

Article 43
Review of Realisation of Paperless Trading

The Parties shall review as soon as possible, and in any case, not later than 2004, how to realise paperless trading in which electronic trade-related information and electronic versions of relevant documents exchanged between enterprises of the Parties through the Facilities may be used as supporting documents by the trade regulatory bodies of the respective Parties.

Article 44
Joint Committee on Paperless Trading

1. For the purposes of effective implementation of this Chapter, a Joint Committee on Paperless Trading (hereinafter referred to in this Article as "the Committee") shall be established. The functions of the Committee shall be:

- (a) reviewing and discussing issues concerning the effective implementation of this Chapter;
- (b) exchanging views and information on paperless trading; and
- (c) discussing other issues relating to paperless trading.

2. The composition of the Committee shall be specified in the Implementing Agreement.

CHAPTER 6
MUTUAL RECOGNITION

Article 45
Definitions under Chapter 6

1. For the purposes of this Chapter:

- (a) the term "conformity assessment procedure" means any procedure to determine, directly or indirectly, whether products or processes fulfil relevant technical requirements set out in the applicable laws, regulations and administrative provisions of a Party;
- (b) the term "conformity assessment body" means a body which conducts conformity assessment procedure, and the term "registered conformity assessment body" means the conformity assessment body registered pursuant to Article 53;

- (c) the term "designation" means the designation of conformity assessment bodies by a Designating Authority of a Party pursuant to the applicable laws, regulations and administrative provisions of that Party;
- (d) the term "Designating Authority" means an authority of a Party with the power to designate, monitor, withdraw the designation of, suspend the designation of, and withdraw the suspension of the designation of the conformity assessment bodies in its territory that conduct conformity assessment procedures based upon requirements set out in the applicable laws, regulations and administrative provisions of the other Party;
- (e) the term "criteria for designation" means the criteria which conformity assessment bodies of a Party are required to fulfil in order to be designated by the Designating Authority of that Party, and other relevant conditions which designated conformity assessment bodies are required to continuously fulfil after the designation, as set out in the applicable laws, regulations and administrative provisions of the other Party specified in the relevant Sectoral Annex; and
- (f) the term "verification" means an action to verify in the territories of the Parties, by such means as audits or inspections, compliance with the criteria for designation by a conformity assessment body.

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, "Standardisation and related activities - General vocabulary".

Article 46 General Obligations

Each Party shall accept, in accordance with the provisions of this Chapter, the results of conformity assessment procedures required by the applicable laws, regulations and administrative provisions of that Party specified in the relevant Sectoral Annex, including certificates and marks of conformity, that are conducted by the registered conformity assessment bodies of the other Party.

Article 47
Scope of Chapter 6

1. This Chapter applies to designation of conformity assessment bodies and conformity assessment procedures for products or processes covered by its Sectoral Annexes. Sectoral Annexes may consist of Part A and Part B. Sectoral Annexes are attached to this Agreement as Annex III.
2. Part A of Sectoral Annexes shall include, inter alia, provisions on scope and coverage.
3. Part B of Sectoral Annexes shall set out the following matters:
 - (a) the applicable laws, regulations and administrative provisions of each Party concerning the scope and coverage;
 - (b) the applicable laws, regulations and administrative provisions of each Party stipulating the requirements covered by this Chapter, all the conformity assessment procedures covered by this Chapter to satisfy such requirements and the criteria for designation of conformity assessment bodies; and
 - (c) the list of Designating Authorities.

Article 48
Designating Authorities

Each Party shall ensure that Designating Authorities have the necessary power to designate, monitor (including verification), withdraw the designation of, suspend the designation of and withdraw the suspension of the designation of the conformity assessment bodies that conduct conformity assessment procedures based upon the requirements set out in the applicable laws, regulations and administrative provisions of the other Party specified in the relevant Sectoral Annex.

Article 49
Verification and Monitoring
of Conformity Assessment Bodies

1. Each Party shall ensure, through appropriate means such as audits, inspections or monitoring, that the registered conformity assessment bodies fulfil the criteria for designation set out in the applicable laws, regulations and administrative provisions of the other Party specified in the relevant Sectoral Annex. When applying the criteria for designation of the conformity assessment bodies, Designating Authorities of a Party should take into account the bodies' understanding of and experience relevant to the requirements set out in the applicable laws, regulations and administrative provisions of the other Party.

2. Each Party may request the other Party, by indicating in writing a reasoned doubt on whether a registered conformity assessment body complies with the criteria for designation set out in the applicable laws, regulations and administrative provisions specified in the relevant Sectoral Annex, to conduct verification of the conformity assessment body in accordance with the laws, regulations and administrative provisions of that other Party.

3. Each Party may, upon request, participate as an observer in the verification of conformity assessment bodies conducted by the Designating Authorities of the other Party, with the prior consent of such conformity assessment bodies, in order to maintain a continuing understanding of that other Party's procedures for verification.

4. The Parties shall, in accordance with the procedures to be determined by the Joint Committee on Mutual Recognition (hereinafter referred to in this Chapter as "the Committee") to be established pursuant to Article 52, exchange information on methods, including accreditation systems, used to designate the conformity assessment bodies and to ensure that the registered conformity assessment bodies fulfil the criteria for designation.

5. Each Party should encourage its registered conformity assessment bodies to co-operate with the conformity assessment bodies of the other Party.

Article 50 Suspension of Designation

1. In case of suspension of the designation of a registered conformity assessment body, the Party whose Designating Authority has suspended the designation shall immediately notify the other Party and the Committee to that effect. The registration of that conformity assessment body shall be suspended from the time of receipt of the notification by the co-chairman of that other Party on the Committee. The other Party shall accept the results of the conformity assessment procedures conducted by that conformity assessment body prior to the suspension of the designation.

2. In case of lifting of the suspension of the designation of a registered conformity assessment body, the Party whose Designating Authority has lifted the suspension of the designation shall immediately notify the other Party and the Committee to that effect. The suspension of the registration of that conformity assessment body shall be lifted from the time of receipt of the notification by the co-chairman of that other Party on the Committee. The other Party shall accept the results of the conformity assessment procedures conducted by that conformity assessment body from the time of lifting of the suspension of the registration.

Article 51 Contestation

1. Each Party may contest the compliance with the criteria for designation set out in the applicable laws, regulations and administrative provisions specified in the relevant Sectoral Annex by a registered conformity assessment body of the other Party. Such contestation shall be notified to the Committee and to that other Party in writing with an objective explanation of the reason for the contestation. The Committee shall discuss such contestation within 20 days following the date on which such notification is made.

2. Where the Committee decides to conduct a joint verification, it will be conducted in a timely manner by the Parties with the participation of the Designating Authority that designated the contested conformity assessment body and with the prior consent of the conformity assessment body. The result of such joint verification shall be discussed in the Committee with a view to resolving the issue as soon as possible.

3. The registration of the contested conformity assessment body shall be suspended 15 days after the date on which the notification is made or on the date on which the Committee decides to suspend the registration, whichever is the sooner. The registration of the contested conformity assessment body shall remain suspended until the Committee decides to lift the suspension of the registration of the conformity assessment body. In the event of such suspension, the contesting Party shall accept the results of conformity assessment procedures conducted by that conformity assessment body prior to the date of suspension.

Article 52 Joint Committee on Mutual Recognition

1. A Joint Committee on Mutual Recognition (referred to in this Chapter as "the Committee"), made up of representatives of both Parties, shall be established on the date of entry into force of this Agreement, as a body responsible for the effective implementation of this Chapter.

2. The Committee shall take decisions and adopt recommendations by consensus. It shall meet at the request of either Party under the co-chairmanship of both Parties. The Committee may establish sub-committees and delegate specific tasks to such sub-committees. It shall adopt its rules of procedure.

3. The Committee may consider any matter related to the operation of this Chapter. In particular, it shall be responsible for and/or decide on:

- (a) registration of a conformity assessment body, suspension of registration of a conformity assessment body, lifting of suspension of registration of a conformity assessment body, and termination of registration of a conformity assessment body;
- (b) establishment and, unless otherwise decided, publication on a sector-by-sector basis of lists of the registered conformity assessment bodies;
- (c) establishment of appropriate modalities of information exchange referred to in this Chapter; and

- (d) appointment of experts from each Party for the joint verification referred to in paragraph 2 of Article 51 above and sub-paragraph (c) of paragraph 1 of Article 53 below.
- 4. Without prejudice to Chapter 21, if any problem arises as to the interpretation or application of this Chapter, the Parties shall, first of all, seek an amicable solution through the Committee.
- 5. The Committee is responsible for co-ordinating and facilitating the negotiation of additional Sectoral Annexes.
- 6. Any decision made by the Committee will be notified promptly in writing to each Party.
- 7. The Parties shall, through the Committee:
 - (a) specify and communicate to each other the applicable articles or annexes contained in the laws, regulations and administrative provisions set out in the Sectoral Annexes;
 - (b) exchange information concerning the implementation of the applicable laws, regulations and administrative provisions specified in the Sectoral Annexes;
 - (c) notify each other of any scheduled changes in the laws, regulations and administrative provisions related to this Chapter prior to their entry into force; and
 - (d) notify each other of any scheduled changes concerning their Designating Authorities and the registered conformity assessment bodies.

Article 53 Registration of Conformity Assessment Bodies

- 1. The following procedure shall apply to the registration of a conformity assessment body:
 - (a) each Party shall make a proposal that a conformity assessment body of that Party designated by its Designating Authority be registered under this Chapter, by presenting its proposal in writing, supported by necessary documents, to the other Party and the Committee;

- (b) the other Party shall consider whether the proposed conformity assessment body complies with the criteria for designation set out in the applicable laws, regulations and administrative provisions of that other Party specified in the relevant Sectoral Annex and indicate its position regarding the registration of that conformity assessment body within 90 days from the receipt of the proposal referred to in sub-paragraph (a) above. In such consideration, such other Party should assume that the proposed conformity assessment body complies with the aforementioned criteria. The Committee shall take a decision whether to register the proposed conformity assessment body within 90 days from the receipt of the proposal; and
- (c) in the event that the Committee cannot decide to register the proposed conformity assessment body, the Committee may decide to conduct a joint verification or to request the proposing Party to conduct a verification of the proposed body with the prior consent of such body. After the completion of such verification, the Committee may reconsider the proposal.

2. The proposing Party shall provide the following information in its proposal for registration of a conformity assessment body and keep such information up to date:

- (a) the name and address of the conformity assessment body;
- (b) the products or processes the conformity assessment body is authorised to assess;
- (c) the conformity assessment procedures the conformity assessment body is authorised to conduct; and
- (d) the designation procedure and necessary information used to determine the compliance of the conformity assessment body with the criteria for designation.

3. Each Party shall ensure that its Designating Authority withdraws the designation of a registered conformity assessment body when the Designating Authority considers that the conformity assessment body no longer complies with the criteria for designation set out in the applicable laws, regulations and administrative provisions of the other Party specified in the relevant Sectoral Annex.

4. Each Party shall propose the termination of the registration of its conformity assessment body when that Party considers that the conformity assessment body no longer complies with the criteria for designation set out in the applicable laws, regulations and administrative provisions of the other Party specified in the relevant Sectoral Annex, or the Designating Authority of that Party withdraws the designation of a conformity assessment body. Proposals for terminating the registration of that conformity assessment body shall be made to the Committee and the other Party. The registration of that conformity assessment body shall be terminated upon receipt of the proposal by the co-chairman of that other Party on the Committee, unless otherwise determined by the Committee.

5. In the case of a registration of a new conformity assessment body, the other Party shall accept the results of conformity assessment procedures conducted by that conformity assessment body from the date of the registration. In the event that the registration of a conformity assessment body is terminated, the other Party shall accept the results of the conformity assessment procedures conducted by that conformity assessment body prior to the termination, without prejudice to paragraph 1 of Article 50 and paragraph 3 of Article 51.

Article 54 General Exceptions under Chapter 6

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 55 Miscellaneous Provisions under Chapter 6

1. Nothing in this Chapter shall be construed so as to oblige a Party to accept the standards or technical regulations of the other Party.

2. Nothing in this Chapter shall be construed to entail an obligation upon a Party to accept the result of the conformity assessment procedures of any third country.

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.

4. Nothing in this Chapter shall be construed so as to prevent a Party from requiring a filing formality of products assessed by a registered conformity assessment body of the other Party under this Chapter, provided that such formality does not constitute conformity assessment procedures.

Article 56 Territorial Application

This Chapter shall apply to the territory of Japan and to the territory of the Republic of Singapore (hereinafter referred to in this Agreement as "Singapore").

Article 57 Sectoral Annexes

1. In case of conflict between the provisions of Part A of a Sectoral Annex and Articles 45 to 57, the provisions of Part A of the Sectoral Annex shall prevail.

2. If a Party introduces new or additional conformity assessment procedures within the same product coverage to satisfy the requirements set out in the applicable laws, regulations and administrative provisions specified in the relevant Sectoral Annex, Part B 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 Article 151.