

APPENDIX VI TO
ANNEX I

TECHNICAL BARRIERS TO TRADE

ARTICLE 1

Definitions

For the purposes of this Appendix the terms defined in the Seventh Edition (1996) of the ISO/IEC Guide 2 Standardization and related activities—General Vocabulary, shall, when used in this Appendix have the same meaning given in the said Guide. In addition, the following definitions shall apply:

Risk Assessment: The evaluation of the potential of adverse effects to the health and safety of human, animal or plant life, or to the environment resulting from any goods or services traded between the Parties.

Standards-related Measure: A standard, technical regulation or conformity assessment procedure.

Standard: A document approved by a recognised body, that provides for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method.

International Standard: A standard or other guide or recommendation, adopted by an international standardizing body and made available to the public.

Legitimate Objectives: Objectives such as safety, protection of human, animal or plant life or health, the environment or consumers (including matters relating to quality and identifiability of goods or services); or, sustainable development, considering, among other things, where appropriate, fundamental climatic, geographical, technological or infrastructural factors or scientific justification.

Conformity Assessment Procedure: Any procedure used directly or indirectly, to determine that relevant requirements in technical regulations or standards are satisfied.

Technical Regulation: Document which lays down product characteristics or their related processes and production methods, including applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology symbols, packaging, marking or labeling requirements as they apply to a product, process or production method.

Service: Any service within the scope of this Appendix that is subject to standards-related or metrology measures including standardization, metrology and conformity assessment services themselves.

Administrative Rejection: Any action taken by a public administration agency of the importing Party, to restrict the entry to its territory of a shipment or the provision of a service, due to technical reasons.

Dangerous Wastes: Any material generated in the extraction, transformation, production, consumption, utilisation, control or treatment processes, whose properties do not allow for its re-use, and that, due to its corrosive, toxic, poisonous, reactive, radioactive, explosive, flammable biologically infectious or irritating characteristics, represents a hazard to health or to the environment.

Hazardous Substance: Any substance that is hazardous to health and safety of human, animal or plant life, or to the environment and that is identified as such by national and international agencies.

Make Compatible: To bring different standards-related measures of the same scope approved by different standardizing bodies to a level such that they are either identical, equivalent, or have the effect of permitting goods or services to be used in place of one another or fulfill the same purpose.

ARTICLE II

Scope of Application

This Appendix applies to the standards-related and metrological measures of the Parties, as well as to other related measures that may directly or indirectly affect trade in goods or services between the Parties.

2. The Parties affirm their existing rights and obligations under the Agreement on Technical Barriers to Trade of the World Trade Organisation (WTO) and other international agreements to which the Member States of CARICOM and the Dominican Republic are parties, including agreements relating to health, the environment and the protection of the consumer.

3. This appendix does not apply to Sanitary and Phyto-Sanitary Measures.

ARTICLE III

Non-Discriminatory Treatment

Each Party shall, in respect of standards-related measures, accord to goods and service-providers of the other Party, treatment no less favourable than that accorded to like goods or service-providers of national origin and to like goods or service-providers originating in any other country.

ARTICLE IV

Use of International Standards

Each Party shall use, as a basis for the development and application of its standardisation measures, current international standards, or international standards whose completion are imminent, except where such standards would be an ineffective or inappropriate means to fulfill its legitimate objectives.

When one Party applies procedures for conformity assessment which restrict or restrain the access of goods, that Party shall consider the use of the pertinent international standards as the basis of access until a final decision is taken.

ARTICLE V

Risk Assessment

Each Party may conduct risk assessment in its territory, provided that such assessment does not have the intention, or effect of creating unnecessary obstacles to trade between them. In so doing, the Parties shall take into consideration the risk assessment methods developed by international agencies.

2. When conducting risk assessment, the Party performing it shall take into consideration all available pertinent scientific evidence, technical information, the intended end use, and the associated technology.

3. Once the protection level that is considered adequate has been established and the risk assessment conducted, each Party shall avoid making arbitrary or unjustifiable distinctions between similar goods and services, if those distinctions:

- (i) result in arbitrary or unjustifiable discrimination against goods or services-providers of the other Party;
- (ii) constitute a disguised restriction on trade between the Parties; or
- (iii) discriminate between similar goods or services for the same use under the same conditions, that hold the same level of risk, and that result in similar benefits.

ARTICLE VI

Compatibility and Equivalence

Without prejudice to the rights of the Parties under this Appendix and taking into account international standardisation activities the Parties shall, to the extent practicable, make compatible their standards-related measures, without reducing the level of safety or of protection of human, animal or plant life or health, the environment or the consumer.

2. Each Party shall accept a technical regulation adopted or maintained by an exporting Party as equivalent to its own where the exporting Party, in co-operation with the importing Party, demonstrates to the satisfaction of the importing Party that its technical regulation adequately fulfills the importing Party's legitimate objectives.

3. Upon the request of the exporting Party, the importing Party shall communicate in writing its reasons for not accepting any particular technical regulation of the exporting Party as equivalent to its own in accordance with paragraph 2 of this Article.

4. The Parties recognize the need to review, revise and update standards and technical regulations to achieve greater harmonisation.

5. The Parties further affirm the need to review procedures for conformity assessment systems in order to facilitate certification, accreditation and the issuing of marks of conformity.

ARTICLE VII

Conformity Assessment

If it is of mutual benefit, each Party shall in a reciprocal manner, accredit, approve, licence or otherwise recognize the conformity assessment bodies in the territory of the other Party, on terms no less favourable than those applicable to such bodies in its territory.

2. The Parties may utilise the technical and institutional capability of the conformity assessment bodies established in the territory of the Parties, and recognised in accordance with paragraph 1 of this Article.

3. Whenever it is possible, the Parties shall provide for the carrying out of conformity assessment procedures in production facilities and the issuing of marks of conformity assessments when the product satisfies the requirements of the standard or technical regulation.

4. Each Party shall acknowledge the results of the conformity assessment procedures in the other Party's territory.

5. Prior to acceptance of results of a conformity assessment procedure pursuant to paragraph 4 of this Article and to enhance confidence in the continued reliability of each other's conformity assessment results, the Parties may consult on such matters as the technical competence of the conformity assessment bodies involved, including verified compliance with relevant international standards.

6. The Parties shall ensure the confidentiality of information about products or services originating in the territory of the other Party arising from, or supplied in connection with, conformity assessment procedures in the same way as for domestic products and in such a manner that legitimate commercial interests are protected.

ARTICLE VIII

Metrological Standards

In fulfilling the requirements of this Appendix, each Party shall, as far as practicable, ensure the traceability of its metrological standards in accordance with the recommendations of the International Bureau of Weights and Measures (IBPM) and the International Organisation of Legal Metrology (OIML).

ARTICLE IX

Filling, Packaging and Labelling

The parties shall develop agreed standards with respect to filling, packaging and labelling and will submit them through such mechanisms created in accordance with Article XI. With respect to this Article, the relevant principles adopted by the International Organisation for Standardization (ISO) shall generally be followed.

2. While the agreed standards are being developed, each Party shall apply, inside its territory, its standards for filling, packaging and labelling.

3. In the case of foods and food-additives, in order to ensure that standards developed do not contradict themselves either in meaning or in practice the basis of harmonisation shall preferably be standards and documents issued by Codex Alimentarius.

ARTICLE X

Notification

Each Party shall notify the other Party of the initiation of any activity leading to the promulgation of any standards-related measure.

2. Each Party shall notify the other Party when a standards related measure is withdrawn.

3. A Party which proposes that the adoption or modification of some standards-related or metrological measure may have a significant effect on trade between the Parties, shall:

- (i) at least sixty (60) days prior to such adoption or modification publish a notice and notify the other Party in writing, using the same form of notification of the World Trade Organisation (WTO), in such a manner as to enable interested persons to become acquainted with the proposed measure;
- (ii) upon request, provide to the other Party, particulars or copies of the proposed measure, and whenever possible, identify the parts which in substance deviate from relevant international standards;

- (iii) allow reasonable time for the other Party to make comments in writing, discuss these comments upon request; and take these written comments and the results of these discussions into account;
- (iv) provide the other Party, through the Enquiry Point, with a copy of the finalised measure to be implemented;
- (v) where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Party, that Party may omit any of the steps enumerated in paragraph (iii) of this Article as it finds necessary, provided that the Party upon adoption of the measure notifies the other Party of the nature of the urgent problem, provides copies of the measure and takes any comments into consideration;
- (vi) each Party shall annually, or as later determined, notify in writing the other Party of its standardization work programme;
- (vii) when one of the Parties administratively refuses a shipment or a service provision due to non-compliance with a standards-related or metrological measure it shall notify in writing, without delay, the owner(s) of the shipment or the service provider(s) the technical justification for the refusal;
- (viii) a copy of the technical justification provided for in paragraph (vii) of this Article shall immediately be notified to the Enquiry Points of the other Party;
- (ix) unless otherwise specified, any notification required under this Article shall be issued through the Enquiry Point designated under Article XI.

ARTICLE XI

Enquiry Points

Each Party shall ensure that an Enquiry Point exists, which is able to respond to all reasonable enquiries from the other Party, and other interested person(s), as well as to provide the relevant documents regarding standards-related and metrological measures adopted or proposed in its territory by Governmental or non-Governmental agencies.

2. The Parties shall inform each other of the institutions which they have designated as Enquiry Points.

3. Each Party shall take reasonable measures to ensure that where copies of documents are requested by the other Party, or by other interested person(s) in accordance with paragraph (i) of this Article, they are supplied at an equitable price (if any) which shall, apart from the actual cost of delivery, be the same for the nationals of the Party concerned.

“Nationals” here shall be deemed, in the case of a separate customs territory Party, to mean persons, natural or legal, who are domiciled or who have a real and effective industrial or commercial establishment in that customs territory.

ARTICLE XII

Handling of hazardous Substances and Waste

The Parties shall apply the provisions, guidelines or recommendations of the pertinent United Nations Convention, the Basle Convention and the relevant international agreements and standards to which the Parties adhere in addition to the existing legislation of the Parties for the control and handling of hazardous substances and dangerous waste.

Each Party shall regulate in accordance with its legislation the introduction, acceptance, deposit, transport and transit through its territory of hazardous substances or dangerous waste, whether originating inside or outside of its territory.

ARTICLE XIII

Protection of the Environment

Each Party undertakes to preserve and protect the environment by applying relevant provisions, guidelines or recommendations of the United Nations Environmental Programme (UNEP) and the pertinent international agreements and standards to which they adhere.

ARTICLE XIV

Procedures for Registration of Goods

The goods subject to registration in the territory of any of the Parties, shall be registered by a recognised institution, or accredited by the competent authority of that Party based upon a national system by which such registration is mandatory. Such registration of goods shall be performed as expeditiously as possible and on grounds no less favourable than that extended to registration of like goods of national origin.

ARTICLE XV

Technical Co-operation

Each Party shall encourage technical co-operation between its agencies for standardization and metrology, promoting the provision of information and technical assistance, according to available resources and under terms mutually agreed, in order to assist in the attainment of this objective and to enhance the activities, processes, standardization and metrological systems and measures of both Parties.

The Parties shall undertake joint efforts for the purpose of securing technical co-operation and assistance from third countries.

APPENDIX VII TO
ANNEX I

AGREEMENT ON SANITARY AND PHYTO-SANITARY
MEASURES

ARTICLE I

Rights and Obligations

In compliance with the World Trade Organisation (WTO) Agreement for Sanitary and Phyto-Sanitary Measures, each Party has the right to establish, adopt, maintain or apply any Sanitary and Phyto-Sanitary Measures necessary to protect human, animal or plant life or health in its territory, more stringent than relevant regional and international standards, guidelines or recommendations.

2. Each Party will ensure that any Sanitary or Phyto-Sanitary Measure adopted, maintained or applied:

- (i) is based on scientific principles, taking into account, when necessary, all pertinent facts as well as the different national and regional conditions;
- (ii) is only maintained when there is scientific justification;
- (iii) is based on a risk assessment that is appropriate to the circumstances;
- (iv) does not restrict trade more than is necessary in order to protect human, animal or plant life or health;