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Public Works for a Better Government

April 21, 2014

Mr. Winston Bennett
Chief Executive Officer
CARICOM Regional Organisation for Standards and Quality (CROSQ)
2nd Floor, Baobab Building
Warrens St. Michael
Barbados

Dear Mr. Bennett:

When you reached out to me to propose discussions I was very pleased. Our conversation on **February 11, 2014** was very productive and led promptly to your **February 14, 2014** Framework for Dialogue which we were pleased to accept on **February 20, 2014**. As part of that Framework for Dialogue, you agreed to furnish us with a list of which standards had been adopted by your member states and to present the issues regarding continuing publication to your Council on April 10. As a sign of good faith on our part, we temporarily disabled access to the standards in question.

After a great deal of back and forth on the question of adoption by member states, including a letter of **March 25, 2014**, you responded on **March 27, 2014** with the following statement:

“Please be informed that none of the standards are subject of technical regulations. The standards that you had uploaded were CROSQ standards (CRS) and the Member States technical regulations (compulsory standards) are national standards and as such are no longer considered to be CROSQ standards.”

This issue is of the utmost importance to our work, which consists of making available on a noncommercial basis Edicts of Government, the rules by which societies undertake to protect the public safety, trade, and other vital aspects of our modern life. The promotion of standardization as a tool to protect the public safety is a goal that I believe we both share.

Not only are standards important economically, being able to read those standards that form the laws and regulations of our world is a fundamental right for all people. As the U.S. Copyright Office so aptly stated the matter in their statement of policy:

“Edicts of government, such as judicial opinions, administrative rulings, legislative enactments, public ordinances, and similar official legal documents are not copyrightable for reasons of public policy. This applies to such works whether they are Federal, State, or local as well as to those of foreign governments.” Section 206.01, Compendium of Office Practices II, U.S. Copyright Office (1984).

I was thus extremely disappointed with your answer that “none of the standards are subject of technical regulations.” The answer seems to fly in the face of reality:

- The Anitgua and Barbuda Bureau of Standards has **Declared as National Standards** all CROSQ specifications, with the exception of CRS 17, Gold Articles.
- The Barbados National Standards Institute **Catalog of 2013 Standards** indicates that all CARICOM CROSQ standards have been designated with the status of Approved.
- The Jamaica Bureau of Standards **2012 Listing of Compulsory Standards and Technical Regulations** clearly names a number of CROSQ standards as mandatory, including at a minimum the standards for Safety Matches, Rum, Brewery Products, Table Eggs, and Fruit and Vegetable Juices.
- The Trinidad and Tobago Bureau of Standards devotes a page on their web site to **CROSQ and Regional Standards** and indicates:

“A major facet of CROSQ’s mandate is to harmonize and foster implementation of regional technical regulations and standards to greater facilitate interregional trade and to protect the consumer, the process for which is coordinated by the National Standards Body (NSB) of each member of CROSQ. ... There are currently forty two standards on the CROSQ work programme, nine of which are compulsory.”

Many standards appear to be mandatory under the powers of the Caribbean Community. For example, the Thirty–Second Meeting of the Council for Trade and Economic Development (COTED) on 3–4 May 2011 mandated that “all manufacturers, importers, distributors and other entities engaged in the production and or trade of retail packages of aerosol insecticides within any Member State of the Caribbean Community shall comply with the requirements of” CRS 37, **Labeling of Retail Packages of Aerosol Insecticides**.

CROSQ actively seeks compulsory status on all standards. For example, we **note the comments** of the International Federation of Organic Agriculture Movements to Mr. Fulgence St. Prix indicating that “the intent of the CROSQ is to set–up a compulsory regulation applicable to all operators in the CARICOM region.” Likewise, in his **February 3, 2014 presentation** to the Cleaner Fuels conference, Mr. St. Prix emphasized that his was goal to “develop and implement regulations to give legal force to standards.”

Adoption of CROSQ standards is not discretionary. I call to your attention the National Foreword for **Jamaica Standard Specification JS CCS 52: Grading and quality requirements of table eggs**, which clearly states “This standard is an adoption and is identical to CCS 52: 2005 CARICOM Regional Standard Specification for Grading and quality requirements of table eggs. It was developed by the CARICOM Regional Organization for Standards and Quality (CROSQ). Regional territories are mandated to adopt approved CARICOM Standards.”

Because of a lack of responsiveness by CROSQ on the matter of adoption at the state level and no communication following your April 11 Council meeting, I am afraid that I am not convinced that our dialogue is continuing to prove fruitful at this time.

Because it is clear that the CROSQ standards play a vital role in the technical regulation of the Caribbean Community and are important to the public safety of those who live in those countries and trade with them, and based on long-standing public policy enshrined not only in U.S. law but in international treaties and constitutions, it is therefore our intention to resume making available the documents in question.

I would like to continue discussions as I believe dialogue is the key to resolving differences, particularly when we share so many of the same goals. However, in the mean time, it does not seem right or fair to deprive people of the ability to read these important documents.

Respectfully yours,



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