

## CHAPTER SEVEN

### TECHNICAL BARRIERS TO TRADE

#### Article 7.01: Definitions

For purposes of this Chapter:

**TBT Agreement** means the *WTO Agreement on Technical Barriers to Trade*; and

**TBT Committee** means the WTO Committee on Technical Barriers to Trade.

#### Article 7.02: *WTO Agreement on Technical Barriers to Trade*

The Parties affirm with respect to each other their existing rights and obligations under the TBT Agreement.

#### Article 7.03: Scope

1. This Chapter applies to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures of national governmental bodies that may affect the trade in goods between the Parties.
2. This Chapter does not apply to:
  - (a) a purchasing specification prepared by a governmental body for production or consumption requirements of a governmental body; or
  - (b) a sanitary or phytosanitary measure as defined in Annex A of the SPS Agreement.

#### **Article 7.04: Joint Cooperation**

1. The Parties shall strengthen their joint cooperation in the areas of standards, technical regulations, accreditation, conformity assessment procedures and metrology in order to facilitate trade between the Parties.

2. Further to paragraph 1, the Parties shall seek to identify, develop and promote bilateral initiatives regarding standards, technical regulations, accreditation, conformity assessment procedures and metrology that are appropriate for particular issues or sectors. Such initiatives may include:

- (a) regulatory or technical cooperation programs directed at reaching effective and full compliance with the obligations of this Chapter and the TBT Agreement;
- (b) initiatives to develop common views on good regulatory practices, such as transparency and the use of equivalency and regulatory impact assessment; and
- (c) the use of mechanisms to facilitate the acceptance of the results of conformity assessment procedures conducted in the other Party's territory.

3. A Party shall give positive consideration to a reasonable sector-specific proposal made by the other Party for further cooperation under this Chapter.

#### **Article 7.05: International Standards**

1. The Parties shall use relevant international standards, guides and recommendations as a basis for their technical regulations and conformity assessment procedures in accordance with Articles 2.4 and 5.4 of the TBT Agreement.

2. In determining whether an international standard, guide or recommendation exists within the meaning of Articles 2 or 5 or Annex 3 of the TBT Agreement, each Party shall consider the principles set out: in the *Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade since 1 January 1995*, G/TBT/1/Rev.9, 8 September 2008, Annex B, or a successor document, issued by the TBT Committee.

#### **Article 7.06: Transparency**

1. The obligations in this Article supplement those set out in Chapter Twenty (Transparency). In the event of an inconsistency between this Article and the obligations in Chapter Twenty, this Article prevails.

2. Each Party shall ensure that transparency procedures for the development of technical regulations and conformity assessment procedures allow an interested person to participate at an early appropriate stage, when amendments can still be introduced and comments taken into account, except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise. Where a consultation process for the development of technical regulations and conformity assessment procedures is open to the public, each Party shall permit a person of the other Party to participate on terms no less favourable than those accorded to its own persons.

3. Each Party shall recommend to standardization bodies in its territory that they observe paragraph 2 with respect to their consultation processes for the development of a standard or voluntary conformity assessment procedure.

4. Each Party shall allow a period of at least 60 days following its notification to the WTO's Central Registry of Notifications of proposed technical regulations and conformity assessment procedures for the public and the other Party to provide written comments, except where urgent problems arise, or threaten to arise, regarding safety, health, environmental protection or national security.

5. Each Party, at the request of the other Party, shall 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.

6. Where a Party does not accept a technical regulation of the other Party as equivalent to its own, it shall explain its decision at the request of the other Party. The Parties recognize that it may be necessary to develop common views, methods and procedures to facilitate the use of equivalency.

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

8. The Parties shall ensure that all adopted technical regulations and conformity assessment procedures are available on official websites that are publicly available without charge.

9. If a Party detains a good imported from the territory of the other Party at a port of entry on the basis that the good may not comply with a technical regulation, it shall immediately notify the importer of the reasons for the detention of the good.

## **Article 7.07: Contact Points**

1. The Contact Points designated in Annex 7.07 are responsible for communications related to matters arising under this Chapter. Those communications include:

- (a) the implementation and administration of this Chapter;
- (b) issues related to the development, adoption or application of standards, technical regulations or conformity assessment procedures under this Chapter or the TBT Agreement;
- (c) the exchange of information on standards, technical regulations or conformity assessment procedures; and
- (d) joint cooperation by the Parties, pursuant to Article 7.04.

2. A Contact Point is responsible for ensuring communication with the relevant institutions and persons in its territory as necessary to carry out its function. The Contact Points may communicate by electronic mail, video-conferencing or other means on which the Parties decide.

## **Annex 7.07**

### **Contact Points**

The Contact Points are:

- (a) in the case of Canada, the Department of Foreign Affairs and International Trade, or its successor; and
- (b) in the case of Panama, the Ministry of Trade and Industry, or its successor.