

CHAPTER 6

TECHNICAL BARRIERS TO TRADE

ARTICLE 6.1: OBJECTIVES

The objectives of this Chapter are to:

- (a) increase and facilitate trade between the Parties, including through enhancing the Parties' implementation of the TBT Agreement;
- (b) ensure that technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to trade between the Parties; and
- (c) enhance mutual understanding and co-operation between the Parties.

ARTICLE 6.2: SCOPE

1. This Chapter shall apply to the preparation, adoption, and application of all standards, technical regulations, and conformity assessment procedures that may affect trade in goods between the Parties.

2. Notwithstanding paragraph 1, this Chapter shall not apply to:

- (a) technical specifications prepared by a governmental body for its production or consumption requirements which are covered by Chapter 8 (Government Procurement), to the extent they apply; or
- (b) sanitary or phytosanitary measures which are covered by Chapter 5 (Sanitary and Phytosanitary Measures).

ARTICLE 6.3: AFFIRMATION OF THE TBT AGREEMENT

The Parties affirm their existing rights and obligations with respect to each other under the TBT Agreement, of which Articles 2 through 9 are incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 6.4: 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 development thereof.

3. The Parties shall encourage co-operation between their respective organizations in areas of mutual interest, in the context of their participation in international standardizing bodies, to ensure that international standards developed within such organizations are trade facilitating and do not create unnecessary obstacles to international trade.

ARTICLE 6.5: TECHNICAL REGULATIONS

1. Consistent with the TBT Agreement, 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 that it is satisfied that these regulations adequately fulfil the objectives of its own regulations.

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

3. Each Party shall give positive consideration to a request by the other Party to negotiate arrangements for achieving the equivalence of technical regulations referred to in paragraph 1.

4. A Party shall, on the request of the other Party, explain the reasons why it has not accepted a request by the other Party to negotiate such arrangements.

5. The Parties shall strengthen communications and co-ordination 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 6.6: CONFORMITY ASSESSMENT PROCEDURES

1. The Parties recognise that 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) facilitating recognition of co-operative arrangements between accreditation agencies from each other's territory;
- (b) mutually recognizing the results of conformity assessment procedures performed by government-designated bodies located in each other's territory with respect to specific technical regulations;

- (c) recognizing existing regional, international and multilateral recognition agreements and arrangements between or among accreditation bodies or conformity assessment bodies;
- (d) recognizing accreditation procedures for qualifying conformity assessment bodies;
- (e) designating conformity assessment bodies or recognizing the other Party's designation of conformity assessment bodies;
- (f) unilaterally recognizing the results of conformity assessment procedures performed in the other Party's territory;
- (g) accepting a supplier's declaration of conformity; or
- (h) facilitating voluntary arrangements between conformity assessment bodies in the territory of each Party.

2. The Parties shall accept, whenever possible, the results of conformity assessment procedures conducted in the territory of the other Party, 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. Prior to accepting the results of a conformity assessment procedure pursuant to paragraph 2, and in order to enhance confidence in the permanent reliability of each one of the conformity assessment results, the Parties may consult on matters such as the technical competence of the conformity assessment bodies involved. Where a Party considers that a conformity assessment body of the other Party does not fulfil its requirements, it shall explain to the other Party the reasons for its decision.

4. The Parties 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. Within two years after this Agreement enters into force, the Parties shall enter into discussions regarding the possibility of negotiating agreements or arrangements for mutual recognition of the results of their respective conformity assessment procedures in areas mutually agreed upon.

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

ARTICLE 6.7: JOINT CO-OPERATION

1. The Parties shall strengthen their co-operation 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 co-operation between the Parties' regulatory agencies in achieving health, safety and environmental objectives;
- (c) facilitating access to their respective markets;
- (d) facilitating trade by implementing good regulatory practices; and
- (e) enhancing co-operation, 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 co-operate on regulatory issues, which may include:

- (a) promotion of good regulatory practice based on risk management principles;
- (b) exchange of information with a view to improving the quality and effectiveness of their technical regulations;
- (c) development of joint initiatives for managing risks to health, safety or the environment, and preventing deceptive practices; or
- (d) exchange of market surveillance information where appropriate.

3. The Parties shall seek to identify, develop, and conclude trade facilitating initiatives that are appropriate for particular issues or sectors, including:

- (a) transparency;
- (b) alignment with international standards;
- (c) harmonization or equivalence of technical regulations;
- (d) mechanisms to facilitate acceptance of conformity assessment procedures conducted in the territory of the other Party through mutual recognition agreements or arrangements; and
- (e) understandings reached on compliance issues.

4. On the request of the other Party, a Party shall give favourable consideration to any sector-specific proposal that the other Party makes for further co-operation under this Chapter including:

- (a) promoting the harmonization and use of international standards such as standards developed in the International Electrotechnical Commission (IEC) in the area of low voltage devices; encouraging their national certification bodies to be members of the IEC System of Conformity Assessment Schemes for

Electrotechnical Equipment and Components-Certification Bodies' Scheme (IECEE-CB scheme) and for the national certification bodies to accept each other's IECEE-CB test certificates as the basis for national certification to electric safety requirements in order to reduce duplicative testing and certification requirements; and

- (b) promoting co-operation in the framework established by regional, international and multilateral recognition agreements, including the International Laboratory Accreditation Cooperation (ILAC).

ARTICLE 6.8: TRANSPARENCY

1. In order to enhance the opportunity for the other Party to provide meaningful comments on a proposed technical regulation or conformity assessment procedure, a Party publishing a notice or transmitting a notification in accordance with Article 2.9, 2.10, 5.6 or 5.7 of the TBT Agreement shall include an explanation of the objectives and the rationale for the proposal and how it addresses those matters.

2. Each Party shall allow at least 60 days after it transmits a notification in accordance with Article 2.9 or 5.6 of the TBT Agreement for the other Party to make comments on the proposal in writing, except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise.

3. To the extent practicable, each Party, consistent with its legal system, shall publish proposed technical regulations and proposed conformity assessment procedures that it proposes to adopt, or publish in advance documents that provide a relevant description about such possible new technical regulations or new conformity assessment procedures to allow interested persons to comment.

4. Each Party shall, where consultations respecting the development of technical regulations and conformity assessment procedures are open to the public, permit persons of the other Party to participate on terms no less favourable than those accorded to its own persons.

5. Each Party shall recommend that non-governmental bodies in its territory, where consultations respecting the development of standards are open to the public, permit the participation of persons of the other Party on terms no less favourable than those accorded to its own persons in the consultation process.

6. When appropriate, each Party shall endeavour to publish or otherwise make available to the public, in print or electronically, its responses, or a summary of its responses, to significant comments it receives, no later than the date it publishes the final technical regulation or conformity assessment procedure.

7. On the request of the other Party, a Party shall provide the other Party with information regarding the objective of, and rationale for, a standard, technical regulation, or conformity assessment procedure that the Party has adopted or is proposing to adopt.

ARTICLE 6.9: COMMITTEE ON TECHNICAL BARRIERS TO TRADE

1. The Parties hereby establish a Committee on Technical Barriers to Trade (hereinafter referred to as “the Committee”), which shall comprise representatives of the Parties. The Committee may meet in person, via teleconference, via video-conference or through any other means, as agreed by the Parties.

2. The functions of the Committee shall include:

- (a) monitoring the implementation and administration of this Chapter;
- (b) enhancing co-operation in the development and improvement of standards, technical regulations and conformity assessment procedures;
- (c) ensuring appropriate steps are taken promptly to address any issue that a Party may raise related to the development, adoption, application, or enforcement of technical regulations or conformity assessment procedures;
- (d) considering any sector-specific proposal a Party makes for further co-operation between regulatory authorities, accreditation bodies or conformity assessment bodies, including, where appropriate, between governmental and non-governmental conformity assessment bodies located in the Parties’ territories;
- (e) considering a request that a Party recognise the results of conformity assessment procedures conducted by bodies in the other Party’s territory, including a request for the negotiation of an agreement, in a sector proposed by that other Party;
- (f) exchanging information on developments in non-governmental, regional, and multilateral fora engaged in activities related to standards, technical regulations and conformity assessment procedures;
- (g) on the request of the other Party, promptly facilitating technical discussions on any matter arising under this Chapter, which shall be without prejudice to the rights and obligations of the Parties under Chapter 20 (Dispute Settlement);
- (h) taking any other steps the Parties consider will enhance their implementation of the TBT Agreement and facilitate trade in goods between them;
- (i) reviewing this Chapter in light of any developments under the TBT Agreement, and developing recommendations for amendments to the Chapter in light of those developments; and
- (j) establishing working groups to undertake specific tasks under this Chapter.

3. The Committee shall meet within one year of entry into force of this Agreement, or at times mutually agreed by the Parties.

4. The Committee shall be coordinated by the following contact points:
- (a) for Korea, the Korean Agency for Technology and Standards, or its successor; and
 - (b) for Israel, the Foreign Trade Administration, the Ministry of Economy and Industry, or its successor.
5. The Parties shall notify each other promptly of any change of their contact points or any changes to the details of the relevant officials.

ARTICLE 6.10: INFORMATION EXCHANGE

A Party shall provide any information or explanation requested by the other Party pursuant to this Chapter in print form or electronically within a reasonable period. A Party shall endeavour to respond to each such request within 60 days.

ARTICLE 6.11: DEFINITIONS

For the purposes of this Chapter:

- (a) the definitions set out in Annex 1 of the TBT Agreement are incorporated into and made part of this Chapter, *mutatis mutandis*; and
- (b) **designation** means the authorisation of a conformity assessment body to perform conformity assessment procedures, by a body with the authority to designate, monitor, suspend or withdraw designation, or remove suspension of conformity assessment bodies within the territories of the Parties.