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TESTING AND INSPECTION PROCEDURES

Note by the Nordic Delegations

Introduction

The Nordic delegations have presented two draft proposals on testing procedures (TBT/W/118) and on inspection procedures (TBT/W/119). In the light of comments received and taking into account the new draft definitions presented by the ISO/CASCO Ad Hoc Group on Definitions, the Nordic delegations have now revised these draft proposals. The main changes in relation to the earlier drafts are:

1. The two proposals have been merged into one covering both testing and inspection procedures.

2. The definitions to be used will be:

evaluation of conformity: systematic examination of the capability of a product, process or service to meet specified requirements;

testing: evaluation of conformity by measurement or analysis of one or more characteristics of a given product, process or service according to a specified procedure;

inspection: evaluation of conformity by other means than testing (e.g. by visual checks).

3. In paragraph 5.2, examples for cases when international recommendations and guides might be inappropriate for the Parties concerned have been added.

4. Paragraph 5.6 has the same wording as in the present paragraph 5.3.

If compared with the present Article of the Agreement, the main amendments are, apart from some editorial changes, that paragraphs 5.1, 5.2, 5.3 and 5.8, as well as sub-paragraphs 5.4.1, 5.4.2 and 5.4.4, have been added, and that in addition to testing procedures the provisions now would cover also inspection procedures.

Article 5

Evaluation of conformity with technical regulations or standards by central government bodies

5.1 Parties shall ensure that testing and inspection procedures are not prepared, adopted or applied with a view to creating obstacles to international trade. They shall likewise ensure that neither testing and inspection procedures themselves nor their application have the effect of creating unnecessary obstacles to international trade.

5.2 For testing and inspection procedures, Parties shall use relevant international recommendations and guides, or the relevant parts of them, as a basis of their procedures except where, as duly explained upon request, such international recommendations and guides or relevant parts are inappropriate for the Parties concerned for, inter alia, such reasons as national security requirements; the prevention of deceptive practices; fundamental technological problems.

5.3 Parties shall play a full part within the limits of their resources in the preparation by appropriate international bodies of international recommendations and guides for testing and inspection procedures.

5.4 Parties shall ensure that products originating in the territories of other Parties are accorded access to testing and inspection procedures under conditions no less favourable than those accorded to like products of national origin or originating in any other country, in a comparable situation. They shall likewise ensure that such products are tested and inspected under procedures that are no more complex and no less expeditious than those for like products of national origin or originating in any other country. To this end, they shall apply the following provisions:

5.4.1 testing and inspection shall be undertaken and completed without undue delay in a no less favourable order for imported products as for like domestic products;

5.4.2 any requirements for testing and inspection of individual specimens of a product shall be limited to what is reasonable and necessary;

5.4.3 any fees imposed for testing and inspection of imported products shall be equitable in relation to any fees chargeable for testing and inspection like domestic products;

5.4.4 information for testing and inspection of imported products shall be requested only to the extent necessary for performing testing and inspection, and establishing the fees thereof;

5.4.5 the results of testing and inspection shall be made available to the exporter or importer or their agents, if requested, so that corrective action may be taken if necessary;

5.4.6 the citing of testing and inspection facilities and the selection of samples for testing and inspection shall not be such as to cause unnecessary inconvenience for importers, exporters or their agents;

5.4.7 the confidentiality of information about imported products arising from or supplied in connection with such testing and inspection shall be respected in the same way as for domestic products.

5.5 Parties shall ensure, whenever possible, that their central government bodies accept testing and inspection results issued by relevant bodies in the territories of other Parties, even when the testing and inspection methods differ from their own, provided they are satisfied that the methods employed in the territory of the exporting Party provide a sufficient means of evaluating conformity with the relevant requirements. It is recognized that prior consultations may be necessary in order to arrive at a mutually satisfactory understanding regarding testing and inspection methods and results employed in the territory of the exporting Party, in particular in the case of perishable products or of other products which are liable to deteriorate in transit.

5.6 Parties shall ensure that their testing and inspection methods and administrative procedures are such as to permit, as far as practicable, the implementation of the provisions in Article 5, paragraph 5.

5.7 Nothing in this Article shall prevent Parties from carrying out reasonable spot checks within their territories.

5.8 Parties shall ensure that all requirements concerning testing and inspection procedures are published or otherwise made available in such a manner as to enable interested parties to become acquainted with them.