

AGREEMENT ON THE ASEAN HARMONIZED COSMETIC REGULATORY SCHEME

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");

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 border and non-border areas of cooperation to supplement and complement the liberalization of trade including, among others, the harmonization of standards, reciprocal recognition of tests and certification of products;

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, regarding technical regulations;

MINDFUL that the private sector of the cosmetic industry, through the regional and national organizations such as the ASEAN Cosmetics Association (ACA), has participated in the development of the ASEAN Harmonized Cosmetic Regulatory Scheme;

MINDFUL of the desire of ASEAN Member States to encourage and promote cooperation among them in the field of technological development considering the different levels of infrastructure and economic development of ASEAN Member States;

MINDFUL further that the ASEAN Framework Agreement on Mutual Recognition Arrangements signed on 16 December 1998 provides a basis for development of Sectoral MRAs to facilitate the realization of AFTA; and

DESIRING to formulate an agreement to deepen and broaden cooperation on cosmetics to contribute to the realization of AFTA.

HAVE AGREED AS FOLLOWS:

**ARTICLE 1
OBJECTIVES**

The objectives of this Agreement are:

- a) To enhance cooperation amongst Member States in ensuring the safety, quality and claimed benefits of all cosmetic products marketed in ASEAN; and
- b) To eliminate restrictions to trade of cosmetic products amongst Member States through harmonization of technical requirements, Mutual Recognition of Product Registration Approvals and adoption of the ASEAN Cosmetic Directive .

**ARTICLE 2
ASEAN HARMONIZED COSMETIC REGULATORY SCHEME**

1. The ASEAN Harmonized Cosmetic Regulatory Scheme has the following coverage:
 - a) The ASEAN Mutual Recognition Arrangement of Product Registration Approvals for Cosmetics appearing as Schedule A of this Agreement; and

- b) The ASEAN Cosmetic Directive appearing as Schedule B of this Agreement.
2. Member States may implement the ASEAN Mutual Recognition Arrangement of Product Registration Approvals for Cosmetics, which shall be effective as of the date when and between the Member States who accede thereto.
 3. Member States shall undertake necessary measures to fully implement the ASEAN Cosmetic Directive by 1st January 2008.
 4. Member States may implement the ASEAN Cosmetic Directive earlier than the date referred in Paragraph 3 of this Article and this Directive shall be effective as of the date when and between the Member States who may accede thereto beginning 1st January 2003. In this case, the Member States shall inform the ASEAN Secretariat of their decision, who in turn shall promptly notify the other Member States.

ARTICLE 3

TECHNICAL DOCUMENTS FOR COSMETICS

Member States shall undertake appropriate measures to adopt and implement the following common technical documents which appear as Appendices and Annexes to the ASEAN Cosmetic Directive or the ASEAN Mutual Recognition Arrangement of Product Registration Approvals, as the case may be:

- a) ASEAN Definition of Cosmetics and Illustrative List by Category of Cosmetic Products;
- b) ASEAN Cosmetic Ingredient Listings and ASEAN Handbook of Cosmetic Ingredients;
- c) ASEAN Cosmetic Labeling Requirements;
- d) ASEAN Cosmetic Claims Guidelines;
- e) ASEAN Cosmetic Product Registration Requirements;
- f) ASEAN Cosmetic Import/Export Requirements; and
- g) ASEAN Guidelines for Cosmetic Good Manufacturing Practice.

ARTICLE 4 OTHER AREAS OF COOPERATION

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

- a) Establishing or improving infrastructural facilities; and
- b) Encouraging and promoting cooperation in the fields of technological development pertaining to:
 - (i) labeling claims, product approvals and manufacturer's license;
 - (ii) accreditation and certification;
 - (iii) quality assurance and good manufacturing practice;
 - (iv) technical information; and
 - (v) training.

ARTICLE 5 DISPUTE SETTLEMENT

Any difference between Member States concerning the interpretation or implementation of this Agreement including the ASEAN Mutual Recognition Arrangement of Product Registration Approvals for Cosmetics and the ASEAN Cosmetic Directive, shall be settled amicably by consultation or negotiation among the Member States. If a settlement cannot be reached, thus, it shall be subjected to the Dispute Settlement Mechanism of ASEAN in accordance with the Protocol on Dispute Settlement Mechanism, which was signed on 20 November 1996 in Manila, Philippines.

ARTICLE 6 INSTITUTIONAL ARRANGEMENTS

1. An ASEAN Cosmetic Committee (hereinafter called "the ACC"), is hereby established, which shall be responsible for effective functioning of this Agreement. The ACC shall consist of one official representative from each Member State's regulatory authority responsible for cosmetics. The representative may be accompanied by their

delegation at meetings of the ACC. The ASEAN Cosmetic Industry, such as ACA, will be invited to meetings of the ACC and shall be consulted on all matters concerning the Cosmetic Industry.

2. The ACC, in performance of its functions, shall take its decision by consensus and shall be responsible for but not limited to the following:
 - a) coordinating, reviewing and monitoring the implementation of this Agreement, including the ASEAN Mutual Recognition Arrangement of Product Registration Approvals for Cosmetics and the ASEAN Cosmetic Directive; and
 - b) reviewing and updating the technical documents in Article 3 of this Agreement.
3. The ACC may establish or consult any body or bodies for purpose of giving advice on any matter of a scientific or technical nature in the field of cosmetic products.
4. The ACC shall adopt its own rules of procedures.
5. The ASEAN Consultative Committee for Standards and Quality (ACCSQ) and the ASEAN Secretariat shall provide support in coordinating and monitoring the implementation of this Agreement, including the ASEAN Mutual Recognition Arrangement of Product Registration Approvals for Cosmetics and the ASEAN Cosmetic Directive and assist the ACC in all matters relating thereto.

ARTICLE 7 FINAL PROVISIONS

1. The provisions of this Agreement may be amended by written agreement of all Member States. All amendments shall become effective upon acceptance by all Member States.
2. This Agreement shall be effective upon signing by all Member States.
3. This Agreement shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each Member State.

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

DONE in Phnom Penh, Cambodia on this 2nd day of September in the year Two Thousand and Three, 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

For the Government of Malaysia

RAFIDAH AZIZ
Minister of International Trade and Industry

For the Government of the Union of Myanmar

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 M. DAYRIT
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For the Government of the Republic of Singapore

B.G. (NS) GEORGE YONG-BOON YEO
Minister for Trade and Industry

For the Government of the Kingdom of Thailand

ADISAI BODHARAMIK
Minister of Commerce

For the Government of the Socialist Republic of Vietnam

TRUONG DINH TUYEN
Minister of Trade