

Chapter 6
Technical Regulations, Standards and Conformity
Assessment Procedures

Article 90
Scope of Application

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 (hereinafter referred to as "TBT Agreement"), that may affect the trade in goods between the Parties.

2. This Chapter shall not apply to:

- (a) purchasing specifications prepared by governmental bodies for production or consumption requirements of such bodies; or
- (b) SPS measures as defined in Annex A of the SPS Agreement.

Article 91
Objectives

The objectives of this Chapter are:

- (a) to increase and facilitate trade between the Parties, through the improvement of the implementation of the TBT Agreement;
- (b) to ensure that technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to trade; and
- (c) to enhance joint cooperation between the Parties.

Article 92
Definitions

For the purposes of this Chapter, the terms and definitions set out in Annex 1 of the TBT Agreement shall apply.

Article 93
Reaffirmation of Rights and Obligations

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

Article 94
International Standards

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

2. Each Party shall encourage its national standardizing bodies to cooperate with the relevant national standardizing bodies of the other Party in international standardizing activities. Such cooperation may take place in regional and international standardizing bodies of which they are both members.

Article 95
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 own regulations.

2. Where a Party does not accept a technical regulation of the other Party as equivalent to its own, it shall, at the request of the other Party, explain its decision.

3. At the request of a Party that has an interest in developing a technical regulation similar to a technical regulation of the other Party, such other Party shall provide, to the extent practicable, relevant information, including studies or documents, except for confidential information, on which it has relied in its development.

Article 96
Conformity Assessment

1. The Parties recognize that a broad range of mechanisms exists to facilitate the acceptance in a Party of the results of conformity assessment procedures conducted in the other Party. Each Party shall, on request of the other Party, provide information on the range of such mechanisms used in its Area.

2. Where a Party does not accept the results of a conformity assessment procedure conducted in the other Party, it shall, on request of the other Party and subject to the laws and regulations of that Party, explain the reasons for its decision so that corrective action may be taken by the other Party when appropriate.

3. Each Party shall, whenever possible, accredit, designate or recognize conformity assessment bodies in the other Party on terms no less favorable than those it accords to conformity assessment bodies in its Area. If a Party accredits, designates or recognizes a body assessing conformity with a particular technical regulation or standard in its Area and it refuses to accredit, designate or recognize a body in the other Party assessing conformity with that technical regulation or standard, it shall, on request, explain the reasons for its refusal.

4. Where a Party declines a request from the other Party to enter into negotiations to conclude an arrangement for recognition in its Area of the results of conformity assessment procedures conducted by conformity assessment bodies in the other Party, it shall explain the reasons for its decision.

Article 97
Transparency

1. Each Party shall notify electronically to the other Party's enquiry point, established under Article 10 of the TBT Agreement, at the same time it submits its notification to the WTO Secretariat in accordance with the TBT Agreement:

- (a) its proposed technical regulations and conformity assessment procedures; and

- (b) its technical regulations and conformity assessment procedures adopted to address urgent problems of safety, health, environmental protection or national security arising or threatening to arise.

2. The notification of technical regulations and conformity assessment procedures shall include a link to or, if requested by the other Party, a copy of, the English version of such technical regulations and conformity assessment procedures, where possible, or in case of voluminous copies, an English summary of such technical regulations and conformity assessment procedures that includes the main requirements thereof.

3. The Parties shall endeavor to allow a period of at least 60 days following the notification of proposed technical regulations and conformity assessment procedures for the public and the other Party to provide written comments, except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise. A Party shall give positive consideration to a reasonable request for extending the comment period.

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

5. Each Party shall endeavor to ensure that all adopted technical regulations and conformity assessment procedures are available on official websites that are freely and publicly available. The Parties shall exchange the list of official websites in a period of 60 days from the entry into force of this Agreement and any modification to that list, when appropriate.

6. Where a Party detains at a port of entry a good exported from the other Party due to a perceived failure to comply with a technical regulation, it shall endeavor to immediately notify the importer of the reasons for the detention of the good.

Article 98
Technical Cooperation

The Parties shall give positive consideration to supply each other cooperation and technical assistance, to the extent possible, in order to, *inter alia*:

- (a) encourage the enforcement of this Chapter;
- (b) encourage the enforcement of the TBT Agreement;
- (c) strengthen the corresponding bodies of standardization, technical regulation and conformity assessment, including the formation and training of the human resources; and
- (d) increase the collaboration in international organizations in the areas of standardization and conformity assessment.

Article 99
Sub-Committee on Technical Regulations, Standards
and Conformity Assessment Procedures

1. The Parties hereby establish a Sub-Committee on Technical Regulations, Standards and Conformity Assessment Procedures (hereinafter referred to in this Article as "the Sub-Committee").

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

- (a) monitoring the implementation and operation of this Chapter;
- (b) promptly addressing any issue that a Party raises related to the development, adoption or application of technical regulations, standards and conformity assessment procedures under this Chapter and the TBT Agreement;
- (c) enhancing joint cooperation in the development and improvement of technical regulations, standards and conformity assessment procedures;
- (d) exchanging information on technical regulations, standards and conformity assessment procedures;

- (e) reviewing this Chapter in light of any developments under the WTO Committee on Technical Barriers to Trade established under Article 13 of the TBT Agreement, and if necessary, developing recommendations for amendments to this Chapter;
- (f) as it considers appropriate, reporting to the Commission on the implementation and operation of this Chapter;
- (g) establishing, if necessary to achieve the objectives of this Chapter, *ad hoc* working groups to deal with specific issues or sectors;
- (h) exchanging information on the work in regional and multilateral fora engaged in activities related to technical regulations, standards and conformity assessment procedures;
- (i) taking any steps the Parties may consider that will assist them in implementing this Chapter and the TBT Agreement and in facilitating trade between the Parties; and
- (j) other functions assigned by the Commission.

3. The Sub-Committee shall be composed of government officials of the Parties.

4. The Sub-Committee shall hold meetings at such times and venues or by means, as may be agreed by the Parties.

5. For the purposes of this Article, the Sub-Committee shall be coordinated by:

- (a) in the case of Japan, the Ministry of Foreign Affairs, or its successor; and
- (b) in the case of Peru, the Ministry of Foreign Trade and Tourism, or its successor.

6. The authorities referred to in paragraph 5 will be responsible for coordinating with the relevant institutions and persons in their Areas as well as ensuring that such institutions and persons are convened when necessary.

Article 100
Information Exchange

Any information or explanation requested by a Party pursuant to this Chapter shall be provided by the other Party, in print or electronically, within a reasonable period of time agreed between the Parties and, if possible, within 60 days.