

DRAFT-November 12, 2012

**DRAFT LAW OF THE ISLAMIC REPUBLIC OF AFGHANISTAN
ON STANDARDS AND TECHNICAL REGULATIONS**

Chapter 1. General Provisions

Article 1. Basis

This law is formulated in the light of the provisions of the Article 11 and 13 of the Afghanistan Constitution.

Article 2. Scope of the Law

1. This law applies to procedures for development, adoption and application of standards, technical regulations and conformity assessment procedures, as well as to metrology and calibration services.
2. This law applies on governmental and non-governmental entities, enterprises, organizations, companies, export & import companies, producing and service entities and other natural and legal persons both national and foreign residing in Afghanistan.
3. All products, including industrial and agricultural products, shall be subject to the provisions of this Law.
4. This law does not apply to food safety, sanitary and phyto-sanitary measures as defined in the relevant legislation of Afghanistan.
5. Purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies are not subject to the provisions of this Law but are addressed in the government procurement legislation.
6. All references in this Law to technical regulations, standards and conformity assessment procedures shall be construed to include any amendments thereto and any additions to the rules or the product coverage thereof, except amendments and additions of an insignificant nature.

Article 3. Definitions

For the purpose of this Law the following definitions shall apply:

Technical regulation – Document, which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method. Standards that contain mandatory requirements shall fall under the definition of the technical regulation.

Standard: is a document that has been established by consensus and approved by an recognized

products or other objects, processes of production, operation, storage, transportation, marketing and utilization, executing of works or rendering of services to the requirements of technical regulations, to provisions of standards or conditions of contracts.

Supplier's declaration

4. Certification bodies cannot provide consultancy services in the areas where they provide certification services.

5. Certification bodies and inspection bodies shall be independent from manufacturers, sellers, performers and buyers.

Article 5. Prohibition of non-compliant goods

Domestically produced and imported goods can be placed on the domestic market and/or put into service only if they comply with the requirements of the technical regulations. Goods non-compliant with the technical regulation may be recalled, seized, destroyed or deported according to established procedures.

Chapter 2. Standardization

Article 6. Objectives of Standardization

Standardization is aimed at:

- Stimulating scientific and technical progress;
- Increasing the competitiveness of products, works and services according to the level

on standardization shall include representatives of bodies of executive power, scientific and technical organizations, associations of entrepreneurs and consumers.

Article 8. Adoption of international, regional standards and standards of other countries

1. International, regional standards and national standards of other countries are adopted in Islamic Republic of Afghanistan as national documents on standardization according to methodology and procedures established by the ANSA.

2. The international, regional standards and national standards of other countries will be applicable after the assessment of the Technical Committee and approval of the Supreme Council of Standard.

Chapter 3. Preparation, Adoption and Application of Technical Regulations

Article 9. Principles for developing technical regulations

1. Technical regulation may be prepared and adopted only for national security considerations, countering fraudulent acts against consumers, fulfilling halal requirements or protection of life and health of people, including health and safety of animals, plants, and environment.

2. On the basis of international agreements of Afghanistan, products imported from the territory of any member to such agreement shall be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country.

3. Requirements in technical regulations shall be based on product requirements in terms of performance rather than design or descriptive characteristics unless purposes for which the technical regulation has been developed cannot be achieved.

4. Technical regulations shall be prepared based on approved or being finalized relevant international standards or parts thereof, except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued because of fundamental climatic or geographical factors or fundamental technological problems.

5. If no international standards are available or existing standards are deemed ineffective or inappropriate, technical regulations may be prepared based on standards and technical regulations of regional standardization bodies.

6. Technical regulations shall not be maintained if the circumstances or objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a less trade-restrictive manner. Periodical reviews of technical regulations shall be conducted for this purpose.

Article 10. Notification, comments and entry into force of technical regulations

1. A notice shall be published an early stage stating that the draft technical regulation is being developed, shall identify the products covered by the proposed regulation with a description of the objective and rationale for the technical regulation.
2. From the moment of publication of the notification on development of draft technical regulation this draft shall be available to the interested persons for familiarization. Interested persons have a right to obtain a copy of the draft technical regulation. A cost of delivery of the document shall be charged.
3. A notification, prepared early in the process of developing the proposed technical regulation, shall be sent to relevant international organizations where Afghanistan is a member.
4. At least 60 days shall be allowed for all interested parties to make written comments about the proposed technical regulation and non-discriminatory consideration of comments in the preparation of a final regulation shall be afforded.
5. Technical regulations shall enter into force after 6 month from the date of publication of adopted technical regulations.
6. In cases where urgent problems of safety, health, environmental protection or national security arise or threaten to arise, time frames established in paragraphs 1 through 5 of this Article may be reduced or omitted, provided that upon adoption of the procedure, notification and/or publication are made promptly and copies provided to interested parties upon request.

Article 11. Equivalence of foreign technical regulations

1. Foreign technical regulations may be adopted as equivalent to national technical regulations in the following cases:

principles and rules for preparation and adoption of technical regulations set forth in Articles 6, 7 and 8 of this Law.

2. The technical regulation is approved by the Council of Ministers after the confirmation of the Supreme Council of Standard.

3. All provisions of this law on technical regulations shall apply to mandatory standards and code of practices.

Chapter 4. Conformity Assessment Procedures

Article 13. General rules for preparation and adoption of conformity assessment procedures

1. On the basis of international agreements of Afghanistan, in cases where a positive assessment of conformity with technical regulations or standards is required, conformity assessment procedures shall be prepared and adopted so as to grant access for suppliers of like products originating in the territories of other members to such agreements under conditions no less favourable than those accorded to suppliers of like products of national origin or originating in any other country, in a comparable situation.

2. Where relevant guides or recommendations issued by international standardizing bodies exist or their completion is imminent, they, or the relevant parts of them, shall be used as a basis for their conformity assessment procedures, except when such guides or recommendations or relevant parts are inappropriate for the use in Afghanistan for, *inter alia*, such reasons as: national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; fundamental technological or infrastructural problems.

3. The standard processing period of each conformity assessment procedure shall be published or anticipated processing period shall be communicated to the applicant upon request.

4. In preparation of the draft conformity assessment procedures:

- reasonable time shall be allowed for interested parties to make comments in writing; - opportunity shall be provided to discuss these comments upon request, and;

- these written comments and the results of these discussions shall be taken into account.

5. In cases where urgent problems of safety, health, environmental protection or national security

applicant and the conformity assessment body.

2. The works on mandatory conformity assessment shall be paid by an applicant.

Article 17. Change of specifications of a product

Whenever specifications of a product are changed subsequent to the determination of its conformity to the applicable technical regulations or standards, the conformity assessment procedure for the modified product is limited to what is necessary to determine whether adequate confidence exists that the product still meets the technical regulations or standards concerned.

Article 18. Forms of Conformity Assessment

1. Conformity assessment in the territory of the Afghanistan may be voluntary or obligatory. Voluntary conformity assessment shall be carried out in the form of voluntary certification. Obligatory conformity assessment shall be carried out in the forms of:

- supplier's declaration;
- obligatory certification.

2. The order of application of specific schemes of obligatory conformity assessment procedures is established by this law and relevant implementing regulations.

Article 19. Obligatory Conformity Assessment

1. Obligatory conformity assessment shall be carried out only in the cases established by appropriate technical regulation, and only for conformity to the requirements of technical regulation. The object of obligatory conformity assessment may be only the product produced or imported for circulation in the territory of Afghanistan.

2. The form and schemes of obligatory conformity assessment may be established only by technical regulation taking into account the risk level of non-reaching the purposes of technical regulations.

Article 20. Voluntary Conformity Assessment

1. Voluntary assessment of conformity is performed by the initiative of the applicant based on conditions of a contract between the applicant and the certification body. Voluntary assessment of conformity can be performed to establish compliance with standards, certification systems, and provisions of contracts.

2. Certification body:

- Performs assessment of conformity of objects of voluntary assessment of conformity;

Article 23. Right of appeal

Results of a conformity assessment procedure can be appealed to courts under relevant procedures or to an independent administrative appeal process to be elaborated under regulations.

Article 24. Reasonable time for entry into force

Except in cases where urgent problems of safety, health, environmental protection or national security arise or threaten to arise, a 6 months period between the publication of requirements concerning conformity assessment procedures and their entry into force shall be provided.

Chapter 5. Authorities and responsibilities of state bodies

Article 25. Supreme Council of Standards

The Supreme Council of Standards is as the highest decision making authority related to standardization is established with the following composition:

1. Head of Economic Committee of Minister's Council as Chairman
2. Minister of Commerce and Industry- as Deputy Chairman
3. Director General of Science Academy- as member
4. Head of National Drug Board of Ministry of Public Health as member
5. Director General of ANSA- as Member
6. Director General of National Environmental Protection Authority - as member
7. Deputy Minister of Economy- as Member
8. Deputy Minister of Finance (Revenue and Customs Affairs)- as member
9. Deputy Minister of Higher Education- as member
10. CEO of Afghanistan Chamber of Commerce and Industries as member
11. Deputy Minister of Agriculture, Irrigation and Livestock as member
12. Technical Deputy Minister of the Ministry of Urban Development – as member
13. Technical Deputy Director General of ANSA- as secretary

Article 26. Responsibilities and Authorities of Supreme Council of Standard

1. Supreme Council of Standard has the following duties and authorizes:

- (1) Approval of the general policies and strategies of the ANSA and monitoring of application of these policies and strategies;

- (2) Approval, amendment, suspension, exclusion and alternation developing, revising, suspension, withdrawal and replacement of the national standards based on the provisions of this law;
 - (3) Approval of proposed technical regulations;
 - (4) Approval of the Work Plan of the ANSA;
 - (5) Approval of standards costs, all sellable publications and services provided by the ANSA;
 - (6) Approval of agreements, Memorandum of Understandings, conventions; accession of ANSA with the International and Regional Organizations;
 - (7) Approval of the proposal for the amendment, or addition to this law.
 - (8) Approval of rules and related procedures in the area of technical regulations, standards and conformity assessment procedures;
 - (9) Assuring of implementation of technical regulation and publication of their results.
 - (10) Attracting support from the donor and supporter communities.
2. All details including duties, authorities and other related affairs of the Supreme Council of Standards would be regulated through approval of separate work procedures by the Supreme Council of Standards.

Article 27. Duties and authorities of ANSA

1. Implementation of a unified policy in the field of standardization, technical regulations, metrology and conformity assessment, ensuring transparency and consistency of actions of standardization works according to the requirements of the present Law is carried out by ANSA.
2. The ANSA has the following duties and authorities:
 - (1)

(9)

3. Standards that have been developed by the natural or legal persons (of government or non-government) belong to themselves.

Article 29. Technical Committees

1. In order to give scientific and technical inputs regarding formulation, adoption, revision,

2. In addition to prohibitions mentioned in paragraph 1 of this Article, ANSA has the right to

6. Cash penalties of the paragraph 1 of this Article will be received by Inspection Panel of ANSA and will be transferred to bank account based on related procedures and in accordance with article 24 of this law.

Article 34. Decision making on goods not compliant with technical regulations

1. The ANSA has the right to collect products and goods, mentioned in clauses (1,2,5 and 7) of article 33 of this law, from production, supply and sales centers, and other locations used for keeping or packaging of commercial domestic, export or import goods. To prevent the continuation of mentioned products and goods production, the ANSA can seal machinery and production equipment for up to one month.

2. The collected products and goods (domestic, exports and imports) mentioned in paragraph 1 of this article will be technically assessed by inspectors and experts of ANSA. In case products and goods are worth consumption for humans and animals, or they get that quality after being improved, can be used as essential stuffs. The products and goods will be sold and the received amounts shall be paid to the government revenue account, otherwise the mentioned goods will be discarded in presence of representatives from Ministries of Finance, Interior Affairs, Attorney General Office, Municipality, National Environment Protection Authority and ANSA

3. Decision of the panel included in paragraph (2) on collected goods in contrary with technical regulations can be appealed to courts according to established procedures.

Article 35. Judicial Prosecution

In case committing one of the actions mentioned in this law causes illness, disability, infirmity or death of a person, the offender based on reports from health entities, in addition to compensation of loss, will be under judicial prosecution as well.

Article 36. Revenues from Fine penalties

The ANSA shall receive revenues derived from the fine and fees of service delivery and shall add them into government account in bank.

Chapter 7. Final provisions

Article 37. Information Center for Standards and Technical regulations

1. Information Center established under Afghan National Standards Authority shall have the

- receive comments to draft technical regulations and conformity assessment procedures and pass them to relevant bodies developing them;

- timely submission of necessary notifications under the international agreements of Afghanistan;