

CHAPTER 6
TECHNICAL REGULATIONS, STANDARDS AND
CONFORMITY ASSESSMENT PROCEDURES

Article 6.1
Scope

1. This Chapter shall apply to technical regulations, standards and conformity assessment procedures that may, directly or indirectly, affect trade in goods between the Parties.

2. This Chapter shall not apply to purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies or to SPS measures.

3. Each Party shall take such reasonable measures as may be available to it to ensure compliance in the implementation of the provisions of this Chapter by local government and non-governmental bodies within its Area.

Article 6.2
Definitions

For the purposes of this Chapter:

- (a) the term "TBT Agreement" means the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement; and
- (b) the definitions set out in the TBT Agreement shall apply.

Article 6.3
Reaffirmation of Rights and Obligations

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

Article 6.4

International Standards, Guides or Recommendations

1. Subject to paragraph 4 of Article 2 and paragraph 4 of Article 5 of the TBT Agreement, each Party shall use relevant international standards, guides or recommendations, or their relevant parts, as a basis for its technical regulations and conformity assessment procedures.

2. Where a Party does not use an international standard, guide or recommendation referred to in paragraph 1, or their relevant parts, as a basis for its technical regulations or conformity assessment procedures, it shall, on request of the other Party, explain the reasons therefor.

3. The Parties shall encourage their respective standardising bodies to consult and exchange views on matters under discussion in relevant international or regional bodies that develop standards, guides, recommendations or policies relevant to this Chapter.

Article 6.5

Technical Regulations

1. In accordance with paragraph 7 of Article 2 of the TBT Agreement, 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 own 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 the reasons therefor.

Article 6.6

Conformity Assessment Procedures

1. In accordance with Article 6 of the TBT Agreement, each Party shall ensure, to the extent possible, that results of conformity assessment procedures conducted in the Area of the other Party are accepted.

2. Each Party recognises that a broad range of mechanisms exists to facilitate the acceptance of the results of conformity assessment procedures conducted in the Area of the other Party. Each Party shall, on request of the other Party, provide information on the range of such mechanisms used with a view to facilitating acceptance of conformity assessment results.

3. Where a Party does not accept the results of a conformity assessment procedure conducted in the Area of the other Party as referred to in paragraph 1, it shall, on request of the other Party, explain the reasons therefor.

4. Where a Party accredits, approves, licenses, or otherwise recognises a body assessing conformity with a specific technical regulation or standard in its Area and refuses to accredit, approve, license, or otherwise recognise a body assessing conformity with that technical regulation or standard in the Area of the other Party, it shall, on request of the other Party, explain the reasons therefor.

5. Further to paragraph 3 of Article 6 of the TBT Agreement, where a Party declines a request from the other Party to engage in negotiations to conclude an agreement or arrangement on facilitating recognition in the Area of the Party of the results of conformity assessment procedures conducted by the conformity assessment bodies in the Area of the other Party, it shall, on request of the other Party, explain the reasons therefor.

Article 6.7 Transparency

1. Each Party shall allow persons of the other Party to participate in the development of technical regulations, standards and conformity assessment procedures, subject to its laws and regulations or administrative arrangements, on terms no less favourable than those accorded to its own persons.

2. As applicable, each Party shall recommend that non-governmental bodies in its Area observe paragraph 1 in relation to the development of standards and voluntary conformity assessment procedures.

3. Where a Party makes a notification in accordance with paragraph 9.2 or 10.1 of Article 2, or paragraph 6.2 or 7.1 of Article 5, of the TBT Agreement, it shall provide immediately a copy of the notification to the other Party electronically through the enquiry point the Party has established in accordance with Article 10 of the TBT Agreement. On request of the other Party, a Party shall provide the other Party with information regarding the objective of, and rationale for, a technical regulation, standard or conformity assessment procedure that the Party has adopted or is proposing to adopt.

Article 6.8

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

1. For the purposes of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Technical Regulations, Standards and Conformity Assessment Procedures (hereinafter referred to in this Chapter as "the Sub-Committee").

2. The functions of the Sub-Committee shall be:

- (a) exchanging information on technical regulations, standards and conformity assessment procedures;
- (b) reviewing and monitoring the implementation and operation of this Chapter;
- (c) undertaking consultation on issues related to technical regulations, standards and conformity assessment procedures, including, if the Parties so decide, by establishing *ad hoc* working groups;
- (d) discussing any issues related to this Chapter;
- (e) as appropriate, reporting the findings and the outcomes of discussions of the Sub-Committee to the Joint Committee; and
- (f) carrying out other functions as may be delegated by the Joint Committee.

3. The Sub-Committee:

- (a) shall be composed of and co-chaired by representatives of the Governments of the Parties; and
 - (b) may invite, by consensus, representatives of relevant entities other than the Governments of the Parties, with necessary expertise relevant to the issues to be discussed, to attend meetings of the Sub-Committee.
4. The Sub-Committee shall meet at such venues and times and by such means as may be agreed by the Parties.
5. Where a Party declines a request from the other Party to consult on an issue relevant to this Chapter, it shall, on request of the other Party, explain the reasons therefor.

Article 6.9 Chapter Coordinator

1. For the purposes of the effective implementation and operation of this Chapter, each Party shall designate the following governmental authority as its Chapter Coordinator:
- (a) for Australia, the Department of Industry, or its successor; and
 - (b) for Japan, the Ministry of Foreign Affairs, or its successor.
2. The functions of the Chapter Coordinators shall be:
- (a) coordinating the work of the Sub-Committee and facilitating the implementation of this Chapter and the decisions of the Sub-Committee; and
 - (b) answering all reasonable enquiries from the other Party regarding technical regulations, standards and conformity assessment procedures and, as appropriate, providing the other Party with other relevant information.
3. The Chapter Coordinators shall communicate with each other by any agreed method that is appropriate for the efficient and effective discharge of their functions.

Article 6.10
Information Exchange

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

Article 6.11
Non-Application of Chapter 19 (Dispute Settlement)

The dispute settlement procedures provided for in Chapter 19 (Dispute Settlement) shall not apply to this Chapter.