

ANNEX 9
to the Treaty on the
Eurasian Economic Union

PROTOCOL
on Technical Regulation within the Eurasian Economic EAEU

1. The Protocol is drafted in accordance with Section X of the Treaty on Eurasian Economic EAEU and defines order, rules and procedures of technical regulation within the EAEU.

2. Definition used in the Protocol shall have the following meaning:

“accreditation” means official recognition by the accrediting body of the competence of the conformity assessment body (including bodies on certification, testing laboratories (center) to carry out works in the specified area of conformity assessment;

“safety” means the absence of unacceptable risk related to any potential of causing harm and/or injury;

“release of products into circulation” means supply or importation of products (including shipment from the producer’s warehouse or dispatch without storage) with the aim to distribute on the EAEU territory during the commercial activity free of charge of on a paid basis;

“state control (supervision) over observance of requirements of technical regulations” means activity of the authorized bodies of member State aimed at prevention, detection and suppression of violation of requirements of the technical regulations of the EAEU by the legal entities, their heads and other officials, physical persons registered as individual entrepreneurs, their authorized representatives, carried out by means of inspections of legal entities and physical persons registered as individual entrepreneurs and application of measures provided by the legislation of the member States on suppression and (or) elimination of consequences of the detected violations, as well as supervision over the implementation of the mentioned requirements, analysis and

prognosis of implementation of requirements of the technical regulations of the EAEU during the activities carried out by the legal entities and physical persons registered as individual entrepreneurs;

“declaration of compliance with technical regulations of the EAEU” means the document by which the applicant certifies compliance of the products released for circulation with requirements of technical regulations of the EAEU;

“declaration of compliance” means the form of mandatory confirmation of compliance of the products released for circulation with the requirements of technical regulations of the EAEU;

“Unified mark of circulation of products in the market of the EAEU” means the designation serving for informing purchasers and consumers on compliance of products released for circulation with requirements of technical regulations of the EAEU;

“Product identification” means procedures of attributing products to the field of application of technical regulation of the EAEU and determination of conformity of products to the technical documentation for these products;

“Producer” means juridical person or physical person registered as individual entrepreneur, including foreign producers, carrying out production on their own behalf or production and marketing of products and persons responsible for its compliance with the requirements of technical regulations of the EAEU;

“Interstate standard” means regional standard adopted by the Interstate Council on Standardization, Metrology and Certification of the Commonwealth of Independent States;

“International standard” means a standard adopted by an international standard-setting organization;

“national (state) standard” means a standard adopted by the national standardizing body of the member State;

“object of technical regulation” means products or products and processes of design (including research), production, construction, installation, adjustment, operation, storage, transportation, distribution or utilization related to product requirements;

“mandatory confirmation of conformity” means a documentary certification of compliance of products or any other processes of design (including research), production,

construction, installation, adjustment, operation, storage, transportation, distribution or utilization with the requirements of the technical regulations of the EAEU;

“mandatory certification” means a form of mandatory conformity by the certification body of compliance of objects of technical regulation with the requirements of the technical regulations of the EAEU;

“accreditation body” means body or a legal entity authorized by the legislation of the member State for carrying out accreditation;

“conformity assessment” means direct or indirect determination of compliance with the requirements applied to the object of technical regulation;

“products” means the result of activity presented in the material tangible form and intended for further use for economic and other purposes;

“regional standard” means standard adopted by a regional standardizing organization;

“registration (state registration)” means from of conformity assessment of objects of technical regulation to the requirements of the technical regulations of the EAEU carried out by the authorized body of the member State;

“risk” means a combination of the possibility of causing injury and the consequences of such injury to human life or health, property, environment, animal or plant life or health;

“registration certificate (state registration certificate)” means a document confirming the conformity of an object of technical regulation to the requirements of the technical regulations of the EAEU;

“certificate of compliance with technical regulations of the EAEU” means the document by which the authority for certification certifies compliance of the products released for circulation with requirements of technical regulation of the EAEU (technical regulations of the EAEU);

“standard” means the document in which for the purposes of multiple voluntary use, the product characteristics, rules for realization and the characteristics of processes of design (including research), production, construction, installation, adjustment, operation, storage, transportation, distribution or utilization, executing works or rendering services,

rules and methods of research (tests) and measurements, rules for sampling, requirements to terminology, symbolic, packaging, labeling or tags and rules of their application are established;

“technical regulations of the EAEU” means document adopted by the Commission and stipulating requirements to the objects of technical regulations mandatory for application and fulfillment in the territory of the EAEU;

“technical regulating” – the legal regulation with regard to the sphere of establishments, application and implementation of mandatory requirements to products or products and related to product requirements processes of design (including research), production, construction, installation, adjustment, operation, storage, transportation, distribution or utilization, as well as legal regulation with regard to the sphere of conformity assessment;

“person authorized by the producer” – juridical or physical person as an individual entrepreneur registered in accordance with the legislation of the member State, who on the basis of the agreement with the producer, including foreign producer, carries out activities on behalf of the producer during the conformity assessment and release of products for circulation at the territory of the EAEU, as well as bear responsibility for non-compliance of products with the requirements of the technical regulations of the EAEU.

3. For the objects of technical regulating, for which no technical regulation of the EAEU came into force, the norms of the legislation of the member States or Commission acts apply.

Peculiarities of technical regulating, conformity assessment, standardization and accreditation with regard to defense products (works, services) provided through the state defense order, products (works, services) used for the protection of information constituting a state secret or relating to protected information of limited-access in accordance with the legislation of the member States, products (works, services), information on which constitutes state secret, products (works, services) and objects for which requirements related to safety in the field of nuclear energy are established, as well with regard to processes of design (including research), manufacturing, construction, installation, adjustment, operation, storage, transportation, sale, utilization and disposal of

the mentioned products and mentioned objects are established by the legislation of the member States .

In the technical regulations of the EAEU mandatory requirements to the objects of technical regulating, as well as rules of identification of products, forms, schemes and procedures of conformity assessments are established.

Relevant international standards (rules, directives and recommendations and other documents issued by international organizations for standardization), are applied as the basis for development of technical regulations of the EAEU, except for the cases when relevant documents are absent or they do not comply with the purposes of adoption of technical regulations of the EAEU, including due to climatic and geographical factors or technological and other particularities. In the absence of necessary documents regional documents (regulations, directives, resolutions, standards, rules and other documents), national (state) standards, national technical regulations or drafts thereof are used.

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

Technical regulations of the EAEU may contain specific requirements reflecting particularities associated with climatic and geographical factors or technological particularities typical to the member States and effective only in the territories of the member States.

The technical regulations of the EAEU taking into account the degree of risk of harm may contain special requirements to products or products and related to products requirements process of design (including research), manufacturing, construction, installation, adjustment, operation, storage, transportation, marketing and utilization, requirements for terminology, packaging, marking, labeling and the rules of their application to ensure the protection of certain categories of people (minors, pregnant women, nursing mothers, the disabled).

Technical Regulations of the EAEU are developed taking into account the recommendation on the content and structure of a typical technical regulation of the EAEU approved by the Commission.

Development, adoption, amendment and cancellation of technical regulations of the EAEU is carried out in order approved by the Commission.

4. For the purpose of fulfillment of requirements of the technical regulation of the EAEU, the Commission shall approve the list of international and regional (interstate) standards and in the absence thereof – national (state) standards voluntary application of which ensures observance of requirements of the requirements of technical regulations of the EAEU.

Voluntary application of relevant standards included into the mentioned list is a sufficient condition of compliance with requirements of the relevant technical regulations of the EAEU.

Failure to apply standards included into that list may not be deemed as non-observance of requirements of technical regulations of the EAEU.

In case standards included into the mentioned list are not used, conformity assessment is carried out base on risk analysis.

In order to conduct research (tests) and measurements when assessing compliance of the objects of technical regulating with the requirements of technical regulations of the EAEU, the Commission approves the list of international and regional (interstate) standards, and in their absence - the national (state) standards containing rules and methods of research (tests) and measurements, including the rules of sampling required for the application and enforcement of the technical regulations of the EAEU and the implementation of conformity assessment of objects of technical regulation.

Development and adoption of the mentioned lists of standards is carried out in the order approved by the Commission.

Pending the development of relevant interstate standards in the list of international and regional (interstate) standards, and in their absence - of the national (state) standards containing rules and methods of research tests) and measurements, including the rules of sampling required for the application and enforcement of the requirements of technical

regulations of the EAEU and conformity assessment of the objects of technical regulation , may include research methods (tests) and measurements certified (validated) and approved in accordance with the legislation of the member State . The list of these methods (tests) and measurements is provided by the competent authorities of the member States to the Commission.

International and regional standards are applied after their adoption as interstate and national (state) standards.

5. Conformity assessment of objects of technical regulating established in the technical regulation of the EAEU shall be made in form of registration (state registration), testing, confirmation of compliance, expertise and (or) in any other form.

Mandatory conformity assessment is carried out in the form of declaration of conformity and certification.

Forms, schemes and procedures of conformity assessment are established in technical regulations of the EAEU based on the typical schemes of conformity assessment approved by the Commission.

Conformity assessment of products released into circulation with requirements of technical regulations of the EAEU shall take place before the issue thereof for circulation.

Mandatory conformity assessment is carried out only in the cases established by technical regulation of the EAEU and only for compliance with the requirements of the technical regulation of the EAEU.

During the conformity assessment juridical person or physical person registered at the territory of the member State as individual entrepreneur in accordance with the national legislation and operating as producer or seller or authorized by the person authorized by the producers can act as an applicant.

The circle of applicants is determined in accordance with technical regulation of the EAEU.

The common forms of documents on conformity assessment and rules of their drafting are approved by the Commission.

The unified registers of issues of adopted documents on conformity assessment are published at the official website of the EAEU in the Internet. Drafting and maintenance of this unified registers is carried out in order approved by the Commission.

Accredited bodies on conformity assessment (including certification bodies, testing laboratories (centers)) conducting works of conformity assessment with the requirements of the technical regulations of the EAEU, shall be included into the unified register of conformity assessment bodies of the EAEU. Inclusion of bodies on conformity assessment into this register, as well as its formation and maintenance is carried out in the order approved by the Commission.

Registration (state registration) of objects of technical regulation is carried out by the bodies of the member State authorized to conduct such works in accordance with the legislation of the member State.

6. Products compliant with requirements of technical regulations of the EAEU applicable to these products and having passed through procedures of assessment of compliance prescribed by technical regulations of the EAEU shall be marked with the unified mark of circulation of products in the market of the EAEU.

Image of a unified mark of circulation of products on the market of the EAEU and its application procedure are approved by the Commission.

When products are released for circulation on the market of the EAEU the products should be labelled in Russian and in the state(s) language(s) of the member State in whose territory(s) the products are marketed, in case appropriate requirements are provided by the legislation of the member State.

7. Pending the adoption of the technical regulation of the EAEU products for which member States have established similar mandatory requirements, used similar conformity assessment forms and schemes, used similar or comparable testing and measurement methods when confirming the conformity and which are included into the unified list of products subject to mandatory conformity assessment with the issuance of the certificate of conformity and declarations of conformity of a common form, are allowed for circulation at the territory of the EAEU if they had undergone conformity assessment

procedures in the territory of one of the member States complying with the following conditions:

- certification is conducted by the conformity assessment body included in the uniform register of bodies on conformity assessment of the EAEU;
- tests are conducted in the testing laboratories included into the unified register of bodies on conformity assessment of the EAEU;
- certificates of conformity or declarations of conformity of a common CU form are issued;

The mentioned register of products, unified forms of certificates and of declarations of conformity and rules of their formation are approved by the Commission.

8. Importation of products subject to mandatory conformity assessment to the customs territory of the EAEU is carried out in the order approved by the Commission.

9. The member State guided by protection of its legal interests, can apply emergency measures to prevent release into circulation of hazardous products.

In such case the member State shall immediately inform other member States on taken emergency measures and will proceed to consultations and negotiations on that issue.

10. The Commission forms the informational system in the field of technical regulation, which forms part of the integrated informational system of the EAEU.