

**A Comparative Guide to the Chile-United States Free Trade Agreement and the Dominican Republic-Central America-United States Free Trade Agreement**  
A STUDY BY THE TRIPARTITE COMMITTEE

**Chapter Seven: Technical Barriers to Trade**

[Comparative Study](#)

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**CHILE – U.S.**  
**Date of Signature: June 6, 2003**  
**Chapter Seven:**  
**Technical Barriers to Trade**

**DR - CAFTA**  
**Date of Signature: August 5, 2004**  
**Chapter Seven:**  
**Technical Barriers to Trade**

[Objectives](#)

The objectives of this Chapter are to increase and facilitate trade through the improvement of the implementation of **the** TBT Agreement, the elimination of unnecessary technical barriers to trade, and the enhancement of bilateral cooperation.

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*Article 7.2: Affirmation of **Agreement on Technical Barriers to Trade***

*Article 7.1: Affirmation of **the TBT Agreement***

Further to Article 1.3 (Relation to Other Agreements), the Parties affirm their existing rights and obligations with respect to each other under the TBT Agreement.

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*[Article 7.1: Scope and Coverage](#)*

*[Article 7.2: Scope and Coverage](#)*

1. **Except as provided in paragraphs 2 and 3 of this Article,** this Chapter applies to all standards, technical regulations, and conformity assessment procedures that may, directly or indirectly, affect trade in goods between the Parties. **Notwithstanding Article 1.4 (Extent of Obligations), this Chapter applies only to central government bodies.**

1. This Chapter applies to all standards, technical regulations, and conformity assessment procedures **of central government bodies** that may, directly or indirectly, affect trade in goods between the Parties.<sup>1</sup>

<sup>1</sup> **For greater certainty, the Parties understand that any reference in this Chapter to a standard, technical regulation, or conformity assessment procedure includes those related to metrology.**

2. Technical specifications prepared by governmental bodies for production or consumption requirements of such bodies **are not subject to the provisions of this Chapter, but are addressed in Chapter Nine (Government Procurement), according to its coverage.**

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; and

3. **This Chapter does not apply to** sanitary and phytosanitary measures as defined in Annex A of the SPS Agreement.

**(b)** sanitary and phytosanitary measures.

*[Article 7.3: International Standards](#)*

*[Article 7.3: International Standards](#)*

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. 7, 28 November 2000*, 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 **bilateral** initiatives that are appropriate for particular issues or sectors. Such initiatives may include cooperation on regulatory issues, such as convergence **or equivalence of technical regulations and standards**, alignment with international standards, reliance on a supplier's declaration of conformity, and use of accreditation to qualify conformity assessment bodies, **as well as cooperation through mutual recognition**.

Article 7.5: Technical Regulations

1. Where a Party provides **for the acceptance of** a foreign technical regulation as equivalent to a **particular** technical regulation of its own, and the Party does not accept a technical regulation of **the other** Party as equivalent to that technical regulation, it shall, at the request of the other Party, explain the reasons **for not accepting the technical regulation of the other Party as equivalent**.

2. Where a Party does not provide **for the acceptance of** foreign technical regulations as equivalent to its own, **that Party** may, at the request of **the** other Party, explain **the** reasons for not accepting **the** other Party's technical regulations as equivalent.

Article 7.6: Conformity Assessment

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**;

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. 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

**1.** The Parties shall intensify their joint work in the field of standards, technical regulations, and conformity assessment procedures with a view to facilitating **trade between the Parties**. In particular, the Parties shall seek to identify **trade facilitating 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 convergence, alignment with international standards, reliance on a supplier's declaration of conformity, and use of accreditation to qualify conformity assessment bodies.

Article 7.6: Technical Regulations

1. Where a Party provides **that** foreign technical regulations **may be accepted as** equivalent to a **specific** technical regulation of its own, and the Party does not accept a technical regulation of **another** Party as equivalent to that technical regulation, it shall, at the request of that other Party, explain the reasons **for its decision**.

2. Where a Party does not provide **that** foreign technical regulations **may be accepted** as equivalent to its own, **it** may, at the request of **another** Party, explain **its** reasons for not accepting **that** other Party's technical regulations as equivalent.

Article 7.5: Conformity Assessment

1. The Parties recognize that a broad range of mechanisms exists to facilitate the acceptance of conformity assessment **procedures conducted in another Party's territory**, including:

(a) the importing Party's reliance on a supplier's declaration of conformity;

(b) **conformity assessment bodies located in the territory of two or more Parties may enter into voluntary arrangements to accept the results of each others' procedures**;

<p>(c) agreements on mutual acceptance of the results of conformity assessment procedures with respect to specified regulations conducted by bodies located in the territory of the other Party;</p>	<p>(c) a Party may agree with another Party to accept the results of conformity assessment procedures that bodies located in the other Party's territory conduct with respect to specific technical regulations.</p>
<p>(d) accreditation procedures for qualifying conformity assessment bodies;</p>	<p>(d) a Party may adopt accreditation procedures for qualifying conformity assessment bodies located in the territory of another Party;</p>
<p>(e) government designation of conformity assessment bodies; and</p>	<p>(e) a Party may designate conformity assessment bodies located in the territory of another Party; and</p>
<p>(f) recognition by one Party of the results of conformity assessments performed in the other Party's territory.</p>	<p>(f) a Party may recognize the results of conformity assessments conducted in the territory of another Party.</p>
<p>The Parties shall intensify their exchange of information on the range of mechanisms to facilitate the acceptance of conformity assessment results.</p>	<p>The Parties shall intensify their exchange of information on these and other similar mechanisms.</p>
<p>2. 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.</p>	<p>2. Where a Party does not accept the results of a conformity assessment procedure conducted in the territory of another Party, it shall, on request of that other Party, explain its reasons.</p>
<p>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. 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.</p>	<p>3. Each Party shall accredit, approve, license, or otherwise recognize conformity assessment bodies in the territories of the other Parties 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 that other Party, it shall, on request, explain the reasons for its decision.</p>
<p>4. Where a Party declines a request from the other Party to engage in or conclude negotiations to reach agreement on facilitating recognition in its territory of the results of conformity assessment procedures conducted by bodies in the territory of the other Party, it shall, on request, explain its reasons.</p>	<p>4. Where a Party declines a request from another Party to engage in negotiations or conclude an agreement on facilitating recognition in its territory of the results of conformity assessment procedures conducted by bodies in the other Party's territory of another Party, it shall, on request, of the other Party, explain the reasons explain the reasons for its decision.</p>
<p><a href="#"><u>Article 7.7: Transparency</u></a></p>	<p><a href="#"><u>Article 7.7: Transparency</u></a></p>

<p>1. Further to Article 20.2 (Publication), each Party shall allow persons of the other Party to participate in the development of standards, technical regulations, and conformity assessment procedures. 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.</p>	<p>1. Each Party shall allow persons of the other Parties to participate in the development of its standards, technical regulations, and conformity assessment procedures. Each Party shall permit persons of the other Parties to participate in the development of such measures on terms no less favorable than those accorded to its own persons and to persons of any other Party.</p>
<p>2. Each Party shall recommend that non-governmental standardizing bodies in its territory observe paragraph 1.</p>	<p>2. Each Party shall recommend that non-governmental standardizing bodies in its territory observe paragraph 1.</p>
<p>3. In order to enhance the opportunity for persons to provide meaningful comments, a Party publishing a notice under Article 2.9 or 5.6 of the TBT Agreement shall:</p>	<p>3. In order to enhance the opportunity for persons to provide meaningful comments on proposed technical regulations and conformity assessment procedures, a Party publishing a notice under Article 2.9 or 5.6 of the TBT Agreement shall:</p>
<p>(a) include in the notice a statement describing the objective of the proposal and the rationale for the approach the Party is proposing; and</p>	<p>(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; and</p>
<p>(b) transmit the proposal electronically to the other Party through the inquiry point established under Article 10 of the TBT Agreement at the same time as it notifies WTO Members of the proposal pursuant to the TBT Agreement.</p>	<p>(b) transmit the proposal electronically to the other Parties through the inquiry points each Party has established under Article 10 of the TBT Agreement at the same time as it notifies WTO Members of the proposal pursuant to the TBT Agreement.</p>
<p>Each Party should allow at least 60 days from the transmission under subparagraph (b) for persons and the other Party to make comments in writing on the proposal.</p>	<p>Each Party should allow at least 60 days after it transmits a proposal under subparagraph (b) for persons and the other Parties to make comments in writing on the proposal.</p>
<p>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 to the other Party, electronically, through the inquiry point referenced in paragraph 3(b).</p>	<p>5. 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 Parties through the inquiry points referenced in paragraph 3(b).</p>
<p>5. Each Party shall publish, in print or electronically, or otherwise make available to the public, its responses to significant comments at the same time as the publication of the final technical regulation or conformity assessment procedure.</p>	<p>4. Each Party shall publish or otherwise make available to the public, in print or electronically, its responses to significant comments it receives from persons or other Parties under paragraph 3 no later than the date it publishes the final technical regulation or conformity assessment procedure.</p>
<p>6. Each Party shall, on request of the other Party, provide 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.</p>	<p>6. Each Party shall, on request of another Party, provide 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.</p>
<p><i>NO CORRESPONDING LANGUAGE</i></p>	<p>7. Where a Party detains at a port of entry a good originating in the territory of another Party due to a perceived failure to comply with a technical regulation, it shall immediately notify the importer of the reasons for the detention.</p>

<p>7. Each Party shall implement this Article as soon as is practicable and in no event later than five years from the date of entry into force of this Agreement.</p>	<p>8. Each Party shall implement this Article as soon as is practicable and in no event later than five years from the date of entry into force of this Agreement.</p>
<p><i>Article 7.8: Committee on Technical Barriers to Trade</i></p>	<p><i>Article 7.8: Committee on Technical Barriers to Trade</i></p>
<p>1. The Parties hereby establish the Committee on Technical Barriers to Trade, comprising representatives of each Party, pursuant to Annex 7.8.</p>	<p>1. The Parties hereby establish the Committee on Technical Barriers to Trade, comprising representatives of each Party as set out in Annex 7.8.</p>
<p>2. The Committee's functions shall include:</p>	<p>2. The Committee's functions shall include:</p>
<p>(a) monitoring the implementation and administration of this Chapter;</p>	<p>(a) monitoring the implementation and administration of this Chapter;</p>
<p>(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;</p>	<p>(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;</p>
<p>(c) enhancing cooperation in the development and improvement of standards, technical regulations, and conformity assessment procedures;</p>	<p>(c) enhancing cooperation in the development and improvement of standards, technical regulations, and conformity assessment procedures and, as appropriate, designing and proposing mechanisms for technical assistance of the type described in Article 11 of the TBT Agreement, in coordination with the Committee on Trade Capacity Building, as appropriate;</p>
<p>(d) where appropriate, facilitating sectoral cooperation among governmental and non-governmental conformity assessment bodies in the Parties' territories;</p>	<p>(d) where appropriate, facilitating sectoral cooperation between governmental and nongovernmental conformity assessment bodies in the territories of two or more Parties;</p>
<p>(e) exchanging information on developments in non-governmental, regional, and multilateral fora engaged in activities related to standardization, technical regulations, and conformity assessment procedures;</p>	<p>(e) exchanging information on developments in non-governmental, regional, and multilateral fora engaged in activities related to standards, technical regulations, and conformity assessment procedures;</p>
<p>(f) taking any other steps the Parties consider will assist them in implementing the TBT Agreement and in facilitating trade in goods between them;</p>	<p>(h) taking any other steps the Parties consider will assist them in implementing the TBT Agreement and in facilitating trade; and</p>
<p>(g) at a Party's request, consulting on any matter arising under this Chapter;</p>	<p>(f) at a Party's request, consulting on any matter arising under this Chapter;</p>

<p>(h) 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; <b>and</b></p>	<p>(h) 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;</p>
<p>(i) as it considers appropriate, reporting to the Commission on the implementation of this Chapter.</p>	<p>(i) as it considers appropriate, reporting to the Commission on the implementation of this Chapter.</p>
<p>3. Where <b>the</b> Parties have had recourse to consultations under paragraph 2(g) such consultations shall, on the agreement of <b>the</b> Parties, constitute consultations under Article <b>22.4</b> (Consultations).</p>	<p>3. Where <b>two or more</b> Parties have had recourse to consultations under subparagraph 2(f) such consultations shall, on the agreement of <b>those</b> Parties, constitute consultations under Article <b>20.4</b> (Consultations).</p>
<p>4. A Party shall, <b>on request</b>, give favorable consideration to any sector-specific proposal the <b>other</b> Party makes for further cooperation under this Chapter.</p>	<p><b>7.4 2. On request of another Party</b>, a Party shall give favorable consideration to any sector-specific proposal the Party makes for further cooperation under this Chapter.</p>
<p>5. The Committee shall meet at least once a year unless the Parties otherwise agree.</p>	<p>4. The Committee shall meet at least once a year unless the Parties otherwise agree.</p>
<p><b>NO CORRESPONDING LANGUAGE</b></p>	<p><b>5. All decisions of the Committee shall be taken by consensus unless, the Committee otherwise decides.</b></p>
<p><i>Article 7.9: Information Exchange</i></p>	<p><i>Article 7.9: Information Exchange</i></p>
<p>Any information or explanation that is provided on request of a Party pursuant to the provisions of this Chapter shall be provided in print or electronically within a reasonable <b>period of</b> time.</p>	<p>Any information or explanation that is provided on request of a Party pursuant to the provisions of this Chapter shall be provided in print or electronically within a reasonable time. <b>A Party shall endeavor to respond to each such request within 60 days.</b></p>
<p><i>Article 7.10: Definitions</i></p>	<p><i>Article 7.10: Definitions</i></p>
<p>For purposes of this Chapter, <b>technical regulation, standard, conformity assessment procedures, and central government body</b> shall have the meanings assigned to those terms in Annex 1 of the TBT Agreement.</p>	<p>For purposes of this Chapter: <b>central government body, conformity assessment procedures, standard, and technical regulation</b>, and shall have the meanings assigned to those terms in Annex 1 of the TBT Agreement and</p>
<p><b>NO CORRESPONDING LANGUAGE</b></p>	<p>TBT Agreement means the WTO Agreement on Technical Barriers to Trade.</p>
<p><i>Annex 7.8: Committee on Technical Barriers to Trade</i></p>	<p><i>Annex 7.8: Committee on Technical Barriers to Trade</i></p>
<p><b>For purposes of Article 7.8, the</b> Committee shall be coordinated by:</p>	<p><b>The Committee on Technical Barriers to Trade</b> shall be coordinated by:</p>
<p><b>(a) in the case of Chile, the <i>Ministerio de Economía</i> through the <i>Departamento de Comercio Exterior</i>, or its successor; and</b></p>	<p><b>NO CORRESPONDING PARAGRAPH</b></p>
<p><b>(b) in the case of the United States, the Office of the United States Trade Representative, or its successor.</b></p>	<p><b>(f) in the case of the United States, the Office of the United States Trade Representative,</b></p>



<i>NO CORRESPONDING PARAGRAPH</i>	(a) in the case of Costa Rica, the <i>Dirección de Aplicación de Acuerdos Comerciales Internacionales del Ministerio de Comercio Exterior</i> with the collaboration of the <i>Ministerio de Economía, Industria y Comercio</i> and the <i>Ministerio de Salud</i> ;
<i>NO CORRESPONDING PARAGRAPH</i>	(b) in the case of the Dominican Republic, the <i>Dirección de Comercio Exterior y Administración de Tratados Comerciales Internacionales de la Secretaría de Estado de Industria y Comercio</i> ;
<i>NO CORRESPONDING PARAGRAPH</i>	(c) in the case of El Salvador, the <i>Ministerio de Economía</i> through the <i>Dirección de Administración de Tratados Comerciales</i> ;
<i>NO CORRESPONDING PARAGRAPH</i>	(d) in the case of Guatemala, the <i>Ministerio de Economía</i> ;
<i>NO CORRESPONDING PARAGRAPH</i>	(e) in the case of Honduras, the <i>Dirección General de Integración Económica y Política Comercial de la Secretaría de Estado en los Despachos de Industria y Comercio</i> and the <i>Secretaría de Estado en el Despacho de Salud</i> ;