# 05 TECHNICAL REGULATIONS AND SANITARY AND PHYTOSANITARY MEASURES

## ARTICLE 1

### Purposes and Definitions

1. The purposes of this Chapter are to:
2. 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;
3. complement bilateral agreements and arrangements between the   
   Parties relating to mandatory requirements; and
4. build on the Mutual Recognition Agreement on Conformity   
   Assessment between the Government of Australia and the Government of the Republic of Singapore.
5. For the purposes of this Chapter, unless the context otherwise requires or it is otherwise defined in a Sectoral Annex:
6. “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;
7. “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.
8. “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;
9. “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;
10. “sanitary or phytosanitary measure” shall have the same meaning as in   
    the WTO Agreement on the Application of Sanitary and Phytosanitary   
    Measures;
11. “Sectoral Annex” means an annex to this Chapter which specifies the arrangements in respect of a specific product sector; and
12. “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:
3. mandatory requirements, as appropriate to its particular national circumstances; and
4. 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.
5. 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.
6. 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:
4. the procedures for determining and implementing the equivalence of   
   each Party’s mandatory requirements; and/or
5. the procedures for accepting the results of the conformity assessment   
   and approval procedures; and
6. 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:
3. broaden the exchange of information; and
4. give favourable consideration to any written request for consultation.
5. The Parties shall, upon a request in writing of either Party and where   
   appropriate, jointly:
6. identify and develop new Sectoral Annexes for priority sectors for this Chapter;
7. 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
8. 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:

1. be contrary to its essential security interests;
2. be contrary to the public interest as determined by its domestic laws,   
   rules and regulations;
3. 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;
4. impede law enforcement; or
5. 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.