

05 TECHNICAL REGULATIONS AND SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 1

Purposes and Definitions

1. The purposes of this Chapter are to:
 - (a) facilitate trade and investment between the Parties through collaborative efforts which minimise the impact of mandatory requirements and/or assessments of manufacturers or manufacturing processes on the goods traded between the Parties, in the most appropriate or cost-effective manner;
 - (b) complement bilateral agreements and arrangements between the Parties relating to mandatory requirements; and
 - (c) build on the Mutual Recognition Agreement on Conformity Assessment between the Government of Australia and the Government of the Republic of Singapore.
2. For the purposes of this Chapter, unless the context otherwise requires or it is otherwise defined in a Sectoral Annex:
 - (a) “conformity assessment” shall have the same meaning as in the Mutual Recognition Agreement on Conformity Assessment between the Government of Australia and the Government of the Republic of Singapore;
 - (b) “equivalence” means the state wherein mandatory requirements applied in the territory of the exporting Party, though different from the mandatory requirements applied in the territory of the importing Party, meet the legitimate objective or achieve the appropriate level of sanitary or phytosanitary protection of the mandatory requirements applied in the territory of the importing Party;
 - (c) “mandatory requirements” means all technical regulations and sanitary and phytosanitary measures as may be set out in a Party’s laws, regulations and administrative requirements;
 - (d) “regulatory authority” means an entity of a Party that exercises a legal right to determine the mandatory requirements, control the import, use or supply of goods within its territory and/or take enforcement action to ensure that goods marketed within its territory comply with its mandatory requirements;

(e) “sanitary or phytosanitary measure” shall have the same meaning as in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures;

(f) “Sectoral Annex” means an annex to this Chapter which specifies the arrangements in respect of a specific product sector; and

(g) “technical regulation” shall have the same meaning as in the WTO Agreement on Technical Barriers to Trade.

ARTICLE 2

Scope and Obligations

1. This Chapter shall apply to mandatory requirements adopted or maintained by the Parties to fulfil their legitimate objectives and/or achieve their appropriate level of sanitary or phytosanitary protection.

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

(a) mandatory requirements, as appropriate to its particular national circumstances; and

(b) mandatory requirements necessary to ensure the quality of its imports, or for the protection of human, animal or plant life or health, or the environment, or for the prevention of deceptive practices or to fulfil other legitimate objectives, at the levels it considers appropriate.

3. Each Party shall retain all authority under its laws to interpret and implement its mandatory requirements. This includes the authority to take appropriate measures for goods that do not conform to the Party’s mandatory requirements. Such measures may include withdrawing goods from the market, prohibiting their placement on the market or restricting their free movement, initiating a product recall or prohibiting an import.

4. The provisions of this Chapter shall apply to particular Sectoral Annexes as provided therein.

ARTICLE 3

Origin

This Chapter applies to all goods and/or assessments of manufacturers or manufacturing processes of goods traded between the Parties, regardless of the origin of those goods, unless otherwise specified in a Sectoral Annex, or unless otherwise specified by any mandatory requirement of a Party.

ARTICLE 4

Harmonisation

The Parties shall, where appropriate, endeavour to work towards harmonisation of their respective mandatory requirements taking into account relevant international standards, recommendations and guidelines, in accordance with their international rights and obligations.

ARTICLE 5

Equivalence of Mandatory Requirements

1. The Parties shall give favourable consideration to accepting the equivalence of each other's mandatory requirements consistent with the purpose of this Chapter.
2. A Party shall accept the equivalence of the mandatory requirements, and/or the results of conformity assessment and approval procedures, of the other Party in accordance with the respective Sectoral Annex.
3. For the purposes of Article 5.2, a Sectoral Annex shall provide the following details:
 - (a) the procedures for determining and implementing the equivalence of each Party's mandatory requirements; and/or
 - (b) the procedures for accepting the results of the conformity assessment and approval procedures; and
 - (c) the regulatory authorities designated by each Party.

ARTICLE 6

Cooperative Activities on Sanitary and Phytosanitary/Quarantine Matters

1. The Parties shall endeavour to develop a work programme and mechanisms for co-operative activities in the areas of technical assistance and capacity building to address plant, animal and public health and food safety issues of mutual interest.
2. The Parties shall, where appropriate, endeavour to develop further the use and product coverage of electronic means of data transfer, including electronic health certificates.

ARTICLE 7

Conformity Assessment

1. The Parties, through the Joint Committee established by Article 11 of the Mutual Recognition Agreement on Conformity Assessment between the Government of Australia and the Government of the Republic of Singapore, shall consider arrangements additional to those provided for in this Chapter to ensure that differences between the structure, organization and operation of conformity assessment procedures in their respective territories do not unnecessarily impede trade between them.
2. For the purposes of conformity assessment, each Party shall, on the request of the other Party, and in accordance with relevant international obligations and its respective applicable domestic laws, rules and regulations, take reasonable steps to facilitate access in its territory for inspection, testing and other relevant procedures.
3. The Parties affirm their intention to adopt and apply, with such modifications as may be necessary, the principles set out in the APEC Information Notes on Good Regulatory Practice for Technical Regulation with respect to conformity assessment and approval procedures in meeting their international obligations under the WTO Agreement on Technical Barriers to Trade.

ARTICLE 8

Exchange of Information, and Consultation

1. The Parties shall provide notification of any changes to their mandatory requirements in accordance with their WTO obligations or in specific cases as appropriate.
2. The Parties shall, within the context of this Chapter, establish contact points to expeditiously:
 - (a) broaden the exchange of information; and
 - (b) give favourable consideration to any written request for consultation.
3. The Parties shall, upon a request in writing of either Party and where appropriate, jointly:
 - (a) identify and develop new Sectoral Annexes for priority sectors for this Chapter;
 - (b) agree to amend or increase the scope of existing Sectoral Annexes with a view to minimising the impact of mandatory requirements on goods traded between the Parties; and

- (c) agree on a work programme for the implementation of this Article, consistent with the provisions of this Chapter, and implement that work programme expeditiously.

ARTICLE 9

Confidentiality

Nothing in this Chapter shall be construed to require either Party to furnish or allow access to information the disclosure of which it considers would:

- (a) be contrary to its essential security interests;
- (b) be contrary to the public interest as determined by its domestic laws, rules and regulations;
- (c) be contrary to any of its domestic laws, rules and regulations, including but not limited to those protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions;
- (d) impede law enforcement; or
- (e) prejudice legitimate commercial interests of particular enterprises, public or private.

ARTICLE 10

Final Provisions on Sectoral Annexes

1. The Parties shall conclude as appropriate Sectoral Annexes which shall provide the implementing arrangements for this Chapter.
2. A Sectoral Annex shall enter into force on the first day of the second month following the date on which the Parties have exchanged notes confirming the completion of their respective procedures for the entry into force of that Sectoral Annex.
3. A Party may terminate a Sectoral Annex in its entirety by giving the other Party six months' advance notice in writing unless otherwise stated in the relevant Sectoral Annex. However, a Party shall continue to accept the results of conformity assessment or equivalence for the duration of the six-month advance notice period.
4. Where urgent problems of safety, health, consumer or environmental protection or national security arise or threaten to arise for a Party, that Party may suspend the operation of any Sectoral Annex, in whole or in part, immediately. In such cases, the Party shall immediately advise the other Party of the nature of the urgent problem, the goods covered and the objective and rationale of the suspension.