

In the Name of Allah, the most Gracious and Merciful



ISLAMIC REPUBLIC OF AFGHANISTAN

The Afghan National Standards Law

(Feb, 2007)

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Chapter One

GENERAL PROVISIONS

Article 1

This legislation has been adopted to “Devise and Implement Programs for Social, Cultural, Economic, and Technological Progress” under the Afghanistan Constitutional Law, Year 1382/11/6 (2003/01/26) based on Article Seventy-five, Section five; and based on market economy regulations and governing its related affairs.

Article 2: Purpose of legislation

The State is committed to promoting standardization, improving quality of products, processes and services, by defining their characteristics which determine their capacity to meet given needs; improving the quality of life, safety, health and the protection of the environment and consumers; developing economy in human effort, materials and energy; and promoting international trade by preventing any technical barriers to trade.

Article 3

(1) Short Title

This Law may be cited as the Afghan National Standards Authority (ANSA) Law or as the “Standards Law”.

(2) Interpretation

In this Law, “ANSA” shall mean the established national standards organization by Presidential Decree 952 Dated 1383/3/13 (May 23, 2004), to be known as the Afghan National Standards Authority of Afghanistan.

(3) ANSA Established

ANSA is hereby established as an independent agency in Afghanistan, to be the exclusive authority at the National level, to organize, coordinate and implement activities in the development, approval, adoption, revision, amendment and dissemination of National Standards in Afghanistan,

Article 4: Definitions

(1) The following terms, whether in the singular or plural, shall have the meanings stated in alphabetical order below:

1-accreditation: procedure by which an authoritative body gives formal recognition that a body or person is competent to carry out specific tasks;

2-adoption: An agency may adopt a voluntary consensus standard without change by using reference to a standards concept;

3-Afghan Standard: shall mean the standard established by the Authority and in relation to any product or process, management systems or services indicative of the quality, safety and specification of such product or process, systems and services and includes also any other standard established or recognized by the Afghan National Standards Authority;

4-Calibration: set of operations that establish, under specified conditions, the relationship between values of quantities indicated by a measuring instrument or measuring system, or values represented by a material measure or a reference material, and the corresponding values realized by standards.

5-CEO: shall mean the Chief Executive Officer of the Afghan National Standards Authority;

6-certification: shall mean a procedure by which a third party gives written assurance that a product, process or service conforms to specified requirements, a particular standard, norm or practice;

7-certification body: body that conducts certification; a certification may operate its own testing and inspection activities or oversee these activities carried out on its behalf by other bodies;

8-certification mark: shall mean a mark issued for products, management systems or services covered by a Technical Regulation. A certification mark shall be distinctive and clearly identify the person affixing the mark, the standard referred to, and the status of being a product, system or services under a compulsory standard:

9-Chief Executive Officer: shall mean the Chief Executive Officer of ANSA;

10-Council: shall mean the Supreme Standards Council of ANSA;

11-CODEX: The United Nations CODEX Alimentarius Commission is an international commission established by the World Health Organization (WHO) and the Food and Agriculture Organization (FAO). The stated aim of the CODEX is to "guide and promote the elaboration and establishment of definitions and requirements for foods, to assist in their harmonization and in doing so, to facilitate international trade." Inherent in this stated aim is protecting the health of consumers and creating an environment of fair trade for food stuff;

12-code of practice: a document that recommends practices or procedures for the design, manufacture, installation, maintenance or utilization of equipment, structure or products; a code of practice may be a standard, a part of a standard or independent of a standard;

13-compulsory specification: shall mean a standard, the applicability of which is required by law and/or by regulation;

14-compulsory standard: shall mean a mandatory standard or technical regulation, the applicability of which is required by law and/or technical regulation;

15-conformity assessment procedures: shall mean any procedure used, directly or indirectly, to determine that relevant requirements in Standards are fulfilled. These procedures may also be applied to fulfill the requirements of technical regulations;

16-conformity assessment: shall mean any activity concerned with determining, directly or indirectly, that relevant requirements are fulfilled;

17-governmental regulations or rules: specify mandatory legal requirements that must be met under specific laws and to implement general objectives. These requirements may address health, product safety, operator/user safety, environmental effects, quarantine requirements, consumer protection, packaging and labeling, product characteristics, or other matters in the public interest. A regulation may consist of agency-developed technical specifications or requirements, or may permit use of all or parts of a particular private sector standard as a means of compliance;

18-guidelines: an organization may use standards as guidelines for complying with general requirements;

19-Enquiry point: a national body that provides information on national, foreign and international voluntary standards, government technical regulations, and conformity assessment procedures for products; its role includes responsibilities as a national Enquiry point;

20-inspector: shall mean a person that performs inspection and is appointed by the relevant authority;

21-international standard: shall mean a standard, adopted by an international standardizing / standard organization and made available to the public;

22-license (for certification): a document, issued under the rules of a certification system, by which a certification body grants to a person or body the right to use certificates or marks of conformity for its products, processes or services in accordance with the rules of the relevant certification scheme;

23-laboratory accreditation and traceability: is a finding of a laboratory's competence and capability to provide scientifically sound and appropriate measurement services within their scope of accreditation. Embedded in the process is an evaluation of the laboratories' ability to achieve and maintain traceability for the accredited services (accreditation to international standard ISO/IEC 17025);

24-Legal Metrology: is the entirety of the legislative, administrative and technical procedures established by, or by reference to public authorities, and implemented on their behalf in order to specify and to ensure, in a regulatory or contractual manner, the appropriate quality and credibility of measurements related to official controls, trade, health, safety and the environment.

25-mark: includes a device, brand, heading, label, ticket, pictorial representation, name, signature, word, letter or numeral or any combination thereof;

26-mark of conformity (for certification): protected mark, applied or issued under the rules of certification system, indicating that confidence is provided that the relevant product, process or service is in conformity with a specific standard or other normative document;

27-member: shall mean a member of the Supreme Standards Council;

28-metrology: is the science of measurement and it shall mean the development and maintenance of standards concerning measurement units, the guarantee of the accuracy of measurements, and ensuring that measurements are traceable to national, regional and international physical standards;

29-minister: shall mean the Minister of Commerce and Industries;

30-national quality policy: shall mean that policy, as may be in effect from time to time, established by the Supreme Standard Council, that sets forth the framework for improving standards and quality of life at the National level;

31-national standard: a standard that is adopted by a national standards body and made available to the public;

32-national standards system: shall mean the system for voluntary national standards development, promotion and implementation;

33-other standard: shall mean a standard other than an Afghan National Standard. Standards may also be adopted on other basis; company standards or standards may have a geographical impact covering several countries;

34-process: includes any practice, treatment and mode of production of any product of the person;

35-person: shall mean any natural person and any legal person constituted or organized under applicable law, whether privately or governmentally owned or controlled, and includes a corporation, partnership, sole proprietorship, limited liability company, joint venture, association, joint stock company, trust or other entity;

36-producer: shall mean the producer of any product or process;

37-product: shall mean any substance, artificial and or natural or partly artificial or partly natural, whether raw or partly or wholly processed or produced;

38-quality control: means the determination of the quality of that commodity by inspection, test or otherwise in order to ascertain whether the commodity satisfies the relevant standard;

39-registering authority: shall mean any authority competent under any law for the time being in force to register any company, firm or other body of persons, or any trade mark or design, or to grant patent;

40-regulations: regulations are mandatory standards and technical rules covering such things as product safety, environmental effects, consumer protection, packaging and labeling, and product characteristics;

41-reference materials: shall mean any material or substance which may be used for the calibration of an apparatus, for testing the accuracy of a method of measurement, or the determination by comparison a particular characteristic, such as purity of a material or substance;

42-regional standards: shall mean standards adopted by a regional standardizing / standards organization and made available to the public;

43-regulator: shall mean that body which is appointed and duly authorized to enforce/implement technical regulations within the regulatory framework;

44-regulatory framework: shall mean that system, including compulsory standards, inspectorate, conformity assessment and sanctions that are implemented to ensure compliance with Technical Regulations;

45-specification: shall mean a description of a product or process as far as practicable by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, material, mode of production or other characteristics to distinguish it from any other product or process;

46-sell: includes expose or offer for sale, or export for the purposes of sale, or have in possession for the purpose of sale or export or for any purpose if trade or production;

47-sanitary and phyto-sanitary measures: shall mean any provision that governs food safety and animal and plant health. Generally, Sanitary and Phyto-Sanitary Measures include any provision designed to: protect human or animal life from risks arising from additives, contaminants, toxins or disease-causing organisms in food; protect human life from plant- or animal-carried diseases; protect animal or plant life from pests, diseases, or disease-causing organisms; and to prevent or limit other damage to a country from the entry, establishment or spread of pests;

48-SPS agreement: The WTO Agreement on applications of Sanitary and Phyto-Sanitary measures (SPS) recognizes the fundamental right of countries to protect the health and life of their consumers, animals, and plants against pests, diseases, and other threats to health. However, the basic right to protect against harmful pests and disease is tempered by several rules aimed at preventing the use of health measures in an unjustified, arbitrary, or discriminatory fashion. The primary obligation is that SPS protection measures must be based on either a relevant international standard--established by an international standards body recognized by the SPS Agreement--or a scientific risk assessment.

49-standard: a document, established by consensus and approved by a recognized body that provides, for common and repeated use, rules, guidelines or characteristics for activities or their results, aimed at the achievement of the optimum degree of order in a given context. Standards should be based on the consolidated results of science, technology and experience, and aimed at the promotion of optimum community benefits;

50-standardization: activities of establishing, with regard to actual or potential problems, provisions for common and repeated use, aimed at the achievement of the optimum degree of order to given context. (i) In particular, the activity consists of the process of formulating, issuing and implementing standards. (ii) Important benefits of standardization are improvement of the suitability of products, process and services for their intended proposes, prevention of barriers to trade and facilitation of technological cooperation;

51-TBT agreement: The WTO Agreement on Technical Barriers to Trade (TBT) aims to reduce impediments to trade resulting from differences between national regulations and standards. As far as international consensus-based standards are concerned, the Agreement invites the signatory governments to ensure that the standardizing bodies in their countries accept and comply with a "Code of good practice for the preparation, adoption and application of standards", embodied in Annex 3 to the Agreement, and known as the World Trade Organization (WTO) Code of Good Practice;

52-technical regulation: regulation that provides technical requirements, either directly or by referring to or incorporating the content of standards, technical specifications or codes of practice. A technical regulation may be supplemented by technical guidance that outlines some means of compliance with requirements of the regulation, i.e., a deemed-to-satisfy provision;

53-the supreme standards council: shall mean the National Standards Council established by this law;

54-trademark: shall mean a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark, whether with or without any indication of the identity.

Chapter Two

MANDATE AND POWERS

Article 5

(1) The mandate of ANSA is to promote standardization, formulate national voluntary standards and code of practices and guides and implement them effectively, in order to:

1- promote the national economy;

2-improve the quality of life, safety and health and to protect consumers and the environment;

3-promote international trade by the prevention or elimination of any technical barriers to trade;

4-promote the quality of products, processes and services;

- 5-ensure the efficient use of labor, machines, materials and energy;
- 6-improve productivity, variety control, and interchangeability;
- 7-establish and maintain relevant databases of standards, technical regulations, conformity assessment procedures and other related documents;
- 8-promote participation of Afghans in national voluntary standardization activities;
- 9-promote public-private sector cooperation in relation to voluntary standardization in Afghanistan;
- 10-coordinate and oversee the efforts of the persons and organizations involved in the Afghan National Standards System;
- 11-foster quality, performance and technological innovation in Afghan goods and services through standards-related activities.

(2) ANSA, in carrying out its mandate, shall

- 1-promote cooperation among organizations concerned with voluntary standardization in Afghanistan in order to coordinate and harmonize standardization activities and develop common national standards and codes;
- 2-promote cooperation between organizations concerned with voluntary standardization in Afghanistan, and departments and agencies of government at all levels in Afghanistan with a view to achieving compatibility and maximum common usage of national standards and codes;
- 3-establish or recommend criteria and procedures relating to the preparation, approval, acceptance and designation of voluntary standards in Afghanistan;
- 4-provide advice and assistance to the Government of Afghanistan in the negotiation of standards-related aspects of international trade agreements;
- 5-represent Afghanistan at the International Organization for Standardization (ISO), the International Electro-technical Commission (IEC), the International Telecommunications Union (ITU), and other similar international and regional organizations;
- 6-promote, in cooperation with Afghan organizations engaged in voluntary standards development and conformity assessment, arrangements with similarly engaged in other countries for the exchange of information and for cooperation in those activities, or enter into such arrangements on its own behalf;
- 7-collect and disseminate information on standards and standardization activities in and outside Afghanistan;
- 8-conduct training, and provide educational materials to make available training to the private and public sectors in the field of standardization and allied subjects and standards-related advisory services;
- 9-promote awareness programs, publish a news bulletin/ magazine or newsletter intended for publication of adopted Afghan National Standards and for providing information on other standardization documents and related public awareness programs for promoting standardization; and
- 10-promote the efficient and effective use of national standards;
- 11-provides metrology services, including the establishment of an official system of measuring and calibration of the measuring equipment as well as conformity assessment services;
- 12-develop standards-related strategies and long-term objectives, in order to advance the national economy, support sustainable development, improve the health, safety and welfare of workers and the

public, assist and protect consumers, facilitate domestic and international trade and further international cooperation in relation to standardization.

Article 6

(1) Terms and reference of ANSA shall be as follows:

1-formulation and publication of national standards as the sole official authority in Afghanistan;

2-conducting research studies aimed at standardization, improvement of the quality of domestic products, and providing advisory services to enhance the production processes, productivity, innovation and industrial efficiency through standardization and allied activities.

(2) Support standards development and implementation whenever the implementation of standards is declared compulsory by relevant ministries for selected goods, production, storage, distribution and sale of such goods with lower quality than of the compulsory standard thus declared, or without being marked with a certification mark is forbidden and the infringer shall be dealt with according to the regulations framed by the minister:

1-support standards development and implementation when the line Ministers in consultation with the Minister declare the implementation of selected export commodity standards as compulsory in order to prevent export of low-quality goods and the international markets;

2-supervision of the implementation of conformity assessment procedures of products and processes wherever it is necessary or covered by technical regulations by the relevant ministries and market surveillance to ensure the quality and safety of products imported, produced or exported by Afghanistan;

3-license and register certification marks and carry out testing, sampling and inspection so as to enforce conformity to standards as decided by the council, by the minister or by other line ministers; and,

4-carry out pre-shipment inspection of export goods where applicable, covered by compulsory standards or prevention of the export of low-quality goods in order to ensure competitiveness.

(3) Inspection and testing for quality assurance of imported goods covered by compulsory standards for the protection of consumers.

(4)-promotion of the International System of Units (SI) as the official system of weights and measures in the country and provision of calibration services of measuring instruments.

Article 7: INSPECTIONS AND ENFORCEMENT

(1) ANSA has the power to appoint any member of the staff of the Standards Authority (or of other suitable organization or individual) who in the opinion of the Standards Authority is suitably qualified as an inspector for the purposes of this Law.

(2) Every inspector shall be provided with a certificate by the Standards Council to the effect that he has been appointed as an inspector for the purposes of this Law.

(3). Any inspector may, for the purposes of this Law, if generally or specifically instructed by the ANSA in writing, without previous notice at any time during business hours, either upon any premises in or upon which a commodity, management system or services specified in such instructions, for which, or the manufacture, production, processing or treatment of which, there is a compulsory Standard specification or a certification mark, is or is reasonably inspected or/and audited to be manufactured, produced, processed or treated in or upon which any such commodity, management system or services is or is reasonably inspected as expected to be kept for the purposes of trade:

1-inspect, audit or take samples of such commodity or any material or substance used or suspected to be intended for use in the manufacture, production, processing or treatment thereof open any package or container which contains or is suspected to contain any quantity of any such commodity, material or substance;

2-inspect any operations, systems or services carried out in or upon any such premises in connection with the manufacture, production, processing or treatment of any commodity for the manufacture, production, processing or treatment or management system or services for which there is a compulsory standard specification or a certification mark;

3-at any time, require from any person the production then and there or at a time and place fixed by the inspector, of any book, notice, record, list or other document which is in the possession or custody or under the control of that person or of any other person on his behalf;

4-examine any such book, notice, list or document, make copies of or take extracts from any such book, notice, list or document which relates to any commodity, management system or services or to any permit issued or to be issued under this Law, require from any person an explanation of any entries therein, and seize any such book, notice, list or document as in his opinion may offer evidence of any offense under this Law;

5-question either alone or in the presence of any other person, as he thinks fit, with respect to any matter, which is being investigated by him, every person whom he finds on the premises entered by him by virtue of his authority or whom he has reasonable grounds for believing to be or to have been employed on any such premises or to be in the possession, custody, or control of anything referred to in this sub-section;

6-require any person referred to in paragraphs (3), (4) or (5) to appear before him at a time and place fixed by him and question that person concerning any matter which is being investigated by him;

7-a person who is in charge of any premises referred to shall at all time furnish such facilities as are required by an inspector for the purpose of exercising his powers.
Any inspector exercising any powers conferred upon him by this Law shall, on demand produce the certificate provided to him under this Law.

- (4) Refusing to implement compulsory standards and codes of practices after the commencement of the determined time-limits shall be subject to regulations of this article.
- (5) ANSA is authorized to take appropriate legal action to enforce this law.
- (6) In case of violation of any compulsory standard, violators shall be liable under the appropriate statutes.
- (7) Any businessman and merchant, or any natural or legal entity who is engaged in production, trade, or rendering services of general trade activities, if possesses fraudulent weight and measures and measuring instruments , or deals with fraudulent illegal weights and measures, shall be guilty and may be arrested and dealt with by the court appropriately according to the procedures laid down by the council, and monies earned through fraudulence, and also the mentioned weights measures and measuring instruments shall be confiscated to the Government treasury.
- (8) In case of violation of the declared regulations by producers or sale of non-standardized products or weights and measures and measuring instruments, the violator shall be prosecuted and dealt with by the court.
- (9) ANSA shall set up laboratories at selected importing and exporting custom houses of the country, as may be necessary or provide testing and inspection services as agreed with relevant authority.

Chapter Three

ADMINISTRATION AND MONITORING

Article 8: ADMINISTRATIVE STRUCTURE

The Supreme Standard Council (the “Council”) will be the Government’s focal point for policy-making on standardization and allied activities and is the highest administrative authority with respect to the implementation of this Law.

Article 9: COMPOSITION OF THE COUNCIL

(1) The Council shall be constituted by the followings members:

- 1-The Minister of Commerce and Industries
- 2-The Deputy Minister of Economy
- 3-The Deputy Minister of Mines
- 4-The Deputy Minister of Agriculture and Food
- 5-The Deputy Minister of Public Health
- 6-The Deputy Minister of Urban Development
- 7-The Deputy Minister of Finance
- 8-The Deputy Minister of Energy and Water Resources
- 9-The Deputy Minister of Communication
- 10-The Deputy Director General of Environmental Protection Agency
- 11-The Chairperson of the Academy of Science of Afghanistan
- 12-Two representatives from the Chamber of Commerce and Industries of Afghanistan
- 13-A representative of Consumer Protection organizations
- 14-A representative of Export and Import groups or companies
- 15-The Chief Executive Officer (CEO) of ANSA, as secretary of the Council.

(2) The Minister of Commerce & Industries shall be the Chairman/ Chairperson of the Council. If the Minister of Commerce is unavailable, then he whom the chairman chooses among those members, who deserve the right to vote, shall serve as Chairman in his stead.

(3) If the Council determines that one of its proposed actions may significantly affect standardization activities or policies in a particular sector, which is not represented on the Council, the relevant Minister(s) shall be invited to participate in the meetings of the Council that relate to the proposed action.

(4) The Head of State may alter the composition of the Council.

Article 10: RESPONSIBILITIES OF THE COUNCIL

- 1-in order to conduct business, a minimum of seven members of the council must be present;
- 2-at its first meeting, the council shall adopt, by majority vote, bylaws establishing procedures for conducting its meetings and for making and recording decisions;
- 3-the Council shall monitor the state of standardization in the country and shall propose any modifications to this Law that it deems advisable;
- 4-the Council shall approve national standards and codes of practices developed/amended by ANSA as Afghan standards;
- 5-the Council may consider other national, regional and international standards for adoption as Afghan Standards;
- 6-the Council shall determine overall policies and general strategies in the field of formulation and implementation of standards;

7-the Council shall review and approve the report of the ANSA CEO on the activities and programs accomplished and to determine ANSA's future plans and policies regarding standardization affairs of the country;

8-the Council shall determine ANSA's financial rules, regulations and administrative procedures;

9-the Line Ministers in consultation with the Minister shall declare any Afghan standard as a compulsory standard (technical regulation) if found necessary in the interest of the country;

10-the Council shall determine procedures for the voluntary and compulsory implementation of Afghan standards or any other standards approved by the Supreme Standards Council for periodic control of weights and measures;

11-the Council shall supervise and promote good governance of affairs in ANSA;

12-the Council shall evaluate the performance and review the policies of ANSA regularly;

13-the Council shall approve the terms of reference and work procedures of the National Standards Writing Technical Committees;

14-the Council shall collaborate with local industries, commerce, scientific societies and such institutions nationally and internationally within the framework of national regulations;

15-the Council shall determine the organizational functions upon the recommendations of the CEO of ANSA.

ARTICLE 11: THE MANAGEMENT OF ANSA

1- ANSA shall be managed by a Chief Executive Officer ("CEO"), appointed by the President of State with consultation/recommendation by the Minister;

2-the CEO shall be responsible for the day-to-day management of the affairs of ANSA and shall report to the Council on such matters as shall be established by policy decision or otherwise;

3-the CEO may not delegate any of his authority to the employees of ANSA, unless authorized by the Minister;

4-ANSA may recruit and benefit from competent persons and institutions for the fulfillment of its tasks. Recruitment procedures, the terms of reference and the scale of the fees of these experts shall be determined by the Council.

Article 12: TECHNICAL COMMITTEES OF ANSA

1-ANSA shall establish Technical Committees (TCs), Subcommittees (SCs) and Working Groups (WGs) that shall be entrusted with the responsibility of developing national standards and adopting international and regional standards as national standards;

2-ANSA shall enact rules and regulations regarding the operation of Technical Committees, Subcommittees and Working Groups;

3-technical committees shall be formed on a "participation basis" and encourage representation of all interested parties. Participants, users (public and private sectors) can propose or request to include a work item which can result in setting up TCs, SCs or WGs for drafting standards;

4-authorized representatives of government agencies, the private sector, business associations, scientists and engineers, consumer associations and similar organizations, eminent scientists and professionals representing their organizations or as individual experts shall be considered for appointment as technical committee members to participate in deliberations of the Technical Committees on a voluntary basis;

5-ANSA shall appoint a Secretary to manage, organize and maintain records for each Technical Committee.

Chapter Four

ANSA PROPERTY, FUNDING

Article 13: TRANSFER OF PROPERTY

All liabilities and assets, whether movable or immovable, whether obtained before or after the enactment of this Law, shall be deemed to be transferred to the ownership or control of ANSA.

Article 14: ANSA's operations shall be funded by the following sources:

- 1-Government budget;
- 2-collection of regulatory fees, including but not limited to fees assessed for authorizations, licensing, inspections, calibration and testing and the administration of technical regulations;
- 3-sales of standards and provision of training and advisory services;
- 4-funds, allocated for implementation of programs and projects;
- 5-assignment of right to use property rights including trademarks, certifications, and similar items; and,
- 6-grant and other awards.

Chapter Five

Article 14: REGULAR AND SPECIAL MEETINGS OF ANSA

The Council shall meet as often as necessary, but not less than once every quarter to conduct business. ANSA may meet at such other times as it considers appropriate.

Chapter Six

MISCELLANEOUS

Article 15:

- 1-the Minister may prepare bylaws, legislation, regulations and procedures in the field of standardization;
- 2-all laws and regulations contrary to this law shall be abrogated from the date of enactment of this law;
- 3-this Afghan National Standards Law is effective upon publication in the "Official Gazette".