NB 619

ASEAN SECTORAL MUTUAL RECOGNITION ARRANGEMENT FOR ELECTRICAL AND ELECRONIC EQUIPMENT

Preamble

The Governments of Brunei Darussalam, the Kingdom of Cambodia, 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");

RECALLING the decision of the Heads of States at the Sixth ASEAN Summit of December 1998 to accelerate the implementation of the ASEAN Free Trade Area (AFTA) by the year 2002;

RECALLING the decision of the Heads of States at the Third ASEAN Informal Summit of November 1999 to establish a free trade area (FTA) for goods, services and investments in the Information and Communications Technology (ICT) sector;

MINDFUL that mutual recognition or acceptance of test reports and equipment certification will enhance trade of electrical and electronic equipment in ASEAN and facilitate the implementation of the AFTA and the FTA for ICT sector;

DESIRING to establish a Sectoral Mutual Recognition Arrangement for electrical and electronic equipment, (hereinafter referred to as "Sectoral MRA"), in accordance with the ASEAN Framework Agreement on Mutual Recognition Arrangements signed in Ha Noi in December 1998;

HAVE AGREED AS FOLLOWS:

CERTIFIED COPY SECRETARIAT OF ASEAN

ARTICLE 1
Definition

1. General terms concerning conformity assessment used in this Sectoral MRA will 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) and in the ASEAN Framework Agreement on Mutual Recognition Arrangements (MRAs) with the exception of the following terms which will contain definitions herein:

"*Accept*" means the use of test reports and/or certifications as a basis for regulatory actions such as approvals, licences and post-market assessments of conformity;

"*Certification*" means a procedure by which a third party gives written or other assurance that a product, process or service conforms to specified requirements;

"Party" means a Member State that is participating in this Sectoral MRA pursuant to Article 12 of this Sectoral MRA;

"Conformity Assessment Body" means, for this Sectoral MRA, a Testing Laboratory and/or a Certification Body;

"Regulatory Authority" means an entity that exercises a legal right to control the import, use or sale of Electrical and Electronic Equipment within a Party's jurisdiction and may take enforcement action to ensure that equipment marketed within its jurisdiction comply with legal requirements;

"Designation" means the authorization by a Designating Body of a testing laboratory or a certification body to perform relevant conformity assessment activities as specified under this Sectoral MRA;

"Designating Body" means a body appointed by a Party, with responsibility to identify and monitor testing laboratories and/or certification bodies as specified under this Sectoral MRA;

CERTIFIED COPY SECRETARIAT GENERAL OF ASEAN

"*Contact Point*" means a person, position or body with and through whom Parties will exchange information and communicate in accordance with requirements of this Sectoral MRA;

"Low voltage power supply" means a power supply with a voltage rating of between 50 and 1 000 V for alternating current and between 75 and 1 500 V for direct current;

"Mandatory Requirements" means the technical requirements, legislative and regulatory provisions, and administrative arrangements that are the subject of this Sectoral MRA, of a Party pertaining to the testing or certification of electrical and electronic equipment with respect to which compliance is mandatory.

ARTICLE 2
Objectives

This Sectoral MRA stipulates the arrangement under which each Party will accept:

(i) test reports that demonstrate conformity of electrical and electronic equipment with its mandatory requirements where the test reports are issued by listed Testing Laboratories within its accredited scope; and

(ii) certification that demonstrates conformity of electrical and electronic equipment with its mandatory requirements where the certification is issued by a listed Certification Body.

ARTICLE 3
General Provisions

1. Parties will accept the test reports and certifications, which have been issued by the Testing Laboratories and Certification Bodies respectively of the other Parties, listed in accordance with provisions of this Sectoral MRA.

CERTIFIED COPY
SECRETARIAT OF ASEAN

2. The technical requirements that the Parties will apply to identify and monitor Testing Laboratories and Certification Bodies are specified in Article 11 of this Sectoral MRA.

3. Where test reports and certifications have been issued in respect of an earlier model or version of equipment to that which is actually imported, Parties retain the right to verify the conformity of the later model or version.

4. Parties will strengthen and enhance existing cooperation efforts in information exchange, through their contact points, concerning their regulatory requirements, conformity assessment procedures and regimes; and in confidence building through inter alia:

   a) alignment of standards to or acceptance of relevant ISO/IEC standards;

   b) establishing or improving of infrastructure in calibration, testing, certification and accreditation to meet relevant international requirements for electrical and electronic equipment; and

   c) actively participating in relevant arrangements undertaken by specialist regional and international bodies.

5. All documents issued for the purpose of information exchange, verification, provision of evidence and other activities arising from obligations of this Sectoral MRA, if not in English, will be accompanied by certified translated copies in English.

ARTICLE 4
Scope and Coverage

1. This Sectoral MRA applies to all instances, where test reports and/or certifications are used as the basis for regulatory action in respect of electrical and electronic equipment.

CERTIFIED COPY
SECRETARY GENERAL OF ASEAN

2. The scope of equipment covers all new* electrical and electronic equipment that is intended to be either directly connected or plugged-in to the low voltage power supply or is battery powered, but does not include any equipment covered by the ASEAN Sectoral MRA on Conformity Assessment of Telecommunications Equipment. This Sectoral MRA does not apply to Medical Equipment.

ARTICLE 5
Designating Bodies

1. Parties will ensure that their Designating Bodies have the authority and competence in their respective territories to carry out decisions required of them under this Sectoral MRA.

2. Designating Bodies will ensure that Testing Laboratories and/or Certification Bodies identified by them and listed in this Sectoral MRA are capable and remain capable of properly assessing conformity of products or processes, as applicable, and as covered in this Sectoral MRA. Designating Bodies will maintain the monitoring of such Testing Laboratories and/or Certification Bodies listed in this Sectoral MRA.

3. The Designating Body may also appoint an accreditation body to accredit Testing Laboratories and/or Certification Bodies while maintaining full responsibility as a Designating Body under this Sectoral MRA.

4. Designating Bodies will consult as necessary with their counterparts in the other Parties, to ensure the maintenance of confidence in conformity assessment procedures. This consultation may include joint participation in audits/inspections related to conformity assessment activities or other assessments of Testing Laboratories and/or Certification Bodies listed in this Sectoral MRA.

*) "new" does not include second-hand, refurbished or reconditioned equipment

CERTIFIED COPY
SECRETARY GENERAL OF ASEAN
asean

5. Designating Bodies will consult, as necessary, with relevant Regulatory Authorities to ensure that all technical requirements identified in this Sectoral MRA are satisfactorily addressed.

ARTICLE 6
Joint Sectoral Committee

1. For this Sectoral MRA, a Joint Sectoral Committee (JSC) will be established, which will be responsible for the effective functioning of this Sectoral MRA. The Joint Sectoral Committee will comprise one official representative from each Member State's Regulatory Authority. The representative may be accompanied by their delegation at meetings of the Joint Sectoral Committee.

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

   a) listing, suspension, removal and verification of Testing Laboratories and/or Certification Bodies in accordance with this Sectoral MRA;

   b) providing a forum for discussion of issues that may arise concerning the implementation of this Sectoral MRA;

   c) reviewing and proposing amendments to the scope and coverage of this Sectoral MRA; and

   d) considering ways to enhance the operation of this Sectoral MRA.

3. The Joint Sectoral Committee will:

   a) determine its own rules of procedures;

   b) take its decisions by consensus; and

   c) meet as and when required for the discharge of its functions, including upon the request of the Senior Economic Officials Meeting (SEOM).

CERTIFIED COPY SECRETARY GENERAL OF ASEAN asean

ARTICLE 7
Listing of Testing Laboratories and Certification Bodies

1. Each Designating Body will identify Testing Laboratories and/or Certification Bodies as applicable for listing, in accordance with Article 11 and procedures set forth in this Sectoral MRA.

2. All Designating Bodies will submit in writing, details of all Testing Laboratories and/or Certification Bodies as applicable that they identify, to the 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 will indicate their position regarding either their confirmation or their opposition, to the ASEAN Secretariat. No response within 60 days will be taken as abstention. The inclusion of the proposed Testing Laboratories and/or Certification Bodies in the respective lists of accepted Testing Laboratories and Certification Bodies will take effect, upon confirmation;

   b) If one or more Parties request verification of the technical competence or compliance of a proposed Testing Laboratory or Certification Body, such request will be made in an objective and reasoned manner in writing to the ASEAN Secretariat, who will forward it to the Joint Sectoral Committee for a decision. The Joint Sectoral Committee may decide that the body concerned be more fully verified in accordance with Article 10 of this Sectoral MRA;

   c) The proposed Testing Laboratory or Certification Body will not be included in the respective lists of accepted Testing Laboratories and Certification Bodies until a decision has been made to include such Testing Laboratory or Certification Body.

3. The ASEAN Secretariat will establish and maintain the list of accepted Testing Laboratories and the list of accepted Certification Bodies.

CERTIFIED COPY
SECRETARY GENERAL OF ASEAN

ARTICLE 8
Suspension of Listed Testing Laboratories and Certification Bodies

The following procedures will apply with regard to the suspension of a Testing Laboratory or a Certification Body listed in this Sectoral MRA:

a) Any Party which contests the technical competence or compliance of a listed Testing Laboratory or Certification Body will, through its contact point, submit a notification to the Joint Sectoral Committee and the ASEAN Secretariat. Such contestation will be exercised when justified in an objective and reasoned manner in writing;

b) The ASEAN Secretariat will promptly inform the Testing Laboratory or Certification Body concerned. The Testing Laboratory or Certification Body will be entitled to present information in order to refute the contestation or to correct the deficiencies which form the basis of the contestation;

c) Any such contestation will be discussed by the Joint Sectoral Committee, which may decide to suspend the Testing Laboratory or Certification Body in question;

d) If the matter has not been resolved by the Joint Sectoral Committee within 21 days of the notice of contestation, the Testing Laboratory or Certification Body will be suspended upon the request of the contesting Party. Pending the decision of the Joint Sectoral Committee, the Regulatory Authority of the contesting Party may take all appropriate measures according to the provisions stated in Article 14 of this Sectoral MRA;

e) Where the Joint Sectoral Committee decides that verification of technical competence or compliance is required, such verification will be carried out in accordance with Article 10 of this Sectoral MRA;

f) Subsequent to the suspension of a Testing Laboratory or Certification Body listed in this Sectoral MRA, Parties are no longer obliged to accept the test reports or certifications issued by that Testing Laboratory or Certification Body. Parties will,

CERTIFIED COPY SECRETARY GENERAL OF ASEAN asean

subject to Article 14, continue to accept the test reports or certifications issued by that Testing Laboratory or Certification Body prior to suspension; and

g) The suspension will remain in effect until an agreement has been reached by the Parties on the future status of that Testing Laboratory or Certification Body.

ARTICLE 9
Removal of Listed Testing Laboratories and Certification Bodies

The following procedures will apply with regard to the removal of a listed Testing Laboratory or Certification Body from this Sectoral MRA:

a) A Party proposing to remove a Testing Laboratory or Certification Body listed in this Sectoral MRA will, through its contact point, forward its proposal in an objective and reasoned manner in writing to the Joint Sectoral Committee and the ASEAN Secretariat;

b) Such a Testing Laboratory or Certification Body will be promptly notified by the ASEAN Secretariat and will be provided a period of at least 30 days from receipt of the notification to provide information in order to refute or to correct the deficiencies which form the basis of the proposed removal;

c) Within 60 days following receipt of the proposal, the members of the Joint Sectoral Committee will indicate their positions regarding either their confirmation or their opposition to the ASEAN Secretariat. No response within 60 days will be taken as abstention. The removal from this Sectoral MRA of the proposed Testing Laboratory or Certification Body will take effect, upon confirmation;

d) If the Joint Sectoral Committee finds sufficient grounds based on the evidence submitted, it may decide to carry out a joint verification of the body concerned. Pending completion of the joint verification, the Testing Laboratory or Certification Body

CERTIFIED COPY SECRETARY GENERAL OF ASEAN asean

will not be removed from the respective lists of accepted Testing Laboratories or Certification Bodies; and

e) Subsequent to the removal of a Testing Laboratory or Certification Body listed in this Sectoral MRA, the Parties will, subject to Article 14, continue to accept the test reports or certifications issued by that Testing Laboratory or Certification Body, prior to removal.

ARTICLE 10
Verification of Technical Competence and Compliance of Testing Laboratories and Certification Bodies

1. The Designating Bodies will ensure that Testing Laboratories and/or Certification Bodies identified by them will be available for verification of their technical competence and compliance with applicable requirements when required by the Joint Sectoral Committee.

2. Any request for verification of technical competence or compliance of the Testing Laboratory or Certification Body, will be justified in an objective and reasoned manner in writing to the ASEAN Secretariat, who will forward it to the Joint Sectoral Committee for a decision.

3. Where the Joint Sectoral Committee decides that verification of technical competence or compliance is required, it will be carried out in a timely manner, jointly by all interested Parties, based on the procedures and criteria set forth in Article 11 of this Sectoral MRA.

4. The result of this verification will be discussed by the Joint Sectoral Committee with a view to resolving the issue as soon as possible.

ARTICLE 11
Technical Competence of Testing Laboratories and Certification Bodies

1. Demonstration of technical competence of Testing Laboratories and Certification Bodies will be based on:

CERTIFIED COPY
SECRETARY GENERAL OF ASEAN
asean

a) the technological knowledge of the relevant products, processes or services;

b) the understanding of the technical standards and the general risk protection requirements for which designation is sought;

c) the experience relevant to the applicable legislative, regulatory and administrative provisions;

d) the physical capability to perform the relevant tests;

e) an adequate management of the tests concerned; and

f) any other circumstance necessary to give assurance that the test will be adequately performed on a consistent basis.

2. The basis for identifying and listing Testing Laboratories will be accreditation to ISO/IEC Guide 25:1990/ISO/IEC 17025:1999, which will constitute an acceptance of technical competence in relation to the requirements of the other Parties when:

a) the accreditation process is conducted in compliance with ISO/IEC Guide 58:1993; and

b) the accreditation body is a member of the Asia-Pacific Laboratory Accreditation Cooperation (APLAC) and is a signatory to the APLAC Multilateral Recognition Arrangement where they are subject to peer evaluation of the competence of accreditation bodies and the test facilities accredited by them.

3. The basis for identifying and listing Certification Bodies will be accreditation to ISO/IEC Guide 65:1996, which will constitute an acceptance of technical competence in relation to the requirements of the other Parties when:

a) the accreditation process is conducted in compliance with ISO/IEC Guide 61:1996; and

CERTIFIED COPY SECRETARY GENERAL OF ASEAN

b) the accreditation body is a member of the Pacific Accreditation Cooperation (PAC) and is a signatory to the PAC Multilateral Recognition Agreement where they are subject to peer evaluation of the competence of accreditation bodies and the certification bodies accredited by them.

4. Membership in the IEC Certification Body (IECEE CB) Scheme and the IEC Full Certification Body Scheme (IECEE CB/FCS) will be a good criteria for consideration in meeting the requirements in above paragraphs 2 and 3 respectively of Article 11.

ARTICLE 12
Participation in Acceptance of the Test Reports and/or certifications

1. This Sectoral MRA is intended to be a multilateral arrangement in which all Member States are encouraged to participate. However, taking into cognizance of paragraph 3 of Article 1 of the Framework Agreement on Enhancing ASEAN Economic Cooperation signed on 28 January 1992 in Singapore and paragraph 7 of Article 3 of the ASEAN Framework Agreement on Mutual Recognition Arrangements signed on 16 December 1998 in Ha Noi, Viet Nam, two or more Member States may proceed first if other Member States are not ready to participate in this Sectoral MRA.

2. Any Member State that wishes to participate in this Sectoral MRA shall notify the ASEAN Secretariat of its intention to participate and the date on which its participation in this Sectoral MRA will take effect. The notification shall be submitted to the ASEAN Secretariat at least six months prior to the date of the Member State's actual participation in acceptance of the test reports or certifications, or both, so that the other Member States have the opportunity to begin learning about the Party's Technical Regulations, and vice versa.

3. The other Member States may notify the ASEAN Secretariat at any time when they are prepared to participate in this Sectoral MRA, at least six months prior to the date of its actual participation in acceptance of the test reports or certifications, or both. Immediately after receiving the notification from a Party, the ASEAN Secretariat will identify that Party to the other Member States.

CERTIFIED COPY
SECRETARIAT GENERAL OF ASEAN
asean

4. Once the ASEAN Secretariat has identified a Party under paragraph 2 or 3 above, the Party will provide to the ASEAN Secretariat and the other Parties the following information in writing:

a) The list of Technical Regulations for which it will recognize the test reports and certifications from other Parties' Testing Laboratories and Certification Bodies, as applicable;

b) The list of Designating Bodies in the notifying Party's jurisdiction that will be responsible for identifying Testing Laboratories and/or Certification Bodies, which will include any Accreditation Bodies that the Designating Body has appointed or intends to appoint for accrediting Testing Laboratories and/or Certification Bodies as provided under this Sectoral MRA;

c) The Contact Points to be responsible for the activities under this Sectoral MRA.

The other Parties will provide the new Party with the same information.

5. Parties will enjoy full and equal benefits and responsibilities under this Sectoral MRA immediately upon the date when their participation in this Sectoral MRA takes effect, in accordance with paragraph (2) of this Article.

ARTICLE 13
Termination of Participation

1. Any Party may terminate its participation in this Sectoral MRA or only in the acceptance of the test reports or acceptance of the certifications, as applicable, by giving to all other Member States at least six months' advance notice in writing.

2. Following termination by a Party of its participation in this Sectoral MRA or only in the acceptance of the test reports or acceptance of the certifications, as applicable, a Party will continue to accept the test reports and/or certifications issued by the Testing Laboratories and Certification Bodies respectively under this Sectoral MRA prior to

CERTIFIED COPY SECRETARY GENERAL OF ASEAN asean

termination unless the Party decides otherwise, and so informs the other Member States in its notice of termination.

ARTICLE 14
Preservation of Regulatory Authority

1. Nothing in this Sectoral MRA will be construed to limit the authority of a Party to determine, through its legislative, regulatory and administrative measures, the level of protection it considers appropriate for safety; for protection of human, animal, or plant life or health; for the environment and for consumers.

2. Nothing in this Sectoral MRA will be construed to limit the authority of a Regulatory Authority to take all appropriate and immediate measures whenever it ascertains that the electrical and electronic equipment may:

   a) compromise the health or safety of persons in its territory;

   b) not meet the legislative, regulatory, or administrative provisions within the scope of this Sectoral MRA; or

   c) otherwise fail to satisfy a requirement within the scope of this Sectoral MRA.

   If the Regulatory Authority takes such measures, it will inform its counterpart in the affected Party and other Parties of such measures taken, providing reasons, within 15 working days of taking the measures.

ARTICLE 15
Consultations and Settlement of Dispute

1. Member States will, at the written request of another Member State , enter into consultations with a view to seeking a prompt, equitable and mutually satisfactory solution, if that Member State considers that:

CERTIFIED COPY
SECRETARY GENERAL OF ASEAN
asean

a) an obligation under this Sectoral MRA has not been fulfilled, is not being fulfilled, or may not be fulfilled; or

b) any objective of this Sectoral MRA is not being achieved or may be frustrated.

2. Any differences between the Member States concerning the interpretation or application of this Sectoral MRA will, as far as possible, be settled amicably between the Member States concerned or within the Joint Sectoral Committee if applicable. If a settlement cannot be reached, it will be subjected to the Dispute Settlement Mechanism of ASEAN in accordance with the Protocol on Dispute Settlement Mechanism, which was signed on 20th November 1996 in Manila, the Philippines.

ARTICLE 16
Institutional Arrangements

1. The Joint Sectoral Committee will monitor all aspects relating to the implementation of this Sectoral MRA and report its activities to Senior Economic Officials Meeting (SEOM) and AFTA Council through the ASEAN Secretariat, who will then forward a copy of the said report to the ASEAN Consultative Committee for Standards and Quality (ACCSQ).

2. The ACCSQ and the ASEAN Secretariat will provide the support for coordinating and reviewing the implementation of this Sectoral MRA to the Joint Sectoral Committee in all matters relating thereto.

3. The ACCSQ will be the forum for linkages with industries with respect to the implementation of this Sectoral MRA.

ARTICLE 17
Technical Assistance and Funding

1. Parties will, if requested, advise other Parties, and will grant them technical assistance on mutually agreed terms and conditions, where applicable on building up and/or maintaining technical competence of

CERTIFIED COPY SECRETARY GENERAL OF ASEAN asean

relevant Testing Laboratories and/or Certification Bodies in their territories so that they can fulfil the obligations as specified in this Sectoral MRA.

2. Parties which are members or participants of international or regional systems for conformity assessment will, if requested, advise other Parties, and will grant them technical assistance on mutually agreed terms and conditions, where applicable regarding the establishment of the institutions and legal framework which would enable them to fulfil the obligations of membership or participation in such systems.

3. Parties may engage the services of Testing Laboratories and/or Certification Bodies of other Parties to undertake the requisite conformity assessment activities, should they not have their own facilities to do so.

4. Parties will accord priority to funding for activities under this Sectoral MRA. Expenses incurred as a result of any activity undertaken by a Party to fulfill the objectives of this Sectoral MRA will be borne by the Party concerned unless all Parties decide otherwise.

ARTICLE 18
Confidentiality

1. Parties will maintain, to the extent permitted under their national laws and regulations, the confidentiality of information exchanged under this Sectoral MRA.

2. Parties will take all precautions reasonably necessary to protect information exchanged under this Sectoral MRA from unauthorized disclosure.

3. An importing Party will not require a Designating Body, Testing Laboratory or Certification Body of an exporting Party to disclose a supplier's proprietary information except where necessary to demonstrate conformity with the importing Party's mandatory requirements.

CERTIFIED COPY
SECRETARY GENERAL OF ASEAN
asean

ARTICLE 19
Rights and Obligations under Existing International Agreements or Conventions

This Sectoral MRA or any actions taken thereto will not affect the rights and obligations of any Member State under any existing international agreements or conventions to which it is also a signatory .

ARTICLE 20
Final Provisions

1. The provisions of this Sectoral MRA may be reviewed or amended by written agreement of all Member States.

2. Member States will undertake appropriate measures to fulfill the agreed obligations arising from this Sectoral MRA.

3. Member States will make no reservations with respect to any of the provisions of this Sectoral MRA.

4. This Sectoral MRA will come into force on the date of its signature.

5. This Sectoral MRA will be deposited with the Secretary General of ASEAN, who will promptly furnish each Member State a certified copy thereof.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this ASEAN Sectoral Mutual Recognition Arrangement for Electrical and Electronic Equipment.

DONE at Bangkok, Thailand, this 5th day of April in the Year Two Thousand and Two, in a single copy in the English Language.



For the Government of Brunei Darussalam

ABDUL RAHMAN TAIB
Minister of Industry and Primary Resources

For the Government of the Kingdom of Cambodia

CHAM PRASIDH
Minister of Commerce

For the Government of the Republic of Indonesia

RINI M.S. SOEWANDI
Minister of Industry and Trade

For the Government of the Lao People's Democratic Republic

SOULIVONG DARAVONG
Minister of Industry and Handicraft

CERTIFIED COPY SECRETARY GENERAL OF ASEAN asean

For the Government of Malaysia

RAFIDAH AZIZ
Minister of International Trade and Industry

For the Government of the Union of Myanmar

Brig: Gen:

BRIGADIER GENERAL DAVID O.ABEL
Minister at the Office of the Chairman of the State Peace and Development Council

For the Government of the Republic of the Philippines

MANUEL A. ROXAS II
Secretary of Trade and Industry

For the Government of the Republic of Singapore

GEORGE YONG-BOON YEO
Minister of Trade and Industry

CERTIFIED COPY
SECRETARY GENERAL OF ASEAN
asean

For the Government of the Kingdom of Thailand

ADISAI BODHARAMIK
Minister of Commerce

For the Government of the Socialist Republic of Vietnam

VU KHOAN
Minister of Trade

CERTIFIED COPY
SECRETARIAT ASEAN