

18/1999/04

**AGREEMENT ON MUTUAL RECOGNITION
IN RELATION TO CONFORMITY ASSESSMENT,
CERTIFICATES AND MARKINGS
BETWEEN THE GOVERNMENT OF NEW ZEALAND
AND
THE REPUBLIC OF ICELAND,
THE PRINCIPALITY OF LIECHTENSTEIN AND
THE KINGDOM OF NORWAY**

AGREEMENT

ON MUTUAL RECOGNITION IN RELATION TO CONFORMITY
ASSESSMENT, CERTIFICATES AND MARKINGS BETWEEN THE
GOVERNMENT OF NEW ZEALAND AND THE REPUBLIC OF ICELAND,
THE PRINCIPALITY OF LIECHTENSTEIN AND
THE KINGDOM OF NORWAY

THE REPUBLIC OF ICELAND, the PRINCIPALITY OF LIECHTENSTEIN, and the KINGDOM OF NORWAY, hereafter referred to as the EFTA EEA States, on the one hand, and the GOVERNMENT OF NEW ZEALAND, on the other hand, ("the Parties"),

CONSIDERING the traditional links of friendship that exist between them,

CONSIDERING their shared commitment to promoting the enhancement of product quality, with a view to ensuring the health, safety and environment of their citizens,

DESIRING to conclude an agreement providing for the mutual recognition of the respective conformity assessment procedures required for market access to the territory of the Parties,

TAKING INTO ACCOUNT the improved conditions of trade between the Parties which the mutual recognition of test reports and certificates of conformity will bring about,

AWARE of the positive contribution that mutual recognition can have in encouraging greater international harmonisation of standards and regulations,

NOTING the close relationship between New Zealand and Australia as confirmed in the Australian and New Zealand Closer Economic Relations Trade Agreement and the Trans-Tasman Mutual Recognition Arrangement as well as the growing level of integration of the Australian and New Zealand conformity assessment infrastructures through the Agreement concerning the establishment of the Council of the Joint Accreditation System of Australia and New Zealand (JAS-ANZ),

NOTING the close relationship between Iceland, Liechtenstein and Norway and the European Community through the Agreement on the European Economic Area, which makes it appropriate to conclude this parallel mutual recognition agreement between New Zealand and these countries equivalent to the Mutual Recognition Agreement in relation to conformity assessment, certificates and markings between New Zealand and the European Community,

BEARING IN MIND their status as Contracting Parties to the Agreement establishing the World Trade Organisation, and conscious in particular of their obligations under the World Trade Organisation Agreement on Technical Barriers to Trade,

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

1. For the purpose of this Agreement, the EFTA EEA States of the Republic of Iceland, the Principality of Liechtenstein, and the Kingdom of Norway, shall be referred to and act as one Party to this Agreement.

2. General terms used in this Agreement and its Annexes shall have the meaning given in the definitions contained in ISO/IEC Guide 2 (1991) "General terms and their definitions concerning standardisation and related activities" and in EN 45020 (1993 edition) unless the context otherwise requires. In addition, the following terms and definitions shall apply for the purpose of this Agreement:

"Conformity assessment" means systematic examination to determine the extent to which a product, process or service fulfils specified requirements;

"Conformity assessment body" means a body whose activities and expertise include performance of all or any stage of the conformity assessment process;

"Designation" means the authorisation by a designating authority of a conformity assessment body to perform conformity assessment activities; "designated" has a corresponding meaning;

"Designating authority" means a body with the legal power to designate, suspend or withdraw designation of conformity assessment bodies under its jurisdiction.

3. The terms "conformity assessment body" and "designating authority" apply *mutatis mutandis* to other bodies and authorities with corresponding functions referred to in some Sectoral Annexes.

Article 2

General Obligations

1. The Government of New Zealand shall accept attestations of conformity including test reports, certificates, authorisations and marks of conformity as required by legislation and regulations identified in the Sectoral Annexes issued by designated conformity assessment bodies in the EFTA EEA States in accordance with this Agreement.
2. The EFTA EEA States shall accept attestations of conformity including test reports, certificates, authorisations and marks of conformity as required by legislation and regulations identified in the Sectoral Annexes, issued by designated conformity assessment bodies in New Zealand in accordance with this Agreement.
3. This Agreement shall not entail mutual acceptance of the standards or technical regulations of the Parties or mutual recognition of the equivalence of such standards or technical regulations.

Article 3

Sectoral Coverage

1. This Agreement concerns the conformity assessment procedures to satisfy mandatory requirements covered by the Sectoral Annexes.
2. Each Sectoral Annex shall, in general, contain the following information:
 - (a) a statement of its scope and coverage;
 - (b) the legislative, regulatory, and administrative requirements pertaining to the conformity assessment procedures (Section I);
 - (c) a list of the designated conformity assessment bodies (Section II);
 - (d) the designating authorities (Section III);
 - (e) a set of procedures for the designation of conformity assessment bodies (Section IV); and
 - (f) additional provisions as required (Section V).

Article 4

Origin

1. This Agreement shall apply to products originating in the Parties to the Agreement according to the non-preferential rules of origin.
2. In case of conflicting rules, the non-preferential rules of the Party on whose territory the goods are marketed are determinative.
3. To the extent that the same products are also covered in a Sectoral Annex to the Agreement on Mutual Recognition in relation to conformity assessment between the EFTA EEA States and Australia, the present Agreement shall also apply to products of Australian origin.
4. To the extent that the same products are also covered in a Sectoral Annex to the Agreement on Mutual Recognition in relation to conformity assessment between New Zealand and the European Community, the present Agreement shall also apply to products originating in the European Community.

Article 5

Conformity Assessment Bodies

In accordance with the terms of Annex 1 and the Sectoral Annexes, each Party recognises that the conformity assessment bodies designated by the other Party fulfil the conditions of eligibility to assess conformity in relation to their requirements as specified in the Sectoral Annexes. In designating such bodies, the Parties shall specify the scope of the conformity assessment activities for which they have been designated.

Article 6

Designating Authorities

1. The Parties shall ensure that the designating authorities responsible for designating the conformity assessment bodies specified in the Sectoral Annexes shall have the necessary power and competence to designate, suspend, remove suspension and withdraw the designation of such bodies.
2. In making such designations and withdrawals, designating authorities shall, unless specified otherwise in the Sectoral Annexes, observe the procedures for designation set out in Article 12 and Annex 1 of this Agreement.

3. In case of suspension of a designation or removal of such a suspension, the designating authority of the Party concerned shall immediately inform the other Party and the Joint Committee. Conformity assessment carried out by a suspended conformity assessment body before its suspension shall remain valid unless otherwise determined by its designating authority.

Article 7

Verification of Designation Procedures

1. The Parties shall exchange information concerning the procedures used to ensure that the designated conformity assessment bodies under their responsibility and specified in the Sectoral Annexes comply with the legislative, regulatory and administrative requirements outlined in the Sectoral Annexes and the competence requirements specified in Annex 1.

2. The Parties shall compare methods used to verify that the designated conformity assessment bodies comply with the legislative, regulatory and administrative requirements outlined in the Sectoral Annexes and the competence requirements specified in Annex 1. Existing systems for the accreditation of conformity assessment bodies in the two Parties may be used for such comparison procedures.

3. Such comparison shall be carried out in accordance with the procedures to be determined by the Joint Committee established under Article 12 of this Agreement.

Article 8

Verification of Compliance of Conformity Assessment Bodies

1. Each Party shall ensure that conformity assessment bodies designated by a designating authority will be available for verification of their technical competence and compliance with other relevant requirements.

2. Each Party has the right to contest the technical competence and compliance of conformity assessment bodies under the jurisdiction of the other Party. This right will be exercised under exceptional circumstances only.

3. Such contestation has to be justified in an objective and argued manner and in writing to the other Party and the Chair of the Joint Committee.

4. Where the Joint Committee decides that verification of technical competence or compliance is required, it will be carried out in a timely manner jointly by the Parties with the participation of the relevant designating authorities.

5. The result of this verification will be discussed in the Joint Committee with a view to resolving the issue as soon as possible.

6. Except when decided otherwise by the Joint Committee, the contested conformity assessment body, where it is included in Section II of a Sectoral Annex, shall be suspended by the competent designating authority from the time disagreement has been established in the Joint Committee until agreement has been reached in the Joint Committee on the status of that Body.

Article 9

Exchange of Information

1. The Parties shall exchange information concerning the implementation of the legislative, regulatory and administrative provisions identified in the Sectoral Annexes.

2. Consistent with their obligations under the World Trade Organisation Agreement on Technical Barriers to Trade, each Party shall inform the other Party of the changes it intends to make to the legislative, regulatory and administrative provisions relating to the subject matter of this Agreement and shall, except where considerations of safety, health and environmental protection warrant more urgent action, notify the other Party of the new provisions at least 60 days before their entry into force.

Article 10

Uniformity of Conformity Assessment Procedures

In the interests of promoting a uniform application of the conformity assessment procedures provided for in the laws and regulations of the Parties, the designated conformity assessment bodies shall take part, as appropriate, in co-ordination and comparison exercises conducted by each of the Parties in the relevant areas covered by the Sectoral Annexes to this Agreement.

Article 11

Agreements with Other Countries

The Parties agree that mutual recognition agreements concluded by either Party with a country which is not a party to this Agreement shall in no way entail an obligation upon the other Party to accept test reports, certificates, authorisations and marks of conformity issued by conformity assessment bodies in that third country, save where there is an express agreement between the Parties.

Article 12

Joint Committee

1. A Joint Committee made up of representatives of the two Parties shall be established. It is responsible for the effective functioning of the Agreement.
2. The Joint Committee shall determine its own rules of procedure. It shall take its decisions and adopt its recommendations by consensus. It can decide to delegate specific tasks to sub-committees.
3. The Joint Committee shall meet at least once a year unless it decides otherwise. If required for the effective functioning of this Agreement, and at the request of either Party, an additional meeting or meetings shall be held.
4. The Joint Committee may consider any matter related to the functioning of this Agreement. In particular, it shall be responsible for:
 - a) amending the Sectoral Annexes to give effect to the decision by a designating authority to designate a particular conformity assessment body;
 - b) amending the Sectoral Annexes to give effect to the decision by a designating authority to withdraw designation of a particular conformity assessment body;
 - c) exchanging information concerning the procedures used by either Party to ensure that the conformity assessment bodies specified in the Sectoral Annexes maintain the necessary level of competence;
 - d) in accordance with the provisions of Article 8, appointing a joint team or teams of experts to verify the technical competence of a conformity assessment body and its compliance with other relevant requirements;

- e) exchanging information and notifying the Parties of modifications of legislative, regulatory and administrative provisions referred to in the Sectoral Annexes including those which require modification of the Sectoral Annexes;
- f) resolving any questions relating to the application of this Agreement and its Sectoral Annexes; and
- g) facilitating the extension of this Agreement to further sectors.

5. Any amendments to Sectoral Annexes made in accordance with the provisions of this Article shall be notified promptly in writing by the Chair of the Joint Committee to each Party.

6. The following procedure shall apply in relation to the inclusion in or withdrawal from a Sectoral Annex of a conformity assessment body:

- a) a Party proposing an amendment to a Sectoral Annex to give effect to a decision by a designating authority to designate or withdraw designation of a conformity assessment body shall forward its proposal to the other Party in writing, adding supporting documentation to the request;
- b) a copy of the proposal and documentation shall be sent to the Chair of the Joint Committee;
- c) in the event that the other Party consents to the proposal or upon the expiry of 60 days without an objection having been lodged, the inclusion in or withdrawal from the Sectoral Annex of the conformity assessment body shall take effect; and
- d) in the event, that under the provisions of Article 8, the other Party contests the technical competence or compliance of a conformity assessment body within the afore-mentioned 60-day period, the Joint Committee may decide to carry out a verification of the body concerned, in accordance with the provisions of that Article.

7. In the event that a designated conformity assessment body is withdrawn from a Sectoral Annex, conformity assessment carried out by that conformity assessment body before the date of effect of its withdrawal shall remain valid unless otherwise determined by the Joint Committee. In the case of the inclusion of a new conformity assessment body, conformity assessment carried out by such a conformity assessment body shall be valid from the date the Parties agree to its inclusion in the Sectoral Annex.

8. Where a Party introduces new or additional conformity assessment procedures affecting a sector covered by a Sectoral Annex, the Joint Committee shall, unless the Parties agree otherwise, bring such procedures within the mutual recognition implementing arrangements established by this Agreement.

Article 13

Territorial Application

This Agreement shall apply, on the one hand, to the territories of the Republic of Iceland, the Principality of Liechtenstein, and the Kingdom of Norway, and on the other hand, to the territory of New Zealand. This Agreement shall not apply to Tokelau unless the Parties have exchanged Notes agreeing the terms on which this Agreement shall apply.

Article 14

Entry into Force and Duration

1. This Agreement shall enter into force on the first day of the second month following the date on which the Parties have exchanged Notes confirming the completion of their respective procedures for the entry into force of this Agreement.
2. Each State Party to this Agreement may withdraw therefrom with six months notice by means of a written notification to the other State Parties.

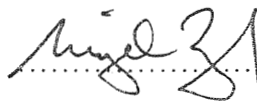
Article 15

Final Provisions

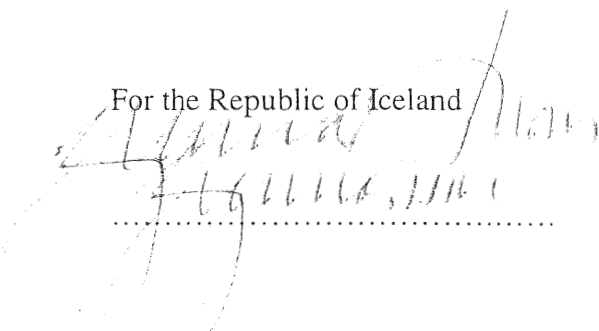
1. Annex 1 to this Agreement forms an integral part of it.
2. Any amendment to this Agreement shall be done by mutual agreement.
3. The Parties shall conclude Sectoral Annexes, to which the provisions of Article 2 apply, which will provide the implementing arrangements for this Agreement.
4. Amendments to the Sectoral Annexes shall be determined by the Parties through the Joint Committee.
5. This Agreement is drawn up in four originals in the English language.

Done at Brussels on the twenty-ninth day of April in the year one thousand nine hundred and ninety-nine.

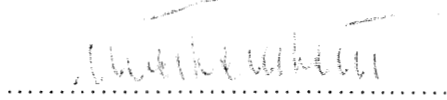
For the Government of New Zealand

.....

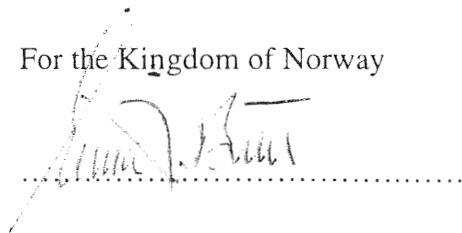
For the Republic of Iceland

.....

For the Principality of Liechtenstein

.....

For the Kingdom of Norway

.....

* * * * *

ANNEX 1

PROCEDURES FOR THE DESIGNATION AND MONITORING OF CONFORMITY ASSESSMENT BODIES

A. GENERAL REQUIREMENTS AND CONDITIONS

1. Designating authorities shall only designate legally identifiable entities as conformity assessment bodies.
2. Designating authorities shall only designate conformity assessment bodies able to demonstrate that they understand, have experience relevant to, and are competent to apply the conformity assessment requirements and procedures of the legislative, regulatory and administrative provisions of the other Party for which they are designated.
3. Demonstration of technical competence shall be based on:
 - technological knowledge of the relevant products, processes or services;
 - understanding of the technical standards and the general risk protection requirements for which designation is sought;
 - the experience relevant to the applicable legislative, regulatory and administrative provisions;
 - the physical capability to perform the relevant conformity assessment activity;
 - an adequate management of the conformity assessment activities concerned; and
 - any other circumstance necessary to give assurance that the conformity assessment activity will be adequately performed on a continuous basis.
4. The technical competence criteria shall be based on internationally accepted documents supplemented by specific interpretative documents developed as appropriate from time to time.
5. The Parties shall encourage harmonisation of designation and conformity assessment procedures through co-operation between designating authorities and conformity assessment bodies by means of co-ordination meetings, participation in mutual recognition arrangements, and working group

meetings. Where accreditation bodies participate in the designation process they should be encouraged to participate in mutual recognition arrangements.

B. SYSTEM TO DETERMINE CONFORMITY ASSESSMENT BODIES' COMPETENCE

6. The designating authorities may apply the following processes to determine the technical competence of conformity assessment bodies. If necessary, a Party will indicate to the designating authority the possible ways to demonstrate competence.

(a) **Accreditation**

Accreditation shall constitute a presumption of technical competence in relation to the requirements of the other Party when:

- (i) the accreditation process is conducted in conformance with the relevant international documentation (EN 45000 series or ISO/IEC guides); and either
- (ii) the accreditation body participates in mutual recognition arrangements where they are subject to peer evaluation which involves evaluation by individuals with recognised expertise in the field of the work being evaluated, of the competence of accreditation bodies and conformity assessment bodies accredited by them; or
- (iii) the accreditation body, operating under the authority of a designating authority, takes part, in accordance with procedures to be agreed, in comparison programmes and exchanges of technical experience in order to ensure the continued confidence in the technical competence of the accreditation bodies and conformity assessment bodies. Such programmes may include joint assessments, special cooperation programmes or peer evaluation.

When a conformity assessment body is only accredited to evaluate a product, process or service for compliance with particular technical specifications, designation shall be limited to those technical specifications.

When a conformity assessment body seeks designation to evaluate a particular product, process or service for compliance with essential requirements, the accreditation process shall incorporate elements which will permit assessments of the capability (technological knowledge and understanding of the generally stated risk protection

requirements of the product, process or service or their use) of the conformity assessment body to evaluate compliance with those essential requirements.

(b) **Other means**

When appropriate accreditation is not available or when special circumstances apply, the designating authorities shall require the conformity assessment bodies to demonstrate their competence through other means such as:

- participation in regional/international mutual recognition arrangements or certification systems;
- regular peer evaluations;
- proficiency testing; and
- comparisons between conformity assessment bodies.

C. **EVALUATION OF THE DESIGNATION SYSTEM**

7. Once the designation systems to evaluate the competence of conformity assessment bodies have been defined by each Party, the other Party may, in consultation with the designating authorities, check that the systems give sufficient assurance that the designation of the conformity assessment bodies satisfies its requirements.

D. **FORMAL DESIGNATION**

8. Designating authorities shall consult the conformity assessment bodies within their jurisdiction in order to determine their willingness to be designated under the terms of this Agreement. Such consultation should include those conformity assessment bodies who do not operate under the respective legislative, regulatory, and administrative requirements of their own Party, but which may, nevertheless, be interested and capable of working to the legislative, regulatory, and administrative requirements of the other Party.
9. Designating authorities shall inform their Party's representatives on the Joint Committee, established under this Agreement, of the conformity assessment bodies to be included in or withdrawn from Section II of the Sectoral Annexes. Designation, suspension or withdrawal of designation of conformity assessment bodies shall take place in accordance with the provisions of this Agreement and the rules of procedure of the Joint Committee.

10. When advising their Party's representative on the Joint Committee established under this Agreement, of the conformity assessment bodies to be included in the Sectoral Annexes, the designating authority shall provide the following details in respect of each conformity assessment body:
 - (a) the name;
 - (b) the postal address;
 - (c) the facsimile (fax) number;
 - (d) the range of products, processes, standards or services it is authorised to assess;
 - (e) the conformity assessment procedures it is authorised to carry out; and
 - (f) the designation procedure used to determine competence.

E. MONITORING

11. Designating authorities shall maintain, or cause to maintain, ongoing surveillance over designated conformity assessment bodies by means of regular audit or assessment. The frequency and nature of such activities shall be consistent with international best practices or as agreed by the Joint Committee.
12. Designating authorities shall require designated conformity assessment bodies to participate in proficiency testing or other appropriate comparison exercises where such exercises are technically possible within reasonable cost.
13. Designating authorities shall consult as necessary with their counterparts, to ensure the maintenance of confidence in conformity assessment processes and procedures. This consultation may include joint participation in audits related to conformity assessment activities or other assessments of designated conformity assessment bodies, where such participation is appropriate and technically possible within reasonable cost.
14. Designating authorities shall consult, as necessary, with the relevant regulatory authorities of the other Party to ensure that all regulatory requirements are identified and are satisfactorily addressed.

* * * * *

**Joint Declaration
relating to future work on implementing arrangements for this Agreement**

1. Pressure Equipment

The Parties will extend the scope of the Sectoral Annex on Pressure Equipment and start negotiations to that effect once the new Directive under preparation on this subject has been included into the EEA Agreement and into the Mutual Recognition Agreement between New Zealand and the European Community.

2. Aircraft certification and continued airworthiness

The Parties confirm their intention to continue negotiations in order to complete the Sectoral Annex in respect of aircraft certification and continued airworthiness, with the view to its establishment as an implementing arrangement for this Agreement no later than two years following its entry into force and to the extent such provisions are included in the Mutual Recognition Agreement between New Zealand and the European Community.

3. Inclusion of other Sectoral Annexes

To build on this Agreement, the Parties will commence negotiations on the further extension of the sectoral coverage of the Agreement two years from the date that the Agreement enters into force and to the extent such extensions are to be included into the Mutual Recognition Agreement between New Zealand and the European Community.

Joint Declaration on mutual recognition in the voluntary sphere

The Parties will encourage their non-governmental bodies to co-operate with the view to establishing mutual recognition arrangements in the voluntary sphere.

**Joint Declaration
relating to further developing harmonisation of technical regulations and
conformity assessment procedures**

The Parties will give consideration to increasing the degree of harmonisation or equivalence of their respective technical regulations and conformity assessment procedures, where appropriate and where consistent with good regulatory practice. The Parties acknowledge that one objective could be the establishment where feasible of a single submission and evaluation procedure, applicable in both Parties, for the products covered by the Agreement.

**Joint Declaration
relating to the review of Article 4**

The Parties will consider a broadening of the provisions of Article 4 to include other countries once the Parties have concluded equivalent Agreements on Mutual Recognition in relation to conformity assessment in the same sectors with those other countries.

**Declaration by the Principality of Liechtenstein
relating to Article 4: Origin**

Liechtenstein herewith declares that due to its customs union with Switzerland it will continue to use "Swiss origin" and will, for the time being, not use "Liechtenstein origin". Liechtenstein reserves, however, its right to introduce "Liechtenstein origin" for the purpose of this Agreement after having notified the contracting parties.

* * * * *

AGREEMENT ON MUTUAL RECOGNITION IN RELATION TO CONFORMITY
ASSESSMENT, CERTIFICATES AND MARKINGS
BETWEEN THE GOVERNMENT OF NEW ZEALAND
AND
THE REPUBLIC OF ICELAND, THE PRINCIPALITY OF LIECHTENSTEIN
AND THE KINGDOM OF NORWAY
OF 29 APRIL 1999

INTERPRETATIVE UNDERSTANDING

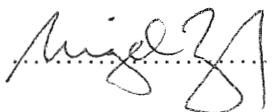
On the occasion of signature of the above Agreement, the Republic of Iceland, the Principality of Liechtenstein, and the Kingdom of Norway, hereafter referred to as the EFTA EEA States, on the one hand, and the Government of New Zealand, on the other hand, wish to record the following interpretative understanding:

Article 14(2) of the Agreement shall operate so that any of the EFTA EEA States, on the one hand, or New Zealand, on the other hand, may withdraw from the Agreement by giving the other States concerned six months notice in writing.

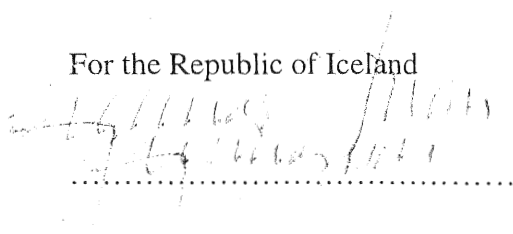
Where one of the EFTA EEA States withdraws from the Agreement in accordance with Article 14(2) thereof, such withdrawal shall not affect the operation of the Agreement as between the remaining EFTA EEA States and New Zealand.

Done at Brussels on the twenty-ninth day of April in the year one thousand nine hundred and ninety-nine.

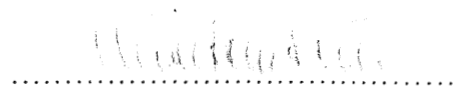
For the Government of New Zealand

.....

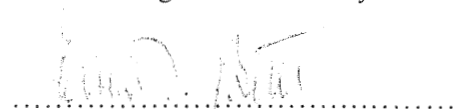
For the Republic of Iceland

.....

For the Principality of Liechtenstein

.....

For the Kingdom of Norway

.....

* * * * *