

Trade Facilitation through Standards Harmonisation in ASEAN

The Association of Southeast Asian Nations (ASEAN) and the Asia Pacific have been amongst the most dynamic and fastest growing regions in the world, until the outbreak of the Asian financial crisis in 1997. After this difficult and volatile period, ASEAN countries have responded to the emerging challenges of globalisation and economic development by embarking on a new process of deeper integration to strengthen their regional economic self-reliance while committing themselves to an open market orientation. This new approach to ASEAN economic integration is based on the concept of “Open Regionalism”, which balances intra- and extra-regional liberalisation of trade and investment, aimed at creating a natural, *de facto* integrated regional market.

Several new integration schemes were thus launched by ASEAN countries: ASEAN Investment Area (AIA); ASEAN Framework Agreement on Services (AFAS); and ASEAN Free Trade Area (AFTA); and most recently the blueprint towards an ASEAN Economic Community (AEC) by the year 2020. Such an integrated market is expected to yield immense economic benefits for enterprises and citizens of the region alike.

For enterprises in ASEAN, having an AEC well in place would mean *inter alia* more efficient regional reallocation of resources and regional division of labour, and an assured market of considerable size than their own respective individual markets, where

their products and services can enjoy preference, *etc.* On the other hand, for consumers of the region, this would mean greater choices of quality products and services being made available to them at competitive prices.

To attain this vision, while the removal or lowering of tariffs is necessary, it is clearly not sufficient. The implementation of trade facilitation measures, important among which is the reduction in and elimination of Technical Barriers to Trade (TBT), is key to achieving this goal as the differences in regulations, standards and conformity assessment procedures could amount to great impediments for the movement of goods from one country to another within the region.

Furthermore, standard harmonisation is also expected to yield a lot of benefits in terms of consumer welfare: synchronised quality assurance, less confusion in the marketplace, and higher compatibility, etc.

Why Harmonisation?

A standard is a document that outlines, for common or repeated use, the special characteristics of production/management processes, goods or services. Standards facilitate trade because they ‘stipulate what can or cannot be exchanged and define the procedures that must be followed for exchange to take place.’¹ Thus, complying with standard requirements in foreign markets is a critical factor determining market access to those markets.

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While compliance with standards is invariably of a voluntary nature, compliance with technical regulations is compulsory. A technical regulation is a document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory.²

While standards are often developed by private parties, organisations or industries, etc; they very often form the base for technical regulations, which are imposed by governments at the local, regional or national level for a multitude of purposes such as protecting health, ensuring safety, and other environmental and consumer-related concerns.

Procedures that ensure that a firm's product (good or service) satisfies the specifications set in a standard or technical regulation constitute different element of the conformity assessment process, including *testing* (a manufacturer's declaration of conformity through testing conducted on its own laboratory or a third-party laboratory), *inspection* (independent inspection of parts, materials and final products), *certification* (formal certification by a third party that a product conforms to specific standards or technical regulations, which often includes the granting of mark, certificate or label), *registration* (independent audit of manufacturing quality systems that results in registration with a quality systems registrar, i.e. ISO 9001 or ISO 14001), and *accreditation* (evaluating and attesting that testing and calibration laboratories, certification bodies and inspection bodies are technically competent to perform a specified task).³

Differences across countries in standards, technical regulations and conformity assessment procedures often increase transaction costs, which might reduce trade. This is because when domestic and foreign standards, regulations and conformity assessment procedures do not coincide, double costs are imposed on the producers catering for domestic and export markets since they must produce their products under different standards/regulations and the products have to be subject to testing at both origin and destination. These costs will be

further aggravated if different trading partners have different standards.

To reduce transaction costs associated with differences in standards, a number of international standards bodies, such as International Organisation for Standardisation (ISO); International Telecommunication Union (ITU); and International Electrotechnical Commission (IEC) have elaborated international voluntary standards and are encouraging countries to, at the very least, harmonise their standards with these international standards, and at a higher level, to actively participate in and provide inputs to the international standardisation process. Similarly, one of the main principles of the World Trade Organisation (WTO) Agreements on TBT and Sanitary and Phytosanitary (SPS) Measures is that regional and national standards and technical regulations should be based, to the greatest extent possible, on international standards, so as not to become barriers to trade.

For regional groupings and free trade areas (FTAs), harmonisation of standards and technical regulations is thus a must. The European Union, as an example, has the most comprehensive approach to standards harmonisation, which is essentially based on the principle of mutual recognition of standards or the principle of equivalence: a country must accept the standards of member countries if such standards have the same objectives (they are then considered as equivalent).

In those sectors where the principle of equivalence cannot be applied because of the great divergence between standards (like health and safety requirements), then the EU follows a process of regional standardisation, the end results of which are 'European standards' (ENs – European Norms). There are also supranational bodies in the EU being charge of regional standardisation works in addition to national standards bodies in respective member states, specifically the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC), and the European Telecommunications Standards Institute (ETSI).

Even though ENs remain voluntary, members of CEN and CENELEC have to withdraw conflicting national standards so that there is no TBT and the integrity of the European single market is maintained.⁴ The criteria used in setting EU technical regulations, on the other hand, are based on the minimum requirement approach, which does not necessarily seek harmonisation with international standards. This means EU technical regulations are only concerned with guaranteeing health and security, and protecting the environment, and thus contain only those specifications necessary to guarantee these objectives. The rest of the product and process specifications are left to the private sector to determine through the setting of voluntary standards.

The ASEAN follows a different path. As will be specified in greater details in subsequent sections, ASEAN member states only seek to harmonise their respective national standards, in alignment with international standards, for some 20 selected products⁵.

There is, therefore, no 'ASEAN standard' to be developed, since they are simply equated to the relevant international standards. During this harmonisation exercise, the national standards bodies in ASEAN or similar bodies would need to adopt the international standards as their national standards. In the event any member states of the ASEAN do not adopt any of the identified international standards as their national standards, they would then accept the direct use of these international standards and are obliged to accept the entry of products from other member countries as long as the products satisfy international standards.

On the other hand, for technical regulations, in ASEAN, single regulatory regime/framework agreements for respective products will be evolved.⁶ The selection of products for which standards and technical regulations are to be harmonised is based on the impact on ASEAN trade, the complexity of the regulatory system, the technical infrastructure as well as the feedback from stakeholders.

Last but not least, the success of a regional standards harmonisation process for greater regional trade and market access essentially

depends on a country's conformity assessment procedures being recognised by the other member countries: recognition of test data, product certification and competence of accredited conformity assessment bodies. Otherwise, companies are obliged to perform additional or repeated tests of their products overseas or to invite foreign inspectors, thus increasing their business costs, which could then be passed on to their customers, and ultimately to the final consumers.

One often-used way to integrate a region's member countries' conformity assessment procedures is through the conclusion of mutual recognition agreements (MRAs). This is also a significant feature of the harmonisation process in ASEAN, whereby MRAs are signed for selected sectors/products so that conformity assessment results will be recognised and accepted across all ASEAN member states⁷ towards the end goal of "one standard, one test, accepted everywhere".

ASEAN Process and Progress

In several places in the AEC Blueprint,⁸ ASEAN member states have set it a goal to harmonise their respective standards to be equal to international standards for selected products such as in the capital markets, or for wood-based, agricultural and aquacultural products. Most significantly however, the harmonisation of standards, technical regulations and conformity assessment procedures is recognised as playing a central role in ensuring the free flow of goods, in order to achieve the objective of turning the ASEAN into a Single Market and Production Base. The specific actions to be implemented include:

- i. *Harmonise standards, technical regulations and conformity assessment procedures through their alignment with international practices, where applicable;*
- ii. *Develop and implement sectoral MRAs on Conformity Assessment for specific sectors identified in the ASEAN Framework Agreement on Mutual Recognition Arrangements;*

- iii. *Enhance technical infrastructure and competency in laboratory testing, calibration, inspection, certification and accreditation based on regionally/internationally accepted procedures and guides;*
- iv. *Promote transparency in the development and application of standards, technical regulations and conformity assessment procedures in line with the requirements of the WTO Agreement on TBT and the ASEAN Policy Guideline on Standards and Conformance;*
- v. *Strengthen post market surveillance systems to ensure the successful implementation of the harmonised technical regulations; and*
- vi. *Develop capacity building programmes to ensure smooth implementation of the work programme.*

Furthermore, in the ASEAN Trade in Goods Agreement (ATIGA) signed in February 2009 and entered into force on May 17, 2010, the ASEAN member states once again agreed that ‘regulations, rules and procedures affecting the acceptance of goods between Member States [are] to be harmonised as far as possible on the basis of international standards where appropriate; [and] the development of MRAs for standards and conformity assessment results [...] are encouraged; [...] while accepting the need of each Member State to regulate or set rules for legitimate objectives such as protection of health, safety or public morals and conservation of exhaustible natural resources.’⁹

Specifically, “in harmonising national standards, [ASEAN] 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.”¹⁰

ASEAN Member States are also encouraged to actively participate in the development of international standards, particularly in those sectors that have trade potential for ASEAN.¹¹

Regarding technical regulations, in order to ensure that they are not adopted with a view, to or with the effect of, creating technical barriers to trade, ASEAN member states agree to:

- I. base on international or national standards that are harmonised to international standards, except where legitimate reasons for deviations exist;
- II. consider alternative means that are least trade restrictive to achieve the desired objectives before a decision is taken on the adoption of technical regulations;
- III. avoid adopting prescriptive standards so as not to introduce unnecessary obstacles to trade, and to enhance fair competition in the market;
- IV. ensure that 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.¹²

These are similar to the main principles of the WTO TBT Agreement, i.e. non-discrimination, not creating unnecessary obstacles to trade unless on the ground of legitimate objectives, necessity (i.e. regulations being not more trade restrictive than necessary), and harmonisation and use of international standards. More or less the same principles apply in the case of conformity assessment procedures.¹³

In case of differences due to legitimate objectives, ASEAN member states shall ensure that the differences of conformity assessment procedures are minimised as far as possible. In addition, ASEAN 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 MRAs in all regulated sectors.

These are basically the statutorisation of the principles mentioned in the ASEAN Policy Guideline on Standard and

Conformance, which had been endorsed by the ASEAN Economic Ministers earlier in 2005. For the development of ASEAN-harmonised technical regulations for selected products, members are also supposed to refer to and use the ASEAN Good Regulatory Practice (GRP) Guide. The Guide 'is intended to assist regulators in ASEAN Member States in the adoption of efficient regulatory arrangements which should improve the consistency and transparency of technical regulations, thereby leading to reduction in regulatory barriers to trade.'¹⁴

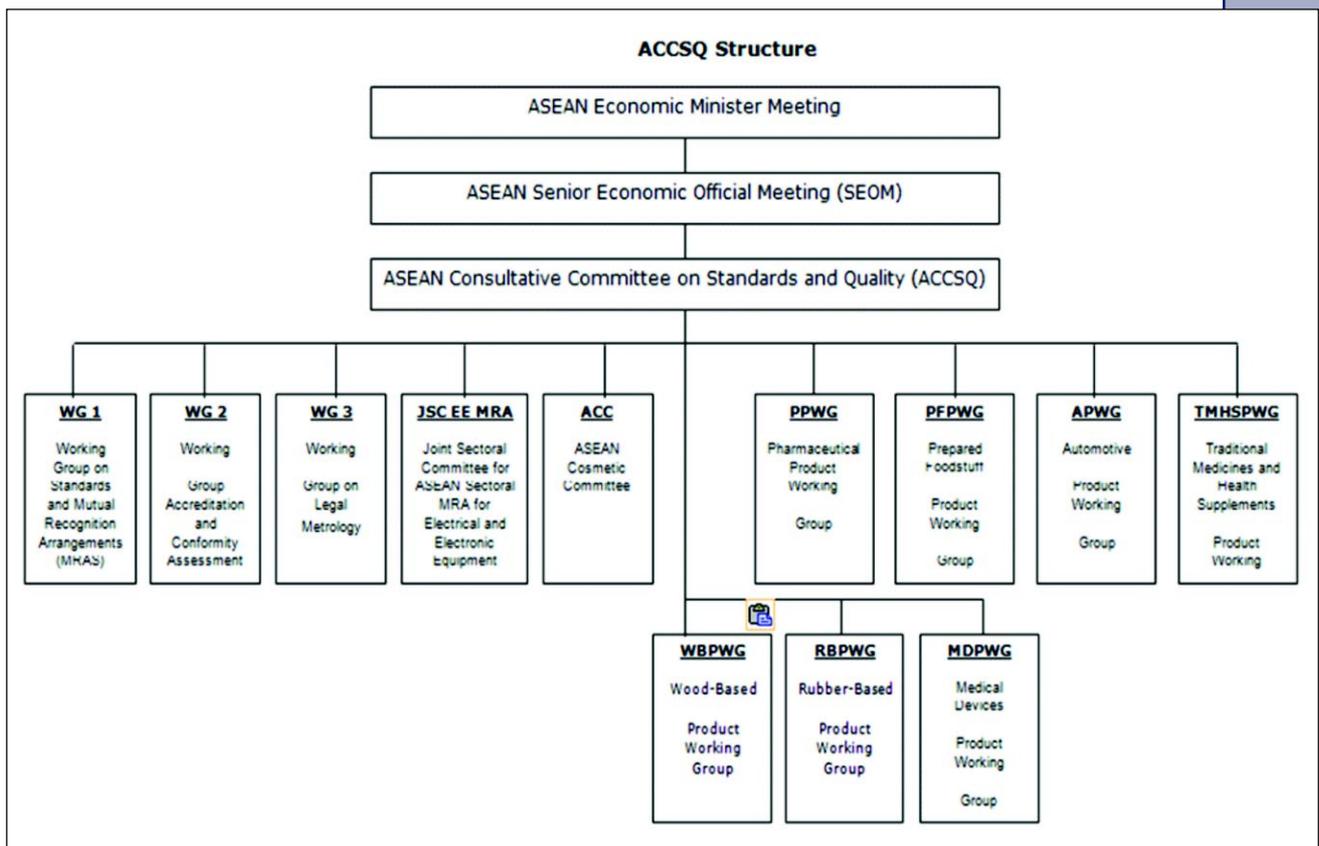
Towards that end, the Guide provides a set of principles which should run throughout the process of preparation, compliance to and review of technical regulations; as well as relevant tools such as Regulatory Impact Assessment (RIA), and consultation with stakeholders and other member states.

In ASEAN, the main body looking into the harmonisation of standards, technical regulations and conformity assessment procedures is the ASEAN Consultative Committee for Standards and Quality (ACCSQ). Established in 1992 by the ASEAN Economic Ministers, the ACCSQ is mandated

to deal with TBT and to assist ASEAN member states in reaching their goal of an ASEAN FTA and subsequently, a single market. The ACCSQ comprises of the heads of the National Standards Bodies (NSBs) or the designated standards agency of ASEAN member states, with participation from relevant sectoral regulators and industries, especially in product working groups (PWG).

The ACCSQ has three 'horizontal' Working Groups: (i) on MRAs and Standards, (ii) on Accreditation and Conformity Assessment, and (iii) on Legal Metrology; and several sector-specific sub-units including:

- (1) the Joint Sectoral Committee on Electrical and Electronic Equipment;
- (2) the ASEAN Cosmetic Committee;
- (3) the Pharmaceutical PWG;
- (4) the Prepared Foodstuff PWG;
- (5) the Traditional Medicines and Health Supplements PWG;
- (6) the Automotive PWG;
- (7) the Rubber-Based PWG;
- (8) the Wood-Based PWG; and
- (9) the Medical Devices PWG.



Collectively the above groups have made significant progress in harmonising standards in their respective sectors. This includes electrical appliances (58 harmonised standards); electrical safety (71 harmonised standards); electromagnetic components (10 harmonised standards); rubber-based products (3 harmonised standards) and pharmaceuticals where the ASEAN Technical Dossiers (ACTD) and ASEAN Common Technical Requirement (ACTR) have been completed. The harmonisation of standards in other sectors earmarked as priority for economic integration; including agro-based products, cosmetics, fisheries, pharmaceuticals, rubber-based products, wood-based products, automotive, construction, medical devices, traditional medicine and health supplement sectors; is ongoing.¹⁵

Four MRAs are in operation in ASEAN till date as follows:

- the Mutual Recognition Arrangement for Electrical and Electronics, signed by ASEAN Economic Ministers in 2000 and implemented in 2004;
- the Agreement on ASEAN Harmonised Cosmetic Regulatory Scheme, signed in 2003, of which the first part is an MRA, whereby signatory member states agree to recognise the product registration approval of any other signatory in keeping with the agreed rules and processes;
- the ASEAN Telecommunication Regulators' Council Sectoral Mutual Recognition Arrangement (ATRC MRA), developed in 1998 and endorsed in 2001; and
- the ASEAN Sectoral Mutual Recognition Arrangement for Good Manufacturing Practice (GMP) for Manufacturers of Medicinal Plants, signed in 2009.

MRAs for agro-based products and automotive sectors are in the process of being developed.

Regarding technical regulations, harmonised regulatory regimes have been developed for cosmetics, and electrical and electronic equipments. The second part of the Agreement on ASEAN Harmonised Cosmetic

Regulatory Scheme is the ASEAN Cosmetic Directive, which outlines requirements that cosmetic producers need to comply with, including definitions for cosmetics, permitted ingredients/preservatives, etc. The Agreement on the ASEAN Harmonised Electrical and Electronic Equipment (EEE) Regulatory Regime, signed in December 2005, listed essential requirements, such as safety, for EEES; as well as those standards deemed to meet the essential requirements (based on IEC standards). The harmonisation of technical regulations is underway for agro-based products, automotive, medical devices, traditional medicine and health supplement sectors.

ASEAN is also developing the rules for the application of an ASEAN conformity marking scheme, which will indicate whether a product is in conformity with the ASEAN harmonised technical regulations/requirements. The ASEAN Conformity Mark will demonstrate that the product has complied with harmonised requirements of the ASEAN member states.

Issues and the Way Forward

Firstly, the development of standards is often demand-driven, which means standards are created in response to specific concerns and needs expressed by industry, government, and consumers. However, the ASEAN only concentrates its harmonisation efforts in Priority Sectors¹⁶ rather than waiting for the private sector to demand such standardisation, and is thus following a supply side driven approach. This is also a common approach for many other regional groupings and it is probably because the main focus of standard harmonisation is to reduce barriers to intra-regional trade.

In the specific case of the ASEAN, it is the objective of creating a single market and production base for the whole region that fuelled its standard and conformance works. It also helped to address the question of resource allocation and ease the burden on national authorities or the ASEAN Secretariat. There has also been an effort to balance that with extra-regional liberalisation of trade and investment to the extent that the Association set their first criteria for regional standard harmonisation to be aligned with international standards.

There is thus recommendation to reinforce that effort by either broadening out from the Priority Integration Sectors to include more products, or introducing more 'horizontal' measures in this area, for example creating an ASEAN product safety regulatory framework, defining broad product safety requirements, consumer redress issues and the like, similarly as the successful experiences of the EU.

Secondly, regionalisation should allow regional groupings' member countries to have a common position in international organisations and influence the setting of international standards. This has been particularly the case in the EU, and to a lesser extent in other groups, for example the Andean Community and Mercosur.¹⁷ In the case of ASEAN, as a general principle, member states are encouraged to participate in the development of international standards, especially those that are relevant to ASEAN trade.¹⁸

However, it should be noted that mere and separate participation by small developing countries, in this case respective ASEAN member states, will not be as effective as when the countries come together to formulate common positions/proposals to be fed into the international standardisation process. Or they could also jointly propose New Work Item Proposal for developing standards that they have active interests in, which would also be far more effective in influencing the international discourse in a way that is beneficial to ASEAN's extra-regional trading activities.

Thirdly, stakeholder engagement is another prominent feature of standardisation works, be it either to develop standards that respond to stakeholders' needs and perspectives, or to ensure transparency in promulgating technical regulations, etc. However, in developing countries in general and in ASEAN in particular, the levels of participation of consumer groups and the private sector (i.e. main stakeholders in standardisation) in the setting of national and regional standards and technical regulations are still very low.

Even though consultation with stakeholders is mentioned as a main principle in the ASEAN Good Regulatory Practice

Guide; and various working groups and product working groups of the ACCSQ are supposed to have participation from relevant industries; it is a known fact that engagement of the private sector and consumer groups in ASEAN standardisation remains lacking. In the ASEAN, there are currently just 19 accredited business organisations and some 52 civil society organisations.¹⁹

This is quite a small number if compared to, for example, the figure of more than 500 industry sector organisations, which engage with the EU bodies on regulatory issues, particularly related to regulatory integration and other trade initiatives in the EU. It is thus recommended that greater emphasis should be given to engagement with the private sector, to supporting information exchange, to developing mechanisms for feedback and support for the process, including expertise provision. ASEAN should consider creating a stronger culture of involvement so that standardisation would not only have a better political buy-in in the region but also more truly reflect its interests.²⁰

Last but not least, small and medium-sized enterprises (SMEs) generally are excluded from the setting of standards and cannot afford getting certification, etc. This is due to the relatively high representation costs, e.g. small businesses might face financial constraints in sending their experts/representatives to national and regional standardisation/consultation meetings, and the relatively high costs of testing and certification. This could translate into the interests of these enterprises not being taken into account during the regional discourse or into remaining difficult market access for these enterprises despite that technical barriers have been eliminated through harmonisation.

While SMEs account for more than 90 percent of all ASEAN enterprises, the involvement of SMEs in several product working groups in the area of standards and conformance are observed as not yet reaching the level desired or necessary for ASEAN to feel confident for the future. A significant step needs to be taken up at particularly the national level but also regional level to engage with SMEs for a more inclusive regional harmonisation process.

Endnotes

- 1 Brenton, P. (2004), *Standards, Conformity Assessment and Trade: Modernization for Market Access*, Chapter 5 of the Moldova Trade Integration Study, The World Bank, Washington DC
- 2 See the World Trade Organisation Agreement on Technical Barriers to Trade (WTO TBT Agreement), Annex 1 at <http://www.wto.org/english/docs_e/legal_e/17-tbt_e.htm>
- 3 Aldaz-Carroll, E. (2006), *Regional Approaches to Better Standards Systems*, World Bank Policy Research Working Paper 3948, available at <<http://elibrary.worldbank.org/doi/pdf/10.1596/1813-9450-3948>>
- 4 The EU has also entered specific agreements with international standardisation bodies such as ISO to ensure that there is no duplication between standardisation at the European level and the international levels for the benefits of contributors to, and users of, standards.
- 5 The selected products for which national standards of ASEAN member states should be harmonised and aligned with international standards are: agro-based products, automotive, cosmetics, electrical and electronic equipment, medical devices, rubber-based products, wood-based products. For more information, see <<http://www.asean.org/news/item/harmonization-of-standards-in-asean-2>>
- 6 Till date, it is agreed in the ASEAN that a single regulatory regime should be developed for the following products: cosmetics, electrical and electronic equipment and medical device, traditional medicines and health supplements
- 7 MRAs are to be signed in ASEAN for the following products: automotive, agro-based products, electrical and electronic equipment and pharmaceuticals
- 8 The ASEAN Economic Community Blueprint could be read and downloaded from <<http://www.asean.org/archive/5187-10.pdf>>
- 9 See Article 47 (f) – Principles of Trade Facilitation of the ATIGA – which is readable and downloadable at <http://www.miti.gov.my/storage/documents/3d2/com.tms.cms.document.Document_5c637472-c0a81573-67896789-37c3f5d3/1/ATIGA%20Agreement.pdf>
- 10 Article 74(2) of the ATIGA
- 11 Article 74 (3) of the ATIGA
- 12 Article 75 of the ATIGA
- 13 Article 76 of the ATIGA
- 14 The GRP Guide could be viewed and downloaded at <http://202.168.71.106/documents/10179/48110/ASEAN_GRP.pdf>
- 15 According to information obtained from the ASEAN Economic Community Factbook, which can be viewed and downloaded from <<http://www.asean.org/resources/item/asean-economic-community-factbook-2>>
- 16 See earlier sections on how the sectors are selected/prioritised
- 17 See Footnote 3
- 18 See the ASEAN Policy Guideline on Standard and Conformance, which can be viewed and downloaded at <www.asean.org/images/2012/Economic/sectoral_aem/standards_conformance/ASEAN_Policy_Guideline_on_Standards_and_Conformance.pdf>
- 19 For detailed information, see <www.asean.org/asean/entities-associated-with-asean/entities-associated-with-asean>
- 20 Pettman, S. (2013), *Standards Harmonisation in ASEAN: Progress, Challenges and Moving Beyond 2015*, ERIA Discussion Paper Series

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