

RUSSIA

MAXIM ALEKSEYEV / TIMUR AKHUNDOV

Generalities

According to the Eurasian Economic Union (“EAEU”)¹⁰⁷ and Russian legal framework, food products are subject to the following primary enactments regulating their importation and turnover in Russia:

- (i) Technical regulations of the Customs Union “On Food Safety” (TR CU 021/2011) (“**TR on Food Safety**”), and
- (ii) Technical regulations of the Customs Union “Food Products in Part of Marking” (TR CU 022/2011) (“**TR on Food Marking**”).

The above are technical regulations that set general requirements applicable to food products in part of their description and marking.

Apart from these, food products are subject to technical regulations that relate to certain types of products (e.g., Technical regulations “On Safety of Fish and Fish Products”, “On Safety of Milk and Dairy Products”, “Technical Regulations for Juice Products made from Fruits and Vegetables”).

Technical regulations are obligatory for application in all EAEU countries, and therefore products imported to or manufactured in Russia must comply with provisions set in the respective technical regulations.

Besides, Russia and other EAEU countries enact interstate and national standards (GOSTs) applicable to different types of food products. Such GOSTs can be both obligatory and voluntary for application, which

¹⁰⁷ The EAEU consists of the following member states: Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia.

should be determined on a case-by-case basis. Moreover, there are certain national GOSTs, which are used only in Russia. We expect that in approximately 10 years such GOSTs will no longer be effective, but likely replaced by interstate GOSTs or by relevant technical regulations.

In addition to the labelling requirements established by technical regulations and GOSTs, Russian legislation sets special advertising requirements applicable *inter alia* to food products. Such advertising requirements are primarily specified in the Advertising Law and in the Law on Protection of Consumer Rights. Both legal acts prohibit exaggerated advertisements, misrepresentation of products and advertisements causing consumer confusion.

Furthermore, it is important to comply with clarifications of the Russian Federal Antimonopoly Service (“FAS”), which is entitled among other things to take measures on prevention and suppression of advertising violations.

Russian advertising legislation does not contain separate regulation on the usage of claims describing the quality of the product. The general requirement is that all information provided about the product (either in advertising or on the packaging of the product) should be accurate and reliable. Companies are not required to provide supportive documentation with respect to used claims in advance. However, such documents may be requested by the FAS in the case of an investigation. A specific list of documents that should be provided to the FAS has not been established. However, as a matter of practice, the company may submit a description of production process, internal policies, technical documentation, etc. In case there are no documents or if documents do not confirm information about products, such an advertisement may be considered as misleading.

It is notable that according to the Russian advertising legislation information provided on product packaging is not considered as advertising. Therefore, misleading information provided on the product can be deemed as unfair competition.

In practice, manufacturers and importers of food products apply special descriptive terms in combination with the name of some products (e.g., traditional, natural, etc.). Generally, there are no specific rules on using such product descriptors. However, by means of Russian legislation, products containing such characteristics must comply with requirements established by technical regulations. Certain examples are provided in the table below.

Traditional

In general, this term does not exist in Russian legislation. However, in practice, when determining the traditionality of the product, Russian courts actually recognise an appellation of the origin of the product, which has its own special protection in the Russian Civil Code¹⁰⁸.

Artisan, artisanal, craft

Russian legislation does not recognise and does not use such terms with respect to food products.

Homemade

The TR on Food Safety does not apply to food products produced by citizens at home, on private farms or by citizens engaged in gardening, animal husbandry, and processes of production (manufacturing), storage, transportation and disposal of food products intended only for personal consumption and not designated for release into circulation in the customs territory of the EAEU, as well as the cultivation of crops and productive animals in the wild.¹⁰⁹

108 Art. 1516, 1518 the Russian Civil Code (part four) dated 18.12.2006 No. 230-FZ.

109 Article 3 of the TR on Food Safety.

The TR on Food Safety does not determine a term “homemade”, but refers to a term “food products of non-industrial production” i.e. food products obtained by citizens at home and (or) in private farms or citizens involved in gardening, horticulture, animal husbandry and other activities.

In addition to that, the TR on Food Safety uses the term “household” in combination with other food products (e.g., “meat of household rabbits”, which should occur from slaughter of healthy rabbits from the farms and/or the administrative territory in accordance with regionalization, officially free from contagious diseases).¹¹⁰

Farmhouse, country style

Russian legislation does not recognize and does not use such terms with respect to food products. See term “homemade” above for more details.

Natural

Russian legislation does not contain the term “natural” and does not provide for specific requirements of using this term when advertising food products. However, the TR on Food Marking and the TR on Food Safety, as well as other legal acts use the term “natural” in combination with other food products and provide certain requirements for such products itself and its marking.

110 Annex 5 to the TR on Food Safety “Requirements for unprocessed food (food raw materials of animal origin”.

1. Sugar

If a product marking states it does not contain sugar (i.e., sugar was not used in the product production), but sugar is naturally present in food products, the product's marking must contain the following prescription "Contain sugar of natural origin".¹¹¹

If a product marking states it contains only natural sugar, the products must contain only sugar of natural origin (i.e., sugar that is inherent in food products).

2. Honey

Honey and bee products allowed for circulation: natural honey and bee products obtained from holdings (apiaries) and administrative territories in accordance with regionalization, free from the threat of infectious diseases of farm animals and Pets, as well as: American foulbrood, European foulbrood, nosematosis during the last 3 months on the farm.

Honey and bee products restricted for circulation: (i) having modified organoleptic, physical and chemical properties and (ii) containing natural or synthetic estrogenic hormonal substances, thyreostatics.

Natural honey and beekeeping products cannot contain such drugs as chloramphenicol, chlorpromazine, colchicine, Dapsone, dimetridazole, nitrofurans, ronidazol and coumaphos – 100 mg/kg and amitraz 200 mg/kg.

Other drugs residues, which had been used for the treatment and processing of bees are not allowed in honey and bee products. The manufacturer

¹¹¹ Annex 5 to the TR on Food Marking "Conditions when using nutrition labelling information about the distinctive characteristics of food products".

must indicate all pesticides that have been used in the collection of honey and the production of bee products¹¹².

3. Canned Fish and Seafood

Natural canned fish – food fish products made from fish, aquatic invertebrates, aquatic mammals and other aquatic animals, as well as algae and other aquatic plants, with or without the addition of spices to the main components, in a sealed package, without pre-heat treatment of the components subjected to sterilization¹¹³;

There are certain GOSTs establishing requirements for natural canned fish and seafood, including GOST 13865-2000 “Canned fish in natural juice with oil. Specifications”, GOST 18056-88 “Canned natural shrimps. Specifications”, etc.

4. Water

There are several types of natural water as follows the processed drinking water, natural drinking water, drinking water for baby food, artificially mineralised natural water and the blended drinking water made with use of natural drinking water. Russian legislation establishes special safety indicators that each type of water must comply with.¹¹⁴

112 Annex 5 to the TR on Food Safety “Requirements for unprocessed food (food raw materials of animal origin”.

113 Technical regulations of the EAEU “Safety of Fish and Fish Products” (TR EAEU 040/2016).

114 Appendix No. 3 to the Technical regulations of the EAEU “On Safety of the Packed Drinking Water, Including Natural Mineral Water” (TR EAEU 044/2017).

5. Other Food Products

There are a number of GOSTs and special safety requirements (STBs) establishing general technical conditions applicable to a particular type of a natural food product. Such GOSTs and STBs are included in the list of standards, which must be complied with on a voluntary basis in order to ensure compliance with TR on Food Safety:

- (i) GOST R 51881-2002 “Natural instant coffee. General technical conditions”;
- (ii) GOST R 52088-2003 “Roasted natural coffee”;
- (iii) GOST R 52054-03 “Natural cow’s milk raw material. Specifications”;
- (iv) GOST R 52415-2005 “Natural cow’s milk raw material. Luminescent method for determining the number of mesophilic aerobic and facultative anaerobic microorganisms”;
- (v) GOST R 52054-03 “Natural cow’s milk raw material. Specifications”;
- (vi) STB 1020-2008 “Semi-finished natural meat”;
- (vii) STB 1694-2006 “Fruit and berry natural wine and processed fruit and berry wine materials”, etc.

Authentic

Russian legislation does not recognize and does not use such a term with respect to food products, see term “traditional” for more details.

Pure

Pure water – sea or fresh water, including disinfected (purified) water that does not contain microorganisms, harmful, radioactive substances and toxic plankton in dangerous quantities.¹¹⁵

¹¹⁵ Technical regulations of the EAEU “Safety of Fish and Fish Products” (TR EAEU 040/2016).

Pure milk – method for the determination of cleanliness is based on the separation of mechanical impurities from dosed samples of milk by straining through a filter and a visual comparison of the presence of mechanical impurities on the filter with the reference sample. Depending on the amount of mechanical impurities on the filter milk is divided into three groups of purity by comparing the filter with the sample.¹¹⁶

Fresh

Fresh fruit (including berries) and vegetables – which are not peeled, sliced or processed in this way.¹¹⁷

Raw fish (fresh) – exanimate fish at a temperature not higher than the temperature of the habitat or cooled.¹¹⁸

Other

On August 3, 2019, Russia adopted the Law on Organic Products that will enter into force on January 1, 2020. The Law on Organic Products provides that products can be marked with an inscription “organic” and respective image for organic products. Placing such a marking is possible after a special assessment procedure for organic products.

Currently, the Russian market contains a variety of organic products that are allowed into circulation based on a foreign assessment and compliance of which is confirmed through foreign “organic” certificates. Start-

116 “GOST 8218-89 “Milk. Method of determination of purity” (app. also it is put into operation by the Resolution of Gosstandart of the USSR dated 24.10.1989 No. 3158).

117 Technical regulations of the customs Union TR cu 022/2011 “Food products in terms of its labeling”.

118 Technical regulations of the EAEU “Safety of Fish and Fish Products” (TR EAEU 040/2016).

ing from January 1, 2020, foreign certificates will not be valid in Russia and importers will be obliged to obtain a Russian certificate for organic products (not the same as a certificate/declaration of conformity). Currently, an organic product assessment procedure is not established in Russia, and thus Russian “organic” certificates cannot be obtained. Considering that, importers are concerned if they will have to withdraw products containing the organic marking from the Russian market after the Law on Organic Products is entered into force. It is expected that secondary regulations will be available in the next couple of months.