

## CHAPTER 8

### TECHNICAL BARRIERS TO TRADE

#### Article 8.1: Definitions

For the purposes of this Chapter, the definitions provided for under Annex 1 to the *Agreement on Technical Barriers to Trade* (TBT Agreement) in Annex 1A to the WTO Agreement shall apply.

#### Article 8.2: Objectives

The objectives of this Chapter are to facilitate trade in goods between the Parties by:

- (a) ensuring that standards, technical regulations, and conformity assessment procedures do not create unnecessary obstacles to trade;
- (b) promoting mutual understanding of each Party's standards, technical regulations, and conformity assessment procedures;
- (c) strengthening information exchange and cooperation between the Parties in relation to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures;
- (d) strengthening cooperation between the Parties in the work of international bodies related to standardisation and conformity assessments; and
- (e) providing a framework to implement supporting mechanisms to realise these objectives.

#### Article 8.3: Scope

1. For the mutual benefit of the Parties, this Chapter applies to all standards, technical regulations and conformity assessment procedures of the central level of government bodies that may affect trade in goods between the Parties, except:

- (a) purchasing specifications prepared by governmental bodies for the production or consumption requirements of such bodies; and

(b) sanitary or phytosanitary measures as defined in Chapter 7 (Sanitary and Phytosanitary Measures).

2. Each Party shall take such reasonable measures as may be available to it to ensure compliance, in the implementation of this Chapter, by local government and non-governmental bodies within its territory which are responsible for the preparation, adoption and application of standards, technical regulations and conformity assessment procedures.

3. Nothing in this Chapter shall limit the right of a Party to prepare, adopt and apply standards, technical regulations and conformity assessment procedures only to the extent necessary to fulfil a legitimate objective. Such legitimate objectives are, *inter alia*, national security requirements; the prevention of deceptive practices; protection of human health or safety; animal or plant life or health; or the environment.

#### **Article 8.4: Affirmation of the TBT Agreement**

Each Party affirms its rights and obligations with respect to each other under the TBT Agreement.

#### **Article 8.5: Standards**

1. With respect to the preparation, adoption and application of standards, each Party shall ensure that its standardising body or bodies accept and comply with Annex 3 to the TBT Agreement.

2. Each Party shall encourage the standardising body or bodies in its territory to cooperate with the standardising body or bodies of other Parties. Such cooperation shall include, but is not limited to:

- (a) exchange of information on standards;
- (b) exchange of information relating to standard setting procedures; and
- (c) cooperation in the work of international standardising bodies in areas of mutual interest.

## **Article 8.6: Technical Regulations**

1. Where relevant international standards exist or their completion is imminent, each Party shall use them, or relevant parts of them, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfillment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems.
2. 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 it is satisfied that these regulations adequately fulfill the objectives of its own regulations.
3. If a Party does not accept a technical regulation of another Party as equivalent to its own, it shall, on request of the other Party, explain the reasons for its decision.

## **Article 8.7: Conformity Assessment Procedures**

1. Each Party shall give positive consideration to accepting the results of conformity assessment procedures of the other Party, even if those procedures differ from its own, provided it is satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to its own procedures.
2. Each Party shall seek to enhance the acceptance of the results of conformity assessment procedures conducted in the territory of the other Party with a view to increasing efficiency, avoiding duplication and ensuring cost effectiveness of the conformity assessments. In this regard, each Party may choose, depending on the situation of that Party and the specific sectors involved, a broad range of approaches. These may include but are not limited to:
  - (a) recognition by a Party of the results of conformity assessments performed in the territory of the other Party;
  - (b) recognition of cooperative arrangements between accreditation bodies in the territory of each Party;
  - (c) mutual recognition of conformity assessment procedures conducted by bodies located in the territory of the other Party;
  - (d) use of existing regional and international multilateral recognition agreements and arrangements;

(e) designating conformity assessment bodies located in the territory of the other Party to perform conformity assessment; and

(f) suppliers' declaration of conformity, where present and future opportunities arise as appropriate.

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

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

### **Article 8.8: Cooperation**

1. The Parties shall intensify their joint efforts in the field of standards, technical regulations and conformity assessment procedures with a view to facilitating access to each other's markets.

2. Each Party shall, on request of the other Party, give positive consideration to proposals to supplement existing cooperation on standards, technical regulations and conformity assessment procedures. Such cooperation, which shall be on mutually determined terms and conditions, may include but is not limited to:

(a) advice or technical assistance relating to the development and application of standards, technical regulations and conformity assessment procedures;

(b) cooperation between conformity assessment bodies, both governmental and non-governmental, in the territories of each Party such as:

(i) use of accreditation to qualify conformity assessment bodies; and

(ii) enhancing infrastructure in calibration, testing, inspection, certification and accreditation to meet relevant international standards, recommendations and guidelines;

(c) 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 such as enhancing participation in the existing frameworks for mutual recognition developed by relevant regional and international bodies; and

(d) enhancing cooperation in the development and improvement of technical regulations and conformity assessment procedures such as:

(i) cooperation in the development and promotion of good regulatory practice;

(ii) transparency, including ways to promote improved access to information on standards, technical regulations and conformity assessment procedures; and

(iii) management of risks relating to health, safety, the environment and deceptive practices.

3. On request of the other Party, a Party shall give positive consideration to a sector-specific proposal that the requesting Party makes for further cooperation under this Chapter.

#### **Article 8.9: Consultations**

1. Each Party shall give prompt and positive consideration to any request from the other Party for consultations on issues relating to the implementation of this Chapter.

2. Where a matter covered under this Chapter cannot be clarified or resolved as a result of consultations, the Parties shall refer it to the Sub-Committee on Technical Barriers to Trade (TBT Sub-Committee) to identify a workable and practical solution to facilitate trade.

#### **Article 8.10: Agreements or Implementing Arrangements**

1. 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.

2. Such trade-facilitating initiatives may include agreements or implementing arrangements on regulatory issues, such as alignment of standards, convergence or equivalence of technical regulations, conformity assessment procedures and compliance issues.

3. A Party which is party to an existing agreement or implementing arrangement shall give consideration to extending such an agreement or implementing arrangement to the other Party on request of that Party. Such consideration may be subject to appropriate confidence building processes to ensure equivalency of relevant standards, technical regulations or conformity assessment procedures.

4. If a Party declines a request of the other Party to consider extending the application of an existing agreement or implementing arrangement it shall, on request of that Party, explain the reasons for its decision.

#### **Article 8.11: Transparency**

1. Each Party affirms its commitment to ensuring that information regarding proposed new or amended standards, technical regulations and conformity assessment procedures is made available in accordance with the relevant requirements of the TBT Agreement.

2. Each Party shall ensure that the information relating to standards, technical regulations and conformity assessment procedures is published. Such information should be made available in electronic form and, where possible, in printed form.

#### **Article 8.12: Contact Points**

1. The Parties shall designate a contact point or contact points who shall have responsibility for coordinating 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 official in that organisation, including telephone, facsimile, email and any other relevant details.

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

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

#### **Article 8.13: TBT Sub-Committee**

1. The Parties hereby establish a Sub-Committee on TBT (TBT Sub-Committee), consisting of representatives of the Parties, to promote and monitor the implementation and administration of each Party's standards, technical regulations and conformity assessment procedures covered in this Chapter.

2. The TBT Sub-Committee shall meet as agreed by the Parties. Meetings may be conducted annually in person, or by any other means as agreed by the Parties.

3. The TBT Sub-Committee shall determine its terms of reference in accordance with this Chapter.

4. The TBT Sub-Committee shall determine its work programme in response to priorities as identified by the Parties.

**Article 8.14: Non-Application of Chapter 20 (Consultations and Dispute Settlement)**

Chapter 20 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.