

CHAPTER 11
GOOD REGULATORY PRACTICES AND REGULATORY
COOPERATION

SECTION 11.1
GENERAL PROVISIONS

ARTICLE 11.1

Objectives and General Principles

1. The objectives of this Chapter are to promote good regulatory practices and regulatory cooperation between the Parties with the aim of enhancing trade and investment between the Parties by:
 - (a) promoting an effective, transparent and predictable regulatory environment; and
 - (b) discussing regulatory measures, practices or approaches of interested Parties, including how to enhance their efficient application.
2. Nothing in this Chapter shall affect the right of a Party to regulate in pursuit or furtherance of its public policy objectives.
3. Nothing in this Chapter shall be construed as preventing a Party from adopting, maintaining and applying regulatory measures in accordance with its legal framework, principles and deadlines, in order to achieve its public policy objectives.
4. Nothing in this Chapter shall be construed as obliging a Party to achieve any particular regulatory outcome.

ARTICLE 11.2

Definitions

For the purposes of this Chapter, unless otherwise specified:

- (a) “regulatory authority” means:
 - (i) in the case of Iceland, Liechtenstein and Norway, the Government of that Party; and

- (ii) in the case of the United Kingdom, Her Majesty's Government of the United Kingdom of Great Britain and Northern Ireland, and the devolved administrations of the United Kingdom; and
- (b) "regulatory measures" means legislation as set out in Annex XXV (Additional Provisions Concerning the Scope of "Regulatory Measures"). For Iceland, Liechtenstein and Norway, regulatory measures under this Chapter do not include measures following from obligations under the EEA Agreement.

ARTICLE 11.3

Scope

1. Section 11.2 (Good Regulatory Practices) applies to all regulatory measures issued by the regulatory authority of a Party in respect of any matter covered by this Agreement.
2. Sections 11.3 (Regulatory Cooperation) and 11.4 (Institutional Provisions) apply to other measures of general application issued by the regulatory authority of a Party which are relevant to regulatory cooperation activities, such as guidelines, policy documents or recommendations, in addition to the regulatory measures referred to in paragraph 1.
3. Any specific provisions in other Chapters of this Agreement shall prevail over the provisions of this Chapter to the extent necessary for the application of the specific provisions.

SECTION 11.2

GOOD REGULATORY PRACTICES

ARTICLE 11.4

Internal Coordination

Each Party shall endeavour to maintain internal processes or mechanisms to foster good regulatory practices, including those provided for in this Section.

ARTICLE 11.5

Regulatory Processes and Mechanisms

Each Party shall ensure that their regulatory authority provides public access to descriptions of the processes and mechanisms under which its regulatory measures are prepared, evaluated and reviewed. Where practicable, this information should be made available online. Those descriptions should refer to relevant guidelines, rules or procedures.

ARTICLE 11.6

Public Consultations

1. When preparing significant⁷³ regulatory measures, the regulatory authority of each Party should, to the extent practicable and in a manner consistent with its legal system for adopting new measures:
 - (a) publish either the draft regulatory measures or consultation documents providing sufficient details about regulatory measures under preparation to allow any person to assess whether and how the person's interests might be significantly affected;
 - (b) offer, on a non-discriminatory basis, reasonable opportunities for any person to provide comments⁷⁴; and
 - (c) consider the comments received.
2. The regulatory authority of each Party should make use of electronic means of communication and seek to maintain online services that are freely and publicly available for the purpose of providing information and receiving comments related to public consultations.
3. The regulatory authority of each Party shall make publicly available any comment received or a summary of the results of the consultations. This obligation does not apply to the extent necessary for the protection of confidential or sensitive information, for withholding personal data or inappropriate content or for other justified grounds such as the risk of harm to the interests of a third party.

⁷³ The regulatory authority of each Party may determine what constitutes "significant" regulatory measures for the purpose of its obligations under this Section.

⁷⁴ For clarity, this does not create any obligation to provide consultation documents in any other languages than normally used in the Party.

ARTICLE 11.7

Proportionate Analyses

1. The regulatory authority of each Party shall endeavour to carry out, in accordance with the relevant rules and procedures, a proportionate analysis of significant regulatory measures under preparation.
2. When carrying out a proportionate analysis, the regulatory authority of each Party shall establish and maintain processes and mechanisms under which the following factors should be taken into consideration:
 - (a) the need for the regulatory measure, including the nature and the significance of the issue that the regulatory measure intends to address; and
 - (b) any feasible and appropriate regulatory or non-regulatory alternatives, including the option of not regulating, if available, that would achieve the Party's public policy objectives.
3. The regulatory authority of each Party shall provide public access to the findings of its proportionate analyses consistent with their rules and procedures. Where practicable, this information should be made available online and in a timely manner.

ARTICLE 11.8

Retrospective Evaluation

The regulatory authority of each Party should maintain processes or mechanisms for the purpose of carrying out retrospective evaluation of regulatory measures in force where appropriate.

ARTICLE 11.9

Exchange of Information on Good Regulatory Practices

The regulatory authorities may exchange information on their good regulatory practices as referred to in this Section, such as practices regarding proportionate analyses or those regarding retrospective evaluations.

SECTION 11.3

REGULATORY COOPERATION

ARTICLE 11.10

Regulatory Cooperation Activities

1. A Party may propose a regulatory cooperation activity to another Party. It shall present that proposal via the contact point designated in accordance with Article 11.11 (Contact Points).
2. The other Party shall review the proposal in due course and shall inform the proposing Party whether it considers the proposed activity suitable for regulatory cooperation.
3. If the Parties concerned decide to engage in a regulatory cooperation activity, the regulatory authority of each Party shall:
 - (a) inform the regulatory authority of the other Party about the development of new or the revision of existing measures that are relevant for the regulatory cooperation activity;
 - (b) on request, provide information and discuss measures that are relevant for the regulatory cooperation activity; and
 - (c) when developing new or revising existing regulatory or other measures, consider, to the extent feasible, any regulatory approach by the other Party on the same or a related matter.
4. The Parties may engage in regulatory cooperation activities on a voluntary basis. A Party may refuse to engage in or withdraw from regulatory cooperation activities. A Party that refuses to engage in or withdraws from regulatory cooperation activities should explain the reasons for its decision to the other Party.
5. Where appropriate, the regulatory authorities may, by mutual consent, entrust the implementation of a regulatory cooperation activity to the relevant bodies in the Parties.

SECTION 11.4
INSTITUTIONAL PROVISIONS

ARTICLE 11.11

Contact Points

Each Party shall, upon the entry into force of this Agreement, designate a contact point for the implementation of this Section and for exchange of information in accordance with Article 11.12 (Exchange of Information on Planned or Existing Regulatory Measures) and notify the other Parties of the contact. The Parties shall promptly notify each other of any change of those contact details.

ARTICLE 11.12

Exchange of Information on Planned or Existing Regulatory Measures

1. A Party may submit to another Party a request for information and clarifications regarding planned or existing regulatory measures of the other Party. The Party to whom the request is addressed shall endeavour to respond promptly.
2. The Parties shall not be required to disclose confidential or sensitive information or data.

ARTICLE 11.13

Dispute Settlement

The provisions of this Chapter shall not be subject to dispute settlement under Chapter 16 (Dispute Settlement).