

CHAPTER 6 TECHNICAL BARRIERS TO TRADE

ARTICLE 6.1: OBJECTIVES

1. The objectives of this Chapter are:
 - (a) to increase and facilitate trade between the Parties;
 - (b) to ensure that standards, technical regulations, and conformity assessment procedures do not create unnecessary obstacles to trade; and
 - (c) to enhance joint cooperation, between the Parties.

ARTICLE 6.2: GENERAL PROVISIONS

The Parties reaffirm their existing rights and obligations with respect to each other under the TBT Agreement, and to this end, the TBT Agreement is incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 6.3: DEFINITIONS

For the purposes of this Chapter, the definitions shall be those contained in Annex A of the TBT Agreement.

ARTICLE 6.4: SCOPE

1. This Chapter shall apply to the preparation, adoption and application of technical regulations, standards and conformity assessment procedures, including any amendment or addition thereto, that may affect trade in goods between the Parties.
2. Notwithstanding paragraph 1, this Chapter shall not apply to:
 - (a) technical specifications prepared by governmental bodies for production or consumption requirements of such bodies, for the purpose of Government Procurement, and
 - (b) sanitary or phytosanitary measures covered in Chapter 5 (Sanitary and Phytosanitary Measures).

ARTICLE 6.5: COOPERATION AND TRADE FACILITATION

1. The Parties shall strengthen their cooperation in the fields of standards, technical regulations, conformity assessment and metrology with a view to increase the mutual understanding of their respective systems and to facilitate access to their respective markets.

2. Pursuant to paragraph 1, the Parties shall seek to identify, develop and promote bilateral initiatives on cooperation and trade facilitation regarding standards, technical regulations, conformity assessment procedures and metrology that are appropriate for particular issues or sectors, taking into consideration, *inter alia*, the Parties' experience in regional and multilateral arrangements or agreements.

3. These initiatives may include:

- (a) cooperation on regulatory issues, such as transparency, the promotion of good regulatory practices, harmonization with international standards, and use of accreditation to qualify conformity assessment bodies;
- (b) technical assistance and cooperation regarding metrology;
- (c) initiatives to develop common views on good regulatory practices such as transparency, the use of equivalency and regulatory impact assessment; and
- (d) the use of mechanisms to facilitate the acceptance of the results of conformity assessment procedures conducted in the other Party's territory.

4. The Committee established under Article 2.15 (Committee on Trade in Goods) shall define priority sectors for cooperation described in paragraph 3.

5. The Parties shall maintain effective communication between their respective regulatory authorities and between their respective standardization bodies

6. Where a Party detains at a port of entry a good originating in the territory of the other Party due to a perceived failure to comply with a technical regulation, it shall immediately notify the importer of the reasons for the detention.

ARTICLE 6.6: INTERNATIONAL STANDARDS

1. The Parties shall:

- (a) apply 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* adopted¹ by the WTO Committee on Technical Barriers to Trade (hereinafter referred to as the "TBT Committee"), when determining whether an international standard,

¹ G/TBT/1/Rev.10, 9 June 2011 Annex B to part I (original Decision: January 1st, 1995)

guide, or recommendation exists within the meaning of Articles 2 and 5 and the scope of Annex 3 of the TBT Agreement;

- (b) encourage its standardization bodies to cooperate with the relevant standardization bodies of the other Party in international standardization activities;
- (c) exchange information on their standardization processes as well as on the extent they use international, regional or sub-regional standards as the basis for national standards; and
- (d) exchange general information on cooperation agreements concluded on standardization matters with a non-Party.

2. 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.

ARTICLE 6.7: TECHNICAL REGULATIONS

1. The Parties shall endeavor to use international standards as a basis for preparing their technical regulations, unless those international standards are ineffective or inappropriate to achieving the legitimate objective pursued. A Party shall, upon request of the other Party, provide the reasons for not having used international standards as a basis for preparing its technical regulations.

2. Upon request of the other Party interested in developing a similar technical regulation, and in order to minimize the duplication of costs, a Party shall, to the extent possible, provide the requesting Party with any information, technical study, risk assessment or other available relevant document, on which that Party has relied for the development for such technical regulation excluding confidential information.

3. Upon request of the other Party and in order to enhance the market access between the Parties, a Party shall consider entering into negotiations in order to conclude an agreement for the acceptance of results of the conformity assessment procedures of the other Party.

4. Where a Party does not accept entering into negotiations with the other Party as specified in paragraph 3, it shall, upon request of the other Party, explain in writing the reasons for its decision.

ARTICLE 6.8: CONFORMITY ASSESSMENT AND ACCREDITATION

1. The Parties recognize the existence of a broad range of mechanisms to facilitate acceptance of the results of conformity assessment procedures of the other Party.

Accordingly, the Parties may negotiate toward an agreement covering the following objectives:

- (a) an acceptance of a suppliers' declaration of conformity;
- (b) an acceptance of the results of the conformity assessment procedures of the other Party, including those regarding specific technical regulations of the other Party;
- (c) that a conformity assessment body located in a Party's territory may enter into voluntary recognition agreements with a conformity assessment body located in the other Party's territory; and
- (d) a designation of conformity assessment bodies located in the other Party's territory.

2. To that end, the Parties shall:

- (a) exchange information on the range of mechanisms used in their territories;
- (b) consider initiating negotiations in order to conclude agreements to facilitate the acceptance in their territories of the results of conformity assessment procedures conducted by bodies located in the territory of the other Party, when it is in the interest of the Parties and it is economically justified; and
- (c) encourage their conformity assessment bodies to take part in agreements with the conformity assessment bodies of the other Party for the acceptance of conformity assessment results.

3. The Parties shall give consideration to a request by the other Party to negotiate agreements for the mutual recognition of the results of their respective conformity assessment procedures.

4. In order to enhance confidence, in the reliability of each one of the conformity assessment results, prior to an agreement as described in paragraph 3, the Parties may consult and exchange information on matters such as the technical competence of the conformity assessment bodies involved.

ARTICLE 6.9: METROLOGY

1. The Parties recognize that any evidence of compliance with technical requirements that must demonstrate conformity assessment bodies, must have metrological traceability to the *International System of Units of Measurement (SI)*.

2. The Parties recognize the calibration and measurement capabilities of the other Party, which are published in the *International Bureau of Weights and Measures* (BIPM)

3. To this end, the Parties may agree to:

- (a) technical exchanges between the National Institute of Metrology of the other Party or Designated Institutes of Credit;
- (b) conduct inter laboratory comparisons that demonstrate technical competence and comparability of results;
- (c) exchange test and calibration methods and the development of measurement systems of common interest; and
- (d) assist in the implementation and strengthen the metrological infrastructure of the other Party.

ARTICLE 6.10: 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.

2. A Party shall give appropriate consideration to the comments received from the other Party when a proposed technical regulation is submitted for public consultation 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.

ARTICLE 6.11: INFORMATION EXCHANGE

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. A Party shall endeavor to respond to such a request within sixty (60) days.

2. The contact point referred to in Article 6.13 shall be responsible for facilitating communication between the Parties on any matter covered by this Chapter, including administrative notifications and information submitted under this Chapter, as set forth under Article 6.10. On the request of the other Party, the contact point shall identify the office or the official responsible for the matter and assist, as necessary, in facilitating communications with the requesting Party.

3. The TBT enquiry point of each party shall be responsible to:
 - (a) provide information regarding technical regulations or conformity assessment procedures;
 - (b) transmitt the comments related to technical regulations or conformity assessment procedures that a Party has adopted or intends to adopt; and
 - (c) respond to any other information demanded pursuant to Article 6.10

ARTICLE 6.12: BORDER CONTROL AND MARKET SURVEILLANCE

The Parties shall exchange information and experiences on their border control and market surveillance policies, except in those cases in which the information is confidential.

ARTICLE 6.13: CONTACT POINTS

1. For the purposes of this Chapter the contact points are:
 - (a) in the case of the State of Israel, *Foreign Trade Administration, Ministry of Economy and Industry*; and
 - (b) in the case of Panama, *National Directorate for International Trade Agreement and Commercial Defense of the Ministry of Commerce and Industries (Dirección Nacional de Administración de Tratados y Defensa Comercial del Ministerio de Comercio e Industrias)*.