

CHAPTER SEVEN

TECHNICAL BARRIERS TO TRADE

ARTICLE 7.1: SCOPE AND COVERAGE

1. This Chapter applies to all standards, technical regulations, and conformity assessment procedures of the central level of government that may, directly or indirectly, affect trade in goods between the Parties.
2. Notwithstanding paragraph 1, this Chapter does not apply to:
 - (a) technical specifications prepared by governmental bodies for production or consumption requirements of such bodies; or
 - (b) sanitary and phytosanitary measures as defined in Annex A of the SPS Agreement.

ARTICLE 7.2: AFFIRMATION OF THE WTO AGREEMENT ON TECHNICAL BARRIERS TO TRADE

Further to Article 1.2 (Relation to Other Agreements), the Parties affirm their existing rights and obligations with respect to each other under the TBT Agreement.

ARTICLE 7.3: INTERNATIONAL STANDARDS

In determining whether an international standard, guide, or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement exists, each Party shall apply the principles set out in *Decisions and Recommendations adopted by the Committee since 1 January 1995*, G/TBT/1/Rev.8, 23 May 2002, Section IX (*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 7.4: TRADE FACILITATION

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 trade facilitating bilateral initiatives regarding standards, technical regulations, and conformity assessment procedures that are appropriate for particular issues or sectors. Such initiatives may

include cooperation on regulatory issues, such as alignment with international standards and use of accreditation to qualify conformity assessment bodies.

ARTICLE 7.5: CONFORMITY ASSESSMENT PROCEDURES

1. The Parties recognize that a broad range of mechanisms exists 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) the importing Party may recognize the results of conformity assessment procedures conducted in the territory of the other Party;
- (b) conformity assessment bodies located in each Party's territory may enter into voluntary arrangements to accept the results of the other's assessment procedures;
- (c) a Party may adopt accreditation procedures for qualifying conformity assessment bodies located in the territory of the other Party;
- (d) a Party may designate conformity assessment bodies located in the territory of the other Party; and
- (e) the importing Party may rely on a supplier's declaration of conformity.

The Parties shall intensify their exchange of information on these and similar mechanisms.

2. Where a Party does not accept the results of a conformity assessment procedure conducted in the territory of the other Party, it shall, on request of the other Party, explain the reasons for its decision.

3. Each Party shall accredit, approve, license, 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, licenses, or otherwise recognizes a body assessing conformity with a specific technical regulation or standard in its territory and refuses to accredit, approve, license, or otherwise recognize a body assessing conformity with that technical regulation or standard in the territory of the other Party, it shall, on 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 concludes 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, on request of the other Party, explain the reasons for its decision.

ARTICLE 7.6: TRANSPARENCY

1. Each Party shall allow its own persons and persons of the other Party to participate in the development of standards, technical regulations, and conformity assessment procedures.¹ Each Party shall permit persons of the other Party to participate in the development of such measures on terms no less favorable than those accorded to its own persons.

2. Each Party shall recommend that non-governmental standardizing bodies in its territory observe paragraph 1.

3. In order to enhance the meaningful opportunity for persons to provide comments on proposed technical regulations and conformity assessment procedures, a Party publishing a notice in accordance with Article 2.9 or 5.6 of the TBT Agreement shall:

- (a) include in the notice a statement describing the objective of the proposed technical regulation or conformity assessment procedure and the rationale for the approach the Party is proposing;
- (b) transmit the proposal electronically to the other Party through the inquiry point the Party has established in accordance with Article 10 of the TBT Agreement at the same time as it notifies WTO Members of the proposal in accordance with the TBT Agreement; and
- (c) publish, preferably by electronic means, or otherwise make available to the public its responses to significant comments it receives from the public or the other Party on the proposed technical regulation or conformity assessment procedure no later than the date it publishes the final technical regulation or conformity assessment procedure.

Each Party should allow at least 60 days after it transmits a proposal under subparagraph 3(b) for the public and the other Party to provide comments in writing on the proposal.

¹ A Party may satisfy this obligation through public consultations.

4. Where a Party makes a notification under Article 2.10 or 5.7 of the TBT Agreement, it shall at the same time transmit the notification electronically to the other Party through the inquiry point referenced in subparagraph 3(b).

5. On request, each Party shall provide the other Party 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.

6. Each Party shall implement this Article as soon as is practicable and in no event later than five years after the date of entry into force of this Agreement.

ARTICLE 7.7: COORDINATORS

1. The Chapter Seven Coordinators designated in Annex 7-A shall work jointly to facilitate implementation of this Chapter and cooperation between the Parties on matters pertaining to this Chapter. The Coordinators shall:

- (a) monitor the implementation and administration of this Chapter;
- (b) promptly address any issue that a Party raises related to the development, adoption, application, or enforcement of standards, technical regulations, or conformity assessment procedures;
- (c) enhance cooperation in the development and improvement of standards, technical regulations, and conformity assessment procedures;
- (d) where appropriate, facilitate sectoral cooperation between governmental and non-governmental conformity assessment bodies in the Parties' territories;
- (e) facilitate consideration of any sector-specific proposal a Party makes for further cooperation under this Chapter;
- (f) exchange information on developments in non-governmental, regional, and multilateral fora related to standards, technical regulations, and conformity assessment procedures;
- (g) on request of a Party, consult on any matter arising under this Chapter;

- (h) review this Chapter in light of any developments under the TBT Agreement and develop recommendations for amendments to this Chapter in light of those developments; and
- (i) take any other steps the Parties consider will assist them in implementing this Chapter and the TBT Agreement and in facilitating trade between them.

In carrying out its functions, each Party's Chapter Seven Coordinator shall coordinate with interested parties in its territory.

2. The Chapter Seven Coordinators shall communicate with each other by any method they agree is appropriate and shall meet as they agree is necessary.

ARTICLE 7.8: INFORMATION EXCHANGE

Where a Party requests the other Party to provide information pursuant to this Chapter, the requested Party shall provide it within reasonable period of time and, if possible, by electronic means.

ARTICLE 7.9: DEFINITIONS

For purposes of this Chapter, **technical regulation, standard, conformity assessment procedures, non-governmental body, and central government body** have the meanings assigned to those terms in Annex 1 of the TBT Agreement.

ANNEX 7-A
CHAPTER SEVEN COORDINATORS

The Chapter Seven Coordinators shall be:

- (a) in the case of Morocco, the Ministry of Industry, or its successor; and
- (b) in the case of the United States, the Office of the United States Trade Representative, or its successor.