《美国国家标准学会基本要求：美国国家标准的正当程序要求》，可在以下网址获取：<http://www.ansi.org/essentialrequirements>。

**Question 62问题62**

3.3.2 Standards and other technical requirements (3.174) 标准及其它技术要求（3.174）

Federal law specifically prohibits any government agency from engaging in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States. Federal agencies are obliged to ensure that imported goods are treated no less favourably than like domestic products in the application of standards-related activities. 联邦法律明确禁止任何政府机构参与任何会对美国的对外贸易造成不必要障碍的与标准相关的活动。在执行与标准相关的活动方面，联邦机构有义务确保进口商品不低于同类国内产品所享受的待遇。

1. The U.S. uses a national security review process towards Chinas high-tech products exported to the U.S., such as mobile phones, telecommunications equipment, and high-speed rail equipment. How these systems are developed and implemented? The basis and standards for review are not transparent. Will the U.S. consider increasing transparency, inviting all parties concerned for the review and providing explaination for the decisions made and implemented, such as banning Huawei mobile phones in the United States. 美国对中国输美高科技产品实施国家安全审查制度，如手机、电信设备、高铁装备等，这些制度如何规定、如何实施，审查的依据和标准不透明，建议增加透明度及各方评议环节，对已实施并作出的决定进行说明，如禁止华为手机在美销售等。

**RESPONSE:** On August 1, 2018, the U.S. Congress passed the National Defense Authorization Act. On August 13, 2018, the President signed this act into law. This act bans U.S. government purchases of telecommunications equipment produced by Huawei Technologies Company and ZTE Corporation and their subsidiaries and affiliates. It also bans U.S. government purchases of video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company and Dahua Technology Company and their subsidiaries and affiliates. Before passing this act, the U.S. Congress published draft bills, held multiple public hearings, publicly considered numerous proposed amendments and participated in many hours of public debate.

**答复：**2018年8月1日，美国国会通过了《国防授权法案》。2018年8月13日，该法案由总统签署成为法律。该法案禁止美国政府采购华为科技公司或中兴通讯公司（或此类实体的任何子公司或附属公司）生产的电信设备。它还禁止美国政府采购海能达通信公司、杭州海康威视数字技术公司或浙江大华技术股份公司生产的影像监控和电信设备。在通过这项法案之前，美国国会公布了法案草案，举行了多次公开听证会，公开审议了多项拟议修正案，并进行了数小时的公开辩论。

**Question 63问题63**

3.3.2 Standards and other technical requirements (3.181) 标准及其它技术要求（3.181）

The United States has concluded mutual recognition agreements (MRAs) with numerous foreign partners. In the area of telecommunications equipment, MRAs have been signed with Australia; Canada; Chinese Taipei; Europe (EU/EFTA); Hong Kong, China; Israel; Japan; Korea, Republic of; Malaysia; Mexico; New Zealand; Singapore; and Viet Nam. 美国与众多外国合作伙伴签订了互认协议（MRA）。在电信设备领域，美国已与澳大利亚、加拿大、中国台北、欧洲（欧盟/欧洲自由贸易联盟）、中国香港、以色列、日本、韩国、马来西亚、墨西哥、新西兰、新加坡、越南签订了互认协议。

1. Please introduce the execution of the MRAs in the area of telecommunication equipment and the main obstacles or problems that exist. 请介绍在电信设备方面执行互认协议的主要情况和存在的主要障碍或问题。

**RESPONSE:** In each of the agreements, which are based on the Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (APEC TEL MARA), participating countries agree to accept the test results and/or product approvals performed by the Conformity Assessment Bodies (CABs) of the other country based on the use of a set of internationally accepted procedures. The scope of the MRA includes equipment subject to telecommunications regulations, including wire and wireless, network terminal attachments, terrestrial, and satellite equipment. For such equipment the APEC TEL MRA, for example, covers electromagnetic compatibility (EMC), radio, and telephone terminal equipment requirements. The MRAs do not attempt to harmonize regulatory standards or technical standards.

**答复：**在每项基于亚太经济合作组织《电信设备合格评定互认安排》（APEC TEL MARA）的协议中，参与国同意接受另一国的合格评定机构（CAB）基于使用一套国际公认程序所执行的测试结果和/或产品认证。互认协议的范围涵盖了受电信法规约束的设备，包括有线和无线、网络终端附件、地面和卫星设备。对于此类设备，《电信设备合格评定互认安排》涵盖了诸如电磁兼容性（EMC）、无线电和电话终端设备等要求。互认协议不会试图协调监管标准或技术标准。

The value is that manufacturers of telecommunications equipment can have their products tested and approved with conformity assessment bodies located in their own country. This will help in the speed and cost of placing new telecom products on the market. Further detail on U.S. implementation can be found here: <http://transition.fcc.gov/oet/ea/mra/implementation.html>. 其价值在于，电信设备制造商可以通过其本国的合格评定机构对其产品进行测试和认证。这将有助于加速将新电信产品投放市场，并节约成本。关于美国执行互认协议的更多细节，请登录：<http://transition.fcc.gov/oet/ea/mra/implementation.html>。

**Question 64问题64**

3.3.4.3 Competition policy – Policy Developments (3.207) 竞争政策 - 政策的发展（3.207）

A new approach has been proposed in relation to standard essential patents, the so-called "New Madison" approach. This approach aims at ensuring that: (i) patent holders have adequate incentives to innovate and create new technologies; and (ii) licensees have the appropriate incentives to implement them. In addition, the Antitrust Division will adopt an evidence-based approach in applying antitrust law equally to both innovators who develop and implementers who use technological standards in innovation industries.一种与标准必要专利相关的新方法已经提出，即所谓的“麦迪孙分析法”。这种方法旨在确保：（i）专利持有人有足够的动机去创新和创造新技术；（ii）被许可人获得适当的激励措施去实施标准。此外，美国司法部反垄断司将采用循证方法，将反垄断法平等地适用于开发技术的创新者，以及在创新领域使用技术标准的实施者。

1. Please elaborate on the analysis framework of the "New Madison" approach. What is the similarity and difference between the analysis approach regarding standard-essential patents previously adopted by the U.S. antitrust enforcement agencies and this approach? 请详细介绍“麦迪孙分析法”的具体分析框架，与之前美国竞争执法机构对标准必要专利的分析方法有何异同？

**RESPONSE:** Assistant Attorney General Makan Delrahim gave a speech detailing the “New Madison” approach to antitrust and intellectual property. The speech is available on the U.S. Department of Justice website, at: <https://www.justice.gov/opa/speech/assistant-attorney-general-makan-delrahim-delivers-keynote-address-university>.

**答复：**助理司法部长马坎•德尔拉希姆（Makan Delrahim）发表过一次演讲，详细介绍了与反垄断和知识产权法有关的“麦迪孙分析法”。该演讲内容可登录美国司法部网站获取：<https://www.justice.gov/opa/speech/assistant-attorney-general-makan-delrahim-delivers-keynote-address-university>。

**Question 65问题65**

3.3.4.4 Competition policy – Legislative and institutional framework developments (3.211) 竞争政策 - 立法和制度框架的发展（3.211）

... ..In October 2016, antitrust guidance for human resource(HR) professionals was issued for the first time. This guidance aims at alerting HR professionals, and others involved in hiring and/or compensation decisions, about potential violations of antitrust law, e.g. in the implementation of "no-poaching" agreements. It also discusses how antitrust laws apply to firms' decisions to share sensitive information, such as compensation information, with competing employers, either directly or through third-party entities. ……2016年10月，首次发布了《人力资源专员反托拉斯指南》。该指南旨在敦促人力资源专员以及其他参与招聘和/或薪酬决策的人士了解可能违反《反托拉斯法》的行为，例如：在签订“互不挖角”（no-poaching）协议方面。该指南还讨论了反托拉斯法如何适用于关于直接或间接通过第三方实体与竞争企业共享敏感信息（如薪酬信息）的公司决策。

1. Please elaborate on the background and reasons for the U.S. to develop and promulgate the antitrust guidance for human resource (HR) professionals. What new requirements on corporate antitrust compliance have been put forward? 请详细介绍美方制定与颁布《人力资源专员反托拉斯指南》的背景和原因，这对企业反垄断合规提出了何种新要求？

**RESPONSE:** Through examples of prior enforcement actions, the U.S. Department of Justice and Federal Trade Commission Antitrust Guidance for Human Resource Professionals was issued to educate human resource and other business professionals about how the antitrust laws apply to hiring and compensation decisions. Further, the Guidance provides notice that the U.S. Department of Justice intends to criminally investigate “naked” no-poaching or wage-fixing agreements that are not reasonably necessary to a separate, legitimate transaction or collaboration between the employers. It is left to the firms to decide how to best comply with the law. More information can be found on the U.S. Department of Justice website. *See:* <https://www.justice.gov/atr/file/903511/download>.

**答复：**基于以往的竞争执法活动案例，发布了美国司法部和联邦贸易委员会《人力资源专员反托拉斯指南》，旨在教育人力资源和其他商业专业人士了解《反托拉斯法》会如何适用于雇佣和赔偿决策。此外，该指南还发布了一项通报，即美国司法部计划针对雇主之间单独合法交易或合作中不合理的赤裸裸的“互不挖角”或工资定价操纵（wage-fixing）协议展开刑事调查。由此企业需要去权衡如何去遵守法律。更多信息载于美国司法部网站，请登录：<https://www.justice.gov/atr/file/903511/download>。

**Question 66问题66**

3.3.4.4 Competition policy – Legislative and institutional framework developments (3.213) 竞争政策 - 立法和制度框架的发展（3.213）

... .... Another significant development during the review period was the 2017 update of the Antitrust Guidelines for the Licensing of Intellectual Property, issued jointly by the Antitrust Division and the FTC. ……审议期内的另一项重大发展是反垄断司和联邦贸易委员会联合发布了新修订的2017年《知识产权授权指南》。

1. Please provide a summary of the newly revised Antitrust Guidelines for the Licensing of Intellectual Property. What are the main changes to the new version compared to the previous one? What is the reason for the change? What new requirements on corporate antitrust compliance have been put forward? 请介绍新修订的《知识产权授权指南》的主要内容。与之前的版本相比，新做出的修改主要包括哪些内容？修改的原因是什么？这对企业反垄断合规提出了何种新要求？

**RESPONSE:** A brief summary and reasons for the updates to the IP Licensing Guidelines can be found in the press release announcing the proposed revisions to the Guidelines. *See:* <https://www.justice.gov/opa/pr/doj-and-ftc-seek-views-proposed-update-antitrust-guidelines-licensing-intellectual-property>.

**答复：**有关新修订的《知识产权授权指南》的简要概述和其修订原因披露在宣布将对该指南进行修订的新闻稿中。请参见：<https://www.justice.gov/opa/pr/doj-and-ftc-seek-views-proposed-update-antitrust-guidelines-licensing-intellectual-property>。

Like the agencies’ prior IP Guidelines, the updated IP Guidelines start from the proposition that the intellectual property laws and the antitrust laws share the common purpose of promoting innovation and enhancing consumer welfare. The purpose of the revisions was to modernize the IP Guidelines to reflect case law, policy, and statutory developments without changing the agencies’ enforcement approach, which is to apply standard, effects-based antitrust analysis to activities involving intellectual property. The updated IP Guidelines also reflect the agencies’ longstanding view that “the antitrust laws generally do not impose liability upon a firm for a unilateral refusal to assist its competitors, in part because doing so may undermine incentives for investment and innovation.” 与上述部门以往发布的知识产权指南一样，最新的知识产权指南基于这样一个主张，即知识产权法和反垄断法具有促进创新和提高消费者福利的共同目的。修订的目的是使知识产权指南现代化，以体现判例法、政策和法律发展，而不变更上述部门的执法方法，即针对涉及知识产权的活动采用标准的效果导向（effects-based）反垄断分析法。新修订的知识产权指南也体现了上述部门长期以来的观点，即“反垄断法一般不会就企业单方拒绝协助其竞争对手而要求企业承担责任，部分原因是这样做可能会削弱对投资和创新的激励。”

The IP Guidelines promote compliance and transparency by helping businesses and the public understand the circumstances under which the agencies may challenge a licensing practice as a violation of the antitrust laws. However, it is left to the firm to decide how to best comply with these laws. More information can be found on the U.S. Department of Justice website, at: <https://www.justice.gov/opa/pr/doj-and-ftc-issue-updated-antitrust-guidelines-licensing-intellectual-property>. 该知识产权指南通过帮助企业和公众了解在哪些情况下上述部门可能会质疑许可活动违反反垄断法来促进合规性和透明度。由此企业需要去权衡如何去遵守这些法律。更多信息可登录美国司法部网站获取：<https://www.justice.gov/opa/pr/doj-and-ftc-issue-updated-antitrust-guidelines-licensing-intellectual-property>。

**Question 67问题67**

3.3.4.4 Competition policy – Legislative and institutional framework developments (3.215) 竞争政策 - 立法和制度框架的发展（3.215）

....... During the review period, the threshold for premerger notification was adjusted. On 26 January 2017 the FTC published a notice to reflect adjustment of the reporting thresholds as required by the amendments to Section 7A of the Clayton Act effected in 2000. The size of transaction threshold was raised from US$78.2 million to US$80.8 million, effective27 February 2017. ……在审议期内，美国联邦贸易委员会修订经营者集中申报标准。2017年1月26日，联邦贸易委员会发布了一份通报，以体现2000年生效的《克莱顿法》第7A节修正所要求的申报标准调整。交易额标准从7,820万美元上调至8,080万美元，自2017年2月27日起生效。

1. Please give the reasons why FTC adjusted the threshold for premerger notification, and provide the details on adjustment and the approach used. 请介绍美国联邦贸易委员会修订经营者集中申报标准的原因、内容和方法。

**RESPONSE:** The Federal Trade Commission is required to revise premerger notification thresholds annually based on the change in gross national product, in accord with the Hart-Scott-Rodino Antitrust Improvements Act. 15 U.S.C. §§ 18A(a)(2) & 19(a)(5).

**答复：**《哈特—斯科特—罗迪诺反托拉斯改进法》（15 U.S.C. §§ 18A(a)(2) & 19(a)(5)）规定，联邦贸易委员会必须根据国民生产总值的变化每年修订经营者集中申报标准。

**Questions 68-69问题68-69**

3.3.7.9 IPR – Enforcement (3.323) 知识产权 - 执法（3.323）

Estimates of the annual cost of IP theft to the economy in counterfeit goods, pirated software, and theft of trade secrets, including cyber-enabled trade secrets, range between US$225 billion and US$600 billion. The estimated cost of trade secret theft alone to U.S. firms is between US$180 billion, or 1% of U.S. GDP, and US$540 billion, 3% of GDP. 假冒商品和盗版软件方面的知识产权盗窃，以及商业秘密（包括基于互联网的商业秘密）盗窃对美国经济造成的损失范围预测在2,250亿美元至6,000亿美元之间。商业秘密盗窃仅对美国企业造成的损失范围预测在1800亿美元（占美国国内生产总值的1%）至5400亿美元（占国内生产总值的3%）之间。

1. Could the U.S. please tell its specific methods for measuring the loss caused by intellectual property theft to the U.S. economy and the loss caused by commercial secret theft to the U.S. economy. 请美方说明知识产权盗窃对美国经济造成的损失范围、商业秘密盗窃对美国经济造成的损失范围的具体测算方法。

**RESPONSE:** Please refer to the report:*The Theft of American Intellectual Property: Reassessments of the Challenge and United States Policy*. 2017, Update to the IP Commission Report, by the Commission on the Theft of American Intellectual Property, found at: <http://ipcommission.org/report/IP_Commission_Report_Update_2017.pdf>.

**答复：**请参见报告：《美国知识产权盗窃问题：重新评估挑战和美国政策》。2017年，美国知识产权盗窃问题委员会关于知识产权委员会报告的最新内容，请访问：<http://ipcommission.org/report/IP_Commission_Report_Update_2017.pdf>。

1. Why is there a gap of hundreds of billions of dollars between the maximum amount and minimum amount estimated? 估算的损失的最大值和最小值之间为什么相差几千亿美元？

**RESPONSE:** Please refer to the report:*The Theft of American Intellectual Property: Reassessments of the Challenge and United States Policy*. 2017, Update to the IP Commission Report, by the Commission on the Theft of American Intellectual Property, found at: <http://ipcommission.org/report/IP_Commission_Report_Update_2017.pdf>.

**答复：**请参见报告：《美国知识产权盗窃问题：重新评估挑战和美国政策》。2017年，美国知识产权盗窃问题委员会关于知识产权委员会报告的最新内容，请访问：<http://ipcommission.org/report/IP_Commission_Report_Update_2017.pdf>。

**Questions 70-73问题70-73**

4.1.2.1 Agriculture – Major support programmes –General legal framework (4.6) 农业 - 主要支持项目 - 一般法律框架（4.6）

Authorization for most programmes under the Agricultural Act of 2014 (PL 113-79), signed into law on 7 February 2014, will expire on 30 September 2018. The 2014 Farm Bill introduced numerous changes in the system of support to agriculture. A system of direct payments to crop producers, in place since 1996, was discontinued. Countercyclical payments on historical base were replaced by the option to enrol in one of two programmes tied to historical base, either a price-based countercyclical income support programme the Price Loss Coverage (PLC) or a revenue-based countercyclical income support programme the Agricultural Risk Coverage (ARC). 2014年2月7日签署生效的2014年《农业法案》（PL 113-79）中大多数项目的授权将于2018年9月30日期满。2014年《农业法案》向农业支持制度引入了多项变化。自1996年以来实行的面向农作物生产者的直接支付制度已经废止。基于历史性基期的反周期补贴被取代，种植者可以在两个与历史性基期挂钩的项目中二选一，一个是基于价格的反周期收入支持项目，即“价格损失保障”（PLC），另一个是基于收入的反周期收入支持项目，即“农业风险保障”（ARC）。

1. The 2014 Farm Bill was supposed to expire on 30 September 2018. When will the new Farm bill be issued? Can the United States elaborate on the new Farm Bill, focusing on changes compared to previous ones, please? 2014年《农业法案》已于2018年9月30日期满，新的法案具体颁布时间是否确定？将有哪些主要内容调整？

**RESPONSE:** Current farm programs are authorized under the 2014 Farm Bill through the 2018 crop year. We remind Members that TPRs are retrospective reviews. We look forward to keeping the Membership informed of any changes that may occur in a future Farm Bill.

**答复：**目前的农业项目依据2014年《农业法案》获得授权，一直持续到2018年作物年度。我们提醒各位成员，贸易政策审议是回顾性审议。我们期待随时向成员通报未来农业法案可能发生的任何变化。

1. Please provide detailed information on PLC and ARC implementation since 2014, including the coverage of each program, how many farmers chose each program, how are the subsidies calculated, and how and when do farmers get the subsidies, and so on. 请提供2014年《农业法案》实施以来，两种补贴项目（PLC和ARC）的覆盖范围，用户情况，及具体发放情况。

**RESPONSE:** TheARC and PLC programs provide payments on historical base acres and yield of covered commodities. Owners of base acres are not required to plant the historical commodity or any commodity to be eligible for payments. Covered commodities include wheat, feed grains (corn, barley, grain sorghum, oats), rice (long-grain, medium and short grain, and termperate japonica), oilseeds (soybeans, peanuts, canola, crambe, flaxseed, mustard, rapeseed, safflower, sesame seed, sunflower), and pulses (large and small chickpeas, dry peas, lentils), and beginning in 2018, seed cotton.

**答复：**“价格损失保障”（ARC）和“农业风险保障”（PLC）项目提供基于涵盖农产品的历史基期耕作面积和产量的补贴。基期耕作面积的所有者不种植历史农产品或任何农产品也可以获得补贴资格。涵盖农产品包括小麦、饲用谷物（玉米、大麦、高粱、燕麦）、大米（长粒、中粒和短粒，以及粳稻）、油籽（大豆、花生、油菜、海甘蓝、亚麻籽、芥菜、油菜籽、红花、芝麻籽、向日葵）和豆类（大小鹰嘴豆、豌豆、小扁豆）以及2018年开始的籽棉。

Program participants made a one-time election to enroll their base acres in ARC or PLC, which has remained in place since the 2014 crop year. In total, 23 percent of base acres were enrolled in PLC and 77 percent in ARC, with peanuts and rice more commonly enrolled in PLC, corn, soybeans, and lentils more commonly enrolled in ARC, and wheat, small grains, and minor oilseeds more evenly divided between PLC and ARC. Detailed ARC and PLC election data are available at: <https://www.fsa.usda.gov/programs-and-services/arcplc_program/index>. 项目参与者作出一次性选择，向自2014年作物年度以来实施的“价格损失保障”项目和“农业风险保障”项目登记他们的基期耕作面积。总体而言，23%的基期耕作面积参加“价格损失保障”项目，77%参加“农业风险保障”项目，花生和大米一般参加“价格损失保障”项目，玉米、大豆和小扁豆一般参加“农业风险保障”项目，小麦、小粒谷物和油籽（除大豆和花生外）一般在两个项目之间平均分配。关于“价格损失保障”和“农业风险保障”项目选择的详细信息，请访问：<https://www.fsa.usda.gov/programs-and-services/arcplc_program/index>。

PLC payments are made when the national average price of a covered commodity falls below the statutory reference price. ARC program participants could choose to participate at either the county (ARC-CO) or individual farm (ARC-IC) level (only about 1 percent of ARC participants elected individual farm coverage). ARC payments are made when the average revenue for a covered commodity falls below a county or individual farm guarantee based on the average of the previous 5 years’ prices and yields. Detailed explanations of the PLC and ARC payment formulas are available at: <https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/FactSheets/2017/arcplc_enrollment_aug2017.pdf.> “价格损失保障”补贴是在某种涵盖农产品的全国平均市场价格低于法定参考价格时启动的。“农业风险保障”项目参与者可以选择“郡农业风险保障”（ARC-CO）或“个人农业风险保障”（ARC-IC）（只有约1%的“农业风险保障”参与者选择“个人农业风险保障”）。“农业风险保障”补贴是在某种涵盖农产品根据过去5年的价格和产量平均值的平均收入低于郡或个别保障收入基准时启动的。有关“价格损失保障”和“农业风险保障”补贴计算的详细说明，请访问：<https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/FactSheets/2017/arcplc_enrollment_aug2017.pdf.>

Payments, if triggered, are made beginning in October in the year following the end of the program year. For example, payments for program year 2017 (2017/18 crops) began in October 2018. 如果启动补贴，则在项目年度结束后下一年的10月份开始支付。例如，2017年项目年度（2017/2018年作物）的付款于2018年10月开始支付。

1. Considering the current agricultural trade, is there going to be any adjustments made to PLC or ARC program in the new Farm Bill? 根据当前国际农业贸易形式，是否会对PLC和ARC两种补贴项目进行调整？

**RESPONSE:** Current farm programs are authorized under the 2014 Farm Bill through the 2018 crop year. We remind Members that TPRs are retrospective reviews. We look forward to keeping the Membership informed of any changes that may occur in a future Farm Bill.

**答复：**目前的农业项目依据2014年《农业法案》获得授权，一直持续到2018年作物年度。我们提醒各位成员，贸易政策审议是回顾性审议。我们期待随时向成员通报未来《农业法案》可能发生的任何变化。

1. Please explain why PLC and ARC made on base period area are notified as non-specific Amber Box. According to relevant studies and DSU267 (Brazil vs. U.S. on highland cotton), base-period area (in CCP) is almost equal to current planted area and the subsidies were provided de facto to current producers. Therefore, it is for the same reason that we believe the base-period area in PLC or ARC has the same effect with the current planted area. Thus, PLC and ARC should be notified as specific Amber Box. 请解释为什么将基于基期面积的PLC和ARC归入非特定，而基期面积通常与当前种植面积基本一致。在巴西-美国高地棉案件中，专家组曾对基于基期面积支付的反周期补贴做过定性，认为此类补贴仍然事实上提供给了当前种植用户。据此，美方应将归入非特定的PLC和ARC归入特定黄箱。

**RESPONSE:** ARC-CO and PLC payments are made on historical base acres with no requirement that the owner of base acres plant the historical commodity upon which payments are based or any other commodity. Therefore, ARC-CO and PLC are not specific to a commodity. ARC-IC payments are also not specific to any one commodity as they are based on the combined revenues for all covered commodities on the farm.

**答复：**“郡农业风险保障”（ARC-CO）和“价格损失保障”（PLC）补贴是根据历史基期耕作面积给付的，并不要求基期耕作面积的所有者种植补贴对应的历史农产品或任何其他农产品。因此，“郡农业风险保障”和“价格损失保障”补贴并非特定于某种农产品。“个人农业风险保障”（ARC-IC）补贴也不是特定于任何一种农产品，因为它们基于农场所有涵盖商品的总收入。

**Question 74问题74**

4.1.2.1 Agriculture – Major support programmes –General legal framework (4.7) 农业 - 主要支持项目 - 一般法律框架（4.7）

Based on expected and actual outlays, the 2014 Farm Bill has been dominated by the Supplemental Nutrition Assistance Program (SNAP), providing food assistance to low-income households. Nearly 80% of the projected expenditure concerned the funding of SNAP. 根据预期和实际支出，为低收入家庭提供粮食援助的补充营养援助计划（SNAP）在2014年《农业法案》下各项目中占主要地位。补充营养援助计划资金占预计支出的80%左右。

1. Please explain in detail the procurement of SNAP and the relevant departments and agencies involved. 请详细解释SNAP的采购方式、相关参与部门和机构。

**RESPONSE:** The U.S. Department of Agriculture Food and Nutrition Service implements the Supplemental Nutrition Assistance Program (SNAP). SNAP does not involve the acquisition of food stocks. SNAP benefits, which are distributed in the form of electronic debit cards, are limited to the purchase of food items for use at home, as well as to seeds and plants to produce foods for use at home. Participants can use SNAP benefits at places such as supermarkets, grocery stores, and farmers markets.

**答复：**美国农业部食品与营养服务局负责实施补充营养援助计划（SNAP）。补充营养援助计划不涉及收购粮食库存。以电子借记卡形式分发的补充营养援助计划福利仅限于购买在家中使用的食品，以及用于生产在家中使用的食品的种子和植物。参与者可以在超市、杂货店和农贸市场等地享受补充营养援助计划福利。

**Question 75问题75**

4.1.2.1 Agriculture – Major support programmes –General legal framework (4.9) 农业 - 主要支持项目 - 一般法律框架（4.9）

In July 2018, the Department of Agriculture announced its intention to provide a short-term aid package designed to assist agricultural producers with market disruptions caused by retaliatory tariffs. 2018年7月，农业部宣布计划提供短期援助计划，帮助农产品生产者应对报复性关税造成的市场混乱问题。

1. Does this subsidy program comply with the WTOs relevant subsidy rules? As the United States is the worlds largest producer of agricultural products, such as soybeans, maize, and beef, what impact will this U.S. subsidy program have on the international market prices of relevant agricultural products? Does it constitute unfair trade practice and a non-market policy? 请问这项补贴措施是否符合WTO相关补贴规则？作为世界最大的大豆、玉米、牛肉等农产品的生产者，美国该项补贴将对相关农产品的国际市场价格构成什么影响？是否属于不公平贸易行为及非市场政策？

**RESPONSE:** These programs are consistent with the United States’ WTO commitments on domestic support. These programs were designed to provide limited, short-term assistance to U.S. producers.

**答复：**这些计划符合美国向世贸组织作出的国内支持承诺。这些计划旨在为美国农产品生产者提供有限的短期援助。

**Question 76问题76**

4.1.1 Agriculture – Main features: Table 4.2 U.S. and world production and trade of selected commoditeds,2010-19农业—主要特征：表4.2 选定商品的美国和全球生产与贸易，2010-2019年

Table 4.2 shows that the U.S. is a major producer of corn, wheat, cotton, soybeans, beef and poultry in the world, and exports of these commodities account for a large share in the global market. According to the 2014 Agricultural Act (Section 4.1.2 Major support programmes), these commodities have been covered by the U.S. domestic agricultural support policies for years. The agricultural subsidies budget during the period of implementation of the Act was as high as $489 billion, and according to the CairnsGroup calculations (JOB/AG/69, Table 7), the U.S. agricultural aid has exceeded $5,000 per annum per person, and in July 2018, the U.S. Department of Agriculture announced an additional $12 billion subsidy (para. 4.9). The effects of these support policies will be expanded to the world market with the export of large quantities of U.S. agricultural commodities, which in turn will have an impact on global markets and prices. 报告表4.2显示美国是全球玉米、小麦、棉花、大豆、牛肉、禽肉的主要生产国，且这些产品出口在世界市场占有很大份额。参照2014年《农业法案》（第4.1.2节Major support programmes），这些产品均长期享受美国国内支持政策的支持和保护，2014年农业法案执行期内农业支持预算总额高达4890亿美元，根据凯恩斯集团（CairnsGroup）的测算（JOB/AG/69，表7）美国人均支持水平已经超过5000美元/年），2018年7月美国农业部又宣布增加120亿美元补贴（第4.9段），这些支持政策的影响将随美国农产品大量出口而传导至世界市场，进而对全球市场与价格造成影响。

During the period of the 2016 WTO trade policy review of the United States, the U.S. explained (answer to Question 124) that: The U.S. has been trying to ensure that its policies have no or only minor trade-distorting effects., but according to Table 4.3, from 2014 to 2017, the average export prices of soybean, wheat, corn, soybean meal, pork and beef from the U.S. continued to drop significantly, with cotton price falling by 12%, soybean and corn prices falling by nearly 20%, and wheat price falling by more than 26%, and these commodities are exported to the international market at a continuously decreasing price. 在2016年WTO美国政策审议时，美方对此（对第124个问题的回答）的解释是“美国努力确保其政策没有或只有微小的贸易扭曲影响”，但根据表4.3测算，实际上从2014到2017年，美国出口的大豆、小麦、玉米、豆粕、猪肉、牛肉平均出口价格均持续明显下降，其中棉花价格下降12%、黄豆和玉米下降近20%、小麦下降超过26%，这些产品是以持续下降的价格进入国际市场。

1. Please explain how the U.S. government has been trying to ensure that its policies have no or only minor trade-distorting effects. 请解释美国政府如何努力确保其政策没有或只有微小的贸易扭曲影响？

**RESPONSE:** To clarify, the $489 billion referred to in the question is the budget for all programs covered by the Farm Bill, including the SNAP program, which accounts for 80 percent of Farm Bill expenditures. Expenditures on U.S. programs covered under the commodity and crop insurance titles of the Farm Bill make up only about 15 percent of Farm Bill expenditures.

**答复：**澄清一下，问题中提到的4,890亿美元是《农业法案》涵盖的所有项目的预算，包括补充营养援助计划（SNAP）计划，该计划占农业法案支出的80%。农业法案中“商品和农作物保险”所涵盖的美国项目的支出仅占农业法案支出的15%左右。

Beginning with the 1996 Farm Bill, U.S. farm policy has moved towards measures that are more decoupled from production and less trade-distorting. Expenditures on “green box” measures, which by definition are non- or minimally-trade distorting, not including domestic food aid (e.g., SNAP) expenditures, have grown from $13.98 million in 1996 to $17.2 million in the most recent U.S. domestic support notification for 2016/17. In addition, it should be noted that falling commodity prices are the result of several complex factors, including increasing global production of major exported commodities. 自1996年《农业法案》开始，美国的农业政策措施已经尽量与生产决策脱钩，减少对市场的扭曲。2016/2017年度美国国内支持最新通报指出，“绿箱”措施（根据定义，不会产生或仅有微小的扭曲影响，不包括国内粮食援助（例如：SNAP）支出）的支出已从1996年的1398万美元增加到1720万美元。此外，应该指出的是，商品价格下跌是多种复杂因素导致的，包括主要出口商品的全球产量增加。

**Question 77问题77**

4.1.1 Agriculture – Main features: Table 4.3 Exports and imports of selected products, 2012-18农业—主要特征：表4.3 选定产品的出口和进口情况，2012-2018年

1. The 2012-2015 export and import data in this table is related to the same period as 2012-2015 in Table 4.3 on Pages 110-111 of the 2016 WTO Trade Policy Review of the U.S. The commodity types are the same, but the statistics have been almost completely adjusted. Please explain the reason, purpose and basis for adjusting the statistics. 该表中2012-2015年出口与进口统计数据与2016年美国审议报告第110-111页表4.3的2012-2015年时间重合，产品种类相同，但统计数据几乎全部做了调整。请说明调整统计数据的原因、目的和依据。

**RESPONSE:** The Secretariat coordinated the compilation of data for the report.

**答复：**世贸组织秘书处协调了该报告的数据汇编。

**Questions 78-79问题78-79**

4.1.2.1 Agriculture – Major support programmes –General legal framework (4.5) 农业—主要支持项目—一般法律框架（4.5）

While some of the programmes have permanent authorization (e.g. crop insurance), others are authorized only for the life of the farm bill, and their authorization will lapse unless they are continued in a subsequent farm bill. 虽然有些项目具有永久授权（例如：农业保险），但其他项目仅在农业法案的有效期内获得授权，并且除非在后续的农业法案中继续获得授权，否则其授权将失效。

1. Please introduce the meaning of permanent authorization. Besides agricultural insurance, are there any other permanently authorized subsidy programs? 请介绍一下永久授权的含义？除农业保险外，是否还存在其他永久授权的补贴项目？

**RESPONSE:** Permanent authorization means that the program does not require renewed authorization in the Farm Bill or other legislation to continue, although it may still require appropriation of funds to operate. In addition to the federal crop insurance program, a number of disaster assistance programs are permanently authorized, including the Noninsured Crop Disaster Assistance Program (NAP), the Livestock Indemnity Program (LIP), the Livestock Forage Disaster Program (LFP), the Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program (ELAP), the Tree Assistance Program (TAP), and the Emergency Disaster Loan Program (EM).

**答复：**永久授权是指特定项目的维持不需要通过《农业法案》或其他立法重新获得授权，尽管它可能仍需要拨款来维持运作。除联邦农作物保险项目外，还有许多灾害援助项目被永久授权，包括：非保险作物灾害救助项目（NAP）、牲畜补偿项目（LIP）、牲畜饲料灾害救济项目（LFP）、牲畜、蜜蜂和饲养鱼的紧急救助项目（ELAP）、果树救助项目（TAP）和紧急灾害贷款项目（EM）。

1. What law grants permanent authorization to agricultural insurance and other permanent authorization programs? 什么法律对农业保险等永久授权项目进行授权？

**RESPONSE:** The Federal Crop Insurance Act of 1980 (7 U.S.C. §1501 et seq.) authorizes the federal crop insurance program. The Noninsured Crop Disaster Assistance Program is authorized by the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333), and the livestock and tree disaster programs are authorized by the 2014 Farm Act. Title III of the Consolidated Farm and Rural Development Act (P.L. 87-128) authorized emergency disaster loans.

**答复：**联邦农作物保险项目依据1980年《联邦农作物保险法》（7 U.S.C. §1501 et seq.）授权。非保险作物灾害救助项目依据1996年《联邦农业改进和改革法》（7 U.S.C. 7333）授权，牲畜和果树灾害项目依据2014年《农业法案》授权。紧急灾害贷款项目依据《综合农场及农村发展法》（P.L.87-128）第三篇授权。

**Question 80问题80**

4.1.2.1 Agriculture – Major support programmes –General legal framework (4.9) 农业—主要支持项目—一般法律框架（4.9）

In July 2018, the Department of Agriculture announced its intention to provide a short-term aid package designed to assist agricultural producers with market disruptions caused by retaliatory tariffs. 2018年7月，农业部宣布计划提供短期援助计划，帮助农产品生产者应对报复性关税造成的市场混乱问题。

1. Is this plan under the Trade Adjustment Assistance (TAA) program? What specific agricultural products are involved? How will this program be implemented? Does it allegedly violate the Agreement on Subsidies and Countervailing Measures? 请问这一计划是置于贸易调整援助计划（TAA）项下吗？具体涉及的农产品包括哪些？援助计划将如何实施？是否涉嫌违反《补贴与反补贴措施协定》？

**RESPONSE:** Payments under the Market Facilitation Program (MFP) will assist producers with costs associated with retaliatory tariffs, consistent with WTO obligations. MFP payments will be made on 2018 production of nine affected commodities—soybeans, sorghum, wheat, corn, cotton, hogs, milk, sweet cherries, and almonds. Trade Adjustment Assistance is a separate program.

**答复：**市场促进计划（MFP）下的补助将帮助农产品生产者承担与报复性关税相关的费用，这符合世贸组织义务。市场促进计划的补助将涵盖2018年九种受影响的商品——大豆、高粱、小麦、玉米、棉花、猪肉、牛奶、甜樱桃和杏仁。贸易调整援助计划是一项单独的计划。

Further details can be found on USDA’s website at: <https://www.usda.gov/media/press-releases/2018/09/04/usda-launches-trade-mitigation-programs>. 更多详情可登录美国农业部网站获取：<https://www.usda.gov/media/press-releases/2018/09/04/usda-launches-trade-mitigation-programs>。

**Questions 81-82问题81-82**

4.1.2.5 Crop Insurance (4.20) 农业保险（4.20）

At present, the insurance products on offer include revenue or yield-based plans as well as whole-farm policies. Some 130 crops are covered, including specialty crops (fruit, vegetables, nursery crops, and tree nuts), although four major crops maize, soybeans, wheat, and cotton dominate in terms of area enrolled (75%) and claims paid (80%).目前提供的农业保险产品类型包括基于收入或收益的保障计划以及农场整体收入保障计划。大约覆盖130种农作物，包括特种作物（水果、蔬菜、苗圃作物和坚果），尽管玉米、大豆、小麦和棉花四种主要农作物占承保面积（75%）和支付理赔（80%）的主要部分。

1. Which specific government agency is responsible for supervising agricultural insurance? 农业保险项目具体由哪个政府部门进行监管。

**RESPONSE:** TheU.S. Department of Agriculture’s Risk Management Agency is responsible for implementing the United States’ crop insurance programs.

**答复：**美国农业部风险管理局负责实施美国农作物保险项目。

1. During the review period, what are the specific amounts of agricultural insurance support funds for the four major crops, maize, soybeans, wheat, and cotton, respectively? 在审议期内，4种主要农作物玉米、大豆、小麦、棉花每年分别获得农业保险支持资金是多少美元。

**RESPONSE:** Relevant data on agricultural insurance support can be found in the United States’ domestic support notifications to the WTO.

**答复：**有关农业保险支持的相关数据可以在美国向世贸组织提交的国内支持通报中找到。

**Questions 83-89问题83-89**

4.1.3.2 Agriculture – Exports (4.45) 农业—出口（4.45）

The Foreign Agricultural Service (FAS) of the USDA administers the Export Credit Guarantee Program (GSM-102) on behalf of the CCC. 美国农业部对外农业服务局（FAS）代表商品信贷公司（CCC）管理出口信贷担保计划（GSM-102）。

1. What laws and regulations have made provisions on export credit guarantee for agricultural products? Please explain the provisions. 什么法律、法规对农产品出口信贷担保作出了相关规定。请提供规定内容。

**RESPONSE:** The Agricultural Trade Act of 1978, as amended (7 U.S.C. 5622 and 7 U.S.C. 5641) authorizes the program.

**答复：**该计划依据经修正的1978年《农业贸易法》（7 U.S.C. 5622和7 U.S.C. 5641）授权。

The regulations pertaining to the program can be found at: [https://www.ecfr.gov/cgibin/retrieveECFR?gp=1&SID=dfddef3cdf31d00dd883a830bf708c38&ty=HTML&h=L&n=7y10.1.2.3.41&r=PART#7:10.1.2.3.41.1](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=dfddef3cdf31d00dd883a830bf708c38&ty=HTML&h=L&n=7y10.1.2.3.41&r=PART#7:10.1.2.3.41.1). 有关该计划的规定可以访问以下网站：[https://www.ecfr.gov/cgibin/retrieveECFR?gp=1&SID=dfddef3cdf31d00dd883a830bf708c38&ty=HTML&h=L&n=7y10.1.2.3.41&r=PART#7:10.1.2.3.41.1](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=dfddef3cdf31d00dd883a830bf708c38&ty=HTML&h=L&n=7y10.1.2.3.41&r=PART#7:10.1.2.3.41.1)。

1. Which department is responsible for carrying out GSM-102? Which banks or financial institutions are involved in it? What are the specific roles of government sectors in this program? GSM-102计划具体由哪个部门执行，涉及哪些银行或金融机构，政府部门在计划中的具体职能是哪些。

**RESPONSE:** The Foreign Agricultural Service (FAS) of the U.S. Department of Agriculture (USDA) administers the GSM-102 program. For more information about the program visit the website at: <https://www.fas.usda.gov/programs/export-credit-guarantee-program-gsm-102>.

**答复：**美国农业部对外农业服务局（FAS）负责管理出口信贷担保计划（GSM-102）。有关该计划的更多信息，可访问以下网址：<https://www.fas.usda.gov/programs/export-credit-guarantee-program-gsm-102>。

A summary of the program, which includes an explanation of the role of government, is available at: <https://www.fas.usda.gov/programs/export-credit-gurantee-program-gsm-102/about-export-credit-guarantee-program-gsm-102>. 对该计划的介绍，包括对政府职能的说明，可访问以下网址：<https://www.fas.usda.gov/programs/export-credit-gurantee-program-gsm-102/about-export-credit-guarantee-program-gsm-102>。

Financial institutions approved for participation in the program can be found on the FAS website at: <https://www.fas.usda.gov/programs/resources/gsm-102-and-facility-guarantee-program-participating-us-financial-institutions> and <https://www.fas.usda.gov/programs/resources/gsm-102-approved-foreign-financial-institutions>**.** 获准参与该计划的金融机构的信息可访问对外农业服务局网站：<https://www.fas.usda.gov/programs/resources/gsm-102-and-facility-guarantee-program-participating-us-financial-institutions> and <https://www.fas.usda.gov/programs/resources/gsm-102-approved-foreign-financial-institutions>。

1. How does the U.S. determine the premium rate of GSM-102? What factors do you consider and which formulas have you adopted? GSM-102计划的保险费率如何确定的，考虑哪些因素，采取哪些公式。

**RESPONSE:** Guarantee fee rates are issued in accordance with 7 C.F.R. Section 1493.110(a). Fee rates are based on the country risk that Commodity Credit Corporation (CCC) is undertaking, including country-specific macroeconomic variables; risk of the foreign obligor (bank); the repayment term (tenor); and repayment frequency under the guarantee.

**答复：**保险费率根据《联邦法规汇编》第7篇第1493.110(a)节确定。保险费率取决于商品信贷公司（CCC）当前担保的国家风险，包括特定国家的宏观经济变量；外国债务人（银行）的风险；还款到期日（期限）；以及担保下的还款频率。

1. What is the government budget for GSM-102 each year during the review period? 在审议期内，每年GSM-102计划的政府预算是多少。

**RESPONSE:** The GSM-102 program is self-financing.

**答复：**出口信贷担保计划（GSM-102）是自筹资金。

1. Are the premium rates for each country and product variety able to cover operating costs of the issuers? Where will relevant information or data be disclosed? 针对每个国家和每个产品品种的保险费率是否能够弥补发放机构的营业成本，在哪里披露相关信息或数据。

**RESPONSE:** Fees are published at: <https://apps.fas.usda.gov/gsm_web_fee_calc/calc.html>.

**答复：**费率信息在以下网站公布：<https://apps.fas.usda.gov/gsm_web_fee_calc/calc.html>。

1. The US Export Credit Guarantee Program for Agricultural Products consists of four sub-programs, namely, GSM-102, GSM-103, SCGP and FGP. US has dismantled GSM-103 and SCGP due to the United States---Subsidies on Upland Cotton (Brought by Brazil) while FGP is seldom applied in practice. Is this understanding correct? 美国农产品出口信贷担保项目包含短期出口信贷担保项目（GSM-102）、中期出口信贷担保项目（GSM-103）、供应商信贷担保项目（SCGP）以及设备融资担保项目（FGP）四个子项目，受“巴西诉美国陆地棉补贴案”影响，美国已撤销GSM-103和SCGP项目，而FGP项目在实践中较少使用。以上理解是否正确？

**RESPONSE:** Only the GSM-102 and FGP Programs are currently operational.

**答复：**目前只有短期出口信贷担保项目（GSM-102）和设备融资担保项目（FGP）正在运作中。

1. GSM-102 will be maintained until 2018 under the Agricultural Act of 2014 and has become the most important support measure for agricultural product export in the United States.According to the United States---Subsidies on Upland Cotton (Brought by Brazil), GSM-102 has been identified as an export subsidy by both the panel and the Appellate Body. Please explain the compliance of this program with WTO rules. Will US retain the program after 2018? 根据《2014年农业法》，GSM-102仍得以保留至2018年，成为美国最为重要的农产品出口支持措施。根据“巴西陆地棉案”，GSM-102被专家组及上诉机构均认定为构成出口补贴，请美国就该补贴项目在WTO项下合规性做出解释说明。2018年后美国是否还继续保留该补贴项目？

**RESPONSE:** The United States administers GSM-102 program consistent with its WTO obligations and the Ministerial Decision of 19 December 2015 on Export Competition. GSM-102 was permanently authorized by the Agricultural Trade Act of 1978 and is not dependent on reauthorization.

**答复：**美国根据其世贸组织义务和关于出口竞争的2015年12月19日部长决议来管理短期出口信贷担保项目（GSM-102）。GSM-102项目依据1978年《农业贸易法》永久授权，无需获得重新授权。

**Questions 90-92问题90-92**

4.1.3.2 Agriculture – Exports (4.46) 农业–出口（4.46）

Four export promotion programmes, among which the Market Access Program (MAP) is the most important, were reauthorized in the 2014 Farm Bill. MAP provides co-funding for the overseas marketing and promotional activities of agricultural trade associations, cooperatives, state regional trade groups, and small businesses. Participants must put up a minimum of 10% of the funding for generic marketing and promotion, while 50/50 cost-sharing is required for the promotion of branded products. Applicants for export promotion and market development funding managed by the FAS access the programmes through a single portal - the Unified Export Strategy (UES). 四种出口促进计划依据2014年《农业法案》重新授权，其中最重要的是市场开发计划（MAP）。市场开发计划为农业贸易协会、合作社、国家区域贸易团体和小企业的海外营销和推广活动提供共同资助。当计划资金用于一般营销和推广时，参与者必须至少分摊10%的资金，而品牌产品的推广则需要50/50的费用分摊。申请人申请获得由对外农业服务局（FAS）管理的出口促进和市场开发资助，需要通过单一门户网站——“联合出口战略”（UES）申请参与各项计划。

1. Please introduce the details of the four export promotion programmes involved in para 4.46. Whats the government budget for each programme each year during the review period? 请介绍此处提及的4种出口促进项目的具体内容？在审议期内，每年各个项目的政府预算是多少。

**RESPONSE:** The Market Access Program (MAP) is funded by the Commodity Credit Corporation (CCC) to aid in the development, expansion, and maintenance of foreign markets for U.S. agricultural commodities and products. The MAP is authorized by Section 203 of the Agricultural Trade Act of 1978 and is administered by USDA’s Foreign Agricultural Service. The MAP forms a partnership between non–profit U.S. agricultural trade associations, non–profit U.S. agricultural cooperatives, non–profit state–regional trade groups, small U.S. businesses, and CCC to share the costs of overseas marketing and promotional activities for U.S. agricultural products. Examples of typical activities supported through the MAP include: trade shows, market research, consumer promotions, technical assistance, trade servicing, and seminars to educate overseas customers. The 2014 Farm Bill set an annual level of MAP funding at $200 million.

**答复：**市场开发计划（MAP）由商品信贷公司（CCC）资助，以帮助开发、扩大和保持美国农作物和产品的国外市场。该计划依据1978年《农业贸易法》第203节授权，由美国农业部对外农业服务局（FAS）负责管理。该计划构成了非营利性美国农业贸易协会、非营利性美国农业合作社、非营利性国家-地区贸易团体、美国小型企业之间的合作伙伴关系，且商品信贷公司分担美国农产品海外营销和推广活动的成本。通过该计划获得支持的典型活动包括：贸易展览、市场研究、消费者推广、技术援助、贸易服务以及教育海外客户的研讨会。2014年《农业法案》规定，市场开发计划的年度预算为2亿美元。

The Foreign Market Development Cooperator Program (FMD) is funded by the CCC to create, expand, and maintain long–term export markets for U.S. agricultural products. First established under the authority of Public Law 480, the FMD was re–authorized by Title VII of the Agricultural Trade Act of 1978 and is administered by USDA’s Foreign Agricultural Service. The program fosters a cost–sharing trade promotion partnership between USDA and U.S. agricultural producers and processors, who are represented by non–profit commodity or trade associations called Cooperators. Through this partnership, USDA and the Cooperators pool their technical and financial resources to conduct overseas market development. The 2014 Farm Bill set an annual level of FMD funding at $34.5 million. 海外市场开发合作计划（FMD）由商品信贷公司（CCC）资助，旨在开发、扩大和保持美国农产品的长期出口市场。该计划最初是依据第480号公法获得授权，后来依据1978年《农业贸易法》第七章重新授权，由美国农业部对外农业服务局负责管理。该计划构建了美国农业部与美国农业生产商和加工商之间的成本分摊贸易促进伙伴关系，这些生产商和加工商由非营利性商品或贸易协会（称之为“合作社”）代表。通过这种伙伴关系，美国农业部和合作社汇集了他们的技术和财政资源，来开展海外市场开发。2014年《农业法案》规定，海外市场开发合作计划的年度预算为3450万美元。

The Emerging Markets Program (EMP) provides funding for technical assistance activities intended to develop, maintain, or expand markets for U.S. agricultural exports in emerging market countries. The program underwrites assessments of the food and rural business system needs of emerging markets and funds projects recommended by those assessments. The EMP is authorized by the Food, Agriculture, Conservation, and Trade Act of 1990, as amended. The 2014 Farm Bill set an annual level of EMP funding at $10 million. 新兴市场计划（EMP）为技术援助活动提供资金，旨在开发、保持或扩大美国农产品在新兴市场国家的出口市场。该计划对新兴市场的粮食和农村商业系统需求进行评估，并且为这些评估推荐的项目提供资助。该计划依据经修订的1990年《食品、农业、环境保护和交易法》授权。2014年《农业法案》规定，新兴市场计划的年度预算为1000万美元。

The Technical Assistance for Specialty Crops (TASC) program assists U.S. organizations by providing funding for projects that address sanitary, phytosanitary, or technical

barriers that prohibit or threaten the export of U.S. specialty crops. The TASC program is authorized by the Food, Conservation, and Energy Act of 2008, as amended. The 2014 Farm Bill set an annual level of TASC funding at $9 million. 特种作物技术援助（TASC）计划通过技术支持，帮助农业出口商组织应对出口贸易中阻止或威胁美国特殊农作物出口的卫生、动植物检验检疫和有关技术贸易壁垒。该计划依据经修订的2008年《食品、自然保护和能源法案》》授权。2014年《农业法案》规定，特种作物技术援助计划的年度预算为900万美元。

1. Please explain the Unified Export Strategy (UES) mentioned in para 4.46. 请对此处提及的“联合出口战略”（UES）进行解释。

**RESPONSE:** The Unified Export Strategy (UES) system is the centralized portal that interested applicants use to apply for and manage their participation in the FAS market development programs. The UES allows applicants to apply to the FAS market development programs. By applying through the UES, applicants provide a marketing plan that outlines proposed foreign market development activities and make requests under each of the FAS market development programs.

**答复：**“联合出口战略”（UES）系统是感兴趣的申请人用于申请和管理他们参与美国农业部对外农业服务局市场开发计划的集中门户。申请人通过“联合出口战略”系统申请参与对外农业服务局市场开发计划。通过“联合出口战略”系统申请后，申请人提供营销计划，概述拟议的国外市场开发活动，并根据每项对外农业服务局市场开发计划提出要求。

1. Please provide the parts concerning the above-mentioned programmes in the 2014 Farm Bill. What factors does the US consider in the approval for each programme? Is each programme related to the export performance? Or is the export performance a major consideration factor in approving the applications? 请提供2014年农业法案中关于该内容的部分。每个方案的批准考虑哪些因素，各项目是否与出口实际相关，或者出口实绩是否是批准申请的重要考虑因素。

**RESPONSE:** The application review criteria are detailed in each program’s Notice of Funding Availability and program regulations. Please see 7 CFR 1489 at: <https://www.federalregister.gov/documents/2018/08/30/2018-18870/agricultural-trade-promotion-program>.

**答复：**申请审核标准详见每项计划的资助可用性通报和计划规定。请参见《联邦法规汇编》第7篇第1489节（7 CFR 1489）：<https://www.federalregister.gov/documents/2018/08/30/2018-18870/agricultural-trade-promotion-program>。

**Questions 93-94问题93-94**

4.1.4 Agriculture – Levels of support (4.53) 农业 - 支持水平（4.53）

As for Amber Box support, the United States notified product and non-product specific support totalling US$13.6 billion (including de minimis subsidies) for the marketing year 2014 and US$17.2 billion for 2015. Excluding de minimis support, the current total AMS reported was US$3.8 billion in both 2014 and 2015. 至于Amber Box support，美国通报的产品和非产品特定支持金额（包括微量支持）总计为2014年销售年度136亿美元，2015年销售年度172亿美元。剔除微量支持后，当前的2014年和2015年Amber Box support总额均为38亿美元。

1. Amber Box supportPlease introduce the specific subsidy programs involved in Amber Box support. 请介绍此处的Amber Box support具体包括哪些补贴项目。

**RESPONSE:** Information on these measures can be found in the United States’ domestic support notifications. Moreover, the United States has provided additional information for these measures in response to inquiries at the Committee on Agriculture. **答复：**有关这些措施的信息可以在美国的国内支持通报中找到。此外，美国根据世贸组织农业委员会的调查请求提供了有关这些措施的补充资料。

1. Take 2015 as an example, please explain, in Chart 2 Amber Box support of Page 60 of the Secretariat Report, how you determine the amount of subsidies for specific agricultural products such as corn, soybeans, sugar, cotton and dairy products, etc. 请以2015年为例，解释秘书处报告第60页的Chart 2 Amber Box support中如何确定对具体农产品的补贴金额，如玉米、大豆、糖、棉花和奶制品等。

**RESPONSE:** The U.S. domestic support notifications provide information and calculation details for support provided to these commodities.

**答复：**美国国内支持通报中提供了关于向这些商品提供支持的信息和计算细节。

**Questions 95-96问题95-96**

4.2.1 Energy – General (4.57) 能源业 - 概述（4.57）

The Federal Government receives royalties, rents, and other income from the sales of federal leases of oil, natural gas and coal. 美国联邦政府从石油、天然气和煤炭的联邦租赁销售中获得许可费、租金和其他收入。

1. Please introduce the ownership of the oil, natural gas and coal owned by the US government. 请介绍美国政府拥有的石油、天然气和煤炭的所有权情况。

**RESPONSE:** The Federal government’s Department of the Interior manages the oil, natural gas, and coal in the onshore Federal subsurface mineral estate, and in offshore submerged lands, as defined under the Outer Continental Shelf Lands Act (OCSLA). Further information can be found at:

<https://www.blm.gov/programs/energy-and-minerals>

<https://www.boem.gov/Federal-Offshore-Lands/>

**答复：**根据《外大陆架土地法》（OCSLA）的规定，美国联邦政府内政部负责管理联邦陆地地下矿藏和大陆架海面下沉陆地中的石油、天然气和煤炭。更多信息请登录：

<https://www.blm.gov/programs/energy-and-minerals>

<https://www.boem.gov/Federal-Offshore-Lands/>

1. Are there any specific regulations in relevant laws of the United States for the above-mentioned ownership? 美国相关法律是否存在具体规定。

**RESPONSE:** Yes, management and leasing of these resources is pursuant to regulations issued under relevant legislation, such as the Mineral Lands Leasing Act, 30 U.S.C. 181 et seq., and the OCSLA, 43 U.S.C. 1331 et seq. Further information can be found via the web links mentioned in the response to question 95.

**答复：**是的，这些资源的管理和租赁依据相关立法下颁布的法规，例如，《矿产土地租赁法》（30 U.S.C. 181 et seq.）和《外大陆架土地法》（43 U.S.C. 1331 et seq）。更多信息可以通过问题95答复中提供的网址获取。

**Questions 97-98问题97-98**

4.2.2 Energy – Crude Oil (4.60) 能源业 - 原油（4.60）

About one fifth of the world's refining capacity is located in the United States. The many modern and sophisticated facilities produce a full range of refined output, including high value light products, and the United States is currently the world's second largest exporter of petroleum products. 世界上约五分之一的炼油能力来自美国，美国许多现代化的先进设施能够生产一系列炼制品，包括高价值的轻质石油产品，而且美国目前是世界第二大石油产品出口国。

1. Please explain US policies on oil import and export, including current policies and changes in historical policies. 请说明美国的石油进出口政策，包括当前的政策以及历史政策的演变。

**RESPONSE:** There are no current restrictions on the import or export of crude oil and petroleum products. However, any item subject to the Export Administration Regulations (EAR) cannot be exported to an embargoed destination (Cuba, North Korea, Iran, Syria, Sudan, and Crimea) without a license. Additionally, imports from countries subject to economic sanctions may be restricted, depending on the nature of the sanctions. The Department of the Treasury’s Office of Foreign Assets Control administers U.S. economic sanctions (in cooperation with other agencies), and products that may be covered are specific to the country and type of sanction involved. Specific information can be found at: <https://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>.

**答复：**目前对原油和石油产品的进口或出口没有限制。但是，任何受《出口管理条例》（EAR）限制的产品，未经许可，不得出口到禁运目的地（古巴、朝鲜、伊朗、叙利亚、苏丹和克里米亚）。此外，来自受经济制裁的国家/地区的产品进口，根据制裁性质，可能会受到限制。美国财政部海外资产控制办公室负责（与其他机构合作）管理美国的经济制裁，并且可能涉及的产品取决于所涉国家和制裁类型。具体信息可在以下网址找到：<https://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>。

The U.S. Department of Commerce Bureau of Industry and Security (BIS) published a final rule (<https://www.federalregister.gov/documents/2016/05/12/2016-11047/removal-of-short-supply-license-requirements-on-exports-of-crude-oil>) to amend the EAR to remove the short supply license requirements that, prior to the entry into force of the ‘‘Consolidated Appropriations Act, 2016’’, on December 18, 2015, applied to exports of crude oil from the United States. Specifically, the final rule removed the Commerce Control List (CCL) entry and the corresponding short supply provisions in the EAR that required a license from BIS to export crude oil from the United States. The changes made by this rule are intended to bring the provisions of the EAR into full compliance with the act, which mandates that, apart from certain exemptions specified therein, ‘‘no official of the Federal Government shall impose or enforce any restriction on the export of crude oil.’’ 美国商务部工业安全局（BIS）公布一项最终规则（<https://www.federalregister.gov/documents/2016/05/12/2016-11047/removal-of-short-supply-license-requirements-on-exports-of-crude-oil>），删除《出口管理条例》中（在《2016年度综合拨款法案》于2015年12月18日生效之前）适用于美国原油出口的短缺供应许可证要求。具体而言，最终规则删除了《商品管制清单》（CCL）条目以及《出口管理条例》中相应的短缺供应条款，这些条款要求从美国出口原油必须获得工业安全局的许可证。该规则所做的修改旨在使《出口管理条例》的条款完全符合该法案，该法案规定，除了其中规定的若干豁免外，“联邦政府官员不得对原油出口施加或强制执行任何限制。”

This rule also amended certain other EAR provisions to reflect the removal of these short supply license requirements. Crude oil exports are treated similarly to exports of petroleum products listed in Supplement No. 1 to part 754 that have not been produced or derived from the Naval Petroleum Reserves (NPR) or become available for export as a result of an exchange of any NPR produced or derived commodities (such petroleum products are not controlled under ECCN 1C980, 1C982, 1C983, or 1C984 on the CCL, but are designated as EAR99 items, instead). This rule went into effect on May 12, 2016. 该规则还修订了《出口管理条例》中的其他具体条款，以体现这些短缺供应许可证要求的删除。原油出口的处理方式类似于《出口管理条例》第754部分补编第1号中所列的石油产品的出口，这些产品不是通过海军石油储备（NPR）生产或衍生，或者不是由于交换任何通过海军石油储备生产或衍生的产品而可供出口（此类石油产品不属于《商品管制清单》中的编码ECCN 1C980、1C982、1C983或1C984项目，而是指定为EAR99项目）。该规则于2016年5月12日生效。

As an EAR99 item, crude oil remains subject to the EAR, as described in § 734.3(a) of the EAR, and BIS authorization continues to be required for exports of crude oil to embargoed or sanctioned countries or persons, and to persons subject to a denial of export privileges, as described in parts 744, 746, and 764 of the EAR. The continuance of these EAR controls is consistent with the exemptions stated in Division O, Title 1, Section 101, subsections (c) and (d) of Public Law 114–113. 作为EAR99项目，原油仍然受《出口管理条例》的约束，如《出口管理条例》第734.3(a)节所述，并且将原油出口到禁运或受制裁国家/地区或个人以及受出口特权拒绝令限制的人士仍然需要工业安全局的授权，如《出口管理条例》第744、746、764部分所述。这些《出口管理条例》管制措施的持续生效与第114-113号公法O部分第1篇第101节第(c)和(d)小节中规定的豁免要求一致。

1. Please elaborate the details of authorization to the Department of Energy (DoE) on oil import and export. What are the standards for DoE to decide whether or not to issue an import or export license? Does the US government issue licenses in strict accordance with these standards in practice? Is there any discretion? 请说明进出口石油需要向能源部授权的详细情况，美国能源部决定是否颁发进口或者出口许可证的标准是什么？美国政府在实践中是否严格按照这些标准颁发许可证，是否有自由裁量权？

**RESPONSE:** The Department of Energy does not issue authorizations for the export of crude oil. As an EAR99 item, crude oil remains subject to the EAR, as described in § 734.3(a) of the EAR, and exports of crude oil continue to require authorization from BIS to embargoed or sanctioned countries or persons and to persons subject to a denial of export privileges, as described in parts 744, 746, and 764 of the EAR. The continuance of these EAR controls is consistent with the exemptions stated in Division O, Title 1, Section 101, subsections (c) and (d) of Public Law 114–113.

**答复：**美国能源部不提供原油出口授权。作为EAR99项目，原油仍然受《出口管理条例》的约束，如《出口管理条例》第734.3(a)节所述，并且将原油出口到禁运或受制裁国家/地区或个人以及受出口特权拒绝令限制的人士仍然需要工业安全局的授权，如《出口管理条例》第744、746、764部分所述。这些《出口管理条例》管制措施的持续生效与第114-113号公法O部分第1章第101节第(c)和(d)小节中规定的豁免要求一致。

BIS implements U.S. Government sanctions against specific countries pursuant to the EAR, either unilaterally or to implement United Nations Security Council Resolutions. The license requirements, license exceptions, and licensing policy vary depending upon the particular sanctioned destination. Exporters and reexporters should be aware that other U.S. Government agencies administer regulations that could also impact their export or reexport transactions. For example, the Department of the Treasury’s Office of Foreign Assets Control (OFAC) (<https://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>) also implements country specific sanctions. Exporters and reexporters are responsible for complying with all applicable regulatory requirements. 美国商务部工业安全局根据《出口管理条例》实施美国政府对特定国家/地区的制裁，无论是单方面还是通过执行联合国安理会决议。许可证要求、许可证例外和许可证策略的具体实施情况取决于特定的受制裁目的地。出口商和再出口商应当了解其他美国政府部门管理的法规也可能影响其出口或再出口交易。例如，美国财政部海外资产控制办公室（OFAC）（<https://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>）也实施针对具体国家/地区的制裁。出口商和再出口商有责任遵守所有适用的监管要求。

**Questions 99-100问题99-100**

4.2.3 Energy – Natural Gas (4.62) 能源业 - 天然气（4.62）

The United States is the world's largest consumer and producer of natural gas. Technological breakthroughs in the exploitation of shale gas, which made it a relatively inexpensive energy resource, sparked a 500% increase in shale gas production between 2007 and 2013, and it currently represents about 67% of the domestic gas supply. Weaker prices have slowed the growth in the production of natural gas, including shale gas. About three quarters of the currently produced shale gas is extracted from four plays (Marcellus, Barnett, Fayetteville, and Haynesville). The electric power industry has been a major driver of domestic demand for natural gas, as it has been retiring coal-fired generation capacity. 美国是世界上最大的天然气消费国和生产国。页岩气技术革新使其成为相对廉价的能源，使得2007-2013年期间页岩气产量增加了500%，目前占美国国内天然气供应量的67%左右。天然气价格疲软态势压制了包括页岩气在内的天然气产量的增长。目前生产的页岩气中约有四分之三来自四个页岩气区（Marcellus、Barnett、Fayetteville、Haynesville）。电力行业一直是国内天然气需求的主要推动力，因为该行业已经关闭了燃煤发电产能。

1. Please explain US governments investments in shale gas technology innovation, including but not limited to R & D and the assistance provided to enterprises. 请说明，在页岩气技术革新方面，美国政府有哪些投入，包括但不限于研发及给与企业的如何帮助。

**RESPONSE:** The U.S. government’s oil and natural gas R&D is led by the Department of Energy (DOE), and focuses on early-stage research for increasing ultimate recovery of our abundant natural resources, including unconventional oil and gas. Starting in the late 1980s, DOE research, in partnership with the private sector, developed advanced multi-stage hydraulic fracturing and extended horizontal lateral drilling technologies. Those two technologies, when applied in a successive manner in a single well, made possible the shale revolution.

**答复：**美国政府的石油和天然气研发活动由美国能源部（DOE）主导，且侧重于早期研究，以期促进丰富的自然资源（包括非常规石油和天然气）的最终恢复。从20世纪80年代末开始，能源部与私营部门合作研发了先进的多级水力压裂技术和水平侧向延伸钻探技术。这两种技术在单井中接替应用，使页岩革命成为可能。

Current unconventional oil and gas research focuses on understanding the fundamental subsurface science of individual basins plus developing technology that can be applied across many basins and regions. Major program activities include field laboratories, research on the fundamentals of shale, and high performance computing, machine learning, and big data. This research is conducted in partnership with the private sector and at many of the 17 national laboratories, including the National Energy Technology Laboratory, and through Funded Opportunity Announcements (FOAs) in partnership with industry and academia. Information about DOE oil and gas research can be found at: [www.energy.gov/fe/science-innovation/oil-gas-research](http://www.energy.gov/fe/science-innovation/oil-gas-research). 目前非常规石油和天然气研究的重点是了解个别盆地的基本的地下地质状况以及可应用于许多盆地和区域的开发技术。主要项目活动包括实地实验室、页岩基础研究、高性能计算、机器学习和大数据。这项研究与私营部门以及包括国家能源技术实验室在内的17个国家实验室中的多个实验室合作进行，并通过与工业界和学术界合作的资助机会公告（FOA）推进落实。有关能源部石油和天然气研究的信息，请访问：[www.energy.gov/fe/science-innovation/oil-gas-research](http://www.energy.gov/fe/science-innovation/oil-gas-research)。

1. Please explain the amount of shale gas in US electricity consumption and its proportion to the electricity cost. Has the low cost of shale gas caused any distortion in electricity cost? 请说明，美国电力消费的页岩气数量，占所有电力成本的比例。价格低廉的页岩气成本是否造成电力成本的扭曲？

**RESPONSE:** Increased domestic production of low-cost natural gas from shale resources has increased the share of natural gas used in power generation over the last several years, but the availability and use of natural gas used in power generation is only one component of electricity prices. According to data from the U.S. Energy Information Administration, from 2010 to 2017, the share of net power generation from natural gas increased from 23.9 percent in 2010 to 32.1 percent in 2017. During the same period, the average retail price of electricity rose from 9.83 cents per kilowatt hour in 2010 to 10.48 cents per kilowatt hour in 2017.

**答复：**过去几年来，美国通过页岩资源开发低成本天然气，国内天然气产量不断增加，这也增加了电力行业的天然气消耗量，但电力行业的天然气供应和使用只是电价的一个组成部分。根据美国能源信息署的数据，从2010年到2017年，天然气净发电量的比例从2010年的23.9%上升到2017年的32.1%。在同一时期，电力的平均零售价格从2010年的每千瓦时9.83美分上升到2017年的每千瓦时10.48美分。

**Questions 101-102问题101-102**

4.2.3 Energy – Natural Gas (4.63) 能源业 - 天然气（4.63）

The United States is now a net exporter of natural gas. It principally imports gas from Canada to areas that are either impossible or uneconomical to serve with domestic gas. Net imports represent about 5% of the total gas supply. Exports of gas to Canada and Mexico occur for similar economic reasons in those countries. Exportation of LNG is an attractive option, and export volumes are on the rise. As detailed in Section 3.2.3, all imports or exports of natural gas require authorization from the Department of Energy. 美国目前是天然气的净出口国，主要从加拿大进口天然气到国内天然气不可能输送到的地区或输送成本高昂的地区。净进口量约占天然气总供应量的5%。向加拿大和墨西哥出口天然气也是出于这些国家的类似经济考虑。液化天然气出口是一个有经济吸引力的选择，出口量正在上升。如第3.2.3节所述，天然气的进口或出口都需要得到能源部的授权。

1. Please explain US policies on natural gas import and export, including current policies and changes in historical policies. 请说明美国天然气的进出口政策，包括当前的政策以及历史政策的演变。

**RESPONSE:** The Department of Energy (DOE) Office of Fossil Energy (FE) is responsible for authorizing exports of domestically produced natural gas, including liquefied natural gas (LNG), to foreign nations pursuant to section 3 of the Natural Gas Act (NGA). Under section 3(a) of the NGA, DOE/FE reviews applications to export natural gas to countries with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries). Section 3(a) of the NGA states that DOE “shall issue such order upon application, unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest.” DOE has consistently interpreted this provision as creating a rebuttable presumption that a proposed export of natural gas is in the public interest. Accordingly, DOE will conduct an informal adjudication and grant an application to export LNG to non-FTA countries under section 3(a) of the NGA unless DOE finds that the proposed exportation will not be consistent with the public interest.

**答复：**根据《天然气法案》（NGA）第3节的规定，能源部（DOE）化石能源办公室（FE）负责授权向国外出口国内生产的天然气，包括液化天然气（LNG）。《天然气法案》第3(a)节规定，能源部化石能源办公室负责审查向尚未与美国签订要求在天然气贸易方面享受国民待遇的自由贸易协定（FTA），且美国法律或政策不禁止与之进行贸易的国家/地区（非自由贸易协定国家/地区）出口天然气的申请。《天然气法案》第3(a)节规定，能源部“应当在收到申请后发布此类命令，除非在举行听证会后，认定拟议的出口或进口交易不符合公共利益。”美国能源部一直将此条款解释为其提出了一个可以驳回的推定，即拟议的天然气出口交易需要符合公共利益。因此，能源部将根据《天然气法案》第3(a)节进行非正式裁决并批准向非自由贸易协定国家/地区出口液化天然气的申请，除非能源部认定拟议的出口交易不符合公共利益。

Under section 3(c) of the NGA, the import and export of natural gas, including LNG, from and to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, and the import of LNG from other international sources, are deemed to be consistent with the public interest, and applications for such imports or exports must be granted without modification or delay. The United States currently has FTAs requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas. 《天然气法案》第3(c)节规定，与已经与美国签订了要求在天然气贸易方面享受国民待遇的自由贸易协定的特定国家/地区之间的天然气（包括液化天然气）进出口，以及向其他国际来源进口液化天然气，被认为符合公共利益，并且必须在不作任何变动或延迟的情况下批准此类进口或出口申请。美国目前已经与以下国家/地区签订了要求在天然气贸易方面享受国民待遇的自由贸易协定：澳大利亚、巴林、加拿大、智利、哥伦比亚、多米尼加共和国、萨尔瓦多、危地马拉、洪都拉斯、约旦、墨西哥、摩洛哥、尼加拉瓜、阿曼、巴拿马、秘鲁、韩国和新加坡。与以色列和哥斯达黎加签订的自由贸易协定没有要求天然气贸易方面享受国民待遇。

1. Please elaborate the details of authorization to the Department of Energy (DoE) on natural gas import and export. What are the standards for DoE to decide whether or not to issue an import or export license? Does the US government issue licenses in strict accordance with these standards in practice? Is there any discretion? 请说明，进口或者出口天然气需要向能源部授权的详细情况，美国能源部决定是否颁发进口或者出口许可证的标准是什么？美国政府在实践中是否严格按照这些标准颁发许可证，是否有自由裁量权？

**RESPONSE:** DOE reviews applications to import and export natural gas, including LNG, under section 3 of the NGA. For exports to non-FTA countries under section 3(a) of the NGA, DOE will conduct an informal adjudication and grant a non-FTA application unless DOE finds that the proposed exportation will not be consistent with the public interest. The statute does not, however, define “public interest” or identify criteria that must be considered. In prior decisions, DOE/FE has identified a range of factors that it evaluates when reviewing an application under section 3(a). DOE/FE’s public interest review focuses on: (i) the domestic need for the natural gas proposed to be exported, (ii) whether the proposed exports pose a threat to the security of domestic natural gas supplies, (iii) whether the arrangement is consistent with DOE/FE’s policy of promoting market competition, and (iv) any other factors bearing on the public interest raised in any individual proceeding. In addition, the National Environmental Policy Act (NEPA) requires DOE to give appropriate consideration to the environmental effects of its proposed decisions.

**答复：**美国能源部根据《天然气法案》第3节审查天然气（包括液化天然气）进出口申请。对于根据《天然气法案》第3(a)节向非自由贸易协定国家/地区出口天然气，能源部将进行非正式裁决并批准向非自由贸易协定国家/地区出口液化天然气的申请，除非能源部认定拟议的出口交易不符合公共利益。但是，该法规并未对“公共利益”作出界定或明确必须考虑的标准。在作出裁决之前，能源部化石能源办公室已经确定了在根据第3(a)节审查申请时纳入评估的一系列因素。能源部化石能源办公室的公共利益审查重点关注：（i）拟出口的天然气的国内需求；（ii）拟议的出口交易是否对国内天然气供应的安全构成威胁；（iii）出口安排是否与化石能源办公室促进市场竞争的政策一致；以及（iv）任何个别听证程序中提出的与公共利益挂钩的任何其他因素。此外，《国家环境政策法》（NEPA）要求能源部适当考虑其拟议裁决的环境影响。

Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that FTA applications “shall be deemed to be consistent with the public interest” and granted “without modification or delay.” Therefore, for applications submitted under section 3(c) of the NGA—including applications to export LNG to FTA countries—DOE lacks discretion and must approve the authorization without modification or delay. 1992年《能源政策法案》第201节（Pub. L. 102-486）对《天然气法案》第3(c)节作出修订，要求自由贸易协定申请“应被视为符合公共利益”，且“在不作任何变动或延迟的情况下”批准申请。因此，对于根据《天然气法案》第3(c)节提交的申请 - 包括向自由贸易协定国家/地区出口液化天然气的申请 - 能源部没有自由裁量权，必须提供授权，不得变动或延迟。

**Question 103问题103**

4.2.7 Energy – Electricity (4.74) 能源业 - 电力（4.74）

The electricity industry is, with few exceptions, subject to regulatory regimes at municipal, state, and federal levels. 除少数例外情况以外，电力行业接受联邦、州、市级监管。

1. Please introduce the regulatory regimes at municipal, state, and federal levels, including the contents, responsible departments and legal basis. 请对联邦、州、市级监管进行介绍，包括监管内容、部门和法律依据。

**RESPONSE:** The Federal Energy Regulatory Commission’s (FERC) jurisdiction and legal authority over utility rates, terms, and conditions comes principally from Part II of the Federal Power Act (Subchapter II) (<http://www.law.cornell.edu/uscode/usc_sup_01_16_10_12.html>), as amended over time. In November 2015, the FERC published an Energy Primer (<https://www.ferc.gov/market-oversight/guide/energy-primer.pdf>) which contains a general description of the U.S. electric industry and its electric regulatory structure (see pages 35-102).

**答复：**联邦能源监管委员会（FERC）依据不时修订的《联邦电力法》（子章节II）第二部分（<http://www.law.cornell.edu/uscode/usc_sup_01_16_10_12.html>）对公用事业费率、条款和条件享有管辖权和法定管理权限。2015年11月，联邦能源监管委员会发布了一份能源知识初级读本（Energy Primer）（<https://www.ferc.gov/market-oversight/guide/energy-primer.pdf>），其中提供了关于美国电力行业及其电力监管结构的一般说明（参见第35-102页）。

For states, in July 2015, DOE published an energy primer (<https://www.energy.gov/sites/prod/files/2015/12/f28/united-states-electricity-industry-primer.pdf>), which contains an overview of state regulatory authority (see page 27). Municipal entities are largely governed by state laws, which can vary. The American Public Power Association (APPA) (<https://www.publicpower.org>) is the association that represents many of these entities and is a good source of information on their authorities. 在州级层面，2015年7月，能源部发布了一份能源知识初级读本入门书（<https://www.energy.gov/sites/prod/files/2015/12/f28/united-states-electricity-industry-primer.pdf>），其中提供了关于州级监管机构的概述（参见第27页）。市政实体主要受州法律管辖，这些法律可能有所不同。美国公共电力协会（APPA）（<https://www.publicpower.org>）是代表其中许多实体的组织，可以提供关于此类实体的管理权限的信息。

**Questions 104-106问题104-106**

4.2.7 Energy – Electricity (4.74) 能源业 - 电力（第4.74段）

State Public Utility Commissions deal with regulatory issues that fall outside the legal jurisdiction of the FERC, including the regulation of retail sales to customers, the approval of generation facilities, and distinct reliability issues. 各州公用事业委员会负责处理联邦能源监管委员会的法定管辖权限范围之外的监管事项，包括对用户的零售销售，对发电设施建设的批准以及重大的可靠性问题。

1. Please introduce the contents of the regulation on electricity retail industry and explain its legal basis. 请对电力零售业的监管内容进行介绍，并请说明法律依据。

**RESPONSE:** The National Association of Regulatory Commissioners (NARUC) (https://www.naruc.org/about-naruc/about-naruc) is the association that represents state public utility commissions, and would be the best resource to describe regulation at the retail level. What is not subject to FERC authority under Part II of the Federal Power Act (FPA) broadly includes:

**答复：**全国监督管理委员会（NARUC）（https://www.naruc.org/about-naruc/about-naruc）是代表州公用事业委员会的组织，并且是提供零售层面监管信息的最佳渠道。根据《联邦电力法》（FPA）第二部分，不受联邦能源监管委员会监管的事项一般包括：

* “Local” distribution of electric energy, and the rates, terms, and conditions of such distribution;“地方”层面的电力输送，以及这种电力输送的费率、条款和条件；
* Sales of electric energy to end users (i.e., sales at retail), and the rates, terms, and conditions of such sales;向最终用户的电力销售（即零售），以及此类销售的费率、条款和条件；
* What generation gets built, including the choice, siting, and construction of generation (other than hydroelectric generation, which is separately subject to FERC jurisdiction under Part I of the FPA);发电项目的建设，包括发电设施的选择、选址和施工（与水力发电有关的环境事项除外，根据《联邦电力法》第一部分的规定，这些事项分别受联邦能源监管委员会的管辖）；
* What transmission gets built, including the choice, siting, and construction of transmission facilities (with the exception of so-called “backstop” siting authority under section 216 of the FPA (16 USC 824p));输电项目的建设，包括输电设施的选择、选址和施工（《联邦电力法》第216节（16 USC 824p）规定的“保障”（backstop）选址权限除外）；
* Environmental matters (with the exception of hydroelectric generation-related environmental matters, which are separately subject to FERC jurisdiction under Part I of the FPA);环境事项（与水力发电有关的环境事项除外，根据《联邦电力法》第一部分的规定，这些事项分别受联邦能源监管委员会的管辖）；
* Regulation of the U.S. government and its agencies and instrumentalities, and states and their agencies and instrumentalities (including municipalities) - with certain limited exceptions, e.g., sections 206(e) and 222 of the FPA (16 USC 824e(e), 824w);对美国联邦政府及其机构和部门，州及其机构和部门（包括市政当局）的监管 - 有一些限制性例外情况，例如：《联邦电力法》第206(e)节和第222节（16 USC 824e(e)、824w）规定的情形；
* Regulation of the U.S. Department of Agriculture’s Rural Utility Service-financed cooperatives and smaller cooperatives.对美国农业部农村公用事业局资助的合作社和小型合作社的监管。

1. Please explain US policies on electricity import and export, including current policies and changes in historical policies. 请说明美国电力的进出口政策，包括当前的政策以及历史政策的演变。

**RESPONSE:** The Department of Energy’s Office of Electricity, Transmission Permitting & Technical Assistance Division authorizes exports of electric energy to foreign countries under section 202(e) of the Federal Power Act, codified at Title 16, United States Code, section 824a(e). The former Federal Power Commission held this authority from 1935 until 1977, when the Department of Energy Organization Act established the Department of Energy, eliminated the Federal Power Commission, and transferred the export authorization authority to the Department of Energy. The Federal Power Act provides that exports of electric energy should be allowed unless the proposed export would impair the sufficiency of electric power supply within the United States or would impede or tend to impede the coordinated use of the U.S. power supply network. 美国能源部电力，输电许可及技术援助司办公室根据《联邦电力法》第202（e）节授权向外国出口电力，该法案编入美国法典第16篇第824a（e）节。1935年至1977年期间，该项权力由前联邦动力委员会掌握。《能源部组织机构法》建立能源部，取消了联邦动力委员会，并将出口授权这项权力移交给能源部。《联邦电力法》规定，除非拟出口电力会致使美国境内电力供应不足，或阻碍/可能阻碍美国供电网络的协调使用，否则允许电力出口。

1. Please elaborate the details of authorization to the Department of Energy (DoE) on electricity import and export. What are the standards for DoE to decide whether or not to issue an import or export license? Does the US government issue licenses in strict accordance with these standards in practice? Is there any discretion? 请说明进出口电力需要向能源部授权的详细情况，美国能源部决定是否颁发进口或者出口许可证的标准是什么？美国政府在实践中是否严格按照这些标准颁发许可证，是否有自由裁量权？

**RESPONSE:** DOE grants authorization to export electric energy if it determines that (1) sufficient generating resources exist such that the exporter could sustain the export while still maintaining adequate generating resources to meet all firm supply obligations, and (2) the export would not cause operating parameters on regional transmission systems to fall outside of established industry criteria. 若美国能源部确定以下情况，则授权出口电力：（1）存在足够的发电资源，保证出口商既能维持出口，也能保留足够的发电资源以履行其对所有公司的供电义务，以及（2）出口不会导致区域输电系统运行参数超出既定的行业标准。

Electricity exports are only authorized over transmission facilities that hold an active Presidential permit, which is required for the construction, operation, maintenance, or connection of electric power transmission lines at the United States international border. The authority to grant these permits stems from the President’s authority to conduct foreign affairs under Article II of the United States Constitution. Through Executive Order 10485 (September 1953), as amended by Executive Order 12038 (February 1978), the President has delegated to DOE the authority to receive applications for and grant the permits. DOE’s Transmission Permitting & Technical Assistance Division, discussed in response to question 105, is in charge of processing applications for these permits. The Executive Order delegation states that, before a Presidential permit may be issued, the action must be found to be consistent with the public interest. DOE uses two criteria to determine if a proposed project is consistent with the public interest and therefore eligible for a permit: (1) the project’s environmental impact (historically evaluated using the framework of the National Environmental Policy Act of 1969, as amended), and (2) the project’s impact on electric reliability of the U.S. electric power supply system—that is, the ability of the existing generation and transmission system to remain within acceptable voltage, loading, and stability limits during both normal and emergency conditions. Upon the favorable recommendations of the Secretary of State and the Secretary of Defense (or their delegates), DOE may issue a Presidential permit. DOE does not regulate imports over transmission facilities at the international border. 持有效总统许可的输电设施才可获得电力出口授权，美国国际边界输电线路建设、运营、维护或连接必需获得该许可。上述许可的授予权源于总统根据《美国宪法》第二条开展外交事务的权力。根据经行政命令12038号（1978年2月）修订的行政命令第10485号（1953年9月），总统授权能源部接收申请并授予许可。回答第105个问题时讨论到，美国能源部电力，输电许可及技术援助司负责处理上述许可申请。行政命令代表团指出，发放总统许可前，须确保该举动符合公共利益。美国能源部使用以下两个标准来确定拟议项目是否符合公共利益，故符合获得许可的资格：（1）该项目的环境影响（过去使用经修订的1969年《国家环境政策法》框架进行评估），以及（2）该项目对美国供电系统的电力可靠性—即在正常和紧急情况下，现有发电和输电系统保持在允许电压、负荷和稳定性范围内的能力—的影响。如获得国务卿和国防部长（或其代表）的积极推荐，能源部可颁发总统许可。能源部不管制国际边界输电设施的进口。

**Questions 107-108问题107-108**

4.3 Manufacturing (4.78)制造（4.78）

Manufacturing USA brings together industry, academia and federal partners within a growing network of advanced manufacturing institutes, for collaborative research in innovations in manufacturing technology of benefit to broad industrial sectors, with the overall goal of increasing manufacturing competitiveness, and promoting a robust and sustainable national manufacturing R&D infrastructure. 美国制造（Manufacturing USA）将产业、学术界和联邦合作伙伴聚集到一个不断发展的先进制造业网络中，共同研究制造技术创新，使广大工业部门受益，其总体目标是提高制造业竞争力，并推动建设稳健、可持续的国家制造研发基础设施。

1. In what ways do you support enterprises under Manufacturing USA? Please explain in details. 美国制造（Manufacturing USA）中具体对各企业是如何进行支持的？请具体描述。

**RESPONSE:** Manufacturing USA funds, on a cost-share basis, research institutes that bring together industry, academia and federal partners to engage in collaborative research. These institutes are funded through a private-public partnership via a cooperative agreement. The federal funding level is matched or exceeded by funding from private industry and other non-federal sources, with a minimum 1:1 cost share. For example, under Manufacturing USA, the U.S. Department of Energy created its new Reducing Embodied-Energy and Decreasing Emissions (REMADE) Institute, which will be headquartered in Rochester, New York and funded equally between the federal government and over 100 private entities. The research focus of the REMADE Institute will be on reducing costs of technologies needed to reuse, recycle, and remanufacture materials in order to reduce the energy used in materials production which, in turn, will reduce harmful emissions. 在成本分摊的基础上，美国制造项目资助那些聚集产业、学术界和联邦合作伙伴的研究机构，使其参与合作研究。上述机构通过签订合作协议，建立公私伙伴关系获得资助。联邦资助水平与私营企业资助和其他非联邦资助来源相当，或高于其水平，最低成本分担比例为1：1。例如，在美国制造项目的框架下，美国能源部创建了新的节能减排制造业创新中心（REMADE），总部设在纽约州罗彻斯特，由联邦政府和100多个私人实体平摊资助。REMADE中心的研究重点是降低材料再利用、循环和再制造所需技术的成本，降低材料生产的能源消耗，从而减少有害排放。

1. Is Manufacturing USA available to foreign enterprises? What are the specific application requirements if its available to non-US enterprises? 美国制造项目（Manufacturing USA）是否对外国企业开放？如果非美国本土企业可以申请，具体申请要求是什么？

**RESPONSE:** Application requirements can be found at: <https://www.manufacturingusa.com/>.

**答复：**申请要求详见网站：<https://www.manufacturingusa.com/>

**Question 109问题109**

4.3 Manufacturing (4.80)制造（4.80）

USTR works to level the playing field for U.S. manufacturers by: (a)eliminating tariff and non-tariff barriers; (b) negotiating WTO rules to benefit U.S. manufacturers; (c) countering foreign trade distorting practices; and d) enforcing trade agreements. 美国贸易代表办公室(USTR)致力于通过以下方式为美国制造商创造公平的竞争环境：（a）消除关税和非关税壁垒；（b）对WTO贸易规则进行谈判，使美国制造商受益;（c）反对违反贸易规则的外贸行为；d）执行贸易协定。

1. What are the US priorities in negotiating WTO rules in the next step? Please introduce the specific plans, negotiation contents and purposes. 美国接下来打算重点谈判WTO贸易规则中的哪些内容？请介绍具体的计划，谈判内容和目的。

**RESPONSE:** We remind Members that TPRs are retrospective reviews. We also encourage you to review Section 4.1 of the U.S. Government Report, including paragraphs 4.6, 4.7, 4.9, and 4.10.

**答复：**我们提醒各位成员，贸易政策审议（TPR）是回顾性调查。我们也鼓励审议美国政府报告的第4.1节，包括第4.6，4.7，4.9和4.10段。

**Question 110问题110**

4.4.1.4 Financial services - Banking services (4.97)金融服务—银行服务（4.97）

The Federal Reserve is responsible for supervising bank holding companies (BHCs), saving and loans holding companies, domestic and foreign financial holding companies, foreign banks operating in the United States, state member banks, foreign branches, Edge Act and agreement corporations, and designated financial market utilities. 美联储负责监督银行控股公司（BHC）、储蓄和借贷控股公司、国内外金融控股公司、在美国经营的外国银行、州成员银行、海外分支机构、《埃奇法》公司和协定公司以及指定的金融市场机构。

1. China International Capital Corporation Limited (CICC) is indirectly controlled by China Investment Corporation (CIC). Under US Bank Holding Company Act, CIC is considered a bank holding company. CICC, which is indirectly controlled by CIC, cannot get engaged in core investment banking activities such as securities underwriting and market making transactions in the United States. As a state investor, CIC holds the shares on behalf of the country and does not actually participate in the decision-making management and daily operations of its financial institutions. CICC is independent in conducting business and competition. In view of this, will the Federal Reserve consider to engage CICC in activities such as securities underwriting and market making transactions in the United States? If not, please explain why. 中国国际金融股份有限公司（中金公司）由中国投资有限责任公司（中投公司）间接控股，按照《美国银行控股法》，中投公司被认为为银行控股公司，受中投公司间接控股的中金公司无法在美从事证券承销业务和做市交易等投资银行核心业务。中投公司作为国家出资人，代表国家持股，并不实际参与旗下金融机构的决策管理和日常经营等活动。中金公司在业务开展和竞争方面具有独立性。鉴此，请问美联储是否考虑允许中金公司在美从事非银行业务？如否，请解释原因。

**RESPONSE:** We remind Members that TPRs are retrospective reviews. U.S. federal regulatory authorities apply in the United States the same prudential supervisory and regulatory standards to like domestic and foreign banking institutions in accordance with U.S. law.

**答复：**我们提醒各位成员，贸易政策审议（TPR）是回顾性调查。依据美国法律，美国联邦监管机构在美国实行与国内外银行机构相同的审慎监管标准。

**Question 111问题111**

4.4.2 Telecommunications (4.133)通讯（4.133）

The Communications Act of 1934, as amended, continues to be the main law governing the sector. 修订后的1934年《美国联邦法规—通讯编》仍然是监管通讯行业的主要法律。

1. No universal service support may be used to purchase or obtain any equipment or services produced or provided by any company posing a national security threat to the integrity of communications networks or the communications supply chain.China has noted that on May 2, US FCC announced proposed new regulations of the The Federal Communications Act, planning to add prohibitions to the Act, which stipulate that No universal service support may be used to purchase or obtain any equipment or services produced Or provided by any company posing a national security threat to the integrity of communications networks or the communications supply chain. How does the U.S. decide when civil communication equipment suppliers will pose a national security threat? 中方注意到5月2日美国FCC公布《美国联邦法规—通讯编》拟议新规，拟在法规中新增禁止性条款，规定“No universal service support may be used to purchase or obtain any equipment or services produced or provided by any company posing a national security threat to the integrity of communications networks or the communications supply chain.”，请问美国如果判定何时民用通讯设备供应商会对美国国家安全造成威胁？

**RESPONSE:** On April 17, 2018, the FCC adopted the Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs Notice of Proposed Rulemaking (NPRM). *See*: <https://www.fcc.gov/document/fcc-proposes-protect-national-security-through-fcc-programs-0>. On [May 2, 2018](https://docs.fcc.gov/public/attachments/DA-18-452A1.pdf) the NPRM’s comment and reply comment deadlines were announced. The FCC’s NPRM applies only to FCC programs, including its Universal Service program. In Section II.B of the NPRM, the FCC sought comment on how the FCC should identify companies that pose a national security threat to the integrity of communications networks or the communications supply chain for the purposes of FCC programs. The FCC has not reached a final decision on how and if it should do so.

**答复：**2018年4月17日，美国通信委员会（FCC）通过了借助FCC项目抵御危害通讯供应链的国家安全威胁的立法草案通告（NPRM），详见：<https://www.fcc.gov/document/fcc-proposes-protect-national-security-through-fcc-programs-0>。2018年5月2日公布了评论NPRM及回复评论的截止日期。FCC的NPRM仅适用于FCC项目，包括其通用服务项目。为了施行FCC项目，FCC在NPRM的第II.B部分中就“如何判定公司对通讯网络或通讯供应链完整性构成国家安全威胁”征求意见。至于如何判定及是否应该以该种方式判定，FCC尚未做出最终决定。

**Question 112问题112**

4.4.2 Telecommunications (4.135) 通讯（4.135）

Before granting an application for a new licence/authorization or for approval of a transfer, the FCC must determine whether the public interest, convenience, and necessity would be served by granting the application. 颁发许可证或批准转让前，美国通信委员会（FCC）须确定该举动是否符合公共利益，便利性和必要性。

1. Which legal clauses have provided the basis for reviewing public interest, convenience, and necessity before FCC grants an application for a new licence/authorization or for approval of a transfer? Are there any standards and detailed explanations of public interest, convenience and necessity? Please provide specific review procedures. Are there any cases that fail the review? If any, please explain those cases. 美国通信委员会颁发许可证或批准转让前对于公共利益、便利性和必要性的审查依据什么法律的哪一项条款？是否有公共利益、便利性和必要性的标准和详细解释？请提供具体的审查程序？是否有未通过审查的案件，如有请予以说明？

**RESPONSE:** Sections 214, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 214, 309, 310, include clauses that require the FCC to consider the public interest, convenience, and necessity when evaluating applications for new licenses, authorizations, and transfers of control. Specific standards and review procedures governing international telecommunications authorizations and transfers of control are available at 47 CFR. pt. 63. The Commission discussed the applicability of the public-interest standard to such authorizations, which includes consideration of national security, law enforcement, foreign policy, and trade policy issues, in the 1997 Foreign Participation Order. *See*: <https://docs.fcc.gov/public/attachments/FCC-97-398A1.pdf>. The FCC is considering pending applications that raise particular public interest concerns; however, it has not denied any international telecommunications authorizations or transfers of control due to ownership of the applicant by foreign individuals or entities.

**答复：**修订后的1934年《美国联邦法规—通讯编》第214、309和310节和《美国法典》第47篇第214、309和310节均包含要求美国通信委员会（FCC）在评估新许可、授权和控制权转让的申请时考虑公共利益、便利性和必要性的条款。有关国际通讯授权和控制权转让的具体标准和审查程序可在《美国联邦法规》第47篇第63部分中查询。委员会在1997年的《外国参与令》中讨论了公共利益标准对此类授权的适用性，其中包含对国家安全、执法、外交政策和贸易政策等问题的考虑。详见：<https://docs.fcc.gov/public/attachments/FCC-97-398A1.pdf>。FCC考虑推迟批准造成特定公共利益问题的申请。但是，FCC并未因申请人为外国个人或实体，而拒绝任何国际通讯授权和控制权转让相关申请。

**Question 113问题113**

4.4.2 Telecommunications (4.136) 通讯（4.136）

The FCC is responsible for managing and licensing the electromagnetic spectrum for commercial users and for non-commercial users, including state, county and local governments. 美国通信委员会（FCC）负责管理商业用户和非商业用户（包括州，县和地方政府）的电磁频谱并发放许可证。

1. Please introduce FCCs current progress in granting 5G spectrum licence. 请介绍一下FCC目前对5G频谱许可证的发放进展。

**RESPONSE:** The FCC is focused on making additional low-, mid-, and high-band spectrum available for 5G services. 美国通信委员会（FCC）致力于为5G服务提供额外的低频段、中频段和高频段频谱。

* *High-band:* The FCC initiated an auction for 28 GHz licenses in November 2018 and has set out procedures for an auction of the 24GHz bands to follow. *See*: <https://www.fcc.gov/auction/101/factsheet> and <https://docs.fcc.gov/public/attachments/DOC-353228A1.pdf>. The FCC has also taken steps towards auctioning the upper [37 GHz, 39 GHz, and 47 GHz](https://docs.fcc.gov/public/attachments/DOC-353229A1.pdf) bands in 2019. *See*: <https://docs.fcc.gov/public/attachments/DOC-353229A1.pdf>. The FCC has also taken steps to free up 5G spectrum in the 26 and 42 GHz bands. See: <https://docs.fcc.gov/public/attachments/DOC-351388A1.pdf>. *高频段*：FCC 2018年11月开始拍卖28 GHz频段的频谱许可证，并制定了24GHz频段许可证的拍卖程序。详见：<https://www.fcc.gov/auction/101/factsheet> 和 <https://docs.fcc.gov/public/attachments/DOC-353228A1.pdf> 。FCC采取措施，筹备2019年37 GHz、39 GHz和47 GHz等更高频段许可证的拍卖。详见：<https://docs.fcc.gov/public/attachments/DOC-353229A1.pdf>. FCC还准备开放26和42 GHz频段的5G频谱。详见：<https://docs.fcc.gov/public/attachments/DOC-351388A1.pdf>.
* *Mid-band:* The FCC has worked to make spectrum in the 2.5 GHz, 3.5 GHz, and 3.7‑4.2 GHz bands available for 5G deployments. *See*: <https://docs.fcc.gov/public/attachments/DOC-354694A1.pdf> and <https://www.fcc.gov/document/fcc-proposes-expand-flexible-use-mid-band-spectrum>. *中频段*： FCC 为5G网络部署提供2.5 GHz、3.5 GHz和3.7至4.2 GHz频段的频谱。 详见： <https://docs.fcc.gov/public/attachments/DOC-354694A1.pdf> 和 <https://www.fcc.gov/document/fcc-proposes-expand-flexible-use-mid-band-spectrum>。
* *Low-band:* The FCC has made targeted changes to the 600 MHz, 800MHz, and 900MHz bands to improve their use for 5G services. *See*: [https://www.fcc.gov/document/auction‑1002‑long‑form‑applications‑granted‑3](https://www.fcc.gov/document/auction1002longformapplicationsgranted3), <https://www.fcc.gov/general/800-mhz-spectrum>, and <https://www.fcc.gov/document/900-mhz-notice-inquiry>. *低频段*：FCC对600 MHz、800 MHz和900 MHz频段进行了针对性整改，以改善上述频段在5G服务中的使用效果。详见： [https://www.fcc.gov/document/auction‑1002‑long‑form‑applications‑granted‑3](https://www.fcc.gov/document/auction1002longformapplicationsgranted3)， <https://www.fcc.gov/general/800-mhz-spectrum>和 <https://www.fcc.gov/document/900-mhz-notice-inquiry>.
* *Unlicensed:* Recognizing that unlicensed spectrum will be important for 5G, the FCC is creating new opportunities for the next generation of Wi-Fi in the 6 GHz and above 95GHz band. *See*: <https://www.fcc.gov/news-events/blog/2018/06/20/scoring-victory-5g> and <https://www.fcc.gov/document/fcc-proposes-open-spectrum-horizons-new-services-technologies>. *未许可*：FCC认识到未许可的频谱对5G非常重要，正在为6 GHz和95 GHz以上频段的新一代Wi-Fi创造机会。详见： <https://www.fcc.gov/news-events/blog/2018/06/20/scoring-victory-5g> 和 <https://www.fcc.gov/document/fcc-proposes-open-spectrum-horizons-new-services-technologies>。

**Question 114问题114**

4.4.2 Telecommunications (4.138) 通讯（4.138）

The FCC maintains regulatory safeguards to deter conduct by a foreign carrier that could result in harm to competition in the U.S. telecommunications market. These safeguards include the "no special concessions" rule, the benchmark settlement rates policy, and dominant carrier requirements. Under the no special concessions rule, U.S. international carriers are prohibited from agreeing to enter into exclusive arrangements with foreign carriers that have sufficient market power to affect competition adversely in the U.S. market. 联邦通信委员会（FCC）实施监管保障措施，以制止外国运营商对美国通讯市场竞争造成损害的行为。这些保障措施包括“无特许”规则，基准结算率政策和主要运营商要求。根据无特许规则，美国国际运营商不得与市场力量足以对美国市场竞争造成不利影响的外国运营商达成独家协议。

1. How do you define affect competition adversely in the U.S. market while prohibiting U.S. international carriers from agreeing to enter into exclusive arrangements with foreign carriers that have sufficient market power to affect competition adversely in the U.S. market? What type of agreements are exclusive arrangements ? Do they cover all types of basic telecommunication and value-added telecommunication services? 请问此处禁止美国运营商与可能会影响美国市场竞争的外国运营商达成协议的保障措施中，影响美国市场竞争应如何认定？达成“协议”是指什么类型的协议？涉及的交易范围是否涵盖基础电信与增值电信所有业务类型？

**RESPONSE:** The "no special concessions" rule does not cover value-added telecommunications services. It covers only a U.S.-authorized carrier’s provision of *basic telecommunications services*. A special concession is defined in the FCC’s rules as “an exclusive arrangement involving services, facilities, or functions on the foreign end of a U.S. international route that are necessary for the provision of *basic telecommunications services* where the arrangement is not offered to similarly situated U.S.-authorized carriers.” 47 CFR § 63.14(b)(emphasis added). The prohibition on special concessions, however, does not extend to the rates, terms, and conditions in settlement agreements for terminating basic telecommunications traffic in the destination market (47 CFR § 63.14(c)).

**答复：**“无特许”规则不涉及增值电信服务，它仅针对美国授权运营商提供的*基本电信服务*。美国联邦通信委员会（FCC）将“特许”定义为“涉及美国国际通讯路径外国端口的服务、设施或功能的独家协议，上述对象是提供*基本电信服务*的要素，而这些内容不对处境相似的美国授权运营商开放” [ 47 CFR§63.14（b），重点补充] 。但是，禁止特许不涉及终止目的市场基本电信业务调解书中的费率、条款和条件[47 CFR§63.14（c）]。

This rule addresses the risk that a foreign carrier with market power in an essential input market on the foreign end of a U.S. international route (e.g., cable landing station access and backhaul) has the ability to leverage its “upstream” market power into the “downstream” U.S. end-user market, to the detriment of competition and consumers, by increasing its U.S. rivals’ costs or restricting their output. The FCC has found that, absent effective regulation in the U.S. market, a foreign carrier with market power in an upstream input market could engage in discrimination in a downstream end-user market by favoring one downstream entity at the expense of its competitors, which could result in increases in prices, decreases in quality, and a reduction in alternatives in end-user markets. 该规则解决了下述风险：在美国国际路径（例如，电缆陆地站访问和回传）外国端口中，拥有基本输入市场支配力的外国运营商利用其“上游”市场支配力进入“下游”美国终端用户市场，通过增加美国竞争对手的成本或限制其输出量，损害竞争和消费者利益。FCC发现，如果没有美国市场的有效监管，具有上游输入市场支配力的外国运营商可以通过支持一个下游实体牺牲竞争对手，从而参与下游终端用户市场歧视行为，导致终端用户市场价格上涨，质量下降，替代资源减少。

The FCC’s regulatory framework is tailored to address, in particular, two anticompetitive strategies that could cause harm to competition and consumers. First, such a carrier could engage in price discrimination, e.g., by raising the price of the input to its downstream competitors, whether or not the foreign carrier raises the price to a downstream partner (which, in the case of a fully integrated firm, would pay the economic cost regardless of the nominal transfer price of the input). Second, the foreign carrier could engage in non-price discrimination by delaying its delivery of the input to U.S. rivals while continuing to provide the input to its own U.S. partner on a timely basis, or by degrading the quality of the input provided to its U.S. rivals. FCC的监管框架专门应对可能损害竞争和消费者的两种反竞争策略。首先，这样的运营商或将参与价格歧视，例如，无论外国运营商是否提高下游合作伙伴的价格（无论输入名义转移价格高低，综合性公司都会支付该经济成本），它将提高其下游竞争者的输入价格。其次，外国运营商或将通过延迟对美国竞争对手的通讯输入，同时继续及时向其美国合作伙伴输入讯息，或通过降低对美输入质量，从而实施非价格歧视。

The no special concessions rule recognizes that foreign market power can be abused regardless of whether the foreign carrier is affiliated with a U.S.-authorized carrier. Thus, the no special concessions rule applies to all U.S. carrier dealings with foreign carriers that possess market power. Because it has found that an ownership affiliation between a U.S. and foreign carrier creates a heightened ability and incentive to engage in anticompetitive behavior, the FCC’s regulatory framework also includes additional safeguards that apply to dealings between the U.S.-authorized carrier and its foreign carrier affiliate. 无特许规则承认，无论外国运营商是否与美国授权运营商关联，外国市场支配力都可能被滥用。因此，无特许规则适用于美国运营商与具有市场支配力的外国运营商的所有往来。因为该规则发现美国和外国运营商之间的所有权关系有助于提升参与反竞争行为的能力和积极性，FCC的监管框架还包括适用于美国授权运营商与其外国运营商附属公司往来的额外保障措施。

**Question 115问题115**

4.4.6.1 Air transport and airports航空运输及机场

1. Some Chinese enterprises engaged in manufacturing security-check equipment were rejected by the United States Transportation Security Administration (TSA) when applying for the TSA certification. The reasons are yet to be announced. Could the United States publicize the TSA certification standards, and the reasons for refusing to provide certification for products manufactured by Chinese enterprises. 部分中国民航案件设备企业在向美国运输安全管理局（TSA）申请民用航空安保安检设备的资格（TSA certification）时，遭到美方拒绝，并且未公布理由，请美方公布TSA certification认证的标准，以及拒绝未中方企业相关产品提供认证的理由。

**RESPONSE:** The TSA Certification on Security Screening Equipment program is developed under U.S. Federal Acquisition Requirements (FAR). The Transportation Security Administration (TSA) has in place an equitable process for the request of evaluation and possible certification of civil aviation security screening equipment. TSA procurements are subject to the Federal Acquisition Regulations. TSA procurements covered under U.S. procurement obligations, such as the WTO GPA, are open to goods, services and suppliers from designated countries. For information on designated countries see FAR subpart 24.5, at: <https://www.acquisition.gov/far/html/Subpart%2025_4.html>. Information on the qualification process for regulated air cargo security technologies is available on: [www.fbo.gov](http://www.fbo.gov). Any company that is determined to be ineligible to be qualified is formally informed of that and is provided information about the Agency’s decision.

**答复：**美国运输安全管理局（TSA）安检设备资格是根据美国联邦采购法规（FAR）制定的。TSA已经设置了公平的程序，用于评估和处理民用航空安检设备资格的潜在认证需求。TSA采购受联邦采购法规的约束。TSA采购包含于世贸组织政府采购协议（WTO GPA）等美国采购义务中，它对指定国家的货物，服务和供应商开放。有关指定国家的信息请参阅FAR第24.5部分： <https://www.acquisition.gov/far/html/Subpart%2025_4.html>。获取受监管航空货物安全技术资格认证程序的信息，请访问：[www.fbo.gov](http://www.fbo.gov).。任何被认定不符合资格认证的公司都会接到正式告知和认证机构相关决定的信息。

**Question 116问题116**

4.5 E-commerce (4.271, 4.279) 电子商务(4.271，4.279)

Para 4.271 and 4.279 of the United States Trade Policy Agenda and Annual Report provide a brief introduction to the United States e-commerce taxation. It includes prohibiting multiple taxations on e-commerce, and allowing the American states to force online retailers to pay sales tax regardless whether a retailer has an entity in that state. 美国贸易政策议程和年度报告第4.271和4.279段简要介绍了美国电子商务的税收情况。它包括禁止对电子商务进行多重征税，并允许美国各州强制线上零售商支付营业税，无论零售商是否拥有该州的实体店。

1. What are the American tax policies for the digital economy, including e-commerce? Which Acts are involved respectively? 美国对于电子商务在内的数字经济的税收政策有哪些？分别涉及哪些法案？

**RESPONSE:** Taxes in the United States are generally applied in a technology neutral manner, so digital-specific tax rules are rare. Two exceptions are the Internet Tax Freedom Act, which, in its 2016 version, permanently exempted Internet-access services from taxation; and a 2018 Supreme Court ruling, which gave states the right to impose state sales taxes on online sales originating out of state. Until this ruling, out-of-state sales were exempt from taxation unless the seller had a physical presence in the consumer’s state.

**答复：**在美国，税收通常不针对某项技术，因此针对数字技术的税收规定很少见。有两个例外，一是《互联网免税法案》。在其2016年修订版中，永久免除了互联网接入服务的税收；二是2018年最高法院的一项裁决，赋予各州对州外在线销售征收销售税的权利。在此裁决之前，除非卖家在消费者所在州有实体店，否则州外销售免税。

**Question 117问题117**

4.5 E-commerce (4.271, 4.279) 电子商务(4.271，4.279)

The United States has no overarching federal cybersecurity law. Protection of cybersecurity is regulated mainly by state laws and federal regulations, which provide industry-specific mandates with respect to data security. 美国没有明确设立联邦网络安全法。网络安全保护主要由州法律和联邦法规监管，上述法律法规在数据安全方面提出了行业特殊要求。

1. What are the industry-specific mandates for cybersecurity protection? 请问针对网络安全保护的行业特殊要求包含哪些规定？

**RESPONSE:** Apart from rules under the Federal Information Security Management Act (FISMA) governing government-owned networks and devices, cybersecurity standards are, for the most part, voluntary. The key program promoting industry-specific cybersecurity is that implemented by the Department of Homeland Security under [Presidential Policy Directive 21 (PPD-21): Critical Infrastructure Security and Resilience](file:///C:\Users\beck_njo\AppData\Local\Microsoft\nissen_t\Work%20Folders\Documents\WTO\Trade%20Policy%20Reviews\US%20TPR%202018\Answers\%3ehttps:\obamawhitehouse.archives.gov\the-press-office\2013\02\12\presidential-policy-directive-critical-infrastructure-security-and-resil%3c), which advances a national policy to strengthen and maintain secure, functioning, and resilient critical infrastructure.

**答复：**除了监管政府网络和设备的《联邦信息安全管理法案》（FISMA）相关规定，网络安全标准很大程度上是自发的。促进特定行业网络安全的重要计划由国土安全局根据关于关键基础设施安全和恢复力的21号总统政策指令（PPD-21）实施，该指令推进国家政策，以加强和维护安全、有效和耐挫的关键基础设施。

**Part II. Questions based on Policy Statement by the United States (WT/TPR/G/382)**

**第二部分 基于美国政策声明（WT/TPR/G/382）提出的问题**

**Questions 118-119问题118-119**

2.2 Economic Growth (2.2)经济增长（2.2）

The increase in growth in the first half of 2018 is based on several factors: higher consumer spending (resulting from robust job gains, rising after-tax incomes, and greater consumer confidence), strong business investment, and strong growth in exports and manufacturing output (due to good economic performance in the rest of the world). 2018年上半年经济增长的因素有几个：消费者支出增加（得益于就业增长强劲，税后收入增加和消费者信心增强），商业投资稳健，出口和制造业产量强劲增长（得益于世界其他地区的良好经济效益）。

1. The United States Governments Strategy for American Leadership in Advanced Manufacturing issued in October 2018 emphasizes policy measures of trade protection and government intervention in the market such as local supply chain and purchasing American goods. Could the United States please elaborate on the strategy and clarify whether the policy measures in the strategy violate the principle of free trade. 美国政府于2018年10月发布的《先进制造业领先战略规划》中强调“本土供应链”、“购买美国货”等贸易保护和政府干预市场的政策措施。请美方详细介绍该战略，并论述该战略中的政策措施是否违反自由贸易原则。

**RESPONSE:** The U.S. Strategy for American Leadership in Advanced Manufacturing has nothing to do with trade protection or government intervention. It relies on human capital investments and providing incentives for innovation in key sectors. More detail is available here: <https://www.whitehouse.gov/wp-content/uploads/2018/10/Advanced-Manufacturing-Strategic-Plan-2018.pdf>.

**答复：**美国的《先进制造业领先战略规划》与贸易保护或政府干预毫无关系，它依靠人力资本投资和为关键部门的创新提供奖励。获取更多详情，请访问：<https://www.whitehouse.gov/wp-content/uploads/2018/10/Advanced-Manufacturing-Strategic-Plan-2018.pdf>.

1. Could the United States please elaborate on the operation mechanism of the 2018 BUILD Act. 请美方详细说明《2018年善用投资促进发展法案》（BUILD Act）的运作机制。

**RESPONSE:** The U.S. Development Finance Corporation is the operational mechanism for the BUILD Act, combining capacities from OPIC and USAID DCA as detailed in numerous public releases. It will catalyze private investments by adhering to OECD norms, and will offer a full range of development finance tools including loans, loan guarantees, political risk insurance, limited equity and investment funds, and technical assistance programs.

**答复：**美国发展金融公司是《2018年善用投资促进发展法案》（BUILD Act）的运作机制，它结合了海外私人投资公司（OPIC）和美国国际开发署（USAID）旗下的发展信贷机构（DCA）的功能，详情可查阅众多公布信息。它将通过遵守经合组织（OECD）规范来促进私人投资，并提供全系列发展金融工具，包括贷款，贷款担保，政治风险保险，有限股权和投资基金以及技术援助项目。

**Question 120问题120**

2.5 Labor Markets (2.8) 劳动力市场（2.8）

other major advanced economies have seen output growth step down from its 2017 level, while several emerging market economies have come under pressure as rebounding commodity prices, rising U.S. interest rates, and shifts in investor sentiment have interacted with pre-existing weaknesses and led to episodes of financial volatility. 其他主要发达经济体产出增长较2017年的水平有所下降，而一些新兴市场经济体面临商品价格反弹，美国利率上升等压力，投资者情绪变化与当前劣势相互作用，引发了金融波动。

1. How does the United States evaluate the adverse economic impact of the US dollar interest rate rise on emerging market countries? As the worlds largest economy and the US dollar issuer, does the United States plan to take measures to reduce the impact of economic turmoil caused by unilateral interest rate rise on the global economy, especially on emerging markets? 请问美国如何评价美元加息对新兴市场国家造成的不良经济影响？作为世界最大的经济体及美元发行国，美国是否计划采取措施降低单方面加息对全球经济特别是新兴市场国家经济动荡的影响？

**RESPONSE:** We remind Members that TPRs are retrospective reviews. Policymakers in the United States are well aware that U.S. policy actions can have effects on foreign economies, and likewise that foreign country policy actions have effects on U.S. economic activity. Conditions in foreign economies are monitored carefully, as foreign developments have important implications for the trajectory of the U.S. economy.

**答复：**我们提醒各位成员，贸易政策审议（TPR）是回顾性调查。美国的政策制定者很清楚，美国的政策行动会影响外国经济，同样地，外国政策行动也会对美国的经济活动产生影响。由于外国发展动态对美国经济的发展轨迹产生重大影响，我们对外国经济状况进行严密监测。

**Question 121问题121**

2.8 Challenges to the U.S. and Global Economy (2.14) 美国及全球经济面临的挑战（2.14）

The global economy also remains marked by very large trade and current account imbalances, in part due to persistent trade and investment barriers across many economies. 全球经济的特点仍是贸易和经常账户严重失衡，部分原因是许多经济体中一直存在贸易和投资壁垒。

1. The global economy currently experiences large-scale trade and current account imbalance. Is this linked to the US dollars leadership in the global financial market and the lack of domestic savings in the countries concerned? Has the United States assessed the impact degree of each cause of large-scale trade and current account imbalances in the global economy? If so, please specify. 目前全球经济中存在的大规模贸易和经常项目不平衡的情况，是否与美元在全球金融市场领导地位及有关国家国内储蓄不足情况等存在关联？美方是否评估过造成全球经济存在大规模贸易和经常项目不平衡的每种原因影响程度大小？如有，请具体提供。

**RESPONSE:** The U.S. Treasury has recently reviewed the evolution of global trade and current account imbalances in its April 2018 Report to Congress on Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States. Please see: <https://home.treasury.gov/policy-issues/international/macroeconomic-and-foreign-exchange-policies-of-major-trading-partners>. As noted in Annex I of the April 2018 Report (“Rebalancing the Global Economy – Progress Report”), there are not currently signs that typical adjustment mechanisms – notably, real exchange rates and relative rates of demand growth (along with correspondent shifts in saving rates) – are pointing toward a narrowing of external imbalances. We continue to press other countries with large and persistent external surpluses to support stronger and more balanced global growth by facilitating domestic demand as the primary engine for economic expansion.

**答复：**最近，在2018年4月关于美国主要贸易伙伴的宏观经济和外汇政策的国会报告中，美国财政部审查了全球贸易和经常项目失衡的过程。请参阅：<https://home.treasury.gov/policy-issues/international/macroeconomic-and-foreign-exchange-policies-of-major-trading-partners>.正如2018年4月报告（全球经济再平衡—进展报告）附件1所述，目前没有迹象表明典型调整机制——尤其是实际汇率和需求增长相对速率（以及相应的储蓄率变化）——指向外部失衡正在缩小。我们继续敦促其他拥有大量持续国际收支盈余的国家拉动国内需求，将其作为经济扩张的主要动力，从而支持更为强劲和均衡的全球增长。

**Questions 122-123问题122-123**

4.1 WTO Agreements and Initiatives (4.3) WTO协定及措施（4.3）

This includes where panels or the Appellate Body have, through their findings, sought to add to or diminish WTO rights and obligations of Members in a broad range of substantive areas...For example, in the context of meetings of the Dispute Settlement Body, the United States has expressed concerns with respect to the Appellate Body's consistent exceeding of the 90-day deadline for appeals in contravention of DSU Article 17.5,... 这包括专家组或上诉机构通过调查结果来增加或减少世贸组织成员在广泛的实质性领域中的权利和义务......例如，在争端解决机构会议中，上诉机构审理违反争端解决机构第17.5条的上诉案件常常超过90天的期限，美国对此表示关切……

1. The United States said that the panels or the Appellate Body have, through their findings, sought to add to or diminish WTO rights and obligations of Members. Please elaborate on specific cases. 美方称专家组或上诉机构通过调查结果来增加或减少世贸组织成员的权利和义务，请举出具体案例说明。

**RESPONSE:** The United States refers China to pages 22-24 of the President’s Trade Policy Agenda, in which the administration addresses the longstanding U.S. concern of panels and the Appellate Body adding to or diminishing rights and obligations under the WTO Agreement. We also refer China to U.S. statements before the Dispute Settlement Body in which these concerns also have been addressed. See, for example, Minutes of the May 16, 2001 DSB meeting (WT/DSB/M/105), para. 41 et seq.; Minutes of the March 8, 2002 DSB Meeting (WT/DSB/M/121), para. 35 et seq. 21; and Minutes of the January 27, 2003 DSB meeting (WT/DSB/M/142), para. 55 et seq.; Minutes of March 25, 2011 DSB Meeting (WT/DSB/M/294), at 18; Minutes of the June 13, 2012 DSB meeting (WT/DSB/M/317), para. 13 et seq., and July 23, 2012 DSB meeting (WT/DSB/M/320), para. 94 et seq.

**答复：**美方请中国参阅总统贸易政策议程的第22至24页，其中美国政府提及长期以来美国对专家组和上诉机构增加或减少WTO协定中的权利和义务表示关切。我们也请中国参阅争端解决机构（DSB）审理案件前的美国声明，其中也对上述问题提出关切。例如，请查看2001年5月16日争端解决机构会议记录（WT/DSB/M/105）41段、2002年3月8日争端解决机构会议记录（WT/DSB/M/121）35段、2003年1月27日争端解决机构会议记录（WT/DSB/M/142）55段、2011年3月25日争端解决机构会议记录（WT/DSB/M/294）18段、2012年6月23日争端解决机构会议记录（WT/DSB/M/317）13段、2012年7月23日争端解决机构会议记录（WT/DSB/M/320）94段等内容。

1. In the report, the United States stated about Appellate Bodys consistent exceeding of the 90-day deadline for appeals. In fact, the United States has been obstructing the selection of Appellate Body, resulting in a serious shortage of judges and a paralyzed dispute settlement body. Please explain the US own practice of obstructing the selection process while accusing the Appellate Body of exceeding the deadline. 美方在报告中提出WTO上诉机构审理上诉案件常常超过90天的期限。事实上，美方一直在阻挠上诉机构法官遴选，导致法官严重不足，争端解决机构陷于瘫痪。请美方解释自身一边阻扰法官遴选一边指责上诉机构审理超期的做法。

**RESPONSE:** For more than 15 years and across multiple U.S. Administrations, the United States has been raising serious concerns with the Appellate Body’s disregard for the rules set by WTO Members. As the United States explained at the most recent General Council meeting, if WTO members say that we support a rules-based trading system, then the WTO Appellate Body must follow the rules we agreed to in 1995. And, so the Appellate Body must circulate its reports within 90 days of an appeal. A person who has ceased to be an Appellate Body member may not continue deciding appeals as if his term had been extended by the Dispute Settlement Body. The Appellate Body may not make findings on issues of fact, including but not limited to those relating to domestic law. The Appellate Body may not give advisory opinions on issues that will not assist the DSB in making a recommendation to bring a WTO-inconsistent measure into compliance with WTO rules. The Appellate Body may not assert that its reports serve as precedent or provide authoritative interpretations. And the Appellate Body may not change Members’ substantive rights or obligations as set out in the text of the WTO agreements. When the Appellate Body abuses the authority it was given within the dispute settlement system, it undermines the legitimacy of the system and damages the interests of all WTO Members who care about having the agreements respected as they were negotiated and agreed. The United States will continue to insist that WTO rules be followed by the WTO dispute settlement system, and will continue our efforts and our discussions with Members to seek a solution on these important issues.

**答复：**15多年来，多届美国政府执政期间，美国一直对上诉机构无视世贸组织成员制定的规则表示深度关切。正如美国在最近一次总理事会会议上所述，如若世贸组织成员表示支持基于规则的贸易体系，那么世贸组织上诉机构也必须遵循我们在1995年商定的规则。因此，上诉机构必须在上诉后90天期限内分发其报告。若争议解决机构未延长某成员任期，非上诉机构成员不得继续参与上诉案件裁决。上诉机构不得就事实问题作出调查，包括但不限于与国内法有关的事项。上诉机构不得提出对争端解决机构（DSB）提议整改与世贸组织原则相悖的措施，使其符合世贸组织规则没有帮助的咨询意见。上诉机构不得宣称其报告可作为先例或提供权威解释。上诉机构不得改变世贸组织协定文本中规定的成员实质性权利或义务。上诉机构滥用其在争端解决机制中的权力时，破坏了该制度的合法性，并损害了所有尊重经协商同意的协定的世贸组织成员的利益。美国将继续坚持世贸组织争端解决制度须遵循世贸组织规则，并将继续与成员讨论，寻求解决上述重要问题的方案。

**Question 124问题124**

4.1 WTO Agreements and Initiatives (4.3) WTO协定及措施（4.3）

The United States has grown increasingly concerned with the activist approach of the Appellate Body on procedural issues, interpretative approach, and substantive interpretations. These approaches and findings do not respect WTO rules as written and agreed by the United States and other WTO Members. 美国越来越关注上诉机构在程序问题，解释方法和实质性解释等方面的积极主义方法。这些方法和调查结果不符合美国和其他世贸组织成员起草和同意的世贸组织规则。

1. The United States has expressed strong dissatisfaction with various aspects of the WTO dispute settlement mechanism, especially the Appellate Body. The United States has also taken various measures on various occasions to deliberately obstruct the selection of members of the Appellate Body. Does this unilateral act of the United States contradict its claimed support for resolving trade disputes under the multilateral trading system? 美国对WTO争端解决机制多个方面表示强烈不满，尤其是上诉机构，并在多种场合采取种种措施“刻意”阻扰上诉机构成员遴选工作。美国这一单方面行为是否与其声称的支持在多边贸易体系项下解决贸易争端产生矛盾？

**RESPONSE:** No. Again, when the Appellate Body abuses the authority it was given within the dispute settlement system, it undermines the legitimacy of the system and damages the interests of all WTO Members who care about having the agreements respected as they were negotiated and agreed. The United States will continue to insist that WTO rules be followed by the WTO dispute settlement system, and will continue our efforts and our discussions with Members to seek a solution on these important issues.

**答复：**不矛盾。在此重申，上诉机构滥用其在争端解决机制中的权力时，破坏了该制度的合法性，并损害了所有尊重经协商同意的协定的世贸组织成员的利益。美国将继续坚持世贸组织争端解决制度须遵循世贸组织规则，并将继续与成员讨论，寻求解决上述重要问题的方案。

**Question 125问题125**

4.1 WTO Agreements and Initiatives (4.4) WTO协定及措施（4.4）

Consequently, the United States will not negotiate off the basis of the DDA mandates or old DDA texts and considers the Doha Round to be a thing of the past. 因此，美国不会在多哈回合谈判（DDA）要求或过去多哈谈判（DDA）文本的基础上进行谈判；美国认为多哈回合谈判已成为历史。

1. The United States has completely abandoned the Doha negotiations and has repeatedly expressed its dissatisfaction with the WTO negotiation mechanism. What is the United States thinking about the reform on the WTOs existing negotiation mechanism? 美国对多哈谈判表示彻底放弃，并多次表达对WTO谈判机制的不满，请问美国对WTO现有谈判机制改革有何想法？

**RESPONSE:** Please note that at the Nairobi Ministerial meeting, Ministers did not reaffirm the Doha Development Round of trade negotiations. See Paragraph 30 of the Nairobi Ministerial Declaration (WT/MIN(15)/DEC). The United States, as well as other Members, no longer view the DDA as an active negotiation. Further, we remind Members that TPRs are retrospective reviews. We encourage you to review Section 4.1 of the U.S. Government Report. For example, we note in Paragraph 4.5 that:

**答复：**请注意，在内罗毕部长级会议上，各部长并未重申多哈发展回合贸易谈判，详见《内罗毕部长级宣言》（WT / MIN（15）/ DEC）第30段。美国以及其他成员不再将多哈回合谈判视为有效谈判。此外，我们提醒各位成员，贸易政策审议（TPR）属于回顾性调查。我们建议中方查看美国政府报告的第4.1节。例如，我们在第4.5段中指出：

“For the WTO to be successful going forward, its membership will need to break from the failures of the last two decades, and base future work on lessons learned and, importantly, current data and up-to-date notifications. Members' failure to comply with their notification obligations under the WTO Agreement undermines the negotiating function of the WTO and the credibility of the organization. At the November 2017 meeting of the General Council, the United States put forward a proposal aimed at improving Members' compliance with their notification obligations. In September 2018, the United States, Japan, and the EU agreed to co-sponsor an updated transparency and notification proposal for consideration at the next meeting of the WTO Council on Trade in Goods. The United States stands ready to work with Members to advance this proposal.” “世贸组织若要取得进一步成功，其成员需摆脱过去二十年的失败经历，将未来工作建立在经验教训的基础上，更重要的是，建立在当前数据和最新通知的基础上。成员不遵守世贸组织协定规定的通知义务，损害了世贸组织的谈判功能和及公信力。在2017年11月的总理事会会议上，美国提出了一项旨在促进成员遵守其通知义务的提案。2018年9月，美国、日本和欧盟共同提出透明度和通知新提案，供世贸组织货物贸易理事会下次会议审议。美国愿与各位成员合作推进这一提案。”

**Questions 126-128问题126-128**

4.3.2 North American Free Trade Agreement (4.22) 北美自由贸易协定（4.22）

On September 30, 2018, the three Parties announced they had reached agreement on the United States Mexico Canada Agreement 2018年9月30日，三方就协定更名为《美国—墨西哥—加拿大协定》达成协议。

1. What is the content in Article 32.10 of the Agreement? 《协定》32.10条规定的内容是什么？

**RESPONSE:** The finaltext of Ch. 32 of the USMCA is available at: <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/32_Exceptions_and_General_Provisions.pdf>.

**答复：**《美国—墨西哥—加拿大协定》（USMCA）第32章的最终文本参见： <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/32_Exceptions_and_General_Provisions.pdf>。

1. What are the domestic law and WTO law bases for this article? Is this article governed by the WTO dispute settlement mechanism? Does the United States adopt similar approaches in previous contracting practices? If so, please list the name of the treaty and the specific terms该条款的国内法律和世贸法律的依据是什么？该条款是否受世贸争端解决机制管辖？美国在以前的缔约实践中是否有类似做法？如有，请列明条约名称和具体条款。

**RESPONSE:** This is the first time the United States has included this particular provision in a trade agreement.

**答复：**这是美国首次将该特殊条款纳入贸易协定。

1. What are the legal consequences if the signing parties violate Article 32.10? 《协定》参加方违反32.10条的法律后果是什么？

**RESPONSE:** Article 32.10 is subject to the same enforcement provisions as the rest of the USMCA.

**答复：**第32.10条与《美国—墨西哥—加拿大协定》（USMCA）其他部分一样，受相同执行条款规约。

**Question 129问题129**

4.4.4 Engagement with the Middle East and North Africa (4.57) 在中东和北非地区的合作（4.57）

To date, the United States has focused on a number of areas, including trade facilitation, investment promotion, the information and communications technology (ICT) sector, and agricultural trade, as key priorities in developing longer-term trade and investment ties to trading partners in the region.迄今为止，美国一直把重点放在贸易便利化、投资促进、信息和通信技术（ICT）以及农业贸易等领域，将上述领域作为发展与地区贸易伙伴长期贸易和投资关系的关键优先事项。

1. Please introduce the ICT cooperation of the United States in the MENA region and the regions concerned. What are the effects and problems? 请介绍美国在该地区及其他相关地区有关信息通信领域的合作情况，取得的效果和主要问题。

**RESPONSE:** Given the importance of the technology sector to the U.S. economy, ICT issues are central to the Administration’s trade agenda. We address these issues through various interactions we have with countries in the MENA region, including where applicable management of our five FTAs, engagement through Trade and Investment Framework Agreements with multiple countries, reviews of GSP benefits, and through work on WTO accession for those countries seeking it.

**答复：**技术部门对美国经济具有重要意义，信息通信技术是政府贸易议程的核心。我们利用与中东和北非地区（包括五个自由贸易协定管理适用的地区）各国的多种互动机制来推动上述事项；通过与多国签订的贸易和投资框架协议，一般特惠制（GSP）优惠审查和帮助伙伴寻求加入世界贸易组织等方式来参与合作。

**Question 130问题130**

4.4.5 U.S.-EU Trade (4.63) 美国—欧盟贸易（4.63）

The Working Group is also laying the groundwork for a potential, future free trade agreement once the UK has left the EU in March 2019, and exploring areas in which the two countries can collaborate to promote open markets and free and fair trade around the world. 工作小组还在为英国2019年3月脱欧后双方未来潜在的自由贸易协定打基础，并探索两国合作促进全球开放市场和自由公平贸易的领域。

1. After the completion of the legal procedures for Brexit, will the United States sign a bilateral free trade agreement with the United Kingdom? What relationship will the agreement maintain with the current TTIP being negotiated between the United States and Europe? 请问英国完成脱欧法定程序后，美国是否将与英国单独签署双边自由贸易协定，该协定与目前美欧正谈判的TTIP将维持怎样的关系？

**RESPONSE:** We remind Members that TPRs are retrospective reviews. The United States Trade Representative has notified Congress under the Bipartisan Congressional Trade Priorities and Accountability Act of the President’s intent to begin negotiations with the UK on a new bilateral trade agreement.

**答复：**我们提醒各位成员，贸易政策审议（TPR）属于回顾性调查。美国贸易代表根据《国会两党贸易优先权和责任法案》通知国会，总统计划开始与英国谈判新的双边贸易协定。

**Question 131问题131**

4.4.6 China中国

1. The function of the review mechanism is to examine the impact of a Member’s trade policies and practices on the multilateral trading system. We have noticed that the U.S. has taken this opportunity to comment and challenge other states policies. We believe that this act of the U.S. is actually looking for excuses for its trade protectionism and unilaterism practices. At present, the U.S. emphasizes “America first”, ignores the multilateral trading system and frequently adopts trade protectionism and unilateriliam practices. Such behavior of the U.S.is the biggest threat to the multilateral system. We believe making comment and challenging other members’ policies in its own policy statement is not the right attitude the U.S. should take as a member under review. Could the U.S. please explain? 政府政策声明是成员自述审议期间贸易政策变化情况，提升透明度的重要方式，也是其他成员了解被审议成员贸易政策的重要机会。我们注意到美在声明中评论和质疑包括中国在内的其他成员的政策。我们认为美做法实际是在为其贸易保护主义和单边主义找借口。当前，美强调“美国优先”政策，无视多边贸易体系规则，频繁采取贸易保护主义和单边主义措施，是目前多边贸易体制面临的最大威胁。我们认为美在其声明中评论和质疑它国政策的做法不是被审议成员应有的态度。请美方进行解释。

**RESPONSE:** China’s determination to maintain the state's leading role in the economy and to continue to pursue industrial policies that promote, guide, and support domestic industries while simultaneously and actively seeking to impede, disadvantage, and harm their foreign counterparts is the biggest threat to the multilateral trading system. China’s approach is incompatible with the market-based approach expressly envisioned by WTO Members and contrary to the fundamental principles running throughout the many WTO agreements.

**答复：**中国决心维持其在经济中的主导作用，继续推行产业政策，促进、引导和支持国内产业，同时积极寻求阻碍、削弱和损害他国利益，这是多边贸易体系面临的最大威胁。中国的做法与世贸组织成员明确设想的基于市场的规则不符，违背了贯穿多项世贸组织协定的基本原则。

**Question 132问题132**

4.4.6 China (4.67) 中国（4.67）

The United States also will take all other steps necessary to rein in harmful state-led, non-market policies and practices pursued by China, even when they do not fall squarely within WTO disciplines, as evidenced by USTR's investigation of Chinese technology transfer policies and practices pursuant to Section 301 of the Trade Act of 1974, as amended. 美国还将采取其他必要措施遏制中国主导的有害非市场策略和做法，即便上述行为不完全违反世贸组织的规约。美国贸易代表办公室根据新修订的1974年《贸易法案》第301节规定对中国技术转让政策开展的调查为此提供了证明。

1. The United States has promised in the Statement of Administrative Action, the attachment of the Uruguay Round Agreements Act, that the United States will resort to WTO dispute settlement for unfair trade measures covered by the WTO rules, and will not apply to the 301 investigation. The United States is asked to explain why it initiated the 301 investigation on China on the discriminatory technology licensing policy covered by the WTO rules. Does this violate the commitment made by the United States in the Statement of Administrative Action? 美国在《乌拉圭回合协定法》的附件《行政行为说明》中承诺，对于WTO规则涵盖的不公平贸易措施，美国将诉诸WTO争端解决，而不适用301调查。请美方解释为何就WTO规则涵盖的歧视性技术许可政策等问题对中国发起301调查，这是否违背了美方《行政行为说明》中的承诺？

**RESPONSE:** The United States refers China to the U.S. response to China’s question #10.

**答复：**请中方参考美国对中国问题＃10的回应。

**Question 133问题133**

4.5.2 Promoting Digital Trade (4.83) 促进数字贸易（4.83）

The United States places great importance on electronic commerce (or "digital trade"), which plays a crucial role in strengthening and supporting firms in every sector of the economy. 美国高度重视电子商务（或“数字贸易”），它在加强和支持各经济领域的企业方面发挥着至关重要的作用。

1. A broad consensus has been reached that the digital economy has made significant contributions to economic growth in a country and even across the globe. The United States has also expressed its concern about digital trade issues on various occasions. However, in order to construct the international rules of digital trade, we have to consider the digital divide between countries with different levels of development. As a power of the digital economy, should the United States consider the interests of developing countries in the rule construction process? How should their interests and demand be balanced? 数字经济对一国乃至全球经济增长做出重大贡献已达成广泛共识，美国亦在多种场合表达对数字贸易问题的关切。但针对数字贸易国际规则的构建，不得不考虑不同发展水平国家之间的数字鸿沟，美国作为数字经济强国，在规则构建中是否应考虑发展中国家之利益？应如何平衡其利益需求？

**RESPONSE:** We remind Members that TPRs are retrospective reviews. These questions are outside the scope of the Trade Policy Review.

**答复：**我们提醒各位成员，贸易政策审议（TPR）属于回顾性调查。这些问题已超出贸易政策审查范围。

**Questions 134-135问题134-135**

7 Trade and Labor (7.1) 贸易与劳工（7.1）

The new United States-Mexico-Canada Agreement includes a Labor Chapter with enforceable rules that protect the rights of freedom of association and collective bargaining; prohibit trade in goods produced by forced labor, including forced child labor; address violence against workers exercising their rights; ensure that migrant workers are protected under labor laws; and establish mechanisms to monitor and address labor concerns. 新的《美国—墨西哥—加拿大协定》包含一个劳工章节，其中的强制性规定保护结社自由和集体谈判的权利，禁止包括强迫童工在内的强迫劳动生产的货物贸易，处理对行使权利的工人施行的暴力，确保移民工人受到劳动法的保护，并建立监督和解决劳工问题的机制。

1. The USMCA Labor Chapter also requires that 40%-45% of the products must be manufactured by laborers with an hourly wage of not less than USD 16. This rule appears to protect the labor rights in the United States, Mexico, and Canada. In fact, will it increase the cost of the auto manufacturing industry in North America and prevent American job opportunities from being lost due to low labor costs in Mexico? Will it also prevent other low-labor-cost products from other countries to enter the United States? Does this rule counter to the concept of free trade? USMCA劳工章节还要求40%-45%的产品必须由时薪不低于16美元的劳工制造，这一规定表面看似维护美国、墨西哥、加拿大三国劳工权益。事实上，是否会提高北美区域层面汽车制造行业成本，阻止美国工作机会因墨西哥劳工成本低而流失，并防止其他低劳工成本国家产品借道进入美国？这一规定是否与自由贸易理念背道而驰？

**RESPONSE:** The new labor value content rules in the USMCA will support better jobs for North American producers and workers by requiring that a significant portion of vehicle content be produced by high-wage workers. This will help ensure that high-wage producers and workers are able to compete on an even playing field, and incentivize new vehicle and parts investment in North America.

**答复：**《美国—墨西哥—加拿大协定》（USMCA）中新的劳动价值内容规则将通过要求高薪工人生产大部分车辆配件来帮助北美生产者和工人获得更好的工作。这有利于确保高薪生产者和工人能够在公平的环境中竞争，激励北美的新车辆和零部件投资。

1. Will the high labor standards lead to the return of American automakers invested by the United States in Mexico back, and thus deprive Mexican workers of employment opportunities? Does this practice violate the original intention of labor protection? 劳工标准高，是否可能导致美国投资墨西哥的汽车厂商回流美国，反而剥夺墨西哥工人的就业机会，是否有违劳工保护的初衷。

**RESPONSE:** The new USMCA rules will help maintain, re-shore, and incentivize automotive manufacturing, investment, and jobs in North America and help support employment opportunities for all North American countries.

**答复：**新的《美国—墨西哥—加拿大协定》（USMCA）规则有助于维持、重振和激励北美的汽车制造、投资和就业，帮助所有北美国家的创造就业机会。

**Part III. Other Questions**

**第三部分 其他问题**

**Question 136问题136**

1. In the American manufacturing sector, although there is no incentive policy for the manufacturing industry at the federal level, there are a large number of incentive programs at the state level to attract manufacturing investment. For example, New Jersey implements the Assisting New Jersey Economic Growth Plan to provide preferential tax relief for investment in specific towns and industries. Economic Regeneration and Growth Plan provides an auxiliary award of 20% of the total cost of the development projects for investment in specific towns, covering industries which include a large number of manufacturing areas. Mississippi provides a 50% or 100% consumption tax exemption for enterprises that have headquarters in the state or purchase new equipment from designated businesses. Florida exempts manufacturing tax for manufacturing goods especially for export. Are these incentive plans included in the subsidy notifications provided by the U.S. Are these incentive plans suspected of violating the provisions concerning the prohibited subsidies and specific subsidies in the Agreement on Subsidies and Countervailing Measures (SCM Article 3)? Please explain. 美国制造业领域，在联邦层面虽然没有专门针对制造业的激励政策，但在州一级存在大量吸引制造业投资的激励计划。例如，纽泽西州实施“协助纽泽西州经济成长计划”，对投资特定城镇及产业提供优惠税赋减免，“经济再造及成长计划”，对投资特定城镇项目提供开发项目总成本20%的辅助金奖励，涉及产业包括大量制造业领域。密西西比州，对在该州设立总部的企业，或向指定商家采购新设备的制造商提供50%或100%的消费税减免。弗罗里达州，对专供出口的制造业货物免除营业税。这些激励计划是否均已经纳入美国在SCM协定下的通报？是否涉嫌违反《补贴与反补贴协议》禁止补贴及专项性补贴的规定（SCM第3条）？请予以解释。

**RESPONSE:** We refer China to our last subsidies notification (G/SCM/N/315/USA), which covered the period from October 1, 2014 through September 30, 2016 and included over 650 sub-federal programs. We note that the notification included thirteen programs administered by the New Jersey Economic Development Authority. In addition, eight notified programs were tax incentive programs administered by Mississippi, and 17 were tax incentives administered by Florida.

**答复：**请中方参阅我们最新的补贴通报（G / SCM / N / 315 / USA），该通报涵盖2014年10月1日至2016年9月30日期间的650多个联邦层面以下的计划。我们注意到该通报包含纽泽西州经济发展局主管的十三项计划。此外，通报中有八项计划是密西西比州主管的税收激励计划，17项是佛罗里达州主管的税收激励计划。

**Question 137问题137**

1. The US announced in July 2018 that a new aid package will be provided as temporary help for producers hit by retaliatory tariffs. Is there any detailed implementation plan for this package? Will the subsidies depend on current production factors? Will such amber box payments exceed the bound AMS? 2018年7月，美国农业部宣布提供短期救助项目，旨在帮助支持农业者应对报复性关税的市场干扰。请问补贴的实施细则是否出台？是否属于与当前生产要素挂钩的黄箱补贴，相关补贴水平是否超出了美国承诺的AMS水平？

**RESPONSE:** Details on the Market Facilitation Program can be found at: <https://www.federalregister.gov/documents/2018/08/30/2018-18842/market-facilitation-program>. Final data on payments under the program will not be available until after enrollment closes in 2019. As of mid-November, approximately $840 million had been paid. These programs are administered consistent with WTO obligations.

**答复：**市场促进计划详情请查询： <https://www.federalregister.gov/documents/2018/08/30/2018-18842/market-facilitation-program>。该计划中的最终付款数据在2019年录入结束后才能提供。截至11月中旬，已支付约8.4亿美元。这些计划的管理符合世贸组织的义务。

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