

CHAPTER 7 TECHNICAL BARRIERS TO TRADE

Article 7.1: Definitions

For the purposes of this Chapter:

- (a) **TBT Agreement** means *the WTO Agreement on Technical Barriers to Trade*, as may be amended.
- (b) **Technical Regulation, Standard and Conformity Assessment Procedures** shall have the meanings assigned to those terms in Annex 1 of the TBT Agreement.

Article 7.2: Objectives

The objectives of this Chapter are to:

- (a) increase and facilitate trade through:
 - (i) enhancing transparency;
 - (ii) promoting good regulatory practices and greater regulatory cooperation; and
 - (iii) strengthening joint cooperation between the Parties.
- (b) ensure that technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to trade.

Article 7.3: Scope

1. This Chapter applies to the preparation, adoption, and application of all technical regulations, standards and conformity assessment procedures that may, directly or indirectly, affect trade in goods between the Parties.
2. Technical specifications prepared by governmental bodies for production or consumption requirements of such bodies which are covered by Chapter 10 (Government Procurement), to the extent they apply, are not subject to the provisions of this Chapter.
3. This Chapter does not apply to sanitary and phytosanitary measures as defined in Annex A, paragraph 1 of the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures* (SPS Agreement), which are covered in Chapter 6 (Sanitary and Phytosanitary Measures).

Article 7.4: General Provisions

1. The Parties reaffirm their rights and obligations under the TBT Agreement.
2. The following provisions of the TBT Agreement are incorporated into and made part of this Agreement:
 - (a) Articles 2 to 9 of the TBT Agreement;
 - (b) Annexes 1 and 3 of the TBT Agreement.
3. For greater certainty, nothing in this Chapter shall prevent a Party from adopting or maintaining technical regulations, standards or conformity assessment procedures in accordance with its rights and obligations under this Agreement and the TBT Agreement.

Article 7.5: International Standards, Guides and Recommendations

1. The Parties recognise the important role that international standards, guides and recommendations can play in supporting greater regulatory alignment, good regulatory practice and reducing unnecessary barriers to trade.
2. In this respect, and further to Articles 2.4 and 5.4 and Annex 3 of the TBT Agreement, to determine whether there is an international standard, guide or recommendation within the meaning of Articles 2 and 5 and Annex 3 of the TBT Agreement, each Party shall apply the *Decisions and Recommendations adopted by the WTO Committee on Technical Barriers to Trade Since 1 January 1995*, (G/TBT/1/Rev.13), as may be revised, issued by the WTO Committee on Technical Barriers to Trade.

Article 7.6: 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 the:
 - (a) use of accreditation to qualify conformity assessment bodies including designation of conformity assessment bodies;
 - (b) acceptance of the results of conformity assessment procedures conducted by conformity assessment bodies located in the other Party's territory with respect to specific technical regulations;
 - (c) recognition of existing regional, international and multilateral recognition agreements and arrangements between conformity assessment bodies;
 - (d) designation of conformity assessment bodies located in the territory of the other Party to carry out conformity assessment activities, or recognition of the other Party's designation of conformity assessment bodies;
 - (e) unilateral recognition of the results of conformity assessment procedures performed in the other Party's territory;

- (f) acceptance of a supplier's declaration of conformity; and
- (g) facilitation of voluntary arrangements between conformity assessment bodies located in the territory of each Party to accept the results of each other's conformity assessment procedures.

2. The Parties may exchange information on these and other similar mechanisms with a view to facilitating acceptance of conformity assessment results proposed by a Party.

3. If a Party declines:

- (a) A request from the other Party to engage in negotiations or conclude an agreement on facilitating recognition in its territory of the results of conformity assessment procedures;
- (b) the results of a conformity assessment procedure conducted in the territory of the other Party by a recognised conformity assessment body under bilateral recognition agreement and arrangement; or
- (c) accreditation, designation or other recognition under bilateral or multilateral recognition agreement or arrangement to which the Parties are one of the signatures or a side to, with respect to a body assessing conformity with that technical regulation or standard in the territory of the other Party,

it shall explain the reasons for its decision.

Article 7.7: Transparency

1. The Parties acknowledge the importance of transparency in decision-making, including providing a meaningful opportunity for persons to provide comments on proposed technical regulations and conformity assessment procedures. Where a Party publishes a notice or notification under Article 2.9 or 5.6 of the TBT Agreement, it:

- (a) may include in the notice the objectives and rationale of the proposed technical regulation or conformity assessment procedure; drafting bodies and development period thereof; and
- (b) shall transmit the notification with the proposal electronically to the other Party through the Enquiry Point the Party has established under Article 10 of the TBT Agreement, at the same time as it notifies WTO Members of the proposal. Each Party should allow at least 60 days for the other Party to make comments in writing on the proposals. A Party that is able to extend a time limit beyond 60 days, for example, 90 days, is encouraged to do so.

2. A Party shall give appropriate consideration to the comments received from the other Party when a proposed technical regulation is submitted for public comment and, upon request of the other Party, provide written answers to the comments made by such other Party.

3. Each Party is encouraged to provide sufficient time between the end of the comment period and the adoption of the notified technical regulation or conformity assessment procedure, for its consideration of, and preparation of responses to, the comments received.

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

Article 7.8: Information Exchange and Technical Discussions

1. A Party may request technical discussions with the other Party with the aim of resolving any matter that arises under this Chapter.

2. The Parties shall discuss the matter raised within 60 days of the date of the request. If the requesting Party considers that the matter is urgent, it may request that any discussions take place within a shorter time frame. The responding Party shall give positive consideration to that request.

3. The Parties shall make every effort to resolve the matter as expeditiously as possible.

4. Requests for information or technical discussions and communications shall be conveyed through the respective contact points designated pursuant to Article 7.11 (Contact Points).

Article 7.9: Cooperation on TBT Related Issues

1. With a view to facilitate trade, the Parties shall strengthen their cooperation in the field of technical regulations, standards and conformity assessment procedures.

2. The Parties recognise that there might be a broad range of mechanisms to support cooperation initiatives, including:

- (a) promoting the use of good regulatory practices to improve the efficiency and effectiveness of technical regulations, standards and conformity assessment procedures;
- (b) giving favourable consideration, upon request of the other Party, to any sector specific proposal for further cooperation;
- (c) increasing their bilateral cooperation in the relevant regional and international organisations and fora dealing with the issues covered by this Chapter;
- (d) providing technical advice and assistance, on mutually agreed terms and conditions, to improve practices related to the development, implementation and review of technical regulations, standards and conformity assessment procedures;
- (e) providing technical assistance and cooperation, on mutually agreed terms and conditions, to build capacity and support the implementation of this Chapter.

Article 7.10: Sub-Committee on Technical Barriers to Trade

1. The Parties hereby establish a Sub-Committee on Technical Barriers to Trade (hereinafter: the Sub-Committee), composed of relevant government representatives of each Party and coordinated by:

- (a) In the case of Israel: the Ministry of Economy and Industry, Foreign Trade Administration or its successor;
- (b) In the case of Viet Nam: the Ministry of Science and Technology or its successor.

2. Through the Sub-Committee, the Parties shall strengthen their joint work in the fields of technical regulations, standards and conformity assessment procedures with a view to facilitating trade between the Parties;

3. The Sub-Committee's functions include:

- (a) monitoring the implementation and operation of this Chapter and identifying any potential amendments to or interpretations of those commitments pursuant to Chapter 13 (Administration of the Agreement);
- (b) monitoring any technical discussions on matters that arise under this Chapter;
- (c) 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;
- (d) reporting to the Joint Committee on the implementation and operation of this Chapter;
- (e) carrying out other functions as may be delegated by the Joint Committee of the Agreement;
- (f) deciding on priority areas of mutual interest for future work under this Chapter and considering proposals for new sector-specific initiatives or other initiatives;
- (g) encouraging cooperation between the Parties in matters that pertains to this Chapter, including the development, review or modification of technical regulations, standards and conformity assessment procedures; and
- (h) facilitating the identification of technical capacity needs.

Article 7.11 : Contact Points

1. Contact Points are responsible for communications relating to matters arising under this Chapter including ensuring communication with the relevant institutions and authorities in their respective territories as necessary for the implementation and administration of this Chapter.

2. The Contact Points are:
 - (a) For Viet Nam, Directorate for Standards, Metrology and Quality under the Ministry of Science and Technology, or its successor; and
 - (b) For Israel, the Foreign Trade Administration in the Ministry of Economy and Industry or its successor.
3. Each Party shall provide the other Party with the contact details of its contact point and shall promptly notify of any change or any amendment to the information regarding its contact point.