



June 22, 2021

VIA Email (dept_techregulation@eurasiancommission.org)

Eurasian Economic Commission
Department for Technical Regulation and Accreditation
2 Letnikovskaya St., bld.1/2,
Moscow 115114

Re: Comments in Response to Draft Amendments to the Technical Regulation of the Customs Union "On the Safety of Packaging" (CU TR 005/2011) -- WTO Notification G/TBT/N/RUS/112

Dear Sir or Madam:

On behalf of the International Council of Beverages Associations (ICBA), we appreciate the opportunity to submit comments in response to the Russian Federation's draft amendments to the technical regulation of the Customs Union "On the Safety of Packaging" (CU TR 005/2011) which was notified to the World Trade Organization ("WTO") on April 12, 2021 (G/TBT/N/RUS/112).

ICBA is the international business association established in 1995 that is the voice of the global non-alcoholic beverage industry. The members of ICBA include national and regional beverage associations as well as international beverage companies that operate in more than 200 countries and territories and produce, distribute, and sell a variety of non-alcoholic sparkling and still beverages, including the leading global energy drink brands¹. ICBA is a recognized observer at the Codex Alimentarius ("Codex")² the Safety of Packaging (CU TR 005/2011) -- WTO Notification G/TBT/N/RUS/112

I. Executive Summary

We wish to commend the Eurasian Economic Commission for this initiative in revising the technical regulation of the Customs Union "On the Safety of Packaging" to assure product safety and quality. We take this opportunity to thank you for your efforts to continue to drive excellence in updating

¹ ICBA members include: American Beverage Association; Arab Beverage Association; Asociación Nacional de Empresarios de Colombia; Asociación Nacional de Productores de Refrescos y Aguas Carbonatadas, A.C.; Asociación de Industrias de Bebidas Gaseosas de la República Dominicana, Inc.; Australian Beverages Council Ltd.; Beverage Association of South Africa; Brazilian Association of Soft Drink and Non Alcoholic Beverages; Cámara Costarricense de la Industria Alimentaria; Canadian Beverage Association; China Beverage Industry Association; Indian Beverage Association; Japan Soft Drinks Association; Union of European Soft Drinks Associations; Energy-Drinks Europe; The Coca-Cola Company; Coca-Cola FEMSA; Arca Continental; Keurig Dr Pepper; Monster Energy; PepsiCo, Inc.; and Red Bull.

² For further information, please see www.icba-net.org.



food safety standards. It is our aim to collaborate and work with authorities to facilitate this process. It is with this view, that we hope you will consider our recommendations outlined in the below:

- A. Add definition for “disposal” and “recycling” in relation to packaging in Article 2.
- B. Clarify the definition of “printed packaging materials.”
- C. Remove requirement in Article 6 of TR CU 005/2011 that requires industry to identify where the package material is made.
- D. Provide clarity for Clause 3 of Article 6 on the disposal of packaging material.
- E. Provide clarity for packaging processed into recycled/secondary material resources.
- F. Remove wooden pallets from the amendment text in Appendix No. 5.

II. Recommended Modifications to the Draft Regulations

In order to help the Russian Federation better meet its international obligations under the TBT Agreement, ICBA proposes the modifications set forth immediately below in Sections II(A) – (F).

A. Add definition for “disposal” and “recycling” in relation to packaging in Article 2.

While the draft standard defines “recycling” in Appendix 6 of the amendment, we respectfully request the Eurasian Economic Commission to align their definition of “recycling” with the definition used by the European Union in Directive 2008/98/EC of the European Parliament and of the Council of November 19, 2008 on waste which includes the use of packaging for the production of recycled/secondary material resources, including reusing the same packaging. It is especially important to introduce this definition in connection with the manufacturer's obligation to establish methods of disposal of materials in contact with food in technical documentation (e.g. in the Russian Federation - Article 16 of the Federal Law “On the quality and safety of food products”). The use of recycled materials and articles should be favored in the Eurasian Economic Union for environmental reasons, provided that strict requirements are established to ensure food safety and consumer protection. Such requirements should be established taking also into account the technological characteristics of the different groups of materials and articles. Priority should be given to the harmonization of rules on recycled plastic material and articles as their use is increasing and national laws and provisions are lacking or are divergent.

B. Clarify the definition of “printed packaging materials.”

ICBA respectfully requests the Eurasian Economic Commission to amend the definition of “printed packaging materials” to include materials not used to form packaging such a material are rolls of

printed labels glued to PET bottles, etc. To provide further clarity, we respectfully propose the following specific amendments to TR CU 005/2011:

“...packaging materials, including combined and multilayer polymeric materials, in roll form or in sheets, with printing (information for the consumer about the product to be packaged), intended for the formation (manufacture) of packaging (package, pack, etc.) in the process of packaging or wrapping the product; with the exception of label material not used to form the package.”

C. Remove requirement in Article 6 of TR CU 005/2011 that requires industry to identify where the package material is made.

ICBA proposes to amend Article 6 of TR CU 005/2011 which requires the importer of any packaged goods to separately identify where the packaging material is made on the tag or label. This information is already provided in the product's accompanying documentation under the section on “marking” in TR CU 005/2011 thus making this extra labeling requirement duplicative and would create extra costs for the importers. Therefore, we request Eurasian Economic Commission to allow industry the ability to indicate information about the material in the accompanying documentation.

D. Provide clarity for Clause 3 of Article 6 on the disposal of packaging material.

In clause 3 of Article 6, the draft regulation proposed to add the information on the method of disposal, while in the current edition of TR CU 005, the information contains a requirement for the possibility of disposal. ICBA believes that it is not possible for industry to indicate the method of disposal for packaging (closures) made of separate materials due to the lack of technologies for such disposal, and therefore, we propose to clarify the requirement.

E. Provide clarity for packaging processed into recycled/secondary material resources.

In paragraph 2.1 of Appendix 6, the draft standard indicates the priority method of packaging recycling into secondary (recycled) material resources. In the absence of a separate definition of “recycled/secondary material resources” in the amendment, ICBA proposes to amend the definition to:

Packaging processed into recycled/secondary material resources (in order to obtain source materials): packaging should be made taking into account the possibility of a priority method of recycling - processing into secondary material resources (including for production of exactly the same packaging).

F. Remove wooden pallets from the amendment text in Appendix No. 5.

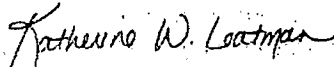
In Appendix No. 5, the draft regulation proposes to expand the objects of technical regulation TR CU 005/2011 to wooden pallets (for food and agricultural products) and polymer (for food, agricultural and perfumery and cosmetic products, industrial and household products, including light industry products and toys), except for used ones without any justification for such an expansion. In

addition, it remains unclear how the identification of wooden pallets as intended for food and agricultural products will be carried out, including in the case of placing food and other non-agricultural products on them at the same time, as well as the separation of new pallets and used pallets during circulation. This proposal will lead to the introduction of additional production control at all stages of pallet circulation, complication of document circulation, the need for additional labeling of pallets, including when importing goods placed on pallets, it will create excessive administrative barrier. Furthermore, international standards do not classify wooden pallets as packaging. For the reasons outlined above, ICBA proposes to remove the addition of wooden pallets from the amendment text in Appendix No. 5.

III. Conclusion

We welcome the opportunity to be part of a productive solution to any concerns, and we thank you for the opportunity to submit these comments. Please let us know if you have any questions or require additional information.

Respectfully submitted,



Katherine W. Loatman
Executive Director



12 April 2021

(21-3010)

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Committee on Technical Barriers to Trade

Original: English

NOTIFICATION

The following notification is being circulated in accordance with Article 10.6

1. Notifying Member: <u>RUSSIAN FEDERATION</u> If applicable, name of local government involved (Article 3.2 and 7.2):
2. Agency responsible: Eurasian Economic Commission Department for Technical Regulation and Accreditation Tel: +7(495)669-24-00 Fax: +7(495)669-24-15 E-mail: dept_techregulation@eurasiancommission.org Website: www.eurasiancommission.org Name and address (including telephone and fax numbers, email and website addresses, if available) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above: Russian Scientific and Technical Center for Information on Standardization, Metrology and Conformity Assessment (Standartinform, National enquiry point for the TBT Agreement) Tel: +7(495) 531-26-59 E-mail: info@gostinfo.ru Website: www.gostinfo.ru
3. Notified under Article 2.9.2 [X], 2.10.1 [], 5.6.2 [], 5.7.1 [], other:
4. Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable): Packaging (closures); processes of production (manufacturing), storage, transportation, sale and disposal associated with the requirements for packaging (closures).
5. Title, number of pages and language(s) of the notified document: Draft amendments to the technical regulation of the Customs Union "On the Safety of Packaging" (CU TR 005/2011) (15 page(s), in Russian)
6. Description of content: The draft amendments to the technical regulation of the Customs Union "On the safety of packaging" (TR CU 005/2011) (hereinafter respectively - the draft amendments, CU TR 005/2011) was developed in accordance with paragraph 39 of Section II of the Plan for the development of technical regulations of the Eurasian Economic Union and amendments to the technical regulations of the Customs Union, approved by the Decision of the EEC Council No. 79 of 1 October 2014. Draft amendments to the technical regulation of the Customs Union "On the safety of packaging" (TR CU 005/2011) has been developed to clarify individual requirements of the technical regulation based on the results of the practice of its application.
7. Objective and rationale, including the nature of urgent problems where applicable: Protection of animal or plant life or health (chemical)
8. Relevant documents:

<ul style="list-style-type: none">• Draft amendments to the technical regulation of the Customs Union "On the Safety of Packaging" (CU TR 005/2011) http://docs.eaunion.org/pd/ru-ru/0105824/pd_31032021• Technical regulation of the Customs Union "On the Safety of Packaging " (CU TR 005/2011) http://www.eurasiancommission.org/ru/act/texnreg/deptexreg/tr/Documents/TR%20TS%20Upakovka.pdf
<p>9. Proposed date of adoption: To be determined Proposed date of entry into force: To be determined</p>
<p>10. Final date for comments: 23 June 2021</p>
<p>11. Texts available from: National enquiry point [] or address, telephone and fax numbers and email and website addresses, if available, of other body:</p> <p>http://docs.eaunion.org/pd/ru-ru/0105824/pd_31032021 http://www.eurasiancommission.org/ru/act/texnreg/deptexreg/tr/Documents/TR%20TS%20Upakovka.pdf</p>