

THE CARICOM REGIONAL ORGANIZATION FOR
STANDARDS AND QUALITY ACT

Act
6 of 2004.

[1st February, 2005.]

1. This Act may be cited as the CARICOM Regional Organization for Standards and Quality Act.

Short title.

2. In this Act—

Interpretation.

“Agreement” means the Agreement establishing the CARICOM Regional Organization for Standards and Quality signed on behalf of Jamaica on the 4th day of February, 2002 (the text of which is set out in the Schedule) and includes the Annexes to the Agreement, the Protocol to the Agreement, and the Annexes to the Protocol, and any amendments to, or substitutions of those documents that are or will become binding on Jamaica from time to time.

Schedule.

3. The provisions of the Agreement shall have the force of law in Jamaica.

Provisions of Agreement given force of law in Jamaica.

4. Where any amendment to the Agreement is accepted by the Government, the Minister shall, by order, subject to affirmative resolution, amend the Schedule by including therein the amendment so accepted.

Amendment of Schedule.

5.—(1) The Minister may make regulations—

Regulations.

- (a) providing for any matter that is necessary or desirable for the purposes of implementing the Agreement or any arrangement that is concluded between Jamaica and any other signatory to the Agreement; and
- (b) prescribing offences in respect of or non-compliance with any provisions of any regulations made under this section, and prescribing fines that may, on summary conviction, imposed in respect of any such offence.

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(2) Regulations made under subsection (1) shall be subject to affirmative resolution.

6. This Act binds the Crown.

Act binds the
Crown

SCHEDULE

(Section 2)

**AGREEMENT ESTABLISHING THE CARICOM REGIONAL
ORGANIZATION FOR STANDARDS AND QUALITY**

The States Parties:

Recognising that liberalisation and globalisation in the world economy have intensified international competitiveness in the production of goods and services;

Conscious that the Caribbean Community is extremely vulnerable to penetration by products of sub-standard quality and specifications which could have serious, negative implications for consumer welfare and the integrity of the regional environment;

Aware that the establishment of the CARICOM Single Market and Economy constitutes the measured institutional response to current developments present in the international economy as a means of safeguarding and promoting fundamental values of the peoples of the Caribbean Community;

Acknowledging that the development and application of harmonised regional standards, technical regulations, conformity assessment procedures and metrology are essential for the efficient operation of the CARICOM Single Market and Economy and, in particular, the international competitiveness of goods and services produced or provided in the Caribbean Community;

Conscious further that the formulation and application of internationally accepted standards, technical regulations, conformity assessment procedures and metrology on a regional basis would be cost-effective and enhance the international competitiveness of goods and services produced or provided in the CARICOM Single Market and Economy;

Convinced that the development of regional standards, technical regulations, conformity assessment procedures and metrology would facilitate the operations and improve the delivery of national standards bodies of Member States of the Caribbean Community;

Noting that the formal establishment of an inter-governmental regional standardising organization would entitle it to recognition by competent standardising international organizations resulting in important benefits to the Member States of the Caribbean Community in terms of technical assistance.

Have Agreed as follows:

ARTICLE I
Use of Terms

In this Agreement, unless the context otherwise requires:

community means the Caribbean Community including the CARICOM Single Market and Economy (CSME) established by the Treaty;

conformity assessment procedures includes any procedure used, directly or indirectly to determine that relevant requirements in technical regulations or standards are fulfilled;

COTED means the Council for Trade and Economic Development, an Organ of the Community so named in paragraph 2(b) of Article 10 of the Treaty;

metrology means the science of measurement for the determination of *conformance to technical requirements* including the development of standards and systems for absolute and relative measurement;

Secretariat means the Secretariat of CROSQ;

Secretary-General means the Secretary-General of the Caribbean Community;

standard means a guideline approved by a recognised 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. The term may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method;

“standards related-matters” includes technical regulations, conformity assessment procedures and metrology;

technical regulations means regulations which specify product characteristics or their related processes and production methods, including the applicable administrative provisions with which compliance is mandatory. The term may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method;

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Treaty means the Treaty establishing the Caribbean Community signed at Chaguaramas on the 4th day of July 1973 as revised by the Treaty establishing the Caribbean Community including the CARICOM Single Market and Economy (CSME).

ARTICLE 2
Establishment

There is hereby established the CARICOM Regional Organization for Standards and Quality (hereinafter referred to as CROSQ) having its composition, objectives, functions and status as set out herein.

ARTICLE 3
Membership

1. Membership of CROSQ shall be open to Member States of the Community.

2. Associate membership may be accorded to Associate Members of the Community, States and political entities of the Association of Caribbean States which, in the opinion of the Council, are willing and able to enjoy the rights and assume the obligations of membership set out in this Agreement.

ARTICLE 4
Objectives

1. The primary objectives of CROSQ shall be the establishment and harmonisation of standards for the enhanced efficiency and improved quality in the production of goods and services in the Community, thereby facilitating consumer and environmental protection and improved trade within the Community and with third states.

2. Without prejudice to the generality of the provisions of paragraph 1, CROSQ shall, *inter alia*:

- (a) promote the development and harmonisation of standards, metrology, technical regulations and the mutual recognition of conformity assessment procedures covering goods and services produced or provided in the Community with the aim of facilitating trade and supporting the establishment of the CSME;
- (b) encourage the mutual recognition of accreditation and certification systems which are based on internationally accepted criteria;

- (c) facilitate the achievement of international competitiveness of regional goods and services by fostering a culture of quality in regional enterprises;
- (d) support standards-infrastructure development at the national level;
- (e) promote consumer health and safety;
- (f) through its operations, contribute to the preservation of the environment and conservation of the natural resources of the Community;
- (g) provide guidance to Community Organs and Bodies regarding matters within its competence, including disputes settlement;
- (h) promote and protect the interests of States Parties and Associate Members in regional and international standardising fora, including external negotiations;
- (i) promote awareness of standards and standards-related matters in commerce, industry, governments and consumers.

ARTICLE 5
Composition of CROSQ

CROSQ shall consist of:

- (a) the Council;
- (b) the Special Committees; and
- (c) the Secretariat.

ARTICLE 6
Composition and Procedures of the Council

1. The Council shall consist of the executive heads of the national standards bodies of the States Parties. Each executive head of a national standards body of a State Party may designate an alternate to represent him or her at meetings of the Council. The Council shall elect a Chairman and Vice Chairman at its annual meetings who shall hold office for two years.

2. A simple majority of the members of the Council shall constitute a quorum.

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3. Decisions of the Council on substantive issues shall be made by a two-thirds majority of the members of the Council. Decisions on procedural issues and recommendations shall be made by a simple majority of the members of the Council.

4. Ordinary meetings of the Council shall be convened at least once in every calendar year and may be held at the headquarters of CROSQ or any other agreed venue in the jurisdiction of a State Party determined by the Council. Extraordinary meetings of the Council shall be held in such jurisdiction of a State Party as the Council considers convenient provided that in exceptional circumstances electronic media may be employed.

5. The Council shall permit Associate Members to participate in its meetings but without the right to vote.

ARTICLE 7

Functions of the Council

1. The Council shall report annually to COTED which shall determine the policy of CROSQ, particularly the establishment or adoption of regional standards and technical regulations.

2. Subject to the provisions of paragraph 1, the Council shall *inter alia*:

- (a) recommend harmonised regional standards, for goods and services provided in the Community;
- (b) recommend technical regulations for goods and services provided in the Community;
- (c) promote mutual recognition of conformity assessment procedures and mutual acceptance of certification and accreditation;
- (d) consider and adopt measures for the resolution of disputes between States Parties relating to standards and standards-related matters;
- (e) approve the organizations with which CROSQ shall establish and maintain functional co-operation in relation to standards and standards-related matters;
- (f) appoint the Executive Secretary as provided for in paragraph 2 of Article 9 of this Agreement;
- (g) approve the staff regulations recommended by the Secretariat;

- (h) determine the contributions of States Parties and Associate Members to the budget of CROSQ;
- (i) approve the budget of CROSQ recommended by the Secretariat;
- (j) approve the conditions of membership and associate membership of CROSQ; and
- (k) provide oversight with respect to standards and standards-related matters;
- (l) determine the programmes at which CROSQ may participate;
- (m) determine the organizations in whose work CROSQ should participate as a member or observer as the case may be;
- (n) approve the work programme of the Secretariat.

ARTICLE 8

Composition, Procedures and Functions of the Special Committees

1. Special Committees shall consist of the nominees of States Parties and Associate Members drawn from the public and private sectors.
2. Decisions of the Special Committees shall be made by consensus and shall constitute recommendations to the Council.
3. Special Committees shall meet as often as necessary to perform their functions efficiently and expeditiously.
4. The functions of the Special Committees shall include:
 - (a) the development, adoption, adaptation or harmonisation of standards and standards-related matters as the case may require, in all sectors that affect regional trade of goods and services among Member States;
 - (b) recommending standards and standards-related matters to the Council for action as is appropriate under this Agreement;
 - (c) commenting on proposed regional or international standards;
 - (d) the establishment or harmonisation of procedures within the Community concerning the assessment, certifying, auditing, accreditation of quality systems, testing laboratories, consultancies, trainers and personnel in specialised fields;

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- (e) providing, as mandated by the Council, technical assistance to educational institutions, private or state-owned companies or agencies or other entities in the Community and familiarising them with the application of standards and standards-related matters;
- (f) establishing, in collaboration with the Secretariat, a general programme for the development of standards and the provision of technical equipment and trained human resources adequate for the foreseeable needs of the Community, for consideration and approval by the Council;
- (g) such other functions as may be mandated by the Council.

ARTICLE 9

Composition of the Secretariat

1. The Secretariat shall consist of the Executive Secretary and such other staff as may be determined by the Council. The Executive Secretary shall be the chief executive officer of CROSO.

2. The Executive Secretary shall be appointed by the Council for a period of not more than three years and shall be eligible for reappointment. Other staff of the Secretariat shall be appointed by the Executive Secretary on such terms and conditions as may be approved by the Council.

3. In the appointment of professional staff of the Secretariat, due consideration shall be given to equitable geographical representation of the membership of CROSO.

4. In the performance of their functions, the staff of the Secretariat shall neither seek nor receive instructions from any source external to CROSO.

ARTICLE 10

Functions of the Secretariat

Subject to the directions of the Council, the Secretariat shall perform the following functions:

- (a) promote the development, harmonisation, application and maintenance of standards and standards-related matters;
- (b) promote mutual recognition of conformity assessment procedures among Member States;

- (c) facilitate and mandate standards and metrology infrastructure development at national and regional levels;
- (d) undertake training and promote education and information dissemination on standards and standards-related matters;
- (e) participate in the activities of regional, hemispheric and international standardising bodies;
- (f) conduct investigations in accordance with Article 12 of this Agreement;
- (g) prepare annual and other reports for submission to the Council;
- (h) prepare and recommend the budget of CROSQ to the Council;
- (i) prepare and recommend the staff regulations to the Council;
- (j) undertake such other related functions as may be determined by the Council

ARTICLE 11

Adoption of Standards and Procedures

1. Special Committees may recommend standards and technical regulations to the Council for adoption.

2. Where the Council endorses a recommendation pursuant to paragraph 1, and so recommends to COTED for approval, the States Parties shall, upon the approval of COTED, adopt appropriate legal and administrative arrangements to give effect to the decision of COTED within their respective jurisdictions.

ARTICLE 12

Conduct of Investigations

1. Subject to the provisions of this Article, CROSQ shall conduct investigations on issues arising out of standards and standards-related matters at the request of States Parties, Associate Members or the CARICOM Secretariat.

2. The Council on the recommendation of a State Party or on its own initiative may request the Secretariat to carry out investigations.

3. Where an investigation is being carried out, the investigating body shall not, in principle, include representatives or nationals from States Parties or Associate Members involved in the case. Such representatives may, however, be invited to appear before the investigating body concerned to give evidence.

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4. The cost of conducting an investigation, including the costs of testing, research, consultancies or other expenses necessarily involved in the conduct of the investigation, shall be borne by the party requesting the investigation.

5. The Executive Secretary shall make satisfactory arrangements for recovery of the expenditure mentioned in paragraph 4.

6. Recommendations by the investigating body shall be submitted to the Executive Secretary who shall make a determination as soon as practicable for transmission to the party requesting the investigation.

7. An appeal may be made to the Council against the determination of the Executive Secretary and the decision of the Council shall be subject to judicial review.

8. States Parties and Associate Members shall undertake to provide and facilitate access to all relevant information for the purpose of the conduct of investigations.

ARTICLE 13

Funding of the Organization

1. The revenues of CROSQ shall consist of the following:
 - (a) contributions of States Parties and Associate Members;
 - (b) donations or grants from sources approved by the Council;
 - (c) fees derived from the conduct of investigations, training courses, consultancy engagements and other services performed by CROSQ;
 - (d) fees for the use of any mark or standard mark owned or operated by CROSQ;
 - (e) sales of CARICOM standards.

2. The Council shall not approve grants or donations required to be applied in a manner which discriminates among States Parties or Associate Members.

3. Representative or nominees of States Parties whose contributions to the budget of CROSQ are in arrears by more than two years shall lose the right to vote and hold office in the organs and bodies of CROSQ.

4. Representatives or nominees of Associate Members whose contributions to the budget of CROSQ are in arrears by more than two years shall lose the right to participate in the work of the organs and bodies of CROSQ.

ARTICLE 14
Status of the Organization

1. CROSQ shall have full juridical personality.

2. States Parties shall in their jurisdictions accord to CROSQ the same capacity accorded to legal persons under their national laws, including the capacity to acquire, hold and transfer movable and immovable property and to sue and be sued in its own name.

3. In any legal proceedings CROSQ shall be represented by the Executive Secretary.

4. CROSQ may conclude agreements with natural and other legal persons for the efficient performance of its functions.

5. States Parties hereby undertake to take such measures as may be required to make the provisions of this Article effective in their respective jurisdictions.

ARTICLE 15
Privileges and Immunities

1. The privileges and immunities to be recognized and granted by States Parties in connection with CROSQ shall be set out in a Protocol to this Agreement.

2. CROSQ shall conclude with the State Party in which the Headquarters is to be located an agreement relating to the privileges and immunities to be granted or accorded to CROSQ.

ARTICLE 16
Signature

This Agreement shall be open for signature by the States mentioned in paragraph 1 of Article 3.

ARTICLE 17
Provisional Application

This Agreement may be provisionally applied by no less than eight signatories of the States mentioned in paragraph 1 of Article 3.

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ARTICLE 18
Entry into Force

This Agreement shall definitively enter into force when it has been signed by the States mentioned in paragraph 1 of Article 3.

ARTICLE 19
Amendments

1. This Agreement may be amended by a decision of COTED on the recommendation of the Council.

2. Amendments shall enter into force one month after the date on which the last State Party to this Agreement has signed the amendment or such other date as the Council may decide.

ARTICLE 20
Associate Membership

1. Any State or entity mentioned in paragraph 2 of Article 3 may, upon application to the Council for associate membership be admitted as an associate member of CROSQ in accordance with paragraph 2 of this Article.

2. Upon an application made pursuant to paragraph 1 of this Article, the Council shall make a determination on such an application. Where the determination is in the affirmative, the Council shall determine the conditions of associate membership.

ARTICLE 21
Withdrawal

1. A State Party which has withdrawn from the Community shall be deemed to have withdrawn from CROSQ on the effective date of such withdrawal from the Community.

2. Any State Party or Associate Member may withdraw from CROSQ by giving at least twelve months' notice of withdrawal to the Secretariat.

3. A State Party or Associate Member so withdrawing undertakes to honour any outstanding financial obligations duly assumed by it during its membership of CROSQ.

ARTICLE 22
Saving

Nothing in this Agreement shall be interpreted as impairing the validity of the provisions of any regional or international regime in which the States Parties participate.