

undergone any change except normal depreciation due to the use made of them.

Article 56

Co-operation and Exchange of Information

1. The Countries shall co-operate and exchange information with each other on customs matters.
2. The co-operation and exchange of information on customs matters shall be implemented as provided for in the Implementing Agreement.

Article 57

Capacity Building

The area of co-operation pursuant to paragraph 2 of Article 56 shall include capacity building, such as training, technical assistance and exchange of experts.

Article 58

Sub-Committee on Customs Procedures

1. For the purposes of the effective implementation and operation of this Chapter, the functions of the Sub-Committee on Customs Procedures (hereinafter referred to in this Article as "the Sub-Committee") established in accordance with Article 14 shall be:

- (a) reviewing and monitoring the implementation and operation of this Chapter;
- (b) identifying areas to be improved for facilitating trade between the Countries;

49

- (c) reporting the findings of the Sub-Committee to the Joint Committee; and
- (d) carrying out other functions as may be delegated by the Joint Committee in accordance with Article 13.

2. The Sub-Committee shall meet at such venues and times as may be agreed by the Countries.

3. The composition of the Sub-Committee shall be specified in the Implementing Agreement.

Chapter 5

Technical Regulations, Standards and Conformity Assessment Procedures

Article 59

Scope and Objectives

1. This Chapter shall apply to technical regulations, standards and conformity assessment procedures as defined in the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement, as may be amended (hereinafter referred to in this Agreement as "TBT Agreement"), and adopted by the Countries that may directly or indirectly affect trade in goods between the Countries. It shall not apply to purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies and sanitary and phytosanitary measures as defined in the Agreement on the Application of Sanitary and Phytosanitary Measures in Annex 1A to the WTO Agreement, as may be amended (hereinafter referred to in

this Agreement as "SPS Agreement").

2. The Countries shall develop co-operation and conduct consultation in the field of technical regulations, standards and conformity assessment procedures.

3. The Countries, recognising the rights and obligations as referred to in Article 60, shall establish a framework under this Chapter for joint efforts of the Countries to ensure that technical regulations do not create unnecessary obstacles to the trade in goods between the Countries and for possible mutual recognition arrangements between the Countries in the most appropriate and cost-effective manner.

50

Article 60

Reaffirmation of Rights and Obligations

The Countries reaffirm their rights and obligations relating to technical regulations, standards and conformity assessment procedures under the TBT Agreement.

Article 61

Technical Regulations

1. The Countries shall, where appropriate and consistent with their rights and obligations under the TBT Agreement, endeavour to work towards harmonisation of their respective technical regulations based on international standards, recommendations and guidelines.

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

3. A Country shall, upon the request of the other Country and where appropriate, explain the reasons why it has not accepted a technical regulation of the other Country as equivalent to its own.

4. The Countries may co-operate with each other in the context of their participation in international standardising bodies to ensure that international standards developed within such organisations that are likely to become a basis for technical regulations are trade facilitating and do not create unnecessary obstacles to trade.

Article 62

Acceptance of Results of Conformity Assessment Procedures

1. Each Country shall ensure, whenever possible, that results of the conformity assessment procedures in the territory of the other Country are accepted, even when those procedures differ from its own, provided it is satisfied that the procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to its own procedures. The Countries recognise that prior consultations may be necessary in order to arrive at a mutually satisfactory understanding with regard to such matters as provided for in paragraphs

1.1 and 1.2 of Article 6 of the TBT Agreement.

51

2. A Country shall, upon the request of the other Country and where appropriate, explain the reasons why it has not accepted the results of conformity assessment procedures in the territory of the other Country.

Article 63

Mutual Recognition Arrangements

1. Each Country, upon the request of the other Country, shall enter into negotiations for possible mutual recognition arrangements on the results of conformity assessment procedures, conducted by conformity assessment bodies of the exporting Country to assess conformity to importing Country's requirements, in the sectors which both Countries agree upon.

2. With a view to facilitating the negotiation for possible mutual recognition arrangements referred to in paragraph 1 of this Article:

(a) the Countries shall take into consideration that a broad range of mechanisms exist to facilitate the acceptance of the results of conformity assessment procedures;

(b) the Countries shall, recognising the existence of differences in the structure and operation of conformity assessment procedures in their respective territories, endeavour to make compatible the conformity assessment procedures to the greatest extent practicable; and

(c) in order to build confidence in the reliability of results of conformity assessment procedures conducted by conformity assessment bodies of the other Country, a Country may consult with the other Country, as appropriate, on such matters as the technical competence of the conformity assessment bodies of the other Country.

Article 64

Co-operation

1. Both Countries shall develop co-operation in the field of technical regulations, standards and conformity assessment procedures. Such co-operation may include:

(a) joint studies, seminars and symposia;

(b) establishing or improving of infrastructure in calibration, testing, inspection, certification and accreditation to meet relevant international standards, recommendations and guidelines;

52

(c) where appropriate, effectively using the existing framework for mutual recognition developed by relevant regional and international bodies;

(d) research and development;

(e) exchange of information;

(f) exchange of Government officials for training purposes; and

(g) technical assistance and co-operation in connection with the Countries' compliance with the TBT Agreement.

2. The implementation of this Article shall be subject to the availability of funds and the applicable laws and regulations of each Country.

Article 65

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

1. For the purposes of the effective implementation and operation of this Chapter, the functions of the Sub-Committee on Technical Regulations, Standards and Conformity Assessment Procedures (hereinafter referred to in this Article as "the Sub-Committee") established in accordance with Article 14 shall be:

- (a) exchanging information on technical regulations, standards and conformity assessment procedures;
- (b) exchanging lists of conformity assessment bodies registered or accredited by relevant registration or accreditation authorities of each Country;
- (c) reviewing and monitoring the implementation and operation of this Chapter;
- (d) undertaking consultation on issues related to technical regulations, standards and conformity assessment procedures;
- (e) discussing any issues related to this Chapter;
- (f) reporting the findings and the outcome of discussions of the Sub-Committee to the Joint Committee; and
- (g) carrying out other functions as may be delegated by the Joint Committee in accordance with Article

13.

53

2. The Sub-Committee shall convene its inaugural meeting within one year after this Agreement enters into force and subsequently meet at such times as may be agreed by the Countries. The Sub-Committee shall meet at such venues as may be agreed by the Countries.

3. The Sub-Committee shall be:

- (a) composed of representatives of the Governments, and may invite representatives of relevant entities other than the Governments with the necessary expertise relevant to the issues to be discussed; and
- (b) co-chaired by officials of the Governments.

Article 66

Enquiry Points

Each Government shall designate an enquiry point to answer all reasonable enquiries from the other Government regarding technical regulations, standards and conformity assessment procedures and, if appropriate, provide the other Government with other relevant information which it considers the other Government should be made aware of.

Article 67

Non-Application of Chapter 13

The dispute settlement procedures provided for in Chapter 13 shall not apply to this Chapter.

Chapter 6

Sanitary and Phytosanitary Measures

Article 68

Scope

This Chapter shall apply to all sanitary and phytosanitary (hereinafter referred to in this Chapter as "SPS") measures under the SPS Agreement, that may, directly or indirectly, affect trade in goods between the Countries.

Article 69

Reaffirmation of Rights and Obligations

The Countries reaffirm their rights and obligations relating to SPS measures under the SPS Agreement.

54

Article 70

Sub-Committee on Sanitary and Phytosanitary Measures

1. For the purposes of the effective implementation and operation of this Chapter, the functions of the Sub-Committee on Sanitary and Phytosanitary Measures (hereinafter referred to in this Article as "the Sub-Committee") established in accordance with Article 14 shall be:

(a) exchanging information on such matters as occurrences of SPS incidents in the territories of the Countries and third States, and change or introduction of SPS related regulations and standards of the Countries, which may, directly or indirectly, affect trade in goods between the Countries;

(b) notifying to either Country of information on potential SPS risks recognised by the other Country;

(c) undertaking science-based consultation to identify and address specific issues that may arise from the application of SPS measures with the objective to achieve mutually acceptable solutions;

(d) reviewing the implementation and operation of this Chapter;

(e) reporting the findings of the Sub-Committee to the Joint Committee; and

(f) carrying out other functions as may be delegated by the Joint Committee in accordance with Article 13.

2. Both Countries, through the Sub-Committee, shall cooperate

in the areas of SPS measures including capacity building, technical assistance and exchange of experts subject to the availability of appropriated funds and the applicable laws and regulations of each Country.