

CHAPTER 6

STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT PROCEDURES

Article 1

Definitions

For the purposes of this Chapter:

- (a) **TBT Agreement** means the *Agreement on Technical Barriers to Trade* in Annex 1A to the WTO Agreement; and
- (b) the definitions in Annex 1 of the TBT Agreement are incorporated into and shall form part of this Chapter, *mutatis mutandis*.

Article 2

Objectives

The objectives of this Chapter are to facilitate trade in goods among the Parties by:

- (a) ensuring that standards, technical regulations, and conformity assessment procedures do not create unnecessary obstacles to trade;
- (b) promoting mutual understanding of each Party's standards, technical regulations, and conformity assessment procedures;

- (c) strengthening information exchange among the Parties on standards, technical regulations, and conformity assessment procedures;
- (d) strengthening co-operation among the Parties in the work of international bodies related to standardisation and conformity assessments; and
- (e) providing a framework to implement supporting mechanisms to realise these objectives.

Article 3

Scope

1. For the mutual benefit of the Parties, this Chapter applies to all standards, technical regulations, and conformity assessment procedures of the Parties that may affect trade in goods among the Parties except:

- (a) purchasing specifications prepared by governmental bodies for the production or consumption requirements of such bodies; and
- (b) sanitary or phytosanitary measures as defined in paragraph 1 of Annex A of the SPS Agreement, which are covered by Chapter 5 (Sanitary and Phytosanitary Measures).

2. Nothing in this Chapter shall limit the right of a Party to prepare, adopt and apply, in accordance with its rights and obligations under the TBT Agreement, standards, technical regulations, and conformity assessment procedures to the extent necessary to fulfil a legitimate objective. Such legitimate objectives are, *inter alia*, national security requirements, the

prevention of deceptive practices, and the protection of human health or safety, animal or plant life or health, or the environment.

Article 4

Affirmation of the TBT Agreement

1. Each Party affirms its rights and obligations with respect to another Party under the TBT Agreement.
2. In the implementation of this Chapter, each Party shall take such reasonable measures as may be available to it to ensure compliance by local government and non-governmental bodies, where applicable, within its Area, which are responsible for the preparation, adoption and application of standards, technical regulations, and conformity assessment procedures.

Article 5

Standards

1. With respect to the preparation, adoption and application of standards, each Party shall ensure that its central government standardising bodies accept and comply with Annex 3 of the TBT Agreement. Each Party shall take such reasonable measures as may be available to it to ensure other standardising bodies within its Area accept and comply with Annex 3 of the TBT Agreement.
2. Each Party shall encourage the standardising body or bodies, where applicable, in its Area to co-operate with the standardising body or bodies of the other Parties. Such co-operation shall include:

- (a) exchange of information on standards;
- (b) exchange of information relating to standard setting procedures; and
- (c) co-operation in the work of international standardising bodies in areas of mutual interest.

Article 6

Technical Regulations

1. Where relevant international standards exist or their completion is imminent, each Party shall use them, or relevant parts of them, as a basis for its technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems.

2. Each Party shall give positive consideration to accepting as equivalent technical regulations of another Party, even if these regulations differ from its own, provided it is satisfied that these regulations adequately fulfil the objectives of its own regulations.

3. Where a Party does not accept a technical regulation of another Party as equivalent to its own, it shall, upon request of that other Party, explain the reasons for its decision.

Article 7

Conformity Assessment Procedures

1. Each Party shall give positive consideration to accepting the results of conformity assessment procedures of another Party, even when those procedures differ from its own, provided it is satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to its own procedures.

2. Each Party shall facilitate the acceptance of the results of conformity assessment procedures conducted in the Area of another Party with a view to increasing efficiency, avoiding duplication, and ensuring cost effectiveness of the conformity assessments. In this regard, each Party may choose, depending on the situation of the Party and the specific sectors involved, a broad range of approaches. These may include:

- (a) recognition by a Party of the results of conformity assessments performed in the Area of another Party;
- (b) recognition of co-operative arrangements between accreditation bodies in the Areas of the Parties;
- (c) mutual recognition of conformity assessment procedures conducted by bodies located in the Area of each Party;
- (d) accreditation of conformity assessment bodies in the Area of another Party;

- (e) use of existing regional and international multilateral recognition agreements and arrangements;
- (f) designating conformity assessment bodies located in the Area of another Party to perform conformity assessment; and
- (g) suppliers' declaration of conformity, where applicable.

3. Each Party shall exchange information with another Party on its experience in the development and application of the approaches set out in subparagraphs 2 (a) to (g) and other appropriate approaches with a view to facilitating the acceptance of the results of conformity assessment procedures.

4. A Party shall, upon request of another Party, explain its reasons for not accepting the results of any conformity assessment procedure performed in the Area of the requesting Party.

Article 8

Co-operation

1. The Parties shall co-operate in the field of standards, technical regulations, and conformity assessment procedures with a view to facilitating access to each other's markets.

2. A Party shall, upon request of another Party, give positive consideration to proposals on co-operation in the field of standards, technical regulations, and conformity assessment procedures. Such co-operation, which shall be on mutually determined terms and conditions, may include:

- (a) advice or technical assistance relating to the development and application of standards, technical regulations, and conformity assessment procedures;
- (b) co-operation between conformity assessment bodies, both governmental and non-governmental, in the Area of each of the Parties such as:
 - (i) use of accreditation to qualify conformity assessment bodies; and
 - (ii) enhancing infrastructure in calibration, testing, inspection, certification and accreditation to meet relevant international standards, recommendations and guidelines;
- (c) co-operation in areas of mutual interest in the work of relevant regional and international bodies relating to the development and application of standards and conformity assessment procedures such as enhancing participation in the existing frameworks for mutual recognition developed by relevant regional and international bodies; and
- (d) enhancing co-operation in the development and improvement of technical regulations and conformity assessment procedures such as:
 - (i) co-operation in the development and promotion of good regulatory practice;
 - (ii) transparency, including ways to promote improved access to information on

standards, technical regulations, and conformity assessment procedures; and

- (iii) management of risks relating to health, safety, the environment and deceptive practices.

3. A Party shall, upon request of another Party, give positive consideration to a sector-specific proposal that the requesting Party makes for further co-operation under this Chapter. Such co-operation shall be on mutually determined terms and conditions.

Article 9

Consultations

1. Consultations on any matter arising under this Chapter shall be held at the request of a Party which considers that another Party has taken a measure which is likely to create, or has created, an obstacle to trade. Such consultations shall take place within 60 days from the request with the objective of finding a mutually acceptable solution. Such consultations may be conducted by any means agreed by the Parties.

2. Where a matter covered under this Chapter cannot be clarified or resolved through consultations, the Parties concerned may establish an *ad hoc* working group with a view to identifying a workable and practical solution to facilitate trade. The *ad hoc* working group shall comprise representatives of the Parties concerned.

3. Where a Party declines a request from another Party to establish an *ad hoc* working group referred to in paragraph 2, it shall, upon request of the requesting Party, explain the reasons for its decision.

4. Where an imported consignment does not comply with the technical regulations or conformity assessment procedures of the importing Party, the Parties concerned shall undertake the necessary steps to address the non-compliance without undue delay.

5. Any action taken pursuant to this Article shall be without prejudice to the rights and obligations of the Parties under Chapter 13 (Consultations and Dispute Settlement) or under the WTO Dispute Settlement Understanding.

Article 10

Agreements or Arrangements

1. The Parties shall seek to identify trade-facilitating initiatives regarding standards, technical regulations, and conformity assessment procedures that are appropriate for particular issues or sectors.

2. Such trade-facilitating initiatives may include agreements or arrangements on regulatory issues, such as alignment of standards, convergence or equivalence of technical regulations, conformity assessment procedures and compliance issues.

3. Parties to an existing agreement or arrangement shall, upon request of another Party, give consideration to extending such an agreement or arrangement to the requesting Party. Such consideration may be subject to appropriate confidence building processes including information exchange, co-operation, consultations and training to ensure equivalence of relevant standards, technical regulations, or conformity assessment procedures.

4. Where a Party declines a request of another Party to consider extending the application of an existing agreement or arrangement referred to in paragraph 3, it shall, upon request of the requesting Party, explain the reasons for its decision.

Article 11

Transparency

1. Each Party affirms its commitment to ensuring that information regarding proposed new or amended standards, technical regulations, and conformity assessment procedures is made available in accordance with the relevant requirements of the TBT Agreement.

2. Each Party shall ensure that the information relating to standards, technical regulations, and conformity assessment procedures is published in accordance with the relevant requirements of the TBT Agreement. Such information should be made available in printed form and, where possible, in electronic form.

3. In connection with the notification requirements under Article 2 and Article 5 of the TBT Agreement, each Party shall allow at least 60 days for any other Party to present comments on proposed technical regulations or conformity assessment procedures except where urgent problems of safety, health, environmental protection or national security arise, or threaten to arise, for that Party.

4. Each Party shall take into due consideration the comments of any other Party presented pursuant to paragraph 3 and shall endeavour to provide responses to these comments upon request.

Article 12

Contact Points

1. Each Party shall designate a contact point or contact points which shall, for that Party, have responsibility for coordinating the implementation of this Chapter.
2. Each Party shall provide the other Parties with the name of each designated contact point and the contact details of the relevant official or officials, including telephone, facsimile, email and any other relevant details.
3. A Party shall notify the other Parties promptly of any change of its contact point or contact points or any amendments to the details of the relevant officials.
4. Each Party shall ensure that its contact point or contact points facilitate the exchange of information among the Parties on standards, technical regulations, and conformity assessment procedures, in response to all reasonable requests for such information from a Party.

Article 13

Sub-Committee on Standards, Technical Regulations and Conformity Assessment Procedures

1. The Parties hereby establish a Sub-Committee on Standards, Technical Regulations and Conformity Assessment Procedures (the “STRACAP Sub-Committee”), consisting of representatives of the Parties, to promote and monitor the implementation and administration of this Chapter, including monitoring consultations conducted pursuant to Article 9 (Consultations).
2. The STRACAP Sub-Committee shall meet as mutually determined by the Parties. Meetings may be conducted in person, or by any other means as mutually determined by the Parties.
3. The STRACAP Sub-Committee shall determine its terms of reference in accordance with this Chapter.
4. The STRACAP Sub-Committee shall determine its work programme in response to priorities as identified and agreed by the Parties.