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K.A. Utarov[1*], G.D. Meirkulova[1], Sh.Sh. Sartaeva[2]

[1]Miras University, Kazakhstan, Shymkent
[2]South Kazakhstan University named after M. Auezov, Kazakhstan, Shymkent
*e-mail: koben_kok_koz@mail.ru

THE CONCEPT OF SUBSTANDARD (FALSIFIED AND POOR QUALITY) INDUSTRIAL PRODUCTS AND ITS TYPES

The purpose of the article is to analyze the concept of substandard products (substandard goods) as an important element of the conceptual apparatus that provides legal regulation of trade and trade law.

The article examines the concept of substandard products (substandard goods), which, according to the author, does not have proper legislative regulation and, in fact, has a complex structure. Based on the analysis of approaches that been developed in practice, the author proposes to understand substandard and poor-quality goods, the actual characteristics (properties) of which do not correspond to those declared in accordance with the requirements of regulatory legal acts or regulatory documentation.

It is proposed to refer to the types of substandard products: 1) falsified products, i.e. products declared in accordance with the requirements of regulatory legal acts or regulatory documentation, composition of which has been consciously (deliberately) changed; 2) low-quality products – the composition of which was subjected to change due to negligence.

As the main research method, we should designate the comparative legal method, as well as the method of situational synthesis, which allows us to distinguish between concepts based on real differences, the subtleties of which are not taken into account when developing and using concepts in real situations.

The author substantiates the need to distinguish between the illegal circulation of substandard products (products with a changed composition) and the illegal circulation of conditioned products, the composition of which meets the requirements stated in accordance with regulatory legal acts and regulatory documents, but the circulation of such products is carried out in violation of exclusive rights, requirements for its registration and certification.

Key words: industrial products, substandard products, counterfeit products, substandard products, Eurasian Economic Union.

К.А. Утаров[1]*, Г.Д. Мейіркұлова[1], Ш.Ш. Сартаева[2]

[1]Мирас Университеті, Қазақстан, Шымкент қ.
[2]М. Әуезов атындағы Оңтүстік Қазақстан университеті, Қазақстан, Шымкент қ.
*e-mail: koben_kok_koz@mail.ru

Кондициялық емес (жалған және сапасыз) өнеркәсіп өнімі ұғымы және оның түрлері

Мақаланың мақсаты – сауда мен сауда құқығын құқықтық реттеуді қамтамасыз ететін тұжырымдамалық аппараттың маңызды элементі ретінде сапасыз өнім (substandard goods) ұғымын талдау.

Мақалада сапасыз өнім (substandard goods) ұғымы қарастырылады, авторлардың пікірінше, тиісті заңнамалық реттеу жоқ және іс жүзінде күрделі құрылымға ие. Практикада әзірленген тәсілдерді талдау негізінде авторлар нақты сипаттамалары (қасиеттері) нормативтік құқықтық актілердің немесе нормативтік құжаттаманың талаптарына сәйкес мәлімделгенге сәйкес келмейтін сапасыз тауарларды түсінуді ұсынады.

Сапасыз өнімнің түрлеріне мыналарды жатқызу ұсынылады: 1) жалған өнім, яғни құрамы саналы түрде (қасақана) өзгертілген нормативтік құқықтық актілердің немесе нормативтік құжаттаманың талаптарына сәйкес мәлімделген өнім; 2) сапасыз өнім – құрамы ұқыпсыздықтан өзгертуге ұшыраған өнім.

Зерттеудің негізгі әдісі ретінде салыстырмалы құқықтық әдісті, сондай-ақ нақты айырмашылықтар негізінде тұжырымдамалар арасындағы айырмашылықты анықтауға мүмкіндік беретін ситуациялық синтез әдісін белгілеу керек, олардың нәзіктіктері нақты жағдайларда тұжырымдамаларды әзірлеу мен қолдану кезінде ескерілмейді.

Авторлар сапасыз өнімнің (құрамы өзгертілген өнімнің) заңсыз айналымының және құрамы Нормативтік құқықтық актілер мен нормативтік құжаттарға сәйкес мәлімделген талаптарға сәйкес келетін кондицияланған өнімнің заңсыз айналымының ара-жігін ажырату қажеттілігін негіздейді, бірақ мұндай өнімнің айналымы ерекше құқықты, оны тіркеуге және сертификаттауға қойылатын талаптарды бұза отырып жүзеге асырылады.

Түйін сөздер: өнеркәсіп өнімі, сапасыз өнім, контрафактілік өнім, сапасыз өнім, Еуразиялық экономикалық одақ.

К.А. Утаров[1]*, Г. Д. Мейірқұлова[1], Sh.Sh. Сартаева[2]
[1]Университет Мирас, Казахстан, г. Шымкент
[2]Южно-Казахстанский университет им. М. Ауэзова, Казахстан, г. Шымкент
*e-mail: koben_kok_koz@mail.ru

Понятие некондиционной (фальсифицированной и недоброкачественной) промышленной продукции и ее виды

Цель статьи заключается в анализе понятия некачественного товара как важного элемента понятийного аппарата, обеспечивающего правовое регулирование торговли и торгового права.

В статье рассматривается понятие некачественной продукции (substandard goods), которое, по мнению авторов, не имеет должного законодательного регулирования и, по сути, имеет сложную структуру. На основе анализа методов, выработанных на практике, авторы предлагают понимать некачественный товар, как товар конкретные характеристики (свойства) которого не соответствуют заявленным в соответствии с требованиями нормативных правовых актов или нормативной документации.

К видам некачественной продукции предлагается отнести: 1) фальсифицированную продукцию, т.е. продукцию, заявленную в соответствии с требованиями нормативных правовых актов или нормативной документации, состав которой был сознательно (умышленно) изменен; 2) некачественную продукцию, т.е. продукцию, состав которой был подвергнут изменениям из-за небрежности.

В качестве основного метода исследования следует обозначить сравнительно-правовой метод, а также метод ситуационного синтеза, который позволяет проводить различие между концепциями на основе реальных различий, тонкости которых не учитываются при разработке и использовании концепций в реальных ситуациях.

Авторы обосновывают необходимость разграничения незаконного оборота некачественного товара (товара, состав которого изменен) и незаконного оборота кондиционного товара, состав которого соответствует требованиям, заявленным в соответствии с нормативными правовыми актами и нормативными документами, но оборот такого товара осуществляется с нарушением специальных прав, требований к его регистрации и сертификации.

Ключевые слова: промышленная продукция, некачественная продукция, контрафактная продукция, некачественная продукция, Евразийский экономический союз.

Introduction

The concept of substandard industrial products (substandard goods) currently does not have a legislative definition, although it is used in many regulatory legal acts (Order of the Ministry of Energy of the Russian Federation), in special literature (Sarah 2019), as well as in documents of international organizations (https://www.who.int/medicines/regulation/ssffc/publications/gsms-report-sf/en/). One of the first to legalize the concept of substandard products as a generic one in relation to the concepts of counterfeit, falsified and substandard medicines was D.N. Shevyrev. At the same time, it is proposed to classify as substandard such counterfeit, falsified and substandard drugs, the substandard of which arose, among other things, as a result of violation of the requirements established by regulatory legal acts for the processes of production and circulation of drugs (Maksimov 2019).

Definitions of the concepts of substandard, falsified and low-quality industrial products are formulated to fix them as terms in an additional special protocol to the Treaty on the EAEU.

Material and methods

In our opinion, in this definition, two different types of illegal circulation of products (goods) turned out to be mixed: 1) illegal circulation of actually substandard, i.e. falsified and substandard products (goods), which is completely prohibited except for mandatory actions prescribed by law (as a rule, we are talking about mandatory storage or transportation at the direction of authorized officials (for example, for the purposes of criminal proceed-

ings) or the destruction of such products) ; 2) turnover of conditioned (i.e., high-quality goods that meet all regulatory requirements) (Efremova 2000) goods carried out in violation of the established procedure for such turnover (for example, the sale of conditioned patent-protected products without the permission of the copyright holder (for example, without concluding a license agreement), sale of unregistered conditioned medical devices or medicines or non-certified radio-electronic equipment, smuggling of conditioned alcoholic beverages or tobacco products) (https://www.gost.ru).

This conclusion is confirmed, in particular, by the analysis of lexicographic literature. According to the literal meaning, the concept of "condition" (from the Latin conditio -condition) means a norm, standard, quality, which, according to a contract or a regulatory legal act, must comply with an object (in particular, a product) (Komlev 2000). In any case, the property of conditionality refers to the object itself, and not to the method of its manufacture (production) (http://www.slovorod.ru/dic-krysin/krys-k.htm).

In contrast to the concept of substandard products, the concepts of such types as "counterfeit products" ("falsified goods") and poor-quality products ("poor-quality goods") are defined in the legislation of the EAEU member states in relation to certain types of products.

The WHO operates with such concepts as:

Poor quality products, also referred to as "substandard". Such medical products are authorized, but do not meet either quality standards or specifications, or neither.

Unregistered/unlicensed medical products. These are medical products that have not been evaluated and/or approved by a national or regional regulatory authority for the market in which the product is marketed/distributed or used, under acceptable conditions in accordance with national or regional regulatory requirements.

Falsified medical products. Medical products accompanied by deliberately false information about their nature, composition or origin (https://www.who.int/ru/news-room/fact-sheets/detail/substandard-and-falsified-medical-products).

Types of illegal circulation of substandard industrial products

As already noted, substandard industrial products, including two types of products, the actual characteristics (properties) of which do not correspond to those declared in accordance with the requirements of regulatory legal acts or regulatory documentation.

The first type of illegal circulation of substandard industrial products, taking into account the previously formulated definitions of the concepts of illegal circulation and substandard products, should include illegal circulation of counterfeit (counterfeit) industrial products (counterfeit goods).

So, in accordance with the Federal Law of January 2, 2000 No. 29-FZ (as amended on December 27, 2019) "On the Quality and Safety of Food Products" to falsified food products (including biologically active additives – dietary supplements) , materials and products include such food products (including dietary supplements), materials and products that have been intentionally altered (forged) and (or) have hidden properties and quality, information about which is deliberately incomplete or unreliable (hereinafter – Federal Law No. 29) (Collection of legislation of the Russian Federation).

A similar definition was used by the legislator of the Republic of Kazakhstan to define the concepts of counterfeit medicine and counterfeit medical device. In accordance with par.50 of Art.1 of the Code of the Republic of Kazakhstan dated September 18, 2009 No. 93-IV "On the health of the people and the healthcare system", such medicines and medical devices are recognized as falsified, which were "illegally and intentionally" provided with "inaccurate information and a fake label about their composition or configuration and (or) manufacturers" (hereinafter referred to as the Health Code of the Republic of Kazakhstan) (http://adilet.zan.kz).

A similar definition is used in relation to counterfeit medicines by the legislator of the Republic of Belarus. According to Article 1 of the Law of the Republic of Belarus dated July 20, 2006 No. 161-З "On Medicines" (as amended and supplemented by the Law of the Republic of Belarus dated November 17, 2014 No. information about its composition and (or) manufacturer" (National register of legal acts of the Republic of Belarus 2006).

A significantly different definition of the concept of counterfeit products is provided for in Part 12 of Article 38 of the Federal Law of November 21, 2011 No. 323-FZ "On the Basics of Protecting the Health of Citizens in the Russian Federation" in relation to medical devices. According to this regulation, a falsified medical device is understood as a device "accompanied by false information about its characteristics and (or) manufacturer (manufacturer)" (hereinafter – Federal Law No. 323) (Collection of legislation of the Russian Federation).

A similar definition is provided for in paragraph 32 of Article 4 of the Federal Law of April 12, 2010 No. 61-FZ "On the Circulation of Medicines" in rela-

tion to medicines (hereinafter – Federal Law No. 61) (Collection of legislation of the Russian Federation).

The main drawback of these definitions in comparison with the definition of the concept of a falsified food product (Federal Law No. 29) and the definition of "counterfeit medical devices and medicines" (the Code of the Republic of Kazakhstan on Health), in our opinion, is that they allow both deliberate application of false information about the composition and (or) the manufacturer of the medical device and medicinal product, as well as careless.

This uncertainty creates formidable obstacles to distinguish between falsified products with a modified composition and substandard (low-quality) products. The falsification of the composition of products (in particular, the composition of medical devices and medicines) can, as correctly stated in the definition of the concept of a falsified food product in Federal Law No. 29, be carried out only intentionally (consciously) or intentionally, as specified in the Code of the Republic of Kazakhstan on Health.

In addition, the definitions of the concepts of counterfeit medicines and medical devices, which are given by the legislators of Kazakhstan and Belarus, are purely formal and, in our opinion, allow an incorrect understanding of the essence of falsification (i.e. counterfeit) of products, reducing such falsification to the deliberate placement of unreliable information about its composition or manufacturer. In fact, product falsification is, first of all, a deliberate change in its proper (usually, normatively defined) composition.

The placement of unreliable information about the composition of industrial products on a product, and even more so on its packaging, should, in our opinion, be considered only as a secondary sign of falsification, in fact, as a consequence of the actual falsification of products.

The importance of this circumstance, in our opinion, lies in the fact that the correctness of determining the moment of completion of the corresponding crime depends on it. If falsification of products consists in placing unreliable (false) information on the product (on its primary packaging), then the moment of the end of the relevant act should be considered from the moment the relevant information is posted.

In this case, the stage of actual intentional change of the composition of the product (for example, replacing the normative ingredient with another cheaper one) can only be considered as preparation for placing the corresponding false information on the packaging, since the actual change in the composition of the product cannot be considered as actions to put false information on the packaging.

Thus, if the falsification of a particular type of product, according to the national criminal legislation of a member state of the EAEU, is classified as a crime of medium gravity (i.e., the maximum punishment for a crime does not exceed 5 years in prison), then the actual falsification of such products (up to causing a false information on the packaging) cannot be subject to criminal prosecution under the Criminal Code of the Republic of Kazakhstan (part 2 of article 24), the Criminal Code of the Kyrgyz Republic (part 2 of article 38), the Criminal Code of the Russian Federation (part 2 of article 30).

In Armenia, not only preparation for crimes of small and medium gravity, but also an attempt to commit a crime of these categories is not subject to criminal liability. A different (more stringent) approach is proposed by the legislator of Belarus. According to the Criminal Code of the Republic of Belarus, criminal liability does not arise for preparing only for a crime that does not pose a great public danger (part 2 of article 13).

From this, for example, it follows that in Russia the actual production of counterfeit medicines or medical devices until the moment when false information is printed on their packaging without aggravating circumstances (the commission of a crime by a group of persons by prior agreement or by an organized group) should not formally be considered as a completed crime, since the act provided for by part 1 of Art.238 of the Criminal Code of the Russian Federation belongs to the category of crimes of medium gravity (Collection of legislation of the Russian Federation).

An analysis of the relevant judicial practice shows that the relevant issues do not receive a proper criminal law assessment. Thus, the Leninsky District Court of Krasnoyarsk No. 1-257 / 2017 dated April 4, 2017, under Part 2 of Art. 238 of the Criminal Code of the Russian Federation "Circulation of counterfeit, substandard and unregistered medicines, medical devices and circulation of counterfeit biologically active additives" sentenced to imprisonment for a period of 5 years suspended with a probationary period of 3 years with a fine of 1 million rubles, the director of "Trade House Fakel" JSC and V.M. Kleshkov, the director of the Chemical Plant, a branch of "Krasmash" OJSC, for the production and sale of counterfeit medicines and illegal production and sale of unregistered medicines on a large scale. V.M. Kleshkov "certainly knowing that the manufacturer of medical gaseous oxygen is "Fakel Trade House"JSC, in order to hide information from

the hospital staff about the actual manufacturer of the medicinal product, instructed the subordinate employees of the Chemical Plant, who were not aware of him and Dubovik P.K. criminal intent, to issue quality passports for the manufactured batch of the medicinal product, in which the manufacturer of medical gaseous oxygen indicated Krasmash JSC, which they carried out by transferring these documents to the employees of Fakel Trade House LLC (http://medbrak.ru/news.php?ID=3269). At the same time, the actual falsification, i.e. production of a medicinal product – medical gaseous oxygen, which does not meet the requirements of regulatory documentation, has not been subjected to any criminal law assessment. In this way,

At the same time, it should be taken into account that the Criminal Code of the Russian Federation for today provides for a separate liability in a separate article for misrepresenting information about the manufacturer of medicines and medical devices.

Yes, Art. 327 of the Criminal Code of the Russian Federation provides for liability for counterfeiting (falsification) of both primary and secondary packaging of medicines and medical devices, which forms an independent corpus delicti (part 2 of article 327 of the Criminal Code of the Russian Federation). In this regard, the law enforcer was actually forced to:

1) refuse to use the definition of a counterfeit medicine, which is given in Federal Law No. 61, and a similar definition of the concept of a counterfeit medical device, which is given in Federal Law No. 323, since the manufacture of packaging for these types of products is equated to their production according to these definitions;

2) in all cases of detection of medicinal or medical products with information already applied to them about their characteristics or manufacturers, to qualify the deed at the same time as a crime under the relevant part of Art. 238 of the Criminal Code of the Russian Federation, and as a crime under Part 2 of Art. 327 of the Criminal Code of the Russian Federation (an ideal set of crimes).

Similar problems arise, in our opinion, in the interpretation of Art. 323 of the Criminal Code of the Republic of Kazakhstan "Handling counterfeit medicines or medical devices".

With regard to dietary supplements, as already noted, this problem is absent for the Russian law enforcer for two reasons: 1) for dietary supplements as a type of food product, a different ("material") definition of the concept of counterfeit products should be applied, which is given in Federal Law No. 29; 2) criminal liability for the manufacture of fake packaging of dietary supplements by special rules that would be provided for in the Criminal Code of the Russian Federation is not provided.

In our opinion, it is difficult to find reasonable explanations for such "asymmetry", given that one of the most common forms of counterfeiting dietary supplements is the illegal inclusion of pharmaceutical substances in their composition, which makes them no less, if not more dangerous in comparison with counterfeit drugs (Federal Law 2016).

For law enforcement officers of other EAEU member states, this problem is absent due to the lack of special rules on liability for the circulation of dietary supplements in the criminal legislation.

The EAEU Treaty does not use or define the concept of "falsified products" ("falsified goods"). Only in the Agreement on Uniform Principles and Rules for the Circulation of Medicines within the Eurasian Economic Union dated December 23, 2014, the concept of a falsified medicinal product is used (without definition).

An analysis of the considered definitions of the concepts of certain types of counterfeit products allows us to formulate a definition of the concept of counterfeit products, which, in our opinion, can be proposed for fixing in an additional special protocol to the Treaty on the EAEU:

"Falsified industrial products (goods) – industrial products (goods), the composition of which (physical, organoleptic, ethical, temporary, ergonomic, functional properties), determined in accordance with an international treaty within the Union, regulatory legal acts of the Member States and (or) other regulatory documents adopted in accordance with and were intentionally illegally changed (forged).

The second type of substandard products, as already noted, is low-quality products (low-quality goods).

The basic category for the concept of poor-quality goods (poor-quality products) is the category of "goods quality", which is quite deeply and comprehensively developed in the special scientific literature (Azgaldov 1982) and provided for in civil law and various standards.

So, according to V.Yu. Ogvozdin (whose views are one of the most common points of view in science), product quality should be considered "a set of properties and characteristics objectively inherent in a product, the level or variant of which is formed when a product is created in order to meet existing needs" (Ogvozdin 2009).

Thus, product quality is not limited to the objective properties of products, but includes the

ability to satisfy consumer needs, i.e. ability to be useful (McConnell 2009).

At the same time, the main elements that determine product quality include a defect, which is understood as "a separate non-compliance of products with the requirements established by regulatory and technical documentation" and defect which is usually understood as a defective unit of production (Razumov 2010).

Thus, from the consumer point of view, a product defect is expressed in a decrease in the usefulness of a product, and a defect is expressed in the loss of usefulness (uselessness) of a product (product).

The civil legislation of the EAEU member states as a whole corresponds to the prevailing theoretical ideas about the content of the concept of "goods quality". According to Article 469 of the Civil Code of the Russian Federation, the quality of a product is its properties that determine the compliance (suitability) of the product with the goals for which (to achieve which) it is usually used (Civil Code of the Russian Federation dated November 30, 1994). A similar definition of product quality is given in Article 422 of the Civil Code of the Republic of Kazakhstan (CC RK) (http://adilet.zan.kz), similar articles of the civil codes of other EAEU member states.

Same approach with some differences is used in the International Standard "ISO 9000:2015. Quality management systems. Basic provisions and vocabulary", according to clause 3.6.2 of which quality (quality) is the degree of compliance of the totality of the characteristics inherent in an object (physical, organoleptic, ethical, temporal, ergonomic, functional) with the established requirements, i.e. a need or expectation that is established, usually assumed or obligatory) (https://www.iso.org/obp/ui/#iso:std:iso:9000:ed-4:v1:ru:term:3.6.4.).

The concept of low-quality (poor-quality) products (goods), as well as the concept of falsified products (goods), although it is used in the legislation of the EAEU member states and supranational regulation of the EAEU definitions only in relation to certain types of industrial products.

The most common of them, apparently, is the definition of the concept of "poor-quality material (product)", which is given in the Rules for consumer services approved by the Decree of the Council of Ministers of the Republic of Belarus of December 14, 2004 No. 1590 (as amended by the Decree of the Council of Ministers of the Republic of Belarus April 2, 2015 No. 268). Such is recognized as "a material (product), the totality of the characteristics of which does not allow the contractor to satisfy the needs of the consumer in the provision of household services" .

The preamble of the Law of the Russian Federation of February 7, 1992 No. 2300-1 (as amended on July 18, 2019) "On the Protection of Consumer Rights" contains only an indirect definition of the concept of poor quality (poor quality) goods, which should be understood as such goods that have shortcomings (including significant ones), which are manifested in the non-compliance of the goods with "mandatory requirements provided for by law or in the manner prescribed by it, or the terms of the contract (in their absence or incompleteness of the conditions with the usual requirements), or the purposes for which the goods (work, service) of this kind is usually used, or for the purposes of which the seller (executor) was informed by the consumer at the conclusion of the contract, or the sample and (or) description when selling goods according to the sample and (or) according to the description "(Collection of legislation of the Russian Federation 1996).

The principle of double non-compliance should be considered as distinctive feature of the above definitions of the concept of low-quality products (goods): 1) non-compliance with the formal requirements of regulatory legal acts or contracts; 2) non-compliance with consumer needs.

A different, formal approach to the definition of the concept of poor-quality products is reflected, for example, in paragraph 38 of Article 4 of the Federal Law on the Circulation of Medicines, a poor-quality drug is understood to be a drug that does not meet the "requirements of a pharmacopoeial article or, in the absence of it, the requirements of regulatory documentation or normative document.

A similar definition of the concept of poor-quality products is contained in Part 13 of Article 38 of the previously mentioned Federal Law No. 323, according to which "a medical device that does not meet the requirements of the regulatory, technical and (or) operational documentation of the manufacturer (manufacturer) or, in the absence of it, the requirements of another regulatory documentation" (Federal Law of December 31,).

At the same time, it should be noted that the legal limits of the concept of a poor-quality medical device are significantly less certain in comparison with the legal boundaries of the concept of a poor-quality medicinal product. If a pharmacopoeial monograph is "a document approved by an authorized federal executive body and containing a list of quality indicators and quality control methods for a medicinal product" (paragraph 19 of Article 4 of the Federal Law on the Circulation of Medicines),

i.e. normative legal act, then the regulatory, technical and (or) operational documentation of the manufacturer (manufacturer) is produced by the latter, albeit in compliance with the requirements established by the authorized federal executive body.

An analysis of the considered definitions of concepts allows us to formulate a definition of the concept of low-quality products, which, in our opinion, can be proposed for fixing in an additional special protocol to the Treaty on the EAEU:

"Poor-quality (poor-quality) industrial products (goods) – industrial products (industrial goods) whose composition (physical, organoleptic, ethical, temporary, ergonomic, functional properties) do not meet the requirements established in accordance with an international treaty within the Union, regulatory legal acts of states -members and (or) other regulatory documents adopted in accordance with them, except in cases where such properties were intentionally illegally changed (forged).

The reservation contained in the proposed definition that products of poor quality (poor quality) should not include products that have been counterfeited is aimed at preventing unreasonable confusion (identification) of illegal circulation of counterfeit products, as the most dangerous form of illegal circulation of products, and illegal circulation of poor-quality products.

Conclusions

1. Under substandard industrial products (substandard goods), for the purpose of combating its illegal circulation in the EAEU, it is proposed to understand falsified and poor-quality industrial goods, the actual characteristics (properties) of which do not correspond to those declared in accordance with the requirements of international treaties concluded within the framework of the EAEU, regulatory legal acts of the Member States and (or) adopted in accordance with them by other regulatory documents.

2. It is expedient to refer to substandard industrial products (industrial goods) ass follows: 1) counterfeit products, i.e. products whose composition (physical, organoleptic, ethical, temporary, ergonomic, functional properties), declared in accordance with the requirements of regulatory legal acts or regulatory documentation, has been consciously (intentionally) changed; 2) poor-quality products, the composition of which does not meet the relevant regulatory requirements, except in cases where such properties have been intentionally illegally changed (forged).

The definitions of the relevant concepts should be provided for in an additional special protocol to the Treaty on the EAEU.

3.In the interests of ensuring scientifically based differentiation of responsibility for forms of illegal circulation of industrial products that differ in degree of public danger, it is inappropriate to attribute to substandard industrial products: 1) counterfeit, uncertified and unregistered industrial products, the composition of which (physical, organoleptic, ethical, temporary, ergonomic, functional) corresponds to the declared according to regulatory requirements; 2) industrial products, the composition of which corresponds to the declared according to regulatory requirements, but which was produced or handled in violation of the rules established by regulatory legal acts for production processes.

Illegal circulation of these types of industrial products should also be subject to legal liability, however, the nature and severity of the relevant liability measures, as well as other legal consequences of such violations, should differ from the measures of the state response to the illegal circulation of substandard industrial products.

In particular, the withdrawal from circulation and destruction of industrial products, the composition of which (all essential characteristics) correspond to those declared in accordance with regulatory legal acts, in our opinion, can be applied only in exceptional cases (for example, in the interests of national security or in the presence of an international obligation, ratified by national law).

The proposed criterion for distinguishing between illegal circulation of industrial products, in our opinion, can be useful in implementing a risk-based approach to state control over compliance with the rules for the circulation of various types of industrial products (Maksimov 2019).

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