

CHAPTER 6

STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT PROCEDURES

Article 6.1 **Objectives**

The objectives of this Chapter are to:

- (a) facilitate trade in goods between the Parties by ensuring that technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to trade;
- (b) deepen mutual understanding of each Party's technical regulations, standards and conformity assessment procedures;
- (c) strengthen cooperation and information exchange between Australian and Malaysian bodies with responsibility for the development and application of technical regulations, standards and conformity assessment procedures;
- (d) strengthen cooperation between Australia and Malaysia in the work of regional and international bodies related to standards and conformity assessment procedures; and
- (e) provide a framework to implement supporting mechanisms to realise these objectives.

Article 6.2 **Scope**

This Chapter shall apply to all standards, technical regulations and conformity assessment procedures at the central level of government that may affect trade in goods between the Parties, except:

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

Article 6.3 **Definitions**

For the purposes of this Chapter:

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

Article 6.4

Basic Principles

1. Each Party affirms their rights and obligations to each other in accordance with the TBT Agreement.
2. Each Party shall encourage local government and non-government bodies within its territory which are responsible for the development and implementation of technical regulations, standards and conformity assessment procedures to cooperate in the implementation of this Chapter.

Article 6.5

Standards

1. Each Party shall use relevant international standards, to the extent provided in Article 2.4 of the TBT Agreement, as the basis for its technical regulations.
2. Each Party shall encourage standardising bodies located in its territory to cooperate with those located in the territory of the other Party on matters of mutual interest, including their participation in the work of regional and international bodies engaged in the development of international standards and conformity assessment procedures.

Article 6.6

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 fulfil 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 shall, on request of the other Party, explain its reasons.

Article 6.7

Conformity Assessment Procedures

1. The Parties recognise the benefits of increasing efficiency, avoiding duplication and ensuring cost effectiveness in conformity assessment, and that a broad range of mechanisms exists to facilitate the acceptance of conformity assessment procedures. In this regard, each Party shall, as appropriate:
 - (a) encourage conformity assessment bodies located in its territory to enter into voluntary arrangements to accept the results of assessment procedures of bodies located in the territory of the other Party;
 - (b) consider recognising accreditation of conformity assessment bodies located in the territory of the other Party;

- (c) consider designating conformity assessment bodies located in the territory of the other Party to perform conformity assessments;
- (d) facilitate access to conformity assessment procedures in its territory;
- (e) encourage the adoption by conformity assessment bodies in its territory of regional and international mutual recognition agreements and arrangements; and
- (f) consider implementing mutual recognition of results of conformity assessment procedures conducted by bodies located in the respective territories of the Parties.

2. The Parties shall exchange information on their experience in the development and application of the mechanisms in subparagraphs 1 (a)-(f) and other similar mechanisms with a view to facilitating the acceptance of the results of conformity assessment.

3. Where a Party does not accept the results of any conformity assessment procedure performed in the territory of the other Party, it shall, on request of the other Party, explain its reasons.

Article 6.8 Information Exchange

1. The Parties shall encourage regulatory bodies in their territories to exchange information on their experience in the development and application of technical regulations.

2. Where a Party makes a notification in accordance with the TBT Agreement relating to proposed new or amended measures, including measures imposed to address urgent problems, it shall at the same time transmit the notification to the other Party electronically through the enquiry point the Party has established in accordance with Article 10 of the TBT Agreement.

Article 6.9 Cooperation and Chapter Coordinators

1. The Parties shall intensify their joint work in the field of standards, technical regulations and conformity assessment procedures with a view to facilitating access to each other's markets. In particular, the Parties shall seek to identify, develop and promote trade facilitating initiatives regarding standards, technical regulations, and conformity assessment procedures in areas of mutual interest. On request of the other Party, a Party shall give positive consideration to a sector-specific proposal that the requesting Party makes for cooperation under this Chapter. Each Party shall promptly acknowledge receipt of any proposal by the other Party for sector-specific initiatives under this Chapter. Consideration of such proposals should be based on the mutual interest of the Parties.

2. Each Party shall designate a Chapter Coordinator who shall be responsible for coordinating with interested persons in the Party's territory and communicating with the other Party's Coordinator on matters pertaining to this Chapter. The Coordinators' functions shall include:

- (a) monitoring the implementation of this Chapter;
- (b) exchanging information on standards, technical regulations, and conformity assessment procedures;
- (c) promptly addressing any issue that a Party raises in relation to the development, adoption, application, or enforcement of standards, technical regulations, or conformity assessment procedures;
- (d) facilitating the consideration of any proposal a Party makes for further cooperation between conformity assessment bodies, both governmental and non-governmental, in the territories of the Parties;
- (e) facilitating the consideration of a request that a Party recognise the results of conformity assessment procedures conducted by bodies in the other Party's territory, including a request for the negotiation of an agreement, in a sector nominated by that other Party;
- (f) facilitating cooperation in the area of specific technical regulations by referring enquiries from a Party to the appropriate regulatory authorities;
- (g) facilitating cooperation in the development and improvement of standards, technical regulations, and conformity assessment procedures;
- (h) coordinating to identify trade facilitating initiatives in accordance with paragraph 1; and
- (i) on request of a Party, consulting on any matter arising under this Chapter.

3. The Chapter Coordinators shall communicate with one another by any mutually agreed method that is appropriate for the efficient and effective discharge of their functions. Each Party shall notify its Chapter Coordinators to the other Party and promptly notify of any change of their Chapter Coordinators.

4. Where a matter covered under this Chapter cannot be clarified or resolved through the Chapter Coordinators, the FTA Joint Commission or a subsidiary body established by it may establish an *ad hoc* technical working group with a view to identifying a workable and practical solution that would facilitate trade. A working group shall comprise representatives of the Parties and may, where appropriate, include local government representatives with responsibility for the standards, technical regulations, or conformity assessment procedures in question.