

CHAPTER 6

STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT PROCEDURES

Article 1 Objectives

The objectives of this Chapter are to facilitate trade in goods among the Parties by:

- (a) ensuring that standards, technical regulations, and conformity assessment procedures do not create unnecessary obstacles to trade;
- (b) promoting mutual understanding of each Party's standards, technical regulations, and conformity assessment procedures;
- (c) strengthening information exchange and co-operation among the Parties in relation to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures;
- (d) strengthening co-operation among the Parties in the work of international bodies related to standardisation and conformity assessments; and
- (e) providing a framework to implement supporting mechanisms to realise these objectives.

Article 2 Scope

1. For the mutual benefit of the Parties, this Chapter applies to all standards, technical regulations and conformity

assessment procedures of the Parties that may affect trade in goods between the Parties except:

- (a) purchasing specifications prepared by governmental bodies for the production or consumption requirements of such bodies; and
- (b) sanitary or phytosanitary measures as defined in Chapter 5 (Sanitary and Phytosanitary Measures).

2. Nothing in this Chapter shall limit the right of a Party to prepare, adopt and apply standards, technical regulations and conformity assessment procedures only to the extent necessary to fulfil a legitimate objective. Such legitimate objectives are, *inter alia*, national security requirements; the prevention of deceptive practices; protection of human health or safety; animal or plant life or health; or the environment.

Article 3 Definitions

For the purposes of this Chapter, the definitions set out in Annex 1 to the *Agreement on Technical Barriers to Trade* (TBT Agreement) in Annex 1A to the WTO Agreement shall apply.

Article 4 Affirmation of the TBT Agreement

1. Each Party affirms its rights and obligations with respect to each other Party under the TBT Agreement.

2. Each Party shall take such reasonable measures as may be available to it to ensure compliance, in the implementation of this Chapter, by local government and non-governmental bodies within its territory which are responsible for the preparation, adoption and application of standards, technical regulations and conformity assessment procedures.

Article 5 Standards

1. With respect to the preparation, adoption and application of standards, each Party shall ensure that its standardising body or bodies accept and comply with Annex 3 to the TBT Agreement.

2. Each Party shall encourage the standardising body or bodies in its territory to co-operate with the standardising body or bodies of other Parties. Such co-operation shall include, but is not limited to:

- (a) exchange of information on standards;
- (b) exchange of information relating to standard setting procedures; and
- (c) co-operation in the work of international standardising bodies in areas of mutual interest.

Article 6 Technical Regulations

1. Where relevant international standards exist or their completion is imminent, each Party shall use them, or relevant parts of them, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems.

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

3. Where a Party does not accept a technical regulation of another Party as equivalent to its own it shall, upon request of the other Party, explain the reasons for its decision.

Article 7

Conformity Assessment Procedures

1. Each Party shall give positive consideration to accepting the results of conformity assessment procedures of other Parties, even where those procedures differ from its own, provided it is satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to its own procedures.

2. Each Party shall seek to enhance the acceptance of the results of conformity assessment procedures conducted in the territories of other Parties with a view to increasing efficiency, avoiding duplication and ensuring cost effectiveness of the conformity assessments. In this regard, each Party may choose, depending on the situation of the Party and the specific sectors involved, a broad range of approaches. These may include but are not limited to:

- (a) recognition by a Party of the results of conformity assessments performed in the territory of another Party;
- (b) recognition of co-operative arrangements between accreditation bodies in the territories of the Parties;
- (c) mutual recognition of conformity assessment procedures conducted by bodies located in the territory of each Party;
- (d) accreditation of conformity assessment bodies in the territory of another Party;

- (e) use of existing regional and international multilateral recognition agreements and arrangements;
- (f) designating conformity assessment bodies located in the territory of another Party to perform conformity assessment; and
- (g) suppliers' declaration of conformity.

3. Each Party shall exchange information with other Parties on its experience in the development and application of the approaches in Paragraph 2(a) to (g) and other appropriate approaches with a view to facilitating the acceptance of the results of conformity assessment procedures.

4. A Party shall, upon request of another Party, explain its reasons for not accepting the results of any conformity assessment procedure performed in the territory of that other Party.

Article 8 Co-operation

1. The Parties shall intensify their joint efforts in the field of standards, technical regulations and conformity assessment procedures with a view to facilitating access to each other's markets.

2. Each Party shall, upon request of another Party, give positive consideration to proposals to supplement existing co-operation on standards, technical regulations and conformity assessment procedures. Such co-operation, which shall be on mutually determined terms and conditions, may include but is not limited to:

- (a) advice or technical assistance relating to the development and application of standards, technical regulations and conformity assessment procedures;
- (b) co-operation between conformity assessment bodies, both governmental and non-governmental, in the territories of each of the Parties such as:
 - (i) use of accreditation to qualify conformity assessment bodies; and
 - (ii) enhancing infrastructure in calibration, testing, inspection, certification and accreditation to meet relevant international standards, recommendations and guidelines;
- (c) co-operation in areas of mutual interest in the work of relevant regional and international bodies relating to the development and application of standards and conformity assessment procedures such as enhancing participation in the existing frameworks for mutual recognition developed by relevant regional and international bodies; and
- (d) enhancing co-operation in the development and improvement of technical regulations and conformity assessment procedures such as:
 - (i) co-operation in the development and promotion of good regulatory practice;
 - (ii) transparency, including ways to promote improved access to information on standards, technical regulations and conformity assessment procedures; and

- (iii) management of risks relating to health, safety, the environment and deceptive practices.

3. Upon request of another Party, a Party shall give positive consideration to a sector-specific proposal that the requesting Party makes for further co-operation under this Chapter.

Article 9 Consultations

1. Each Party shall give prompt and positive consideration to any request from another Party for consultations on issues relating to the implementation of this Chapter.

2. Where a matter covered under this Chapter cannot be clarified or resolved as a result of consultations, the Parties concerned may establish an *ad hoc* working group with a view to identifying a workable and practical solution to facilitate trade. The *ad hoc* working group shall comprise representatives of the Parties concerned.

3. Where a Party declines a request from another Party to establish an *ad hoc* working group, it shall, upon request of the other Party, explain the reasons for its decision.

Article 10 Agreements or Arrangements

1. Parties shall seek to identify trade-facilitating initiatives regarding standards, technical regulations and conformity assessment procedures that are appropriate for particular issues or sectors.

2. Such trade-facilitating initiatives may include agreements or arrangements on regulatory issues, such as

alignment of standards, convergence or equivalence of technical regulations conformity assessment procedures and compliance issues.

3. Parties to an existing agreement or arrangement shall give consideration to extending such an agreement or arrangement to another Party upon request of that Party. Such consideration may be subject to appropriate confidence building processes to ensure equivalency of relevant standards, technical regulations and/or conformity assessment procedures.

4. Where a Party declines a request of another Party to consider extending the application of an existing agreement or arrangement it shall, upon request of that Party, explain the reasons for its decision.

Article 11 Transparency

1. Each Party affirms its commitment to ensuring that information regarding proposed new or amended standards, technical regulations and conformity assessment procedures is made available in accordance with the relevant requirements of the TBT Agreement.

2. Each Party shall ensure that the information relating to standards, technical regulations and conformity assessment procedures is published. Such information should be made available in printed form and, where possible, in electronic form.

Article 12 Contact Points

1. Each Party shall designate a contact point or contact points who shall, for that Party, have responsibility for coordinating the implementation of this Chapter.

2. Each Party shall provide each of the other Parties with the name of the designated contact point or contact points and the contact details of the relevant official in that organisation, including telephone, facsimile, email and any other relevant details.

3. Each Party shall notify each of the other Parties promptly of any change of their contact points or any amendments to the details of the relevant officials.

4. Each Party shall ensure that its contact point or contact points facilitate the exchange of information between the Parties on standards, technical regulations and conformity assessment procedures, in response to all reasonable requests for such information from a Party.

Article 13

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

1. The Parties hereby establish a Sub-Committee on Standards, Technical Regulations and Conformity Assessment Procedures (STRACAP Sub-Committee), consisting of representatives of the Parties, to promote and monitor the implementation and administration of this Chapter.

2. The STRACAP Sub-Committee shall meet as mutually determined by the Parties. Meetings may be conducted in person, or by any other means as mutually determined by the Parties.

3. The STRACAP Sub-Committee shall determine its terms of reference in accordance with this Chapter.

4. The STRACAP Sub-Committee shall determine its work programme in response to priorities as identified by the Parties.