

## **CHAPTER 7 TECHNICAL BARRIERS TO TRADE**

### **ARTICLE 7.1 OBJECTIVES**

The objectives of this Chapter are to increase and facilitate trade between the Parties through collaborative efforts and ensuring that standards, technical regulations and conformity assessment procedures do not create unnecessary obstacles to trade.

### **ARTICLE 7.2 DEFINITIONS**

Standards, technical regulations and conformity assessment procedures shall have the meanings assigned to those terms in Annex 1 of the *WTO Agreement on Technical Barriers to Trade* (hereinafter referred to as “TBT Agreement”).

### **ARTICLE 7.3 SCOPE AND COVERAGE**

1. The Parties affirm their existing rights and obligations under the TBT Agreement.
2. This Chapter does not apply to sanitary and phytosanitary measures as defined in the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures* which are covered by Chapter 6 (Sanitary and Phytosanitary Measures) and purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies which are covered by Chapter 12 (Government Procurement).
3. This Chapter applies to all goods and/or assessments of manufacturers or manufacturing processes of goods traded between the Parties, regardless of the origin of those goods.

### **ARTICLE 7.4 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 fulfil legitimate objectives.
2. In determining whether an international standard, guide, or recommendation within the meaning of Articles 2, 5 and Annex 3 of the TBT Agreement exists, each Party 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 TBT Agreement* (G/TBT/1/Rev.10), as revised from time to time, issued by the WTO Committee on Technical Barriers to Trade.
3. The Parties shall cooperate with each other, where appropriate, in the context of their participation in international standardising bodies to ensure that international standards

developed within such bodies that are likely to become a basis for technical regulations are trade facilitating and do not create unnecessary obstacles to international trade.

#### **ARTICLE 7.5 TRADE FACILITATION**

1. The Parties shall cooperate and jointly identify work in the field of standards, technical regulations, and conformity assessment procedures, with a view to facilitating market access. In particular, the Parties shall seek to identify initiatives that are appropriate for the particular issues or sectors. Such initiatives may include cooperation on regulatory issues, such as the harmonisation of technical regulations and standards, alignment to international standards, reliance on a supplier's declaration of conformity, and use of accreditations to qualify conformity assessment bodies.

2. At the request of the other Party, each Party shall encourage non-governmental bodies in its territory to cooperate with the non-governmental bodies in the territory of the other Party with respect to particular standards or conformity assessment procedures.

#### **ARTICLE 7.6 CONFORMITY ASSESSMENT PROCEDURES**

1. The Parties recognise that a broad range of mechanisms exist to facilitate the acceptance of conformity assessment results, including:

- (a) the importing Party's reliance on a supplier's declaration of conformity;
- (b) voluntary arrangements between conformity assessment bodies from each Party's territory;
- (c) agreements on mutual acceptance of the results or certification of conformity assessment procedures with respect to specified regulations conducted by bodies located in the territory of the other Party;
- (d) accreditation procedures for qualifying conformity assessment bodies;
- (e) government designation of conformity assessment bodies; and
- (f) recognition by one Party of the results of conformity assessment procedures performed in the other Party's territory on a unilateral basis for a sector nominated by that Party.

2. To this end, the Parties shall intensify their exchange of information on the variety of mechanisms to facilitate the acceptance of conformity assessment results or certification.

3. The Parties shall seek to ensure that conformity assessment procedures applied between the Parties facilitate trade by ensuring that they are no more restrictive than necessary to provide an importing Party with confidence that products conform with the applicable technical regulations, taking into account the risk that non-conformity would create.

4. 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 competence of the conformity assessment bodies involved, as appropriate.

5. 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 territory of that other Party.

6. Each Party shall accredit, approve, license, or otherwise recognise conformity assessment bodies in the territory of the other Party on terms no less favourable than those it accords to conformity assessment bodies in its territory. If a Party accredits, approves, licenses, or otherwise recognises a body assessing conformity with a particular technical regulation or standard in its territory and it refuses to accredit, approve, license, or otherwise recognise a body assessing conformity with that technical regulation or standard in the territory of the other Party, it shall, on request, explain the reasons for its refusal.

#### **ARTICLE 7.7 INFORMATION EXCHANGE**

1. Each Party shall respond expeditiously to any enquiry from the other Party on standards, technical regulations or conformity assessment procedures relating to any goods and/or assessments of manufacturers or manufacturing processes of goods traded between the Parties. The explanation provided shall be given in print or electronically in English.

2. 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.

#### **ARTICLE 7.8 CONFIDENTIALITY**

1. Nothing in this Chapter shall be construed to require either Party to furnish or allow access to information the disclosure of which it considers would:

- (a) be contrary to its essential security interests;
- (b) be contrary to the public interest as determined by its domestic laws, regulations and administrative provisions;
- (c) be contrary to any of its domestic laws, regulations and administrative provisions including but not limited to those protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions;
- (d) impede law enforcement; or
- (e) prejudice legitimate commercial interests of particular public or private enterprises.

2. In pursuance to Articles 7.6 (Conformity Assessment Procedures), Article 7.7 (Information Exchange), and Article 7.9 (Coordinators), a Party shall, in accordance with its

applicable laws, protect the confidentiality of any proprietary information disclosed to it.

## **ARTICLE 7.9 COORDINATORS**

1. To facilitate the implementation of this Chapter and cooperation between the Parties, each Party shall designate a Coordinator as specified in Annex 7, who shall be responsible for coordinating with interested persons in the Party's territory and communicating with the other Party's Coordinator in all matters pertaining to this Chapter. The Coordinators' 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 standards, technical regulations or conformity assessment procedures;
- (c) enhancing cooperation in the development and improvement of standards, technical regulations, and conformity assessment procedures;
- (d) exchanging information on standards, technical regulations, and conformity assessment procedures, in response to all reasonable requests for such information from a Party;
- (e) considering and facilitating any sector-specific proposal a Party makes for further cooperation among governmental and non-governmental conformity assessment bodies;
- (f) facilitating the consideration of a request by a Party for the recognition of the results of conformity assessment procedures, including a request for the negotiation of an agreement, in a sector nominated by that Party;
- (g) facilitating cooperation in the areas of specific technical regulations by referring enquiries from a Party to the appropriate regulatory authorities;
- (h) promptly consulting on any matter arising under this Chapter upon request by a Party; and
- (i) 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.

2. The Coordinators shall normally carry out their functions through agreed communication channels such as telephone, facsimile, emails, whichever is most expedient in the discharge of their functions.

#### **ARTICLE 7.10 SECTORAL ANNEXES**

The provisions of the *Mutual Recognition Arrangement on Conformity Assessment between the Bureau of Standards, Metrology and Inspection and the Standards, Productivity and Innovation Board*<sup>8</sup>, done on 28 November 2005, the *Agreement between the Taipei Representative Office in Singapore and the Singapore Trade Office in Taipei on Information Relating to Consumer Product Safety*, done on 19 October 2010, and the *APEC Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment*, as amended from time to time shall, *mutatis mutandis*, be incorporated into and form an integral part of this Agreement.

#### **ARTICLE 7.11 FINAL PROVISIONS**

Nothing in this Chapter shall limit the authority of a Party to determine the level of protection it considers necessary for the protection of, *inter alia*, human health or safety, animal or plant life or health or the environment. In pursuance of this, each Party retains all authority to interpret its laws, regulations and administrative provisions.

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<sup>8</sup> For the avoidance of doubt, the relevant decisions of the Joint Committee established under Article 6 of the *Mutual Recognition Arrangement on Conformity Assessment between the Bureau of Standards, Metrology and Inspection and the Standards, Productivity and Innovation Board* made before such incorporation into the Agreement shall continue to have effect.