

標準檢驗局與日本品質保證機構瞭解備忘錄

前言

經濟部所屬之標準檢驗局，主要辦公處所為中華民國台灣臺北市濟南路一段四號，與日本品質保證機構係依據日本法律成立之財團法人，主要辦公處所為日本東京 107-0052 1-9-15, Akasaka, Minato-ku，雙方均依據國際標準及相關規定執行客戶品質管理系統評鑑及登錄。雙方簽訂本備忘錄即為便利品質管理系統之評鑑及登錄作業以有效因應客戶申請品質管理系統登錄之需求，及減少其費用與負擔。

1.0 目的

1.1 本備忘錄旨在提供雙方一合作機制以有效回應客戶驗證需求減少費用與負擔。品質管理系統之評鑑與登錄係依據國際標準 2000 年版 ISO 9001 以及其他對等標準如 JISQ9001，CNS 12681 等。

2.0 範圍

2.1 雙方意欲提供客戶品質管理系統之評估及登錄服務。

2.2 本備忘錄適用下列情形：

(1) 擬申請雙方共同登錄者。

(2) 先由一方登錄之品質管理系統，在經過合理證實及調查後，可被另一方認可為聯合登錄。

2.3 廠商應向所在地之機構提出申請，並由所在地機構（主導登錄機構）派員辦理評鑑及例行追查，但另一方有權派員以觀察員身分參與評鑑及追查以瞭解現場作業。

2.4 完成評鑑時，執行評鑑之一方應將工作結果轉給另一方，以利發證之需。雙方在接受對方之評鑑結果前保留審查意見及要求補送資料的權利。

3.0 必要條件

3.1 雙方應依循 ISO/IEC Guide 62 及其他相關或相當之文件辦理。

3.2 訓練及資格

3.2.1 主導評審員及評審員必需符合其他合格登錄機構現行採用之規範及指導綱要，以及其他國際標準與規範所訂之最低要求。

3.3 聯合申請流程

3.3.1 雙方各有其申請書及基本資料，任一方代表對方接受客戶申請書及基本資料，惟上述資料需符合對方驗證需求。

- 3.3.2 廠商尋求登錄時應提供品質文件給主導登錄機構。
- 3.3.3 評鑑小組之主導評審員應安排客戶與評鑑小組兩方面皆方便的評鑑日期，並負責有關安排、文書等協調事宜，所有安排必須雙方均可接受。
- 3.3.4 雙方有權執行必要之證實及調查，並決定登錄之程序。

3.4 證書

- 3.4.1 雙方各自負責核發及管制其登錄證書。
- 3.4.2 在聯合登錄有效期間，如果客戶不當使用或展示他方登錄證書及標誌，雙方同意通知另一方。

3.5 追查

- 3.5.1 後續追查應由主導登錄機構負責。
- 3.5.2 聯合登錄之例行追查應每年定期安排並執行。

3.6 財務考量

雙方應各自決定及管理其有關評鑑及登錄之財務收費計畫。因此，雙方應分別向申請登錄客戶收取評鑑及登錄費用。雙方應各自負擔其評鑑及登錄相關費用。

3.7 賠償

- 3.7.1 標準檢驗局應賠償日本品質保證機構及其繼承人、讓受者、主管、官員、代理人及職員因標準檢驗局下列行為或疏忽牽連第三者而遭受之損害、索賠、損失、處罰或控告：(i)標準檢驗局違反本備忘錄；(ii)標準檢驗局在本備忘錄下執行義務有疏忽、欺詐、缺失或延遲之情事；(iii)標準檢驗局所提出與本備忘錄相關的證書文件有意或無意誤載之情事，該誤載之行為非日本品質保證機構造成者。該賠償包括對方之法律費用及辯護費，除非本備忘錄另有規定。
- 3.7.2 日本品質保證機構應賠償標準檢驗局及其繼承人、讓受者、主管、官員、代理人、職員及中華民國政府及其職員因日本品質保證機構下列行為或疏忽牽連第三者而遭受之損害、索賠、損失、處罰或控告：(i)日本品質保證機構違反本備忘錄；(ii)日本品質保證機構在本備忘錄下執行義務有疏忽、欺詐、缺失或延遲之情事；(iii)日本品質保證機構所提出與本備忘錄相關的證書文件有意或無意誤載之情事，該誤載之行為非標準檢驗局造成者。該賠償包括對方之法律費用及辯護費，除非本備忘錄另有規定。

3.7.3 受償方獲知足以在本備忘錄下構成索賠或賠償之事實，並決定依據上述 3.6.1/3.6.2 節索賠時，應立即以書面通知對方（上述書面通知稱為「索賠通知」）。該索賠通知應敘明合理細節、索賠性質及相關事實，及受償方對該主張已採取及擬採行之行動。

3.7.4 有關索賠通知之主張或要求，賠償方可在誠心並自費對該等主張或要求提出辯護，受償方有權自費參與辯護。只要賠償方誠心解決索賠要求，受償方未經賠償方同意前不得和解。受償方應提供賠償方或其代表所有紀錄及其他所需合理資料以辯論該主張，且與賠償方充分合作。

若賠償方選擇不對該等主張答辯，受償方則無義務做上述事項。上述 3.6.1/3.6.2 節所謂賠償方之責任不受其選擇答辯與否之影響。

3.7.5 儘管有上述 3.6.3/3.6.4 節之條款，雙方承認使用內部法律人員可能較符合成本效益且能提供最佳辯護。因此受償方有權選擇使用其內部法律人員參與答辯或為己方辯護（案件可能視賠償方是否依據上述 3.6.4 節辯護）及適當時聘用當地律師。賠償方無責任支付受償方內部法律人員、當地律師費或在答辯損害或主張之時間花費；所有其他答辯費用應加以補償。

3.8 廣告

3.8.1 本備忘錄無意使雙方成為對方之認可單位或任何類似之描述。除非獲另一方事先書面同意，雙方均不得以口頭或書面方式在任何廣告提及或使用他方之名稱或標誌。

3.9 非代理

3.9.1 本備忘錄並不授權雙方代表另一方承擔義務或在任何情況下約束另一方。

3.10 獨立組織

3.10.1 雙方均為獨立組織，不得以任何型態與客戶產生關係，受其影響或控制，以致影響其客觀地提供評鑑及登錄之能力及造成偏頗情形。雙方特別是需符合下列全部條件：

(A) 與客戶無管理上之附屬關係。

(B) 工作結果不會產生經由擁有客戶股權或類似情形而獲致財務利益。

(C) 業務範圍廣泛，是否取得以適用標準評鑑客戶之品質管理系統

之特定合約不應影響其財務。

(D) 人事僱用不受客戶之影響或控制。

4.0 準據法及管轄權

4.0.1 本備忘錄以英國法律為準據法。雙方應誠心地努力解決爭議。任何與本備忘錄有關之爭論、索賠如果未能友好和解，由日本品質保證機構所提之訴訟則由台北地方法院管轄，由標準檢驗局所提之訴訟則由東京地方法院管轄。

5.0 通則

5.0.1 雙方將提供大眾品質管理登錄計畫之一般資訊並答覆一般性問題。

5.0.2 雙方應提供對方合理要求之必需資訊以利本備忘錄之執行。未有客戶之事先書面授權，雙方將避免因客戶信任下所獲得之機密資訊自行透露給第三者。

5.0.3 任一方不遵守本備忘錄條款時，另一方得提醒其注意並採行改善措施。

5.0.4 本備忘錄生效後即取代標準檢驗局 (BSMI) 與日本品質保證機構 (JQA) 於 2002 年 2 月 8 日及 14 日分別簽署之備忘錄。

5.0.5 本備忘錄以英文撰寫兩份，於雙方簽署後生效，除非任一方通知終止，否則持續有效。本備忘錄之終止應至少於 90 天前以書面通知為之。

代表標準檢驗局

代表日本品質保證機構

簽署人

林能中
局長

簽署人

Matahiro Ueda
理事長

日期： 2004.05.12

日期： 2004.05.26

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE BUREAU OF STANDARDS, METROLOGY AND INSPECTION
(BSMI)

AND

THE JAPAN QUALITY ASSURANCE ORGANIZATION
(JQA)

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE BUREAU OF STANDARDS, METROLOGY AND INSPECTION (BSMI)
AND
THE JAPAN QUALITY ASSURANCE ORGANIZATION (JQA)

PREAMBLE

The Bureau of Standards, Metrology and Inspection (BSMI) under the jurisdiction of the Ministry of Economic Affairs, having its address at 4 Chinan Road, Section 1, Taipei, 100, Taiwan, Republic of China (R.O.C.), and the Japan Quality Assurance Organization (JQA), a corporation incorporated under the laws of Japan and having its principal place of business at 1-9-15, Akasaka, Minato-ku, Tokyo 107-0052 Japan. The parties both conduct assessments of clients' quality management systems and register such systems in accordance with international standards and requirements. The parties recognize the need to effectively respond to requests for registration of quality management systems and to minimize the costs and burdens on clients requesting such registration. This MOU outlines the arrangements between BSMI and JQA to facilitate the process of assessing and registering quality management systems.

1.0 PURPOSE

1.1 This MOU is to provide a mechanism whereby BSMI and JQA will cooperate to respond efficiently to requests for registration and to minimize costs and burdens on clients in the assessments and registration of quality management systems according to the International Organization for Standardization's ISO 9001:2000 Standard and other comparable standards such as JISQ9001, CNS 12681, etc.

2.0 SCOPE

2.1 Both BSMI and JQA intend to offer their services to evaluate and register client's quality management systems.

2.2 This MOU applies to the following situations:

- (1) Clients seeking registration of their quality management systems from both parties.
- (2) Quality management systems first registered by one party to this MOU may be recognized for joint registration by the other party subject to reasonable verification and investigation of the particular registration conducted pursuant to this MOU.

2.3 A client should apply for registration to the party located in the same country as the client. This party shall be the Primary Registrar and shall be responsible for the assessment and surveillance. The other party may send its personnel to participate in the assessment and surveillance as observer in order to understand the on-site operation.

2.4 Upon successful completion of an assessment, the party performing the assessment shall share the results of its work with the other party for the purpose of the other party issuing its certificate of registration. Each party reserves the right to comment or request additional information before accepting the results of the other's assessment.

3.0 REQUIREMENTS

3.1 The parties shall be in compliance with ISO/IEC Guide 62 and other relevant or equivalent documents.

3.2 TRAINING AND QUALIFICATIONS

3.2.1 Lead Assessors and Assessors must meet the minimum criteria in accordance with currently accepted practices and guidelines as followed by other qualified Registrars and other international standards and practices.

3.3 JOINT APPLICATION PROCEDURES

3.3.1 Separate applications and initial information data will be required for the BSMI and JQA registration programs. Either party may accept applications and initial information forms on the other's behalf, provided such information is necessary and in accordance with both parties' registration programs.

3.3.2 A client seeking registration must submit documents describing its quality to the Primary Registrar.

3.3.3 The Lead Assessor of the assessment team will schedule the visit with the client seeking registration at a time mutually convenient for the client and the assessment team. The Lead Assessor will also be responsible for the coordination of arrangements, paperwork, etc., between the parties. All such arrangements must be mutually acceptable to each party.

3.3.4 Each party shall have the right to conduct the necessary verification and investigation for its registration and shall have the right to determine the process relating to its registration.

3.4 CERTIFICATES

3.4.1 Each party will be responsible for issuance and control of its certificate of registration.

3.4.2 In the event that joint registration is in effect, each party agrees to notify the other if the client's use or display of the other's certificate of registration and mark(s) is improper.

3.5 SURVEILLANCE VISITS

3.5.1 Follow-up visits shall be conducted by the Primary Registrar.

3.5.2 In the event of joint registration, routine follow-up visits will be scheduled and conducted annually.

3.6 FINANCIAL CONSIDERATIONS

Each party will independently determine and administer its program of financial charges associated with assessment and registration. Accordingly, each party shall separately invoice the client seeking registration, for its charges for the assessment and registration. Each party shall bear its own costs and expenses incurred in the assessment and

registration.

3.7 INDEMNIFICATION

- 3.7.1 BSMI shall indemnify and hold harmless JQA, its successors and assignees, directors, officers, agents, and employees against in respect of any and all damages, claims, losses, liabilities, expenses, fines, penalties, or suits of whatever nature, from third parties which may, solely by an act or omission of BSMI's, arise as a causal consequence out of: (i) any breach or violation of this MOU by BSMI; (ii) any negligent, fraudulent, defective, or delayed performance of BSMI's obligations under this MOU; and (iii) any negligent or willful misrepresentation in any certificate of document delivered in conjunction with this MOU by BSMI which is not caused by JQA. Said indemnification also shall include all legal fees and defense expenses incurred by the indemnitee unless otherwise specified herein.
- 3.7.2 JQA shall indemnify and hold harmless BSMI, its successors and assignees, officers, agents, and employees, and the R.O.C. government and the employees of the R.O.C. government, against in respect of any and all damages, claims, losses, liabilities, expenses, fines, penalties, or suits of whatever nature, from third parties which may, solely by an act or omission of JQA's, arise as a causal consequence out of: (i) any breach or violation of this MOU by JQA; (ii) any negligent, fraudulent, defective, or delayed performance of JQA's obligations under this MOU; and (iii) any negligent or willful misrepresentation in any certificate of document delivered in conjunction with this MOU by JQA which is not caused by BSMI. Said indemnification also shall include all legal fees and defense expenses incurred by the indemnitee unless otherwise specified herein.
- 3.7.3 Upon obtaining knowledge of facts which, in JQA's or BSMI's (as applicable, the "indemnitee") sole discretion, are determined to be sufficient to justify a claim for indemnification under this MOU, BSMI or JQA (the "indemnitor"), shall promptly notify the other party (the "indemnitor") in writing of any damage, claim, loss, liability, expense, fine, penalty or suit which the indemnitee has determined has given or could give rise to a claim under 3.6.1 or 3.6.2 above (such written notice being a "Notice of Claim"). A Notice of Claim shall specify, in reasonable detail, the nature of any such claims, and all facts relevant thereto, giving rise to a claim for indemnification and describing all action taken and to be taken by the indemnitee in response to such claim.
- 3.7.4 With respect to any claim or demand set forth in a Notice of Claim, the indemnitor may defend, in good faith and at its expense, any such claim or demand, and the indemnitee, at its expense, shall have the right to participate in the defense of any such claim. So long as the indemnitor is defending in good faith any such claim, the indemnitee shall not settle or compromise such claim without consent of the indemnitor. The indemnitee shall make available to the indemnitor or its representatives all records and other materials reasonably required to contest any claim, and shall cooperate fully with the indemnitor in the defense of all such claims. If the indemnitor does not elect to defend any such claim, the indemnitee shall have no obligation to do so. The indemnitor's obligation under 3.6.1 or 3.6.2 above shall not be affected in any way by its election to defend or not defend any such claim.
- 3.7.5 Notwithstanding 3.6.3 and 3.6.4 above, the parties acknowledge that use of internal legal staff may be most cost-effective and able to provide the best defense. Therefore, the indemnitee shall have the right to utilize, at its option, its own internal legal staff, if

any, to participate in the defense or to defend itself (as the case may be depending upon whether the indemnitor elects to defend pursuant to 3.6.4 above) and to retain local counsel, if and when appropriate. The indemnitor shall have no responsibility to pay for any portion of a staff attorney's salary, counsel's time, or time spent in defending said damages and claim; all other defense expenses shall be reimbursed.

3.8 ADVERTISING

3.8.1 It is not intended by this MOU that (a) BSMI be or refer to itself as a JQA "accredited" party or any similar description or that (b) JQA be or refer to itself as a BSMI "accredited" party or any other similar description. Neither party shall refer to or use the other's name or Mark in any advertising, orally or in written materials, without the other's prior consent in writing.

3.9 AGENCY NOT CREATED

3.9.1 Neither party is authorized by this MOU to incur obligations on behalf of the other party or to bind the other party in any respect.

3.10 INDEPENDENT ORGANIZATION

3.10.1 BSMI and JQA are independent organizations not affiliated with nor influenced or controlled by customers in any manner which might affect their capacity to render assessments and registrations objectively and without bias. Specifically, they comply with all of the following:

(A) No managerial affiliation with customers.

(B) Results of their work accrue no financial benefits to any customers, via stock ownership or the like.

(C) Sufficient breadth of interest or activity that the loss or award of a specific contract to assess a customer's quality management system with the applicable standard would not be a determinative factor in its financial well-being.

(D) Employment security status of its personnel is free of influence or control of customers.

4.0. GOVERNING LAW AND JURISDICTION

4.0.1 This MOU shall be governed by and construed in accordance with the laws of England. The parties hereto shall strive to settle any disputes amicably between themselves. Any controversy or claim arising under, out of, in connection with, or relating to this MOU which cannot be settled amicably shall be subject to the jurisdiction of the Taipei District Court in case that the suit is instituted by JQA and subject to the jurisdiction of Tokyo District Court in case that the suit is instituted by BSMI.

5.0 GENERAL

5.0.1 Both parties will provide the public with non-proprietary information about quality management registration programs and answer general questions.

- 5.0.2 Both parties will furnish the other with all necessary information reasonably required to ensure the effectiveness of this MOU. Each party will refrain, without the client's prior authorization in writing, from voluntarily disclosing to third parties secret information which is obtained by BSMI or JQA in confidence from the client.
- 5.0.3 In the event where either party does not adhere to any of the items stated in this MOU, the other party shall bring it to the attention of the other for corrective action.
- 5.0.4 The Memorandum of Understanding between the Bureau of Standards, Metrology and Inspection (BSMI) and the Japan Quality Assurance Organization (JQA), which was signed on February 8 and 14, 2002, shall be replaced by this MOU as soon as this MOU enters into force.
- 5.0.5 This MOU, written in duplicate in the English language, shall come into effect upon signing by both Parties and shall remain effective until a notice of termination is given by either party. Termination of this MOU shall be by written notice at least 90 days prior to the effective date of termination.

For: Bureau of Standards, Metrology
and Inspection (BSMI)

For: Japan Quality Assurance Organization
(JQA)

By: 

Neng-Jong Lin
Director General

By: 

Matahiro Ueda
President and CEO

Date: May 12, 2004

Date: May 26, 2004