
IV. TECHNICAL AND REGULATORY BARRIERS

Standards and Testing

Regulatory requirements applying to products vary widely under U.S. legislation on consumer protection, public health and safety and the environment. There is considerable variation in procedures for assessing regulatory compliance of products. State, regional and local regulations governing laboratory recognition and accreditation can also impede market access. In many industrial sectors, national accreditation or recognition of laboratories requires separate acceptance of most states, numerous local jurisdictions, regional code organizations and federal agencies. This complex regulatory environment is a major impediment to trade.

At the request of Congress, in 1995, the Science, Technology, and Economic Policy Board of the National Research Council of the National Academies of Science and Engineering studied the relationship between standards, product testing, certification and world trade. The Board was highly critical of the current U.S. system for assessing conformity of products and processes to standards: "Our system has become increasingly complex, costly, and burdensome to national welfare. This is reflected in unnecessary duplication and unwarranted layers of complexity at the federal, state and local levels. Manufacturers are increasingly forced to perform redundant tests and obtain repetitive certifications for products sold in different parts of the country. Testing laboratories pay unnecessary fees and undergo duplicative audits to demonstrate their competence to multiple federal, state, and local authorities. The result is higher costs for U.S. manufacturers, public procurement agencies, testing laboratories, product certifiers and consumers".

These difficulties are compounded by the fragmented and disparate system for establishment of standards by reference in U.S. regulations. The U.S. standards system continues to operate without national coordination or uniform rules in most areas. A similar situation exists with regard to the system for establishment of procedures for product approval, certification, testing and inspection which are also used for determining regulatory compliance. This makes it difficult, particularly for small and medium sized exporters, to identify the authority responsible for required approvals. It also leads to frequent and costly delays in obtaining multiple approvals under varying conformity assessment procedures.

Many exporters find it difficult to prove that their products meet the United States Food and Drug Administration (FDA) requirements for quality and labelling. This is because of a lengthy decision-making process and the absence within the FDA of a mechanism for approval of exporters' labels in advance of shipment. These deficiencies create uncertainty for exporters and difficulties at border points. Additional difficulties can arise because of sometimes lengthy FDA laboratory testing procedures of food products stopped at the border. Such delays could be obviated, at least in part, if there were procedures in place to accept test results from independent laboratories.

On December 13, 1995, the U.S. Department of Agriculture (USDA) instituted an enhanced inspection regime for imports of Canadian potatoes. The enhanced inspections confirmed the high quality of Canadian exports. As a result, effective mid-February 1996, USDA resumed its previous inspection system of random spot checks.