

Chapter 7

Technical Barriers to Trade

Article 68: Objectives

The objectives of this Chapter are to:

- (a) facilitate and increase trade in goods by preventing and eliminating unnecessary barriers to trade between the Parties, which may arise as a result of the preparation, adoption and application of technical regulations, standards and conformity assessment procedures;
- (b) strengthen cooperation between the Parties, with a view to promoting and facilitating the bilateral trade through the establishment of a mechanism of information exchange and enhancing mutual understanding of each Party's regulatory system;
- (c) effectively solve the relevant problems arising from bilateral trade; and
- (d) improve the implementation of the TBT Agreement.

Article 69: Scope

This Chapter applies to all technical regulations, standards and conformity assessment procedures of a Party that may, directly or indirectly, affect trade in goods between the Parties, except SPS measures which are covered by Chapter 6 (Sanitary and Phytosanitary Measures), or purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies.

Article 70: Definitions

The definitions contained in Annex 1 of the TBT Agreement shall apply to this Chapter.

Article 71: Reaffirmation of Rights and Obligations

The Parties reaffirm their existing rights and obligations under the TBT Agreement. Nothing in this Chapter shall prevent a Party from adopting or maintaining technical regulations, standards and conformity assessment procedures in accordance with its rights and obligations under the TBT Agreement.

Article 72: Technical Regulations

1. The Parties agree to use relevant international standards as a basis for technical regulations, except when such international standards would be an

ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued.

2. Each Party shall give positive consideration to 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 fulfil the objectives of their own regulations.

3. The Parties recognize the importance of applying good regulatory practice under the TBT Agreement, taking into consideration the decisions and recommendations adopted by the WTO Committee on Technical Barriers to Trade (hereinafter "WTO/TBT Committee").

Article 73: Standards

1. The Parties reaffirm their obligations to ensure that their central government standardizing bodies accept and comply with the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 to the TBT Agreement.

2. The Parties agree to coordinate and, whenever possible, support each other in international standardization activities.

3. The Parties commit to strengthen cooperation between standardization bodies of each Party, including but not limited to exchange of information and experience.

4. The Parties shall ensure the application of the principles set out in the Decisions 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 WTO/TBT Committee, since 1st January 1995 (G/TBT/1/Rev. 9, 8 September 2008).

Article 74: Conformity Assessment Procedures

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

2. The Parties agree to exchange information on conformity assessment procedures, including testing, inspection, certification, accreditation and metrology, with a view to negotiating cooperation agreements in the field of conformity assessment procedures in a manner consistent with the provisions of the TBT Agreement and the relevant domestic legislation of the Parties.

3. When cooperating in conformity assessment, the Parties shall take into consideration their participation in the International Laboratory Accreditation Cooperation (ILAC), the International Bureau of Weights and Measures (BIPM), the International Organization of Legal Metrology (OIML) and other relevant international organizations.

4. In case that a compulsory conformity assessment procedure is required, upon request of one Party, the other Party undertakes to provide in English the list of products which are subject to these procedures.

5. The Parties agree to encourage their conformity assessment bodies to work closer with a view to facilitating the acceptance of conformity assessment results between both Parties.

Article 75: Transparency

1. The Parties shall notify each other electronically through their respective WTO/TBT Enquiry Points of their proposed TBT measures at the same time as they submit notifications to the WTO Secretariat in accordance with the TBT Agreement. Each Party shall allow at least 60 days for the other Party to present comments on any notifications except where risks to health, safety and the environment arising or threatening to arise warrant urgent actions. Each Party shall provide, upon request, the full text of its notified TBT measures to the other Party within 5 working days after receiving the written request. This comment period is encouraged to be extended when the WTO/TBT Committee recommends a longer period.

2. Each Party should take the comments of the other Party into due consideration, and upon request of the other Party, provide additional information during the comments period, with a view to clarifying the draft measure.

3. The Parties agree to strengthen information exchange cooperation between their WTO/TBT Enquiry Points, including sharing available translated English versions of the full texts of the TBT measures notified as well as relevant information, within 5 working days after the request.

4. The Parties shall ensure that all adopted technical regulations and conformity assessment procedures are published and available to the other Party upon request and at no cost.

Article 76: Technical Cooperation

1. The Parties agree that collaboration between the competent authorities responsible for TBT matters is important to facilitate bilateral trade. The Parties undertake to cooperate in the following fields:

- (a) to increase the mutual understanding of their respective systems by intensifying communication and collaboration between the competent authorities in respect of technical regulations, standards, conformity assessment procedures and good regulatory practice of each other;

- (b) to strengthen cooperation, communication and, whenever possible, coordinate positions in the activities of the relevant international organizations and the WTO/TBT Committee;
- (c) to exchange information and experiences on port inspection and market surveillance;
- (d) to notify the exporting Party in a timely manner of any possibly emerging problems of products imported from the exporting Party, the measure to be taken and its justifications, through the contact points established in Annex 6 (Contact Points for Technical Barriers to Trade); and
- (e) to 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.

2. Both Parties agree to encourage their WTO/TBT Enquiry Points to work in the following areas:

- (a) providing assistance in English translation;
- (b) providing information for specific products; and
- (c) providing information on relevant regulations and documents.

Article 77: Committee on Technical Barriers to Trade

1. The Parties hereby establish a Committee on Technical Barriers to Trade (hereinafter "TBT Committee") in order to achieve the objectives set in this Chapter, comprising representatives of each Party.

2. The TBT 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, in presence or through teleconference, videoconference, or any other means agreed by the Parties.

3. At its first meeting, the TBT Committee shall establish rules of procedures to guide its operation.

4. The TBT Committee shall have the following functions:

- (a) to facilitate and monitor the implementation and administration of this Chapter;
- (b) to address important issues that a Party raises related to the development, adoption, application of technical regulations and conformity assessment procedures;

- (c) to facilitate the exchange of information on technical regulations, standards and conformity assessment procedures and strengthen cooperation in these fields;
 - (d) to explore ways for trade facilitation between the Parties;
 - (e) to review this Chapter in light of developments of the TBT Agreement; and
 - (f) other functions mutually agreed by the Parties.
5. The TBT Committee shall be coordinated by:
- (a) in the case of China, the Department of International Cooperation of the General Administration of Quality Supervision, Inspection and Quarantine, or its successor; and
 - (b) in the case of Costa Rica, the Directorate for the Application of International Trade Agreements of the Ministry of Foreign Trade (*Dirección de Aplicación de Acuerdos Comerciales Internacionales del Ministerio de Comercio Exterior*), or its successor.
6. In order to facilitate daily communication, the Parties designate contact points in the competent authorities. For detailed information, see Annex 6 (Contact Points for Technical Barriers to Trade).