

Chapter 6 Technical Barriers to Trade

Article 6.1: Objective

1. The objective of this Chapter is to provide a framework to address the impact of technical barriers to trade (TBT) between the Parties.
2. The Parties agree to ensure that technical regulations, standards and conformity assessment procedures do not constitute barriers to trade within the terms of the TBT Agreement.
3. With a view to facilitating trade and increasing bilateral trade, the Parties shall seek to improve their cooperation and enhance mutual understanding of their respective systems.

Article 6.2: Scope and Coverage

1. The Parties reaffirm their existing rights and obligations under the TBT Agreement.
2. This Chapter is applicable to all standards, technical regulations and conformity assessment procedures, that may, directly or indirectly, affect trade in goods and/or assessments of manufacturers or manufacturing processes of goods traded between the Parties⁶.
3. This Chapter does not apply to sanitary and phytosanitary measures as defined in the SPS Agreement which are covered by Chapter 5 (Sanitary and Phytosanitary Measures) of this Agreement, or purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies which will be regulated by Chapter 8 (Government Procurement).

Article 6.3: Definitions

For purposes of this Chapter, standards, technical regulations and conformity assessment procedures shall have the meanings assigned to those terms in Annex 1 of the TBT Agreement.

⁶ The application of this Chapter to all goods traded between the Parties is regardless of origin.

Article 6.4: Technical Regulations

1. In consistency with Article 2.4 of the TBT Agreement, each Party shall use, to the maximum extent possible, relevant international standards as a basis for its technical regulations.
2. Each Party shall give positive consideration to accept as equivalent, technical regulations of the other Party, even if these regulations differ from its own, provided that it is satisfied that these regulations adequately fulfill the objectives of its own regulations.

Article 6.5: Standards

1. The Parties confirm their obligation, under Article 4.1 of the TBT Agreement, to ensure that their standardizing bodies accept and comply with the *Code of Good Practice for the Preparation, Adoption and Application of Standards*, established in Annex 3 of the TBT Agreement.
2. In determining whether an international standard, guide, or recommendation within the meaning of Articles 2, 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. 9, 8 September 2008 (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 TBT Agreement)*.

Article 6.6: Conformity Assessment Procedures

1. The Parties recognize that a broad range of mechanisms exists to facilitate the acceptance of conformity assessment results, including:
 - (a) the importing Party's reliance on a supplier's declaration of conformity;
 - (b) voluntary arrangements between conformity assessment bodies from each Party's territory;
 - (c) agreements on mutual acceptance of the results or certification of conformity assessment procedures with respect to specified regulations conducted by bodies located in the territory of the other Party;
 - (d) accreditation procedures for qualifying conformity assessment bodies;
 - (e) government designation of conformity assessment bodies; and

- (f) recognition by one Party of the results of conformity assessment procedures performed in the other Party's territory on a unilateral basis for a sector nominated by that Party.
2. To this end, the Parties shall intensify their exchange of information on the variety of mechanisms to facilitate the acceptance of conformity assessment results or certification.
 3. Each Party shall give positive consideration to accept the results of conformity assessment procedures carried out in the other Party. Where a Party does not accept the results of a conformity assessment procedure performed in the territory of the other Party, it shall, on request of the other Party, explain its reasons.
 4. Each Party shall accredit, approve, license, or otherwise recognize conformity assessment bodies in the territory of the other Party on terms no less favourable than those it accords to conformity assessment bodies in its territory. If a Party accredits, approves, licenses, or otherwise recognizes a body assessing conformity with a particular technical regulation or standard in its territory and it 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, explain the reasons for its refusal.
 5. At the request of a Party, the other Party shall give favourable consideration to enter into negotiations to reach agreement on facilitating recognition in its territory of the results of conformity assessment procedures conducted by bodies in the other Party, including mutual recognition agreements, subject to the interests of both Parties. Where a Party declines a request from the other Party, it shall explain its reasons upon request.

Article 6.7: Transparency

Where a Party notifies a draft technical regulation or conformity assessment procedure, the Party shall:

- (a) at the request of the other Party, provide information during the comments period, with a view to clarify the draft measure; and
- (b) allow at least 60 days, or a period recommended by the WTO Committee on Technical Barriers to Trade, for the other Party to provide comments in writing on the proposal, except where urgent problems arise. Where possible, the notifying Party should give appropriate consideration to reasonable requests for extending the comment period.

Article 6.8: Trade Facilitation

The Parties shall cooperate and jointly identify work in the field of standards, technical regulations, and conformity assessment procedures, with a view to facilitating market access. In particular, the Parties shall seek to identify initiatives that are appropriate for particular issues or sectors.

Article 6.9: Information Exchange

The Parties agree to exchange information with a view to facilitating trade between them. Each Party shall respond expeditiously to any enquiry from the other Party on standards, technical regulations or conformity assessment procedures relating to any good traded between the Parties. Any information or explanation that is provided shall be given in print or electronically.

Article 6.10: Confidentiality

1. Nothing in this Chapter shall be construed to require either Party to furnish or allow access to information the disclosure of which it considers would:

- (a) be contrary to its essential security interests;
- (b) be contrary to the public interest as determined by its domestic laws, regulations and administrative provisions;
- (c) be contrary to any of its domestic laws, regulations and administrative provisions including but not limited to those protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions;
- (d) impede law enforcement; or
- (e) prejudice legitimate commercial interests of particular public or private enterprises.

2. In pursuance of Articles 6.6 (Conformity Assessment Procedures), 6.9 (Information Exchange) and 6.11 (TBT Coordinators), a Party shall, in accordance with its applicable laws, protect the confidentiality of any proprietary information disclosed to it.

Article 6.11: TBT Coordinators

1. To facilitate trade and the implementation of this Chapter, as well as cooperation between the Parties, each Party shall designate a TBT Coordinator, who shall be responsible for coordinating and communicating

with the other Party's TBT Coordinator on all matters pertaining to this Chapter. The TBT Coordinators' functions shall include, among others:

- (a) monitoring the implementation and administration of this Chapter;
- (b) promptly addressing any issue that a Party raises related to the development, adoption, application, or enforcement of standards, technical regulations or conformity assessment procedures;
- (c) enhancing cooperation in the development and improvement of standards, technical regulations, and conformity assessment procedures;
- (d) exchanging information on standards, technical regulations and conformity assessment procedures, in response to all reasonable requests for such information from a Party;
- (e) considering and facilitating any sector-specific proposal a Party makes for further cooperation among conformity assessment bodies, whether governmental or non-governmental;
- (f) facilitating the consideration of a request by a Party for the recognition of the results of conformity assessment procedures, including a request for the negotiation of an agreement, in a sector nominated by that Party;
- (g) facilitating cooperation in the areas of specific technical regulations by referring enquiries from a Party to the appropriate regulatory authorities;
- (h) promptly consulting on any matter arising under this Chapter upon request by a Party;
- (i) reporting to the Commission on the implementation of the provisions of this Chapter, in particular the advances in the fulfillment of the goals established; and
- (j) reviewing this Chapter in light of any developments under the TBT Agreement, and developing recommendations for amendments to this Chapter in light of those developments.

2. The TBT Coordinators shall normally carry out their functions through agreed communication channels such as telephone, facsimile, email, whichever is most expedient in the discharge of their functions. The TBT Coordinators will meet at the same time as the Commission meets or any other occasion mutually agreed between the Parties should the situation warrant.

Article 6.12: Final Provisions

1. Nothing in this Chapter shall limit the authority of a Party to determine the level of protection it considers necessary for the protection of, *inter alia*, human health or safety, animal or plant life or health or the environment. In pursuance of this, each Party retains all authority to interpret its laws, regulations and administrative provisions.

2. For purposes of Article 6.11 (TBT Coordinators), the TBT Coordinators shall be:

(a) in the case of Costa Rica:

Dirección de Aplicación de Acuerdos Comerciales Internacionales ("DAACI")
Ministerio de Comercio Exterior
(Directorate for the Application of International Trade Agreements, Ministry of Foreign Trade)
Address: 1st and 3rd Avenue, 40th Street, Paseo Colón, San José.
Tel: (506) 22 99 47 00
Fax: (506) 22 56 84 89
P.O. Box: 297-1007 Centro Colón
E-mail: daaci@comex.go.cr
Web: www.comex.go.cr

(b) in the case of Singapore:

Ministry of Trade and Industry
Trade Division
Address: 100 High Street # 09-01, The Treasury
Singapore 179434, Republic of Singapore
Tel: (65) 6225 9911
Fax: (65) 6332 7260
E-mail: mti_fta@mti.gov.sg
Web: www.mti.gov.sg

or their successors or designated contact points.