

CHAPTER 7

TECHNICAL REGULATIONS, STANDARDS AND CONFORMITY ASSESSMENT PROCEDURES

Article 7.1: Definitions

For the purposes of this Chapter:

TBT Agreement means the WTO Agreement on Technical Barriers to Trade, contained in Annex 1A of the WTO Agreement; and

technical regulation, standard and **conformity assessment procedures** shall have the meanings assigned to those terms in Annex 1 of the TBT Agreement.

Article 7.2: Objectives

The objectives of this Chapter are to increase and facilitate trade through the improvement of the implementation of the TBT Agreement, the elimination of unnecessary technical barriers to trade and the enhancement of bilateral cooperation.

Article 7.3: Scope and Coverage

1. Except as provided in paragraphs 2 and 3, this Chapter applies to all standards, technical regulations, and conformity assessment procedures, as defined in the TBT Agreement that may, directly or indirectly, affect trade in goods between the Parties.
2. Technical specifications prepared by governmental bodies for production or consumption requirements of such bodies are not subject to the provisions of this Chapter.
3. This Chapter does not apply to sanitary and phytosanitary measures as defined in Annex A, paragraph 1 of the SPS Agreement, which are covered in Chapter 6 (Sanitary and Phytosanitary Measures).
4. Nothing in this Chapter shall limit the right of a Party to prepare, adopt and apply technical regulations and standards, to the extent necessary, in accordance with its rights and obligations under the TBT Agreement, necessary to fulfill a legitimate objective taking into account the risks non-fulfillment would create.

Article 7.4: Reaffirmation of TBT Agreement

The Parties reaffirm their rights and obligations under the TBT Agreement.

Article 7.5: International Standards

1. Each Party shall use relevant international standards, to the extent provided in Article 2.4 of the TBT Agreement, as a basis for its technical regulations.
2. In this respect, the Parties shall apply the principles set out in the “Decisions and Recommendations adopted by the Committee since 1 January 1995, G/TBT/1/Rev.9, 8th September 2008”, Annex B Part 1 (“Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the Agreement”), issued by the WTO Committee on Technical Barriers to Trade.

Article 7.6: Trade Facilitation

The Parties should work cooperatively in the fields of standards, technical regulations and conformity assessment procedures with a view to facilitating trade between the Parties, in particular, to identify bilateral initiatives regarding standards, technical regulations and conformity assessment procedures that are appropriate for particular issues or sectors. 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) reliance on a supplier’s declaration of conformity; and
- (d) use of accreditation to qualify conformity assessment bodies, as well as cooperation through recognition of conformity assessment procedures.

Article 7.7: 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 it is satisfied that these regulations adequately fulfill 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 may, upon the request of the other Party, explain its reasons, as far as possible.

Article 7.8: Conformity Assessment Procedures

1. The Parties recognize that a broad range of mechanisms exist to facilitate the acceptance in a Party's territory of the results of conformity assessment procedures conducted in the other Party's territory. For example:

(a) conformity assessment bodies located in each Party's territory may enter into voluntary arrangements to accept the results of each other's conformity assessment procedures;

(b) a Party may agree with the other Party to accept the results of conformity assessment procedures conducted by bodies located in the other Party's territory with respect to specific technical regulations;

(c) a Party may adopt accreditation procedures for qualifying conformity assessment bodies located in the territory of the other Party; and

(d) a Party may designate conformity assessment bodies located in the territory of the other Party to carry out conformity assessment activities.

The Parties shall exchange information on these and other similar mechanisms with a view to facilitating acceptance of conformity assessment results.

2. Where a Party does not accept the results of a conformity assessment procedure conducted in the territory of the other Party, it may, upon request of that other Party, explain the reasons for its decision, as far as possible.

3. Each Party shall accredit, approve or otherwise recognize conformity assessment bodies in the territory of the other Party on terms no less favorable than those it accords to conformity assessment bodies in its territory. Where a Party accredits, approves or otherwise recognizes a body assessing conformity with a specific technical regulation or standard in its territory and refuses to accredit, approve or otherwise recognize a body assessing conformity with that technical regulation or standard in the territory of the other Party, it shall, upon request of the other Party, explain the reasons for its decision.

4. Where a Party declines a request from the other Party to engage in negotiations or conclude an agreement on facilitating recognition in its territory of the results of conformity assessment procedures conducted by bodies in the other Party's territory, it shall, upon request of that other Party, explain the reasons for its decision.

Article 7.9: Technical Cooperation

With a view to fulfilling the objectives of this Chapter, a Party shall, upon the request of the other Party and where possible, cooperate towards:

(a) exchanging legislation, regulations, rules and other information and periodicals published by the national bodies responsible for technical regulations, standards, conformity assessment procedures, including accreditation;

(b) exchanging general information and publications on conformity assessment activities, including certification, designation and accreditation of conformity assessment bodies;

(c) providing technical advice, information and assistance on mutually agreed terms and conditions and exchanging experience, joint studies to enhance the other Party's system for standards, technical regulations and conformity assessment procedures, and related activities;

(d) giving favorable consideration, upon request of the other Party, to any sector specific proposal for further cooperation;

(e) promoting and encouraging bilateral cooperation between respective organizations of the Parties responsible of activities covered by this Chapter;

(f) increasing their bilateral cooperation in the relevant regional and international organizations and fora dealing with the issues covered by this Chapter; and

(g) informing the other Party, as far as possible, about the agreements or programs subscribed at international level in relation to technical barriers to trade issues.

Article 7.10: Transparency

1. The Parties acknowledge the importance of transparency in decision-making, including providing a meaningful opportunity for persons to provide comments on proposed technical regulations and conformity assessment procedures. Where a Party publishes a notice or notification under Article 2.9 or 5.6 of the TBT Agreement, it:

(a) may include in the notice the objectives and rationale of the proposed technical regulation or conformity assessment procedure; drafting bodies and development period thereof; and

(b) shall transmit the notification with the proposal electronically to the other Party through the enquiry point the Party has established under Article 10 of the TBT Agreement, at the same time as it notifies WTO Members of the proposal. Each Party should allow at least sixty (60) days for the other Party to make comments in writing on the proposals.

2. When a Party submits a notification under Article 2.10 or 5.7 of the TBT Agreement, it shall at the same time, transmit the notification to the other Party electronically through the enquiry point referenced in paragraph 1(b).

3. Where possible, the Parties are encouraged to publish, or otherwise make available to the public, in print or electronically, its responses to significant comments it receives under paragraph 1(b) no later than the date it publishes the final technical regulation or conformity assessment procedure.

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

Article 7.11: Enquiry Points

1. Each Party shall designate an enquiry point which shall have the responsibility to coordinate the implementation of this Chapter; and provide the other Party with the name of its designated enquiry point and the contact details of relevant officials in that organization, including information on telephone, facsimile, e-mail and other relevant details.

2. Each Party shall notify the other Party promptly of any change of its enquiry point or any amendments to the information of the relevant officials.

Article 7.12: Information Exchange

Any information or explanation that is provided upon request of a Party pursuant to the provisions of this Chapter shall be provided in print or electronically within a reasonable period of time.

Article 7.13: Committee on Technical Barriers to Trade

1. In order to facilitate the implementation of this Chapter and the cooperation between the Parties, the Parties hereby establish a Committee on Technical Barriers to Trade (hereinafter referred to as “the Committee”), comprising representatives of each Party.

2. For the purposes of this Article, the Committee shall be coordinated by:
- (a) in the case of Chile, the General Directorate of International Economic Affairs, Ministry of Foreign Affairs, or its successor; and
 - (b) in the case of Viet Nam, the Directorate for Standards, Metrology and Quality, Ministry of Science and Technology.
3. The Committee's functions shall include:
- (a) monitoring the implementation and administration of this Chapter;
 - (b) coordinating cooperation pursuant to Article 7.9;
 - (c) exchanging views on any issue, as far as possible, that a Party raises related to the development, adoption, application, or enforcement of standards, technical regulations or conformity assessment procedures;
 - (d) enhancing cooperation in the development and improvement of standards, technical regulations and conformity assessment procedures;
 - (e) facilitating technical consultations;
 - (f) where appropriate, identifying mutually agreed priority sectors for enhanced cooperation to facilitate trade;
 - (g) facilitating sectoral cooperation among governmental and non-governmental conformity assessment bodies in the Parties' territories;
 - (h) exchanging information, as far as possible, on developments in non-governmental, regional, and multilateral fora, engaged in activities related to standardisation, technical regulations and conformity assessment procedures;
 - (i) taking any other steps the Parties consider will assist them in implementing the TBT Agreement and in facilitating trade in goods between them on the basis of the Parties' conditions and capacity;
 - (j) upon a Party's request, discussing any matters arising under this Chapter;
 - (k) reviewing this Chapter in light of any developments under the TBT Agreement and reporting to the Commission on the implementation of this Chapter, where appropriate; and

(l) carrying out other functions as may be delegated by the Commission.

4. The Committee shall meet at least once a year, unless otherwise agreed by the Parties. Meetings may be held by any means as agreed by the Parties. By agreement of the Parties, *ad hoc* working groups may be established, if necessary.