



CHAPTER 7

TECHNICAL BARRIERS TO TRADE

Article 7.1: Definitions

For the purposes of this Chapter, the terms and their definitions set out in Annex 1 to the TBT Agreement shall apply, *mutatis mutandis*.

Article 7.2: Objectives

The objectives of this Chapter are to increase and facilitate trade by preventing and eliminating unnecessary obstacles to trade and enhancing bilateral cooperation in accordance with the rights and obligations of the Parties with respect to the TBT Agreement.

Article 7.3: Scope

This Chapter applies to all standards, technical regulations, and conformity assessment procedures, as defined in the TBT Agreement that may, directly or indirectly, affect trade in goods between the Parties. This Chapter shall not apply to:

- (a) purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies; and
- (b) sanitary and phytosanitary measures, which are covered by Chapter 6 (Sanitary and Phytosanitary Measures).

Article 7.4: Trade Facilitation

In order to facilitate trade, the Parties shall work cooperatively in the fields of standards, technical regulations and conformity assessment procedures, in particular, to identify bilateral initiatives regarding standards, technical regulations and conformity assessment procedures that are appropriate for particular issues or sectors.



Article 7.5: Incorporation of the TBT Agreement

The Parties incorporate their existing rights and obligations with respect to each other under the TBT Agreement, *mutatis mutandis*.

Article 7.6: Standards

1. The Parties shall use international standards, guides and recommendations, or the relevant parts of them, to the extent provided in Articles 2 and 5 and Annex 3 to the TBT Agreement, as a basis for their technical regulations and related conformity assessment procedures where relevant international standards, guides and recommendations exist or their completion is imminent, except when they or their relevant parts are ineffective or inappropriate to fulfil the legitimate objectives.

2. In determining whether an international standard, guide or recommendation as mentioned in Articles 2 and 5 and Annex 3 to the TBT Agreement exist, each Party shall base its determination on the principles set out in relevant Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade since 1 January 1995.

Article 7.7: Technical Regulations

1. Each Party shall give positive consideration to accepting 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 fulfil the objectives of its own regulations.

2. A Party shall, on request of the other Party, explain the reasons why it has not accepted a technical regulation of the other Party as equivalent.

Article 7.8: Conformity Assessment Procedures

1. The Parties recognise that a broad range of mechanisms exist to facilitate the acceptance of the results of conformity assessment procedures, including:

- (a) arrangements between conformity assessment bodies from the territory of each Party;
- (b) 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;



- (c) unilateral recognition by one Party of the results of conformity assessments performed in the territory of the other Party, where applicable;
- (d) accreditation procedures for qualifying conformity assessment bodies and promotion of the recognition of accreditation and certification bodies under regional and international mutual recognition arrangements which the Parties are members to;
- (e) designating conformity assessment bodies by the government of a Party which is located in the territory of the other Party to perform conformity assessment procedures; and
- (f) reliance on a supplier's declaration of conformity, where appropriate.

2. Each Party shall exchange information with the other Party on its experience in the development and application of the mechanisms in paragraph 1 and other appropriate mechanisms with a view to facilitating acceptance of the results of conformity assessment procedures.

3. Before accepting the results of a conformity assessment procedure, and to enhance confidence in the continued reliability of each other's conformity assessment results, the Parties may consult with each other on matters such as the technical competence of the conformity assessment bodies involved.

4. A Party shall, on request of the other Party, explain its reason for not accepting the results of any conformity assessment procedures performed in the territory of the other Party.

5. In accordance with its laws and regulations, each Party shall accredit, approve or otherwise recognise 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.

6. If a Party accredits, approves or otherwise recognises a body assessing conformity with a specific technical regulation or standard in its territory and refuses to accredit, approve, license, or otherwise recognise a body assessing conformity with that technical regulation or standard in the territory of the other Party, it shall, on request of that other Party, explain the reasons for its decision.

7. Each Party shall give positive consideration to a request by the other Party to negotiate and conclude arrangements to facilitate recognition of the results of conformity assessment procedures conducted by bodies located in the territory of the other Party. If a Party declines such a request, it shall, on request of that other Party, explain the reasons for its decision.



Article 7.9: Transparency

1. Each Party shall ensure that the information relating to technical regulations and conformity assessment procedures is published. Such information should be made available in print or electronically.
2. The Parties acknowledge the importance of transparency in decision-making, including giving a meaningful opportunity to provide comments on proposed technical regulations and conformity assessment procedures. If a Party publishes a notice under Article 2.9 or 5.6 of the TBT Agreement, it 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; and
 - (b) transmit the proposal electronically to the other Party through the enquiry point the 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.

Article 7.10: Consultations

1. Each Party shall give prompt and positive consideration to any request from the other Party for consultations on any matter arising under this Chapter.
2. On request of a Party for consultations on any matter arising under this Chapter, the Parties shall agree to enter into consultations by notifying the contact points established in Article 7.14.
3. Consultations shall be carried out by the Parties, under the Sub-Committee on Technical Barriers to Trade as referred to in Article 7.13, within 30 days of the receipt of a request, unless agreed otherwise. Such consultations may be conducted via teleconference, video conference, or any other means mutually agreed upon by the Parties.
4. If such consultations failed to resolve the matter between the Parties, then the interested Party could initiate the dispute settlement procedure contained in Chapter 12 (Dispute Settlement). For greater certainty, consultations under this Article should not replace those provided in Article 12.5 (Consultations).



Article 7.11: Technical Cooperation

With a view to fulfil the objectives of this Chapter, the Parties shall, on request of the other Party, cooperate in mutually determined terms and conditions. This may include but is not limited to:

- (a) exchanging legislation, regulations, rules and other information and periodicals published by the national bodies responsible for standards, technical regulations, conformity assessment procedures and accreditation;
- (b) providing technical advice, information, and assistance and exchanging experience to enhance the other Party's system for standards, technical regulations and conformity assessment procedures, and related activities;
- (c) examining the compatibility or equivalence of their respective technical regulations, standards and conformity assessment procedures;
- (d) cooperation between conformity assessment bodies, both governmental and non-governmental, in the territories of each of the Parties, enhancing infrastructure in calibration, testing, inspection, certification and accreditation to meet relevant international standards, recommendations and guidelines;
- (e) increasing bilateral cooperation in the relevant international organisations and fora dealing with the issues covered by this Chapter; and
- (f) enhancing cooperation in the development standards and conformity assessment procedures, such as:
 - (i) cooperation in the development and promotion of good regulatory practice; and
 - (ii) transparency, including mechanisms to promote improved access to information on standards, technical regulations and conformity assessment procedures;
- (g) giving favourable consideration, on request of the other Party, to any sector specific proposal for further cooperation; and
- (h) informing the other Party, as requested, about the agreements or programs subscribed at international level in relation to TBT issues.



Article 7.12: Implementing Arrangements

1. The Parties, in order to enhance regulatory cooperation and in accordance with Chapter 11 (Administration), may conclude or amend implementing arrangements to this Chapter setting out agreed principles and procedures relating to technical regulations and conformity assessment procedures applicable to trade between them.
2. The Parties shall seek to incorporate any existing arrangements concerning technical regulations and conformity assessment procedures that are sector-specific and specifically applicable to trade between the Parties into the implementing arrangements.

Article 7.13: Sub-Committee on Technical Barriers to Trade

1. The Parties hereby establish a Sub-Committee on Technical Barriers to Trade (Sub-Committee on TBT), which shall comprise the representatives of the Parties as referred to in Article 7.14 (Contact Points), listed in Annex 7-A, to promote and monitor the implementation and administration of this Chapter.
2. The Sub-Committee on TBT functions shall include:
 - (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) where appropriate, facilitating sectorial cooperation among governmental and non-governmental conformity assessment bodies in the territory of the Parties;
 - (e) exchanging information on developments in non-governmental, regional, and multilateral fora engaged in activities related to standardisation, technical regulations, and conformity assessment procedures;
 - (f) taking any other steps the Parties consider may assist them in implementing the TBT Agreement and in facilitating trade in goods between them;
 - (g) 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; and



(h) as it considers appropriate, reporting to the Committee on Trade in Goods on the implementation of this Chapter.

3. Unless agreed otherwise by the Parties, the Sub-Committee on TBT shall meet annually in person, via teleconference, video conference, or through any other means as mutually determined by the Parties.

4. The terms of reference of the Sub-Committee shall be determined in its first meeting.

5. The Sub-Committee on TBT shall comprise the contact points, referred to in Article 7.14 and any other Government officials that the Parties consider appropriate.

Article 7.14: Contact Points

1. The Parties shall designate a contact point or contact points, which shall comprise relevant officials, who shall have responsibility for co-ordinating the implementation of this Chapter.

2. The Parties shall provide each other with the name of the designated contact point or contact points and the contact details of the relevant officials.

3. The Parties shall notify each other promptly of any changes of their contact points or to the details of the relevant officials.

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