

B2B: Product Certification: Technical Regulations of the Customs Union

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The technical regulations are definitions of standards that establish the characteristics of products and their production processes in terms of quality, security, technical requirements, etc. The new legislation has been established to replace the old GOST standard, which no longer reflects the requirements of modern production and industry. The so-called GOST which stands for "state standard" had become a formality over the years with certificates being issued often without any further request of documents or samples. Product certification had become to a certain extent a business in which the main concepts of security and quality disappeared.

In 2003, the Federal law № 184-F3 "On technical regulation" came into force and tens of thousands of GOST and sanitary standards were partially replaced by national technical regulations. The Technical Regulations imply obligatory requirements in the field of product security in terms of health, security, protection of the environment, energetic efficiency, etc.

With the creating of the Customs Union of Russia, Belarus and Kazakhstan, a unified product certification system became indispensable and in 2010, the three countries decided to introduce the Technical Regulations of the Customs Union. The competences regarding the establishment of the Technical Regulations, as well as the coordinating and controlling function related to it, were assigned to the Commission of the Customs Union. Within the Technical Regulations of the Customs Union, abbreviated as "TR TS" or "TR CU", the Commission established moreover, a unified list of products for which conformity according to the Technical regulations is obligatory.

Starting from Jan. 1, 2012 with the new Technical Regulations of the Customs Union coming into force step by step, the respective national standards will no longer be valid. For example, on Feb. 15, 2013, when the Technical Regulation on the security of machinery and equipment came into force, the national norms in this respect expired.

Up until now the Commission of the Customs Union, introduced 52 regulations of which currently 26 have already come into force, eight have been approved and another 18 still need to be approved. For goods that have been proved to be compliant with the Technical Regulations, a conformity declaration or certificate is issued. In both cases, the applicant body needs to provide documents assessing the compliance to the security standards such as technical data sheets, construction plans and instructions for use. For the import of used machinery, an assessment in terms of conformity to TR standards is not required although evidence on the remaining useful value needs to be given.

The issued conformity documents are valid in the whole territory of the Customs Union, i.e. Russia, Belarus and Kazakhstan. However, during the transitional period, old GOST certificates may still be used, but only for imports and sales in Russia, as they are not valid throughout the Customs Union. If the GOST certificate or declaration was issued prior to the date of approval of the new Technical Regulation it will be valid until its date of expiry. Otherwise it may be used only until the deadline indicated in the Technical Regulation, which applies to that type of goods.

One of the new aspects, and probably also the most discussed one, regards the application for conformity certificates or declarations. The applicant for a TR TS document needs to be a legal entity of one of the countries of the Customs Union, or a natural person in form of an individual entrepreneur. This new requirement is due to the fact that the responsibility for the certification process, but also for the security of the product itself, is assumed by the applicant.

The function of the applicant may be performed by the local manufacturer in case of goods produced within the Customs Union or by the authorized representative or importer for imported goods. Such authorization cannot be given through a simple power of attorney, but require a contract on the assumption of responsibility for the quality of the goods.

TR documents may be issued for a certain delivery with indication of the invoice and attachment to the delivery contract or for serial production. Nevertheless, a conformity certificate for serial production also requires additional quality control in the form of an inspection of the production site by representatives of the certification authorities. Both types of conformity documents may be issued for a period from one to five years.

Moreover, conformity documents are distinguished by different schemes ,starting from 1D for the lowest level of danger and products whose safety factors are resistant to changes in production and use, arriving up to scheme 6D for declarations and 9D for certificates in case of complex products with high safety risk indicators with requirements increasing respectively.

Such classification norms, like the new legislation as a whole, are aiming to increase the transparency of the certification process, to reduce the former abuse in this respect and to generally simplify the transfer of goods within the Customs Union.

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