

## **CODE OF GOOD PRACTICE FOR THE ACCREDITATION OF CONFORMITY ASSESSMENT BODIES**

### Contribution from Australia

#### **I. INTRODUCTION**

1. The globalization of industry has resulted in a tremendous increase in the trade of goods and services across national borders. One problem still faced by international traders has been the lack of acceptance by importing authorities of tests undertaken by foreign conformity assessment bodies. This problem has been exacerbated by the explosion of technological advancement that has occurred since the second world war. The level of technical requirements and specifications associated with many goods and services are causing major log jams for domestic regulatory agencies.

2. The Committee on Technical Barriers to Trade acknowledged this developing situation in the TBT Agreement and sought to offer a solution to Members to alleviate this problem. *Article 6* of the Agreement requires that:

“Members shall ensure, whenever possible, that results of conformity assessment procedures in other Members are accept, even when those procedures differ from their own, provided they are satisfied those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to their own procedures”.

3. Conformity assessment procedures have historically been undertaken by testing and certification agencies linked to governments. As budgetary pressures have forced governments to redefine their role, the private sector is increasingly undertaking a number of these services on a user pays basis. This is particularly so in the case of laboratory testing and certification of products and quality management systems, where a global accreditation network is evolving that will enable the results of these services to be recognized around the world. How has this been made possible? Though the process of accreditation.

4. The accreditation of conformity assessment bodies to internationally recognized standards provides the necessary confidence to the authorities of importing countries, that foreign conformity assessment bodies have the necessary technical competence to undertake tests for which they are accredited. Equity and transparency of procedures are other areas that importing authorities need have confidence in when accepting test reports and certificates from foreign conformity assessment bodies. Adopting a system based on an agreed code of good practice for accrediting conformity assessment bodies is one approach to underpinning these principles.

5. In adopting a code of good practice for accreditation of conformity assessment, accreditation bodies around the world make use of internationally recognized standards and guides which address the issues of competence, equity and transparency. These standards and guides form the basis by which accreditation bodies operate and by participating in peer assessment programs ensure there is a high degree of uniformity functioning around the world.

6. The adoption of a code of good practice for accreditation of conformity assessment bodies enables the establishment of mutual recognition agreements (MRA), also encouraged in *Article 6* of the TBT Agreement. Mutual recognition arrangements are intended to reduce the level of duplicative testing and certification that currently occurs for exports going to multiple economies. At present, many countries still require foreign products and services to be tested locally even where standards and conformance requirements are equivalent and regulatory regimes similar. These policies unnecessarily increase costs and time delays for manufacturers seeking to enter those markets. For products with a relatively short market life, for example high technology products, the additional time delays associated with multiple product tests can severely impact on consumer's access to new products.

7. In addition to reducing the cost burden on industry and consumers, mutual recognition arrangements can reduce the burden on regulatory agencies as the need for re-testing or re-certification of imported products is reduced. Also, the adoption of international standards and guides for conformity assessment will lead to a more competitive delivery of conformity assessment services across national borders, resulting in lower regulatory compliance costs for industry. Lower compliance costs should facilitate an increase in trade between Members, thereby offering consumers a greater variety of goods and services resulting from a cost-efficient and competitive environment. This new global trading environment, should over time, raise the standard of living in WTO Members.

## **II. DRAFT CODE OF GOOD PRACTICE FOR THE ACCREDITATION OF CONFORMITY ASSESSEMENT BODIES**

### **GENERAL PROVISIONS**

- A. For the purposes of this Code, the definitions in Annex 1 of this Agreement shall apply.
- B. This Code is a voluntary code applicable to those Members of the WTO who use accreditation of conformity assessment bodies as part of their regulatory regime or as a voluntary process.
- C. This Code is open to acceptance by any accreditation body within the territory of a Member of the WTO, whether a central government body, a local government body, or a non-governmental body; to any governmental regional accreditation body one or more members of which are Members of the WTO, and to any non-governmental regional accreditation body one or more members of which are situated within the territory of a Member of the WTO (referred to in this Code collectively as 'accreditation bodies' and individually as 'accreditation body').
- D. Accreditation bodies that have accepted or withdrawn from this Code shall notify this fact to the [Committee on Technical Barriers to Trade] in Geneva. The notification shall include the name and address of the body concerned and its current and expected accreditation activities. The notification may be sent either directly to the [Committee on Technical Barriers to Trade], or through the central government body of the WTO Member in whose territory the accreditation body is situated.

### **SUBSTANTIVE PROVISIONS**

- E. Where accreditation bodies accept applications for accreditation from applicants situated or registered in the territory of any other Member of the WTO, they shall accord treatment no less favourable than that accorded to like applications from national applicants, and to applications from applicants in any other country.

- F. Accreditation bodies shall ensure that accreditation procedures are not prepared, adopted or applied with the view to, or with the effect of, creating unnecessary obstacles to international trade.
- G. Accreditation of conformity assessment practices should be based on international standards and guides including, but not limited to:
- ISO/IEC Guide 61 or 58 or ISO/IEC TR 17010 for accreditation bodies; and
- ISO/IEC Guide 25, 62, 65, 66 or ISO/IEC 17025 for accredited bodies, as amended from time to time.
- H. With a view to harmonizing conformity assessment practices and criteria on as wide a basis as possible, the accreditation body shall, in an appropriate way, play a full part, within the limits of its resources, in the preparation by relevant international standardizing bodies of international standards for accreditation procedures and criteria. For accreditation bodies within the territory of a Member of the WTO, participation in a particular international standardization activity shall, whenever possible, take place through one delegation representing all accreditation bodies in the territory that have adopted, or expect to adopt, standards for the subject matter to which the international standardization activity relates.
- I. Accreditation bodies should take steps to ensure that all conformity assessment bodies accredited by them:
- (i) prepare, adopt and apply conformity assessment procedures which grant access for suppliers of like products originating in the territories of other Members under conditions no less favorable than those accorded to suppliers of like products of national origin or originating in any other country, in a comparable situation;
  - (ii) do not prepare, adopt or apply conformity assessment procedures with a view to or with the effect of creating unnecessary obstacles to international trade;
  - (iii) undertake and complete conformity assessment procedures as expeditiously as possible and in a no less favorable order for products originating in the territories of other Members than for like domestic products;
  - (iv) communicate the anticipated processing period to any applicants on request; when receiving an application, the conformity assessment body promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of all deficiencies; the conformity assessment body transmits as soon as possible the results of the assessment in a precise and complete manner to the applicant so that corrective action may be taken if necessary; even when the application has deficiencies, the conformity assessment body proceeds as far as practicable with the conformity assessment if the applicant so requests; and that, upon request, the applicant is informed of the stage of the procedure, with any delay being explained;
  - (v) limit their information requirements to what is necessary to assess conformity or competency and determine fees;
  - (vi) impose fees for assessing the conformity of products, processes or services originating in the territories of other Members that are equitable in relation to any fees chargeable for assessing the conformity of like products, processes or services of national origin or originating in any other country, taking into account communication, transportation and other costs arising from differences between location of facilities of the applicant and the conformity assessment body;
  - (vii) have a procedure to review complaints concerning the operation of a conformity assessment body and to take corrective action when a complaint is justified.

- J. On the request of any interested party within the territory of a Member of the WTO, accreditation bodies shall publish, or make available, a list of the conformity assessment bodies accredited by them. The list should include the names of the accredited conformity assessment bodies, their contact details and the scope of their accreditations. Any fees charged for this service shall, apart from the real cost of delivery, be the same for foreign and domestic parties.
- K. Accreditation bodies in the territory of a WTO Member are encouraged to enter into mutual recognition arrangements with accreditation bodies in the territory of any other Member of the WTO for the results of conformity assessment activities undertaken by accredited conformity assessment bodies in either territory.

It is recognized that prior consultations may be necessary to arrive at a satisfactory understanding of:

- (i) each other's criteria and practices to ensure the technical competence and reliability of accredited conformity assessment bodies; and
  - (ii) any limitations of the acceptance of accredited conformity assessment results within either territory.
- L. In regard to establishing the confidence in the technical competence of the conformity assessment bodies accredited by them, accreditation bodies are encouraged to participate in confidence building programs organized or recognized by the relevant regional or international body.

### **III. EXPLANATORY PAPER**

#### **General Provisions of Code**

8. (A,B,C,D) The general provisions states that this Code is open to all government and non-government bodies of WTO Members on a voluntary basis. It is important to include the non-government bodies as many WTO Members utilise private sector bodies to underpin their regulatory system. This Code is only applicable to WTO Members who currently, or intend to in the future, use accreditation of conformity assessment bodies as part of their regulatory regime.

9. As the Code is voluntary in nature, WTO Members are able to adopt or withdraw from it at any time. This will enable WTO Members to sign on to the Code, if and when their own technical infrastructure is ready.

#### **Substantive Provisions**

10. (E) Accreditation bodies from one WTO Member should apply the WTO principle of national treatment to conformity assessment bodies of other WTO Members.

11. (F,G) Accreditation bodies should be encouraged to adopt uniform internationally recognized procedures that will allow the timely acceptance of test reports and certification procedures to facilitate trade across national borders.

12. (H) Accreditation bodies should be encouraged to participate in the development of standards related to conformity assessment procedures. This will enable WTO Members to have their views considered while standards are being formulated and have a greater understanding of their application when published.

13. (I) For WTO Members to have confidence in the operation of conformity assessment bodies, there must be relative uniformity, equity and transparency in the process for determining their technical competence. This section aims to set uniform parameters and guidelines for the accreditation of conformity assessment bodies in keeping with *Article 5* of the TBT Agreement.

14. (J) To ensure equity and transparency, WTO Members should have access to the list of conformity assessment bodies which have been accredited by an accrediting body. Unnecessary costs or lengthy time delays in providing relevant information undermines the confidence in the accreditation process. This section facilitates equal access to information for foreign and domestic parties alike.

15. (K) A key objective for the new Code is to establish a uniform set of procedures that encourages the formation of bilateral and multilateral mutual recognition agreements. This will enable test results and/or certification marks supplied by accredited conformity assessment bodies to be accepted across national borders, thereby facilitating freer and fairer trade.

16. (L) In order to build confidence amongst accreditation bodies it is essential for them to participate in peer review activities. Peer review establishes the benchmark through which accreditation bodies are able to acknowledge each others credentials.

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