

Chapter 6 Mutual Recognition

Article 62 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 Annex 4, including certificates of conformity, which are conducted by the conformity assessment bodies of the other Party registered or designated by the Registering Authority or Designating Authority of the former Party with respect to the products manufactured in the other Party and imported therefrom into the former Party.

2. Where a licence is required by a Party in addition to certificates of conformity referred to in paragraph 1 above, for using marks of conformity, such licence shall be issued without delay upon submission of application for a licence so as not to be used as a means of avoiding obligations under paragraph 1 above.

Article 63 Scope and Coverage

1. This Chapter applies to registration or designation of conformity assessment bodies and conformity assessment procedures for products or processes covered by Annex 4. Annex 4 may consist of Part 1 and Part 2.

2. Part 1 of Annex 4 shall include, *inter alia*, provisions on scope and coverage.

3. Part 2 of Annex 4 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 or designation of conformity assessment bodies; and
- (d) the list of Registering Authorities or Designating Authorities.

Article 64
Definitions

1. For the purposes of this Chapter:

- (a) the term “certificates of conformity” means documents issued by registered or designated conformity assessment bodies as a result of conformity assessment procedures, which state that products and/or processes fulfill relevant technical requirements set out in the applicable laws, regulations and administrative provisions of a Party specified in Annex 4;
- (b) the term “conformity assessment bodies” means bodies which conduct conformity assessment procedures and issue certificates of conformity;
- (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 any 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 Annex 4;
- (e) the term “criteria for registration or designation” means the criteria which conformity assessment bodies of a Party are required to fulfill in order to be registered or designated by the Registering Authority or Designating Authority of the other Party, and other relevant conditions which conformity assessment bodies registered or designated by the Registering Authority or Designating Authority of the other Party are required to continuously fulfill after the registration or designation, as set out in the applicable laws, regulations and administrative provisions of that other Party specified in Annex 4;

- (f) the term "licence", in case of Thailand, means a document issued by the Industrial Product Standards Council to permit the licensee to import for sale in Thailand, products which are required by the applicable Royal Decree to conform to the Thai Industrial Standard;
- (g) the term "Registering Authority or Designating Authority" means an authority of a Party which is authorised to register or designate the conformity assessment bodies of the other Party and withdraw such registration or designation in accordance with the applicable laws, regulations and administrative provisions of the former Party specified in Annex 4; and
- (h) the term "registration or designation" means the registration or designation of conformity assessment bodies of a Party by the Registering Authority or Designating Authority of the other Party pursuant to the applicable laws, regulations and administrative provisions of that other Party specified in Annex 4.

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 65

Registration or Designation of Conformity Assessment Bodies and Withdrawal thereof

- 1. (a) The Registering Authority or Designating Authority of a Party shall register or designate the conformity assessment bodies of the other Party in accordance with the applicable laws, regulations and administrative provisions of the former Party specified in Annex 4, where the conformity assessment bodies which apply for registration or designation fulfill the criteria for registration or designation of the former Party set out in its applicable laws, regulations and administrative provisions specified in Annex 4.

- (b) The Registering Authority or Designating Authority of a Party may withdraw the registration or designation of the conformity assessment bodies of the other Party, where the conformity assessment bodies no longer fulfill the criteria for registration or designation of the former Party set out in its applicable laws, regulations and administrative provisions specified in Annex 4.
- 2. (a) For the purposes of confirming the fulfillment of the criteria for registration or designation by conformity assessment bodies of the other Party, the Registering Authority or Designating Authority of a Party may:
 - (i) make enquiries by means of written questionnaires to the conformity assessment bodies of the other Party or during the visit referred to in subparagraph (ii) below; and
 - (ii) conduct visit on the premises of the conformity assessment bodies of the other Party on the condition that such other Party does 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 or Designating Authority of such other Party join the visit.

Note: If no objection is communicated to the Registering Authority or Designating Authority of the former Party within 14 days or a period specified by such Registering Authority or Designating Authority, whichever is longer, from the date of receipt of the request for the visit, it shall be deemed that no objection was made.

- (b) The Registering Authority or Designating Authority of a Party shall immediately notify the other Party upon making enquiries by means of written questionnaires referred to in subparagraph (a)(i) above.
- (c) The visit referred to in subparagraph (a)(ii) above shall be carried out in a manner not inconsistent with the laws and regulations of the Party where the visit takes place.

- (d) A Party shall use the information obtained by its Registering Authority or Designating Authority in connection with such enquiries or visit only for the purposes referred to in subparagraph (a) above.

3. The Registering Authority or Designating Authority of a Party may withdraw the registration or designation of the conformity assessment bodies of the other Party, where the enquiries specified in subparagraph 2(a)(i) above are not responded to without valid reasons or are responded to falsely, or the other Party objects 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 66 Sub-Committee on Mutual Recognition

1. For the purposes of the effective implementation and operation of this Chapter, a Sub-Committee on Mutual Recognition (hereinafter referred to in this Article as "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, in view of further enhancement of capabilities of each Party's conformity assessment bodies to conduct conformity assessment procedures required by the other Party's applicable laws, regulations and administrative provisions specified in Annex 4;
- (b) discussing ways to promote cooperation between the Parties in view of the effective implementation and operation of this Chapter;
- (c) reviewing the implementation and operation of this Chapter;
- (d) discussing any other issues related to this Chapter as may be agreed upon;
- (e) reporting the findings of the Sub-Committee to the Joint Committee; and
- (f) carrying out other functions which may be delegated by the Joint Committee pursuant to Article 13.

Article 67 Contact Points

Each Party shall designate a contact point to answer all reasonable enquiries related to this Chapter from the other Party and, where appropriate, to provide the other Party with the relevant information.

Article 68 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 for preventing deceptive practices.

Article 69 Miscellaneous Provisions

1. Nothing in this Chapter shall be construed to authorise a Party to take compulsory measures to the conformity assessment bodies of the other Party or on the representatives, employees and other personnel of such bodies. It is confirmed that each Party shall not impose any criminal, civil or administrative penalties on the conformity assessment bodies of the other Party or on their representatives, employees and other personnel in connection with this Chapter.

Note: The term "administrative penalties" does not include the withdrawal of registration or designation referred to in Article 65.

2. Nothing in this Chapter shall be construed to oblige a Party to accept the standards of the other Party.

3. Nothing in this Chapter shall be construed to affect the rights and obligations of either Party under the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement, as may be amended.

Article 70 Confidentiality

1. Each Party shall maintain, in accordance with its laws and regulations, the confidentiality of information provided to it in confidence 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 from 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.

Chapter 7 Trade in Services

Article 71 General Principles

The general principles of this Chapter are:

- (a) to liberalise trade in services between the Parties, in accordance with third paragraph of the preamble and Article V of the GATS; and
- (b) to provide a framework for the Parties to improve the efficiency, competitiveness and diversity of services and service suppliers.

Article 72 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 measures affecting services directly related to the exercise of traffic rights, other than measures affecting:
 - (i) aircraft repair and maintenance services;
 - (ii) the selling and marketing of air transport services; and
 - (iii) computer reservation system services;
- (b) cabotage in maritime transport services;
- (c) subsidies or grants provided by a Party or a state enterprise thereof, including government-supported loans, guarantees, insurance and any conditions attached to the receipt or continued receipt of such subsidies or grants;