

Chapter 6 Mutual Recognition

Article 60 General Obligations

1. Each Party shall, in accordance with the provisions of this Chapter, permit participation of conformity assessment bodies of the other Party, in the system of the former Party providing for conformity assessment procedures and shall accept the results of conformity assessment procedures required by its applicable laws, regulations and administrative provisions specified in the relevant Sectoral Annex, including certificates of conformity, that are conducted by the conformity assessment bodies of the other Party registered by the Registering Authority of the former Party.

2. Where a license is required by a Party in addition to certificates of conformity referred to in paragraph 1 above, for using marks of conformity, such license shall be issued immediately and unconditionally upon submission of application for a license so as not to be used as a means of avoiding obligations referred to in paragraph 1 above.

Article 61 Scope and Coverage

1. This Chapter applies to registration of conformity assessment bodies and conformity assessment procedures for products or processes covered by the Sectoral Annex. The Sectoral Annex shall be attached to this Agreement as Annex 4 and may consist of Part 1 and Part 2.

2. Part 1 of the Sectoral Annex shall include, *inter alia*, provisions on scope and coverage.

3. Part 2 of the Sectoral Annex shall set out the following matters:

- (a) the applicable laws, regulations and administrative provisions of each Party stipulating the products covered by this Chapter;
- (b) the applicable laws, regulations and administrative provisions of each Party stipulating the technical requirements covered by this Chapter and the conformity assessment procedures covered by this Chapter to satisfy such requirements;

- (c) the applicable laws, regulations and administrative provisions of each Party stipulating the criteria for registration of conformity assessment bodies; and
- (d) the list of Registering Authorities.

Article 62
Definitions

1. For the purposes of this Chapter:

- (a) the term "certificates of conformity" means documents issued by registered or accredited conformity assessment bodies as a result of conformity assessment procedures, stating that products or processes fulfill relevant technical requirements set out in the applicable laws, regulations and administrative provisions of a Party specified in the relevant Sectoral Annex;
- (b) the term "conformity assessment bodies" means bodies which conduct conformity assessment procedures;
- (c) the term "conformity assessment bodies of the other Party" means conformity assessment bodies located in the other Party;
- (d) the term "conformity assessment procedures" means procedures to determine, directly or indirectly, whether products or processes fulfill relevant technical requirements set out in the applicable laws, regulations and administrative provisions of a Party specified in the relevant Sectoral Annex;
- (e) the term "criteria for registration" means the criteria which conformity assessment bodies of a Party are required to fulfill in order to be registered or accredited by the Registering Authority of the other Party, and other relevant conditions which conformity assessment bodies registered or accredited by the Registering Authority of the other Party are required to continuously fulfill after the registration or accreditation, as set out in the applicable laws, regulations and administrative provisions of that other Party specified in the relevant Sectoral Annex;

- (f) the term "entities of the other Party" means entities located in the other Party;
- (g) the term "Registering Authority" means an authority of a Party which is authorized to register or accredit the conformity assessment bodies of the other Party and withdraw such registration or accreditation in accordance with the applicable laws, regulations and administrative provisions of the former Party specified in the relevant Sectoral Annex; and
- (h) the term "registration" means the registration or accreditation of conformity assessment bodies of a Party by the Registering Authority of the other Party pursuant to the applicable laws, regulations and administrative provisions of that other Party specified in the relevant Sectoral Annex.

2. Any term used in this Chapter, unless otherwise defined herein, has the meaning assigned to it in the ISO/IEC Guide 2: 1996 Edition, "Standardization and related activities - General vocabulary".

Article 63
Registration and Withdrawal
of Registration of Conformity Assessment Bodies

- 1. (a) The Registering Authority of a Party shall register the conformity assessment bodies of the other Party in accordance with the applicable laws, regulations and administrative provisions of the former Party specified in the relevant Sectoral Annex, where the conformity assessment bodies which apply for registration fulfill the criteria for registration of the former Party set out in its applicable laws, regulations and administrative provisions specified in the relevant Sectoral Annex.
- (b) The Registering Authority of a Party may withdraw the registration of the conformity assessment bodies of the other Party, where the conformity assessment bodies no longer fulfill the criteria for registration of the former Party set out in its applicable laws, regulations and administrative provisions specified in the relevant Sectoral Annex.

2. (a) For the purposes of confirming the fulfillment of the criteria for registration by conformity assessment bodies of the other Party, the Registering Authority of a Party may:

- (i) make inquiries by means of written questionnaires to the conformity assessment bodies of the other Party or during the visit referred to in subparagraph (ii) below;
- (ii) conduct visit on the premises of the conformity assessment bodies of the other Party on the condition that such other Party do not object to such visit and the conformity assessment bodies concerned give consent to such visit and, if such other Party so requests, officials of the Registering Authority of such other Party join the visit; and
- (iii) have its officials to accompany conformity assessment bodies of the other Party applying for registration as an observer where those bodies carry out, as part of the conformity assessment procedures, conformity assessment activities at the premises of entities of the other Party subject to such activities on the condition that such other Party do not object to such accompaniment and the entities and conformity assessment bodies concerned give consent to such accompaniment and, if such other Party so requests, officials of the Registering Authority of such other Party join the accompaniment.

Note: If no objection is communicated to the Registering Authority concerned within ten (10) days or a period specified by such Registering Authority, whichever is longer, from the receipt of the request for the visit or the accompaniment, as the case may be, it shall be understood that no objection was made.

(b) The Registering Authority of a Party shall immediately communicate to the other Party whenever it sends questionnaires referred to in subparagraph (a)(i) above.

- (c) The visit and accompaniment referred to in subparagraphs (a)(ii) and (a)(iii) above respectively shall be carried out in a manner not inconsistent with the laws and regulations of the Party where the visit and accompaniment take place.
- (d) The Party shall use the information obtained by its Registering Authority in connection with such inquiries, visit or accompaniment as an observer only for the purposes referred to in subparagraph (a) above.

3. The Registering Authority of a Party may withdraw the registration of the conformity assessment bodies of the other Party, where the inquiries specified in subparagraph 2(a)(i) above are not responded to without valid reasons or are responded to falsely, or the other Party object to the visit or the conformity assessment bodies concerned do not give consent referred to in subparagraph 2(a)(ii) above, or the visit specified in subparagraph 2(a)(ii) above is refused, obstructed or evaded.

Article 64 Sub-Committee on Mutual Recognition

1. For purposes of the effective implementation and operation of this Chapter, a Sub-Committee on Mutual Recognition (hereinafter referred to in this Article as "the Sub-Committee") shall be established pursuant to Article 13.

2. The functions of the Sub-Committee shall be:

- (a) exchanging information on standards and conformity assessment procedures;
- (b) reviewing the implementation and operation of this Chapter;
- (c) examining the possibility of negotiating on additional products or processes for mutual recognition;
- (d) discussing any issues related to this Chapter, including ways to promote cooperation on standards and conformity assessment procedures between the Parties in view of the effective implementation and operation of this Chapter;

- (e) reporting the findings of the Sub-Committee to the Joint Committee; and
- (f) performing other functions as may be delegated by the Joint Committee pursuant to Article 13.

Article 65 Operational Procedures on Mutual Recognition

Upon the date of entry into force of this Agreement, the Joint Committee shall adopt the Operational Procedures on Mutual Recognition that provide detailed regulations pursuant to which the Registering Authorities shall implement their functions under this Chapter.

Article 66 General Exceptions

Nothing in this Chapter shall be construed to limit the authority of a Party to take measures it considers appropriate, for protecting health, safety or the environment or prevention of deceptive practices.

Article 67 Miscellaneous Provisions

1. Nothing in this Chapter shall be construed to authorize a Party to take compulsory measures against the conformity assessment bodies of the other Party or entities of the other Party subject to conformity assessment procedures, or against their representatives, employees and other personnel. It is confirmed that each Party shall not impose any criminal, civil or administrative penalty on the conformity assessment bodies of the other Party or entities of the other Party subject to conformity assessment procedures, or on their representatives, employees and other personnel in connection with this Chapter.
2. Nothing in this Chapter shall be construed so as to oblige a Party to accept the standards of the other Party.
3. Nothing in this Chapter shall be construed so as to affect the rights and obligations that either Party has as a party to the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement.

Article 68 Confidentiality

1. Each Party shall maintain, in accordance with its laws and regulations, the confidentiality of information provided to it as confidential pursuant to this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information.

2. Information obtained pursuant to this Chapter shall not be used by a Party in any criminal proceedings carried out by a court or a judge, unless the information is requested to the other Party and provided to the former Party, through the diplomatic channels or other channels established in accordance with the applicable laws of the requested Party.

Article 69 Sectoral Annex

If a Party introduces new or additional conformity assessment procedures within the same product coverage to satisfy the technical requirements set out in the applicable laws, regulations and administrative provisions specified in the relevant Sectoral Annex, Part 2 of the Sectoral Annex shall be amended to set out the applicable laws, regulations and administrative provisions stipulating such new or additional conformity assessment procedures, in accordance with the procedures set out in paragraph 2 of Article 163.

Chapter 7 Trade in Services

Article 70 Scope and Coverage

1. This Chapter shall apply to measures by a Party affecting trade in services.

2. This Chapter shall not apply to:

- (a) in respect of air transport services, measures affecting traffic rights, however granted; or to measures affecting services directly related to the exercise of traffic rights, other than measures affecting:

- (i) aircraft repair and maintenance services;