Providing conformity assessment in countries without the country’s relevant authority’s approval
1. OBJECT AND FIELD OF APPLICATION

1.1 This document details the JAS-ANZ policy regarding the provision of certification services in countries without the country’s relevant authority’s approval.

1.2 This policy shall remain current until otherwise advised.

2. REFERENCES

   A. JAS-ANZ Procedure 5 – The conduct of accreditation assessments

3. BACKGROUND

3.1 Governments in many economies have established registration or accreditation requirements for certification bodies operating in that economy. Certification bodies need to have gained any such registrations or approvals if they are to operate legally. One of the most detailed examples in that of the Peoples Republic of China (PRC), others include; Dubai, Egypt, India and Vietnam.

3.2 In April 2002, the Peoples Republic of China introduced a regulatory document entitled “Regulations on the Review, Approval, Registration and Supervision for Certification Body, Certification Training and Consultancy Body” (The Regulation) which required all certification bodies issuing certificates to organisations located in the PRC to be approved by the Certification and Accreditation Administration of the People’s Republic of China (CNCA). The document became effective on the 1 May 2002 with a transition period to December 2002.

3.3 In response to the introduction of this Regulation, JAS-ANZ published Policy 3/03 which prevented JAS-ANZ accredited certificates from being issued into the PRC unless the JAS-ANZ accredited certification body or their parent organisation was approved by CNCA and appeared on the CNCA website at www.cnca.gov.cn. Policy 3/03 was withdrawn on the 23 April 2008.

3.4 In 2011 a further set of ‘measures’ were published in the form of ‘Measures for the Administration of Certification Body’ (The Measures). The Regulation was not repealed by The Measures, however many of the requirements in The Regulations were clarified and additional requirements established. The Measures came into force on 1st September 2011 and are intended to:

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\text{strengthen the supervision and administration of certification bodies, regulate certification activities, and improve the effectiveness of certification.}
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3.5 The publication of The Measures required JAS-ANZ to re-evaluate the impact of the changing environment through the application of the JAS-ANZ risk management framework. Given the changing environment, all applicant and accredited bodies should consider undertaking a similar exercise if services are provided in PRC.
4. Understanding and impact of the regulations and measures

4.1 All accredited bodies have an obligation to work within the regulations of each of the countries in which they provide certification or inspection services. As an example, in relation to PRC, Article 7 of The Measures provides further clarification to Article 9 of The Regulations in saying that:

*Any organization or individual shall not engage in certification activities without approval.*

4.2 It should be understood that if any certification activity is undertaken in PRC, or certification activity is undertaken in Australia or a country other than PRC and the product is placed on the PRC market, the body issuing the certificate is considered to be engaged in certification activities and requires CNCA approval. The only relaxation that JAS-ANZ has been able to establish is for a Type 1 product certification scheme where there are no visits to PRC and the product is used for export only.

4.3 The Regulation introduced a range of penalties for those individuals and bodies operating outside The Regulation however operating outside The Regulation may have serious implications for business operations, loss of accreditation or loss of reputation.

4.4 In managing the risks associated with the changing environment in any sovereign jurisdiction JAS-ANZ has developed the following policy.

4.5 The policy relates to the issue of accredited and un-accredited certificates by a JAS-ANZ accredited body. It simply restates an existing obligation for an accredited body to operate within the laws of any jurisdiction where it is undertaking any certification activity or into which it is issuing certificates.

5. Policy

5.1 All applicant and accredited bodies shall ensure that the legal and regulatory environment is considered and monitored as part of all risk assessments (accredited or un-accredited certification).

5.2 Any applicant or accredited body operating outside the legislation or regulation of a jurisdiction where it intends to operate or to issue certificates will be addressed as follows:

* Applicant Bodies: Applications for accreditation will not be accepted or if they have been previously accepted will be suspended until registration is completed

* Accredited Bodies: will be actioned as if it was a Major Nonconformity in accordance with Reference A.*
6. IMPLEMENTATION

6.1 This policy becomes effective immediately.

6.2 All initial applications and scope extensions shall comply with this policy before either is accepted for assessment.

6.3 No reaccreditation will be granted where the accredited body is in breach of this policy.

For PRC:

6.4 All applicant and accredited bodies that have PRC in their geographic scope of accreditation shall, within one month of the policy being published, provide JAS-ANZ with evidence to demonstrate that the:

   i. body has gained CNCA approval to provide certification services in PRC. The evidence shall include the scope of the CNCA approval,
   ii. accredited body has commenced the process to gain CNCA approval, or
   iii. the certification schemes operated by the body do not require on-site activity in PRC.

6.5 All applicant and accredited bodies that have issued un-accredited certificates into PRC shall provide a list of these to JAS-ANZ within a month of the policy being published.

6.6 For those bodies that have issued either accredited or un-accredited certificates into PRC and can not demonstrate compliance with 6.4 above, a Major Nonconformity will be raised.

   The Major Nonconformity shall be downgraded or closed within 20 working days.

   If the Major Nonconformity cannot be closed or downgraded within that timeframe PRC shall be removed from their scope of accreditation and the CAB will be required to transfer certificates that have been issued, within three months of notification. Those that can not be transferred within this period shall have their certification withdrawn.

   Where the CAB has commenced the approval process then the Major Nonconformity will be reclassified as an observation and remain until CNCA processes are completed.

6.7 For those bodies that have not issued any accredited or un-accredited certificates into PRC but have PRC in their scope of accreditation, and can not demonstrate compliance with 6.4 above, shall have PRC removed from the JAS-ANZ scope of accreditation.

   For other economies:

6.8 JAS-ANZ requires the CAB to provide evidence similar to that for PRC above. It is the CABs responsibility through its risk management processes to identify any legislation or regulation likely to affect its operations and to take steps to mitigate those risks.
6.9 Where a CAB is found to be issuing certifications in an economy illegally, a Major NCR will be issued, in accordance with Clause 6.6 above. The CAB will then either provide evidence of application of approval in order to downgrade the NCR, or withdraw the illegally issued certificates from the market place.

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With The Authority of the Governing Board