



Committee on Technical Barriers to Trade

THEMATIC SESSION ON CONFORMITY ASSESSMENT PROCEDURES¹

MODERATOR'S REPORT²

This Report was delivered by the Moderator of this Thematic Session of the WTO TBT Committee at the meeting of 29-30 March 2017.

At the Seventh Triennial Review, Members agreed to continue to hold thematic sessions in conjunction with regular meetings of the Committee,³ and agreed to dedicate the 28 March 2017 thematic sessions to the topics of conformity assessment (CA) procedures and good regulatory practice. This report focuses on conformity assessment procedures. The presentations summarized below will be made available through the WTO website.⁴

1. **Mr. David Hanlon** (International Electrotechnical Commission, hereafter IEC) explained that global CA systems are composed of one or more schemes for certification of products, personal competencies and/or processes, operating worldwide, and coordinating commercial conformity assessment bodies (CABs) for testing and certification. The goal of a global CA system may be to facilitate access to markets, and, in this case, the recognition of conformity assessment results from anywhere around the world within the CA system, is essential. When this is achieved the certificates being issued from within the CA system act as a "passport to the world" for those certified goods. The IEC Global Conformity Assessment Systems (IECEE, IECQ, IECEX and IECRE) are membership- and rules-based, and are open to all qualifying certification bodies and testing laboratories. Their operational model has two pillars: (i) predefined, common operational rules and procedures, and harmonized interpretation of the standards used, which together achieve consistent, reproducible and comparable CA results; and (ii) peer assessment to ensure that the CABs are competent and apply the common rules and harmonized interpretations when testing and certifying. Mutual recognition is a condition of membership to the IEC CA Systems. This implies that member CABs have sufficient confidence in the results coming from elsewhere in the CA system to recognize those results, accept those products into their local market and therefore assume a part of the legal liability in case of any problems. Mutual recognition within the IEC CA systems is between the CABs. A recognizing CAB, being accredited, then has the authority to accept CA results for its own country.⁵

2. **Mr. Sean MacCurtain** (ISO) stressed the importance of common international standards, guides and recommendations as the basis for conformity assessment procedures to facilitate international trade. The ISO/CASCO toolbox includes a risk-based set of conformity assessment standards for the operation of CABs, accreditation bodies and peer evaluation. ISO/CASCO develops conformity assessment policy in its three policy groups (e.g. the Strategic Alliance and Regulatory Group – STAR), while standards development work is carried out by working groups of experts not involved in implementation. ISO/CASCO has recently developed new online tools that target and support regulators in the development of conformity assessment schemes. These online

¹ The list of speakers is contained in JOB/TBT/221/Rev.1.

² Mr. Fabrizio Sacchetti (EU). This Report is provided on the Moderator's own responsibility.

³ G/TBT/37, para. 8.3.

⁴ https://www.wto.org/english/tratop_e/tbt_e/tbt_e.htm

⁵ The full presentation is contained in document RD/TBT/203.

resources present key considerations for using conformity assessment in regulatory practices, the suggested steps for using conformity assessment in regulations, and case studies. In the discussion, it was pointed out that these online resources could be a useful tool for delegates who may wish to reach out to their regulators, to both explain key concepts of conformity assessment, and encourage the use of the ISO/CASCO toolbox.⁶

3. **Ms Nicole Henry** (Australia) asked whether global accreditation and conformity assessment organizations have evolved fast enough to meet the needs of international trade today. The rise and complexity of global value chains has increased the number of conformity assessment activities in the supply chain, making confidence in conformity assessment and accreditation all the more essential for reducing trade barriers and costs. She described three main challenges in conformity assessment: the lack of knowledge by industry of applicable standards; the interpretation of standards; and fraud and non-compliance. She highlighted the importance of ILAC and IAF MRAs, which create a strategic framework to support international trade. However, she questioned whether a "peer evaluation" process every four years is sufficient to maintain confidence in the results produced under the ILAC and IAF MRAs and whether the participation of a professional independent evaluator could help towards objectivity and impartiality in this process. There should be efforts to continuously improve confidence in global conformity assessment systems, and consumer needs should be a central consideration.⁷

4. **Mr. Christopher O'Toole** (Canada) and **Ms Nike Bönnen** (European Union) presented the bilateral "Protocol on the mutual acceptance of the results of conformity assessment", part of the Canada-EU Comprehensive and Economic Trade Agreement (CETA). The Protocol relies heavily on accreditation to build confidence between Canadian and EU regulators, so as to facilitate the mutual acceptance of test results and product certifications by Canadian and EU-recognized CABs. Under the Protocol, Canada and the EU have agreed to work to mutually recognize the accreditation of CABs of the other party to test to their respective requirements for the sectors covered. The Protocol includes product sectors like construction products, electronic and electrical equipment, and products used in explosive or hazardous atmospheres. Products covered include machinery and equipment, radio and telecommunications, and measuring devices. After three years of operation, the Protocol may be expanded to cover other priority sectors.⁸

5. **Mr. Andreas Steinhorst** (European co-operation for Accreditation, hereafter EA) explained that the CETA Protocol is underpinned by a Bilateral Cooperation Agreement between EA and the Standards Council of Canada (SCC). One key principle of the Protocol is non-competition between accreditation bodies, meaning that CABs should seek accreditation from the accreditation body in their jurisdiction (e.g. a Canadian-based CAB seeks accreditation from SCC; a European-based CAB seeks accreditation from its national accreditation body member of EA) against the relevant requirements of the other party. In order to build confidence within the context of this cooperation, SCC and EA have a pilot project to study each other's conformity assessment procedures, and observe each other's assessments, in certain product sectors.⁹

6. **Mr. Martin von Lampe** (OECD) presented the work of OECD on International Regulatory Cooperation in relation to conformity assessment procedures. He said that conformity assessment procedures are an essential risk management tool, although they can impose trade costs due to additional efforts foreign suppliers have to make, e.g. for shipping test samples to the importing country. Conformity assessment can be categorized in terms of the methods applied (the "what"), and the actors in charge of conformity assessment systems (the "who"). There is a need to balance the expected damage of non-compliant products against increased trade costs that stem from stricter conformity assessment procedures. From an economic theory perspective, products with a low damage potential would be addressed by flexible conformity assessment procedures with low costs, while for products with high damage potential, more restrictive and costly conformity assessment procedures would be applied. Market surveillance and information exchange can help to bring down the damage potential of non-compliant products and, hence, the need for more restrictive conformity assessment procedures. Mutual recognition can be a useful tool to reduce conformity assessment costs, although it may shift costs to market surveillance and

⁶ The full presentation is contained in document RD/TBT/209.

⁷ The full presentation is contained in document RD/TBT/204.

⁸ The full presentation is contained in document RD/TBT/205.

⁹ The full presentation is contained in document RD/TBT/206.

enforcement activities. In respect of production that takes place in global value chains, it is even more important to reduce trade costs from conformity assessment.¹⁰

7. **Mr. Mathieu Loridan** (ITC) presented the results of ITC Business Surveys on non-tariff measures (NTMs) in connection with conformity assessment procedures. Business Surveys are one part of ITC work on NTMs (the other two being data collection to map regulations, and follow up actions in developing Members), which seek to gather views from businesses on problematic NTMs to help designing and implementing technical assistance to the private sector. The surveys include phone interviews, and face-to-face interviews, with importers and exporters in 39 developing Members (plus the EU). The results show that conformity assessment procedures are perceived as the number one most burdensome NTM faced by agricultural and manufacturing exporters, and that certification and testing are the two procedures most often cited as problematic. The results also show that exporters in developing Members, LDCs and developed Members all face problems with conformity assessment. It is notable that most reported issues arise from the implementation of the related procedures in the domestic market rather than the requirements themselves. Procedural obstacles include delays, high fees and lack of facilitates.¹¹

8. On a personal note, **the Moderator** highlighted the importance of a common vocabulary for conformity assessment provided through international standards, guides and systems, which gives a common understanding of how accreditation of CABs is performed in function of the different activities carried out (testing, inspection or certification) and of the possible range of conformity assessment procedures, such as SDoC, type approval or quality assurance. This common vocabulary is an essential prerequisite for developing mechanisms to facilitate the acceptance of conformity assessment results generated by CABs in other jurisdictions. Accreditation plays an indispensable role in building confidence in the reliability of conformity assessment results and, specifically, between regulators in order to consider acceptance of conformity assessment results generated by CABs outside their jurisdiction. However, it was not clear that international conformity assessment and accreditation systems always provide sufficient comfort or specificity to regulators to trust foreign testing, certification and accreditation. In some sectors, such as the electro-technical sector, there is a widely accepted source of international standards which has delivered a higher level of convergence of product requirements as set out in technical regulations and standards. This creates a common basis for acceptance of conformity assessment results, and explains the success of global conformity assessment systems in this sector. The moderator also underscored that changes in global supply chains have given rise to new trade and compliance challenges as multiple conformity assessment points can be identified across the chain, all of them contributing to the compliance of the final product with applicable requirements. The features of the supply chain must therefore be factored in when designing conformity assessment procedures. The discussion showed that the topic of conformity assessment attracts great interest and the ideas discussed during the thematic session would now feed into the Committee's future work in this area. The moderator noted in particular the importance of further discussing relevant factors and criteria that regulators consider when designing conformity assessment procedures, such as whether or not they need conformity assessment procedures in support of specific technical regulations, and, if so, how to choose one approach over another.

¹⁰ The full presentation is contained in document RD/TBT/207.

¹¹ The full presentation is contained in document RD/TBT/208.