

CHAPTER 6

TECHNICAL BARRIERS TO TRADE

Article 6.1: Definitions

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

Article 6.2: Objective

The objective of this Chapter is to facilitate trade, including by preventing and eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting bilateral cooperation and good regulatory practices in accordance with the rights and obligations of the Parties with respect to the TBT Agreement.

Article 6.3: 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 5 (Sanitary and Phytosanitary Measures).

Article 6.4: Incorporation of the TBT Agreement

The Parties reaffirm their existing rights and obligations with respect to each other under the TBT Agreement, and to this end the following provisions of the TBT Agreement are incorporated into and made part of this Agreement, *mutatis mutandis*:

- (a) Article 2;
- (b) Article 4.1;
- (c) Article 5;

- (d) Article 6.1, 6.3, and
- (e) Annex 3, except for paragraph A.

Article 6.5: International Standards

1. Each Party shall use relevant international standards, guides, and recommendations, to the extent provided in Articles 2.4 and 5.4 of the TBT Agreement, as a basis for its technical regulations and conformity assessment procedures.
2. In determining whether an international standard, guide, or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement exists, each Party shall base its determination on 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 on 13 November 2000 by the WTO Committee on Technical Barriers to Trade (Annex 2 to PART 1 of G/TBT/1/Rev13), and any subsequent version thereof.
3. The Parties shall encourage cooperation between their respective national standardizing organizations in areas of mutual interest, in the context of their participation in international standardising bodies, to ensure that international standards developed within such organizations are trade facilitating and do not create unnecessary obstacles to international trade.

Article 6.6: Technical Regulations

1. The Parties shall use international standards as a basis for preparing their technical regulations, unless those international standards are ineffective or inappropriate for achieving the legitimate objective pursued. Each Party shall, upon request of the other Party, provide its reasons for not having used international standards as a basis for preparing its technical regulations.
2. Each Party shall give positive consideration to a request by the other Party to accept 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.
3. Where a Party does not accept the request of the other Party as specified in paragraph 2, it shall, upon request of the other Party, explain the reasons for its decision.

4. The Parties shall strengthen communications and coordination with each other, where appropriate, in the context of discussions on the equivalence of technical regulations and related issues in international fora, such as the WTO Committee on Technical Barriers to Trade.

Article 6.7: Conformity Assessment Procedures

1. The Parties recognise that, depending on the specific sectors involved, a broad range of mechanisms exists to facilitate the acceptance in a Party's territory of the results of conformity assessment procedures conducted in the other Party's territory. Such mechanisms may include:

- (a) recognizing existing international multilateral recognition agreements and arrangements among conformity assessment bodies;
- (b) promoting mutual recognition of conformity assessment results by the other Party, through recognising the other Party's designation of conformity assessment bodies;
- (c) encouraging voluntary arrangements between conformity assessment bodies in the territory of each Party;
- (d) reliance on a supplier's declaration of conformity, where appropriate;
- (e) harmonising criteria for the designation of conformity assessment bodies, including accreditation procedures, or
- (f) other mechanisms agreed by the Parties.

2. Each Party shall ensure, whenever possible, that the results of conformity assessment procedures conducted in the territory of the other Party are accepted, even when those procedures differ from its own, provided that those procedures offer a satisfactory assurance of applicable technical regulations or standards equivalent to its own procedures. Where a Party does not accept the results of a conformity assessment procedure conducted in the territory of the other Party, it shall, on request of the other Party, explain the reasons for its decision.

3. In order to enhance confidence in the consistent reliability of conformity assessment results, the Parties may consult on matters such as the technical competence of the conformity assessment bodies involved.

4. Each Party shall give positive consideration to a request by the other Party to negotiate agreements or arrangements for the mutual recognition of the results of their respective conformity assessment procedures. If a Party declines such a request, it shall explain the reasons for its decision.

5. The Parties shall endeavour to intensify their exchange of information on acceptance mechanisms with a view to facilitating the acceptance of conformity assessment results.

Article 6.8: Transparency

1. Each Party shall, upon request of the other Party, provide information, including the objective of, and rationale for, a technical regulation or conformity assessment procedure which the Party has adopted or proposes to adopt and may affect the trade between the Parties, within a reasonable period of time as agreed between the Parties.

2. When a proposed technical regulation is submitted for public consultation or notified to the WTO, a Party shall give appropriate consideration to the comments received from the other Party and, upon request of the other Party, provide written answers to the comments made by the other Party.

3. The Parties shall ensure that all adopted technical regulations and conformity assessment procedures are publicly available.

4. Each Party shall allow a reasonable interval between the publication of technical regulations and their entry into force, that shall normally mean a period of not less than six months, except when this period would be ineffective or inappropriate to fulfil the legitimate objectives pursued, or where urgent issues of safety, health, environmental protection, or national security arise or threaten to arise.

Article 6.9: Cooperation and Trade Facilitation

1. The Parties shall strengthen their cooperation in the field of standards, technical regulations, and conformity assessment procedures with a view to:

- (a) increasing the mutual understanding of their respective systems;
- (b) enhancing cooperation between the Parties' regulatory agencies on matters of mutual interests, including health, safety, and environmental protection;
- (c) facilitating trade by implementing good regulatory practices, and

- (d) enhancing cooperation, as appropriate, to ensure that technical regulations and conformity assessment procedures are based on international standards or the relevant parts of them and do not create unnecessary obstacles to trade between the Parties.

2. In order to achieve the objectives set out in paragraph 1, the Parties shall, as mutually agreed and to the extent possible, cooperate on regulatory issues, and promote trade facilitation, which may include:

- (a) promoting good regulatory practices based on risk management principles;
- (b) promoting the use of good regulatory practices to improve the efficiency and effectiveness of standards, technical regulations, and conformity assessment procedures;
- (c) exchanging information with a view to improving the quality and effectiveness of their technical regulations;
- (d) exchanging market surveillance information, where appropriate;
- (e) encouraging greater use of international standards, guides and recommendations as a basis for technical regulations and conformity assessment procedures, and
- (f) promoting compatibility or equivalence of technical regulations and conformity assessment procedures.

3. The Parties shall encourage cooperation between their respective organizations responsible for standardization, conformity assessment, accreditation, and metrology, with a view to facilitating trade and avoiding unnecessary obstacles to trade between the Parties.

4. Upon request of a Party, the other Party shall facilitate information in the field of standardization, conformity assessment, and accreditation on halal certification, including procedures and guidelines, to facilitate trade between the Parties.

Article 6.10: Information Exchange and Technical Discussions

1. Any information or explanation that a Party provides upon request of the other Party pursuant to this Chapter, shall be provided in print or electronically within a reasonable period of time. Each Party shall endeavour to respond no later than 60 days from the date the request is made.

2. All communications between the Parties on any matter covered by this Chapter shall be conducted through the contact points designated under Article 6.11.

3. A Party may request to hold technical discussions with the other Party on any matter arising under this Chapter. The Parties shall endeavour, to the extent practicable, to enter into such technical discussions by notifying the contact points designated under Article 6.11. Such consultations may be conducted via teleconference, video conference, or any other means agreed by the Parties.

Article 6.11: Contact Points

1. For the purposes of this Chapter, the contact points are:

- (a) for Chile, the Undersecretariat of International Economic Relations, or its successor, and
- (b) for the UAE, the Standards and Regulation Sector, the Ministry of Industry and Advanced Technology, or its successor.

2. Each Party shall promptly notify the other Party of any change of its contact point.

Article 6.12: Subcommittee on Technical Barriers to Trade

1. The Parties hereby establish a Subcommittee on Technical Barriers to Trade (“TBT Subcommittee”), consisting of representatives of the Parties.

2. The TBT Subcommittee shall meet at such venues and time-period as the Parties agree. The meetings may be conducted in person, or by any other means as the Parties mutually determine.

3. The functions of the TBT Subcommittee may include:

- (a) monitoring the implementation and operation of this Chapter;
- (b) coordinating cooperation under Article 6.9, and
- (c) facilitating technical discussions including through addressing any issue that a Party raises related to the development, adoption, application, or enforcement of standards, technical regulations, or conformity assessment procedures.