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ACCESSION OF THE KINGDOM OF SAUDI ARABIA

Additional Questions and Replies

Revision

The Ministry of Commerce of the Kingdom of Saudi Arabia has re-submitted the replies to questions 7 - 34 concerning Section IV.3(b) Technical Regulations and Standards and Section IV.3(c) Sanitary and Phytosanitary Measures with the request that they be circulated to members of the Working Party. The questions and replies are reproduced hereunder.

Question 7.

Could Saudi Arabia clarify the response that "certification is required for every consignment." Does it mean that each consignment is required to be accompanied by a copy of certificate obtained originally by the manufacturer through the Type testing procedures or does it mean the whole certification procedure has to be repeated for each consignment?

Reply

Consignments of products which have been Type Approved under the Program need only be accompanied by a copy of the SASO Type Approval License originally obtained. The manufacturer issues his own Certificate of Conformity (CoC) in accordance with the format and Identification Number provided by the Program Manager, and proceeds to ship without being subject to Preshipment Testing or Inspection (except for occasional random PSI). The attached ICCP Comprehensive Procedures and Guidelines are elaborative on this point.

Question 8.

Which part of the ICCP Guidelines relate to PSI and which parts to Conformity Assessment? Is the 8th version of the Guidelines still valid? Is a further version being worked on?

Reply

ICCP is a program that aims at providing assurance of conformity in accordance with internationally accepted practices. TBT defines conformity assessment as any procedure used directly or indirectly to determine that relevant requirements in technical regulations are fulfilled. ISO Guide 2 identifies Inspection, Testing, Type Evaluation and Surveillance as means for evaluation of conformity. Thus, PSI is a means of conformity assessment by inspection on a preshipment basis, as facilitated under WTO/PSI Agreement, rather than a separate process. Under ICCP, conformity is assessed by:

- surveillance according to ISO Guide 28 plus occasional PSI for Type Approved products;
- PSI for every consignment plus occasional preshipment Testing (PST) for Registered products;
- PSI and PST of every consignment for products of unknown background.

The Current Procedure Guidelines - Version 8 - is valid. However, a new Comprehensive Procedures and Guidelines is currently being circulated in draft form.

Question 9.

Please explain why each product category needs to be included in the ICCP?

Reply

WTO Agreements recognize the following objectives as legitimate for preparation, adoption and application of technical regulations and measures :

i. TBT Objectives: "*Quality*" of products relative to "*national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment*";
ii. Sanitary / Phytosanitary risks*;*
iii. protection of public morals (GATT Article XX);
iv. classification, grading or marketing of commodities (GATT Article XI).

All products are covered by one or more of the above objectives, for example:
Food Products are regulated to protect against:
- Sanitary / Phytosanitary classified risks;
- health risks and quality of health criteria;
- deceptive practices risks;
- threat to public morals (including religion).

Electrical and Electronic Products: are regulated to protect against :
- safety hazards;
- deceptive practices;
- danger to national security.

Question 10.

Please list the products for which sample testing is required? Why?

Reply

As explained in reply to Question 8 above, sample testing is required mainly for those products of unknown backgrounds that cannot demonstrate compliance with standards developed by or approved by Saudi Arabia. In addition, Products that may present a security risk, such as telephones and radios are amongst those that are tested regardless of their registration status .

Question 11.

Where sample testing is not required, what does the "inspection" consist of?

Reply

Where sample testing is not required, a thorough physical inspection is performed on the product to match the shipping document with the consignment and to verify compliance with the safety and deceptive practices related standards.

Question 12.

Why is there counter-checking of the certification on arrival in Saudi Arabia? What exactly does the counter-checking consist of?

Reply

Counter Checking: The process involves the checking for authenticity of the certificate, the translation into Arabic of the information contained in the Certificate of Conformity, and the issuance of a letter to the Customs authorities for admission to Saudi Arabia.

Question 13.

Regarding the letter of 7 October which has been sent to Embassies in Riyadh: Are you seeking suggestions for additional certification bodies, which would carry out the program as well as ITS and which exporters could go to instead of ITS?

Reply

Test data and evaluation results of certificates issued by internationally accredited or SASO approved conformity assessment bodies are recognized and accepted towards satisfaction of conformity assessment requirements. With the exception of products holding SASO Type Approval Licence (whereby manufacturers can issue their own CoC), the SASO Country Office (SCO) or other SASO designated Inspection Body, remains as the sole Certification Body authorized to issue Certificates of Conformity (CoC) on behalf of SASO. Around the world, SCOs are comprised of several independent Inspection Bodies in addition to ITS. This procedure enables verification of the accreditation status of the body issuing the original certificate, review of the shipping documents for accuracy and completeness, matching of the certificate to the consignment in question and providing a uniform CoC document recognizable by Saudi authorities. In addition, certificates issued by other bodies do not fully satisfy the conformity assessment requirements; it may be necessary for occasional random tests and inspections to be performed by the Program Manager in order to remain satisfied with the enduring assurance of conformity, an activity which is facilitated by maintaining access to the product through the CoC issuance function.

Question 14.

What does the sentence "In the event of non-compliance by those laboratories with the rules agreed upon, the competent authorities which have proposed those laboratories shall bear all the responsibilities thereof" mean?

Reply

TBT Article 6.1 sets out the criteria for acceptance of the results of conformity assessment procedures in the exporting Member's country as being the satisfaction that those procedures offer an assurance of conformity with applicable standards. Except whenever there is valid reason to the contrary, accreditation of conformity assessment bodies by international standardizing institutions would be recognized as adequate to satisfy the assurance criteria. Conformity assessment bodies which are not accredited by international standardizing bodies must meet the assurance satisfaction criteria through evaluation and approval by SASO based on ISO Guide 25.

Should Government authorities in the exporting Member's country nominate laboratories, Saudi Arabia will accept the nomination provided that the authorities which have proposed those

laboratories are held responsible for the results of their conformity assessment procedures and for any misrepresentation or negligence committed by those laboratories.

Question 15.

Are there additional laws or regulations which govern, for all agencies, the development and application of standards, technical regulations and conformity assessment procedures?

Reply

There are no additional laws or regulations.

Question 16.

Or are there other mechanisms which provide for coordination among agencies in implementing Saudi Arabia's standardization and regulatory policies? For example, is there a regulation or administrative guidance which instructs SASO or other agencies, such as the Ministry of Health, to publish a notice that a draft technical regulation is available for public comment? Is there guidance for all agencies with the authority to develop technical regulations on a recommended period to allow for public comment? Is there guidance for all agencies to consider the use of appropriate international standards?

Reply

(a) Continuous coordination among Ministries and government agencies involved in implementing Saudi Arabia's standardization policies is insured under the inherent structure of SASO's Board of Directors; the Board members include representatives from all concerned Ministries, (in addition to the Chambers of Commerce and Industry). The Board approves the adoption of new standards, and individual members oversee harmonization in its implementation among their respective Ministries.

(b) Administrative procedures are in force at SASO requiring:

- publication of notice in several local newspapers announcing that a draft technical regulation is available for comment within 3 months;
- distribution of copies of the draft to all concerned Ministries, all local Chambers of Commerce, foreign embassies, major local manufacturers and major Saudi importers whose products are affected by the proposed regulation.

After the 3 months period, a second draft incorporating acceptable comments is likewise published and distributed for final comments within one month.

(c) SASO's policies and administrative procedures carry specific instructions to use international standards wherever applicable, or use them as the basis for development of SASO's own standards in situations where the specific climatic and geographic conditions warrant that. For elaboration, refer to Section I "Background" of WT/ACC/SAU/9

Question 17.

Which agency has responsibility for ensuring domestic production complies with relevant standards and technical regulation? [Reply to Question 77 indicates that in addition to SASO/MOC, the Ministry of Municipality is responsible for regulating perishable foods in the Saudi market and the Ministry of Health for drugs and medical devices.]

Reply

Section VIII "Standards Compliance of National Products" of WT/ACC/SAU/9 dated 6 November 1996 explains the process by which domestic production complies with relevant standards. Likewise, replies to Question 98 of WT/ACC/SAU/6 and Question 77 of WT/ACC/SAU/8 list the Ministries monitoring and controlling domestic producers.

Question 18.

What mechanisms, if any, are in place to ensure that Customs, Commerce and other relevant agencies treat imported and domestic product on a non-discriminatory basis?

Reply

SASO is the only agency responsible for preparation of standards, which are adopted and applied by several concerned agencies. Imported as well as domestic products must comply with the relevant standards; there are no provisions, administrative guidance, instructions or tendencies whatsoever (whether disclosed or not) that could lead to treatment of imports on a less favourable basis than is accorded to domestic products. Moreover, ICCP conformity assessment procedures applied to imports with its type approval and inspection processes are parallel to the standards compliance of national products" explained in reply 17 above.

Question 19.

Does Um Al-Qura include an announcement when a specific draft of a new or proposed amendment to standard (voluntary) is available for public comment? Or, does SASO have its own publication in which it publishes proposed standards (for example, are drafts included in the SASO Standards Catalogue)?

Reply

Adopted standards in its final form are published in Um-Al-Qura and SASO Standards Catalogue. Draft standards are published in the local newspapers (refer to reply 16(b) above).

Question 20.

Are announcements published in Um Al-Qura that drafts of new or proposed amendments to existing technical regulations (mandatory)? of new or proposed amendments to conformity assessment procedures (in addition to certification)? Would this include technical regulations promulgated by SASO? the Ministry of Agriculture and Water Resources? the Ministry of Health? and any other Ministry that may have responsibilities for developing and applying technical regulations?

Reply

The Ministry of Agriculture and Water Resources and The Ministry of Health do not publish new or amended regulations or assessment procedures in Um Al-Qura. As for SASO, please see reply 16(b) above.

Question 21.

Is the distribution of standards made in addition to a publication that a draft is available for comment?

Reply

Yes, please see reply to 16(b) above

Question 22.

Is a period of three months allowed for comments on proposed technical regulations? on conformity assessment procedures — whether voluntary or mandatory?

Reply

A three months period is allowed for comments on draft standards. The period allowed for comments on Conformity assessment procedures (such as ICCP) is two months. Both meet or exceed the 60 days period afforded under the "Code of Good Practice for the Preparation Adoption and Application of Standards" (TBT Annex 3 Para L)

Question 23.

By what procedure and how often does the Government disseminate updates of the list of standards and certification procedures? Where is information found on applicable technical regulations and conformity assessment procedures (i.e. those currently applicable and not in draft form)?

Reply

Please see reply 93 of WT/ACC/SAU/6 and Section VI.c "Advice to Exporters" of WT/ACC/SAU/9, outlining the role of the SASO Information Center, Embassies, the Program Manager and the Internet in providing information and disseminating updates.

Question 24.

Please explain the process by which a trading partner requests a revision/amendment to an existing Saudi Arabian standard or technical regulation? What is the mechanism for dispute settlement relating to Saudi Arabian standards? How is it determined which regulatory agency is in charge of the dispute settlement process? What is the time-frame for the resolution of disputes?

Reply

Please see replies 124 of L/7645/Add 1 and 79 & 80 of WT/ACC/SAU/8.

Question 25.

We would appreciate a detailed explanation of the process used in determining the proper shelf life period for a particular product. What factors are considered? Does Saudi Arabia perform scientifically-based shelf life studies prior to issuing a product shelf life standard? If so, can copies of the studies be made available to the Working Party?

Reply

All determinations of Saudi shelf life standards are scientifically based. The replies 116 of L/7645 Add 1 and 81 of WT/ACC/SAU/8 outline the factors considered and the specific studies conducted.

Examples of shelf-life studies are being forwarded to the WTO Secretariat.

Question 26.

In explaining the development of its shelf-life requirements, Saudi Arabia has stated that, after a certain time period, food products "become unacceptable to the consumer" (L/7645/Add. 1). Could Saudi Arabia describe how it determines whether a product is "unacceptable to the consumer," if that determination is not made in the market. In adopting shelf-life requirements, are considerations other than "acceptability to the consumer" taken into account (e.g., scientific assessment of health risks)? Could Saudi Arabia provide examples of any relevant risk assessments?

Reply

The phrase "unacceptable to the consumer" is understandably misinterpreted. The intended meaning is that food products become "unfit for human consumption" after a certain time period, based on scientific assessment of health risks (not market determination) associated with changes in:

- chemical composition (rancidity, moisture content, heavy metals, permitted food additives, …etc.);
- microbiological content (salmonella, E. Coli, etc. according to the nature of products).

Examples of risk assessment analyses are those conducted for chilled meat and labna (please see reply 81 of WT/ACC/SAU/8).

Question 27.

How are new or revised shelf life standards notified? Is there an opportunity for comment and/or appeal prior to implementation?

Reply

Shelf life standards are subject to the same notification procedures as other Saudi Standards, whether in draft or final form. Please see replies 16(b) above and 112 of L/7645/Add 1.

Question 28.

Does Saudi Arabia consider shelf life standards to be a quality or sanitary and phytosanitary measure?

Reply

Both criteria overlap. While the chemical and microbiological stability requirements during the shelf life are for the purpose of protecting human life and health from "risks arising from additives, contaminants, toxins or disease-causing organisms in foods" and are therefor classified as SPS measures, retention of the nutritional value and functional properties are quality of health issues applicable under TBT Agreement.

Question 29.

Could Saudi Arabia please explain how shelf life date marking is employed to ensure product safety and/or quality during processing, handling, storage and distribution? If not, what is the basis for the requirement that half of the shelf life remain on the product at the time of entry?

Reply

Shelf life determined by Saudi Arabia expresses the durability of a food product under normal Saudi storage, transportation and handling conditions, as would typically be applicable to domestically produced food products. Imported food products lose from their useful shelf life, the period elapsing between the moment it leaves the manufacturer to the moment it is cleared from Saudi Ports. Assessment of the risks of encountering distant countries of origin of food products, resulted in consideration of the long time it takes before it is cleared for admission into Saudi Arabia. Consequently, the requirement that half of the shelf life remain on the product at time of entry is necessary to compensate for this lost shelf life.

Question 30.

Many food products are now packaged utilizing improved packaging technology (hermetically sealed, etc.) that greatly impact the shelf life of the product. How does Saudi Arabia determine the appropriate shelf life for such products? Are the shelf life standards used the same that apply to like-products in traditional packaging? Are storage stability studies performed on the products to determine if existing shelf life standards are appropriate?

Reply

Shelf life standards in Saudi Arabia take into consideration improved packaging technology (hermetic sealing, ..etc.) which greatly impacts the shelf life of products; for example:

Item	Product	Packaging	Shelf Life
1	Skimmed dried milk	moisture - tight container	12 months
		metallic containers under inert gas or under vacuum	18 months
2	Fried Potato chips	Plastic bags	6 months
		Aluminum foil bags or nitrogen atmosphere in carton lined with tinfoil containers or in metallic containers	9 months
3	a) Beef and Buffalo meat	Suitable containers and storage conditions under temp from 0 C to (-2 C)	21 days from slaughtering date
	b) Mutton and goat meat	Suitable containers and storage conditions under temp. from 0 C to (-2 C)	14 days from slaughtering date

Item	Product	Packaging	Shelf Life
	c) Chilled meat	Suitable plastic container under carbon dioxide atmosphere to eliminate gas exchanges under temp. from (-1.5 C to 0.5 C)	90 days from slaughtering date

Question 31.a

The CODEX Alimentarius recommends the use of manufacturer-base "BEST IF USED BY" date marking (date of minimum durability). Codex defines "BEST IF USED BY" as "the date which signifies the end of the period under any stated storage conditions during which the product will remain fully marketable and will retain any specific qualities for which tacit or express claims are made". Does Saudi Arabia intend to adopt the internationally recognized CODEX standard?

Reply

Please see reply 125 of L7645/Add 1.

Question 31b.

As requested in L/7645, please provide copies of the laws and the regulations which explains the purposes of Saudi Arabia's labelling requirements.

Reply

Labelling requirements for all locally produced and imported prepackaged foodstuffs and additives are satisfied through SASO's mandatory standard No. SSA 1/1995 which is identical to Gulf standard No. 9/1995 and is based on Codex guidelines. The purpose of implementing this standard together with its conformity assessment procedures is: protection from health and safety risks and prevention of deceptive practices (legitimate TBT objectives), in addition to the requirements necessary for marketing of the products (in accordance with GATT Article XI.b).

The main labelling requirements are:

- labels to be in the Arabic language;
- labels not to convey misleading, confusing or erroneous impressions;
- in case any food product contains fats, meat, their derivatives or products, the kind of animal from which they are taken shall be declared.
- name of the foodstuff, name and address of the manufacturer and country of origin;
- production and expiration date;
- in case of products requiring special storage conditions (refrigerated or frozen) according to their nature, the temperature and the method of keeping shall be declared;
- list of ingredients;
- net contents (permitted tolerance plus or minus 5%);
- method of preparation or use to be declared if necessary;
- nutritional information declaration is preferable; the specific standards for individual products may mandate this requirement e.g. baby formula.

Question 32.

Could Saudi Arabia provide detailed information on any risk assessments performed in relationship to standards established for the import of baby formula? Would Saudi Arabia confirm, as is stated in GATT document L/7645/Add. 1, that these standards were imposed for the purpose of protecting human health?

Reply

SASO's approved standards concerning baby formula are as follows:

SSA 136:1979 Plant Baby Foods (Cereal-Legume-Based Food powder for Infants and Children)
SSA 675:1992 Infant Foods Based On Milk
SSA 676:1992 Canned Baby Foods
SSA 134:1979 Methods of Sampling for Plant Baby Foods
SSA 135:1979 Chemical Methods of Test for Plant Baby Foods
SSA 387:1983 Methods for Determination of Vitamins in Plant Baby Foods
SSA 388:1983 Methods of Microbiological Testing of Plant Baby Food

The above standards include the chemical and microbiological requirements, nutritional value, SPS measures and methods of testing, all for the purpose of protecting human life and health. The Standards are based on the Codex Code which is deemed to be based on risk assessment in compliance with SPS Agreement.

Question 33.

In the response to question 103 in WT/ACC/SAU/6/Add.1, Saudi Arabia states that it does not consider the provisions of the ICCP relating to the inspection of food, other agricultural products, and pesticides as sanitary or phytosanitary measures. At the same time, the ICCP is defended because it assures the Saudi consumer of products that are "free of health or safety hazards". In the response to question 83, in WT/ACC/SAU/6, Saudi Arabia notes that a Health Certificate is required for imports of "some products, such as fresh, chilled and frozen meat," which are covered by the ICCP.

In view of these statements and Annex A of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, why does Saudi Arabia believe that the provisions of the ICCP relating to the inspection of food, other agricultural products, and pesticides are not sanitary or phytosanitary measures?

Reply

ICCP regulated product list presently does not extend to other agricultural products and agricultural pesticides. Food product categories are not necessarily subject to the provisions of ICCP, since importers have a choice to bypass the ICCP and have their products tested instead upon arrival at Saudi Ports, the procedure of which is being followed predominantly. As indicated in reply to Question 9, the provisions of ICCP relating to certain aspects of food inspection (such as health certificate) are considered as SPS measures. Other aspects of the inspection are classified as measures falling within the criteria defined by the TBT Agreement.

Question 34.

Please explain what specific actions Saudi Arabia has undertaken to bring its SPS regime into conformity with WTO rules? What rules and regulations govern Saudi Arabia's SPS regime?

Reply

The Government of Saudi Arabia intends to abide by its WTO obligations including those inscribed in the SPS Agreement. To date, it has not discovered any inconsistency between its SPS regime and the requirements of the Agreement. Nevertheless, Saudi Arabia will review its SPS measures guided by the objective of harmonization with international standards on as wide a basis as applicable under Saudi conditions, and following of risk assessment techniques developed by the relevant international organizations and supported by scientific evidence. Should it prove necessary, Saudi Arabia will seek "specified time-limited exception" from obligations under the SPS Agreement along the lines of Article 10.3 of that Agreement.