

ANNEX 9
to the Treaty on the Eurasian
Economic Union

PROTOCOL
on Technical Regulation within
the Eurasian Economic Union

1. This Protocol has been developed in accordance with Section X of the Treaty on the Eurasian Economic Union and determines the rules and procedures of technical regulation within the Union.

2. The terms used in this Protocol shall have the following meanings:

"accreditation" means official recognition by an accreditation authority of the competence of a conformity assessment authority (including of a certification authority or a testing laboratory (centre)) for performing work in a particular field of conformity assessment;

"security" means lack of any unacceptable risks associated with the possibility of harm and/or damage;

"release of the products into circulation" means supply or importation of goods (including shipping from a manufacturer's warehouse or shipping without storage) for their distribution on the territory of the Union in the course of commercial activities, free of charge or on a reimbursable basis;

"state control (supervision) over observance of technical regulations of the Union" means activities of authorised authorities of the Member States aimed at prevention, detection and suppression of violations of any requirements of technical regulations of the Union by juridical persons, management and other officials thereof, natural persons registered as individual entrepreneurs and their authorised representatives, and carried out

by inspecting juridical persons and natural persons registered as individual entrepreneurs and by taking measures to suppress and/or eliminate the consequences of such violations as under the legislation of the Member States, as well as supervision over the execution of these requirements, analysis and forecasting of enforcement of the requirements of technical regulations of the Union in activities of juridical persons and natural persons registered as individual entrepreneurs;

"declaration of conformity to technical regulations of the Union" means a document certifying compliance of products released into circulation by the applicant with the requirements of technical regulations of the Union;

"declaration of conformity" means a form of mandatory certification of conformity of products released into circulation to the requirements of technical regulations of the Union;

"common trademark of circulation of products in the market of the Union" means a designation intended for informing purchasers and consumers of the conformity of products released into circulation to the requirements of technical regulations of the Union;

"product identification" means the procedure for inclusion of products into the field of application of technical regulations of the Union and determining conformity of products to the relevant technical documentation;

"manufacturer" means a juridical person or a natural person registered as an individual entrepreneur, including foreign manufacturers, engaged, on their own behalf, in the manufacture or manufacture and sale of products and responsible for their conformity to technical regulations of the Union;

"interstate standard" means a regional standard adopted by the Interstate Council for Standardisation, Metrology and Certification of the Commonwealth of Independent States;

"international standard" means a standard adopted by the International Organisation for Standardisation;

"national (state) standard" means a standard adopted by the standardisation authority of a Member State;

"subject of technical regulation" means products or products and design (including research), manufacturing, construction, installation, commissioning, operation, storage, transportation, sale and disposal processes related to product requirements;

"mandatory conformity assessment" means documentary certification of conformity of products and design (including research), manufacturing, construction, installation, commissioning, operation, storage, transportation, sale and disposal processes to the requirements of technical regulations of the Union;

"compulsory certification" means a form of mandatory confirmation by a certification authority of conformity of subjects of technical regulation to the requirements of technical regulations of the Union;

"accreditation authority" means an authority or juridical person authorised under the legislation of a Member State to carry out accreditation activities;

"conformity assessment" means direct or indirect determination of compliance with the requirements applied to a subject of technical regulation;

"products" means a material result of activities, intended for further use for economic and other purposes;

"regional standard" means a standard adopted by the Regional Organisation for Standardisation;

"registration (state registration)" means a form of assessment of conformity of subjects of technical regulation to the requirements of technical regulations of the Union carried out by the authorised authority of a Member State;

"risk" means a combination of the probability of harm and consequences of such harm to human life or health, property, environment, life or health of animals and plants;

"certificate of registration (state registration)" means a document confirming compliance of a subject of technical regulation to the requirements of technical regulations of the Union;

"certificate of conformity with technical regulations of the Union" means a document issued by the a certification authority certifying compliance of products released into circulation with the requirements of technical regulations of the Union;

"standard" means a document determining multiple-use requirements to product performance, rules of implementation and characteristics of product design (including research), manufacturing, construction, installation, commissioning, operation, storage, transportation, sale and disposal processes, the procedure for performing work or rendering services, rules and methods of research (testing) and measurement, rules of sampling, as well as requirements to respective terminology, symbols, packaging, marking or labelling and rules of application thereof;

"technical regulations of the Union" means a document adopted by the Commission and determining requirements to subjects of technical regulation to be mandatory applied and enforced on the territory of the Union;

"technical regulation" means legal regulation of relations in the field of determining, application and enforcement of mandatory requirements to products or products and design (including research), manufacturing, construction, installation, commissioning, operation, storage, transportation, sale and disposal processes related to product requirements, as well as legal regulation of relations in the field of conformity assessment;

"person authorised by the manufacturer" means a juridical person or a natural person registered as an individual entrepreneur duly incorporated in accordance with the legislation of a Member State on its territory, acting on behalf of a manufacturer, including foreign manufacturers, under an agreement when carrying out conformity assessments and releasing products into circulation on the territory of the Union and responsible for non-compliance of such products with the technical regulations of the Union.

3. The provisions of the legislation of the Member States or acts of the Commission shall apply to subjects of technical regulation for which technical regulations of the Union are not yet effective.

Specific features of technical regulation, conformity assessment, standardisation and accreditation for defence products (works, services) supplied under state defence orders, products (works, services) used for the protection of information constituting State secret or related to other restricted information under the legislation of the Member States, products (works, services) information on which constitutes a State secret, products (works, services) and objects for which security-related requirements are

determined in the field of nuclear energy, as well as for the design (including research), manufacturing, construction, installation, commissioning, operation, storage, transportation, sale and disposal processes of these products and objects shall be determined by the legislation of the Member States.

Technical regulations of the Union shall determine mandatory requirements to subjects of technical regulation, as well as for product identification rules, conformity assessment forms, processes and procedure.

Technical regulations of the Union shall be developed based on the relevant international standards (regulations, directives, guidelines and other documents adopted by international standardisation organisations), except in cases where respective documents are unavailable or non-consistent with the purposes of technical regulations of the Union, including due to climatic and geographical factors or process-related and other specific features. In the absence of the required documents, regional documents (regulations, directives, decisions, standards, rules and other documents), national (state) standards, national technical regulations or draft rules shall be used.

Technical regulations of the Union may also contain requirements to terminology, packaging, marking, labelling and rules of application thereof, sanitary requirements and procedures, as well as general veterinary-sanitary and phytosanitary quarantine requirements.

Technical regulations of the Union may contain specific requirements, reflecting specific characteristics associated with climatic and geographical factors or technological features that are distinctive for the Member States and valid only in the Member States.

Technical regulations of the Union may, with account of the risk of harm, contain specific requirements for products or products and design (including research), manufacturing, construction, installation, commissioning, operation, storage, transportation, sale and disposal processes related to product requirements, as well as requirements to terminology, packaging, marking, labelling and rules of application thereof, ensuring the protection of certain categories of people (minors, pregnant women, nursing mothers, the disabled).

Technical regulations of the Union shall be developed with account of the recommendations on the content and structure of typical technical regulations of the Union, as approved by the Commission.

Technical regulations of the Union shall be developed, adopted, modified and cancelled according to the procedures approved by the Commission.

4. In order to meet the requirements of technical regulations of the Union, the Commission shall approve a list of international and regional (interstate) standards and, in their absence, a list of national (state) standards, voluntary application of which shall ensure observance of technical regulations of the Union.

Voluntary observance of the relevant standards included in the above list shall be deemed a sufficient condition for compliance with the respective technical regulations of the Union.

Non-application of the standards included in the above list, however, may not be regarded as a failure to comply with the technical regulations of the Union.

In the case of non-application of the standards included in the above list, conformity assessment shall be based on risk analysis.

In order to conduct research (testing) and measurements when assessing compliance of subjects of technical regulation with requirements of technical regulations of the Union, the Commission shall approve a list of international and regional (interstate) standards and, in their absence, national (state) standards containing rules and methods of research (testing) and measurements, including the rules of sampling, required for the application and enforcement of the requirements of technical regulations of the Union and conformity assessment of subjects of technical regulation.

The above lists of standards shall be developed and adopted as approved by the Commission.

Prior to the development of relevant interstate standards, research (testing) and measurement methodology, certified (validated) and approved in accordance with the legislation of the Member State, may be included into the list of international and regional (interstate) standards and, in their absence, the list of national (state) standards containing rules and methods of research (testing) and measurements, including the rules of sampling, required for the application and enforcement of the requirements of technical regulations of the Union and conformity assessment of subjects of technical regulation. A list of relevant research (testing) and measurement methods shall be submitted to the Commission by the authorised authorities of the Member States.

International and regional standards shall be applied after they have been adopted as interstate or national (state) standards.

5. Conformity assessment procedure determined for subjects of technical regulation in the technical regulations of the Union shall be held in the form of registration (state registration), testing, conformity assessments, examinations and/or in any other form.

Mandatory conformity assessment shall be carried out in the forms of declaration of conformity and certification.

Conformity assessment forms, processes and procedure shall be determined in technical regulations of the Union on the basis of standard conformity assessment procedures as approved by the Commission.

Conformity of products released into circulation to the requirements of technical regulations of the Union shall be assessed prior to such release.

Mandatory conformity assessment shall only be carried out in cases prescribed by respective technical regulations of the Union and shall exclusively include assessment of compliance with technical regulations of the Union.

In conformity assessment procedure, the applicant may be represented by a juridical person or a natural person registered as an individual entrepreneur, incorporated on the territory of a Member State in accordance with its legislation, and being a manufacturer or a seller or an authorised representative of a manufacturer.

The scope of applicants shall be determined in accordance with technical regulations of the Union.

Common forms of conformity assessment documents and their execution rules shall be approved by the Commission.

Common registries of conformity assessment documents issued and received shall be posted on the official website of the Union on the Internet.

These common registries shall be compiled and maintained in the manner approved by the Commission.

Accredited conformity assessment authorities (including certification authorities and testing laboratories (centres)) engaged in assessing compliance with the requirements of technical regulations of the Union shall be included in the common registry of conformity assessment authorities of the Union. Inclusion of conformity assessment authorities in the registry, as well as its formation and maintenance, shall be carried out in a manner approved by the Commission.

Registration (state registration) of subjects of technical regulation shall be performed by the authorities of the Member States duly authorised to conduct respective activities in accordance with the legislation of the Member State.

6. Products complying with the applicable technical regulations of the Union and having passed conformity assessment procedure determined by technical regulations of the Union shall bear the common mark of circulation of products in the market of the Union.

The image used as the common mark of circulation of products in the market of the Union and its application procedure shall be approved by the Commission.

For circulation of products on the territory of the Union, the marking shall be applied in the Russian language and if required under the legislation of the Member States, in the state language(s) of the Member State on the territory of which the products are sold.

7. Prior to the effective date of the technical regulations of the Union, products in respect of which the Member States have set similar mandatory

conformity assessment requirements, forms and procedure and use similar or comparable research (testing) and measurement methods when conducting mandatory conformity assessments and which are included into the common list of products subject to mandatory conformity assessment with the issuance of certificates of conformity and declarations of conformity in the common determined form shall be allowed for circulation on the territory of the Union, if they have passed all conformity assessment procedures determined on the territory of the respective Member State, under the following conditions:

the certification has been conducted by a conformity assessment authority included in the common registry of conformity assessment authorities of the Union;

the testing has been conducted in test laboratories (centres) included in the common registry of conformity assessment authorities of the Union;

the certificates of conformity and declarations of conformity have been executed in the determined common form.

The above common list of products, common forms of certificates of conformity and declarations of conformity and the rules of their execution shall be approved by the Commission.

8. Products subject to mandatory conformity assessment on the customs territory of the Union shall be imported in the manner approved by the Commission.

9. A Member State, guided by the protection of its legitimate interests, may take emergency measures to prevent the release into circulation of dangerous products. In this case the Member State shall immediately inform

the other Member States of the emergency measures taken and initiate consultations and negotiations in this regard.

10. The Commission shall form an information system in the field of technical regulation, which shall form part of the integrated information system of the Union.
