

APPENDIX C
PHASE II PROCEDURES FOR
MUTUAL RECOGNITION OF CERTIFICATION BODIES
AS CONFORMITY ASSESSMENT BODIES AND
MUTUAL ACCEPTANCE OF EQUIPMENT CERTIFICATIONS

1. Scope

The procedures in this Appendix address the mutual recognition of certification bodies as Conformity Assessment Bodies and mutual acceptance of equipment certifications relating to the conformity of equipment with the Parties' respective Technical Regulations identified in Annex I. The term "Conformity Assessment Bodies" as used in the Phase II Procedures refers to certification bodies.

2. Designation and Recognition of Conformity Assessment Bodies

2.1 The Parties may designate and recognize Conformity Assessment Bodies using the procedures in paragraph 2.2 or paragraph 2.3, or both.

2.2 Designating Authority Procedures

2.2.1 The Designating Authority of an exporting Party will accredit and designate Conformity Assessment Bodies as being competent to perform certification of equipment subject to the Technical Regulations specified in Annex I by an importing Party. Alternatively, in accordance with paragraph 5.3 of this Arrangement, the Designating Authority may appoint an accreditation body to accredit Conformity Assessment Bodies. In either case, the Designating Authority will designate the Conformity Assessment Bodies to the importing Party. The requirements for designation and accreditation of Conformity Assessment Bodies are contained in Appendix A to this Arrangement.

2.2.2 The notification of the Designation of a Conformity Assessment Body to an importing Party will include: the certification body's name, the unique six-character identifier, physical address, mailing address, contact person, contact person's telephone and telefax numbers and e-mail address, and the scope of the accreditation. Thereafter, the Designating Authority will update each Designation as necessary, for example, to revise the scope of a Conformity Assessment Body's

accreditation.

2.2.3 The importing Party, upon receipt of a Designation from the exporting Party, will evaluate and make a determination on recognizing the Conformity Assessment Body under terms and conditions no less favorable than those accorded to the bodies of the importing Party that apply for recognition as a Conformity Assessment Body. Designations performed in accordance with Appendix A normally will be recognized.

2.2.4 If the importing Party does not recognize a designated Conformity Assessment Body, in whole or in part, the importing Party will provide, within sixty days of receipt of the Designation, a written explanation to the Designating Authority and the designated Conformity Assessment Body, including the basis for that decision.

2.2.5 The Designating Authority and the designated Conformity Assessment Body will be provided a period of not less than sixty days from receipt of the importing Party's explanation to present additional factual information in order to resolve the concerns or to correct the deficiencies which form the basis of the importing Party's decision.

2.2.6 The importing Party will evaluate and act upon the additional information under terms and conditions no less favorable than those accorded to the bodies of the importing Party that apply for recognition as a Conformity Assessment Body.

2.2.7 Upon mutual agreement of the two or more Parties directly involved, matters relating to the designation of the Conformity Assessment Body in accordance with Appendix A may be referred to a review process recognized by the Parties concerned, or to a subcommittee of the Joint Committee, comprised of the Parties involved, for evaluation and assistance in resolution of technical issues.

2.3. Procedures Using Accreditation Bodies That Have Entered Into a Mutual Recognition Arrangement

2.3.1 Consistent with paragraph 5.3 of the Arrangement, the Designating Authority of an exporting Party may appoint an accreditation body which has entered into a mutual recognition arrangement among other accreditation bodies to

accredit Conformity Assessment Bodies under these procedures.

2.3.2 An importing Party may indicate its willingness to recognize Conformity Assessment Bodies accredited in accordance with paragraph 2.3.1 by specifying in its Annex IV to these procedures the mutual recognition arrangements it recognizes for this purpose.

2.3.3 An accreditation body that has been appointed by an exporting Party's Designating Authority may accredit Conformity Assessment Bodies as being competent to perform certification of equipment subject to the Technical Regulations specified in Annex I by the importing Party. As appropriate, and by consent between the two Parties, either the exporting Party or the accreditation body will notify the importing Party of the Conformity Assessment Bodies that it has accredited; and, thereafter, will notify the importing Party of any newly accredited Conformity Assessment Bodies and update each notification as necessary, for example, to revise the scope of a Conformity Assessment Body's accreditation. The requirements for accreditation of Conformity Assessment Bodies are contained in Appendix A to this Arrangement. The notification will include: the certification body's name, the unique six-character identifier, physical address, mailing address, contact person, contact person's telephone and telefax numbers and e-mail address, and the scope of the accreditation.

2.3.4 The importing Party normally will recognize a Conformity Assessment Body accredited under paragraph 2.3.3. The importing Party will notify the exporting Party, accreditation body, and Conformity Assessment Body and seek clarification in instances if there is a question about a particular Conformity Assessment Body. The importing Party will provide such notice and evaluate any clarifications provided under conditions no less favorable than those accorded to certification bodies of the importing Party that apply for designation as a Conformity Assessment Body.

2.4 Information Relating to Designation and Recognition of Conformity Assessment Bodies

2.4.1 Under paragraph 2.2, the exporting Party will specify in its Annex III to these procedures all Conformity Assessment Bodies that it has designated.

2.4.2 The importing Party will specify in its Annex IV to these procedures all Conformity Assessment Bodies that it has recognized.

3. Participation in Phase II Procedures

A Party may participate in these Phase II Procedures exclusively for the purpose of enabling other exporting Parties to designate Conformity Assessment Bodies as being competent to perform certification of equipment subject to the Technical Regulations specified in Annex I to these procedures by the importing Party. Such a Party will provide the information specified in Annex I, List of Technical Regulations, and Annex IV, List of Conformity Assessment Bodies and Mutual Recognition Arrangements Recognized, as provided in paragraphs 9 and 10 of this Arrangement.

4. Transition Periods

4.1 The satisfactory completion of the steps set forth in the Phase I Procedures is not necessarily a prerequisite to initiating the steps set forth in Phase II Procedures.

4.2 After a Party has notified other Parties of its intention to initiate participation in these Phase II Procedures as specified in paragraph 9 of the Arrangement, the notifying Party may indicate its desire to enter into a transition period with one or more of the other Parties or any of the other Parties may indicate their desire to enter into a transition period with the notifying Party, within ninety days of the exchange of information pursuant to paragraph 9 of the Arrangement. Otherwise, these procedures will apply at the end of the ninety day period, or other time as mutually decided by the Parties.

4.3 The Parties may agree to conduct familiarization activities, e.g., permitting the importing Party the opportunity to participate in evaluations of Conformity Assessment Bodies and to review the Conformity Assessment Body evaluation reports, during the transition period for the benefit of the Designating Authorities and Conformity Assessment Bodies. The transition period normally will last no more than twelve months from the date of mutual agreement regarding the commencement of such activities.

4.4 Upon the satisfactory completion of any agreed transition period, the parties

involved will accept equipment certification results prepared by recognized Conformity Assessment Bodies, as specified in paragraph 5 of these procedures.

5. Mutual Acceptance of Equipment Certifications

5.1 After the importing Party has recognized another Party's designated Conformity Assessment Body, the importing Party will accept equipment certifications produced by the recognized Conformity Assessment Body of the other Party on terms no less favorable than those accorded to equipment certifications produced by Conformity Assessment Bodies of the importing Party.

5.2 Parties will not restrict or deny equipment certification on the basis of the nationality of the supplier, its place of incorporation, or the territory in which the supplier's production facilities are located. Parties will permit suppliers to apply directly for and, upon issuance, to hold certification.

5.3 An importing Party may require a supplier:

- a) To name a supplier's agent or other legal representative in the importing Party's jurisdiction and
- b) To give prompt and full notice of any change of its agent or representative.

6. Suspension of Mutual Recognition and Acceptance Obligations

6.1 A Party may suspend its mutual recognition and acceptance obligations under these Phase II Procedures with respect to a second Party, upon sixty days written notice, providing the reasons for suspension. Examples of such reasons may include the following conditions:

- a) The suspending Party loses confidence in the Designating Authorities or Conformity Assessment Bodies of the second Party;
- b) The suspending Party no longer perceives mutual benefits in terms of the facilitation of trade in the equipment within the scope of this Arrangement or
- c) The suspending Party is dissatisfied with the protection by the other Party of confidential information.

6.2 If the two Parties so decide, they may resume their mutual recognition and acceptance obligations at any time.