

ASEAN FRAMEWORK AGREEMENT ON MUTUAL RECOGNITION ARRANGEMENTS

The Governments of Brunei Darussalam, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Vietnam, Member States of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN");

MINDFUL that in 1992 the ASEAN Heads of Government declared that an ASEAN Free Trade Area shall be established in the region and that in 1995 they agreed to accelerate its implementation to the year 2003;

NOTING the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area signed on 28 January 1992, which provides for the border and non-border areas of cooperation to supplement and complement the liberalisation of trade including, among others, the harmonisation of standards, reciprocal recognition of tests and certification of products;

RECALLING that in 1995, the ASEAN Heads of Governments adopted, in the Bangkok Summit Declaration, the Agenda for Greater Economic Integration, which includes, among others, the introduction of greater transparency in standards and conformance, the alignment of national standards with international standards and undertaking projects to facilitate mutual recognition arrangements (hereinafter referred to as "MRAs") to facilitate greater intra-regional trade;

RECOGNISING that MRAs for conformity assessment activities could be an important means of eliminating Technical Barriers to Trade and enhancing market access and that such mutual recognition could be of particular interest to small and medium-sized businesses in ASEAN;

RECOGNISING further that MRAs could contribute positively in encouraging greater international harmonization of standards and regulations and that any such MRAs would require confidence in the other Member States' capacity and competence to test or assess conformity to a Member State's own requirements;

MINDFUL of the different levels of infrastructure for Standards and Conformity Assessment and economic development of ASEAN Member States;

REITERATING their commitments under the World Trade Organization Agreement on Technical Barriers to Trade and noting that the Agreement encourages Contracting Parties to enter into negotiations for the conclusion of agreement for the mutual recognition of results of each other's conformity assessment; and

DESIRING to formulate a framework agreement to deepen and broaden cooperation on Standards and Conformance in ASEAN and to provide a basis for developing and implementing MRAs in specific product sectors, (hereinafter referred to as "Sectoral MRAs"), to facilitate the realization of the ASEAN Free Trade Area.

HAVE AGREED AS FOLLOWS :

ARTICLE 1 DEFINITIONS

1. General terms concerning conformity assessment used in this Framework Agreement and the Sectoral MRAs shall have the meaning given in the definitions contained in the Guide 2 (1996 edition) of the International Organization for Standardization (ISO) and International Electrotechnical Commission (IEC) with the exception of the following terms which shall contain definitions herein:

"Conformity Assessment" means systematic examination to determine the extent to which a product, process or service fulfills specified requirements;

"Conformity Assessment Body" means a body whose activities and expertise include performance of all or any stage of the conformity assessment process except for accreditation;

"Regulatory Authority" means an entity that exercises a legal right to control the import, use or sale of products within a Member State's jurisdiction and may take enforcement action to ensure that products marketed within its jurisdiction comply with legal requirements.

2. In addition, the following terms and definitions shall apply to this Framework Agreement and the Sectoral MRAs:

"Designation" means the authorisation by a Designating Body of a Conformity Assessment Body to perform conformity assessment activities as specified under this Framework Agreement and the relevant Sectoral MRAs;

"Designating Body" means a body appointed by a Member State to a Sectoral MRA, with responsibility to identify and monitor Conformity Assessment Bodies as specified under this Framework Agreement and the relevant Sectoral MRAs.

ARTICLE 2 OBJECTIVES

The objectives of this Framework Agreement are:

a) to stipulate the general principles for developing Sectoral MRAs amongst Member States and other related cooperative activities to facilitate elimination of technical barriers to trade within ASEAN; and

b) to stipulate the general conditions under which each Member State to a Sectoral MRA shall accept or recognize results of conformity assessment procedures, produced by the Conformity Assessment Bodies of the other Member States to the Sectoral MRA in question in assessing conformity to the requirements, as specified in the Sectoral MRA.

ARTICLE 3 GENERAL PROVISIONS

1. Member States to the Sectoral MRAs shall accept or recognize the conformity assessment results, which have been issued in accordance with the provisions in the Sectoral MRAs, by the listed Conformity Assessment Bodies of other Member States to the Sectoral MRAs.

2. Where sectoral transition arrangements have been specified in the Sectoral MRAs, the above obligations shall apply following the successful completion of those transition arrangements.

3. Member States to the Sectoral MRAs shall ensure that the Designating Bodies specified in the Sectoral MRAs have the power and competence in their respective territories to carry out decisions required of them under this Framework Agreement and the relevant Sectoral MRAs.

4. Member States to the Sectoral MRAs shall ensure that the Conformity Assessment Bodies listed in the Sectoral MRAs fulfill the conditions of eligibility to assess conformity in relation to requirements as specified in the Sectoral MRAs, and shall observe the procedures set out in Article 6 of this Framework Agreement.

5. Member States shall strengthen and enhance existing cooperation efforts in confidence building and develop cooperation in areas that are not covered by existing cooperation arrangements, through inter alia:

- a) harmonization of standards with relevant international standards, particularly those relevant to the Sectoral MRAs;
- b) establishing or improving of infrastructure in calibration, testing, certification and accreditation to meet relevant international requirements ;
- c) actively participating in relevant arrangements undertaken by specialist regional and international bodies;
- d) effectively using the existing MRAs developed by regional and international bodies which majority of ASEAN Member States are parties to;
- e) research and development; and
- f) exchange of information and training .

6. Member States shall identify sectors for developing MRAs based on the following criteria:

- a) with special focus on but not limited to the list of 20 priority product groups identified for harmonization of standards;
- b) the volume of intra-ASEAN trade affected;
- c) the existence and extent of technical barriers to trade;
- d) the readiness of technical infrastructure in the majority of Member States, which shall include the existence of Conformity Assessment Bodies that satisfy the procedures and criteria stated in Article 6, clause 1; and
- e) the interest of the majority of Member States.

7. All Sectoral MRAs are intended to be multilateral agreements in which all Member States are encouraged to participate. However, taking cognizance of paragraph 3 of Article I of the Framework Agreement on Enhancing ASEAN Economic Cooperation

signed on 28 January 1992 in Singapore, two or more Member States may proceed first if other Member States are not ready to participate in the Sectoral MRAs.

8. All documents issued for the purpose of information exchange, verification, provision of evidence and other activities arising from obligations of both the Framework Agreement and Sectoral MRAs, if not in English, shall be accompanied by certified translated copies in English.

ARTICLE 4 ELEMENTS OF SECTORAL MRA

1. A Sectoral MRA shall include:

- a) scope and coverage with respect to products;
- b) a list of the relevant legislative, regulatory and administrative provisions pertaining to the conformity assessment procedures and technical regulations for the specified products and provisions to update other Member States to the Sectoral MRA on changes;
- c) a list of Designating Bodies;
- d) the procedures and criteria for listing Conformity Assessment Bodies;
- e) the current list of agreed Conformity Assessment Bodies and a statement of the scope of the conformity assessment and relevant procedures for which each has been accepted;
- f) a description of the mutual recognition obligations;
- g) a sectoral transition arrangement that provides for a specified time period where Member States to a Sectoral MRA require time to implement legislative or regulatory changes to effect the Sectoral MRA;
- h) a list of contact points, who shall not be members of the relevant Joint Sectoral Committee;
- i) provisions for the establishment of a Joint Sectoral Committee; and
- j) additional provisions as required.

2. The Sectoral MR As may include a statement or arrangement related to mutual acceptance of the standards or technical regulations or mutual recognition of the equivalence of such standards or technical regulations.

ARTICLE 5 JOINT SECTORAL COMMITTEE

1. For each Sectoral MRA, a Joint Sectoral Committee shall be established, which shall be responsible for the effective functioning of that Sectoral MRA. The Joint Sectoral Committee shall comprise one official representative designated by each Member State to the Sectoral MRA. The representative shall not be from a Conformity Assessment Body.

2. The Joint Sectoral Committee may consider any matter and take appropriate actions relating to the effective functioning of the Sectoral MRA. In particular it shall be responsible for:

- a) listing, suspension, withdrawal, removal, reinstating and verification of Conformity Assessment Bodies in accordance with the Sectoral MRA;
 - b) amending transition arrangements in the Sectoral MRA;
 - c) providing a forum for discussion of issues that may arise concerning the implementation of the Sectoral MRA; and
 - d) considering ways to enhance the operation of the Sectoral MRA.
3. The Joint Sectoral Committee shall take its decisions by consensus.

ARTICLE 6

LISTING OF CONFORMITY ASSESSMENT BODIES

The following procedures shall apply with regard to the listing of Conformity Assessment Bodies in a Sectoral MRA:

1. Each Designating Body specified in a Sectoral MRA shall identify Conformity Assessment Bodies for listing, in accordance with the procedures and criteria set forth in that Sectoral MRA and shall apply one of the following ways to demonstrate technical competence of the Conformity Assessment Bodies:

- a) accreditation by an accreditation body that is a signatory to a regional or international MRA, which is conducted in conformance with the relevant ISO/IEC Guides; or
- b) participation in regional/international mutual recognition arrangements for testing and certification bodies, which are conducted in conformance with the relevant ISO/IEC Guides; or
- c) regular peer evaluations which are conducted in conformance with the relevant ISO/IEC Guides.

2. The Designating Body shall ensure that identified Conformity Assessment Bodies have adequate knowledge of the applicable technical regulations.

3. All Designating Bodies relevant to the Sectoral MRAs shall forward in writing required details of all Conformity Assessment Bodies that they identified, to the relevant Joint Sectoral Committee and the ASEAN Secretariat for the Committee members' confirmation or opposition.

- a) Within 60 days following receipt of a Designating Body's submission, the members of the Joint Sectoral Committee shall indicate their position regarding either their confirmation or their opposition, to the ASEAN Secretariat. No response within 60 days shall be taken as abstention. Upon confirmation, the inclusion of the proposed Conformity Assessment Body or Bodies in the list of accepted Conformity Assessment Bodies shall take effect;
- b) If one or more of the Member States to the Sectoral MRA requests verification of the technical competence or compliance of a proposed Conformity Assessment Body, such request shall be made in an objective and reasoned manner in writing to the ASEAN Secretariat, which shall forward it to the relevant Joint Sectoral Committee for a decision. The Joint Sectoral Committee may decide that the body concerned be more