

II. CONFORMITY ASSESSMENT

2. Five articles of the TBT Agreement deal with conformity assessment procedures. Articles 5 and 6 contain the disciplines with regard to central government bodies. Articles 7 to 9 deal with local government bodies, non-governmental bodies and international and regional systems. The definition of a conformity assessment procedure is contained in Annex 1, Paragraph 3 of the Agreement.

A. GENERAL

Recommendations

- (a) In 1997, in order to further the objectives of Articles 5 and 6, including in particular the need to avoid the creation of unnecessary obstacles to international trade due to conformity assessment procedures, and with a view to making recommendations to remove any unnecessary duplication of conformity assessment, the Committee agreed to the following:⁸
- (i) the Committee will pursue further discussions on ISO/IEC Guides. Members are invited, on a voluntary basis, to continue providing information on their experience in using relevant international guides and recommendations on conformity assessment, and the extent to which these guides and recommendations have served as a basis for the recognition of conformity assessment procedures adopted by bodies in their territories and in regional and international conformity assessment systems, or as a harmonized approach to conformity assessment. In the light of this exercise, the Committee will consider ways and means for better implementation of Articles 5 and 6;
 - (ii) for transparency purposes and to support the work of the Committee, a list of relevant international guides and recommendations related to conformity assessment procedures will be consolidated, circulated and updated regularly by the Secretariat for the information of Members;
 - (iii) the Committee will review the role of regional and international systems for conformity assessment as covered by Article 9 and how these systems could contribute to solving the problems of multiple testing and certification/registration for traders and industries, including in particular small and medium size enterprises. This exercise will also address the extent to which international guides and recommendations contribute to the establishment of these systems, and the possible technical assistance needed for developing countries to develop operational conformity assessment procedures within the context of Articles 11.6, 11.7 and 12.5;
 - (iv) the Committee will review the operation of Articles 6, 10.7 and other relevant provisions which contain disciplines with respect to recognition of the results of conformity assessment procedures. In this regard, Members are invited, on a voluntary basis, to exchange information. The review will also address the possible difficulties and problems associated with MRAs. In the light of this exercise, the Committee may consider the usefulness of drafting guidelines, *inter alia* for MRAs.

⁸ G/TBT/5, 19 November 1997, para. 29 (a)-(e).

- (b) In 2000, the Committee developed an indicative list describing different approaches to facilitate acceptance of results of conformity assessment. This list is contained in Annex A (on page 33 of this document). The Committee noted the following in respect of this list:⁹
- (i) the list was not intended to prescribe particular approaches that Members might choose to adopt as it was recognized that the application of different approaches would depend on the situation of Members and the specific sectors involved;
 - (ii) governments and non-governmental bodies might choose to apply different approaches across different sectors, or apply more than one procedure within individual sectors, taking into account variations in procedures in different Members and perceived levels of risk in the acceptance of results in different sectors.

B. INFORMATION EXCHANGE

Recommendations

- (a) The Committee has regularly engaged in information exchange on the use of conformity assessment procedures with a view to improving Members' implementation and understanding of Articles 5-9.¹⁰ In 1997, in order to further the objectives of Articles 5 and 6, including in particular the need to avoid the creation of unnecessary obstacles to international trade due to conformity assessment procedures, and with a view to making recommendations to remove any unnecessary duplication of conformity assessment, the Committee agreed to the following:¹¹
- (i) Members are invited, on a voluntary basis, to exchange information on their experience in the various types of conformity assessment procedures and their conditions of application. In the light of this exercise, the Committee will consider making recommendations aimed at ensuring that procedures for the assessment of conformity avoid the creation of unnecessary obstacles to international trade;
- (b) In 2003, with a view to improving Members' implementation of Articles 5-9 of the Agreement and promoting a better understanding of Members' conformity assessment systems, the Committee agrees to the following work programme to:¹²
- (i) exchange information and experiences on existing conformity assessment procedures and practices, the use of relevant international standards, guides and recommendations, and the participation of Members in national, regional and international accreditation schemes;

⁹ G/TBT/9, 13 November 2000, para. 27 and Annex 5.

¹⁰ G/TBT/5, 19 November 1997, para. 29 (a)-(e); G/TBT/9, 13 November 2000, paras 28 and 33; G/TBT/13, 11 November 2003, para. 40; G/TBT/19, 14 November 2006, para. 46. In 1996, the Committee established a Technical Working Group to examine certain ISO/IEC Guides on conformity assessment procedures (G/TBT/M/6, 6 December 1996, para. 14). The Working Group met three times and the Reports are contained in G/TBT/M/7-8 and 10 (1997).

¹¹ G/TBT/5, 19 November 1997, para. 29 (a)-(e).

¹² G/TBT/13, 11 November 2003, paras 40 and 41.

- (ii) exchange information and experiences and hold a workshop on SDoC covering issues such as: the regulatory authorities, sectors and suppliers which use SDoC; the surveillance mechanism, liability law and penalties used to ensure that products comply with requirements; the incentives for suppliers to comply with requirements; and the legislation that underpins the relationship between buyers and sellers;
 - (iii) invite representatives from relevant international and regional accreditation fora to provide information on their operation and the participation of Members, in particular, developing country Members, in their systems. Moreover, users, such as certification bodies, should also be invited to share their experiences in this respect;
 - (iv) hold a workshop on the different approaches to conformity assessment, including on the acceptance of conformity assessment results;
 - (v) to take stock of the progress made on this Work Programme and reflect it in its Annual Report to the Council for Trade in Goods.
- (c) In 2006, with a view to furthering the understanding of the implementation of Articles 5-9 of the Agreement, the Committee agreed to continue sharing experiences on:¹³
- (i) approaches to conformity assessment, and in particular on
 - various considerations that are relevant when deciding on the need for a conformity assessment procedure and on the type of procedure, including the level of risk associated with products;
 - the use of different types of conformity assessment procedures;
 - the design and implementation of SDoC and situations for which SDoC may be a suitable conformity assessment procedure;
 - the use of accreditation to qualify the technical competence of conformity assessment bodies;
 - (ii) the use of international standards, guides or recommendations in Members' domestic conformity assessment procedures;
 - (iii) recognition of conformity assessment results, and in particular on
 - unilateral recognition of results of foreign conformity assessment, including on existing government designation schemes in relation to Article 6.1.2;
 - the participation of foreign conformity assessment bodies in domestic conformity assessment procedures pursuant to Article 6.4;
 - the operation of existing MRAs, including cases where implementation has not been deemed satisfactory; and their cost-effectiveness;

¹³ G/TBT/19, 14 November 2006, para. 46.

- voluntary mutual recognition arrangements and on the extent to which results of conformity assessment are accepted by regulators.

Action on Information Exchange

- (a) A Symposium on Conformity Assessment Procedures was held on 8-9 June 1999.¹⁴
- (b) A Special Meeting dedicated to Conformity Assessment Procedures was held on 29 June 2004.¹⁵
- (c) A Workshop on Supplier's Declaration of Conformity was held on 21 March 2005.¹⁶
- (d) A Workshop on the Different Approaches to Conformity Assessment, including on the Acceptance of Conformity Assessment Results, was held on 16-17 March 2006.¹⁷

III. STANDARDS

A. INTERNATIONAL STANDARDS, GUIDES AND RECOMMENDATIONS

3. In 2000, at the Second Triennial Review of the Agreement, the Committee noted that in order for international standards to make a maximum contribution to the achievement of the trade facilitating objectives of the Agreement, it was important that all Members had the opportunity to participate in the elaboration and adoption of international standards. Adverse trade effects might arise from standards emanating from international bodies as defined in the Agreement which had no procedures for soliciting input from a wide range of interests. Bodies operating with open, impartial and transparent procedures, that afforded an opportunity for consensus among all interested parties in the territories of at least all Members, were seen as more likely to develop standards which were effective and relevant on a global basis and would thereby contribute to the goal of the Agreement to prevent unnecessary obstacles to trade. In order to improve the quality of international standards and to ensure the effective application of the Agreement, the Committee agreed that there was a need to develop principles concerning transparency, openness, impartiality and consensus, relevance and effectiveness, coherence and developing country interests that would clarify and strengthen the concept of international standards under the Agreement and contribute to the advancement of its objectives. In this regard, the Committee adopted a decision containing a set of principles it considered important for international standards development. These principles were seen as equally relevant to the preparation of international standards, guides and recommendations for conformity assessment procedures. The dissemination of such principles by Members and standardizing bodies in their territories would encourage the various international bodies to clarify and strengthen their rules and procedures on standards development, thus further contributing to the advancement of the objectives of the Agreement.¹⁸

Decision

- (a) In 2000, the Committee adopted a Decision on Principles for the Development of International Standards, Guides and Recommendations with Relation to Articles 2, 5 and Annex 3 of the TBT Agreement. This Decision is contained in Annex B (on page 35 of this document).¹⁹

¹⁴ G/TBT/9, 13 November 2000, Annex 1.

¹⁵ A Report of the special meeting is contained in G/TBT/M/33/Add.1, 21 October 2004.

¹⁶ A Report of the workshop is contained in Annex 1 of G/TBT/M/35, 24 May 2005.

¹⁷ A Report of the workshop is contained in G/TBT/M/38/Add.1, 6 June 2006.

¹⁸ G/TBT/9, 13 November 2000, para. 20 and Annex 4; G/TBT/1/Rev.8, 23 May 2002, pp. 26-29.

¹⁹ G/TBT/9, 13 November 2000, para. 20 and Annex 4; G/TBT/1/Rev.8, 23 May 2002, pp. 26-29.