

CHAPTER 7

TECHNICAL BARRIERS TO TRADE, SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 44

Definitions

1. The definitions in Annex A of the *WTO Agreement on Application of Sanitary and Phytosanitary Measures* (the “SPS Agreement”) and Annex 1 of the *WTO Agreement on Technical Barriers to Trade* (the “TBT Agreement”) shall apply to this Chapter.
2. All definitions provided in the Annexes to this Chapter shall apply only to the respective Annexes.
3. For the purposes of this Chapter:
 - (a) **SPS** refers to sanitary and phytosanitary measures; and
 - (b) **TBT** refers to technical barriers to trade.

ARTICLE 45

Objectives

The objectives of this Chapter are:

- (a) to improve the implementation of the SPS Agreement and the TBT Agreement between the Parties, so as to avoid unnecessary barriers to bilateral trade, to promote and facilitate bilateral trade, while protecting human, animal or plant life or health or fulfilling other legitimate objectives⁷;
- (b) to strengthen mutual understanding of the Parties’ administrative systems by establishing a framework for communication and co-operation, and to resolve relevant issues arising from bilateral trade in a prompt and efficient manner, to expand the opportunities for bilateral trade.

ARTICLE 46

Scope and Coverage

This Chapter applies to all sanitary and phytosanitary measures, technical regulations, standards and conformity assessment procedures of a Party which may, directly or indirectly, affect trade between the Parties.

⁷ As understood under Article 2.2 of the TBT Agreement.

ARTICLE 47
Competent Authorities and Contact Points

1. The competent authorities of the Parties are the authorities responsible for the implementation of this Chapter. The contact points of the Parties are the agencies responsible for the communication and notification of information between the Parties, as specified in Annex 4 (Contact Points for TBT and SPS).
2. The Parties shall notify each other of any significant change in the structures, organisations and divisions of the competent authorities and contact points.

ARTICLE 48
Reaffirmation

The Parties reaffirm their existing rights and obligations with respect to each other under the TBT Agreement and the SPS Agreement.

ARTICLE 49
Regionalisation

1. The Parties agree to properly and actively resolve the quarantine issues of concern to each other related to the import and export of agricultural products of both Parties in accordance with Article 6 of the SPS Agreement.
2. The exporting Party may request the importing Party to recognise its pest-free or disease-free status in all or part of its territory. The importing Party shall give favourable consideration to such request and, following an assessment, may agree to recognise such pest-free or disease-free status of the exporting Party in accordance with paragraph 1. After confirmation of the pest-free or disease-free status, the importing Party shall allow agricultural products originating from these areas of the exporting Party into its markets, in accordance with the importing Party's SPS requirements.
3. If the importing Party considers that a risk with respect to a disease or pest outbreak may exist in a part or parts of the territory of the exporting Party where agricultural products destined for the importing Party originate, the importing Party may request the exporting Party to reaffirm this free status. The importing Party may also request the exporting Party to take specific eradication and control measures to ensure that the free status is maintained and to ensure that agricultural products originated therein meet the SPS requirements of the importing Party.
4. Any agreement or arrangement on regionalisation which may be concluded between the Parties under this Agreement shall be placed in the Annexes in accordance with Article 58 (Final Provisions on Annexes).

ARTICLE 50
Exchange of Information and Cooperation

1. The Parties shall strengthen the exchange of information and co-operation in the areas of mutual interest relating to TBT and SPS, such as:
 - (a) inspection and quarantine of animals, plants and their products;
 - (b) quality and safety control of products;
 - (c) procedure and processing period of approval of food establishments;
 - (d) technical regulations, standards and conformity assessment procedures; and
 - (e) sharing of experience in the implementation of the principle of transparency by their respective enquiry points under the TBT Agreement and SPS Agreement.
2. Each Party shall, on request, give positive consideration to proposals to supplement existing co-operation on standards, technical regulations and conformity assessment procedures. Such co-operation, which shall be on mutually agreed terms and conditions, may include but are not limited to advice or technical co-operation relating to the development or application of standards, technical regulations and conformity assessment procedures.
3. The Parties shall strengthen co-operation and communication of experience and expertise in addressing TBT and SPS measures affecting both Parties.

ARTICLE 51
International Standards

1. The Parties shall use international standards, or the relevant parts of international standards, as a basis for their technical regulations and related conformity assessment procedures where relevant international standards exist or their completion is imminent, except when such international standards or their relevant parts are ineffective or inappropriate to fulfil legitimate objectives.
2. The Parties shall co-operate with each other, where appropriate, in the context of their participation in international standardising bodies, to ensure that international standards developed within such bodies, that are likely to become a basis for technical regulations, are trade facilitating and do not create unnecessary obstacles to international trade.

3. The Parties shall strengthen communications and co-ordination with each other, where appropriate, in the context of discussions on standards and related issues in the TBT Committee under the TBT Agreement and the SPS Committee under the SPS Agreement and other relevant international or regional *fora*.

ARTICLE 52

Conformity Assessment Procedure

1. The Parties recognise the differences between their legal systems regarding conformity assessment and agree to discuss the possibility of mutual recognition of conformity assessment in accordance with the TBT Agreement.

2. The Parties shall exchange information on conformity assessment procedures including testing, inspection, certification, accreditation and metrology with a view to promoting the recognition of conformity assessment procedures between the Parties.

3. A Party shall give favourable consideration to a request by the other Party to recognise the conformity assessment procedures conducted by bodies in the other Party's territory through a mutual recognition agreement or arrangement.

4. Any agreement or arrangement on mutual recognition of conformity assessment procedures concluded between the Parties under this Agreement shall be specified in the Annexes in accordance with Article 58 (Final Provisions on Annexes).

ARTICLE 53

Equivalence

1. The Parties shall give favourable consideration to accepting the equivalence of each other's technical regulations and SPS measures consistent with the purpose of this Chapter, the TBT Agreement and the SPS Agreement.

2. Any agreement or arrangement on acceptance of equivalence of each other's technical regulations and SPS measures which may be concluded between the Parties under this Agreement shall be placed in the Annexes in accordance with Article 58 (Final Provisions on Annexes).

ARTICLE 54

Transparency

1. The Parties shall notify each other through their respective TBT and SPS enquiry points, under the TBT Agreement and the SPS Agreement, of

any new technical regulation and SPS measure related to the trade of products in accordance with the TBT Agreement and the SPS Agreement, or any change to them. Each Party shall allow at least sixty (60) days for the other Party to present comments in writing on any notification except where considerations of health, safety, environmental protection or national security arise or threaten to arise to warrant more urgent action.

2. Each Party shall make available to the other Party, electronically or in any other form, up-to-date publications on technical regulations and any relevant conformity assessment procedures that are cited in, or may be used to comply with, those technical regulations. Each Party shall make known to the other Party the relevant standards that are cited in, or may be used to comply with, those technical regulations.

ARTICLE 55

Joint Working Group

1. The Parties hereby establish the Joint Working Group on TBT and SPS, comprising representatives from the relevant regulatory authorities of each Party.

2. The Joint Working Group shall be led and co-ordinated by co-chairs from both Parties.

3. The Joint Working Group shall be established no later than one (1) year following the date of entry into force of this Agreement. The meeting of the Joint Working Group shall take place once a year, back-to-back with the meetings of the FTA Joint Committee established under Article 111 (Implementation and Review), unless otherwise agreed by the Parties.

4. The functions of the Joint Working Group shall include:

- (a) administering and supervising the implementation of this Chapter;
- (b) addressing any issue and dispute arising from the implementation of this Chapter and its Annexes;
- (c) reviewing this Chapter and its Annexes, making supplementary attachments and Annexes where necessary;
- (d) where appropriate, facilitating co-operation in specific areas among accreditation and conformity assessment bodies in the Parties' territories;
- (e) ensuring the Parties' relevant regulatory authorities negotiate on the priority issues identified by the *Joint Study Report on a Free Trade Agreement between China and Singapore* in an appropriate manner, in particular, mutual recognition of

conformity assessment procedures on electrical and electronic equipment, regionalisation, mutual recognition of conformity assessment procedures on telecommunications equipment and equivalence;

- (f) where appropriate, strengthening the exchange of information with regard to the activities of non-governmental, regional, and multilateral *fora* related to standardisation, technical regulations, and conformity assessment procedures; and
- (g) reporting to the FTA Joint Committee on the implementation of this Chapter when appropriate.

5. Each Party shall, upon request, give favourable consideration to any sector-specific proposal made by the other Party for further co-operation under this Chapter.

ARTICLE 56

Confidentiality

1. Where a Party provides information to the other Party in accordance with this Agreement and designates the information as confidential, the other Party shall maintain the confidentiality of such information. Such information shall be used only for the purposes specified, and shall not be otherwise disclosed without the specific permission of the Party providing the information.

2. 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, regulations and administrative provisions;
- (c) be contrary to any of its domestic laws, regulations and administrative provisions 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 public or private enterprises.

ARTICLE 57
Preservation of Regulatory Authority

1. Each Party retains all authority under its laws to interpret and implement its technical regulations and SPS measures.
2. Nothing in this Chapter shall:
 - (a) prevent a Party from adopting or maintaining, in accordance with its international rights and obligations, technical regulations and SPS measures, as appropriate to its particular national circumstances;
 - (b) prevent a Party from adopting technical regulations and SPS measures to ensure the quality of its imports and exports, 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 objectives⁸;
 - (c) limit the authority of a Party to take all appropriate measures whenever it ascertains that products may not conform with its technical regulations and SPS measures. Such measures may include withdrawing the products from the market, prohibiting their placement on the market, restricting their free movement, initiating a product recall, initiating legal proceedings or otherwise preventing the recurrence of such problems including through a prohibition on imports. If a Party takes such measures, it shall notify the other Party within fifteen (15) working days of taking the measures, giving its reasons;
 - (d) oblige a Party to recognise the standards or technical regulations or SPS measures of the other Party as equivalent; or
 - (e) affect the rights and obligations of either Party as a member of the TBT Agreement or the SPS Agreement.

ARTICLE 58
Final Provisions on Annexes⁹

1. The Parties may, upon request, commence discussions to explore the possibility of establishing additional Annexes of mutual interest after the signing of this Agreement.
2. 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 Annex, in whole or in part, immediately. In

⁸ As understood under Article 2.2 of the TBT Agreement.

⁹ Annexes to this Chapter include Sectoral Annexes.

such a case, the Party shall immediately advise the other Party of the nature of the urgent problem, the products covered and the objective and rationale of the suspension.

3. For the purposes of this Chapter, an Annex shall provide, but is not limited to, the following details:

- (a) the regulatory authorities designated by each Party;
- (b) the detailed implementing arrangements; and
- (c) the provisions for entry into force and/or termination.