

CHAPTER 6

TECHNICAL BARRIERS TO TRADE

ARTICLE 6.1

Objectives

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

- a) promoting cooperation on the preparation, adoption and application of standards, technical regulations and conformity assessment procedures in order to eliminate unnecessary technical barriers to trade, reduce, where possible, unnecessary costs to exporters;
- b) promoting mutual understanding of each Party's standards, technical regulations and conformity assessment procedures;
- c) strengthening information exchange between the Parties in relation to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures;
- d) strengthening cooperation between the Parties in the work of international bodies related to standardisation and conformity assessment;
- e) providing a framework to realise these objectives; and
- f) promoting cooperation on issues relating to technical barriers to trade.

ARTICLE 6.2

Scope

1. This Chapter shall apply to all standards, technical regulations and conformity assessment procedures of the Parties that may directly or indirectly affect the trade in goods between the Parties except:
 - a) purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies; and
 - b) sanitary or phytosanitary measures as defined in Chapter 7 (Sanitary and Phytosanitary Measures) of this Agreement.
2. In accordance with this Chapter and the TBT Agreement each Party has the right to prepare, adopt and apply standards, technical regulations and conformity assessment procedures.

ARTICLE 6.3

Definitions

For the purposes of this Chapter, the definitions set out in Annex 1 to the TBT Agreement shall apply, *mutatis mutandis*.

ARTICLE 6.4

Incorporation of the TBT Agreement

Except as otherwise provided for in this Chapter, the TBT Agreement shall apply between the Parties and is incorporated into and form part of this Agreement, *mutatis mutandis*.

ARTICLE 6.5

Transparency

1. The Parties acknowledge the importance of transparency with regard to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures.
2. Each Party should provide the period for comments of at least 60 days following the publication of a notice of the kind envisaged in Articles 2.9 and/or 5.6 of the TBT Agreement, except for situations where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for the Parties.
3. Each Party should allow at least 180 days from the adoption of a technical regulation and/or conformity assessment procedure and their/its entry into force, except for situations where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for the Parties.
4. The Parties shall, to the fullest extent possible, endeavour to exchange information in the English language.

ARTICLE 6.6

Marking and Labelling

The Parties note that in accordance with paragraph 1 of Annex 1 to the TBT Agreement, a technical regulation may include or deal exclusively with marking or labelling requirements, and agree that where such technical regulation contains mandatory marking or labelling requirements, they will act in accordance with the principles of Article 2.2 of the TBT Agreement that technical regulations should not be prepared, adopted and applied with a view to, or with the effect of, creating unnecessary obstacles to international trade, and should not be more trade restrictive than necessary to fulfil a legitimate objective.

ARTICLE 6.7

Consultations

1. Where the day to day application of standards, technical regulations and conformity assessment procedures is affecting trade between the Parties, a Party may request consultations aimed at resolving the matter. A request for consultations shall be directed to the other Party's contact point established in accordance with Article 6.9 of this Agreement.
2. Each Party shall make every effort to give prompt and positive consideration to any request from the other Party for consultations on issues relating to the implementation of this Chapter.
3. Where a matter covered under this Chapter cannot be clarified or resolved as a result of consultations, the Parties may establish an *ad hoc* working group with a view to identifying a workable and practical solution that would facilitate trade. The working group shall comprise representatives of the Parties.
4. Where a Party declines a request from the other Party to establish a working group, it shall, upon request, explain the reasons for its decision.

ARTICLE 6.8

Cooperation

1. For the purposes of ensuring that standards, technical regulations and conformity assessment procedures do not create unnecessary obstacles to trade in goods between the Parties, the Parties shall, where possible, cooperate in the field of standards, technical regulations and conformity assessment procedures.

2. The cooperation pursuant to paragraph 1 of this Article may include the following:
 - a) holding joint seminars in order to enhance mutual understanding of standards, technical regulations and conformity assessment procedures in each Party;
 - b) exchanging officials of the Parties for training purposes;
 - c) exchanging information on standards, technical regulations and conformity assessment procedures;
 - d) strengthening cooperation in international fora, including international bodies related to standardisation and conformity assessment and the WTO Committee on Technical Barriers to Trade, in areas of mutual interest;
 - e) encouraging the bodies responsible for standards, technical regulations and conformity assessment procedures in each Party to cooperate on matters of mutual interest;
 - f) providing scientific and technical cooperation in order to improve the quality of technical regulations; and
 - g) making efficient use of regulatory resources.
3. The implementation of paragraph 2 of this Article shall be subject to the availability of appropriated funds and the respective laws and regulations of each Party.
4. Cooperation on issues relating to technical barriers to trade may be undertaken, *inter alia*, through dialogue in appropriate channels, joint projects and technical assistance.

5. The Parties may conduct joint projects, technical assistance and cooperation on standards, technical regulations and conformity assessment procedures in selected areas, as mutually agreed.
6. The Parties undertake to exchange views on matters of market surveillance and enforcement activities in the field thereof relating to technical barriers to trade.
7. Upon request, a Party shall give appropriate consideration to proposals that the other Party makes for cooperation under this Chapter.
8. In order to promote cooperation in the framework of this Chapter, the Parties may conclude *ad hoc* arrangements on the matters covered therein.

ARTICLE 6.9

Competent Authorities and Contact Points

1. The Parties shall designate competent authorities and contact points and exchange information containing the names of the designated competent authorities and contact points, contact details of relevant officials in such competent authorities and contact points, including telephone and facsimile numbers, email addresses and other relevant details.
2. The Parties shall promptly notify each other of any change to their competent authorities and contact points or amendment to the information of the relevant officials.
3. The contact points' functions shall include the following:
 - a) facilitating the exchange of information between the Parties on standards, technical regulations and conformity assessment procedures in response to all reasonable requests for such information from a Party; and
 - b) referring the enquiries from a Party to the appropriate regulatory authorities.

4. The competent authorities' functions shall include:

- a) monitoring the implementation of this Chapter;
- b) facilitating cooperation activities, as appropriate, in accordance with Article 6.8 of this Agreement;
- c) promptly addressing any issue that a Party raises related to the preparation, adoption, application or enforcement of standards, technical regulations and conformity assessment procedures;
- d) facilitating consultations on any matter arising under this Chapter upon request of a Party;
- e) taking any other action that the Parties consider will assist them in implementing this Chapter; and
- f) carrying out other functions as may be delegated by the Joint Committee.