

CHAPTER 6
TECHNICAL BARRIERS TO TRADE

ARTICLE 6.1: OBJECTIVES

The objectives of this Chapter are to further the implementation of the TBT Agreement and to facilitate trade between the Parties through:

- (a) cooperation to ensure that technical regulations, standards and conformity assessment procedures do not create unnecessary barriers to trade;
- (b) improving access to information on technical regulations, standards and conformity assessment procedures;
- (c) enhancing mutual understanding of each Party's technical regulations, standards and conformity assessment procedures;
- (d) establishing communication links between agencies in the Parties and fostering cooperation at the regulatory level;
- (e) building on existing cooperation between standards, accreditation and conformity assessment organisations for the purpose of promoting recognition and acceptance of the results of conformity assessment; and
- (f) encouraging the reduction of transaction costs between the Parties.

ARTICLE 6.2: SCOPE

1. Unless otherwise provided in paragraphs 2 and 3, this Chapter applies to all standards, technical regulations and conformity assessment procedures of the central government that may, directly or indirectly, affect trade in goods between the Parties.
2. This Chapter does not apply to purchasing specifications prepared by government bodies for production or consumption requirements of such bodies.
3. This Chapter does not apply to sanitary and phytosanitary measures which are covered by Chapter 5 (Sanitary and Phytosanitary Measures).
4. Nothing in this Chapter shall prevent a Party from adopting or maintaining, in accordance with its rights and obligations under the TBT Agreement, standards, technical regulations and conformity assessment procedures.

第六章 技术性贸易壁垒

第六条第一款：目标

本章的目标是促进《技术性贸易壁垒协定》的实施，并通过以下方式促进各方之间的贸易：

- (a) 合作以确保技术法规、标准和合格评定程序不会造成不必要的贸易壁垒；(b) 改善对技术法规、标准和合格评定程序的信息获取；(c) 增进各方对彼此的技术法规、标准和合格评定程序的相互理解；(d) 建立各方机构之间的沟通渠道，并在监管层面促进合作；(e) 在标准、认证和合格评定组织之间现有的合作基础上，促进合格评定结果的认可和接受；以及(f) 鼓励各方之间交易成本的降低。

第六条第二款：范围

1. 除第2段和第3段另有规定外，本章适用于可能直接或间接影响各方之间货物贸易的中央政府的所有标准、技术法规和合格评定程序。
2. 本章不适用于政府机构为满足自身生产或消费需求而制定的采购规格。
3. 本章不适用于第5章（卫生与植物卫生措施）所涵盖的卫生与植物卫生措施。
4. 本章规定不得阻止任何一方根据其在技术性贸易壁垒协定下的权利和义务，采用或维持标准、技术法规和合格评定程序。

5. Each Party shall take such reasonable measures as may be available to it to ensure compliance with the provisions of this Chapter by local government bodies and non-government bodies within its territory.

ARTICLE 6.3: DEFINITIONS

For the purposes of this Chapter:

- (a) **TBT Agreement** means the *Agreement on Technical Barriers to Trade* contained in Annex 1A of the WTO Agreement; and
- (b) **technical regulation, standard and conformity assessment procedures** shall have the meanings assigned to them in Annex 1 of the TBT Agreement.

ARTICLE 6.4: AFFIRMATION OF THE TBT AGREEMENT

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

ARTICLE 6.5: INTERNATIONAL STANDARDS

The Parties shall use international standards, guidelines and recommendations, 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, unless such international standards or their relevant parts are ineffective or inappropriate to fulfil legitimate objectives.

ARTICLE 6.6: TECHNICAL REGULATIONS

1. Each Party shall give positive consideration to accepting as equivalent technical regulations of the other Party, even if these regulations differ from its own, provided that it is satisfied that these regulations adequately fulfil the objectives of its regulations.
2. Where a Party does not accept a technical regulation of the other Party as equivalent to its own, it shall, on request of the other Party, explain its reasons. The Parties will, if they so agree, give further consideration to whether a Party should accept a particular regulation as equivalent to its own and consider establishing an *ad hoc* working group, as provided for in Article 6.13.5(e), for this purpose.

5. 各方应采取其能够采取的合理措施，确保其领土内的政府机构和非政府机构遵守本章规定。

ARTICLE 6.3: DEFINITIONS

本章的目的：

- (a) 技术性贸易壁垒协定（TBT协定）是指包含在世界贸易组织协定附件1A中的关于技术性贸易壁垒的协定；以及(b) 技术法规、标准和合格评定程序应具有TBT协定附件1中赋予它们的含义。

第六条第四款：确认技术性贸易壁垒协定

各方重申其根据TBT协定相互享有的权利和义务。

ARTICLE 6.5: 国际标准

各方应在其技术法规和相关合格评定程序中，在相关的国际标准存在或即将完成时，以国际标准、指南和建议，或国际标准的有关部分为基础，除非这些国际标准或其有关部分无法实现合法目标或不适于实现合法目标。

ARTICLE 6.6: 技术法规

1. 各方应积极考虑接受另一方的技术法规作为等效法规，即使这些法规与其自身的法规不同，前提是其认为这些法规充分实现了其法规的目标。
2. 当一方不接受另一方的技术法规作为其自身的等效法规时，应根据另一方的请求解释其理由。如果各方同意，将就一方是否应接受特定法规作为其自身的等效法规进行进一步考虑，并考虑根据第6.13.5(e)条的规定成立临时工作组，以实现此目的。

ARTICLE 6.7: CONFORMITY ASSESSMENT PROCEDURES

1. The Parties shall work cooperatively, in particular on mandatory conformity assessment procedures, with a view to facilitating trade.
2. The Parties recognise that a broad range of mechanisms exists to facilitate the acceptance of conformity assessment procedures and the results thereof.
3. The Parties agree to exchange information on conformity assessment procedures, including testing, inspection, certification, accreditation and metrology, with a view to building mechanisms for cooperation in the field of conformity assessment procedures in a manner consistent with the TBT Agreement and the relevant domestic legislation of the Parties.
4. The Parties agree to encourage their conformity assessment bodies to work more closely with a view to facilitating the acceptance of conformity assessment results between both Parties.
5. Subject to paragraph 6, each Party shall accredit or otherwise recognise conformity assessment bodies in the territory of the other Party on terms no less favourable than those it accords to conformity assessment bodies in its territory.
6. China's domestic legislation requires a cooperation agreement between the Parties or their competent authorities before it can accredit, approve, license or otherwise recognise a body in the territory of Australia for assessing conformity with a particular technical regulation or standard.
7. This Article shall not preclude a Party from undertaking conformity assessment solely within specific government bodies located in its own territory or in the other Party's territory, subject to its obligations under the TBT Agreement.

ARTICLE 6.8: TRANSPARENCY

1. The Parties acknowledge the importance of transparency in decision-making on proposed technical regulations and conformity assessment procedures. Where a Party publishes a notice in accordance with Article 2.9 or 5.6 of the TBT Agreement, it shall:
 - (a) include in the notice a statement describing the objective of the proposed technical regulation or conformity assessment procedure and the rationale for the approach the Party is proposing; and
 - (b) transmit the proposal electronically from its own national TBT enquiry point to the enquiry point of the other Party established under Article 10 of the TBT Agreement, at the same time as it notifies WTO Members of the proposal pursuant to the TBT Agreement.

第六条 技术法规

1. 各方应就强制性合格评定程序进行合作，以促进贸易。
2. 各方承认存在多种机制以促进合格评定程序的接受及其结果。
3. 各方同意就合格评定程序（包括测试、检验、认证、认可和计量）交换信息，以在符合技术性贸易壁垒协定及各方相关国内立法的方式下，建立合格评定程序领域的合作机制。
4. 各方同意鼓励其合格评定机构更紧密地合作，以促进双方合格评定结果的接受。
5. 除第六段规定外，每一方应在其领土内给予其他方领土内的合格评定机构不低于其给予其领土内合格评定机构的有利条件，并认可或以其他方式承认之。
6. 中国的国内立法要求在可以认可、批准、许可或以其他方式认可澳大利亚领土内某个机构进行与特定技术法规或标准相符的合格评定之前，各方或其主管当局之间必须达成合作协议。
7. 本条不妨碍一方在其领土内或另一方领土内设立的特定政府机构内仅进行合格评定，前提是该方遵守技术性贸易壁垒协定项下的义务。

第六条8：透明度

1. 各方承认在拟议的技术法规和合格评定程序决策方面透明度的重要性。当一方根据技术性贸易壁垒协定第2.9条或第5.6条发布通知时，该方应当：
 - (a) 在通知中包含一段说明拟议技术法规或合格评定程序的目标以及该方提出的方法的合理性的陈述；以及 (b) 将提案通过其自身的国家TBT查询点电子传输至根据TBT协定第10条设立的另一方的查询点，同时按照TBT协定通知WTO成员该提案。

Each Party, after it transmits a proposal to the other Party, should allow at least 60 days for the other Party to make comments in writing on the proposal.

2. Each Party shall respond in print or electronically to comments it receives from the other Party before it publishes the final technical regulation or conformity assessment procedure.

3. Where a Party makes an urgent notification in accordance with Article 2.10 or 5.7 of the TBT Agreement, it shall at the same time transmit electronically the notification to the other Party through the enquiry point referenced in paragraph 1(b).

4. On request of the other Party, a Party shall provide the other Party with information regarding the objective of, rationale for, and, where possible, other relevant information about a standard, technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt.

5. A Party shall provide in a timely manner responses to all reasonable requests received from the other Party for information, where available, concerning technical regulations and conformity assessment procedures, products subject to conformity assessment requirements, charges and fees for conducting conformity assessment activities, bodies accredited to carry out certification and laboratory testing activities, and the scope of business of such bodies.

6. The Parties, through their competent regulatory authorities, shall endeavour to enhance cooperation and develop mechanisms to notify the other Party, in a timely manner, of any relevant and possibly emerging product problems, the measures to be taken, and the reasons for the imposition of the measures.

ARTICLE 6.9: TRADE FACILITATION

1. The Parties shall work cooperatively in the fields of standards, technical regulations and conformity assessment procedures to facilitate trade between the Parties. In particular, the Parties shall seek to identify bilateral initiatives regarding standards, technical regulations and conformity assessment procedures that are appropriate for particular issues or sectors so as to facilitate trade. Such initiatives may include:

- (a) cooperation on regulatory issues, such as convergence or equivalence of technical regulations and standards;
- (b) alignment with international standards;
- (c) feasibility of acceptance and reliance on a supplier's declaration of conformity;

各方在向另一方传输提案后，应至少允许60天的时间供另一方就提案书面提出意见。

2. 各方应在最终技术法规或合格评定程序发布前，以印刷或电子方式回应其从另一方收到的意见。

3. 当一方根据技术性贸易壁垒协定第2.10条或第5.7条发出紧急通知时，应同时通过第1(b)段所述的查询点以电子方式将通知传送给另一方。

4. 应另一方的请求，一方应向另一方提供其已采纳或拟采纳的标准、技术法规或合格评定程序的目标、理由以及可能的其他相关信息。

5. 一方应在合理的时间内回应另一方提出的所有合理请求，提供有关技术法规和合格评定程序、受合格评定要求约束的产品、进行合格评定活动的收费和费用、获准开展认证和实验室检测活动的机构以及此类机构业务范围的信息，如可获得。

6. 各方通过其主管监管机构，应努力加强合作，并制定机制，以便及时通知另一方任何相关且可能出现的产品问题、拟采取的措施以及措施实施的原因。

ARTICLE 6.9: 贸易便利化

1. 各方应在标准、技术法规和合格评定程序领域进行合作，以促进双方之间的贸易。特别是，各方应努力确定适用于特定问题或领域的双边倡议，包括标准、技术法规和合格评定程序，以促进贸易。此类倡议可包括：

- (a) 监管问题的合作，例如技术法规和标准的趋同或等效；(b) 与国际标准保持一致；(c) 接受的可行性和依赖供应商符合性声明；

- (d) use of accreditation to qualify conformity assessment bodies; and
- (e) cooperation through recognition of conformity assessment procedures.

2. The Parties shall encourage their respective standardising and conformity assessment bodies to consult and exchange views when developing standards, guidelines, recommendations or policies relevant to this Chapter, and to consult and exchange views on major issues under discussion in relevant international or regional bodies.

ARTICLE 6.10: INFORMATION EXCHANGE

Any information or explanation that is provided on request of a Party in accordance with this Chapter shall be provided in print or electronically within a reasonable period of time.

ARTICLE 6.11: COOPERATION AND TECHNICAL ASSISTANCE

1. Each Party recognises the rights and obligations relating to technical assistance in the TBT Agreement, especially for developing country Members.

2. Considerable cooperation already exists between the Parties and their competent authorities on TBT issues. To support implementation of this Chapter and increase mutual understanding of their respective systems, the Parties, through the Committee on Technical Barriers to Trade established under Article 6.13, shall consider further cooperation and technical assistance programs in the field of technical barriers to trade. Such cooperation and technical assistance may include:

- (a) conducting joint studies, symposiums and seminars;
- (b) exchange of information in respect of technical regulations, standards, conformity assessment procedures and good regulatory practice;
- (c) supporting the activities of international standardisation bodies and the WTO Committee on Technical Barriers to Trade;
- (d) reinforcing the role of international standards as a basis for technical regulations and conformity assessment procedures;
- (e) promoting the accreditation of conformity assessment bodies on the basis of relevant standards and guides of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC); and

(d) 使用认可来资格认证合格评定机构；以及 (e) 通过认可合格评定程序进行合作。

2. 各方应鼓励其各自的标准制定机构和合格评定机构在制定与本章相关标准、指南、建议或政策时进行磋商和交流意见，并在相关国际或区域机构讨论的重大问题上进行磋商和交流意见。

第六条第10款：信息交换

根据本章规定，一方在接到另一方请求时提供的任何信息或说明，应在合理的时间内以印刷或电子形式提供。

第六条第11款：合作与技术援助

1. 各方承认技术援助协定中有关技术援助的权利和义务，特别是对发展中国家成员而言。

2. 各方及其主管当局之间在TBT问题上已存在相当程度的合作。为支持本章的实施并增进其各自体系间的相互理解，各方应通过根据第6.13条设立的技术性贸易壁垒委员会，考虑在技术性贸易壁垒领域进一步的合作和技术援助计划。此类合作和技术援助可包括：

- (a) 联合开展研究、研讨会和研讨会；
- (b) 在技术法规、标准、合格评定程序和良好监管实践方面交换信息；
- (c) 支持国际标准化机构和技术性贸易壁垒委员会的活动；
- (d) 加强国际标准作为技术法规和合格评定程序基础的作用；
- (e) 基于国际标准化组织（ISO）和国际电工委员会（IEC）的相关标准和指南，促进合格评定机构的认证；以及

(f) any other areas as agreed by the Parties.

ARTICLE 6.12: CONSULTATION AND DISPUTE SETTLEMENT

1. The Parties shall endeavour to resolve any matter arising under this Chapter through cooperative mechanisms under this Chapter.

2. Neither Party shall have recourse to the provisions in Chapter 15 (Dispute Settlement) for any matter arising under this Chapter.

ARTICLE 6.13: COMMITTEE ON TECHNICAL BARRIERS TO TRADE

1. The Parties hereby establish the Committee on Technical Barriers to Trade (hereinafter referred to in this Article as the “Committee”), comprising representatives of each Party.

2. The Committee shall be:

- (a) composed of representatives of the competent authorities of the Parties, who, upon agreement, may also invite representatives of relevant entities with necessary expertise relevant to the issues to be discussed; and
- (b) co-chaired by officials of the competent authorities of the Parties.

3. For the purposes of this Article, the Committee shall be coordinated by Chapter Coordinators (“the Coordinators”):

- (a) in the case of Australia, the Department of Industry or its successor; and
- (b) in the case of China, the General Administration of Quality Supervision, Inspection and Quarantine or its successor.

4. The Coordinators shall also facilitate the implementation of this Chapter and the decisions of the Committee. The Coordinators shall communicate with each other by any agreed method that is appropriate for the efficient and effective discharge of their functions.

5. The Committee’s functions shall include:

- (a) reviewing and monitoring the implementation and administration of this Chapter, including in light of any developments under the WTO Committee on Technical Barriers to Trade as well as the TBT Agreement, and, if necessary, developing recommendations for supplementing this Chapter;

(f) 各方同意的任何其他领域。

第六条第12款：磋商与争端解决

1. 各方应通过本章节下的合作机制努力解决在本章节下产生的任何事项。

2. 任何一方不得就本章节下产生的事项援引第15章（争端解决）的规定。

第六条第13款：技术性贸易壁垒委员会

1. 各方兹设立技术性贸易壁垒委员会（以下简称本条为本款称为“委员会”），由各方的代表组成。

2. 委员会应：

- (a) 由各方的主管当局的代表组成，经协议，亦可邀请具有与待讨论问题相关的必要专业知识的有关实体的代表；以及 (b) 由各方的主管当局的官员共同主持。

3. 为本条之目的，委员会应由章节协调员（“协调员”）协调：

- (a) 在澳大利亚的情况下，为工业部或其继任机构；以及 (b) 在中国的 경우, 为国家质量监督检验检疫总局或其继任机构。

4. 协调员还应促进本章的实施以及委员会的决定。协调员应通过任何适合其职能高效和有效履行的商定方法进行相互沟通。

5. 委员会的职能应包括：

- (a) 审查和监督本章的实施和管理，包括根据世界贸易组织技术性贸易壁垒委员会以及技术性贸易壁垒协定的任何发展情况，并在必要时，为本章制定补充建议；

- (b) upon a Party's written request, consulting on issues concerning technical barriers to trade arising under this Chapter. Where a Party declines a request from the other Party to consult on an issue relevant to this Chapter, it shall, on request, explain its reasons for its decision;
- (c) providing information on standards, technical regulations and conformity assessment procedures of a Party in response to all reasonable requests for information from the other Party;
- (d) discussing and developing appropriate project proposals on technical assistance and cooperation as needed and agreed by the Parties, and monitoring implementation;
- (e) establishing *ad hoc* working groups to discuss specific technical issues as needed and agreed by the Parties;
- (f) reporting to the FTA Joint Commission on its findings and the outcome of its discussions; and
- (g) carrying out other functions as may be delegated to it by the FTA Joint Commission.

6. In its first meeting, the Committee shall adopt its rules of procedure, which shall be updated if necessary.

7. The Committee shall convene at least once every two years, unless the Parties agree otherwise. The Committee may meet in person, by teleconference, by videoconference, or by any other means agreed by the Parties. The Parties may avail themselves of the opportunity to meet, where possible, in conjunction with other meetings related to the Agreement or in the margins of international meetings.

(b) 应一方方的书面请求，就本章产生的技术性贸易壁垒问题进行磋商。若一方方拒绝就与本章相关的问题向另一方方进行磋商的请求，则应另一方方的请求，说明其决定的原因；(c) 应另一方方提出的所有合理信息请求，提供一方方的标准、技术法规和合格评定程序的信息；(d) 根据需要并经各方同意，讨论和发展适当的技术援助与合作项目提案，并监督实施；(e) 根据需要并经各方同意，设立临时工作组讨论特定的技术问题；(f) 向自由贸易区联合委员会报告其发现和讨论结果；以及(g) 根据自由贸易区联合委员会的授权，执行其他职能。

6. 在其第一次会议上，委员会应通过其议事规则，如有必要，应进行更新。

7. 委员会应每两年至少召开一次会议，除非各方另有同意。委员会可以亲自、通过电话会议、通过视频会议或通过各方同意的任何其他方式进行会议。各方可在可能的情况下利用机会，与其他与协定相关的会议或在国际会议的边缘举行会议。