
IV. TECHNICAL AND REGULATORY BARRIERS

Standards and Testing

Numerous U.S. jurisdictions impose widely varying requirements on products in technical regulations in the areas of consumer protection, public health and safety and the environment. About 44,000 jurisdictions, at federal, state and local level, enforce requirements in about 89,000 technical regulations. This complex regulatory environment often operates as an institutional barrier to market access. Procedures for assessing conformity of products are not generally uniform and approval bodies must sometimes certify compliance of products under widely varying requirements in several state, municipal and other local jurisdictions.

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. For example, according to the National Institute of Science and Technology, "laboratories desiring to be accredited nationwide to conduct electrical safety-related testing of construction materials have to gain the acceptance of 43 states, more than 100 local jurisdictions, three building codes..., [and] a number of federal agencies, as well as several large corporations".

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 U.S. 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.

The 1990 U.S. Farm Bill requires that USDA to conduct, for grading purposes, random spot checks of potatoes entering through ports of entry in the northeastern United States. Canada considers these checks to be unnecessary since, through reciprocal arrangements with the USDA, Agriculture Canada inspects and certifies all Canadian exports of potatoes to the United States as meeting USDA grading requirements.

Health and Sanitary Requirements

Shipments of agricultural products, including beef and livestock, are occasionally subject to long delays due to health and sanitary inspections at the U.S. border. A pilot project to resolve these issues is under way and meat products are currently moving across the border without delays. Delays resulting from the FDA's procedures to monitor pesticide residue have raised concerns among exporters. This type of delay can be damaging to perishable fresh fruits, vegetables or dairy products and may impose an additional cost on the exporter.