

TBT COMMITTEE THEMATIC SESSIONS OF 29 OCTOBER 2013

Recognition of Conformity Assessment Results

Use of MRAs

South African experience on the difficulties in
concluding MRAs



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What are Mutual Recognition Agreements on Conformity Assessment (MRAs)?

- Annex 1 of the TBT Agreement;
- 2004 edition of the ISO/IEC Guide 2 - Standardization and related activities -- General vocabulary;
- ISO/IEC Guide 68 -Arrangements for the recognition and acceptance of conformity assessment results.

A **Mutual Recognition Agreement (MRA)** is an international **agreement between the governments** of two or more countries by which they agree to recognise one another's conformity assessment procedures and results.

A **Mutual Recognition Arrangement** is an international **arrangement between two or more participating conformity assessment bodies** by which they acknowledge to the other participant/s that the conformity assessment results of the other participating bodies have been produced by competently performed, equivalent testing procedures.



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Setting the scene

- Differences in regulatory requirements between countries;
- Exporting companies need to have their products tested and certified in an importing country;
- Testing by conformity assessment facilities in the country that imports - increased costs and time taken;
- MRAs facilitate trade – test domestically;
- Time and cost saving benefit business and trade.

Benefits/Objectives of MRAs

- Facilitate trade;
- Confidence in domestic testing facilities – “Local is lekker”.
- Cost and time savings;
- Reach export market sooner and cheaper;
- Promote the sharing of information.



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Legal provisions or mandate to negotiate MRA

- WTO TBT Agreement Article 6.3;
- Provisions in Free Trade or Preferential Trade Agreements;
 - GATT 1994 Article XXIV;
 - Enabling Clause.
- Political and/or technical administrative decision on cooperation;
 - Memoranda of Understanding;
 - Cooperation Agreements (voluntary).
- Domestic legislation.

Notification under TBT Agreement Article 10.7



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Trade Agreements South Africa entered into

GATT 1994 Article XXIV:4 Customs Union/ FTAs

- 2002 Southern African Customs Union (SACU) Agreement (Botswana, Lesotho, Namibia, South Africa and Swaziland)
 - Article 28 deals with TBTs - harmonisation
 - Article 38 calls for common policies for industrial development.
 - Article 31 paragraph 2 - established a **Common Negotiating Mechanism**
- SA - EU Trade Development Cooperation Agreement (SADC - EU EPA)
- SACU - EFTA FTA (Iceland, Liechtenstein, Norway, Switzerland)
- SADC Trade Protocol
 - Standardisation, Quality Assurance, Accreditation and Metrology (SQAM) Memorandum of Understanding (MOU);
- COMESA-EAC-SADC Tripartite FTA Negotiations
 - Draft proposed Article 25 and Annex 9
 - Modalities for the mutual recognition of test results



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Trade Agreements South Africa entered into

Enabling Clause

- SACU - Mercosur PTA - Southern Common Market. Argentina, Brazil, Paraguay, Uruguay, plus Venezuela; and Bolivia.
 - Chapter VIII Article 20 paragraph 2 g
- SACU India PTA



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Trade Agreements South Africa entered into

Other Agreements:

- MoU on Trade Facilitation for Standards, Technical Regulations and Conformity Assessment among the Government of the Republic of South Africa, the Government of the Republic of India and the Federative Republic of Brazil
 - Article 5 paragraph c
 - Sectors identified:
 - Automotives
 - Chemicals
- SACU - USA Trade, Investment and Development Cooperation Agreement
 - TBT Specific text to be negotiated, but drafts make provision for MRAs



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Factors to consider before negotiating MRAs:

- Trade volume in same sectors;
- Level of development;
- Legal, Institutional and regulatory frameworks;
- Political will;
- International standardisation;
- Harmonisation;
- Regulatory co-operation;
- Technical assistance;
- Partial, voluntary, reduced or less formal types of mutual recognition.



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Various forms of MRAs

- Bilateral - single sector;
- Bilateral - multi sector;
- Multilateral - single sector;
- Multilateral - multi sector.



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Reasons for reluctance to negotiate MRAs

- Two main categories of reasons
 - technical reasons
 - political reasons



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Technical Reasons:

- Capacity constraints in Government as technical expertise is needed to negotiate MRAs;
- Lack of the appropriate technical infrastructure and facilities to do conformity assessment testing against the technical regulations of the trading partner exporting to;
- Differences in Legal, Institutional and regulatory frameworks - consumer protection and product liability laws;



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Political reasons

- Difficulties to agree on products/sectors to include under MRAs;
- The use of different international standards that result in non harmonised or equivalent technical regulations;
- Lack of confidence in the ability of testing facilities abroad - more confidence in national accredited testing facilities;
- Protecting and promoting the interests of nation testing facilities instead of the exporting country's facilities for importation;
- Protecting own turf –no buy in from domestic conformity assessment facilities;
- The language barrier due to the difficulty to translate highly technical regulation and conformity assessment documentation;
- Technical skill, time and cost that it takes to negotiate MRAs;
- The use of IAF/ILAC accredited testing facilities is easier than to negotiate MRAs between two countries



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Thank you

Merci beaucoup

Muchas gracias



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