

AGREEMENT ON THE ASEAN HARMONIZED ELECTRICAL AND ELECTRONIC EQUIPMENT (EEE) REGULATORY REGIME

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 Countries of the Association of Southeast Asian Nations (hereinafter collectively referred to as "ASEAN" and individually as "a Member Country");

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 1998 they agreed to accelerate its implementation to the year 2002;

NOTING the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) signed on 28 January 1992 and the Protocol to amend the above Agreement signed on 15 December 1995, which provide for cooperation to supplement and complement the liberalization of trade including, among others, the harmonization of standards, reciprocal recognition of test reports and certification of products;

MINDFUL that the Declaration of ASEAN Concord II (Bali Concord II) adopted by the ASEAN Heads of Government during the 9th ASEAN Summit in Bali, Indonesia on 7 October 2003, commits ASEAN to deepen and broaden its internal economic integration and linkages, with the participation of the private sector, so as to realize an ASEAN Economic Community;

MINDFUL that the ASEAN Economic Community shall be the end- goal of ASEAN economic integration as outlined in the ASEAN Vision 2020 and that the ASEAN Economic Community will result in ASEAN becoming a single market and production base, turning the diversity that characterizes the region into opportunities for business complementation and making ASEAN a more dynamic and stronger segment of the global supply chain and the world economy;

REITERATING their commitment to the Agreement on Technical Barriers to Trade (TBT) of the World Trade Organization (WTO), which 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 mandates, among others, the elimination of unnecessary obstacles to trade, including those relating to technical regulations;

RECALLING that the ASEAN Framework Agreement on Mutual Recognition Arrangements was signed on 16 December 1998 and the ASEAN Sectoral Mutual Recognition Arrangement for Electrical and Electronic Equipment was signed on 5 April 2002 to facilitate the elimination of technical barriers to trade and to enhance trade in ASEAN;

HAVING regard to the ASEAN Framework Agreement for the Integration of Priority Sectors; the ASEAN Sectoral Integration Protocol for Electronics and Roadmap for Electronics Integration signed on 29 November 2004 in Vientiane, Lao PDR;

HAVING regard to the ASEAN Policy Guideline on Standards and Conformance endorsed by ASEAN Economic Ministers on 28 September 2005 in Vientiane, Lao PDR;

DESIRING to formulate an agreement to deepen and broaden cooperation in the electrical and electronic sectors so as to contribute to the realization of the ASEAN Economic Community.

HAVE AGREED AS FOLLOWS:

ARTICLE 1
OBJECTIVES

The objectives of the Agreement on the ASEAN Harmonized Electrical and Electronic Equipment Regulatory Regime (hereinafter referred as "the Agreement") are:

a) To enhance cooperation amongst Member Countries in ensuring the protection of human health and safety and property and the preservation of the environment insofar as they are affected by trade of electrical and electronic equipment in ASEAN;

b) To eliminate restrictions to trade of electrical and electronic equipment through harmonization of technical requirements and registration; and

c) To facilitate the negotiations for Mutual Recognition Agreements on Conformity Assessment between ASEAN and other countries or group of countries (blocs.)

ARTICLE 2
DEFINITION AND SCOPE OF ELECTRICAL AND ELECTRONIC EQUIPMENT (EEE)

1. This Agreement applies to all instances where a Member Country carries out regulatory action in respect of Electrical and Electronic Equipment (EEE).

2. For the purpose of this Agreement, EEE means all new electrical and electronic equipment that are 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 Arrangement on Conformity Assessment of Telecommunication Equipment and does not apply to medical equipment.

ARTICLE 3
DOCUMENTS FOR EEE

The following Appendices are an integral part of this Agreement:

(i) Terminology (Appendix A).

(ii) ASEAN Essential Requirements for EEE (Appendix B).

(iii) ASEAN Harmonized Conformity Assessment Procedures for EEE (Appendix C).

(iv) Technical Files (Appendix D).

ARTICLE 4
IMPLEMENTATION

A. Member Countries with existing EEE Regulatory Regime

1. This Agreement requires Member Country with an existing EEE regulatory regime to undertake all necessary measures to fully implement this Agreement including all the Appendices listed in Article 3 not later than **31st December 2010,** including**:**

a) Enacting any necessary laws and/or technical regulations and administrative provisions; and

b) Developing any necessary technical infrastructure in place to implement this Agreement including effective market surveillance systems and/or relevant product liability requirements.

2. Member Country shall submit to the Joint Sectoral Committee for Electrical and Electronic Equipment (hereinafter called "JSC EEE") through the ASEAN Secretariat, the draft text of the new laws and/or technical regulations and administrative provisions constituting their EEE regulatory regime for comments by the JSC EEE within 6 (six) months prior to the entry into force of the new laws and/or technical regulations and administrative provisions. Member Countries shall also allow at least 6 (six) months interval between the publication of the new laws and/or technical regulations and administrative provisions and their entry into force in order to allow time for producers in exporting Member Countries to adapt their products or methods of production to the new requirements.

B. Member Countries without EEE Regulatory Regime

3. This Agreement does not oblige Member Countries that do not have an EEE regulatory regime to develop one.

4. Where a Member Country decides to develop an EEE regulatory regime, it shall comply with this Agreement including all Appendices listed in Article 3. In such cases, it shall submit to the JSC EEE, through the ASEAN Secretariat, the draft text of the laws, technical regulations and administrative provisions constituting its EEE regulatory regime for comments by the JSC EEE within 6 (six) months prior to the entry into force of the new regulatory regime. Member Countries shall also allow an interval of at least 6 (six) months between the publication of the new regulatory regime and its entry into force in order to allow time for producers in exporting Member Countries to adapt their products or methods of production to the new requirements.

ARTICLE 5
OTHER MATTERS PERTAINING TO IMPLEMENTATION

1. Member Countries shall undertake all necessary measures to ensure that only EEE which comply with the Appendix B (ASEAN Essential Requirements) and are registered with the relevant Regulatory Authority and if required, bear the relevant Conformity Mark and/or registration mark may be allowed to be placed in the ASEAN regulated market.

2. The supplier responsible for placing the EEE in the market shall ensure that their products comply with Appendix B (ASEAN Essential Requirements), are registered with the relevant Regulatory Authority in Member Countries and if required, bear the relevant Conformity Mark and/or registration mark.

3. The ASEAN Conformity Mark when introduced may be affixed on the EEE to demonstrate that it complies with Appendix B (ASEAN Essential Requirements).

ARTICLE 6
COMPLIANCE WITH ESSENTIAL REQUIREMENTS

1. An EEE placed in the market or put into service must comply with Appendix B (ASEAN Essential Requirements). Member Countries shall provide that non compliance with Appendix B shall amount to non- compliance with the relevant Member Countries' laws, and/or technical regulations and administrative provisions.

2. The JSC EEE shall identify and reach consensus on the list of the relevant international standards to be used to demonstrate the compliance of an EEE to the ASEAN Essential Requirements as stated in Appendix B (ASEAN Essential Requirements). In the absence of international standards, relevant regional or national standards shall be used in that respective order. If necessary, the JSC EEE may supplement the listed standards with mutually agreed harmonized regulatory requirements. If different editions of international standards are being used in ASEAN Member Countries, or more than one standard can be applied for a specific EEE, the JSC EEE may consider listing more than one standard for such an EEE. The ASEAN Secretariat shall maintain the list of relevant standards and harmonized regulatory requirements.

3. For the purpose of mutual acceptance of the test reports and/or certifications to facilitate intra ASEAN trade, the Conformity Assessment Bodies (CABs) listed by the JSC EE MRA (to be replaced by the JSC EEE as provided for in Article 12 (4) of this Agreement) shall attest an EEE for compliance in accordance with the listed standards and harmonized regulatory requirements as mentioned in paragraph 2 above.

ARTICLE 7
REGISTRATION PROCEDURE

The Regulatory Authority of participating Member Countries shall complete the registration not later than five working days or seven calendar days, whichever is longer, after the submission of the Certificate of Conformity (CoC) and compliance with administrative requirements by the supplier if applicable, so as to avoid unnecessary burdens once a regulated EEE has complied with the Appendix B (ASEAN Essential Requirements).

ARTICLE 8
TECHNICAL FILES

1. The supplier responsible for placing the EEE in the market shall in accordance with Appendix D provide and keep the technical files readily accessible to the Regulatory Authority of the Member Country concerned.

2. The supplier shall keep the technical files of the EEE for not less than 10 years after the last EEE has left the production line.

3. The Listed CABs in each Member Country shall also keep the technical file of a regulated EEE which is tested and certified by them in compliance with Appendix B (ASEAN Essential Requirements) for not less than 6 years after the expiry date of the Certificate of Conformity (CoC).

ARTICLE 9
RIGHTS OF REGULATORY AUTHORITY

1. Nothing in this Agreement shall prevent the Regulatory Authority in a Member Country from taking all appropriate and immediate measures within its territory whenever it ascertains that the registered EEE may represent a hazard to human health, safety, environment and property or otherwise fail to satisfy the requirements of this Agreement.

2. The Regulatory Authority of the Member Country concerned shall immediately inform the relevant Regulatory Authorities in other Member Countries and the ASEAN Secretariat, of any such measure(s), indicating the reasons for its decision in any of the following circumstances:

a) Failure to satisfy the Appendix B (ASEAN Essential Requirements);

b) Incorrect application of the listed standards;

c) Shortcomings in the listed standards; and

d) Occurrence of accidents involving the registered EEE.

ARTICLE 10
OTHER AREAS OF COOPERATION

Member Countries shall strengthen and enhance existing cooperation efforts in EEE and cooperate in areas that are not covered by existing cooperation arrangements, which may include but are not limited to the following:

a) Establishing or improving EEE related infrastructural facilities; and

b) Encouraging and promoting cooperation pertaining to:

(i) Marking and product registration of EEE;
(ii) Testing and certification of EEE and accreditation and designation of CABs; and
(iii) The sharing of safety alert of EEE as appropriate.

ARTICLE 11
DISPUTE SETTLEMENT

Any dispute between Member Countries regarding the interpretation or implementation of this Agreement including its Appendices shall be settled amicably by consultations between the disputing Member Countries. The JSC EEE may, as appropriate, and if the disputing Member Countries agree, assist in such consultations. If the dispute cannot be so resolved, it shall be resolved according to the Protocol on Enhanced ASEAN Dispute Settlement Mechanism signed on 29 November 2004 in Vientiane, Lao PDR.

ARTICLE 12
INSTITUTIONAL ARRANGEMENTS

1. The JSC EEE shall be responsible for the effective functioning of this Agreement, which may include, but is not limited to, coordinating, reviewing and monitoring the implementation of this Agreement, including its Appendices.

2. The JSC EEE, in the performance of its functions, shall make its decisions and adopt its own rules and procedures by consensus only.

3. The JSC EEE may establish or consult any body or bodies for the purpose of receiving advice on any matter of a scientific or technical nature in the field of EEE.

4. The JSC EEE will also take over the role of the JSC EE MRA in the listing, suspension, removal and verification of Testing Laboratories and/or Certification Bodies in accordance with this Agreement and the ASEAN Sectoral Mutual Recognition Arrangement for Electrical and Electronic Equipment.

5. The ASEAN Consultative Committee for Standards and Quality (ACCSQ) and the ASEAN Secretariat shall provide support to the JSC EEE in coordinating and monitoring the implementation of this Agreement including its Appendices and shall assist the JSC EEE in all matters relating thereto.

ARTICLE 13
FINAL PROVISIONS

1. This Agreement shall enter into force on the deposit of the instruments of the ratification or acceptance by all signatory Governments with the Secretary General of ASEAN.

2. The provisions of this Agreement may be amended by written agreement of all Member Countries. All amendments shall enter into force on the date of such agreement.

3. This Agreement shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each Member Country.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement on the ASEAN Harmonized EEE Regulatory Regime.

DONE at Kuala Lumpur, Malaysia, this Ninth Day of December in the Year Two Thousand and Five, in a single copy in the English language.

For the Government of Brunei Darussalam:

LIM JOCK SENG
Second Minister of Foreign Affairs and Trade

For the Royal Government Cambodia:

CHAM PRASIDH
Senior Minister and Minister of Commerce

For the Government of the Republic of Indonesia:

MARI ELKA PANGESTU
Minister of Trade

For the Government of the Lao People's Democratic Republic

SOULIVONG DARAVONG
Minister of Commerce

For the Government of Malaysia:

RAFIDAH AZIZ
Minister of International Trade and Industry

For the Government of the Union of Myanmar:

SOE THA
Minister for National Planning and Economic Development

For the Government of the Republic of the Philippines:

PETER B. FAVILA
Secretary of Trade and Industry

For the Government of the Republic of Singapore:

LIM HNG KIANG
Minister for Trade and Industry

For the Government of Thailand:

SOMKID JATUSRIPITAK
Deputy Prime Minister & Minister of Commerce

For the Government of the Socialist Republic of Viet Nam:

TRUONG DINH TUYEN
Minister of Trade

APPENDIX A

TERMINOLOGY

General terms used in this Agreement shall have the meaning given in the definitions contained in the ISO/ IEC Guide 2 (2004 edition) and ISO/ IEC 17000 (2004 edition) of the International Organization for Standardization (ISO) and International Electro-technical Commission (IEC) or their latest editions with the exception of these terms which shall be defined as follows:

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

"Conformity Assessment Body (CAB)" means a body whose activities and expertise include performance of all or any stage of the conformity assessment process except for accreditation, designation and registration.

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

"Designation" means the authorization by a Designating Body for a Conformity Assessment Body to perform conformity assessment activities as specified under this Agreement.

"Designating Body" means body appointed by a Member Country, with the responsibility to identify, designate and monitor Conformity Assessment Bodies as specified under this Agreement.

"Mandatory Requirements" mean the technical requirements, legislative and regulatory provisions and administrative arrangements that are subject to this Agreement, of a Member Country pertaining to testing or certification of EEE and for which compliance is mandatory.

"Certificate of Conformity" means a document issued by Listed CABs under the rules of a certification system, providing confidence that a duly identified product, process or service is in conformity with the requirements.

"Registration" means a procedure by which a Regulatory Authority registers upon application by a supplier of a regulated product on the basis of Certificate of Conformity issued by a Listed CAB. For the avoidance of doubt, "Registration" does not require any conformity assessment activity by the relevant Regulatory Authority over and above the conformity assessment by a listed CAB.

"Registration Mark" means an indication that a regulated product has been registered with a concerned Regulatory Authority under a mandatory product registration scheme of a Member Country if required.

"Supplier" means a person (natural or juridical) that places a product in the market. A supplier includes importer, manufacturer and trader.

"Technical File" means a set of document, which a supplier is obliged by law to maintain and which demonstrates that a regulated product has been tested and certified for compliance with Appendix B (ASEAN Essential Requirements).

"Harmonized Regulatory Requirements" mean mandatory requirements developed by the JSC EEE based on inputs from Member Countries'' Regulatory Authority. The requirements are to:

(i) Specify:
- Mains voltage and frequency
- Mains plug configuration
- Environmental condition

(ii) Provide:
- Critical interpretation where the listed standards are silent or vague
- Additional requirements where the listed standards are insufficient

"New equipment" means not second hand, refurbished or reconditioned equipment.

"Low voltage" means a voltage rating of between 50 and 1000 volts for alternating current and between 75 and 1500 volts for direct current.

"***An ASEAN Manufactured EEE***" means a product manufactured by a manufacturer incorporated and operating within the boundary of ASEAN that carries out manufacturing activities and is responsible for the quality of the product concerned.

APPENDIX B

ASEAN ESSENTIAL REQUIREMENTS FOR REGULATED EEE

The laws and/or technical regulations and administrative provisions of Member Countries shall be consistent with one or more of the following essential requirements:

1. Any regulated EEE placed on the market shall not cause any danger to human health and safety or damage to property when applied under normal use or reasonably foreseeable conditions of misuse, taking account, in particular, of the product's presentation, marking, instructions for its use and disposal, warning statements as well as any other indication or information provided by the manufacturer or his authorized agent or by any other person responsible for placing the product in the market.

2. An EEE placed in the market place must not cause damage or deteriorate the environment under reasonable conditions. There are situations where the desired improvement of the environment and prudent and rational utilization of natural resources calls for the establishment and enforcement of additional technical regulations.

3. The EEE shall be so constructed that the electromagnetic disturbances it generates does not exceed a level that introduces intolerable electromagnetic disturbances to anything in that environment, and shall allow radio and telecommunication equipment or other EEE to operate as intended. In addition, the EEE shall have an adequate level of intrinsic immunity to electromagnetic disturbances to enable it to operate as intended.

APPENDIX C

ASEAN HARMONIZED CONFORMITY ASSESSMENT PROCEDURES FOR EEE

1. DESIGNATING BODY AND LISTED CONFORMITY ASSESSMENT BODIES

1.1 The Designating Body and the competence and criteria for listing Conformity Assessment (Testing and Certification) Bodies are stipulated in the ASEAN Sectoral Mutual Recognition Arrangement for Electrical and Electronic Equipment signed on 5th April 2002. The scope of listing for the designated CABs under this Agreement shall be decided by the JSC EEE in compliance with the listed standards and harmonized regulatory requirements. The acceptance of test reports and/or Certificates of Conformity issued by the Listed CABs for products by the participating Member Countries shall be done as follows:

a) Test reports and Certificate of Conformity issued by the Listed CABs for ASEAN Manufactured EEE shall be mutually recognized by all participating Members Countries.

b) For an EEE produced outside ASEAN, its test reports and Certificate of Conformity issued by the Listed CABs may be recognized by arrangements between concerned participating Member Countries.

1.2. Test Reports and/or Certificates of Conformity issued by Conformity Assessment Bodies located outside ASEAN in compliance with the requirements of this Agreement may be accepted provided that ASEAN enters into a Mutual Recognition Agreement with the country or countries where the said Conformity Assessment Bodies are situated.

2. HARMONIZED CONFORMITY ASSESSMENT PROCEDURES

2.1. In order to ensure consistent and continuous compliance with Appendix B (ASEAN Essential Requirements) and to prevent non-compliant EEE from being placed in the ASEAN market, ISO Certification System 1 or 5 will be adopted according to the agreed list of EEE. Certification Procedures as described in ISO/IEC Guide 67: 2004 "Conformity Assessment- Fundamentals of Product Certifications", ISO/ IEC Guide 53: 2005 "Conformity assessment- Guidance on the use of an organization's quality management system in product certification" and ISO/IEC Guide 28: 2004 "Conformity assessment- Guidance on a Third Party Certification System for Product" or their latest editions shall be followed.

3. ISSUANCE OF CERTIFICATE OF CONFORMITY (CoC)

3.1. The Listed Certification Bodies shall issue a Certificate of Conformity (CoC) to an EEE that has been attested to be in compliance with the ASEAN Essential Requirements in accordance with sub-clauses 1.1 and 1.2 of this Appendix.

3.2 The CoC issued shall be valid for a maximum period of 3 years from the date of its issue. Thereafter, the supplier shall apply to renew the CoC.

4. CONFORMITY MARK AND REGISTRATION MARK

Any EEE attested to comply with Appendix B (ASEAN Essential Requirements) shall be registered with the relevant Regulatory Authority and if required, may bear the relevant Conformity Mark and/or registration mark.

5. NON-CONFORMING EEE

5.1 If a Regulatory Authority in a Member Country finds that an EEE does not comply with Appendix B, it shall immediately inform its counterparts in the other Member Countries and the ASEAN Secretariat, of such non-conforming EEE.

5.2. Each Member Country may institute its own procedures to deal with non-conforming EEE, which may include re-call, de-registration, etc.

APPENDIX D

TECHNICAL FILES

The following documents shall be included in the Technical Files:

1. Certificate of Conformity (CoC).

2. Test Report in English, attesting that there has been full compliance with the listed standards and harmonized regulatory requirements.

3. Full Electrical Wiring/Circuit Diagrams or Service Manual (Circuit diagrams shall indicate the component's value, or in the alternative, a Bill of Material/ Part List).

4. Colored photographs showing exterior (whole, front, top and rear view of an EEE, nameplate, rating label, mains plugs etc) and interior (critical safety components) views.

5. Rating Label (original or clear photograph or artwork).

6. User's Instruction Manual (at least in English version).

7. Record of Modification, if any.