On the Draft Agreement on the principles and approaches of state control (supervision) over compliance with the EAEU technical regulations in order to harmonize the legislation of the Member States of the Eurasian Economic Union in this sphere

1. Approve the draft Agreement on the principles and approaches of state control (supervision) over compliance with the EAEU technical regulations in order to harmonize the legislation of the Member States of the Eurasian Economic Union in this area (as attached) and send it to the Member States of the Eurasian Economic Union for intragovernmental procedures.

2. Request the Member States of the Eurasian Economic Union to inform the Eurasian Economic Commission on the implementation of intragovernmental procedures required to sign the Agreement specified in paragraph 1 hereof within 180 calendar days from the effective date of this order.

3. This disposition shall become effective on the date of its publication on the official website of the Eurasian Economic Union.

Members of the Eurasian Economic Commission's Council:

For the Republic of Armenia
Seal: EURASIAN ECONOMIC COMMISSION

For the Republic of Belarus
Seal: EURASIAN ECONOMIC COMMISSION

For the Republic of Kazakhstan
Seal: EURASIAN ECONOMIC COMMISSION

For the Kyrgyz Republic
Seal: EURASIAN ECONOMIC COMMISSION

For the Russian Federation
Seal: EURASIAN ECONOMIC COMMISSION
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AGREEMENT
on the principles and approaches of state control (supervision) over compliance with the EAEU technical regulations in order to harmonize the legislation of the Member States of the Eurasian Economic Union in this sphere

Member States of the Eurasian Economic Union,
hereinafter referred to as the Member States,
in accordance with the second item of paragraph 4 of Article 53 of the Treaty on the Eurasian Economic Union dated May 29, 2014,
recognizing the need to harmonize the legislation of the Member States in the field of state control (supervision) over compliance with the technical regulations of the Eurasian Economic Union (hereinafter – the Union),
attaching great importance to the production and circulation of safe products in the territories of the Member States,
have agreed as follows:

Article 1

This Agreement defines the principles and approaches of implementation of state control (supervision) over compliance with the technical regulations of the Union in the Member States (hereinafter – state control (supervision)) in order to harmonize the legislation of the Member States in this area.

Article 2
Compliance with mandatory requirements established by technical regulations of the Union in relation to the products and (or) the processes of design (including surveys), production, construction, installation, commissioning, operation, storage, transportation, distribution and disposal related to the product requirements (hereinafter – the product life cycle stages), subject to state control (supervision) by juridical persons and individuals registered as individual entrepreneurs (hereinafter – the individual entrepreneurs).

Responsibility for non-compliance with the technical regulations of the Union, depending on the product life cycle stage, shall be incurred by the juridical persons or individual entrepreneurs, including the manufacturers, persons authorised by the manufacturer, importers and sellers who produce and (or) assess the conformity of facilities to the technical regulation, and (or) release into circulation, and (or) sale of products, as well as conformity assessment bodies (including the certification bodies and testing laboratories (centers)) that assess the conformity of the technical regulation objects with the technical regulations of the Union in accordance with the legislation of the Member States.

Article 3

State control (supervision) shall be carried out by the state control (supervision) bodies of the Member States authorised in accordance with the legislation of the Member States (hereinafter referred to as the state control (supervision) bodies), based on the following principles:

presumption of good faith of the juridical persons and individual entrepreneurs;

transparency of activities of the state control (supervision) bodies;
protection of consumers' rights;
regularity of state control (supervision);
professionalism and competence of the state control (supervision) officials;
protection of the rights and legitimate interests of juridical persons and individual entrepreneurs being audited;
compliance with the law when scheduling and implementing state control (supervision) measures, making decisions based on their findings;
independence of the state control (supervision) bodies from manufacturers, sellers, contractors and purchasers (including the consumers);
unacceptability of combining state control (supervision) powers and accreditation powers by the same Member State body, except for the implementation of control over the activities of accredited conformity assessment bodies of the Member States (including the certification bodies and the testing laboratories (centers)) by the accreditation body of a Member State;
objectivity and impartiality of officials of the state control (supervision) bodies;
state financing of the activities of state control (supervision) bodies;
priority of crime prevention over punishment (except for the cases when failure to take steps to detect and stop the distribution of products that do not comply with the technical regulations of the Union may cause damage to human life and (or) health, life and (or) health of animals and plants, as well as damage to the environment);
assessment of the risk of violation of the requirements established by the technical regulations of the Union;
unacceptability of conducting inspections of the same mandatory requirements established by the technical regulations of the Union by several state control (supervision) bodies of the Member State in respect of the same
juridical person or individual entrepreneur.

Article 4

1. In order to optimize and improve the effectiveness of state control (supervision) in the Member States, a risk-based approach shall be applied, which provides for the implementation of state control (supervision) on the basis of an assessment of the risk of violation of the technical regulations of the Union, the results of which are used to select the form, duration, and frequency of state control (supervision) activities.

2. The rules for risk assessment in order to select the form, duration, and frequency of state control (supervision) activities shall be determined in accordance with the legislation of the Member States.

Article 5

1. State control (supervision) shall be subject to the provisions of this Agreement on the basis of the analysis and forecasting of implementation of the Union technical regulations and the adoption of measures to prevent, detect, deter the circulation of products not meeting the technical regulations of the Union in the territories of the Member States, and (or) elimination of adverse consequences of the violation of technical regulations of the Union through the activities for state control (supervision) stipulated by legislation of the Member States.

2. Analysis and forecasting of compliance with the technical regulations of the Union includes the study and synthesis of:

1) information about the juridical persons and individual entrepreneurs who are the applicants for the assessment of conformity of the technical
regulation objects with the technical regulations of the Union, including the research (testing) and measurements;

2) findings of state control (supervision);

3) information about the technical regulation objects that do not comply with the technical regulations of the Union, as well as about the cases of damage to human life and (or) health, life and (or) health of animals and plants, damage to the environment identified in accordance with the legislation of the Member States, including the information from the mass media.

Article 6

1. When conducting state control (supervision), the state control (supervision) bodies shall not be entitled to request that the juridical person or individual entrepreneur provided information that was previously submitted in accordance with the legislation of the Member States, or which can be obtained by state control (supervision) bodies in accordance with the legislation of the Member States of the state information systems, registries and registers, compiled and operating in accordance with the international treaties and acts comprised in the Union legislation, and well as the legislation of the Member States.

2. State control (supervision) shall be governed by the rules and methods of researches (tests) and measurements, including the sampling rules, which are contained in the standards or other documents included in the lists of international and regional (interstate) standards, and in their absence – in the national (state) standards containing the rules and methods of researches (tests) and measurements, including the rules of sampling required for the application and enforcement of the corresponding technical regulations of the Union and implementation of the assessment of conformity of the technical regulation
objects, approved by the Eurasian Economic Commission (hereinafter – the Commission) in accordance with the fifth item of paragraph 4 of the Technical Regulation Protocol within the Eurasian Economic Union (Annex 9 to the Treaty on the Eurasian Economic Union dated May 29, 2014) (hereinafter – the standards lists).

The researches (tests) and measurements within the framework of state control (supervision) shall be carried out in testing laboratories (centers) accredited in accordance with the legislation of the Member States.

The researches (tests) and measurements of samples in the testing laboratory (center) in which the product was estimated (confirmed) for compliance with the technical regulations of the Union shall not be allowed during the state control (supervision), except for the cases when only one testing laboratory (center) conducting the required state control (supervision) of the test is registered in the territory of the Member State as a juridical person.

To settle the disputes regarding the results of researches (tests) and measurements carried out within the framework of state control (supervision), reference measurement methods (techniques) determined in accordance with the procedure for certifying the measurement method (technique) adopted as a reference measurement method (technique), approved by the Commission, from among those included in the standards lists shall be used.

3. The state control (supervision) bodies shall be entitled to involve experts and (or) expert organisations in the state control (supervision) activities in accordance with the procedure established by the legislation of the Member States. These measures shall be implemented taking into account the principle of independence of these experts and expert organisations from manufacturers, sellers, contractors, and purchasers (including the consumers).

4. Unscheduled inspections may be carried out by the state control (supervision) bodies in the following cases:
1) the receipt of information from the state bodies on violations of the technical regulations of the Union by the state control (supervision) body in accordance with the procedure established by the legislation of the Member States;

2) the occurrence of a threat and (or) causing damage to human life and (or) health, life and (or) health of animals and plants, as well as damage to the environment;

3) in other cases stipulated by the legislation of the Member States.

Article 7

1. For the organization of state control (supervision) and prevention of the release into circulation and circulation in the territories of the Member States of products not meeting the technical regulations of the Union, the Member States shall ensure interaction among the state control (supervision) bodies, as well as interaction of the state control (supervision) bodies with the bodies or juridical persons authorised in accordance with the laws of the Member States for accreditation, including through the regular exchange of information and sharing of the experience of state control (supervision).

The procedure of this interaction is determined by the Council of the Commission.

2. The state control (supervision) bodies shall use the integrated information system of the Union in order to ensure the information exchange and interaction during state control (supervision).

Article 8

1. For the purpose of operational interaction of the state control
(supervision) bodies and other authorised bodies of the Member States in the course of implementation of the shared processes within the Union using the integrated information system of the Union, the functioning of the system for informing about dangerous products shall be ensured.

2. In the framework of the hazardous products information system, the shared information resources shall be generated, maintained, and used, as well as the information shall be exchanged, including:

   1) on the detected products not meeting the technical regulations of the Union, as well as on the measures taken to prevent, detect, and suppress the circulation of such products in the territories of the Member States and (or) to eliminate the adverse consequences of the detected violations;

   2) on the identified cases of sale of the products subject to mandatory assessment of conformity to the technical regulations of the Union in the territory of the Member State, without the documents on conformity assessment or information about its conduct;

   3) on the revealed facts of violation of the technical regulations of the Union in the product conformity assessment, including the facts of violation of the rules for performing certification works and the facts of submitting unreliable research (test) findings and measurements.

3. The procedure of submitting, collecting and summarizing information, its composition, the procedure of placing the same in the shared information resources specified in paragraph 2 of this article, as well as the rules of operation of the hazardous products reporting system shall be determined by the Commission.

4. The state control (supervision) bodies and other authorised bodies of the Member State shall take steps provided for by the legislation of the Member State to prevent and suppress the release and circulation of products that do not meet the technical regulations of the Union in the territories of the Member
States, where the information about such products is contained in the hazardous products reporting system.

Article 9

1. The state control (supervision) bodies shall interact in order to:

1) identify the products that do not meet the technical regulations of the Union, including for the purpose of making a decision to issue an order on the need to suspend or terminate (invalidate) the conformity assessment document to the body issuing this document, or to a juridical person or an individual entrepreneur who accepted this document, in the territories of the Member States;

2) prevent the release and circulation of products that do not meet the technical regulations of the Union in the territories of the Member States.

2. Suspension or termination of the validity (invalidation) of conformity assessment documents shall be the responsibility of the state control (supervision) bodies and (or) other authorised bodies of the Member State in accordance with the legislation of this Member State.

3. The Member State that does not agree with the results of activities carried out by the state control (supervision) body of another Member State may request the Commission to consider the validity (taking into account the requirements established by the technical regulations of the Union) of steps taken by the state control (supervision) body of such Member State in respect of the relevant products.

Based on the results of consideration of such a request by the Board of the Commission, it may be recommended that the Member State, the state control (supervision) body of which decided to take a relevant step, review the outcome of the state control (supervision) measures, taking into account the
technical regulations of the Union.

The procedure of consideration of these requests shall be established by the Commission.

Article 10

1. The Member States shall ensure that information on the state control (supervision) bodies is submitted to the Commission, indicating the regulations giving the relevant powers to these bodies, as well as information on the regulations prescribing the procedure of state control (supervision) in the Member States.

2. The Commission shall ensure that the information specified in paragraph 1 of this article is published on the official website of the Union.

Article 11

The disputes related to the application and (or) interpretation of this Agreement shall be resolved in accordance with the procedure established by the Treaty on the Eurasian Economic Union dated May 29, 2014.

Article 12

1. This Agreement is an international agreement concluded within the framework of the Union and is included in the law of the Union.

2. This Agreement shall enter into force upon expiration of 30 calendar days from the date of receipt by the depositary of the most recent notice in writing on the completion of internal procedures required for the entry of this Agreement into force by the member States through diplomatic channels.
3. This Agreement may be amended by mutual consent of the Member States set forth in separate protocols and forming an integral part hereof.

Done in ________________ on _______________ 2019 in the form of one original counterpart in Russian.

The original counterpart of this Agreement shall be kept by the Eurasian Economic Commission, which, as the depositary of this Agreement, will forward a certified copy thereof to each Member State.

For the Republic of Armenia

For the Republic of Belarus

For the Republic of Kazakhstan

For the Kyrgyz Republic

For the Russian Federation

Seal: EURASIAN ECONOMIC COMMISSION * FOR DOCUMENTS