

CHAPTER SIX

TECHNICAL BARRIERS TO TRADE

Article 6.1: Definitions

For the purposes of this chapter:

TBT Agreement means TBT Agreement, contained in Annex 1A to the WTO Agreement; and the definitions shall be those contained in Annex 1 of the TBT agreement.

Article 6.2: Objectives

The objective of this Chapter is to facilitate trade, including by eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting greater regulatory cooperation and good regulatory practices.

Article 6.3: 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) purchasing specifications prepared by a governmental body for its production or consumption requirements which are covered by Chapter Eleven (Government Procurement); or
 - (b) sanitary or phytosanitary measures which are covered by Chapter Five (Sanitary and Phytosanitary Measures).

Article 6.4: Affirmation of the TBT Agreement

The Parties affirm their existing rights and obligations with respect to each other under the TBT Agreement.

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, 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 standardizing bodies, to ensure that international standards developed within such organizations are trade facilitating and do not create unnecessary obstacles to international trade.

Article 6.6: 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 negotiate arrangements for achieving the equivalence of technical regulations. Upon request of the other Party, each Party shall explain the reasons why it has not accepted a request by the other Party to negotiate such arrangements.

3. 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 recognize 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 recognizing the other Party's designation of conformity assessment bodies;
- (c) encouraging voluntary arrangements between conformity assessment bodies in the territory of each Party;
- (d) accepting a supplier's declaration of conformity where appropriate;
- (e) harmonizing criteria for the designation of conformity assessment bodies, including accreditation procedures; or
- (f) other mechanisms as mutually 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, upon 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.

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

6. A Party shall consider the possibility to prevent the imposition of duplicative testing and certification requirements as contained in national and regional conformity assessment procedures, if any.

Article 6.8: Cooperation

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, co-operate on regulatory issues, which may include the:

- (a) promotion of good regulatory practices 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; and
- (d) exchange of market surveillance information where appropriate.

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

Article 6.9: 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 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. A Party shall allow at least 60 days after the notification of its proposed technical regulations and conformity assessment procedures to WTO Central Registry of Notifications for the other Party to provide comments on the proposal except where urgent problems of safety, health, environmental protection, or national security arise or threaten to arise.

5. Except in urgent circumstances, the Parties shall allow a reasonable interval between the publication of technical regulations or conformity assessment procedures and their entry into force in order to allow time for producers in the exporting Party to adapt their products or methods of production to the requirements of the importing Party.

Article 6.10: Committee on TBT

1. The Parties hereby establish a Committee on Technical Barriers to Trade (hereinafter referred to as “the Committee”) under the Joint Committee comprising 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 include:

(a) promoting and 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;

(e) considering a request that a Party recognize 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 nominated 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) enhancing cooperation regarding the TBT Agreement.

3. For the purposes of this Chapter, the Contact Points are:

(a) For Korea: Korea Agency for Technology and Standards, or its successor; and

(b) For the UAE: the Standards and Regulation Sector, the Ministry of Industry and Advanced Technology, or its successor.

4. Each Party shall promptly notify the other Party of any change of its Contact Point.

5. The Contact Points shall work jointly in order to facilitate implementation of this Chapter and co-operation between the Parties in all matters pertaining to this Chapter.

Article 6.11: 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 endeavor to respond to such a request within 60 days.

2. All communication between the Parties on any matter covered by this Chapter shall be conducted through the Contact Points designated under Article 6.10.

3. On request of a Party for technical discussions on any matter arising under this Chapter, the Parties shall endeavor, to the extent practicable, to enter into technical discussions by notifying the Contact Points designated under Article 6.10.