

Chapter 8 Technical Barriers to Trade

Article 8.1 Objectives

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

Article 8.2 Scope and Coverage

1. This Chapter applies to all technical regulations, national standards, and conformity assessment procedures that may, directly or indirectly, affect trade in goods except as provided in paragraph 2.

2. This Chapter does not apply to sanitary and phytosanitary measures which are covered by Chapter 7 (Sanitary and Phytosanitary Measures) of this Agreement.

Article 8.3 Affirmation of the Agreement on Technical Barriers to Trade

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

Article 8.4 Standards

1. Each Party shall encourage the standardizing body or bodies in its territory to cooperate with the standardizing body or bodies of the other Party. Such cooperation shall include, but is not limited to, information and experience on standards.

2. The Parties shall use international standards, or the relevant parts of international standards, as a basis for their technical regulations and related conformity assessment procedures where relevant international standards exist or their completion is imminent, except when such international standards or their relevant parts are ineffective or inappropriate to fulfill legitimate objectives.

3. In determining whether an international standard in the sense of Article 2.4 of the TBT Agreement exists, the Parties shall apply the principles set out in the “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”, adopted by the WTO Committee on Technical Barriers to Trade since 1 January 1995, G/TBT/1/Rev.14, 24 September 2019, Annex 2 to Part 1. Such international standards may include, but are not limited to, those developed by the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the International Telecommunication Union (ITU) and Codex Alimentarius Commission (CAC).

Article 8.5 Equivalency of Technical Regulations

1. Each Party will give favorable consideration to the possibility of accepting as equivalent technical regulations of the other Party, even if these regulations differ from their own, provided that they are satisfied that these regulations adequately fulfill the objectives of their own regulations.

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

3. At the request of a Party that has an interest in developing a similar technical regulation, the Parties may conduct relevant communication to provide, to the extent practicable, information, or other documents, except for confidential information, on which it has relied in the development of a technical regulation.

Article 8.6 Conformity Assessment

1. The Parties recognize that a broad range of mechanisms exists to facilitate the acceptance of conformity assessment procedures and results thereby, including:

(a) voluntary arrangements between conformity assessment bodies from each Party’s territory;

(b) agreements on mutual acceptance of the results of conformity assessment procedures with respect to specified regulations conducted by bodies located in the other Party’s territory;

(c) recognition by one Party of the results of conformity assessments performed in the other Party’s territory;

(d) accreditation procedures for qualifying conformity assessment bodies and promotion of the recognition of accreditation and certification bodies under international mutual recognition arrangements; and

(e) government designation of conformity assessment bodies.

2. The Parties shall intensify their exchange of information on the range of mechanisms to facilitate the acceptance of conformity assessment results.

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 on such matters as the technical confidence of the conformity assessment bodies involved, as appropriate.

4. A Party shall, on the request of the other Party, explain its reasons for not accepting the results of a conformity assessment procedure performed in the other Party's territory.

5. Where a Party declines a request from the other Party to engage in or conclude negotiations to reach an agreement on facilitating recognition in its territory from the results of conformity assessment procedures conducted by bodies located in the other Party's territory, it shall, on request, explain its reasons.

Article 8.7: Measures at the Border

Where a Party detains, at a port of entry, goods exported from the other Party due to a perceived failure to comply with a technical regulation or a conformity assessment procedure, the reasons for the detention shall be promptly notified to the importer or his or her representative.

Article 8.8 Transparency

1. Each Party shall allow a period of at least 60 days following the notification of its proposed technical regulations and conformity assessment procedures to WTO to solicit comments from the other Party except where urgent problems of safety, health, environmental protection, or national security arise or threaten to arise.

2. Each Party shall, upon request of the other Party, provide information on the objectives of, and rationale for, a technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt.

3. Each Party shall ensure that all adopted technical regulations and conformity

assessment procedures are promptly published or otherwise made available.

4. Each Party shall provide and keep updated information about the competent authorities and will communicate any significant change in their structure, organization and division.

5. The period between publication and entry into force of technical regulations and conformity assessment procedures shall not be less than 6 months, unless within that period it is impracticable to achieve the legitimate objectives of the technical regulations and conformity assessment procedures.

Article 8.9 Technical Cooperation

1. Each Party shall, upon request of the other Party:

(a) provide to that Party technical advice, information and assistance on mutually agreed terms and conditions to enhance that Party's standards, technical regulation and conformity assessment procedures, and related activities, processes and systems;

(b) take measures to prevent and correct risk situations in bilateral trade of products, including encouraging their competent authorities to enhance cooperation and sign cooperative agreements if needed;

(c) exchange information and experiences on port inspection and market surveillance; and

(d) cooperate in capacity building activities, aimed at strengthening the national quality infrastructure and other related issues.

2. The Parties shall, upon request of one Party, work towards increasing the information exchange, particularly regarding bilateral non-compliance with technical regulations and conformity assessment procedures.

3. The Parties agree to strengthen information exchange cooperation, including sharing, when available, translated English versions of the full texts of the adopted technical regulations and conformity assessment procedures.

Article 8.10 Committee on Technical Barriers to Trade

1. The Parties hereby establish the Committee on Technical Barriers to Trade, comprising representatives of each Party.

2. For purposes of this Article, the Committee shall be coordinated by:

(a) in the case of China, Department of International Cooperation, State Administration for Market Regulation of China (SAMR), or its successor; and

(b) in the case of Ecuador, Ministry of Production, Foreign Trade, Investment and Fisheries, through its Direction of Negotiations of Sanitary and Phytosanitary Measures and Technical Barriers to Trade, or its successor.

3. In order to facilitate the communication and ensure the proper functioning of the Committee, the Parties will designate a contact person no later than 2 months following the date of entry into force of this Agreement.

4. The Committee's 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 technical regulations and conformity assessment procedures;

(c) enhancing cooperation in the development and improvement of technical regulations and conformity assessment procedures;

(d) where appropriate, facilitating sectorial cooperation among governmental and non-governmental conformity assessment bodies in the Parties' territories;

(e) exchanging information on developments in non-governmental, regional, and multilateral fora engaged in activities related to standardization, technical regulations, and conformity assessment procedures;

(f) taking any other steps which the Parties consider to assist them in implementing the TBT Agreement and in facilitating trade in goods between them;

(g) consulting on any matter arising under this Chapter, upon a Party's request;

(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; and

(i) reporting to the Free Trade Commission on the implementation of this Chapter, as it considers appropriate.

5. Where the Parties have had recourse to consultations under subparagraph (g) of paragraph 4, such consultations shall, upon agreement by the Parties, constitute consultations under Article 13.4 (Consultations).

6. A Party shall endeavor to, upon request, give favorable consideration to any

sector-specific proposal the other Party makes for further cooperation under this Chapter.

7. The Committee shall convene its first meeting not later than 1 year after the date of entry into force of this Agreement and meet once every 2 years or at any time agreed by the Parties. These meetings may be held via teleconference, video conference, or through any other means, as mutually determined by the Parties. By mutual agreement, ad hoc working groups may be established if necessary.

Article 8.11 Information Exchange

Any information or explanation provided upon request of a Party pursuant to the provisions of this Chapter, shall be provided in print or electronically within a term of 60 days.

Article 8.12 Definitions

For purposes of this Chapter:

- (a) TBT Agreement means the Agreement on Technical Barriers to Trade, which is part of the WTO Agreement; and
- (b) the definitions of Annex I of the TBT Agreement shall apply.