



Association
of European
Businesses

EUROPEAN BUSINESS IN RUSSIA: POSITION PAPER 2022

CREATING CONDITIONS FOR FURTHER ENGAGEMENT



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Dear readers,

We are delighted to present “European Business in Russia: Position Paper 2022”, a concise summary report on the intensive work that was done by the AEB Committees and Working Groups in 2021 to promote legislative initiatives and protect the interests of AEB member companies. The Position Paper outlines a set of recommendations for decision-makers that would help in improving Russia’s investment attractiveness and creating a more favorable business environment for foreign companies.

Due to the ongoing COVID-19 pandemic, in the past year AEB was actively dealing with issues of adopting a differentiated approach to self-isolation requirements for foreign nationals arriving in the Russian Federation and mandatory vaccination for employees. Changes to the migration laws, as well as medical examination and fingerprinting for foreign nationals, were and still are on the Association’s agenda.

Other topics that the AEB Committees and Working Groups focused on in 2021 included extended producer responsibility, customs regulations, localization and use of foreign products in government procurement, labeling and goods traceability systems, the green agenda. We worked out proposals for changes to the tax law (intra-group services, tax clause, documentary traceability).

Dear friends, we wish to express our heartfelt thanks to all AEB members for their continued support and unwavering trust. Challenges brought on by the pandemic are by no means resolved, so your commitment is particularly valuable to us during these difficult times.

Last year we managed to successfully organize celebrations of the AEB 25th anniversary, and we hope that 2022 will bring us closer to our desired goals and help us reach new heights.



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INDUSTRIAL COMMITTEES





INDUSTRIAL COMMITTEES



AGRIBUSINESS COMMITTEE



CHAIRMAN:

**DIRK SEELIG,
CLAAS**

LOCALIZATION OF AGRICULTURAL MACHINERY PRODUCTION IN RUSSIA

In 2020, discussions began on draft Decree No. 719 on grain and forage harvesters. At the moment, an agreement has yet to be reached on several key issues, which raises concerns that the situation with the amendments in Decree No. 719 regarding tractors and towed machinery will be repeated. As in the previous year, the Committee would like to highlight again the significant shortcomings of this approach to localization requirements.

To date, the Committee member companies have successfully opened production facilities in various countries in Asia, Europe, and Latin America. It should be noted that none of these countries have similar requirements for the use of local components. The use of components manufactured by global leaders is due both to innovation and quality requirements and to the price factor (mass production is less expensive). Thus, the investments required for the performance of the operations provided for by this methodology have no economic justification and will ultimately lead to the loss of key product parameters, such as quality, price, and the cost of ownership for the end consumer.

The responsibility for the development of a supplier network falls on equipment manufacturers since there is no government program or strategy for the development of suppliers for the agricultural sector. The main problem is the search for Russian suppliers of such components as engines, hydraulic systems, harvester controls, final drives, transmission elements, harvester drive elements, and bearings. Manufacturers of finished products are unable to independently attract foreign component suppliers to Russia, partly due to insufficient volumes. And there are no Russian suppliers of components of the required quality today.

This approach does not provide for measures to stimulate the introduction and development of the latest technologies or yet-to-be-implemented but promising technologies.

Wording on R&D and percentage limit of total points. The text of the Decree uses a rather narrow understanding of the entire range of R&D activities and excludes the process of implementing R&D in serial production. For the technological development of the agricultural machinery industry, R&D alone is not enough: the implementation process is important, and it requires the technological modernization of production and the introduction of high technologies in the equipment manufacturing process.

In the current version of the Decree, the maximum percentage of the total number of points for the tractor production localization is set at 80% by 2026. It is proposed to reduce this requirement to 50% with an extension in the fulfillment term to 2030. With the current localization requirements, there is no economic incentive for manufacturers to invest in localization.

As for the localization of towed agricultural machinery, first of all, it seems appropriate to make a proposal on the starting point of the company's work on the localization thereof within the Russian Federation, for example, issuance of a TR CU 010 certificate (Russian production). Moreover, it is also proposed to reduce the initial degree of localization for towed machinery from 30% to 10% and establish a maximum degree of 50%.

The main message that manufacturers are trying to convey to the Ministry of Industry and Trade of Russia is that the requirements should be proportionate to the real possibilities for localizing their products in Russia. The goal of agricultural machine manufacturers is still to develop and improve their

model range and provide Russian farmers with modern equipment that meets international quality standards.

RECOMMENDATIONS

- ▶ Broad and transparent discussions of the criteria for localizing equipment are required, including with the involvement of companies interested in developing their own production in the Russian Federation. These requirements should be long-term and should not be revised every few years. This is an important and necessary condition for planning investments in production and further localization.
- ▶ Localization requirements should be economically feasible and take global experience into account, including the implementation of advanced global innovative products and solutions.
- ▶ It is necessary to create and adopt a long-term strategy for the development of suppliers for the agricultural sector. The Ministry of Industry and Trade of Russia should be the driver of this issue. The Committee members are ready to support this initiative in every possible way and share their global experience and expertise.

SCRAPPAGE FEE

On January 1, 2016, the Federal Law "On Amendments to Clause 24-1 of the Federal Law "On Production and Consumption Waste" came into force in order to provide the safe disposal of self-propelled vehicles and trailers by charging a scrappage fee. Later, in February 2016, Decree No. 81 was published with rates and payment methodology.

According to the Committee's experts, scrappage fees were not economically justified, and the actual cost of recycling should not exceed 2% of equipment cost, so fee amounts do not comply with the goals of the Federal Law to ensure the recycling procedure. This fee has significantly increased the burden on business and creates additional barriers to the purchase of modern agricultural machinery. On May 31, 2018, the base rate of the scrappage fee grew by 15% from RUB 150,000 to RUB 172,500.

In January 2021, a draft decree of the Government of the Russian Federation on increasing the scrappage fee for agricultural and road construction machinery was published on the official website for information on the preparation of draft regulations by federal executive authorities. The draft decree proposed to increase the coefficients for calculating the scrappage fee for agricultural machinery by 2–3.5 times, depending on the type of machinery and engine power.

This proposal to increase the scrappage fee caused the expected criticism from the business community, and numerous appeals were sent to the Government of the Russian Federation from both individual companies and business associations. As a result, the draft decree was sent for revision, and in September 2021, the Ministry of Industry and Trade of the

Russian Federation announced that there were no plans to increase the scrappage fee this year. However, the issue was not completely removed from the agenda.

It should be noted that increasing the scrappage fee makes no sense for improving the environmental situation or reducing the negative impact on the environment. The fact is that agricultural machines are made of high-quality materials and components that can be reused (as spare parts) or recycled; in the latter case, compensation for raw materials may be received.

Moreover, the periodically appearing information about a possible increase of the scrappage fee causes uncertainty in the market and makes it difficult to forecast demand for products. In addition, this is a factor adding additional pressure on importers or manufacturers who do not manufacture their products in full compliance with current requirements and therefore are not entitled to receive subsidies and who must fulfill their obligations to the state, employees, and customers in the current circumstances of rouble devaluation and anti-COVID-19 measures.

We also believe that this decision goes against the idea of the need to increase the power supply capacity of domestic agriculture, which chronically suffers from a shortage of agricultural machinery due to low effective demand. These needs cannot be satisfied by increasing the production volumes of local producers, so this decision will make high-performance machinery even less affordable for agricultural commodity producers. The income of agricultural producers has already significantly decreased due to the rise in prices of fertilizers, seeds, plant protection products, and energy resources, which directly affects the growth of production costs.

RECOMMENDATIONS

- ▶ An increase in the scrappage fee should be economically justified (taking into account the rate of inflation and other macroeconomic indicators).
- ▶ We also believe that a broad public discussion of this issue involving all stakeholders, including agricultural producers, will positively affect the situation in the industry and increase the investment attractiveness of agricultural businesses.

OTHER ISSUES

- ▶ Key trends of the agro-industrial market of Russia.
- ▶ Subsidies for agricultural machinery producers (Government Decree No. 1432).
- ▶ Electronic passports for self-propelled machines.



More information on the Committee page



INDUSTRIAL COMMITTEES



AIRLINES COMMITTEE



CHAIRMAN:
ERIC ANCONETTI,
AIR FRANCE

DEPUTY CHAIRMAN:
LEONID TARASOV,
DELTA AIRLINES

The AEB Airlines Committee is the main representative body of foreign airlines in Russia in the absence of any Board of Airline Representatives. It works in close cooperation with the International Air Transport Association (IATA) and with the Moscow and provincial airport authorities.

Its objective is to support foreign airlines in a highly regulated sector by raising issues faced by its members with Russian authorities in order to facilitate the development of the Russian civil aviation market and meet the airline industry's key commitments in terms of safety, security, and sustainability.

Unlike the internal EU market, the Russian international market is still regulated by bilateral air service agreements between state authorities based on balance and reciprocity, which can be linked to commercial agreements with Russian airlines.

Since 2017, both domestic and international air traffic has greatly increased mainly due to the strong development of capacity implemented by Russian airlines and low-cost carriers.

This double-digit development, which is above air traffic demand, leads to strong pressure on the yields and profitability of the international air routes to/from Russia.

Since the beginning of the unprecedented COVID-19 crisis, all international airlines are fighting for their own survival and their market presence in Russia and are actively lobbying the Russian authorities to authorize the resumption of regular international flights and lift unnecessary travel restrictions.

TAXATION

The complex legal environment (air service agreements, bilateral taxation treaties, Russian Federation laws) creates taxation hurdles for airlines operating in Russia and for Russian providers and local authorities who don't apply the law in a consistent way. Airport taxation is also not consistent between Russian and foreign airlines, making competition conditions unfair. It is therefore crucial to continue all lobbying actions toward Russian authorities and airports to solve these issues.

RECOMMENDATIONS

- › Align the passenger terminal charge (RI), security charge (UH), and new infrastructure charge collected by Russian authorities and airports from foreign airlines and Russian airlines.
- › Leverage the new tax code update (dated April 2019 for implementation in July 2019) that allows representative offices to claim a VAT refund (i.e. on non-airport related services for international airlines).

NEW ELECTRONIC VISA PROGRAM IN RUSSIA

Since the launch of the pilot e-visa program for the St. Petersburg region on October 1, 2019, too many passengers are being refused entry into Russia by immigration authorities and sent back to their country of origin because their e-visa form does not fully match with their passport details. The above issue is due to the lack of any automated check performed during the online visa process. The improvements made in December 2019 are not sufficient to completely address this issue.

RECOMMENDATIONS

- › Continue to lobby the Russian authorities to ensure that an efficient and automated process/tool will be ready before the extension of the e-visa program to the entire Russian Federation set for January 1, 2021.

AIRPORT HANDLING

Most Russian airports are in a monopolistic situation today with regard to handling activities, which can be performed only by the airport. Therefore, the prices are much higher than the European average, limiting airlines' development. On top of this, some immigration and customs procedures should be reviewed and simplified in order to improve punctuality in Russian airports without compromising security and safety.

RECOMMENDATIONS

- › Facilitate the opening of the airport handling market to private handlers to allow capacity growth at a lower cost.
- › Review and simplify airport regulations and procedures in line with international standards. For instance, remove the current norm which requires a double passenger count. This double counting often creates flight delays in case of a mismatch and has no impact on flight safety.



[More information on the Committee page](#)

INDUSTRIAL COMMITTEES

AUTOMOBILE MANUFACTURERS COMMITTEE



CHAIRMAN:

THOMAS STAERTZEL,
PORSCHE RUSSLAND

DEPUTY CHAIRMAN:

ALEXEY KALITSEV,
HYUNDAI MOTOR CIS

DEVELOPMENT OF THE ELECTRIC TRANSPORT MARKET IN RUSSIA

The Automobile Manufacturers Committee welcomes the government's initiatives aimed at developing the electric vehicle market. "The Concept for the development of manufacture and use of electric vehicles in the Russian Federation for the period up to 2030" adopted by a Government Decree No. 2290-r dated 23 August 2021, establishes objectives (up to

2023) and a plan of actions (up to 2024) for electric vehicles manufacture and charging infrastructure development and use of electric vehicles in the Russian Federation.

The Automobile Manufacturers Committee recognizes the necessity for this document, but is concerned about:

- › lack of an electricity cost control programme and possible future speculation in the provision of charging services;



- › monopolization of the manufacture of batteries and related technologies risks;
- › lack of technology development conditions aimed at reducing the duration of the battery charging process, as one of the blocking factors in the development of electric vehicles;
- › lack of requirements and conditions necessary for the unification and standardization of power packs for electric vehicles within the territory of the Russian Federation;
- › lack of conditions and requirements for the used batteries recycling and for the development of related technologies within the territory of the Russian Federation;
- › lack of conditions for the development of clean energy technologies to minimize the environmental impact of the manufacture, operation, and disposal of electric vehicles.

The implementation of the key objectives of the Concept has likely to grapple with significant difficulties caused by the current conditions of the Concept and legislative initiatives, namely:

1. The implementation of zero import duty on electric vehicles for the period from May 2020 to December 31, 2021, helped to increase sales of BEVs in Russia. The return of 15% of the import tariff will increase the end-price for the customers by up to 10%. Given the high elasticity of demand for vehicles, such an increase will inevitably slow down sales dynamics. This will negatively affect the plans of bringing to the Russian market of electric vehicles in affordable price categories.

The Automobile Manufacturers Committee finds it necessary to extend the zero-import duty on electric vehicles for the period up to 2024-2025.

2. The Concept does not address the problem of disposing used batteries, which is one of the key issues in the development of this area worldwide. This means that the state will soon face the problems of their disposal and environmental pollution as a result of the lack of effective technologies and recycling system in the country.
3. The Roadmap of the Concept foresees amendments to Decree of the Government of the Russian Federation No. 1291 dated December 26, 2013 "On disposal fee of wheeled vehicles (chassis) and their trailers and on amendments to certain acts of the Government of the Russian Federation" regarding the adjustment of the factor for calculating the disposal fee of electric vehicles from 2022, in order to implement the provisions of the Federal Law "On manufacture and consumer wastes" aimed at ensuring environmental safety, including those of protecting human health and the environment from the harmful effects of the operation

of vehicles, taking into account their technical and wear characteristics. Considering the risks associated with an increase the disposal fee rate for electric vehicles, which can lead to the market decrease, we believe that a review of the rate should only take place after a deep analysis of the market conditions and its impact on its development and the achievement of the objectives established by the Concept. The opinion of the car manufacturers should be taken into account.

4. The Plan of Actions of the Concept provides for amendments to Decree of the Government of the Russian Federation No. 719 dated July 17, 2015 "On approval of manufacture of industrial products in the Russian Federation" (hereinafter – PP 719) in terms of expanding the list of manufacturing operations and components for the manufacture of electric vehicles (including hydrogen vehicles with a low carbon footprint) and energy storage for electric vehicles (traction batteries) to increase their localization. Such amendments to the 719 Decree can significantly worsen the situation of vehicle manufacturers who have already made substantial investment commitments for the localization of vehicles with internal combustion engines within SPICs. We think it is necessary to harmonize the terms of the 719 Decree with the car manufacturers to avoid risks to localization projects and the investment climate deterioration.

Alongside with the aforementioned risks, there is a significant gap in the development of charging infrastructure, which is impossible without sufficient demand for its use by BEV owners and real operation experience. The investments in the up-to-date and advanced charging infrastructure as in all related technologies will grow only together with the increase of number of e-vehicles, which will contribute to the successful localization of BEV manufacture in Russia in the upcoming years.

AUTODATA PROJECT

The Autodata project which has been being developed for quite a time raises concerns of a vast majority of key players of the automotive market. It aims at collecting and commercializing data generated by vehicles and defining ownership of this data. The Project imposes additional essential obligations on businesses and entails serious risks, including cybersecurity, not only for car manufacturers, but also for the end owners and users of vehicles.

Car manufacturers and official importers – AEB members are totally against the mediation of third parties in the process of transferring information from vehicles to authorized bodies and underline the following risks:

1. The Federal Law shall establish the minimum set of automotive data that must be transferred to the state in order to ensure national security and personal safety of citizens

of the Russian Federation and shall be exhaustive in order to exclude a possible extension of the list through other federal laws or bylaws. Such data is not subject to commercial use.

2. The mechanism for ensuring the security of data on board a vehicle, when transferring data or storing and processing it in external information systems, including the possibility of applying Russian standards for cryptographic information protection for vehicles operated in Russia must be strictly confidential and exclude the possibility of direct access to the vehicle board bypassing the car manufacturer's cloud services.
3. The use of any specific Russian inventions of crypto protection in the in-bound systems of car manufacturers in the Russian Federation will require a re-development of the entire ecosystem (including the on-board equipment) from scratch exclusively for the volumes of the Russian market, with the loss of economies of scale. It will take at least 24-36 months of D&D (design & development) with significantly higher expenditures. It is proposed not to implement any special regulation in the Russian Federation,

considering the entry into force of UN Regulation 155/156, which car manufacturers will be obliged to comply with, as well the Russian Federation being a member state of the Geneva Agreement 1958 should accept Declarations of conformity assessment issued under these rules.

OTHER ISSUES

- > Mandatory vehicle insurance (OSAGO) issues.
- > Recall campaigns.
- > Labelling of spare parts.
- > Technical regulation & certification.
- > Utilization of end-of-life vehicles.
- > Used cars.
- > Motor vehicle certification.
- > Other.



[More information on the Committee page](#)

INDUSTRIAL COMMITTEES

AUTOMOTIVE SUPPLIER COMMITTEE



CHAIRMAN:

ALEXEY BELYAEV,
SMART DRIVING LABS

DEPUTY CHAIRMAN:

ANDREY KOSOV,
JOHNSON MATTHEY

SUPPLY CHAINS

2020 and 2021 turned out to be the most difficult years for the automotive industry since the financial crisis of 2008-2009.

Despite the explosive recovery of demand for cars since the second half of 2020, car manufacturers and their suppliers have faced huge problems in supply chains related to:

- > significant increases in prices for raw materials;



- › increases in logistics costs;
- › disruption of supply chains due to anti-coronavirus restrictions and natural disasters.

It is also worth mentioning the shortage of electronic sub-components.

The main reasons for this crisis were:

- › the rapid growth of demand for computer equipment, electronic devices, and consumer electronics during the pandemic;
- › semiconductor manufacturers had no additional capacities and were unable to quickly increase them;
- › disinterest in the production of automotive chips due to the small market size (8% of the global market) and high costs for their development, validation, and production;
- › permanent force majeure production stoppages due to anti-coronavirus restrictions and natural disasters;
- › the “just in time” system that existed in the automotive industry does not assume an agreed volume of deliveries over a long (annual) period or significant inventory.

We hope that the supply of automotive electronic components will be stabler, but at the same time, the capacities for increasing the production of automotive chips remain minimal in 2022. We can also expect a further increase in prices for raw materials, materials, and logistics.

RECOMMENDATIONS

- › Temporarily abandon the “just-in-time” system and switch to the annual planning of supply volumes agreed between car manufacturers and suppliers, and the creation of stock reserves. Foresee a possible increase in prices for auto parts and provide for corresponding mechanisms to control price changes.

STATE REGULATION OF THE INDUSTRY: DECREE OF THE GOVERNMENT OF THE RUSSIAN FEDERATION NO. 719

Access of car manufacturers and other industry participants to most of the support measures depends on a certain number of localization points provided for by Decree of the Government of the Russian Federation No. 719 dated July 17, 2015 “On Approval of Industrial Production in the Territory of the Russian Federation” (“Decree 719”). The government encourages manufacturers to gradually increase the level of localization to gain access to specific measures of state support.

An updated system for calculating R&D points has been introduced, which enables proportionate receipt of points for

actual R&D at the rate of 400 points for 1% of R&D costs from revenue.

In accordance with Decree 719, car manufacturers can include the works performed by suppliers of auto parts in R&D costs; as such, car manufacturers have begun to actively involve suppliers in collecting R&D costs to obtain points.

The risks associated with uncertainties in the interpretation of the current concept of R&D can be significantly reduced through the development and approval by the supervising state bodies of guidelines for collecting R&D costs to meet the requirements of Decree 719 specifying the types of costs and the list of necessary supporting documents.

The approach to the distribution of points for specific components under Decree 719 remains non-transparent, and there is a potential risk that manufacturers of auto parts already operating on the Russian market will be displaced by imports because their products bring too few points that are insufficient to interest car manufacturers.

The Committee generally supports the trend towards the development and support of the domestic automotive industry and hopes for further development of both the entire automotive industry in Russia and the auto part production sub-sector in particular, including from the point of view of state incentives.

Due to the significant impact of Decree 719 on the industry and car manufacturers in general, the Committee is extremely interested in participating in working groups to discuss potential amendments to Decree 719.

RECOMMENDATIONS

- › Companies are advised to monitor the published draft amendments and possible changes in legislative regulation of localization and state support measures.

MEASURES OF STATE SUPPORT FOR MANUFACTURERS OF AUTO PARTS

Currently, there are a number of state support measures for which manufacturers of auto parts can apply. Such measures include subsidizing up to 80% of the actual costs incurred for transporting products to foreign markets, subsidizing R&D costs for modern technologies included in the list of the Ministry of Industry and Trade, as well as support measures under Special Investment Contracts (SPIC 2.0) (for example, tax incentives, conditions on which the localization of industrial products are predicated, special conditions for land lease and infrastructural support), and Special Investment Contracts (guarantees of non-deterioration of certain business conditions in the implementation of an investment project, and reimbursement of certain types of costs in established amounts).

In addition, a new support program for manufacturers of auto parts is expected to be adopted in the near future. Within this program, it is planned to provide low-interest loans at the rate of 1% per annum from the Industrial Development Fund of the Russian Federation, with the possibility of further receiving a subsidy for repayment of this loan from the Ministry for Industry and Trade of the Russian Federation.

However, for each of these support measures, a number of issues can be identified that may restrict access to these support mechanisms, including for investors (for example, excessive requirements for subsidized products and expected results, exclusion of certain types of costs for the purposes of calculating investments, limitation of the amount and types of reimbursable costs, etc. — issues vary depending on the state support measure). To achieve the goals of these support measures and to ensure their more effective application, it is extremely important to work out the existing issues.

ENVIRONMENTALLY FRIENDLY TRANSPORT AND ADVANCED TECHNOLOGIES

EMISSION LEGISLATION (EURO 6)

The AEB Automotive Supplier Committee supports the introduction of emission class 6 in the EAEU to improve the environmental situation, develop appropriate technologies and technical competencies for other developed markets, better integrate Russian industry with the global automotive industry, and thereby achieve the goals set in the automotive industry's development strategy up to 2025.

The determination of specific deadlines for the introduction of the new emission class 6 and exhaustive technical

requirements have been repeatedly postponed. Their lack creates uncertainty for business, prevents proper planning of investments, relevant developments, and preproduction.

ADVANCED TECHNOLOGIES

At the moment, the most developed alternative to vehicles with an internal combustion engine is vehicles with an electric motor powered by batteries (electric vehicles). Another actively developing area is vehicles with an electric motor powered by hydrogen fuel cells (hydrogen vehicles).

Another alternative using hydrocarbon fuel is gas-powered vehicles. This technology is quite developed, but its wide application has historically been limited by infrastructure. The development of the market and technologies for gas-powered vehicles retains a high potential, considering the significant reserves of natural gas in the Russian Federation.

RECOMMENDATIONS

- › The Committee and the AEB will continue close cooperation with the Ministry of Industry and Trade, the Central Scientific Research Automobile and Automotive Engines Institute (NAMI), and the Eurasian Economic Commission on issues related to the introduction of emission class 6 and the development and implementation of advanced technologies in the automotive industry.



[More information on the Committee page](#)



INDUSTRIAL COMMITTEES



BANKING COMMITTEE



CHAIRMAN:
MIKHAIL CHAIKIN,
ING BANK (EURASIA) JSC

DEPUTY CHAIRMAN:
STUART LAWSON,
EY

CRITICAL INFORMATION INFRASTRUCTURE SECURITY

Federal Law No. 187-FZ “On the Security of Critical Information Infrastructure of the Russian Federation” was adopted in mid-2017. Concurrently, criminal liability was introduced for unlawful tampering with the critical information infrastructure of the Russian Federation. However, despite the obvious importance of this legislation, the law and respective bylaws have a rather vague wording. Therefore, the law is not specific as to the subjects regulated thereby and the scope of its application.

In particular, the subjects of the law are, literally, Russian legal entities that possess ‘critical information infrastructure objects’, i.e. information systems, information and telecommunication networks, and automated management systems used in banking and other financial market segments. Therefore, formally any Russian bank is a ‘critical information infrastructure object’, which does not seem to be the exact purpose of the regulation. Logically, financial organizations should be deemed as ‘critical objects’ only if a dysfunction in their IT system affects a large number of individuals and companies.

Moreover, it is difficult to understand how the law should apply. Financial institutions must create a list of critical information infrastructure objects they use and categorize those objects. But the very creation of the list is problematic. The scope of objects includes ‘information systems, information and telecommunication networks, and automated management systems’. These definitions are excessively broad. For example, an information system could even mean a text editor the bank uses. Hence, any auxiliary programme, together

with the computer it is installed on, may be deemed to be a critical information infrastructure object and will, as such, be included in special reporting.

These problems were not resolved in 2018-2020, and the situation remains the same in principle.

RECOMMENDATIONS

- › To suggest to the Bank of Russia and the Russian Government that they officially clarify how the law applies to banks and financial institutions. If possible, the Russian Government should be asked to clarify the bylaws detailing the application of the law.

LAWS ON SPECIAL ECONOMIC MEASURES

Russian executive authorities have implemented sanctions against certain foreign parties (e.g. the Government Decree of 1 November 2018). The sanctions include freezing funds and prohibiting capital transfer outside Russia. Sanctions of this kind are, presumably, to be implemented by credit institutions. However, the exact content of the sanctions, the procedure for implementation thereof by the banks, and application of the sanctions to Russian companies controlled by the foreign sanctioned parties have not been specified. In practice that may lead to rather surreal situations. For example, the rules in question may be formally interpreted as a prohibition on the banks to execute tax transfers to the Russian budget if the payment is initiated by a Russian organization controlled by a sanctioned party. As there is no executive body designated to grant regulatory advice on the matter and no procedure for such advice, no means are available to the parties involved for timely resolution of unclear issues.

RECOMMENDATIONS

- › The government must be asked to specify the procedure for implementation of the special economic measures by the banks and provide a procedure allowing for resolution of unclear issues on the application of these economic measures, analogous to similar procedures existing in other jurisdictions.

LIABILITY OF CREDIT INSTITUTIONS

There is currently no detailed legislation on fines against banks applied by the Bank of Russia. Current laws (Article 74 of the Federal Law “On the Central Bank of the Russian Federation [the Bank of Russia]”) allows the Bank of Russia to fine credit institutions for any breach of federal laws and regulations. Specific content of the breaches is not specified, and there are no procedural rules governing either application of the sanctions or appeal against them.

Russian authorities together with public foundations are now extensively working on reviewing the laws concerning administrative sanctions.

So that fines against the banks are more effective, the regulation of banking is more specific and reasonable, and good participants of the financial markets are protected, we deem a major restatement of the approach to this matter necessary so that fines are not applied for abstract breaches of law and regulations.

Review of the Administrative Offences Code (KoAP) may allow for implementation of two concepts for banks’ liability.

KoAP may be supplemented with provisions addressing banking offences and detailing specific scopes thereof, and the Bank of Russia may be authorized to judge the respective cases. The fines shall be differentiated according to gravity of the breaches. Prosecution and appeals will be based on KoAP’s respective procedural rules.

Alternatively, provisions covering banking offences may be moved from KoAP to banking laws, which will then be supplemented with a separate concept of a ‘banking offence’ detailing the corresponding scopes and applicable fines, as well as the procedure for addressing the imposition of fines and appeals to the Bank of Russia, by analogy to the ‘tax offence’ concept of the tax law.

RECOMMENDATIONS

- › The Bank of Russia and the government shall be asked to determine the approach to liability of the banks and initiate amendments to the law, including as part of a KoAP review exercise.



[More information on the Committee page](#)



INDUSTRIAL COMMITTEES



COMMERCIAL VEHICLES COMMITTEE



CHAIRMAN:
JAN AICHINGER,
MAN TRUCK & BUS RUS LLC

ENVIRONMENTALLY FRIENDLY (GREEN) MEANS OF TRANSPORT

The AEB Commercial Vehicles Committee supports the commitment to reducing carbon dioxide emissions that has been announced by the Government of the Russian Federation as part of international climate change initiatives. The commercial vehicle industry could make a material contribution to the achievement of this goal by increasing supplies of gas, electric, and hydrogen vehicles.

Currently, the high difference between prices for ‘green’ vehicles and for diesel vehicles, as well as the under-development of the respective infrastructure, are the main obstacles to the growth of the clean transport market.

RECOMMENDATIONS

The experience of the countries and regions that have successfully developed their green vehicle markets shows that it is important to take two types of measures:

- › creation in the Russian market of temporary preferences with regard to green vehicles, regardless of their countries of origin or localization levels. It is practical to toughen the requirements for localization of green vehicles and other protective measures for the respective market to reach an attractive size allowing the said vehicles to be manufactured in Russia with an appropriate economic effect;
- › stimulating advanced development of the respective infrastructure, which will increase the attractiveness of using environmentally friendly vehicles.

E-VEHICLES

On August 23, 2021 the Government of the Russian Federation published the Concept of Development of E-Vehicles and Battery-Charging Infrastructure up to 2030 – the Committee believes this initiative marks an important step in the development of state policy in this field. Nevertheless, the concept needs material improvement.

RECOMMENDATIONS

- › So far, there exists no vision for the commercial e-vehicle market or policy with regard to the development of this segment. In particular, the development of efficient battery-charging infrastructure (with charging stations of at least 500 kW·h) is lacking – without which large-scale implementation of e-trucks is impossible.
- › Amendments that are not specified in the concept shall be introduced to the respective technical regulations: the maximum permissible weight of a vehicle shall be increased (due to the use of heavier batteries); the access of new charging station operators to the electrical grids shall be simplified.
- › It is important to establish incentives for an intensive increase of the e-vehicle fleet, including the reduction of e-vehicle import duties to zero, which will help utilize the battery-charging infrastructure and successfully pursue the policy of production localization which the Government considers one of its priorities.

NATURAL GAS VEHICLES

Increasing the extent to which natural gas vehicles are used is among the strategic goals of the Government of the Russian Federation. Modern vehicles powered by natural gas (either compressed or liquefied) comply with the EURO-6 standard, which means that their exhaust gases are almost entirely free from solid particles. Moreover, this standard is accountable for the sharp decline in the content of sulfur and nitrogen compounds. The advanced growth of the natural gas vehicle fleet as compared to diesel vehicles will result in the reduction of pollutant emissions and decarbonization of the economy.

RECOMMENDATIONS

- › The higher price of a gas vehicle compared to the price of a diesel vehicle is the main obstacle preventing consumers from choosing the more environmentally friendly option. International experience in stimulating the natural gas vehicle market confirms the necessity to take broad financial, non-financial, and regulatory measures initially aimed at a sharp increase of the gas vehicle fleet through a temporary increase of natural gas vehicle imports and the creation of preferential market conditions for said type of vehicles.
- › The growth of the vehicle fleet and natural gas vehicles meeting critical mass will create the required commercial grounds for proceeding to the following stage – localization of production of the most innovative natural gas vehicle models and large-scale development of the respective maintenance infrastructure in Russia.
- › The growth of the natural gas vehicle fleet will create the required commercial grounds for widening the network of natural-gas-filling stations and maintenance infrastructure, as well as for development of Russia's domestic compressed natural gas and liquefied natural gas market.
- › The price attractiveness of natural gas vehicles as compared to diesel vehicles can be achieved through:

- reduction of import duties on natural gas vehicles, down to 0. Currently, such duties amount to 5–15%, depending on vehicle weight;
- reduction of the rate used for calculation of the scrappage fee for natural gas vehicles;
- exemption of natural gas vehicle owners from the obligation to pay for using toll roads through the Platon system;
- establishment of a minimum number of localization points required for participation in state subsidizing programs (1,500 points).

REGULATION OF TRANSFERRING VEHICLE DATA

The Committee believes the requirements for transferring a limited set of data, solely for the purpose of increasing traffic safety, is justified.

RECOMMENDATIONS

Taking into account the aforesaid goals, the data collected at a regulator's request:

- › must not be used for commercial purposes and access thereto must be limited to authorized employees of public institutions responsible for traffic safety;
- › shall be collected using the existing equipment of connected vehicles in order to avoid posing threat to the cybernetic security of a vehicle. The Committee believes it necessary to implement safety standards in this field on the basis of the existing UNECE standards.



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INDUSTRIAL COMMITTEES

CONSTRUCTION EQUIPMENT COMMITTEE



CHAIRMAN:

ANDREY KOMOV,
VOLVO CE RUSSIA & CIS

The Construction Equipment Committee was established in February 2008. Its primary goal was to organize a forum where industry representatives could discuss their common problems and take joint actions to address issues of interest for companies operating in Russia.

The Committee's focus areas include:

- › exchanging statistical data on the sales of equipment to customers across Russia. Statistical data can also be obtained from other trade organizations, but it does not include sales breakdowns by geographical regions or industries;
- › discussing and coordinating actions concerning the organization of the national equipment exhibition;
- › intensifying cooperation and establishing an uninterrupted communication channel with Russian state authorities on the following matters: developing technical and safety standards; import duties, customs regulations, and introduction of a scrappage fee; developing production localization criteria.

MARKET OVERVIEW

The market is currently showing active recovery. After a significant downturn in 2014, the market has developed at a slow pace in recent years.

Significant pent-up demand was accelerated by post-quarantine recovery needs and implementation of large infrastructure and construction projects. The Russian market began to recover at the same time as global demand increased.

A global shortage of electronic and other components led to a shortage in the supply of machinery. Significant growth in material and logistics costs led to inevitable price growth of machines. Under the circumstances, any additional regulatory impact on the market might lead to critical consequences. We are concerned about the initiative of the Ministry of Industry and Trade to greatly increase the utilization fee for machinery (the initiative was published in January 2021 year and its implementation was postponed). As before, we are highlighting the fact of a significant imbalance with the utilization fee size depending on the machine type, which is worsening the situation in the industry. As an example, we are facing a great shortage of human resources in the construction industry, which is pushing the industry to significantly increase capacity through much higher utilization of compact construction equipment. The amount of the utilization fee is comparable to the price of compact construction equipment, which significantly limits development of this market.

As before, we are very open to a dialogue with all regulatory authorities to discuss industry issues and contribute to the positive development of this very important sector of the Russian economy.

ELECTRONIC PASSPORT FOR SELF-PROPELLED VEHICLES

In accordance with Decision No. 122 of the EEC Board dated September 22, 2015 the introduction of an electronic passport for self-propelled machines (EPSM) instead of a paper one was expected on November 1, 2021.

Members of the Committee had prepared well in advance for that date, the equipment had been procured, and the local staff had been trained.

However, the expected regulatory documentation governing the procedure for appointing the authorized persons entitled to issue EPSMs was not prepared by the Ministry of Industry and Trade of the Russian Federation by the appointed deadline, despite advisory assistance from the Committee.

As a result, the date of introduction of EPSMs was postponed to November 1, 2022 by Decision of the EEC Board No. 141 dated October 26, 2021.

The main negative point is that in the published draft Order of the Ministry of Industry and Trade on authorized persons, importers were completely excluded from the EPSM registration process and all functions were assigned to the test laboratories, which, according to the opinion of members of the Committee, will lead to a collapse and additional expenses when issuing the passports and, accordingly, to extremely negative consequences when putting road construction equipment into circulation in the EAEU market.

RECOMMENDATIONS

- > The Committee will continue to work with the Ministry of Industry and Trade of the Russian Federation and other authorities to amend regulatory documents related to the procedure for issuing the EPSM.

OTHER ISSUES:

- > Statistical data exchange.
- > Localization of construction, road, and special equipment manufacturing.



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INDUSTRIAL COMMITTEES

CONSTRUCTION INDUSTRY & BUILDING MATERIAL SUPPLIERS COMMITTEE



CHAIRMAN:

VITALY BOGACHENKO,
HOLCIM

QUALITY CONTROL OF CONSTRUCTION MATERIALS USED IN RUSSIAN REGIONS

Active development of the construction industry is ensured, among other things, by using the advanced construction technologies and materials. The quality of the building materials used guarantees the safety of buildings

and constructions, their durability, comfort of their inner environment, their energy efficiency and aesthetic attractiveness.

Currently the EEU technical regulations on the safety of building materials are being drafted. Unfortunately, the need for such a document is driven by the significant



amount of low-quality building materials in the market. These include both products whose characteristics do not meet existing standards and requirements, and outright counterfeit products.

RECOMMENDATIONS

- › In addition to legal and technical regulation, we propose to create in each region a specialized budget institution to conduct inspections, laboratory tests and examinations – in order to identify and prevent violations during the construction and reconstruction of capital facilities in the field of mechanical, fire safety, safe living conditions for the human health, an acceptable level of impact of buildings on the environment, as well as to conduct work to assess their energy efficiency indicators (according to the model of the State Budgetary Institution of Moscow “Center for Expertise, Research and Testing in Construction”).
- › Such organizations should be controlled by the regional construction supervisory authorities and be independent of construction contractors.
- › Experts of the laboratory centers of such organizations should be allowed to inspect the capital construction projects and take samples of the materials at the site of works.
- › We believe that the introduction in the Russian regions of public institutions with such capabilities and principles of work will significantly limit the use of poor-quality materials, including counterfeit ones, in construction and will thus contribute to improving the safety, comfort and energy efficiency of buildings and structures erected.

HIGH COST OF TRANSPORTATION OF MATERIALS, REDUCTION OF CO₂ EMISSIONS, AND SEPARATION OF LIABILITY FOR TRAFFIC VIOLATIONS

The share of the logistics costs in the total cost of construction materials for consumers is very high (10% to 90%), and therefore the inefficient use of vehicles has led to a significant increase in delivery costs and higher CO₂ emissions.

In order to comply with the legal regulations on the axle load of vehicles, manufacturers have to significantly underload vehicles to meet the allowed gross weight and thus to use them in larger numbers. This applies not only to bulk and liquid cargo (its shifting during transportation, due to the physical properties of the cargo, causes the re-loading of the vehicle axle and leads to penalties significantly higher than the value of the cargo itself), but also to other cargo for building – because of various circumstances, such as refueling the vehicle en route, changing the route due to the road conditions, and so on.

RECOMMENDATIONS

To amend the RF Administrative Offences Code in order:

- › to establish liability for a person engaged in loading only for the gross weight violations, as well as to introduce a progressive scale depending on the degree of exceeding the permitted norms for the gross weight (similar to the existing liability scale for drivers and carriers), thus giving equal rights to carriers and loaders;
- › to exclude liability for persons engaged in loading for observing and controlling the weight of the vehicle’s axles if there is no excess in the total weight of the vehicle;
- › to prevent legal entities and individual entrepreneurs engaged in loading and transportation from being held differently liable for exceeding the total weight of a vehicle.

INCLUSION OF CEMENT INDUSTRY ENTERPRISES AS ENERGY DISPOSAL FACILITIES IN THE WASTE MANAGEMENT SYSTEM AT FEDERAL AND REGIONAL LEVELS

The cement industry offers a unique technology for the disposal of waste in cement kilns, which is the replacement of part of conventional fuel (gas, coal) with a wide range of waste, including the remains of MSW sorting. The oxidising atmosphere and high temperatures in the cement kilns provides safe conditions for the complete destruction of waste. A distinctive feature of the process is the absence of secondary waste. This technology is widely used all over the world, recognized as the best available technology (BAT) in Russia and EU and an alternative to both the landfill disposal and the incineration at the waste incineration plants.

RECOMMENDATIONS

- › To include cement plants as the objects of energy disposal in the territorial waste management schemes in RF regions.
- › To develop a system of regulatory and economic measures aimed at stimulating the implementation of investment projects on the energy waste disposal at the cement industry enterprises.
- › To remedy gaps in the regulatory framework – in particular, to take into account the peculiarities of waste disposal at the cement production plants in the development of legal and regulatory documents.
- › To develop and implement a set of measures aimed at improving the quality of MSW sorting; to consider

measures aimed at supporting projects for the reconstruction and construction of facilities for MSW sorting, providing for the preparation of waste that meets the requirements of the cement recovery plants.



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INDUSTRIAL COMMITTEES

CROP PROTECTION COMMITTEE



CHAIRMAN:

JOHANNES BESTMAN,
ADAMA

DEPUTY CHAIRMAN:

PAVEL ZIBAREV,
FMC

NEW REQUIREMENTS FOR IMPORTATION OF PESTICIDES AND POTENTIAL RISKS OF UNTIMELY AND INCOMPLETE SUPPLY OF CROP PROTECTION PRODUCTS TO RUSSIAN FARMERS

On June 29, 2021 new requirements for import of crop protection products (CPP) entered into force. The new requirements had been established in the following regulatory instruments:

- › Federal Law No. 109-FZ, dated July 19, 1997, 'On Safe Handling of Pesticides and Agrochemicals', as amended by Federal Laws No. 522-FZ dated December 30, 2020, and No. 221-FZ dated June 28, 2021;
- › Order of the Government of the Russian Federation No. 1030, dated June 28, 2021, 'On State Control (Supervision) of Safe Handling of Pesticides and Agrochemicals at Crossing Points of the State Border of the Russian Federation'; and
- › Decree of the Government of the Russian Federation No. 1667-r dated June 19, 2021, approving the List of Specialized Crossing Points of the State Border of the Russian Federation for the Import of Pesticides and Agrochemicals.

According to the new requirements, pesticides and agrochemicals may be imported solely through specialized border crossing points at which federal state control (supervision) is carried out, including both the examination of relevant documents and the collection of samples for laboratory analysis. The purpose of such analysis is to verify the compliance of an imported product batch with the requirements of the relevant state registration certificate for the pesticide or agrochemical imported.

Ensuring compliance with the new requirements presents the following problems.

Until recently, almost 90% of pesticide imports have been imported to Russia through the Republic of Belarus. Companies will have to alter supply chains they have built over years. So far, the approved border crossing points do not have analysis laboratory facilities. The bulk of laboratory analysis will be performed at the Federal State-Funded Institution Federal Center of Quality and Safety Assurance for Grain and Grain Products (Ramenskoe, Moscow Region), to which samples will be submitted. Consequently, both the employees of the Center and the inspectors of the Federal Service for Veterinary and Phytosanitary Surveillance (Rosselkhozadzor) at



the border crossing points will face workloads way above their capabilities. Importation of pesticides through a limited number of crossing points that do not have analysis laboratory facilities will inevitably result in kilometers-long queues of trucks at the border during the peak period of pesticide and agrochemical supply for spring field works and, consequently, in delays in CPP delivery to Russian agricultural producers.

At meetings with Rosselkhoznadzor, it was explained that the sample collection requirement is a tool for detecting counterfeit pesticides and agrochemicals. Nevertheless, fraudsters import counterfeit pesticides under the guise of detergents and other goods that are not subject to Rosselkhoznadzor's inspections – the counterfeit products are later dispensed and packaged within the Russian Federation. International companies being members of the AEB CPC are the among world's leading innovative chemical producers. They have or are building plants in Russia with the goal of ensuring the sustainable and progressive long-term development of their business in the country. Their constant priority is the quality of their products, which has upheld their strong reputation for years.

RECOMMENDATIONS

- › Focus within the regulatory activities at border crossing points shall be shifted from bona fide suppliers towards actual violators.
- › For the period of large-scale CPP import for spring field works (January–March), regulatory activities shall be arranged at additional customs inspection points within Russia, primarily in the North-Western, Central, and Southern Federal Districts through which (e.g. Krasnodar, Voronezh, Ryazan) the bulk of pesticides are imported – this will allow the workload among the Federal Customs Service's and Rosselkhoznadzor's officers to be evenly allocated.

INFLUENCE OF EUROPEAN TRENDS IN, AND GLOBAL APPROACHES TO, CPP ON AGRICULTURE IN RUSSIA

The European Union's politicized approach to pesticide circulation has resulted in scientifically unsubstantiated restrictions on the use of a number of active substances (AS) in Europe. Such pseudo-environmental fluctuations in the authorities' sentiment affect agriculture. Following the adoption in May 2009 of stricter rules – Regulation (EC) 1107 – and due to growing political and social pressure, over 50 AS have been withdrawn from the market. It is becoming increasingly difficult to register AS in the EU on the basis of objective scientific research. The range of CPP available to European farmers is constantly decreasing.

Published on May 20, 2020 the EU's Farm to Fork strategy is a component of the increasingly popular European Green Deal. The strategy is aimed at reducing the use of pesticides

by 50% by 2030. Moreover, currently, Russian experts are participating in the coordination of the Post-2020 Global Biodiversity Framework (GBF). In Target 7 of the first GBF project, prepared by the Working Group of Experts on Biological Diversity of the UN Security Council, it is proposed that, by 2030, pesticide use be reduced by at least two thirds based on the volume of pesticide use per agricultural land area unit.

Committee members are seriously concerned about the negative impact on agriculture that may result from following said trends and approaches that threaten food security, both globally and regionally. Currently, agricultural crops are affected by 30,000 weeds, 3,000 worms, and 10,000 insect pests – the toll of which amounts to 26–40 percent of possible yield. Without pesticides, the damage can double in no time. Only the use of pesticides can prolong crop life and prevent post-harvest losses. Since 1960, CPP have become more efficient – the volume of AS in a pesticide is nowadays approximately 95% lower than back in the 1950s.

Presently, Russian agriculture is pursuing ambitious goals in terms of yield and aims at doubling agricultural product exports to USD 45 billion by 2024. Grain remains the number-one export commodity. It accounts for a third of the total export volume in monetary terms. Throughout recent years, grain exports have grown due to an increase in yields and stable domestic consumption.

The current Russian laws and regulations governing CPP circulation are based on the principles of CPP safety for human health and the environment. Sometimes, requirements for CPP toxicological, hygienic, and environmental assessment and classification are even stricter than in the EU.

Assessing pesticides from the perspective of their possible hazardousness, causing the European agriculture to lose more and more CPP, hardly corresponds to the goals of Russia's agricultural policy – it will hinder Russia's achievement of its declared yield goals and to the development of the country's export capacity.

RECOMMENDATIONS

- › It is recommended to shift focus towards optimal use of pesticides, namely towards making the most of their advantages such as increasing yield per hectare and minimizing their impact on the environment and human health, e.g. through switching to precision agriculture, as well more responsible and deliberate compliance with regulations on pesticide use.
- › The goals set in Target 7 of the Post-2020 Global Biodiversity Framework shall not be considered through the lens of per-hectare use of pesticides when the use of pesticides on existing agricultural lands is already permissible contamination, even if it is regulated, but from the lens of permissible residues of pesticides in the

environment and food products, as specified in countries' monitoring programs (in accordance with the requirements of Article 5.10.1 of the International Code of Conduct on Pesticide Management).

- › Based on the joint stance with the Russian Union of CPP Manufacturers, a constructive dialogue must be maintained with the relevant public authorities and research institutions in order to clarify the possible negative consequences that may result from following

the aforesaid trends and approaches, with due regard to the requirements for CPP circulation within the Russian Federation and the goals pursued by Russian agriculture.



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INDUSTRIAL COMMITTEES

ENERGY COMMITTEE



CHAIRMAN:

ERNESTO FERLENGHI,
ENI S.P.A

DEPUTY CHAIRMAN:

ANDREAS BOELDT,
OMV RUSSIA UPSTREAM GMBH

EU-RUSSIA INTERACTIONS

While the ongoing political tensions and the COVID-19 pandemic continue to affect EU-Russia energy relations, the energy transformation (or energy transition) is actively gaining momentum. The EU commitments to achieve climate neutrality by 2050 (the so-called "Fit for 55" package), the law on reducing greenhouse gas emissions, the Concept for the Development of Hydrogen Energy approved by the Russian Government, and other upcoming legislative initiatives (for example, the introduction of quota purchases in Sakhalin Region) are intended to stimulate the innovative development of cooperation between the EU and Russia in the field of energy. However, this is accompanied by certain challenges.

The AEB firmly believes that a constructive dialogue involving all interested parties will promote the achievement of mutually beneficial goals.

OIL AND GAS

The growing gap between gas production and consumption, along with political instability surrounding a number of infrastructure projects, makes the prospects of a reliable gas supply from Russia to the EU more uncertain. In addition, the unprecedented spike in gas prices in the European market is giving all consumer groups cause for concern. The diversification of supply sources and routes, as well as demand and supply security, is vital for ensuring that consumers receive gas in the volume required.

RECOMMENDATIONS

- › It is possible to keep using natural gas until renewable energy sources become more universally accessible. It is extremely important to continue discussing agreements on guaranteeing the continuity of gas supply to European consumers, while also moving toward the designated climate goals. The recently completed Nord Stream 2 gas pipeline can have a positive impact on shaping gas prices.



- › The role that gas is to play in Europe's future energy balance is currently uncertain, which could negatively impact energy infrastructure projects. The growing concern about the carbon footprint of methane use is driving Europe's need for stricter regulations in the field.
- › Natural gas will retain its role in the EU's energy balance over the next few years, meaning that the EU will remain a major market for Russian gas. Proven to be a stable, safe and affordable energy source, natural gas is also driving innovative solutions for a low-carbon economy in the long term. It can be used for producing hydrogen, the widespread use of which leaves a minimal carbon footprint. The existing gas transportation infrastructure can be adapted for moving hydrogen across borders. With innovative technology, the carbon footprint from the use of natural gas can be reduced, and carbon-neutral gas production can be facilitated. We propose promoting joint research programs in relevant fields, in particular, through specialized technological alliances.
- › The introduction of cross-border carbon regulation in the EU may have a significant impact on Russian industrial exporters.
- › It is important to maintain a constructive dialogue, aimed at achieving a balanced solution that would take into account both the EU Green Deal and the interests of Russian industrial manufacturers. By ratifying the Paris Agreement, Russia showed a serious commitment to playing its part in achieving the goals on the climate agenda. Along with potential problems for the Russian industry, the change in European regulations may also speed up the transition to a low-carbon consumption enterprise structure and the rise in industrial energy efficiency.
- › The government of the Russian Federation is continuing to promote a new taxation system for oil and gas companies, along with testing and improving new tax modes.
- › Making taxation in the oil and gas industry more predictable, ensuring tax stability for long-term projects, and treating all investors fairly is vital for the successful completion of major investment projects.
- › Federal Law on Restricting Foreign Investments in Strategic Industries and amendments to mining law present an important concept for investing into businesses with licenses to mineral deposits of federal significance.
- › Any company that carried out geological exploration under a valid license must receive guarantees that it will participate in the development of the respective deposits, should any be discovered. If the deposit discovered is classified as one of federal importance, this calls for new rules and procedures that will eliminate the risk of license withdrawal. Subsoil users should have the right to start exploring and

drilling at the deposit before the geological survey is complete.

- › Restrictions on sharing geological data abroad hinders the efficient operations of foreign companies and joint ventures in Russia.
- › To provide incentives for executing joint projects, it is necessary to amend the current licensing procedure for the export of unclassified geological data obtained by subsoil users as a result of analyzing and processing initial information, as well as to permit the export of geological data not subject to the Decree No. 1203 of the President of the Russian Federation, dd. November 30, 1995, specifically data that does not constitute a state secret and was obtained by companies legally and at their own expense.

HYDROGEN

The adoption of national hydrogen strategies in the EU countries creates opportunities for the export of Russian fuel to the EU, which can positively affect economic ties and improve the trade potential of bilateral relations.

Russia recently approved a new Concept for the Development of Hydrogen Energy and is already taking steps to follow through. Russia's enormous production potential and increased global interest in the development of hydrogen energy is opening up new opportunities for the Russian energy sector. Russia has what it takes to produce hydrogen for a competitive price. The development of hydrogen projects in Russia is stimulated by the country's proximity to the most promising export markets and possession of an export infrastructure that can be repurposed for hydrogen export.

POWER GENERATION SECTOR

Russian Government Decree No. 43, dd. January 25, 2019, changed the Rules of the Wholesale Electricity and Capacity Market, thus building a regulatory foundation for selecting modernization projects. The projects that passed the selection process are highly competitive and attest to the efficiency of this way of stimulating investments into power generation equipment overhaul. That said, the deployment of the modernization process does display certain setback that prevent the efficient completion of the entire range of its intended tasks.

The current rules do not allow projects involving the transition of power generation facilities from the steam power cycle the steam-gas cycle to properly compete with other projects. The transition of significant share of power generation facilities in the Russian Federation to modern technological solutions will, in the long term, not only contain the rise in electricity prices, but also ensure a stable demand for gas turbines and other products of the domestic power engineering industry. This makes it highly important to adjust the rules for selecting modernization projects if we are to encourage the rise in the share of steam-gas cycle projects.

Furthermore, the increase in prices for metal products and building materials, which has been observed since 2020 and significantly exceeds the inflation rate, has a highly negative economic impact on modernization projects that are already at different stages of completion.

RECOMMENDATIONS

Taking into account the previous experience with the selection of thermal power plant modernization projects, along with the sharp deterioration of macroeconomic conditions, we propose amending Section 20 of the Rules of the Wholesale Electricity and Capacity Market, by:

- ▶ Designating an annual quota for steam-gas cycle projects (in the amount of ~2 GW) with the possibility to expand the quota at the cost of unused/saved funds from previous selections.
 - ▶ Increasing the maximum capital expenditures for steam-gas cycle projects, similarly to the selection of innovative turbines (65-80 MW: 100 thousand roubles per kW, the rest: 73.44 thousand roubles per kW).
 - ▶ Canceling minimal requirements for the operating time of steam turbines used superstructural projects before the steam-gas units.
 - ▶ Making it possible to move steam-gas site launch to a later date (within 24 months) without any fines (only applicable once).
 - ▶ Amending the rules of indexing capital expenditures on modernization projects, specifically ensuring the indexing of capital expenditures by the same year when the capacity supply is set to start, by the amount of total inflation between the selection year and the supply start year.
- ▶ In order to ensure that all interested investors can compete on equal terms and that the principles of free competition are followed, it is necessary to consider the timely adoption of relevant amendments to regulatory legal acts, which need to be published no later than 90 days before the bidding starts.
 - ▶ In 2021, a program for the development of renewable energy sources in the Russian Federation was approved for the 2025–2035 period. We are also currently seeing an active climate agenda development, specifically concerning requirements for low-carbon power generation; nonetheless, the approved volumes of investment resources do not allow for the full-scale development of the renewable energy industry, especially given the increased requirements for production localization and for export to third-party countries.
 - ▶ We consider it expedient to expand government support measures for renewable energy projects in 2025–2035 (equaling at least 10 more GW in the wholesale electricity and capacity market), while maintaining the principle of competitive project selection and a operating a mechanism for stabilizing cash flows.



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INDUSTRIAL COMMITTEES

FOOD PROCESSING COMMITTEE



CHAIRPERSON:

TATIANA TKACHENKO,
DANONE

READINESS FOR IMPLEMENTATION OF THE TRACK AND TRACE SYSTEM

On June 1, 2021 the system for labeling milk products was initiated for cheeses and ice cream. Starting from September 1, labeling has become mandatory for milk products with a long-term shelf-life (over 40 days).

From December 1, labeling became mandatory for products with a short-term shelf-life (under 40 days). The volume of such products exceeds the volume of products of the previous stage by a factor of 10.

There are cases of delays in supplying equipment. In addition, at the installation stage at the production site, it was found that the equipment necessary for labeling on high-speed dairy production lines lacked the necessary features or the requisite compatibility. The already installed equipment materially decreased the production rate on high-capacity lines, requiring the technical solutions to be altered and a search undertaken for code printing capabilities at printing offices, making the process even more costly.

Businesses make the maximum effort to comply with the requirements of the labeling system; however, many enterprises still face difficulties with the launch of labeling.

Additionally, there are risks related to the product acceptance procedure that retail enterprises are to carry out through the labeling system, and also to the practice of state control. At the early stage, the risk of errors, faults, and interruptions in the operation of the system is far too great.

RECOMMENDATIONS

- › Prevention of the interruption of supplies and circulation of goods due to state controls and sanctions on trade enterprises until the processes are normalized.

COST OF IMPLEMENTING LABELING

We also wish to mention the cost of implementing a labeling system. Installation of expensive equipment, software development and implementation, and the revision of tried-and-tested operating processes are required.

When introducing the marking with control identification marks (CIM), manufacturers are strictly restricted in their choice of packaging solutions since the launch of a product with a new packaging solution (new material, structure) requires the test of the ability to apply CIM marking, beyond the usual testing. So, the costs of the codes themselves and their application place a significant burden on businesses. Moreover, the cost of a code is the same for high-margin products (such as medicines, tobacco, perfumes, and even fur coats) and for low-margin products (e.g., milk, which is a socially significant product). Then there are the capital expenses for equipment and operational expenses for printing. At the current cost level, the marking would impact the prime cost of products. For the milk industry, capital expenses are estimated at RUB 12.2 billion, operating expenses at RUB 40.6 billion per annum, and the prime cost increase at 4%.

RECOMMENDATIONS

- › Given the difficult economic environment, it is necessary to consider the possibility of reducing the costs of implementing labeling for businesses, inter alia through state support measures.

INEXPEDIENCE OF EXPANSION OF THE LIST OF PRODUCTS SUBJECT TO LABELING WITH CONTROL IDENTIFICATION MARKS

IMPACT OF THE CURRENT INFORMATION CAMPAIGN FOR EXPANDING THE LIST OF PRODUCTS SUBJECT TO LABELING

The danger of running information campaigns that focus on a variety of research by the Russian media into the share of counterfeit products in specific product groups, providing varied data, focusing on the image and reputation of Russian goods on the domestic market and the markets of the Customs Union member states, and the potential impact on exports of these product groups to foreign markets.

Discrediting the operations of key Russian control and supervision authorities that perform comprehensive checks on quality and compliance of these product groups as per Russian legislation (including the Russian Federal Service for Surveillance of Consumer Rights Protection and Human Welfare [Rosпотребнадзор], the Federal Antimonopoly Service, and other bodies).

Discrediting the results of the Strategy for Improving the Quality and Safety of Foodstuffs on the Russian Market over 5 years.

Undermining the presumption on the part of Russian consumers that the Russian products on the market are safe and high-quality, which has a negative impact on the consumer price index, consumer demand, and the perception of economic stability on the part of said consumers;

INEXPEDIENCE OF EXPANDING THE LIST OF PRODUCTS SUBJECT TO LABELING AND TRACEABILITY IN SECTORS THAT ARE ALREADY ACTIVELY COVERED BY THE LABELING AND TRACEABILITY SYSTEM

The expansion of the list of products subject to labeling is at present inexpedient and will remain so until the current experiments and implementation of labeling and traceability stages have been completed in the extant product groups (dairy sector – third stage of implementation, bottled water – both stages of implementation, December 1, 2021 and March 1, 2022, beer – completion of the experiment on August 31, 2022, etc.). This is due to the high level of stress on the system and the limited number and capacities of equipment suppli-

ers and integrators currently working with the current product groups.

Besides, the expansion of the list of products subject to labeling in the foodstuffs sector seems inexpedient due to the current growth in inflation and consumer prices for principal consumer goods, including socially important ones, which will inevitably result in a drop in their affordability for consumers and eventually in the deterioration of their diets, until the situation in the Russian market is stable and the impact of foreign economic conditions in international markets which influence the domestic environment is weakened.

For example, at this time, domestic conditions and the development of the labeling and traceability system are actively influenced by the global chip crisis, as a result of which the delivery period for principal equipment has been materially lengthened for practically all product groups. Such foreign economic matters will remain a significant obstacle for expanding the labeling and traceability system until the period of foreign economic volatility is over and the situation in international markets is stable.

RECOMMENDATIONS

- › To introduce a moratorium on the expansion of the list of product groups subject to labeling and traceability with control identification marks in the categories that are currently most active in the labeling process (the foodstuffs industry, light manufacturing): until the current experiments are over, and the system of labeling and traceability has been launched; and subsequent physical impact assessment (PIA) of the labeling system on key economic indicators for product groups (including the share of counterfeit products).

APPLICATION OF THE PROVISIONS OF FEDERAL LAW NO. FZ-54 "ON THE DEPLOYMENT OF CASH-REGISTER EQUIPMENT WHEN PERFORMING SETTLEMENTS IN THE RUSSIAN FEDERATION" WITH REGARD TO PRODUCT GROUPS INCLUDED IN THE SYSTEM OF LABELING AND TRACEABILITY WITH CONTROL IDENTIFICATION MARKS

In early August 2021, new requirements of Federal Law No. FZ-54 "On the deployment of cash-register equipment..." became effective, establishing the rules for the submission of data for product groups subject to the system of labeling and traceability. According to the above requirements, participants in the circulation of bottled water will be obligated to deploy cash-register equipment (CRE) with the ability to account for CIMs. However, it is very difficult to make an unequivocal conclusion regarding the deadline for the commencement of mandatory



use of such CRE since Federal Law No. 54-FZ does not indicate the type of data to which the submission of this duty is related.

Clause 6.1. of Article 1.2 of Federal Law No. FZ-54 do not discriminate between the statuses of a manufacturer (wholesale dealer) and a seller to an end consumer, and related the duty to use CRE with the ability to account CIMs with the following:

- › use of cash payments for the labeled goods;
- › existence of the user's duty to submit data to the monitoring information system.

The above regulation does not specify exactly which data is to be submitted to the monitoring information system. This situation leads to legal uncertainty and a discrepancy between the conditions provided for in the Resolutions on the introduction of mandatory labeling with control identification marks and the federal laws of the Russian Federation.

This results in the following risks:

- › the necessity to implement the labeling and traceability system for product groups by CRE manufacturers (suppliers) earlier (e.g., as per the Resolution on the Labeling of Bottled Water, this stage is to start from March 1, 2025 – the stage of item-by-item traceability of a product; however, according to a conservative interpretation of Federal Law No. FZ-54, this obligation is to start from as early as December 1, 2021, for mineral water);

- › making the preparation processes for industries involved in the labeling and traceability system more complex and difficult due to the earlier deadlines for readiness;
- › difficulties with the procurement, update and operation of the updated equipment (CRE) as per the mandatory requirements of Federal Law No. FZ-54 in the part on labeled products (with the respective impact on the readiness of the industries for the implementation of the labeling system).

RECOMMENDATIONS

- › To supplement Clause 6.1 of Article 1.2 of Federal Law No. 54-FZ of May 22, 2003 "On the deployment of cash-register equipment when performing settlements in the Russian Federation" with a direct indication of the obligation of circulation participants to submit data on ID codes and/or group packaging ID codes and/or shipping packaging ID codes to the information system. Thereby, the duty to transfer of the above data when handling goods using CRE will be provided for from the moment of the implementation of item-by-item accounting of products.



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INDUSTRIAL COMMITTEES

HEALTH & PHARMACEUTICALS COMMITTEE

**CHAIRPERSON:**

YANA KOTUKHOVA,
SERVIER

EXPANDING LOCALIZATION IN THE PHARMACEUTICAL INDUSTRY: INITIATIVES AND RESTRAINTS

This decade, the pharmaceutical industry is starting a new development phase: the Pharma-2020 Strategy is coming to its end, and the Pharma-2030 comes in its wake, including three vectors, namely: localization, focus on innovation, and demand/access to markets. At the same time, one of the main goals of the Strategy is to ensure national security (import independence in critical niches, e.g. in regard to substances) and technological enhancement (maintaining further growth of production capacities in pharmaceuticals and related industries).

Obviously, to complete the tasks set forth by the government and to further develop localization, it is necessary to overcome existing restraints impeding the development of sales markets. This applies to export in the first place. European companies with production facilities in Russia that export to other EAEU countries often face the situation when the national laws of these countries (e.g. of the Republic of Kazakhstan) place the products made in Russia on an unequal footing with goods of national manufacturers providing the latter with preferences, in particular, in public procurement. At the same time, the Russian laws provide goods originating from the EAEU countries with the same preferences in public procurement, e.g. when applying the “third one out” rule, price preferences in case of localizing an active pharmaceutical ingredient (API), etc.

Another obstacle to the further localization of medicines, including innovative ones, is inadequate intellectual property protection. Compulsory licensing mechanism application,

unscrupulous generic companies entering the market prior to the expiration of the originator’s patent, and sometimes inefficient judicial mechanisms in this regard, the risks of parallel import legalizing are considered by international pharmaceutical manufacturers as a stop signal for further investment in the production expansion.

Lastly, a significant obstacle to the Pharma-2030 strategy implementation is the regulatory environment instability. Moreover, a “second one out” initiative broadly discussed can top up the above-mentioned intellectual property issues. Once it is implemented, pharmaceutical manufacturers who previously localized their production in Russia to the stage of the finished pharmaceutical dosage form are at a high risk of not being allowed to participate in public procurement. In its turn, failure to participate in public procurement intrinsically means narrowing sales markets down, export slowing, and localization becoming economically inexpedient.

RECOMMENDATIONS

Obviously, there are no simple solutions for the above restraints, and to remove them efficiently, businesses and government should join their efforts.

- ▶ Thus, to facilitate exports growth, it seems advisable to hold negotiations at the level of the EAEU member states with the governments and businesses involved to level national laws up to provide equal conditions to all manufacturers of the EAEU member states, regardless of the country of origin, in public procurement. Monitoring of law enforcement at the level of the EAEU member states could also be effective.



- › Developing measures to reinforce intellectual property rights protection is already laid down in the concept of the Pharma-2030 Strategy. Joint actions of the government and businesses can be aimed at creating additional legal mechanisms both at the level of Russia and the EAEU to eliminate infringement of patent rights in compliance with the interests of all bona fide market players.
- › To improve regulation stability, regarding the “second one out” initiative, in particular, it is recommended to consider primarily incentive (tax, etc.) rather than prohibitive measures and to use the existing legal mechanisms (“third one out”, price preferences, etc.).
- › Lastly, it is important to create conditions and develop new forms and methods of localization, such as original design manufacturing, offset contracts, regional support measures, etc.

INCREASING THE AVAILABILITY OF INNOVATIVE MEDICINES WITHIN THE FRAMEWORK OF STATE MEDICINE SUPPLY PROGRAMS FOR CITIZENS OF THE RUSSIAN FEDERATION

Access to innovative medicines is the most important topic for the future of the healthcare system of Russia. Innovative medicines radically change the lives of patients with severe illnesses and enable them to pursue active lifestyles. Including innovative medicines into the state programs is an investment into the quality of life and life expectancy.

Over the last years, the Government of the Russian Federation has intensified regulatory activities to improve access to innovative medicines whose key producers are foreign ones. However, the level of innovative therapy provision is still insufficient. Over the last three years, only a quarter of innovative medicines approved by the European Medicines Agency (EMA) during the same period has entered the Russian market.

The main issue is the current regulation of the system of incorporating innovative medicines into the public system, which focuses on the cost of medicines rather than on their clinical efficiency and their impact on the quality of life and life expectancy.

The state program for the treatment of high-cost nosologies (hereinafter the “HCN Program”) adopted in 2008 under Decree of the Government of the Russian Federation No. 1416 led to a revolutionary breakthrough in the availability of innovative medicines for treating the most severe high-cost diseases. Today, this program still needs further development and optimization. The criterion of “no negative impact on the current budget of the HCN Program during the first year and the three-year planning period” when considering proposals for including medicines in the expensive medicines list (Resolution of the Government of the Russian Federation No. 871 of August 28, 2014) is a significant and often insurmountable obstacle for innovation.

Another obstacle is the features of the current procurement system. In accordance with the provisions of Federal Law No. 44-FZ of April 5, 2013, procurement of medicines is carried out mainly via electronic auctions by reducing the initial (maximum) price. The auction method only makes it possible to have the lowest possible bid price if there are several participants offering a medicine that has the same international non-proprietary name (hereinafter the “INN”) and is most suitable for purchasing generic (biosimilar) medicines. An innovative medicine has a unique INN. In this regard, organization of tender procedures is not efficient in its goal of reducing the price yet holding the auction requires time and organizational costs on the customer’s part.

RECOMMENDATIONS

- › Introduce a differentiated approach to assessing innovative medicines when preparing lists of medicines for human use and the minimum range of medicines required for healthcare delivery, taking into account their long-term impact on the quality of life and life expectancy and excluding the criterion of negative impact on the budget for this category of medicines.
- › Develop and implement a mechanism enabling the transfer of medicines that have registered analogs in the Russian Federation from the HCN Program to other medicine supply programs in accordance with their profile (hospital, outpatient segment) while maintaining their availability in accordance with the actual need.
- › For innovative medicines under patent protection, provide a differentiated mechanism for setting prices stipulated by law: the maximum selling price according to the current rules when included in the list of vital and essential medicines, and a separate confidential maximum selling price when included in the HCN list which is not public and is not taken into account when registering in the State Register of Maximum Selling Prices.
- › Establish an interdepartmental platform on the basis of the Ministry of Health of the Russian Federation for the purpose of negotiating with manufacturers to enter into agreements of various models for innovative medicines procurement.
- › Develop a legal instrument that makes it possible to prepare proposals and set the obligations of the parties when entering into agreements supported by the interdepartmental platform.
- › Complement and improve the laws on procuring medicines: introduce long-term contracts between government customers and medicine manufacturers, risk-sharing and cost-sharing contracts as well as procurement of reference patented medicines without electronic auctions.

- › Implement a flexible mechanism for setting the budget of state programs based on the assessment of medical technologies as well as of patients' actual needs as reflected in the single register of beneficiaries while applying digital data processing technologies.

OTHER ISSUES

- › Impact of the COVID-19 pandemic on the pharmaceutical industry.
- › Implementation of the automated medicine circulation monitoring system.
- › Issues related to registration of orphan medicines.
- › Possibility of recognizing the results of clinical trials held abroad following assessment (examination) of lack of scientifically grounded need for participation of local clinical centers in a clinical trial.
- › Ensuring free circulation of medicines registered in accordance with the EAEU requirements in the Customs Union.

- › Lack of uniformity in the EAEU's certificates of GMP conformity issued by the authorized agencies of Belarus and the Russian Federation.
- › Ways to improve the methodology for calculating the maximum selling prices of manufacturers for medicines included in the list of vital and essential medicines.
- › Public procurement of medical equipment: application of items in the catalog of goods, work, and services to meet governmental and municipal needs.
- › Confirmation of Russian production of medical equipment.
- › Harmonizing descriptions of medical devices with the nomenclature directory of medical devices by type.



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INDUSTRIAL COMMITTEES



HOME APPLIANCES MANUFACTURERS COMMITTEE



CHAIRMAN:

HUIBERT ARIE DE HAAN,
BSH BYTOWYJE PRIBORY

DEPUTY CHAIRMAN:

PAVEL RUDYAKOV,
SAMSUNG

The home appliances market is experiencing severe impacts from systemic problems in the economy:

- › the semiconductor production crisis, which led to the forced shutdown of enterprises;
- › a difficult epidemiological situation due to the spread of COVID-19;

- › a significant increase in the cost of container transportation;
- › growing prices for raw materials and components with an insufficient growth in the real incomes of consumers.

The negative effects seen in 2021 may continue in 2022. Due to that, state support measures and reasonable transition



periods during the introduction of new regulatory requirements are vital for manufacturers of electronic and household appliances. The industry is distinguished by a high level of production localization. The preservation of jobs and the stability of budget revenues will depend on the effectiveness of state regulation and support measures.

STATE SERVICE FOR THE ISSUANCE OF PERMITS FOR THE CROSS-BORDER MOVEMENT OF OZONE-DEPLETING SUBSTANCES AND PRODUCTS CONTAINING THEM BY THE FEDERAL SERVICE FOR SUPERVISION OF NATURAL RESOURCE USAGE OF THE RUSSIAN FEDERATION (ROSPRIRODNADZOR)

Products (equipment) that are included in List D, Section 1.1, Appendix No. 1 to Decision of the Board of the Eurasian Economic Commission of April 21, 2015 No. 30 dated April 21, 2015, and contain a substance included in List F may be imported only subject to a license issued by the Ministry of Industry and Trade of Russia.

To obtain a license, it is necessary to receive the permit for the cross-border movement of products containing ozone-depleting substances from Rosprirodnadzor (hereinafter referred to as the "Permit").

There are a number of systemic problems with the issuance of the Permits, which may lead to a serious crisis in the supply of climatic products in 2022:

- › the Permit cannot be obtained in a digital format, which results in a loss of time in the exchange of information between the applicant and Rosprirodnadzor through a courier service;
- › the extended period for obtaining the Permit in the Russian Federation and the high price of the Permit. The process takes up to twenty business days, and the Permit price is RUB 160,000. In other EAEU countries, the Permit issuance period does not exceed ten business days, and the service is rendered free of charge;
- › in the Russian Federation, a separate Permit for import shall be obtained for each country of origin, while in other EAEU countries, a single permit is issued for all countries of origin.

RECOMMENDATIONS

- › Change the state service format to digital.
- › Reduce the Permit issuance period to ten business days.
- › Introduce amendments in Clause 78 of Article 333.33 of the Tax Code of the Russian Federation and reduce the price of the state service for the issuance of the Permits.

RUSSIAN FEDERATION: REQUIREMENTS FOR THE PROVISION OF INFORMATION ON THE ENERGY EFFICIENCY OF HOUSEHOLD APPLIANCES

According to Clause 4 of Article 10 of Federal Law of November 23, 2009 No. 261 "On Energy Saving and Increasing Energy Efficiency, and on Introducing Amendments to Certain Legislative Acts of the Russian Federation", an energy efficiency class of a product shall be determined in accordance with the rules approved by an authorized federal executive body.

The Rules for Determining an Energy Efficiency Class of Goods by Manufacturers and Importers were approved by Order of the Ministry of Industry and Trade of Russia of April 29, 2010 No. 357. The Rules establish the maximum energy efficiency class A for washing machines, ovens, and other products, and the maximum class A++ for refrigerating appliances.

According to the explanations provided by the Rospotrebnadzor in 2021, classes that are not identified in the Rules approved by the Ministry of Industry and Trade of the Russian Federation shall not be used; although, sometimes, European labels with A+++ classes are affixed to products.

RECOMMENDATIONS

- › Market participants should adhere to good practices and inform consumers of energy efficiency in accordance with the legislation of the Russian Federation, which does not provide for the use of A+++ energy efficiency classes.

EAEU: TR EAEU 048/2019 "ON THE REQUIREMENTS FOR ENERGY EFFICIENCY OF ENERGY-CONSUMING DEVICES"

TR EAEU 048/2019 will come into force on September 1, 2022; therefore, it will be mandatory within the Republic of Belarus and may apply on a voluntary basis within other member states of the EAEU.

There are a number of problems related to TR EAEU TR 048/2019:

- › Technical misprints in TR EAEU TR 048/2019 in terms of the requirements for the provision of information on the energy efficiency of air conditioners, an extension of the regulation to IT equipment not intended for household usage, and the requirements for the conformity validation of spare parts. Despite repeated requests, the process of making technical corrections has not started yet, which creates significant risks of product supply restraints.
- › A lack of approved lists of products and a list of standards for TR EAEU TR 048/2019 makes the timely accreditation of testing laboratories impossible.

- Restrictive requirements for testing laboratories: irrespective of the conformity validation scheme, they are to be registered and operate within the EAEU. In the European Union, a laboratory can be located and operate in any country, including the Russian Federation. The localization of the manufacturer's laboratories in the EAEU entails the risks of the growth of costs embedded in the cost of products, and the launch of new products on the market will take much more time, which will entail a decrease in tax revenues.

RECOMMENDATIONS

- Make technical corrections in TR EAEU TR 048/2019 to eliminate errors.
- Allow, when declaring the conformity of serially manufactured products according to Scheme 1e, to use test protocols of the manufacturer's laboratories, including those outside the EAEU.
- In the absence of approved lists of products and standards in Q1 2022, postpone the introduction of TR EAEU 048/2019 to September 1, 2023.

RUSSIAN FEDERATION: WASTE TREATMENT

Since 2017, manufacturers and importers need to report on the disposal of products and packaging or pay an environmental fee. Amendments to the legislation, that provide for 10% annual growth of disposal ratios for electronics, up to 100% growth for packaging, and the introduction of fines for companies that do not perform disposal themselves, twice the environmental fee, are being developed.

The increase in environmental charges is a negative factor that exerts pressure on localized enterprises, which, given the difficult economic situation, may lead to a decrease in production, the number of jobs, and budget revenues.

RECOMMENDATIONS

- The Committee expresses its extreme concern about the plans to increase disposal ratios and rates, in the absence of the legislative requirements aimed at building an All-Russian system for electronic waste collection through municipalities. Disposal ratios stipulated in the draft legislation cannot be reached without a collection system in place.
- To support the industry, instead of subsidies and other financial support measures, it is recommended to maintain disposal ratios at the level of 2021 in 2022 as an alternative to not requiring budget funds.

RUSSIAN FEDERATION: PRODUCT LABELING AND DOCUMENTARY TRACEABILITY

On January 1, 2019, Order of the Government of the Russian Federation of April 28, 2018, No. 792-r "On Approval of the

List of Certain Goods that are Subject to Mandatory Labeling with Means of Identification" came into force which does not include household appliances. By 2025, it is planned to introduce mandatory labeling of all groups of goods. However, there is still some uncertainty about approaches to the identification of some types of goods. While welcoming the efforts for the legalization of goods circulation and enhancement of the market transparency, the Committee would like to underline that the household appliances market is one of the most legitimate and traceable markets in Russia: there is practically no smuggling or counterfeiting, and all manufactured and imported household appliances can be identified and traced (through serial numbers) to the fullest extent. The Committee positively assesses the experiment started by the Federal Tax Service and the Federal Customs Service for documentary traceability of imported goods in relation to household refrigerators and washing machines. The Committee believes that the documentary traceability system with the integration of product identification means used by manufacturers of household appliances is in full compliance with the principles of complete traceability. At the same time, the Committee expresses its concern about the draft amendments to the Tax Code of the Russian Federation proposed by the Ministry of Finance, which transform the principles of the experiment made by the Federal Tax Service and the Federal Customs Service into requirements for all market participants. To comply with these requirements, companies will require extended preparation and significant investments in electronic document flow and system administration, which is quite unrealistic.

RECOMMENDATIONS

- The Committee requests to study the results of the experiment for documentary traceability and use the statutory possibilities to identify goods with the existing identification labeling of manufacturers in relation to unambiguously identifiable and traceable goods, such as household appliances, which will allow the equipment traceability system to be implemented most efficiently and without significant costs of manufacturers.
- The Committee warns against undue haste in transforming the documentary traceability experiment into requirements for all market participants and encourages a balanced approach to the phased implementation of traceability.



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INDUSTRIAL COMMITTEES

HOTELS & TOURISM COMMITTEE



CHAIRMAN:

**BERTRAND DUGAST,
ACCOR RUSSIA**

MIXED DEVELOPMENT

The current situation in the hospitality sector in Russia is contrasted.

On the positive side, domestic tourism has played a major role in the sector’s recovery. According to the regulator, more than 25 million people have stayed at hotels in 2021. This exceeds the 2020 figure by 90% and is just 3% short of the pre-crisis 2019 level.

Most of these positive results were seen in tourist destinations like the Black Sea, where most of the hotels exceeded their 2019 figures. Since November 2020, Moscow has topped the list of European capitals with the highest average occupancy. Now, hoteliers could further benefit from the mandatory vaccination policy recently ordered by Moscow City Hall. However, as of today, only 35% of the Russian population has received the first of two injections, which is lower than the global average (41%). The global business advisory firm Cushman & Wakefield reported that Moscow’s average occupancy reached 43.6% in late 2020 compared to 39% in Istanbul, which was ranked second among European capitals with the highest occupancy. By May 2021, the gap widened, as Moscow hotels saw average occupancy of 62.5% compared to 31% in London and 24.7% in Paris, said Marina Smirnova, Cushman & Wakefield’s head of the hospitality and tourism department. However, the pandemic forced Moscow hoteliers to adjust nightly rates, and thus the average daily rate has yet to recover to pre-pandemic levels. In the first five months of 2021, Moscow’s year-to-date hotel occupancy was 54.9%, up 45.6% compared to the same period in 2020, according to data from STR, CoStar Group’s hospitality analytics firm. Additional STR data showed that the year-to-date ADR through

May was 5,181 Russian roubles (USD 70.38), which was 3.6% lower than in 2020, while revenue per available room jumped 40.4% to 2,843 roubles.

However, we are facing some major risks that are still jeopardizing the recovery of the heavily hit hospitality sector:

- › The recovery is looking very fragile, as we have just been hit by another wave of infection. This led to further lockdowns during the last week of October, for instance.
- › The situation in the labor market is very difficult. Most properties are struggling to hire frontline team members.

ISSUE

The World Travel & Tourism Council recently warned that the COVID-19 pandemic could lead to a loss of 50 million jobs worldwide in the travel and tourism industry. According to an Oxford economics study, Asia is expected to be the worst affected region and the data suggests the industry could take many months to recover.

Following travel bans, border closures, and quarantine measures, many workers cannot travel to their places of work or carry out their jobs, which affects incomes, particularly for informal and casually employed workers. Given the current environment of uncertainty and fear, enterprises are likely to delay investments, purchases of goods, and the hiring of workers. According to the data, the impact on the Indian hospitality industry could render the majority of hospitality workers in India jobless. As a result of this pandemic, the Indian tourism industry is looking at bankruptcies, closure of businesses, and mass unemployment across the entire country.

A large part of the labor force is seeing domestic mass immigration, which means a majority of the frontline staff at hotels are moving back to their native areas. Temporary workforces will be the first to shrink, after which the impact will be felt by permanent employees, since hospitality companies may be pressured to cut costs. This may lead to a large number of people switching industries to go where the cash flow is better. This global exodus could have a severe impact on the talent pool and may not recover until confidence is reinforced by employers and governments alike.

RECOMMENDATIONS

- › We urge authorities to ease labor employment and migration rules for informal and casually employed workers, especially those coming from CIS countries. Most hotels in Russia, regardless of their location, are having tremendous difficulties in finding frontline staff. They often cannot sell all their available rooms because they simply cannot clean them. This situation leads to a revenue loss and lower quality. By easing the employment of non-skilled workers, hotels would be able to fully benefit from the post-pandemic recovery and maintain their quality standards.

ISSUE

The Federal Antimonopoly Service (FAS) announced that it was drafting a bill that will restrict the economically unjustified increase in prices for accommodation in hotels during major international events.

RECOMMENDATIONS

- › By nature, we are operating in a very competitive business not only in terms of pricing but in the quality of service. There are many players in the hospitality market: international chains, locals ones, individuals, and many booking channels as well, such as direct, online, and offline travel agents, tour operators, and companies.
- › With various actors in terms of offers and distributors, we clearly adhere to the definition of a competitive and auto-regulated market.

- › Event periods are crucial for the profitability of a hotel. In St. Petersburg, for instance, which has a strong seasonality, most hotels show a loss during wintertime, but they manage to compensate for that loss during the summer mostly thanks to the Economic Forum and the white nights. Restricting prices will substantially lower the attractiveness of the hospitality industry to investors. In Russia, there are already fewer upscale hotels for forum participants than in other countries. For example, in London during the low tourist season, 156 five-star hotels offer their services, while this figure is only 24 in St. Petersburg, 6 in Sochi, and 1 in Vladivostok. Therefore, we are in a situation where investment must be encouraged and supported, not the opposite.
- › All hotels have been hit hard by the COVID-19 crisis. Cash flows are at their lowest, average rates are still below 2019 levels, international visitors have not resumed normal travel, and most of the international chains are not planning on a complete recovery before 2023. Once again, restricting pricing during periods where hotels are managing to overcome these difficulties will jeopardize the fragile, ongoing recovery.
- › Finally, the hospitality and leisure industry is facing a desperate struggle to recruit and hire workers as the pandemic wanes and economic demand grows. A recent survey by various job sites found that a staggering 38% of former hospitality workers report that they are not even considering a role in the industry for their next job. Hotels will therefore need to redefine their policies in terms of recruitment, training, careers, and, most of all, wages for their entire workforce. Limiting prices and thus revenue will lead to a dangerous drop in hospitality employment and overall quality of service.



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INDUSTRIAL COMMITTEES



INSURANCE & PENSIONS COMMITTEE



CHAIRMAN:

ALEXANDER LORENZ,
NPF "DESERVING FUTURE",
JSC

DEPUTY CHAIRMAN:

VLADIMIR SUKHININ,
BNP PARIBAS CARDIF INSURANCE COMPANY

RUSSIAN PENSION MARKET

The Russian pension industry in 2021 continued to consolidate. During 2021 that last foreign owned pension fund was sold to a state-owned banking group. The predominance of state-owned pension funds on the Russian market is posing considerable challenges to multinationals operating in Russia when it comes to operating corporate pension plans for their employees in Russia, as several of such state-owned pension funds are currently listed on EU and/or US sanctions lists. In order to foster more private sector investment and a more diverse investor base in the pension market there is an urgent need to make the operating environment for pension funds more attractive for investment.

RECOMMENDATIONS

Several steps could be taken to improve the business model of pension funds:

- › Lift restrictions on Russian pension funds to engage in other commercial activities, which would allow funds to distribute other financial products such as insurance to its extensive client bases, which would allow funds to establish new revenue streams.
- › Lift regulatory requirements for pension funds to send physical letter to millions of clients in case of certain corporate governance events or for regular reporting. These mailings are expensive and seem largely out of place in the context of Russia's exemplary digital transformation in key areas of its economy.
- › Amend/remove requirements for pension fund to keep an insurance reserve, which would considerably reduce the

costs of operating corporate pension plans for funds and its clients.

- › Extend state guarantees to pension fund assets, similar to the state guarantees for bank deposits.

It is our understanding that some of the above initiatives are currently being considered by the Russian government and State Duma and we are hopeful that they will eventually be adopted.

LIFE INSURANCE

The active development of life insurance, including life insurance with the insured person's participation in the insurer's investment income, entails a growth in the number of complaints about the deception of insured physical persons regarding the terms and conditions of insurance contracts, especially with regard to investment income. In response, the Government is adopting various laws and regulations related to the terms and conditions of life insurance which are aimed at the protection of citizens' rights, which often contradict regulations and go beyond a regulator's authority. A prohibition has been established with regard to the conclusion of life insurance with the insured person's participation in the insurer's investment income by parties not qualified as investors, which contradicts the provisions of the Civil Code of the Russian Federation on the public nature of life insurance contracts. Attempts to regulate the protection of insured physical persons' rights by regulatory means without amending the Civil Code or to develop specialized laws lead to the introduction into bylaws of such terms as "an insurance product with an investment component" and "life insurance with an investment component" that are not used in civil laws and do not provide for differences between types of life insurance. Only a law, but not a regulator's bylaw, may be used

as a basis for establishing material terms and conditions of insurance contracts (insurance and redemption amounts; material circumstances influencing the level of risk, etc.). In the absence of consensus regarding fundamental legal and economic categories, regulatory activities are followed by legislative ideas, e.g. consideration of the “unit-linked life insurance” concept.

RECOMMENDATIONS

- Any amendments related to the terms and conditions of insurance contracts regarding the introduction of new types of insurance should be adopted as a part of a law, but not a bylaw, as they require the amendment of the Civil Code and the Law On Organization of Insurance in the Russian Federation. The regulator should focus on information support and ensuring transparency, and monitoring sales channels and practices, but not insurance contracts.

ESG IN INSURANCE

The role of insurance in risk management, sustainable development, and green transition to a low-carbon economy is de-

termined in the recommendations of international organizations (IAIC, PSI), and can be seen in the best practices of foreign insurers. Russia is currently at the initial state of discussing so-called “sustainable insurance” and the respective practices.

RECOMMENDATIONS

- The Committee is ready to offer an open discussion platform of the best foreign ESG practices in the field of insurance, the modeling of climate-related risks and their consequences, and, to a considerable extent, pollution insurance as a tool for financial support in compensating damages caused to the environment.



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INDUSTRIAL COMMITTEES

IT & TELECOM COMMITTEE



CHAIRMAN:

EDGARS PUZO,
ATOS

DEPUTY CHAIRPERSONS:

MARIA OSTASHENKO, ALRUD LAW FIRM
ALEKSANDRA SHMIGIRILOVA, ERICSSON
GLEB VERSHININ, SAP CIS

PROSPECTS FOR THE DEVELOPMENT OF REGULATION OF INFORMATION AND TELECOMMUNICATION TECHNOLOGIES IN RUSSIA

Russia is striving for digital transformation and for the increased level of technological independence. Projects such as “Information Society” and “Electronic Government” have led to the creation of the national program

“Digital Economy”. In the context of the pandemic, the need to ensure the work of authorities and the lives of citizens has further spurred the development of the electronic services, and widespread digitalization has become a national priority. In telecommunications, the most discussed issues now are the new generation of 5G mobile communications and localization of telecommunication equipment production.



DIGITAL PLATFORMS REGULATION AND IT COMPANIES LANDING

In 2021, Russia has seen a tightening protectionist policy and increased regulation of online platforms. New regulations have often been adopted swiftly and with a low level of industry involvement in the technical discussion. The unpredictable regulatory environment as well as increased pressure on international companies would inevitably have a negative impact on the Russian investment climate.

The pressure on international platforms to remove controversial content has greatly increased, including government officials' public statements with threats to prosecute local employees of such companies. Amendments to legislation adopted in December 2020 introduced a new type of "turnover-based fines" for non-removal of prohibited content by online platforms: from 1/20 to 1/10 of the total amount of annual revenue. Such a decision is unprecedented globally, as sanctions of that kind have previously been applied only against companies that abuse their dominant position in the market. In Q3 2021, Roskomnadzor initiated the respective legal proceedings against tech companies.

Having received additional leverage under the federal law "On Information, Information Technologies & Information Protection" ("On the Sovereign Internet"), Roskomnadzor resorted to throttling Twitter traffic and demanding that the company remove materials containing information prohibited by Russian legislation. The restrictions were partially lifted after 91% of the requirements were met.

The government pays special attention to the content of Russian media outlets on foreign platforms and alleged restrictions of such content. According to Federal Law No. 482-FZ "On Amendments to the Federal Law on Enforcement Actions Regarding Persons Involved in Violations of Fundamental Human Rights and Freedoms and the Rights and Freedoms of Russian Federation Citizens," Roskomnadzor has been given the power to block digital platforms either partially or in full for discrimination against the content of the Russian mass media.

The stance of the Federal Antimonopoly Service regarding online platforms has become much harsher as well. For example, Booking.com was fined 14.9 million euros (1.3 billion roubles) for non-compliance with antitrust legislation and abuse of its dominant position in the market. As a result of the proceedings, the company was required to exclude the price parity clause from its agreement. In addition, FAS initiated a case against Google, accusing YouTube of violating antitrust laws by blocking users and content on the platform.

At the same time, the Russian Government's efforts to coordinate activities within the OECD should be noted as positive. The Russian Government endorsed a global approach to taxation of digital platforms and instructed that

proposals be developed for adapting the country's tax legislation in order to join the OECD's BEPS global system.

On July 1, 2021, Federal Law No. 236-FZ dated July 1, 2021 "On the Activities of Foreign Persons on the Internet Information and Telecommunications Network on the Territory of the Russian Federation" was adopted, according to which IT companies that own large online resources must register a personal account with Roskomnadzor, create a branch/representative office, or establish a subsidiary in Russia. The law also applies to foreign hosting providers with clients in Russia, advertising system operators, and organizers of information dissemination on the Internet, introduces a number of special requirements and enforcement measures that may affect foreign companies directly as well as a large number of third parties using the services of such companies. It is a matter of concern that the law is aimed at foreign companies and creates unequal business conditions for companies from Russia and from other countries.

RECOMMENDATIONS

- › Establish a regular dialogue between business and the state to ensure the development of the IT industry in Russia is of particular importance.
- › Involve industry representatives in the process of improving legislation for digital platform regulation, which will help comprehensive consideration of key regulatory aspects and help improve the investment climate.

SECURITY OF CRITICAL INFORMATION INFRASTRUCTURE

On January 1, 2018, the Federal Law "On Security of Critical Information Infrastructure of the Russian Federation" came into force. In the period from May 2020 to January 2021, the Ministry of Finance prepared draft regulatory acts requiring the transition to the preferential use of Russian software, as well as radio-electronics and telecommunications equipment of Russian origin at CII facilities.

Acceptance of the proposed requirements in their current form may lead to a failure of IT systems that ensure the functioning of CII facilities, and CII subjects will incur significant unreasonable costs for the purchase of new equipment and software when the life cycle of existing equipment and software has not yet expired.

RECOMMENDATIONS

- › Limit the scope of the proposed method of regulation by establishing that its provisions apply only to major objects of the first and second categories of significance and provide a transition period of at least 3 years in order for CII subjects to plan their budgets for the purchase of software/equipment and administration. Provide the possibility for economic entities to independently make decisions

on postponing the transition until the end of the useful life and the end of warranty and technical support for the software and equipment currently used.

- › Conduct an independent expert examination and assess the impact of the implementation of the proposed measures on the actual level of security of CII facilities from the point of view of information security on the basis of the FS-TEC of Russia and subordinate organizations.

STATE AND DEVELOPMENT TRENDS OF THE RUSSIAN TELECOMMUNICATIONS MARKET

The Russian telecommunications market remains highly consolidated. There are about 170 million phones, smartphones, tablets, and modems connected to the mobile internet (the main driver of operators' revenue growth) in Russia.

Innovations stimulate the development of a society fully connected to the Internet. A promising market segment, the Internet of Things (IoT), which involves connecting various objects to the network is now developing. At the moment, the transport industry is the leader in terms of the volume of the IoT enterprise market in Russia (13.1 billion roubles). This amount is largely generated by vehicle telematics systems.

The most common frequency range for 5G networks worldwide is 3,400–3,800 MHz. This is due to the fact that this range has wide, free frequency bands in most countries – about 100 MHz per operator, which can be used to transmit growing traffic volumes. In Russia, the most promising band (3,400–3,800 MHz) is occupied mainly by military and satellite communication systems, which are not planned to be transferred to other frequencies in the near future. So the

4.8–4.99 MHz range is considered the main one for 5G networks in Russia, and issues of cross-border coordination with NATO countries in which this range is occupied for military purposes remain unresolved.

Another frequency range used for the development of 5G networks in the world is the frequency above 26 GHz, which in Russia was allocated for 5G technology networks but on the condition that all equipment used must be of Russian origin (listed in the Single Register of Russian radio electronic products). Only US operators currently use these bands. In the future, other countries will join them, primarily European nations and South Korea.

Among other things, the Russian Federation is striving for full localization of telecommunications equipment. It has already been decided that starting in 2024, all newly commissioned telecommunications radio equipment of LTE/LTE-Advanced standards should be of Russian origin.

RECOMMENDATIONS

- › Take steps to gradually allocate the 5G spectrum in potential bands, including 3,400–3,800 MHz, 4,800–4,990 MHz and 2,300–2,400 MHz.
- › Prevent the risk of limited access to the new technologies in the Russian market.



[More information on the Committee page](#)



INDUSTRIAL COMMITTEES



MACHINE BUILDING & ENGINEERING COMMITTEE



CHAIRMAN:

PHILIPPE PEGORIER,
KESAREV

DEPUTY CHAIRPERSON:

MARIA KULAKHMETOVA,
DASSAULT SYSTEMS LLC

PRODUCTION AND INVESTMENT RAISING

AEB pays special attention to such an economic category as the localization of engineering processes, production and subsequent maintenance of engineering products in Russia and to facilitating the inclusion of Russian engineering products in global supply chains. The growth in the share of surplus value created by a foreign economic entity in the Russian market contributes to the economic growth of the regions, the development of the national industry of suppliers, technologies, production, management and improvement of Russian production competencies.

The growth in the level of localization is largely ensured by a targeted state policy in the area of attracting foreign investments and competencies in the construction of local capacities for the production of both end engineering products and component parts of various levels as well as materials required for their production. Such tools include both direct policies with short-term effects, such as establishing special economic zones, tax and customs preferences, state subsidies, etc., and measures that will have a long-term indirect effect, such as incentives for the development of small- and medium-sized business acting as suppliers, improvements in the educational training of competitive staff, the streamlining of bureaucratic processes.

The Committee is actively involved in localization development in Russia and holds regular meetings and consultations in this area.

ISSUES

The Committee has identified three clusters of challenges related to the development of enterprises of foreign companies in Russia.

ESSENTIAL CLUSTER

The desire of state and municipal companies to replace purchased products with local products, which are often substitutes which are inferior in a number of respects to imported originals, may lead to a deterioration in the quality of products created in Russia. The underdevelopment of the system for the production of local components and materials negatively affects the quality of the end product due to shortcomings in the previous stages of production. This results in higher costs in the final product, both for companies and for the state.

The economic basis for the localization strategy and programme has not been properly prepared. This programme seems to be implemented manually. And its implementation contradicts economic laws and global trends in labour specialization. For example, there is a tendency to focus production of key components in one place. At the same time, the development of local production is aimed at reducing logistics costs and the use of manufactured products, primarily in local markets, and thus the market volume as well as the potential for exporting localized goods to export markets plays a decisive role in deciding on investments in localization projects. The underestimation of such global trends in Russia in the development of local production creates a problem that leads to a situation where international companies cannot



substantiate the economic feasibility of projects for organizing production in Russia.

Russia's internal market capacity is too small, due to extremely limited solvent demand, to justify the feasibility of local production, especially for the fabrication of automation components since the pool of engineering companies and comprehensive solution developers is too limited in Russia, and there is little motivation for export from Russia.

The cost of loans needed to develop the technological base of enterprises is very high, which hinders their modernization.

High administrative and bureaucratic barriers and the complexity of and continuous changes in Russian legislation in the area of setting up production result in high administrative costs. International companies have to employ a large number of experts just to prepare documents and supervise necessary changes in processes, while the majority of suppliers of technologies and ready products are small companies that cannot afford this. To obtain state subsidies, the preparation of a large number of documents is necessary so is participation in a tender, which requires a significant amount of employees' time with no guarantee of success.

ENGINEERING CLUSTER

Low automation levels and ageing equipment at many facilities of potential suppliers, which leads to low quality and high cost of products of such facilities.

Non-compliance of the organization of production processes and the quality of components and materials produced by local suppliers with international standards and the requirements of quality management systems applied to suppliers by international companies, which complicates the process of including Russian manufacturers in global supply chains.

Low labour productivity (the mean value in Russia is less than one-third of the same value in the US).

Shortage of trained personnel (blue-collar workers and engineers) able to work with cutting-edge equipment and technologies. Although the situation is improving, it remains quite acute.

INFRASTRUCTURE CLUSTER

Poor infrastructure (except for some regions) and high administrative/bureaucratic barriers in some regions.

High overhead expenses.

The underdeveloped state of small- and medium-sized businesses, which are the basis of the component production industry worldwide.

RECOMMENDATIONS

The Committee suggests the following approaches for the state to encourage foreign investment in Russian production capacities.

- › Develop effective mechanisms to protect property and foreign investments as well as reduce the administrative burden on investors, limiting the inspection and supervisory function of governmental agencies.
- › Share risks with manufacturers by providing a preferential period for investment industrial projects, depending on the production type and payback period.
- › Continue creating technology parks with complete infrastructure, including production premises, using the positive experience of certain regions.
- › Provide companies with more than 40% foreign capital and exporting more than 30% of their production outside of the Customs Union with special fiscal exemptions.
- › Exempt technology park residents from rent for 5–8 years and from a number of taxes, as in special economic zones. Residents should be invited to technology parks with the purpose of establishing links between them so as to create process chains. Manufacturers of components mandatory for localization should be invited to such technology parks first of all. The efficiency of technology parks should be evaluated by the number and sophistication of the production chains arranged at them rather than by the number/volume of investment(s) involved.
- › Provide financial support to local, medium-scale businesses complying (or clearly declaring their intention to comply) with the product quality requirements of foreign investors (or subject to the approved modification programme to achieve compliance in the coming year).
- › Change the approach to production localization in the Russian Federation, focusing on the development of areas in which Russian manufacturers have the greatest competencies, taking into account the possibility of their integration into global supply chains. Provide preferential treatment for imports of products in which Russian components are used.
- › Stimulate solvent demand, provide the opportunity to obtain loans with a low interest rate both for manufacturers of products and for their customers.
- › Provide support for the export of products by providing export credits, government guarantees and insurance of risks of participants in export transactions and by subsidising the cost of transportation across the territory of the Russian Federation.



- › Improve the infrastructure and attractiveness of the regions where it is planned to develop production in order to attract highly qualified experts.
- › Create and develop human resources having modern competencies in the country by organizing educational programmes in educational institutions according to world standards with student exchange programmes between educational institutions of Russia and foreign countries as well as with the involvement of foreign experts or people with foreign experience. Such programmes shall not be limited to universities in the central regions of the country.
- › Simplify the procedure for the entry of highly qualified foreign experts into the Russian Federation under work visas.

ISSUE

The policy of import substitution of products of the Russian government was implemented by Resolution of the Government of the Russian Federation No. 719 dated 17 July 2015 'On Confirmation of the Production of Industrial Products on the Territory of the Russian Federation', in which the principle of performing mandatory technological operations in the country was adopted as the main criterion for recognizing the Russian origin of products. This requirement concerns almost all major industries, and both the list of mandatory operations and the list of regulated industries continue to expand.

Lists of production operations have been elaborated on the basis of the current production process of enterprises that are already monopolists in their sectors. Therefore, this principle strengthens their monopolistic position and completely excludes them from competition and eliminates incentives for the technological development of production and the improvement of the technical level of products, reduction of their cost and improvement of economic efficiency and competitiveness. In addition, buyers of such products are doomed to use obsolete equipment at excessive prices.

The principle of selecting production operations and significantly expanding their list as well as assigning each operation a certain number of points was introduced as an alternative to the principle of mandatory production operations in the automotive industry. Depending on the number of points assigned to the products, the manufacturer gets access to certain forms of state support. Despite the progressive nature of the new method designed to provide more freedom to manufacturers in the choice of operations, it has a number of disadvantages.



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INDUSTRIAL COMMITTEES

RETAIL TRADE COMMITTEE



CHAIRMAN:

ALEXEY GRIGORIEV,
METRO AG

TRADING UNDER THE PANDEMIC CONDITIONS

Retail trade was deeply impacted by the COVID-19 pandemic. Even though the industry already displayed a noticeable recovery

in 2021 compared to 2020 (Rosstat declares trade turnover from January to September 2021 to exceed same periods of 2019 and 2020 by 16%), new waves of coronavirus continue to put the trade industry under repeated stress-tests.

The non-food trade restrictions imposed in Russia during the pandemic had already forced the industry to shut down operations twice, with much effort to rebuild business needed between the periods of complete closure and high additional expenses on anti-pandemic measures incurred. Nevertheless, from January to September 2021, non-food commerce managed to raise its turnover by 22% over the same period in 2020.

The major aspect was the expansion of the e-commerce sales channel, which helped to partially compensate for the profits lost. However, even though e-commerce has grown significantly over the past two years, it has also faced regulatory restrictions and requirements.

The food retail sector was able to continue operating without major disruptions. Nevertheless, from the very beginning of the pandemic, it had to undergo a number of challenges – providing an urgent response to dramatically increased demand for various durable food items, regional entry permit regimes and interregional transportation restrictions for goods, the introduction of enhanced anti-pandemic measures in retail facilities, interaction with customers who violate the state regulations, and the comprehensive vaccination of employees. The food trade also had to cover the high costs of the anti-pandemic measures – additional logistics, personnel, etc. Small and medium-sized trading enterprises were the most affected by the restrictions in the food sector. Overall, however, food retail from January to September 2021 was able to grow by 10% compared to same period in 2020.

In addition to that, the trade continues to face regulatory uncertainty after almost two years. The unpredictable, sudden and urgent introduction of new requirements and the lack of proper coordination between the regional authorities produced just as much negative impact on the recovery process and further development of the trade sector as the restrictive measures themselves (and their excessiveness).

Still, the state of the industry could have been much more dire without the support measures taken by the Russian Government and the stimulation of demand through direct financial assistance to the citizenry in 2020 and 2021.

RECOMMENDATIONS

The AEB believes that the Russian authorities, through a constructive dialogue with businesses, need to develop a regulatory framework for trade operations during the pandemic – a framework that would:

- ▶ provide justification, consistency and transparency of criteria for classifying certain goods and/or services as falling under a certain category of restrictive measures;
- ▶ exclude the closure of trade facilities, provided that the accurately prescribed sanitary anti-pandemic requirements are fulfilled by business;

- ▶ guarantee financial support to businesses by the authorities in order to meet these requirements;
- ▶ ensure the essential predictability and consistency of measures taken by the federal and regional authorities, as well as the tools for ongoing dialogue with businesses for tackling emerging problems and challenges;
- ▶ to exclude the enforcement of excessive and obviously unfeasible regulations in retail;
- ▶ to recognize all major retail, as well as wholesale and small wholesale companies, as strategic enterprises, given their importance of the seamless supply of necessary goods to other businesses and consumers.

STATE REGULATION OF PRICES AND TRADE MARGINS

Over the last few years, there has been a number of initiatives launched either by government bodies or political parties with the goal of regulating prices or mark-ups on various goods and services (basically by introducing amendments to the Federal Law "On the basic principles of state regulation of trade activities in the Russian Federation" of Dec. 28, 2009 No. 381-FZ).

In March 2020, during the extremely difficult period at the beginning of the pandemic and the sharp depreciation of the national currency, trade companies faced an explosive growth in demand for a number of socially important goods, leading to sensitive price increase for certain food products. On average, of about 5–15%. At the same time, in April 2020, two draft laws were submitted to the State Duma: No.942591-7 limiting retail margins on essential food items, and No.942566-7 that would oblige the Government to establish maximum retail prices on certain types of socially important food items. Furthermore, in December 2020, yet another draft law was introduced to the State Duma (No.1077520-7) that proposed that the mechanism of state price regulation for essential food items be deployed, and, in March 2021, the draft law No.1134395-7 on state regulation of prices for engine fuel was introduced.

The declared aim of these legislative initiatives is to support people during the crisis but their implementation would, amid the other factors arising from crisis, become an additional destructive factor for trade and, consequently, for consumers. The business community very much appreciated the consequent and formal position of the Government and the Parliament, which blocked the initiatives mentioned above.

Nevertheless, the trade faced a paradigm shift when, starting from December 2020, the Russian Government began to take practical steps in regulating prices in the national food market. Trade companies and suppliers' unions were forced to sign "agreements" with the Ministry of Agriculture and the Ministry of Industry and Trade of Russia on price containment (for granulated sugar and sunflower oil). The practical application of these agreements led to serious disruptions in the in-



teraction between retailers and suppliers, which had to be tackled “manually” by the ministries.

In August, the Federal Antimonopoly Service of Russia came up with an initiative to regulate trade margins, which was applied to a set of 25 socially important food products.

The reasons for such initiatives are evident, considering the continuing decline in the population’s real incomes and purchasing power. Nevertheless, the chosen approach to the problem seems to be fundamentally wrong-headed and counterproductive, due to the fact that such measures:

- › disturb the market-driven pricing mechanisms in trade based on suppliers’ prices and the costs of trade services;
- › significantly increase the complexity in the interaction between trade and suppliers, increasing the level of conflict in these relationships;
- › threaten to hinder promotional activities in trade, in clear disregard of the needs of consumers;
- › lead to increased price competition between large and small retail companies, which will negatively affect SMEs engaged in trade;
- › will only have a short-term effect, as they do not respond to the real causes of inflationary processes associated with the development of domestic and international markets.

It is important to note that such initiatives were perceived by the business community as a withdrawal of the RF Government from its firm rejection of regulating consumer prices/price margins. They signaled a change of the economic paradigm in Russia. No doubt, such measures undermine the credibility of Russian economic policy, despite the fact that it is aimed at preserving and developing the market economy, and at improving the national business and investment climate.

RECOMMENDATIONS

- › The AEB believes that administrative regulation of consumer prices and trade margins (including through quasi-market price agreements) should be abandoned.
- › Considering all the social and economic challenges Russia is facing, it makes sense to focus on targeted support of low-income groups and increasing state support for food producers and suppliers in order to let them reduce their prices, and promoting free and fair competition — both among suppliers and retailers.



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INDUSTRIAL COMMITTEES

SEED COMMITTEE

**CHAIRMAN:**

VLADIMIR DRUZHINA,
KWS

DEPUTY CHAIRMAN:

DENIS ZHURAVSKIY,
SYNGENTA

CREATING CONDITIONS FOR SEED PRODUCTION LOCALIZATION IN RUSSIA

The Government of the Russian Federation continues to express concern about the dependence of Russian farmers on supplies of imported seeds for a number of important agricultural crops. Seed production localization in Russia by international companies is considered as a way to solve this problem. Intense discussions of the criteria for seed production localization are in progress. The Annex to Decree of the Government of the Russian Federation of July 17, 2015 No. 719 "About the Confirmation of Industrial Production on the Territory of the Russian Federation" establishes requirements for the products of particular industries to be classified as produced in the Russian Federation. For seed production, such requirements have not yet been developed.

Some participants of today's discussions on the seed production localization process require the introduction of primary seed production in the Russian Federation (production of parental forms of hybrids or super elite seed varieties), as well as R&D breeding to obtain new varieties and parental lines of hybrids. This requirement can hardly be treated as economically and professionally justified, especially at the initial localization stage. First of all, primary seed production is possible only subject to special conditions, including the availability of special isolated breeding zones, special expensive technology, machinery, and equipment to maintain and preserve the genetic purity, varietal and sowing features of parental forms, as well as guaranteed protection of intellectual property rights. It can rather be implemented as the final stage of seed production localization, assuming its economic feasibility. Moreover, in other industries (machine tools, automotive, special machinery, etc., presented in the Annex to Decree of the Government of the Russian Federation of July 17, 2015 No. 719), such

a requirement – conducting research and development in the Russian Federation and the production of high-tech components – is missing.

The practice of industrial production localization demonstrates that the regulation of this process should be well-balanced, consistent, and imply the investment attractiveness of localization as a mandatory component. The requirements/criteria for classifying products as Russian in relation to industrial production were elaborated through regular discussions with manufacturers, with the active involvement of international companies aimed at long-term business activities in Russia and the development of investment projects and presented subsequently in Decree of the Government No. 719. Almost all international breeding companies have already localized seed production in Russia in various forms. Up to 40% of the seeds sold by the member companies of the Committee in Russia are already produced domestically. These companies already have or are planning to launch their R&D and breeding stations, they are engaged in developing hybrids and varieties of the main field crops, and have created laboratories for seed quality testing. Moreover, some companies have already built their own plants: the KWS plant for sugar beet seed production at the Lipetsk Special Economic Zone and Lidea plant for field crop production in the Pavlovsky District of the Voronezh Region. According to customs statistics for the last three years, imports of seeds have not grown significantly.

RECOMMENDATIONS

- › Elaboration of the requirements/criteria for classifying seed production as Russian through regular interaction of the Ministry of Agriculture and other government authorities with international companies that have been doing business in Russia for a long time and ceaselessly strive to



attain its full-fledged development. Manufacturers of agricultural machinery and plant protection products have had a similar positive experience.

- › Exclusion of the requirement to relocate the production of parental forms of hybrids to the Russian Federation from the criteria for classifying seeds as those produced on the territory of the Russian Federation. At the initial localization stages, it is unreasonable and does not inspire companies to develop their own production in the Russian Federation.
- › The creation of relevant economic and legal conditions for seed production localization in Russia will allow the dependence of Russian agricultural producers on seed imports and associated risks to be reduced, on the one hand, and to maintain a high yield potential, on the other hand.

REGULATORY ACTIONS ON SEED IMPORT PROCEDURES BASED ON THE LAW OF THE EAEU AND REGULATIONS OF THE RUSSIAN FEDERATION

Starting from February 2021, trucks with seeds for spring planting began to be sent to temporary storage warehouses on the orders of customs officers. Seed suppliers were waiting for the results of expert examination regarding the absence of GMOs and the quarantined items to receive the Phytosanitary Control Certificate issued by the Federal Service for Veterinary and Phytosanitary Surveillance (Rosselkhoz nadzor) and a customs declaration giving the permit for seed circulation. The waiting period could be as long as thirty days. Some customs officers did not allow vehicles to leave or move to the warehouses of companies with the attached stamp “Release is permitted without the right to sell” which is to be affixed by Rosselkhoz nadzor inspectors.

Until this year, when importing seeds to Russia, quarantine phytosanitary control (supervision) was carried out in accordance with Clause 3.8. of the Regulation on Quarantine Phytosanitary Control (Supervision) at the Customs Border of the Eurasian Economic Union approved by Decision of the Customs Union Commission of June 18, 2010 No. 318 “On Ensuring Plant Quarantine in the Eurasian Economic Union”. In accordance therewith, “the legislation of a member state may provide for cases when, prior to receiving the opinion of a quarantine phytosanitary expert examination, an official of an authorized body of a member state permits the release of quarantined items subject to compliance with certain conditions (place of storage, restrictions on circulation, etc.)”. Correspondingly, during quarantine phytosanitary control (supervision), a “conditional release” of products may take place when the importer undertakes not to sell the goods until the end of the quarantine phytosanitary control (supervision) and store them in certain places, and the Rosselkhoz nadzor authorities reserve the right to exercise control over seeds released “conditionally”, at the importer’s warehouse.

In accordance with the ordinance of Rosselkhoz nadzor, all seed suppliers received the certification of their warehouses in September 2020. This was preceded by taking all necessary measures for the quarantine phytosanitary disinfection thereof. Then, inspectors of the territorial departments of the Rosselkhoz nadzor conducted their quarantine phytosanitary examination according to Clause 2 of Article 8 of Federal Law of July 21, 2014, No. 206-FZ “On Plant Quarantine”. The premises and open areas of temporary storage warehouses are not designed for the long-term storage of seeds. A failure to comply with the relevant requirements bears the risk of changing the qualitative characteristics of seeds. Additional expenses incurred by companies due to keeping goods at temporary storage warehouses and paying for the downtime of vehicles may lead to an increase in the price of the final food products in the next season.

Thus, the problem is of a systemic nature, and its solution depends on meaningful interagency interaction and the relevant regulatory framework, which are lacking for the time being.

RECOMMENDATIONS

- › Development and implementation of a clear seed import procedure in accordance with the provisions of Decision of the Customs Union Commission of June 18, 2010 No. 318. Introducing the right of the Rosselkhoz nadzor inspectors to affix a stamp “Import is allowed without the right to sell” on the phytosanitary certificate and shipping documents, and the right of the customs officers to allow the exit of vehicles and their movement to the warehouses of companies in relevant regulations. Accordingly, prior to the receipt of the Phytosanitary Control Certificate, companies will send seeds to their warehouses certified in accordance with the requirements for the storage of seeds.
- › Forming a smooth procedure for interaction between the Rosselkhoz nadzor inspectors and the Federal Customs Service when taking control and supervisory measures during seed import. This will allow Russian agricultural producers to be provided with seeds in the volumes and within the time frames indicated in agreements with suppliers, which is crucial during spring planting and for the food security of the country in general.



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Committee page**



CROSS-SECTORAL COMMITTEES





CROSS-SECTORAL COMMITTEES



COMPLIANCE & ETHICS COMMITTEE



CHAIRPERSON:

SVETLANA MAKAROVA,
NOKIA

DEPUTY CHAIRMAN:

ALEXEY KHAKHULIN,
PJSC FORTUM

APPLICATION OF NEW COMPLIANCE TECHNOLOGIES IN A DYNAMICALLY CHANGING WORLD

ISSUE

The outbreak of the COVID-19 pandemic has forced companies to reconsider their priorities in many areas. It has obviously led to severe financial problems for both companies and workers in all industries. Since businesses are currently resuming their activities while adjusting to the twists and turns in the “new normal”, many compliance challenges remain, and new compliance challenges will arise as well, requiring proper handling.

RECOMMENDATIONS

- › Companies need to be flexible, adapt to rapid changes in their industries and the market in general, and revise their strategic goals where necessary, with a commitment to ethical and compliance principles.
- › Companies need to pay attention to the value of an informed compliance culture and foster a culture of ethical behavior and business ethics to avoid exacerbating the negative financial impact of the crisis. The current situation is already complex enough and does not need to be further complicated by the legal consequences of violations in the field of compliance, including criminal ones.

ISSUE

- › The number of legal requirements is continuously growing. Amid such regulatory pressure, compliance experts are faced with a host of new tasks requiring immediate attention. How can we maintain the golden standard of compliance in a fast-changing regulatory environment?

RECOMMENDATIONS

- › Compliance is becoming an integral element of corporate culture and helps build business based on high corporate standards. Corporate culture has a defining value for companies. Building a corporate culture is the CEO’s responsibility, but it requires input from each and every employee. Understanding corporate values is crucial for creating a trust-based business environment. Today the presence of policies and procedures alone is not enough. It is essential to seamlessly incorporate these procedures into a company’s activities or, in other words, create a balance between adequate control and acceptable risks.

ISSUE

- › The rapid growth of technology cannot be stopped. The use of AI, process automation, and more is turning technological processes into a driver of change, with even more new compliance challenges emerging along the way. Compliance departments operate using modern automated systems. Such systems are often not interconnected and are not flexible in relation to regulatory changes, which requires significant costs for their modernization.

RECOMMENDATIONS

- › The strategy pursued by a company determines the use of technology across the company and in all areas of its activities. Reasonable use of technology is another factor that is no less important. The company’s maturity and the availability of methods and internal processes as well as the preparedness of its personnel for automation are factors to be taken into account. Sensible use of new technology helps companies progress in all their areas.

PROCESSING OF EMPLOYEES' PERSONAL DATA IN THE CLIMATE OF THE COVID-19 PANDEMIC

The COVID-19 epidemic has forced many companies to switch a significant number of their employees to remote working, which has entailed additional difficulties in terms of processing personal data and has negatively affected the employers' ability to monitor the actions of their employees.

ISSUE

Remote work requires the processing of personal data using employees' devices and using corporate devices located away from the employer's premises. This issue is not new per se, but it is obviously the first time the Russian economy has faced personal data processing at such a large scale.

RECOMMENDATIONS

In this regard, the following activities are of particular relevance:

- › revising the processes of personal data processing and changing previously developed lists and methods of personal data processing;
- › adjusting employers' corporate regulations in line with changes in the characteristics of personal data information systems;
- › making sure data contained in personal data controllers' registers are up to date and updating such data in a timely manner;
- › ensuring the confidentiality of personal data using technical means.

In cooperation with personal data operators, the public authorities concerned should collect and summarize data regarding the best practices of risk management with regard to processing the personal data of remote employees, as well as employees processing personal data collected by their employer using their personal devices.

ISSUE

Monitoring employees' activities becomes more difficult with an increase in the number of devices and processes to be monitored. For the purpose of monitoring employees' actions using technical means, an employer generally relies on the consent of the data subjects, which consent may be withdrawn. The withdrawal of consent to personal data processing may make such processing impossible and is extremely likely to be used by mala fide employees to protect themselves in the event of an investigation.

RECOMMENDATIONS

- › Employers should assess whether their employment contracts and corporate regulations are relevant in terms of establishing a clear list of cases in which it is permissible to monitor employees' actions. Employers should analyze the legal grounds for such monitoring and

develop a legal stance regarding additional grounds for processing personal data in the event of the withdrawal of consent thereto.

ISSUE

In certain constituent entities of the Russian Federation, the challenges arising from the pandemic have forced authorities to require employers conducting activities in certain industries to ensure mandatory vaccination of at least 60% of their employees. For example, in Moscow, employers have been obliged to submit employee vaccination reports electronically. Moscow employers were to upload these to the official website of the Mayor and Government of Moscow from July 1, 2021, to July 15, 2021. In many other regions, similar responsibilities have been introduced within different terms, etc. Employers have been obliged to submit the following information regarding their vaccinated employees: Individual insurance account numbers (SNILS), compulsory medical insurance policy numbers, series, and the number of identity documents or patents (for foreign citizens), as well as mobile phone numbers.

However, data on vaccination/non-vaccination are personal data and thus may not be disseminated without the respective employee's consent. At the same time, on its official website, the Federal Service for Labour and Employment (Rosstrud) has explained that in Moscow Region, no consent is required to transfer employees' COVID-19 vaccination data to authorities, as such information is required for the purpose of preventing a threat to the employees' health and lives.

Considering the fact that the explanations above are not regulations and contradict each other, there exists a risk of claims against employers due to the unlawful transfer of employees' data to third parties.

RECOMMENDATIONS

- › The employers carrying out their activities in the fields falling under regional requirements for ensuring vaccination of a specific number of employees should obtain their employees' consent to transfer of such employees' personal data to public authorities, for the avoidance of the risk of claims by the employees. Such consent shall include references to the respective documents issued by governmental sanitary inspectors and the authorities of constituent entities of the Russian Federation.



More information on the Committee page



CROSS-SECTORAL COMMITTEES

CUSTOMS & TRANSPORT COMMITTEE



CHAIRPERSON:

WILHELMINA SHAVSHINA,
EY

DEPUTY CHAIRMEN:

SERGEI GUSEV, ELECTROLUX
EVGENIY MISHUTKIN, NESTLE ROSSIYA LLC
ALEXANDER PERROTE, LEROY MERLIN RUSSIA

Taking into account the rapid development of law enforcement practices regarding customs regulations, experts of the Customs and Transport Committee of the AEB (the “Committee”) are constantly analyzing trends in such practices and developing initiatives aimed at improving the regulatory framework in the field of foreign trade to form unified approaches and methodologies. Realizing the need to reduce the risks of doing business, the Committee members identify the most urgent tasks and suggest solutions thereto.

The Committee also mediates a constructive dialogue between government authorities and the business community on customs regulation issues to enhance the business environment and ensure that the parity necessary for a sustainable balance between public and private interests exists.

Considering the current trends in transport and customs regulation, the Committee identified the following issues and proposed recommendations for their resolution.

CUSTOMS VALUE OF IMPORTED GOODS

The current law enforcement practices of the Russian customs authorities evince a multi-factor increase in inspections of customs value. The aim of such inspections is to include additional charges in the customs value. These additional charges are, in particular, license and intra-group payments, dividends, and VAT paid by companies as tax agents in connection with license payments to rightsholders (“agent’s VAT”). The inspections often end up with negative results for foreign trade participants, for example, in form of additional large amounts of customs duties and penalties, administrative and criminal liability.

ISSUE

Due to the above-mentioned increase in control, representatives of the business community are at constant risk of a negative assessment of their approaches to determining customs value and are faced with the customs authorities’ ambiguous approach to additional charges. The problematic aspects are: 1) application of intellectual property rights, such as the know-how used in the manufacture of finished products in Russia or in administrative and economic activities in general, as imported goods and the need to include royalties for the specified intellectual property rights in the customs value of such goods, and 2) inclusion of royalties payable for manufactured products in the customs value of raw materials imported for the manufacture of such products.

The problem lies in the lack of recommended examples and techniques, which leads to an excessively broad interpretation of these aspects by customs authorities.

It is important to note that, in 2021, the Federal Customs Service of Russia was focusing on the agent’s VAT during customs inspections, referring to Recommended Opinion 4.16, which clarifies the inclusion in the customs value of goods of taxes to be withheld by an importer (tax agent) from income in the form of royalties in favor of a foreign rightsholder in accordance with the tax laws of the country of import.

The Committee’s experts note that this Recommended Opinion applies to the inclusion of income tax in the customs value, but not the agent’s VAT. This document is also not mandatory, but advisory for application in Russia, from the standpoint of the existing legal system.

In connection with the above, the business community does not have real legal tools to correctly determine the structure

of customs value. It is known that, during the meeting between Vladimir Putin and the head of the Accounts Chamber of Russia Aleksei Kudrin, these shortcomings in the customs legislation were presented as “loopholes”, of which, according to the representative of the Accounts Chamber, Russian businesses make systematic use. However, due to the inconsistency of law enforcement and the ambiguity of interpretation of the customs legislation, companies cannot be guaranteed a univocal assessment of the licensing structures they use, which negatively affects their business.

RECOMMENDATIONS

- › It is necessary to develop clear regulations on the inclusion of license and intra-group payments, dividends, and agent’s VAT in the customs value.
- › According to the Committee, the main tool for the unification of approaches used by customs authorities is the improvement of the regulatory framework. The previously developed Recommendation of the EEC Board No. 20 dated November 15, 2016, with Amendment No. 15 dated August 28, 2018, does not disclose sufficient practical examples of various relationships, therefore it is objectively necessary to expand and revise such regulations, as well as the practical examples.
- › It seems necessary to develop an opinion at the EAEU level containing uniform provisions on the correctness of the non-inclusion of the agent’s VAT in the customs value.
- › The publication by the Ministry of Finance of the Russian Federation of the Procedure for Consulting on Customs Value Issues and the Procedure for Obtaining Decisions on the Methodology for Determining Customs Value in the shortest possible time will minimize customs risks for business and significantly increase the efficiency of customs administration in the Russian Federation.

CONFIRMATION OF COUNTRY OF ORIGIN

In accordance with the “Non-Preferential Rules for Identifying the Country of Origin of Goods” approved by Decision of the EEC Council No. 49 dated July 13, 2018, the origin of goods is generally confirmed by a declaration of origin (Clause 23), and in some cases, a certificate of origin (Clauses 24, 25). According to the general rule established by the EAEU Customs Code, a submitted declaration of goods does not have to be accompanied by documents confirming the information stated in the declaration of goods. At the same time, in accordance with Clause 6 of Article 80 of the Customs Code of the EAEU, copies (including hard copies of electronic documents) of these documents may be submitted if, under the Treaty on the Eurasian Economic Union dated 29 May 2014, international treaties and legal acts in the field of customs regulation and/or international treaties of the member states entered into with a third party, the mandatory submission of originals of such documents is not required.

The non-preferential rules do not contain a direct requirement to submit originals of certificates of origin of goods during their customs declaration.

ISSUE 1

In practice, however, the customs authorities mandatorily require the provision of the original certificate of origin, while establishing requirements for the form of the certificate. If importers fail to submit the original certificate, they are forced to pay antidumping duties and taxes based on the antidumping duty rate. Under the COVID-19 restrictions, it is difficult to obtain the original certificate, since many Chambers of Commerce have switched to issuing certificates exclusively in electronic form.

Clause 25 of the Non-Preferential Rules allows for the possible use of an electronic system for verifying the origin of goods and the original certificate of origin does not need to be submitted if the customs authorities use the system. At the same time, the requirements for the electronic origin verification system should be established by a separate protocol (Memorandum) between the customs authority of the Member State and the authorized body (paragraph 27). The website of the Eurasian Economic Commission published “information on electronic databases of the authorized bodies of third countries that can be used to check the certificates of origin issued by them as part of preferential and non-preferential trade”. These provisions indicate that the requirement by the customs authorities to submit the original certificate of origin in hard copy is excessive.

It is worth noting that this interpretation of the Non-Preferential Rules exists only in the Russian Federation. When importing goods to other EAEU countries, the originals of certificates of origin are not required when declaring goods; the customs authorities check the certificate number indicated in the copy held by the importer in the electronic database and allow the release of goods.

RECOMMENDATIONS

- › It seems appropriate to amend Decision of the EEC Council No. 49 dated July 13, 2018, which would eliminate the ambiguous interpretation of the Non-Preferential Rules for determining the country of origin of goods and create conditions for the early transition to electronic verification of certificates of origin. Namely, the rejection of the requirement to submit the original certificate of origin in the presence of a copy of the certificate and information about this certificate in the electronic database of the Eurasian Economic Commission.

ISSUE 2

Subclause 7 of Clause 5 of the Requirements for the Certificate of Origin in relation to a document of origin in



cases where the country of export differs from the country of origin:

In the case when certificates of origin of goods are issued in a country of exportation of goods other than the country of origin, Decision No. 49 established the requirement that the certificate must contain the details of the document on the basis of which the country of origin was established by the issuing authority. However, Decision No. 49 does not contain an exact list of documents that can be used for this purpose. In practice, customs authorities reject certificates of origin issued in the country of export other than the country of origin, indicating the illegality of the use of certain documents. Decision No. 49 cannot regulate the issues of confirming the origin of goods transported within the mutual trade of third coun-

tries, therefore, the origin of such goods can be confirmed by any documents used in world practice for these purposes.

RECOMMENDATIONS

- › To establish and approve the exact list of documents which can be used to confirm the country of origin of goods.



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CROSS-SECTORAL COMMITTEES



FINANCE & INVESTMENTS COMMITTEE



CHAIRMAN:

STUART LAWSON,
EY

2021 has shown the resilience of the Russian economy in the face of the pressures from the COVID-19 epidemic. The conservative fiscal policies have created a stable foundation and the economy has benefited from stronger energy prices, but challenges remain. The forecast GDP growth of 4.5% reflects the base effect from the negative impact on the economy of COVID-19 last year, an economy skewed to the public sector has fared better than many western markets and the impact of firmer energy prices. Additionally, the year has seen a very significant increase in capital raising in 2021 with activity in London and Moscow including 5 market debuts with further issues expected before year end.

The foreign investment climate however remains at its lowest level in the past two decades (around USD 1.4bn in 2020),

much of it reflecting reinvestment from Russian offshore entities. Foreign investors closely followed the Michael Calvey case and were disappointed when he was found guilty with a 5-and-a-half-year sentence for what was seen as a commercially driven criminal case. Whilst impacting investors looking to enter the market for the first time, existing investors remain satisfied with the operating environment and the AEB-GFK 14th survey showed an improvement in the index which grew 20% based on market medium term potential combined with existing returns on investment.

The government has spent 3% GDP on anti-crisis measures which has in part fueled an increase in retail demand of 8.7% this year. Inflation has become a major issue with an increase of 8% in CPI forecast by year end. In response, the Central Bank of Russia has increased its reference rate

to 7.5 % and is expected to maintain a tight fiscal policy until at least the middle of 2022.

The political climate remains extremely strained with major issues between Russia and the EU and USA. Recently sanctions have not been as central a topic as in previous years, the threat remains that actions by Russia might trigger a tough response and this uncertainty hangs over the market. Additionally, the SME segment remains very undeveloped and has suffered from the COVID-19 crisis whilst the public sector continues to expand. Combined with a weak performance in venture capital and continuing concerns on judicial reform, there is the danger that Russia will not be able to attain its potential as a diversified economy.

LOCALIZATION

The import substitution (localization) policy, launched in Russia as early as in 2014, is now entering a new stage of development. New factors are arising that influence the adoption of strategic localization solutions, both by the state and businesses. The main such factor is the COVID-19 pandemic. Among other challenges are the power crisis and the resulting partial suspension of production in China, a global-scale manufacturer of parts for an overwhelming majority of industries. These circumstances have caused the appreciation of export products from China, first and foremost, raw materials and parts, but has also caused material delays for supplies, etc.

Importantly, it is these factors that impact the state's priorities regarding localization in Russia, too: these days, the task of overcoming import dependence has risen to the fore as an imperative in ensuring national security, particularly in socially important and strategic industries. To complete this task, the state has proposed a number of initiatives, among them the introduction of the "two-is-a-crowd" rule that allows only those producers who have localized their full-cycle production in Russia and other EAEU countries to participate in state-sponsored tenders.

The "two is a crowd" rule has been applied since late summer 2021 to manufacturers of a number of medical devices (tomographic scanners, ultrasound machines, etc.); its implementation is also being considered for some strategic medicines (for the treatment of HIV, cancer, etc.). The trend is obvious, and it can be both expanded as a part of these socially important industries and cover others.

On the one hand, the state approach, intended to localize stock, raw materials and parts as well as the goods produced using them, is understandable. On the other hand, the restrictive approach (inability to participate in state-sponsored tenders) will not promote attractiveness for foreign investment or the implementation of localization programs by European companies, it would narrow the sales markets and, highly likely, put the existing localization plans of manufacturers on hold. Moreover, there is

a risk that the introduction of the two-is-a-crowd rule will have a reverse effect: companies will simply leave the Russian market, seeing no prospects for themselves.

RECOMMENDATIONS

- › In order to complete new, large-scale tasks in pursuit of localization, the importance of regular, systemic, open dialog between the state and market players comes to the fore. Moreover, it would be advisable to perform a joint analysis of extant mechanisms (e.g., the odd-man-out mechanism, current pricing preferences in state-sponsored procurement, etc.) and build a localization strategy for the production of parts and raw materials with a sober account of what results are achievable.
- › What's more, in order to attract investors, it is important to take into account the industry's characteristic features and develop new sales markets (inter alia, while maintaining a dialogue with EAEU member states and other countries) and incentives at the federal and local levels, and also to ensure the stability of the regulatory environment and a high degree of intellectual property protection.

INVESTMENT TAX DEDUCTION

An investment tax deduction (ITD) implies a material saving on taxes; however, businesses treat this incentive carefully. The lack of demand for ITDs is caused by a number of defects that we intend to eliminate.

LIMITS ON THE DISCRETIONARY POWER OF THE RUSSIAN FEDERATION'S CONSTITUENT ENTITIES IN ITD REGULATION

When implementing ITDs, the constituent entities of the Russian Federation are given a wide range of powers, including that to determine the supported category of taxpayers through the restriction of types of incentivized fixed assets, activities, etc. Such width of discretionary power allows the introduction of ITD conditions that do not coincide with the goals of an ITD. Restrictions on ITD application based on the capital origin criterion are most significant for international groups of companies.

In particular, the requirements for state registration of an investor as a legal entity in the region and for the status of a participant of the national project "Labor Productivity and Population Employment Support", in which investors with a foreign interest share in excess of 25% cannot participate, are popular. They are used as conditions of ITD application by 18 constituent entities of the Russian Federation, in fact prohibiting the use of ITD for businesses with foreign interest.

RECOMMENDATIONS

- › The extensive discretionary power of a constituent entity of the Russian Federation does not seem expedient



without a material burden on the regional budget (for example, constituent entities of the Russian Federation are compensated 2/3 of the tax income received from the use of the benefit). In this regard, it is necessary to restrict the regions' use of ITD regulation. It would be expedient to include in the Tax Code of the Russian Federation reasonable additional conditions, regarding which regional authorities are given the discretionary powers. Also, we propose a direct prohibition on the requirement for state registration of an investor in the region and of establishing similar conditions for ITD use that actually introduce a restriction based on the factor of capital origin.

GROUNDINGS AND PROCEDURE FOR RESTORATION OF THE ITD AMOUNT

According to the Tax Code of the Russian Federation, in the event of a sale or other disposal of a fixed asset (with the exception of liquidation) before the end of its useful life, the amount of tax left unpaid in connection with ITD application to such property is to be restored and paid to the budget, along with relevant penalty amounts.

Despite how onerous the consequences introduced by the law are, the regulations of Clause 12 of Article 286.1 of the Tax code produce a number of practical problems:

- › the uncertainty of the "other disposal" concept (in particular, it is unclear how the benefit is to be handled when the property is transferred in the course of reorganization);
- › lack of a procedure for declaration of the restored tax.

RECOMMENDATIONS

- › The Tax Code of the Russian Federation needs to establish an exhaustive list of grounds for tax restoration that would not admit any ambiguous interpretation, and also to determine a period in which the tax restoration would be declared; to specify the forms of income tax declaration (at present, the form does not provide lines for ITD restoration).

THE PROCEDURE FOR ITD APPLICATION BY FOREIGN ENTITIES

In the literal sense of Article 286.1 of the Tax Code of the Russian Federation, foreign entities are not forbidden to use ITDs. However, the deduction cannot be declared by permanent representative offices in the Russian Federation, since declarations for the income tax of foreign entities do not have the requisite lines.

RECOMMENDATIONS

- › It is advisable to supplement the declaration form for the income tax of foreign entities with an attachment, on which an investor would declare the amounts of capital investments and declare any ITDs.



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CROSS-SECTORAL COMMITTEES



HUMAN RESOURCES COMMITTEE



CHAIRPERSON:

IRINA AKSENOVA,
COLEMAN SERVICES UK

The Human Resources Committee consists of four sub-committees: the Assessment, Training & Development Subcommittee; the Compensation & Benefits Subcommittee; the Labor Law Subcommittee; and the Recruitment Subcommittee.

THE GOVERNMENT'S MEASURES DURING THE COVID-19 PANDEMIC AND EMPLOYERS' OBLIGATIONS

In 2020 and 2021, Russian executive authorities took large-scale measures to prevent or slow down the spreading of the COVID pandemic. Among such measures are mass vaccination; ensuring compliance with hygiene and sanitary regulations at workplaces; the introduction of unscheduled non-working days; and restrictions on cross-border travel.

Almost all of the regulations related to the implementation of the said measures affect employers, impose additional obligations thereon, and establish liability for non-compliance.

When the aforesaid regulations were prepared, statistical data evinced that the pandemic was expanding on a large scale, due to which the authors of the regulations did not have time to elaborate on the details. Therefore many regulations do not contain answers to questions employers ask when arranging for the proper fulfillment of the authorities' requirements.

RECOMMENDATIONS

- › The AEB Human Resources Committee is making every effort to find out which anti-COVID-19 rules and stand-

ards are actually behind the executive authorities' regulations, as well as to make Association members aware of their obligations and responsibilities, the ways to fulfill such responsibilities, and what conduct aimed at protecting businesses from the impact of the current restrictions is possible. We recommend that Association members strictly abide by the Government's anti-pandemic requirements.

ELECTRONIC HR DOCUMENT MANAGEMENT

In Russia, the need to switch to electronic HR document management has sped up the law-making process. Federal Law No. 439-FZ dated December 16, 2019, has amended the Labor Code of the Russian Federation by establishing the possibility to maintain records on labor activities in electronic form (via "electronic employment record books"). Further legislative acts and regulations of the Government of the Russian Federation have created a basis for switching to electronic employment record books beginning from January 1, 2020.

Unfortunately, the law-based conversion of other HR documents into electronic format has taken longer than expected – however, this process was materially accelerated during the COVID-19 restriction period. Within the shortest possible time, companies were forced to switch a large share of their employees to remote work, which was impossible without transition to electronic document management. Although employers were unable to formalize such transition in full compliance with the effective Labor Code of the Russian Federation, the Government, via the Ministry of Labour and Social Protection, has actually made the respective simplified approach official. For European businesses, it would be way more convenient if, in



the nearest future, regulations were adopted that would officially regulate the actually existing switch to electronic HR document management. This will allow the existing legal risks of using electronic HR documents to be mitigated without required support by legislative provisions, which will materially improve the country's investment climate.

In April 2021, the draft Federal Law On Electronic Human Resource Document Management was submitted to the State Duma. In June, the draft Law was passed in its first reading.

RECOMMENDATIONS

- › The AEB Human Resources Committee and its Labor Law Subcommittee monitor the status of the draft Law on Electronic Human Resource Document Management and will take all possible measures to make all Association members aware of the respective requirements as soon as the Law is adopted. We recommend that AEB-member employers familiarize themselves with the draft Law and begin preparing to switch to electronic document management beforehand.

DISTANCE/REMOTE LABOR

Article 49-1 of the Labor Code of the Russian Federation regulating working conditions outside of workplaces was introduced by Federal Law No. 60-FZ dated April 5, 2013. Nevertheless, before 2020, such a form of labor organization was used by employers to a limited extent only. Among the reasons therefor was the relatively low flexibility of the new regulations.

Due to the COVID-19 situation and strict anti-pandemic restrictions introduced by authorities, switching to remote work has become the only alternative to the total closure of businesses. Almost six-month experience of such work has revealed the great potential of such labor relations, both for employers and for employees.

Federal Law No. 407-FZ, dated December 8, 2020, 'On the Introduction of Amendments into the Labor Code of the Russian Federation with regard to Regulation of Distance (Remote) Working and Temporary Switching of an Employee to Distance (Remote) Working at the Employer's Initiative in Exceptional Cases', adopted by the State Duma, has introduced a new version of Article 49-1 of the Labor Code of the Russian Federation. The new regulations allow the aforesaid issue to be resolved to a large ex-

tent. The AEB Human Resources Committee has most actively participated in the discussion of the draft Law by proposing amendments thereto in order to meet the interests of the members of the Association.

RECOMMENDATIONS

- › The AEB Human Resources Committee has made noticeable efforts in explaining the details on the legal regulation of remote work to the Association's members – the AEB recommends making active use of the advantages provided by such an employee labor organization.

PROVISION OF EMPLOYEES' (PERSONNEL'S) LABOR

In the business community's opinion, Federal Law No. 116-FZ dated May 5, 2014 (effective from January 1, 2016), providing for material restrictions regarding the provision of employees' labor to other entities, remains one of the material obstacles for further economic development. Unfortunately, all attempts to further improve the legal framework in order to make the provisions of the said Law regarding the provision of employees' labor to other affiliates are still stonewalled by trade unions. Trade unions block any draft laws in this regard. To the European business community's regret, in Russia, the prospects for creating a new legal environment for the successful operation of the labor provision mechanism are far from becoming real.

RECOMMENDATIONS

- › The AEB Human Resources Committee and its Labor Law Subcommittee thoroughly monitor the development of the situation around legislative regulation of provision of employees' labor and recommends that Association members actively lobby amendments to Federal Law No. 116-FZ dated May 5, 2014, aimed at bringing the provisions of this Law into conformity with global practice.



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CROSS-SECTORAL COMMITTEES



INTELLECTUAL PROPERTY COMMITTEE

**CHAIRMAN:**

ANTON BANKOVSKY,
CMS RUSSIA

DEPUTY CHAIRMEN:

PAVEL SADOVSKY, EPAM
DMITRY SEMENOV, BAKER MCKENZIE

PROHIBITION OF PARALLEL IMPORT OF GOODS/REGULATION OF THE EXHAUSTION OF TRADEMARK RIGHTS

Over a long period, the Association of European Businesses has stood its ground on the issue that the liberalization of parallel imports will have various negative consequences for the social and economic development of Russia. Therefore the effective laws of the Russian Federation regulating the exhaustion of title to a trademark do not require amendment.

In this connection, the business community is concerned about legislative initiatives with regard to clarification of the extent to which an exclusive right may be exercised in the course of importing goods containing results of intellectual activities and means of individualization.

In order to ensure a balance of interests between a rightsholder and other parties, the respective laws use the principle of exhaustion of title to a trademark. In Part Four of the Civil Code of the Russian Federation, the “national” principle of exhaustion of title to a trademark is established – according to this principle, the rightsholder may not prohibit other parties from using its trademark with respect to goods that have been put into civil circulation in the Russian Federation by the rightsholder itself or upon its consent.

The Customs Union’s Agreement On the Unified Principles of Regulation in the Field of Protection and Enforcement of Intel-

lectual Property Rights and the Treaty on Establishment of the Eurasian Economic Union contain similar provisions on the exhaustion of title. The Agreement and the Treaty establish for the member states of the Customs Union and the Eurasian Economic Union (the Republic of Belarus, the Republic of Kazakhstan, the Russian Federation, the Republic of Armenia, and the Republic of Kyrgyzstan) a regional principle of exhaustion of title to trademarks. A largely similar model of the said principle is also used in the European Union¹. In general, the absolute majority of countries unconditionally prohibit parallel imports.

Importation to the Russian Federation of goods with a trademark placed thereon, for the purpose of putting such goods into civil circulation, is an independent way of using such a trademark. The goal of prohibition of such trademark use is to fulfill Russia’s international obligations with regard to the protection of intellectual property in compliance with the Constitution of the Russian Federation².

Given the above, switching to the international principle of exhaustion of title to a trademark will mean a return to the past and will become a negative example showing that Russian laws cannot provide the required level of stability to international rightsholder investors, many of whom expected a high level of protection of their intellectual property rights when making the respective decisions.

The AEB is convinced that parallel imports contradict Russia’s long-term interests, do not increase the country’s in-

¹ Art. 7 of Council of Europe Directive No. 89/104/EEC, dated December 21, 1988, ‘On Approximation of the laws of the Member States related to Trademarks’

² See Ruling of the Constitutional Court of the Russian Federation No.171-O dated April 22, 2004



vestment attractiveness, do not contribute to the further development of the Russian economy, import substitution, or production localization, and do not meet the interests of Russian consumers. When considering the issue of parallel imports, it is important to use a well-reasoned and impartial approach to assess various aspects in a comprehensive manner.

RECOMMENDATIONS

- › The Committee believes that neither the existing Russian laws nor the laws of the Customs Union and the Eurasian Economic Union, regulating the exhaustion of trademark rights, require any changes. It is recommended to continue active cooperation, participation in discussions, and consultations at all levels and on all platforms in order to familiarize all parties and public authorities concerned participating in the process with the AEB members' stance.
- › Moreover, when working on stances regarding parallel imports, it is recommended to take into account the vast experience of the European Union where a similar (regional) principle of exhaustion of title to a trademark is used.

EFFICIENT COUNTERING OF COUNTERFEITERS AND DISTRIBUTORS OF COUNTERFEIT PRODUCTS

The overall low efficiency of measures aimed at countering counterfeiting in the domestic market results in the circulation of a large volume of counterfeit goods, primarily in the consumer goods industry. While Russian customs authorities have developed rather efficient centralized anti-counterfeiting mechanisms based on skilled customs authority employees working either at local offices or at the Federal Customs Service's Central Office and specializing in combating counterfeiting, the respective practices of other Russian law-enforcement authorities require material improvement.

It is obvious, however, that the effectiveness of increased penalties or other toughening of sanctions for infringements related to production and distribution of counterfeit prod-

ucts is reduced due to the ineffectiveness of mechanisms for imposing administrative and criminal liability for the illegal use of trademarks.

RECOMMENDATIONS

- › The Committee recommends developing standard quarterly territorial target quantitative indicators for seized counterfeit products and their effectuation – such target indicators shall be used by employees of internal affairs bodies and the Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing (Rospotrebnadzor), with differentiation depending on the volume of counterfeit products in the market of a specific region.
- › It is also recommended to arrange for centralized accounting and processing of the data received, for monitoring the achievement of target indicators, with further differentiation of such indicators on a regional basis, as well as to encourage the territorial division of employees to achieve the indicators.
- › In order to increase the efficiency of law-enforcement agencies' work, we believe it practical to arrange and hold annual regional and federal seminars for employees of internal affairs bodies and Rospotrebnadzor specializing in combating counterfeiting, with the involvement of the rightsholders representatives.
- › We recommend strengthening the system of combating counterfeiting.
- › The existing system of counterfeit product destruction is far from optimal, as the respective process is lengthy. The system must function faster to be able to dispose of illegal products effectively.



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CROSS-SECTORAL COMMITTEES



LEGAL COMMITTEE

**CHAIRMAN:**

DIAS ASSANOV,
SIEMENS

DEPUTY CHAIRMAN:

ANTON MALTSEV,
BAKER MCKENZIE

CHANGES IN THE MECHANISM FOR SPECIAL INVESTMENT CONTRACT REGULATION

Special investment contracts (SPICs) were introduced in 2014 (SPIC 1.0). The SPIC 1.0 mechanism stipulated that an investor would undertake an obligation to execute an investment project to localize a new production facility or to modernize an already localized facility in exchange for state guarantees of the stability of the investor's operating conditions or other incentives. According to the State Industry Information System (SIIS), the Russian Federation has become a part of 47 contracts of this type.

After the introduction of amendments to the budget, tax, and industrial policy laws in 2019, and after the adoption of key bylaws, by 2021, businesses got a real opportunity to use SPIC 2.0 as an improved SPIC mechanism. As of now (November 2021), the SIIS contains information concerning 19 applications submitted for the conclusion of SPICs and 3 SPICs entered into.

The AEB entirely supports the introduction of SPIC 2.0 – an improved and more transparent SPIC mechanism. Nevertheless, analysis of the existing legal framework regulating the conclusion, performance, amendment, and termination of SPICs, as well as the experience of concluding the first SPICs 2.0 shows that both the concept itself and the related processes need improvement in order to make this mechanism more attractive for investors.

SPICs themselves can be a perfect platform for the execution of a wide range of projects aimed at creating new jobs and meeting the interests and needs of society. On the one hand, they allow the state to control an investor's fulfilment of its obligations to invest and to create (modernize) produc-

tion facilities and, on the other hand, they can create interrelations between the fulfilment of such obligations and provision of a wide range of incentives for industrial activities. A SPIC is a way not only to ensure an inflow of investments into infrastructure but also to guarantee the production of industrial products that the country needs, using state-of-the-art technologies.

The potential that SPICs create as a platform can be realized to a greater extent if the range of incentives an investor can expect to obtain is widened and the SPIC attainment process is optimized.

For example, for a number of industries, guarantees regarding the sale of products (e.g., medical devices, drugs, etc.) are a key factor. The prevailing laws do not otherwise provide for such an opportunity outside of regional investment contracts. The right of the RF Government, established in Art. 111.3 of 44-FZ, in the event of conclusion with an investor of a SPIC providing for an investment of RUB 3+ billion and related to the production of products with the Russian Federation as their country of origin, does not guarantee that, in the event that such an SPIC is entered into, the customers will buy a specific amount of the products – the said right touches upon only 30% of the annual volume of products. According to the investor survey, this measure is insufficient for the long-term planning of investments. At the same time, the possibility of establishing a public party's obligation to buy a specific amount of products – even if such volume is based on flexible mechanisms allowing the needs of customers from different levels to be taken into account, changes in the competitive environment, and other risks could materially increase the popularity of localizing state-of-the-art technologies. Moreover, the possibility of establishing such an off-take obligation could ensure a decrease in prices for the industrial products offered.



It shall be separately noted that the preferential treatment of investors entering into the SPICs provided for in Decree of the Government of the Russian Federation No. 719 needs improvement. As production processes become more sophisticated, especially taking into account the focus of SPIC 2.0 on state-of-the-art technologies, the three-year term (for an investor to ensure the performance of a volume of operations, i.e., to gain a number of points required for recognition of products as made in Russia) established in the Decree above is not enough. A differentiated term, depending on the product category, the availability in the Russian Federation of the required component base, etc., must be established.

It is noteworthy that it is necessary to synchronize the procedure for taking measures aimed at protecting state interests with industrial policy laws related to SPICs. This said, in the future, it will be practical to establish an exclusion from Art. 1360 of the Civil Code with regard to the products produced under a SPIC, provided that such a SPIC is actually realized. Such measures would significantly increase investors' interest in localizing production through SPIC mechanisms.

As the Association has previously noted, the current "grandfather clause" concept, allowing the stability of terms and conditions of business activities to be ensured, does not in fact work, except with regard to the stability of tax burden. Of course, entering into a SPIC shall not turn the respective production facilities into "regulatory enclaves" the existence of which causes disorganization in the circulation and supervision of industrial products while posing a threat to the health and lives of the population. Nevertheless, depending on the industry, it is practical to determine an approach to forming requirements that create a material burden for investors, but can be set aside with regard to investors entering into SPICs, as the risks associated with non-implementation of such new requirements are lower than the benefits of the creation or modernization of new production facilities, and to ensure the introduction of the respective amendments to the regulations establishing such requirements in the future.

The participants of tendering procedures note that the process is transparent and clearly staged. Nevertheless, the process provides for repeated provision of the same information in different formats and for the need to use both an electronic and handwritten signature when submitting documents, which complicates the process and increases the labor cost of its implementation.

It should be separately noted that the proposed exemplary form of SPIC 2.0 is a serious step forward, if compared with the form previously approved for SPIC 1.0.

Lastly, it would be practical to determine the criteria compliance with which allows the combination of different technologies to be combined within one project as permissible, which would allow an investor to develop documents in an appropriate and timely manner.

"CONSUMER EXTREMISM" IN VARIOUS REGIONS OF THE RUSSIAN FEDERATION

COMPLAINING ABOUT PRODUCT QUALITY WITHOUT RETURNING/SUBMITTING THE PRODUCT ITSELF

The Consumer Protection Law does not establish the mandatory nature of the pre-judicial resolution of disputes, particularly a consumer's obligation to provide products for quality audit prior to submission of a claim. The negative consequences of such a regulation are that the defendant lacks the right to audit the quality of disputed products; that this increases the load on the judicial system; the impossibility of collecting the products in question from a consumer who can use them during litigation; the extended period of accruing penalties (not from the provision of a product, but from receipt of a claim) and, consequently, increased amounts thereof.

RECOMMENDATIONS

- › To prevent abuse on the part of consumers at the legislative level, it can be stipulated that ignoring the pre-judicial procedure for resolving a dispute entails the refusal to meet a claim for a forfeit and a penalty, and also that the period for meeting a claim is to be calculated not from the receipt of the consumer's complaint but from the audit of the product's quality, and, if an expert examination of the product has been ordered – from the moment of conducting the expert examination, the period of which is restricted as per Cl. 5, Art. 18 of the Consumer Protection Law.

DISPROPORTION OF FORFEIT AMOUNTS

The Consumer Protection Law (Cl. 6, Art. 13) establishes that a forfeit shall be recovered in favor of a consumer in the amount of 1% of the cost of the product in question per day for the entire period of delay, as well as a penalty of 50% of the amount adjudged in favor of the consumer. In practice, even after court-ordered reductions, the amount of a forfeit or penalty payable to a consumer can reach as much as 300–400% of the initial cost of the product. Moreover, in the event a court adjudges a forfeit of 1% per day of the cost of a product until the judgment is executed, without a reasonable reduction at the passing of the judgment, this results in a many-fold increase of the amount recoverable, as the bailiff may not reduce the forfeit amount. We observe an increase in the number of cases in which consumers intentionally avoid providing their bank details in order to receive a larger recoverable amount through a bailiff. Large amounts of recoverables obviously attract mala fide consumers.

RECOMMENDATIONS

- › The AEB recognizes the necessity of having a mechanism for the protection of consumers who face a violation

of their rights. At the same time, the AEB believes that the penalty amounts should be determined based on Art. 395 of the Civil Code of the Russian Federation, which refers to the key interest rate of the Bank of Russia. The Association also believes that the total amount of all penalties, including the amount of forfeit accrued until the court’s judgement, shall be limited to the cost of the product in question.

LIABILITY FOR THIRD-PARTY ACTIONS

As it follows from Part 1, Art. 20 and Art. 23 of the Consumer Protection Law, for the violation of the agreed time period for eliminating defects in products, the defendant who has committed such violation is liable to the consumer. There is a trend in court practice that, in case of repairs to a vehicle, liability is not born by the person who has performed the repairs, but by the seller or importer of the vehicle. Moreover, sellers and importers are held liable for third-party actions

even in the cases when there are no legal relations between them.

RECOMMENDATIONS

- › The AEB believes that the legislative provision should not entail no-fault liability for the actions of other parties. According to the AEB, the regulation in question should be amended to establish that further complaints shall be submitted to a court solely against the party actually violating consumer rights.



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CROSS-SECTORAL COMMITTEES



MIGRATION COMMITTEE



CHAIRPERSON:

LUDMILA SHIRYAEVA,
EY

DEPUTY CHAIRMEN:

ALEXEY FILIPENKOV, VISA DELIGHT
ANDREY SLEPOV, ADVANT BEITEN

MIGRATION CONCEPT: DRAFT LAW OF THE MINISTRY OF INTERNAL AFFAIRS OF RUSSIA “ON THE CONDITIONS OF ENTRY TO (EXIT FROM) AND STAY (RESIDENCE) IN THE RUSSIAN FEDERATION FOR FOREIGN CITIZENS AND STATELESS PERSONS”

Currently, the Ministry of Internal Affairs is elaborating a draft law on the new Migration Concept, considering to include a separate article stipulating that highly-qualified foreign specialists (HQS) are to retain preferences in this category. However, there are provisions that create additional difficulties in

respect of the work and stay of highly-qualified foreign specialists. The adoption of such provisions will negatively affect Russia’s business image and investment attractiveness.

Provisions of concern to the Committee are:

- › To work in Russia, a foreign employee must annually confirm his/her registration in the Register of foreign workers, present a voluntary medical insurance policy, and undergo a medical examination with the provision of medical certificates. **Proposal:** to retain the procedure that was initially presented in law on the HQS, in which



work permits for highly-qualified foreign specialists are issued for up to three years without the need to confirm the status annually.

- › *A single-entry work visa for up to 3 months* is introduced, which subsequently must be extended for up to 3 years. Now, highly-qualified foreign specialists and their family members receive a work visa and a visa as an accompanying family member for up to 3 years. **Proposal:** to retain the issuance of multiple-entry work visas with a validity period of up to 3 years.
- › The validity period of *a business visa is limited to 90 days per a calendar year*, which contradicts the generally accepted international rules – 90 days per each 180-day period. **Proposal:** to retain the validity period of a business visa of 90 days per each 180-day period.
- › *A list of healthcare organizations* is introduced where foreign citizens can undergo medical examination. This worsens the current situation, as if the law is adopted, the highly-qualified foreign specialists should undergo an *annual medical examination* only in healthcare institutions included in the list. **Proposal:** to adopt a provision that allows highly-qualified foreign specialists to undergo the examination in all licensed healthcare organizations.
- › A provision is introduced that deprives the right to long-term stay in the event of being outside the Russian Federation for *more than 6 months within a calendar year*. **Proposal:** to retain the current procedure in which the stay outside the Russian Federation for 6 consecutive months may be grounds for deprivation of the right to long-term stay in Russia.
- › There is a provision that currently is under discussion, that foreign citizens wishing to work in the Russian Federation are required to *pay tax* in the form of a fixed advance payment.
- It is also foreseen that an *advance payment must be made in each region* where a foreign citizen works. **Proposal:** to establish a single payment at the place of the employer's registration to avoid multiple payments of tax on the same income from the same employer.
- In the event of failure to make an advance payment *within ten working days from the date of sending notice*, a foreign citizen is excluded from the Register of foreign workers. **Proposal:** set a period from the date of receipt of notice – through a personal account – to avoid unjustified exclusion from the Register (if, due to circumstances, a foreign citizen received notice later than the specified period).
- › *The host person or foreign citizen* is required to *notify of the departure of a foreign citizen from the place of stay* in person, or in electronic form, or through a multifunc-

tional center. **Proposal:** to retain the current procedure, according to which the migration deregistration occurs automatically upon the foreign citizen's departure from the Russian Federation or at the initiative of the host party, without establishing the requirement for a foreign citizen to notify of departure from the place of stay. Alternative proposal: not to perform the migration deregistration at each departure of foreigners working in Russia, when they travel abroad or move around the country.

- › *The migration registration period* is 30 days from the date of entry. **Proposal:** to retain the current procedure for highly-qualified foreign specialists and their family members, i.e., a migration registration period of 90 days from the date of entry.

COVID-19 RELATED MATTERS

The information in this section reflects the situation existing at the time of its preparation. Since then, the COVID-19 situation and the Russian laws might have changed.

HIGHLY-QUALIFIED SPECIALISTS, TECHNICAL SPECIALISTS

In light of the epidemiological situation in Russia and worldwide, the Government of the Russian Federation introduced a number of restrictions on the entry of foreign citizens into the Russian Federation stipulated by Order of the Government of the Russian Federation No. 635-r dated March 16, 2020.

At the moment, highly-qualified specialists and their family members can obtain work permits and visas without restrictions if their country of citizenship is on the list of countries with which the Russian Federation has an official flight connection. If their country of citizenship is not on said list, highly-qualified specialists and their family members can obtain work permits, visas and multiple-entry permits by inclusion in the lists agreed with the industry-specific federal executive authorities.

Despite measures taken by the government, companies that want their highly-qualified specialists to return to the Russian Federation face some challenges related to the approval of entry of foreign citizens into the Russian Federation:

ISSUE OF DETERMINING THE INDUSTRY-SPECIFIC FEDERAL EXECUTIVE AUTHORITY

To submit an application for a permit for a highly-qualified specialist's entry, a company needs to determine the industry-specific federal executive authority. The Russian National Classifier of Economic Activity Types (OKVED) does not always allow one to determine precisely which federal executive authority is industry-specific for a company. Many companies (including foreign companies operating in Russia through representative offices/branches) have faced the

rejection of documents by federal executive authorities which they determined as industry-specific.

The absence of a procedure regulating the submission of documents and the timing of consideration of companies' applications leads to frequent rejection of documents by federal executive authorities, notwithstanding that federal executive authorities are required by the current laws to submit the approved lists of foreign citizens who are allowed entry to the Federal Security Service and the Ministry of Internal Affairs of Russia.

The problems specified are also faced by companies with respect to foreign citizens performing the adjustment and maintenance of equipment of foreign origin, who are permitted to enter the Russian Federation, provided that they are included in the list to be submitted to the Federal Security Service of Russia and the Ministry of Internal Affairs of Russia by the federal executive authority whose competence covers the entity that ordered the equipment of foreign origin.

Also, at the moment it is impossible to obtain a visa for a technical specialist for a period of more than 3 months, which leads to delays in the launch of new production facilities and suspensions of investment projects.

RECOMMENDATIONS

- › To develop clear criteria for assigning an employer to a particular federal executive authority based on OKVED codes or other criteria.
- › To develop a unified procedure for submitting documents and deadlines for approving and sending lists of foreign workers to the Border Service of the Federal Security Service of Russia and the Ministry of Internal Affairs of Russia for obtaining permits to enter the Russian Federation.

LIST OF TRAVEL PURPOSES

Since February 2021, a new list of travel purposes has come into force in accordance with Order of the Ministry of Foreign Affairs of Russia No. 23235 dated December 21, 2020:

- › The "Maintenance" business visa was transferred to the category of "Assembly Works" work visas and is issued for up to 3 months. An invitation can be sent only through the Ministry of Internal Affairs.
- › The "Foreign Employee" visa is issued to foreign citizens and accredited employees of representative offices of

foreign legal entities accredited in Russia, on the principle of reciprocity in accordance with international treaties entered into force by the Russian Federation. So far, such a treaty has been concluded only with South Korea.

- › The new list does not include the accompanying family members of foreigners arriving on work visas (with the exception of family members of highly-qualified specialists and some other narrow categories of employees) or on business visas (with the exception of those entering for the implementation of an investment project in the Far Eastern Federal District). Such family members are now required to obtain private or other visas with corresponding restrictions.
- › There is no division into business and commercial visas: a business visa is issued to foreign citizens entering the Russian Federation for business purposes.

RECOMMENDATIONS

- › To study the new list carefully and follow the new rules.

ADMINISTRATIVE LIABILITY FOR VIOLATION OF MIGRATION LAWS

The applicable laws of the Russian Federation provide for strict sanctions and heavy fines for legal entities and individuals committing violations of migration rules.

For example, it seems to be an excessive measure to ban an entry to Russia for a foreign citizen against whom administrative action was instituted two or more times within three years, regardless of the administrative offense committed. This is an acute problem for foreign citizens who are heads of companies.

RECOMMENDATIONS

- › Monitor the existence of fines, information on administrative offences, and bans on entry of foreign citizens through the electronic services of the Ministry of Internal Affairs of Russia.



**More information on the
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CROSS-SECTORAL COMMITTEES

PUBLIC RELATIONS & COMMUNICATIONS COMMITTEE



CHAIRPERSON:

MARINA TATARSKAYA,
FERRERO CIS-AN REGION

The AEB Public Relations & Communications Committee was established in 2008 to bring together experts in PR and corporate communications, as well as create a platform for exchanging information and advising on issues of applying successful international PR practices in Russia. The Committee holds regular meetings and events for PR professionals looking to improve their level of professionalism and establish relationships with key stakeholders. Representatives of AEB member companies as well as external experts are invited to participate in such meetings.

In the context of the globalization of the communication space, the issues of corporate brand promotion and the management of reputation risk are particularly relevant. Currently, one of the key issues for the PR industry is the development of and interaction between traditional and new media. Another relevant trend in the PR industry is associated with the economic digitization processes and the growing role of social media in communications.

International studies show that all stakeholder groups are currently paying great attention to the topic of ESG and sustainable development. The Committee acts as a reliable partner and seeks to increase public awareness of the need to implement responsible business practices, including by inclusion in the agenda of such issues as minimizing the operational impact on the environment, using renewable resources, improving production efficiency, etc. In so doing, the Committee actively promotes the importance of this agenda for strengthening the corporate brand.

The Committee aims to serve as a discussion platform and holds annual "Meetings with the Media" with leading media

sources. This format enables PR specialists to receive professional recommendations and increase their competencies in planning news content, working with newsworthy issues in the digital information space, and promoting corporate news, which contributes to the formation and strengthening of the corporate brand at the federal level.

In the current conditions, the competencies and skill set of a PR professional require constant updating and innovation. That is why this aspect is one on which the Committee continually focuses. One of the key areas of the Committee's work is holding meetings with Russian and international experts to discuss a range of issues related to the global trends and challenges in the PR industry and their correlation with Russian realities.

The Public Relations & Communications Committee organizes its work and operates within the framework of AEB's mission. All meetings and events organized by the Committee are aimed at building and maintaining the reputation of AEB as a responsible partner and public relations participant, sharing the principles of openness, inclusiveness, and interaction with external audiences on a wide range of issues. The Committee encourages AEB to share best practices for mutual enrichment.

RECOMMENDATIONS

- › The Public Relations and Communications Committee actively promotes the idea of the importance of the sustainable development for the formation of a corporate brand. Leading European companies have a high level of

expertise in this area and pay special attention to the implementation of these practices at the global and local levels. The Public Relations and Communications Committee intends to continue to be active in this area and calls on other AEB Committees to cooperate in order to organize and conduct joint meetings that could become an effective platform for expanding interaction with stakeholders.

- › The Public Relations and Communications Committee organizes its work and operates within the framework of AEB's mission. All meetings and events organized by the Committee are aimed at building and maintaining

the reputation of AEB as a responsible partner and public relations participant, sharing the principles of openness, inclusiveness, and interaction with external audiences on a wide range of issues. The Committee encourages AEB to share best practices for mutual enrichment.



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CROSS-SECTORAL COMMITTEES

PRODUCT CONFORMITY ASSESSMENT COMMITTEE



CHAIRMAN:

SERGEI GUSEV,
ELECTROLUX

DEPUTY CHAIRMAN:

ALEXEY SOLDATOV,
BSH BYTOWIJE PRIBORY

FEATURES OF CONFORMITY ASSESSMENT OF SERIALY MANUFACTURED PRODUCTS IN THE UNFAVORABLE EPIDEMIOLOGICAL SITUATION CAUSED BY THE SPREAD OF COVID-19

At the end of 2020, the Eurasian Economic Commission approved the Interim Measures applied during the certification of serially manufactured products in an unfavorable epidemiological situation caused by the spread of COVID-19 (hereinafter referred to as the "Interim Measures"), which, inter alia, provide for the possibility of analyzing manufacturing status by remote assessment using means of remote interaction (audio and video communication). The adoption of the Interim Measures has allowed the conformity assessment procedures to be conducted in the new conditions

when one cannot visit manufacturing locations. During the period in which the Interim Measures are in effect, the certification subjects, including manufacturers and accredited persons, have accumulated extensive experience facilitating the assessment not only of the benefits but also the difficulties in the implementation of the new approach.

During remote assessment, the requirement for continuous transmission of clear video images from the start till the end of the audit is the most challenging aspect. It turned out to be very difficult, and in some cases, even impossible to ensure the continuous transmission of video images when manufacturing sites are large and when it is necessary to visit several workshops or take samples in an open warehouse. In addition to that, it is quite problematic to ensure continuous



videoconferencing of participants located in different time zones (USA, Australia, China) as working hours do not overlap for the period conducive to conducting the audit. The COVID-19 pandemic also creates difficulties for the functioning of supply chains; due to which, additional inspection control mechanisms are required, e.g. in the form of remote assessment.

It is important, that the originally established period of Interim Measures expired on January 9, 2022. However, various pandemic-related bans and restrictions remain in effect in many countries worldwide. Moreover, the lack of a clear definition of the concept of “lifting restrictions” leads to divergence in the approaches to the conformity assessment procedure by different certification authorities. Taking into account the current situation and the uncertainty about the pandemic progress, we believe that these measures should not be limited in time. It is necessary to identify criteria that allow the decision on lifting of restrictions to be made for the purpose of carrying out the conformity assessment procedure.

RECOMMENDATIONS

- › Extend the effective period of the Interim Measures applied during the certification of serially manufactured products in the unfavorable epidemiological situation caused by the spread of COVID-19.
- › Provide for the possibility of conducting remote assessments over several days with breaks.

- › Provide for the possibility of identifying and selecting samples of products during the certification of products (including new ones) or scheduled periodic assessment of certified products both at the finished product warehouse of the manufacturer as part of the remote selection and at the finished product warehouse of an authorized representative of the manufacturer in accordance with the Typical Conformity Assessment Procedure Schemes.
- › Provide for the possibility of conducting periodic assessments (inspection control) of certified products in the form of the remote analysis of the manufacturing status.
- › Set clear criteria for determining when restrictions will cease to be effective for the purpose of applying the Interim Measures.
- › Provide transitional provisions for work in progress, if the analysis of the manufacturing status in relation to the selected and identified samples was conducted during the effective period of the current Interim Measures, but the certification procedure was not completed at their expiry.



**More information on the
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CROSS-SECTORAL COMMITTEES

REAL ESTATE COMMITTEE



CHAIRPERSON:

TATJANA KOVALENKO,
SENDER & COMPANY

KEY PROBLEMS IN DEVELOPMENT AND IMPLEMENTATION OF MODULAR TECHNOLOGIES IN RUSSIA

Over the past several years, the modular construction market in Russia has been developing slowly. The core reason is that developers are not ready to test technological know-how. This is because significant changes in the existing business processes and technologies for the construction of real estate objects are required.

However, due to the launch of project financing schemes and escrow accounts, there has been a change in the cost of development projects, and it has become even more urgent to reduce costs.

Current government initiatives to support the construction industry are insufficient for the development of new technologies in Russia. This is largely due to the lack of centralized support for modular construction at the legislative level.

RECOMMENDATIONS

- › To solve the issue of introducing modular technologies in Russia, it is necessary above all to create and develop tools and practices for comparing costs at an expert level. They will make it possible to calculate the financial model for each object, taking into account design and construction risks. Developers will be able to predict the benefits from introducing certain innovations.
- › Creation of a single information aggregator for modular construction that unites the government, developers, investors, and manufacturers from around the world will make it possible to accumulate knowledge and experience; intro-

duction and use of modular technologies in commercial and government projects.

- › Inclusion of modular technologies at the design stage of social facilities will help manufacturers realize their potential and will stimulate good competition and, in general, contribute to the development of the construction market in Russia.

KEY CHALLENGES FOR DEVELOPMENT OF THE PROPTech MARKET IN RUSSIA

The concept of “PropTech” integrates innovations applied in different segments of the construction and real estate market at all project stages, including maintenance of the object during its whole life cycle.

The key areas for the development of advanced technologies include “smart” urban planning, formation of “flexible” environments, digital facility management, and transactional support of projects. When applied consistently, all of these deliver quality, reduce risk, and even improve the customer experience and increase lifetime value by offering technical integration of products and services along the customer’s entire journey.

In Russia today, integration of individual technologies with core operations is quite rare, and end-to-end business processes are almost never performed. Certain conservatism inherent to the construction industry is reflected in a lower innovation perception rate than in other industries. Factors restraining the introduction of advanced technologies in the industry also include the perceived difficulty of measuring the effectiveness of certain technologies and of predicting the results.



Nevertheless, a strategic approach to building an innovation-based company has become a noticeable trend in recent years, especially among market leaders. They are introducing acceleration programs and creating “digital sandboxes” to test individual solutions and check project settings. Specialized venture capital funds also operate in the market.

RECOMMENDATIONS

There is a need for a technological ecosystem to connect construction, real estate management, the banking sector, and government companies, which would involve:

- › creating a PropTech methodology that would cover the entire lifecycle of real estate objects: from the formation of the idea to the investment’s exit from the project;
- › forming an ecosystem structure that would consider the interests, opportunities, and risks of all participants in the process;
- › testing the ecosystem through pilot projects in different cities;
- › developing and implementing training programs that foster knowledge of innovative processes and management skills.

USE OF INFORMATION MODELING TECHNOLOGIES (BIM)

Starting on January 1, 2022, it will be mandatory in Russia to use Building Information Modeling (BIM) for all capital construction objects with government participation, according to Russian Government Decree No. 331 of March 5, 2021. And the requirement applies to customers, developers, technical customers, and operating organizations.

The latter is a significant point as the key value of the BIM environment is its integration capabilities that allow one to manage an object throughout its life cycle, keeping control over construction of the building up to the final reports, operation, and forecasting.

Working in a BIM shared data environment gives one the opportunity to save time and resources through their optimal coordination. In addition, making an information model makes it possible to avoid mistakes caused by inconsistencies in the work of related specialists at the design stage. With increased implementation of BIM technologies and their use at a sufficiently high level, they will reduce the potential for conflict in the construction industry as a whole.

RECOMMENDATIONS

- › Stimulate the industry’s shift to more widespread use of BIM technologies, with a focus on system integration capabilities, throughout the project life cycle.

- › Analyze the BIM technologies use practices of different process participants in order to identify problem areas and the risks associated with them.
- › Draw up a “risk matrix” of BIM application to facilitate and make seamless the application of the technology.
- › Adapt existing legal concepts and work through a number of issues (“legal BIM”), including, in part, insurance and drafting of contracts.
- › Consider the opportunities for using “PIM” (Product Information Management) – a unified digital catalog of building materials.

GREEN TECHNOLOGIES IN CONSTRUCTION AND REAL ESTATE IN RUSSIA

“Green” solutions in construction have become mandatory in Europe and are becoming increasingly popular in Russia. The Sochi Olympics and the 2018 FIFA World Cup, for which facilities had to be built to certain standards, had a big impact on the development of green technologies in Russia.

There are several environmental certification systems for construction objects (BREEAM, LEED, WELL) verifying compliance with these standards. Thus, a building certified under one of the systems can be considered as green, as it consumes electricity and heat resources rationally, provides a comfortable microclimate, etc. Essentially, the entire process of building such facilities is shaped by the principle of sustainability. It includes selecting and auditing the object, creating flexible spaces, ensuring safety, and maintaining a quality indoor climate. The result is the Generation 5.0 concept of a space with zoning and space ergonomics, climatic, lighting and acoustic comfort, and the ability to monitor and even control environmental settings.

In recent times and also due to the pandemic, non-traditional offices, flexible co-working spaces, and other options that meet the new format for employee interaction, designed and operating to eco-standards, are increasingly becoming in-demand. Although construction and certification of such green spaces is an additional burden for a developer, there are marketing and investment advantages of such developers’ decisions as well. In particular, certification provides a competitive edge and helps to attract buyers and tenants. Capitalization of a green object increases by the price by 10%. Also, one should keep in mind that a building under construction today should meet the needs of tenants decades from now.

However, the Russian market has yet to learn how to “sell” the eco-certification of a building successfully.

RECOMMENDATIONS

- › Encourage the broader application of green technologies in the design and construction of residential, office, and industrial real estate.
- › Develop and implement training programs related both directly to the green design and to the investment, commercial, and marketing management based on the benefits of “healthy” projects.



[More information on the Committee page](#)

CROSS-SECTORAL COMMITTEES



SAFETY, HEALTH, ENVIRONMENT & SECURITY COMMITTEE



CHAIRMAN:

VALERY KUCHEROV,
ERM (ENVIRONMENTAL RESOURCES MANAGEMENT)

CLIMATE POLICY AND INTERNATIONAL COMPANIES ESG STRATEGIES

To resolve the climate change issue is one of the biggest global challenges in 21st century. The average global temperature is continuously growing due to higher CO₂ and other greenhouse gas concentrations.

On the worldwide basis the regulation is focused on Paris agreement objectives. More and more countries are joining the agreement to stabilize atmospheric concentrations of greenhouse gases at a level that would prevent further dangerous anthropogenic intervention in the climate system.

A number of countries have taken or deepened initiatives. It is important to emphasize that, international corporations have continued working on implementation of their commitments to reduce their or, at times, their suppliers' emissions. As a consequence, climate professionals are experiencing a

substantial uptake of work and expect that demand will also increase soon.

Green “wake up” is also subject to the Russian national interest.

In October 2021 the Russian government has approved a long-awaited Low-carbon development strategy 2050 which constitutes a basis for a further social-economic development of the Russian Federation and establishes a set of measures that allows Russia to reach carbon neutrality by 2060 with sustainable economic growth.

Today responsible business highlights the key role of ESG to achieve more sustainable and resilient future.

The implementation of ESG principles in Russia and worldwide has already altered investing significantly. Investors are increasingly focused on how business compensate for the



damage to the environment caused by companies' activities, how companies take care of their employees and clients, and how to improve the quality of corporate governance.

The greenhouse-gas emissions reduction pointed out as a key issue on the way to greener future globally.

St. Petersburg International Gas Forum, Russian energy week, Verona International Forum, COP 26 - it is hard to imagine international event without discussion on energy transition and the green economy.

RECOMMENDATIONS

- › It is recommended to speed up legislative efforts so as to facilitate participation of Russian business in international carbon markets. We strongly believe that the more comprehensive legislation is, the more Russian business will be able to take advantage of regulations, including at an international level.
- › General expectations in global climate regulation include better carbon trade regulation, greater ambition towards 1.5 degree scenario, bigger climate sponsorship, more balanced roadmap.

INFORMATION AND CYBER SECURITY

According to various surveys, in 2022 corporate spending on cyber security will exceed USD 60 billion.

In the past few years, the highly relevant topic of cyber threats and the protection against them has topped the agenda for private and public companies around the world. This was prompted by an increase in the number of attacks by the so-called ransomware programs.

According to the Ransomware report of May 2021, known cryptocurrency ransomware payments in the United States rose to USD 400 million in 2020, and reached USD 81 million in the first five months of 2021. The authors of the report rightly believe that the actual payment amounts are substantially higher. The reason for this latency is the fact that payments to ransomware attackers do not only carry huge reputational risks but also pose a serious risk of sanctions for the companies choosing to pay ransoms. Moreover, the total amount of known payments has increased five-fold, on average. It is known that significant part of ransomware attacks were initiated from the post-Soviet space. Each time, such attacks follow more complex scenarios. The most well-known cases are those of Garmin, Acer, CPC, Bombardier, Honda, Enel and many others.

Money received by cyber-criminal gangs is mostly cashed through various semi-legal or illegal exchanges, as well as through the gambling industry.

Cyber criminals also sell access to various victim companies through online exchanges. This is business which does indeed involve serious money.

The cyber security market grew by over 40% in 2020-2021.

There are several reasons. Firstly, the relevance of cyber security has changed dramatically. Secondly, many companies are modernizing cyber security by introducing modern solutions. Thirdly, companies have a different approach to budgeting IT and cyber security.

Often, attacks are not made directly on large companies, but on smaller companies which are part of the supply chain for large businesses and are significantly more exposed.

Social engineering techniques are becoming more complex, as the number of attacks on online conferencing and remote access software is on the increase.

RECOMMENDATIONS

- › Understanding how the digital infrastructure is established within the company (technically and procedurally).
- › User identification control, for example, using multi-factor authentication and different passwords for different services.
- › Regular external audits for evaluating IT infrastructure resilience (penetration testing, etc.).
- › Implementation of monitoring systems to track threats – creating a new type of SOC.
- › Data backup. It will allow to recover from an attack of any type and level of complexity quickly.
- › Staff who are professionally involved in and responsible for IT and information security within the company.

HEALTH AND SAFETY ASPECTS DUE TO COVID-19 PANDEMIC

With the COVID-19 crisis having impacted most of this year's business activity and still looming over the coming year is a significant factor to reckon with.

While Government authorities are implementing new COVID-19 restrictions the employers are searching for better ways to organize the workforce. At the same time, employees are facing with huge stress being forced to stay at home and then invited to come back to the offices. This process affects the workforce wellbeing as a result.

Working from home during COVID-19 means spending a lot of time on video meeting applications and having to cope with unforeseen challenges such as rethink connectivity, manage remotely, keep work teams engaged and motivated while ensuring continued performance and quality of work and achieve a balance between work and home.

In 2021 AEB launched a COVID-19 mental health and workforce wellbeing impact survey.

The survey showed valuable inputs: 76.8% of employers admitted the negative impact on employees' mental health. 65.2% noticed that COVID-19 had affected the general wellbeing of employees. Self-isolation, travel and leisure restrictions, work overload and school disclosure are among the biggest challenges employees had to face in relation to COVID-19.

RECOMMENDATIONS

- Continue to keep a narrow focus on related COVID-19 issues and their impact on H&S in the workplace. In the framework of AEB - H&S Subcommittee together with HR Committee will pursue a joint agenda looking at the risks and the studied impact on mental health on employee's well-being, given a more specific room for preventative strategies, assisting workplaces to combat the fallout from COVID-19.
- The specific attention should go to further analyze the data collected through the AEB survey in the fall of 2021 and any conclusions in terms of actionable interventions and support services.
- Integrate HR strategies into the upcoming changes in the process of work, employability, application of strict sanitary rules and how to create a safe and secure work environment, embracing opportunities of remote work organization where it is possible.
- Further cooperation with regulatory bodies, offering interpretation of the regulatory framework conditions and how those will impact the organization of work and with that the safety and well-being of individual work groups.
- It is important to share experiences from constituents (models of good practice) aiming at a broader array of such experiences and what can be learned to moderate the impact on organizational and individual well-being.



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CROSS-SECTORAL COMMITTEES



SMALL & MEDIUM-SIZED ENTERPRISES COMMITTEE



CHAIRMAN:

ANDREAS BITZI,
QUALITY PARTNERS.

MARKET AND MACROECONOMIC OVERVIEW

Small and medium businesses have been high on the domestic policy agenda. Overall, the specific regulatory framework for SMEs in Russia is governed by Federal Law No. 209-FZ (July 24, 2007). This law has been updated on several occasions. At the outset of the recent economic crisis, in 2015 the Russian State Duma adopted a law on the forma-

tion of the Federal Corporation for Small and Medium-Sized Enterprises, created through the merger of the Credit Guarantee Agency and the Russian Bank for Small and Medium Enterprises Support. Until the creation of the corporation, all instruments that existed to help small businesses in Russia were fragmented. According to the government, establishment of a "single window" was meant to streamline these procedures.



The main objective of the corporation is to provide financial, infrastructural, property, legal, and methodological assistance and issue warranties and guarantees to SMEs. In addition, the corporation will bring about an increase in the share of SMEs in government procurements. For instance, SMEs are entitled to appeal to courts if their rights are violated in the course of public tenders. In another move, the Russian government created a single export support structure, the Russian Export Center (REC), resulting from the organizational merger of the Russian Agency for Export Credit Insurance and Investment (EXIAR) and Eximbank. While these and other measures, such as the efforts to improve the general business climate that resulted in Russia climbing from 112th in 2013 to 28th in 2020 in the World Bank's Doing Business ranking, have certainly helped to stabilize the SME sector during the crisis, some well-known hurdles and structural bottlenecks have not been eliminated yet.

The overall increase in the number of SMEs we witnessed some years ago has now turned into a decrease. The number rose from 2,241,650 (only legal entities, no individual entrepreneurs are counted) in 2015 to 2,768,614 in 2017, but has shown a significant and steady decline since then to 2,288,299 (2,084,599 micro, 186,120 small, and 17,580 medium-sized businesses). In 2021, the number of medium-sized businesses slightly increased, while the number of micro and small businesses further decreased. In the official statistics, no clear coronavirus effect is visible. Actually, the pace at which the number of SMEs decreased has slowed down. Another factor may be that a number of companies that would qualify as SMEs, but had not been in the official SME registry, were entered after the business support measures by the Russian government aimed at SMEs were announced. The number of people employed in SMEs increased slightly (even though the number of SMEs decreased) from 12.9 million to 12.92 million in 2020, followed by a massive shed of 800,000 jobs in 2021, and demonstrates in this direction. A precondition for business support measures for SMEs in certain sectors was that the number of employees should be kept at least constant. After the expiration of the business support measures, people were dismissed in great numbers in the summer of 2021.

The most widespread industries that SMEs are engaged in are construction/real estate and trade. On an aggregate level, the share of SMEs in both GDP and employment is still very low in an international comparison (below 22%). According to the national projects' goals, the share should increase to 32.5% by 2024. By 2030, the government would like to see the share at 40%.

The reasons behind the weak development of the Russian SME sector are well known:

- › the difficulty in obtaining loans at reasonable rates;
- › the often-discriminatory access to procurement contracts, particularly from companies with state participation;

- › administrative hurdles and poor efficacy of state-run programs, including subsidies for SMEs in the regions.

During the COVID-19 lockdown, the government's business support programs for SMEs mainly targeted certain sectors. That is, the overall SME sector has suffered massively without feeling much support from the state. It can be assumed that the share of SMEs is going to decrease in the short term rather than increase, contrary to the government's goals.

The SME Committee will dedicate its efforts to engaging Russian authorities in a dialogue to find solutions that will allow European SMEs as well as SMEs in general to better take advantage of the opportunities in the Russian market. Since the beginning of 2020, the main subjects were connected to issues and support measures for SMEs during the COVID-19 economic crisis.

COVID-19 RELATED COSTS

In November 2021, there were repeated so-called "non-working days" announced. This means that employees should have days off and — as stated by the President — employees should receive their full wages. For many companies, and even more for SMEs, it is nearly financially impossible to give people such additional time off, practically speaking. Just by closing their business for 10 days or so, an organization may be pushed out of business, as clients may be unwilling to accept non-service during the period, or the business needs continuity. The costs for these additional days off are a huge burden to SMEs. Also, wages, including the non-working days, would be paid at an earlier date due to the strict nature of labor legislation, which may have a significant impact on an organization's liquidity management.

Apart from non-working days, in several Russian provinces there was a mandate for certain sectors to have most of its employees vaccinated. In Moscow, for instance, in many services industries, 80% of the staff would have to be vaccinated. Those unwilling to get vaccinated would be sent on unpaid vacation or even be fired. These measures lead to additional pressure on SMEs. First, the local government delegated the responsibility to force people to get vaccinated to businesses. That is, many conflicts that arise with employees were also delegated. Therefore, motivation and productivity may be affected. Second, they lead to additional costs for benefits, for replacing those sent on unpaid leave or fired, and for absences due to vaccine side effects.

RECOMMENDATIONS

- › Compensation to SMEs for the real, additional cost burden from non-working days at a reasonable level, and comparable to the actual costs.
- › Compensation to SMEs for the additional burden of the enforced vaccination program, which has been well supported by most SMEs, who understand how important vaccination is to ending the pandemic.

ADMINISTRATIVE BARRIERS TO DOING BUSINESS

The SME sector stands to gain a lot from legislative changes, but for now, many of the announced changes are more declarative in nature and often complicated, and precise information on upcoming draft bills is scarce and not easily accessible. The amount of control measures and administrative paperwork makes it virtually impossible to comply with all requirements. In addition, some civil servants may be prejudiced, and this tends to adversely affect an already complex process. As a result, directors of SMEs are compelled to make a considerable personal investment in the process in order to overcome these bureaucratic issues. In 2021, many businesses have complained about a significant increase in pressure on them by certain authorities.

RECOMMENDATIONS

- > Reduce bureaucracy and corruption.
- > Simplify the registration process and other administrative requirements for SMEs.

- > Simplify methods for monitoring health and safety, fire protection, labor, and other regulations.
- > Prepare financial and tax reports only once a year.
- > Replace the legal address with the home address of the owner or CEO. On the other hand, it is necessary to support and further encourage the business integrity of SMEs and their adherence to the law.
- > Establish regular dialogue or jointly set up a dedicated platform.



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CROSS-SECTORAL COMMITTEES



TAXATION COMMITTEE



CHAIRPERSON:

ALINA LAVRENTIEVA,
EY

DEPUTY CHAIRMEN:

ALEXANDER ERASOV,
BRYAN CAVE LEIGHTON PAISNER (RUSSIA) LLP
ALEXEY LYUDVIK, VOLKSWAGEN GROUP RUS
ANDREY WAKAR, IKEA DOM LLC

AMENDING THE AGREEMENTS ON AVOIDANCE OF DOUBLE TAXATION

As part of his speech on March 25, 2020, the President of the Russian Federation proposed amending the agreements on the avoidance of double taxation with “transit” countries through which “significant resources of Russian origin” pass.

These amendments include an increase in the tax rate on dividend income from 5% to 15%, as well as a 15% rate for interest paid to foreign companies located in these countries.

Later, in accordance with the proposals of the Russian Ministry of Finance, agreements with Cyprus, Malta, and Luxembourg were amended. Amendments to the agreement with the



Netherlands were also prepared but were not agreed upon. This resulted in the termination of this agreement starting on January 1, 2022.

With the termination of the agreement, the mechanism for eliminating double taxation between these countries has been removed and the payment of dividends will be taxed in Russia at a rate of 15% along with the Dutch corporate tax. Interest and royalties will be taxed in Russia at a rate of 20% and are also subject to the Dutch corporate tax.

As a result, the investment climate in Russia is suffering greatly because various international corporations have attracted significant direct foreign investments into the Russian economy through the jurisdiction of the Netherlands, as evidenced by the balance of payments data analyzed by the Bank of Russia in recent years.

RECOMMENDATIONS

Amend the Tax Code of the Russian Federation to compensate for the consequences of the tax agreement's termination, including:

- › In terms of dividends and interest, establish reduced rates of withholding tax at the rates of 5% and 15% subject to the fulfillment of conditions similar to those in the amendments to the agreements adopted earlier (Cyprus, Malta, Luxembourg). In addition, codify the right to apply a reduced tax rate on dividends and interest in relation to not only public companies but also to companies that meet two criteria: (1) 50% of the capital of such a company is directly owned by a public company whose shares are listed on a registered stock exchange, and (2) such a company directly holds at least 15% of the capital of the company paying dividends for a 365-day period, including the date of the dividend payment.
- › In terms of royalties, not to withhold tax at the source, subject to the beneficial owner rules stipulated by the Tax Code.

LEGAL UNCERTAINTY AND A FORMAL APPROACH TO APPLYING THE PROVISIONS OF ARTICLE 54.1 OF THE RUSSIAN FEDERATION TAX CODE AND UNJUSTIFIED IMPOSITION OF LIABILITY FOR DELIBERATE NON-PAYMENT OF TAXES

Practice has demonstrated unpredictability in the application of certain provisions of Article 54.1 of the Tax Code of the Russian Federation and the article as a whole (General Anti-Avoidance Rules). In 2021, the Federal Tax Service prepared detailed and generally balanced explanations for the application of those rules, but instances of its formal application by the local tax authorities are still common. In particular, practice demonstrates the unjustified application of the provisions of Paragraph 1 of this article on the distortion of

information, which results in a prohibition on deduction of expenses if taxpayers make even insignificant errors in documents or their financial/tax accounting. The provisions of this paragraph are used instead of or along with Paragraph 2 of the Article in situations where an obligation is performed by another entity (i.e., not an entity-party to an agreement and/or an entity to which a transaction performance obligation is assigned by agreement or by law) regardless of whether the taxpayer should or could know that the obligation would be performed by an entity other than the counterparty. Furthermore, tax agencies do not always account for the fact that economic agents may conduct their activities in any way not prohibited by law, including by engaging third parties (such as subcontractors) to perform their obligations. In practice, this approach results in unjustified refusal to allow expenses/deductions in the event of claims against counterparties of the 2nd and subsequent levels, even if the immediate counterparty is a real economic agent that itself bears liability for the counterparties it engages. There's also the problem of unjustified prosecution of taxpayers on the basis of Paragraph 3 of Article 122 of the Tax Code of the Russian Federation for intentional non-payment of taxes without specifying the evidence and circumstances confirming that a deliberate tax offense was committed.

RECOMMENDATIONS

Strengthening the Federal Tax Service's control over the actions of the local tax authorities in relation to the following issues:

- › correct qualification of offences under Article 54.1 and prevention of a formal approach being taken in applying the article;
- › interpretation of "obligation performance" for the purpose of applying Subclause 2, Clause 2, Article 54.1 according to the provisions of civil legislation and taking into account an assessment of the circumstances of the taxpayer establishing and verifying that its direct counterparty is a real economic agent (from the standpoint of it having functions, risks, and assets);
- › prevention of additional tax accrual for the tax offense committed by counterparties of the 2nd and subsequent levels;
- › prevention of arbitrary imposition of liability for deliberate non-payment of taxes;
- › consideration of circumstances excluding culpability in committing a tax offence if a taxpayer assists in identifying persons involved in tax schemes.

ADVANTAGES

- › Legal determinacy and a uniform approach in applying Article 54.1.

- › Termination of the practice of unjustified imposition of liability for the actions of counterparties of the 2nd and subsequent levels as well as unjustified prosecution for intentional non-payment of taxes.
- › Mitigation of the tax risks associated with business activities and improvement of the business and investment climate.

EXCESSIVE LAW ENFORCEMENT INTERVENTION IN TAX CONTROL AND THE THREAT OF UNJUSTIFIED CRIMINAL PROSECUTION OF DILIGENT TAXPAYING OFFICERS

Criminal law provisions are increasingly being used as an instrument to exert unjustified pressure on businesses, as law enforcement bodies are intervening excessively in tax control activities. This drives unnecessary criminalization of economic relations and repressive criminal crackdowns on businessmen, as well as duplication of law enforcement, control, and supervision functions. This situation is explained, in particular, by the following problems:

- › criminal liability and liability for tax offences are not sufficiently differentiated in practice;
- › the risk of tax offenses being classified as continuing (the consequences of this approach being essentially equivalent to canceling the limitation period with respect to tax crimes);
- › criminal prosecution of the taxpaying officers and other employees for tax abuses committed by counterparties;
- › recognition of tax calculation violations as fraud (Article 159 of the Criminal Code) if a tax refund is granted, thus entailing harsher punishment without a chance to get an exemption from criminal liability by compensating for the damage caused;
- › a rise in the number of criminal cases initiated for tax evasion after the corresponding taxes have been paid in full following tax audits and prior to a criminal case being initiated;
- › imposition of liability for failure to discharge tax agent duties even if no false tax calculation is intentionally submitted by the tax agent;
- › criminal prosecution thresholds set in absolute terms regardless of the scale of the business or the total tax liability;
- › absence of any uniform approach to determining aggregate thresholds and absence of the possibility to effectively challenge the amounts calculated by the investigators.

RECOMMENDATIONS

- › The current law enforcement situation requires urgent solutions, primarily adopted by decree of the Plenum of the Russian Supreme Court. Additional new clarifications need to be provided by the Russian Supreme Court regarding Resolution of the Plenum of the Russian Supreme Court No. 48 dated November 26, 2019 "On the practice of courts applying the legislation on liability for tax crimes," since it did not introduce legal determinacy into the majority of the material issues related to applying criminal law for tax crimes. With respect to matters that cannot be resolved by the Russian Supreme Court's clarifications, criminal law needs to be amended.

ADVANTAGES

- › More effective tackling the tax evasion through more rational use of law enforcement resources.
- › Avoidance of excessive criminalization of economic relations and excessive criminal prosecution of business people.
- › Better guarantees of diligent taxpayers' rights being protected.
- › Reduction of corruption cases.
- › More favourable investment climate.



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WORKING GROUPS





COATINGS INDUSTRY WORKING GROUP



CHAIRMAN:

ZAKHAR KARPIKOV,
HEMPEL

The Coatings Industry Working Group aimed at exchanging experience, harmonizing interests, and promoting joint initiatives of Russia-based coatings manufacturers was established in 2016.

The Working Group took an active part in explaining the consequences of applying Article 18 of Federal Law of the Russian Federation dated December 31, 2014, No. 488-FZ on public procurement and the successor legislation in relation to the creation of benefits for products manufactured in the Russian Federation as compared to those manufactured abroad. The participants' interests comprise a clear understanding of rules and interpretation of the legislation so that equal conditions could be created for Russia-based manufacturers owned by Russian or foreign entities. In the Working Group's view, the government should clearly define what local (or "localized") manufacturing means, including the extent to which local raw materials are used and other criteria. The Working Group cooperates with other associations and government departments, including the Ministry of Industry and Trade, in passing laws and issuing roadmaps for various industries, which should ensure sustainable growth in the supply of competitive local raw materials.

The Working Group exchanges information on international and Russian retaliatory sanctions so that each participant can develop its own action plan. The Working Group believes that a sanctions-free environment and the normalization of international relations are desirable and will contribute to the growth of the paint coating industry.

The Working Group exchanges experience and information on anti-corruption issues. The Group supports initiatives aimed at eliminating agency agreements in trade practices

and promoting a reasonable tightening of due diligence for trading partners (intermediaries) in terms of the payment of taxes and culture of anti-corruption. The Group is strongly opposed to any cartel agreements or alliances aimed at regulating prices for raw materials, services, or finished products. The Group studies the best practices in terms of "Codes of Conduct for Employees" and "Codes of Conduct for Partners" developed by the Group members.

The Working Group supports all initiatives aimed at eliminating gray schemes of customs clearance or international supplies of any materials and goods. The Group promotes a responsible approach to the selection and verification of transportation partners and international contractors.

The Working Group members exchange experience and information on the presence of counterfeit products on the market and their actions aimed at combating fraud, including cooperation with the competent authorities. A number of anti-counterfeit recommendations have been made for the Group members. It has been established that the main area for countermeasures is advertising on the Internet through search engines or on individual websites. The Group members form a list of independent legal entities that can help in identifying the websites of violators and eliminating counterfeit advertisements and discuss matters and their experience of interaction with large search engines in removing links to websites with counterfeit advertisements from the search results.

The Working Group supports the full-fledged application of free trade rules throughout the Eurasian Economic Union in relation to paint coatings when free trade rules apply, particularly to certain other industries. On this matter, the Group interacts with the Commission of the Eurasian



Economic Union partly by studying the experience in the unified labeling of goods (“made in the EAEU”) in other industries.

Establishing equal standards between Russia and Europe for coatings testing is vital for improving efficiency and reducing the duplication of efforts. This will not only accelerate the introduction of European technologies in Russia but will also facilitate the use of Russian technologies abroad and cost reductions. As part of this initiative, the Group interacts with leading Russian industrial institutions and major customers to take the interests and requirements of all market participants on this matter into account.

The Working Group will continue to implement the Technical Regulations of the Eurasian Economic Union “On Safety of Chemical Products” (TR TC 041/2017) and the relevant legislation which will come into force in June 2021. The Working Group supports the entry of the new Technical Regulations TR TC 041/2017 “On Safety of Chemical Products” into force. As part of this initiative, the Group supports a responsible approach to the selection of partners for the transportation of raw materials and finished coatings that meet all necessary requirements for carriers in terms of labeling and transportation safety.

As part of the global trend towards the development of and adherence to sustainable development principles (ESG), the Working Group discusses and exchanges experience on the following matters. Methods for accounting of the “carbon footprint” in the coatings manufacturing and approaches to reduce it. The Group is interested in the harmonization of “carbon footprint” accounting methods between Europe and Russia. The Group members are interested in studying the experience of a pilot project for the introduction of quotas for pollutants on the island of Sakhalin and the achievement of a zero-carbon balance by 2025. On this matter, the Group closely cooperates with the Steering Committee of the AEB Green Initiative and the ministries involved in the implementation of this project.

The Group studies and exchanges experience on matters and technologies related to the disposal of waste from the use of coatings and packaging. The Group members are interested in studying the best practices and solutions in recyclable and eco-packaging that meets the requirements for storage and transportation of coatings. The Group promotes

the introduction of the returnable tare practice between manufacturers of coatings and customers.

In terms of sustainable development, the Group studies changes in the Russian standards in terms of fire-resisting intumescent coatings and their conformity with European analogs, promotes a responsible approach, compliance with technical requirements and Russian legislation when conducting fire-resisting projects, and contributes to the development of all positive initiatives in this market, including conducting pre-qualification tests by customers when choosing fire-resisting coatings. On this matter, the Group is interested in joint initiatives on a responsible approach to the selection and operation of fire protection with Russian and international insurance companies.

The Group members promote the more active involvement of the technical inspectors of manufacturers of coatings to control the quality during the application and use of paint coatings, which allows most of the associated risks to be mitigated or eliminated.

RECOMMENDATIONS

- › Creation of equal standards in Russia and Europe for coatings testing.
- › Adoption of the legislation and roadmaps for various industries to ensure sustainable growth in the supply of competitive local raw materials.
- › Harmonization of the “carbon footprint” accounting methods between Europe and Russia.
- › Educating customers in terms of risk-oriented thinking in the planning and implementation of projects.
- › Development of own corporate coatings specifications by major customers, which allows the manageability of all processes related to the application and use of paint coatings to be structured and improved.



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WORKING GROUPS



NON-FOOD FMCG WORKING GROUP



CHAIRMAN:

SERGEY BYKOVSKIH,
HENKEL

ON THE PARTICULARITIES OF IMPLEMENTING MANDATORY LABELING WITH MEANS OF IDENTIFICATION IN THE FRAGRANCE AND PERFUME INDUSTRY

The labeling of perfumery products with means of identification became effective in October 1, 2020. Nevertheless, at present, the experience of labeling perfumery products with means of identification has shown that labeling needs to be introduced only in conditions of the complete readiness of the technical solution, which must take the characteristics of the industry and the coherence of the regulatory base into account in order to avoid an unreasonable burden on businesses and prevent legal conflicts.

One of the problems faced by the fragrance and perfume industry is how to label perfumery sets. Before September 1, 2021, a moratorium on labeling sets and packages of perfumery products was in effect in Russia. From September 1, 2021, the Rules, approved by Resolution No. 1957 of the Russian Federation Government of December 31, 2019, require their labeling. However, the rules on customs declarations of sets and packages have not been adopted by the Eurasian Economic Commission. This legal conflict makes it impossible to import sets and packages of foreign-made perfumery products.

As per the meeting of the project and expert group, the Department for the System of Digital Labeling of Goods and Legalization of Product Circulation of the Ministry of Industry and Trade of Russia has agreed with this assessment and intended to ensure that the moratorium for sets and packages of perfumery products be extended until March 1, 2020.

Yet, at this time, no such changes have been made in Resolution No. 1957 of the Russian Federation Government of December 31, 2019.

RECOMMENDATIONS

- ▶ To extend the approval of amendments on the extension of the moratorium with regard to sets and packages of perfumery products until March 1, 2022 and have them remain in effect from September 1, 2021.
- ▶ To accelerate the adoption of rules of customs declarations for sets and packages at the level of the Eurasian Economic Commission.

The development of the institution of labeling with means of identification in the fragrance sector will be more effective if the following recommendations are adhered to:

- ▶ Take account of the characteristic features of the sector and the high volume of imported products, enable importers to apply labeling with means of identification at importers' warehouses in Russia, after customs clearance has been completed, since labeling at a customs warehouse makes the logistics chain more complicated and leads to additional costs, including the increased cost of customs clearance.

"ON LEGAL REGULATION OF THE USE OF RETURNABLE CONTAINERS IN RUSSIA"

The use of reusable, returnable containers or packaging, suitable for refilling and subsequent use is one of the fundamental ways to achieve UN Sustainable Development Goal No. 12, Responsible Production and Consumption. Such solutions materially reduce the volume of packaging in circulation on the market, decrease the volumes of greenhouse gases emitted in the course of its production, and reduce the volume of product consumption waste.



Nevertheless, the current legal regulation, including the regulation comprising a part of the Extended Liability of Manufacturers, does not provide for any incentives for using this kind of packaging solution.

Nor do the current technical regulations or regulations in the sphere of consumer goods safety contain any special norms that would apply to the active implementation of such packaging solutions.

RECOMMENDATIONS

- › The regulation in the area of ELM is very promising when it comes to promoting the active implementation of multi-trip, reusable, returnable, or refillable containers for sustainable development. The working group will pre-

pare relevant proposals and submit them to the Ministry of Natural Resources and Environment.

- › The AEB member companies are interested in ensuring the safe and responsible implementation of such packaging solutions on the Russian market; therefore, they will develop and propose a project to improvement regulations on safety assurance for such containers.



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WORKING GROUPS



TOBACCO PRODUCTS WORKING GROUP



CHAIRMAN:

VASIL GRUZDEV,
JTI RUSSIA

The AEB Tobacco Products Working Group was created in 2013. It unites manufacturers of tobacco and nicotine goods, the joint market share of which amounts to about 95%¹, and total investments in the Russian economy of which have exceeded USD 8 billion.

The Working Group aims to ensure the generation of a sustainable and predictable legislative and taxation regime in the sector, advocating clear regulatory norms in the regulation of the production and circulation of tobacco goods, adoption of measures for the prevention of their illegal trade,

and also the reasonable regulation of the production and circulation of innovative nicotine products.

THE SYSTEM OF EXCISE TAXATION ON TOBACCO AND NICOTINE GOODS BASED ON A THREE-YEAR PLANNING CYCLE IN THE TAX CODE

The approach to the three-year planning of excise taxation in the Russian tobacco industry, established in the current tax legislation, conforms to the leading international practices in the sphere of tax policy.

¹ According to the Nielsen audit of Q3 2021 retail data

The last decade has been characterised by a growth of the tax burden and decrease in the affordability of legal tobacco products. As a result of the long-term growth of excise taxes and the decreasing affordability of legal cigarettes, the Russian market is saturated with illegal products, and the legal market is shrinking due to a material difference in excise rates for tobacco products between EAEU states (a difference in excise rates between cigarettes and other nicotine products in the EAEU and Russia results in an end difference in final consumer prices by a factor of 2 or 3). As the result, losses of budget income from excises and VAT, as experts assess, amounted to more than RUB 100 billion in 2021. The missing budgetary income, resulting from the growth of the tax burden on the sector and preservation of the extant high share of illegal products on the Russian tobacco market, will continue growing.

While before 2017 the state's fiscal policy of increasing excise rates for tobacco products had caused a certain increase in proceeds to the federal budget and a lowered share for the illegal cigarette trade, in the past 3 years, despite the continuing growth of excise rates, state budgetary income has been dropping due to the contraction of the legal market. Since 2021, a severe (20%) increase in excise rates for tobacco and nicotine products and the growth of the ad valorem component to 16% has taken place, which has caused a significant increase in the average price per pack of cigarettes in Russia in 2021, to RUB 140. Against the background of the stagnation of the real disposable income of the population and with illegal cigarettes available on the market at RUB 50-70 per pack, a portion of consumers is switching to illegal products.

A rational approach to the indexation of excise rates for tobacco and nicotine products would involve a predictable and gradual increase of the rates, proportional to the inflation rate, as estimated by the Russian Government, the real disposable income of consumers, and the parameters of the Agreement on the Principles of Introduction of Tax Policies in the Area of Excise Rates for Tobacco Products of the Member States of EAEU.

RECOMMENDATIONS

- It is recommended to continue the existing effective policy on the excise taxation of tobacco and nicotine goods based on the three-year planning cycle, in future avoiding the increase of tax rates in the already approved three-year period by a value exceeding the inflation rate, and with regard to the need for further harmonization of taxation on tobacco and nicotine products in EAEU countries. Assurance of moderate excise rate growth in order to avoid an increase in illegal trade could provide for an increase of tax proceeds and a gradual decrease in the consumption of tobacco goods.

ILLEGAL TRADE IN TOBACCO GOODS AND NICOTINE PRODUCTS

According to Nielsen Analytical Agency, in Q3 2019, the share of illegal tobacco products in the Russian Federation reached the maximum value – 15.6% of the total market volume. In Q3 2020, against the background of the anti-pandemic restrictions, the share of illegal tobacco products on the Russian market dropped to 7%. With the gradual normalization of the COVID-19 situation in the country, removal of the restrictions, and given the material increase in excise rates on tobacco products from January 1, 2021, in Q1 2021 it reach 10.7% and in Q2 it increased to 12.8%. Over 50% of illegal tobacco products arrive in Russia from EAEU member states. The smallest share is attributed to products from the Republic of Belarus – 42% in Q2 2021, as explained by an equivalent differentiation of excise rates between Russia and Belarus and the resulting difference in consumer prices for tobacco products.

Even though over the past few years the executive and legislative bodies of the Russian Federation have adopted a number of steps aimed at preventing the illegal circulation of tobacco products on the domestic market, the existing set of measures and tools, including the expanded digital labeling system, cannot stem the flow of illegal products arriving to Russia primarily from EAEU countries, resulting in the need for the adoption of additional legislative amendments and a systemic approach to their execution.

The working practice of the tobacco sector after a full-scale implementation of the labeling and traceability system from June 1, 2020 confirmed its effectiveness in keeping illegal tobacco products from penetrating legal trade channels. At the same time, the import of illegal products from adjacent countries continues in the form of sales that contravene the requirements on the use of online cash offices and the state information system for goods labeling (SIS GL). In 2021, the inflow of imports of single-use vapes which, due to a lack of technical regulations and mandatory labeling and, as a result of exceeding the permissible maximum nicotine concentration, has become a significant factor in involving the underage in nicotine consumption, has grown materially.

RECOMMENDATIONS

- It is necessary to develop and adopt a set of measures aimed at ensuring the transparency of the process of transit, export and cross-border movement of tobacco products from the Union member states through Russia, which would guarantee either the removal of the transit tobacco products from Russia or excise payments at the current Russian rates.
- To prevent the illegal imports of excisable products from EAEU member states, it would be advisable to accelerate the introduction in Russia of criminal liability for the large-scale illegal movement of alcohol, tobacco, and nicotine



products across the state border of the Russian Federation with EAEU member states. The implementation of this proposal is provided for in the action plan for implementing the Strategy for Preventing the Illegal Circulation of Industrial Products in the Russian Federation until 2025 as it includes alcohol, tobacco, and nicotine goods in the list of strategically important products and resources for the purposes of Article 226 of the Criminal Code of the Russian Federation, and also of important goods and resources, for which a value in excess of RUB 100,000 is considered a large amount.

- › In order to reduce the expenses incurred by the state in connection with the need for lengthy storage of tobacco products and the means of their manufacture and the removal thereof from illegal circulation, it is necessary in part to specify the provisions of the Code of Criminal Procedure of Russia that determine the procedure for the removal from circulation and mandatory destruction of equipment for the manufacture of tobacco products, stock, raw materials and the means of their illegal production. At the same time, it is necessary to make revisions to the Russian Criminal Code by establishing criminal liability

for the large-scale and major production and circulation of tobacco products, unmarked with identification means (digital labeling) or marked with deliberately false means of identification.

- › It is necessary to expand the list of products subject to mandatory labeling, including all types of nicotine products, particularly to ensure a smooth transition from the experiment to the mandatory labeling and tracing of sticks for heated tobacco systems, to adopt the Resolution of the Russian Government on carrying out an experiment for labeling nicotine-containing liquids and electronic means of delivery of nicotine-containing liquids, and for completion of the experiment, accelerating the transition to their mandatory labeling and tracing.



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WORKING GROUPS



WORKING GROUP ON LABELING AND TRACK & TRACE SYSTEM



CHAIRPERSON:

EKATERINA TCHEPOURINA,
L'OREAL

MANDATORY LABELING OF PRODUCTS WITH MEANS OF IDENTIFICATION

By the end of 2021, mandatory labeling with means of identification has been or is planned to be introduced as a mechanism

for combating illegal circulation of industrial products belonging to such product groups as tobacco products, footwear, drugs, fur coats, photo cameras and flash lamps, tires and treads, consumer products, perfumery and eau de toilette, dairy products, bottled water, as well as bicycles and wheel-

chairs. Experiments are also conducted to introduce labeling for dietary supplements, beer, and low-alcohol beverages, as well as antiseptic biocides.

The practical experience of introducing labeling by some industries demonstrates that mandatory labeling does not materially reduce the volume of the illegal circulation of industrial goods and that the participants in the circulation of labeled goods do not get the profit declared, namely in the form of:

- › A growth in revenue or an increase in the competitiveness of “white businesses”, as companies do not detect a decrease in either the volume of counterfeit goods or the size of the “grey market” as a whole. Moreover, labeling allows mala fide market players to sell illegally imported or produced products by buying a labeling code from the labeling system operator and placing the labels on their products.
- › Process optimization or cost reduction. Currently, the introduction of labeling entails a material complication of business processes at all stages of the supply chains and a significant financial load on producers and importers.

The majority of participants in the circulation of labeled products consider mandatory labeling as a mandatory tax that is costly to administer: with a cost per labeling code of 50 kopecks, a large company’s expenses may reach a hundred million roubles due to investments in operating solutions at the labeling introduction stage, in opening customs warehouses meeting the requirements of the respective industry, in engaging warehouses in placing labels outside the Russian Federation, due to high rates for placing labels on products at warehouses, including customs warehouses, or due to additional logistical costs arising from delivering imported goods to customs warehouses or warehouses outside the Russian Federation for the placement of labeling codes.

Hence the high cost of administration reduces the attractiveness of the Russian consumer market for new players and increases production costs.

Over several years, the Government of the Russian Federation, in cooperation with the business community, has been working on the improvement of the legal framework for the purpose of introducing labeling for specific product categories.

However, the currently available technical resources and the existing legal frameworks have a large number of weaknesses and inconsistencies, which make the business environment unpredictable, complicating business processes and increasing the unproductive costs of bona fide market participants, in particular:

- › Frequent technical and operational unavailability and technological failures of the operator of the labeling system lead to delays in shipments of goods, additional unjustified costs, missed sales and a reduction in the range of goods for the Russian consumer.

- › Weak coordination between authorities with regard to the introduction of legislative initiatives having a direct impact on the labeling system and, consequently, businesses.

- › The incompatibility of labeling codes in EAEU markets.

RECOMMENDATIONS

Within the framework of the issues described, AEB member companies have prepared a number of recommendations and proposals that will help stabilize the environment for the introduction of labeling and achieve the stated advantages for all participants in the turnover of labeled goods.

Prior to the adoption of the resolution on the introduction of labeling for new product categories:

1. To increase the transparency of adopting resolutions on the introduction of labeling for additional product groups, taking into account:

- › The results of a detailed market analysis from the perspectives of the existence of counterfeit products and assessment of the efficiency of introducing mandatory labeling as an instrument for combating the circulation of illegal products in various categories of consumer products.
- › Assessment by market participants of the rationality of introducing a traceability/labeling system in this category of goods, taking into account the confirmed volumes of counterfeit goods, specifying the source of data to the total volume of the category of goods offered for labeling in monetary and physical terms. The methodology for assessing the feasibility of introducing labeling should be agreed by the relevant department with market participants and approved by a decree of the Government of the Russian Federation.
- › Assessment of the results of the pilot project, including an assessment of the results of the experiment at each step of a supply chain, depending on the specifics of the respective industry. Moreover, the duration of the experiment, with due regard for the specifics of the respective industry, including climatic and seasonal specifics, and the period sufficient for eliminating deficiencies shall be assessed. All circulation participants shall carry out an assessment of the said results and publish detailed reports in public sources.
- › Assessment of the readiness and harmonization of the legal framework for the creation of a stable environment for the introduction of labeling.
- › Assessment of regulatory impact, including on small and medium-sized businesses.

2. In cooperation with industry participants, to develop a “roadmap” for each category of products subject to mandatory labeling with means of identification. The roadmap shall



contain the terms for the introduction of mandatory labeling requirements, with due regard to the stage-by-stage introduction of product labeling and traceability; the criteria for the assessment of pilot project results; as well as the terms for the analysis of the results of pilot projects and for the elimination of detected deficiencies, and transition periods, coordinated with market participants, within which penalties will not be imposed.

Hence, for additional product groups, the labeling shall not be introduced prior to the elimination of the technical barriers and harmonization of the regulatory requirements.

To improve the functioning of the labeling system in the product categories that are currently subject to labeling, as well as to reduce and optimize the costs faced by participants of labeled goods circulation, we recommend as follows:

1. In the conditions of a plurality of state systems of traceability of goods, to provide for the possibility for market participants to transmit data on the turnover of goods through a single interface (in particular, for EGAIS, the Mercury system, the marking of the CRPT, the national system of traceability of goods of the Federal Tax Service) without charging taxes/fees for using such an interface, as well as to ensure the integration of state information systems and Chestny ZNAK labeling system.

2. To introduce a single standard for label reading and processing systems for all additional categories newly becoming subject to labeling, in order to prevent unnecessary expenses for the implementation of duplicating traceability systems, including that used at the EAEU level.

3. To eliminate the possibility of parallel implementation and/or the use of different traceability/labeling systems within the same product group in order to prevent double load on businesses (including small and medium-sized businesses), partly by taking into account the systems used at the EAEU level.

4. To regulate the circulation of labeled goods through the Internet.

5. To specify the labeling system operator's administrative and civil responsibilities for providing technical support for mandatory labeling, including liability for material malfunctions of GIS MT:

- › To develop clear standards on the part of the Operator for its work and responses to critical situations (SLA).
- › To amend the model agreement with the GIS MT operator: to introduce an SLA for the services of Operator-CRPT and GIS MT; to reduce service rendering times to several hours.
- › To specify the labeling system operator's administrative and civil liability for material malfunctions of GIS MT.

6. To establish liability for electronic document management operators as labeled product circulation participants.

7. To ensure the possibility of affixing labeling codes at importers' warehouses within the Russian Federation (after the importers' customs declaration of products and release of the products by customs authorities for domestic consumption) in order to reduce the material economic expenses faced by importers and shorten the duration with which products are supplied to consumers.

8. To ensure access to GIS MT information, taking the interests of all market participants into account.

9. To ensure proper protection by the commercial information system operator of circulation participants' information; to establish provisions on classifying information as confidential and to specify in the Administrative Offence Code of the Russian Federation liability for "data leakage" and for the disclosure of confidential information to third parties.

10. To reduce the risk profile / the volume of regulatory activities with respect to bona fide participants of labeled product circulation.

11. To develop and approve criteria for initiating in-market inspections related to the detection of legislative violations in the field of labeling products with means of identification.

12. To develop fiscal (tax exemptions) and non-fiscal (grants, preferential credits, measures aimed at improving the business environment) support measures for small businesses participating in the labeling system.

13. To ensure the protection of intellectual property rights in the circulation of labeled goods, in accordance with the Protocol on Protection and Enforcement of Intellectual Property Rights (Appendix No. 26 to the Treaty on the Eurasian Economic Union).

14. To ensure practical unification of requirements for the product labeling system at the EAEU level, the integration of labeling systems, and the recognition of labeling codes, as well as to eliminate the possibility of using several different traceability systems within the same product group.



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Committee page**



WORKING GROUP ON MODERNIZATION & INNOVATIONS



CHAIRMAN:

MICHAEL AKIM,
VITUS BERING MANAGEMENT LTD.

OVERALL SITUATION IN THE INNOVATIVE SPHERE

According to the estimates of Russian Venture Company, the key barriers and limitations in the development of the innovative sector of the Russian economy are:

- › Insufficient level of development of competencies in innovative activity among representatives of science.
- › An inconsistently sufficient degree of fine tuning in both technological and marketing projects (declared by their founders as innovative).
- › Low demand for innovation in the country.
- › Insufficient tax incentives for innovative business, the presence of numerous barriers.
- › Defects in the current system of intellectual property protection.

The manufacturing industry is facing unprecedented challenges: the need to create hyper-personalized experiences and individualized products, to deliver at a lower cost and higher efficiency, or to implement new business models and sources of growth that build trust among consumers. To keep up, companies need to embrace the Fourth Industrial Revolution. Fourth Industrial Revolution technologies allow companies to position manufacturing as a source of competitive advantage while contributing to the fulfillment of the Sustainable Development Goals.

TECHNICAL REGULATION

The implementation of innovative products/services should be supported by the development of technical regulations that are often lacking or are based on outdated approaches (for example, most technologies for smart grids, smart cities, energy storage devices for electricity supply and demand management). Moreover, it is advisable to create new federal/industrial standards (and update the existing ones) based on international standards rather than local norms, which is an essential condition of the competitiveness of Russian goods on international markets.

In an acutely competitive high-tech environment, special focus should be placed on stimulating the localization of R&D and the development of advanced science-intensive technologies to increase added value.

RECOMMENDATIONS

- › Expand international cooperation to support training and to accumulate innovative capabilities within companies.
- › Pay more attention to the demand for the creation of knowledge to promote technologies for developing an innovation policy in a market economy.
- › Promote international cooperation not only in science but also in the development of new technologies at pre-competitive stages, which is an important factor determining the prospects of Russia's innovation sphere.



INNOVATIONS IN ENERGY EFFICIENCY AND DECARBONIZATION

State support and incentives are essential for the implementation of modern digital solutions and “green” energy-efficient technologies and the fulfillment of national goals to increase productivity and reduce the energy intensity of Russia’s GDP. Activity in this area could boost the market for energy-efficient solutions; i.e. for companies, it could be an additional market for insulation materials, variable-frequency drives, and efficient motors, as well as the implementation of automated control systems in energy-extensive manufacturing facilities. The previous state program for energy efficiency has been practically on hold since ~2014. The creation of a new national energy efficiency program, taking the best practices of both Russian and foreign companies into account, would contribute to the wider implementation of energy-efficient solutions, and, consequently, increase productivity and reduce the carbon footprint of Russian enterprises.

EXPORT

The export (of manufactured goods) is one of the main national priorities of the Russian economy. However, there is lack of understanding about international supply chains, and limited knowledge of export markets and quality issues. Stimulating the localization of high-technology production and technology competencies in Russia remains one of the priority objectives in the development of an innovative economy. The export of innovative products is closely related to the import (of components) of such products, that is, import substitution measures may interfere with high-tech exports.

LOCALIZATION, PRODUCTIVITY, AND QUALITY IMPROVEMENT CHALLENGES

Over the last several years, localization has been driven by two factors: rouble devaluation, and the introduction of new rules, regulations, and procedures to promote import substitution and more local production in Russia.

The substantial drop in Russia’s growth potential from approx. 4–5% in November 2016 to 1.5–3.0% in November 2018 as estimated by the World Bank is a reason for concern and an indication that there seems to be a need for reconsidering policies, including production localization, to increase competition and improve productivity and quality to grow the Russian economy.

RECOMMENDATIONS

- › Review rules, regulations, procedures, and implementation instructions, focusing on only those sectors considered strategic for the localization regulations.
- › For other sectors, review the rules, regulations, and principles assuring an equal playing field for all market participants with production in Russia and increasing competi-

tion in order to improve productivity and quality to grow the Russian economy.

UPDATED MECHANISM FOR REGULATING SPECIAL INVESTMENT CONTRACTS (SPIC 2.0)

SPIC 2.0 is a significant step in improving the investment climate, especially with regard to tax benefits and obligations. Tax benefits are provided both at the federal and regional levels, and obligations are limited by the amount of state support measures provided.

SPIC 2.0 is concluded through competitive selection for the development and implementation of technologies included in the list of modern advanced technologies approved by the Government of the Russian Federation.

One of the key objectives of SPIC 2.0 is to involve small and medium-sized businesses in the process, and for this purpose, the requirement for a minimum investment amount of 750 million roubles was eliminated. However, the new approach requires comprehensive documents and procedures that may become restrictive for foreign SMEs, especially for companies without experience in the Russian market. Foreign experts are not allowed to participate in the technological review, which can significantly worsen the results of such review, its reliability, and completeness, especially with regard to the long-term competitiveness of the proposed technologies.

Long-term projects require exceptional strategic knowledge in marketing to ensure the global competitiveness of the products and the demand for these technologies.

COVID-19 AND INNOVATIONS

Since March 2020, the COVID-19 pandemic has dominated world news. Before the COVID-19 pandemic, e-commerce was rapidly growing both globally and in Russia. The pandemic has been a catalyst for even more growth. Russia’s e-commerce experienced 10 times more growth than the real economy in 2019. This fact, besides the labor shortage, urges logistics enterprises to revise existing business approaches and promote innovations to increase the flexibility and productivity of their operations, including through automation and robotization.

There are two issues in the field of e-commerce:

- › The system of payment for goods purchased via the Internet can be improved. For example, the Chinese model of payment through an escrow account provides for debiting funds from a client’s account only after the client receives the goods.
- › 73% of cross-border goods are shipped by Russian post, which takes more time than customers expect. To shorten the delivery time, the China model of partnering with

B & M retailers can also be used; this would reduce the need for expensive logistics infrastructure investments. Russian e-commerce companies like Ozon and Wildberries are already using this model.

STAFFING FOR AN INNOVATIVE ECONOMY

Constant changes in the technology associated with the development and implementation of digital solutions affect the business strategies of companies and their need for staff. As a result, new requirements arise for digital literacy, the development of professional (including engineering) competencies and behavioural culture. At the same time, a lack of qualified personnel is felt at all levels of leadership and execution of duties. Staffing for innovative development is possible only if there is a developmental environment that promotes the expansion of professional contacts for the exchange of knowledge, the possibility of inviting external experts, the formation of teams of varying experience, as well as training and retraining of their own employees.

The government and companies have to prepare the current and upcoming workforce for the future of work, where new industry practices linked to Big Data and artificial intelligence, augmented reality, additive manufacturing, cobotics, and advanced simulation tools will keep people at the core of innovation.

Leading companies can empower their workforce by:

- > ensuring the workforce of the future is 'career-ready' after school/university/vocational training;
- > making lifelong learning and upskilling of the current workforce a public policy and corporate priority;

- > turning knowledge & know-how of the retiring workforce into valuable assets for corporate memory;
- > sustaining the attractiveness of critical science and engineering professions in the eyes of new generations;
- > facilitating the digital transformation of educational systems to achieve these goals.

RECOMMENDATIONS

- > Work on a real and relevant innovation task.
- > Exchange ideas and practices, learn from colleagues and external experts.
- > Organize the work of distributed teams.
- > Constantly update the experience gained, and scale up successful practices of universities.
- > Strengthen cooperation between educational institutions and businesses, and stimulate the development of medium-term training and retraining courses.

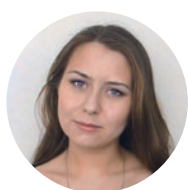


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Committee page**



WORKING GROUPS

WORKING GROUP ON THE REGULATION OF CHEMICAL PRODUCTS



CHAIRPERSON:

ANNA TRUNINA,
DOW EUROPE GMBH
REPRESENTATIVE OFFICE

DEPUTY CHAIRPERSON:

EKATERINA SUCHALKO,
MERCK LIFE SCIENCE, LLC

The Working Group on the Regulation of Chemical Products was founded in 2017 to discuss the Technical Regulations 'On the Safety of Chemical Products', approved by Decision of the Eurasian Economic Commission No. 19 dated March 3, 2017, which raises a number of questions from a wide range of industrial sectors, including raw materials for chemicals and the manufacturing of tyres, crop protection agents, paint materials, household chemical products, etc.

The Technical Regulations of the Eurasian Economic Union 'On the Safety of Chemical Products' (TR EAEU 041/2017) (the 'Technical Regulations') provide for the development of a procedure for the creation and maintenance of a register with the notification and registration of substances by December 1, 2018.

TECHNICAL REGULATIONS OF THE EURASIAN ECONOMIC UNION ON THE SAFETY OF CHEMICAL PRODUCTS (TR EAEU 041/2017)

The AEB Working Group on the Regulation of Chemical Products would like to express the concern of importing companies and major investors in the Russian economy regarding the current situation with the Technical Regulations of the Eurasian Economic Union "On the Safety of Chemical Products" (TR EAEU 041/2017) approved on March 3, 2017.

At present, any organizations producing and/or importing chemical substances and mixtures – whether they be raw materials, materials, finished products, or even waste (with rare exceptions established by Technical Regulations 041/2017), regardless of their tonnage – are included in the field of activity covered by the draft EEC decision.

The time frames established by the draft documents for creating Registers for chemical substances and mixtures make the creation of the Registers impossible within the given time frames.

At present, thousands of chemical substances are not subject to compliance assessment in EAEU countries, and there is no data on them in the informational sources of the countries of the Union; they are produced in amounts less than one tonne per year and are not subject to registration in other countries around the world. As a result, data on these substances cannot be found in open sources. In addition, thousands of chemical mixtures are not subject to compliance assessment in EAEU countries and do not require registration in any other countries around the world. Therefore, to create a register of chemical mixtures, it is necessary to first create a register of chemical substances.

Countries within the Union lack a sufficient number of qualified specialists and equipped laboratories capable of conducting expert examination and, where necessary, testing of such products within the given time frames.

The rules specified in the drafts will lead to significant costs (financial, time, labour and other costs) that are largely excessive and unjustified.

The lack of a graduated approach (based on the annual tonnage of chemical products produced and/or imported) in the introduction of notification and registration, along with the excessive information provision requirements, will significantly complicate the activity of large enterprises and may not always

be feasible for medium-sized and especially small enterprises (with low-tonnage production and import). It is also likely that this will lead to the establishment of technical trade barriers for innovative chemical substances/mixtures in the form of progressive innovations that have not entered the markets yet.

In general, the approach corresponds with the best world practices; however, the omission of certain essential details makes it less effective and, more importantly, unreasonably complicates the operations of companies. The most optimal approach is to use the development, implementation, and operational experience of existing systems. It makes sense to look more closely into Europe's experience and employ the best aspects of it.

RECOMMENDATIONS

- › To implement thresholds (tonnage ranges) for data requirements, i.e., the amount of data requested for notification regarding new chemical substances should depend on the tonnage manufactured or imported and

placed on the EAEU market. This will avoid creating trade barriers, especially as regards low volume chemical substances.

- › A Chemical Safety Report (CSR) should only be requested for notification regarding new chemical substances manufactured or imported and introduced to the EAEU above a certain threshold. This could be 1 tonne/year and per notifier as under the EU's REACH. Without a tonnage threshold and a CSR requirement only for high-volume substances, far too many data/costs will be required for low-volume substances.



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REGIONAL COMMITTEES



REGIONAL COMMITTEES

NORTH-WESTERN REGIONAL COMMITTEE

**CHAIRMAN:**

ANTON RASSADIN,
BSH BYTOWIJE PRIBORY

DEPUTY CHAIRPERSONS:

ANDREAS BITZI, QUALITY PARTNERS.
ELENA NOVOSELOVA, COLEMAN SERVICES
WILHELMINA SHAVSHINA, EY

HR AND MIGRATION SUBCOMMITTEE**SHORTAGE OF WORKERS**

An acute shortage of workers is one of the problems in the labor market today, including in the North-Western region, where there are many manufacturing companies and logistics centers. Blue-collar workers remain the base of the Russian labor market. According to various sources, at the end of 2019, the able-bodied population of Russia was about 75 million people, almost half of whom were line personnel.

There are several reasons for the shortage of workers:

- › Outflow of migrants due to restrictive anti-coronavirus measures. During the pandemic, about 500,000 migrants (internal and external) in total fled from St. Petersburg and Leningrad region.
- › Aging of personnel/Demographic crisis. Last year, the Russian economy lost about 7.7% of its young workers, while the number of working pensioners increased.

RECOMMENDATIONS

- › Adaptation for women of workplaces where men have traditionally worked.
- › Rejection of ageism.
- › Automation of labor.
- › Working with the employer's brand.

LEGAL AND TAXATION SUBCOMMITTEE**TAX ASPECTS**

In 2017, the Tax Code of the Russian Federation was supplemented with Article 286.1 on investment tax deductions (INV) as a mechanism to stimulate the renewal of fixed assets of companies in various fields. Unfortunately, the regulations adopted at the regional level significantly limit the circle of entities who are entitled to use the investment tax deduction and/or make them perform additional works and bear additional costs to prepare reports required by regional laws.

RECOMMENDATIONS

- › Development of proposals by Subcommittee members on the simplification of procedures for obtaining and confirming the right to INV.
- › Appeal to the competent authorities of the North-Western subjects of the Russian Federation for the urgent elaboration of mechanisms to improve the availability of INV for business.

LEGAL ASPECTS

The exchange of electronic documents for tax and legal purposes between Russian and foreign counterparties is not fully regulated. The main problem is that the counterparties must meet all the necessary legislative requirements of the different states of which they are residents.



RECOMMENDATIONS

- › Preparation of proposals to the Russian Ministry for Digital Development, Communications and Mass Media (MinTsifry) and the Government of the Russian Federation to accelerate the consideration and finalization of draft legislative amendments regarding the use of cross-border exchange of electronic documents under an electronic interaction agreement between counterparties.
- › Preparation and discussion of practical recommendations for the use of the specified capabilities in the implementation of the Concept of the Development of Electronic Document Management in Business.

OTHER ASPECTS

The Introduction of special provisions in the Tax Code of the Russian Federation regarding the timing of investors' capital investments in regional investment projects (RIP) during the difficult economic situation caused by the pandemic.

Amendments to the Federal Law "On the Procedure for Leaving and Entering the Russian Federation" to change the criteria for restricting entry for foreign citizens, in particular, the nature of offenses committed by a foreigner, the degree of guilt, the presence and severity of the damage.

CUSTOMS, TRANSPORT, AND LOGISTICS SUBCOMMITTEE

ISSUE

Under orders given by the Accounts Chamber, the customs authorities conducted mass inspections on the inclusion of license fees (royalties) in the customs value of imported goods. These inspections affected many regional companies producing finished products, including from imported components and raw materials, and using know-how and trademarks for the use of which royalties must be paid to foreign rightsholders. Another problem is the new practice of including VAT, paid by licensees from royalty amounts, in the customs value of imported goods, based on WTO recommendations. The above leads to legal uncertainty and instability of the legal status of foreign trade participants.

RECOMMENDATIONS

- › Amendments to the Recommendation of the Board of the Eurasian Economic Commission No. 20 dated November 15, 2016, regulating the procedure for including royalties in the customs value of imported goods with the active participation of business representatives.

ISSUE

By Order of the EEC Board No. 143 dated September 21, 2021, a draft resolution of the EEC Council "On the Proce-

cedure for the Import into the Customs Territory of the Eurasian Economic Union of Products subject to Mandatory Conformity Assessment in the Customs Territory of the Eurasian Economic Union" was submitted. In comparison with Resolution of the EEC Board No. 294 dated December 25, 2012, the procedure for importing controllable products into the Eurasian Union ("Import Procedure") was significantly detailed.

The new Import Procedure significantly tightened the rules for the movement of products imported by a declarant for personal use in a single unit. In the current version of the Import Procedure, the term "single unit" is indicated in the plural, i.e., "in single units". As the customs authorities traditionally interpret the word "single" as "one", it should be feared that, under the new version, confirmation of compliance with technical regulation measures will be required not only for goods imported as one unit for personal use. Thus, many foreign trade participants will be forced to confirm compliance with technical regulation measures of a small number of goods imported by them for personal use, which does not meet the goals of technical regulation.

The import of spare parts for the repair of previously certified products is also significantly limited. Now, only persons, who previously imported products for the repair of which imported spare parts are intended, will be able to import spare parts without certification. Other persons are deprived of this right.

RECOMMENDATIONS

- › The EEC should amend the new Import Procedure to expand the term "single unit" and prevent restrictions on the number of persons entitled to import spare parts without confirmation of compliance.

CONSTRUCTION AND REAL ESTATE SUBCOMMITTEE

ISSUE

New market segments are actively developing in the industry, and their regulation does not always consider the peculiarities of their development. Prompt cooperation with the regulator is required to develop adequate rules of interaction. In particular, the segment of apartments and co-livings requires regulatory differentiation with the hotel sector, as well as the establishment of standards for providing social infrastructure facilities intended for the permanent residence of citizens.

RECOMMENDATIONS

- › Improvement of the legislative regulation to determine the legal status of new forms of real estate, regulate the provision of social infrastructure facilities, as well as the procedure for transferring such facilities to public ownership on a reimbursable or gratuitous basis.

ISSUE

The rental housing segment in St. Petersburg is mainly represented by individuals. Often, transactions between individuals are not transparent to the tax authorities, which creates unequal conditions for different groups of investors – individuals and legal entities.

RECOMMENDATIONS

- › Implement the developed European countries’ practices to create transparency in the rental market, offering incentives for lessors to move to a civilized market.

- › Propose to the legislative body of St. Petersburg to develop regulations aimed at providing corporate property tax benefits for institutional investors in the rental housing market.



More information on the Committee page

REGIONAL COMMITTEES

SOUTHERN REGIONAL COMMITTEE



CHAIRMAN:

**OLEG ZHARKO,
DANONE RUSSIA**

DEPUTY CHAIRPERSONS:

**RALF BENDISCH, CLAAS
LUBOV POPOVA, VEGAS LEX**

The Committee has been operating since 2003 and is the first regional union within the Association, operating in the Krasnodar region, Rostov region and the Republic of Adygea. The Committee’s operations are aimed at resolving issues related to the development of international businesses in the region and creating favourable conditions for the development of mutually beneficial collaboration and cooperation with local authorities. The Krasnodar region is a key partner of the Southern Regional Committee for a number of objective reasons.

INTERACTION WITH REGIONAL AUTHORITIES IN ORDER TO CREATE CONDITIONS FOR ATTRACTING NEW PROJECTS FROM INVESTORS AND EXPANDING THE EXISTING ONES

The Krasnodar region is one of the most attractive regions in the Russian Federation for foreign investors. The history of success-

ful implementation of investment projects in the territory by foreign investors dates back more than 25 years. Member companies of the AEB Southern Regional Committee are actively developing their production facilities in the Krasnodar region.

The administration and the Legislative Assembly of the Krasnodar region have built an effective system of interaction with potential and existing investors and actively engaged business representatives as experts for consultations on a wide range of issues.

The Consulting Committee for Foreign Investments under the Governor of the Krasnodar region operates actively. Sixteen out of nineteen companies in this consulting committee are members of the Southern Regional Committee. For the purposes of the current activities of the regional advisory council on foreign investments, working groups have been formed in the following areas: promoting the investment image of the Krasnodar



region; legislative regulation and industrial development; staffing of investment projects; issues of sustainable development and corporate social partnership.

To analyze and summarise the existing experience, starting in 2016 the Consulting Committee for Foreign Investments supported by EY annually prepares a memorandum on the status of work with foreign investors in the Krasnodar region.

Representatives of AEB member companies also participate in the Committee for Improvement of the Investment Climate under the Governor of the Krasnodar region, the Industrial Development Council under the Governor of the Krasnodar region, and the Expert Consulting Committees of the Legislative Assembly of the Krasnodar region.

RECOMMENDATIONS

- › To establish information exchange with the Consulting Committee for Foreign Investments under the Government of the Russian Federation.
- › To attract investors who have successfully implemented their projects to work with foreign delegations and prospective investors.
- › To consider AEB member companies that operate in Russia but have no branches in the Krasnodar region as a key audience.
- › To focus efforts on working with individual AEB industrial committees corresponding to the development strategy of the Krasnodar region for 2030.
- › To use the AEB as a platform to promote the investment potential of the region.

HIGHLY QUALIFIED PERSONNEL FOR INVESTMENT PROJECTS

One of the factors having a material impact on a company's selection of a platform for investment project implementation is the availability of large higher education institutions in the region capable of training specialists to the required skill level and possessing knowledge of foreign languages.

With the support of member companies of the Southern Regional Committee, Business Schools successfully operate in the leading universities of the region: Kuban State Agrarian University, Kuban State Technological University, Kuban State University, and Southern Federal University. During the academic year, in each of the Business Schools, more than 40 speakers from 20 member companies of the South Regional Committee of the Association of European Businesses give lectures to senior students (and at Kuban State Agrarian University also to teachers) who have passed a strict selection process and discuss the business processes and business practices of internation-

al corporations. The training ends with the defence of business cases.

More than 500 students have been educated in the Business Schools since their establishment. For many students, this education has served as a launchpad for employment in both international and Russian companies, and in public authorities.

Representatives of the member companies of the Southern Regional Committee sit on the Expert Council and act as mentors for the winners of the 'Leaders of Kuban – Moving Up!' contest for managers.

RECOMMENDATIONS

- › To continue to develop interaction with universities through Business Schools, attracting speakers in an on-line format.
- › To expand the activities of the Business Schools by creating special groups to train young teachers in other universities of the region.
- › To share the experience of the Business Schools on business and educational platforms.
- › To contribute to the comprehensive training of personnel to work in governmental institutions by providing a possibility to participate in mentoring for the winners of the managerial personnel competition 'Leaders of Kuban – Moving Up!'.
- › To introduce a program of double mentoring from business and government for personnel in relevant areas.
- › To hold industry-specific meetings on topical issues for the representatives of foreign business and the HR community in the region.
- › To promote the continued development of constructive dialogue between universities and businesses for further successful realization of the region's investment potential.

SUSTAINABLE DEVELOPMENT AND ESG PRINCIPLES IN INTERACTION WITH PARTNERS AS A FACTOR IN DEVELOPMENT OF BUSINESS ENVIRONMENT

For business, sustainable development represents systematic work in all areas both within and beyond the company; it gives a perceptible economic effect not only for the business itself but also for local communities, regions, and the country as a whole. Large companies develop their business strategies based on the Sustainable Development Goals (SDGs) and implement ESG principles based on environmental, social, and corporate responsibility.

In the Krasnodar region, at the initiative of the member companies of the Southern Regional Committee, a working group was created and it was proposed to form an Expert Council on Sustainable Development of the Krasnodar region. The public authorities of the Krasnodar region share the position that it is necessary to adhere to an integrated approach to regulation and to maintain a balance between business responsibility and state support measures.

Within the “Time of New Strategies” program organized jointly by the Southern Regional Committee of the AEB, the Public Chamber of the Krasnodar region, the Agency for Investments and International Cooperation, and the socio-political weekly Yug-Times, the business community is analyzing the global experience in implementing the SDGs, ESG projects, best practices, and recommendations.

Thus, thanks to the business community, an agenda was set in the region to achieve the Sustainable Development Goals and the context is being analyzed to develop a taxonomy — a task that is relevant at the federal level.

RECOMMENDATIONS

- › To create an Expert Council for Sustainable Development of the Krasnodar region.
- › To continue working on the development of federal and regional taxonomies.
- › To develop recommendations for the promotion of state support measures for the transition of companies to the sustainable development principles in their activities.
- › To start the creation of a common statistical digest that will display the role and place of the Krasnodar region in the implementation of the Sustainable Development Goals in the region.

CREATING EFFECTIVE, PREDICTABLE, AND TRANSPARENT CONDITIONS FOR CONNECTING INVESTORS TO UTILITY NETWORKS

The long-term interests of foreign investors are closely connected with the Russian economy, and companies whose manufacturing facilities are located in the Krasnodar region are an integral part of the region’s economy.

At the same time, there are a number of problematic areas that hinder the development of investment activities. The technological connection of capital construction facilities to utility networks is one such area.

At the stage of the development of technical conditions, investors need transparent pricing schemes for connection to utility networks. At the next stages, investors note the complexity of procedures, restrictions on connection to utilities, and non-compliance with connection deadlines. In addition, the

high cost of connecting to utilities negatively affects the investment project as a whole. Significant factors also include the stable supply and possible capacity extension in the event of the expansion of the investment project.

To analyze the best practices in other regions to help investors connect to utility networks.

RECOMMENDATIONS

- › To create conditions for connecting new investors to utility networks through regional financing or reimbursement of infrastructure costs after completion of construction and commissioning.
- › To create platforms for an open dialogue between businesses and representatives of natural monopolies under the auspices of the administration of the Krasnodar region, and discuss plans for the development of resource-supplying organizations for integration into the investment strategy of the Krasnodar region.



**More information on the
Committee page**

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Signature of Authorised Representative of Applicant Company /

Подпись уполномоченного лица заявителя:

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