

DRAFT LAW
ON TECHNICAL REGULATIONS AND STANDARDS

Rev.5

26 March 2015

PREAMBLE

Considering the obligations of the Agreement on Technical Barriers to Trade on Members of the World Trade Organization and other international obligations undertaken by the Republic of Liberia;

Recognizing the important contribution that international standards and conformity assessment systems can make to the economy of the Republic of Liberia by improving efficiency of production and facilitating the conduct of international trade;

Desiring to ensure that technical regulations and standards, including packaging, marking and labelling requirements, and procedures for assessment of conformity with technical regulations and standards do not create unnecessary obstacles to international trade;

Considering the rights and responsibilities of the Government of Liberia to take necessary measures, *inter alia*, to ensure the quality of its exports, or for the protection of human, animal or plant life or health, of the environment, or for the prevention of deceptive practices, at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination with regards to other countries where the same conditions prevail or a disguised restriction on international trade, and are otherwise in accordance with the international obligations assumed by the Government of Liberia; the Government of Liberia promulgates this Law:

PART I

Article 1: Scope

1. All products shall be subject to the provisions of this Law.
2. This Law covers all technical regulations, voluntary standards, and the procedures to ensure that these are met, except when such regulations are sanitary or phytosanitary measures as defined by Article 1 of the Law on Sanitary and Phytosanitary Regulations of the Republic of Liberia.

Article 2: Definitions

The following definitions apply to this Law:

- 1.1. Technical regulation: Document approved by a central or local Liberian governmental body, 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 labelling requirements as they apply to a product, process or production method.
- 1.2. Standard: Document approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking, or labelling requirements as they apply to a product, process, or production method.

- 1.3. Conformity assessment procedures: Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.
 - 1.4. Central government body: Central government, its ministries, agencies, or commissions and any body subject to the control of the central government in respect of the activity in question.
 - 1.5. Local government body: Government other than a central government (e.g. counties, districts, and clans), its ministries, or any body subject to the control of such a government in respect of the activity in question.
 - 1.6. Non-governmental body: Body other than a central government body or a local government body, including a non-governmental body, which has or may be granted legal power to enforce a technical regulation.
 - 1.7. Recognized body: Any central or local body that has official status because of its position within the Government of Liberia, or any private, non-governmental body to which official duties have been delegated through an executive, legislative, or other act of the Government of Liberia.
2. To the extent that they are not incompatible with the definitions in this Law, general terms for standardization and procedures for assessment of conformity shall normally have the meaning given to them by definitions adopted by competent agencies within the United Nations system and by international standardizing bodies taking into account their context and objectives.
 3. To the extent that they are not incompatible with the definitions in this Law, the interpretation of terms in the sixth edition of the ISO/IEC Guide 2: 1991, General Terms and Their Definitions Concerning Standardization and Related Activities is incorporated into this Law.¹

PART II – Adoption of Technical Regulations

Article 3

1. In the elaboration, adoption, and application of technical regulations, any central or local governmental or non-governmental bodies or any other recognized bodies of the Republic of Liberia shall respect the following principles:
 - 1.1. Technical regulations shall be developed when necessary to fulfill an identified and legitimate objective. Such legitimate objectives are, *inter alia*, national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment.
 - 1.2. To the extent feasible and in accordance with the public policy interests of the Republic of Liberia, technical regulations shall be based on relevant international standards.

- 1.3. Technical regulations shall not be prepared, adopted, or applied with a view to or with the effect of creating unnecessary obstacles to international trade. For this purpose, technical regulations shall not be more trade restrictive than necessary to fulfill a legitimate objective, taking account of the risks non-fulfillment would create.
- 1.4. Products imported into the Republic of Liberia shall be accorded treatment no less favourable than that accorded to like products of Liberian origin and to like products originating in any other country.
- 1.5. In order to achieve the maximum possible level of transparency and accountability, all central and local governmental or non-governmental bodies, or any other recognized bodies, shall follow the procedural requirements of due process as outlined in this Article.
2. The Enquiry and Notification Authority (ENA) is hereby established.
 - 2.1. The Enquiry and Notification Authority shall be located in the Ministry of Commerce and Industry in the Division of Standards.
 - 2.2. The ENA shall be composed of members of:
 3. Division of Standards, Ministry of Commerce..... Chairman
 4. National Standards Laboratory..... Co-Chair
 5. Ministry of Agriculture (Plant & Animal Health Division)... Member
 6. Ministry of Health (Food Safety/Environmental Health Division.... Member
 7. University of Liberia (Science & Technology Researcher)..... Member
 8. Division of Trade, Ministry of Commerce..... Member
 9. Legal Affairs, Ministry of Commerce..... Member
 10. Ministry of Foreign Affairs (Internal/External Sections)..... Member
 11. National Consumer Protection Associations..... Member
 12. National Chambers of Commerce..... Member
 13. Liberia Manufacturers Association..... Member
 14. Liberia Bakers Association..... Member
 15. Liberia Export Promotion..... Member
 16. Environmental Protection Agency..... Member
 17. Ministry of Finance (Bureau of Customs)..... Member
 18. Liberia Produce Marketing Association..... Member
 19. Liberia Cassava Producers Association..... Member
 20. Liberia Rubber Planters Association..... Member
 - 2.3 The ENA is presided over by Director of Standards who shall be elected by members of the ENA
 - 2.4 With respect to technical regulations elaborated, adopted, or applied by the Government of Liberia, the ENA has the following duties:
 - a) Handle all enquiries on standards, technical regulations and conformity assessment procedures concerned with TBT agreement from other WTO members

- b) Download notifications from WTO secretariat on technical regulations and conformity assessment procedures adopted or proposed by other WTO members and forward them to stakeholders
- c) Compile comments on technical regulations and conformity assessment procedures adopted or proposed by other WTO members and forward them to the Notification Authority
- d) Request information for interested parties in Liberia from foreign enquiry points
- e) Provide foreign enquiry points upon request with copies of documents related to Liberian notifications
- f) Collect and maintain information on Liberian regulations and laws that affect trade.
- g) Respond to written, telephone, email and work in request for information by identifying relevant standards and technical regulations available in the existing collection or by consulting other standard organizations or relevant regulatory bodies
- h) Its information and documentation center which holds the enquiry points will maintain a collection of standards, technical regulations and laws which may be obtained;

3.1. Coordination: The ENA shall function as a centralized authority to coordinate the activities of elaborating, adopting, and applying technical regulations by relevant central or local governmental or non-governmental bodies or any other recognized bodies of the Government of Liberia. The ENA shall coordinate with relevant bodies of the Government of Liberia, as necessary, to ensure that the elaboration, adoption, and application of technical regulations in the Republic of Liberia are consistent with its international obligations, including the provisions of this Article.

3.2. Publication of technical regulations: As soon as feasible, the ENA shall publish draft technical regulations to allow domestic and international public and private interested stakeholders to review and comment on the draft regulations. This publication shall be made in the Liberia Official Gazette as well as on the webpage of the ENA, without prejudice to other means of publication such as newspapers or webpages of the other relevant central and local governmental or non-governmental bodies, or other recognized bodies.

3.3. Comment Period: The ENA shall allow for comments by interested stakeholders during a period not less than 60 calendar days from the date of publication or circulation to WTO Members, whichever is later.

3.4. Comments: The ENA shall establish the format for comments by interested stakeholders and publish the same in accordance with paragraph 3.2 of this Article.

3.4.1. The ENA shall communicate any timely and responsive comments received from interested stakeholders to the relevant central and local governmental or non-governmental body, or other recognized body, so that it shall take them into account in the adoption of technical regulations.

3.4.2. Comments shall be published on the webpage of the ENA, unless such comments contain confidential information. In the case that comments contain confidential information, a non-confidential summary, to be provided by the interested stakeholder, shall be published.

- 3.4.3. Upon request by an applicant to the ENA, the competent body shall provide reasons for its decision with respect to the comments received by that stakeholder.
- 3.4.4. Notification to the WTO: At the same time as publication, the ENA shall communicate draft technical regulations to the WTO Secretariat to allow for timely notification to WTO Members.
4. All central and local governmental or non-governmental bodies, or any other recognized bodies involved in the elaboration, adoption, or application of technical regulations, shall communicate to the ENA draft technical regulations for publication and notification.
5. In exceptional circumstances, where urgent and serious problems of safety, health, environmental protection, or national security arise or threaten to arise, the following procedures apply:
- 5.1. A body of the Government of Liberia may approve technical regulations without following the procedures set out in this Article, provided that a [DECREE OR OTHER ACT] is published [WHERE? ENA WEBSITE?] detailing the content of the technical regulation along with a full explanation of the nature of the emergency and risks involved.
- 5.2. The ENA shall immediately notify the WTO Secretariat and publish a notification of the opening of a comment period according to the procedures in paragraph 3 of this Article.
- 5.3. The relevant central and local governmental or non-governmental body, or other recognized body shall take into account the comments and review the technical regulation as appropriate.
6. Notwithstanding paragraph 5 of this Article, no technical regulation can be approved and applied unless the procedures described in this Article are followed.

PART III – Adoption of Standards

Article 4

1. By regulations the Government of Liberia may determine that any national standardizing body be bound by the Code of Good Practice for the Preparation, Adoption and Application of Standards – found in Annex 3 to the Agreement on Technical Barriers to Trade of the World Trade Organization (referred to as the “Code of Good Practice”).
2. The ENA shall notify the WTO Secretariat of the acceptance of the Code of Good Practice by such bodies.
3. The following Liberian standardizing bodies shall be bound by the Code of Good Practice:
- 3.1. Ministry of Commerce and Industry, Ministry of Health, Ministry of Transport, Ministry of Lands, Mines and Energy, Environmental Protection Agency, Ministry of Agriculture, Liberia Telecommunications Authority, Monrovia City Corporation

PART IV – Conformity Assessment Procedures

Article 5

1. By regulation, the Government of Liberia shall mandate the competent body or bodies that are responsible to conduct conformity assessment procedures for all products within the scope of this Law that are the subject of technical regulations or standards. The Government of Liberia may establish by legislations other bodies with such competencies as circumstances may require.
2. By regulations the Government of Liberia shall determine the requirements of each conformity assessment procedure, including:
 - 2.1. The publication [WHERE?] of the standard processing period;
 - 2.2. The notification to an applicant of the anticipated processing period;
 - 2.3. The timely review of completed applications, which generally is to take place within 60 days unless extraordinary circumstances apply and are described in full by the competent body;
 - 2.4. The prompt notification of the results of the assessment such that any deficiency may be corrected where possible.
3. By regulations the competent body shall set the fees to be charged for conformity assessment procedures.
 - 3.1. The fees shall be published in the official Gazette, on the websites of the Ministry of Commerce, the ENA and in various news papers.
 - 3.2. The fees shall be commensurate with the cost of the service rendered, taking into account communication, transportation, and other costs arising from differences between location of facilities of the applicant and the conformity assessment body.
 - 3.3. The fees charged for products originating in another WTO Member shall not be higher than the fees charged for products originating in the Republic of Liberia or in any other country.
 - 3.4. [The fees generated would be used for the funding of the National Standard Laboratory (NSL), the support to the offices of the ENA and other activities of the ENA
4. The competent body shall respect the confidentiality of information about products originating in the territories of other countries arising from or supplied in connection with such conformity assessment procedures in the same way as for domestic products and in such a manner that legitimate commercial interests are protected, while allowing for non-confidential summaries, where applicable.
5. The National Standard Body shall maintain a procedure to review complaints concerning the operation or results of a conformity assessment procedure and to take corrective action when a complaint is justified. The procedures concerning the review shall be elaborated by the competent body.

6. By regulation the Government of Liberia may recognize the conformity assessments of specific entities in other countries to the extent that they are substantially equivalent to those required in the Republic of Liberia. This recognition allows an agency or authority of the Government of Liberia to accept the results of conformity assessments concerning like products as carried out by the counterpart foreign agency or authority. The Government of Liberia will publish a notice on the websites of the Ministry of Commerce and Industry and the ENA, the official Gazette, and in newspapers of recognized conformity assessment procedures and entities in foreign countries.