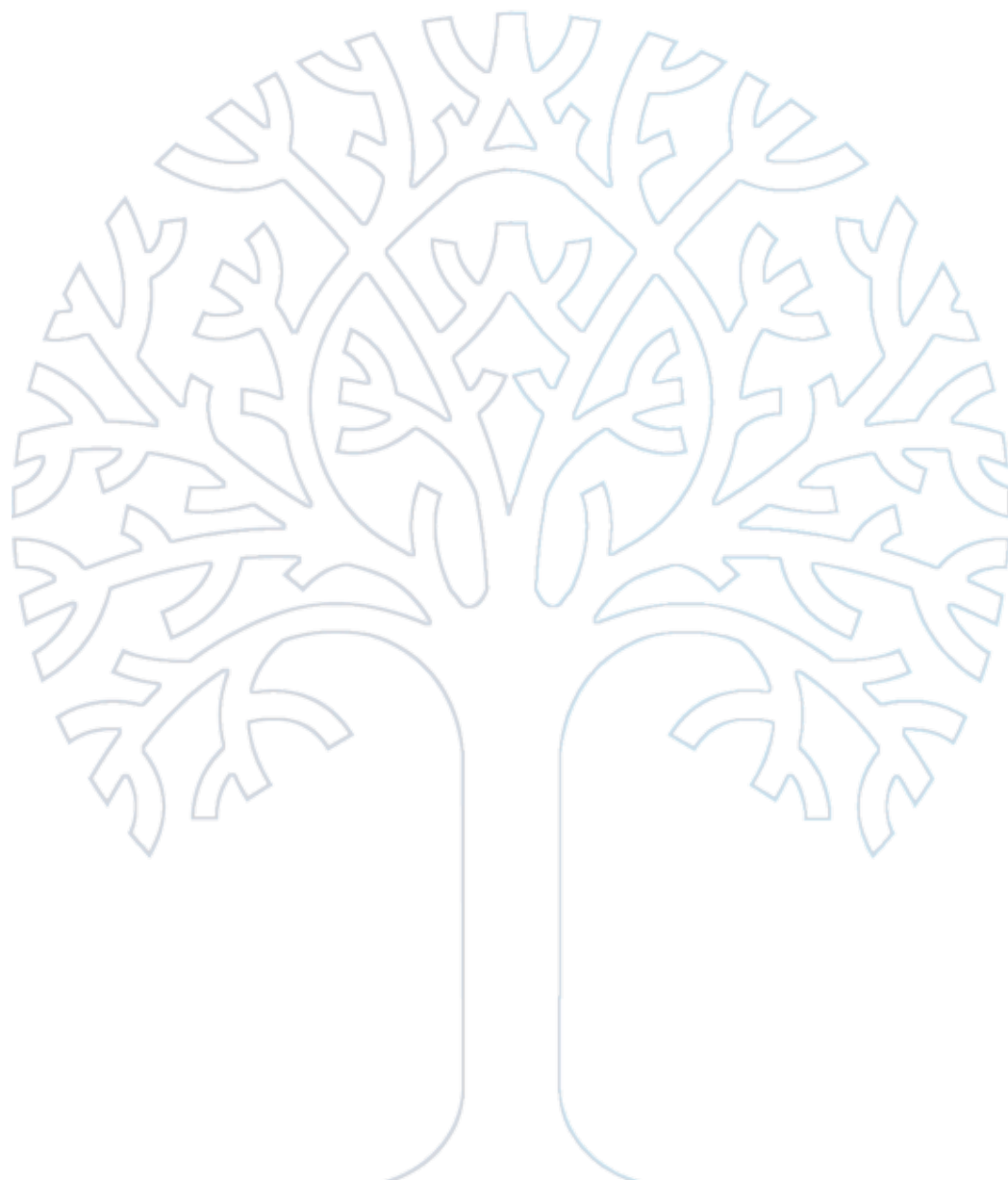




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BIS
amicus

A monthly e-newsletter on developments related
to Bureau of Indian Standards (BIS)

Lakshmikumaran & Sridharan Attorneys

India

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News Nuggets

Initiation of Quality Control Order (QCO) to ban substandard & spurious medical items from the Indian market

India has witnessed an import surge for substandard medical supplies such as chlorinated bags and gloves, particularly from Malaysia, Thailand, China, and Vietnam. In the apprehension of threat, to both the patients and the environment, the Central Government has initiated the process to bring such medical items under a QCO, so as to ban their sale in the absence of BIS certification.

The decision was taken pursuant to a meeting of the technical experts on 4 September. Anindith Reddy, a member of the Indian Rubber Glove Manufacturers Association ('IRGMA') also expressed his concern regarding such situation.

[Source: News in Hindustan Times, as available [here](#).]

Widespread impact of new machinery safety regulations

The Ministry of Heavy Industry ('MHI') has introduced the Machinery and Electrical Equipment Safety (Omnibus Technical Regulation) Order, 2024, which mandates prior approval from BIS and compliance to safety standards.

As per Georgia Tech Research Institute ('GTRI'), the nonprofit applied research arm of the Georgia Institute of Technology, the order will affect domestic production by the MSME segment and delay the import of essential equipment.

It was suggested that the Ministry extends the compliance timeline, implementation in a phased manner, and extending government support to help the industry deal with the regulations.

[Source: News in Economic Times, as available [here](#).]

In furtherance of the same, industry experts are also of the opinion that these regulations are likely to impact over 50,000 types of machinery and electrical equipment produced by more than 1,50,000 manufacturers, and will take up compliance costs.

[Source: News in Mint, as available [here](#).]

Manufacturers of IT hardware urge faster certification by BIS

IT hardware manufacturers of India are raising their concerns about the extended certification period of BIS and pushing for a significant reduction in the process for locally made laptops and notebooks.

The objective behind this is to accelerate domestic production under the Production-Linked Incentive (PLI) scheme. Manufacturers assert that this prolonged testing protocol is impeding their plans to expand local production, especially for models intended to debut in the country.

[Source: News in Economic Times, as available [here](#).]

Concerns regarding delay in BIS certification for footwear

K Narasimhan, Senior Advocate, Madras High Court, has addressed a letter to the Prime Minister's office, representing the woes of foreign footwear sellers. He mentioned that the certification process for global footwear brands manufacturing products abroad has faced substantial delays. To date, BIS has not issued licenses to numerous such foreign brands, and the same is deemed to be a serious threat to their continued presence in India.

[Source: News in Business Hindu Line, as available [here](#).]

National Green Tribunal (NGT) demands clarifications from BIS

NGT recently pursued *suo motu* consideration of a media report about the presence of two flame retardant chemicals in cars, viz. TDCIPP and TCEP, that are known to be carcinogenic. NGT Chairperson Justice Prakash Shrivastava noted that the Central Pollution Control Board (CPCB) lacks the facilities to test the carcinogenicity of these substances.

The Tribunal has now included several authorities as respondents, including BIS. The matter has been scheduled for further proceedings on 3 January 2025.

[Source: News in Money Control, as available [here](#).]

J&K Chief Secretary urges more frequent inspections by BIS

The Chief Secretary of Jammu & Kashmir, Mr. Atal Dulloo, has emphasized upon the importance of ensuring adherence to national standards. He also urged the Bureau and concerned authorities to make frequent inspections of all business establishments dealing with such products and services that come under the ambit of mandatory certification.

[Source: News on Rising Kashmir, as available [here](#).]

Issuance of grant of All India First Licenses

In September 2024, BIS granted All India First License to nine companies for their respective products and corresponding Indian Standards. The details of the same are discussed at length later in this newsletter.

[Source: What's New – BIS as available [here](#)]



Article

Standards and Quality Control Orders: The backbone of India's quality revolution

By LKS BIS Team

BIS Amicus – September 2024 / Issue 3, as available [here](#), delved into the key legal provisions of the BIS Act, 2016. Standing adjacent to the comprehensive regulatory framework of BIS are Indian Standards and Quality Control Orders that can have far-fetched implications for businesses manufacturing or importing goods and services in the Indian market.

In this article, we shall understand various provisions *vis-à-vis* the same.

What are Indian Standards? Are they mandatory to comply with?

Formulation of standards is one of the core activities of BIS. Indian Standards are defined under Section 10 of the BIS Act. In simple words, these are the specifications established by BIS, detailing the criteria for products, systems, and processes to meet. They cover a broad range of industries including electronics, chemicals, textiles, construction materials, and more.

So far, BIS has formulated more than 22,000 standards. These standards are periodically reviewed for carrying out any revision, amendment, reaffirmation, or withdrawal, as may be required.

Rule 15(1) of the BIS Rules, 2018

“15. Establishment of Indian Standards. – (1) The Bureau shall establish Indian Standards in relation to any goods, article, process, system or service and shall reaffirm, amend, revise or withdraw Indian Standards so established as may be necessary, by a process of consultation with stakeholders who may include representatives of various interests such as consumers, regulatory and other Government bodies, industry, testing laboratories or calibration laboratories, scientists, technologists, and members of the Committees of the Bureau..”

A crucial question that comes up is – Who drafts these standards?

Under Rule 16 of the BIS Rules, the Bureau has been conferred upon the power to constitute Division Councils for the purpose of formulation of Indian Standards. Within these councils, specialised technical committees/sectional committees and sub-committees are formed, as may be considered necessary.

The rules also provide that these standards are voluntary, however, they may be binding if:

- a. it is stipulated in a contract;
- b. referred to in a legislation; or
- c. made mandatory by specific orders of the Government.

Let's understand what these orders are all about.

Quality Control Orders (QCOs)

QCOs are issued by various Line Ministries (Regulators) under the Central Government to make compliance with certain Indian Standards mandatory for products. Such powers of the Government have been defined under Section 16 of the BIS Act, 2016.

Products that are covered under the ambit of QCOs must bear a Standard Mark under a License or Certificate of Conformity (CoC) issued by the BIS, as per the relevant scheme of the BIS (Conformity Assessment) Regulations, 2018.

The date of commencement for these QCOs is explicitly provided in the order itself. For the benefit of micro and small enterprises, the enforcement date often varies across general enterprises, small enterprises, and micro enterprises.



Applicability on imported goods

In compliance with the provisions of the General Agreement on Tariffs and Trade (GATT), Agreement on Technical Barriers to Trade (WTO-TBT Agreement), and India's Foreign Trade Policy, these QCOs apply, *mutatis mutandis*, to imports, unless specifically exempted.

Thus, foreign manufacturers, who wish to import such goods into India, shall also be required to obtain a License or CoC from BIS under the Foreign Manufacturers Certification Scheme (FMCS) of BIS.

Seeking exemptions from applicability of the QCOs

Clarifications pertaining to the applicability of the QCOs come under the purview of the respective Line Ministry who has issued the QCO. Additionally, many times, the QCO itself permits certain exemptions. For instance, the Copper (Quality Control) Order, 2023 explicitly provides that nothing in the order shall apply to goods or article meant for export purposes.

The Bolts, Nuts and Fasteners (Quality Control) Order, 2024, was also revised recently to include various such exemptions, making the scope and extent of the order much clearer for the stakeholders.

Objections with QCOs

QCOs are issued to promote consumer safety and product quality. In addition, they act as a non-tariff barrier to restrict low-quality imports into the country and facilitate the 'Make in India' programme.

Various writ petitions are often filed at the High Courts, advocating for withdrawal of QCOs for several reasons, depending on the facts and circumstances of the case. However, it must be noted that such petitions must be backed by appropriate reasoning and sufficient evidence to stand a chance in the court of law.

Case Law

While All India HDPE/PP Woven Fabric Manufacturers' Association

Vs

The Secretary, Government of India, Competition Commission of India

The Secretary, Government of India, Ministry of Micro, Small and Medium Enterprises

The Secretary, Government of India, Department of Chemicals and Petro Chemical

In the above matter, *vide* an Order dated 8 January 2024, the Hon'ble High Court of Karnataka dismissed a writ petition filed by the Petitioner association, advocating for quash of the 'Polyethylene Material for Moulding and Extrusion (Quality Control) Order, 2021', dated 15 April 2021.

In the said order, the Hon'ble Court concluded that,

"if the quality emerges right from the word go, till the finished product, under the 'Make in India programme' it is only then that the country would be able to compete with others. A step towards that will not be interfered with by this Court except, that if the step towards that, depicts palpable and demonstrable arbitrariness, which is neither pleaded nor present...

... every raw material now that is sought to be brought under BIS is only to make it a quality final plastic product, for it would not become hazardous to the environment and be of use to the general public and meet health and safety standards including food conduct regulations, as they are widely used in every walk of human life."

Thus, finding no merit in the petition, the Hon'ble High Court rejected the petition.

LKS Comments

Thus, the Courts have often held the view that they shall not interfere with the government's vision to advance the 'Make in India' programme. Except under circumstances where any order is found to be evidently arbitrary, the Court shall align with the vision of the government to protect consumer interests and ensure high-quality and safe products in the nation.

Conclusion

With the rapid pace of technological advancement, BIS will need to continuously update standards and mandate certification as may be required, especially in fields like artificial intelligence, cybersecurity, and electric vehicles.

The Bureau plays a vital role in protecting consumer interests, promoting quality assurance, and regulating industries in India. Through Standards and Quality Control Orders, it ensures that products in the market meet the necessary safety and quality requirements. In today's fast-evolving market, where consumer awareness is growing and industries are innovating, the role of BIS will only become more crucial.

We strongly believe that staying informed about these standards not only empowers consumers but also boosts India's economic growth by maintaining high-quality benchmarks for both domestic and global markets.



QCO Updates

QCO Updates – September 2024

For ease of reference, we have compiled a comprehensive set of data covering the following:

- **Upcoming QCOs** – Notified and due for implementation
- **QCOs notified in the Official Gazette:** Published by the respective line Ministries of the Central Government, in consultation with the BIS under Section 16 of the BIS Act, 2016
- **QCOs notified on the WTO-TBT portal, 'ePing':** These are draft QCOs notified by India for WTO member countries to review and give comments. They are yet to be finalized and are not published in the Official Gazette yet.
- **Amendments/extensions** to the existing QCOs

QCOs to be implemented in the upcoming months

In the upcoming months, from October to December 2024, a total of 50 products will be covered under the ambit of QCOs. Here's an overview of the same:

	October	November	December
No. of QCOs to be enforced	25	3	22
Ministry/ Department	<p>Department for Promotion of Industry and Internal Trade (DPIIT) – 11 QCOs</p> <p>Department of Chemicals and Petrochemicals – 10 QCOs</p> <p>Ministry of Textiles – 3 QCOs</p> <p>Ministry of Steel – 1 QCO</p>	<p>Department for Promotion of Industry and Internal Trade (DPIIT) – 1 QCO</p> <p>Department of Chemicals and Petrochemicals – 1 QCO</p> <p>Ministry of Environment, Forest and Climate Change of India - 1 QCO</p>	<p>Department for Promotion of Industry and Internal Trade (DPIIT) – 9 QCOs</p> <p>Ministry of Mines – 7 QCOs</p> <p>Department of Chemicals and Petrochemicals – 3 QCOs</p> <p>Ministry of Textiles – 3 QCOs</p>

Products	Sanitary napkins, baby diapers, drinking water coolers, EVA copolymers, copper products, fatty acids, etc.	Morpholine, Telescopic Ball Bearing Drawer Slide, and RO-Based Point of Use Water Treatment System	Aluminium and Aluminium Alloys, Copper, Nickel, Steel Wires or Strands, Nylon or Wire Ropes and Wire mesh, Toluene, Poly Vinyl Chloride (PVC) Homopolymers, Polypropylene (PP) Materials, Textiles
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LKS Comments

Industries likely to be impacted:

- Companies manufacturing/selling/importing copper, aluminium and aluminium alloys, and nickel as raw materials or finished goods.
- Construction and Engineering industries engaged in the use of wire ropes, strands, etc.
- Chemical and Textile Industries

All the manufacturers (both domestic and foreign) of the products listed above shall be required to obtain BIS certification in order to comply with the QCOs. However, subject to the facts and circumstances of the case, the manufacturers may also seek an exemption or extension of the QCO by drafting a representation to BIS/line ministry, as the case may be.

QCOs notified in the Official Gazette

Sr. No.	Order Title	Date of Implementation
1.	Machinery and Electrical Equipment Safety (Omnibus Technical Regulation) Order, 2024	28 August 2025
2.	Hand Tools (Quality Control) Order, 2024	24 March 2025
3.	Cross Recessed Screws (Quality Control) Order, 2024	20 March 2025
4.	Safety of Household, Commercial and Similar Electrical Appliances (Quality Control) Order, 2024	20 March 2025
5.	Protective Textiles Quality Control (Upholstered Composites used for Non-Domestic Furniture) Order, 2024	With immediate effect

LKS Comments

Manufacturers impacted by the above-mentioned QCOs have six months (in the case of general enterprises) to comply with the mandatory certification procedure of BIS.

QCOs notified by India on the WTO-TBT portal – ‘ePing’

Sr. No.	Order Title	Notification Date
1.	<u>Viscose Rayon Cut Staple Spun Yarn (Quality Control) Order, 2024</u>	26 September 2024
2.	<u>Refined Nickel (Quality Control) Order, 2024</u>	16 September 2024
3.	<u>Tin Ingot (Quality Control) Order, 2024</u>	16 September 2024
4.	<u>Refined Zinc (Quality Control) Order, 2024</u>	16 September 2024
5.	<u>Primary Lead (Quality Control) Order, 2024</u>	12 September 2024

LKS Comments

While the draft QCOs notified on the WTO website are yet to be notified and implemented, we suggest that the manufacturers start the necessary procedures to comply with the QCOs. Once they are notified by the Central Government, it will be mandatory to obtain BIS certification for the respective products.

Extensions to the existing QCOs

Sr. No.	Order Title	Date of implementation
1.	Textiles — Polypropylene (PP) Woven, Laminated, Block Bottom Valve Sacks for Packaging of 50 kg Cement (Quality Control) Second Amendment Order, 2024	6 December 2024
2.	Textiles — High Density Polyethylene (HDPE) /Polypropylene (PP) Woven Sacks for Packaging of 50 kg Cement (Quality Control) Second Amendment Order, 2024	6 December 2024
3.	Textiles — Polypropylene (PP)/ High Density Polyethylene (HDPE) Laminated Woven Sacks for Mail Sorting, Storage, Transport and Distribution (Quality Control) Second Amendment Order, 2024	6 December 2024
4.	Ethylene Dichloride (Quality Control) Second Amendment Order, 2024	12 March 2025
5.	Polycarbonate (Quality Control) Second Amendment Order, 2024	12 March 2025
6.	Vinyl Chloride Monomer (Quality Control) Second Amendment Order, 2024	12 March 2025

7.	p-Xylene (Quality Control) Second Amendment Order, 2024	19 March 2025
8.	Polyurethanes (Quality Control) Second Amendment Order, 2024	19 March 2025

Amendment Orders

Sr. No.	Order Title
1.	Styrene-Butadiene Rubber Latex (Quality Control) Amendment Order, 2024
2.	Protective Textiles (Quality Control) Amendment Order, 2024
3.	Flame- Producing Lighters (Quality Control) Amendment Order, 2024

LKS Comments

What's in the Amendment?

- i. **Styrene-Butadiene Rubber Latex (Quality Control) Amendment Order, 2024** clarifies that the order shall not apply to the carboxylated SBR Latex grade for manufacture of automotive Lithium Ion Battery.
- ii. **Protective Textiles (Quality Control) Amendment Order, 2024** omitted 'Upholstered composites used for non-domestic furniture' from the list of products covered under its ambit.
- iii. **Flame- Producing Lighters (Quality Control) Amendment Order, 2024** adds certain exemptions *vis-à-vis* the original order, as available [here](#).

BIS - All India First Licence

BIS issued the All India First Licence, that is, the first licence ever issued for a certain product/Indian Standard, for the following products in September 2024:

Sr. No.	Product	Indian Standard	Company
1.	Air Filters for General Ventilation purposes- Part 1- Technical specifications, Requirements and Classification system, based on particulate matter efficiency	IS 17570 (Part 1): 2021/ISO 16890 (Part 1): 2016	M/s Camfil India Private Limited
2.	Cold Formed Welded Carbon Steel Square and Rectangular Hollow Sections for Mechanical, General Engineering and Decorative Purposes	IS 18573 : 2024	M/S Fortune Metals Limited
3.	Corrugated Aluminium Sheet	IS 1254 : 2007	M/S Hindalco Industries Limited

4.	Hexamethylenetetramine (Hexamine)	IS 4306 : 1987	M/s Shreenathji Rasayan Private Limited
5.	Imidacloprid WS	IS 15334 : 2003	M/s Chemet Wets and Flows Pvt. Ltd.
6.	Polyether polyols	IS 18174 : 2023	M/s Expanded Polymer Systems Private Limited
7.	Salicylic Acid, Technical	IS 7559 : 1992	M/s Aarti Drugs Ltd
8.	Textiles - Polypropylene (PP) Woven, Laminated, Block Bottom Valve Sacks for Packaging of 50 Kg Cement	IS 16709 : 2017	M/s Crescent Organics Private Limited
9.	Textiles - Requirements for Clothing Made of Limited Flame Spread Materials and Material Assemblies Affording Protection against Heat and Flame	IS 15742 : 2007	M/S Tara Lohia Pvt. Ltd

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