

CHAPTER 7

INDUSTRIAL TECHNICAL BARRIERS TO TRADE

ARTICLE 701

Definitions

All general terms concerning standards and conformity assessment used in this Agreement shall have the meaning given in the definitions contained in the International Organization for Standardization/International Electrotechnical Commission Guide 2 (1996), which cover goods, processes, and services. This Chapter deals only with technical regulations, standards and conformity assessment procedures related to products or processes and production methods. In addition, the following terms and definitions shall apply for the purposes of this Chapter:

- (a) “conformity assessment” means any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled;
- (b) “equivalence” means the state wherein mandatory requirements applied in the exporting Party, though different from the mandatory requirements applied in the importing Party, meet the legitimate objective of the mandatory requirements applied in the importing Party;
- (c) “mandatory requirements” means all mandatory standards and technical regulations in the laws, regulations and policies of the Parties;
- (d) “standard” means a document approved by a recognised body that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method; and
- (e) “technical regulation” means a document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

ARTICLE 702

Objectives

The objectives of this Chapter are:

- (a) to facilitate trade and investment between the Parties through collaborative efforts which minimise the impact of technical regulations and/or assessments of manufacturers or manufacturing processes on the goods traded between the Parties, in the most appropriate or cost-effective manner;
- (b) to complement bilateral agreements and arrangements between the Parties relating to technical regulations; and
- (c) to build on the mutual recognition arrangements developed within the voluntary sector and APEC context.

ARTICLE 703

Scope and Obligations

1. The Parties affirm with respect to each other their existing rights and obligations relating to technical regulations under the *WTO Agreement on Technical Barriers to Trade* and all other international agreements, including environmental and conservation agreements, to which the Parties are party.
2. Nothing in this Chapter shall prevent a Party from adopting or maintaining, in accordance with its international rights and obligations, and conditions set out in the *WTO Agreement on Technical Barriers to Trade*:
 - (a) technical regulations necessary to ensure its national security requirements; and
 - (b) technical regulations necessary for the protection of human, animal or plant life or health, or the environment, or for the prevention of deceptive practices or to fulfil other legitimate objectives, as specified in the *WTO Agreement on Technical Barriers to Trade*.
3. Each Party shall retain all authority under its laws to implement its technical regulations. This includes the authority to take appropriate measures for goods that do not conform to the Party's technical regulations. Such measures may include withdrawing goods from the market, prohibiting their placement on the market or restricting their free movement, initiating a product recall or prohibiting an import.

4. The Parties affirm their intention to adopt and to apply, with such modifications as may be necessary, the principles set out in the *APEC Information Notes on Good Regulatory Practice in Technical Regulation* with respect to conformity assessment and approval procedures in meeting their international obligations under the WTO *Agreement on Technical Barriers to Trade*.

ARTICLE 704

Origin

This Chapter applies to all goods traded between the Parties, regardless of the origin of those goods, unless otherwise specified by any technical regulations of a Party.

ARTICLE 705

Harmonisation and Equivalence

1. The Parties shall, where appropriate, endeavour to work towards harmonisation of their respective technical regulations, taking into account relevant international standards, recommendations and guidelines, in accordance with their international rights and obligations.

2. The Parties shall give positive consideration to accepting as equivalent technical regulations of the other Party, even if these regulations differ from their own, provided they are satisfied that these regulations adequately fulfil the objectives of their own regulations.

ARTICLE 706

Conformity Assessment Procedures

1. The Parties shall, recognising the existence of differences in the structure, organisation and operation of conformity assessment procedures in their respective territories, make compatible those procedures to the greatest extent practicable.

2. Each Party shall, wherever possible, accept the results of a conformity assessment procedure conducted in the territory of the other Party, provided that it is satisfied that the procedure offers an assurance, equivalent to that provided by a procedure it conducts or a procedure conducted in its territory the results of which it accepts, that the relevant good complies with the applicable technical regulation or standard adopted or maintained in the Party's territory.
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 competence of the conformity assessment bodies involved, as appropriate.
4. Recognising that it should be to the mutual advantage of the Parties, each Party may accredit, approve, license or otherwise recognise conformity assessment bodies in the territory of the other Party on terms no less favourable than those accorded to conformity assessment bodies in its territory.
5. Each Party shall, on request of the other Party, take such reasonable measures as may be available to it to facilitate access in its territory for conformity assessment procedures.
6. Each Party shall give sympathetic consideration to a request by the other Party to negotiate agreements for the recognition of the results of that other Party's conformity assessment procedures in the agreed sector.
7. Each Party shall utilise to the maximum possible extent existing mutual recognition arrangements in relation to the acceptance of conformity assessment processes and procedures.
8. Each Party shall take steps to implement Parts 1, 2 and 3 of the *APEC Mutual Recognition Arrangement for Conformity Assessment of Electrical and Electronic Equipment* with respect to the other Party.
9. Each Party shall give serious consideration, where possible, to participation in any future mutual recognition arrangements developed within APEC.

ARTICLE 707

Technical Cooperation and Contact Point

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

- (a) provide to that Party technical advice, information and assistance on mutually determined terms and conditions to enhance that Party's technical regulations, standards and conformity assessment procedures; and
- (b) provide to that Party information on its technical cooperation programs regarding technical regulations, standards and conformity assessment procedures relating to specific areas of interest.

2. Each Party shall establish a contact point:

- (a) to have responsibility for co-ordinating with interested parties in their respective territories proposals for enhanced cooperation and responses to such proposals as well as activities for technical cooperation set out under Paragraph 1;
- (b) to consider and facilitate the acceptance of equivalence of standards, sector by sector, on a case by case basis;
- (c) to consider and facilitate mutual recognition arrangements for conformity assessment of specific products as requested by the other Party;
- (d) to broaden the exchange of information; and
- (e) to give favourable consideration to any written request for information.

3. Each Party shall encourage standardising bodies in its territory to cooperate with the standardising bodies in the territory of the other Party in their participation, as appropriate, in standardising activities, such as through membership in international standardising bodies.