

**Standards, Technical Regulations, and Conformity  
Assessment Procedures**

## STANDARDS, TECHNICAL REGULATIONS, AND CONFORMITY ASSESSMENT PROCEDURES

### Preamble

*Affirming* the right of the Parties to regulate and introduce new technical regulations, standards, and conformity assessment procedures;

*Affirming* that neither Party shall be prevented from taking measures necessary to ensure the quality of its exports, or for the protection of human, animal, or plant life or health, of the environment, or for the prevention of deceptive practices, at the levels the Party considers appropriate;

*Recognizing* the important contribution that technical regulations, standards, and conformity assessment procedures can make to public safety, improving the efficiency of production, facilitating bilateral trade, and establishing fair competition for workers and businesses, including SMEs, of the Parties;

*Recognizing* that public engagement in the development of proposed technical regulations, standards, and conformity assessment procedures can improve the quality of regulation;

*Recognizing* that, where effective and appropriate, mutual recognition of conformity assessment procedures facilitates and promotes bilateral trade in contrast to an approach that requires conformity assessment procedures to be conducted solely by domestic bodies as part of a strategy to limit market access for foreign technology products and services;

*Recognizing* that ePing, an online notification system, enhances and increases an inclusive opportunity for all stakeholders to review and comment on proposed technical regulations and conformity assessment procedures of the Parties;

*Recognizing* that unwarranted technical regulations, standards, and conformity assessment procedures are particularly burdensome to SMEs and their workers as SMEs are less likely to be able to be able to comply with such measures than large, multi-national corporations;

*Recognizing* that increased collaboration, cooperation, and commitments regarding participation in standardization activities can advance the public interest and help to maintain a strong position for exporters of the Parties against anticompetitive policies and practices of non-Parties who seek to dominate trade, including with respect to new technology products;

*Recognizing* shared priorities for standards development, whether they are in critical or emerging technologies or green energy, and maintaining a robust committee that can coordinate on standardization priorities in regional and international forums;

*Recognizing* that enhanced transparency requirements help to ensure that the standards development process is technically sound, independent, inclusive, and responsive to broadly

shared market and societal needs; and

*Recognizing* that enhanced transparency requirements further build support from like-minded trade partners around the world to promote the integrity of international standards to help ensure that such standards are established on the basis of technical merit through fair processes that promote broad participation from economies across the world and help build inclusive and sustainable growth for all,

Agree to the following:

## **Article XX.1: Definitions**

For the purposes of this Chapter:

**conformity assessment procedure** means any procedure used, directly or indirectly, to determine those relevant requirements in technical regulations or standards are fulfilled. Conformity assessment procedures include, *inter alia*, procedures for sampling, testing and inspection; evaluation, verification and assurance of conformity; registration, accreditation and approval as well as their combinations;

**international conformity assessment system** means a system that facilitates voluntary recognition or acceptance of the results of conformity assessment or accreditation bodies by the authorities of the other Party based on compliance with international standards for conformity assessment;

**international standards, guides, or recommendations** means those standards, guides, or recommendations developed through observation of principles and procedures to ensure transparency, openness, impartiality and consensus, effectiveness and relevance, coherence, and effective, inclusive participation in standards development by developing countries;

**international body or system** means a body or system whose membership is open to the relevant bodies of at least all WTO Members;

**mutual recognition agreement** means an agreement between the Parties that specifies the conditions by which a Party will recognize the results of conformity assessment procedures produced by the conformity assessment bodies of the other Party that demonstrate fulfillment of appropriate standards or technical regulations;

**mutual recognition arrangement** or **multilateral recognition arrangement** means an international or regional arrangement among accreditation bodies located in the territories of the Parties, in which the accreditation bodies, on the basis of peer evaluation, accept the results of each other's accredited conformity assessment bodies or among conformity assessment bodies of the Parties recognizing the results of conformity assessment;<sup>1</sup>

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<sup>1</sup> For greater certainty, mutual recognition agreements include agreements to implement the *APEC Mutual*

**non-governmental body** means a body other than a central, regional, or local government body, including a non-governmental body which has legal power to enforce a technical regulation;

**proposed technical regulation or conformity assessment procedure** means the entirety of the text setting forth: (a) a proposed technical regulation or conformity assessment procedure; or (b) a significant amendment to an existing technical regulation or conformity assessment procedure;

**reasonable interval** means normally a period of not less than six months between the time the technical regulation or conformity assessment procedure is proposed and finalized;<sup>2</sup>

**regional body or system** means a body or system whose membership is open to the relevant bodies of only some of WTO Members;

**regional level authority** means for the United States: a state of the United States, the District of Columbia, or Puerto Rico;

**standard** means a document approved by a recognized 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;

**TBT Agreement** means the *Agreement on Technical Barriers to Trade*, set out in Annex 1A to the WTO Agreement; and

**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 XX.3: Scope**

1. This Chapter applies to the preparation, adoption, and application of standards, technical regulations, and conformity assessment procedures, including any amendments, of central level government bodies, which may affect trade in goods between the Parties.

2. Notwithstanding paragraph 1, this Chapter does not apply to:

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*Recognition Arrangement for Conformity Assessment of Telecommunications Equipment* of May 8, 1998 and the *Electrical and Electronic Equipment Mutual Recognition Arrangement* of July 7, 1999.

<sup>2</sup> For greater certainty, a Party may decide to set an interval of less than six months in certain circumstances, including when the measure is trade facilitative or is addressing an urgent problem of safety, health, environmental protection, or essential security.

- (a) technical specifications prepared by a central level authority for production or consumption requirements of a central level authority; or
  - (b) sanitary or phytosanitary measures.
3. Each Party shall encourage its subcentral authorities to comply with the provisions in this Chapter.

#### **Article XX.4: International Standards, Guides or Recommendations**

1. The Parties recognize the important role that international standards, guides or recommendations can play in supporting greater regulatory alignment and good regulatory practices, and in reducing unnecessary barriers to trade, while respecting legitimate objectives such as the mutual goals of protecting human, animal, or plant life or health or the environment, for the prevention of deceptive practices, or to ensure the quality of imports, or to address anticompetitive policies or practices by those non-Parties who seek to dominate trade, including with respect to new technology products.

2. Neither Party shall apply principles or criteria other than as defined in this Chapter in order to recognize a standard as an international standard, guide or recommendation. Principles or criteria that are not relevant to the definition of international standard, guide or recommendation include: the domicile of the standards body, whether the standards body is non-governmental or intergovernmental; and whether the standards body limits participation to delegations.

4. The Parties shall cooperate with each other in appropriate circumstances to ensure that international standards, guides or recommendations that are likely to become a basis for technical regulations and conformity assessment procedures are not used to advance anticompetitive policies or practices.

5. Nothing in this Chapter shall require a Party to use a relevant international standard where such standard would be an ineffective or inappropriate means for the fulfilment of the legitimate objective pursued, for instance because of an insufficient level of protections, fundamental climatic or geographical factors, fundamental technological problems, or because such standard is used to advance anticompetitive policies or practices. Otherwise, where technical regulations are required and relevant international standards exist or their completion is imminent, each Party shall use them, or the relevant parts of them, as a basis for their technical regulations.

6. Neither Party shall accord any preference to the consideration or use of a standard that is developed through a process that treats persons of a Party less favorably than persons whose domicile is the same as the standardization body of the relevant standard.

7. With respect to any agreement or understanding establishing a customs union or free-trade area or providing trade-related technical assistance, each Party shall encourage the adoption of, and use as the basis for standards, technical regulations, and conformity assessment procedures,

international standards, guides or recommendations, where such standard fulfils the legitimate objectives of a Party.

8. Each Party shall ensure that any obligation or understanding it has with a non-Party does not facilitate or require the withdrawal or limitation on the use or acceptance of any international standard, guide or recommendation.

## **Article XX.5: Technical Regulations**

### *Preparation and Review of Technical Regulations*

1. Each Party recognizes that adopting or maintaining procedures or mechanisms to carry out review of technical regulations or conformity assessment procedures currently in effect can ensure that a regulation or procedure remains relevant and meets its intended legitimate objective, at the levels it considers appropriate.

2.. If a technical regulation or conformity assessment procedure currently in effect is reviewed, the Party shall consider, as appropriate:

- (a) aligning the regulation further with relevant international standards, including by:
  - (i) reviewing any new or updated relevant international standard;
  - (ii) analyzing if circumstances changed that gave rise to any divergences from relevant international standards; and
  - (iii) considering the existence of any less trade-restrictive approaches that fulfill the legitimate objective at the level the Party considers appropriate; or
- (b) maintaining a process whereby a person of a Party may directly petition the regulatory authorities of the other Party to review a technical regulation or conformity assessment procedure on the grounds that:
  - (i) circumstances that were relevant to the content of the technical regulation have changed; or
  - (ii) a less trade-restrictive method exists to fulfil the technical regulation's objective.

### *Use of Standards in Technical Regulations*

3. Recalling that nothing in this Chapter shall require a Party to use a relevant international standard where such standard does not fulfil the legitimate objective pursued, at the level the Party considers appropriate, if there are multiple international standards that would be effective and appropriate to fulfil the legitimate objectives of a technical regulation or conformity assessment

procedure of a Party, the Party shall:

- (a) consider using as a basis for the technical regulation or conformity assessment procedure each of the international standards that fulfill the legitimate objectives of the technical regulation or conformity assessment procedure; and
- (b) if the Party has rejected an international standard that was brought to its attention, issue a written explanation wherever practicable.

The written explanation provided for in subparagraph (b) must include the reasons for the decision to reject an international standard and shall be provided directly to the person that proposed a particular international standard or in a document that is made publicly available online at the same time that the Party made the final technical regulation or conformity assessment procedure publicly available online.

4. If no international standard is available that fulfils the legitimate objectives of the technical regulation or conformity assessment procedure, each Party shall consider whether a standard developed by a standardizing body domiciled in either of the Parties can fulfill its legitimate objectives. To that end, each Party shall:

- (a) consider and decide whether to accept the standard developed by a standardizing body domiciled in either Party fulfils its legitimate objectives; and
- (b) if the Party has rejected a standard that was brought its attention, issue a written explanation wherever practicable.

The written explanation provided for in subparagraph (b) must include the reasons for the decision to reject a standard a developed by a standardizing body of the Party and shall be provided directly to the person that proposed a particular standard or in a document that is made publicly available online at the same time the Party made publicly available online the final technical regulation or conformity assessment procedure.

5. In order for a Party to consider accepting or using a standard as provided for in paragraphs 4 and 5, the Parties recognize that a standard must be brought to the attention of a Party. Bring it to the attention of a Party must be done during the planning stage or when the proposed technical regulation or conformity assessment procedure is made publicly available online for comment as provided for in Article XX.6 (Transparency).

#### *Reasonable Availability of a Standard*

6. Each Party shall consider whether a standard is reasonably available when incorporating the standard into a technical regulation, including the following possibilities:

- (a) whether the standards body is willing to make read-only access to the standard available for free on its website during the regulatory comment period to facilitate more effective access, because access may be necessary during rulemaking to make

- inclusive, public participation in the rulemaking process effective;
- (b) the cost to regulated and other interested parties to access a copy of the material, including the cumulative cost to obtain incorporated materials, and their ability to bear the costs of accessing such materials in a particular context;
  - (c) the extent particular access is needed to achieve regulatory authority policy or to subject the effectiveness of agency programs to public scrutiny; and
  - (d) whether the standards body can provide a summary that explains the content of the standard in a way that meets the needs of the regulatory authority and is understandable to a member of the public who lacks relevant technical expertise.

### *Information Exchange*

7. If a technical regulation of a Party is not based on an international standard, the Party shall, on request from the other Party, explain why it has not used, or has substantially deviated from, a relevant international standard. The explanation shall address why the standard has been judged inappropriate or ineffective for the objective pursued, and identify the scientific or technical evidence on which this assessment is based. To facilitate an appropriate explanation, the requesting Party shall in its request:

- (a) identify a relevant international standard that the technical regulation has purportedly not used as its basis; and
- (b) describe how the technical regulation is constraining or has the potential to constrain exports from the territory of the requesting Party.

The requesting Party shall also endeavor to indicate whether the international standard was brought to the attention of the other Party when it was developing the technical regulation.

8. Each Party shall give positive consideration to accepting as equivalent technical regulations of the other Party, even if these regulations differ from its own, provided the Party is satisfied that these regulations adequately fulfil the objectives of its technical regulations. In addition, a Party shall, on request of the other Party, provide the reasons why it has not or cannot accept a technical regulation of the other Party as equivalent to its own. The Party should provide its response within a reasonable period of time.

## **Article XX.6: Conformity Assessment**

### *National Treatment*

1. Each Party shall accord to conformity assessment bodies located in the territory of another Party treatment no less favorable than that accorded to conformity assessment bodies located in its own territory. Treatment under this paragraph includes procedures, criteria, fees, and other



conditions relating to accrediting, approving, licensing, or otherwise recognizing conformity assessment bodies.

2. If a Party maintains procedures, criteria or other conditions as set out in paragraph 1 and requires conformity assessment results, including test results, certifications, technical reports or inspections as positive assurance that a product conforms to a technical regulation or standard, the Party shall:

- (a) not require the conformity assessment body to be located within its territory;
- (b) not effectively require the conformity assessment body to operate an office within its territory; and
- (c) permit conformity assessment bodies in the territory of the other Party to apply to the Party, or any body that it has recognized or approved for this purpose, for a determination that they comply with any procedures, criteria and other conditions the Party requires to deem them competent or to otherwise approve them to test or certify the product or conduct an inspection.

#### *Subcontracting*

3. If a Party requires conformity assessment as a positive assurance that a product conforms with a technical regulation or standard, the Party shall not prohibit a conformity assessment body from using subcontractors, or refuse to accept the results of conformity assessment on account of the conformity assessment body using subcontractors, to perform testing or inspections in relation to the conformity assessment, including subcontractors located in the territory of the other Party,<sup>3</sup> provided that the subcontractors are accredited and approved in the territory of the Party, when required.

#### *Accreditation*

4. No Party shall refuse to accept, or take actions that have the effect of, directly or indirectly, requiring or encouraging the refusal of acceptance of conformity assessment results performed by a conformity assessment body located in the territory of the other Party because the accreditation body that accredited the conformity assessment body:

- (a) operates in the territory of a Party where there is more than one accreditation body;
- (b) is a non-governmental body;
- (c) is domiciled in the territory of a Party that does not maintain a procedure for recognizing accreditation bodies, provided that the accreditation body is recognized internationally, consistent with paragraph 5;

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<sup>3</sup> For greater certainty, this paragraph does not prohibit a Party from taking steps to ensure the performance of the subcontractor meets its requirements.

- (d) does not operate an office in the territory of the Party; or
- (e) is a for-profit entity.

5. Each Party shall:

- (a) adopt or maintain measures to facilitate and encourage its authorities to rely on mutual or multilateral recognition arrangements to accredit, approve, license, or otherwise recognize conformity assessment bodies where effective and appropriate to fulfil the Party's legitimate objectives; and
- (b) consider approving or recognizing accredited conformity assessment bodies for its technical regulations or standards, by an accreditation body that is a signatory to a mutual or multilateral recognition arrangement.

The Parties recognize that the arrangements referenced in subparagraph (b) can address considerations in approving conformity assessment bodies, including technical competence, independence, and the avoidance of conflicts of interest.

#### *Choice of Conformity Assessment*

6. The Parties recognize that the choice of conformity assessment procedures in relation to a specific product covered by a technical regulation or standard should include an evaluation of the risks involved, the need to adopt procedures to address those risks, relevant scientific and technical information, incidence of non-compliant products, and possible alternative approaches for establishing that the technical regulation or standard has been met.

#### *Fees*

7. Nothing in this Article precludes a Party from requesting that conformity assessment procedures in relation to specific products are performed by specified government authorities of the Party. In those cases, the Party conducting the conformity assessment procedures shall:

- (a) limit any fees it imposes for conformity assessment procedures on products from the other Party to approximately the costs of services rendered;
- (b) not impose fees on an applicant of the other Party to deliver conformity assessment services, except to recover costs incurred from services rendered;
- (c) make the amounts of any fees for conformity assessment procedures publicly available; and
- (d) not apply a new or modified fee for conformity assessment procedures until the fee and the method for assessing the fee are made publicly available online and, if practicable, the Party has provided an opportunity for interested persons to comment on the proposed introduction or modification of a conformity assessment

fee.

8. On request of a Party, or on an applicant's request if practicable, the other Party shall explain how:

- (a) fees for its conformity assessment procedures are calculated; and
- (b) any information it requires is necessary to calculate fees.

#### *Information Exchange*

11. If a Party undertakes conformity assessment procedures in relation to specific products, on the request of the other Party or an applicant of the other Party, if practicable, the Party shall explain:

- (a) how the information it requires is necessary to assess conformity;
- (b) the sequence in which a conformity assessment procedure is undertaken and completed;
- (c) how the Party ensures that confidential business information is protected; and
- (d) the procedure to review complaints concerning the operation of the conformity assessment procedure and to take corrective action when a complaint is justified.

12. A Party shall explain, on the request of the other Party, the reasons for its decision, whenever it declines to:

- (a) accredit, approve, license, or otherwise recognize a conformity assessment body;
- (b) recognize the results from a conformity assessment body that is a signatory to a mutual recognition arrangement;
- (c) accept the results of a conformity assessment procedure conducted in the territory of the other Party; or
- (d) continue negotiations for a mutual recognition agreement.

#### *Exceptions*

9. For greater certainty, nothing in paragraphs 1 or 2 precludes a Party from taking actions to verify the results from a conformity assessment procedure, including requesting information from the conformity assessment or accreditation body. These actions shall not subject a product to duplicative conformity assessment procedures, except when necessary to address non-compliance. The verifying Party may share information it has requested with the other Party, provided it protects confidential information.

10. Paragraphs 2(b) and 3 do not apply to any requirement a Party may have concerning the use of products, conformity assessment procedures, or related services in the commercial maritime or civil aircraft sectors.

### **Article XX.7: Transparency**

1. Each Party shall allow persons of the other Party to participate in the development of technical regulations, standards and conformity assessment procedures<sup>4</sup> by its central level bodies on terms no less favorable than those that it accords to its own persons.

2. If a Party prepares or proposes to adopt a technical regulation or conformity assessment procedure that is not in response to an urgent situation, the Party shall:

- (a) make the proposed technical regulation or conformity assessment procedure publicly available online;
- (b) allow persons of the other Party to submit written comments during a public consultation period on no less favourable terms than it provides to its own persons;
- (c) allow for written comment in accordance with subparagraphs (a) and (b) at a time when the Party preparing or proposing to adopt the measure has sufficient time to review those comments and, as appropriate, to revise the measure to take them into account;
- (d) consider the written comments from persons of the other Party on no less favourable terms than it considers those submitted by its own persons; and
- (e) if practicable,<sup>5</sup> accept a written request from the other Party to discuss written comments that the other Party has submitted.

The Party receiving the request under subparagraph (e) shall ensure that it has appropriate personnel to participate in the discussions, such as from the competent authority that has prepared or proposed the technical regulation or conformity assessment procedure, in order to confirm that the written comments are fully taken into account.

3. Each Party shall, without undue delay, make publicly available online any written comments it receives under paragraph 2(c), except to the extent necessary to protect confidential information or withhold personal identifying information or inappropriate content. If it is

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<sup>4</sup> A Party satisfies this obligation by, for example, providing interested persons a reasonable opportunity to provide comments on the measure it proposes to develop and taking those comments into account in the development of the measure.

<sup>5</sup> Circumstances when discussions are not practicable include when the Party requesting discussions has failed to submit its comments in a timely manner or if discussions would need to take place after the deadline to submit written comments has passed.

impracticable to post these comments on a single website, the regulatory authority of a Party that has prepared the technical regulation or conformity assessment procedure shall endeavor to make these comments available via the website of that regulatory authority.

4. Each Party shall make publicly available online the final technical regulation or conformity assessment procedure and an explanation of how it has addressed substantive issues raised in timely submitted comments.

5. Each Party shall ensure that any central level standardizing body's work program, containing the standards it is currently preparing and the standards it has adopted, is available:

- (a) on the central level standardizing body's website;
- (b) in its official gazette; or
- (c) on the website referred to in paragraph 10.

*Inclusive Participation in the Development of Technical Regulations and Mandatory Conformity Assessment Procedures*

6. Each Party shall encourage consideration of methods to provide additional transparency in the development of technical regulations, standards, and conformity assessment procedures, including the use of electronic tools and public outreach or consultations.

7. If appropriate, each Party shall encourage non-governmental bodies, including standardization bodies in the other Party, to act consistently with the obligations in paragraphs 1 and 6 in developing standards and voluntary conformity assessment procedures.

8. If a Party requests a body within that territory to develop a standard for use as a technical regulation or conformity assessment procedure, the Party shall require the body to allow persons of the other Party to participate on no less favorable terms than its own in those groups or committees of the body that is developing the standard.

9. Each Party shall take such reasonable measures as may be available to it to ensure proposed and final technical regulations and conformity assessment procedures of subcentral authorities are made publicly available online.

10. Each Party shall make publicly available online and make freely accessible, preferably on a single website, all proposed and final technical regulations and mandatory conformity assessment procedures, except with respect to any standards that are:

- (a) developed by non-governmental organizations; and
- (b) have been incorporated by reference into a technical regulation or conformity assessment procedure.

## *Notification of Technical Regulations and Conformity Assessment Procedures*

11. In accordance with the procedures established under Article 2.9 or Article 5.6 of the TBT Agreement, each Party shall notify proposed technical regulations and conformity assessment procedures that are in accordance with the technical content of relevant international standards, guides or recommendations if they may have a significant effect on trade. This notification shall identify the precise international standards, guides or recommendations with which the proposal is in accordance.

12. In accordance with the procedures under Article 2.10 or Article 5.7 of the TBT Agreement, and notwithstanding paragraph 11, if urgent problems of safety, health, environmental protection, or essential security arise or threaten to arise in the territory of a Party, that Party shall notify a technical regulation or conformity assessment procedure that is in accordance with the technical content of relevant international standards, guides or recommendations. The notification shall identify the precise international standards, guides, or recommendations with which the proposal is in accordance.

13. In accordance with the procedures established under Article 2.9 or Article 5.6 of the TBT Agreement, each Party shall endeavor to notify proposed technical regulations and conformity assessment procedures of regional level authorities that may have a significant effect on trade and that are in accordance with the technical content of relevant international standards, guides or recommendations.

14. With respect to notifications made under Articles 2.9 and 5.6 of the TBT Agreement and paragraph 11 of this Article, each Party shall notify proposed technical regulations and conformity assessment procedures at an early appropriate stage by:

- (a) ensuring the notification is made at a time when the authority developing the measure can introduce amendments, including in response to any comments submitted per subparagraph (d);
- (b) including with its notification:
  - (i) any objective for the proposed technical regulation or conformity assessment procedure and its legal basis,
  - (ii) an explanation of how the proposed technical regulation or conformity assessment procedure would fulfil the identified objectives, and
  - (iii) a copy of the proposed technical regulation or conformity assessment procedure or a website address at which the proposed measure can be accessed;
- (c) transmitting the notification electronically to the other Party through their enquiry points established in accordance with Article 10 of the TBT Agreement, contemporaneously with the submission of the notification to the WTO Secretariat;

and

- (d) providing sufficient time between the end of the comment period and the adoption of the notified technical regulation or conformity assessment procedure to ensure that the responsible authority can fully consider the submitted comments and the Party can issue its responses to the comments,

then, transmit the notification electronically to the other Party through the WTO enquiry point of the Party.

15. Each Party shall normally allow 60 days from the date it makes available online a proposal under paragraph 14(b) for the other Party or an interested person of the territory of a Party to provide comments in writing on the proposal. A Party shall consider any reasonable request from the other Party or an interested person of the territory of a Party to extend the comment period. If the relevant authority of the territory of the Party is able to extend a time limit beyond 60 days, for example 90 days, the Party shall consider doing so.

16. When making a notification under Article 2.10 or Article 5.7 of the TBT Agreement, each Party shall at the same time transmit electronically the notification and text of the technical regulation or conformity assessment procedure, or a website address where the text of the measure can be viewed, to the other Party's contact points referred to in Article XX.12 (Contact Points).

17. If a Party is notifying a proposed technical regulation or conformity assessment procedure to the WTO TBT Committee and the other Party for the first time,<sup>6</sup> the Party shall notify it to the WTO TBT Committee and the other Party as a regular notification.<sup>7</sup> Each Party shall endeavor to identify the scope of its proposed technical regulation or conformity assessment procedure in its notification by reference to the specific Harmonized System heading, subheading, or tariff item for the products that would be affected by the proposal.

18. If a Party is notifying a proposed technical regulation or conformity assessment procedure that is related to a measure that was previously notified, including because it is a revision, amendment, or replacement to the previously notified measure, the Party shall provide the WTO notification symbol for the previously notified measure.<sup>8</sup> Each Party shall endeavor to submit a revision to a notification if the notified measure has been substantially redrafted prior to its entry into force. If the Party files a revision or the circumstances in paragraph 19(e) arise, the Party shall endeavor to allow either a new or extended period of time for interested persons to submit comments to the Party.

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<sup>6</sup> The Parties shall follow the recommendation set forth in G/TBT/35/Rev.1, Coherent Use of Notification Formats or any future revision.

<sup>7</sup> A notification is a document that is circulated by the WTO Secretariat, or submitted to the WTO Secretariat for the purposes of circulation, under the prefix "G/TBT/N."

<sup>8</sup> The appropriate place to make the identification is in field 8 of a document produced consistent with the Format and Guidelines for Notification Procedures for Draft Technical Regulations and Conformity Assessment Procedures.

19. Each Party shall submit an addendum to a notification it has previously made to the WTO TBT Committee and the other Party in any of the following circumstances:

- (a) if the period of time to submit comments on the proposed measure has changed;
- (b) the notified measure has been adopted, or otherwise entered into force;
- (c) the compliance dates for the final measure have changed;
- (d) the notified measure has been withdrawn, revoked, or replaced;<sup>9</sup>
- (e) the content or scope of the notified measure is partially changed or amended;
- (f) any interpretive guidance for a notified measure that has been issued; or
- (g) the final text of the notified measure is made publicly available, is adopted, or otherwise enters into force.

20. Each Party shall endeavor to submit a corrigendum to a notification if it subsequently determines there are minor administrative or clerical errors in:

- (a) a notification or subsequent related addendum or revision; or
- (b) the text of the notified measure.

21. If a Party obtains a translation of a measure notified to the WTO TBT Committee, whether official or unofficial, in an official WTO language other than the language of the notification, it shall endeavor to send the translation to the Parties' contact points referred to in Article XX.12 (Contact Points).

22. For the purposes of determining whether a proposed technical regulation or conformity assessment procedure may have a significant effect on trade and is subject to notification in accordance with Articles 2.9, 2.10, 3.2, 5.6, 5.7, or 7.2 of the TBT Agreement or this Chapter, a Party shall consider, among other things, the relevant guidance in 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.

23. When a Party has adopted a technical regulation or conformity assessment procedure that may have a significant effect on trade, the Party shall promptly make publicly available online:

- (a) an explanation of how the technical regulation or conformity assessment procedure achieves the Party's objectives;
- (b) its views on any substantive issues raised in timely submitted comments on the

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<sup>9</sup> The Party shall provide the WTO document number identifying the notification of a measure that replaces or has been proposed as a replacement for a withdrawn or revoked measure.



proposed technical regulation or conformity assessment procedure;

- (c) any impact assessment it has undertaken;
- (d) if not otherwise addressed, an explanation of the relationship between the regulation and the key evidence, data, and other information the regulatory authority considered in finalizing its work on the regulation; and
- (e) the date by which compliance is required.

#### **Article X.8: Compliance Period for Technical Regulations and Conformity Assessment Procedures**

1. Each Party should provide a reasonable interval from the time it made publicly available online a proposal of a technical regulation or conformity assessment procedure to the time it made publicly available online a final technical regulation or conformity assessment procedure, except when this would be ineffective in fulfilling the legitimate objectives pursued by the technical regulation or the conformity assessment procedure.

2. If feasible and appropriate, each Party shall endeavor to provide an interval of more than six months between the publication of a final technical regulation or conformity assessment procedure and its entry into force.

3. In setting a reasonable interval for a specific technical regulation or conformity assessment procedure, each Party shall provide suppliers with a reasonable period of time, under the circumstances, to be able to demonstrate the conformity of their products with the relevant requirements of the technical regulation by the date of entry into force of the specific technical regulation or conformity assessment procedure. In doing so, each Party shall endeavor to take into account the resources available to suppliers.

#### **Article X.9: Cooperation and Trade Facilitation**

1. The Parties acknowledge that a broad range of mechanisms exists to facilitate the acceptance of conformity assessment results. In this regard, a Party shall give consideration to a request made by the other Party with respect to any sector-specific proposal for cooperation including by, as appropriate:

- (a) implementing mutual recognition of the results by conformity assessment bodies located in its territory and the other Party's territory with respect to specific technical regulations;
- (b) recognizing existing mutual and multilateral recognition arrangements between or among accreditation bodies or conformity assessment bodies;

- (c) using accreditation to qualify conformity assessment bodies, particularly international recognition systems of accreditation;
- (d) designating conformity assessment bodies or recognize the designation by the other Party of conformity assessment bodies;
- (e) unilaterally recognizing the results of conformity assessment procedures performed in the territory of the other Party; and
- (f) accepting a supplier's declaration of conformity.

2. The Parties recognize that a broad range of mechanisms exists to support greater collaboration with respect to standards, conformity assessment procedures, technical regulations, and metrology between the Parties, including:

- (a) regulatory dialogue and cooperation to, among other things:
  - (i) exchange information on regulatory approaches and practices;
  - (ii) promote the use of good regulatory practices to improve the efficiency and effectiveness of technical regulations, standards, and conformity assessment procedures;
  - (iii) provide technical advice and assistance, on mutually agreed terms and conditions, to improve practices related to the development, implementation and review of technical regulations, standards, conformity assessment procedures, and metrology; or
  - (iv) provide technical assistance and cooperation, on mutually agreed terms and conditions to build capacity and support the implementation of this Chapter;
- (b) facilitation of the greater use and alignment of standards, technical regulations, and conformity assessment procedures, where doing so fulfills the legitimate objectives of the Parties, at the levels they consider appropriate; and
- (c) promotion of the acceptance of technical regulations of the other Party as equivalent.

3. In addition to paragraph 2(c), the Parties shall work to develop common standards and conformity assessment procedures in sectors of mutual interest. The Parties shall determine the scope of this work through the Committee on Standards-Related Measures.

4. The Parties shall strengthen their exchange and collaboration on mechanisms to facilitate the acceptance of conformity assessment results and to support greater regulatory alignment where appropriate. To this end, the Parties shall seek to identify, develop, and promote initiatives regarding standards, technical regulations, and conformity assessment procedures that address

particular cross-cutting or sectors specific issues.

5. The Parties shall encourage cooperation between their respective organizations responsible for standardization, conformity assessment, accreditation, and metrology, whether they are public or private, with a view to facilitate trade.

#### **Article XX.10: Information Exchange and Technical Discussions**

1. The Parties recognize that technical discussions and information exchange can serve an important function in reaching mutually satisfactory solutions to trade concerns by promoting cooperation and consultation informed by relevant technical and scientific information. Accordingly, with respect to a matter that arises under this Chapter, a Party may request the other Party to:

- (a) engage in technical discussions concerning the matter; or
- (b) provide information regarding any proposed or final technical regulation or conformity assessment procedure that relates to the matter.

2. The Party making the request shall do so in writing and identify:

- (a) the matter, including those provisions of the Chapter to which the matter relates;
- (b) the reasons for the request, including any concerns with a proposed or final measure;
- (c) whether the matter is urgent; and
- (d) if applicable, the precise information that is being requested.

The Party making the request shall transmit the request to the other Party's contact points designated pursuant to Article XX.12 (Contact Points).

3. With respect to a request made under paragraph 1(a), the Parties shall discuss the matter identified within 60 days from the date the request was transmitted to the contact point, unless the request identified the matter as urgent, in which case the Parties shall endeavor to hold the technical discussions sooner. With respect to a request made under paragraph 1(b), the Party receiving the request shall provide appropriate information within a reasonable period of time. The Parties shall attempt to obtain satisfactory resolution of the matter.

4. Unless the Parties decide otherwise, any discussions or information exchanged under this Article, other than the request referenced in paragraphs 1 and 2, shall be kept confidential and is without prejudice to the respective rights and obligations of the Parties.

## **Article XX.11: Committee on Standards-Related Measures**

1. The Parties hereby establish a Committee on Standards-Related Measures (Standards Committee) composed of government representatives of each Party.
2. The Standards Committee shall strengthen the Parties' joint work in the fields of technical regulations, standards, conformity assessment procedures, and metrology.
3. The Standards Committee's functions include:
  - (a) monitoring and identifying ways to strengthen the implementation and operation of this Chapter and identifying any potential amendments to or interpretations of this Chapter;
  - (b) as appropriate, discussing proposed and final versions of standards, technical regulations, or conformity assessment procedures of each Party;
  - (c) monitoring any technical discussions on matters that arise under this Chapter requested pursuant Article XX.10 (Information Exchange and Technical Discussions);
  - (d) deciding on priority areas of mutual interest for future work under this Chapter and considering proposals for new sector-specific initiatives or other initiatives, as well as identifying standards that may be used to advance anticompetitive policies and practices. These priorities should be reviewed every three years to ensure the priorities and initiatives remain relevant;
  - (e) encouraging cooperation between the Parties in matters that pertain to this Chapter, including early consideration of and coordinated participation in the development, review, or modification of technical regulations, standards, conformity assessment procedures, and metrology; or the laws, regulations, and guidance that govern the aforementioned matters;
  - (f) encouraging cooperation between non-governmental bodies of the Parties, as well as cooperation between governmental and non-governmental bodies of the Parties in matters that pertain to this Chapter;
  - (g) facilitating the identification of technical capacity needs, *i.e.*, participation in standards development and development of national quality infrastructure, good regulatory practices, or regulatory cooperation;
  - (h) encouraging the exchange of information between the Parties and their relevant non-governmental bodies, if appropriate, to develop common approaches regarding matters under discussion in non-governmental, regional, plurilateral, and multilateral bodies or international conformity assessment systems or standards development relevant to this Chapter; including the relevant international forum

related to this Chapter and bodies that develop international standards, guidelines and recommendations in accordance with Article XX.4, as appropriate;

- (i) undertaking initiatives to support greater regulatory alignment between the Parties, including through investigating the use of digital tools that facilitate conformity assessment and the development of common standards or conformity assessment procedures in sectors of mutual interest;
- (j) reviewing this Chapter in light of any developments under the Committee, and developing recommendations for amendments to this Chapter in light of those developments;
- (k) engaging, as appropriate, with interested persons to participate in the work of the Committee, for example by requesting and considering comments on matters related to the implementation of this Chapter; and
- (l) taking any other steps that the Parties consider will assist them in implementing this Chapter.

4. The Standards Committee shall create a working group to discuss and address shared concerns regarding standards, technical regulations, and conformity assessment procedures of non-Parties, particularly where the policies and practices of such Parties are anticompetitive in nature. Among other activities, the working group shall assist the Committee in identifying priority areas where standards have been developed to advance anticompetitive policies and practices of such non-Parties. The working group may also promote the exchange of information between the Parties regarding specific proposed or final technical regulations, standards, and conformity assessment procedures of the Parties, as well as systemic issues, with a view to fostering a common approach. The working group may convene, as necessary, in advance of any multilateral or regional meeting where common approaches on third party issues can be discussed.

5. Unless the Parties decide otherwise, this Standards Committee shall meet at least once a year.

6. The Standards Committee may establish and determine the scope and mandate of additional working groups to carry out its functions, and may invite, as appropriate, representatives of non-governmental bodies to participate in a working group.

7. To determine what activities the Standards Committee will undertake, it shall consider work that is being undertaken in other forums, with a view to ensuring that any activities undertaken by the Committee do not unnecessarily duplicate that work.

#### **Article XX.12: Contact Points**

1. Each Party shall designate a contact point for matters arising under this Chapter in accordance with Article 7.7 (Exceptions and General Provisions). A Party shall promptly notify

the other Party of any change of its contact point or the details of the relevant officials.

2. The functions of each contact point shall include:

- (a) communicating with the other Party's contact point, including facilitating discussions, requests and the timely exchange of information on matters arising under this Chapter;
- (b) communicating with and coordinating the involvement of relevant central level authorities, including regulatory authorities, of the Party on relevant matters pertaining to this Chapter;
- (c) consulting and, if appropriate, coordinating with interested persons in the territory of the Party it represents on relevant matters pertaining to this Chapter; and
- (d) carrying out any additional responsibilities specified by the Standards Committee.