

PUBLIC COMMENTS : USTR04-26033

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Submitted by :

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Trade Agreements Affected :

WTO Basic Telecommunications Agreement
WTO Technical Barriers to Trade (TBT) Framework
North America Free Trade Agreement (Mexico only)

Countries Referenced :

Mexico
Argentina
Brazil
South Korea

US Equivalent Regulations :

47 CFR Parts 2 and 15

1.0 Summary :

The countries listed above have in place regulatory processes for conformity assessment that are not in line with the principles of the above listed trade agreements. This includes the approval of products for Electromagnetic Compatibility (EMC), the application of additional labeling requirements beyond requirements of other WTO members, and refusal to recognize Certification Body (CB) scheme product safety testing, forcing in-country product evaluation. These additional requirements create a substantial burden to importers for entry of telecommunications equipment and in some cases non-telecommunications equipment that is being classified as telecommunications equipment in the above named countries.

2.0 Summary of Standards and Requirements typical of WTO members :

For most WTO member countries, including the United States, a manufacturer's self-declaration is accepted for conformity assessment of EMC and product safety for telecommunication, networking, and information technology (ITE) products based on harmonized standards and a single set of test reports.

(reference : 47 CFR Part 2, sections 2.906, 2.907). Submittal of additional information directly to local authorities and payment of registration fees is not required for products that do not intentionally radiate RF signals (i.e. “intentional radiators”). The approval for import of unintentional radiators, including telecommunications equipment and information technology equipment (ITE), requires that a manufacturer test at any ISO accredited laboratory (usually in his home country) and make a declaration that the product conforms to the applicable standards. Once a manufacturer has made the necessary self-declarations and applied the required marking to the product, the product may be imported and sold.

Typically, the following EMC & Safety standards are applied during the self-declaration process. These standards are based on ISO/IEC equivalents and recognized under the WTO’s TBT framework as “harmonized” standards.

- IEC/CISPR 22
- IEC/CISPR 24
- IEC60950-1

Once the manufacturer has performed a single series of tests at any accredited laboratory, obtained test reports and made the self declaration, products can be imported to the following WTO member countries without further conformity assessment requirements or fees :

- United States
- Canada
- European Union (all countries)
- Australia
- New Zealand
- Japan

In addition to ITE, Industrial, Scientific and Medical test equipment (ISM) certified according to IEC/CISPR 11 for EMC and IEC 1010 (601010-1) is sometimes being classified as telecommunications equipment in the countries listed below, particularly for importation of spare parts and sub-assemblies. This assigns the higher tariff rate and additional conformity assessment procedures more typical of equipment intended to be connected to public telecommunications networks.

3.0 Comments on Mexico, Argentina, Brazil, and South Korea :

The countries discussed in this section have in place practices that we consider to be outside the intent of the WTO agreements. Of particular concern are places where the conformity assessment procedure does not allow for a manufacturer’s self-declaration for Electromagnetic Compatibility (EMC) to the above harmonized ISO/IEC standards and does not recognize CB scheme product safety testing but rather requires in-country evaluation or simply a fee. In these cases, duplicate and redundant testing to the same standards is being required in the country of import. In other cases annual licensing fees and retesting are

being required, which significantly increases the burden for importers beyond the requirements for foreign product entry into the United States. Brazil, Argentina & Mexico also require the company of importation to have an in-country office to act as the responsible party or hire additional in-country representation to act on their behalf to facilitate the certifications and field any inquiries/complaints resulting from products sold within that country.

3.1 Mexico

For product safety approval (termed Nation of Mexico "NOM" certification), Mexico requires submitting the device for in-country testing and generation of a NOM certificate per NOM-019-SCFI-1998. To acquire this certificate requires in-country testing and fees payable to both the NOM agency and a processing agent located in Mexico representing the company of importation. In addition to these testing and submittal fees Mexico requires annual renewal of certificates at the same cost as original certification.

The technical requirements applied per NOM-019-SCFI-1998, are less stringent than those listed for entry into the markets of section 2.0 above, including the United States. Thus, the additional testing is fully redundant to tests typically performed at any other qualified laboratories internationally. The additional fees collected are redundant to, and in addition to, fees typically charged by safety agencies for international "CB" (certification body) approval recognized by other WTO member countries. The United States does not charge country submittal, or annual renewal fees for product electrical safety approvals of telecommunications or information technology equipment.

3.2 Argentina

Argentina accepts "CB" reports for product safety compliance in accordance with SIC&M Resolution 92/98 Mod 3 Electronics but requires an additional country submittal fee, processing fee and an annual renewal fee.

3.3 Brazil

Brazil is now requiring in-country testing for EMC compliance per Resolution 237 and product safety compliance per Resolution 238 of all telecommunications equipment. Nearly all Information Technology Equipment (ITE) is now being classified as telecommunications equipment under Category III of Resolution 242 General Rules. An example of this is an Ethernet switch or computer with Ethernet port. The testing must be performed in Brazil by an ANATEL certified EMC and product safety laboratory. In addition, Brazil requires a unique ID number and barcode to be applied to the product which can only be obtained from a company who is a member of the Brazil bar code association and located in Brazil.

The testing required to be performed in Brazil is fully redundant to the testing typically already performed for entry into the countries listed in section 2.0, including the United States. The standards being applied are the same as listed in section 2.0. As such, we view this as an unnecessary additional burden for entry into Brazil, as a company in Brazil could perform the testing only once in their home country and enter all of the markets listed in section 2.0. For an importer to Brazil, the cost for entry due to the above testing requirement exceeds the cost for entry into all of the other markets of section 2.0 combined.

3.4 South Korea

South Korea requires in country testing for EMC registration per provisions of the “*Regulations on Certification of Information and Communication Equipment*” under the “*Director General of Radio Research Laboratory Ministry of Information and Communications Republic of Korea*”. This testing is fully redundant to the testing described in section 2.0. Korea also classifies technologies that are new, for example 10Gb/s Ethernet ports, as telecom equipment that escalates the testing fees by 80%. By comparison, South Korean companies may test in their home country and make self-declaration for entry into the markets of section 2.0, including the United States.