

Chapter VIII

Technical Barriers to Trade

Article 60 Objectives

The objectives of this Chapter are to increase and facilitate trade, and to fulfill the objectives of this Agreement, through the improvement of the implementation of the TBT Agreement, the elimination of unnecessary technical barriers to trade, and the enhancement of bilateral cooperation.

Article 61 Scope and Coverage

1. This Chapter applies to all technical regulations, and conformity assessment procedures that may, directly or indirectly, affect trade in goods except as provided in paragraph 2.

2. This Chapter does not apply to sanitary and phytosanitary measures which are covered by Chapter VII of this Agreement.

Article 62 Affirmation of Agreement on Technical Barriers to Trade

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

Article 63 International Standards

1. The Parties shall use international standards, or the relevant parts of international standards, as a basis for their technical regulations and related conformity assessment procedures where relevant international standards exist or their completion is imminent, except when such international standards or their relevant parts are ineffective or inappropriate to fulfill legitimate objectives.

2. In this respect, the Parties shall apply 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 by the WTO Committee on Technical Barriers to Trade since 1 January 1995, G/TBT/1/Rev.7, 28 November 2000, Section IX.

Article 64 Trade Facilitation

1. The Parties shall intensify their joint work in the field of technical regulations, and conformity assessment procedures with a view to facilitating access to each other's markets. In particular, the Parties shall seek to identify bilateral initiatives that are appropriate for particular issues or sectors.

2. The Parties shall ensure that, in cases where a positive assurance of compulsory conformity assessment is required, one Party applies the following provisions to products originating in the territories of the other Party:

(a) the Parties agreed to start a mutual recognition agreement (MRA) feasibility study within six months following the date of entry into force of this Agreement, referring to APEC framework whenever possible;

(b) the standard processing period of each compulsory conformity assessment procedure is published or the anticipated processing period is communicated to the applicant upon request;

(c) notify the other Party of the list of products which are subject to compulsory conformity assessment procedures within six months following the date of entry into force of this Agreement. This notification shall be made in English with its HS code, in eight or more digits;

(d) any fees imposed for compulsory conformity assessment procedures, by governmental bodies of products originating in the territories of other Party, are no more than any fees chargeable for compulsory conformity

assessment procedures by governmental bodies of like products originating in any non-Party and are limited in amount to the approximate cost of services rendered; and

(e) the Parties shall timely exchange information regarding products which are subject to an authorization process prior to their entry into the other Party's territory, especially when they have been rejected.

Article 65 Equivalency of Technical Regulations

1. 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 fulfill the objectives of their own regulations.

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

Article 66 Conformity Assessment

1. The Parties recognize that a broad range of mechanisms exists to facilitate the acceptance of conformity assessment procedures and results thereby, including:

(a) voluntary arrangements between conformity assessment bodies from each Party's territory;

(b) agreements on mutual acceptance of the results of conformity assessment procedures with respect to specified regulations conducted by bodies located in the other Party's territory;

(c) recognition by one Party of the results of conformity assessments performed in the other Party's territory;

(d) accreditation procedures for qualifying conformity assessment bodies and promotion of the recognition of accreditation and certification bodies under international mutual recognition arrangements; and

(e) government designation of conformity assessment bodies.

2. The Parties shall intensify their exchange of information on the range of mechanisms to facilitate the acceptance of conformity assessment results.

3. Before accepting the results of a conformity assessment procedure, and to enhance confidence in the continued reliability of each other's conformity assessment results, the Parties may consult on such matters as the technical confidence of the conformity assessment bodies involved, as appropriate.

4. A Party shall, on the request of the other Party, explain its reasons for not accepting the results of a conformity assessment procedure performed in the other Party's territory.

5. Where a Party declines a request from the other Party to engage in or conclude negotiations to reach agreement on facilitating recognition in its territory of the results of conformity assessment procedures conducted by bodies located in the other Party's territory, it shall, on request, explain its reasons.

Article 67 Transparency

1. In order to enhance the opportunity for persons to provide meaningful comments, a Party publishing a notice under Article 2.9 or 5.6 of the TBT Agreement shall:

(a) include in the notice a statement describing the objective of the proposal and the rationale for the approach the Party is proposing; and

(b) transmit electronically the proposal to the other Party through the inquiry point established under Article 10 of the TBT Agreement at the same time as it notifies WTO Members of the proposal pursuant to the TBT Agreement.

Each Party should allow at least 60 days from the transmission under subparagraph (b) for persons and the other Party to make comments in writing on the proposal.

2. Where a Party makes a notification under Article 2.10 or 5.7 of the TBT Agreement, it shall at the same time transmit the notification to the other Party, electronically, through the inquiry point referenced in subparagraph (b) of paragraph 1.

3. The Parties agree to publish, in print or electronically, or otherwise make available to the public, responses to significant comments at the same time as the publication of the final technical regulation or conformity assessment procedure.

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

5. The Parties shall promote that their national standardizing bodies provide each other the respective Agenda of Creation and Modification on National Standard, which are notified to ISO information centre.

6. Each Party shall provide and keep updated information about the competent authorities and will communicate any significant change in their structure, organization and division.

7. The obligations contained in this article shall be implemented as soon as practicable and under no event later than eighteen months following the date of entry into force of this Agreement.

Article 68 Technical Cooperation

1. Each Party shall, on request of the other Party:

(a) provide to that Party technical advice, information and assistance on mutually agreed terms and conditions to enhance that Party's standards, technical regulation and conformity assessment procedures, and related activities, processes and systems; and

(b) provide to that Party information on its technical cooperation programs regarding standards, technical regulation and conformity assessment procedures, relating to specific areas of interest.

2. The Parties will study the possibility of strengthening the relationship and links between compulsory and voluntary certification and strengthen the bilateral communication in this regard, as a mean to facilitate market access especially considering international standards such as the ISO 9000 and 14000 series, associated to risk analyses considerations.

3. The Parties shall work towards increasing the information exchange, particularly regarding bilateral non-compliance with technical regulations and conformity assessment procedures.

Article 69 Committee on Technical Barriers to Trade

1. The Parties hereby establish the Committee on Technical Barriers to Trade, comprising representatives of each Party.

2. For purposes of this Article, the Committee shall be coordinated by:

(a) in the case of China, the Director General of Inspection & Quarantine clearance Department of AQSIQ, or its successor; and

(b) in the case of Chile, the Ministry of Economy (*Ministerio de Economía*) through the Head of Foreign Trade Department (*Departamento de Comercio Exterior*, or its successor).

3. In order to facilitate the communication and ensure the proper functioning of the Committee, the Parties will designate a contact person no later than two months following the date of entry into force of this Agreement.

4. The Committee's functions shall include:

(a) monitoring the implementation and administration of this Chapter;

(b) promptly addressing any issue that a Party raises related to the development, adoption, application, or enforcement of technical regulations and conformity assessment procedures;

(c) enhancing cooperation in the development and improvement of technical regulations and conformity assessment procedures;

(d) where appropriate, facilitating sectorial cooperation among governmental and non-governmental conformity assessment bodies in the Parties' territories;

(e) exchanging information on developments in non-governmental, regional, and multilateral fora engaged in activities related to standardization, technical regulations, and conformity assessment procedures;

(f) taking any other steps which the Parties consider to assist them in implementing the TBT Agreement and in facilitating trade in goods between them;

(g) consulting on any matter arising under this Chapter, upon a Party's request;

(h) reviewing this Chapter in light of any developments under the TBT Agreement, and developing recommendations for amendments to this Chapter in light of those developments;

(i) reporting to the Commission on the implementation of this Chapter, as it considers appropriate; and

(j) exchanging information on charge parameters or services fees of compulsory conformity assessment procedures performed by governmental bodies.

5. Where the Parties have had recourse to consultations under subparagraph (g) of paragraph 4, such consultations shall, upon agreement by the Parties, constitute consultations under Article 82.

6. A Party shall, upon request, give favorable consideration to any sector-specific proposal the other Party makes for further cooperation under this Chapter.

7. The Committee shall meet at least once a year unless the Parties otherwise agree. These meetings may be held via teleconference, videoconference, or through any other means, as mutually determined by the Parties. By mutual agreement, *ad hoc* working groups may be established if necessary.

Article 70 Information Exchange

Any information or explanation provided upon request of a Party pursuant to the provisions of this Chapter, shall be provided in print or electronically within a reasonable period of time agreed between the Parties.

Article 71 Definitions

For purposes of this Chapter:

(a) TBT Agreement means the *Agreement on Technical Barriers to Trade*, which is part of the WTO Agreement; and

(b) the definitions of Annex I of the TBT Agreement shall apply.