

2024 ASEAN SECTORAL MUTUAL RECOGNITION ARRANGEMENT FOR BUILDING AND CONSTRUCTION MATERIALS

Signed in Phnom Penh, Cambodia on 9 March 2024

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2024 ASEAN SECTORAL MUTUAL RECOGNITION ARRANGEMENT FOR BUILDING AND CONSTRUCTION MATERIALS

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

ASPIRING to achieve economic integration and turning the diversity that characterises the region into opportunities for business complementation making ASEAN a more dynamic and stronger segment of the global supply chain and the world economy as envisaged in the ASEAN Charter, the Declaration on the ASEAN Economic Community Blueprint signed on 20 November 2007 in Singapore, and the ASEAN Economic Community Blueprint 2025 adopted on 22 November 2015 in Kuala Lumpur, Malaysia;

DETERMINED to realise the goals of establishing ASEAN as a single market and production base which is stable, prosperous, highly competitive, and economically integrated with effective facilitation for trade and investment in which there are free flow of goods, services and investments, facilitation for movement of business persons, professionals, talents and labour, and freer flow of capital as the end-goal of ASEAN;

RECALLING the ASEAN Trade in Goods Agreement (ATIGA) signed on 26 February 2009 in Cha-am, Thailand and the ASEAN Framework Agreement on Mutual Recognition Arrangements signed on 16 December 1998 in Hanoi, Viet Nam to facilitate the elimination of technical barriers to trade and to enhance trade in ASEAN;

RECOGNISING that mutual recognition of results of conformity assessment procedures is an important means of reducing technical barriers to trade and that such mutual recognition is of particular interest to businesses in ASEAN;

MINDFUL of the different levels of infrastructure for technical regulations, standards, certifications, inspections and analyses, and the different levels of economic development of Member States;

REITERATING that Member States' commitments under the World Trade Organization (WTO) Agreement on Technical Barriers to Trade are reaffirmed in ATIGA and noting that WTO Members are encouraged to enter into negotiations for the conclusion of agreements for the mutual recognition of results of each other's conformity assessment procedures which include, *inter alia*, procedures for sampling, testing and inspection, evaluation, verification and assurance of conformity, registration, accreditation and approval, as well as their combinations;

DESIRING to establish a Sectoral Mutual Recognition Arrangement for conformity assessment results for building and construction materials to facilitate the movement of building and construction materials in ASEAN,

HAVE AGREED AS FOLLOWS:

ARTICLE 1 DEFINITIONS

For purposes of this ASEAN Sectoral Mutual Recognition Arrangement for Building and Construction Materials (hereinafter referred to as "Sectoral MRA"), the following definitions shall apply:

- (a) **accept** means the use of test reports or certifications as a basis for regulatory actions such as approvals, licenses, and post-market assessments of conformity;
- (b) **accreditation** means a statement issued by an independent body conveying confirmation of a conformity assessment body's competence to carry out specific conformity assessment tasks;
- (c) **accreditation body** means an authoritative body that performs accreditation;
- (d) **building and construction materials** means any type, size, and nature of material, whether initial, temporary, intermediate, or finished, which is used for construction purposes;
- (e) **certification** means a procedure by which a third party gives written or other assurance that a product, process, or service conforms to specified requirements;
- (f) **conformity assessment** means demonstration that specified requirements relating to a product, process, system, person, or body are fulfilled;
- (g) **Conformity Assessment Body** (hereinafter referred to as "CAB") means a body that performs conformity assessment services which fulfil the requirements of technical competence set out in Section A and Section E of Annex B;
- (h) **conformity assessment procedure** means any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled;
- (i) **contact point** means a person, position, or body with and through whom Member States will exchange information and communicate in accordance with the requirements of this Sectoral MRA;
- (j) **Designating Body** means a body established within government or empowered by government to designate CAB, suspend or withdraw their designation, or remove their suspension from designation;
- (k) **designation** means governmental authorisation of a CAB to perform specified conformity assessment activities;
- (l) **Listed CAB** means a locally owned or foreign CAB located in the territory of a Member State duly listed in accordance with the requirements of this Sectoral MRA;
- (m) **recognition of conformity assessment results** means acknowledgement of the validity of a conformity assessment result provided by another person or body;
- (n) **Regulatory Authority** means an entity that has been granted a legal right to control the import, use, or sale of products within a Member State's jurisdiction which may take enforcement action to ensure that products marketed within its jurisdiction comply with legal requirements; and

- (o) **standard** means a document approved by a recognised body, that provides, for common and repeated use, rules, guidelines or characteristics for products, or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

ARTICLE 2 OBJECTIVES

The objective of this Sectoral MRA is to enable the mutual recognition of test reports or certification of building and construction materials issued by the Listed CABs.

ARTICLE 3 SCOPE

1. The scope of this Sectoral MRA is to facilitate mutual recognition of conformity assessment results of building and construction materials, as listed in Annex A on List of Building and Construction Materials within the Scope of this Sectoral MRA (hereinafter referred to as "Annex A").
2. This Sectoral MRA applies to all instances where test reports or certifications are used as the basis for regulatory action in respect of building and construction materials.

ARTICLE 4 GENERAL PROVISIONS

1. Member States shall accept the test reports or certifications which have been issued by the Listed CABs.
2. Where test reports or certifications have been issued in respect of Member States' products specifications of building and construction materials that have been imported, importing Member States retain the right to verify the conformity assessment results of building and construction materials.
3. In the absence of harmonised standards, a Member State seeking to export building and construction materials to an importing Member State shall comply with that importing Member State's standards.
4. Member States shall strengthen and enhance existing cooperation efforts in information exchange, through their contact points, concerning their regulatory requirements, conformity assessment procedures and regimes, and through confidence building, *inter alia*:
 - (a) establishment or improvement of technical infrastructure in calibration, testing, certification, and accreditation to meet relevant international requirements for building and construction materials;
 - (b) cooperation and participation in proficiency testing for building and construction materials; or
 - (c) active participation in relevant arrangements undertaken by specialist regional and international bodies.

5. If a document that is issued for the purpose of information exchange, verification, provision of evidence, and other activities arising from the obligations under this Sectoral MRA is not in English, it shall be translated into English.

ARTICLE 5 JOINT SECTORAL COMMITTEE

1. A Joint Sectoral Committee (hereinafter referred to as "JSC") shall be established and it shall be responsible for the effective functioning of this Sectoral MRA.
2. The JSC shall consist of a senior official representative from each Member State's Regulatory Authority. Member States without a Regulatory Authority, as defined in subparagraph (n) of Article 1, shall appoint an entity as the Regulatory Authority for the purposes of this Sectoral MRA. The representative may be accompanied by their delegation at meetings of the JSC.
3. The JSC shall be responsible for the following:
 1. identifying and listing of standards for specific products;
 2. listing, suspending, removing, and verifying the technical competence of CABs in accordance with Annex B on Procedures and Requirements Relating to Listing, Suspension, Removal, Verification, and Technical Competence of CABs (hereinafter referred to as "Annex B");
 3. providing a forum for discussion of issues that may arise concerning the implementation of this Sectoral MRA.
 4. proposing amendments to the provisions of this Sectoral MRA, including its Annexes, and proposing additional annexes;
 5. considering ways to enhance the operation of this Sectoral MRA;
 6. formulating its own rules and procedures; and
 7. considering any other matters and taking appropriate actions relating to the effective functioning of this Sectoral MRA.
4. The JSC shall endeavour to meet at least once a year to discharge its duties and responsibilities. Decisions of the JSC shall be made by consensus.

ARTICLE 6 DESIGNATING BODY

1. Member States shall identify and notify the ASEAN Secretariat of the names of their respective Designating Body and update the ASEAN Secretariat of any changes.
2. Member States shall ensure that their respective Designating Body has the authority and competence in their respective territories to carry out their obligations required under this Sectoral MRA.

3. The Designating Body shall regularly monitor the Listed CABs in accordance with the provisions of this Sectoral MRA to ensure that they are capable and remain capable of properly assessing conformity of products or processes, as applicable, and as covered in this Sectoral MRA.
4. The Regulatory Authority shall consult with the relevant Designating Body to ensure that all technical requirements identified in this Sectoral MRA are satisfactorily addressed.

ARTICLE 7

CONFORMITY ASSESSMENT BODIES

1. The procedures and requirements relating to listing, suspension, removal, verification, and technical competence of CABs shall be in accordance with Annex B.
2. The approved CABs shall be listed in Annex C on Listed Conformity Assessment Bodies (hereinafter referred to as "Annex C") and shall be updated by the ASEAN Secretariat.

ARTICLE 8

PRESERVATION OF REGULATORY AUTHORITY

1. Nothing in this Sectoral MRA shall be construed to limit the authority of a Member State to determine, through its legislative, regulatory, and administrative measures, the level of protection it considers appropriate for:
 - (a) safety;
 - (b) protection of human, animal, or plant life or health;
 - (c) the environment; and
 - (d) consumers.
2. Nothing in this Sectoral MRA shall be construed to limit the authority of a Regulatory Authority to take all appropriate and immediate measures whenever it ascertains that the building and construction materials 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.
3. If the Regulatory Authority takes such measures, it shall inform other Member States' Regulatory Authorities of the measures taken and it shall provide the reasons for taking such measures in a timely manner.

ARTICLE 9

CONFIDENTIALITY

1. Member States shall maintain, to the extent permitted under its laws and regulations, the confidentiality of information exchanged under this Sectoral MRA.

2. Member States shall take all precautions reasonably necessary to protect information exchanged under this Sectoral MRA from unauthorised disclosure.

ARTICLE 10 SETTLEMENT OF DISPUTES

1. Member States shall at all times endeavour to agree on the interpretation or implementation of this Sectoral MRA and shall make any attempt through communication, dialogue, consultation, and cooperation to arrive at a mutually satisfactory resolution of any matter that may affect the implementation of this Sectoral MRA.
2. In the event that Member States cannot reach a mutually satisfactory solution, the ASEAN Protocol on Enhanced Dispute Settlement Mechanism signed on 29 November 2004 in Vientiane, Lao PDR or its successor, shall apply to the settlement of disputes concerning the interpretation or implementation of any of the provisions under this Sectoral MRA.

ARTICLE 11 DEPOSITARY

This Sectoral MRA shall be deposited with the Secretary-General of ASEAN who shall promptly provide a certified copy thereof to each Member State.

ARTICLE 12 AMENDMENTS

1. The provisions of this Sectoral MRA may only be amended by mutual written agreement of the Member States. Any amendment shall enter into force on such date as shall be mutually agreed upon by the Member States.
2. Notwithstanding paragraph 1, amendments may be made to:
 - (a) Annex A, subject to the endorsement of the ASEAN Consultative Committee for Standards and Quality; and
 - (b) Annex B and Annex C, subject to the endorsement of the ASEAN Building and Construction Working Group.

Such amendments shall be administratively annexed to this Sectoral MRA and shall form an integral part of this Sectoral MRA.

ARTICLE 13 FINAL PROVISIONS

1. This Sectoral MRA may be reviewed by the Member States for the purpose of fulfilling the objective of this Sectoral MRA.
2. Member States shall make no reservations with respect to any of the provisions of this Sectoral MRA.

3. This Sectoral MRA shall enter into force on the thirtieth day after Member States have notified the Secretary-General of ASEAN completion of their internal requirements or on 31 December 2024, whichever is earlier.
4. In the event that a Member State provides its notification after 31 December 2024, this Sectoral MRA shall enter into force for that Member State on the thirtieth day after the date of its notification.
5. The Secretary-General of ASEAN shall promptly notify Member States of the notifications referred to in paragraphs 3 and 4.

IN WITNESS THEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Sectoral MRA.

DONE at Phnom Penh, Cambodia, this Ninth day of March in the Year Two Thousand and Twenty-Four, in a single copy in the English language.

ANNEX A

LIST OF BUILDING AND CONSTRUCTION MATERIALS WITHIN THE SCOPE OF THIS SECTORAL MRA

1. The list of building and construction materials within the scope of this Sectoral MRA are as follows:

No.	HS Code	Description
i	25.23	Portland cement, aluminous cement, slag cement, supersulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers
		- Portland cement:
	2523.21.00	- - White cement, whether or not artificially coloured
	2523.29.10	- - - Coloured cement
	2523.29.90	- - - Other
ii	70.95	Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked
	7005.29.90	- - - Other
	7005.30.00	- Wired glass
iii	70.06	Glass of heading 70.03, 70.04, or 70.05 bent, edge-worked, engraved, drilled, enameled or otherwise worked, but not framed or fitted with other materials
	7006.00.90	- Other
iv	70.07	Safety glass, consisting of toughened (tempered) or laminated glass
	7007.19.90	- Toughened (tempered) safety glass : - - - Other
v	70.08 7008.00.00	Multiple-walled insulating units of glass
vi	70.09	Glass mirrors, whether or not framed, including rear-view mirrors
	7009.91.00	- Other - - Unframed
	7009.92.00	- - Framed
vii	72.13	Bars and rods, hot-rolled, in irregularly wound coils, of iron or non-alloy steel
	7213.10.10	Containing indentations, ribs, grooves or other deformations produced during the rolling process: - - of circular cross-section measuring not exceeding 50 mm in diameter
	7213.10.90	- - Other

2. The list of building and construction materials shall be reviewed regularly by the JSC which reserves the right to amend the list based on the agreement of Member States.

ANNEX B

PROCEDURES AND REQUIREMENTS RELATING TO LISTING, SUSPENSION, REMOVAL, VERIFICATION, AND TECHNICAL COMPETENCE OF CONFORMITY ASSESSMENT BODIES (CABS)

SECTION A

LISTING OF CONFORMITY ASSESSMENT BODIES

1. A Designating Body shall identify and nominate CABS for listing in accordance with Section E and procedures set forth in this Annex.
2. The CABS seeking to be listed under the Sectoral MRA shall submit documentary proof to the Designating Body to prove that they have fulfilled the requirements of technical competence as set in Section E.
3. A Designating Body shall review the documents specified in paragraph 2 and shall submit the details of the proposed CAB to be listed under the Sectoral MRA in writing, to the JSC, through the ASEAN Secretariat, for consideration in accordance with the following procedures:
 - (a) within 60 calendar days following receipt of a Designating Body's submission of complete documents to its JSC Member:
 - (i) the JSC Member shall submit the proposed listing of the CAB under this Sectoral MRA to the JSC through the ASEAN Secretariat;
 - (ii) the JSC Members shall indicate their position regarding their approval or opposition to include the said CAB in Annex C;
 - (iii) if there is no response from a JSC Member, the abstaining JSC Member will be deemed to have no objections to the inclusion of the said CAB in Annex C;
 - (iv) upon the approval of the JSC, at the end of the 60 calendar days, the CAB shall be added to Annex C; and
 - (v) the CAB shall be notified of their inclusion into Annex C by the ASEAN Secretariat;
 - (b) upon the reasonable request of one or more Member States for the verification of the technical competence of the proposed CAB, the JSC may decide that the technical competencies of the proposed CAB be verified in accordance with Section E. Such request for verification by the Member State shall be submitted to the JSC, through the ASEAN Secretariat; and
 - (c) the proposed CAB shall not be included in Annex C until a decision has been made to include the CAB.
4. The ASEAN Secretariat shall maintain Annex C under the Sectoral MRA.

SECTION B

SUSPENSION OF LISTED CONFORMITY ASSESSMENT BODIES

The following procedures shall apply with regard to the suspension of a CAB listed in this Sectoral MRA:

- (a) any Member State which contests the technical competence or compliance of a Listed CAB shall, through its contact point, submit a notification to the JSC, through the ASEAN Secretariat with relevant written justifications;
- (b) the ASEAN Secretariat shall promptly notify, in writing, the CAB concerned. The CAB shall be provided with a period of 30 calendar days from its receipt of the notification from the ASEAN Secretariat, extendable by the JSC upon reasonable request by the CAB, to present information in order to respond to the claims in subparagraph (a) or to correct the
- (c) any such contestation shall be discussed by the JSC, which may decide to suspend the CAB in question. If the matter has not been resolved by the JSC within 21 calendar days of the receipt of response from the CAB, extendable by the JSC, the CAB shall be suspended upon the request of the contesting Member State. The ASEAN Secretariat shall inform the CAB of the decision made by the JSC. Pending the decision of the JSC, the Regulatory Authority of the contesting Member State may take all appropriate measures according to the provisions stated in Article 8;
- (d) where the JSC decides that verification of technical competence or compliance is required, such verification shall be carried out in accordance with Section D;
- (e) upon the suspension of a CAB listed in this Sectoral MRA, Member States are no longer obligated to accept the test reports or certifications issued by that CAB. Member States shall, subject to Article 8, continue to accept the test reports or certifications issued by that CAB prior to its suspension; and
- (f) the suspension shall remain in effect until an agreement has been reached by the JSC on the future status of that CAB.

SECTION C

REMOVAL OF LISTED CONFORMITY ASSESSMENT BODIES

The following procedures shall apply with regard to the removal of a listed CAB from this Sectoral MRA:

- (a) a Member State proposing to remove a CAB listed in this Sectoral MRA shall, through its contact point, forward its proposal in an objective and reasonable manner in writing to the JSC, through the ASEAN Secretariat;
- (b) such a CAB shall be promptly notified in writing by the ASEAN Secretariat and shall be provided a period of at least 30 calendar days from the receipt of the notification, extendable by the JSC, to present information in order to refute or to correct the deficiencies which form the basis of the proposed removal;
- (c) within 60 calendar days following receipt of a proposal:

- (i) the JSC shall indicate their position regarding their approval or opposition on removing the said CAB from Annex C;
 - (ii) if there is no response from a JSC member, the abstaining JSC member will be deemed to have no objections to the removal of said CAB from Annex C;
 - (iii) at the end of the 60 calendar days, the CAB shall be removed from Annex C upon the approval of the JSC; and
 - (iv) the CAB shall be notified of its removal from Annex C by the ASEAN Secretariat;
- (d) if the JSC 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 CAB shall not be removed from the respective lists of accepted CABs; and
- (e) prior to the removal of a CAB listed in this Sectoral MRA, Member States shall, subject to Article 8, continue to accept the test reports or certifications issued by that CAB.

SECTION D

VERIFICATION OF TECHNICAL COMPETENCE AND COMPLIANCE OF CONFORMITY ASSESSMENT BODIES

1. The Designating Body shall ensure that the identified CAB shall be available for verification of its technical competence and compliance with applicable requirements when required by the JSC.
2. Written justification shall be submitted to the ASEAN Secretariat for any request for verification of technical competence or compliance of the CAB, which shall be promptly forwarded to the JSC for a decision.
3. Where the JSC decides that verification of technical competence or compliance is required, it shall be carried out in a timely manner, based on the procedures and criteria set forth in Section E.
4. The result of this verification shall be discussed by the JSC with a view to resolving any issue arising as soon as possible.

SECTION E

TECHNICAL COMPETENCE OF CONFORMITY ASSESSMENT BODIES

1. The general requirements for demonstration of technical competence of CABs shall be based on
 - (a) technical knowledge of the relevant products and processes;
 - (b) the understanding of the technical standards and the health, safety, and environmental 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; and
 - (e) any other circumstance necessary to give assurance that the test will be adequately performed and managed on a consistent basis.
2. The CABs seeking to be listed under this Sectoral MRA shall fulfil the following requirements of technical competence:
- (a) obtain either a:
 - (i) Certificate of Accreditation to ISO/IEC 17025-General requirements for the competence of testing and calibration laboratories for testing laboratory; or
 - (ii) Certificate of Accreditation to ISO/IEC 17065-Requirements for bodies certifying products, processes and services for product certification
 - (b) accredited by the accreditation body who is a signatory of the Asia Pacific Accreditation Cooperation (APAC) Multilateral Recognition Arrangement; and
 - (c) scope of accreditation of the CABs.

ANNEX C

LISTED CONFORMITY ASSESSMENT BODIES