

CHAPTER 24

REGULATORY COHERENCE

Article 24.1: Definitions

For the purposes of this Chapter:

covered regulatory measure means a regulatory measure determined by each Party to be subject to this Chapter in accordance with Article 24.3; and

regulatory measure means a measure of general application related to any matter covered by this Agreement adopted by regulatory agencies with which compliance is mandatory.

Article 24.2: General Provisions

1. For the purposes of this Chapter, regulatory coherence refers to the use of good regulatory practices in the process of planning, designing, issuing, implementing and reviewing regulatory measures in order to facilitate achievement of domestic and international policy objectives, and in efforts across governments to enhance regulatory cooperation in order to further those objectives and promote international trade and investment, economic growth and employment.

2. The Parties affirm the importance of:

- (a) sustaining and enhancing the benefits of this Agreement through regulatory coherence in terms of facilitating increased trade in goods and services and increased investment between the Parties;
- (b) each Party's sovereign right to identify its regulatory priorities and establish and implement regulatory measures to address these priorities, at the levels that the Party considers appropriate;
- (c) the role that regulation plays in achieving public policy objectives;
- (d) taking into account input from interested persons in the development of regulatory measures; and
- (e) developing regulatory cooperation and capacity building between the Parties.

Article 24.3: Scope of Covered Regulatory Measures

Each Party shall promptly, and no later than two years after the date of entry into force of this Agreement, determine and make publicly available the scope of its covered regulatory measures. In determining the scope of covered regulatory measures, each Party should aim to achieve significant coverage.

Article 24.4: Coordination and Review Processes or Mechanisms

1. The Parties recognise that regulatory coherence can be facilitated through domestic mechanisms that increase interagency consultation and coordination associated with processes for developing regulatory measures. Accordingly, each Party shall endeavour to ensure that it has processes or mechanisms to facilitate the effective interagency coordination and review of proposed covered regulatory measures. Each Party should consider establishing and maintaining a national or central coordinating body for this purpose.

2. The Parties recognise that while the processes or mechanisms referred to in paragraph 1 may vary between them depending on their respective circumstances (including differences in levels of development and political and institutional structures), they should generally have as overarching characteristics the ability to:

- (a) review proposed covered regulatory measures to determine the extent to which the development of such measures adheres to good regulatory practices, which may include but are not limited to those set out in Article 24.5 and make recommendations based on that review;
- (b) strengthen consultation and coordination among domestic agencies so as to identify potential overlap and duplication and to prevent the creation of inconsistent requirements across agencies;
- (c) make recommendations for systemic regulatory improvements; and
- (d) publicly report on regulatory measures reviewed, any proposals for systemic regulatory improvements, and any updates on changes to the processes and mechanisms referred to in paragraph 1.

3. Each Party should generally produce documents that include descriptions of those processes or mechanisms and that can be made available to the public.

Article 24.5: Implementation of Core Good Regulatory Practices

1. To assist in designing a measure to best achieve the Party's objective, each Party should generally encourage relevant regulatory agencies, consistent with its laws and regulations, to conduct regulatory impact assessments when developing proposed covered regulatory measures that exceed a threshold of economic impact, or other regulatory impact, where appropriate, as established by the Party. Regulatory impact assessments may encompass a range of procedures to determine possible impacts.
2. Recognising that differences in the Parties' institutional, social, cultural, legal and developmental circumstances may result in specific regulatory approaches, regulatory impact assessments conducted by a Party should, among other things:
 - (a) assess the need for a regulatory proposal, including a description of the nature and significance of the problem;
 - (b) examine feasible alternatives, including, to the extent possible and consistent with laws and regulations, their costs and benefits, such as risks involved as well as distributive impacts, recognising that some costs and benefits are difficult to quantify and monetise;
 - (c) explain the grounds for concluding that the selected alternative achieves the policy objectives in an efficient manner, including, if appropriate, reference to the costs and benefits and the potential for managing risks; and
 - (d) rely on the best reasonably obtainable existing information including relevant scientific, technical, economic or other information, within the boundaries of the authorities, mandates and resources of the particular regulatory agency.
3. When conducting regulatory impact assessments, a Party may take into consideration the potential impact of the proposed regulation on SMEs.
4. Each Party should ensure that new covered regulatory measures are plainly written and are clear, concise, well organised and easy to understand, recognising that some measures address technical issues and that relevant expertise may be needed to understand and apply them.
5. Subject to its laws and regulations, each Party should ensure that relevant regulatory agencies provide public access to information on new covered regulatory measures and, where practicable, make this information available online.

6. Each Party should review, at intervals it deems appropriate, its covered regulatory measures to determine whether specific regulatory measures it has implemented should be modified, streamlined, expanded or repealed so as to make the Party's regulatory regime more effective in achieving the Party's policy objectives.

7. Each Party should, in a manner it deems appropriate, and consistent with its laws and regulations, provide annual public notice of any covered regulatory measure that it reasonably expects its regulatory agencies to issue within the following 12-month period.

8. To the extent appropriate and consistent with its laws and regulations, each Party should encourage its relevant regulatory agencies to consider regulatory measures in the other Party, as well as relevant developments in international, regional and other fora when planning covered regulatory measures.

Article 24.6: Contact Points

Each Party shall designate and notify a contact point on Regulatory Coherence to facilitate communications between the Parties on any matter covered by this Chapter.

Article 24.7: Cooperation

1. The Parties shall use their best endeavours to cooperate in order to facilitate the implementation of this Chapter and to maximise the benefits arising from it. Cooperation activities shall take into consideration each Party's needs, and may include:

- (a) information exchanges, dialogues or meetings;
- (b) information exchanges, dialogues or meetings with interested persons, including with SMEs;
- (c) training programmes, seminars and other relevant assistance;
- (d) strengthening cooperation and other relevant activities between regulatory agencies; and
- (e) other activities that Parties may agree.

2. The Parties further recognise that cooperation by the Parties on regulatory matters can be enhanced through, among other things, ensuring that each Party's regulatory measures are centrally available.

Article 24.8: Relation to Other Chapters

In the event of any inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter shall prevail to the extent of the inconsistency.

Article 24.9: Non-application of Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 27 (Dispute Settlement) for any matter arising under this Chapter.