

ANNEX 4

TECHNICAL BARRIERS TO TRADE

ARTICLE 1

Objectives

The objectives of this Annex are to increase and facilitate trade between the Parties through collaborative efforts which shall ensure that the standards, technical regulations, conformity assessment procedures and metrology do not create unnecessary obstacles to trade, as well as to increase cooperation and technical assistance.

ARTICLE 2

General Provisions

The Parties affirm and incorporate in this Annex the rights and obligations existing between them according to the WTO Agreement on Technical Barriers to Trade (hereinafter referred to as the “TBT Agreement”).

ARTICLE 3

Scope and Obligations

1. This Annex is applicable to all standards, technical regulations, conformity assessment procedures and metrology that may affect, directly or indirectly, trade in goods between the Parties.
2. Nothing in this Annex shall prevent a Party from adopting or maintaining standards, technical regulations, conformity assessment procedures and metrology, in accordance with its international rights and obligations, and conditions set out in the TBT Agreement.
3. The provisions in this Annex are not applicable to sanitary and phytosanitary measures.

ARTICLE 4

Definitions

For the purposes of this Annex, the following terms and definitions shall apply:

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1. Terms and their Definitions of Annex 1 of the TBT Agreement;
2. All general terms concerning standards and conformity assessment contained in,
 - (a) the ISO/IEC Guide 2 (1996),
 - (b) the International Vocabulary of Basic and General Terms in Metrology (VIM), and
 - (c) the ISO/IEC 17000 and the ISO/IEC 17050.

ARTICLE 5

Trade Facilitation

1. The Parties agree to strengthen their national systems for standardization, technical regulations, conformity assessment and metrology, with a view to facilitating the access of goods to their respective markets. The Parties shall seek to identify initiatives that are appropriate for issues or sectors of common interest. Such initiatives may include, among others, cooperation and technical assistance on: regulatory issues; alignment or equivalence of regulations and standards; compliance with international standards; promotion of reliance on a supplier's declaration of conformity; the use of accreditation to qualify conformity assessment bodies; and cooperation through mutual recognition agreements.
2. The Parties may start negotiations for the conclusion of mutual recognition agreements among the competent agencies in the areas of technical regulations and conformity assessment following the principles of the TBT Agreement.
3. The terms of the mutual recognition agreements to be signed in the regulatory area will be defined in each case by the competent authorities of the Parties.
4. The Parties shall promote mutual acceptance of the results of conformity assessment with respect to technical regulations conducted by bodies located in the territory of the other Party.
5. The Parties may establish ad hoc working groups, as necessary, for the treatment of any issue or sector of mutual interest related to this Annex.

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ARTICLE 6 Conformity Assessment Procedures

1. The Parties shall ensure, whenever possible, that results of conformity assessment procedures in the other Party are accepted, even when those procedures differ from their own, provided they are satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to their own procedures.
2. The Parties are encouraged to permit participation of conformity assessment bodies located in the territory of the other Party in their conformity assessment procedures under conditions no less favourable than those accorded to bodies located within their territory.

ARTICLE 7 Transparency

1. Each Party shall transmit electronically to the other Party, through the enquiry points each Party has established under the TBT Agreement, the notifications that the Party carries out in relation to technical regulations or conformity assessment procedures in accordance with the TBT Agreement, at the same time as the Party notifies WTO Members.
2. Each Party shall, on the request of the other Party, provide in the English language the technical regulation adopted or being proposed for adoption by the Party.

ARTICLE 8 Technical Consultations

1. If a Party determines that there are reasons to believe that a technical regulation or a conformity assessment procedure of the other Party is an unnecessary technical barrier to trade, the former Party may request technical consultation by submitting a written request to the other Party. The Party receiving the consultation request shall reply within sixty (60) days.

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2. Notwithstanding paragraph 1, any Party may directly resort to the dispute settlement mechanisms provided in Annex 7 of this Protocol.

ARTICLE 9

Technical Cooperation and Contact Point

1. Upon the request of a Party, the other shall provide technical assistance and cooperation, to the extent possible, in order to:
 - (a) encourage the implementation of this Annex;
 - (b) encourage the implementation of the TBT Agreement;
 - (c) strengthen the corresponding organizations of standardization, technical regulations, conformity assessment and metrology, and information and notification systems within the scope of the TBT Agreement;
 - (d) strengthen the technical competence among the above mentioned organizations, mainly intending to facilitate the negotiations and conclusions of mutual recognition agreements of common interest to the Parties;
 - (e) increase the participation in international organizations working in standardization and conformity assessment;
 - (f) provide support in the application of international standards, as appropriate;
 - (g) provide, where possible, human resource training required for the implementation of this Annex;
 - (h) facilitate, where possible, the acceptance of equivalence of standards, and technical regulations, on a case-by-case basis;
2. Each Party shall establish a contact point to coordinate activities relating to the implementation and administration of this Annex.

ARTICLE 10

Exchange of Information

Any information or explanation requested by a Party pursuant to the provisions of this Annex shall be provided by the other Party, in print or electronically, within a reasonable time, and if possible within thirty (30) days.