

CHAPTER 6

TECHNICAL BARRIERS TO TRADE

Article 6.1: Objectives

The objectives of this Chapter are to:

- (a) facilitate and promote trade in goods between the Parties by ensuring that standards, technical regulations, and conformity assessment procedures do not create unnecessary technical barriers to trade;
- (b) strengthen cooperation, including information exchange in relation to the preparation, adoption and application of standards, technical regulations, and conformity assessment procedures;
- (c) promote mutual understanding of the Parties' standards, technical regulations, and conformity assessment procedures; and
- (d) facilitate implementation of the principles of the *Agreement on Technical Barriers to Trade* (hereinafter referred to as the "TBT Agreement"), contained in Annex 1A to the WTO Agreement.

Article 6.2: Scope

This Chapter shall apply to all national standards, technical regulations, and conformity assessment procedures of the Parties that may, directly or indirectly, affect trade in goods between the Parties. It shall exclude:

- (a) the SPS measures which are covered in Chapter 5 (Sanitary and Phytosanitary Measures); and
- (b) purchasing specifications prepared by governmental bodies for production or consumption requirements are not subject to the provisions of this Agreement but are addressed in the *Agreement on Government Procurement*, according to its coverage.

Article 6.3: General Provision

Except as otherwise provided for in this Chapter, the TBT Agreement shall apply between the Parties and is hereby incorporated into and form an integral part of this Agreement, *mutatis mutandis*.

Article 6.4: International Standards

1. Where standards, technical regulations or conformity assessment procedures are required, and relevant international standards exist or are about to be developed, the Parties shall use relevant international standards or the relevant parts of them as a basis for their standards, technical regulations or relevant conformity assessment procedures, except where such international standards or relevant parts are invalid or inappropriate for achieving the legitimate objectives of the Parties.

2. For the purpose of this Chapter, standards issued by the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the International Telecommunication Union (ITU) and Codex Alimentarius Commission (CAC) shall be considered as relevant international standards in the sense of the TBT Agreement.

Article 6.5: Technical regulations

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.

Article 6.6: Conformity Assessment Procedures

1. The Parties, with a view to increasing efficiency and ensuring cost effectiveness of conformity assessment, shall enhance cooperation in information exchange of each other's conformity assessment system through bilateral visits, technical training and seminars, etc.

2. When cooperating in the area of conformity assessment, the Parties shall take into consideration their participation in relevant international organizations.

3. 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.

Article 6.7: 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. Official measures taken in relation to such goods shall be proportionate to the risk associated with such goods.

Article 6.8: Transparency and Information Exchange

1. The Parties affirm their commitment to ensuring that information regarding proposed new or amended technical regulations, conformity assessment procedures or standards is made available in accordance with the Article 2.9, Article 5.6, and Annex 3 of the TBT Agreement.
2. A Party shall make available the full text of its notified technical regulations and conformity assessment procedures to the requesting Party within 15 working days of receiving the written request. English version shall prevail if available.
3. Each Party shall allow at least 60 days following the notification of its proposed technical regulations and conformity assessment procedures to WTO for the other Party to present comments except where risks to health, safety, and the environment arising or threatening to arise warrant urgent actions.
4. A Party may request information from the other Party on a matter arising under this Chapter. The requested Party shall endeavour to provide available information to the requesting Party within 30 days of the request.
5. The Parties agree to shall give favorable consideration to conduct meetings between the competent authorities of each Party to improve understanding regarding the requirements that apply to specific products. These meetings may be performed virtually or by any method agreed on a case-by-case basis.

Article 6.9: Technical Consultations

1. Where a Party considers that a standard, relevant technical regulation or conformity assessment procedure of the other Party has constituted unnecessary obstacles to its exports, it may request technical consultations. The requested Party shall respond as early as possible to such a request.
2. The requested Party shall enter into technical consultations within a period mutually agreed, with a view to reaching a solution. Technical consultations may be conducted via any means mutually agreed by the Parties.

Article 6.10: Cooperation

With a view to increasing mutual understanding of their respective systems and facilitating bilateral trade, the Parties shall strengthen their technical cooperation in the following areas:

- (a) communication between competent authorities of the Parties;
- (b) exchange of information in respect of standards, technical regulations, conformity assessment procedures, and good regulatory practices;
- (c) encouraging, where possible, cooperation between standardization , metrology and conformity assessment bodies of the Parties including training programmes, workshops, technical assistance programs and related activities;
- (d) cooperation in areas of mutual interest in the work of relevant regional and international bodies relating to the development and application of standards and conformity assessment procedures;
- (e) related activities in General Vocabulary defined in ISO/IEC Guide 2; and
- (f) other areas mutually agreed by the Parties.

Article 6.11: Contact Point

1. Each Party shall designate a Contact Point which shall, for that Party, has the responsibility for coordinating the implementation of this Chapter. The Contact Points will be:

(a) for China, the State Administration for Market Regulation or its successor;
and

(b) for Nicaragua, the Ministry of Development, Industry and Trade (*Ministerio de Fomento, Industria y Comercio (MIFIC)*) or its successor.

2. A Party shall provide the other Party with the contact details of the relevant officials in their respective Contact Points, including telephone, facsimile, email, and any other relevant details.

3. A Party shall notify the other Party promptly of any change in its Contact Points or any amendment to the details of the relevant officials acting as or on behalf of its Contact Point.

Article 6.12: Definitions

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