Autumn 2016

AEB

BUSINESS QUARTERLY

Association of European Businesses Quarterly Magazine

CONNECTIVE. INFORMATIVE. EFFECTIVE.

Legal, Compliance and Intellectual Property

With AEB updates on: #arbitration, #import substitution policy, #personal data localisation, #antimonopoly compliance, #mandatory pre-trial procedures, #AEB news, #committee activities, #member news and #new members.

Dear readers,

Legal functions and support are extremely important for the effective and smooth work of companies. In-house lawyers and legal experts address antimonopoly, corporate, compliance and other issues, most of which are in the agenda of our Committees.

The AEB Legal Committee brings together ambitious professionals who share their experience, ideas and information on the latest changes in Russian legislation in a constructive dialogue. The committee organises regular annual meetings with Igor Artemiev, Head of the Federal Antimonopoly Service of the Russian Federation. This year, the committee prepared and held a roundtable meeting on legal aspects of localisation in the Russian Federation at the St. Petersburg Legal International Forum, a widely acknowledged and highly praised initiative of Ministry of Justice of the Russian Federation. It was in-house lawyers from international pharmaceutical companies who worked hard on the elaboration of the Code of Good Practice in the pharmaceutical industry and drew up a unique document which regulates relations between producers and distributers.

The AEB Intellectual Property and Compliance & Ethics Committees were established on the basis of the Legal Committee as working groups, but they quickly proved to be highly effective and were restructured into fully-fledged committees. The IPC holds an annual conference which is well attended and has a rich agenda. It maintains constructive relations with the Eurasian Economic Commission, the European Commission and all state bodies which are responsible for the protection of intellectual property rights in the Russian Federation. The Compliance & Ethics Committee was established last year and serves as a valuable platform for the discussion of important and critical problems related to antitrust and anticorruption compliance, as well as ethical issues in companies.

I would also like to note that the establishment of the AEB Arbitration Court in late 2015 occurred in parallel with the changes in Russian legislation on arbitration which will have an impact on many companies. In this issue you will find an article by the Chairman of the AEB Arbitration Court's Presidium.

Young, passionate and enthusiastic lawyers who are highly experienced in waste management, IT, bankruptcy issues, the arbitration procedure, consumer legislation, etc., not only help their companies prosper but also contribute to the solid reputation of the AEB. This publication offers a legal analysis and some important information about the areas mentioned above.

I wish you pleasant reading!

Sincerely yours,

Frank Schauff
Chief Executive Officer,
Association of European Businesses

Dear readers,

Welcome to the AEB Business Quarterly prepared this time jointly by the Compliance, Intellectual Property and Legal Committees. In this edition we address the most important issues the committees have dealt with in the current difficult political and economic environment.

The last two years have been extremely challenging for AEB members. First of all, companies have had to respond to the political problems, including sanctions, restrictive trade regulations and Russia's import substitution policy. Secondly, the current economic environment and currency rate fluctuations have increased non-payment and default risks significantly. Finally, the companies have faced new regulatory restrictions, such as the localisation of personal data, which has largely affected companies from various industries. Companies are facing many of these challenges for the first time in modern day Russia.

I am glad that the AEB Legal Committee could help companies respond to these challenges through our regular committee meetings and events, and via cooperation with the authorities. I would like to thank our colleagues who have contributed to the work of the committee.

Finally, I would like to invite you to join the AEB Legal Committee, where you will have the opportunity to share your experience and gain access to the experience of over 100 legal departments and law firms.

We look forward to seeing you at our regular meetings and events. Enjoy the reading!

Alexander Kozhukhov
Chairman of the AEB Legal Committee

AEB BUSINESS QUARTERLY,

Autumn 2016

Legal

What are the "pocket" tribunals?

Import substitution: what is up?

Now producers assume responsibility for waste utilisation in Russia

AEB Updates

AEB opened new business seasons in Moscow and Saint Petersburg

AEB signed an agreement with the Hellenic-Russian Chamber of Commerce

IMAF-2016

AEB organised its 2nd Real Estate Day

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The impact of the adoption of the new law on arbitration on the establishment and operation of arbitration institutions, including the operation of the so-called "pocket" tribunals

ROBERT SCHULZE
President of the AEB Arbitration Court

On 1 September 2016, a new law regulating the procedure for the establishment and operation of arbitration tribunals and permanent arbitration institutions within the Russian Federation came into effect[1]. The law also directly regulates the arbitration proceedings itself or, following the terminology of the law, the arbitration starting from the dispute resolution process to the specifics involved when the tribunal makes an award. The new law was passed to replace Federal Law No. 102-FZ "On Arbitration Tribunals in the Russian Federation" dated 24 July 2002 (hereinafter referred to as Law No. 102-FZ) as a part of an enhancement of arbitration proceedings as specified in the Message of the Russian President to the Federal Assembly as of 12 December 2013.

As before, the scope of the new law includes permanent arbitration institutions which used to be called permanent arbitration tribunals and tribunals formed by parties to settle a particular dispute traditionally referred to in theory as ad hoc arbitration tribunals (translated from Latin as "for this, as applicable, for this purpose"). However, the new law, unlike Law No. 102-FZ, pays special attention to the provisions devoted to the establishment and operation of permanent arbitration institutions, regulates the relevant processes thoroughly and in detail, establishes the rules and restrictions enforceable in this respect which ensure the protection of the rights of the parties to a civil dispute for a fair arbitration.

Such close attention of the legislator to arbitration institutions is far from being accidental. First of all, this approach is different from the approach described in Law No. 102-FZ which very poorly regulates the issues of establishment and operation of the arbitration tribunals. This is certainly related to implementation of the message about the

[1] Federal Law No. 382-FZ "On Arbitration (Arbitration Proceedings) in the Russian Federation" dated 29 December 2015.

need to strengthen the authority of arbitration tribunals in the above-mentioned Presidential Message.

For instance, the Constitutional Court of the Russian Federation notes in its rulings that in referring by the parties to the arbitration, the public interests are defenced by the statutes establishing arbitration procedures which imply the existence of guarantees of justice and fairness inherent in any judicial proceedings by virtue of the requirements of Article 46 of the Constitution of the Russian Federation in conjunction with Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms[2].This is aligned with the problems of the so-called "pocket" tribunals established and carrying out their activity under the control of individual participants of civil-law relations in circumstances where guarantees of justice and fairness mentioned above may be discredited and this, in its turn, does not contribute to raising the credibility of the arbitration tribunals which the President writes about.

At the same time, the new "enhanced" state regulation of the issues of establishment and operation of such, in essence, alternative dispute resolution bodies like arbitration institutions described in the law is bound to cause certain difficulties and even some dissatisfaction in practice.

Let us consider some new rules of establishment and operation of arbitration institutions in more detail. The major part of the new rules, including the terms and their definitions, except for the chapters devoted to general and final provisions comprises the provisions of Chapter 9 of the law.

Permanent arbitration institution means a subdivision of a non-profit organisation performing the functions of arbitration administration on a permanent basis.

It can be seen from this definition given in Article 2 of the law that it is referred to a subdivision of a non-profit organisation, i.e. of an organisation for which making profit is not the main objective of its operation and which does not distribute the received profit among its participants, as defined by paragraph 1, Article 59 of the Civil Code of the Russian Federation.

The scope of functions of a permanent arbitration institution includes "admin-

[2] Ruling No. 30-P of the Constitutional Court of the Russian Federation dated 18 November 2014, Ruling No. 10-П of the Constitutional Court of the Russian Federation dated 26 May 2011.

istration", i.e. performance of functions for organisational support of arbitration. These functions comprise the provision of the procedures of selection, nomination or challenge of arbitrators, records management, organisation of collection and distribution of arbitration fees and, taking into account the wording of the law, other functions related to organisational support, except for direct functions of an arbitration tribunal on resolving the dispute. Put it another way, a permanent arbitration institution engaged in arbitration procedures is not directly involved in dispute resolution. Performance of this function is an exclusive right of an arbitration tribunal, i.e. of the sole arbitrator or a panel of arbitrators elected or appointed in accordance with the procedure established by law.

The above mentioned administration is provided on a regular basis. This implies that such subdivisions should be established under non-profit organisations for an indefinite term without any time constraints.

Unlike permanent arbitration institutions, an ad hoc arbitration tribunal formed by the parties to settle a particular dispute resolves the dispute and passes an award in the absence of administration on the part of any subdivision. However, the new law allows that in case of arbitration by an ad hoc arbitration tribunal the parties may by their agreement delegate to a permanent arbitration institution performance of certain administration functions on arbitration administration, e.g. the functions of arbitrators' nomination, resolving the issues of challenges and some others. However, such decision of the parties does not entail recognition of such arbitration as wholly administered by the said institution.

A permanent arbitration institution is entitled to carry out its activities on

arbitration administration, subject to receipt by its founding non-profit organisation of the right to exercise functions of a permanent arbitration institution provided for by the regulation of the Government of the Russian Federation adopted in the manner prescribed thereby on the basis of recommendation of the Council on Improvement of Arbitration Proceedings (hereinafter referred to as the Council).

As stated in the law, the Council is established under a competent federal executive body which approves its composition, regulations on the procedure of the Council's establishment and operation, the list of provided documents and the procedure for their consideration. The Council's responsibilities include in the first instance preparation of recommendations to the Government of the Russian Federation on granting, or refusal from granting of the right to exercise functions of a permanent arbitration institution. The Council performs other functions in accordance with the law and exercises the powers vested therein.

To become eligible to exercise functions of a permanent arbitration institution, a non-profit organisation must comply with the requirements established in the law. Thus, in the first instance, the law establishes that the rules of a permanent arbitration institution which include by laws, regulations, rules of procedure containing arbitration rules, rules of execution of certain functions related to arbitration administration must comply with requirements of the law.

A permanent arbitration institution must also have a recommended list of arbitrators which this arbitration institution must maintain and publish on its website. Requirements to the list of arbitrators are established by the law.

Another requirement which existence is mandatory according to the law is reputation of a non-profit organisation, the scale and nature of its operation taking into account its founding members (participants). In this case, it is pointed out that reputation, scope and nature of operation will allow to ensure a high level of organisation of the operation of a permanent arbitration institution, including in terms of financial support for establishment and operation of the relevant institution and carrying out by the said organisation of activities aimed at development of arbitration in the Russian Federation.

All information provided with regard to the non-profit organisation and its founders (participants) must be reliable. The requirement of reliability is the next mandatory requirement of the law to gain the right to exercise functions of a permanent arbitration institution.

In addition, the law states that when making a decision on granting the right to exercise the functions of a successor of a permanent arbitration institution, activities of the predecessor institution are also taken into account as well as the number of cases considered thereby, including the number of awards which were cancelled by a court or whereunder a court refused to issue an execution writ.

Imposing of additional requirements is not permitted.

A foreign arbitration institution is entitled to perform functions of a permanent arbitration institution on the territory of the Russian Federation if the said institution has a widely acknowledged international reputation. In this case, compliance with other requirements listed above is not required.

Currently, there are no regulatory acts on adoption by the Government of the Russian Federation regulations giving the right to exercise functions of a permanent arbitration institution and concerning the establishment and operation of the Council. However, even now it can be assumed that an organisation claiming the right of exercising functions of a permanent arbitration institution can face considerable difficulties in proving its adhering to compliance with requirements of the law.

Thus, unlike Law No. 102-FZ which allows for establishment of permanent arbitration tribunals by organisations – legal entities founded in accordance with the laws of the Russian Federation and their alliances (associations, unions) almost without any constraints, the new law, as a general rule, allows for establishment of permanent arbitration institutions only by non-profit organisations which are granted with the relevant right, subject to their compliance with the requirements of the law. For the avoidance of practical difficulties, organisations[3] should ensure availability of evidence of adherence to/compliance with the requirements of the law.

First of all, it is required to make sure that the statutes, regulations and rules of procedure of a permanent arbitration institution containing arbitration

[3] Hereafter, a non-profit organisation is meant as required by the law.

rules, the rules of execution of certain functions on arbitration administering comply with the requirements of the law. For instance, such requirements are set by Article 45 of the law with regard to the contents and the scope of such rules, conditions of their adoption and publication, etc. Thus, Paragraph 5, Article 45 of the law determines that the procedure of arbitration established by the rules must provide for the procedure of filing a statement of claim and statement of defence; the procedure of filing a counter-claim; cost structure and mode of payment of the costs associated with arbitration and their distribution between the parties to arbitration; the procedure of submission, dispatching and servicing of documents, etc.

When forming a panel of arbitrators, requirements of Article 47 of the law must be taken into account. Thus, the law sets forth that the list of arbitrators must consist of at least thirty people. Each candidate must give a written consent to the inclusion in a list, while it is forbidden, as a general rule, to determine selection of arbitrators by the parties to arbitration based on their inclusion in the list of recommended arbitrators. The law establishes exceptions to this provision.

It is also reasonable to expect difficulties in proving to what extent a reputation of a non-profit organisation, the scope and nature of its operation taking into account its founders (participants) allow to ensure the level of organisation of the activity of a permanent arbitration institution prescribed by the law, in particular, in providing evidence of commitment to the development of arbitration in the Russian Federation. Evaluation criteria in this case can be very subjective.

And finally, it is worth to make sure once again that information is reliable

and does not contain any inaccuracies or errors as in case of availability of such deficiencies in information, an organisation can be refused to be granted with the right to exercise functions of a permanent arbitration institution.

If despite the steps taken, it is impossible to avoid refusal in granting the right to exercise functions of a permanent arbitration institution, an organisation may appeal such refusal in court.

The law establishes exceptions to the general rule: the International Commercial Arbitration Court and the Maritime Arbitration Commission at the Chamber of Commerce and Industry of the Russian Federation perform functions of a permanent arbitration institution without having to be vested by the Government of the Russian Federation with the right to exercise functions of a permanent arbitration institution. However, in this case, these institutions must, by or before 1 February 2017, approve, publish on their Website and consign to a competent federal executive authority the rules of a permanent arbitration institution complying with requirements of the law specifying, in particular, that these institutions perform dispute resolution in accordance with the previously concluded arbitration agreements, along with a reference to the procedure of application of new (modified) rules in relation to previously concluded arbitration agreements and previously initiated arbitration.

All other organisations should mandatorily have the right to exercise functions of a permanent arbitration institution as described above. The law establishes the terms of a transition period.

To start with, it provides for a three (3) month period during which the competent government authorities must adopt statutory regulations establishing the procedure for obtaining a permit, whereafter the law establishes a period of one (1) year during which arbitration institutions must bring their statutes into compliance with the new law. Upon expiry of this period, permanent arbitration institutions and permanent arbitration tribunals which do not comply with the requirements of the law and which have failed to obtain the right to exercise functions of a permanent arbitration institution will have no right to perform arbitration administering activities.

The most important provisions of the new law seem to be those including prohibitions and restrictions which are aimed at ensuring guarantees of justice and fairness, and neutralising the adverse effects of the activity of "pocket" arbitration tribunals described above.

Thus, for instance, the law prohibits establishment in the Russian Federation of permanent arbitration institutions which names include the phrase "arbitration court" or "mediation court" if the full name of the institution is confusingly similar to the names of the courts of the Russian Federation or is otherwise able to mislead the parties to civil law transactions with respect to the legal nature and the powers of the permanent arbitration institution.

Another prohibition, partially similar to the prohibition of Law No. 102-FZ, determines the scope of persons which are prohibited from creating permanent arbitration institutions. Such persons include federal state authorities, state authorities of constituent entities of the Russian Federation, local self-regulatory authorities, national and municipal institutions, state corporations, state owned companies, political parties and religious organisations, as well as attorney associations, chambers of attorneys of constituent entities of the Russian Federation, the Federal Chamber of Attorneys of the Russian Federation, notary chambers and the Federal Notarial Chamber. Establishment of a permanent arbitration institution under two or more non-profit organisations in parallel is not allowed.

The next important provision affecting the basic principles of operation of these tribunals is enshrined in Article 46 of the law. It is referred to inadmissibility of a conflict of interests in performing the activities of a permanent arbitration institution enshrined in the law. A similar provision is missing in Law No. 102-FZ and at some point this contributed to intensification of adverse effects in the work of the above mentioned "pocket" tribunals established and operating under various commercial entities and sometimes following, in fact, the will of their members/shareholders or directors.

However, the new law proceeds from the necessity to provide a legislative framework for inadmissibility of a conflict of interests. According to the law, the conflict of interests implies such administering by a permanent arbitration institution of arbitration where the organisation under which a permanent arbitration institution is established, its founder (participant) or a person who actually determines the actions of such organisation acts as a party. In addition, a person whose powers include resolution of the issues

related to nomination, challenge or termination of powers of the arbitrators, or his close relatives, and an organisation in which this person is entitled to have control, directly or indirectly, over more than fifty percent of votes in the supreme body of this organisation or is entitled to appoint (elect) the sole executive body and (or) more than 50% of members of the collegial body of this organisation may not be a party to the dispute. The rules of a permanent arbitration institution may provide for other circumstances of a conflict of interests.

In this case, Article 46 of the law states that the circumstances of a conflict of interests do not imply any refusal to issue a writ of execution for compulsory enforcement of an arbitral award or for setting aside an award merely on the grounds that a party to the arbitration is one of the named persons. Such approach is fully consistent with the position expressed by the Constitutional Court of the Russian Federation in the case of Open Joint Stock Company Sberbank of Russia about verification of constitutionality of the provisions of Law No. 102-FZ.

The Constitutional Court of the Russian Federation ruled that independence of an arbitrator from the parties to the dispute under consideration generally involves the absence of any employment (employer – employee, manager – subordinate), civil law (debtor – creditor) and other legal relations (administrative, financial, family, etc.), and impartiality is provided by the legislative consolidation of a number of special requirements which are set for the arbitrators. Consequently, when assessing the impartiality of an arbitrator, both his personal position on a particular case and objective criterion are taken into account, namely, the existence of relations of an arbitrator with one of the parties to the dispute or its representative as a circumstance which, proceeding from the premise that a dependent arbitrator may be biased at consideration of the case, allows to put his independence into question or to determine whether there was adequate assurance eliminating the possibility of a biased attitude to the other party to the dispute.

Examples of the disputes involving the conflict of interests include, in the opinion of the Constitutional Court of the Russian Federation, situations arising in connection with the challenging of the awards of arbitration tribunals: e.g. a judge resolving a dispute about the termination of a lease agreement is a co-founder of the legal entity which, in its turn, is the sole founder of the plaintiff organisation (ruling of the Federal Arbitration Court of the North-Western District dated 6 June 2005 in case No. A56-50320/04); all the arbitrators are in an employment relationship with the founding organisation holding senior positions in its legal department, and the chairman of the arbitration tribunal is simultaneously a vice president and a member of the collective executive body of the Board in this organisation (ruling of the Federal Arbitration Court for the Moscow Circuit dated 30 July 2012 in case No. A40-78556/11-68-671); the sole arbitrator who is also legal department director of the founding organisation is appointed to be chairman of the arbitration tribunal (ruling of the Federal Arbitration Court of the West Siberian District dated 10 June 2014 on case No. A45-19364/2013).

The conflict of interests provision contained in Article 46 of the law, taking into account the changes introduced by the new law to the existing statutory regulation aimed at improving the procedure and the principles of establishment (organisation, formation) of arbitration institutions, will allow to ensure the protection of the rights of the parties to a civil dispute for a fair arbitration, will eliminate the adverse effects of the "pocket" tribunals up to complete eradication of this phenomenon.

The law stipulates that in case of detection of violations of the laws of the Russian Federation in the operation of a permanent arbitration institution, the federal executive authority issues a written warning to the organisation under which this arbitral institution was established specifying the committed violation and the remedial period equaling to at least one month from the date of issuance of the warning. The law also provides for the right of an authorised authority to issue instructions and the consequences of their nonperformance by the organisation.

Summarising all the above mentioned, we would like to note that the new law in general is an attempt to "vigorously" reform the arbitration proceedings which may result in improvement of the quality of arbitral proceedings (arbitration) and strengthening and consolidation of the role of such tribunals in the society as an accessible alternative body for the resolution of civil conflicts, enhances transparency and statutory "controllability" in the work of these tribunals. This does not exclude certain constraints in the form of an extended state regulation of the activity of this civil society institution entailing, as a consequence, the emergence of some new nuances in theory and in practice.

Implementation of import substitution policy in Russia

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At the end of 2014, the Russian Federation launched an import substitution campaign. This was largely fuelled, inter alia, by the sanctions Russia imposed on the US, the EU and other countries and which took the shape of an import ban covering numerous products.

It was during this period that Russia enacted the fundamental regulations in this area. First, Federal Law No. 488-FZ "On Industrial Policy", as of 31 December 2014, and second, the Russian Government issued instruction No. 1936-p "On Approval of the Industry Import Substitution Facilitation Plan", as of 30 September 2014.

Import substitution policy is comprised of 18 industry-specific plans introduced in those industries that are the most crucial for Russia (automotive manufacturing, light industry, oil & gas equipment building, radio electronics, and others). Companies may learn about the Government's plans to reduce imports in terms of each industry and specific kinds of products on the state information website: gisp.gov.ru. Companies can view specific trends in the state's import substitution policy against the backdrop of the foregoing industry-specific plans.

Current import substitution policy shows that the Government is ready to offer significant support to investors if they are willing to localise their production in Russia. For the moment, the support is granted through 1) bans and restrictions with regards to state procurement involving foreign products; and 2) the application of various

incentives, for example, subsidies, tax benefits, and a new tool – a special investment contract.

In relation to state procurement restrictions, we note that nowadays bans and restrictions on the purchase of foreign products apply to state procurement (for state authorities) under Federal Law No. 44-FZ, as of 5 April 2013.

Currently, express restrictions are imposed on products purchased for the purposes of state defence, software, medical products, medicinal products, machine building and light industry products by virtue of specific resolutions by the Russian Government.

No direct restrictions have been imposed yet on those products that are purchased under Federal Law No. 223-FZ "'On Purchasing of Products, Works, Services by Some Kinds of Legal Entities", as of 18 July 2011, by state companies, corporations, natural monopolies and other companies with charter capital owned by the Russian Federation exceeding 50%. Within this sphere, the Russian Government prioritises Russian products over other analogues, and has the right to demand that the contracts provide terms and conditions aimed at the development of local production.

Due to state procurement restrictions, those companies that are engaged in the supply of products must confirm that their products are manufactured in Russia into sharp relief. This is also crucial for other suppliers, as there are specific requirements imposed on shipped products. They should also qualify as Russian products.

We note that there is no single mechanism to confirm that products are manufactured in Russia which is applicable across the board. There are clearly defined ways to confirm that products originate in Russia, established in relation to those products that are expressly prohibited from being purchased abroad. For example, in relation to medicinal products their status as a Russian manufactured product should be confirmed by a certificate of origin, i.e. the CT-1 form; state defence products must also have certification from an expert.

To obtain certification, the manufacturer must meet a specific set of requirements set forth in:

1) Resolution of the Russian Government No. 719 "On Criteria of Designation of Industrial Products as Industrial Products without Substitutes in the Russian Federation", as of 17 July 2015 ("Resolution No. 719").

2) Treaty of the CIS member states "On the Rules for Determining of the Country of Origin of Products in the Commonwealth of Independent State", as of 20 November 2009 (if products are not covered by Resolution No. 719).

It is important to note that in the event that there are no substitutes for a specific product in Russia, or if they have other characteristics, or are unable to perform the same functions as a foreign-manufactured product, companies may obtain a respective approval from the Ministry of Industry and Trade of Russia to participate in state tenders. The opinion in question shall be valid for three years from the date of issue.

A new tool – a special investment contract (SIC) – offers advantages to investors: products manufactured by the investors shall be granted the status of Russian products. After signing a SIC, a company can be granted the status in question without any certification and obtain a three-year grace-period to fulfil the mandatory requirements from the date of issue.

Therefore, Russia's import substitution policy continues to evolve and we expect new developments in the principal industry-specific import substitution plans aimed at developing and supporting local production.

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Реклама

The import of high-tech equipment from the EU to the Russian Federation: regulations and restrictions

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The import of goods from the European Union to Russia is not only regulated strictly by law, but in fact directly impacted by the global political situation that arose in 2014. Sanctions imposed by the EU countries and the countermeasures taken in the Russian Federation cannot help but have an impact on high-tech equipment, which is clearly of demand in the Russian market, and whose imports from 2006 to 2014 compromised about 50% of total imported goods from the European countries. However, the policy to promote import substitution and the appropriate regulatory framework continue to be developed in 2016. So here is the review of the issues related to export-import regulations in the RF.

As regards the regulatory control of the export and import of high-tech goods in the Russian Federation, we should consider some historical facts that served as the basis for the current state of the legal base and, thus, the legislative initiative.

As far back as 2009, regulations were approved at the European Union level establishing a special control regime for the export, transport, re-sale and transit of dual-use goods (EU No. 428/2009 dated 5 May 2009, hereinafter referred to as "Regulations 2009"). These regulations determine how the respective competent authorities of the EU countries liaise with exporters of the goods referred to in the regulations as dual-use goods, as well as cases in which goods that are not referred to in the regulations also fall under the special export control regime in the EU countries.

So the groups of products governed by the mentioned regulations which also have the status of high-tech goods include: electronics goods, computer hardware, telecommunications equipment and data protection equipment. Accordingly, the special regulation for high-tech products when they are exported from the EU to other countries and, therefore,

including the Russian Federation, has existed for a long time.

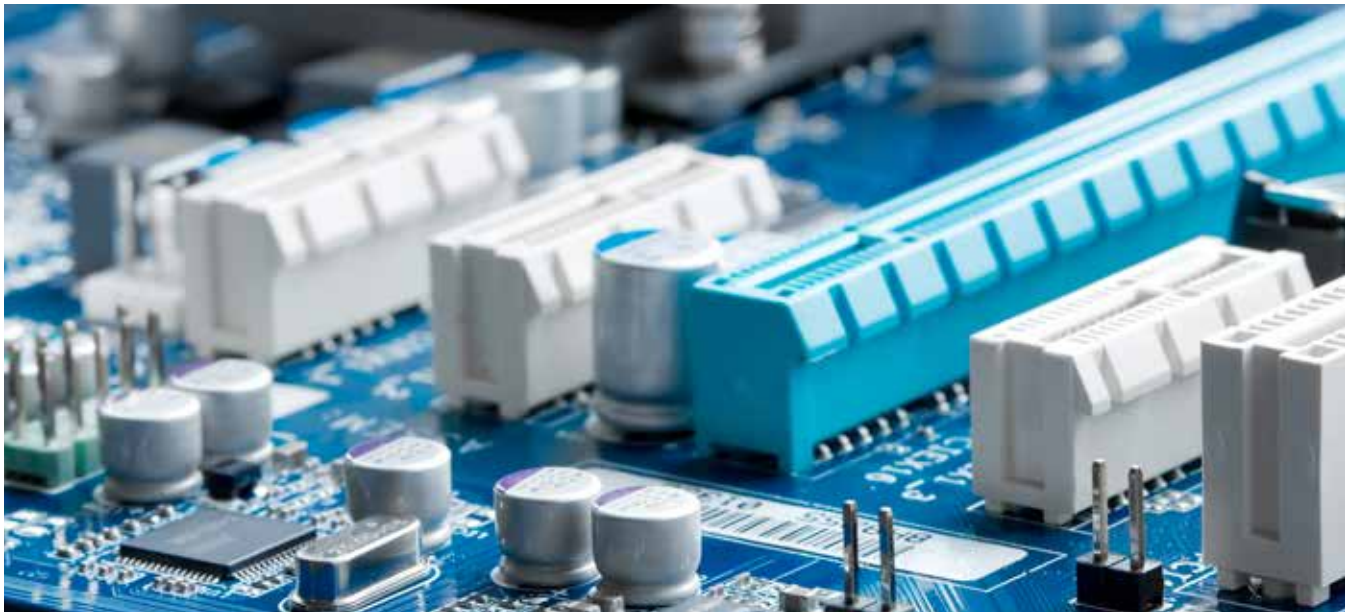
So the issue of the export procedure from the EU of goods belonging to the categories referred to above, and their import into the Russian Federation gained special importance in 2014. Certainly, it is associated with the resolutions adopted by the Council of the European Union from March 2014 to date. Resolution 2014/659/CFSP, supplementing Resolution 2014/512/CFSP dated 8 September 2014 (hereinafter referred to as "Resolution 2014") can be highlighted as the most important directive. This resolution imposed a ban on any relations, whether direct or through an intermediary, for the sale, supply, transport or export of goods classified as dual-use goods referred to in Annex 1 to Regulations 2009.

The restriction affected only legal entities and individuals, and the government agencies of the Russian Federation listed in Annex 4 to the Resolution, and established that it may not be applicable in cases where "non-military" end users are the end users of such dual-use high-tech goods and the intended use of the product is non-military.

Kalashnikov Concern, Tula Arms Plant, Concern Almaz-Antey and others were placed on the list set out in Annex 4 to the Resolution.

Summing up the results of the regulation of exports of dual-use goods from the EU, I would like to note that in general the requirements for the proper execution of documents from Europe to the Russian Federation have not changed significantly, even under the influence of sanctions and the complex political situation. In addition to certain special measures to restrict such legal relations with directly named individuals, there have been no changes to the EU legislation. The only notable consequence today in the Russian Federation is the greater attention paid to the disclosure of the export purpose of high-tech equipment and information on its potential end user.

Реклама



In turn, from 2009 to date, Russian customs regulations related to the import of goods into the Russian Federation as a whole have undergone substantial change. The most important of these is the adoption of the unified Customs Code of the Customs Union, which consisted initially of countries such as Belarus, Kazakhstan and Russia. The Customs Code which is applicable for the countries of the Customs Union has been in force since 2010. At present, the Customs Union includes not only the countries that were the founders of the Customs Union, but the Republic of Armenia and the Kyrgyz Republic. So now there is a customs area in Eurasia which is an alternative to the European Community, which should apply similar standards to the execution of import operations, including from EU members.

However, it should be noted that the attainment of full conformity of rules governing the activities of customs authorities in all countries of the Customs Union is a goal for the future rather than a current reality.

Turning back to the issue of requirements for the customs clearance of the equipment included in the group of high-tech goods in the Russian Federation I would like to turn your attention to a special characteristic which is inherent in most of these products, and that is the availability of encryption elements (cryptographic aids) as a part thereof. In accordance with the applicable rules of customs clearance of such goods, any person declaring them to be imported into the Russian Federation shall ensure the provision of a special license or undergo a notification procedure at the Centre for Licensing, Certification and Protection of State Secrets of the Federal Security Service of Russia.

Also, it should be noted that in accordance with Article 183 of the Customs Code of the Customs Union, in addition to the above-mentioned requirement regarding the provision of a special license when importing technical equipment to use encryption mechanisms into Russia, one should take into account the existing resolutions taken by the Board of the Eurasian Economic Commission on the provision of a document confirming conformity with the technical regulations of the Customs Union. So, for example, the same requirements now exist to confirm the electromagnetic compatibility of technical equipment, and the safety of low-voltage equipment.

So, we can conclude that, in general, the export procedures from the EU and import procedures to the Russian Federation of high-tech equipment (products) have not been complicated over the last 5 years. However, they have become more detailed and require a preliminary assessment of both administrative preparedness in terms of documentation requirements in the Customs Union, of which the Russian Federation is a member country, and an assessment of the business and political aspect when verifying the intended use of the product and the status of the supposed end users of high-tech equipment, in order to meet the requirements of European legislation.

Personal data localisation requirement: approach taken by the authorities and first results

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One year after the enactment of Para. 5, Art. 18 of Federal Law 152-FZ "On Personal Data" (the Personal Data Law) requiring operators to collect the personal data of Russian citizens using local databases, market players seem to have reason to stop panicking.

For one thing, the amendment was clarified as early as in August 2015 by the Russian Ministry of Communications and the Media (Minkomsvyaz) in its explanations posted on a dedicated web-page[1].

These essentially set out the basic rules for market players directly involved in personal data processing. The regulator's view was given on who is to observe the localisation requirement, how and for which data this is to be done. Importantly, the explanations confirmed that compliance with the new localisation requirement does not mean that companies have to give up the cross-border transfer of personal data of Russians if it is conducted in compliance with the Personal Data Law.

Secondly, despite the certain confusion about whether the supervisor Roskomnadzor is in alignment with the position of the regulator (Minkomsvyaz), recent press releases by Roskomnadzor show that its employees are taking quite a flexible approach. For instance, in June 2016, Alexander Zharov, Head of Roskomnadzor, reported that only 4 of 600 companies recently audited by the supervisor failed to comply with the Russian statutory requirement on personal data localisation. Roscomnadzor

[1] http://www.minsvyaz.ru/ru/personaldata/#1455286519619

gave these companies six months to bring their systems in line with the Personal Data Law standards[2].

It is also worth mentioning that, in late February this year, Roskomnadzor reported on its website that no deviations from the personal data localisation requirement had been identified in the operations of the major Russian online retailers it had audited, such as Ozon.ru (OOO Internet Resheniya), Lamoda.ru (OOO Kupishoes), Wildberries.ru (OOO Wildberries) and KupiVIP.ru (OOO Privat Trade)[3]. Yet it follows from the open register of personal data operators that obligatory information on database location in Russia was provided by these operators to the supervisor as late as March–April 2016, that is, after the relevant audits[4].

In this context, the operators may apparently hope for Roskomnadzor to adopt a fairly liberal approach when responding to breaches of personal data localisation requirement identified at this stage. In addition, as long as Art. 13.11 of the Russian Code of Administrative Offences remains unamended, Roskomnadzor is legally unable to impose on infringers high fines or any other considerable sanctions, which is equally conducive to the favourable position in which personal data operators find themselves. Further to the above, it is unlikely that Roskomnadzor will be entitled to block any websites solely for breaches of personal data localisation rule prior to any further legislative developments in this area[5].

Even so, it is obvious that the market has been unmistakably anticipating detailed

[2] http://rkn.gov.ru/press/publications/news39708.htm?print=1

[3] http://rkn.gov.ru/news/rsoc/news37928.htm

[4] http://pd.rkn.gov.ru/operators-registry/operators-list/?id=08-0003040, http://pd.rkn.gov.ru/operators-registry/operators-list/?id=77-15-003527, http://pd.rkn.gov.ru/operators-registry/operators-list/?id=77-16-004837, http://pd.rkn.gov.ru/operators-registry/operators-list/?id=77-15-003140

[5] The fact that the localisation rule and "judicial blocking of websites" procedure were introduced by the same law prompted some legal specialists and entities operating on the internet to conclude that the new sanction might be applicable to those breaching the localisation requirement. Yet we believe it follows from the literal wording of the law, which permits the blockage of websites "containing information processed in violation of the legislation of the Russian Federation on personal data", and that Roskomnadzor is not entitled to block websites that do not contain personal data on its pages, even if they collect personal data in violation of the localisation requirement. The lack of recent court practice attesting to the contrary confirms this interpretation.

explanations from the supervisor following the large-scale audits it performed. Most regrettably, the official Roskomnadzor reports published to date offer no details of the identified breaches. We see such secretiveness on the part of the Roskomnadzor as a very negative trend, since it means most personal data operators cannot be guided by an unbiased approach of the supervisor in assessing the lawfulness of their operations or promptly rectifying potential individual legal infringements. Also, in the absence of clear criteria for the identification of breaches, Roskomnadzor might potentially reset their policy vector and, at any moment, recognise actions that were previously quite acceptable as actions which contravene the law.

Probably the imperfect nature of the legal rule establishing the localisation requirement on Russian personal data explains this secretiveness on the part of Roskomnadzor.[6] Even so, the current situation encourages a predominantly wait-and-see attitude in major international companies that are in no hurry to invest in costly IT architecture restructuring processes against the backdrop of no considerable risk to their smoothly-running business. Obviously, this was not the objective sought by last year's statutory amendment. The key issues currently faced by businesses wishing to align their information systems with the Russian statutory requirements on personal data include the following.

Conditions in which personal data may be perceived as beyond the scope of the localisation requirement

Companies often seek advice on whether unstructured information received in emails, Word documents, etc., should be

[6] Further evidence of the imperfect legal technique is, in our view, the fact that the explanations from Minkomsvyaz name data storage and data accumulation among data collection processes. Thus, in terms of the personal data localisation requirement, the term "personal data collection" has actually replaced the broader notion of "personal data processing".

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considered as personal data or whether the localisation rule only applies to data stored and processed in structured databases. It is quite clear that any combination of information that can identify a person should be considered as personal data, irrespective of its form. However, where personal data are not collected by the company on purpose but are rather sent to its employees by the data subjects on their own initiative, the company does not have the goal to collecting such data, so these personal data are not subject to localisation.

Another tricky question is collecting personal data on Russian citizens abroad. For one thing, according to unofficial Roskomnadzor clarifications regarding personal data localisation requirement[7], the Personal Data Law does not apply when the personal data of Russian citizens staying abroad are processed by a foreigner. For instance, where the personal data of employees who are Russian citizens employed in foreign companies abroad are processed, the legal provisions of the respective foreign government should be applied rather than those of the Russian Personal Data Law. Also, these clarifications fail to cover all the possible situations associated with the processing of personal data of Russian citizens staying abroad. Thus, a situation is possible where a Russian citizen staying abroad hands over his or her personal data for processing to a Russian operator located and operating in Russia. We believe that, in this case, on the basis of the general idea and meaning of the Personal Data Law, Russian legislative provisions should apply.

A meaningful exception from the localisation rule is contained in Art. 6 of the Personal Data Law for personal data processing that is necessary for pursuing objectives stipulated by an international treaty of the Russian Federation or a law, for performing and exercising functions, authorities and obligations imposed on an operator by the Russian legislation. Since an employer conducts operations with personal data of its employees mainly during the performance of its duties and functions stipulated by labour legislation, the processing of employee personal data by an employer seems to be excluded from the localisation requirement. Moreover, we have every reason to believe that Minkomsvyaz agrees with this position, since, in reply to one of our requests, it clearly confirmed that the personal data of employees should be exempt from the localisation requirement.

Moreover, Minkomsvyaz previously stated in its explanations that, by virtue of said Art. 6 of the Personal Data law, the personal data localisation requirement does not apply to operations by air carriers, their authorised agents and other persons in connection with processing the personal data of individual passengers for booking, arranging and issuing air tickets, baggage tickets and other carriage documents, since the personal data of passengers are, in this case, processed for compliance with the Russian statutory requirements (Air Code) and international treaties of the Russian Federation on international air carriage. To all appearances, the personal data localisation requirement will be likewise inapplicable to operations of other carriers (rail, sea and road) and their agents to the extent that the personal data of passengers are processed by them in pursuance of the statutory requirements of the Russian Federation and Russia's international treaties on the respective carriage types.

The primary database format and "mirroring" matters

According to the Minkomsvyaz explanations, compliance with the localisation requirement can be ensured by setting up a "primary database" in Russia, to be used for the initial collection, recording, systematisation, accumulation, storage, up-dating and extraction of personal data.

It is still debatable whether the primary database may be in any format other than electronic. The Minkomsvyaz explanations seem to allow such an option[8], but the relevant wording of these explanations is rather vague and inconclusive and there has been no clear confirmation from the authorities that a more liberal approach should prevail and will be supported. We believe that, considering the contents of Art. 1260 of the Russian Civil Code, in which a database is defined as a compilation of data systematised in a way enabling such data to be searched and processed using a computer, maintaining a personal data database on paper is unlikely to be permissible.

Another matter of concern for the public is bypassing the ban on mirrored databases (where personal data are simultaneously recorded in databases located both in Russia and abroad) supposedly imposed by the Minkomsvyaz explanations. Apparently, compliance with this prohibition will cause no problems if, for instance, an operator transfers per-

[7] http://pd-info.ru/

[8] http://www.minsvyaz.ru/ru/personaldata/#1455286519619

sonal data collected in the primary base (in Russia) to a database located abroad once a day or once a week. There will be no issue of database mirroring here because the time of data collection (entry) in the Russian database and their subsequent cross-border transfer may be easily traced. Even so, owing to business specifics, many operators require the swifter transfer of data from Russian to foreign databases. So will the transfer of data into a foreign database minutes or even seconds after their entry into the primary database in Russia be perceived as a mirrored system? This question is yet to be answered.

We can only hope that, by the year end, personal data operators will see Roskomnadzor publish more details about the supervisor's position on practical aspects related to the implementation of personal data localisation requirement as applied during the audits. This will enable other market players to adapt their IT systems on the basis of specific instructions from the governmental authority. Until then, the reasonable approach seems to be for companies to pay sufficient attention to compliance with the personal data localisation requirement and take all the principal measures available to them now. Here is a relevant example:

• the company has audited all its personal data collection and processing procedures and identified "Russian" data apparently requiring localisation;

• these personal data have been detached from other information not subject to localisation and a procedure has been introduced (or steps are being taken to have one introduced) for them under which data collection, storage and processing are performed exclusively in

a dedicated electronic database located on Russian servers and equipment;

• the company takes certain measures to separate in time, as much as possible, the processes of personal data collection (and further systematisation, updating, modification, etc.) in this primary database in Russia and their subsequent transfer abroad (to avoid mirroring);

• the above steps and measures to localise the personal data of Russian citizens have been formalised in the internal regulations of the company.

Which precise IT means and instruments to use to comply with the localisation requirement (database on an office computer located in Russia, rented server(s), bought server(s), etc.) is a question to be answered in each specific case jointly by lawyers and IT specialists, in consideration of all the circumstances of the case and the current IT systems in place.

After this article had been prepared for printing Roscomnadzor initiated a claim against major social network LinkedIn with the Russian court demading the blockage of the network within the Russian Federation for violation of the requirements of the Federal law "On protection of personal data". This claim was upheld by two instances, including the Moscow City Court board of appeals, and already came into force.

Although the text of the decision of the first intance is rather vague, and the Ruling of the Moscow City Court is not yet avaliable for analysis, it is not merely localisation requirement being a ground for legal steps taken by Roscomnadzor, but rather general network approach of non-complying with the Russian legislation as a whole.

However, this case is a clear sign for the market that Roscomnadzor is now ready to use all legal means (including blockage of websites upon the court judgement) against reputable and popular web-resourses if the latter ignore the need of implementation of the local legislation on protection of personal data, and in some situations will definetely move beyond simple negotiations and granting grace periods to the business.

Implementation of producer responsibility for waste utilisation in Russia

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As the largest country in the world, Russia produces a huge amount of waste. According to information provided by the Ministry of Environment Russia's waste totals 60 million tons per year[1]. However, sorting and recycling is not a common form of waste management in Russia; landfills still dominate. Major existing players in this market (transportation companies and landfill owners) are not interested in changing the situation.

According to global experience in waste management, the only way to solve this internationally well-known problem of waste landfilling is to change legal environment towards increase of recycling targets and decrease of landfilling. One of the instruments to shift the recycling burden from population to industry is to implement producer and importer responsibility for waste recycling.

The EU was facing a similar problem several years ago and it determined that the onus and costs of waste management should be placed on product producers (for example: manufacturers, importers, retailers, distributors and packer/fillers) and not on the consumer or taxpayer. Based on that the EU made the producer responsible for certain waste management costs related to their products when they reach the end of their lifecycle. Through adoption of Landfill Directive (1999/31/EC), Waste Framework Directive (2008/98/EC), and introduction of a landfill tax the EU forced its member states to move from landfilling to recycling. As a result, Western Europe already reached the 50% recycling target, but the CEE Member states, where landfills are still dominating as landfill taxes are still low or non-existent, still have to meet the 50% recycling target by 2020.

The Russian authorities started this process in 2014 by adopting Bill No. 485-FZ dated 29.12.2014 on amendments to the Law on Industrial and Communal Waste (hereinafter – "the Bill"). This Bill entered into force on 1 January 2015.

These amendments cover 3 main issues:
1) the establishment of producer (importer) responsibility for waste utilisation;

[1] Order No. 298 of the Ministry of Environment of the Russian Federation "On the approval of the integrated waste management strategy in the Russian Federation", dated 14 August 2013.

2) the definition of various types of waste utilisation: recycling (defined as re-use for original use), regeneration (bringing back to production cycle after treatment) and recuperation (extraction of valuable components for their re-use), as well as defining waste neutralisation, including inceniration;

3) The provision of 3 main options for producers (importers) to meet the new obligations regarding waste utilisation:
• organising waste utilisation individually or collectively;
• contracting regional waste management operators;
• paying environmental fees to the state, which will be spent in 2 ways:
  – funding of regional waste management programmes and waste utilisation;
  – investing in the creation of infrastructure for waste utilisation.

The amendments to the law provide producers (importers) the opportunity to decide how to fulfil these new obligations. They can either enter into contractual relations with regional operators or pay environmental fees to the state.

The Bill also enables them to avoid extra costs by organising waste utilisation on their own (individually or together with other companies). However, this option is clearly more complicated, as in that case the company has to:
a) finance infrastructure for waste utilisation;
b) obtain all the necessary approvals, including a waste utilisation license;
c) follow the rules for waste utilisation, which the Russian Government has to approve.

The Bill introducing producer responsibility was clearly an unpopular measure among producers and importers. Many provisions of the Bill were heavily criticised; especially the fact that the Bill provided no transition period and the new obligations were valid from January 2015. In addition, the Bill lacked many details on how the new obligations shall work, and all the important details on how to fulfil the new waste utilisation obligations (such as the list of products subject to mandatory recycling, recycling targets and environmental fee rates, as well as procedure for organising waste recycling individually) were to be established by the Government of Russia in

a number of bylaws, which were finally adopted, but with extensive delays (some of them even only in 2016). As a result, the Russian Government introduced a moratorium on the implementation of the Bill in July 2015[2] until 2019. However, this moratorium was not comprehensive. In fact, it resulted in the gradual implementation of waste utilisation rates from 0 to 15%[3].

In 2015, a new Bill on Amendments to the Law on Industrial and Communal Waste No. 404-FZ, dated 29.12.2015 (hereinafter – "the Amendments 2015") was adopted. The Amendments 2015 entered into force in January 2016.

The Amendments 2015 offered further options for producers and importers, which included:

- producers (importers) can organise their own waste utilisation in the way they consider appropriate – the idea of regulating it by special Governmental decree disappeared;
- producers and importers can establish associations and unions for cooperation in waste utilisation;
- producers and importers are not limited in their choice of contracting companies which can professionally perform waste utilisation, and are not obliged to hire only regional waste operators.

Since the Bill came into force, the recycling of packaging (which should be recycled after the goods are consumed) has become the obligation of packaged goods producers (importers). Environmental fees for packaged goods (which are not ready for consumption) are charged only for packaging recycling.

Summarising the changes made to waste management regulations, it should be noted that current waste management legislation in Russia makes manufacturers and importers responsible for ensuring that targets are met for the recycling of end of life goods. In the West this is known as Producer Responsibility.

Russia is not the first country to introduce producer responsibility for waste utilisation. European experience of waste management industry reform is a good illustration of how this problem can be solved. It should be noted that the waste management sector in Western Europe has been subjected to enormous commercial and legal changes over the last two decades (at least), with these changes continuing to occur. The once dominant position of the landfill as the destination of choice for the waste management industry has been well and truly broken. This has been brought about by a sustained and multi-faceted legislative and policy attack on landfills, primarily from the EU but also at the domestic level. Indeed, in some senses, the waste management industry is a living example of how far legislation can impose transformational change on a sector.

Russia has recently taken one of the first steps to the creation of an effective waste management and recycling system. It is necessary to take European experience (such as necessity to combine producer responsibility with a landfill tax and proper management of environmental fees paid by producers) and mistakes into account to establish a strong waste management market and solve existing environmental problems, whilst also creating new business opportunities in the waste management industry.

[2] Resolution of the Chairman of the Russian Government Dmitry Medvedev dated 1 June 2015 (The Russian Government official site http://government.ru/orders/18500/).

[3] Utilisation rates for 2015–2016 (except metal containers, which have a coefficient of 20) according to Russian Government Regulation No. 2491-P, dated 4 December 2015.

Problems of implementing the Code of Conduct of Automobile Manufacturers due to the shortcomings of the consumer protection law

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At the end of 2013, the participants of the AEB Automobile Manufacturers Committee adopted the Code of Conduct for automobile manufacturers. This document contains a set of business practices aimed at establishing the bona fide conduct of car manufacturers and distributors in business relations with their dealers and independent service stations.

In the last 2.5 years, many car manufacturers and distributors have been successfully implementing the provisions of the code in their work. But as experience shows, not all participants of the car market are completely satisfied with how the principles of the code are applied.

In particular, the Russian Automobile Dealers Association has repeatedly made statements that many provisions of the code are not being fulfilled by some manufacturers and distributors. Not going deep into the details of the reasons for that, it is desirable to touch upon just one possible aspect of such non-fulfilment which is linked to the shortcomings of Russian consumer protection law.

At present, as demonstrated by the practice of applying the Russian law on consumer protection by courts and multiple controlling bodies, the balance between consumer and manufacturer (seller) interests has significantly shifted in favour of consumers. It would seem that such a state of affairs is derived from the very essence of this law invoked to ensure the maximum protection of consumer interests as the weaker party in civil law relations. But individual provisions of the law are formulated in such a broad and unspecific way that it often leads to widescale abuse on the part of consumers with the aim of enrichment –

such a practice is often referred to as "consumer extremism". It is obvious that manufacturers, sellers and distributors of expensive consumer goods, first of all cars, are suffering the most. For example, many manufacturers and distributors have come across situations in which a customer filed a claim significantly exceeding the price of the car itself at the time of purchase – sometimes 4 or more times. At the same time, as some manufacturers and distributors note, customers often file claims not due to the poor quality of the car but due to the improper repair of the car or violation of a repair deadline by official dealers.

As stipulated in the consumer protection law, repeat repairs of the same defect within the warranty or violation of the warranty repair deadline is an unconditional ground for filing a claim against both the seller (dealer) and manufacturer or distributor, and replacement of the car with a new one or return of monies paid when purchasing the car. In addition, even a minimal violation of the repair deadline gives the consumer the right to claim an additional penalty of 1% of the price of the car for each day of delay, a fine in favour of the consumer to the amount of 50% of the sum awarded by the court, interest on funds used, the difference between the car price at the moment of purchase and the price of a new car at the time when the court decision is made, emotional damage compensation and compensation of all other losses. So, in reality the compensation awarded to consumers amounts to 300–400% of the initial price of the car, which contradicts the basic principles of civil legislation, in particular, the principle of equality of participants in civil law relations and unacceptability of the abuse of rights.

It should also be noted that customers often prefer to file such claims against manufacturers or distributors, because they believe that the "rich" manufacturer will consent to paying the sum demanded more easily. But in the described situations a manufacturer or distributor is actually held liable without any wrongdoing to the customer, having no contractual relations with him or her and not having per-formed the car repair.

Moreover, the size of a consumer claim filed against a manufacturer or distributor is calculated based on the price of the goods which the manufacturer (distributor) did not receive during their sale, as the price of the car includes a dealer margin.

Considering the current provisions of the consumer protection law and the existing practice, many participants of the car market are of course trying to minimise their risks by controlling in some way or other the car repair processes and the quality of installed spare parts. For this reason manufac-

turers and distributors, first of all, establish a set of rules and standards for their official dealers. For example, the fairly strict requirements regarding the organisation of aftersales service, providing the dealership with the necessary tools and equipment, and service personnel training are aimed, inter alia, at preventing repeat repairs or the violation of warranty repair deadlines due to the insufficiently qualified actions of the dealer or lack of required instruments and/or equipment. The requirement to use only original spare parts and consumables for any repair within the warranty period is often caused by concerns of manufacturers and distributors that in case of a breakdown caused by the use of non-original spare parts they will not be able to prove in court that they are not guilty (the consumer protection law prescribes that in case of a defect in the goods during the warranty period the manufacturer or the seller of the goods has to prove that it was the customer's fault). The absence of genuine spare parts sales programmes for unauthorised dealerships and service stations is often explained by the impossibility to control the storage of such spare parts by an independent dealer (for example, in case of a breakdown of an expensive spare part caused by improper storage, the consumer will be able to file a claim against the manufacturer (distributor) of this spare part and the burden of proof of the cause of the defect, as has been said before, will be borne by the manufacturer or distributor). The concerns and doubts of manufacturers and distributors when taking a decision on providing independent service stations with access to databases containing spare part catalogues and repair instructions are also explained by the high risk of filing the above-mentioned, often unjustified claims of consumers against manufacturers and distributors due to the unqualified repair of cars carried out without proper training and without adhering to the full spectrum of repair technologies.

These are just the most standout cases when the imperfection of the consumer protection law creates obstacles for the successful implementation of the Code of Conduct of automobile manufacturers. The Automobile Manufacturers Committee has repeatedly stated in its letters to lawmakers and various state authorities that for the successful implementation of the Code of Conduct, the consumer protection law has to be amended. In particular, such amendments have to be aimed at exempting manufacturers and distributors from liability for the actions of third parties, and bringing the balance between the interests of consumers and manufacturers (sellers) in compliance with the principle of equality of the participants of civil law relations, which ultimately must significantly reduce the number of cases of abuse of rights with the aim of unjustified enrichment and minimise this "consumer extremism".

Antimonopoly compliance in Russia: status and suggested reforms

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The development and implementation of antimonopoly compliance – an internal corporate system to prevent violations of antimonopoly legislation – is one of the tools available to companies to prevent and mitigate antimonopoly risks.

For the time being, the use of antimonopoly compliance has not been enshrined in Russian legislation, although discourse on the need to do so has been heard over the last few years and is being actively supported by the antimonopoly authority – the Federal Antimonopoly Service of Russia ("FAS"). The goal of the initiatives for legislative regulation of antimonopoly compliance, namely the identification and prevention by companies of violations of antimonopoly legislation, is clear and is not cause for debate. However, there are significant differences in the various proposed incentives for companies to establish such a compliance system. During the discussions both the introduction of a full exemption from liability for a committed violation (especially the exemption of company officials from criminal liability) and various options to limit liability (for example, limiting it to its minimum amount) have been proposed.

On 14 July 2016, a draft law aimed at enshrining the terms and consequences of introduction by Russian companies of an antimonopoly compliance system appeared on the official website for publication and discussion of draft laws and draft regulations of the Russian Federation[1].This draft law is currently at the public deliberation stage, during which, among other things, proposals on amendments to the draft law can be sent.

According to the current text of the draft law, antimonopoly compliance is understood to mean the combined legal and organisational measures stipulated by an internal act of a business entity, aimed at ensuring that this business entity complies with antimonopoly legislation and preventing violations of this legislation. The draft law does not compel Russian companies to introduce antimonopoly compliance, with the exception of a number of business entities (in particular, business entities with state participation). If the current version of the draft law is passed, these entities will be required to draft and adopt internal acts on the organisation of an antimonopoly compliance system.

If a decision to introduce antimonopoly compliance is taken, a company (or a group of companies) must adopt an internal act or acts containing provisions

[1] See http://regulation.gov.ru/projects#npa=50178

such as the requirements on the procedure for assessing the risks of a violation, measures to mitigate these risks, the procedure for making employees aware of the procedure and measures, etc. The draft law establishes a list of these requirements, but does not indicate that the list is exhaustive (the company is entitled to include additional requirements). In the end, the performance of these requirements will be assessed when determining how effective the antimonopoly compliance system was in reality.

The draft law does not require companies that have introduced an antimonopoly compliance system to make its text publicly available, but the company must place information on the adoption of an internal act or acts on antimonopoly compliance in the Internet.

In this regard, all the aforementioned requirements on the organisation of antimonopoly compliance are intended to lessen the liability for a violation by the company of the Russian antimonopoly legislation. For example, the draft law proposes amendments to the Code of Administrative Offences of the Russian Federation pursuant to which the organisation by a company of an antimonopoly compliance system prior to the commission of an administrative violation will be a mitigating factor on administrative liability. The possibility to apply this mitigating factor will extend to the following violations of antimonopoly legislation:

- abuse of a dominant position;
- conclusion of an agreement that limits competition;
- performance of concerted actions that limit competition;
- performance of forbidden coordination of business activity;
- price manipulation on the markets of electrical energy.

That being said, in the current version of the draft law the organisation of an antimonopoly compliance system alone is not sufficient to reduce liability. This system must actually be functioning, and this must be confirmed, among other things, by the termination of the violation.

Since the draft law on antimonopoly compliance is still in the early stages, one can expect further revisions of its text, the requirements on the antimonopoly compliance system and its correspondence to the assignment of liability on the transgressor. In order to understand the possible ways in which the concept of antimonopoly compliance may be revised, one must pay attention, in particular, to foreign practices.

The attitude to antimonopoly compliance varies greatly in other countries. For example, while recognising the importance of antimonopoly compliance the European Commission does not consider the existence of an established and effective antimonopoly compliance system to be a mitigating factor when considering violations of antimonopoly legislation. The US hold the same view.

A number of countries establish certain concessions for companies that have implemented an antimonopoly compliance system. Some countries clearly establish the maximum percentage by which the amount of the fine can be reduced when assigning liability (for example, by up to 10% in the United Kingdom and France, and up to 15% in Italy). Other countries establish a general rule that the existence of an effective antimonopoly compliance system may be deemed a circumstance that limits administrative liability during the consideration of violations of antimonopoly legislation, but do not establish clear rules and amounts for this limitation (for example, Australia, Israel and Canada).

The Russian draft law on antimonopoly compliance stands by the countries, which take the existence of an antimonopoly compliance system into account during the consideration of violations of antimonopoly legislation, but it does not establish specific rules on limiting liability (for example, a certain percentage of the amount of the fine).

At the same time, the draft law does not currently give clear explanations of when an antimonopoly compliance system will be recognised as an actually functioning system, therefore leading to a limitation of liability. This issue will be resolved during the practical application of antimonopoly compliance provisions and, possibly, in the clarifications of the FAS on the version of the law that is actually passed.

Overview of Russian bankruptcy cases that have particular significance for businesses

PAVEL NOVIKOV
Associate, Baker & McKenzie CIS Limited

ANTON MALTSEV
Partner, Baker & McKenzie CIS Limited

Recent bankruptcy practice in Russia has been aimed at achieving constructive change by allowing flexibility in the application of statutory provisions. This may help businesses facing economic hardship during times of recession to keep the lights on. The following is a brief overview of several widely known and demonstrative bankruptcies which have occurred over the past five years.

Personal bankruptcy precedents

Russian Federal Law on personal bankruptcy was enacted in October 2015. Two months later it was followed by a precedent set by the Arbitrazh Court of Novosibirsk. Valery Ovsyannikov, private individual, according to the court ruling, knowingly took out large loans, leading the court to conclude that he had no plans to pay them back and purely intended to exploit the personal bankruptcy mechanism for personal enrichment. The reasoning was that the monthly interest payments to the banks exceeded his salary. Furthermore, it was discovered that there was nothing to value in the bankruptcy estate because Valery Ovsyannikov did not possess any assets. Despite that fact, the court decided not to release the applicant from his debt (this measure usually applies when all the bankrupt person's assets have been sold). The court ruled that exemption from debt is not the purpose of bankruptcy, and such a measure should be applied only in special cases when the debtor acts in good faith.

It should be mentioned that the key aim of the legislator was to write off the debts, while certain restrictions were to be effected by the bankrupt person. However, the courts went further, stating that a person acting in bad faith should not rely on any relief typically available to a bankrupt person. This case clearly shows how in cases of unfair conduct the court can use its own discretion in applying the law.

One more noteworthy case dealing with personal bankruptcy was resolved by the Arbitrazh Court of Moscow. In this case, the court enforced a ruling approving the draft restructuring plan of another private individual Vyacheslav Olifirenko, despite the objections of the creditors. The debtor had an apartment and a parking space that served as collateral, but Otkrytie Bank demanded that the debtor instead pay RUB 43 mln (EUR 589,000). Meanwhile, the debtor filed a motion to approve a draft restructuring plan, claiming that he would sell the mortgaged apartment at a good price. Vyacheslav Olifirenko's plan was to pay off his debt in just three weeks, which he demonstrated in an approval letter, granting him a loan to buy the mortgaged apartment. Although the creditors were doubtful of his plans and argued that the court should declare Vyacheslav Olifirenko bankrupt, the court ruled to approve the draft restructuring plan as it enabled the debtor to pay off his

debt more efficiently than if all his assets had been sold forthwith.

The importance of this case lies in the field of judicial discretion. Essentially, the will of the creditors was overruled by the power of the court. This practice will act as an incentive for creditors to negotiate more carefully with debtors. Given that court rulings could be less favourable for them, creditors will now be keen to obtain a better outcome from negotiations.

Mezhprombank turning transactions back

In 2010, the risky credit policy of Mezhprombank resulted in its insolvency. The Central Bank filed for Mezhprombank's bankruptcy and revoked its license in October 2010 for violation of its requirements and inability to meet its obligations. Since then, there have been dozens of court hearings to require Mezhprombank to fulfil its obligations to its creditors, one notable example being the following. In late 2011, a bankruptcy administrator, the Deposit Insurance Agency (DIA), filed a lawsuit seeking the invalidation of Mezhprombank transactions worth over RUB 7.4 bn (EUR 113 mln). Under the transactions, Mezhprombank had concluded several credit agreements with various borrowers, all of which were guaranteed by pledge contracts with the same pledger. Several days before the initiation of Mezhprombank's bankruptcy proceedings, the bank and the pledger entered into agreements to terminate all pledge contracts (without any consideration given to the bank). The bank wrote off the RUB 7.4 bn from the operating account, thus effecting the early termination of credit obligations.

In court, this led to doubts over the real intention of the parties. The debtor's transactions were found to be suspicious and purporting to cause harm to the creditors' property rights due to the following. Firstly, signs of Mezhprombank's inability to pay were well-known and were easily verifiable from open sources. Secondly, the term for fulfilling the obligation had not matured, the transactions reduced the amount of interest to which the bank was entitled and reduced Mezhprombank's insolvency estate. Thirdly, the balance of the operating account was created shortly before the debt was written off. Lastly, Mezhprombank's termination of the transactions entailed preference to be given to one of the creditors over the other ones. Based on the foregoing, the court decided to invalidate the bank's operations and reverse the payment transaction.

Mezhprombank's case points to the weakness of a bankrupt bank's transactions. Not only can you not be insured against such a turn back, but nothing can be done to change the situation – that is, the so-called "business risk". Therefore, when entering into a transaction, a thorough check (via official sources of court and enforcement proceedings, reporting financials) should be carried out on the counterparty, and the potential risks should be assessed.

If the latter flags up any issues, the contract should be terminated or some guarantees should be obtained. The provision of a fair and valuable consideration based on a market price should also be fixed in the contract.

Top manager bonuses

In June 2016, the Judicial Panel of the Supreme Court upheld the established court practice of returning to the debtor's bankruptcy assets a certain additional amount of money that a company's top manager had received shortly before bankruptcy. Following the case, the first Deputy Chairman of the Board of Directors of SpetsSetStroyBank ordered to give out bonuses to some of the bank's employees totalling about RUB 20 mln (EUR 305,000)[1].

Shortly thereafter, the Central Bank revoked the company's license for banking operations and launched temporary administration proceedings to initiate bankruptcy. By judgment of the Arbitrazh Court of Moscow the company was declared bankrupt. The DIA filed a lawsuit to invalidate the orders of the debtor to pay out bonuses to the bank's top managers. Three court instances consistently dismissed DIA's claims. However, having disagreed with the previous judicial acts, the Supreme Court reversed the decision, and sent the case to the Arbitrazh Court of Moscow for re-trial. The lower courts argued that the bank's top management, acting in accordance with applicable law, was forced to engage certain employees for overtime work, whose work should have been compensated at the discretion of the first Deputy Chairman of the Board of Directors. Therefore, in the lower courts' view, the payment of bonuses to the top management was justified. However, the Supreme Court took a different view. It argued that the function of the bonuses paid was to provide incentives for senior management, rather than to compensate actual overtime work, because overtime work should

[1] http://zakon.ru:82/(X(1)S(swrswkqvxnb0p1sd1r5ouzy0))/blog/2016/7/19/vyplachennye_topmenedzheram_banka_v_preddverii_bankrotstva_premii_dolzhny_byt_vozvrascheny_v_konkurs

have been compensated by increased wages, and an order on overtime work should have been issued. Therefore, there was no reason to regard those bonuses as justified from the point of view of bankruptcy law. The bonuses caused harm to the creditors and must be annulled, argued the Supreme Court.

This case shows that the payment of bonuses to employees is quite prone to being challenged, should the employer go into bankruptcy. This is in line with a number of recent cases in Russia in which the outcome was similar.

Consolidation of creditor claims in bankruptcy

Until recently, in order to challenge a debtor's transaction in court, the bankruptcy creditor was required to have over 10 per cent of the total amount of the credit indebtedness included in the register of the creditors' claims.

In 2016, the Supreme Court changed this practice, ruling that small creditors have the right to merge their claims to reach the required 10 per cent. Bankruptcy creditors of a company called Razrez LLC filed an application to the Arbitrazh Court to invalidate several transactions of the company. However, three court instances refused to satisfy their claim. The courts left the petition without consideration, with the justification that the credit indebtedness toward them was, when taken separately, lower than that required by law. Setting aside the judgment, the Economic Panel of the Supreme Court drew attention to the fact that the law did not rule out the possibility of creditor cooperation to reach the required amount and exercise their right to invalidate the debtor's transactions.

It is worth mentioning that previously creditors had to assign each of their claims to a majority creditor. That assignment entailed the inability of their further participation in bankruptcy proceedings. So, the Supreme Court's judgment will significantly strengthen the protection of the rights of minority creditors in future bankruptcy cases. Such a ruling will also help minority creditors to defend themselves from the bankruptcy administrator's omission.

In summary, these cases have had a considerable impact on Russian judicial practice, marking an improvement in insolvency procedure in these challenging times for the economy.

New mandatory pre-trial procedures and preliminary injunctions in the Arbitrazh Procedure

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Associate, Intellectual Property, CMS Russia

The new amendments to the Russian Arbitrazh Procedure Code came into force on 1 June 2016. The amendments have introduced several developments into the Arbitrazh Procedure, including those relating to the mandatory pre-trial procedure to be observed by parties to disputes. These developments were not unexpected, since the need for an obligatory pre-trial stage had been discussed for a long time among legal experts in general and judges in particular.

Currently, a party to a dispute may initiate a civil commercial dispute only within 30 (thirty) days prior to sending a demand letter. A different time period or a different dispute settlement procedure may be stipulated by law or agreed on by the parties to the agreement. The mandatory pre-trial procedure applies to both contractual and non-contractual relations.

There are several exclusions from the obligatory pre-trial rule, including in relation to:

- cases relating to the establishment of facts of legal significance;
- cases relating to compensation for violations of court proceedings or enforcement of judgments in reasonable terms;
- bankruptcy cases;
- corporate cases;
- group actions;
- cases on challenging the decision of arbitration tribunals; and
- trademark non-use invalidation cases.

The failure to comply with this new rule will lead to the rejection of a claim or will leave it "without consideration" in accordance with the Russian Arbitrazh Procedure Code.

The new amendments aim to extend the use of extra-judicial methods of dispute resolution, as well as reduce the courts' case load. However, there is a risk that this rule could be abused as companies involved in disputes may use the opportunity to relocate their assets or sell the products under litigation through a chain of good faith purchasers.

The effectiveness of the obligatory pre-trial stage is also questionable when it comes to non-contractual obligations, when for parties to disputes it is not normally practically feasible to agree in advance at the pre-trial stage. In many intellectual property (IP) infringement scenarios, such as cyber-squatting cases, the obligatory pre-trial stage could weaken the efficiency of the law enforcement.

Furthermore, the pre-trial procedure could be used by a defendant as a method of protracting court proceedings by claiming that the demand letter was not properly sent or was not delivered to him or her. There are also concerns that the new pre-trial procedure may negatively affect the application of the preliminary injunctions rules, as described below.

Preliminary injunctions generally aim to protect the interests of a claimant and prevent any negative measures that could potentially be taken by the defendant as soon as litigation is initiated. The preliminary injunction measures may be imposed within one day after the preliminary injunction motion is filed by the plaintiff, 15 calendar days before the litigation is initiated, at the earliest, and without duly notifying the defendant. The new pre-trial rules essentially prevent the plaintiff from obtaining preliminary injunctions before the defendant becomes aware of the dispute.

This shortcoming could, to some extent, be offset, if the term of a pre-trial procedure is shortened by agreement of the parties. This, however, may only work in case of contractual disputes.

Taking the new rule into consideration, it is advisable to pay attention to the dispute resolution clauses in the agreements made with Russian counteragents or that are governed by Russian material law and to stipulate a detailed description of the dispute resolution measures, including the terms to be taken by the parties. Companies which plan to initiate litigation should always bear in mind the mandatory pre-trial procedure in order to properly devise their strategies and timing of the litigation as well as to avoid procedural obstacles.

The Russian Government has already proposed to adopt specific pre-trial rules for some disputes associated with intellectual property (IP), in particular, for claims on damages and payment of compensation for IP infringements, as well as for the trademark non-use invalidation cases.

Other claims relating to IP can be submitted subject to no pre-trial procedure, especially claims relating to the suspension of infringing actions, admittance of rights, destruction of facilities involved in IP infringement activities or publication of judgments.

The bill proposes that the obligatory pre-trial measures cover only claims seeking damages or compensation in the IP sphere. It also allows preliminary injunctions, irrespective of servicing or non-servicing of pre-trial claims. However, if damages or compensation are sought, the IP owners would still need to serve the defendants with the pre-trial claims prior to the potential imposition of the preliminary injunction measures, since these measures may be imposed not earlier than 15 days prior to filing the statement of claims.

A more complicated procedure is proposed for non-use invalidation cases. A person involved in non-use invalidation cases must, before addressing the court, send an offer to the trademark owner to either waive his or her trademark rights or conclude a trademark assignment agreement.

If the trademark owner does not waive his or her rights to the trademark or conclude the proposed agreement within two months after receiving the offer, the interested person will have 30 days to file the respective claim with the court.

If these proposals are adopted by the Russian Parliament, IP owners should pay attention to the measures they need to take in order to enforce their IP rights.

Moreover, we believe that the pre-trial rules should be further amended in a way that will enable them to act together with the existing preliminary injunctions procedure. This will prevent the preliminary injunctions procedure from becoming a useless and impractical measure, at least in IP-related cases.

AEB News

Philippe Pegorier awarded the Order of Friendship

Philippe Pegorier, Member of the AEB Board, Chairman of the AEB Machine Building & Engineering Committee, was awarded the Order of Friendship, the highest Russian award for foreigners, by the Russian President for his contribution to the development of business relations, economic and humanitarian cooperation with the Russian Federation as the Chairman of the AEB Board (2014–2016) and President of Alstom in Russia.

Philippe Pegorier,
Member of the AEB Board, Chairman of the AEB Machine Building & Engineering Committee

The corresponding Decree was signed by Vladimir Putin on 4 August 2016.

The AEB is happy to congratulate Philippe Pegorier on the occasion of this award that can be seen also as a recognition of AEB merits.

Innoprom photogallery

Panel session

"Robotisation, industrial automation and IOT – old problems, new solutions"

On 12 July 2016, the AEB held a Round Table "Robotisation, industrial automation and IOT – old problems, new solutions" together with the International Federation of Robotics (IFR) at Innoprom 2016.

The Round Table was moderated by Michael Akim, Chairman of the AEB Working Group on Modernisation & Innovations, Vice President, ABB Russia. Ruslan Kokarev, AEB COO, welcomed the participants and spoke about the structure of the AEB and the committee activities especially focusing on the working group.

Among keynote speakers were Gleb Nikitin, First Deputy Minister of Industry and Trade, Alexey Texler, First Deputy Minister of Energy, Andreas Bauer, Chairman of the IFR Robot Supplier Committee, Ralf Bendisch, CEO, Claas, Alexander Verl, Chairman of the Research Committee of the International Federation of Robotics, Full Professor and Head of the Institute for Control Engineering of Machine Tools and Manufacturing Units (ISW), University of Stuttgart, Ramesh Nimmagadda, Professor, IIT Madras, Boris Melenevsky, Chief Architect, SAP.

On 12 July 2016, Ruslan Kokarev took part in a meeting with Denis Manturov, Russian Minister of Industry and Trade, with international business representatives, CEOs of leading industrial companies and heads of foreign chambers of commerce and professional associations working in the Russian Federation. The meeting participants raised the most important issues concerning their work in Russia. Representatives of AEB member companies were also among active participants of this high-ranking meeting.

For the third year in a row the AEB supported Innoprom. The forum's topic in 2016 was Industrial Net. The combination of INDUSTRY+INTERNET is one of the main drivers behind the new industrial revolution that will facilitate the creation of highly efficient digital production facilities. Russia's top government officials and heads of major international industrial companies discussed the Industrial Net at the main strategic session of INNOPROM.

20th International Exhibition of Automotive Parts, Components, Car Maintenance Equipment and Products MIMS Automechanika

Panel session

On 22 August 2016, Frank Schauff, AEB CEO, participated in the opening ceremony of the 20th International exhibition of automotive parts, components, car maintenance equipment and products MIMS Automechanika. He made the welcoming speech and wished fruitful networking to all of the participants.

Among other participants of the opening ceremony were Alex Zaguskin, expert in the automotive industry, Alexey Lyu, Vice President Russia, Asian Union of Industrialists and Entrepreneurs, Alexander Shtalenkov, Managing Director, ITE Moscow, Michael Johannes, Vice President, Brand Manager, Automechanika, Thomas Graf, Director of Department for Economy and Science Embassy of Germany.

The exhibition was followed by the ceremony of cake cutting.

L–R: **Frank Schauff**, AEB CEO; **Alex Zaguskin**, Managing Partner, AZ Enterprise; **Nicolas Maure**, President, Avtovaz; **Andrey Pankov**, CEO, Renault Russia.

"The Russian automotive industry: breakpoint for revival"

On 23 August 2016, the AEB in cooperation with the international exhibition operator ITEMF Expo held the 7th IMAF 2016 (International Moscow Automotive Forum) in Moscow. This year the topic of the forum was "The Russian automotive industry: breakpoint for revival".

Frank Schauff, AEB CEO, and Michael Johannes, Vice President, Messe Frankfurt GmbH, Brand Manager, Automechanika, made the opening remarks.

Among the speakers of the plenary session were: Nicolas Maure, President, Avtovaz, Andrey Pankov, CEO, Renault Russia, Kirill Epstein, Director of Automotive components Division, GAZ Group, Massimilano Perri, Business Director, Iveco Russia, and Jaron Wiedmaier, General Director, Continental Tires. The experts evaluated the efficiency of the supporting measures in the automobile industry taken by the government, summed up the preliminary results of the industry's progress in the first half-year period of 2016, figured out, has the market reached its bottom or is there any sign of an upcoming push towards strong growth, and announced the companies strategies and plans over the long run in the Russian market.

L–R: **Frank Schauff**, AEB CEO; **Christos Dimas**, President of the Hellenic-Russian Chamber of Commerce.

Thessaloniki International Fair (TIF) 2016

On 9–12 September 2016 to develop Russian-Greek economic and trade relations as well as to boost business ties between the two countries, the Russian-Greek Business Forum was held within the Thessaloniki International Fair (TIF) 2016. Thessaloniki International Fair of consumer and industrial goods is the largest exhibition of the Mediterranean region with an age-long history. Today it is a unique strategic platform for the presentation of high-tech developments in the fields of science, industry and agriculture.

On 10 September 2016, Frank Schauff, AEB CEO, and Christos Dimas, President of the Hellenic-Russian Chamber of Commerce, signed a cooperation agreement in recognition of the mutual desire of the Parties to strengthen the promotion of trade and investments in their respective countries.

Business season launching cocktail

On 15 September 2016, the AEB organised its annual Cocktail traditionally launching the business season after the summer break.

Frank Schauff, AEB CEO, made a welcome speech. He made a review of AEB activities and future prospects and thanked all the partners and sponsors who helped us make the atmosphere of the cocktail bright and cosy: Intourist, Double Tree by Hilton Moscow — Marina Hotel, Julius Meinl, Wine Boutique "Caudal", Deta Elis, Mahash Spa, Meeting Point, Mercure Arbat Hotel, Moët & Chandon, S.E.A. Company, The Ritz Carlton, Vimpelcom.

L–R: **Lodewijk Schlingemann**, Chairman of the AEB Council of National Representation; **Filippo Baldisserotto**, Member of the AEB Board, Chairman of the AEB Real Estate Committee; **Frank Schauff**, AEB CEO; **Philippe Pegorier**, Member of the AEB Board, Chairman of the AEB Machine Building & Engineering Committee; **Gerald Sakuler**, Member of the AEB Board, AEB Treasurer.

Dmitry Yalov, Vice Governor of the Leningrad region, Chairman of the Economic Development of the Leningrad region

Business season launching cocktail in Saint Petersburg

On 20 September 2016, the AEB North-Western Regional Committee together with the Consulate General of the Netherlands in St. Petersburg organised an open event and reception launching the new business season. The event was held at the residence of the Consul General in St. Petersburg. Ruslan Kokarev, AEB COO, and Hans Wesseling, Consul General of the Netherlands in St. Petersburg, made welcoming speeches. Ruslan Kokarev briefed shortly on AEB activities and future prospects and thanked the main sponsor of the event, SCHNEIDER Group, as well as the partner companies who provided various prizes for the lottery: Sokos Hotel, Corinthia Hotel St. Petersburg, Belmond Grand Hotel Europe, Novotel Centre St. Petersburg, W St. Petersburg Hotel, Wine Boutique "Caudal". Also, he expressed his gratitude to the Consulate General of the Netherlands in St. Petersburg for hosting the event and for fruitful cooperation with the AEB throughout the years.

The official part of the event was devoted to the investment climate development in the Leningrad region. Dmitry Yalov, Vice Governor of the Leningrad region, Chairman of the Economic Development of the Leningrad region, made a thorough presentation on the current and future investment projects in the region and the governmental support measures available for foreign investors.

After the briefing Andreas Bitzi, Chairman of the AEB North-Western Regional Committee, gave a brief overview of the upcoming events and activities of the Committee inviting all participants to join.

The official part was followed by informal networking reception in the atmosphere of the residence.

Real Estate Day

On 22 September 2016, the AEB Real Estate Committee held its annual conference "AEB Real Estate Day 2016".

It was opened by Ruslan Kokarev, AEB COO, and Filippo Baldisserotto, Member of the AEB Board, Chairman of the AEB Real Estate Committee. They welcomed all the participants and invited them to attend the conference next year. The conference was moderated by: 1st session – Dr. Holger Mueller, Managing Director of the Real Estate Department, PwC; 2nd session – Tomi Asanti, Head of Representative office, Sponda Russia; 3rd session – Antonio Linares, Managing Director, Roca in Russia and the CIS.

L–R: **David Gousset**, General Director, IKEA Centres Rus Development; **Alexey Novikov**, Managing Director, Real Estate Funds Department, Sberbank Asset Management; **Alexandra Sinilova**, Head of Development Services Department, Savills Russia; **Dr. Holger Mueller**, Managing Director of the Real Estate Department, PwC; **Denis Sokolov**, Partner, Head of Research Department, Cushman & Wakefield; **Vladimir Pantyushin**, Head of Research Russia & CIS, JLL.

1st session:

The discussion of the first panel "Never miss a good crisis" – how to benefit from the current state of the real estate market", moderated by Dr. Holger Mueller, Managing Director of the Real Estate Department, PwC, focused mainly on how to make the best of the current situation on the Russian property market. The participants agreed that the market has reached the bottom and in some areas – such as office space – will reach it soon. Different opinions arose on how long the current situation will continue. While the majority assumes that we are in a "new normal", in which business activity as a whole will be subdued, some participants predicted an upswing in the near future, in particular in the residential sector. All the participants agreed that the time of easy money was gone for good and that in the years to come success on the market depends increasingly on the quality of projects.

L–R: **Sergey Egorov**, General Director, Central Properties; **Steffen Sendler**, General Director, Partner, Drees & Sommer; **Oleg Mamaev**, Chief Operating Officer, PNK Group; **Maxim Gasiev**, President, PSN Group; **Tomi Asanti**, Head of the Representative Office, Sponda Russia; **Stefano Carosi**, Head of Real Estate Finance, AO UniCredit Bank; **Timo Hokkanen**, General Director, SRV Stroi.

2nd session:

Tomi Asanti, Head of the Finnish property investment company Sponda, moderated the 2nd panel on opportunities for construction companies and developers in the Russian real estate market. The panelists noted that the residential segment is currently clearly more attractive as an investment than the development of commercial properties such as offices and shopping centers. The biggest problem for commercial real estate development is that the rents that tenants are willing to pay have dropped significantly. So, future cash flows will not necessarily cover development costs and risks. The panel also noted that due to the higher risks and lower visibility in the Russian regions, development opportunities are far better in and around Moscow, than far away from the Russian capital. A positive outcome of the discussion was that it appears we have already hit the bottom of the current real estate circle, and so, the market currently provides interesting opportunities for companies committed to the Russian market in the mid- to long-term.

3rd session:

The 3rd session of Real Estate Day, "Russian Regions: are they ready to catch up?", moderated by Antonio Linares, Managing Director, Roca in Russia and the CIS, saw a lively discussion on the main drivers for growth in the regions. Vitaly Bogachenko from Saint Gobain explained that in Russia there is a modest 25 m^2 of residential space per person compared to 45 m^2 in Western Europe. In the regions, this space per person may be even lower, which gives a clear view of the potential for growth in the real estate sector, in Russia as a whole and in the regions in particular. The continuous growth of Moscow was also raised, and in comparison, the difficulties to retain people in the regions. If this is not compensated for by state policy, the situation could reach a grotesque level in which the whole country is abandoned and the entire population is concentrated around Moscow. Thorsten Schubert, from Knauf, and Hermann Wies, from Bosch, confirmed that it is not easy to retain professionals in the regions since growth in Moscow does not seem to be slowing, making

L–R: **Vitaly Bogachenko**, Chairman of the AEB Construction Industry & Building Material Suppliers Committee, Corporate Affairs Director, Saint-Gobain; **Hermann Wies**, Vice President of Financial Affairs, Robert Bosch; **Alexey Voskoboynikov**, Head of Siemens Real Estate, Siemens Russia and CIS; **Antonio Linares**, Managing Director, Roca in Russia and the CIS; **Raffaele Mascolo**, Real Estate Director, Kerama Marazzi; **Thorsten Schubert**, CFO, Knauf Group CIS.

it a city where it is becoming ever more difficult to spend time efficiently. Alexey Voskoboinikov from Siemens presented the Republic of Tatarstan and the city and region of Voronezh as two examples of places where citizens were engaged, well-educated and where there were policies to attract the populace to stay in the region. There was a consensus that the lack of labour mobility, to and between regions, creates barriers for the further growth of investments since it is difficult to attract employees from other regions due to, among other reasons, the lack of affordable real estate. Raffaele Mascolo, from Kerama Marazzi, talked about the difficulties of investing in the regions and concluded that if there were no policies made to make the regions attractive, this would only make it harder. In conclusion, the panelists agreed that if measures are not taken, Moscow can be at the same time a driver of growth and a limitation for the healthy distribution of the growth across Russia. In the end, if Moscow wants to be a city of services, there needs to be someone to whom the city can offer those services.

Gold sponsor: STUPINO 1 INDUSTRIAL PARK Silver sponsor: YIT

"Implementation of the Rights Exhaustion Principle on Trade Mark in the Eurasian Economic Union"

On 28 September 2016, Ruslan Kokarev, AEB Chief Operating Officer, participated in the Round Table "Implementation of the Rights Exhaustion Principle on Trade Mark in the Eurasian Economic Union" organised by the Eurasian Economic Commission (EEC) in the framework of the 4th International Forum in Minsk and the 8th meeting of the EEC Consultative Council on Intellectual Property. Ruslan Kokarev made a presentation on legalisation of parallel imports and its negative consequences on foreign investors.

Russian delegation participates in "REHACARE International" in Dusseldorf, Germany

On 29 September 2016, Frank Schauff, AEB CEO, within the Russian delegation headed by Gulnaz Kadyrova, Deputy Minister of Industry and Trade of the Russian Federation, which also included representatives of RF Ministry of Industry and Trade (Minpromtorg), regional executive bodies, National Association of Market Players of Assistive Technologies (AURATECH) and others, participated in the annual international fair "REHACARE International" that took place in Dusseldorf, Germany. During the visit, members of the delegation met representatives of regulatory authorities of Germany, discussed prospects of cooperation with foreign partners, participated in the debate on employment of persons with disabilities and creation of management and quality control systems of the production of means of rehabilitation.

Members of the Russian delegation

REHACARE is the leading international trade fair for rehabilitation, prevention, inclusion and care. With over 30 years of expertise and wide-ranging experience of the market, this fair is an ideal platform for anyone with disabilities, care requirements or chronic conditions as well as for the elderly. The quality and diversity of REHACARE are reflected in numerous "theme parks", info events, industry representatives, service providers, paying authorities and non-profit exhibitors.

Frank Schauff makes a report during the CECE Congress

On 6 October 2016, Frank Schauff, AEB CEO, in the frames of the Committee for the European Construction Equipment Industry (CECE) Congress in Plenary Session: Drivers of Success in Central & Eastern Europe, is presenting an overview on Russian construction equipment market. The AEB Construction Equipment Committee is a member of the CECE. Among the key speakers of the event are Bernd Holz, CECE President, Zbyněk Pokorný, Director of the Department of Investments and Industrial zones, Czech Ministry of Industry & Trade, Ladislav Rulf, Manager, Management Consulting, KPMG Prague Office, Hakan IIhan, Director of Marketing & Dealer Development of LiuGong Dressta Machinery, Poland, Tomas Kuta, Senior Vice President Global Sales of Volvo Construction Equipment and others. The CECE Congress is the most important construction equipment industry gathering in Europe. SVSS, the Czech association, is proud to host this important event in the capital of the Czech Republic, the beautiful city of Prague, together with CECE, the European construction equipment association.

Particpants of the panel session

"The Future of Arbitration in Russia – Arbitration Reform and the Creation of the AEB Arbitration Court"

On 6 October 2016, the Presidium of the AEB Arbitration Court held an Open event "The Future of Arbitration in Russia – Arbitration Reform and the Creation of the AEB Arbitration Court".

The event aimed at introducing to the participants the latest changes in legislation on arbitration in Russia and highlighting the main features of the AEB Arbitration Court which was lately established to administer commercial disputes among companies.

The main speakers were Robert Schulze, President of the AEB Arbitration Court, Fredrik Ringquist, First Deputy Chairman of the AEB Arbitration Court's Presidium, Partner, Mannheimer Swartling, Alexey Barnashov, Counsel, Head of Litigation (Russia), Mannheimer Swartling, and Alexandra Shmarko, Member of the AEB Arbitration Court's Presidium, Associate, Baker & McKenzie.

AEB Arbitration Court's Presidium and the meeting participants

The AEB kindly thanks the sponsors of the event:

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We are also grateful for hosting the event to: MEETING POINT RED SQUARE

AEB COMMITTEE UPDATES

Crop Protection & Seed Committees

L–R: **Dirk Seelig**, Chairman of the AEB Agribusiness Committee, Director Sales/Deputy General Manager, Claas Vostok; **Tatiana Belousovich**, AEB Government Relations Manager for Crop Protection and Seeds; **Ruslan Kokarev**, AEB COO.

On 14–16 July 2016, the All-Russian Field Day after eight-year break took place in Barnaul. The Association of European Businesses was represented by Ruslan Kokarev, AEB COO, Vladimir Druzhina, Chairman of the AEB Seed Committee, Head of Corn & Oil Crops East Europe, KWS, and Tatiana Belousovich, AEB Government Relations Manager for Crop Protection and Seeds. On 14 July 2016, the AEB took part in the meeting with the management of the State Commission for Selection Achievements' Test and Protection, the Russian Agricultural Centre, academic institutions and seed growing and selection centers called "Current status and perspectives of development of seed growing in the Russian Federation" organised by the Plant Growing Department of the Ministry of Agriculture, chaired by the First Deputy Minister of Agriculture Dzhambulat Khatuov. On the same day the round table discussion "Variety Registration System and International Partnership" organised together by the AEB and the State Commission for Selection Achievements' Test and Protection took place.

On 15 July 2016, the AEB took part in the official opening ceremony of the exhibition. The AEB delegation visited exhibition booths of the State Commission for Selection Achievements' Test and Protection and Russian Agricultural Centre as well as AEB members, including BASF, Bayer, CLAAS, DuPont Science & Technologies, John Deere, KWS, Syngenta and others.

L–R: **Vitaly Voloshchenko**, Chairman of the State Commission for Selection Achievements' Test and Protection; **Tatiana Belousovich**, AEB Government Relations Manager for Crop Protection and Seeds; **Ruslan Kokarev**, AEB COO; **Vladimir Druzhina**, Chairman of the AEB Seed Committee, Head of Corn & Oil Crops East Europe, KWS.

The 7th International Conference "Pesticides" organised by the company CREON Energy (consulting in Chemical Industry) took place on 8 September 2016 in the Hotel Balchug Kempinski in Moscow. Tatiana Belousovich, GR Manager of the AEB Crop Protection and the Seed Committees delivered a presentation "Ecological responsibility of Crop Protection producers for waste containers management" on behalf of the Crop Protection Committee. The presentation stimulated an intense discussion and became a milestone in developing a cooperation between pesticide producers and the State Organisation "Rosselhoztsentr" in order to train farmers how to rinse waste containers properly.

Health & Pharmaceuticals Committee

On 27 September 2016, the AEB took part in "The Russian Competition Week", which is the key annual event in the field of competition policy in Russia organised by the Federal Antimonopoly Service of the Russian Federation (FAS). Yury Litvishchenko, Chairman of the AEB Health & Pharmaceuticals Committee, CEO, Chiesi Pharmaceuticals, participated in the joint meeting of the Working Group of BRICS and the Working Group for Research on the Competition Issues in the Pharmaceutical Sector. His presentation was dedicated to the topic "Competition at Pharmaceutical market – as the main precondition for fair price". The committee was also represented by Tatiana Nor, Head of Market Access Department, Merck Serono. The meeting was chaired by Anatoly Golomolzin, Deputy Head of the FAS, Giovanni Pitruzzella, Chairman of the Italian Competition Authority, and Timofey Nizhegorodtsev, Head of Department for Social Sphere and Trade, FAS.

Paricipants of the event

The Russian Competition Week brought together officials from federal and regional executive antimonopoly bodies as well as the business community. Senior officials of the foreign competition authorities and international organisations, as well as representatives of the central office and regional offices of the FAS discussed the best world's practices in the field of competition protection and advocacy.

Insurance & Pensions Committee

On 15 July 2016, the AEB Insurance & Pensions Committee held an open event titled "Electronic insurance in Russia".

The event on electronic insurance was organised by the Committee for the fourth time. It was opened and moderated by Alexander Lorenz, Chairman of the AEB Insurance & Pensions Committee. Svetlana Nikitina, Central Bank, and Alexander Itselev, Ministry of Finance, shared with the participants the recent developments in legislative and regulatory framework of electronic insurance in Russia. Mikhail Porvatov, Russian Association of Motor Insurers, Dmitry Markarov, Rosgosstrakh, Maria Razmustova, INTOUCH INSURANCE, and Alena Shirykalova, Tinkoff Online Insurance, spoke about their experience, practical aspects and trends in the electronic insurance market.

The third session was devoted to modern IT technologies for insurance business, among the speakers were Dmitry Chesnokov, Virtu Systems LLC, Maxim Pichugin, Cherehapa Insurance, and Dmitry Rudash, Raxel Telematics. The participants discussed recent trends and developments in electronic insurance in Russia and exchanged experiences and ideas.

L–R: Participants of the event

The AEB kindly thanks the sponsor of the event:

VIRTU SYSTEMS

Intellectual Property Committee

L–R: **Maria Kolzdorf**, Senior Consultant, Department of generalisation of court practices and the analysis of judicial statistics, Court for Intellectual Property Rights; **Tatiana Zmeevskaya**, Head of the Department of means of individualisation, the Office of the organisation of public services, Rospatent; **Tamas Kiraly**, Policy Officer – International Aspects of Intellectual Property Rights Directorate-General for Trade, European Commission; **Anton Bankovskiy**, Chairman of the AEB Intellectual Property Committee, Partner, CMS; **Elena Izmaylova**, Head of the Intellectual Property Protection Section, Entrepreneurship Department, Eurasian Economic Commission; **Marina Oreshkina**, Head of the Legal Expertise Unit, Legal Department, Federal Antimonopoly Service of the Russian Federation.

On 4 October 2016, the AEB Intellectual Property (IP) Committee held its annual conference "Intellectual property rights: recent trends, court practice, problems and solutions" at the premises of the Delegation of the European Union to Russia. The IP annual conference serves as a valuable platform for experts in intellectual property issues. It provides opportunities for its participants to learn about the most important issues in IPR protection through face-to-face interaction with representatives of state bodies, courts and leading legal companies, and it provides an important platform for discussion.

The event was moderated by Anton Bankovskiy, Chairman of the AEB Intellectual Property Committee, Partner, CMS. Ruslan Kokarev, AEB COO, and Luis Portero, Head of the Economic and Trade Section, Delegation of the European Union to the Russian Federation, welcomed the participants. Speakers from Russian state bodies (the Federal Antimonopoly Service, ROSPATENT, Court for Intellectual Property Rights), and regional organisations (Eurasian Economic Commission, European Commission) addressed a variety of issues ranging from the development of the Eurasian trademark system and united customs register of the Eurasian Economic Union to trading of counterfeit and pirated goods in the European Union.

Experts from the AEB IP Committee spoke on Russian court practice in parallel imports; issues related to damages and claims for compensation, protection of confidential information in Russia, registration of the disposal of exclusive rights, and the mandatory pre-trial settlement of IP disputes.

The AEB kindly thanks the sponsor of the event:

INTELLECTUAL PROPERTY TILLING PETERS LITIGATION ARBITRATION

North-Western Regional Committee

In July–August 2016, Frank Schauff, AEB CEO, and Andreas Bitzi, Chairman of the AEB North-Western Regional Committee, held several working meetings in St. Petersburg with officials from the North-Western region, in particular, with the Committee of External Relations. During the meeting possible cooperation opportunities were outlined. Frank Schauff stressed the importance of extensive information exchange between the city authorities and European business in the region.

During the visit in August, Frank Schauff and Andreas Bitzi met Sergey Zimin, Deputy Plenipotentiary of Russian President in the North-Western Federal District. During the meeting Mr. Zimin gave a presentation on recent investment activities in the region and the main focus of the strategic initiatives for regional economic development under the Strategic Partnership project (such as the development of natural resources, the development of scientific-industrial opportunities, the development of geopolitical resources, and the development of socio-cultural opportunities). The prospects for cooperation with European businesses present in the region were outlined. Later that day Frank Schauff and Andreas Bitzi also met Dmitry Mereshkin, Deputy Head of the Committee for Economic Development and Investment Activities of the Leningrad region. Frank Schauff mentioned that the Leningrad region is one of the most attractive regions in Russia for foreign investors due to its proactive investment strategies, good geographic location and developed infrastructure. During the meeting several future measures to enhance cooperation between AEB members in the region and the administration of the Leningrad region were discussed.

Participants of the meeting

On 23 September 2016, the AEB North-Western Regional Committee's Manufacturing Subcommittee held an open event on "Challenges of manufacturing companies in Russia". The event had a format of discussion of the main issues and concerns of manufacturing in Russia, in particular in the North-Western region and the current government's policy and latest changes of legislation as regards to import substitution. Also, the issues of HR of foreign companies doing business in Russia were discussed.

The event took place at the premises of the plant of OOO "Skaala", Finnish company in St. Petersburg – one of the largest window, door and glazing solutions service provider in the Nordic countries, known particularly for its energy-efficient product family and holistic service concept. The round table was followed by a factory tour.

PR & Communications Committee

On 15 September 2016, the AEB PR & Communications Committee held its open event – presentation by the Rossiya Segodnya International Information Agency.

The Rossiya Segodnya International Information Agency is an international media group, whose mission is to provide a prompt, balanced and objective coverage of what is happening in the world, and inform the audience about different perspectives on key events. The agency is the largest Russian producer of information products targeted at international audience, business community, government bodies and a wide range of users.

The following topics were covered by the speakers at the event: main directions of activities by "Rossiya Segodnya", monitoring of information agenda through RIA Novosti's news ticker, strengthening the company's presence in media field though the agency's interactive projects, the Rossiya Segodnya Agency's international multimedia press centre.

The presentations were followed by a question-and-answer session.

L–R: **Pavel Shorokh**, Head of the Interactive Projects Studio, Rossiya Segodnya International Information Agency; **Dmitry Gornostaev**, Deputy Editor-in-Chief, Rossiya Segodnya International Information Agency; **Dmitry Gruzdev**, Deputy Editor-in-Chief, Rossiya Segodnya International Information Agency; **Milana Valieva**, Deputy Country Manager, Grayling Eurasia (moderator).

Product Conformity Assessmennt Committee

On 20 July 2016, the AEB Product Conformity Assessment Committee members held a meeting with the representatives of the technical regulation department of the Eurasian Economic Commission (EEC). They discussed various problems related to the application of certain provisions of technical regulations of the Customs Union that cause ambiguous interpretation at the national regulators, supervisory authorities and market participants. Committee members thanked EEC representatives for the fruitful discussion and expressed their hope for continued cooperation.

Participants of the meeting

Retail Trade Committee

On 21 July 2016, the AEB Retail Trade Committee held its annual meeting with Denis Pak, Head of the internal trade, light industry and consumer market department, Ministry of Industry and Trade of Russia.

The meeting was attended by all interested AEB members, particularly representatives of the consumer market. It was a great opportunity for participants to discuss topical issues related to the development of trade in Russia. The AEB would like to thank Mr. Pak for maintaining a constant dialogue with European businesses.

L–R: **Denis Pak**, Head of the internal trade, light industry and consumer market department, Ministry of Industry and Trade of Russia; **Alexey Grigoriev**, Chairman of the AEB Retail Trade Committee, Head of Representative office "METRO AG" (Germany), Vice President Corporate Public Policy.

Southern Regional Committee

On 30 September 2016, members of the AEB Southern Regional Committee took part in the round table "Regional Foreign Investments Advisory Council under the Governor of the Krasnodar region: the Constructive Dialogue of International Business and Regional Government", which was held at the Krasnodar territory stand in the framework of the XV International investment forum "Sochi-2016".

Oleg Zharko, Chairman of the AEB Southern Regional Committee, Director of Corporate Affairs and GR relations of the Central region, Danone in Russia, was the moderator of the round table.

Speakers of the round table were the heads of federal and regional levels of the following companies: EY, LLC PepsiCo holdings, Philip Morris international, CJSC Bank Inteza and representatives of the Krasnodar region administration.

The roundtable participants discussed the impact of Regional Foreign Investments Advisory Council on the investment climate and attractiveness of the region; its role as a platform for dialogue of foreign investors and government authorities; influence of the successful experience and positive examples of implemented investment projects in attracting new foreign investments.

L–R: **Oleg Zharko**, Chairman of the AEB Southern Regional Committee, Director of Corporate Affairs and GR relations of the Central region, Danone in Russia; **Alexander Ivlev**, Country Managing Partner, Russia & CIS, Accounts and Industries Leader, EY.

Safety, Health, Environment & Security Committee

Meeting participants

On 30 August 2016, the Climate Policy Working Group of the AEB Safety, Health, Environment & Security Committee held an open meeting that was devoted to the proposals for Russia on interaction in the field of low-carbon development with GHG emission regulation systems in other countries, and with international financial institutions.

The meeting was moderated by Anton Galenovich, Chairman of the Climate Policy Working Group. Russian climate policy latest developments, specifics of Kazakhstan and Korea Emission Trading Systems and AEB members' proposals were presented to the participants of the meeting.

Climate Policy working group focused its attention on the following recommendations and proposals:

- to recognise and approve early mitigation business activities and outcomes as accountable under future mandatory regulations in line with the Paris Agreement provisions regarding internationally transferable mitigation outcomes;
- to initiate creation of EAEU contact group on GHG emissions regulation.

The proposals discussed at the meeting will be submitted the Russian Government in order to enhance Government-to-business dialogue on Russian climate policy issues.

On 21 September 2016, the AEB Safety, Health, Environment & Security Committee held the round table titled "Best practices in health and safety in Russia". The event was moderated by Konstantin von Vietinghoff-Scheel, Chairman of the Health & Safety Subcommittee. Marina Videau, Corporate Social Responsibility Manager, Sanofi, presented Sanofi new road safety programme. Eugene Gritsik, Manager, EHS & Security, John Deere Russia, spoke about the improvement of the management efficiency of the company by automating business processes in the sphere of labour protection, industrial, fire and environmental safety. Dr. Alexander Shtoulman, General Director, Corporate Health, reported on workplace alcohol abuse intervention programme.

L–R: **Konstantin von Vietinghoff-Scheel**, Chairman of the Health & Safety Subcommittee; **Marina Videau**, Corporate Social Responsibility manager, Sanofi.

Conference participants

On 29 September 2016, the AEB Safety, Health, Environment & Security Committee held a Conference "Waste management: the new Russian waste legislation and its practical steps" dedicated to the implementation of the new waste management legislation, presentations of current activities and projects by companies. The event was moderated by Mikhail Divovich, Chairman of the Environmental Subcommittee, General Director, ECOTEAM. Ruslan Kokarev, AEB Chief Operating Officer, opened the first session stating the importance of the interaction between producers, importers, recycling companies and other organisations dealing with waste management as well as summing up AEB lobbying efforts on waste management legislation.

The administration of Dubna City presented its pilot project on separate waste collection, Julien Thoeni, Counsellor, Head of Economic Affairs, Finance and Science, Embassy of Switzerland in Russia, spoke about possible approaches to the waste management and sample cases from Switzerland. Michael Akim, Vice President in Russia, Belarus and Central Asia, ABB, gave an overview of the product lifecycle and recycling issues. Artem Rodin, Partner, Advocate, CMS, summed up the first session with his report on the opportunities the new legislation gives.

The second session was devoted to practical questions of implementation of the waste management legislation. New amendments to the current waste management legislation were analysed by Olga Filchenkova, Deputy Head of Unit on Economics of Environmental Management, Department on Economics and Finances, Ministry of Natural Resources and Ecology.
Best practices from producers and importers were presented by several companies. Mark Pavlov, Sustainability Coordinator, and Natalia Beneslavskaya, Sustainability Developer, IKEA, spoke on IKEA projects. Elena Timokhina, Corporate Relations Manager, Russia and CIS, Nokian Tyres, presented experience and main difficulties of the tire industry. Anton Poverin, Supply Chain Team Leader, Bayer, intervened on current pilot projects of the crop protection industry and took note of the import cooperation with regional authorities (e.g. the Voronezh region) in this field. Alexander Efimkin, General Director, ECOPOLE LLC, spoke on the new project – management of collection and recycling of empty crop protection products' containers.
Recycling companies (Ekaterina Radionova, General Director, KUUSAKOSKI RECYCLING, Patrick Boisits, Deputy General Director, Alexander Nenonen, Development Manager, Environmental Services, Lassia & Tikkanoja) presented their solutions of handling waste. Stanislav Samokhin, Alternative Raw Materials and Fuels Manager, Heidelbergcement Rus, made a presentation on the company current and planned recycling projects. Andrey Fedorchuk, Technical Director, LafargeHolcim, spoke on use of alternative fuel in cement industry and ecologically safe approach used by the company.
Participants stressed the importance of further discussion of the new waste management legislation and sharing best practices.

Working Group on Modernisation & Innovations

On 20 September 2016, the AEB held the Presentation of the Agency of Technological Development: "Opportunities and Mechanisms for Cooperation". The event was organised by the AEB Working Group on Modernisation & Innovations and chaired by Michael Akim, Chairman the AEB Working Group on Modernisation & Innovations, Vice President, ABB Russia. Ruslan Kokarev, AEB COO, welcomed the participants and expressed his hope for the future cooperation with the newly established Agency.
The Agency was represented by Maxim Shereykin, Chief Executive Officer, Agency of Technological Development.
The Agency of Technological Development is a governmental initiative which was established by the Order No 1017-p "The establishment of the Agency of technological development". Its funding is provided by the Ministry of Industry and Trade of the Russian Federation. The Head of the Supervisory Board is Arkady Dvorkovich, Deputy Chairman of the Government of the Russian Federation. The Agency aims at assisting the Russian enterprises in implementing world-class technology solutions in order to achieve competitiveness of domestic products.
The Agency is involved in:
- international technological expertise;
- supermarket of modern technological solutions;
- search and transfer of global breakthrough technologies;
- technological upgrade of the Russian companies;
- developing of supplier base for big companies.

Maxim Shereykin, Chief Executive Officer, Agency of Technological Development

Its priority sectors are:
- mechanical engineering;
- agro-industrial sector;
- pharmaceutical and medicine;
- construction industry;
- energy and projects on energy saving and energy efficiency;
- petrochemical;
- information and communication services.

MEMBER NEWS

Dear members, please be informed that you can upload your news or press releases on our website in "Member News" section via personal page absolutely free of charge.

ALD Automotive

ALD Automotive Russia conducts this year Series of Customer events in frames of ALD League 2016.

This year we decided to change our standard scheme of Customer events: from big gala-dinner to series of small events in format of competition.

ALD Automotive Russia already held 2 events in format of Bowling and Carting. Unforgettable emotions, team spirit and at the same time spirit of competition - that is what we want to give our Customers. ALD Automotive is always striving to be a reliable partner for Customers, and such events help us to be a team that is committed to the development, efficiency and prosperity of business.

ALD Automotive Commercial team is always glad to meet Customers to have opportunity to thank them for choosing ALD as supplier of operational leasing.

Alinga Consulting

Alinga Consulting contributed its 17-year expertise in accounting, audit and legal services in Russia into "Doing Business in" Guides presented by Prime Global. This guide provides a helpful insight into setting up a business within various countries around the world. Being a member of Prime Global Association for a number of years Alinga Consulting is sharing its knowledge and expertise with the international companies interested to start their business in Russia. "Doing Business in" Guide covers various topics including company formation, permanent establishment, hiring employees, and financial statement data.

ALPE consulting

ALPE consulting holds a webinar on Sales and Marketing management with SAP Hybris Cloud for Customer

ALPE consulting together with SAP CIS held a webinar for manufactures. The main discussion points included current trends in enterprise customer interaction, as well as the role of information technology in improving the efficiency of Sales and Marketing, and as a result increasing the company's competitiveness. ALPE consulting experts demonstrated to the audience SAP Hybris Cloud for Customer solution. Underprinted by SAP Best Practice and "cloud-based" approach it helps not only in maintaining a customer data base, but can also contribute to improving customer relationship, increasing sales, both quantitatively and qualitatively, while being very affordable in terms of cost and implementation time. It was highlighted that in these turbulent times, in order to survive and win new markets, effective control, analysis and planning are necessary, especially in the area of sales. This is exactly the area where SAP Hybris Cloud for Customer can help. Today, the sector of "cloud-based" services is one of the fastest developing both in Russia and across the world. A number of projects related to the implementation of "cloud-based" business applications have already been completed in Russia. ALPE consulting is one of few companies with proven expertise in SAP Cloud for Customer.

ALPE consulting extends its offers to the ECM market with the SER Group

ALPE consulting specialises in solutions from SAP ranging from Roll Outs, Implementations to Trainings and much more. A new partnership with SER will extend its business portfolio and include the ever more important ECM field, especially for Russia, and offer a complementary solution to SAP. Solutions from SER are fully integrated with the SAP ERP and work hand in hand. Currently ALPE consulting is in talks with several customers in order to discuss possible implementations of an ECM Solution. The solutions will enable their employees to be more efficient, the company to save money in the short to midterm and the management to ensure the right people get the right information at the right time, as well as many more benefits. The SER Group is Europe's number one international vendor for (ECM) Enterprise Content Management software and Document Management

Systems (DMS). Company is represented through a network of experienced business partners. ALPE consulting joined SER's partner network in January 2016.

Sanofi

Sanofi has become the general partner of Summer School Changellenge >> for students and graduates, supporting an intensive course aimed at developing the relevant practical skills in recent graduates. "The market is struggling for young talented, vigorous well-educated persons, motivated to achieve high performance. That was the reason why we developed training programmes so that students have an opportunity to get to know our corporate environment in the undergraduate years at University and choose the most interesting areas for development. Summer School Changellenge >> sponsored by our company is a bright example of such efforts", says Olga Gadetskaya, HR Director, Sanofi Russia. For Sanofi, one of the best employers in Russia , involvement in the project means an opportunity to get to know the best young professionals who may pave the way into successful future for our company.

[1] Sanofi got into top 5 Dream Employers rating 2015 by medpred.ru, received Attractive Employer 2015 award by superjob.ru, and became #40 in the top 100 of the Best Employers 2015 (Pharma and Medicine) rating by HH.ru.

VEGAS LEX

CLAAS enters into first ever federal special investment contract with VEGAS LEX support

On 17 June 2016, CLAAS and the Russian Federation, represented by the Ministry of Industry and Trade, entered into the country's first federal special investment contract (SPIC) at the St. Petersburg International Economic Forum. The VEGAS LEX law firm had prepared the required documents, and had been directly involved in the negotiations for the conclusion and subsequent implementation of the SPIC in the interests of CLAAS.

A team of the VEGAS LEX lawyers led by Maxim Grigoryev, Partner, Head of special projects, started working on the project even before the regulatory framework for the SPIC was fully developed and introduced. They analysed the existing and planned incentives and government support measures, made significant adjustments to CLAAS business plan and drafted several alternative SPIC projects. The firm also represented the interests of CLAAS in negotiations with representatives of the Ministry of Industry and Trade, the Ministry of Agriculture, the Industry Development Fund, the HSE and others.

As the result of the project, CLAAS received the official status of Russian supplier of agricultural machinery, which means that the purchase of its products is entitled to financial support from the state. CLAAS, in turn, committed itself to moving more of its technological operations to local industrial facilities in accordance with the Government Resolution No. 719, and to invest in its Russian assets additional RUB 750 million plus.

VSK Insurance

Fitch rates VSK Insurance Financial Strength 'BB-', National IFS at 'A+(rus)'

Fitch Rating, international credit rating agency, has assigned VSK Insurance House Insurer Financial Strength (IFS) rating at 'BB-' and National IFS rating at 'A+(rus)'. The Outlooks are Stable.

The National IFS Rating 'A+' reflects strong capability to honor VSK's obligations before its policyholders and to pay out insurance compensation. Insurers of this grade are exposed to negative factors marginally. Stable Outlook means the Company's resilience to the current economic situation in Russia. Among positive key rating drivers are VSK's strong operating profitability supported by investment returns, and the adequate quality of its investment portfolio. Fitch notes a steadily improving underwriting performance.

Besides Fitch ratings, VSK has the highest national reliability rating 'A++' Exceptionally High Reliability awarded by RAEX Agency (Expert RA). The Company has confirmed annually its stability and high quality since 2001.

NEW MEMBERS

ACCA

ACCA (Association of Chartered Certified Accountants) is the global body for professional accountants. Founded in 1904, ACCA aims to offer business-relevant qualifications to people of application, ability and ambition around the world who seek a rewarding career in accountancy, finance and management. ACCA has been operating in Russia for over 15 years, offering the comprehensive ACCA qualification as well as Russian language diplomas in IFRS and taxation. Our values are aligned to the needs of companies in all sectors and we ensure that through our qualifications, we prepare true finance professionals for business. Globally, the association unites over 630,000 members and students in 180 countries, helping them to develop successful careers in accounting and finance, with the skills required by employers. We work through a network of 92 offices and centres and more than 7,000 ACCA Approved Employers worldwide, who provide high standards of employee learning and development.

www.accaglobal.com

Experian

We are the leading global information services company, providing data and analytical tools to our clients around the world. We help businesses to manage credit risk, prevent fraud, target marketing offers and automate decision making. We also help people to check their credit report and credit score and protect against identity theft. In 2015, we were named one of the "World's Most Innovative Companies" by Forbes magazine.

We employ approximately 17,000 people in 37 countries and our corporate headquarters are in Dublin, Ireland, with operational headquarters in Nottingham, UK; California, US; and São Paulo, Brazil.

Experian plc is listed on the London Stock Exchange (EXPN) and is a constituent of the FTSE 100 index. Total revenue for the year ended March 31, 2016, was US$4.6 billion.

www.experianplc.com

General Electric

GE (NYSE: GE) is the world's Digital Industrial Company, transforming industry with software-defined machines and solutions that are connected, responsive and predictive. GE is organised around a global exchange of knowledge, the "GE Store," through which each business shares and accesses the same technology, markets, structure and intellect. Each invention further fuels innovation and application across our industrial sectors. With people, services, technology and scale, GE delivers better outcomes for customers by speaking the language of industry.

GE has been working in Russia for nearly 100 years, bringing global expertise and localising advanced technology with our strategic partners across power, oil & gas, transportation, and healthcare to solve some of the region's biggest infrastructure challenges and improve people's lives. Over 1,900 GE employees are working in Russia/CIS, with regional headquarters in Moscow.

www.ge.com, www.ge.ru

Kerama Marazzi

Kerama Marazzi is the leader in Russia and ex-CSI countries for production and distribution of ceramic tiles and porcelain gres. The production part consists of two factories. The main factory is located in Orel, and the second producing porcelain gres tiles is in Moscow region. The total production volume of the two factories in 2016 will be over 31,000,000 m^2.

KERAMA MARAZZI is actively developing the chain of distributors. Now it has 23 sales branches in Russia, Ukraine, Latvia, Kazakhstan and more than 340 brand stores.

The main concept of KERAMA MARAZZI trade, brand stores, retail sales points and wholesale centers is focused on providing the best combination of comfortable and effective conditions for various clients and partners such as architects, designers, developers, representatives of construction and investment companies.

http://kerama-marazzi.com/ru/

Vympelcom

PJSC VimpelCom (Beeline brand) is part of Amsterdam-based VimpelCom Ltd., an international communications and technology company driven by a vision to unlock new opportunities for customers as they navigate the digital world. Present in some of the world's most dynamic markets, VimpelCom provides more than 200 million customers with voice, fixed broadband, data and digital services. VimpelCom's heritage as a pioneer in technology is the driving force behind a major transformation focused on bringing the digital world to each and every customer. VimpelCom offers services to customers in 14 markets including Russia, Italy, Algeria, Pakistan, Uzbekistan, Kazakhstan, Ukraine, Bangladesh, Kyrgyzstan, Tajikistan, Armenia, Georgia, Laos, and Zimbabwe. VimpelCom operates under the "Beeline", "Kyivstar", "WIND", "Mobilink", "banglalink", "Telecel", and "Djezzy" brands.

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Association of European Businesses

AEB MEMBERSHIP APPLICATION FORM / ЗАЯВЛЕНИЕ НА ЧЛЕНСТВО АЕБ

Please fill out the Application Form in CAPITAL letters, sign it and fax it: 234 28 07/
Заполните заявление печатными буквами и пришлите по факсу **234 28 07**
Calendar year / Календарный год: 2017 ☐ (Please check the appropriate box/boxes / Укажите соответствующий год/года)

Name of your AEB Contact / Ваше контактное лицо в АЕБ: _____

1. COMPANY / СВЕДЕНИЯ О КОМПАНИИ

Company Name in full, according to company charter. (Individual applicants: please indicate the company for which you work / Название компании в соответствии с уставом. (Для индивидуальных членов – название компании, в которой работает заявитель):

Legal Address (and Postal Address, if different from Legal Address) / Юридический и фактический адрес, если он отличается от юридического:	**INN / KPP** / ИНН/КПП:	
	Phone Number / Номер телефона:	**Fax Number** / Номер факса:
	Website Address / Страница в интернете:	

2. CATEGORY / КАТЕГОРИЯ:
THE CATEGORY IS DETERMINED ACCORDING TO THE COMPANY'S WORLD TURNOVER

	Please indicate your AEB Category / Отметьте категорию	**Company's world-wide turnover (euro per annum)** / Мировой оборот компании (евро в год)	**AEB Membership Fee /** Членский взнос в АЕБ
☐	**SPONSORSHIP** / Спонсорство	–	**10,000 euro/евро**
☐	**CATEGORY A** / Категория А	**>500 million/миллионов**	**6,300 euro/евро**
☐	**CATEGORY B** / Категория Б	**50–499 million/миллионов**	**3,800 euro/евро**
☐	**CATEGORY C** / Категория С	**1–49 million/миллионов**	**2,200 euro/евро**
☐	**CATEGORY D** / Категория Д	**<1 million/миллионов**	**800 euro/евро**
☐	**INDIVIDUAL (EU/EFTA citizens only)**/ Индивидуальное (только для граждан Евросоюза/ЕАСТ)	–	**800 euro/евро**

Any non-EU / non-EFTA Legal Entities applying to become Associate Members must be endorsed by two Ordinary Members (AEB members that are Legal Entities registered in an EU / EFTA member state or Individual Members – EU/EFTA citizens) in writing/
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Все заявления утверждаются Правлением АЕБ

3. CONTACT PERSON / INDIVIDUAL MEMBER / КОНТАКТНОЕ ЛИЦО / ИНДИВИДУАЛЬНЫЙ ЧЛЕН

Title, First Name, Surname / Ф.И.О:	
Position in Company / Должность:	
E-mail Address / Адрес эл. почты:	

4. COUNTRY OF ORIGIN / СТРАНА ПРОИСХОЖДЕНИЯ	
A. For a company / Компаниям: **Please specify COMPANY'S country of origin** / Указать страну происхождения компании[1]	
or B. For an individual applicant / Индивидуальным заявителям: **Please specify the country, of which you hold CITIZENSHIP** / Указать гражданство	
Please note that only EU / EFTA members can serve on the Executive Board and the Council of National Representatives/ Внимание! В Совет национальных представителей и Правление могут быть избраны члены, представляющие страны Евросоюза или ЕАСТ. **Please fill in either A or B below**/ Заполните только графу А или В	

5. COMPANY DETAILS / ИНФОРМАЦИЯ О КОМПАНИИ			
Company present in Russia since: _____ / Компания присутствует на российском рынке с:_____ г.			
Company activities/ Деятельность компании	**Primary** / Основная:	**Secondary** / Второстепенная:	
Company turnover (euro)/ Оборот компании (в Евро)	**In Russia** / в России:	**Worldwide** / в мире:	☐ Please do not include this in the AEB Member Database/ Не включайте это в справочник АЕБ
Number of employees/ Количество сотрудников	**In Russia** / в России:	**Worldwide** / в мире:	☐ Please do not include this in the AEB Member Database/ Не включайте это в справочник АЕБ
Please briefly describe your company's activities (for inclusion in the AEB Database and in the AEB Newsletter) / Краткое описание деятельности Вашей компании (для включения в базу данных АЕБ и публикаций АЕБ)			

6. HOW DID YOU LEARN ABOUT THE AEB / КАК ВЫ УЗНАЛИ ОБ АЕБ?	
☐ **Personal Contact** / Личный контакт	☐ **Internet** / Интернет
☐ **Media** / СМИ	☐ **Event** / Мероприятие

Signature of Authorised Representative of Applicant Company / Подпись уполномоченного лица заявителя:

_____

_____
Date/Дата:

Signature of Authorised Representative of the AEB /
Подпись Руководителя АЕБ:

_____

_____
Date/Дата:

[1] Location of a parent company or of the main shareholder/ Местонахождение головной конторы или основного учредителя.

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