

ACCESSION OF THE RUSSIAN FEDERATION

Additional Questions and Replies

The Permanent Mission of the Russian Federation has submitted replies to questions raised after the meeting of the Working Party held on 22-23 July 1997, with the request that they be circulated to the Members of the Working Party. The questions and replies are reproduced hereunder.

Domestic Taxation - VAT

Question 1.

We understand that in the draft Tax Code, value added tax (VAT) treatment will be harmonized so that treatment is the same for CIS and non-CIS countries, and that VAT will be charged for imports at the Russian border, irrespective of the origin of the imported goods.

Is the right to claim back any or all of the VAT that a business has paid on its inputs when its products are sold, a right that is open to all businesses, regardless of the nationality and form of ownership of the business and the economic sector in which it operates?

Answer

According to the Russian Federation Law No. 73-FZ "On Value Added Tax" of 28 April 1997, the VAT amount payable to the budget shall be determined as the difference between the tax amounts received from purchasers with respect to the goods (works, services) sold to them and the tax amounts actually paid to suppliers for the inputs (works, services) cost of which is chargeable to the production and marketing costs.

This legal rule generally applies to all enterprises irrespective of their nationality and ownership form as well as the sector in which they operate.

In accordance with customs legislation, value added tax paid to the customs authorities upon the importation of production-purpose inputs will become refundable to the taxpayer once it is reflected in its accounts.

The current procedure of VAT application does not provide for the set-off (refund) of VAT paid to a service provider if such provider has its place of business in another state or paid by business entities of CIS member States on production-purpose inputs.

It has been decided that, in the relationships between the CIS member States, the VAT on any product will be collected in the country where it is consumed beginning in 2000.

Question 2.

Does this right exist in relation to all Russian VAT paid on all inputs purchased by any business, regardless of whether the inputs concerned are domestically produced or imported?

Answer

See answer to Question 1 herein.

Question 3.

Does any right to claim back all or any part of the VAT that a business has paid on its inputs when its products are sold, exist in relation to VAT levied on inputs that are imported from another country, for example, VAT levied by another CIS country?

Answer

See answer to Question 1 herein.

Non-Tariff Measures (WT/ACC/SPEC/RUS/2/Corr.1/Rev.1)

Question 4.

HS No. 71 (SI No. 131-151) is subject to non-automatic licensing (NAL). Could Russia please provide further information on:

- (i) if NAL covers both export and import licences in this case;**
- (ii) the precise content of Government Resolution No. 35 of 24/01/94;**
- (iii) the rationale for introducing and maintaining NAL for these products?**

Answer

Non-automatic licensing applies to both import and export of the goods listed in the question under review.

The text of Government Resolution No. 35 "On the Procedure of Import to the Russian Federation and Export from the Russian Federation of Goods Containing Precious Metals, Precious Stones, Amber and Products Made From it" dated 24 January 1994 is available for consultation in the WTO Secretariat (Accessions Division, Room 1126).

The reasons for the introduction of licensing for export and import of ores, concentrates and products of precious metals and stones have already been provided by the Russian Federation in the answer to Question 52 (WT/ACC/RUS/17). It was specifically emphasized therein that actually the licensing of such imports was effectively automatic and used only to monitor the flow of imports.

A draft Government Decree is currently being prepared according to which products Nos. 131-151 as per the list WT/ACC/SPEC/RUS/2/Corr.1/Rev.1 will be imported free of any non-tariff regulation measures (including import licensing).

Anti-Dumping, Countervailing Duties and Safeguards Regimes

Question 5.

We would be interested on an update on where matters stand on development of anti-dumping, countervailing and safeguards legislation.

Answer

As already reported, the matters related to anti-dumping, countervailing and safeguarding measures are dealt with in the draft Federal Law "On Measures to Protect the Economic Interests of the Russian Federation in Foreign Trade in Goods". This draft law is based on the provisions of GATT 94 Articles VI, XVI and XIX and the relevant understandings in the WTO Agreements.

The draft law is currently undergoing second reading in the State Duma of the Russian Federation.

See also answer to Question 156 of WT/ACC/RUS/13/Add.1.

Technical Barriers to Trade (WT/ACC/SPEC/RUS/5)

- 1. Description of relevant laws, regulations, administrative orders, etc. relating to implementation and administration of technical barriers to trade**

Question 6.

According to Article X of the General Agreement on Tariffs and Trade, governments are to notify at an early appropriate stage regulations which may affect trade. The principle of preliminary publication is recalled in the TBT Agreement also for a proposed technical regulation (Articles 5.6-5.9). The prescribed notification requires that a reasonable time is foreseen for comments made by interested parties in other Member States. These comments have to be taken into account. Finally, a reasonable transitory time should allow producers in exporting countries to adapt their products or methods of production to the requirements of the importing country.

Since the Russian Federation is applying for WTO Membership, we consider it as necessary that any appropriate information on new regulations should be provided at an early stage and that a reasonable transitory period is foreseen for reactions.

For example, with regard to labelling requirements for certain goods to combat fraud (stamps/holograms), the Russian delegation stated that (mandatory) standards would be ready within one month and enter into force on 1 January 1998. Such requirement should be notified to WTO Members.

Answer

The Russian Federation confirms its acceptance of the principle of preliminary publication (submission of information on new normative acts at the earliest stage of their preparation) and the need to provide for a transitional period (time interval between the adoption/approval of a normative act and its effective date). The implementation of these principles with respect to standards may be by publishing in the monthly Standard Information Index of Annual Programme of Standards Development. Starting in 1998, announcements on the programme will be sent to the ISO/IEC Information Centre.

On 17 July 1997, GOSSTANDART adopted GOST R-51074 "Foodstuffs Products. Information for Consumer. General Requirements" which sets forth the uniform requirements for indicating information on the consumer labels of Russian and foreign-made foodstuffs.

At present, pursuant to Russian Government Resolution No. 1037 "On Measures to Provide Information in the Russian Language for Non-Food Items Brought Into the Territory of the Russian Federation" dated 15 August 1997, GOSSTANDART is drafting a GOST Resolution concerning the general requirements for information on non-food products which are sold in the Russian Federation.

Concerning regulatory acts which are adopted at a higher level (laws, and Resolutions of the Russian Federation Government), the implementation of the preliminary publication principle may receive legal formalization in a new Federal Law "On Technical Barriers to Trade", which is currently being drafted.

Question 7.

We would consider it very helpful if a distinction could be made between the legislation which contains provisions on the commercialization of products and the legislation which regulates market surveillance activities. In addition, a distinction should be made between the provisions on the certification of products (TBT) and on the certification of services.

Answer

The Russian delegation notes the distinction between the legislation in the field of commercialization of products and that concerning market surveillance as well as a distinction between the regulations on product certification (technical barriers to trade) and service certification. GOSSTANDART is currently preparing proposals in this regard.

Question 8.

Document WT/ACC/SPEC/RUS/5 lists a series of laws, regulations and administrative orders related to the implementation and administration of technical barriers to trade. It is our understanding that some of the above, though containing requirements which could be covered by both the TBT and the SPS Agreements, should be part of a description of the Russian Federation sanitary and phytosanitary regime rather than the TBT one.

Certain laws and orders listed in the above mentioned document, such as the Law No. 4979-1 "On Veterinary", probably in its integrity, and the Federal Law No. 157-FZ "On State Regulation of Foreign Trade Activity" as well as the Law No. 2060-1 "On Environment Protection" at least in part, should be in fact covered by the SPS Agreement.

In the light of the above, could the Russian Federation clarify on which basis the above were included in the TBT regime and which parameters were taken into account to draw the line between the laws and orders to be classified as TBT and the ones to be possibly covered by the SPS Agreement?

Answer

We agree that the regulatory acts specified in Question 8 may better be classified as part of the sanitary and phytosanitary regime rather than the TBT regime.

The list of laws initially specified in document WT/ACC/SPEC/RUS/5 covered all technical barriers in general, without any specific distinction between the agreements on TBT and SPS.

Question 9.

Article III of the GATT (as well as Articles 2.1 and 5.1.1 of the TBT Agreement) prescribes in general that no less favourable treatment should be accorded to imported products than to domestic like products.

We welcome the confirmation of the Russian delegation at the Working Party that the above-mentioned principle was respected in the Russian Federation. However, we would like to know why specific legislation was adopted for imported goods (points 2 and 32 of Supplement 1, WT/ACC/SPEC/RUS/5). We would like to know if for products covered by Decree No. 799, national manufacturers also have to submit on site certification of their products, the certification of their quality control system, marking procedure for their products and precontractual certification.

Answer

The certification rules for foodstuffs and alimentary raw materials include identical procedures for confirmation of conformity with respect to both domestic and imported products.

Russian Federation Government Resolution No. 799 “On Measures to Protect consumer Market of the Russian Federation from Low Quality Imported Goods” dated 12 July 1996 was issued to ensure compliance by Russian importers with the laws of the Russian Federation.

Question 10.

Can Russia provide an assurance that taxes and charges of the Central Government and of all sub-federal governments of the Russian Federation will be in full conformity with Article III of the GATT 1994 upon accession?

Answer

After the accession to WTO, the Russian Federation will comply with its obligations under the GATT 1994.

Question 11.

We would also welcome further clarifications on point 2, clause 20 (WT/ACC/SPEC/RUS/5) which states that imported products can be restricted if: (i) they do not comply with Russian requirements; (ii) do not have a certificate; or (iii) are harmful consumer goods. We do not understand why such a distinction is made. Russian requirements should determine the necessary certificates and markings. Consequently, a product which respects Russian requirements should in normal circumstances not be harmful to consumers.

Answer

The following clarification is provided:

- restrictions will be imposed if non-conformity of any product is discovered;

- restrictions will be imposed if a product is subject to mandatory certification but there is no confirmation of the fact that it does so conform;
- restrictions will be imposed with respect to any product which meets conditions 1 and 2 if, however, any facts of harm/damage caused to consumers or the environment are revealed/identified.

We do not distinguish between imported and domestic foodstuffs; any product must be safe for the consumer and meet maximum permissible standards prescribed by the Russian Federation Ministry of Health for contaminants.

The requirements prescribed for imported products are the same as those for domestic goods.

Question 12.

According to Article 5.1.2 of the TBT Agreement, conformity assessment procedures shall not create unnecessary obstacles to international trade. This means that conformity assessment procedures shall not be more strict or applied more strictly than necessary to give the importing Member adequate confidence that products conform with the applicable technical regulation or standards, taking into account the risks non-conformity would create.

Answer

The conformity assessment procedure in the GOST R Certification System has been harmonized with international rules and standards. Foodstuffs and alimentary raw materials are subject to certification under this system.

Considering the significant influx of low-quality imported goods, the measures being taken by the Russian Federation are, in the opinion of the Russian delegation, not stricter than necessary.

As market relationships develop, such measures will become more routine and easier.

Question 13.

We would like to have further clarification on the term "low quality goods" mentioned in Decree No. 799. Are these products which do not fulfil Russian health and security requirements, or are these low quality goods as understood in general? If the access to the Russian market for products of the first category should be prevented, this must not be necessarily the case for products of the second category.

Answer

The term "low-quality goods" defines goods such as those which fail to comply with the mandatory standards established in Russia, including with respect to safety, or which are falsified.

Question 14.

Item 7 of this Law states that construction products and medical equipment are submitted to obligatory certification. Concerning medical equipment in particular, we would like to know what type of conformity assessment procedure applies. Medical equipment ranges from simple bandages to X-ray machines. The conformity assessment procedure should therefore be adapted to the potential health hazard of the product in question.

Answer

The effective procedure for assessing the conformity of medical equipment includes two stages: registration with the Russian Federation Ministry of Public Health and certification with agencies accredited by the Russian Federation State Committee for Standards.

The registration includes technical and clinical tests as well as a hygienic evaluation.

The certification is conducted in order to approve the type of measuring instrument and/or confirm conformity in safety terms.

The standards conformity with which is to be certified are harmonized with the ISO and IEC standards, virtually in full, and take into account the degree of potential hazard associated with the use of such a product in medical practice.

The recommendation to consider the potential hazard of medical products in evaluating their conformity, i.e. make the complexity of the applicable certification schemes dependent on the product's risk group is absolutely correct, and this provision will be considered by the Russian Federation State Committee for Standards and the Russian Federation Ministry of Public Health in improving the system of medical product admission to the Russian market.

Question 15.

We consider that pre-market certification is an excessive conformity assessment procedure for most common products. The Russian authorities should rely more on manufacturer's declaration of conformity, this being coupled with a reinforcement of the manufacturer's or importer's liability.

Answer

The Regulations on Certification of Foodstuffs and Alimentary Raw Materials incorporate a certification scheme based on the manufacturer's declaration of conformity. However, the manufacturer/supplier should meet the minimum requirements to use this scheme (the reputation of the manufacturer resting upon an ISO Series 9000 standard based quality assurance system implemented by such manufacturer).

The legislation effective to date does not allow using the manufacturer's declaration as a form of certifying conformity without an evaluation by a certification authority.

Question 16.

Point 31 of document WT/ACC/SPEC/RUS/5 (Decree No. 799) foresees obligatory certification for products of textile and light industry. Such a measure would appear disproportionate for the type of products listed. We would like to know if (and which) foreign certificates of conformity and marks of conformity are recognised by the Russian Federation.

Answer

The certification system for household textile and light industry products developed in accordance with Russian Federation Government "On Measures to Protect Consumer Market of the Russian Federation from Low Quality Imported Goods" No. 799 as of 1 July 1996, is designed to protect Russian consumers and by way of mandatory requirements, covers only the assessment of formaldehyde content in products. All other requirements are voluntary.

The certification system for textile and light industry products has not been introduced as a mandatory one yet. The specific range of products to be certified is currently under review.

Foreign certificates or marks of conformity are not yet recognized. This is similar to the situation in Europe where the European Communities have not yet accepted Russian Federation marks of conformity.

Question 17.

We know of some foreign conformity assessment bodies which certify for the Russian market. Is there a list available and what are the criteria which those bodies have to fulfil in order to have their activities recognized by the Russian authorities?

Answer

The certification authorities operating abroad are accredited on the same grounds as the Russian ones. The list has been published, and some of the foreign conformity assessment bodies are already accredited: DIN GOST TUF (Germany), SGS (Switzerland) and Mertcontrol (Hungary).

Question 18.

Could Russia please provide detailed information on the Hologram Mark (Resolution 601), including: (i) the exact procedure on how to acquire the holograms; (ii) from whom the hologram can be acquired; is it only possible to purchase it in Russia and only from the two monopoly companies Spetznak and Kodznak? if this is the case, provide the rationale behind this limitation; (iii) the cost of each hologram; (iv) if the same or different holograms will be used at the central and regional level respectively; and (v) a list of products covered by this requirement.

Answer

The manufacturer of hologram marks will be determined on a competitive basis; a detailed procedure for hologram purchases will be developed by the end of 1997 and will be introduced as on 1 January 1999.

Question 19.

Industry's experience shows that all other attempts to control counterfeiting using the hologram mark have failed, partly due to the fact that the mark itself is very easy to falsify. Could Russia please explain on what grounds it bases its belief that this attempt will not also fail and what measures are being taken to ensure that this new requirement will be a success.

Answer

The modern means of mark protection permit us to make falsification of such marks considerably more difficult.

Question 20.

Will a producer selling on the Russian market have to affix both the hologram mark and the normal Mark of Conformity to a product, or is it enough to chose one of the marks? In the latter case, what criteria shall be used when deciding to affix either of the two marks?

Answer

According to Government Resolution No. 1193 “On Amending the Decision of the Government of the Russian Federation No. 601 of 17 May 1997 On the Labelling of Goods and Products in the Territory of the Russian Federation with Counterfeit proof Conformity Marks” of 19 September 1997 labelling with counterfeit-protected marks of conformity is made for alcoholic beverages (excluding beer) and audio-video products. Producers are not obliged to label goods and products with marks of conformity if the goods have already been labelled during manufacture.

2(a) Information regarding names of publications, if any, on work relating to draft technical regulations or standards and procedures

Question 21.

Russia states that draft technical norms are published in the monthly journal of GOSSTANDART, entitled Standards and Quality. These can be examined at the premises of the State Committee of the Russian Federation for Standardization, Metrology, and Certification.

It is our understanding that Standards and Quality contains information on draft technical norms, standards, and procedures of conformity assessment, but that the publication does not contain information on draft technical regulations. These regulations are published only after they have been adopted in Rossiiskie Vesti. Information on proposed or final technical regulations for specific sectors may be published in specialist periodicals of individual ministries, such as Gosgortekhnadzor (mining, oil and gas equipment), Ministry of Communications, Ministry of Health.

Has Russia recently, or does Russia in the future plan to make Standards and Quality the sole publication where draft technical regulations are published? Will this change the type of information that is published in Rossiiskie Vesti (e.g. will duplicate publication be eliminated)?

Answer

The TBT Agreement does not specifically provide for the publication of draft technical norms, standards and procedures for conformity assessment in periodicals. That is why the Russian delegation has not stated that all draft technical norms are published in the “Standards and Quality” journal. However, the most significant draft standards and procedures for conformity assessment are currently published in this journal for the purpose of broad discussion.

The Russian Federation will publish notices of any technical norms proposed where there is no corresponding international standard or the contents of such technical norms are not analogous to those of the corresponding international standard and will provide such information at the request of member states (Sections 2.9 and 10.1.5 of the TBT Agreement).

See also answer to Question 6 herein.

Question 22.

Under current procedures, are public comments welcomed on the draft standards and technical regulations that are published? Has this been communicated to government agencies via law or administrative guidance? How much time do interested persons have to comment once the regulations are published?

Answer

The term "public comments" used in the question is most analogous to the notions "comment on the draft standard/normative act" and "coordination" in the Russian practices of standardization and, generally, rule-making.

Within the framework of these procedures the possibility (but not the obligation) for a reviewing party to prepare its proposals and comments with appropriate supporting information is provided. As a rule, these comments and proposals are reviewed on a bilateral basis, i.e. by the drafter of the normative act and the party presenting its proposals and comments. Where different proposals are received from several parties concerning the same issue, a multilateral review will be conducted on the basis of a summary of comments.

There currently exists no official legal or administrative procedure for submitting comments (or a summary of comments) to the federal administration, but if the resolution of disputes (including resolution of differences between parties concerned) falls within the authority of a certain federal administration, the documentation (comments, summaries of comments) may be submitted to such agency.

The deadlines for submission of comments are set at no less than 3 or 4 months after the document is delivered to the concerned parties for review.

2(f) Information regarding measures and arrangements to ensure that national and sub-national authorities preparing new technical regulations or substantial amendments to existing ones, provide early information on their proposals

Question 23.

Russia states that GOSSTANDART is concluding agreements which provide that the bodies in question "have to inform domestic enterprises and organizations, as well as citizens of the Russian Federation and foreign users of information about new technical rules or significant amendments to the current rules".

What is the purpose of these agreements? Will the agreements still be necessary when Russia becomes a WTO Member? (For example, would future legislation obviate the need for GOSSTANDART to conclude agreements in order to ensure the timely receipt of information?)

Answer

The establishment of a WTO reference and information service in the Russian Federation in accordance with the requirements of the TBT Agreement is being carried out through the Federal Standards Foundation. The Foundation's structure includes organizations of the Russian Federation State Committee for Standards and the standards information centres set up by federal executive bodies of the Russian Federation pursuant to Russian Federation Government Resolution No. 100 "On Organization of Work on Standardization, Unity of Measurements, Certification of Works and Services" dated 12 February 1994.

Documents approved by the federal executive bodies of the Russian Federation are delivered to their respective standards information centres which process and officially publish them and provide the necessary information for the users concerned.

Agreements are being concluded with such federal executive bodies of the Russian Federation in order that an integrated service can accumulate information on all standards, normative legal acts and technical regulations both in effect and under preparation.

After the Russian Federation accedes to the WTO, a governmental act governing all procedures for the preparation of replies to requests of WTO Member countries will be developed. After its approval, it will be considered whether the existing Agreements should remain in effect.

Question 24.

Please describe the agreements that are being concluded. Is there a standard format that is being used? If so, can you provide us with a copy of that format?

Answer

A standard form of Agreement is used. It may be provided on request.

Question 25.

With how many organizations will GOSSTANDART conclude agreements? Can we have a list of those organizations?

Answer

Agreements will be concluded with 18 federal executive bodies of the Russian Federation. The list will be provided in due course.

Question 26.

What is the impetus behind GOSSTANDART's efforts to conclude these agreements? Is there an aspect of Russian national law that requires that such agreements be concluded, or is Russia's WTO accession effort the driving force?

Answer

In accordance with Article 10, Section 3 of the Russian Federation Law No. 5154-1 "On Standardization" of 10 June 1993, federal executive bodies of the Russian Federation which have adopted normative documents concerning standardization within the scope of their authority must provide users with such documents and descriptive information.

Question 27.

Under the terms of these agreements, at what point is the public notified about new rules or amendments to current rules? Are originating agencies required to accept public comments and take them into account before adopting a final rule?

Answer

Under current Russian procedures, information on any regulatory documents or amendments must be published by the Standards Publishing House 3 to 4 months after their adoption. The publication of the annual plan for new standards development is now made in the monthly information index of

state standards. Any natural or legal person may submit proposals or comments concerning such draft standards or amendments.

Question 28.

How far in advance of notification do drafts of the proposed rule changes exist?

Answer

A notice of an amendment to a normative act must generally be prepared in case the amendment contains provisions which differ from prevailing international standards in effect, the following alternatives are possible:

- if such differences are anticipated notice may be given promptly after a decision to prepare the amendment; or
- if the decision to introduce such differences to the normative act is made during the preparation of the amendment rather than anticipated notice must be given promptly after such decision is made.

Concerning Supplement 1 and Supplement 2 (WT/ACC/SPEC/RUS/5)

Question 29.

No. 1, items 1, 2, 3, clause 7:

Russia stated that “Products imported into the territory of the Russian Federation must meet technical, pharmacological, sanitary, veterinary, phytosanitary and ecological standards and requirements determined in the Russian Federation”.

Will this determination be made in accordance with international standards? Will the methods used to determine if a product is harmful or defective be consistent with the SPS agreement?

Answer

One of the most important aspect of the activities which are performed to improve the Russian standards is their harmonization with international norms, including a greater use of ISO standards with respect to the methods for analysing contaminants in foodstuffs.

Veterinary requirements for products imported into Russia and methods for determining their harmful or unsound nature will be established on the basis that they do not cause damage to the health of Russian consumers or animals through infectious diseases.

The Russian phytosanitary requirements are consistent with the recommendations of the European Plant Protection Organization (EPPO) and FAO. The phytosanitary inspection methods stipulated by the SPS Agreement for the transitional period will be harmonized with the FAO standards.

See also WT/ACC/SPEC/RUS/6.

Question 30.

No. 1, items 1, 2, 3, clause 7 (last sentence):

What are the "established international and foreign practices" mentioned?

Answer

In the Russian Federation, the concept of "established international and foreign practices" is associated with the Code of Established Practices on Development, Adoption and Application of Standards provided in WTO's TBT Agreement.

Question 31.

No. 1, part 1, clause 8:

Participants of obligatory certification are the State Committee for Standards, other governmental bodies of administration of the Russian Federation that are authorized to carry out jobs dealing with obligatory certifications, certification bodies, test laboratories (centres), producers (sellers, executors) as well as central bodies of certification systems determined in case of necessity to organize and coordinate work in certification systems of similar products.

Given that we have experienced some problems with transparency on this issue in the past, we would like to know precisely which governmental bodies are responsible for which products and what certification is required; who are the accepted certification bodies and test laboratories; the criteria and procedures by which they qualify as competent to perform the conformity assessment procedure, etc.

Answer

In accordance with Article 45 of the Russian Federation Law "On Protection of Consumer Rights" of 7 February 1992, GOSSTANDART is designated as the national certification authority of the Russian Federation for all aspects of mandatory certification.

The requirements for authorities and laboratories are prescribed in standards which are fully consistent with the requirements of ISO standards of Series EN 45000. The registered systems of mandatory certification on a diskette at a later date. This will be submitted to the WTO Secretariat.

In accordance with Resolution of the Government No. 1418 "On Licensing of Certain Types of Activities" dated 24 December 1994, the Russian Federation Ministry of Health is responsible for certification of medicinal compounds.

Only the agencies of the State Plant Quarantine Service of the Russian Federation are authorized to carry out phytosanitary inspection and phytosanitary certification.

Question 32.

How does Russia ensure that certification bodies are not adding costs which could unnecessarily burden trade without contributing to product integrity and that domestic products are subject to the same certification requirements?

Answer

The price of certification services offered by Russian authorities is much lower than those prevailing.

It is more appropriate to raise a question about minimizing the certification expenses which may result in an increased price of a product. The certification rules for foodstuffs and unprocessed foodstuffs facilitate certification on the bases of the manufacturer's application-declaration (declaration of conformity); where appropriate, certification may be granted to groups of products. Clearer specifications in inter-governmental agreements providing for mutual recognition of laboratory test results by the parties as well as wider use of pre-contract certification will also help to reduce costs.

Question 33.

Point No. 3.

We would welcome information on the state of transposition of international standards in the Russian Federation.

Answer

About 3,800 ISO and IEC standards have been adopted in Russia by using the "cover" method, i.e. assigning a national identification symbol, that, according to Russian Government estimates, accounts for approximately 33 per cent of the international standards applied in the Russian Federation.

Currently, the Standardization Development project is being implemented. This Project calls for a significant acceleration of harmonization Russian standards with international norms.

For example, currently 487 international ISO standards apply to food products, and more than 100 have been put in to effect in Russia.

Question 34.

Point No. 8.

What is understood by the term "Products (works, services)"? Does a list of products (works, services) liable to obligatory certification exist?

Answer

The term "goods (works, services)" as it used in the Russian Federation is fully identical to the term "product, process, service" defined in ISO/IEC Guide 2.

The current list of goods (services) subject to mandatory certification has been published in the journal "Standards and Quality" No. 7 of 1994, with the amendments in No. 9 of 1997.

The approved list of goods (services) by the Russian Federation Government Resolution subject to mandatory certification has been published in the following publications:

- the 1997 Collection of Legislation of the Russian Federation No. 33, Article 3899;
- the Russian Gazette No. 161 (1771) as of 21 August 1997;
- Standards and Quality No. 9 as of 1997.

Question 35.

Point No. 12.

What is the "international system of certification" mentioned?

Answer

Examples of international certification systems are: systems for certification of electronic components, transport vehicles, weapons, etc.

Question 36.

Point No. 14 - Federal Law No. 15-FZ "On Communications", dated 16 February 1995:

There is no specific information in WT/ACC/SPEC/RUS/5 on what mandatory certification procedures apply to specific products or product classes. Thus the statement in point No. 14 indicates that telecommunications equipment is subject to mandatory certification:

"All means of communication used in the interconnected communication network of the Russian Federation are liable to inspection (certification) for correspondence to fixed standards, other norms and technical requirements. Communication services rendered on the network in general use can also be liable to certification. Certification of means of communication in the Russian Federation is conducted by the federal body of executive power in the field of communication (at present the Ministry of Communication of the Russian Federation) with the help of authorized test centres (labs) accredited in prescribed order in the federal bodies of executive power in the field of standardization, metrology and certification."

Please provide information regarding what hazards are covered - safety, interoperability, etc. - in the certification process for telecommunications equipment.

Answer

When certification testing of telecommunications equipment is carried out, compliance with the following testing criteria is considered:

- electromagnetic compatibility (EMC);
- functional characteristics;
- electrical safety; and
- equipment maintenance (confirmation of the basic characteristics of the equipment and availability of adequate maintenance and service).

Question 37.

Please provide information regarding what procedures will be used for certification - type approval, quality system verification, manufacturer self-declaration, etc.

Answer

For the purpose of certification testing of telecommunications equipment, the testing laboratory, in conjunction with the applicant, prepares or clarifies a number of basic documents:

- list of equipment submitted for certification;
- communications flow scheme;
- decision of the State Commission for Radio Frequencies (SCRF);
- list and schedule of certification testing activities;
- technical requirements;
- technical conditions; and
- programme and procedure of plant (or bench) and in-line tests.

In preparing these documents the following normative framework must be considered:

- specifications of the integrated communications network (ICN);
- GOSTs and other normative documents defining the requirements for the equipment's technical characteristics and parameters;
- SCRF standards and other normative documents defining the Electro Magnetic Compatibility (the "EMC") specifications of radio equipment;
- recommendations of the International Telecommunications Union (ITU), ETSI standards;
- EMC specifications of the Russian Federation State Committee for Communications;
- certification test programmes; and
- certification test procedures.

The foregoing is established by the relevant procedure for mandatory certification of products and services in the Russian Federation.

The Telecommunications Certification System uses standard approval as well as quality system verification at the inspection control level. The normative acts do not provide for certification on the basis of the manufacturer's self-assessment.

Question 38.

In addition, Supplement 2 in WT/ACC/SPEC/RUS/5 contains no reference to the regulations giving authority to the Ministry of Communications.

We understand that this Ministry is responsible for approval for attachment to the network, and that GOSSTANDART is apparently responsible for safety - electrical, EMC - certification. Is our understanding correct?

Answer

The legislative act which authorizes in the Russian Federation State Committee for Communications to carry out certification is the Federal Law No. 15-FZ "On Communications" of February 16, 1995, Article 16, as well as the Certificate of Registration of the "Telecommunications" Certification System in the State Register dated 2 November 1994.

Within the "Telecommunications" Certification System, communications equipment is certified for conformity with the requirements of Russian communications networks, including safety and EMC requirements, which certification is set out under the heading "Decision of certification authority" in all certificates issued by the Russian Federation State Committee for Communications.

Concurrently, certification testing of telecommunications equipment is conducted in testing centres and laboratories accredited by GOSSTANDART for safety and EMC testing. A certificate of conformity from GOSSTANDART is currently required only with respect to terminal communications

equipment (intercom systems, telephones, telephones with automatic number identification, fax machines, modems, auto-answering machines).

Question 39.

Supplement 2 also fails to provide details on certification for medical devices. There is no indication of risk assessment, identification of different classes, certification processes applicable in specific cases, etc. However, we are aware that the Ministry of Health is responsible for biocompatibility testing, certification, and registration of medical devices, while GOSSTANDART is responsible for “safety” certification. There is no information as to how these responsibilities are divided, and no written procedure for certification (and registration) of medical devices that we could identify.

Please provide us with information regarding certification for medical devices.

Answer

In the first quarter of 1998, the Russian Federation Ministry of Health and GOSSTANDART will prepare detailed information describing the procedure for registration and certification of medical products.

See also Answer 14 herein.

Question 40.

Point No. 18 - Federal Law No. 153-FZ On Federal Railway Transport, dated 25 August 1995:

Russia states that “Sale of ethyl alcohol for the needs of the corresponding subject of the Russian Federation is allowed to organizations which annual capacity in terms of absolute alcohol does not exceed 0.2 million decalitres within the limits of amounts allocated to the given subject of the Russian Federation and which have certificates of correspondence issued by laboratories of the bodies of sanitary and epidemiological inspection accredited by the Committee of the Russian Federation for Standardization, Metrology and Certification”.

What are the criteria for laboratory accreditation? Can foreign-based entities apply for accreditation? Are foreign accreditations recognized as equivalent?

Answer

The criteria for laboratory accreditation with GOSSTANDART are set out in the standards GOST R 51000.3-96 and GOST 51000.4-96. Foreign organizations may apply for such accreditation. A foreign accreditation may be declared equivalent.

Question 41.

Point No. 22 - Federal Law No. 86-FZ On State Control in the Field of Gene- Engineering Activities, dated 5 July 1996:

Russia explains that “products and services produced and rendered with the use of gene-engineered-modified organisms liable to obligatory certification in accordance with federal laws must have the quality certificate and the correspondence sign issued or recognized by the authorized body”.

What is the purpose of the certification?

Answer

The purpose of such certification is to assess conformity with the safety standards of the finished products.

Question 42.

Please explain what is meant by “the correspondence sign issued or recognized by the authorized body”.

Answer

A mark of conformity is a duly registered mark which, under the rules prescribed in a given certification system, confirms the conformity of the products bearing the mark with the applicable requirements.

The rules of application of such marks of conformity are determined in each area by specific certification systems, i.e. by the duly authorized governmental agency, in compliance with the Russian legislative acts.

Question 43.

Point No. 25 - Federal Law No. 123-FZ On Pedigree Cattle-Breeding, dated 8 August 1995:

Certification of pedigree product (material) is carried out by corresponding bodies of the State pedigree service with participation of the testing stations of cattle-breeding, hippodromes, laboratories of selection control of quality of milk, wool and laboratories of immune-gene examination.

What are the importing requirements of the state pedigree service for genetics and are they consistent with testing required on domestic pedigree product?

Answer

The certification of pedigree product is carried out by the Russian Federation Ministry of Agriculture and Foodstuffs.

The State Pedigree Service of the Russian Federation of the Ministry of Agriculture and Foodstuffs imposes the following requirements on all imported pedigree material/products:

- the imported breed/cross must register with the State Register for Breeding Achievements, Permitted Use;
- a permit from the patentee, if any, must be presented;
- quality must be confirmed by a certificate from the exporting country and recognized by the Department of Animal Breeding and Pedigree Operations of the Russian Federation of the Ministry of Agriculture and Foodstuffs; and

- an import permit must be obtained from the Department of Animal Breeding and Pedigree Operations of the Russian Federation Ministry of Agriculture and Foodstuffs (no fees are charged, the permit is effective as at the time of importation of the specific shipment of animals).

Question 44.**Point No. 29 - Forest Code of the Russian Federation No. 22-FZ, dated 1 January 1997:**

The Russian Forest Code of the Russian Federation No. 22-FZ states that an, "obligatory certification is envisaged for standing timber and second timber resources. The obligatory certification is organized and conducted by the federal body of timber industry administration in the order fixed by the Government of the Russian Federation".

What is the nature and purpose of the certification? How will it be applied to imported wood products, if at all?

Answer

The purpose of introducing mandatory certification of standing timber and secondary forest resources is to ensure state regulation of forest resources in accordance with Article 71 of the Russian Federation Forest Code dated 29 January 1997.

The State Forestry Agency is currently developing a Mandatory Certification System for standing timber and secondary forest resources which calls for assessing the conformity of any sources of forest resources with the standards and other regulatory documents defining the terms and conditions of sound forest use in terms of forest ecosystems and recovery of wood and shrub vegetation after felling in accordance with the principle of non-exhaustive, continuous and sustainable forest use and preservation of the biological diversity associated with the forest stock.

The draft of the said System does not cover imported forest products.

Question 45.**Point No. 45 - Regulations for the Ministry of Foreign-Economic Relations and Trade of the Russian Federation No. 402, dated 7 April 1997:**

Decree No. 402 and Decree No. 799 (No. 32, WT/ACC/SPEC/RUS/5) appear to address the same issue of protecting the consumer market against penetration of low quality imported goods.

How is Government of the Russian Federation Decree No. 402 (dated April 1997) different from the Government Decree No. 799 (dated July 1996)?

Answer

Russian Federation Government Resolution No. 799 "On Measures to Protect the Consumer Market of the Russian Federation Against Influx of Low-Quality Imports" dated 12 July 1996, directed the Russian Federation Committee for Trade and its subdivisions to enhance state controls in order to protect the domestic market against influx of low-quality imports.

Russian Federation Presidential Edict No. 1177 "On the Structure of Federal Executive Authorities" dated 14 August 1996, dissolved the Russian Federation Committee for Trade and transferred its functions to the Russian Ministry of Foreign Economic Relations.

Russian Federation Government Resolution No. 402 "On Approving the Regulations on the Russian Federation Ministry of Foreign Economic Relations and Trade" dated 7 April 1997, directed the Russian Federation Ministry of Foreign Economic Relations to coordinate the activities related to consumer market protection against low-quality imports and preparation of appropriate normative acts (Sections 17 and 63).

Question 46.

In Supplement 2 to WT/ACC/SPEC/RUS/5, we could find no reference to labelling regulations recently put into effect.

This document should contain information on regulations covering labelling and marking requirements. There are indications that these regulations, now being put into effect, are causing significant difficulty for importers.

Answer

GOST R 51074-97 is fully consistent with the requirements of the Codex Alimentarius standard (General Standard of Packaged Food Marking Code 1-1985, revised 1-1991, EC Directive 79/112), therefore its enactment should not cause any difficulties for importers.

See also Answer 6 herein.

Question 47.

In Supplement 2 to WT/ACC/SPEC/RUS/5, Russia mentions the Resolution of GOSSTANDART dated 25 July 1996 No. 15, "On Adoption of Amendments No. 1 of the "Order of Certification of Products in the Russian Federation", Published: "Rossiiskie Vesti", No. 147 dated 8 August 1996, "Bulletin of Normative Acts of Federal Bodies of Executive Power", No. 5 1996 (included in WT/ACC/SPEC/RUS/5).

This document provides for 10 different certification schemes - including type approval and suppliers declaration. However, there is no indication of when specific procedures apply. Another part of this legislation indicates that the manufacturer can recommend a particular certification procedure to the responsible certification body. The final decision belongs to the certification entity and may vary according to whether the applicant is considered to be a "reputable" manufacturer.

Thus under the law, one manufacturer of a syringe may be allowed to self-declare conformity to requirements, while another (less reputable) will be required to undergo third party certification, for the same product. This practice could easily be administered in a discriminatory manner. How will Russia be able to meet its obligations to provide non-discriminatory treatment?

Answer

Pending.

Question 48.

Would a supplier have to go through a certification body to be able to provide a supplier's declaration? What incentive would a certification body have to allow a manufacturer to use this option?

Answer

A supplier must go through a certification body to provide a declaration because product conformity is established by means of a certificate of conformity.

Where a certificate is provided on the basis of a supplier's declaration, the certification body may nevertheless investigate the supplier in accordance with the certification arrangements.

Question 49.

Can the Russian Federation explain why it recognizes CEN standards as international standards when Articles 3.2.2 and 4.4.2 of ISO Guide 2 clearly distinguishes international from regional standards? In this regard, could the Russian Federation describe the extent of its participation in the development of CEN standards? Is the Russian Federation a CEN affiliated member and is there any bilateral agreement between GOSSTANDART and CEN which facilitates the adoption of CEN standards as national standards of the Russian Federation?

Answer

The Russian Federation does not officially recognize CEN standards as international standards.

The Russian Federation does not participate in the development of CEN standards nor is it a CEN member. There is no bilateral agreement between GOSSTANDART and CEN which would promote the adoption of CEN standards as national standards for the Russian Federation.

Question 50.

Are there any regional standards, aside from CEN standards, that the Russian Federation recognizes as international standards, and to what extent does the Russian Federation participate in the development of such standards?

Answer

The Russian Federation, represented by GOSSTANDART, is a member of the Interstate Council for Standardization, Metrology and Certification recognized by ISO as a regional standardization organization.

The standards of the Council apply in the Russian Federation as state standards for Russia without domestic ratification.

Question 51.

It is our understanding that at the beginning of this year, that Russia either chaired or held the secretariat of at least 7 ISO technical committees and 24 ISO sub-committees and participated as convenors on 13 ISO working groups. Within the limit of its existing resources, what is the current status of Russia's participation on ISO technical committees, sub-committees and working groups?

Answer

The Russian Federation continues to chair secretariats of TC (technical committees) and PC (subcommittees) of ISO and currently is the member "P" of approximately 500 TC (technical committees), PC (subcommittees), WP (working parties) of ISO.

Question 52.

Could the Russian Federation describe the current scope of standards activities and procedures of sub-federal government bodies which are outside of the federal jurisdiction of GOSSTANDART? What sectors of activity and specific products are subject to the regulatory authority of local governments?

Answer

No standards are developed by local authorities in the Russian Federation.

Question 53.

What specific measures has the Russian Federation undertaken to ensure that local government and non-government bodies comply with Article 2 of the WTO Agreement on Technical Barriers to Trade?

Answer

Special measures are not required because State standards are applied throughout the territory of the Russian Federation.

Question 54.

It is our understanding that the Russian Ministry of Construction plans to introduce mandatory standards for certain construction materials and products sometime this summer. What legitimate objectives were the basis for this decision, notwithstanding that such products, which were formerly subject to voluntary standards, had to fully satisfy prescribed national requirements for hygiene, health, safety and fire? Has a list setting out products, that will be subject to mandatory standards, been published? When is the effective date of this new regulation and what notice has been given?

Answer

The Federal Law "On Protection of Consumer Rights" of 7 February 1992, provides the basis for introducing mandatory certification of building materials, products and structures in the Russian Federation.

Also, the Russian Federation Government, by its Resolution No. 799 "On Measures to Protect the Consumer Market of the Russian Federation against Influx of Low-Quality Imported Materials", dated 12 July 1996, directed the Russian Federation Ministry Construction of (GOSSTROY) to prepare and implement before 1 January 1997, in conjunction with other agencies, mandatory certification of materials, products and structures for construction purposes which are imported into the Russian Federation followed by inspection of such products after importation.

The list of products subject to mandatory certification was published by Russian Federation Government Resolution No. 1013 "On Approving the List of Products Subject to Mandatory Certification

and the List of Works and Services Subject to Mandatory Certification" dated 13 August 1997. According to that list, the Russian Federation State Committee for Standards, the Russian Federation State Committee for Construction and the Russian Federation Ministry of Health will, in the immediate future, publish a specific list subject to mandatory certification.

This list will be implemented 6 months after the date of publication of the said Russian Federation Government Decree (No. 1013 of 13 August 1997) for Russian manufacturers and 1 year after publication for foreign manufacturers.

Question 55.

Article 3 of the Russian Law No. 5151-1 "On the Certification of Products and Services" of 10 June 1993 stipulates that if an international agreement to which the Russian Federation is a party establishes other rules than those set forth in Russian legislation on certification, the rules of the international agreement prevail. It is our understanding that the Russian Federation has concluded and is in the process of concluding bilateral agreements involving conformity assessment bodies in certain western and eastern European countries. What bilateral agreements have been concluded and are they published or available for the information of WTO Members?

Answer

The agreements entered into with CIS, Eastern European and Western countries primarily set out a framework and the intention to recognize the results of tests conducted at mutually accredited laboratories. There are currently no mutually accredited laboratories pursuant to bilateral partnership and cooperation agreements.

Only the Agreement between the Russian Federation and European Communities and their Member States On Partnership and Cooperation, Article 60 of 24 June 1994, falls within the scope of Article 3 of Federal Law No. 5151-1 "On Certification of Products and Services" of 10 January 1993.

Question 56.

What foreign test laboratories, other than SGS, have been accredited by GOSSTANDART? Does GOSSTANDART maintain offices and test facilities outside of the Russian Federation?

Answer

GOSSTANDART has already accredited about 40 testing laboratories in the Czech Republic, Hungary, France, Canada, Netherlands, Bulgaria, Japan, the United States and CIS countries.

The following are the representative offices of GOSSTANDART:

- Information and Certification Centre of Certification of Gosstandart, Prague;
- GOST-ASIA Products Office of Certification, Singapore.

Question 57.

What part of GOSSTANDART's electronic database on Russian national standards is available for sale and what is its price? It is our understanding that the complete database will be available on CD ROM by the end of 1997. What will be its price?

Answer

Starting in the 2nd Quarter of 1998, the prices of documentation in electronic or paper version will be fixed at the same level as in Germany, France, the United Kingdom, the United States and other foreign countries. The prices will be published monthly in the Standards Information Indexes.

Question 58.

The principle of equivalence is the basic principle of the SPS Agreement, which provides, *inter alia*, for equivalence between inspection and certification systems. What steps is Russia taking to apply the principle of equivalence to its SPS system?

Answer

All Russian sanitary and phytosanitary rules, standards and hygienic standards are based on the principle of avoidance of harm to human health and take into account national and international experience. Harmonization of national and international measures is carried out based on principle of equivalence.

The Russian requirements and measures are identical with respect to both domestic and foreign products, regardless of the manufacturer, exporter or importer.

See also the answer to Question 6 herein.

Question 59.

What steps is Russia taking to bring its standards system into line with the transparency provisions of the SPS and TBT Agreements and the requirements of Article X of the GATT 1994?

Answer

Information on all standards in effect as well as those under development, and applicable procedures for conformity assessment will be delivered to the Secretariat as prescribed in the TBT and SPS Agreements.

See also the answer to Question 6 herein.

Question 60.

Does Russia have a preshipment arrangement for standards with SGS or any other body? If so, we would appreciate details of any arrangements.

Answer

The Russian Federation has no legal requirement for pre-shipment inspection for all imported products. However, foreign suppliers may enter into an agreement with SGS for pre-shipment inspection of their products if they wish. Such an arrangement does not involve GOSSTANDART

Question 61.

Are there only two non-Russian laboratories which have received accreditation for performing work for the Sanepidnazor certification? Could Russia provide details of the mechanism for laboratory accreditation?

Answer

Eleven foreign laboratories are currently accredited for certification testing by the Russian Federation State Service of Sanitary and Epidemiological Supervision. The detailed procedure for laboratory accreditation is set out in the document "Accreditation System for Laboratories/Centres of the State Sanitary and Epidemiological Service of the Russian Federation" approved by Joint Resolution No. 13/11 of the Russian Federation Chief State Sanitarian and GOSSTANDART dated 23 June 1997.

Question 62.

What is the basis for the approval of laboratories? Is this the same in Russia? What continuing checks are used?

Answer

Based on applications by legal entities to GOSSTANDART and their compliance with the accreditation requirements in accordance with GOST R 51000.3-96 and GOST R 51000.4-96, the Series EN 45000 European standards, ISO/IEC, the documents of the International Laboratory Accreditation Conference (ILAC).

1. Inspection control:
 - annual;
 - unscheduled (if negative information is received); and
 - test quality check (comparative tests).
2. Internal audit for compliance with the laboratory's own quality systems.

Selection for accreditation is made on the basis of applications from both national and foreign laboratories. Accredited laboratories must be inspected at least once each year.

Question 63.

Can certification on the basis of international standards and methods be accepted?

Answer

Products are certified for conformity with Russian standards and safety norms. Russian standards for inspection methods are generally consistent with international standards.

Question 64.

Is there a defined mechanism that determines that a particular shipment of a particular product will be tested for a particular attribute?

Answer

Yes, there is. The certification procedures for uniform product groups provides specific requirements set out in normative documents.

Question 65.

Is the use of marks of conformity obligatory?

Answer

A mark of conformity is mandatorily applied to package foodstuffs.

Question 66.

Are the holographic marks of conformity to be applied in addition to the existing marks of conformity, or are they intended as replacements to the existing marks?

Answer

See the answers to Question 18 and 20 herein.

Question 67.

Russia's testing procedure for anthrax in imported wool, hides or skins has a success rate that is too low to justify its use as a routine monitoring tool for trade flows. It appears that it is applied to every consignment of imported wool, hides and skins that enters Russia's customs territory.

Answer

The Russian Veterinary Service currently recognizes guarantees of state veterinary bodies of exporting countries, and raw materials originating from slaughter houses are not subject to any further examination. Importation may be permitted for any materials of animal origin (skins, wool, fur, down, feathers, endocrine and intestinal materials, blood, bones and other materials) which, before importation into Russia, have been thoroughly examined for quality and safety. Such examination is guaranteed by the state veterinary service of the exporting country in the form of an entry in the certificate attached to the cargo, provided that the area of the cargo's origin is satisfactory with respect to anthrax, etc.

Question 68.

Is Russia prepared to consider recognition of appropriate assurances issued by an accredited body in the source country that the product concerned is not sourced from anthrax-infected animals or areas.

Answer

Yes, Russia is ready to do so.

See also the answer to Question 67 herein.

Question 69.

In answers to questions 41 and 250 (WT/ACC/RUS/17), Russia states that it currently recognizes certificates of conformity from countries with whom Russia has a reciprocal agreement.

Once Russia accedes to the WTO, will it recognize certificates from countries which are Members of the WTO? Or will it still only recognize certificates where there is a specific reciprocal bilateral agreement?

What are the criteria and terms for entering into these agreements?

Answer

Yes, it will. In particular, Russia recognizes certificates of all of those countries that guarantee the compliance with Russian veterinary requirements. At present, Russia has initial pieces of veterinary certificates on all types of stockraising cargoes with State veterinary services of all basic exporting countries.

Question 70.

In the answer to question 244 (WT/ACC/RUS/17), Russia states that composition of foodstuffs is determined by traditional national cuisine and this necessitates establishing more stringent requirements regarding the contents of undesirable ingredients in countries with different dietary preferences.

The term “undesirable ingredients” appears to refer to dietary preferences and not to any health, safety or technical standards. Article 2.4 of the TBT Agreement does not justify imposing such restrictions for such reasons. What criteria are used to determine what are “undesirable ingredients”?

Answer

In the Russian Federation, the term “undesirable ingredients” means harmful substances, harmful to people’s life and health, as determined by Ministry of Health State standards and sanitary norms and rules.

Preserving the traditions and recipes of national cuisine of the Russian peoples will increase confidence in such products that will promote further sales of such products. Another variant of more stringent requirements concerning "undesirable ingredients" deals with baby and dietary foods where the exclusion of certain formulas or strict limitations on salt, sugar, sodium nitrite, etc. are reasonable. The quantity of such products is small in relation to the aggregate and will not have a significant impact on overall product sales.

In such cases, restrictions cannot be considered as trade barriers.

Question 71.

In the answer to question 246 (WT/ACC/RUS/17) on retaining pre-market certification, Russia states that in order to remove technical barriers to trade, certification is carried out, as a rule, before a product is introduced to the market and during its circulation on the market.

Please explain how pre-market certification is carried out.

Answer

Pre-market certification of imported products is conducted with respect to long-term contracts or major wholesale purchases by sending representatives of the certifying authority to the manufacturer/supplier's enterprise in line with the practice in other international certification systems, including those covering motor vehicles, electrical equipment, electronic equipment and electronic components, etc.

Question 72.

The Russian Government issued a Decree on 27 December 1996 outlining rules for labelling imported food products. These labelling requirements became mandatory on 1 May 1997, although they are apparently not being enforced consistently. Foreign manufacturers and their importers have found it difficult, if not impossible, to obtain guidance on the specific information that must be provided on labels, when labels must be applied (and the distribution or at the retail level), etc.

Three additional government decrees stipulating additional labelling requirements have been issued since April, further complicating the situation. The first, dated 23 April 1997, requires that labels on food additives and products containing these additives provide extensive information on contraindications for different diseases; this decree goes far beyond current international practice. The second, Resolution No. 720 "On the Approval of the List of Durable Goods, Including the Components (Parts, Unites, Assemblies) Which Upon the Expiry of a Certain Period May Become Hazardous to the Life and Health of the Consumer, Cause Damage to his Property or to the Environment and which Upon Expiry of the Application Time Shall be Deemed to be Unfit to be used for their Property Purpose", dated 16 June 1997, requires that all listed products be labelled with information regarding their service life (or life span). The list includes toys, furniture, household electronics, sporting goods, etc. Resolution No. 1037 "On Measures Providing the Availability of Information in Russian on Non-food Stuffs Imported in the Territory of the Russian Federation", was published 15 August 1997 with an effective date of 1 July 1998. The language of this Resolution mirrors that of Resolution No. 1575 "On the Approval of Regulations to Ensure the Presence on Food Products to be Imported in the Russian Federation of Information in Russian" of 27 December 1996, as amended, on food labelling. It may present even more difficulties for exporters because of its broad coverage. The creation of a State Standard establishing general labelling requirements for all product covered will be particularly difficult.

There has been much confusion surrounding recent Russian Government efforts to institute mandatory labelling for imported food products, however. We would like to work with Russian officials on this, to ensure that manufacturers and importers have the necessary information to enable them to comply with the law in this area. This information is not currently available.

Answer

In accordance with the Russian Federation "On Protection of Consumer Rights" of 7 February 1992, the Russian Government adopted Resolutions No. 1575 "On Approval of the Regulations Ensuring the Presence of Information in Russian on Foodstuffs Imported into the Russian Federation", dated 27 December 1996; No. 481 "On Approval of the List of Product Information Which Shall Contain Contraindications for Use with Certain Diseases", dated 23 April 1997; and No. 720 "On Approval of the List of Durable Products, Including Components (Parts, Units, Assemblies), Which, on the Expiration of a Specified Period, Can Threaten the Life and Health of Consumers, Damage Their Property or the Environment and for Which the Manufacturer Must State Their Service Life

and the List of Products Which Shall Be Deemed Unsuitable for Their Intended Purpose upon the Expiration of Their Shelf Life", dated 16 June 1997.

Pursuant to those Resolutions, the State Standard GOST R 51074-97 "Food Products. Consumer Information. General Requirements" has been adopted in Russia.

This standard is harmonized with the general standard of Codex Alimentarius 1 1991 for labelling of packaged foodstuffs and Directive 79/112/EEC "On Convergence of the Member Countries' Legislation Concerning Labelling, Design and Advertising of Foodstuffs Intended for Sale to End Consumers" dated 18 December 1978.

See also Answers 6 and 46 herein and also Answer 73 herein concerning purchasing the GOST R 51074-97.

In addition, information on approving and implementing the standard above was provided in a Letter of GOSSTANDART of the Russian Federation No. 520-14/437 as of 26 August 1997. The letter was sent to the trade offices of the Russian Federation in foreign countries as well as to the trade offices of foreign countries in Moscow.

Question 73.

We understand that GOSSTANDART issued a State standard in August which stipulates labelling requirements for different types of foodstuffs. Can you provide a copy of this standard?

Answer

GOST R 51074-97 can be purchased from the "INTERSTANDART" Company (9 Leninsky Prospect, Moscow 117049, Russian Federation) or the "Standarty" store (8, Donskaya Street, Moscow 117961, Russian Federation).

Question 74.

We would appreciate it if the Russian Government could make available as soon as possible copies of all documents and standards relating to the planned implementation of labelling requirements for both food and non-food items. The Russian Government should indicate its willingness to consider comments or suggestions for revision to draft standards relating to non-food labelling, to problems similar to those encountered in the food labelling area.

Answer

As concerns food labelling, an answer is given in Questions 6, 46 and 73 herein.

With respect to non-food products, the relevant standard will be prepared by the end of 1997.

Question 75.

In addition, we understand that at least two more Government Decrees have been issued in the past three months stipulating additional labelling requirements covering health warnings (contra-indications) for foodstuffs and food additives on the one hand, and service life information for a broad range of consumer products on the other hand.

Both of these decrees were issued pursuant to the Russian Federation Law On Protection of Consumer Rights. No specific information has been provided as to what health risks are being addressed, however. Can the Russian Government provide information on this?

Answer

Government Resolution No. 720 "On Approval of the List of Durable Products, Including Components (Parts, Units, Assemblies), Which, on the Expiration of a Specified Period, Can Threaten the Life and Health of Consumers, Damage Their Property or the Environment and for Which the Manufacturer Must State Their Service Life and the List of Products Which Shall Be Deemed Unsuitable for Their Intended Purpose upon the Expiration of Their Shelf Life" dated 16 June 1997 listed the products for which an expiry date may be fixed by the manufacturer. GOST R 51074-97 defines the procedure for making such information available to the consumer on the label.

As concerns Government Resolution No. 481 "On the Approval of the List of Goods the Information of Which Must Contain the Contra-Indications for the Application for Certain Types of Diseases" dated 23 April 1997, the contra-indications for the use of certain products with respect to certain diseases are to be determined by the Russian Ministry of Health, and GOST R 51074 requires that each food additive be specified by its group name and index from the International Numerical System (INS) or European Numerical System (E) on the consumer label.

Question 76.

What assurances can Russia give that labelling regulations will be transparent and will be applied equally to imports and domestically produced goods?

Answer

See the answers to Questions 6, 46, 73, 74 and 75 herein. These regulations equally apply to Russian and imported products.

The standards are described in the GOST for food labelling and the standard for non-food products are currently under development.

Question 77.

What assurances can Russia give us that mandatory labelling requirements will be imposed only to the extent necessary to ensure consumers have essential information and other legitimate policy objects are met?

Answer

See the answer to Question 76 herein.

Sanitary and Phytosanitary Measures (WT/ACC/SPEC/RUS/6)

General

Question 78.

Could Russia provide an exhaustive list of regulations specifically related to sanitary and phytosanitary measures which have been adopted so far? Document WT/ACC/SPEC/RUS/6 does

not present a clear picture of the current situation. Has, for instance, the Regulation No. 5061-89 been adopted so far and why is the Government Decision No. 799 on measures to protect the consumer market of the Russian Federation from low quality imported goods not mentioned in this document?

Answer

The overall lists and collections of all applicable sanitary and phytosanitary normative acts, including product quality and safety requirements, are available in Russian and can be provided upon request.

In substitution of previously applicable normative document 5061-89, Resolution No. 27 of the Russian Federation State Committee for Sanitary and Epidemiological Supervision dated 24 October 1996 approved a new document, "Hygienic Requirements for the Quality and Safety of Alimentary Raw Materials and Foodstuffs. SanPiN 2.3.2.560-96" with effect from 1 September 1997 for new products under development and from 1 March 1998 for products under manufacture and introduction. This document is in harmony with international standards and imposes identical requirements upon both domestic and imported products.

The main part of the documents specified above was already submitted to the WTO Secretariat.

See documents L/7410/Add.1, WT/ACC/RUS/2/Add.1, WT/ACC/RUS/19/Add.1.

Question 79.

Could Russia ensure that all sanitary and phytosanitary regulations which have been adopted are published promptly in such a manner as to enable interested Members to become acquainted with them? If yes, could you enumerate the specific publications where this information is provided?

Answer

The ten regulatory documents are published in specialized journals such as *Voprosy Pitaniya* (Nutrition Matters), *Gigiyena I Sanitariya* (Hygiene and Sanitation), *Gigiyena Truda* (Labour Hygiene), *Okhrana Truda I Sotsialnoye Strakhovaniye* (Labour Protection and Social Insurance), *Sotsialnaya Zashchita* (Social Protection), *Toksikologichesky Vestnik* (Toxicological Bulletin), etc. In addition, all key documents in effect have been published in a 7-volume collection. A special information bulletin of the Federal Centre is expected to be published in the future (see the address of the Centre in the answer to Question 82).

Several tens of thousands of normative and methodological documents are currently applicable with respect to all aspects of sanitary legislation, including product quality and safety requirements. All documents are published and can be purchased from the Federal Centre of Sanitary and Epidemiological Standardization, Hygienic Certification and Examination of the Russian Federation Ministry of Health.

See also the answer to Question 78 herein.

Question 80.

When does Russia intend to harmonize her sanitary or phytosanitary measures on international standards, guidelines and recommendations as mentioned under Article 3 of the SPS Agreement? Could Russia provide us a first schedule of harmonization?

Answer

The requirements of all sanitary rules, norms and hygienic standards are intended to protect the human environment and public health in the Russian Federation and based on the results of long-term research, practical application and international experience, undergo scientific examination before approval and, in our opinion, do not contradict the Agreement on the Application of Sanitary and Phytosanitary Measures.

Question 81.

As mentioned in Annex B of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Russian Federation will have to ensure that one enquiry point exists which is responsible for the provision of answers to all reasonable questions from interested Members as well as for the provision of relevant documents. In July, the Russian delegation announced that several enquiry points will be implemented next year. Could we obtain further clarification on those centres and on their geographical location?

Answer

It is now being considered whether it is possible for the Russian Federation to have a single Inquiry Centre affiliated with GOSSTANDART which would be concurrently responsible for both TBT and SPS-related issues. All TBT-related matters and general matters concerning SPS could be handled by a single centre of GOSSTANDART while matters of a special nature could be forwarded to the specialized inquiry centres of the Russian Ministry of Health and the Russian Ministry of Agriculture and Foodstuffs. These institutions would thus form an integral TBT and SPS inquiry service.

Question 82.

WTO Governments are required to notify other countries of their sanitary and phytosanitary requirements which might restrict trade and to set up enquiry points in order to respond to requests for general, as well as, specific information.

A constant and frank communication of information and exchange of experiences amongst WTO Members provides a greater knowledge of the Member's law making process and working procedures and at the same time could be the basis for national standards and relevant SPS measures. An increased transparency would protect trading partners from protectionism through unnecessary non-tariff barriers to trade.

Annex B indicates that each Member shall ensure that one enquiry point exists and indicates the purposes thereof.

The Russian Federation indicated that an enquiry point does not exist yet and they are in favour of setting up a single enquiry point for both TBT and the SPS issues. If that is the case, we assume that this will be set up outside the Ministry of Agriculture.

Could Russia indicate which steps have been undertaken in this respect up to now and provide information on the possible structure and functioning?

Especially, if a single enquiry point exists how and on what basis the relevant requests would be handled?

Answer

As concerns the establishment of a single inquiry centre, the decisions to be made are described in the answer to Question 81. The Ministry of Health of the Russian Federation has its Centre of Sanitary and Epidemiological Standardization, Hygienic Certification and Examination at 18-20 Vadkovsky Pereulok, Moscow, whose duties include, *inter alia*, informational activities concerning sanitary legislation.

The information centre for phytosanitary measures will be located in the offices of the State Plant Quarantine Inspectorate of the Russian Federation, 3 Orlikov Pereulok, Moscow.

See also document WT/ACC/SPEC/RUS/6.

Question 83.

Could we also obtain more information on the respective functions of the federal and regional centres of Gossanepidnadzor (number, specific requirements and function)?

Answer

Detailed information on the respective functions of the federal and regional centres of sanitary supervision is set forth in the Regulation "On the Russian State Sanitary and Epidemiological Service" approved by Resolution of the Government No. 625 "On Adoption of Resolution on Sanitary-Epidemiological Service of the Russian Federation and Resolution on State Sanitary-Epidemiological Measurement" dated 5 June 1994. More than 2,300 centres of state sanitary supervision currently operate in the republics, territories, regions, federal cities, autonomous regions, autonomous districts and transport, ports of entry (waterway and air) areas.

Question 84.

The dialogue and coordination within the Central Government and regional bodies as well as non-governmental entities responsible for the implementation of the SPS Agreement's provisions is of the utmost importance. Members have to ensure that measures are taken in order to prevent that local and regional governmental and non-governmental bodies do not act in a manner inconsistent with the provisions of the Agreement.

This delegation would like information on such measures and on the organisation and structure of the bodies which, at different levels, are responsible for the implementation of the Agreement's requirements.

Answer

In accordance with the Regulation "On State Sanitary and Epidemiological Standardization" approved by Resolution of the Government No. 625 dated 5 June 1994, uniform standards and requirements are applied in the Russian Federation that must ensure uniform requirements at the federal and regional levels concerning public sanitary and epidemiological welfare.

See also the answer to Question 83 herein.

In Russia, phytosanitary control is uniformly implemented by the State Plant Quarantine Service of the Russian Federation. Any influence on its activities or making of independent decisions concerning phytosanitary measures on the part of local or regional government or non-government bodies or organizations is thereby excluded.

Question 85.

The SPS Agreement encourages governments to establish national SPS measures consistent with international standards, guidelines or recommendations, where these exist. Measures which conform to international texts shall be deemed to be necessary to protect human, animal or plant life or health and presumed to be consistent with the relevant provisions of the SPS Agreement.

Members may choose not to use international texts if these do not meet the level of protection deemed to be necessary and they may introduce measures which result in a higher level of protection than would be achieved by measures based on the relevant international texts, if there is a scientific justification or as a consequence of the level of protection Members determine to be appropriate, providing that these measures are not inconsistent with the provisions of the Agreement .

Any government has the right to establish the level of protection it deems to be appropriate, but one of the aims of the Agreement is to ensure that this right is not used for protectionist purposes and therefore does not result in unnecessary barriers to trade.

The Russian Federation seems to base their SPS measures on international texts and on information provided by partners. When a level of protection higher than the one provided by international texts is needed it is not clear which procedures are used as basis for such rules.

Could the Russian Federation clarify to which extent international texts and scientific evidence, political decisions, information given by trading partners or else the need to respect certain local and/or national traditions are taken into account in establishing their measures?

Answer

Sanitary and phytosanitary measures in Russia are developed on the basis of national research in this field using the research results and practical experience of other countries related to plant protection and phytosanitary measures, including applicable international documents, etc.

The Russian party considers that the existing system of sanitary and epidemiological standardization does not contain any inconsistency with provisions of the SPS Agreement might result in trade restrictions. However, some of its elements need further improvement, including certain organizational matters.

See also the answers to Questions 58, 78, 80, 100 herein.

Question 86.

It has been said that specific domestic products with peculiar characteristic and given (low) hygiene level are allowed for consumption nation-wide, in order to fulfil certain customs and habits. On the contrary, an higher level of protection, and therefore higher hygienical standards meeting at least international texts, are requested to similar imported products. This appears to discriminate

between domestic and imported products and therefore to be in breach with both the GATT 1994 and the SPS Agreement's provisions.

This delegation would like to have clarification on the specific item and to know how the Russian Federation would deal with the above said provisions.

Answer

This understanding is incorrect. Low-quality goods are not permitted for sale. In this regard, the requirements for domestic and imported products are identical in the Russian Federation.

1. Hygiene Certification of imported food, etc.

Question 87.

We have already mentioned during the Working Party that we do not understand why the hygienic requirements for the safety of different products are also presented in a set of sanitary rules and hygienic standards such as requirements or video display units, personal computers and hand tools. Moreover, we would be grateful to obtain more information on the real significance of the term "organizations of work".

Answer

The hygienic safety requirements for certain products relate to various factors harmful to human health, such as release of potentially hazardous chemical substances, electromagnetic radiation, noise, vibration, ionizing radiation, illumination, etc. The term "organization of work" in the headings of a number of such documents refers to regulatory measures covering working conditions and working procedures in relation to potentially hazardous equipment or materials. Such measures also cover hygienic requirements and regular medical inspections.

Question 88.

Within the draft paper provided by the Russian Delegation titled "General Description of SPS Regime in the Russian Federation", Russia has included papers from the Ministry of Health and the Departments of Plant Quarantine and Veterinarian Services. Absent, however, is a paper from GOSSTANDART.

We appreciate the draft paper provided by the Russian Delegation titled "General Description of SPS Regime in the Russian Federation". However, we note that specific GOSSTANDART requirements for the Certificate of Conformity are missing.

Answer

The rules covering the completion of such a certificate of conformity are described in Amendment 1 to the Certification Regulations "GOST R Certification System. Product Certification Procedure" adopted by Resolution No. 18 of the State Committee for Standard, metrology and Certification of the Russian Federation "On Introducing Amendment No. 1 to the Certification Rules "The Certification System of State Standards R. The Procedure for Carrying Out Certification of Products" dated 12 September 1996.

The above-mentioned document is available for consultation in the WTO Secretariat (Accessions Division, Room 1126).

Question 89.

It appears that there has been a recent change in the role that SGS has been playing in the issuance of certifications of products for export to Russia that are subject to Russian food standards.

Our understanding is that the entry of food products into Russia in accordance with Russia food standards requires three forms of certification, if a certificate of conformity from the Russian Standards Organization (GOST) is not to be obtained directly from GOST upon entry of goods into Russia. The first is a hygiene certificate, certifying that the Russian standard has been met. The second is a veterinary certificate. The third is the GOST certificate issued by SGS (GOST's agent abroad), subject to hygiene and veterinary certification.

Could Russia provide full details of the link between the GOST certificate and the Sanepidnazor hygiene certificate?

Answer

The certificate of conformity is a conclusive document authorizing food imports into Russia; however, it may only be issued subject to a positive opinion of the sanitary and veterinary authorities expressed in the form of a hygienic certificate and a veterinary certificate respectively. Each of these documents has its own meaning. The veterinary certificate establishes that the animal product has been derived from healthy animals and the hygienic certificate sets hygienic standards for the content of harmful substances in foodstuffs based on the formula of any specific item. Certification for conformity includes verification of the product's conformity with the information stated on its label and tests for the safety indicators prescribed by the standards and hygienic/sanitary rules.

Question 90.

Is it the case that SGS is able to issue GOSSTANDART certificates of conformance for any products which are exported to Russia? If so, could Russia provide details of this arrangement and products covered?

Answer

Certificates of conformity are issued by SGS in accordance with the area of its accreditation. The necessary details can be obtained from the relevant SGS branch: 1, place Des Alpes, P/B 2152 Geneva, Switzerland, Telephone (41 22) 739 9409 and Fax (41 22) 738 6753.

Question 91.

Apart from SGS, are there other non-Russian bodies which have such an arrangement with GOST? If so, could Russia provide details of the arrangements including product coverage and procedures followed?

Answer

These organizations include DIN-GOST-TEF (Berlin) and Mertkontrol (Budapest) which are accredited as certification bodies and follow the general procedure applicable to other Russian authorities.

Question 92.

Can SGS decide whether or not the requirements of a Sanepidnazor health certificate are met by a consignment of a product in the country from which the consignment is exported to Russia? If so, how does SGS decide this, and for which products?

Answer

In accordance with the current agreement on cooperation and interaction with foreign research institutes and standardization organizations, SGS testing laboratories in India (Bombay and Kochin), Georges Simon (Brussels) and Agrilab (Antwerp) are entitled to examine products to be imported into Russia for conformity with the sanitary and hygienic standards applying in the Russian Federation. The results of such examination are taken into account by the relevant state sanitary and epidemic supervision services of the Russian Federation in issuing hygienic certificates for any products received.

Question 93.

What are the requirements for a hygiene certificate, including its period of validity?

Answer

A hygienic certificate is to be issued if the specific product conforms to the relevant sanitary and hygienic standards. The typical period of validity of a hygienic certificate is three years.

Question 94.

Is there a mechanism for accepting foreign health certificates equivalent to the Sanepidnazor hygiene certificate?

Answer

Such a mechanism does exist and is described in the Regulation "On Issue of Hygienic Certificates for Products" approved by Resolution No. 1 of the State Committee of the Russian Federation for Sanitary and Epidemiological Supervision dated 5 January 1993.

Question 95.

We seek to clarify the certification and testing requirements for imported food and the relationship between them. It appears that a particular product may have to be tested in two or more different laboratories to fulfil various requirements.

Answer

Hygienic certification of imported foodstuffs is, as a rule, implemented at the contract execution stage by the relevant territorial agencies of sanitary supervision. This should take into account the examination results of any foreign laboratories and research institutes accredited within the system of State sanitary supervision of the Russian Federation. No certification may be conducted with respect to any products accompanied with certificates of conformity issued by the European Certification Society DIN-GOST-TEF Berlin-Brandenburg. It should be noted that any hygienic certificate issued by a State sanitary and epidemiologic supervision agency with respect to a specific product is effective throughout the Russian Federation.

Yes, a specific product may be inspected for conformity with various requirements by two or more different laboratories at the instruction of the Certification Centre in order to speed up the certification tests or with respect to specific components, depending on the specialization of such laboratories.

Question 96.

We seek clarification as to whether sub-federal entities are involved in certification and testing activities.

Answer

Each Russian Federation regional government has several certification authorities duly accredited and responsible for foodstuff certification. Competent specialists of other local organizations may be employed where the certification scheme includes an analysis of conditions of production for the purposes of inspection control[^], etc. In addition, the Regulations on Certification of Foodstuffs and Alimentary Raw Materials provide for the option to use specialists of a number of territorial agencies of the Ministry of Agriculture and Foodstuffs of the Russian Federation and the State Committee for Sanitary and Epidemiological Supervision of the Russian Federation as authorized certification authority representatives.

See also the answer to Question 83 herein.

Question 97.

We understand that for raw and processed food commodities, Russia's Food and Agriculture Ministry may set the level of protection with the use of sanitary and phytosanitary measures for imports. We also understand that for those commodities, quality, labelling and other standards may be set by GOSSTANDART. Effectively, we understand that this requires two levels of inspection for imports in customs. Could Russia indicate if it intends to simplify its import verification procedures for raw and processed foods? Are there plans to merge the standard setting body with the inspection delivery body?

Answer

Normative documents are developed by the State Sanitary and Epidemiological Supervision Service, Plant Quarantine Service and GOSSTANDART with the participation of specialists of certain agencies concerned, including the State Customs Committee. Therefore there is no need for two levels of customs control over imports and a merger of the controlling and supervising bodies, instead, the practices of their interaction are being improved.

No merger of the standard setting and inspection delivery bodies is currently under discussion. However, proposals have been prepared to improve the certification system, their main purpose being to eliminate functional redundancy.

The Russian Government intends to simplify all types of procedures but wishes to ensure that neither the health of the Russian consumer nor animal health is endangered.

It should be noted that phytosanitary control, by virtue of its specific nature, cannot be combined with any other type of control. No phytosanitary measures are used to restrict imports. Simplification of phytosanitary control below the level required for phytosanitary status assessment and its combination with other types of control is not envisaged.

Question 98.

Could the Russian Federation clarify the significance and the contents of the “hygienic certificate” issued by the national Ministry of Health and necessary for certain food products, materials in contact with food, etc., in order to be granted the access in the Russian Federation?

Is the above-mentioned certificate issued at the expense of the Ministry of Health or does it require additional cost to be met by the exporting country?

Answer

The hygienic certificate which is issued by the State sanitary and epidemiologic supervisory of the Russian Federation (GOSSANEPIDNADZOR) is a document confirming the exporter's right to supply a certain food products or materials coming into contact therewith to the Russian consumer market. In certain cases, the hygienic certificate sets specific hygienic standards for the product, unless they are provided elsewhere. The expense of obtaining such certificates is borne by the exporting country. The period of validity of a hygienic certificate is typically three years.

Question 99.

The “importation permits” are mentioned as essential in order to import certain products into the Russian Federation. Could the Russia Federation give some more information on this issue (e.g. validity, authority responsible, cost)?

Answer

Only the Chief State Veterinary Inspector of the Russian Federation is entitled to issue permits for importation of any cargoes subject to veterinary control. The term of validity of such import permit depends on the terms and conditions of the sales contract between the relevant trade partners.

The importation into Russia of any products subject to mandatory phytosanitary control (quarantined products) according to the relevant list is only permissible under import quarantine permits to be issued by the State Plant Quarantine Inspectorate of the Russian Federation and its regional agencies.

Such import quarantine permits state the specific requirements for phytosanitary conditions of quarantined products to be imported and determine the terms and conditions of their importation and use. This is the practice of many countries around the world. The fee for issue of such permits is negligible and does not affect the price of the products.

Question 100.

Could this delegation have some further details on the “Medical and Biological Requirements for Quality of Raw Materials and Food in Russia”, especially on the extent to which these requirements are taken into account, as opposed to international texts, i.e. OIE recommendations, in the negotiations with trading partners in order to draft export certificates?

Answer

Currently the “Medical and Biological Requirements for Quality of Alimentary Raw Materials and Foodstuffs” have been superseded by the "Hygienic Requirements for the Quality and Safety of Alimentary Raw Materials and Foodstuffs. SanPiN 2.3.2.560-96"

See also the answer to Question 78 herein.

This document determines the requirements for food products describing their consumption properties and safety to human health in terms of organoleptic, physio-chemical, microbiological, parasitological and radiological indicators, the content of potentially hazardous chemical compounds and biological items and the product's nutritional value. Any products imported into the Russian Federation should comply with the requirements of the said Sanitary Regulations as well as with the safety specifications determined for such products in the country of origin thereof.

The current "Hygienic Requirements for the Quality and Safety of Alimentary Raw Materials and Foodstuffs" have been harmonized with the requirements of analogous international documents to the maximum extent possible.

Question 101.

To which extent and by whom inspections and controls are carried out on both live animals and foodstuffs?

Answer

State supervision and control are the responsibility of the GOSSTANDART, the State Trade Inspectorate, the State Sanitary and Epidemiological Service (GOSSANEPIDNADZOR), the State Service of Veterinary Supervision and the Department of Animal Breeding and Pedigree Operations of the Ministry of Agriculture and Foodstuffs of the Russian Federation at border checkpoints and at locations where cargoes are received within the scope of their respective authority.

Labelling

Question 102.

In addition, specific GOSSTANDART requirements for Government Regulation No. 1575 dated 27 December 1996 (the labelling law) were not included. When will Russia provide this essential information?

Answer

See the answers to Questions 6, 46 and 73 to 76 herein.

Question 103.

At what point will the labelling law be enforced?

Answer

GOST R 51074-97 "Food Products. Consumer Information. General Requirements" applies to both Russian and foreign-made foodstuffs which are sold wholesale and at retail in the territory of the Russian Federation.

Question 104.

What agency is the implementing authority?

Answer

The manufacturer is responsible for placing information on the consumer label in accordance with applicable law; the GOSSTANDART is in charge of State supervision.

Question 105.

What are the penalties for non-compliance?

Answer

For failure to comply with any mandatory requirements of state standards, including labelling, the State supervisory bodies will impose the following measures in accordance with applicable law:

- prohibition on import or suspension of sale of product;
- penalty equal to the price of the product, for violation of a prohibition on import on embargo, or to suspension of sale of the product.

2. Veterinary Control of Importation of Live Animals into the Territory of Russia and of Imported Products of Animal Origin

Question 106.

As it was agreed in other accession Working Parties, it could be very useful to have a summarized list or table with all products subject to sanitary and phytosanitary measures in the Russian Federation; the measures applied; a brief description of their justification and, when appropriate, their relation with the present international standards, guidelines and recommendations developed by the relevant organizations (Codex Alimentarius Commission, the International Office of Epizootics and the International Plant Protection Convention).

Answer

In accordance with Resolution No. 1 "On the Procedure for Issuance of Hygienic Certificates for Products" dated 5 January 1993, which is now in effect, sanitary (hygienic) control shall apply to all foodstuffs, including baby and specialized foods, food additives, biologically active nutritional additives, new (unconventional) alimentary raw materials, materials coming into contact with foodstuffs and articles made therefrom and food production equipment

See also the answer to Question 97 herein.

The list of quarantined products subject to mandatory phytosanitary inspection cannot, due to its specific nature, be combined with the list of products subject to other types of control. It exists as a separate list and is consistent with the international standards, recommendations of the European Plant Protection Organization and the FAO International Plant Protection Convention.

Question 107.

Could you please provide more information on the relationship and/or difference between the "import permit" and the "hygienic certificate" delivered by the Department of Veterinary Control? Does the "import permit" operate as an import licence?

Answer

Veterinary permits for the import of specific types (shipments) of animal cargoes imported into the Russian Federation are issued by the Chief State Veterinary Inspector of the Russian Federation. The issuance of hygienic certificates falls within the authority of the Ministry of Health of the Russian Federation. No permit for the import of animal cargoes (products) constitutes an import licence.

Question 108.

Could you describe how the border SPS inspection is being performed? Are all shipments subject to border inspection or is it being done on a random or sample basis?

Answer

Border sanitary and hygienic inspection is carried out selectively by specialists of sanitary and quarantine stations.

All shipments of cargoes which fall within the authority of the state veterinary service are subject to border veterinary inspection. The Veterinary Department of the Ministry of Agriculture and Foodstuffs is ready to provide a description of how border veterinary inspection is implemented.

Primary phytosanitary inspection is carried out using scientifically based procedures both at checkpoints on the Russian border and at customs clearance locations. Mandatory phytosanitary inspection applies to all types of quarantined products, cargoes and materials according to the relevant list. Random phytosanitary inspection may be carried out with respect to any products, cargoes, materials, packages and vehicles irrespective of their purpose.

Question 109.

Could you please tell us why there is a need to replace the veterinary certificate with a veterinary permit once the goods have crossed the border? How does this procedure work and how much time does the substitution of certificates take?

Answer

The veterinary certificate of the exporting country which accompanies the cargo should in all cases be replaced with a veterinary certificate of the Russian Federation. The exchange procedure is caused by the fact that all animal cargoes within the Russian Federation and the CIS countries must be transported together with veterinary certificates executed in Russian. Transportation based on documents issued by foreign veterinary authorities is possible only before customs clearance.

The time required for substitution of certificates will be opened on the circumstances in each case.

Question 110.

On page 3, we read that "...in case of non-compliance with veterinary requirements, the cargo may either be disinfected or denied entry into Russia". We would appreciate a brief description of the procedure and the rationale behind it.

Answer

This procedure is implemented on an ad hoc basis, depending on the degree of breach of the veterinary requirements or the estimated risk of importation of infectious animal diseases into the Russian Federation, as well as on the epizootic situation in the exporting country or the type of cargo. This procedure is set forth in Resolution of the Government of the Russian Federation No. 830 “On State Veterinary Service of the Russian Federation Intended to Protect Russian Territory Against the Importation of Infectious Animal Diseases from Foreign States” dated 29 October 1992 which entitles the border veterinary authorities to issue binding instructions to the cargo owner in order to remedy any discovered breach of the veterinary regulations. Where the veterinary terms and conditions of supplies are breached, the authorities may detain any imports subject to inspection and suspend or prohibit their discharge, loading or transit as well as make decisions concerning the procedure for sale or destruction of any confiscated cargoes, as well as to take samples of animal products for inspection and further laboratory examination.

Question 111.

Could you please inform us, in a summarized way, how the risk assessment procedures are being conducted or used?

Answer

The Veterinary Department of the Ministry of Agriculture and Foodstuffs is responsible for risk assessment with respect to all types of animal cargoes. The procedure for such assessment is based on analysing the epizootic situation in the exporting country and its veterinary support or export control.

Question 112.

We would like to come back to the proposal of establishing, on a provisional and voluntary basis and without any mandatory commitment to the WTO, a SPS focal point and a system of consultation on new SPS measures.

Answer

The activities necessary to establish a WTO Inquiry Centre for sanitary and phytosanitary problems are currently under way

See also the answers to Questions 81 and 82 herein.

Question 113.

In some cases, upon agreement with the exporting country, the Department of Veterinary Control sends its experts to a specific country to perform checks on the existing veterinary, sanitary and hygiene conditions. Could the Russian delegation present us examples of such agreements and have such practices occurred so far?

Answer

No type of pedigree animal may be imported into Russia unless Russian veterinarians have visited the exporting country to supervise the process of quarantine. The necessity for the presence of Russian veterinarians in exporting countries in order to supervise meat shipments depends on the epizootic situation in the relevant country, for instance, veterinary inspection of beef in

European Communities countries (epizootic situation with respect to BSE) or pork in Germany, France and Holland (with respect to KChS). Another alternative is periodic joint inspections of meat factories (slaughter houses) followed by approval of their lists of slaughter houses approved for export (poultry slaughter houses in the USA, swine slaughter houses in the United States, Canada, China, Vietnam) into Russia.

3. Control of the import of plant products and other quarantine materials

Question 114.

We note that in papers from the Plant Quarantine and Veterinarian Departments that import permits are required.

Why are import permits required? Are they required for all countries? What are the criteria for issuing an import permit?

Answer

Cargoes which are subject to state veterinary inspection should be imported into the Russian Federation in accordance with Article 14 of Law of the Russian Federation No. 4979-1 "On Veterinary Medicine" dated 14 May 1993 and Resolution of the Government of the Russian Federation No. 830 "On the State Veterinary Service of the Russian Federation Intended to Protect Russian Territory against Importation of Infectious Animal Diseases from Foreign States", i.e. only healthy animals and products derived from healthy animals from foreign countries where the situation with infectious animal diseases is favourable may be imported into the Russian Federation, subject to the requirements of the Russian veterinary legislation and the terms and conditions of any international treaties to which the Russian Federation is a party.

The key criteria for the issue of an import permit are:

- the exporting country is in a favourable situation as regards extremely hazardous animal diseases, and satisfactory warranties with respect to the quality and safety of animal cargoes are in place;
- the requirements of the Animal Health Code of the International Office of Epizootics (IOE) should be complied with;
- the cargoes subject to inspection should comply with the Russian veterinary requirements at the time of their importation that is confirmed by a certificate in the general form or in such other form as may be agreed between the Veterinary Department and the state veterinary service of the exporting country or determined by any agreements (conventions, treaties, protocols, etc.) concluded on a bilateral basis between the state veterinary services of Russia and foreign states; and
- the cargoes subject to veterinary inspection may only be imported pursuant to a permit issued by the Chief State Veterinary Inspector of the Russian Federation.

See also the answer to Question 116 herein.

Question 115.

In the paper titled "Veterinary control of importation of live animals into the territory of Russia and of imported products of animal origin", paragraph 6, sentence 3, Russia states that "after

the goods have crossed the border, the veterinary certificate is replaced with a veterinary permit valid in the Russian Federation”.

Please confirm that replacing the veterinary certificate with a veterinary permit is automatic and that no additional requirements need be met to obtain the permit.

Answer

See the answer to Question 109 herein.

Question 116.

According to the Russian Plant Quarantine Authority, import permits are not required for shipment of plants and plant products from CIS countries.

This appears to be a violation of MFN treatment. Would Russia please explain how it justifies exempting some countries from a standards regulation required by other countries?

Answer

No import quarantine permits are required for any products, cargoes or materials subject to mandatory phytosanitary inspection which are imported from any CIS country pursuant to the Plant Quarantine Cooperation Agreement signed between the governments of the CIS countries in April 1992. This is due to the fact that formerly the territories of these countries constituted a unified territory of the Soviet Union in which uniform phytosanitary regulations were effective. Naturally, cargoes were transported within that country without any import quarantine certificates on the basis of phytosanitary certificates. That procedure did not grant MFN treatment to any Soviet Union republic, nor does it provide for such treatment now. The phytosanitary requirements for quarantined products imported from CIS countries are effectively the same as for similar products imported from any other countries. The purpose of import quarantine permits is explained in the answer to Question 99.

Question 117.

Could Russia provide information on what department or organization will perform the risk analyses for each major agriculture commodity area such as animal health, plant protection and food to be in compliance with the Agreement on the application of sanitary and phytosanitary measures?

Answer

The assessment of phytosanitary risks and development of measures to manage the same are the responsibility of the All-Russian Plant Quarantine Research Institute (ARPQRI); and, with respect to all types of animal cargoes, of the Veterinary Department of the Ministry of Agriculture and Foodstuffs of the Russian Federation.

Trade-Related Investment Measures (TRIMs)

Question 118.

We understand that in the new amendment to the PSA law that passed first reading in the Duma in June, the selection criteria have been changed. Among other things, we understand that at least 50 per cent of a project would have to be Russian content to be eligible for PSA provisions.

This appears to be inconsistent with the obligations that Russia will have to assume under the TRIMs Agreement. We would therefore welcome an indication from the Russian delegation of its plans to ensure that the PSA legislation and its implementation will be TRIMs-consistent.

Answer

See document WT/ACC/RUS/5/Add.1.

Government Procurement

Question 119.

We would welcome an update on the status of the new government procurement law which we understand was to be presented to the Duma in the fall of 1997. Will this new law supersede all the provisions of the April 1997 Presidential Decree on procurement as well as all previous Laws dealing with procurement?

Concerning Presidential Decree No. 305 of 8 April 1997 and Regulations on the Organization of the Purchase of Goods, Works and Services for State Needs:

We are aware that Decree No. 305 has an interim nature and will be replaced by the Special Federal Law on Procurement once this is adopted. Nevertheless, in the absence of a draft of the new law which could form the basis of further discussion, we wish to raise a number of questions relating to Decree No. 305. It is noted that a number of questions may arise as a result of a misunderstanding of the English translation of the Decree and accompanying Regulations.

Answer

The draft of the law "On State Purchases", submitted for the approval to the State Duma will supersede all provisions of the Russian Federation Presidential Decree No. 305 "On Measurement to Prevent Corruption and Budget Expenses Cutback in Organization of Purchase of Goods" dated 8 April 1997. As concerns the bidding procedure, it will also supersede all prior laws relevant to procurement for state needs

Question 120.

The title of Decree No. 305 enumerates as objectives the prevention of corruption and the reduction of budgetary expenses and, is as such, directed at the procuring entities, or customers. There is no objective directed at the supplier (like free competition, equal opportunities of bidders and non-discriminatory treatment of suppliers). Does the new Law on Government Procurement address the concerns of suppliers too? Does it mention non-discrimination and equal access to government procurement opportunities as an objective to the law?

Answer

The Russian Presidential Decree and the Regulations approved thereby provide for competition and equal opportunities for the bidders. Subject to applicable law, these documents prohibit the establishment of any criteria, requirements or procedures of a discriminatory nature.

The Regulations on the Organization of the Procurement of Goods, Works and Services for State Needs approved by Russian Federation Presidential Decree No. 305 "On Measurement to Prevent Corruption and Budget Expenses Cutback in Organization of Purchase of Goods" dated 8 April 1997

provide that only Russian manufacturers (suppliers) will be invited to bid where products are to be procured to maintain the necessary level of defense capacity and security of the Russian Federation. In any other case, an invitation to bid shall not be limited to Russian suppliers.

Question 121.

In which cases can the customer restrict the participation of suppliers in a tender "...on the ground of the country of their location..." according to paragraph 14(j) of the Regulations?

Answer

The participation of suppliers in a bidding can be restricted by reason of their country of location pursuant to an international treaty. In addition, customers may impose such restrictions for the needs of national defence or national security pursuant to Russian legislation.

The customer shall bar a supplier (contractor) from participation in procurement procedures on the ground of their country of location only in cases provided by federal law. In particular, the Russian Government may restrict participation of foreign suppliers depending on the terms and conditions of Russian suppliers' access to the state procurement markets of other countries.

Question 122.

Paragraph 17 of the Regulations mentions the possibility for the customer to reject all applications, if it has previously been reserved in the tender. What procedure is applicable after the rejection of all applications? As it seems that such rejection is not subject to appeal (paragraph 59(b) of the Regulations), how is it ensured that the possibility of rejection of all tenders is not abused?

Answer

The customer may reject all applications for participation in a bidding (tender) if:

- the supplier which has applied for participation in a bidding (tender) fails to meet the qualification requirements; or
- any unfair acts are identified on the part of the supplier or the supplier has intentionally submitted any untrue information on its qualifications.

In turn, the supplier may challenge any acts which he considers unfair, in accordance with the Civil Code of the Russian Federation, under the Procedure approved by Presidential Decree No. 305 "On Measurement to Prevent Corruption and Budget Expenses Cutback in Organization of Purchase of Goods" dated 8 April 1997.

If the customer complies with the bidding documentation, this helps to prevent abuse.

Question 123.

In which circumstances can a customer hold an "internal tender" limited to Russian suppliers, according to paragraph 31 of the Regulations?

Answer

The customer may hold an internal bidding (tender) if:

- only Russian suppliers may participate in procurement activities in accordance with Russian legislation; or
- the customer believes that only Russian suppliers will be interested in participation in bidding (tender).

Question 124.

What kind of preferences can be granted (and can be taken into account as criteria) according to paragraph 36(e) of the Regulations?

Answer

The entire answer should be superseded as follows:

In accordance with Section 36(e) of Decree 305 “On Measures to Prevent Corruption and Budget Expenses Cutback in Organization of Purchase of Goods” of 8 April 1997, the criteria to be considered by the customer in identifying the successful bid shall be determined, including any preferences granted and additional factors (other than the price). These criteria, preferences and factors are described in detail in the Methodological Recommendations (see Answer 133).

Question 125.

According to paragraph 42 of the Regulations, the tender commission evaluating the bid consists of 3 officials of the customer and of representatives of the supplier. How many representatives do the suppliers have and how are they chosen (especially if there are many more suppliers than representatives)? Who chooses the representatives of the customer: the customer itself or the supervising authority?

Answer

The tender commission includes at least three officers of the customer and representatives of the suppliers. The supplier representatives are included in the tender commission for supervisory purposes with a deciding vote, that is why their number in the commission should be at least two, but not in excess of 50 per cent of all commission members. The suppliers elect their respective representatives themselves.

The number of representatives and participants in the bidding (tender) procedure who monitor compliance with the bidding procedure itself is unlimited.

Question 126.

According to paragraph 59(a) of the Regulations, the method of placement of orders is not subject to appeal. How is it then ensured that the methods are used according to the regulations? Which entity supervises the correct use of the different methods?

Answer

The method for placement of orders for product procurement for state needs shall be determined by the customer itself except as stipulated in Sections 27 and 30 of the Regulations approved by Russian Federation Presidential Decree No. 305 "On Measurement to Prevent Corruption and Budget Expenses Cutback in Organization of Purchase of Goods" dated 8 April 1997. Specific bidding methods (provided in the Regulations) shall be agreed upon with the Russian Federation Ministry of Economics or its authorized territorial agency.

Question 127.

It is our understanding that Decree No. 305 supplements, rather than replaces, Law 60-FZ of 13 December 1994 and Decision No. 594 of 26 June 1995.

Please explain which piece of legislation takes precedence in the event of conflicting provisions.

Answer

Decree No. 305 "On Measurement to Prevent Corruption and Budget Expenses Cutback in Organization of Purchase of Goods" of 8 April 1997, was adopted, in particular, pursuant to Section 5, Article 3 of Federal Law No. 60-FZ "On Product Supplies for Federal State Needs" dated 13 December 1994 and governs the procedural matters related to the mechanism for competitive placement of orders for product purchases for state needs. In this regard, there are no conflicts between them.

Question 128.

The Russian Federation continues to work actively towards the adoption of a federal law on the organisation of tenders for the purchase of goods, works and services for State needs.

What is the current state of play regarding the adoption of this law?

Please provide an indicative timetable for its adoption and implementation.

Answer

Starting in 1997, the draft law has been under consideration by the State Duma of the Russian Federation. On 23 October 1997, the State Duma's Committee for Economic Policy decided at its meeting to submit the draft law for discussion at a plenary meeting.

See also the answer to Question 119 herein.

Question 129.

It is our understanding that a more accurate English translation of Decree No. 305 and the accompanying regulations has been prepared.

Would it be possible to receive a copy of this?

Answer

An improved translation of this Decree is available for consultation in the WTO Secretariat (Accessions Division, Room 1126).

Question 130.

It is our understanding that the Decree (and in due course the Special Federal Law) applies to federal, regional, municipal and local authorities, but not State-owned enterprises which operate according to market principles. Please confirm whether or not this understanding is correct.

Answer

Such an understanding is not accurate. The provisions of the Decree also apply to any customers (including State-owned enterprises) which use the proceeds of the federal budget, budgets of local governments of the Russian Federation, government non-budgetary funds and non-budgetary funds of local governments of the Russian Federation granted as State support, including State guarantees.

Question 131.

Does the Decree apply also to utilities, for example in the electricity, transport (all types) and/or telecommunications sectors? If not, why not?

Answer

It applies.

See the answers to Questions 130 and 137 herein.

Question 132.

Point 6 of the Decree requires the Government to submit a draft decree to the present on the establishment of the title Supplier of Products for the State Needs of Russia.

What is the state of play on this Decree?

What is its purpose?

Would it be possible to receive a copy of this Decree?

Answer

This Decree (Presidential Edict No. 630, dated 25 June 1997) is available for consultation in the WTO secretariat (Accessions Division, Room 1126).

Question 133.

A number of the provisions of regulations accompanying Decree No. 305 seem to require the need for implementing guidelines or regulations to be promulgated by the Ministry of Economics (e.g. provision 20).

Have these implementing guidelines been adopted? If so, would it be possible to receive a copy of them? If not, what is the state of play regarding their adoption and the indicative timetable?

Answer

The implementation of a number of provisions contained in the Regulations approved by Decree No. 305 "On Measurement to Prevent Corruption and Budget Expenses Cutback in Organization of Purchase of Goods" of 8 April 1997, requires that certain directives and decisions already adopted by the Ministry of Economics be fulfilled. These directives are presented in the Methodological Recommendations for the Holding of Auctions and Tenders which include all model (tender) documentation. The Methodological Recommendations were approved by Order No. 317 of the Ministry of Economics dated 30 September 1997 and can be submitted upon request.

Question 134.

Article 3 seems to provide for the possibility of purchasing products without the use of a tender procedure.

Under what circumstances would this possibility be utilised?

Will the determination of the composition and volumes of the products concerned be determined on a yearly basis?

How will the Government decide which products and volumes are involved?

Answer

The list and volumes of products being purchased for the state needs are determined by the Government of the Russian Federation based on proposals of the Ministry of Economics of the Russian Federation.

Question 135.

Article 8 provides for a system of pre-qualification of suppliers.

How are invitations to participate in a qualification process made known, e.g. is publication in a named gazette or newspaper a mandatory requirement?

Is use of the qualification process limited to certain prescribed circumstances (if so, which), or is the use of this process left totally to the discretion of "customer"?

Answer

Invitations to participate in the qualification process are delivered to any parties concerned through the mass media (both printed and electronic). Their mandatory publication in central (for federal needs) and regional/republic (for the needs of local governments of the Russian Federation) periodicals is provided.

The qualification procedure is determined by the customer in accordance with the Regulations approved by Decree of the President of the Russian Federation No. 305 "On Measurement to Prevent Corruption and Budget Expenses Cutback in Organization of Purchase of Goods" dated 8 April 1997.

The qualification process is governed by recommendations for holding auctions and tenders adopted by the Ministry of Economics of the Russian Federation

See also answer to Question 133 herein.

Question 136.

Please explain the purpose of Article 12.

Answer

The issue in Article 12 is the confirmation of the winning bidder's qualifications. For instance, if there is a significant time lag between the qualification process and the determination of the tender results, the customer may check whether the supplier has gone bankrupt over such period.

An inaccuracy in the text of Article 12 will be corrected when finalizing the draft law.

Question 137.

The Decree introduces the concept of thresholds (set out in terms of a multiple of the minimum wage), for example in Article 14.

Where there is a threshold involved, how are contracts valued to determine whether or not they fall above or below the threshold?

Answer

This amount does not constitute a restriction as such but represents a threshold value upon exceeding of which the customer is obliged to maintain bidding minutes (transcript) instead of brief notes. This amount also influences the customer's choice of the bidding method (see Sections 27 and 29 of the Decree) and the need to provide any bid security (see Section 40 of the Decree).

This matter is to be determined by the customer in the tender documentation based on the quantities and applicable price of the product.

Question 138.

It is our understanding that the “customer” and the winning “supplier” conclude a “State contract”.

Answer

That is correct.

Question 139.

What are the rules governing “State contracts”?

See for example Article 33(f) herein.

Answer

The rules are contained in the Civil Code of the Russian Federation, other federal laws of the Russian Federation and documents adopted by the Ministry of Economics of the Russian Federation are relevant in this respect, in particular see the answers to Questions 127 and 133 herein.

Question 140.

According to Article 19 “State contract must stipulate the right of the customer to cancel the contract on his initiative in the procedure established by the legislation of the Russian Federation”. Under what circumstances might this occur?

Answer

The right and circumstances of contract termination by the customer on its own initiative are determined by the civil code of the Russian Federation (Articles 450, 451). For example, when sequestration of the federal budget occur, funds previously allocated for the contract may no longer be available and the contract must be terminated.

Question 141.

In Article 20, information relating to the award of the contract must be published no later than 10 days after the “summing up of its results”. Is this term the same as the date of the award of the contract?

Answer

No, it is not. The contract is to be entered into within 20 days after the date of determination of the tender results.

Question 142.

Article 23 requires that the language used for the tender process is Russian. Please confirm our understanding that the Special Federal Law, once adopted, will also provide for the use of English. Will any other languages be permitted?

Answer

Russian is the official language of Russia. The customer may issue documentation in several languages which in all cases must include a Russian version.

Question 143.

Section II of the Regulations set out the different methods of procurement and the conditions of their application. Although for most methods of procurement there does not appear to be a differentiation between foreign and domestic suppliers, it is our understanding that foreign suppliers remain largely excluded from the procurement market as a result of the continuing existence of the 1994 Law. Furthermore, Article 31 provides for the possibility of internal bidding.

Article 30(c) provides for single source bidding “if a single supplier enjoys exclusive rights with respect to a product and an equivalent substitute is nonexistent”. Please provide examples of suppliers who enjoy such exclusive rights.

Answer

For most procurement methods, no difference is made between foreign and Russian suppliers. See the answer to Question 121 herein.

A specific example of a single source purchase is the purchase of copyright-protected products.

Question 144.

Please explain the purpose of Article 31. Under what circumstances would it be used?

What is the legislation referred to in sub-paragraph (a) of Article 31?

How does a customer decide whether only Russian suppliers will be interested in participating in the tender (sub-paragraph (b))?

Will Article 31, or an article with similar effect, be maintained in the new Special Federal Law on Procurement?

Answer

The Regulations on the Organization of the Purchase of Goods, Works and Services for State Needs approved by Decree of the President of the Russian Federation No. 305 "On Measures to Prevent Corruption and Budget Expenses Cutback in Organization of Purchase of Goods" dated 8 April 1997 state as follows:

Section 31. The customer may hold an internal tender if:

- (a) only Russian suppliers participate in such procurement activities in accordance with Russian law;
- (b) the customer believes that only Russian suppliers will be interested in participation in such tender.

There are several legislative acts which would apply in the context of Article 31(a). For example, Federal Law No. 53-FZ "On Purchases and Supplies of Agricultural Products, Raw Materials and Foodstuffs" dated 2 December 1994 and Federal Law No. 60-FZ "On Product Supplies for Federal State Needs" dated 13 December 1994 (as amended on 19 June 1995 and 17 March 1997).

See also the answer to Question 145 herein.

Question 145.

Will the new Special Federal Law continue to differentiate between domestic (Russian) and foreign suppliers? If so, in what respects?

Answer

The draft law is under review in the State Duma of the Russian Federation, and this question can only be answered after the adoption of the law.

Question 146.

Article 32 requires publication of invitations to tender in the printed mass media.

Are customers required to publish in particular journals or newspaper, or is this left to the discretion of the customer itself?

Answer

There is no specification as to the particular journals or newspapers in which publication is to take place.

Question 147.

Article 33 sets out the information to be provided in the invitation for tender, and Article 36 the information to be provided in the bidding documents.

Point (d) of Article 33 refers to “the criteria and the procedure for the evaluation of the qualifications of the supplier”. Can Russia confirm whether or not this point covers also the contract award criteria?

Answer

No, Article 33(d) does not cover contract award criteria.

Question 148.

Point (e) of Article 33 refers to the possibility of restricting applications to a “certain circle of suppliers”. Does this refer to the procedures set out in Articles 27 and 28 (closed bidding), and 31 (internal bidding)? Does the tender notice have to provide the reasons why bidding is restricted?

Which of the provisions of either Article 33 or 36 requires the customer to indicate the type of tender process being followed?

Answer

Point (e) of Article 33 referred to the possibility of restricting applications to a “certain circle of suppliers” and it refers to the rules defined in Articles 27, 28 and 31.

- reasons for such a limited circle of suppliers must not be noted in invitation to the tender;
- Articles 33 and 36 only state a choice of tender made by customer.

Question 149.

Point (s) appears to refer to possible offset requirements. Will offsets be permissible under the new Special Federal Law?

Answer

Neither Sub-section (s) of Section 36 nor the entire Regulations contain any information on the possibility of a set-off between the supplier and the customer.

Question 150.

Point (v) of Article 36 refers to “any other requirements” which might be set by the customer. What circumstances does this provision seek to address? How will the Russian Federation ensure that this provision is not abused?

Answer

This provisions will not be abused because such "other requirements" may only be imposed by the customer in accordance with Russian legislation and with the normative acts of the Ministry of Economics.

Question 151.

Article 38 sets out the procedure for submitting tenders.

According to Article 38 the closing date for the submission of tenders is no less than 45 days from the “day of issuance of the bidding documents”. Does this term refer to the date of publication of the tender notice in the mass media? If not, what date does it refer to?

Answer

The deadline for bid submission is fixed not before but after the expiration of no less than 45 days after the date of issuance of the tender documentation. By the time of publication of the invitation to bid the customer must have issued its qualification and tender documentation.

Question 152.

Tenders may only be submitted in writing in a sealed envelope. Does this mean that submission of tenders by fax, telex or other electronic means is not permitted? If so, why not? Is there any intention to change this situation in the new Special Federal Law?

Answer

This procedure is necessitated by the requirement that such information should be maintain as confidential until the public announcement of bids occur.

Question 153.

Section IV sets out the procedures for methods of procurement other than open tendering.

Are the two closed bidding processes referred to in Articles 55 and 56 subject to the rules of Section III of the Regulations?

Answer

Yes, they are, except for the publication of the invitation to bid.

Question 154.

Section V sets out an appeals procedure.

**Why does Article 59 not provide the possibility to challenge the choice of method of procurement?
How would an aggrieved supplier go about making such a challenge?**

What is the complaints procedure if a State contract has already been concluded?

Answer

The choice of the procurement method falls within the customer's authority, subject to applicable law. After the contract is executed, all complaints should be made through the arbitration court.

Question 155.

Under Article 61, does the Ministry of Economics have to provide a reason for rejecting a complaint? If not, why not?

Answer

The last paragraph of the said Section provides that the Ministry of Economics of the Russian Federation must, within 30 days, render a written justified decision concerning such a complaint (including a decision denying the complaint).

Question 156.

Article 62 deprives suppliers of the right to file a complaint if a similar complaint has already been addressed and the aforementioned supplier has not taken part in the procedure. How does the Russian Federation ensure that all interested suppliers are made aware of complaints filed, so that they can associate themselves with the complaint if they so wish and not lose their right to file a future complaint?

Answer

Under Part V of Decree No. 305 "On Measures to Prevent Corruption and Budget Expenses Cutback in Organization of Purchase of Goods" of 8 April 1997, each supplier is entitled to file a complaint based on their own determination without regard to the actions of other unrelated suppliers.

Expiry Dates/Service-life Markings

Question 157.

We understand that in June the Government passed a Resolution No. 720 concerning the requirement to display expiry dates on certain foodstuffs and to display service life on several goods. We would welcome assurances that national treatment will apply and any further details you can provide with respect to place of enforcement, and what limits if any might apply to the expiry dates and service lifetimes, i.e., is the producer completely free to specify these dates? We would also welcome the rationale for having a service life requirement for some items, such as furniture, which we understand are included on the list.

Answer

Under Russian Government Resolution No. 720 "On Approval of the List of Durable Products, Including Components (Parts, Units, Assemblies), Which, on the Expiration of a Specified Period, Can Threaten the Life and Health of Consumers, Damage Their Property or the Environment and for Which the Manufacturer Must State Their Service Life and the List of Products Which Shall Be Deemed Unsuitable for Their Intended Purpose upon the Expiration of Their Shelf Life" of 16 June 1997, a list of durable goods, which upon the expiry of a defined period, may create danger to the life and health of a consumer, or otherwise cause damage to a consumer's property or the environment, including home furnishings: sofas, couches, ottomans, chair-beds, mattresses, armoires, suites of furniture, or sets of furniture units.

The USSR Ministry of Forest Industry on 14 December 1987 approved a procedure, developed by VNIPIEILESPROM, for forecasting furniture demands and determining the average service life of various types of furniture.

The criteria for determining the service life of furniture are the following: term of durability of materials utilized (glues, lacquers, plastic components, synthetic veneers) as well as the functional purpose, frequency of maintenance and construction features.

On the basis of the above mentioned criteria, this procedure establishes average service lives for furniture, for example: dining tables - 15 years, writing tables - 12 years, containers for storage of clothes - 22 years, and containers for storage of dishes - 20 years, etc.

In general, the average service life of furniture is approximately 20 years, and therefore furniture is included in the aforementioned Resolution.

Agriculture

Domestic Support Tables

Question 158.

We understand that the Duma recently overrode the Presidential veto on the Law on the State Regulation of the Agro-Industrial Complex. We would welcome assurances from the Russian delegation that this development will not affect Russia's ability to fulfil the commitments regarding domestic support for agriculture and export subsidies that it will be assuming upon accession to the WTO.

Answer

Pending.

Question 159.

The base period used to establish commitments will need to be based on a recent three year period which reflects current agricultural support programmes.

Answer

Pending.

Question 160.

We would appreciate fuller details concerning transport subsidies, to assess whether they are domestic or export related.

Answer

Pending.

Question 161.

Russia has indicated that expenditures for forest management and the upkeep of the forest rangers service are covered under "operating expenses" in supporting table DS:1. These expenditures should not be included as forestry is not covered by the Agriculture Agreement.

Answer

Pending.

Question 162.

Russia has included support for pedigree livestock breeding in its non- product-specific AMS for want of breakdown data for specific types of livestock. We consider that this should be classified under product-specific support regardless of the types of breeding stock involved.

Answer

Pending.

Question 163.

Russia indicates that the tax benefits were calculated on the basis of agricultural enterprises compared with industrial enterprises. Are the tax benefits directed only to the agriculture sector?

Answer

Pending.

Question 164.

Russia states that electric power allowances were estimated on the basis of differences in the rates charged to agriculture and to industry. We would appreciate further details on the nature of these allowances. Are they directed only to the agriculture sector?

Answer

Pending.

Question 165.

For supporting table DS:1, general services "the maintenance of government- funded institutions (Ministry of Agriculture and Food, Committee on the Food Industry, Land Committee, State

Grain Inspectorate, Maintenance of Regional Institutions)''), the figures for 1993 and 1994 have been amended. What is the basis for the amended figures?

Answer

Pending.

Question 166.

These programmes relate to maintenance of government-funded institutions. What is the nature of the support and how does it meet the criteria of paragraph 2, Annex 2 of the Agriculture Agreement?

Answer

Pending.

Question 167.

Given that sub-federal authorities may have the authority to provide financial support to agriculture, can the Russian Federation Government ensure that sub-federal authorities will not act in such a way that Russia breaches its WTO commitments?

Answer

Pending.

Question 168.

Russia has stated in the answer to Question 28 of WT/ACC/RUS/9/Add.1 that the functions of local authorities do not include (except in some cases) the regulation of prices on agricultural products and food. Could Russia provide a list of such exceptions and details of local authorities regulations with regard to the exceptions?

Answer

Pending.

Question 169.

According to Article 1(a) of the Agreement on Agriculture "AMS" is the support provided for an agricultural product in favour of the producers of the basic agricultural product or non-product-specific support provided in favour of agricultural producers in general. Such support is subject to reduction unless the support respects the criteria laid down in Annex 2 to the Agreement.

In supporting table DS:1 (green policies), the Russian authorities have listed "Upkeep of social infrastructure facilities (the maintenance of housing, schools, hospitals and other institutions, the provision of partial compensation for the cost of fuel for heating purposes)" as an agricultural support measure. This is assumed to mean that the Russian authorities consider such payments as "non-product-specific support in favour of agricultural producers in general.

Could the Russian authorities explain how similar social infrastructure is funded in towns and cities and if such funding is considered as support to other sectors e.g. under the Agreement on Subsidies and Countervailing Measures? If the funding is not considered as support to other sectors, could the Russian authorities explain why the funding is treated differently for the agricultural sector?

Answer

Pending.

Concerning answers to questions in document WT/ACC/RUS/17/Add.1

Question 170.

Question 192: DS:5 showed the prices at which products were procured for public stockholding. Question 228: Eligible production is procurement to meet the State's needs. These purchases are made by various organizations for a variety of purposes as determined by governmental agencies. Question 230: Average prices at which products are purchased by the government were used as administrative prices for each product. Applied administrative prices are based on market prices as best determined by governmental agencies.

In supporting table DS:1, the Russian authorities have described "Public stockholding for food security purposes as follows: Expenses for establishing federal and regional food stocks (the provision of government budget loans to set up food stocks to supply areas in the Far North, establish reserves, and meet other state needs).

Could Russia explain whether the quantities of eligible production in table DS:5 are used, totally or partly, to meet the state needs for which the expenditure are listed in table DS:1? (example: In 1993 the eligible production for wheat in table DS:5 is indicated as 15,085,000 t. Are the buying price, storage costs, distribution costs, transport cost, losses etc. of this quantity or a part thereof captured by the expenditure listed in DS:1 i.e. for 1993 the sum of 23,201,080 mil. rubles).

Answer

Pending.

Question 171.

Could Russia explain the aim and the functioning of the regime(s) with administered prices, in particular:

What is the aim of the regime e.g. to ensure availability for state needs, to ensure farmers income, to ensure low consumer prices?

Which criteria are used for fixing administered prices and who fixes the prices?

Are the administered prices identical for the whole Russian Federation or are several prices applied?

When are the prices fixed (e.g. annually before the harvest, pluriannually) and in which legal instrument are the prices publicized?

Are the Russian authorities obliged to buy all products offered by the farmers or are quantitative limits applicable?

Are the farmers obliged to sell products to governmental agencies or can they sell the whole harvest on the open market if they so wish?

When are the products released from stocks (according to the market situation, for specific uses, for obligatory export etc.)?

How are the selling prices determined when the products are released from stocks?

Who determines the selling prices?

Answer

Pending.