

Article 70
Implementation and Institutional Arrangements

The ASEAN Directors-General of Customs, supported by customs working bodies, shall be responsible to implement the provisions of this Chapter and any other provisions relevant to customs in this Agreement.

CHAPTER 7
STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY
ASSESSMENT PROCEDURES

Article 71
Objective

The objective of this Chapter is to establish provisions on standards, technical regulations and conformity assessment procedures to ensure that these do not create unnecessary obstacles to trade in establishing ASEAN as a single market and production base, and at the same time ensure that the legitimate objectives of Member States are met.

Article 72
Terms and Definitions

General terms concerning standardisation and conformity assessment used in this Chapter have the meaning given to them in the definitions contained in the appropriate editions of ISO/ IEC Guide 2 and ISO/ IEC 17000 of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) as cited in the *ASEAN Framework Agreement on Mutual Recognition Arrangements* and the relevant ASEAN Sectoral Mutual Recognition Arrangements.

Article 73
General Provisions

1. Member States reaffirm and are committed to abide by the rights and obligations under *the Agreement on Technical Barriers to Trade* contained in Annex 1A to the WTO Agreement.

2. Member States shall take any of the following possible measures or their combinations to mitigate, if not totally eliminate, unnecessary technical barriers to trade:

- (a) harmonise national standards with relevant international standards and practices;
- (b) promote mutual recognition of conformity assessment results among Member States;
- (c) develop and implement ASEAN Sectoral Mutual Recognition Arrangements and develop ASEAN Harmonised Regulatory Regimes in the regulated areas where applicable; and
- (d) encourage the co-operation among National Accreditation Bodies and National Metrology Institutes (NMIs) including relevant legal metrology authorities in ASEAN to facilitate the implementation of Mutual Recognition Arrangements (MRAs) in regulated and non-regulated sectors.

3. To facilitate the free movement of goods within ASEAN, Member States shall develop and implement a Marking Scheme, where appropriate, for products covered under the ASEAN Harmonised Regulatory Regimes or Directives.

Article 74 Standards

1. Each Member State undertakes that its national standards authorities accept and follow the *Code of Good Practice for the Preparation, Adoption and Application of Standards* as provided for in Annex 3 of the *Agreement on Technical Barriers to Trade* as contained in Annex 1A to the WTO Agreement.

2. In harmonising national standards, Member States shall, as the first and preferred option, adopt the relevant international standards when preparing new national standards or revising existing standards. Where international standards are not available, national standards shall be aligned among Member States.

3. Member States are encouraged to actively participate in the development of international standards, particularly in those sectors that have trade potential for ASEAN.

4. Harmonisation of the existing national standards and adoption of

international standards into new national standards should be based on *"Adoption of International Standards as Regional or National Standards"*, as contained in the ISO/IEC Guide 21 or its latest edition.

5. Whenever modifications of contents and structure of the relevant international standards are necessary, Member States shall ensure an easy comparison of the contents and structure of their national standards with the referenced international standards and provide information to explain the reason(s) for such modifications.

6. Member States shall ensure that:

- (a) the modifications of contents of international standards are not prepared and adopted with a view to, or with the effect of, creating unnecessary technical barriers to trade; and
- (b) the modifications of contents shall not be more restrictive than necessary.

Article 75 **Technical Regulations**

1. In adopting technical regulations, Member States shall ensure that:

- (a) these are not adopted with a view, to or with the effect of, creating technical barriers to trade;
- (b) these are based on international or national standards that are harmonised to international standards, except where legitimate reasons for deviations exist;
- (c) alternative means that are least trade restrictive to achieve the desired objectives are considered before a decision is taken on the adoption of technical regulations;
- (d) the adoption of prescriptive standards is avoided to ensure that unnecessary obstacles to trade are not introduced, to enhance fair competition in the market or that it does not lead to a reduction of business flexibility; and
- (e) treatment accorded to products imported from Member States is no less favourable than that accorded to like products of national origin and to like products originating

from any other Member State.

2. Member States shall ensure that only those parts of a standard that represent minimum requirements to fulfil the desired objectives are referred to in the technical regulations.

3. Member States shall also ensure that, wherever applicable, the preparation, adoption and application of technical regulations are to facilitate the implementation of the respective ASEAN Sectoral Mutual Recognition Arrangements.

4. Whenever the need for technical regulations is urgent for overcoming problems that arise or threaten to arise within the territory of a Member State and the available time does not allow such Member State to harmonise the relevant national standards, that Member State shall consider using the appropriate international standards or the relevant parts of them as the first alternative.

5. Member States shall comply with the notification procedures as stipulated in Article 11. However, in the case of technical regulations under this Article, other Member States shall present their comments, if any, within sixty (60) days of the notification. Member States shall, upon request, provide to other Member States the draft of the technical regulation and other information regarding the deviations from the relevant international standards and the applicable pre-market conformity assessment procedure.

6. Except in urgent circumstances, Member States shall allow at least six (6) months between the publication of technical regulations and their entry into force in order to provide sufficient time for producers in exporting Member States to adapt their products or methods of production to the requirements of importing Member States.

Article 76

Conformity Assessment Procedures

1. Member States shall ensure that conformity assessment procedures are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary technical barriers to trade and that conformity assessment procedures that have to be complied with by suppliers of products originating in the territories of other Member States are not more stringent than those accorded to suppliers of like products of national origin.

2. Member States shall adopt conformity assessment procedures

that are consistent with international standards and practices and wherever such procedures cannot be achieved because of differences in legitimate objectives, the differences of conformity assessment procedures shall be minimised as far as possible.

3. Member States shall develop and implement ASEAN Sectoral Mutual Recognition Arrangement in the regulated areas, where appropriate, in accordance with the provisions of *the ASEAN Framework Agreement on Mutual Recognition Arrangements*.

4. Member States shall accept the results of conformity assessment produced by conformity assessment bodies designated by other Member States in accordance with the provisions of *the ASEAN Framework Agreement on Mutual Recognition Arrangements* and the provisions of the respective ASEAN Sectoral Mutual Recognition Arrangements in all regulated areas.

5. Member States shall establish co-operation among National Accreditation Bodies and National Metrology Institutes (NMIs), including legal metrology in ASEAN to facilitate the implementation of MRAs in regulated and non-regulated sectors.

Article 77

Post Market Surveillance

1. Member States shall establish post market surveillance systems to complement the implementation of the ASEAN Sectoral Mutual Recognition Arrangements and ASEAN Harmonised Regulatory Regimes and/or Directives.

2. The relevant authority that undertakes the post market surveillance system of the Member States shall take the necessary actions to ensure compliance of products placed in the market with the applicable ASEAN Sectoral Mutual Recognition Arrangements and ASEAN Harmonised Regulatory Regimes and/or Directives.

3. Member States should ensure that the necessary laws and technical infrastructure are in place to support post market surveillance systems.

4. The effectiveness of the post market surveillance systems shall be further enhanced through the establishment of Alert Systems among Member States.

Article 78

Implementation

1. Member States shall take all necessary measures to ensure implementation of all the ASEAN Sectoral Mutual Recognition Arrangements, ASEAN Harmonised Regulatory Regimes and the relevant provisions of this Agreement within the time frame stipulated in the aforesaid agreements and to ensure compliance with aforesaid harmonised requirements.

2. The following instruments, and any future instruments agreed by Member States to implement the provisions of this Agreement, shall form an integral part of this Agreement:

- (a) *ASEAN Framework Agreement on Mutual Recognition Arrangements;*
- (b) *ASEAN Sectoral Mutual Recognition Arrangement for Electrical and Electronic Equipment;*
- (c) *Agreement on the ASEAN Harmonized Electrical and Electronic Equipment (EEE) Regulatory Regime; and*
- (d) *Agreement on the ASEAN Harmonized Cosmetic Regulatory Scheme.*

3. The ASEAN Consultative Committee for Standards and Quality (ACCSQ) shall be responsible for:

- a) identifying and initiating sectoral MRAs;
- b) monitoring the effective implementation of the relevant provisions of this Agreement in respect of standards, technical regulations and conformity assessment procedures;
- c) providing support to the respective Joint Sectoral Committees when required; and
- d) collaborating with the ASEAN Secretariat to provide regular feedback on the implementation of this Agreement.

4. The ACCSQ shall provide support and co-operation under the relevant ASEAN Free Trade Agreements (FTAs) with Dialogue Partners, including capacity building and institutional strengthening

programmes for Standards, Technical Regulations and Conformity Assessment Procedures Chapters in such ASEAN FTAs.

5. The ACCSQ shall take the necessary actions to ensure effective implementation of the ASEAN Sectoral Mutual Recognition Arrangements and ASEAN Harmonised Regulatory Regimes.

CHAPTER 8 SANITARY AND PHYTOSANITARY MEASURES

Article 79 Objectives

The objectives of this Chapter are to:

- (a) facilitate trade between and among Member States while protecting human, animal or plant life or health in each Member State;
- (b) provide a framework and guidelines on requirements in the application of sanitary and phytosanitary measures among Member States, particularly to achieve commitments set forth in the ASEAN Economic Community Blueprint;
- (c) strengthen co-operation among Member States in protecting human, animal or plant life or health; and
- (d) facilitate and strengthen implementation of this Chapter in accordance with the principles and disciplines in the *Agreement on the Application of Sanitary and Phytosanitary Measures* contained in Annex 1A to the WTO Agreement and this Agreement.

Article 80 Definitions

For the purposes of this Chapter:

- (a) **international standards, guidelines and recommendations** shall have the same meaning as in Annex A of paragraph 3 to the *SPS Agreement*;