

highest current standard of the three parties as the floor from which the effort to seek increased compatibility would begin. In other words, not only would the NAFTA prohibit "downward harmonization," it would mandate "upward harmonization." The importance of this process is attested to by its inclusion in Paragraph 913.2 as one of the specific functions of the Committee on Standards-Related Measures. The Committee will be responsible for enhancing regulations and standards throughout North America.

Paragraph 906.4 states that the non-identical technical regulations of two parties would only be considered as "equivalent" where "the exporting Party, in co-operation with the importing Party, demonstrates to the satisfaction of the importing Party that its technical regulation adequately fulfils the importing Party's legitimate objectives." In other words, Canada would decide whether another country's regulations were equivalent to Canadian regulations.

A similar provision is contained in Paragraph 906.6 with respect to conformity assessment procedures. In the latter case, the importing party would have to be assured that the results of a conformity assessment procedure, conducted in the territory of the exporting party, "offers an assurance equivalent" to that provided by an acceptable procedure in its own territory. In other words, the importing party would, in both instances, have the right to decide whether a technical regulation or a conformity assessment procedure of another party provided a level of assurance similar to that provided by the technical regulation or the conformity assessment procedure of the importing party.

#### **(vii) Standards Enhancement**

NAFTA would not set specific standards (e.g., sulphur dioxide emission levels). Rather, it would establish a mechanism to ensure co-operation among the three countries. As already indicated, the NAFTA would do more than simply forbid the "downward harmonization" of standards-related measures. It would expressly obligate the parties to work toward increased stringency or "upward harmonization" of their standards.

Several provisions of the chapter on Standards-Related Measures are premised on the upward movement in the level of environmental protection throughout the NAFTA area. Paragraph 906.1 would require that the parties "work jointly to enhance the level of safety and of protection of human, animal and plant life and health, the environment and consumers." As noted previously, Paragraph 906.2 would require that standards-related measures be made compatible on the basis of the most stringent standards of the three countries.

Working together on common problems is the key to developing co-operation and a common understanding of the technical issues. These provisions would be reinforced by Paragraph 911.1 on Technical Co-operation, which would require that the parties, on mutually agreed terms, provide "technical advice, information and assistance" in order to "enhance" the standards-related measures, and related activities, processes and systems of another party. Under the terms of Paragraph 913.7, the Committee on Standards-Related Measures would be obligated to "facilitate" any requests for technical co-operation.

Finally, Subparagraph 913.2 (d) would obligate the parties to work together on "enhancing co-operation on the development, application and enforcement of standards-related