United Nations Economic Commission for Europe

Study

"The Readiness of the Legislative System of the Russian Federation for the Implementation of a Single Window for International Trade"

Author: Anatoly Martynov

Date: 31 May 2011

Place: Moscow

The views expressed in the present paper are those of the author and do not necessarily reflect the views of the Secretariat of the United Nations. This study was prepared by Mr. Anatoly Martynov, consultant, as part of the joint UNECE - Russian Federation project on public-private cooperation for trade facilitation and the Single Window.

For further enquiries, please contact Mr Mario Apostolov, Regional Adviser, UNECE Trade, Palais des Nations, 431, CH-1211 Geneva 10, Switzerland, tel.: +41 22 9171134, fax: +41 22 9170037, e-mail: mario.apostolov@unece.org

Table of Content

Executive Summary

This Study reviews a wide range of legal issues, related to the clarification of the prospects of establishing a Single Window facility in Russia. This facility would, create an opportunity to use a single entry point to file in the system trade information and documents, necessary to fulfil all import, export and transit-related requirements.

The first part of the Study offers a detailed description of documents, which are required to be submitted and obtained by Russian persons engaged in foreign economic activities for import, export and transit of goods in the process of international trade. It covers the procedures of submission and processing of the said documents, requirements to the production of those documents, and it enumerates Russian ministries and agencies involved in the processing of those documents, as well as issuing relevant conclusions and permits. The possibility of using electronic documents has received special attention.

The information used in this Study is based on provisions in the legislation, which regulate the relevant legal relations: Customs legislation, legislation in the field of sanitary, quarantine phyto-sanitary and veterinary control, technical regulation, licensing, export control and some other spheres. As the creation of the Customs Union of Belarus, Kazakhstan and Russia has led to the creation of special rules within the framework of the Customs Union, which apply directly to the Customs Union Member States, the Study quotes the corresponding international treaties and decisions of the Customs Union Commission (CU Commission), which regulate document flows, related to completing formalities for the import, export and transit of goods.

The second part of the Study describes a possible structure and organization of a Single Window facility in Russia. The functions of State bodies, which are more probable candidates to be engaged in the creation of the Single Window, as well as the selection of a lead agency are examined in this part of the Study. The possible structure and mechanisms of a Single Window facility in Russia are also considered.

The third part of the Study is dedicated to issues of establishing the legal basis for the creation and operation of the Single Window in Russia. Taking into account, that the efficiency of the Single Window operation may be much higher, when using electronic documents flow, the Study pays attention to the description of the Russian legislation, related to electronic data exchange and electronic signatures, as well as prospective changes in this legislation. Also, such

issues as the procedures of identification, authentication and authorization of users, equivalence of paper and electronic documents, use of electronic evidence in court, procedures of electronic archiving and some other issues covered in UNECE Recommendation № 35 are considered.

The analysis revealed some possible legal problems for the establishment and operation of a Single Window in Russia. Notably, after the establishment of the Customs Union, if a possible establishment of a Single Window in Russia would necessitate amendment of regulations in force within the territory of the Customs Union and based on its acts, such amendments should not be made by Russia on its own. Special attention is paid to the cases, when electronic documents are not legally equal and cannot substitute for paper documents without prior amendments to international treaties or CU legislation. The Study pointed out those texts in the legislation, which can impede document exchange between State bodies, engaged in the Single Window facility. Some shortcomings of the legislation in the field of regulating electronic document flows were noted. The Study provides some considerations regarding the elimination or neutralization of the revealed obstacles for the establishment and operation of a Single Window in Russia.

Taking into account the process of establishment of the Customs Union and its rules of regulation, the last part of the Study is dedicated to the issues of probable establishment of the Single Window within the frames of the Customs Union. The legal prerequisites for the establishment of such a Single Window, including those related to the establishment of an Integrated Information System for Foreign and Mutual Trade of the Customs Union (IISFMT or ИИСВВТ) are considered. Some legal problems, which arise in the context of the establishment of a Single Window facility within the Customs Union, are also considered in this Study, as well as probable ways of solving them.

Preface

This study consists of four main parts.

The first part covers matters related to the existing Customs and other legislation of the Russian Federation, which regulates import, export and transit of goods, and related document flows.

The second part relates to the definition, scope and other key issues for the possible establishment of a Single Window facility for export and import clearance in Russia.

The third part examines legal issues, which need a thorough study with regard to the establishment of the Single Window facility.

A short fourth part was added to cover some legal aspects of establishing the Single Window within the framework of the new Customs Union between Belarus, Kazakhstan and Russia.

All the parts of the study are quite independent, and may be read separately, depending on the interest in a particular issue, without detriment to the general comprehension of that part.

1. Existing Legislation and Regulations in Russia Related to International Trade Procedures, Document Flows, and Electronic Commerce

1.1. Legal Consequences of the Establishment of the Customs Union of Russia, Belarus and Kazakhstan for the Regulation of Foreign Trade

On 6 October 2007, Russia, Belarus and Kazakhstan concluded a Treaty on the Creation of a Common Customs Territory and the Establishment of a Customs Union. This Treaty, as well as the provisions of other treaties, concluded by the Parties theretofore and thereafter, formed the legal basis for the creation at the end of 2009 of a Customs Union in the framework of EurAsEC. It also set out the framework for growing economic cooperation between economic operators of those countries. Work started on the unification of foreign trade policy, including Customs policy in those countries. A Common Customs Tariff and some base agreements and protocols, signed by Russia, Belarus and Kazakhstan, regarding non-tariff regulation, became effective on 1 January 2010. The Customs Code of the Customs Union entered into force on 1 July 2010.

The Customs Code of the Customs Union stipulates that Customs regulation in the Customs Union be implemented in compliance with the Customs legislation of the Customs Union. With respect to matters not covered by this legislation, and until such legal relations are established on the level of legislation of the Customs Union, regulation is established in compliance with acting laws in the Member States of the Customs Union. Customs legislation of the Customs Union consists of: Customs Code; international treaties to which Customs Union (CU) Member States are parties, and which regulate Customs legal relations within the Customs Union; as well as decisions of the CU Commission, which regulate Customs legal relations in the Customs Union and which are adopted in compliance with the Code and international treaties of the CU Member States.

Russia may apply quantitative and other restrictions and prohibitions in trade in accordance with international treaties of the CU Member States, decisions of the CU Commission and other legal acts adopted in Russia in compliance with international treaties. Restrictions and prohibitions on trade consist, inter alia, of non-tariff measures, measures affecting foreign trade in goods, which are introduced because of national interests, export controls, sanitary, veterinary, phytosanitary and technical regulation measures.

The EurAsEC Interstate Council (the supreme body of the Customs Union) decided[1] that binding decisions of the CU Commission should be applied directly in the CU Member States. They have the same legal validity as legal acts adopted by the relevant legislative bodies and officials of the Member States of the Customs Union, the competence of which covers the regulation of the relevant legal relations at the time of transferring of specific legislative powers to the CU Commission.

Consequently, since 1 July 2010 regulation in the above-mentioned spheres in Russia, including document procedures related to the clearance of imports, exports and the transit of goods, is implemented in compliance with: the international treaties of the Member States of the Customs Union; decisions of the CU Commission and, to the extent they are not regulated by those treaties and decisions or when there exist specific provisions for this – in compliance with Russian legislation.

1.2. Russian Legislation and Regulations Dealing with International Trade and Relevant Document Flows

1.2.1. Customs Legislation and Regulations

While studying Customs legislation and regulations in the context of implementing a Single Window, it is necessary to consider Customs norms and regulations that directly affect the process of Customs clearance of imports, exports and transit of goods and the related document flows.

Since 1 July 2010, the Customs Code of the Customs Union (hereinafter referred to as the CC CU) has been the main legislative act in the area of Customs regulations.

According to the CC CU, issues related to the filing of documents and data to Customs authorities by persons engaged in foreign economic activity (hereinafter referred to as participants in FEA or traders) arise at the following stages of Customs clearance of import, export and transit of goods.

[1] See Decision of the EurAsEc Interstate Council № 15 of 27 November 2009 "On Issues of the Organisation of the Activity of the CU Commission".

1.2.1.1. Filing of Advance (Pre-arrival) Information to Customs Authorities

As a general rule, traders may provide advance information in electronic format to the Customs authorities with regard to: goods intended for movement across Customs borders; means of international transportation that carry these goods; the time and place of the arrival of goods into the Customs territory of the Customs Union or their departure from it[2].

Notably, according to the terms and definitions used in the CC CU, Customs border means the limits of the Customs territory of the Customs Union, and movement of goods across the Customs border means the importation or exportation of goods into or from the Customs territory of the Customs Union.[3]

1.2.1.2. Preliminary Decisions on the Classification of Goods

In order to file a Customs declaration, goods should be classified according to the Commodity Nomenclature for Foreign Economic Activity. In cases, established by the CC CU[4], Customs authorities take preliminary decisions regarding the classification of goods. The Customs authority makes a preliminary decision, based on the application lodged by the person, engaged in FEA, in paper or electronic format. This decision is valid within three (3) years from the date of its adoption. The form of the preliminary decision on the classification of goods according to the CU Commodity Nomenclature for Foreign Economic Activity and its filling procedure were adopted by Decision № 260 of 20 May 2010 of the CU Commission.

1.2.1.3. Determination of Origin of Goods

The country of origin of goods should be identified in all cases, where the application of measures of tariff and non-tariff regulation depends on the country of origin of goods[5].

The rules defined in the **Agreement on Common Rules to Determine the Country of Origin of Goods**, signed on 25 January 2008, must be used within the common Customs territory of the Customs Union regarding goods, originating from third countries, with the

[2] Article 42 of the CC CU.

[3] Articles 2 and 4 of the CC CU.

[4] Chapter 6 of the CC CU.

[5] Paragraph 2 of Article 58 of the CC CU.

exception of goods, originating from developing or least developed countries. The rules of identifying the country of origin of goods originating from developing and least developed countries are defined in **the Agreement on such Rules**, signed on 12 December 2008.

The country of origin of goods for the importation of goods into the territory of the Russian Federation from a Member State of the Customs Union is determined in accordance with international treaties concluded by the Russian Federation in the framework of the free trade area of the Commonwealth of Independent States.

The Customs authority may require documents confirming the country of origin of goods, as a proof of the country of origin of goods.

A Declaration of Origin of Goods or a Certificate of Origin of Goods may serve as a proof of the country of origin of goods.

The Declaration of Origin of Goods is a declaration on the country of origin of goods made by the manufacturer, seller or consignor with regard to the exportation of goods, if this document includes information, which permits to identify the country of origin of goods. Commercial or any other documents concerning the goods may be used as such a declaration[6].

The Certificate of Origin of Goods is a document that unequivocally testifies to the country of origin of goods and is issued by the competent bodies or organizations of that country or the exporting country if the exporting country issues the certificate based on information received from the country of origin of goods.[7]

In Russia, as in the other Member States of the Customs Union, the Certificate of Origin of Goods must be submitted under Form A, adopted within the Generalized System of Preferences, and completed in compliance with the Annexes to the said Agreement of 12 December 2008. These Annexes to the Agreement also stipulate that a certificate is not required to confirm the origin of small quantities of goods, the Customs value of which does not exceed 5000 US Dollars. In this case, the exporter may declare the country of origin of goods in commercial or other shipping documents.

The validity of the certificate for granting tariff preferences is limited to twelve months from the date of issue.

The certificate is submitted to the Customs authority in paper format in Russian or English, together with the Customs Declaration, at the time as the launching of the Customs procedure for goods imported in the Customs territory of the Customs Union. In the case of loss of the Certificate, the authority would accept an officially certified copy.

[6] Article 60 of the CC CU.

[7] Article 61 of the CC CU.

The rules, annexed to the said Agreement of 12 December 2008, stipulate that developing or least developed countries, for which tariff preferences are granted, must submit to the CU Commission the names, addresses and seal impressions of the competent bodies, which are authorized to certify the Certificates of the Country of Origin. The tariff preferential treatment does not apply to goods originating from a developing or least developed country, which fails to provide the above information

During Customs control procedure, the Customs authority is entitled to address the competent authorities or organizations of the country that had issued the Certificate of Origin of Goods with a request to provide additional documents or clarifying information.

A Certificate of Origin of Goods is issued for the exportation of goods from the Customs territory of the Customs Union, if such a certificate is required under the contract, according to the national rules of the importing country or if such a certificate is required by virtue of international treaties. In Russia, such certificates are issued by the Chamber of Commerce and Industry of the Russian Federation and by the regional chambers of commerce.[8]

1.2.1.4. Customs Valuation of Goods

The determination of the Customs value of the goods is one of the most important elements of the import (export) Customs clearance. With regard to the documentary procedures related to the determination of the Customs value of goods, it is important to pay attention to the following.

The declarant declares the Customs value of goods in the framework of the Customs declaration of goods, by submitting information on: the method of determination of the Customs value of goods; the amount of the Customs value of the goods; the terms and conditions of the trade transaction related to the determination of the Customs value of the goods, as well as by submitting supporting documents. This information is filed in the declaration of Customs value, and is considered the information, required for Customs purposes.[9]

The order of declaring the Customs value of goods, as well as the Customs value declaration forms and the rules for their completion for the importation of goods[10] are determined

[8] Paragraph 1e) of Article 12 of the Law of the Russian Federation № 5340-1 of 7 July 1993 "On the Chambers of Commerce and Industry in the Russian Federation", and the Resolution of the Government of the Russian Federation № 150 of 24 February 1994 of "On the Issuance of the Certificates of the Origin of Goods for exportation to Member States of the Commonwealth of Independent States".

[9] Article 65 of the CC CU.

[10] The Agreement on the Valuation of Goods, Transported through the Customs Border of the Customs Union sets out that the Customs value of goods transported through the Customs border of a Member-State at the export of

in the decision of the CU Commission no. 376 of 20 September 2010, which came into force on 1 January 2011. The Order of declaring the Customs value of goods stipulates thatthe declaration of the Customs value is an integral part of the goods declaration. The Declaration of the Customs value and its electronic copy are submitted, together with the goods declaration, to the Customs authority, to which goods are declared. The Order foresees those cases, in which the Customs value of goods is declared in the goods declaration without completing the declaration of Customs value. When filing the Declaration of Customs value to the Customs authorities, it should be accompanied by the documents, on the basis of which it was completed. Annex 1 to the Order of Declaring the Customs Value of Goods lists the documents, proving the declared Customs value. These accompanying documents should be submitted by the person who completed the declaration, with respect to each method of Customs valuation.

If during the control of the Customs value of goods prior to their release, the Customs authorities have doubts about the reliability of the submitted information or there is no proper verification of the validity of that information, the Customs authorities should conduct additional examination. The Customs authority has the right to request from the declarant additional documents and information for this examination and set a date for their submission, which should be sufficient, but not exceed the time limit prescribed in the CC CU for temporary storage of goods (two months, with the possible prolongation up to four – six months).[11]

1.2.1.5. Customs Control

With a view to ensure compliance with the Customs legislation, the Customs authorities may perform Customs control,[12] including control of the Customs declaration, and of the documents and data required to be supplied in compliance with the Customs legislation of the Customs Union. Customs control takes place in a Customs control area and in other places determined by the Customs authorities, where goods and documentation on them, including in electronic format, are located.

The declarant, Customs brokers and other interested persons must submit to the Customs authority the documents and information required for Customs control, in verbal, written and/or

goods from the territory of that Member-State is determined in accordance with the legislation of that State. Federal Law № 311-FZ of 27 November 2010 “On the Customs Regulation in the Russian Federation” foresees that the procedure of Customs valuation of goods, imported into the territory of the Russian Federation is established by the Russian Government, and the procedure and forms of declaring Customs value of such goods are established by a federal body of executive power, authorized in the field of Customs regulation (Article 112).

[11] Articles 69 and 170 of the CC CU.

[12] Chapter 15, 16 of the CC CU.

electronic format. The Customs authorities are entitled to request such documents and specify deadlines for their submission, which should be sufficient for the presentation of the documents and information requested.

In order to perform Customs control after the release of goods, the Customs authorities are entitled to request and receive commercial and accounting documents and other information, including electronic copies, with reference to the movement of goods across the Customs border, their release and use inside and outside the territory of the Customs Union.

When performing Customs operations, Customs authorities verify the submitted information by comparing it with data obtained from other sources, analysing Customs statistics, processing data using information technologies and other means permitted by the Customs legislation of the Customs Union.

During the Customs control, the Customs authorities are entitled to make a motivated written request for additional documents and data, in order to verify the information contained in the Customs documents.

The Customs authorities are entitld to obtain information, necessary for the Customs control, from the agencies responsible for the State registration of legal entities and other State bodies. The Federal Customs Service and other federal executive bodies, whose jurisdiction covers the agencies mentioned above, determine the procedure of information exchange.[13]

Customs inspection is one of the forms of Customs control. It is important to note that during Customs inspection, the inspected person must present information and documents upon request of the Customs authorities in a timely manner and regardless of the type of data carrier, attaching a paper copy of the requested documentation.[14]

In accordance with the legislation of the Russian Federation on banks and banking, and within the limits of the subject matter of the control, the Customs authority, which performs the Customs inspection, is entitled to request from the banks, which have documents and information regarding the activities of the controlled organizations, certified copies of contracts, certificates of transaction, registers of bank control, references on confirming documents, certified copies of cards containing sample signatures and stamps, statements of the accounts of the organization, including ones containing bank secret.[15]

---

[13] See Paragraph 2 of Article 166 of the Federal Law № 311-FZ of 27 November 2010 "On the Customs Regulation in the Russian Federation".

[14] Paragraph 2 of Article 135 of the CC CU.

[15] See Paragraph 1 of Article 167 of the Federal Law № 311-FZ of 27 November 2010 "On the Customs Regulation in the Russian Federation".

Persons and Customs authorities should keep the documents required for Customs control during five (5) years from the moment of the release of goods from Customs control, if another period is not established by the legislation of the Member States of the Customs Union.

1.2.1.6. Arrival of Goods in the Customs Territory

The CC CU establishes the obligation of a carrier to notify the Customs authority on the arrival of goods in the Customs territory of the Customs Union[16] by supplying documents and other information. An exhaustive list of the documents and information, which should be supplied depending on the specific means of transport used for the movement of goods, is stipulated in Article 159 of the CC CU. Regardless of the means of transport, documents confirming the compliance with prohibitions and restrictions (except those concerning the compliance with non-tariff regulation measures) must be presented when notifying the Customs authority of the arrival of goods.

The carrier has the right to present electronic copies of the documents.

1.2.1.7. Departure of Goods from the Customs Territory

In order to export goods from the Customs territory of the Customs Union, the carrier is obliged to submit to the Customs authorities a Customs declaration or another document allowing export of goods from the Customs territory of the Customs Union, as well as the documents provided for by Article 159 of the CC CU, depending on the means of transport used for the movement of goods, unless otherwise provided for by the CC CU, as well as the documents, confirming the compliance with prohibitions and restrictions.[17]

The carrier has the right to present electronic copies of the documents.

1.2.1.8. Temporary Storage of Goods

To place goods for temporary storage, the carrier, Customs broker, or their representatives must submit to the Customs authority transport (shipment), commercial and/or Customs documents containing information on the goods, consignor (consignee) of goods, and

[16] Article 158 of the CC CU.

[17] Article 163 of the CC CU.

country of dispatch (destination).[18] The Customs authority registers the received documents and issues a certificate of document registration.

Such documents may be submitted to the Customs authority in electronic form.

1.2.1.9. Placement of Goods under a Customs Procedure

The CC CU defines Customs procedure as a set of rules establishing the requirements and conditions of use and/or disposal of goods for Customs purposes inside or outside the Customs territory of the Customs Union.[19]

The placement of goods under Customs procedure begins from the time a Customs declaration and/or documents required to place goods under a Customs procedure in cases prescribed by the CC CU are submitted to the Customs authority. Goods, subject to veterinary, phytosanitary and other types of State control may be placed under Customs procedure only after appropriate control.[20]

While placing goods under Customs procedure, the persons determined in the CC CU, are obliged to submit to the Customs authorities all documents and information required for the release of goods. The list of documents and information required for the release of goods and the deadlines for their submission are determined by the CC CU.[21]

In cases, provided for by the CC CU, the documents, required for the release of goods, may be supplied in electronic form.

The forms of Customs documents are determined by a decision of the CU Commission. In accordance with international treaties of the Member States of the Customs Union and international treaties of the Russian Federation with foreign States, Customs documents of other States used for Customs purposes, may be used with a view to facilitate and speed up the release of goods.[22]

1.2.1.10. Customs Declaring of Goods

---

[18] Article 169 of the CC CU.

[19] Sub-Paragraph 26 of Paragraph 1 of Article 4 of the CC CU.

[20] Article 174 of the CC CU.

[21] See below in sections on Customs declaration and certain Customs procedures.

[22] Paragraphs 5, 6 of Article 176 of the CC CU.

When placing goods under Customs procedure, and in some other cases determined by the CC CU, goods are subject to Customs declaration by the declarant or the Customs broker acting on their behalf and under their instructions.

Until the international agreement of the CU Member States, which will allow for the presentation of the goods declaration to any Customs authority on the territory of the Customs Union, enters into force, goods declarations may be submitted to the Russian Customs authorities only by those persons or entities, who are declarants of the goods and are created or registered in Russia, or have a permanent residence in Russia.[23]

In compliance with the CC CU, Customs declaration may be carried out in paper and/or electronic format with the use of a Customs Declaration. Depending on the declared Customs procedures and the persons who move the goods, the following kinds of Customs declarations apply: goods declaration, transit declaration, Customs passenger declaration, transport vehicle declaration.

The CC CU establishes the type of information to be stated in the goods declaration[24], transit declaration[25] and stipulates that the forms and procedure to complete a Customs declaration be determined by a Decision of the CU Commission.[26] Consequently, the Commission adopted Decisions № 257 of 20 May 2010 and № 289 of 18 June 2010, which determined the forms of goods declaration, transit declaration, as well as box completion guidelines, which entered into force on 1 January 2011.

The Decision of the CU Commission № 422 of 14 October 2010 approved the forms of Customs declaration for the transport vehicle and the Instruction of the Procedure of Completing a Customs Declaration for the Transport Vehicle, which entered into force on 1 January 2011.

In addition, the CU Commission adopted over twenty codes and classifiers, used when filling in Customs declarations.[27]

The Customs declaration, submitted to the Customs authorities must be accompanied[28] by the documents, which were used for filling it in, such as:

- documents confirming the authority of the person submitting Customs declaration;

---

[23] Paragraph 1 of Article 368 of the CC CU. Some exceptions to this rule are provided for by Paragraph 2 of Article 186 of the CC CU.

[24] Article 181 of the CC CU.

[25] Article 182 of the CC CU.

[26] Article 180 of the CC CU.

[27] See the Decision of the CUC № 378 of 20 September 2010. See also the Letter of the FCS of the RF № 01-11/64683 of 31.12.2010 “On Classifiers, Used for Completing Goods Declarations”.

[28] With the exception of some cases, established by the CC CU.

- documents confirming the conclusion of a foreign economic transaction and, in the absence of a foreign economic transaction, other documents confirming the right of possession, use and/or disposal of goods, and other commercial documents available to the declarant;
- documents for transport (shipment);
- documents confirming compliance with prohibitions and restrictions;
- documents confirming the compliance with restrictions related to the application of special safeguards, antidumping and countervailing measures;
- documents certifying the country of origin of the goods in the cases stipulated in the CC CU;
- documents confirming the declared classification code of goods under the Commodity Nomenclature for Foreign Economic Activity;
- documents confirming the payment and/or guarantee of payment of Customs duties and charges;
- documents confirming the right to apply Customs preferences concerning the payment of duties and taxes, full or partial exemption from Customs duties and taxes in accordance with the Customs procedures established by the CC CU, or to the limitation of base (taxable base) to calculate Customs duties and taxes;
- documents indicating any change in the deadlines for paying Customs duties and taxes;
- documents confirming the declared Customs value of the goods and the chosen method of determining the Customs value of the goods;
- a document confirming the compliance with the requirements of foreign exchange control in accordance with the Russian currency control legislation;
- a document on the registration and nationality of the means of international transportation, in the case of moving goods by road, and if they are placed under the Customs transit procedure.[29]

In accordance with the Customs legislation of the Customs Union or the legislation of the Russian Federation, the list of documents presented while declaring goods to Customs authorities may be limited depending on the form of Customs declaration (paper or electronic), type of Customs declaration and the Customs procedure, the categories of goods and persons involved.[30]

[29] Paragraph 1 of Article 183 of the CC CU.

[30] Paragraph 2 of Article 183 of the CC CU, paragraphs 1 and 2 of Article 208 of the Federal Law № 311-FZ of 27 November 2010 "On the Customs Regulation in the Russian Federation".

The originals of the documents or their copies must be submitted while declaring goods at Customs. If documents used for the Customs declaration of goods have been presented to Customs authorities earlier, it is enough to submit copies of the documents or information that such documents have been submitted to the Customs authorities earlier.

Some Customs procedures require the submission of the following additional documents:[31]

- a document on the conditions of treatment of goods within the Customs territory, when the goods are placed under a Customs procedure of processing the goods inside the Customs territory;[32]
- a document on the conditions of processing goods outside the Customs territory, when goods are placed under the Customs procedure of processing outside the Customs territory;[33]
- a document on the conditions of processing goods for domestic consumption, when the goods are placed under the Customs procedure of processing goods for domestic consumption;[34]
- documents confirming the date of the movement of goods across the Customs border at their export (in the case of re-import);[35]
- documents, containing the following information: on the circumstances relating to the importation of goods into the Customs territory of the Customs Union; on the failure to comply with the terms and conditions of a foreign economic transaction, on the placement of those goods under a Customs procedure of release for domestic consumption, on the use of goods after their placement under a Customs procedure of release for domestic consumption (in the case of re-export);[36]

---

[31] Article 184 of the CC CU.

[32] Article 240 of the CC CU. In Russia, such a document may be an authorisation, issued by the Federal Customs Service, the form and the content of which is established by the Order of the SCC of RF № 1014 of 15 September 2003 "On Authorisation for the Treatment of Goods within the Customs Territory", as amended on 4 March 2004, 8 June 2007, and 22 April 2009.

[33] Article 253 of the CC CU. In Russia such a document is an authorisation, issued by the Federal Customs Service in accordance with the Order of the Federal Customs Service № 267 of 14 March 2008 "On the Instruction on Completing Some Customs Operations while Using the Customs Regime of Treatment outside the Customs Territory", as amended on 20 February, 24 April, 14 September, and 25 December 2009.

[34] Article 265 of the CC CU. In Russia such a document is the authorisation issued by the Federal Customs Service, the content of which is established by Decree № 812 of 07.05.09 of the Federal Customs Service on the Instruction for Completing Some Customs Operations while Using the Customs Regime of Treatment for Domestic Consumption, as amended on 25 December 2009.

[35] Article 294 of the CC CU.

[36] Article 299 of the CC CU.

- a report on a possible destruction,[37] and in cases, where goods have been irrevocably lost as a result of accident or force majeure; documents confirming the fact of loss resulting from an accident or force majeure, when placing goods under the Customs procedure of destruction[38].

Customs authorities also register electronically the date and time a Customs declaration is submitted, its electronic copy and accompanying documents.[39] Customs authorities must register the Customs declaration within two hours after it is submitted, or refuse to register it.[40] The order of registration, refusal to register the goods declaration and the formalities of refusal to release the goods are determined by the Decision of the CU Commission № 262 of 20 May 2010.

The Customs Code of the Customs Union allows using transport (shipment), commercial and/or other documents, containing the information necessary for the release of goods in accordance with the procedure of Customs declaration. The cases and the order of use of these documents as a Customs declaration are determined by the Instruction approved by the Decision of the CU Commission № 263 of 20 May 2010.[41]

This Instruction provides for two alternatives: first, when the declarant or Customs broker submits a written application on paper together with the abovementioned documents to the Customs authorities, or, second, when a list of goods is submitted.

When filing an application, transport (shipping), commercial and/or other documents may be used as a Customs declaration regarding the goods, declared for release for domestic consumption and for export[42], as well as express cargo, declared for release for domestic consumption, export, re-export or re-import, if the goods are undergoing the Customs procedure under this Instruction.

One copy of the application is returned to the declarant or Customs broker, the other copy is kept by the Customs authorities.

---

[37] This concerns the reports, made by specially authorized officials in accordance with the legislation of the Russian Federation on the environmental protection, established by the bodies of state ecology and sanitary-epidemiological control, in case there is a reason to think that the destruction can damage the environment or be harmful, directly or potentially, for the life and health of people (see the Order of the FCS № 457 of 11 April 2007 "On the Instructions Regarding Some Customs Operations when Using the Customs Regime of Destruction", as amended on 25 December 2009.

[38] Article 308 of the CC CU.

[39] Paragraph 2 of Article 190 of the CC CU.

[40] Paragraph 3 of Article 190 of the CC CU.

[41] This Instruction was amended by the Decision of the CU Commission № 359 of 17 August 2010.

[42] The total Customs value of the declared goods not exceeding the amount, equal to 200 Euros, and in cases provided for by the legislation of the CU Member States, of the amounts, equal to 1000 Euros, as well as while observing some other conditions, set out in the Instruction.

The use of transport (shipment), commercial and/or other documents accompanied by a list of goods is allowed with regard to categories of goods specifically mentioned in the Instruction. For example, these are goods required for sports competitions and trainings, concerts, festivals, religious, cultural and other events, samples for exhibitions and fairs, as well as for media coverage of official and other events. These goods are declared under Customs procedure of temporary import for the period not exceeding one year, if such goods are subject to complete conditional exemption from payment of Customs taxes and duties. Under special conditions identified in the Instruction, such a list may be provided for: containers; palettes; packages and other reusable packing; excise-duty and/or special stamps printed in the CU Member States; and live animals.

Each page of the list is signed by the person who has filled it in and certified by a seal. The list must be accompanied by documents, which are listed in the Code and are required for the decision on the release of the goods.

Upon the decision of whether or not to release the goods, the Customs official should make the appropriate marks on the copies of the list, specifying the date of the decision. The official then certifies by his/her signature and a seal containing his/her personal number.

One copy of the list is returned to the declarant or Customs broker, the other is kept by the Customs authority.

A Customs declaration on foreign goods may be submitted before their importation into the Customs territory of the Customs Union. If transport (shipping) or commercial documents accompanying the goods have to be used for a pre-arrival declaration of goods, the Customs authority accepts copies of these documents, certified by the declarant, or the information from these documents in electronic form, and after the arrival of the goods, the Customs authority compares the information contained in the copies of the mentioned documents with the information contained in the originals, including electronic documents.[43]

During both the regular and the pre-arrival declaration of the goods, the information stated in the Customs declaration may be changed or completed before the goods are released, upon authorization from the Customs authority following a motivated written request by the declarant.[44] Any request of the declarant or Customs broker to changes and/or amend the information stated in the declaration after the release of goods, is made in a free form, stating the grounds for such amendments, the declaration registration number and the list of accompanying

[43] Article 193 of the CC CU.

[44] Articles 191 and 193 of the CC CU, respectively.

documents. The request should be accompanied by an amended declaration of the goods, filled in according to the form, its electronic copy and the documents mentioned in the list.[45]

1.2.1.11. Characteristics of Customs Procedures with Respect to Certain Categories of Goods

Special rules of Customs clearance are established with regard to some categories of goods.

With some exceptions, the Customs declaration of *goods sent in international postal packaging* is based on documents listed by the acts of the World Postal Union. These documents accompany international postal items and contain the information, necessary for the release of the goods according to the stated Customs procedure.[46]

With regard to *goods containing intellectual property*, the CC CU stipulates that the Customs authority is responsible for applying measures to protect the intellectual property rights (IPR) of rights holders for such items (if the Customs authority observes a violation of IPR, it should suspend the release of goods).[47] Such measures may apply with regard to goods, containing intellectual property only on condition that such objects are included in the Customs register established by the Customs authority of a CU Member State, or in the common Customs register of the intellectual property of the CU Member States. These objects are included in the register upon request from intellectual property rights holders.

The Federal Customs Service of the Russian Federation manages the common Customs register of intellectual property rights of the CU Member States in compliance with the Decision of the CU Commission № 290 of 18 June 2010. According to the Regulations, approved by this Decision, the objects of intellectual property are included in the common register by the FCS of the Russian Federation on condition that central Customs authorities of other CU Member States have sent their positive decision.

Intellectual property rights holders should prepare applications for inclusion into the common register in a number of copies corresponding to the number of CU Member States. All copies of the applications and the enclosed documents are sent to the central Customs authority

---

45 See the Decisions of the CU Commission № 255 of 20 May 2010 “On the Order of Amending the Declaration for the Goods After the Release of Goods”, and № 256 “On the Order of Amending the Declaration on Goods Before Making a Decision Regarding their Release During Preliminary Customs Declaring”.

46 Article 314 of the CC CU. See also the Instruction On the Order of Use of the Documents, Foreseen by the Acts of the World Postal Union as a Customs Declaration, approved by the Decision of the CU Commission № 310 of 18 June 2010.

47 See Chapter 46 of the CC CU as well as Chapter 42 of the Federal Law № 311-FZ of 27 November 2010 "On the Customs Regulation in the Russian Federation".

of the relevant CU Member State, and that authority then forwards the copies prepared for the central Customs authorities of the other CU Member States within ten working days. The latter have thirty days to prepare their conclusions on the possibility of including the objects of intellectual property into the common register. If the application and the accompanying documents are filed in electronic format, then the copies can be forwarded to the other CU Member States in electronic form, in case appropriate technical means are available.

As to the movement of goods across borders via *pipelines or power transmission lines*, the procedure is determined both by the CC CU and, with regard to the issues, not covered in it, by Russian legislation. The procedure may also be regulated by international treaties of the Russian Federation.

The CC CU stipulates that while transporting goods across the Customs border via pipeline, the volume is determined on the basis of data provided by counting devices, documents on the transaction volumes signed under a foreign trade contract, certificates of acceptance, certificates of the quality of the goods and other similar documents, which certify the targeted distribution of the volumes of the produced, supplied and consumed goods, transported through pipeline for a given accounting period, determined in accordance with the legislation of the CU Member States.[48]

When declaring natural gas transported via pipeline to Customs, certificates of the actual supplies are used to confirm its quantity and quality, based on data of counting devices located at the place of delivery to contractors, as determined by the terms and conditions of the foreign trade contracts.[49]

The CC CU stipulates that the quantity of supplied electrical power is determined on the basis of data from counting devices, certificates of actual supply of energy under the relevant foreign trade contract, certificates of acceptance and other documents, confirming the actual movement of electric power, such as net flow of electrical power per each calendar month, unless otherwise stipulated in the legislation of the CU Member States.[50]

The CC CU sets out some peculiarities regarding the Customs declaration of the *means of international transportation* at their temporary import into the Customs territory of the Customs Union and subsequent export, as well as for their temporary export from the territory of the Customs Union and their subsequent import.[51] In this case, the Customs declaration of the said

---

48 Paragraph 5 of Article 335 of the CC CU . See also Article 312 of the Federal Law № 311-FZ of 27 November 2010 "On the Customs Regulation in the Russian Federation".

49 Paragraph 7 of Article 335 of the CC CU.

50 Paragraph 3 of Article 336 of the CC CU. See also Article 313 of the Federal Law № 311-FZ of 27 November 2010 "On the Customs Regulation in the Russian Federation".

51 Article 350 of the CC CU.

means of transport means submitting a Customs declaration for the vehicle by the carrier to the Customs authority.

Standard documents of the carrier, defined in international treaties in the area of transport, signed by the Russian Federation, may be used as a Customs declaration, if such documents contain information on the international transportation vehicle, its route, cargo, supplies, crew and passengers, purpose of importation/exportation of the means of transport, and/or name of spare parts and equipment transported for repair or operation of the international transport vehicle.

If standard documents submitted by the carrier do not contain all necessary information, the Customs declaration of the international transport vehicle takes the form of filing a Customs declaration for the transport vehicle in an established format, the standard documents, submitted by the carrier are considered as integral part of the Customs declaration for the transport vehicle.

1.2.1.12. Use of Electronic Forms and Information Technologies in the Process of Customs Clearance

The use of electronic forms and information technologies for the Customs clearance of import, export and transit of goods is covered in the CC CU, in general. As foreseen in the CC CU, some matters are regulated through decisions of the CU Commission. In some cases, the CC CU stipulates that these issues be within the competence of the CU Member States.

The Code establishes, as a rule, that Customs operations may be performed with the use of information systems and information technologies; including those based on electronic data interchange (EDI) methods and the means of their support.[52]

The matters of *use of electronic forms* are covered by several provisions of the CC CU.

The provisions of the CC CU regarding Customs declaration[53] foresee the possibility of submitting a Customs declaration in both paper and electronic formats. An electronic cop should accompany a Customs declaration submitted on paper.[54]

The CU Commission has also adopted a number of decisions regarding electronic declaration.

The Instruction on the Order of Registration or Refuse to Register a Declaration for the Goods, approved by the Decision of the CU Commission № 262 of 20.05.2010, stipulates that a

[52] Article 43 of the CC CU.

[53] Articles 179, 180, 182, 190 of the CC CU.

[54] Unless otherwise is provided for by the CC CU, a decision of the CU Commission or the legislation of the CU Member States in cases, foreseen by the Decision of the CU Commission.

goods declaration must be submitted to the Customs authority together with the documents used for its completion, as well as its electronic copy, with the exception of the cases, provided for by the legislation of the Customs Union, where it is not required to submit an electronic copy of the declaration for goods, and/or of such documents. The date and time the declaration for goods, its electronic copy and the necessary documents are submitted, is registered by the official of the Customs authority in the register on a hard copy and/or in electronic form. Electronic declaration should include the date and time of the goods declaration, which should be registered by the Customs authority in the computer system.

The Instruction on the Amendments of the Declaration of Goods after the Release of Goods, approved by the Decision of the CU Commission № 255 of 20.05.2010, adopted according to Article 190 of the CC CU, stipulates that amendments must be made in both the paper and electronic versions of the goods declaration. The application for amendment, done by the declarant or Customs broker, must be accompanied by the corrected goods declaration in a prescribed form, and should be accompanied by its electronic copy.

The Decision of the CU Commission № 421 of 14 October 2010 approved the structures and formats of the electronic copies of the goods declaration and transit declaration, and the form for corrections to the goods declaration, which entered into force on 1 January 2011[55]. A transition period until 1 July 2011 is introduced for the implementation of the approved structures and formats of electronic copies of Customs declarations. Within this period it is allowed to apply structures and formats of electronic copies of Customs declarations, approved by national legislations of the CU Member States.

The Decision of the CU Commission № 494 of 8 December 2010 approved the Instruction on the Procedure of Submitting and Using a Customs Declaration in an Electronic Document Format, and established that the deadline for accepting an electronic Customs declaration (ECD) by the Customs authorities of the CU Member States is determined by their national legislation. The Instruction entered into force on 1 January 2011. The Structures and formats of the ECD shall be determined by the legislation of the Customs Union and/or the legislation of the CU Member States.

With regard to Russian legislation, Federal Law № 311-FZ of 27 November 2010 "On Customs Regulation in the Russian Federation" establishes the general rule that documents required under the Customs legislation of the Customs Union and the Customs legislation of the Russian Federation, including the Customs Declaration, may be submitted in electronic format, provided that the requirements for documenting the information established by the legislation of

[55] The Decision of the CUC № 451 of 18 November 2010 made some amendments into the mentioned structures and formats.

the Russian Federation are met[56].

Federal Law № 311-FZ also foresees that the goods declaration is submitted in electronic format. However, the Government of the Russian Federation has the right to determine the lists of goods, Customs procedures, as well as the cases, when the declaration may be filed on paper.[57] Besides, the transition provisions of the mentioned Law foresee, that until 1 January 2014 Customs declaration may be done in either paper or electronic format, at the option of the declarant.[58] In case the goods declaration is submitted on paper, it should be accompanied by its electronic copy.[59] If Customs declaration is made in electronic format, the goods declaration should be signed by an electronic digital signature.[60] When goods are declared electronically, the Customs computer system automatically registers the date and time the declaration is filed, and an electronic message to the declarant, containing information on the said date and time, is generated automatically.[61]

Notably, the Communication of FCS of RF № 04-44/61493 of 16.12.2010 "On Customs Control" states, in particular, that in cases when in the process of electronic declaration it becomes necessary to control, in the paper copies of transport (shipment) and/or commercial documents. the existence of marks on the control of goods by other State bodies responsible for the control of goods and means of transport at border crossing points of the the Customs Union, the Customs official shall ensure that an electronic request to supply additional documents, absent from the list, is sent to the person who declares the goods, stating what information on the marks must be submitted. The declarant should reply in a free-form document, described in the Album of Electronic Layouts of Documents used in information exchange between Customs authorities and the computer systems of organizations working in the Customs field. This document should then be sent to the Customs authority following the established procedure.

In the Customs declaration procedure, accompanying documents used for the completion of the declaration may be submitted in electronic format in accordance with the relevant provisions in the CC CU. The Customs legislation of the Customs Union establishes the

[56] Paragraph 2 of Article 99 of the said Law. See also the Order of the FCS of the RF № 1331 of 14.07.2010 regarding the possibility of using electronic form of declaration with respect to the goods, subject to such non-tariff regulation as licensing and (or) quotes.

[57] Paragraph 1 of Article 204 of the said Law.

[58] Paragraph 4 of Article 322 of the said Law. It is interesting to note, that the Draft of this Law, sent to the State Duma of the RF, foresaw that the stages, time limits and the procedure of transition to the submission of information for Customs purposes in electronic form, were determined by the Government of the Russian Federation, taking into account the possibility of transition to electronic declaration from 1 January 2011.

[59] Paragraph 5 of Article 204 of the said Law.

[60] Article 207 of the said Law.

[61] Paragraph 1 of Article 206 of the said Law.

procedure of submitting and using electronic documents.[62] The abovementioned Instruction on the Procedure of Submitting and Using Electronic Customs Declaration, approved by the Decision №494 of the CU Commission of 8 December 2010, foresees, that while performing Customs operations using electronic Customs declarations, the documents, which must be submitted under the Customs legislation of the Customs Union, shall be submitted in electronic format and/or on paper, unless otherwise established by the Customs legislation of the Customs Union and/or the legislation of the CU Member States.

According to the Procedure of Declaring Customs Value, adopted by the Decision № 376 of the CU Commission of 20 September 2010, the declaration of the Customs value should be submitted together with its electronic copy. The Procedure also states that the declaration of the Customs value may be submitted in electronic form in cases, established by the Customs legislation of the Customs Union and/or legislation of the CU Member States.

Decision № 450 of the CU Commission of 18 November 2010 approved the structure and format of an electronic copy of the declaration of the Customs value (form ДТС-1), as well as the structure and format of the electronic copy of an adjustment of declaration of the Customs value and Customs payments (forms КТС-1 and КТС-2). The Commission asked the Customs authorities of the CU Member States to adapt their IT systems for the use of the mentioned structures and formats not later than 1 July 2011.

Establishing the possibility of preliminary (pre-arrival) Customs declaration of goods, the CC CU sets out that if transport (shipping) or commercial documents accompanying the goods have to be used for Customs purposes at the pre-arrival Customs declaration of goods, the Customs authority accepts copies of these documents, which are certified by the declarant, or information from these documents in electronic format. After the arrival of the goods at the Customs control point, the Customs authority compares the information contained in the copies of the mentioned documents with the information contained in the originals, including the electronic documents.[63]

The Instruction on the Procedure of Amending the Goods Declaration before the Decision on the Release of Goods during a Pre-Arrival Declaration, approved by Decision №256 of the CU Commission of 20.05.2010, adopted under Article 193 of the CC CU, foresees that the adjusted goods declaration must be submitted together with the adjusted electronic copy of the goods declaration .

---

[62] Article 183 of the CC CU.

[63] Article 193 of the CC CU.

The CC CU allows for submitting electronic versions of the documents for other Customs operations.

Consequently, pre-arrival information on goods intended for movement across the Customs border, including means of transport carrying these goods, the time and place of the arrival or departure of the goods in or from the Customs territory of the Customs Union, may be submitted in electronic format.[64]

An application may be filed to the Customs authority regarding a preliminary decision on the classification of goods according to the Commodity Nomenclature for Foreign Economic Activity.[65]

By establishing the obligation of the carrier to submit documents and information described in Article 159 of the CC CU when notifying the Customs authority about the arrival of goods into the Customs territory of the Customs Union, the CC CU gives the carrier the right to submit those documents in electronic format.[66] The same right is given to the carrier regarding the submission of the documents at the departure of goods from the Customs territory of the Customs Union.[67]

Transport (shipment), commercial and/or Customs documents containing information on the goods, the consignor (consignee) of the goods, and the country of their dispatch (destination) may be submitted in electronic format when placing goods in a temporary warehouse.[68]

The documents, necessary to release the goods may be submitted in electronic document format, in compliance with the CC CU.[69]

The Customs authority is entitled to request, and the declarant is obliged to submit, documents and information necessary for Customs control in both paper and electronic formats.[70] With regard to Customs inspection, under the CC CU, the inspected person must present information and documents upon request of the Customs authorities in a timely manner and regardless of the type of data carrier, attaching paper versions of the respective documentation.[71]

The CC CU contains a number of provisions regarding *information systems and information technologies* in the Customs sphere.

---

[64] Article 42 of the CC CU.

[65] Article 54 of the CC CU.

[66] Article 158 of the CC CU.

[67] Article 163 of the CC CU.

[68] Article 169 of the CC CU.

[69] Article 176 of the CC CU.

[70] Article 98 of the CC CU.

[71] Article 135 of the CC CU.

In particular, the Code stipulates that information systems and information technologies should be introduced with due consideration for the relevant international standards and requirements for information security. Customs authorities use information systems, information technologies and means of their support, which are developed, manufactured or purchased by Customs authorities in accordance with the legislation and/or international agreements of the CU Member States. The conditions and procedures for the use of information systems, information technologies, safety and maintenance facilities, data protection software, as well as requirements for the organization of electronic information exchange are determined by the Customs legislation of the Customs Union and the legislation of the CU Member States[72]. For the purposes of cooperation between the Customs authorities within the Customs territory of the Customs Union an integrated information system and information technology are created[73].

Regarding *the information resources* of Customs authorities, information exchange among themselves and with other bodies, the CC CU stipulates that the information resources of Customs authorities are created based on documents and information submitted during the Customs operations, as well as documents required for these operations. These also include databases that are created, processed and stored in the information systems of the Customs authorities. The information resources of the Customs authorities, except for those related to the Customs legislation of the Customs Union, are based on limited access.[74]

Information exchange between Customs authorities, including information exchange using of information systems and information technologies, takes place in accordance with the international agreements signed by the CU Member States[75]. In addition, the exchange of information and/or documents required for Customs and other State control, with the use of IT, between Customs authorities and other control agencies (which interact at the border) with a view to increase the efficiency of Customs controls of goods transported across the Customs border.[76]

The CC CU stipulates that a number of issues be regulated *in accordance with the legislation of the CU Member States*. These include:

---

[72] See Chapter 7 of the Federal Law № 311-FZ of 27 November 2010 "On the Customs Regulation in the Russian Federation".

[73] Article 43 of the CC CU.

[74] Article 44 of the CC CU.

[75] Articles 46 and 124 of the CC CU.

[76] Article 103 of the CC CU.

requirements related to information security, which must be taken into account while introducing information systems and information technologies in the Customs sphere;[77]

requirements related to the development, manufacturing and purchase by the Customs authorities of information systems, information technologies and maintenance facilities;[78]

definition (in addition to the Customs legislation of the Customs union) of the conditions and procedures for using information systems, information technologies, means of maintenance and data protection software, as well as requirements for the organization of electronic information exchange;[79]

procedure for creating information resources by Customs authorities and rules of access to them;[80]

rules for protection of data and the rights of persons participating in information processes and informatization;[81]

procedure and conditions for the participation of Customs authorities in international information exchange with Customs authorities of foreign states, with international and other organization;[82]

form and procedure of keeping a register of the date and time of submission of goods declarations and accompanying documents and their electronic copies, done by a Customs officer (in paper and/or electronic format);[83]

procedure of amending information stated in the goods declaration, according to the adjusted goods declaration at the pre-arrival Customs declaration of goods, by correcting the electronic version of the goods declaration;[84]

possibility of entitling a Customs broker or another person, acting under the instructions of the carrier, to submit documents on behalf of the carrier.[85]

In addition, in cases covered by a decision of the CU Commission, the Customs legislation of the CU Member States may set out that the filing of a Customs declaration in paper format should not be accompanied by an electronic copy.[86] The issue of the possibility of

---

77 Article 43 of the CC CU.

78 Article 43 of the CC CU.

79 Article 43 of the CC CU.

80 Article 44 of CC CU.

81 Article 45 of the CC CU.

82 Article 46 of the CC CU.

83 The Decision of the CUC № 262 of 20.05.2010.

84 The Decision of the CUC № 256 of 20.05.2010.

85 Article 158 of the CC CU.

86 Article 180 of the CC CU.

submitting documents, used for the electronic completion of a Customs declaration later and not together with the declaration, is left to the discretion of the Customs legislation of any CU Member State.[87]

1.2.2. Legislation and Regulations with Respect to Sanitary Control

Sanitary control regulation is covered, as a whole, in a number of international treaties of the Russian Federation, concluded within the frameworks of the CIS, EurAsEC and the Customs Union. ***The Agreement of the Customs Union on Sanitary Measures*** of 11 December 2009 is of highest interest for the purposes of this study.

This Agreement establishes, in particular, that importation of controlled goods into the Customs territory and circulation of controlled goods within the Customs territory of the Customs Union take place upon presentation of a document confirming the safety of products (goods). Under the Agreement, this is a document (sanitary-epidemiological certificate, certificate of State registration) certifying the conformity of products (goods) subject to sanitary-epidemiological surveillance (control) and safety requirements for human health, and is issued by authorized agencies.

The Agreement covers the means of transport and controlled goods included in the Single List of goods subject to sanitary-and-epidemiologic surveillance (control) at the Customs border and on the Customs territory of the Customs Union[88] (hereinafter referred to as the Single List of Goods).

The controlled goods are goods, chemical, biological and radioactive substances, wastes and other goods that are hazardous to humans, food, materials and goods moved across the Customs border of the Customs Union and the Customs territory of the Customs Union, which are subject to State sanitary-epidemiological surveillance (control) in accordance with the laws of the Parties to the Agreement.

The Parties recognize the documents, confirming the safety of products (goods), included in the Single List of Goods, issued by authorized bodies under the Common Form and certifying the conformity of the products (goods) to the Common Sanitary Requirements.

On the basis of the relevant provisions of the Agreement, the CU Commission approved in its Decision №299 of 28 May 2010 the Single List of Goods, the Common Sanitary-Epidemiological and Hygienic Requirements to Goods Subject to Sanitary-Epidemiological

[87] Article 183 of the CC CU.

[88] http://ec.europa.eu/food/international/trade/docs/CU_SPS_requirements_list_goods_en.pdf

Surveillance (Control), hereinafter referred to as the Common Sanitary Requirements; the Single Layout for Documents Confirming the Safety of Products (Goods); and the Provisions on the Procedure of State Sanitary and Epidemiological Surveillance (Control) of Persons and Vehicles Crossing the Customs Border of the Customs Union, Controlled Goods Transported Across the Customs Border of the Customs Union and within the Customs Territory of the Customs Union. Those documents have entered into force and should be applied since 1 July 2010.

The Single List of Goods, approved by the said Decision of the Commission, contains three sections. Section I contains the list of goods subject to sanitary and epidemiological surveillance (control). Section II covers the list of goods subject to State registration[89]. Section III concerns the list of goods subject to the submission of a certificate of State registration irrespective of the code, obtained under the CN FEA CU in accordance with the list of goods subjects to State registration.

Controlled goods included in Section II of the Single List of Goods are imported into the territory of the Customs Union provided they are accompanied by a document certifying the safety of products (goods) This document is issued on the basis of the results of tests conducted in the laboratories of authorized agencies accredited (certified) by the national accreditation (certification) systems of the Parties. These agencies are included in the Common Register of Certification Bodies and Testing Laboratories (Centres) of the Customs Union.

The following may serve as the proof of the existence of the document certifying the safety of products (goods):

- the original of the document that certifies the safety of the products (goods) or its copy certified by the body that issued this document or by its recipient;
- an excerpt from the Register of Certificates of State Registration stating the parameters of the document confirming the safety of the products (goods), the name of the products (goods), the manufacturer, the recipient and the body that issued the document confirming the safety of the products (goods); or
- an electronic copy of the documents mentioned above certified by electronic digital signature.

The documents confirming the safety of the products (goods), issued by one Party to the Agreement, are recognized without reissuing the said documents in the document format of the destination country and without making new laboratory tests.

[89] Controlled goods, manufactured at the territory of the Customs Union for the first time, as well as imported into the Customs territory of the Customs Union for the first time and included in the exhausted list in Section II of the CNFEA CU are subject to state registration.

If transport (shipping) and/or commercial documents contain information that the imported goods correspond to the definition of goods under Section III of the Single List of Goods, these goods may be imported into the Customs territory of the Customs Union without documents confirming their safety.

The Provisions on the Procedure of Production of Common Form of Documents, Certifying the Safety of Products (Goods), hereinafter referred to as the Provisions, set out the procedure for preparing and issuing a certificate on the State registration of goods, included in Section II of the Single List of Goods.[90]

According to these Provisions, authorized bodies of the Parties work on obtaining the document confirming the safety of products (goods), upon request from relevant individual entrepreneurs and legal persons. The manufacturer (producer) of controlled goods issues an application to obtain documents on controlled goods manufactured in the Customs territory of the Customs Union. With regard to controlled goods manufactured outside the Customs territory of the Customs Union, the manufacturer (producer), supplier (importer) of controlled goods, issues the application.

The following documents must be submitted to obtain the certificate confirming the safety of the controlled goods, manufactured within the Customs territory of the Customs Union:

- application;
- copies of the documents, in compliance with which the goods are manufactured (standards, technical requirements, regulations, process message, specifications, formulas, composition data), certified by the manufacturer (producer);
- copies of the manufacturer's (producer's) document, certifying the safety and quality of the tested samples in compliance with the legislation of the Party, in which State registration was made;
- a document of the manufacturer (producer) on the use (exploitation, application) of controlled goods (instruction, manual, regulation, recommendation) or its copy, certified by the manufacturer (if any);
- copies of labels (packages) or their layout regarding controlled goods, certified by the applicant;
- copies of documents on the specific activity of biologically active additives (for preparations that contain unknown components, unofficial prescriptions), certified by the applicant;

[90] Appendix №1 to the Common Form of the Certificate on State Registration, approved by the Decision of the CUC № 299 of 28 May 2010.

- a report on sampling (testing);
- a statement by the manufacturer (producer) on the presence of genetically modified (transgenic) organisms, nano-materials, hormones, pesticides in foodstuffs;
- protocols of sampling (tests), research reports, expert reports;
- excerpts from the Single State Register of Legal Entities or the Single State Register of Individual Entrepreneurs.

The following documents must be submitted to obtain the document confirming the safety of controlled goods manufactured outside the Customs territory of the Customs Union:

- application;
- copies of the documents that regulate the manufacturing of goods (standards, technical requirements, regulations, process message, specifications, formulas, data on the composition), certified in compliance with the legislation of the Party, in which the registration was made;
- a statement by the manufacturer (producer) on the presence of genetically modified (transgenic) organisms, nano-materials, hormones, pesticides in foodstuffs;
- a document of the manufacturer (producer) on the use (exploitation, application) of controlled goods (instruction, manual, regulation, recommendation) or its copy certified by the manufacturer (if any);
- copies of the manufacturer's (producer's) document certifying the safety and quality of the tested samples, certified in accordance with the legislation of the Party, where the State registration was made;
- copies of labels (packages) of products, certified by the applicant;
- originals or copies of the documents on the specific activity of biologically active additives (for preparations that contain unknown components, unofficial prescriptions), certified in accordance with the legislation of the Party, where the State registration was made;
- originals or copies of the documents on toxicological characteristics of preparations (for pesticides, agrochemicals, agents for the protection and regulation of the growth of plants), certified in accordance with the legislation of the Party where the State registration was made;
- a copy of the document allowing for the free circulation of the controlled goods on the territory of the manufacturer's (producer's) State, certified in accordance with the legislation of the Party, in which the State registration was made, or a document, which

certifies that such information is not required, and which is issued in accordance with the legislation of the manufacturer's (producer's) State;

- protocols of research (tests), scientific reports, expert reports;
- copies of the documents confirming the importation of samples of the controlled goods into the Customs territory of the Customs Union, which are certified in accordance with the legislation of the Party, in which the State registration was made.

The translated copies of the manufacturer's (producer's) documents into foreign languages must be certified in accordance with the legislation of the Party, in which the State registration was made;

The applicants may be required to submit additional documents, as stipulated in the legislation of the Party, in which the State registration was made.

The deadlines for issuing documents confirming the safety of products (goods) may not exceed 30 calendar days from the date the application was made. The authorized agencies make their decision to issue the permission documents on the basis of positive results of the examination of the submitted documents and of the laboratory tests of controlled goods. The certificate of State registration is valid from the date it is issued until the end of the supply of these goods into the Customs territory of the Customs Union and/or of the manufacturing of the goods within the Customs territory of the Customs Union. The document, confirming the safety of products (goods) is printed on a registered high-security form, which prevents its falsification. The protection level of the form is determined by the legislation of the Party, in which the State registration was made.

In accordance with the Regulation on the Register of Certificates of State Registration[91], such a Register is developed in electronic format, as a database protected from damage and unauthorized access. It is also periodically published on digital data carriers. Officials of authorized agencies of the Parties prepare and enter information on the issued certificates of State registration into the Register, and make reports on the issued certificates. The authorized agencies of the Parties submit information to the Register in electronic format as soon as the information on issued certificates on State registration is entered in the corresponding national registers.

Sanitary and quarantine controls of vehicles arriving to (departing from) the Customs territory of the Customs Union, as well as of controlled goods at the Customs border of the Customs Union, must be performed in accordance with the Regulation on the Procedure of State Sanitary and Epidemiological Surveillance (Control) of Persons and Vehicles Crossing the

[91] Appendix № 2 to the Common Form of the Certificate on State Registration, approved by the Decision of the CUC № 299 of 28 May 2010.

Customs Border of the Customs Union, Controlled Goods Transported across the Customs Border of the Customs Union and within the Customs Territory of the Customs Union.[92]

With regard to vehicles, the above mentioned control consists, among others, of assessment of the information received from the crew (captain or other responsible member of the crew) of the aircraft, sea (river) transport vehicle before its arrival, according to: the sanitary part of the general declaration of an aircraft; the sea medical and sanitary declaration for a sea (river) transport vehicle; the verification of the sanitary part of the general declaration of an aircraft, of the sea medical and sanitary declaration of a sea (river) transport vehicle, the certificate on the sanitary control of a sea (river) transport vehicle, the certificate on the exemption of a sea (river) transport vehicle from sanitary control, the sanitary and route journal for railway transport.

Sanitary and quarantine control of the controlled goods within the Customs territory of the Customs Union represents, among others, the control of documents confirming the safety of the products (goods), their conformity with transport (shipping) and/or commercial documents, as well as participation (upon request from Customs authorities) in the control of transport (shipping) and/or commercial documents.

The Federal Consumer Rights Protection and Human Health Control Service (Rospotrebnadzor) is the State agency in Russia authorized to carry out sanitary and quarantine control.[93] Taking into account that the Customs Union Agreement on Sanitary Measures entered into force on 1 July 2010 and that the Customs Union adopted new rules for the transportation of goods, Rospotrebnadzor made some clarifications.[94]

Rospotrebnadzor announced that from 1 July 2010, it does not issue sanitary and epidemiological certificates on the conformity of products to State sanitary and epidemiological rules and norms, as well as certificates on State registration. The certificates, issued before that date remains valid within the territory of the Russian Federation until 1 January 2012.

---

92 Annex № 4 to the Decision of the CU Commission № 299 of 28 May 2010.

93 See the Regulation on the Federal Consumer Rights Protection and Human Health Control Service, approved by the Resolution of the Government of RF № 322 of 30 July 2004, as amended on 23 May, 14 December 2003, 29 September, 7 November 2008, 16 July, 8 August 2009, 20 February, 15 June 2010.

94 See the Letter of Rospotrebnadzor № 01/9646-0-32 of 20.06.2010 "On Entry into Force of the Customs Union Agreement on Sanitary Measure", the Letter № 01/9848-0-32 of 02.07.2010 "On the Application of the Customs Union Documents", the Letter № 01/9950-0-23 of 05.07.2010 "On the State Registration of Goods on the Territory of the Customs Union and on the Territory of the Russian Federation", the Letter № 01/10220-0-32 of 12.07.2010 "On the Activities Regarding the Normalization of Works, Connected with the Implementation of the Customs Union Agreement on Sanitary Measures", the Letter № 01/10733-10-31 of 20.07.2010 "On the Order of Implementation of Sanitary and Quarantine Control at Border Crossing Points of the Customs Union", the Letter № 01/112590-0-23 of 29.07.2010 "On State Registration of Controlled Goods within the Territory of the Russian Federation and Customs Union".

Rospotrebnadzor clarified that Section I of the Single List of Goods, subject to sanitary and epidemiological surveillance (control) at the Customs border of the Customs Union includes the products subject to State sanitary and epidemiological control and to Common Requirements. No certificates are required for these products at sanitary and epidemiological control points, nor is it not necessary to obtain a stamp "Import Authorized", except for goods listed in Sections II and III of the Single List of Goods.

While carrying out sanitary and quarantine control of the products included in Section II of the Single List of Goods, it is necessary to provide certificates of State registration issued by the Customs Union, or sanitary and epidemiological certificates and certificates of State registration issued before 1 July 2010. From 1 July 2010, Rospotrebnadzor issues certificates of State registration under the common form of the Customs Union with regard to products included in Section II of the Single List of Goods, and from 6 July 2010 its territory subdivisions issue certificates for some categories of goods. The validity of those certificates of State registration is not limited in time and covers the whole territory of the Customs Union, provided the goods are in conformity with the Common Sanitary, Epidemiological, and Hygienic Requirements for Goods, Subject to Sanitary and Epidemiological Surveillance (Control). If an applicant applies for a certificate of conformity with the legislation of the Russian Federation, certificates of State registration of goods issued under the common form are valid only within the territory of the Russian Federation until 1 January 2012. No permission documents are required for products not included in Section II of the Single List of Goods.

No certificate of State registration is required for products included in Section III of the Single List of Goods, but a stamp "Import Authorized" is required.

1.2.3. Legislation and Regulations Regarding Quarantine and Phytosanitary Controls

The Customs Union Agreement on Plant Quarantine **of 11 December 2009** is the main international agreement, signed by the Russian Federation, which covers the provisions on quarantine phytosanitary control within the framework of the Customs Union. Under that Agreement, quarantine phytosanitary surveillance (control) of goods included in the List of Quarantine Products Subject to Phytosanitary Control takes place at the Customs border of the Customs Union and within the Customs territory of the Customs Union

The Agreement stipulates that quarantine products are plants, products of vegetable origin, packing, packaging, cargo, soil, organisms, or materials that can be carriers of objects

under quarantine and/or facilitate their dissemination, for which it is necessary to apply quarantine phytosanitary measures.

The Agreement stipulates that quarantine products be imported into the Customs territory of the Customs Union based on a quarantine import permit. This permit is issued by an authorized body of the importing State, Party to the Agreement, using a form prescribed by the law of this Party, and accompanied by a phytosanitary certificate on export or re-export, which is issued by a competent authority in the exporting (re-exporting) country, in a form established by the International Convention on Quarantine and Protection of Plants (Rome, 1951, as amended in 1997)[95]. Each shipment of quarantine products, transported from the territory of one CU Member State to the territory of another, must be accompanied by a phytosanitary certificate issued by the exporting State under the form, specified in the Convention. The Parties to the Convention have undertaken to recognize phytosanitary certificates, issued by their authorized bodies.

The Agreement provides that the CU Commission shall approve the List of Quarantine Products, the Regulations on Quarantine Phytosanitary Control (Surveillance) at the Customs Border of the Customs Union, and the Regulation on Quarantine Phytosanitary Control (Surveillance) within the Customs Territory of the Customs Union. These documents were approved by Decision №318 of the CU Commission of 18 June 2010 "On Plant Quarantine within the Customs Union",[96] which entered into force on 1 July 2010.

The Regulation on Quarantine Phytosanitary Control (Surveillance) at the Customs Border of the Customs Union, approved by the said Decision of the CU Commission, sets out that each shipment of quarantine products, specified in the List of Quarantine Products imported into the Customs territory of the Customs Union, is subject to quarantine phytosanitary control (surveillance). Quarantine phytosanitary control (surveillance) on the importation of goods is exercised at the point where Customs clearance is completed.[97] The preliminary inspection of quarantine products, which Customs clears at the place of delivery, takes place upon arrival of the goods, and the second inspection at the points of completion of the Customs clearance.

The Regulation specifies that "place of completion of Customs clearance" means the place where the Customs authorities release the quarantine products, in accordance with the

[95] The Convention allows issuing "electronic equivalents" of certificates, if they are accepted by the Contracting Party to the Convention.

[96] These documents were amended by the Decision of the CU Commission № 341 of 17 August 2010. This Decision approves technical conditions regarding the format and regulation of the submission of information from National Registers of Certificates of State Registration and Common Register of the Certificates of State Registration.

[97] With the exception of the control, exercised while importing quarantine products, in transit through the Customs territory of the Customs Union to the third countries, provided it is transported in hermetic, intact and sealed wagons, trucks, containers and refrigerator trucks. In these cases the control is carried out in points of arrival of quarantine products.

declared Customs procedure, except for the procedure of Customs transit. It also specifies that "place of delivery" means, as defined in the CC CU, the place at which the consignment of goods placed under quarantine and under the Customs procedure of Customs transit arrives.

The Regulation stipulates that documentary inspection is one of the constituent elements of quarantine phytosanitary control, during which the following documents must be submitted to an official of the authorized agency:

- commercial and transport (shipment) documents for the consignment of imported goods under quarantine;
- a phytosanitary certificate for the imported consignment of goods under quarantine, in case the consignment of products under quarantine is of high phytosanitary risk (with some exceptions). This certificate is a document in an internationally recognized layout, which accompanies the products under quarantine, which is issued by an authorized body of the exporting State in a form established by the Rome Convention on the Quarantine and Protection of Plants, and which confirms the phytosanitary condition of the products under quarantine;
- an import quarantine permit for the imported consignment of goods under quarantine, in case this consignment is of high phytosanitary risk[98] (with some exceptions). This permit determines the phytosanitary requirements to quarantine products of high phytosanitary risk. An authorized body of the CU Member State, on the territory of which the Customs clearance is completed, issues these requirements. The Regulation also provides for uploading the information on phytosanitary requirements in the Information System of EurAsEC Regarding Technical Regulation, Sanitary and Phytosanitary Measures, and in the Integrated Information System for Foreign and Mutual Trade of the Customs Union (ИИСВВТ);
- an authorization to import items due to be placed under quarantine (pests) for scientific research purposes, in case the importation of such items (pests) is subject to authorization issued in accordance with the legislation of the CU Member State.

The results of the quarantine phytosanitary control at the place of arrival are registered by:

- an official of an authorized body of the CU Member State, responsible for quarantine phytosanitary control, who signs (stamps) an authorization in the phytosanitary certificate (if any) and transport (shipping) document, in case the quarantine

[98] The Regulation foresaw, that the requirement to submit this document became invalid from 1 January 2011, but the Letter of Rosselkhoznadzor of 31.12.2010 announced that it continues issuing import quarantine permits..

phytosanitary control (surveillance) leads to authorizing the importation of a consignment of quarantine goods, or of its placement under Customs procedure of transit.

- drafting a report on the quarantine phytosanitary control (surveillance), in case the quarantine phytosanitary control (surveillance) leads to a prohibition of the importation a consignment of quarantine products or to placing it under the Customs procedure of Customs transit, or to a conditional authorization of the importation of the consignment of quarantine products. The legislation of the CU Member States may foresee that the drafting of such a report, in case the quarantine phytosanitary control (surveillance) at the place of delivery results in authorizing the importation of the consignment of quarantine products. The legislation of the CU Member States determines the forms of permission marks (stamps) and reports of the quarantine phytosanitary control (surveillance). The authorized agencies inform each other about the forms used for permission marks (stamps) and reports.

At the exportation of quarantine products from the Customs territory of the Customs Union, it is necessary to take into account the phytosanitary requirements of the importing country. If the a phytosanitary certificate should accompany the products under quarantine, an authorized body of a CU Member State issues such certificates in accordance with the legislation at the place of dispatch.

The Regulation on Quarantine Phytosanitary Control (Surveillance) at the Customs Territory of the Customs Union establishes the order of conducting quarantine phytosanitary control regarding quarantine products, transported within the Customs territory of the Customs Union, in cases, where the place of dispatch and the place of destination of the shipment of quarantine products are located in the territories of different CU Member States and the transported shipment of quarantine goods is not placed under the Customs procedure of Customs transit, or under the Customs procedure of export of goods from the Customs territory of the Customs Union.

According to the said Regulation, the conformity of a shipment of quarantine goods of high phytosanitary risk to the phytosanitary requirements of the country of destination is confirmed by a phytosanitary certificate, issued by an authorized body of the State of dispatch of the goods, which is valid 30 calendar days since the day of issue. The authorized bodies of the CU Member States mutually recognize the phytosanitary certificates issued by them. With a view to coordinate their activities, the authorized bodies of the State of dispatch of the goods must notify the authorized bodies of the State of destination regarding the issuance of

phytosanitary certificates, using the Integrated Information System for Foreign Trade and Mutual Trade of the Customs Union.

Officials of the authorized agency of the State of destination carry out document inspection at the place of destination for the quarantine phytosanitary controls. In order to carry out documentary controls, an official must receive the transport (shipping) documents for the shipment of quarantine products and a phytosanitary certificate for the shipment of quarantine products of high phytosanitary risk.

In its Decision №340, the CU Commission adopted the form of information in phytosanitary certificates, issued by authorized bodies of the CU Member States in the area of plant quarantine in order to provide for provisional technologies for the exchange of the said information on quarantine products, transported into the territory of another CU Member State.

The authorized body for quarantine phytosanitary control (surveillance) in Russia is the Federal Service for Veterinary and Phytosanitary Control.[99]

1.2.4. Legislation and Regulations Related to Veterinary Control

The Customs Union Agreement on Veterinary and Sanitary Measures of 1 December 2009 is the main international agreement, signed by the Russian Federation, which regulates veterinary control in the Customs Union. The Agreement specifies that veterinary control (surveillance) takes place at the Customs border of the Customs Union, and within its Customs territory with regard to goods included in the Common List of Products Subject to Veterinary Control (Surveillance), hereinafter referred to as the Common List, and transported across the Customs border of the Customs Union and within the Customs territory of the Customs Union,.

The Agreement defines veterinary control (surveillance) as the activity of authorized bodies aimed at preventing the importation and distribution of pathogenic contagious animal diseases, including those common to humans and animals, and goods (products) which do not conform to veterinary (veterinary and sanitary) requirements, as well as activities aimed at the

[99] See the Regulation on the Service for Veterinary and Phytosanitary Surveillance, adopted by the Resolution of the Government of RF № 327 of 30 June 2004, as amended on 4 August 2005, 23 May, 19 June, 20 November, 14 December 2006, 1 November 2007, 25 January, 11 June, 7 November 2008, 27 January 2009, 27 January 2010, 13 April, 15 June 2010. It should be noted that the Decree of the President of RF № 1274 of 24 September 2007 delegated the functions of the Federal Service for Veterinary and Phytosanitary Surveillance with regard to Control and Surveilance of Aquatic Biological Resources and their Life Environment to the State Fishery Committee of RF.

prevention, detection, and suppression of violations of the legislation of the Customs Union and of CU Member States.

Controlled goods must comply with the Common Veterinary (Veterinary and Sanitary) Requirements for Goods, Subject to Veterinary Control (Surveillance) (further referred to as Common Veterinary Requirements). They are subject to mandatory veterinary control (surveillance) in accordance with the Regulation on the Common Procedure of Veterinary Control at the Customs Border of the Customs Union (further referred to as the Regulation on the Common Control Procedure).

The Agreement sets out that goods subject to veterinary control may be imported into the Customs territory of the Customs Union provided they are accompanied by an authorization, issued by an authorized body located in the importing country and by a veterinary certificate, issued by a competent authority of the country where these goods were dispatched.

Controlled goods, which are placed under the Customs procedure of transit, are transported within the Customs territory of the Customs Union in accordance with the Regulation on Common Control Procedure. Controlled goods are transported from the territory of one Member State of the Customs Union to the territory of another Member State of the Customs Union in accordance with the Common Veterinary Requirements and are accompanied by a veterinary certificate.

The parties mutually recognize veterinary certificates issued by authorized bodies under common forms, adopted by the CU Commission.

The Agreement sets out that the Common List, the Common Veterinary Requirements, the Regulation on the Common Control Procedure, and the Regulation on the Common Procedure for Joint Control of Objects and Taking Samples of Goods (Produce) Subject to Veterinary Control (Surveillance) are approved by decision of the CU Commission. Those documents, as well as the Common Forms of Veterinary Certificates were adopted by virtue of Decision №317 of the CU Commission of 18 June 2010 “On the Application of Veterinary and Sanitary Measures within the Customs Union”.[100] This Decision, and the documents approved by it, entered into force 1 July 2010.

The Regulation on the Common Control Procedure, approved by the said Decision of the CU Commission, sets out that controlled goods must be accompanied by veterinary certificates

[100] The said Common Veterinary Requirements and the Regulation on Common Control Procedure were amended by the Decision of the CU Commission № 342 of 17 August 2010. Particularly, it is foreseen that before the Common Register of Organisations and Persons, Producing, Processing and/or Storing Controlled Goods, Imported into the Customs Territory of the Customs Union is made, when issuing authorising documents for import of controlled goods and exercise of veterinary control at the Customs border of the Customs union, the authorised bodies of the Parties need to be governed by lists of enterprises of foreign states, with regard to which the import of controlled goods is allows, published on official Web-pages of authorised bodies of the Parties.

during their importation, exportation, or transit, and their movement within the Customs Union from the territory of one CU Member State into the territory of another CU Member State. The authorized bodies of the CU Member States issue veterinary certificates and certify the absence of animal diseases in the administrative territories where those goods have been produced.

After the veterinary controls for issuing veterinary certificates of compliance with the Common Veterinary Requirements, protocols of laboratory tests are, made by the laboratories, which have to be accredited with the national accreditation systems of the CU Member States and included in the Common Register of the Bodies for Certification and Testing Laboratories (Centres) of the Customs Union in accordance with the Agreement of 11 December 2009 on the Circulation of Products Subject to Mandatory Evaluation (Confirmation) of Conformity with the Requirements within the Territory of the Customs Union.

Controlled goods are imported into the Customs territory of the Customs Union, provided they are accompanied by an import permit issued by an authorized body of a CU Member State, where controlled goods are imported, and/or by a veterinary certificate, issued by a competent authority of the country dispatching controlled goods. The said permit remains valid within a calendar year with regard to the volumes of goods, determined in the import permit.

The Regulation on Common Control Procedure allows the importation of controlled goods into the Customs territory of the Customs Union by exporting enterprises listed in the Register of Organizations and Persons Producing, Processing and/or Storing Controlled Goods Imported into the Customs Territory of the Customs Union, according to the procedure, established in the Regulation on Common Procedure for Joint Control of Objects and Taking Samples of the Goods (Products), Subject to Veterinary Control (Surveillance).

After the veterinary control for import is completed, a corresponding decision is adopted and the accompanying documents are stamped according to the established form: “import authorized”, “submit for veterinary surveillance”, “import prohibited” or “return of goods”, and after that the official of the border veterinary control point seals and signs the documents, stating his/her name and initials.

All necessary information is included in the register of movement of controlled goods across the Customs border gate under the established form, and, as soon as the system of digital registration comes into force, must be entered in this system.

An export permit and a veterinary certificate are required for the export of controlled goods from the Customs territory of the Customs Union. Export permits and veterinary certificates are issued by an authorized body in accordance with the legislation of the corresponding CU Member State.

Animals and primary products of animal origin are transited through the Customs territory of the Customs Union in accordance with the transit permit, issued by an authorized body of a CU Member State, on the territory of which the goods are supposed to cross the Customs border of the Customs Union at their importation. Such a permit must indicate the route of transportation. The transit of other types of controlled goods takes place without any permits issued by authorized bodies of the Parties.

After controlling goods in transit at the importation of goods into the Customs territory of the Customs Union, the shipping documents and the veterinary certificate are stamped under the established form: “Transit Authorized” or “Transit Prohibited”, and at the point of exportation from the Customs territory of the Customs Union “Export Authorized”. The official certifies it with seal and signature, stating his/her last name and initials.

All necessary information is included in the register of transit traffic under the established form, and, as soon as the system of digital registration is introduced, must be entered in this system.

While transporting (shipping) controlled goods within the Customs Union from the territory of one CU Member State into the territory of another CU Member State, such goods must, during the time of their transportation (shipment), be accompanied by veterinary certificates, issued by officials of authorized bodies of the CU Member States under the form, established by the said Decision of the CU Commission.[101] In these cases, veterinary certificates are issued after the controlled goods have been inspected at their loading and assessed, provided the territory of origin of the controlled goods is free of epizootics and the controlled goods are in conformity with the Common Veterinary Requirements.

Importation, transportation and use of medicaments and supplementary feeds for use by the veterinary service within the Customs territory of the Customs Union takes place if the authorized bodies of the CU Member States have authorized them. The CU Member States mutually recognize the results of registration of medications and supplementary feeds for use by the veterinary service.

The importation and transportation of medications and supplementary feeds, produced through chemical and microbiological synthesis, do not require a veterinary certificate, provided they are accompanied by a document, which certifies their quality and safety, and which is issued by a manufacturing enterprise.

The Regulation on the Common Control Procedure provides for some special features regarding the registration of controlled goods at sea border-crossing points. Thus, when

[101] With some exceptions, provided for by the Common Veterinary Requirements (see below).

controlled goods arrive in containers, an official of the veterinary border control point must receive the following documents from the captain of the sea vessel:

- a copy of an ocean bill of lading;
- a feeder bill of lading (stating the number of the veterinary certificate, the name of the consignee, consignor, goods, their quantity and weight);
- a general declaration.

At the importation of controlled goods by sea, the veterinary control takes place after the veterinary services of the exporting countries submit preliminary notifications on the actual dispatch of specific shipments to consignees, who carry out their activities within the Customs territory of the Customs Union, in an electronic form specified in the Annex to the Common Control Procedure.

Notably, the Regulation on the Common Control Procedure foresees that while performing their duties, the officials of the border veterinary control points must cooperate with: officials of other bodies of executive power, which are authorized to carry out control at the border crossing points; administrations of the border crossing points (within the frames of the technical scheme of cooperation of control authorities at border-crossing points of the Customs territory of the Customs Union); ship owners; brokers firms and services; other agencies and organizations; as well as veterinary specialists working at border-crossing points of other States.

The final provisions of the Regulation on the Common Control Procedure state that as soon as the authorized bodies of the CU Member States acquire the necessary level of technical readiness, the registration (re-registration) and issuance of veterinary certificates for controlled goods will be done through a common electronic system.

The Regulation on the Common Control Procedure of Joint Control of Objects and Taking Samples of the Goods (Produce) Subject to Veterinary Control (Surveillance), approved by the above mentioned Decision of the CU Commission, determines that such control must be made with regard to organizations and persons, which manufacture, process and/or store controlled goods and are located on the territory of third States.

In particular, the above mentioned Regulation stipulates that joint control is carried out upon request of competent authorities of third countries in order to include the organizations and persons, residing on their territory, in the Register of the Organizations and Persons, Producing, Processing and/or Storing Controlled Goods Imported into the Customs Territory of the Customs Union, hereinafter referred to as the Register of Third Countries Enterprises.

Authorized bodies of the CU Member States, where controlled goods are supposed to be imported from third countries, maintain the said Register under a procedure foreseen by the legislation of those States. The authorized bodies of those States forward the information,

contained in the Register to the CU Commission, to be fed into the Information System for Foreign Trade and Mutual Trade of the Customs Union (ИИСВВТ).

The organizations or persons, residing on the territory of a third country, may be included in the Register without a preliminary joint inspection, upon agreement by the authorized bodies of other CU Member States, under the decision of an authorized body of a CU Member State, where the controlled goods are supposed to be imported, adopted on the bases of a guarantee of a competent veterinary authority of a third State. An authorized body of the CU Member State, which adopted such a decision, has the right to carry out any consequent joint control of the said control object.

The Common Veterinary Requirements approved by the CU Commission contain, along with the general requirements, detailed requirements with regard to specific types of goods subject to veterinary control.

In particular, the General Provisions of the Common Veterinary Requirements specify that importation of controlled goods into the Customs territory of the Customs Union is allowed only from those farms and enterprises of third States, which are included in the Register of the Organizations and Persons, Producing, Processing, and/or Storing Controlled Goods Imported into the Customs Territory of the Customs Union.

Organizations and persons manufacturing, processing and/or storing controlled goods included in the Register of Organizations and Persons Producing, Processing, Transporting and Storing Controlled Goods Transported from the Territory of One Party into the Territory of another Party have the right to move controlled goods from the territory of one CU Member State to the territory of another.

The Common Veterinary Requirements, as well as the Regulation on the Common Control Procedure set out that, with the exception of cases foreseen by those Regulations, controlled goods are transported from the territory of one CU Member State to the territory of another CU Member State, accompanied by a veterinary certificate, issued by authorized bodies of the CU Member States, and aligned to the Common Form, approved by the CU Commission.

At the same time, the Common Veterinary Requirements allow authorized bodies of the CU Member States to agree on a bilateral basis with the competent authorities of third countries, to align the veterinary certificate forms for controlled goods imported into the common Customs territory of the Customs Union. The CU Commission must receive samples of the mentioned aligned veterinary certificates, in order to forward them to the Customs border crossing points of the Customs Union or to other places designated by the legislation of the CU Member States.

The Common Veterinary Requirements contain a list of controlled goods manufactured (produced) within the Customs territory of the Customs Union, the movement of which between

the CU Member States is accompanied by documents[102] confirming their conformity with the quality and safety requirements in the legislation of the CU Member States.

The final provisions of the Common Veterinary Requirements specify that until the new common electronic system for issuing permits for the importation of controlled goods into the Customs territory of the Customs Union, its Member States will follow the procedures for issuing permits, as foreseen in their national legislation as of 1 July 2010.

Decision №342 of the CU Commission of 17 August 2010[103] amended the final provisions of the Common Veterinary Requirements. It allows for the use of veterinary certificates, following the layout for documents, initialized by the Party and the exporting countries as of 1 July 2010, in the mutual trade of the Parties with third countries. Controlled goods, imported into the Customs territory of the Customs Union under such veterinary certificates from third countries, must conform to the Common Veterinary and Sanitary Requirements of the Customs Union and may circulate only within the territory of the Party, which imported the goods.

Common forms for veterinary certificates entered into effect 1 July 2010.

The Federal Service for Veterinary and Phytosanitary Surveillance (Rosselkhoznadzor) is the agency responsible for veterinary control (surveillance) in Russia[104].

In accordance with the Rules on the Organization of Work on Issuing Accompanying Veterinary Documents[105], the territorial bodies of Rosselkhoznadzor issue veterinary certificates. Some forms of the certificates are issued for cargo, exported from the territory of the Russian Federation, instead of veterinary certificates issued by subsidiary bodies of the veterinary bodies of the executive power of the Russian Federation.

---

[102] The said documents (their copies) must be stamped (marked) by an official of an authorised veterinary body under the form of a veterinary certificate, approved by the CU Commission, certifying safety of primary products, which served for the production of goods and epizootic security of the place where products were manufactured.

[103] By this Decision the CU Commission also approved the form of the register of organizations and persons, producing, treating, and (or) storing controlled goods, transported from the territory of one CU Member State to the territory of another CU Member State; the form of the register of organizations and persons, producing, treating, and (or) storing controlled goods, imported in the Customs territory of the Customs Union; technical requirements as regards format and regulation of the transfer of those forms.

[104] See the Regulation on the Federal Service for Veterinary and Phytosanitary Surveillance, approved by the Resolution of the Government of the RF № 327 of 30 June 2004, as amended on 4 August 2005, 23 May, 19 June, 20 November, 14 December 2006, 1 November 2007, 25 January, 11 June, 7 November 2008, 27 January 2009, 27 January 2010, 13 April, 15 June 2010). It should be noted that the Decree № 1274 of 24 September 2007 of the President of the RF delegated the functions of the Federal Service for Veterinary and Phytosanitary Surveillance in the Field of Control and Surveilance of Aquatic Biological Resources and Their Environment to the State Committee for Fishery of RF.

[105] Approved by the Order of the Ministry of Agriculture of the RF № 422 of 16 November 2006, as amended on 14 August 2007, 19 March, 4 December 2008, 5 May 2009, and 19 March 2010.

Other forms of certificates are used for cargo, imported into the territory of the Russian Federation, instead of veterinary certificates issued by exporting countries to accompany cargo within the territory of the Russian Federation from the point of Customs clearance to the place of destination, in case of their re-routing between entities in the Russian Federation, as well as in other cases.

Accompanying veterinary documents are issued on secure document head paper, registered in the common computerized system, which is also a protected on level A. Filled in counterfoils of the accompanying veterinary documents should be stored for three years by the bodies subsidiary to the veterinary agency of the Russian Federation, and the local bodies of Rosselkhoznadzor.

After the Agreement of the Customs Union on Veterinary and Sanitary Measures entered into force and the above-mentioned documents were approved by the CU Commission, Rosselkhoznadzor issued clarifications on some matters, regulated by those documents.[106]

In particular, it clarified that permits for the importation of goods, subject to veterinary control, into the Customs territory of the Customs Union are issued by the central State veterinary inspector of the CU Member State, into which the controlled goods are imported.

Until the introduction of the common electronic system of registration and issuance of permits for the importation of controlled goods into the Customs territory, permits for importation will be sent by the central veterinary agencies of the Republic of Kazakhstan and the Republic of Belarus to the territorial bodies of Rosselkhoznadzor, by forwarding scanned copies to electronic mail addresses in the Rosselkhoznadzor system. The heads of territory administrations of Rosselkhoznadzor must assure the transfer of information to the border crossing points. Permits for importation into the territory of the Russian Federation are registered within Argus computerized information system, created by Rosselkhoznadzor.

Information on violations of the veterinary and sanitary requirements, revealed during the inspection of controlled goods at the places of destination within the territory of the Russian Federation, which have arrived through border crossing points on the outside border of Belarus and Kazakhstan, must be sent in a timely manner to Rosselkhoznadzor to pre-identified electronic mail addresses. A scanned copy of the report on veterinary and sanitary control should be attached.

Attention should be paid to the practical application of the mentioned Argus computerized system (State Veterinary Register). According to information published on the Rosselkhoznadzor web page, the main objective of the Argus system is to computerize the

[106] See the Letter of Rosselkhoznadzor № FA-NV-2/8191 of 9 July 2010.

process of reviewing applications for import, export or transit of animals, products and primary products of animal origin, as well as the process of issuing permits or refusals.

At this moment, the Argus system functions only as a web-application, and Internet access is necessary to work with it. The system is accessible through an ordinary web-browser. In order to enter a sub-system of the Argus system, the user must type the address in the browser URL bar and undergo an authentication procedure, by introducing user name and password, given at the registration in the system. In order to receive login name and password, the economic agent must apply to a body of the veterinary administration of the Subject of the Russian Federation, in the location where the application for export/import of controlled goods is filed.

An executive of the veterinary administration of the corresponding Subject of the Russian Federation sends an application from his e-mail address in the Rosselkhoznadzor system to the FGU VNIIZZH at the address argus@fsvps.ru. The message must specify the name of the economic agent, its taxpayer number and be signed with a digital electronic signature. Messages received from external e-mail systems, as well as messages not signed with a digital signature, will not be considered.

After receiving access details, the executive gives them to the economic agent against presentation of a document, confirming his/her authority. The confidentiality of the information transferred must be secured.

Rosselkhoznadzor develops other computerized information systems. It works on implementing the hardware-software web-oriented “Vesta” system, targeted at computerizing the process of gathering, transfer and analysis of information on laboratory tests of samples of controlled products carried out in the framework of diagnostics, alimentary safety, quality of food and forage, quality and safety of medicaments for animals, and other tests. One of the functions of “Vesta” is computerized veterinary reporting in the mentioned fields of activities, including computerized generation and emergency sending of confidential data.

A federal system of electronic certification of controlled goods, called “Mercury”, is being launched. Its major difference from the current paper-based certification system, according to its authors, is that it will be unified and used by the Customs Union. Currently, a Temporary Warehouse sub-system is in operation (http://www.fsvps.ru/vetcontrol-svh).

Rosselkhoznadzor is also developing an information system called “Cerberus”. This system is expected to automate, streamline and systematize the legal aspects of veterinary inspection.

1.2.5. Legislation and Regulations Related to the Control of Compliance with Technical Regulations and Standards

Technical regulation matters are reflected in some international treaties signed by the Russian Federation, which were concluded both within the frames of the Customs Union and EurAsEC. In this study, we should focus on the following provisions of these agreements.

Thus, ***the Agreement on the Basis for Harmonization of the Technical Regulations of the Member States of the Eurasian Economic Community,*** concluded in 2005, covers mainly the development and implementation of EurAsEC's technical regulations. The Parties to this Agreement undertook to guarantee that products in circulation conform with the EurAsEC technical regulations, in the territories of their States, without applying additional requirements to the products and procedures of conformity assessment.

The Agreement on the Application of the Common Mark for the Circulation of Products on the Market of the Member States of the Eurasian Economic Community of 19 May 2006 stipulates that products bearing this mark should be sold within the territories of the EurAsEC Member States without re-issuing the documents confirming their conformity, which were issued under the legislation of the EurAsEC Member State, where these products were first released on the market.

The Agreement on Coordinated Policy in the Field of Technical Regulation, Sanitary and Phytosanitary Measures of 25 January 2008, establishes, among others, that the products, covered by the technical regulations of EurAsEC, are released for circulation within the territory of any Member State, provided they have passed the procedure of assessment of conformity within the territory of any of the Parties, in accordance with technical regulations, set out by EurAsEC. The procedure of the assessment, established in the EurAsEC technical regulations, takes place in the form of registration, testing, confirmation of conformity (declaration of conformity, certification), expertise, or State control (surveillance) in another form.

The documents on assessment (confirmation) of conformity of the products, covered by the EurAsEC technical regulation, issued by a certification body of a Member State, equally apply on the territory of other Member States, without the need to carry out additional assessment (confirmation) of conformity.

Until the technical regulations of EurAsEC enter into force, the products subject to mandatory common requirements established by the Parties, as well as common forms and schemes of compulsory assessment (confirmation) of conformity (declaration of conformity

and/or certificate) may freely circulate within the common Customs territory, if the products have undergone the established procedure of assessment (confirmation) of conformity within territory of any Member State.

The documents on assessment (confirmation) of conformity, issued outside the common Customs territory, including the results of tests of products originating from third countries, imported for circulation within the common Customs territory are recognized, provided all Member States have signed the corresponding international agreements.

The Agreement also provides for the creation (based on a separate agreement) of a EurAsEC informational system in the area of technical regulation, sanitary and phytosanitary measures for the exchange of various information on those matters among authorized national bodies.

The Agreement on the Free Circulation of Products Subject to Mandatory Assessment (Confirmation) of Conformity within the Customs Territory of the Customs Union of 11 December 2009 covers the matters of creating the conditions for the free circulation of goods within the Customs territory of the Customs Union. This Agreement covers products subject to mandatory assessment (confirmation) of conformity, imported into the common Customs territory, as well as products transported from the territory of one Member State to the territories of other Member States. It will be in force until the EurAsEC technical regulations regarding those goods enter into effect.

In order to implement this Agreement, a Common Register of Certification Bodies and Testing Laboratories (Centres) of the Customs Union, a Common List of Products Subject to Confirmation of Conformity within the Customs Union, accompanied by unified documents, as well as registration of certificates of conformity and declarations of conformity, will be established.

The Agreement sets out that a declaration of conformity of products, manufactured on the territory of a Member State, shipped to another Member States, and subject to declaration of conformity in the destination Member State, is carried out by the manufacturer in the Member State, where these products were produced, or by the importer in the destination Member State in accordance with the legislation of the destination Member State.

With regard to the said provision of the Agreement, the CU Commission set out[107] that manufacturers of products originating from a CU Member States have the right to make declarations on the conformity of products to national technical regulations or declarations of

[107] See the Decision of the CU Commission № 344 of 17 August 2010 "On the Application of the First Part of Article 6 of the Agreement on the Movement of Goods Subject to Mandatory Assessment (Confirmation) of Conformity within the Customs Territory of the Customs Union of 11 December 2009".

conformity of products, included in national lists of products subject to mandatory assessment (confirmation) of conformity, foreseen in the legislation of the CU Member State, and release the products into circulation in the territory of any of those States, without involving residents (legal entities) of the State, where those goods are put in circulation. The products must conform to the requirements of the legislation of the CU Member State, where it is put in circulation and a conformity declaration must be registered in a certification body, accredited in accordance with the requirements of the legislation of this State.

The Agreement on Mutual Recognition of Accreditation of Certification (Assessment (Confirmation) of Conformity) and Testing Laboratories (Centres), Carrying out Assessment (Confirmation) of Conformity of 11 December 2009 regulates the issues of coordinated policy in the field of accreditation. The Parties agreed on a mutual recognition of accreditation of certification bodies for the assessment (confirmation) of conformity and of testing laboratories (centres), which assess (confirm) the conformity of goods, in the framework of the national systems of accreditation of the Parties to the Agreement, provided some conditions, listed in the Agreement, are observed.

By its Decision № 319 of 18 June 2010 "On Technical Regulation within the Customs Union", the CU Commission adopted, in accordance with the mentioned Agreements, a set of documents:

Regulation on the Procedure of Including Certification Bodies and Testing Laboratories (Centre) into the Common Register of Certification Bodies and Testing Laboratories (Centres) of the Customs Union, as well as the Procedure of its Creation and Maintenance;[108]

Regulation on the Creation and Maintenance of the Common Register of Issued Conformity Certificates and Registered Conformity Declarations, Issued under the Common Form;

Common Forms of Conformity Certificates and Conformity Declarations;

Regulation on the Procedure of Import of Products (Goods), Subject to Mandatory Assessment (Confirmation) of Conformity, into the Customs Territory of the Customs Union;

Regulation on the Coordination Committee for Technical Regulation, Implementation of Sanitary, Veterinary, Phytosanitary Measures;

Common List of Products Subject to Mandatory Conformity Assessment (Confirmation) in the Customs Union, Accompanied by Issuing Common Documents.

Those documents entered into effect on 1 July 2010.

[108] The Common Register of the Bodies for Certification and Testing Laboratories (Centres) of the Customs Union is approved by the Decision of the CU Commission № 343 of 17 August 2010.

In addition, in the said Decision, the CU Commission requested the Governments of the CU Member States to apply, from 1 July 2010, the lists of products, subject to mandatory assessment (confirmation) of conformity, according to their legislation (hereinafter referred to as national lists) and the Common List of Products in accordance with the regulation thereof, contained in the Annex to the Decision of the Commission.

Since 1 July 2010 authorized bodies of the CU Member States are obliged to ensure the creation and maintenance of the national sections of the Common Register of Certification Bodies and Testing Laboratories (Centres) of the Customs Union and national parts of the Common Register of the Issued Conformity Certificates and Registered Conformity Declarations, executed under the Common Form, as well as their timely publication on their official web-pages, and issue letter-headed blanks of conformity certificates, printed under the Common Form.

Since 1 July 2010, Customs authorities follow the Regulation on the Procedure of Import of Products (Goods) Subject to Mandatory Assessment (Confirmation) of Conformity into the Territory of the Customs Union, in the control of goods registered in the Common List of Products and national lists.

The Decision also sets out that until 1 January 2012, conformity certificates and conformity declarations with regard to products listed in the Common List of Products are issued upon the choice of the applicant under the common forms and/or the legislation of the CU Member States; while with regard to products of foreign manufacturers, originating outside the Customs territory of the Customs Union, conformity certificates or conformity declarations are issued in accordance with the legislation of the CU Member State or conformity certificates are issued under the Common Form.

The Decision foresaw that provisions on the transition for the notice (declarative) filing of conformity declaration, including the possibility of electronic filing from 1 January 2011, will be prepared before 1 September 2010[109].

In the context of the current study, it seems practical to start examining the documents, approved by the CU Commission by considering the Regulation on the Procedure of Import of Products (Goods), Subject to Mandatory Assessment (Confirmation) of Conformity, into the Customs Territory of the Customs Union.

This Regulation foresees that the Customs declaration for goods, submitted to the Customs authorities, should be accompanied by one of the documents confirming compliance

[109] As of 1 February 2011, there is no information regarding the preparation of the said provisions at the CUC website.

with the restrictions established by a technical regulation (hereinafter referred to as conformity documents). Among those documents are:

- Conformity certificate and other documents, provided for by the legislation of the CU Member State where the goods are placed under Customs procedures;
- Conformity declaration, provided for by the legislation of the CU Member State where the goods are placed under Customs procedures;
- Conformity certificate of the Customs Union, issued under the Common Form, for the goods registered in the Common List of Products Subject to Mandatory Conformity Assessment (Confirmation) within the Customs Union, Accompanied by the Issuance of Common Documents.

The regulation enumerates Customs procedures, which require submitting conformity documents and/or information on such documents to Customs authorities, when the goods are placed under those procedures, with some exceptions. The Regulation also enumerates goods, which do not require submission of conformity documents and/or information on such documents to the Customs bodies.

Upon request from interested persons, control bodies dealing with technical regulation in the CU Member States are obliged to give written explanations (conclusions) regarding putting goods into categories of products, subject to mandatory conformity confirmation within the territories of those States.

The Provisions regarding the Common Register of Certification Bodies and Testing Laboratories of the Customs Union and the Common Register of Issued Conformity Certificates and Registered Conformity Declarations, approved by the said Decision of the CU Commission, determine the criteria for including certification bodies in the first Common Register and the rules of its creation and maintenance, and, the procedure of creating and maintaining the second Common Register, respectively.

Both Common Registers consist of national parts, which are created and maintained by authorized bodies of the CU Member States. The content of the information, which should be included in the national parts of Common Registers in the form of electronic entries, must comply with the requirements, set out in the said Regulations.

Common Registers are created in electronic format, based on the hardware and software resources of the authorized bodies. The national parts of the Registers can be accessed from the official web site of the Customs Union and from the official web sites of the authorized bodies of the CU Member States.

The authorized bodies of the CU Member States provide the information in the national parts of Common Registers upon the request from interested persons.

The third Common List, established by the CU Commission, contains a list of products subject to mandatory conformity assessment (confirmation) in the Customs Union. , Conformity certificates and declarations for products included in this Common List are issued upon the choice of the applicant under the common forms[110] and/or in accordance with the national legislation of the CU Member States.

Moreover, conformity certificates or declarations, or conformity certificates under common form, are issued for products manufactured in third countries according to the national legislation of each CU Member State.

Products, not included into the Common List, are subject to mandatory conformity assessment (confirmation) under the national legislation of the CU Member States.

The validity of the conformity certificate issued under the Common Form and of conformity declaration issued under the Common Form must not exceed five years.

Conformity certificates, issued by certification (assessment (confirmation) of conformity) bodies, included in the Common Register of Certification Bodies and Testing Laboratories (Centres) of the Customs Union, within the national systems of conformity confirmation (certification) of the CU Member States, may serve as one of the documents for issuing a conformity declaration under the Common Form for the Products, included in the Common List of Products Subject to Mandatory Conformity Assessment.

When registering and issuing conformity certificates and registering conformity declarations under the Common Forms, international standards, national (State) standards of the CU Member States, as well as Common Sanitary and Epidemiological and Hygienic Requirements to Goods, Subject to Sanitary and Epidemiological Surveillance (Control) and Common Veterinary (Veterinary and Sanitary) Requirements for the Goods, Subject to Veterinary Control (Surveillance) apply to the products, included into the Common List of Products, Subject to Mandatory Assessment of Conformity.[111]

Tests for issuing conformity certificates and registering conformity declarations under the Common Forms are made by testing laboratories (centres) included in the Common Register of Certification Bodies and Testing Laboratories (Centres) of the Customs Union.

Bodies for certification (assessment (confirmation) of conformity), included in the Common Register of Certification Bodies and Testing Laboratories (Centres) of the Customs

[110] Those are common forms of a certificate and declaration, contained in Annex № 3 to the Decision of the CU Commission № 319 of 18 June 2010.

[111] See above the comments on the Common Requirements in the sections, dedicated to sanitary and veterinary types of control.

Union issue conformity certificates and register conformity declarations under the Common Forms, for the products included in the Common Register.

As regards national legislation, the Federal Law № 184-FZ of 27 December 2002 "On Technical Regulation" is the main act in the field of technical regulation in Russia. The Federal Agency for Technical Regulation and Metrology (Rostechregulirovanie) is an "authorized" State body in terms of the said technical regulation within the framework of the Customs Union.[112]

In particular, the Law on Technical Regulation stipulates that mandatory confirmation of conformity of the products to technical requirements be performed only in cases, established by the corresponding technical regulation, and exclusively for assessing the conformity to the requirements of the technical regulation.

With regard to the importation of products subject to mandatory confirmation of conformity, the Law sets out that when those products are placed under Customs regimes, which foresee the probability of their sale or use in accordance with their purpose within the Russian Customs territory, then the conformity declaration or conformity certificate must be supplied to the Customs authorities together with the Customs declaration.

When the said declaration or certificate is issued outside Russia, then instead of these documents, together with the Customs declaration, the trader may submit the documents on their recognition in accordance with the international treaties of the Russian Federation. In this regard, Russia has acceded to some multilateral international treaties, such as the 1955 Geneva Agreement on Technical Means of Transport, the Brussels Convention on Mutual Recognition of Firearms Mark Testing and Ammunitions Thereto, the IEC International System on Certification of Electronic Components, and the IEC International System on the Approval of the Results of Tests of Electric Equipment.

In addition, Russia takes part in several agreements regarding the recognition of the results of mandatory confirmation of conformity within the frames of the CIS, and in the mentioned agreements within the frames of EurAsEC and the Customs Union. There are also bilateral agreements regarding those issues, for example the Agreement between the State Committee of the Russian Federation on Standardization and Metrology and the Ministry of Science, Technology and Environment of the Socialist Republic of Vietnam on Mutual Recognition of the Results of Works on Certification and Test of 1 March 2001.

Notably, the Federal Law № 164-FZ of 8 December 2003 "On the Fundamentals of State Regulation of Foreign Trade Activity", stipulates that technical, pharmacological, sanitary,

[112] See the Resolution of the Government of the RF № 294 of 17 June 2004 "On the Federal Agency for Technical Regulation and Metrology", as amended on 27 October 2004, 5 September 2006, 5 June, 7 November 2008, 27 January, 15 June, 12 August 2009, 9, 15 June 2010.

veterinary, phytosanitary and ecological requirements, as well as mandatory certification requirements, apply to goods originating from the territory of another State in the same way as they apply to similar goods of Russian origin.

The transitory provisions of the Law "On Technical Regulation" set out that until the appropriate technical regulations are introduced, technical regulation with regard to the application of veterinary, sanitary and phytosanitary measures is performed according to the Federal Law "On Plant Quarantine" and the Law of the Russian Federation "On Veterinary Medicine"; with regard to nuclear and radiation security – according to the Federal Law "On the Use of Nuclear Energy" and the Federal Law "On Radiation Security of the Population"; with regard to applying requirements of energy efficiency, requirements to lighting devises, electric bulbs, used in alternating current lightning systems, in accordance with the Federal Law "On Energy Saving and Rising Efficiency of Energy".[113] The date the appropriate technical regulations enter into force, the said acts will apply as binding only to matters not regulated by technical regulations. Besides, the Law "On Technical Regulation" foresees that with regard to such types of products the Government of the Russian Federation may introduce mandatory requirements, contained in the technical regulations of the CU Member States or the European Union, until the technical requirement with regard to those types of products enter into force.

In order to implement the Law "On Technical Regulation", the Government of the Russian Federation and the appropriate federal executive bodies have adopted a range of normative legal acts.[114]

Notably, the Decree of the President of the Russian Federation № 86 of 24 January 2011 "On the Single National System of Accreditation"provides for the creation of the Federal Accreditation Service, which is within the competence of the Ministry of Economic Development (Mineconomrasvitya) of Russia. The new body is entrusted with the functions of creating a single national system of accreditation and control over the activities of accredited

[113] When the Law "On Technical Regulation" was adopted, such a law did not exist. The Federal Law № 261-FZ "On Energy Saving and Rise of the Efficiency of Electricity and on Amendments of some Laws of the Russian Federation" was adopted on 23 November 2009.

[114] For example, the Resolution of the Government of the Russian Federation № 53 of 7 February 2003 "On Import of Products Subject to Mandatory Certification into the Customs Territory of the Russian Federation"; the Resolution of the Government of the Russian Federation № 982 of 1 December 2009 "On Approval of the Common List of Products, Subject to Mandatory Certification, and the Common List of Products, which Conformity is Confirmed by Conformity Declarations", as amended on 17 March and 17 August 2010; the Letter of FCS № 06-73/44906 of 19 December 2006" On the List of Goods Subject to Mandatory Certification at their Import into the Customs Territory of the Russian Federation", as amended on 20 November 2007, 29 December 2008, 19 January 2009; The List of Goods, Subject to Mandatory Certification, when Conformity Certificate is Required at their Importation (Annex № 1 to the Letter of the FCS № 01-11/7403 of 20 February 2009); the Letter of the FCS № 01-11/51836 of 25.10.2010 "On Transfer of Information", the Information of the FCS of 27 January 2011 "Information on the Products, Subject to Mandatory Confirmation of Conformity When Placed under the Customs Regimes, which Foresee the Possibility of Alienation or Use in Accordance with its Purpose within the Customs Territory of the Russian Federation, Stating the Codes of CN FEA CU.

persons and entities. The principles, on which the mentioned system is based, were defined: openness, accessibility and common rules of accreditation, voluntary participation. It is prohibited to combine the powers of the single national body for accreditation with the functions of a founder and conformity assessment. The Ministry of Economic Development of Russia is vested with the powers to develop and implement the State policy and normative and legal regulation in the field of accreditation.

1.2.6. Non-Tariff Regulation and Licensing

Non-tariff and license regulations in the Customs Union are covered by some international treaties.

The Agreement on Common Measures of Non-Tariff Regulation with Regard to Third Countries of 25 January 2008 contains framework provisions concerning those measures.

Under the Agreement, measures of non-tariff regulation are defined as a complex of measures for the regulation of foreign trade in goods, carried out by introducing quantitative and other restrictions or prohibitions of economic character. The Agreement does not cover relations between the Parties, related to issues of export control, technical regulation, application of sanitary, veterinary and phytosanitary requirements and measures, as well as special safeguards, antidumping and countervailing measures.

The Agreement foresees that licensing in the field of foreign trade in goods is established in the following cases:

- introduction of temporary quantitative restrictions for export or import of certain types of goods;
- implementation of a permit-based procedure of export and/or import of certain types of goods, which may have adverse effects on State security, the life or health of people, the property of persons or legal entities, State or municipal property, the environment, the life or health of animals and plants;
- granting of exclusive rights for export and/or import of certain types of goods;
- fulfilment of international obligations.

Licenses, issued by an authorized State body of executive power form the basis for export and/or import of certain types of goods in the said cases.

Along with licensing, the Agreement provides for the possibility of introducing surveillance of export and/or import of certain type of goods, which may be carried out by issuing permits for export and/or import of goods (automatic licenses).

The Agreement also sets out in which cases measures, affecting foreign trade in goods and introduced because of national interests, measures related to participation in international sanctions and measures to safeguard external financial position and balance of payments may be applied. At the same time, the procedure of applying those measures within the common Customs territory and the procedure of applying other prohibitions and restrictions in foreign trade are determined in other agreements.

In order to implement the mentioned Agreement, the CU Member States concluded the ***Agreement of 9 June 2009 on the Introduction and Application of Measures Affecting Foreign Trade in Goods on the Common Customs Territory with Regard to Third Countries***. The Agreement determines the procedure of introducing and applying common measures, on the common Customs territory with regard to third countries, of non-tariff regulation, measures, affecting foreign trade in goods and introduced to safeguard the national interests of the Parties, as well as measures related to the participation in international sanctions and measures to safeguard the external financial position and balance of payments.

The Agreement, as well as the previous Agreement, does not cover relations between the Parties, which are related to the issues of export control, technical regulation, application of sanitary, veterinary and phytosanitary requirements and measures, as well as special safeguards, antidumping and countervailing measures.

The Agreement sets out that the said measures are introduced by decisions of the CU Commission.

The Agreement foresees an exception from the mentioned general rule, regarding the right of the Parties to the Agreement to introduce unilaterally temporary measures, affecting foreign trade in goods of non-economic character. Herewith, the Party, which introduces temporary measures, must inform the CU Commission on their introduction and submit a proposal on the application of temporary measures by other Parties to the Agreement. After considering this proposal, the Commission may adopt a decision to introduce temporary measures on the common Customs territory.

Based on the notification by a Party on the unilateral introduction of temporary measures, the Commission shall inform the Customs authorities of the other parties to the Agreement on the unilateral introduction of temporary measures by this Party. After receiving this information, the Customs bodies of the Parties shall not allow export of goods, originating from the Customs territory of the Party applying unilateral temporary measures with regard to those goods, as well as import of goods, intended for this Party, without a license, issued by its authorized body.

On 9 June 2009, the CU Member States concluded **the Agreement on the Rules of Licensing in the Sphere of Foreign Trade in Goods**, dealing with licensing. This Agreement

provides a procedure for issuing licenses and permits for export and/or import of goods, included in the single list of goods subject to prohibitions and restrictions of import or export by the CU Member States. This Agreement does not apply to the export and/or import of goods subject to export control, export and import of weapons and military equipment, as well as other products for military use.

The Agreement stipulates that licenses be issued by the authorized State bodies of the executive power of the Parties to the Agreement. Three types of licenses are foreseen: one-time, general and exclusive ones.

General and exclusive licenses are issued in cases, foreseen by a decision of the CU Commission. The validity of a general license may not exceed one year from the date it becomes effective, and with regard to the goods, in respect of which quantitative restrictions have been introduced, it ends in the calendar year for which a quota has been introduced, unless otherwise stated in the decision of the Commission. The validity of an exclusive license is established by a decision of the CU Commission for each case individually.

The validity of a one-time license may not exceed one year from the date it becomes effective. The validity of a one-time license may be limited by the term of the validity of a foreign trade contract (agreement) or by the term of validity of a document, which served as a ground to issue the license.

The agreement sets out that in order to obtain a license, the applicant shall submit the following documents to the authorized body:

- an application to issue a license, filed and produced in accordance with the instructions on filing and producing an application for a license for export and/or import of certain types of goods according to Appendix 1 to the Agreement;[115]
- an electronic form of the application, in the format, approved by the Commission, created with the use of a software developed by the Commission, and handed free of charge to persons engaged in foreign economic activities (FEA); persons engaged in FEA may use their own software, which creates electronic versions of applications strictly in conformity with the format, approved by the Commission;
- a copy of a foreign trade contract (for a one-time license), and in the absence of a foreign trade contract - a copy of a document confirming the intentions of the parties
- a copy of the certificate of registration with the tax authorities;

[115] The Instruction, in particular, stipulates that the application is filled on a hard copy and filed in a computer, according to Appendix 1 to the Instruction.

- a copy of the license to conduct a licensed activity, if such activity is related to the circulation of goods, for which licensing is introduced in the common Customs territory;
- other documents, if they are determined by the decision of the Commission, pursuant to which licensing for this product has been introduced.

Each page of the copies provided must be certified by a signature and seal by the applicant, or the documents must be bound and certified by the signature and seal of the applicant. The documents, submitted by the applicant are subject to registration by the authorized body.

The authorized bodies, using the software developed by the CU Commission, issue licenses under the Common Form according to Annex № 3 to the said Instruction on Filing an Application to Issue a License for Export and/or Import of Certain Types of Goods and the Procedure of Issuing such a License. Licenses are issued on special paper, protected from falsification.

The authorized body shall issue or refuse to issue licenses within 15 working days from the date the said documents were filed.

Before completing Customs formalities regarding the goods, the applicant submits an original copy of the license to the corresponding Customs authority, which issues to the applicant its certified copy, containing marks on registration by the Customs authority, while registering a license for control.

The absence of a license constitutes ground to refuse Customs registration by Customs authorities of the Parties to the Agreement.

Holders of general and exclusive licenses on a quarterly basis, before the 15th day of the month following the reporting quarter, are to submit to the authorized body a report on the execution of the license. Holders of one-time licenses are to submit to the authorized body a certificate of performance of the license within 15 days from the date the license expired.

When the license is taken off the books, a relevant Customs authority of the Party to the Agreement issues to the applicant, within 5 working days, a certificate on the performance of the license, based on his/her written request. The form and procedure of issuing such a certificate is determined by the CU Commission.

The Agreement also contains the rules regarding permits, which are issued for persons, engaged in FEA, based on foreign trade transactions, where the objects are the goods, subject to surveillance of export and/or import of certain quantities of goods.

Such permits are issued in accordance with the Instruction on Issuing Draft Permits for Export and/or Import of Certain Types of Goods and Registering this Permit under Annex 2 to the Agreement. To obtain such a permit, the applicant must submit to the Customs authorities:

- a copy of the draft permit on paper, printed according to the Annex to the Instruction;
- an electronic copy of the permit, in the format approved by the Commission and created with the use of software developed by the Commission and handed free of charge to persons engaged in foreign trade;

A person engaged in foreign trade may use his own software, which creates an electronic version of the application strictly in conformity with the format approved by the CU Commission. It is prohibited to request other documents, such as a draft permit or its electronic copy in order to obtain a permit.

The authorized bodies issue the permit under the form foreseen in the Annex to the Instruction, on special paper, protected from falsification, using the software, developed by the CU Commission.

The permit must be issued within three working days from the date the draft permit is submitted. The validity of the permit is limited to the calendar year, when it is issued.

Before completing Customs formalities for clearing the goods, the applicant submits an original copy of the permit to the corresponding Customs authority, which issues to the applicant, at the time of allowing the control procedure, its certified copy, containing marks on registration by the Customs authority.

In order to implement the said Agreement, the CU Commission has adopted several decisions.

Thus, Decision № 132 of 27 November 2009 “On Common Non-Tariff Regulation Between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation” stipulates that from 1 January 2010, the CU Member States apply prohibitions and restrictions to the goods, included in the Single List of Goods, attached to the Decision, which are subject to prohibitions or restriction for import or export by the CU Member States within the frames of EurAsEC in trade with third countries in accordance with the Provisions on Application of Restrictions, approved by the Decision of the Interstate Council of EurAsEC № 19 of 27 November 2009, attached to the Decision.

The Commission charged the authorized State bodies of executive power of the CU Member States to issue, from 1 January 2010, licenses and permits for export and import of goods in accordance with the Agreement on the Rules of Licensing in the Sphere of Foreign Trade in Goods of 9 June 2009 and the said Provisions on Application of Restrictions, and

ensure, not later than 1 July 2010, that the licenses and permits for export and import of goods are issued in accordance with the Instructions, annexed to the said Agreement.

The Single List of Goods Subject to Prohibitions and Restrictions for Import and Export by the CU Member States within EurAsEC in Trade with the Third Countries, approved by the Decision of the CU Commission of 27 November 2009, consists of two parts. The first part, containing seven sections, and enumerates the goods prohibited for movement across the border of the Customs Union. The second part lists the goods, subject to restrictions with regard of their movement across the border of the Customs Union. The second part consists of 27 sections, 22 of which contain provisions regarding the application of restrictions. Twenty-three sections of the second part are put into categories according to the types of goods and four sections - according to the types of restrictions (quantitative restriction, permit-based procedure, and exclusive right and tariff quotas).

Many provisions on the application of restrictions foresee the requirement to submit additional documents to obtain a license, if compared to the list, established by the Agreement on Licensing, or along with the licenses for import and export of the corresponding goods. Moreover, in some cases these are documents based on international agreements.

For example, the Provisions on the Procedure for Import, Export and Transit of Hazardous Wastes points out that to obtain a license, it is necessary, among other things, to provide: a written authorization of a competent authority of the State, into which the wastes are imported, in accordance with the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989; notification of the transboundary movement of wastes in accordance with the requirements of that Convention; the document on the movement of wastes in accordance with the requirements of the Convention; a copy of a document, certifying the insurance, mortgage or other guarantee, needed for the transboundary movement of wastes in accordance with the requirements of the legislation of the CU Member States and the Basel Convention.

One of the Annexes to the Provisions on Import and Export of Precious Metals, Precious Stones and Raw Materials, Containing Precious Metals contains the Rules of State Control on the Importation of Precious Stones into the Customs Territory of the Customs Union and the Exportation of Precious Stones from the Customs Territory of the Customs Union. The control, foreseen by those Rules, aims at supervising the compliance with the legislations of the CU Member States while performing foreign trade transactions regarding precious stones and jewellery.

When performing control, one of the main activities of the controlling organization is to supervise the compliance with the international Kimberly process schemes of certification of

rough diamonds. Accordingly, among the documents required for this control and necessary for the importation of rough diamonds into the Customs Union there is the certificate of export of rough diamonds issued by the exporting country (Kimberly certificate) in accordance with the requirements of the rough diamonds certification scheme[116].

By its Decision № 168 of 27 January 2010 "On Providing for a Common System of Non-Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation", the CU Commission approved the List of Goods, which may, in exclusive cases, be subject to temporary prohibitions and restrictions for export, due to their substantial importance for the domestic market of the Customs Union. In order to implement the provisions of the Licensing Agreement regarding the types of licenses, it is established that a general license for export and/or import of certain types of goods, included in six sections (enumerated in the Decision) of the Single List of Goods Subject to Prohibitions and Restrictions for Import or Export in Trade with Third Countries, is issued in accordance with the decisions of the governments of the CU Member States. Exclusive license for export and/or import of a certain type of product included in the chapter "Goods Subject to Exclusive Right at Import and/or Export" of the Common List is issued to persons engaged in FEA, who are determined in accordance with the legislation of a CU Member State.

In addition, the Decision also stipulates that until the form of submitting an electronic copy of the application to issue a license and draft permit is adopted, and the Integrated Information System for Foreign and Mutual Trade, which includes the realization of the said functions is introduced, the CU Member States apply their own software which assures the submission of electronic copies of the applications and draft permits, as well as issuance of licenses and permits.

By its Decision № 321 of 18 June 2010 "On Common Procedure of Control by Customs Authorities of Import into the Customs Territory of the Customs Union within the Frames of EurAsEC and Export from this Territory of Licensed Goods" the CU Commission approved as a principle the Draft Regulation on Common Procedure of Control by Customs Authorities of Import into the Customs Territory of the Customs Union within the Frames of EurAsEC and Export from this Territory of Licensed Goods.

According to the information, published on the web page of the Custom Union Commission, this Regulation was not finally adopted as of 1 February 2011. Moreover, there is no information on the approval of the technology for information exchange cooperation and no instructions on the mandates of Customs officials of the CU Member States, aimed at

[116] Se also the Order of the FCS of the RF № 1640 of 06.09.2010 "On Kimberly Certificates and Certificates for Export of Rough Diamonds".

implementing the Regulation, which should be prepared by the Customs authorities according to the said Decision of the Commission.

Nevertheless, it is not likely that the said Regulation will be substantially changed. Consequently, it seems useful to consider briefly its most important provisions.

The Regulation sets out that before licensed goods are moved across the Customs border of the Customs Union and, in case the licensed goods are subject to non-tariff regulation measures, before their Customs declaration, the license holder must submit the original of the license for Customs control to the Customs authority of that CU Member State where the license holder is registered, namely:

to the Customs authority, under the jurisdiction of which are placed the Customs bodies (structural subdivisions), which are planned to carry out the Customs declaration of all licensed goods;

to the Customs authority where the license holder is situated, if it is planned to perform Customs declaration of licensed goods by the Customs authorities (structural subdivisions), subordinate to various Customs authorities.

The license holder must submit to the Customs authority a written application in a free form, together with the original of the license, accompanied by several copies of the front page of the original of the license (taking into account the number of Customs bodies, scheduled to perform Customs declaration of licensed goods).

The license must be registered within the time limit, not exceeding three working days from the date of registration of the application with the Customs authorities. After the license is registered for control, its original stays with the Customs authority and certified copies of the license with respective marks of the Customs authority are returned to the license holder.

The copy of the license, certified by the Customs authority, is forwarded to the Customs body (structural subdivision) together with a set of documents accompanying the goods declaration, which serves as the basis for Customs declaration using the license for the first time and leaving it with this Customs body. The subsequent Customs declaration in the same Customs body (structural subdivision) of licensed goods with the use of the same license is performed by stating the information on the license in the goods declarations, without submitting its copies (with some exceptions).

The goods are written off the license at their release, in accordance with the first Customs procedure. If the quantity of goods, specified in the license is exhausted or upon a written application of the license holder, lodged with the Customs authority, which registered the license, the Customs authority shall forward to the license holder a certificate on the expiration of the license, under an established form, within a period, not exceeding fifteen working days,

and in case the validity of the license expires, within five working days. The certificate on the execution of the license may be submitted in electronic form in accordance with the legislation of the CU Member States.

The documents, foreseen in the Regulation, are submitted and/or received in paper format, including by -mail, as well as other forms of transferring information, if there exists a written request thereon submitted by the license holder.

Special features of the control of import into the Customs territory of the Customs Union and export from the Customs territory of the Customs Union of licensed goods, during the Customs declaring of licensed goods with the use of a goods declaration in electronic format, are determined by the authorized Customs bodies of the CU Member States.

In Russia, licenses and other authorization documents for import - export operations for certain types of goods, as well as the creation and maintenance of federal license data banks are within the competence of the Ministry of Industry and Trade of the Russian Federation.[117]

The Regulation on Licensing in the Field of Foreign Trade in Goods and the Regulation on the Creation and Maintenance of the Federal License Data-Bank remain valid in cases, which are not covered by the provisions of the mentioned Agreements and the Decisions of the CU Commission.[118]

The rules of the Regulation on Licensing are similar to the rules on licensing, established within the Customs Union, even if there are certain differences. For example, it is indicated that the decision to issue a license or to refuse to issue a license must be taken by the licensing authority within 20 days since the submitted documents were registered.

In case a one-time license is issued, the licensee must submit within 10 days after its expiration to the licensing authority, which issued the license, a copy of the original license, where the Customs authorities of the Russian Federation apposed their marks as to the actual quantity of goods, released through the Customs border of the Russian Federation.

According to the Regulation on the Creation and Maintenance of the Federal License Data-Bank, adopted by the said Resolution of the Government of the Russian Federation, such a bank of issued licenses is created by the Russian Ministry of Industry and Trade and contains information on issued licenses, suspension of their validity or their cancellation, as well as the information on the performance of one-time licenses.

---

[117] See Resolution of the Government of the RF № 438 of 5 June 2008 "On the Ministry of Industry and Trade of the Russian Federation", as amended on 13 October, 7 November, 29 December 2008, 27 January, 10 March, 15, 23 June, 12 August 2009, 2, 20 February, 9, 15 June 2010.

[118] See Resolution of the Government of the RF № 364 of 9 June 2005 "On the Approval of Provisions on Licensing in the Field of Foreign Trade in Goods and Creation and Maintenance of a Federal License Data-Bank", as amended on 14 February 2009.

The Federal Data-Bank of Issued Licenses is created based on information, existing in the Russian Ministry of Industry and Trade and/or electronic copies of the licenses, received from its territorial bodies with the use of special software, incorporating options for electronic information exchange.

The Information contained in the Federal Data-Bank of Issued Licenses is stored and processed in places with limited access to third persons, and in conditions preventing the theft, loss, damage or falsification of information. In order to prevent a complete loss of the said information, the Russian Ministry of Industry and Trade makes back-up copies of that information on electronic carrier, which must be stored in places, which exclude their loss together with the originals.

1.2.7. Legislation and Regulations Related to Export Control

As noted in the previous section, the agreements considered therein before do not cover export and/or import of goods, subject to export control.

The fundamental principles of export control are set out in ***the Agreement of 28 October 2003 on the Common Procedure of Export Control Performed by the Eurasian Economic Community Member States,*** signed by Russia.

The Parties to that Agreement ensure the common procedure of export control within their States, which includes a set of harmonized norms and rules, regulating foreign economic activity with regard to certain types of raw materials, materials, equipment, technologies and services, which can be used to create weapons of mass destruction and carriers thereof, as well as of other types of weaponry and military equipment, hereinafter refereed to as goods and technologies subject to export control, and common implementation of those norms and rules.

The Agreement foresees the elaboration of standard lists of goods and technologies subject to export control, regulating international regimes of export control and approval of those lists by the Interstate Council of EurAsEC.

The Parties ensure the establishment of permit-based procedure of carrying out foreign economic operations with goods and technologies included in standard lists, which establish licensing or any other form of State regulation, as well as Customs control and Customs registration of such goods and technologies, moved outside the territories of the EurAsEC Member States.

The Parties ensure the establishment of permit-based procedure of carrying out foreign economic operations with goods and technologies, not included in standard lists, in cases, when

persons, engaged in foreign economic activity have grounds to think, or were informed by authorized bodies of the Parties or by other competent authorities, that those goods and technologies may be used to create weapons of mass destruction and carriers thereof.

Permits for the export of goods and technologies, subject to export control, are issued to persons engaged in FEA by an authorized body of the State, on the territory of which they are permanently located and, according to the procedure, established by the legislation of this State.

The application for a permit for export outside the territory of EurAsEC shall be accompanied by documents certifying the country of origin of the goods and technologies subject to export control, stating the EurAsEC Member State, from the territory of which those goods and technologies will be exported. The authorized body of any of the EurAsEC Member States, which issued such a permit for export, which will be performed from the territory of another party, must notify thereon the authorized body of the other Party.

The export permit, issued by the authorized body of one of the Parties is valid within the territories of all EurAsEC Member States.

Customs registration and Customs control of goods and technologies, subject to export control from the territories of EurAsEC Member States, is carried out in accordance with the Customs legislation of the EurAsEC Member States. The export permit, issued by the authorized body of any Party, is a prerequisite for the Customs registration of such goods and technologies.

This Agreement does not cover foreign economic activity with regard to weapons and military equipment, as well as other products for military use.

Decision №356 of the CU Commission of 17 August 2010 approved the Plan of Measures to Ensure Export Control in the CU Member States. The plan envisages, among others, to develop a Draft Agreements on a Common Procedure of Export Control of the CU Member States, on Common Rules for the Procedure of Control of Foreign Economic Operations Dealing with Goods and Technologies Subject to Export Control in the CU Member States, on Common Lists of Goods and Technologies Subject to Export Control in the CU Member States.

A set of norms and rules, established by national legislation within the frames of the Agreement of 28 October 2003, regulates export control in Russia. The main provisions in this sphere are determined by Federal Law №183 of 18 July 1999 "On Export Control".[119] In addition, a range of Presidential Decrees, Government Resolutions and decisions of other federal bodies of executive power of the Russian Federation apply[120].

Those acts establish the following main provision.

---

[119] As amended on 30 December 2001, 29 June 2004, 18 July 2005, 29 November, 1 December 2007, 7 May 2009.

[120] See below.

A general requirement for foreign trade transactions, which foresee the transfer of the controlled goods and technologies, included in the corresponding lists, is the provision of a written obligation of a foreign person that those goods and technologies will not be used to create weapons of mass destruction and carriers thereof. If the foreign person is an intermediary, such obligations must be endorsed also by end-users of the said goods and technologies.

The said Law vests in the Government of the Russian Federation the right to establish additional requirements to the conditions for performing foreign economic transactions with controlled goods and technologies. Such additional requirements may be established depending on the specific type of goods or technology, which is the object of a foreign trade transaction.

Thus, in case of transfer of equipment, materials and technologies, included in the List of Equipment and Materials of Double-Purpose Use and Corresponding Technologies, Used for Nuclear Purposes, Subject to Export Control, approved by the Presidential Decree № 36 of the Russian Federation of 14 January 2003, foreign States that do not possess nuclear weapons are bound to include in the contract an obligation of a foreign person that the received equipment, materials and technologies or their copies will not be used for activities in the field of nuclear fuel cycle, not guaranteed by the International Atomic Energy Agency (the IAEA). Besides, when transferring controlled equipment, materials and technologies in the form of technical data to foreign persons of the States not parties to the group of nuclear suppliers, the obligations of the foreign person must be certified by a document, issued by an authorized body of the country, where controlled equipment, materials and technologies will be used in the form of technical data.

Upon the results of the expertise of a foreign trade transaction, the Federal Service for Technical and Export Control has the right to determine other cases when obligations of foreign persons must be certified by a document, issued by an authorized body of the State, where the controlled equipment, materials and technologies supplied as technical information will be used. It also has the right to set out that the end-user is obliges to submit the certificate of delivery or any other documents, issued by an authorized body of the end-user State, certifying import of controlled equipment, materials and technologies in the form of technical information, as a mandatory requirement for transfer of controlled equipment, materials and technologies in the form of technical information to a foreign person.

When transferring products, included in the List of Bacteria, Toxins, Equipment and Technologies, Subject to Export Control, approved by the Decree of the President of the Russian Federation № 1083 of 20 August 2007, to States which are not Parties to the Convention on the Prohibition of Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, the obligations of a foreign person must be certified by

a document, issued by an authorized body of the State, where the controlled bacteria, toxins and technologies will be used in the form of technical data. The powers of the Federal Service for Technical and Export Control in the field of application of additional requirements to foreign trade transactions are, in this case, the same as with regard to the equipment and materials of double-purpose use, as well as corresponding technologies, used for nuclear purposes.

The foreign person is bound to endorse obligations, certified by a document, issued by an authorized body of the State where the controlled goods and technologies in the form of technical data will be used, when the goods and technologies included in the List of Double-Purpose Goods and Technologies, which may be used to create weaponry and military equipment and which are subject to export control, approved by the Decree of the President of the Russian Federation № 580 of 5 May 2004, are transferred to the States, which are not parties to Wassenaar Arrangements on Export Control for Conventional Arms and Dual-Use Goods and Technologies.

The obligations endorsed by a foreign person must be certified by a document, issued by an authorized body of the State, where controlled equipment, materials and technical data will be used, if equipment, materials and technologies, included in the List of equipment, materials and technologies which may be used to create missile weapons and which are subject to export control, approved by the Decree of the President of the Russian Federation № 1005 of 8 August 2001, are transferred to a foreign person for the use outside the territory of the Russian Federation.

in order to export nuclear materials, equipment, special non-nuclear materials and corresponding technologies, included in the List of Nuclear Materials, Equipment, Special Non-Nuclear Materials and Corresponding Technologies, Subject to Export Control, approved by the Decree of the President of the Russian Federation № 202 of 14 February 1996, to States which do not have nuclear weapons, with the exception of the Republic of India, instead of written obligations of a foreign person, it is required to submit an effective agreement of the importing country with the IAEA on guaranties, covering all its peaceful nuclear activity. Before that date, the objects of nuclear export are placed under the control of the IAEA.

In order to export nuclear goods and technologies to countries that do not possess nuclear weapons, including the Republic of India, it is necessary to provide certifications made by authorized bodies of those countries, that the received export objects as well as nuclear and special non-nuclear materials, facilities and equipment, will not be used for production of nuclear weapons and other nuclear explosives or for reaching military goals and will be stored under the guaranties of the IAEA during the whole period in which they are under the jurisdiction of the receiving country and will be secured by physical protection measures at levels, at least equal to

the measures recommended by the IAEA; will be re-exported or transferred from the jurisdiction of that country to any other country, in compliance with the said requirements.

The authorized State body of the importing country which does not possess nuclear weapons, must assure that any consecutive transfer of facilities for chemical treatment of irradiated fuel, isotopic enriched uranium and production of heavy water, their components and objects, produced with their use, as well as of 20% or higher enriched uranium, plutonium and heavy water, the use or project engineering of the transferred facilities for producing isotopic uranium enriched over 20%, or technologies for isotopic enrichment of uranium, as well as other facilities, based on such technology, will not be done without a written permission of the State Corporation for Nuclear Energy “Rosatom” approved by the Federal Service for Technical and Export Control.

Export to the countries, possessing nuclear weapons, facilities and technologies for chemical treatment of irradiated fuel, isotopic enriched uranium and production of heavy water, their components and objects, produced with their use, as well as of 20% or higher enriched uranium, plutonium and heavy water, may be exercised only when authorized bodies of that country assure that the received export objects and the objects produced with their use, will not be used to produce nuclear weapons and other nuclear explosives or to reach military goals and will be secured by physical protection measures at levels, at least equal to the measures, recommended by the IAEA; will be re-exported or transferred from the jurisdiction of that country to any other country, only subject to a prior written permission by the State Corporation for Nuclear Energy “Rosatom” approved by the Federal Service for Technical and Export Control.

When the transfer of nuclear materials, equipment, special non-nuclear materials and corresponding technologies to the countries is not conditioned by the application of the guaranties of the IAEA for the peaceful activity in the importing State, the export of nuclear goods and technologies to those countries is performed provided the authorized State bodies of those countries assure that any consecutive transfer of export objects as well as any transfer of the objects, produced with the use of equipment and technologies, exported from the Russian Federation, will not be done without prior written permission by the State Corporation for Nuclear Energy “Rosatom” approved by the Federal Service for Technical and Export Control.

The said Law “On Export Control” sets out that one of methods of export control consists in permit-based procedure for carrying out foreign trade transactions with controlled goods and technologies, which are subject to licensing or other form of State regulation. The Law determines general rules of licensing foreign trade operations with the said goods.

In order to implement those rule, the Government of the Russian Federation adopted Resolution №691 of 15 September 2008 "On the Adoption of the Regulation on Licensing for Foreign Economic Operations with Goods, Information, Works, Services, Results of Intellectual Activity, and Rights Thereon, Subject to Export Control". Besides, the Government of the Russian Federation adopted regulations on the control of foreign economic activity regarding controlled goods and technologies, included in the corresponding lists.

According to the said Regulation, licenses for foreign economic operations (import, export, and other forms of international exchange) with controlled products are issued by the Federal Service for Technical and Export Control. Russian persons engaged in FEA should file an application, following the form provided in Annex 1 to this Regulation.[121]

The license is issued on a headed paper, which is a protected printed product, following the form set out in Annex 2 to the Regulation. A licensing body determines the requirements for completing an application for license, as well as the requirements on completing the license itself.[122]

The Regulation provides for two types of licenses: one-time and general licenses.

A one-time license is issued for foreign economic operations with controlled products under an agreement (contract, arrangement), specifying the quantity, end-user countries, seller (consignor) and buyer (consignee). One-time licenses are issued based on a State expertise of a foreign economic transaction, conducted by the Federal Service for Technical and Export Control, taking into account the requirements, stated above. The validity of a one-time license is determined based on the conditions of foreign economic operations, but it does not exceed one year from the date the license is issued.

A general license is issued for foreign economic operations with certain type of controlled products, stating their quantity and the end-user country, without naming a specific buyer (consignee). A general license may be issued only to a Russian legal entity, which has created an in-company export control programme and has received a certificate of State accreditation according to the established procedure. The Government of the Russian Federation determines the list of foreign States and types of controlled products, for which general licenses

[121] See the Administrative Regulation of the Federal Service for Technical and Export Control on the Performance of State Functions of Non-Tariff Regulation of Foreign Trade Activities, Within the Limits of Its Competence, Including Issuing Licenses for Export and (or) Import of Goods (Works, Services), Information, Results of Intellectual Activity (and Right Thereon), in Cases, Foreseen by the Legislation of the Russian Federation, approved by the Order of the Federal Service for Technical and Export Control № 313 of 28 October 2008.

[122] See the Requirements for Completing an Application for a License for Foreign Economic Operations with Controlled Products and the Requirements for Completing a License for Foreign Economic Operations with Controlled Products, adopted by the Order of the Federal Service for Technical and Export Control № 293 of 14 October 2008.

may be issued. The Government of the Russian Federation adopts the Decision to issue a general license, where its validity is stated.

To obtain a license, an applicant submits the following documents, accompanied by a letter to the Federal Service for Technical and Export Control:

- an application for license, made under an established form;
- a document, containing details on controlled products, attaching, when necessary, copies of the documents, certifying their technical characteristics and field of their application;
- a document, certifying the payment of a fee for the consideration of an application for a license;

An application for a one-time license must be accompanied by:

- copies of constituting documents (for legal entities);
- a copy of the document, confirming the fact of registration of a legal entity in the Single State Register of Legal Entities (for legal entities);
- a copy of the document, confirming the fact of registration of an individual entrepreneur in the Single State Register of Individual Entrepreneurs (for individual entrepreneurs);
- a copy of a document, certifying the personality and a document, containing information on the place of work and position (for persons, who are not individual entrepreneurs);
- a copy of the certificate of the applicant's registration by the tax authorities;
- a copy of the contract (agreement, arrangement) with a foreign customer (consignor), accompanied by all Annexes and executed in accordance with the legislation of the Russian Federation in the field of export control, or another document confirming the intentions of the parties;
- a copy of the license for the activity related to the circulation (use) of controlled products, issued to its producer (consumer), in case the licensing of such activity is foreseen by the legislation of the Russian Federation;
- a document, containing information whether controlled products contain information, constituting State secret, in case controlled products are transferred to a foreign person.

In addition to those documents (copies of the documents), the applicant submits:

a) at the exercise of foreign economic operations, which foresee the transfer of goods or technologies in the form of technical data to a foreign person:

- a copy of a contract entered by the applicant and the producer (owner) of goods or developer (owner) of technologies, if the applicant is not a producer (owner) or developer (owner), respectively;
- written obligations of a foreign consignee (end-user) regarding the use of controlled products, foreseen by the legislation of the Russian Federation in the field of export control;
- a document, issued by an authorized State body of the controlled products end-user country, confirming the obligations of a foreign consignee (end-user) with regard to the use of the received products, in cases determined by the legislation of the Russian Federation in the field of export control;
- a copy of a document confirming the right of property for nuclear materials, in case nuclear material is the object of a foreign economic transaction;
- a document, confirming that all papers, necessary to settle the matters of legal protection of the results of intellectual activity, used for the creation of the products, transferred to a foreign person, the rights on which pertain to the State, are forwarded to the Ministry of Justice of the Russian Federation;

b) when exercising foreign economic operations, which foresee transfer (disclosure) of controlled technology to a foreign person in a form of technical data, including training, reports, made at conferences, symposia, and other events, or by providing consulting or other services of technical nature:

- materials, which reveal the nature and content of the technology;
- information on the means, place and possible time limit of the transfer (disclosure) of the technology;

c) when exercising foreign economic operations, which foresee import of controlled products into the territory of the Russian Federation:

- a copy of a contract entered by a buyer and consumer of controlled products, if the buyer is only an intermediate;
- a copy of a document, confirming the registration in the State register of medical products, in case radio isotopic medical products constitute object of foreign economic activity, with the exception of cases, when the said products are indented for technical, toxicological and clinical tests.

Each document (copy of a document), containing two or more pages, must be bound and numerated, and certified at the back of the last page.

The licensing body registers the submitted documents and controls the accuracy of their production and conformity with the established requirements as well as the completeness and authenticity of the information within five days.

The licensing authority adopts a decision to issue a one-time license or to refuse to issue it within 45 days from the date the application and documents were received.

The original license for foreign economic operations, related to the movement of controlled products through the Customs border of the Russian Federation and its copies, certified by its holder, are submitted to the Customs authorities of the Russian Federation according to the procedure, established by the Federal Customs Service.

For the purposes of statistical recording and analysis of foreign economic activity with regard to controlled products, the holders of licenses forward the information on the licences, received by them to the licensing body. The information on the exercise of a general license is submitted, in general, before the 20th day of the month, following the last accounting quarter, and should be accompanied by the copies of the contract (agreements, arrangements), which served as a basis for the foreign economic operations with controlled products.

The information on the exercise of a one-term license is submitted within 15 days after its expiration.

Information on the exercise of the license, which served as a basis for Customs registration of controlled goods, is submitted together with the copies of cargo Customs declarations.

1.2.8. Legislation and Regulations Related to Military Technical Cooperation

As mentioned in the previous sections, military technical cooperation is not covered by the legislation of the Customs Union[123]. It is regulated in accordance with the national legislation. The main legislative act in this sphere in Russia is Federal Law № 114-FZ of 19 July 1998 "On Military and Technical Cooperation of the Russian Federation with Foreign States".[124] The Law determines military technical cooperation as an activity in the field of international relations, related to the export and import of military purpose products, including the supply or purchase of products with military purpose, and goods to be used in their development and production. The

[123] The Plan, approved by the Decision of the CUC № 356 of 17 August 2010, mentioned in the previous section, foresees the works on developing a Draft Agreement on the Procedure of Transportation of Military Purpose Products between the CU Member States, as well as across the Customs Border of the Customs Union, the Common List of Military Purpose Products of the CU Member States.

[124] As amended on 25 December 2006, 17 May, 26 November, 4 December 2007, 7 May 2009.

Law directly indicates that all issues related to military and technical cooperation between the Russian Federation and foreign States are within the exclusive competence of State executive bodies of the Russian Federation.

One of the main principles of Russian State policy regarding military technical cooperation with foreign States is the State monopoly on all activity in the field of military technical cooperation, which is carried out, inter alias, through a permit-based regime for the export and import of goods for military use.

Licensing of the import and export of products for military purposes is one of the main methods of State regulation and implementation of the State monopoly in the field of military technical cooperation.

The Law vests in the President of the Russian Federation the right to approve the list of products for military purposes, permitted for transfer to foreign customers. The products for military purposes, not included in the said list, may be exported exclusively upon decisions of the President of the Russian Federation. The President of the Russian Federation is also entitled to approve the lists of States, to which the export of products for military purposes, which are included in the list of products for military purposes, permitted for export to foreign customers. The products for military purposes, not included in the said list, may be exported exclusively under the decisions of the President of the Russian Federation.

The Decisions of the President of the Russian Federation may prohibit or restrict export of products for military purposes to specific States, in order to abide by the resolutions of the UN Security Council, and to protect the national interests of the Russian Federation.

By virtue of Decree № 1062 of 10 September 2005 "On Matters of Military and Technical Cooperation Between the Russian Federation and Foreign States"[125], the President of the Russian Federation approved a range of documents, including the Regulation on the Procedure for Licensing Import and Export of Products for Military Purposes in the Russian Federation, adopted in accordance with the said legislation.

According to the Regulation, licenses for import and export of products for military purposes are issued by the Federal Service for Military and Technical Cooperation on special headed paper, protected from falsification, according to Annex 1 to the Regulation. The list of products for military purposes attached to the licenses is an inalienable part thereof.

The licenses are issued upon application for license, filed under the layout form of Annex 2 to the Regulation. The requirements for the licenses and applications for licenses, and the

[125] As amended on 17 December 2005, 1, 12 December 2008, 16 October, 7 December 2009.

procedure of submitting documents to obtain licenses are established by the Federal Service for Military and Technical Cooperation.[126]

The products imported and exported for military use are identified in the licensing and Customs clearance procedures with the use the Classifier of Products for Military Purposes, Subject to Licensing for Import and Export by the Federal Service for Military and Technical Cooperation (Annex 3 to the Regulation).

On order to obtain a license, the applicants must submit the following documents to the Federal Service for Military and Technical Cooperation:

- an application for license;
- a copy of the contract or excerpts from the contract with a foreign customer (supplier);
- a copy of the contract between the applicant and the developer and producer of the products for military purposes (for export of such products) or between the applicant and the consumer of the products for military purposes (for import of such products);
- documents, confirming that the matters of legal protection of State interests are settled with the Ministry of Justice of the Russian Federation, with regard to the transfer of scientific and research products, development and technologic works for military purposes, which the products for military purposes contain, and the right to which pertain to the Russian Federation;
- an end-user certificate, duly certified and containing the obligation of an authorized body of the foreign State to use the products for military purposes exported from the Russian Federation only for the declared objectives, without permission of their re-export or transfer to third countries without the approval by the Russian Federation. If it is decided to export the products for military purposes to transfer them to an international organization, which represents the interests of a foreign State, the end-user certificate is submitted by an authorized body of this foreign State. The end-user certificate is not submitted if the said obligations are included in international treaties of the Russian Federation, containing lists of products supplied for military purposes, or in other international treaties of the Russian Federation and contracts of Russian subjects on military and technical cooperation, concluded with foreign customers in accordance therewith;

[126] See the Order of the Ministry of Defence № 485 of 23 November 2007 "On Approval of Administrative Regulation on the Execution of State Functions of the Federal Service for Military and Technical Cooperation with regard to Taking Decisions to Issue Licenses for Import into the Russian Federation and Export from the Russian Federation of Products for Military Purposes, According to the Existing Procedure to the Subject of Military and Technical Cooperation".

- a copy of the permit for foreign trade with products for military purpose, issued to a foreign entity by an authorized body of the foreign State where the foreign entity that concludes the contract with the applicant is registered;
- documents confirming the powers of a foreign buyer to conclude the contract with the applicant (if this foreign buyer is not the end-user of the supplied products for military purposes).

In order to obtain a license for import and export of spare parts, units, kits, devices, components, special, educational and additional equipment, technical documentation for previously supplied products for military purposes, in addition to the above mentioned documents, the applicant must submit to the Federal Service for Military and Technical Cooperation, the following:

- a document, certifying the powers of the developers and producers of products for military purposes, stated in the application, to take part in the performance of the contract on delivery of products for military purposes;
- a corresponding conclusion of the Federal Service for Technical and Export Control.

The Ministry of Defence of the Russian Federation or another State customer, for whom the products are imported and/or exported, approves the application for license .for the products for military purposes

The Federal Service for Military and Technical Cooperation registers and verifies the documents, submitted by the applicant.

A consular service legalizes, under an established procedure, the documents, submitted to obtain a license, issued by a foreign State, unless otherwise stipulated by international treaties, which the Russian Federation and the said foreign State are parties to, or by a decision of the Intergovernmental Commission for Military and Technical Cooperation between the Russian Federation and this foreign State. All supplied documents must be accompanied by copies in Russian.

The copies of the documents or excerpts thereof must be bound and certified by the applicant in accordance with the legislation of the Russian Federation.

The license is issued to the applicant in a single copy. The applicant submits the original to the Customs authority of the Russian Federation at the place of registration of the applicant, in accordance with the procedure established by the Federal Customs Service.

Licenses and additional lists thereto are to be registered with the Customs authority of the Russian Federation within the time limit, not exceeding three working days since they were submitted, if all documents necessary for the registration are presented.

The applicants report to the Federal Service for Military and Technical Cooperation with regard to the execution of the issued licenses. This Service determines the form, frequency and procedure for presenting reports on the execution of issued licenses.

1.2.9. Regulations Related to the Implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

A special procedure was adopted in Russia on 3 March 1973 with regard to export, import and re-export of goods, which are regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). It concerns the species of mammals, birds, reptiles, amphibians, fishes, invertebrates and plants, which are, listed in Appendices I, II, III to that Convention.

The Convention sets out a permit-based procedure for export, import and re-export of goods, included in Appendices I, II, III to the Convention. The permits and certificates, issued for that purpose, must conform to the requirements, established by the Convention. The Convention contains also a sample of the permit.

Since Russia is a Party to this Convention, signed by the USSR, the Government of the Russian Federation adopted two Resolutions concerning its implementation.

The first concerns the measures, which Russia implements in order to fulfil its obligations under the Convention, regarding sturgeons.[127] The Federal Agency for Fishery (hereinafter referred to as the FAF) is an administrative body, which ensures the observance of the said obligations and is entitled to issue export and import permits and re-export certificates foreseen in the Convention with regard to sturgeons and the products thereof, including caviar.

The Resolution stipulates that a license issued by the Russian Ministry of Industry and Trade is required for the export of those types of goods. A license from the Russian Ministry of Industry and Trade is also required for the import of species of fish listed in Appendix 1 to the Convention, and the products thereof. Besides, to import those goods, it is necessary to obtain an import permit, issued by the FAF, export permit or re-export certificate, issued by an administrative body of the exporting country.

The importation of sturgeons, specified in Appendix II to the Convention, and products thereof is allowed only if the importer has an export permit or re-export certificate, issued by an

[127] See the Resolution of the Government of the RF № 584 of 26 September 2005 "On Measures for Ensuring the Observance of the Obligations of the Russian Federation under the Convention on International Trade in Endangered Species of Wild Fauna and Flora as of 3 March 1973 with regard to Sturgeons", as amended on 1 November 2007, 11 June 2008, and 14 February 2009.

administrative body of the exporting country, as well as a license issued by the Russian Ministry of Industry and Trade.

Sturgeons and products thereof, including caviar, may be re-exported provided the exporter has obtained the required certificate.

To implement the said Resolution of the Government of the Russian Federation, the FAF approved the Procedures of Issuing and Registering Export Permits, Import Permits and Re-Export Certificate with Regard to Sturgeons and the Products Thereof, Including Caviar.[128] Those documents foresee the following:

The export and import permits and the re-export certificate are issued upon application, filed in accordance with an established content, and accompanied by:

- copies of constituting documents, certified according to the established procedure (for Russian legal entities);
- copies of certificates of the registration in the Single Register of Legal Entities or Individual Entrepreneurs, or details of passport or other document of a person, duly certified in accordance with the established procedure;
- copies of contracts concluded between the exporter and importer, or any other contract confirming the intention of import, export or re-export of sturgeons or products thereof;
- a receipt or other payment order confirming payment of a State duty for issuing a permit or certificate;
- copies of permits for harvesting (fishing) sturgeons;
- duly certified copies of the documents, confirming the applicant's property rights on sturgeons and the products thereof under the civil legislation;
- documents confirming the quality of sturgeons and products thereof;
- an original copy of the permit, issued by the exporting country or by a competent State authority, if the exporting country is not a party to the Convention (while importing);
- a document, confirming the powers of a person to act on behalf of the applicant (if any).

After the application for permit or certificate is received, the FAF forwards it to the Federal State Unitary Enterprise All-Russian Research Institute for Fishery and Oceanography, which must forward its recommendation (regarding the threat of export, import or re-export for

[128] See the Order of the Federal Agency for Fishery № 526 of 18 June 2009 "On the Procedure to Issue and Register Export Permit and Import Permit, Re-Export Certificate for the Introduction of Sturgeons out of the See and the Products Thereof, Including Caviar, as well as on Amendment, Suspension and Cancellation of the said Permits/Certificates".

survival of fishes) to the FAF, within the time limits, not exceeding one month from the date the application is received. The FAF must issue a permit or certificate or give a motivated refuse thereof to the applicant, within the time limits, not exceeding one month from the date the recommendation is received from the research institute.

Each permit and each certificate is issued in four copies on a headed paper under the established form, three copies being handed to the applicant against signature or sent by post. The fourth copy, bearing all visas together with accompanying documents is kept with the FAF. Permits and certificates are subject to registration with the FAF, which gives the permission and certificate a registration number and makes an appropriate entry in the registration book.

The applicant must submit the information on actual export, import or re-export operation performed to the FAF.

Application documents must be stored within three years and the permits and certificates must be stored permanently. Export and import permits and re-export certificates are valid for six months.

The second Resolution of the Government of the Russian Federation concerns the measures to ensure the observance by Russia of obligations, arising from the said Convention with regard to other endangered species of wild fauna and flora.[129]

The Resolution stipulates that export of those goods is allowed with the presentation of a permit (certificate) issued by the Federal Service of Surveillance of Natural Resource Usage (Rosprirodnadzor) and licenses issued by the Russian Ministry of Industry and Trade. Import is allowed upon presentation of authoritative documents issued by Rosprirodnadzor or other competent authority of the exporting country and a permit (certificate) of Rosprirodnadzor.

An administrative regulation[130] developed for the implementation of this Resolution, provides for the following.

To obtain a permit issued by Rosprirodnadzor, the applicant must submit to Rosprirodnadzor an application under the sample, attached to the Administrative Regulation. In cases, specified in the Administrative Regulation, such an application is lodged with the All-Russian Research Institute for Nature and the A.N. Severtsev Institute of Ecology and Evolution

[129] See the Resolution of the Government of the RF № 337 of 04.05.08 "On Measures for Ensuring the Observance of the Obligations of the Russian Federation under the Convention on International Trade in Endangered Species of Wild Fauna and Flora as of 3 March 1973 with regard to Endangered Species of Wild fauna and Flora, except Sturgeons" as amended on 14 February 2009.

[130] See the Order of the Ministry of Natural Resources of the Russian Federation № 47 of 27 February "On Approving the Administrative Regulation of the Federal Service for Surveilance of Natural Resource Usage for the Execution of State Function of Issuing Permits for Export from the Territory of the Russian Federation and Import into the Territory of the Russian Federation of Some Species of Animals and Types of Plants, Parts thereof or Products thereof, regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora as of 3 March 1973, except Sturgeons", as amended on 29 January, 3 September 2009.

Problems of the Russian Academy of Sciences, when positive recommendation is required from them.

The application must be accompanied by:

- a copy of a certificate of incorporation and/or a certificate of State registration for legal entities and of a certification of registration by tax authorities or a registration as individual entrepreneurs bearing the seal of the tax authority for persons, engaged in unincorporated entrepreneurial activity, when applying for the first time;
- copies of contracts, concluded between the exporter and importer or any other contract, confirming the intention of export or import, with the exception of movement of specimens of animal or plant origin, which are personal property;
- permit of the CITES Administrative Body of the importing State, if the sample is included in Annex 1 to the Administrative Regulation;
- documents confirming the legality of taking;
- recommendation of the mentioned research institute, in cases, provided for in para. 3 of the Administrative Regulation;
- a receipt, confirming the payment of a State duty, submitted to Rosprirodnadzor when receiving a permit.

The documents, confirming the taking, acquisition, disposal and possession of a specimen may be:

- a permission for taking objects of fauna and flora;
- a slip to the license to hunt (take), protocol of a hunt or any other permit for taking objects of fauna, classified as hunting objects, issued by an appropriate specially authorized State body or owner of a hunting sector, in cases of forthcoming hunt, a guarantee letter on the presentation of those documents after the hunt takes place);
- a permit (administrative license) for the circulation of wild animals, pertaining to rare species, registered in the Red List of the Russian Federation, issued by Rosprirodnadzor;
- a document confirming the captive breeding of animals, excerpts from the herd-book, specifying the date and place of birth, pedigree number and names, stating the information on the parents down to two and more generations;
- a document confirming plant breeding;
- a sales receipt;
- documents confirming property rights;
- a permit issued by the CITES Administrative Body of the exporting country.

To observe the CITES requirements, Rosprirodnadzor may request additional clarifying information with regard to the forthcoming export (import) of flora and fauna objects.

The application for permit must be reviewed within 20 days from the date it was submitted to Rosprirodnadzor.

In case Rosprirodnadzor requests additional information, the said time limit may be extended for the term, not exceeding 20 days.

The forms of permits, issued by Rosprirodnadzor are specified in the Appendices to the Administrative regulation.

The permit, issued by Rosprirodnadzor, is sent to the applicant by post or handed to him/her personally or to his/her official representative.

The export permits are valid for six months and import permits are valid for twelve months from the date of issue.

1.2.10. Currency Regulations

As mentioned earlier in the Customs regulation section, in some cases a certificate of transaction is required along with other documents to complete Customs formalities. The general provision regarding certificates of transaction is set out in Federal Law № 173-FZ of 10 December 2003 "On Currency Regulations and Currency Control".[131] Article 20 of the Law provides that the Central Bank of the Russian Federation may introduce common rules for issuing certificates of transaction for residents in authorized banks while carrying out currency operations between residents and non-residents in order to ensure accounting and reporting on currency operations.

According to that norm the Central Bank of the Russian Federation adopted Instruction № 117-I of 15 June 2004 "On the Procedure of Submitting Documents and Information to Authorized Banks by Residents and Non-Residents while Carrying Out Currency Operations, Procedure of Registration of Currency Operations and Issuing Certificates of Transaction by the Authorized Banks". [132]

The procedure of issuing certificates of transaction, established by the Instruction, covers currency operations between residents and non-residents. It consists of payments and bank transfers through the account of the resident, opened with authorized banks, viand through

[131] As amended on 29 June 2004, 18 July 2005, 26 July, 30 December 2006, 17 May, 5 July, 30 October 2007, 22 July 2008.

[132] As amended on 8 August 2006, 20 July 2007, 12 August 2008.

accounts in non-residents banks, in accordance with permissions issued by the Bank of Russia, including for payments for goods, exported from or imported into the Customs territory of the Russian Federation.

In order to ensure accounting and reporting on currency operations, the resident applies for a certificate of transaction for each contract to one of the banks in accordance with the procedure, stated in Annex 4 to the Instruction.

In order to apply for a certificate of transaction, the resident must submit the following documents to the bank:

- two copies of the certificate of transaction, completed in accordance with Annex 4 to the Instruction;
- the contract which constitutes the basis for the currency operations under the contract;
- a permit issued by the currency control body to carry out currency operations under the contract and a permission to the resident to open an account in a non-resident bank, in cases cited in the currency legislation acts of the Russian Federation.

In addition, in accordance with the Instruction, the resident must submit the documents, stated in Para. 4 of Article 23 of the said Law, depending on the case.

- documents certifying the personality of the person;
- a document on the State registration of a person as an individual entrepreneur;
- documents certifying the incorporation of a non-resident legal entity and a document on the State registration of a resident legal entity;
- a certificate of registration by the tax authorities;
- documents certifying the property rights of the persons;
- documents issued by local bodies at the place of residence or registration of a non-resident certifying the right of the non-resident to carry out currency operations, to open accounts (deposits), in case such documents are required from the non-resident by the legislation of the foreign State;
- a certificate of the tax authority, where the resident is registered, on opening a bank account (deposit) in a bank outside the territory of the Russian Federation;
- registration documents in cases when preliminary registration is foreseen by this Law;
- documents (draft documents), which constitute the ground for currency operations, including contracts (agreements, arrangements), powers of attorney, excerpts from the minutes of a general meeting or any other administrative body, documents, containing the information on the results of auctions, if any, documents, confirming the fact of goods transfer;

- documents, issued by credit institutions, including bank statements; documents confirming the performance of currency operations;
- Customs declarations, documents, confirming import of Russian currency, foreign currency and domestic and foreign certificated securities into the territory of the Russian Federation;
- a certificate of transaction;
- documents confirming that persons are consorts or close relatives, including the documents, issued by civil registration offices (marriage certificate, birth certificate), judicial decisions, which became effective with regard to adoption, paternity examination as well as entries in passports, concerning children, consorts and other documents, foreseen by the legislation of the Russian Federation.

Banks have the right to request only those documents that directly pertain to the currency operation.

All documents must be valid at the date of their submission. Duly certified, complete or partial translations of the documents into Russian are submitted upon the request of the bank. Documents, confirming the incorporation of non-resident legal entities, issued by State bodies of foreign States, must be legalized according to the established procedure. Foreign official documents may be submitted without legalization in cases listed in one of the international treaties of the Russian Federation.

The documents submitted to banks must be originals or duly certified copies. The banks receive original documents for inspection and then return them to the persons who supplied them. In this case, copies certified by the agent of currency control are stored in the archives of currency control.

The bank and the resident may exchange information by mail, telegraph, teletype and other mediums of communication, in accordance with the procedure agreed by them.

In case a facsimile of the signature is used with the means of mechanical or other copying, digital signature, or other equivalent of handwritten signature, on one side by the bank, and by the resident on the other, a procedure of recognition of the equivalent of handwritten signature, and the procedure and conditions of its use should be established.

The documents, received by the bank in electronic form are printed out on the same day, specifying the date they were printed out in paper; an executive of the bank signs and stamps the copy with the seal of the bank.

Notably, Regulation №368 of the Federal Customs Service of 31 December 2008 “On Data-Base of Certificates of Transactions” sets out that the heads of Customs border points (departments of Customs clearance and Customs control) were charged to make copies of

certificates of transaction within 5 working days from the date they were submitted by the declarant. In addition, they were charged to forward copies of certificates of transaction, if their electronic copies do not exist in the database of certificates of transaction of the central database of currency control, to the departments of Customs control of the corresponding Customs posts, on the 1st, 10th and 20th day of each month.

The heads of Customs offices should create electronic copies of certificates of transaction within five days after the Customs offices receive the copies of certificates of transaction from the border-crossing points and send them to the central information centre of the FCS of Russia via local Customs authorities, on the 1st, 10th, and 20th day of each month, using the software of the Common Computerized Information System of Customs Authorities.

1.3. Categories of Documents Filed in Connection with Import, Export or Transit of Goods

As the overview of the existing Russian legislation regarding Customs regulation has indicated, traders must submit many documents and information to different Customs and other bodies, in order to completing the Customs formalities for import, export and transit of goods. The main list of documents, required by the Customs authorities is cited in Order №536 of the Federal Customs Service of 25 April 2007 "On the List of Documents and Information Necessary for the Customs Clearance of Goods in Accordance with the Chosen Customs Regime", as consequently amended.[133]

From the point of view of possible standardization of such documents when creating a Single Window, attention should be paid to a great variety of both documents and their layout forms. Thus, for example, the said List containing 20 pages, does not enumerate specific documents and their forms, but states only their categories. Those categories may be classified under different criteria. For the purposes of this study, it is important to put them in accordance with the legal basis for their preparation.

The first group may contain documents prepared under provisions of international treaties (multilateral and bilateral interstate, intergovernmental and inter-agency treaties), which foresee the requirement to prepare corresponding documents, as well as the procedure of their preparation, their forms and the order of application.

[133] Though it should be noted that it does not apply to international transit of goods, which is stated in the List itself. Besides, it is stated there, that in some cases other documents, not enumerated in the List, must be supplied, which is required under other normative legal acts of the FCS of Russia.

For example, the CC CU requirement to present the Certificate of Origin of the goods under Form A was adopted in the framework of the Generalized System of Preferences. It should be filled in accordance with the Annexes to the Agreement On the Rules to Determine the Country of Origin of Goods from Developing and Least Developed Countries, signed on 12 December 2008. Another example is the provision of the CC CU that the Customs declaration of goods sent in international postal items is made in accordance with the documents, foreseen by the acts of World Postal Union. The corresponding Decision of the CU Commission directly states, which forms of acts of the World Postal Union must apply as a Customs declaration.

It should also be reminded that to facilitate and foster the release of goods, Customs documents of other countries, used for Customs purposes, may apply in accordance with international treaties of the CU Member States and international treaties of the Russian Federation.

Thus, if in the process of standardization of documents, proposals for changes of forms or procedures of preparation of this type of documents arise, the corresponding international treaties should also be amended.

The second category contains documents prepared and submitted under the legislation of the Customs Union or the Russian Federation (federal laws, Decrees of the President of the Russian Federation, decisions of the Government of the Russian Federation and other federal bodies of executive power). This category contains such documents as the Customs declaration, permits, licenses, certificates, acts and/or other documents issued by authorized bodies, certificates of foreign trade transaction, constituting documents and certificates of State registration of legal entities, accounting documents. Some of these documents are used for the export, import or transit of goods (for example, an export permit, issued by the Federal Agency on Fishing), other are issued on grounds that have no direct link to those purposes (for example, the Certificates on State registration of legal entities).

It is clear that in the context of creating a Single Window, only documents related to the export, import and transit of goods should be standardized. At the same time, the forms and procedure of issuing/use of such documents may be changed only if the corresponding legislation of the Customs Union and the Russian Federation is amended.

The third group may include documents and forms developed by business, which are not established by international treaties or legislation. Those are different documents, which can be submitted in free form, such as contracts, commercial documents, transport tariffs, price-lists, stock-exchange rates, and so on.

The distribution of documents under these categories is relative, because changes made in the form or procedure of preparing a document, foreseen under an international treaty, may

require amendments not only in the treaty, but also in the legislation, adopted in accordance with this international treaty.

2. The Lead Agency for the Single Window Facility: Establishment and Operation, Possible Structure and Organization of the Single Window in Russia

2.1. Issues of Distribution of Powers among Federal Executive Bodies in the Context of Establishment of a Lead Agency for a Single Window

The Guidelines to UNECE Recommendation 33, on the mechanisms for establishing a Single Window, recommend considering the nomination of a lead agency. As noted in the Guidelines, the appropriate agency to lead the establishment and operation of a Single Window may vary from country to country, depending on the legal, political and organizational conditions. Preferably, the lead agency should be a very strong institution, which has the necessary vision, (legal) authority, political backing, financial and human resources and interfaces to other key organizations. The Guidelines note that, because of their pivotal role, the information and documentation they receive and their key position at the border, Customs or the port authorities can be the agency best suited to lead a Single Window development and implementation. They can also be the "entrance" points to receive and coordinate the flow of information related to the fulfilment of all cross-border regulatory requirements.

As the previous sections have shown, many ministries and agencies issue different documents related to the import, export or transit of goods in Russia. It seems some of these agencies may be candidates to be nominated a lead agency for the Single Window, taking into account their powers and functions.

One of the candidates is the **Ministry of Industry and Trade of the Russian Federation** (Minpromtorg),[134] which is an authorized body of executive power, exercising State regulation of foreign trade activity, with the exception of Customs-tariff regulation and the issues of Russia's WTO accession. The Ministry also has the competence to elaborate State policy and normative and legal regulation in the field of industry and defence industry complex, in the field

[134] See the Resolution the Government of the RF № 438 of 5 June 2008 of "On the Ministry of Industry and Trade of the Russian Federation", as amended on 13 October, 7 November, 29December 2008, 27 January, 10March, 15, 23 June, 12August 2009, 2, 20 February, 9, 15 June 2010.

of technical regulation, export support for industrial products, assisting access to markets for goods and services, carrying out investigations, which precede introduction of special safeguards, antidumping and countervailing measures at the importation of goods, or on the application of measures of non-tariff regulation.

Minpromtorg also coordinates and controls the activities of its subsidiary Federal Agency on Technical Regulation and Metrology. It issues licenses and other authorization documents to carry out export-import operations with certain types of goods and certificates of barter transactions. It creates and maintains the federal database of issued licenses; permits for re-export of goods, with the exception of goods used for military or double purpose, originating from the territory of the Russian Federation, issued by other EurAsEC member States.

Another candidate may be ***the Ministry of Economic Development of the Russian Federation (Mineconomrazvitia).***[135] Its functions include, among others, the elaboration of State policy and normative and legislative regulation in the field of entrepreneurial activity, foreign economic relations, with the exception of foreign trade. It develops international and federal target-oriented programmes, elaborates and implements social and economic development programs of the Russian Federation, creates and maintains special economic zones within the territory of the Russian Federation, places orders for the supply of goods, execution of works, provision of services for State or municipal needs.

The Ministry of Economic Development is an authorized body of State power, which provides for cooperation with the Committee on Regulation of Foreign Trade Activity, established in accordance with the Rules of Procedure of the CU Commission, approved by the Decision of the EurAsEC Interstate Council № 15 of 27 November 2009.

The powers of the Ministry of Economic Development cover monitoring and forecasting of the international market situation, social and economic processes, measures of economic and trade policy in foreign States, their impact on the social and economic development of the Russian Federation. The Ministry prepares expert conclusions assessing the impact of draft normative acts, which regulate the relations among the subjects of entrepreneurial activity or their relations with the State, and which influence the macro-economic indices of the development of the country, including foreign economic activity, Customs-tariff and non-tariff regulation for macro-economic indices and their consequences for the subjects of entrepreneurial activity. It works on behalf of Russia in the activities of intergovernmental commissions for trade, economic, research and technical cooperation between the Russian Federation and foreign

[135] See the Resolution the Government of the RF № 437 of 5 June 2008 "On the Ministry of Economic Development of the Russian Federation", as amended on 7 November, 29 December 2008, 29, 30 April, 1, 22 June, 15 September, 2 October, 5 November 2009., 26 January, 20, 27 February, 4, 15 May, 15 June 2010.

States. It coordinates the activities of federal bodies of executive power on attracting direct foreign investment, on cooperation with international organizations and regional unions of foreign States regarding issues of economic policy, providing favourable conditions for the subjects of entrepreneurial activity abroad, including small and medium-sized businesses.

On the one hand, the competences of the Ministry of Economic Development obviously do not cover the regulation of foreign trade activity. On the other hand, its powers concern the cooperation with the Committee on Regulation of Foreign Trade Activity, established within the frames of the Customs Union. The Ministry coordinates the work, regarding matters of the accession of the Russian Federation to WTO. In addition, the Ministry has extensive experience in the economic reforms that took place in Russia in recent years, its competence covers the issues of development of entrepreneurial activity, and it had regulated foreign trade activity for years.

Taking into account the text of the Guidelines of UNECE Recommendation 33, ***the Federal Customs Service (the FCS***) may also be a potential candidate.[136] Its functions cover the elaboration of State policy and normative and legislative regulation, control and supervision of Customs. Within the frames of those functions, the FCS adopts normative legal acts, sets out procedures of maintaining different types of registers in the Customs sphere. It approves lists of documents and information, requirements for data, necessary for Customs clearance, with regard to specific Customs procedures and Customs regimes, as well as the deadlines for the submission of those documents and information.

The analysis in this study allows us to make the conclusion that persons engaged in foreign trade submit the largest number of documents related to the import, export or transit of goods to the FCS.

Finally, taking into account the importance of using electronic documents for the establishment of a Single Window, **the Ministry of Communications and Mass Media of the Russian Federation** may also be considered as one of the candidates (Mincomsvyaz).[137] The functions of this Ministry include the elaboration and implementation of State policy and normative and legislative regulation in the field of information technologies, including the use of information technologies (including the creation of the IT resources of the Government and

[136] See the Resolution of the Government of the Russian Federation № 458 of 26 July 2006 "On the Federal Customs Service", as amended on 21 April, 5 June, 7 November 2008, 27 January, 10 March 2009, 20 February, 15 June 2010.

[137] See the Resolution of the Government of the Russian Federation № 418 of 2 June 2008 "On the Ministry of Communication and Mass media of the Russian Federation", as amended on 13 October, 7 November, 29 December 2008, 27 January, 12 August 2009, 17 March, 15 June 2010.

providing access to them), coordination and control of the activities of its subsidiary, the Federal Agency on Information Technologies.

The powers of the Ministry cover, among others, the adoption of normative legal acts with regard to the requirements of security of information systems, including information systems containing of personal data (with the exception of confidential information systems of strategically important objects), information, telecommunication and other communication networks; data format requirements of other State information systems.

It is important to note that none of the mentioned candidates can fulfil the role of a Single Window lead agency, because the coordinating functions of such an agency will be beyond the scope of the established powers of any of the candidates. That means that the Government of the Russian Federation needs to adopt a resolution to confer additional powers to the selected candidate agency.

It seems more realistic to confer the task of a lead agency for a Single Window to one of the existing governmental commissions. These commissions have a wide range of powers and perform coordination functions. Two commissions may be valuable candidates.

First, with regard to the issues considered in this study, **the Governmental Commission on Economic Development and Integration** deserves attention.[138] This Commission coordinates the activities of executive bodies and the interaction with representatives of scientific and public organizations, the business community, in the development and implementation of measures targeted at sustainable development of the economy, protection of the domestic market, including through measures of Customs-tariff and non-tariff regulation. It covers the provision of mutually beneficial cooperation of the Russian Federation with the CIS member States and other integration unions, created within the framework of the CIS, as well as with the EU and other integration unions. The Commission also covers the achievement of full membership of the Russian Federation in the WTO and OECD, State policy in the area of technical regulation and in the field of intellectual property rights protection.

According to the established procedure, the Commission has the right to request materials and information from federal bodies of executive power and hear the heads of those bodies with regard to issues within its competence. It has the right to submit reports and recommendations on the issues within its competence to the President of the Russian Federation and to the Government of the Russian Federation, according to the established procedure.

One of the main tasks of this Commission in the field of Customs-tariff and non-tariff regulation is the elaboration of the position of the Russian Federation regarding matters of

[138] See the Resolution of the Government of the Russian Federation № 1166 of 30 December 2009 “On the Governmental Commission for Economic Development and Integration”.

Customs tariff and non-tariff regulation policy, which are within the competence of the Customs Union, to be considered during the meetings of the CU Commission.

In the field of economic integration, this Commission has the obligation to elaborate the position of the Russian Federation regarding the establishment of the Customs Union and common economic area, as well as cooperation with the EU. It reviews proposals on the harmonization of the legislation of the Russian Federation with its obligations under international treaties, concluded with the CIS Member States and other integration unions, as well as the European Union and some other integration unions.

In the sphere of intellectual property rights protection, the Commission deals with issues of improving the normative legal base in the field of intellectual property rights and the order of use, protection and safeguard of the results of intellectual activities, as well as the prevention of illegal sale of objects of intellectual property.

Several subcommittees were established to cover the various areas of activity of the Commission, including subcommittees on Customs-tariff and non-tariff regulation, technical regulation and prevention of violations of intellectual property rights.

Working groups may be created within the framework of the Commission (its subcommittees), which involve representatives of federal executive and legislative bodies, and executive bodies of the Subjects of the Russian Federation, the business community, and independent experts.

Expert councils may be established to carry out various analytical and expert activities of the Commission (subcommittees).

The Governmental Commission for the Introduction of Information Technologies into the Activities of State Bodies and Municipal Bodies may be another candidate.[139] This Commission is a coordinating body, created to coordinate the activities of federal executive bodies and executive bodies of the Subjects of the Russian Federation with regard to elaborating and implementing State policy in the area of development and use of information technologies for State administration, including the establishment of the information society and electronic government in the Russian Federation.

The main tasks of the Commission are: to coordinate the activities of federal executive bodies and executive bodies of the Subjects of the Russian Federation on such issues, as the determination of common policy in the sphere of development and use of information technologies in the State administration; to elaborate and implement measures for the expanded

[139] See the Resolution of the Government of the Russian Federation № 60 of 6 February 2010 "On the Governmental Commission for Introduction of Information Technologies into the Activities of State Bodies and Municipal Bodies".

use of information technologies to improve the quality and accessibility of State and municipal services, supplied to organizations and people; to increase the efficiency of the use of information technologies in the activities of bodies of State power; to increase the efficiency of inter-agency cooperation and internal organization of activities of bodies of State power with the use of information technologies.

To carry out those tasks, the Commission, among others, coordinates the activities of State bodies, regarding the matters of international cooperation in the field of information technologies.

The Commission may create working bodies (working groups, working sub-groups, councils) for different fields of activities of the Commission for preliminary workout and discussion of the issues, which are within the competence of the Commission.

The decisions, adopted by the Commission within the limits of its competence, are binding for the bodies of executive power, unless otherwise is provided for by the legislation of the Russian Federation.

2.2. Possible Structure and Organization of a Single Window Facility in Russia

Considering the options of establishing a Single Window by State organizations, private enterprises or State-private partnerships, taking into account the current situation in Russia; the only possible option seems to be that State bodies establish such a facility. This conclusion is based on the following considerations:

As we have seen in the first part of this study, State bodies issue all documents, authorizing import, export or transit of goods. To obtain those documents, persons engaged in foreign trade submit a great amount of information that could be classified as commercial or State secret. The State bodies create special conditions and make special exclusive requirements to work with those documents.[140]

Currently, Russia applies a system of electronic document exchange among State bodies. The Russian Government has approved the rules for working with such documents and for storing them. Measures are planned to guarantee efficient the information exchange among agencies, and the integration of State information systems and resources.[141]

[140] As example see paragraph 2.3.2 below, regarding stricter rules for identification and certification of authenticity of electronic documents, submitted to federal bodies of state power, in comparison with corporate information systems.

[141] See section 3.3.1 below.

It is hardly possible that the establishment of the Single Window facility would be entrusted to a private enterprise. Besides, the Federal Law № 135-FZ of the Russian Federation of 26 July 2006 “On Protection of Competition” prohibits to entrust economic subjects with functions and rights of federal bodies of executive power, including functions and rights of bodies of State control (paragraph 3 Article 15).

With regard to public-private partnership, which is lately largely discussed at the official level in different forums dedicated to cooperation between government and business, it is merely considered as a specific form of State support to entrepreneurial activity. However, the necessary legislative environment has not been created yet.

Recent resolutions adopted by the Russian Government witness to the support for establishing a Single Window facility by public bodies.

Thus, according to the Rules for Exercising Control at Border-Crossing Points of the State Border of the Russian Federation, adopted by Resolution №872 of the Government of the RF of 20 November 2008 the principle of ”One Window” must apply during the control at the border-crossing points. According to that principle, upon the arrival of goods and means of transport at the border-crossing point, while submitting the documents supplied in consistence with the Customs legislation, the carrier must submit to the Customs authority the documents, necessary for other types of control. The Customs authorities forward the documents, necessary for certain types of control, to the representatives of respective State control bodies, which, after the control is completed, inform the Customs authorities on the possibility of allowing means of transport and goods through the State border or on the necessity of conducting inspection of means of transport and goods. The exchange of data between Customs authorities and State control bodies is also provided through electronic means of data transfer and processing.

Another example is the Inter-Agency Integrated Computerized Information System of Federal Bodies of Executive Power, which Perform Control at the Border-Crossing Points of the State Border of the Russian Federation (IAICIS or МИАИС), which is created under the Provision, approved by Resolution № 1057 of 29 December 2008 of the Government of the Russian Federation. The IAICIS should provide automated interoperability of the information systems of the various control bodies and other information systems. It supports the establishment, maintenance and update of a common data base, which contains information certified by electronic digital signature, including preliminary information on persons and means of transport, crossing the State border of the Russian Federation, goods transferred through the border, as well as access to the information, contained in it, using the infrastructure of the All-Russian State Information Centre.

The most likely implementing body, which could directly perform the functions of a Single Window, and provide the information and document exchange among persons engaged in foreign trade and the State bodies, can be the Federal Customs Service (FCS).

All cases of clearance of import, export or transit of goods are addressed to the FCS. The FCS gathers the greatest amount of information related to those procedures. The FCS has a broad network of checkpoints at the border-crossings. Some legislative acts directly determine the Customs authority as a coordinating body. For example, paragraph 1 of Article 103 of the CC CU says that when controlling the goods, transported through the Customs border and subject to control by other bodies of State control, Customs authorities provide general coordination of such activities and their simultaneous performance, according to the procedure established by the legislation of the CU Member States. As mentioned in this section, according to the Rules of Control at Border Crossing Points in the Russian Federation, the carrier submits the documents, necessary for other types of control, together with the documents, supplied in accordance with the Customs legislation upon the arrival of goods and means of transport at the Customs territory of the Russian Federation.

According to Federal Law № 394-FZ of 28 December 2010 "On Amendments to some Legal Acts of the Russian Federation, in connection with the Transfer of Powers for Performing some Type of State Control to the Customs Authorities of the Russian Federation", the Customs authorities exercise transport control and inspect the documents for imported goods within the framework of quarantine phyto-sanitary, veterinary and sanitary-quarantine control at the border-crossing points. At the same time, they have the right to take decisions on the admittance of means of transport, importation of goods into the territory of Russia (immediate exportation) or on sending them to special control points for inspection by officials of Rospotrebnadzor and Rosselkhoznadzor.

The only competitor of the FCS, as to its involvement in the process of allowing goods through the Customs border and the number of border crossing posts, is the Federal Agency for the State Border Administration of the Russian Federation. However, the main functions of that body are to determine and carry out the State policy regarding the administration of the State border of the Russian Federation, to create and assure performance of the State border-crossing points and State border crossing spots. Considering this, it seems unlikely that this body may be entrusted with the function of the Single Window.

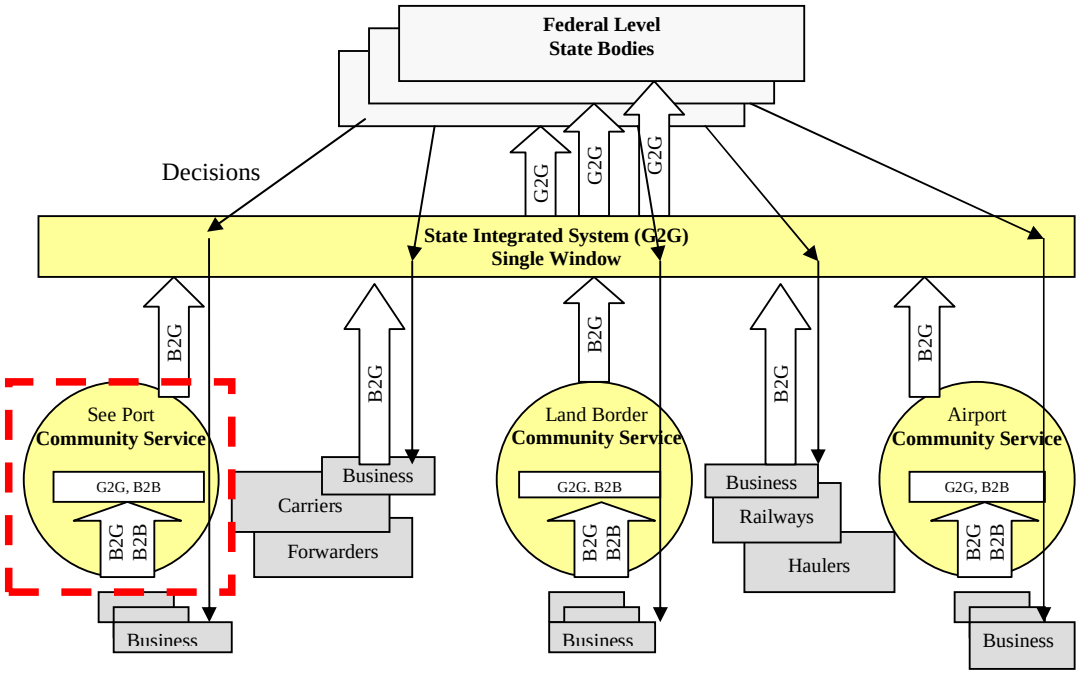
As for the process of creating the Single Window in Russia, this work should be done step-by-step, beginning with the harmonization of procedures, information, documents, electronic formats of messages of different State bodies, which will be involved in the Single Window facility. The Single Window does not necessarily require introduction and use of the

most modern information and communication technologies. Although their use increases the efficiency, in some cases it is possible to keep partially or totally, the use of original paper documents. At the same time, the legal equivalence between paper and electronic documents and between electronic and handwritten signatures should be ensured.

While conducting this work, it is very important to use international standards, such as the UN Trade Data Elements Directory (UNTDED), the World Customs Organization Data Model and the Core Components prepared by the UNCEFACT, which will help harmonize data exchange within the Single Window between different State bodies, with a perspective of cross-border information exchange.

Some private companies, working with the federal executive bodies, have started projects on creating systems to provide services at different control points (ports, airports, etc.). The establishment of a Single Window system in the Russian Federation may combine efforts in two directions, by creating, at the first stage, enabling environment at the federal level. This environment may contribute to work on the creation of: (1) a harmonized system at the federal level for submitting data and documents by trade operators (B2G submitting information) and exchange between the corresponding State bodies (G2G) in the standard format, as well as (2) systems for supplying services in different points, where a specialized entity may provide specific services for trade operators and State bodies.

Taking into account those consideration, the “Single Window” scheme for Russia may look as follows:



3. Legal basis for Implementing a Single Window Facility in Russia

3.1. Russian Legislation and Regulations Concerning Electronic Data Interchange and Electronic Signatures

3.1.1. General Provisions

3.1.1.1. Overview of Main Acts

A number of legislative and other normative acts regulate the issues of electronic data exchange in Russia. These include acts determining the legal conditions for the use of Electronic Digital Signature (the EDS) in electronic documents, acts related to the procedure of data submission and protection, establishing regulatory rules for different fields of activities, in particular for Customs and other spheres, which may be related to the establishment and operation of the Single Window. In addition, acts established by the Customs Union also apply in Russia. They contain provisions regarding the possibility of using electronic documents for the import, export and transit of goods. Russia is also a Party to international treaties, which regulate issues of electronic data exchange. Thus, Russia signed the UN Convention on the Use of Electronic Communications in International Contracts.[142] Recently, Russia acceded to the International Convention on the Simplification and Harmonization of Customs Procedures of 18 May 1973, as amended by the Protocol of 26 June 1999 (Revised Kyoto Convention or RKC).[143] In the framework of the Customs Union, Russia is a party to the Agreement "On the Application of Information Technologies in Electronic Document Exchange in Foreign and Mutual Trade within the Common Customs Territory of the Customs Union" of 21 September 2010.

3.1.1.2. The Law on Electronic Digital Signature

The main legislative act in the field of electronic data exchange and electronic digital signature (hereinafter referred to as the EDS), is the Federal Law № 1-FZ of 10 January 2002 "On Electronic Digital Signature".[144] There is no specific law that regulates the issues of electronic commerce or electronic documents exchange.

[142] Russia has not ratified this Convention yet.

[143] See Federal Law № 279-FZ of 3 November 2010..

[144] As amended on 8 November 2007.

The mentioned Law formed the basis for solving the problem of establishing legal provisions for the use of the EDS in electronic document exchange. The Law provides for the recognition of a digital electronic signature as legally equal to a person's handwritten signature on paper. The Law determines the conditions of using the EDS in electronic documents by the bodies of State power and State organizations, as well as legal entities and persons. It establishes the rights and obligations of an EDS holder, the requirements for the signature key (PKI) certificate, issued by a Certification Authority (CA), which provides the possibility of certifying the authenticity of the EDS, of the information contained in the signature key certificate, time limits and procedures of its storage, as well as the order of maintaining registers of certificates.

The Law sets out the legal status of Certification Authorities and their functions. It determines the relationship between those authorities and an authorized executive body, which maintains the single State register of signature key certificates of the Certification Authorities. Currently the Ministry for Communication and Mass Media of the RF performs the functions of such an authorizing executive body. A legal entity, having all necessary material and financial means may be such a Certification Authority. The Certification Authorities issue signature key certificates. They create EDS keys upon request from the participants in the information system, maintain registers of signature key certificates, and perform other functions. To certify the certificates issued on behalf of the Certification Authority, the EDS of an authorized person of the Certification Authority is used. The said authorized federal body of executive power maintains the single State register of signature key certificates, which the Certification Authority, working with the participants in an information systems of common use, apply when certifying the signature key certificates, issued by them.

The Law foresees the protection of rights of persons using the EDS during electronic document exchange, and the conditions to suspend and/or cancel a signature key certificate.

3.1.1.3. Other Laws and Normative Acts

Together with the said Law, the issues of the theme of this section are regulated by Federal Law №149-FZ of 27 July 2006 "On Information, Information Technologies, and Protection of Information", as well as by other legislative acts, among which Federal Law №94-FZ of 21 July 2005 "On the Placement of Orders for the Supply of Goods, Execution of Works, Provision of Services for State and Municipal Needs"[145], the Civil Code of the RF, the

[145] In accordance with the Federal Law № 93-FZ of 8 May 2009, the said Law was included Chapter 3.1. "On Placement of Order by Conducting an Open Auction in electronic Form".

Arbitration Proceedings Code of the RF[146], the Civil Proceedings Code of the RF, Federal Law №129-FZ of 21 November 1996 "On Accountancy"[147], and the Tax Code of the RF[148].

Considerable number of agency normative legal acts was adopted in accordance with the mentioned laws and decisions of the President of the RF and the Government of the RF. The following acts may be cited as example:

The Order of the Federal Agency for Information Technologies №33 of 5 June 2006 "On the Adoption of the Procedure of the Organization of Works for the Introduction of the Single State Register of Signature Key Certificates of Certification Authorities";

The Letter of the Federal Treasury №42-7.1-17/10.1-102 of 20 March 2007 "On the Sample Agreement on Electronic Document Exchange";

The Order of the Federal Tax Service № MM-3-6/665@ of 17 December 2008 "On the Approval of the Procedure of Introducing the Single Environment for the Confidence in EDS Key Certificates";

The Order of the Federal Tax Service № MM-7-6/353@ of 2 July 2009 "On the Approval of the Requirements to the Signature Key Certificate and the List of Revoked Certificates to Provide for the Common Space of Confidence to the EDS Key Certificates";

The Order of the Ministry for Communication of the RF №92 of 10 July 2009 "On the Approval of the Administrative Regulation of Supplying the State Service by the Federal Agency for Information Technologies on Certification of Electronic Digital Signatures of Authorized Persons of Certification Authoritys in Signature Key Certificates Issued by Them";

The Order of the Ministry for Communication of the RF №104 of 25.08.2009 "On the Approval of the Requirements for Providing for Integrity, Operational Sustainability and Security of Information Systems of Common Use";

The Order of the Ministry for Communication of the RF №17 of 30 January 2010 "On the Approval of the Administrative Regulation for the Performance of the State Functions in the Organization of Works for Maintaining the Single State Register of Signature Key Certificates of Certification Authorities and the Register of Signature Key Certificates of Authorized Persons of

[146] In accordance with the Federal Law № 228-FZ of 27 July 2010, the Arbitration Proceedings Code of the RF was amended to allow submitting to the arbitration court an action, statement of defence and other documents related to the action in electronic form, and the Order of the High Arbitration Court of the RF № 16 of 12 January 2011 approved the Provisional Procedure of Submitting Electronic Documents to Arbitration Courts of the Russian Federation.

[147] Taking into account all amendments, made by the Federal Law № 32-FZ of 28 March 2002, it is established that if there are technical possibilities and the users of accountancy agree, an organisation may submit accounting reports in electronic form in accordance with the legislation of the Russian Federation.

[148] According to Paragraph 3 of Article 80 of the Code (as amended by the Federal Law № 268-FZ of 30 December 2006, the tax declaration and accompanying documents may be submitted to the tax authorities in electronic form, according to the established formats.

Federal Executive Bodies, as well as on Providing Access to Them for Citizens, Organizations, Bodies of State Power and Local Authorities by the Federal Agency for Information Technologies";

The Order of the Federal Security Service of the RF and the Federal Service for Technical and Export Control №416/489 of 31 August 2010 "On the Approval of the Requirements on the Protection of Information Contained in Information Systems of Common Use";

The Information Letter of the Federal Service for Financial Markets (FSFM) of the RF of 27 October 2010 "On Technical Recommendations for the Submission of Electronic Documents to the FSFM of Russia".

The Clarifications of the Federal Communication Agency of 20.01.2011 "On the Procedure of Obtaining State Services for the Registration of Certificates of Conformity in Electronic Form through the Single Portal of State and Municipal Services".

3.1.1.4. Policy Documents on the Development of Electronic Documents Flow

Notably, after the Law on EDS was adopted, the President of the Russian Federation and the Government of the Russian Federation approved a number of acts of programmatic nature, in the search for broader use of electronic document exchange among the government bodies, as well as with between them and organizations and persons.

Thus, the Resolution of the Government of the RF "On Federal Target-Oriented Programme "Electronic Russia (2002 – 2010)", adopted almost simultaneously with the Law on the EDS,[149] mentioned some substantial shortcomings in the area of electronic document exchange. In particular, it noted: the absence of mechanisms providing "digital confidence", namely, a system of Certification Authorities, which would apply the EDS technology; the establishment of governmental IT systems by bodies of State power in the absence of a single legislative base regulating those procedures and of a single coordination; the use of different formats, etc. During the period of implementation of this Target-Oriented Programme, certain measures were put in place. The network of Certification Authorities currently covers all Russian regions and counts some 300 CAs. Before the end 2010, it had to create and introduce some functional elements of e-government infrastructure, in particular, multi-functional centres for supplying State and municipal services, a single portal and consolidated register of State and

[149] See the Resolution № 65 of 28 January 2002, as amended on 26 July 2004, 15 August 2006, 10 March 2006, 10 September 2009, 9 June 2010.

municipal services and regional portals and registers of State services. The Resolution of the Government of the RF № 697 of 8 September 2010 “On the Single System of Inter-Agency Electronic Cooperation” entrusted the Ministry of Communication of the RF with the task of setting in operation a single system of inter-agency electronic information exchange, approving technical requirements for the interoperability of information systems within the single system and ensuring for their publication in the federal State information system "The Single Portal of State and Municipal Services (Functions)”. The federal bodies of executive power were required to link their information systems, used when providing State services and performing State functions, to the single inter-agency system of electronic information exchange. These bodies include those ministries and agencies, which are involved in document exchange related to import, export and transit of goods. Accordingly, the realization of the said measures must contribute to the creation of more favourable prerequisites for the establishment of a Single Window.

The strategy for developing an Information Society in the Russian Federation[150] includes the tasks of developing legislation and improvement of law enforcement practices in the use of information and telecommunication technologies; the establishment of an efficient inter-agency and inter-regional information exchange; the integration of State information systems and resources; increasing the amount and quality of State services supplied to organizations and persons in electronic form. The Strategy sets out that because of the implementation of the foreseen measures, 70 % of the document exchange between bodies of State power should be done in electronic format by 2015.

The creation of a modern and highly accessible information and telecommunication infrastructure and the provision, on the basis of this system of quality services, including the establishment of a common information space; raising the quality and accessibility of services offered by the State, simplification of the procedure and setting deadlines for their provision to the public are set out in the Concept for the Long-Term Social and Economic Development of the Russian Federation until 2020.[151]

The plans to establish in 2010 a system of inter-agency electronic document exchange, including documents related to import, export and transit of goods were included in the programme document “Main Directions of Activities of the Government of the Russian Federation before 2012.”[152] With this objective in mind, electronic communications and

[150] Approved by the Order № Pr-212 of 7 February 2008 of the President of the RF.

[151] See the Resolution № 1662-r of 17 November 2008 of the Government of the RF.

[152] Approved by the Resolution of the Government of the RF № 1663-r of 17 November 2008, as amended on 2 November 2009.

electronic digital signature among will be given official status in the relations among executive bodies on the federal and regional levels,

The Plan of Transition to the Provision of Public Services and the Performance of Functions by the State Executive Agencies in Electronic Format[153], adopted by the Government of the RF, determines time limits for the provision of public services electronically. The Plan provides, among other tasks, for the possibility of receiving public services and access to the functions of government bodies in electronic form, on a common governmental web-portal providing services on national and municipal levels. This service web portal should be provided in 2011–2012 for the official registration of legal entities and persons as individual entrepreneurs and the creation of the corresponding registers. By the end of 2012, the service should be provided for Customs clearance of goods, establishment of special simplified procedures for Customs clearance for certain types of persons and entities, advance decisions regarding goods classified according to the Customs Nomenclature for foreign economic activity (CN FEA). By 2014, they should be provided with regard to issuing special permits for international road transportation of large-size and heavyweight cargo.

In the end of October 2010, the State Programme "Information society (2011-2020)"[154] was approved, which allowed the conclusion that many foreseen measures were not implemented, or the deadline for their implementation was postponed. The programme notes, in particular, the following:

technical software solutions are sometimes incompatible, data exchange between different created State information systems is not possible, mechanisms and technologies of efficient interaction between federal and regional information systems as well as on the same level are absent;

infrastructure, solutions and standards in the field of electronic data exchange are urgently needed at the inter-agency level, as well as between citizens and agencies, as public information technology systems are evolving further;

electronic document exchange systems are introduced and used only in a limited number of executive bodies;

technical software solutions and systems are incompatible; data exchange between different State information systems is not possible

no infrastructure offering security of electronic information exchange among executive bodies has been put in place; there are no mechanisms providing confidence in electronic digital

[153] See the Resolution of the Government of the RF № 1555-r of 17 October 2009.

[154] See the Resolution of the Government of the RF № 1815-r of 20 October 2010 "On State Programme of the Russian Federation "On Information Society (2011 – 2020)".

signature, no integrated system of Certification Authorities has been created, and the existing Certification Authorities are not united into clusters of mutual trust, and their services are not broadly used yet.

Several sub-programmes are foreseen under the above Programme, including the Sub-Programme on “Electronic Government and Efficiency of State Government”, which includes the following priority measures for the period before 2015:

creation of a single space of EDS confidence, including the development of the national infrastructure of open EDS key certification, which provides for the identification of agents participating in information exchange and integrity of electronic document content, creation of a system of accreditation of Certification Authorities, which should be compliant with common requirements and standards. Certified (trusted) Certification Authorities and provision of access to it should be listed in a common register, and the mechanisms of authorization and identification of users should be improved;

creation of a single reference and coding system, used in national and municipal information systems;

development of a protected system of inter-agency electronic document exchange, including the integration of the systems of electronic document exchange of the executive bodies, based on a common standard, including the creation of a reporting system for the work with electronic documents; modernization of the systems of electronic document exchange within the Office of the President of the Russian Federation and the Government of the Russian Federation, in order to support the integration with the system of inter-agency electronic document exchange, on the basis of a common standard.

This Sub-Programme foresees the creation of the IACIS system, the creation of a State information system in the area of technical regulation in the Customs Union, including the task of removing excessive barriers to trade in the declaration of goods, reducing the time and costs of the procedures of obtaining conformity declaration; and the creation of conditions for the free movement of goods within the territory of the Customs Union.

On the development of electronic document exchange, the Program foresees that in 2011 at least 45 federal government bodies will be included in the inter-agency paperless system of electronic document exchange, (except for documents required by the procedure in a mandatory paper format). 65 State agencies will be included in 2012; 85 in 2013. The share of paperless document exchange will be 10% of the total document flow in 2011, and 35% in 2013-2014. The plan of the above-mentioned Strategy of Development of the Information Society in the Russian Federation is that this ratio reaches 70% in 2015. The Strategy also notes that, in order to achieve

this, the relevant State agencies should undertake additional efforts to coordinate their work on the use of information technologies. More measures should be adopted to stimulate extra budgetary resource mobilization and activities for the realization of the Programme.

3.1.1.5. Planned Amendments to the Legislation on EDS

A bill “On the Electronic Signature”, hereinafter referred to as the Bill, was introduced in the State Duma of the RF in December 2009, with a view to replace the Law on EDS.

The Explanatory Note to the Bill stated that certain conceptual, legal and technical shortcomings of the Law on EDS impeded the creation of enabling legal environment for a wide use of EDS in the Russian Federation. As of February 2007, that is five years after the Law on EDS entered into force, the number of persons, using EDS in Russia, did not exceed 0.2%. At the same time, five years after the corresponding European Directives entered into force, 70% of the population used electronic signatures.

The authors of the Explanatory Note point out the main disanvantages of the Law on EDS. Notably, it allows for the use of only one technology for electronic digital signatures, which is inconsistent with the main principles of international law and legislations of other States in this field, namely: “technological neutrality” of the legislation, and legal recognition of different types of electronic signatures. The Law on EDS provides for the use of only certified means of electronic digital signature, which is also inconsistent with the rule of international law on the free use of electronic signatures. Another disadvantage is that the Law exludes from its sphere of regulation both the relations on the use of other types of electronic signature, and relations that are not classified as civil-law transactions. The Law on EDS is not harmonized with other legislative acts of the Russian Federation, including the law on licensing of some types of activities and on technical regulation.

The new Bill aims at eliminating the mentioned shortcomings of the existing Law on EDS, and at expanding the sphere of use and the types of authorized electronic sigantures. Nonetheless, it still contains provisions aimed at ensuring continuity of legal regulation from the current Law.

The Bill regulates the following types of relations in the field of use of electronic signatures:

use of different types of electronic signatures;

issuing and using signature key certificates, verification of electronic signatures;

provision of services by the Certification Authorities, as well as their accreditation.

According to the Bill, the principles of regulating legal relationships in the use of electronic signatures are the following:

participants in these relationships may, at their own discretion, use any type of electronic signature, unless otherwise provided by legislative and other normative legal acts or agreements concluded by the parties;

participants in these relationships may, at their discretion, use any technology and/or technical means, which allow them to fulfill the requirements set out in the Bill;

compliance of the requirements to the type of electronic signature, which is established by legislative and other normative legal acts, with the objectives of the use of electronic signature;

an electronic signature is declared invalid only because it is not handwritten (on paper) or was created with technologies, which do not require a signature key certificate.

The Bill gives a definition of an electronic signature which incorporates the main feature, proper to all types of electronic signature: the possibility of using the signature to identify the person or legal entity, which signed the informaiton in electronic-digital form.

The Bill foresees three types of electronic signature, depending on the established criteria: simple, enhanced and qualified electronic signature.

If an electronic signature meets all three conditions at the same time (unique connection with the signing person; the use of means which the signing person is able to keep under control; ensuring the signed electronic document is protected from modification or there is a possibility of revealing that modifications have been made into the electronic document after it was signed), then the electronic signature is deemed to be an enhanced electronic signature. As a general rule established by the Bill, the information in electronic-digital form, signed by an enhanced electronic signature, is recognized to be an electronic document, which is legally equal to a paper document, signed by a handwritten signature.

The electronic signature, which is not enhanced, is deemed to be a simple electronic signature. Its distinguishing characteristics are that it indicates the person, who has signed the information, and it does not allow establishing if the signature and the signed information were modified after the signing. The cases when a simple electronic signature is equivalent to one on paper should be foreseen in the agreements, signed by the parties to the relations or in normative legal acts.

If the electronic signature certificate is issued by a Certification Authority accredited in accordance with the provisions of the Bill, such a signature is deemed to be a qualified electronic signature.

The Bill does not set out rules and order of using electronic signature with respect to particular relations, because this field is regulated by the laws, governing such relations. At the same time, the Bill establishes the presumption of using some types of electronic signature within the frames of particular relations.

Thus, a simple electronic signature may be used to sign electronic messages sent to a State body or an official. At the same time, the acts adopted by State bodies may establish the cases, when the electronic messages sent to them may not be signed by a simple electronic signature and they must be signed by other type of electronic signature or be submitted on paper. However, such acts must be adopted with due consideration of the principles of regulation of relations in the field of use of electronic signatures and other requirements of the Bill regarding the use of certain types of signatures.

An enhanced electronic signature may be used in all types of relations, unless otherwise provided for by a normative legal act or by an agreement signed by the parties to the relations.

A qualified electronic signature may be used:

by persons and legal entities to address electronic messages to State bodies regarding the provision of governmental services (functions), which entails the origin, alteration or cease of the rights and duties of persons and legal entities;

when State bodies send electronic documents to other persons;

for communications among governmental agencies using the State information systems;

in other cases, foreseen by the agreements between participants in the relations, unless otherwise envisaged by legislative acts or other normative acts of the Russian Federation.

At the same time, in the cases foreseen in the Bill for the use of the enhanced electronic signature, the State bodies are entitled to establish both the procedure of use and the types of electronic signatures, that means, to allow the use of an enhanced or even simple signature, if that corresponds to the objectives of the use of the electronic signature.

The simple electronic signature may not be recognized invalid just on the grounds that an electronic document was signed outside the territory of the Russian Federation or because the signature identifies a foreign person or a foreign legal entity.

Digital signatures, created under the stipulations of a foreign law, are recognized to be enhanced electronic signatures, if they conform to the characteristics of an enhanced electronic signature, established in the Bill.

An enhanced electronic signature may not be recognized invalid just on the grounds that the signature key certificate is issued under the rules of foreign law.

The Bill passed the first reading in the State Duma of the RF in January 2011.

3.1.2. Identification, Authentication and Authorization Procedures

According to UNECE Recommendation 35, in order to assure the protection, quality, accuracy and integrity of data within the Single Window facility, proper mechanisms for identification, authentication and authorization of users (both operators and end-users) are necessary. In this field, there are no global legal, procedural and technical standards. For this reason, the operators of the Single Window facility currently must refer to the legislation enacted in their States.

The Recommendations on Standartization R 50.1.056-2005[155] with regard to the technical protection of data contains the definitions of the concepts of identification, authentication and authorization of users. According to those Recommendations, identification is defined as granting identifiers to access subjects and objects, and/or comparison of the produced identifier with the list of granted identifiers. Authentication (of the identity of the access subject) means an action of verification of the authentity of an access subject within the information system; and autorisation of access means granting access rights to the subject, as well as granting access according to the established rights to access.

Due to the specificity of the environment in which it takes place, electronic document exchange involves higher requirements with respect to security. In this connection, special technology solutions, which would allow for the secure identification of people, computers and software processes are needed. For this purpose, several technologies have been developed, which allows, to one extent or another, to carry out identification. Those technologies may be divided in three categories, depending on the principle, they are grounded upon: identification based on personal biometrical data, identification based on the use of smart cards and other types of hardware keys, which may be plugged into the computer or scanned by a reading device, as well as identification, based on passwords. In addition, the last categody is subdivided into three types: identification based on passwords and identification numbers (ID); identification based on encryption with a private key, identification based on encryption with a public key (EDS technology).

Since the identification based on biometric data or on hardware keys supposes installation of expensive equipment, it will hardly be widely used. Identification based on passwords and identification numbers is quite widely used in the Internet, though it has a very

[155] Approved by the Order № 479-st of 29 December 2005 of the Federal Agency for Technical Regulation and Metrology.

limited specialization of use. For example, this type of identification is used for online banking for electronic payment with the use of plastic cards on the internet.

In Russia, only the use of identification technology based on the encryption with a public key, that is EDS technology, is regulated by the legislation.

The Law defines EDS as identification of an electronic document. It is intended to protect this electronic document from falsification, and resulting from cryptographic transformation of information with the use of a closed EDS key, allowing to identify the owner of the signature key certificate, and to establish the absence of data misrepresentation in the electronic document.

According to the Law, the owner of the signature key certificate is a person, whose name is on the issued certificate and who owns the corresponding closed EDS key, allowing for the signature of the electronic documents. In order to confirm the authenticity of an electronic digital signature in an electronic document, an open EDS key is used, which represents a unique symbol string, corresponding to the closed EDS key and available to any user of the corresponding information system.

Currently, the EDS is the only procedure of exchange of protected data in Russia, which uses telecommunication channels, in particular Internet, and which is incorporated in the legislation in force.

As regards authentication, according to Article 9 of the Law on EDS, one of the functions of the Certification Authority is to check the authenticity of the EDS in electronic documents with regard to the signature key certificates, issued by it upon request from the signature key certificate users. At the same time, according to Article 3 of the Law, the confirmation of the authenticity of the EDS in an electronic document is a positive result of the check of the EDS, made by a corresponding certified means with the use of a signature key certificate, in order to ascertain whether the EDS in electronic documents belongs to the holder of the signature key certificate and there is no misrepresentation in the electronic document, signed by the EDS. In order to check whether the EDS belongs to the holder of the signature key certificate, the corresponding signature key certificate shall designate the date and time it is issued, information on the validity of the signature key certificate and information on the register of the signature key certificates.

After the signature key certificate is obtained and necessary software of encryption protection system as well as some other programmes are installed, the holder of the certificate must undergo the process of authorization in the system, where the received EDS will be used. This is made by a number of consequitive actions, established for this system and which are

authorized by the operator. In case of a positive result, the EDS is activated and its holder may use it within this system.

When enjoying their rights, the holders of signature key certificates must fulfill a number of established obligations: not to use public and private keys for the EDS, if they know that those keys are used or were used earlier; keep the closed EDS key confidential; immediately require suspention of the signature key certificate if there are reasons to believe that the confidentiality of the private key was violated.

As regards the issue of using electronic documents in the Single Window facility, the Law on EDS sets out stricter requirements for the identification and authentication of electronic documents, submitted to federal bodies of executive power, in comparison with other information systems. First, while creating EDS keys to use in information systems of federal bodies of State power, only certified means of electronic digital signature must be used. With regard to other information systems, such a requirement is not mandatory (liability for using uncertified means is foreseen). Second, in order to sign their electronic documents, federal bodies of State power and organizations exchanging documents with those bodies must use EDS of authorized persons. Third, signature key certificates of signatures of officials of federal agencies are included in the register of signature key certificates, which is maintained by an authorized federal executive body. They are issued to signature key certificate users and included in this register according to the procedure, established by the Law on the EDS for Certification Authorities[156].

An authorized federal executive body maintains a single State register of signature key certificates, which are used by Certification Authorities working with the users of general information systems to certify the issued signature key certificates; assures free access to this register; and issues signature key certificates of corresponding authorized persons of the Certification Authorities.

Until recently, the Federal Agency for Information Technologies was the authorized body that maintained the said register. When it was abolished, its functions were transferred to the Russian Ministry of Communications.[157]

[156] The key certificates of signatures of persons, who take part in the documents flow in corporate systems, are included in registers, which are maintained by Certification Authoritys.

[157] See the Decree of the President of the RF № 1060 of 25 August 2010 «On the Improvement of State Administration in the Field of Information Technologies».

3.1.3. Equivalence of Paper and Electronic Documents and Admissibility of Electronic Evidence in Courts

The Law «On Electronic Digital Signature» stipulates that the EDS in an electronic document is equal to a handwritten signature on a paper document when the following conditions are met at the same time:

the signature key certificate, related to the EDS, is still valid at the moment of inspection or at the moment the electronic document is signed, if there is a proof of the time the document was signed;

the authenticity of the EDS in electronic document is proved;[158]

the EDS is used in accordance with the information, stated in the signature key certificate.

According to the Law on EDS, the EDS in an electronic document is recognized equal to the signature on the paper document, which is also certified by a stamp, if the EDS certificate contains the necessary information on the legal rights of its holder when performing the relations in cases, established by laws and other normative legal acts of the Russian Federation, or by the agreement made by the Parties.

At the same time, Federal Law №149-FZ of 27 July 2006 «On Information, Information Technologies and Protection of Information» establishes that an electronic message, signed by EDS or any other analogue of a handwritten signature, is recognized to be an electronic document, equal to a document, signed by hand, in cases when federal laws or other normative legal acts do not establish or foresee a requirement to produce such a document on paper.

As we see, the Law on EDS contains provisions regarding the equivalence of signatures on paper and electronic digital signatures, but not the equivalence of electronic and paper documents. The Law on Information establishes a rule of legal equality equivalence of electronic messages, signed by an EDS or by any other analogue of a handwritten signature, and paper documents, signed by hand, but with some exceptions. Consequently, neither of those laws foresees a general rule on the equivalence of paper and electronic documents.

As to the possibility of using electronic documents as evidence in court, the Arbitration Proceedings Code of the RF contains some general guidelines regarding this issue. Paragraph 1 of Article 75 States that contracts, acts, references, business correspondence, other documents,

[158] According to the definition, given in the Law, the confirmation of the authenticity of the EDS in an electronic document, is a positive result of the check of electronic digital signature, made by a corresponding certified means with the use of a signature key certificate, in order to ascertain whether the EDS in electronic documents belongs to the holder of the signature key certificate and there is no misrepresentation in the electronic document, signed by the EDS.

produced in form of digital, graphic or other documentation, the authenticity of which may be established, are considered as written documents containing information on the circumstances, which are important for the case. Paragraph 3 of Article 75 sets out that the documents received by fax, electronic or other type of communication, as well as the documents signed by electronic digital signature or any other analogue of a handwritten signature, are admissible as written evidence in cases and according to the procedure, established by a federal law, other normative legal acts or treaties. In particular, the Law on EDS may be considered as such a law. When an electronic document signed by EDS is submitted to court, the latter, in order to accept it as a written evidence, shall consider whether the procedure established by this Law regarding the signing of the document by the electronic digital signature, has been completed.

The legal practice regarding the settlement of cases with the use of electronic evidence is gradually developing in Russia. However, this process is very slow and controversial decisions are sometimes adopted. Some specialists, who analyzed the court practices several years ago, noted that the assessment of electronic documents by a court as evidence is often negative; the courts do not consider that evidence completely.[159]

Over the last years, the situation seems to be changing. Electronic documents are more often used in courts as evidence and are recognized by judges, in particular with regard to disputes between banks and their clients. Some examples are cited below:

On 11 June 2002, the Moscow District FAC considered cassation appeal under Case №KG-A40/3554-02, and recognized the electronic payment order, signed by EDS of the General Director and the Chief Accountant, as appropriate evidence of the will of the clients, and the document signed by EDS as having legal force.

Decision 3 KG-A40/8531-03-P of 5 November 2003 of the Moscow District FAC also recognized the legal force of a document signed with an EDS. OAO Rostelecom filed a petition in court regarding compensation for the damages, arguing that it did not give any payment order to the bank as an electronic payment order. The expertise assigned by the arbitration court and conducted by experts of the Russian Central Bank revealed that the concerned payment order contained the correct EDS, which belonged to the Deputy General Director of OAO Rostelecom. Besides, it became clear that the key system did not allow initiating a communication session without supplying the main key of the client's computer, neither sending documents from the client's computer on behalf of another client and accepting for processing documents not signed by a registered EDS. The court declared unfounded the petition of the applicant, because he did

[159] See Article of N.N. Lebedeva "Electronic Document as Evidence in Russian Procedural Law" published in the magazine "Law and Economy" № 11 of November 2006.

not provide evidence of unauthorized interference or loss or disappearance of the diskette containing the EDS of the person authorized to use it.

Decision № KG-A40/10952-07 of the Moscow District FAC rejected the petition to compensate for damages resulting from the unauthorized withdrawal of funds from the settlement account under a bank account agreement. The Court declared that the argued payment orders, which served as the basis for withdrawing the funds from the applicant's account, were received from the applicant in electronic form and signed by electronic digital signature by an authorized person.

By its Decision № F09-7207/09-C5, the Ural District FAC rejected the demand for reparation for damages to be paid by the defendant for unjustified withdrawal of money from the settlement account of the claimant, as well as of penalty for the use of other people's money, because the cryptographic key of the settlement account of the claimant was hacked; the bank had no access to the said key and the claimant was not careful and prudent enough to keep the integrity of the key.

Ruling № VAS-8138/10 of 17 June 2010 of the Supreme Arbitration Court of the RF confirmed the grounds of the judicial decision to deny the petition, because there was no evidence of improper execution by the defendant of the agreement of bank account and illegal disposal of the claimant's money, as electronic payment orders received by the defendant under the system Bank–Client, were signed by the EDS of the persons authorized by the bank.

Ruling № VAS-8138/10 of 17 June 2010 by the Supreme Arbitration Court of the RF confirmed the grounds of the judicial decision to deny the petition because of the lack of evidence of the damage, caused to society by the illegal actions (omissions) of the bank, taking into account the report of the expert commission, which established the authenticity of the EDS on the payment orders, which served as the reason for the bank to write off the money under question.

3.1.4. Methods of Ensuring the Accuracy and Integrity of Data

Providing for accuracy and integrity of information, which will be treated within the "Single Window" system is of great importance for its regular functioning.

From the point of view of Russian legislation, the quality (accuracy and integrity) of the data transfereed by electronic means, is ensured through the use of EDS.

The EDS represents a symbol string, which results from the certain transformation of the original document, or any other information, with the use of special software. The EDS is added

to the original document when sending it, and any modifications to the original document make this EDS invalid. The EDS is unique for each document and may not be copied to other documents. A number of mathemathic calculations, necessary to create an EDS, ensure that it is impossible to forge it. Thus, when the recipient receives a document signed by an EDS, he may be sure whith regard to the authorship of the text and absence of modifications in the text.

According to the Law «On the Electronic Digital Signature» the absence of misrepresentation in an electronic document signed by electronic digital signature (i.e. its integrity) results from the confirmation of the authenticity of the EDS made by the Certification Authority upon the address of the signature key certificate users (Article 9). At the same time, an authorized federal body of executive power (Article 10) makes the confirmation of the authenticity of the signature key certificate of the EDS by officials of the Certification Authorities in the signature key certificates issued by them.

Article 16 of the Law "On Information, Information Technologies and Protection of Information" states the necessity of protection of information from destruction and modification.[160]

3.1.5. Procedures of Electronic Archiving and Creation of Audit Trails

The Federal Law «On Information, Information Technologies and Protection of Information» foresees that the legislation of the Russian Federation on archiving established the procedure of storing and using documented information, stored in archives.

The main legislation in this sphere is the Federal Law № 125-FZ of 22 October «On Archiving in the Russian Federation»[161]. According to Article 13 of the said Law, government agencies must create archives in order to store, register, report and use archive documents, which they create in their work. The Law states that archive documents should be considered as material carriers of the information registered on them, bearing the essentials, which allow identifying them. They must be stored because of the importance of the information in them for citizens and the State. The provisions of Article 5 of the Law contain the definition of “archive documents”, which also electronic documents. The State bodies must guarantee the safety of archive documents within the established time limits.

[160] See also section 3.4 below.

[161] As amended on 4 December 2006, 1 December 200, 13 May 2008, 8 may 2010.

The typical time limits for storing documents are stated in the List of Typical Administrative Documents Created during the Activities of an Organization, Specifying the Time Limits for Storage, approved by Rosarchive on 6 October 2000.[162] In addition, Article 23 of the mentioned List points out that the federal bodies of executive power should develop and approve, upon agreement of a federal body of executive power authorized by the Government of Russia, lists of documents created during the activities of an organization and the time limits of their storage. The Rules of Office Work in Federal Bodies of Executive Power, approved by Resolution № 477 of the Government of the Russian Federation of 15 June 2009 note this obligation of the State. These Rules also set out that the used electronic documents are systematized in folders according to the folder nomenclature of the federal body of executive power and are stored according to the established procedures, within the time limits foreseen for the same documents on paper. After the time limits, established for the storage of electronic files (electronic documents), based on the act for their destruction approved by the head of the federal body of executive power, the said electronic files (electronic documents) are to be destroyed.

Notably, the Law «On Electronic Digital Signature» contains a number of provisions regarding the storage of signature key certificates. According to Article 7 of the Law, the time limits for storing a signature key certificate in a Certification Authority is determined by the contract concluded between the Certification Authority and the signature key certificate holder. After the signature key certificate is destroyed, the time limits of its storage must not exceed the time limits of prescription, established by a federal law with regard to the relations, specified in the signature key certificate.

After the mentioned storage period expires, the signature key certificate is written off the register of signature key certificates, and is transferred to the regime of archive storage. The Archive storage must not be less than five year. The signature key certificate as a paper document is stored according to the procedure specified in the legislation of the Russian Federation on archives and archiving.

The procedure of archive storage of documents in Russia is regulated by Federal Law № 125-FZ of 22 October «On Archiving in the Russian Federation». However, neither this Law nor the List of Typical Administrative Documents Created during the Activities of an Organization, Specifying the Time Limits for their Storage, approved by Rosarchive on 6 October 2000[163] contain the instructions with regard to the time limits of storage of signature key certificates as paper documents. Logically, after the archive storage time limit expires, the paper document

[162] As amended on 27 October 2003.

[163] As amended on 27.10.03.

would be destroyed at the same time as its electronic version. Thus, paragraph 5.4 of the Temporary Regulation of the Russian Central Bank № 17-p of 10 February 1998 "On the Procedure of Acceptance for the Execution of Orders of Accounts Holders, Signed by Analogues of Handwritten Signatures in Cashless Settlement by Credit Organizations" established that the destruction of the payment documents, signed by analogue of a handwritten signature, takes place with regard to the corresponding software data and at the same time when the paper copies of the document are destroyed. Accordingly, a conclusion may be drawn that the time limits for signature key certificate storage as paper documents must be equal to the time limits of the storage of those certificates as electronic documents.

As noted in UNECE Recommendation 35, the regulation of electronic archiving should include measures to establish an 'audit trail', when the Single Window is in operation. In this sense, one may refer to the mentioned Rules of Records Management in the Federal Bodies of Executive Power. Those Rules contain detailed provisions with regard to the procedure of registration of documents, sent to and from federal bodies of executive power. Alongside with this general procedure regarding electronic documents, special provisions also apply. In particular, Section IV of the Rules foresees that when receiving electronic documents, the records management department verifies the authenticity of the EDS. Electronic digital signatures are also used for signing electronic documents of federal bodies of executive power. A registration unit for electronic documents is an electronic document registered within the system of electronic document exchange of the federal body of executive power. The electronic documents in use are systematized into folders according to the nomenclature of folders of federal bodies of executive power.

3.2. Electronic Commerce

Export-import and transit operations are made according to foreign economic transactions, concluded by Russian companies with their foreign partners. Since the use of electronic document flow may be one of the important elements for the establishment of the Single Window, it seems practicable to consider the issues of the legal base for concluding foreign economic transactions by means of exchange of electronic documents.

There is no specific law on electronic commerce in Russia. There are only separate provisions in the legislation, the consideration of which allows understanding at which stage is Russia in the sphere of regulating electronic commerce.

In the context of admitted forms of foreign economic contracts, it should be borne in mind, that in virtue of the Declaration to Articles 12 and 96 of the Vienna Convention on

Contracts for the International Sale of Goods, made by the USSR and active in Russia, as the continuator of international treaties of the USSR, the requirements of the Russian legislation and not of the said Convention apply with regard to the forms of the contracts for the international sale of goods. According to Paragraph 2 of Article 1209 of the Civil Code of the RF (CC RF), the form of a foreign economic transaction, where at least one party is a Russian legal entity, is governed by Russian Law, irrespective of the place, where the transaction was concluded.

Paragraph 3 of Article 162 of the CC RF established the obligation to observe a simple written form with regard to foreign economic transactions. In accordance with Paragraph 1 of Article 160 of the CC RF, a transaction in written form must be made by the preparation of a document expressing its content and signed by the person or persons making the transaction or persons properly authorized by them. At the same time, bilateral transactions may be made by means, established, in particular, in Paragraph 2 of Article 434 of the CC RF, which foresees that a contract in written form may be concluded by the compilation of a single document signed by the parties and also by the exchange of documents by mail, telegraph, teletype, telephone, electronic or other communications that allow the reliable establishment that the document is issued by a party to the contract.

Pursuant to Paragraphs 3 and 4 of Article 11 of the Federal Law № 149 of 27 July 2006 “On Information, Information Technologies and Protection of Information”, the exchange of electronic messages, including by e-mail, may be considered as a simple written form of a contract only if the posts are signed by an electronic digital signature or any other analogue of a handwritten signature and the requirements of the Russian legislation are observed.

The use of the electronic digital signature when making transactions is regulated by the Federal Law № 1-FZ of 10 January 2002 “On the Electronic Digital Signature”. This Law stipulates mandatory legal requirements, which must be observed when using electronic digital signature, including for the purpose of the recognition of the electronic digital signature in an electronic document equivalent to the handwritten signature on a paper document. In the Section 3.1.3 above the conditions to recognize the EDS in an electronic document as equivalent to the handwritten signature on paper document under Article 4 of the Law on the EDS were mentioned. Besides, according to Article 6 of the Law on the EDS, the signature key certificate must contain the information on the relations, for which an electronic document signed by the EDS will have the legal force. The procedure of concluding State and municipal contracts in electronic form, resulting from open auctions in electronic form for the supply of certain types of goods, execution of works, provision of services for State and municipal needs, may serve as an example of the said provisions, while this procedure is regulated by Federal Law № 94-FZ of 21

July 2005 “On Placement of Orders for Supply of Goods, Execution of Works, Provision of Services for State and Municipal Needs” in detail[164].

That is, to recognize a contract, concluded by the exchange of electronic documents even between two Russian persons valid, it is necessary to observe quite strict conditions, foreseen by the legislation. The case is more difficult with regard to the possibility of concluding foreign economic transactions with the use of electronic document exchange.

Since the use of electronic digital signatures by both contractors is the mandatory requirement to recognize the validity of a foreign economic transaction concluded in this way, the question of the recognition of a foreign EDS in Russia arises. Neither the Law on EDS nor other laws contain direct provisions thereon. The Law on EDS only foresees that a foreign signature key certificate, certified in accordance with the legislation of the foreign State, where the signature key certificate is registered, is recognized within the territory of the Russian Federation if the procedures for the recognition of the legal validity of foreign documents, established by the Russian legislation are observed.

The identification and certification of the signature’s authenticity, document legitimacy in the international document exchange is carried out by consular legalization, the procedure of which is determined by the Instruction on Consular Legalization[165]. According to Chapter IV of this Instruction, only paper documents are subject to mandatory legalization.

The second problem of the recognition of a foreign signature key certificate in Russia is the necessity of certification of EDS means to recognize the legal force of a signature key certificate. This problem may be solved by concluding a corresponding international treaty.

In conclusion, the practice of concluding foreign economic contracts by Russian companies through electronic data exchange can not be developed without concluding corresponding international treaties between Russia and other States.

Another, more practicable option could be the ratification of the UN Convention on the Use of Electronic Communications in International Contracts, signed by Russia. Article 9 of this Convention foresees that in cases when the legislation requires that the message or contract be submitted on paper, this requirement is considered to be fulfilled by submitting the electronic message, if its information is accessible for further use. This Article of the Convention establishes a range of rules (less strict in comparison with the Russian legislation), the observance of which signifies that such a requirement on signing the contract is deemed to be fulfilled.

---

[164] As amended on 31 December 2005, 27 July 2006, 20 April, 24 June, 8 November 2007, 23 July, 1, 20 December 2008, 28 April, 8 May, 1, 17 July, 23, 25 November, 17, 27 December 2009, 5, 8 May 2010.

[165] Approved by the Ministry of Foreign Affairs of the USSR of 06.07.1984.

Besides, it should be noted that according to Article 20 of the Convention, its provisions apply to the use of electronic communications in connection with the formation or performance of a contract, to which any of the international conventions enumerated in Aticle 20, which may be signed or will be signed by the Party to the Convention on the Use of Electronic Communication in International Contracts, applies. The above mentioned UN Convention on Contracts for the International Sale of Goods is among those conventions.

The above said should be taken into consideration with regard to possible cooperation of the Single Window in Russia with its foreign counterparts and exchange of electronic data, when this exchange may be considered as legally binding.

The Agreement on the Use of Information Technology for Electronic Document Exchange in Foreign and Mutual Trade within the Common Customs Territory of the Customs Union of 21 September 2010 may serve as example of such problem solving. In particular, the Agreement stipulates that the legalization (confirmation of authenticity) of electronic documents during their exchange in foreign and mutual trade, is carried out by empowered third parties, whose functions are performed by State bodies of the State-Parties or organizations, certified by them.

Whith regard to the issue of concluding similar agreement in the context of possible cooperation between Russian and foreign Single Window systems, it seems that the Russian Ministry of Communication could be responsible for working it out.

3.3. Persons Authorized to Demand Transferred Data and Possibilities of Sharing Data within the Governmental Agencies

One of important issues, arising with regard to the establishment of the Single Window, is the issue, how State bodies may request information, submitted to the Single Window, and which State bodies must submit this information to it. This issue is directly related to the regime of using the information received, keeping confidentiality of the corresponding information.

General provisions regarding the regime of access to the information and its use are established by Federal Law № 149-FZ of 27 July 2006 «On Information, Information technologies and Protection of Information». Article 2 of the Law provides for a number of definitions, used in the Law. Thus, the information holder is defined as a person, who has personally created the information or acquired the right to allow or restrict access to the information according to a law or contract. The information holder may be a person, a legal entity, the Russian Federation, which delegates the rights of information holder to State bodies, within the limits of their competence, determined in accordance with normative legal acts.

Article 10 of the Law foresees, that the information is submitted according to the procedure, determined by persons, who take part in the information exchange. The cases and conditions of mandatory information submission are determined by federal law.[166]

Thus, Article 6 of Federal Law № 98-FZ of 29 July 2004 «On Commercial Secret» foresees that the holder of information, constituting commercial secret, must, upon a motivated request of a body of State power, submit to it the information, constituting commercial secret. Besides, the holder of the information, constituting commercial secret, as well as the bodies of State power, which received such information from such an information holder, must submit this information upon the request of courts, bodies of preliminary investigation, and bodies of inquiry for the proceedings, which are pending before them. For example, in accordance with Article 151 of the Criminal Proceedings Code of the Russian Federation, a preliminary investigation may be carried out with regard to crimes committed by officials of Customs authorities of the Russian Federation.

Paragraph 2 of Article 103 of the CC CU foresees that, in order to increase the efficiency of Customs control of goods transported through the Customs border, the Customs authorities and bodies of State control exchange information (data) and/or documents, necessary for Customs inspection or other type of State control, with the use of information systems and technologies.

In accordance with Article 136 of the CC CU, tax and other State bodies of the CU Member States must, upon the request of Customs authorities, submit documents and information for Customs inspection, which regards incorporation of legal entities, payment and computation of taxes, accounting records, as well as the documents and information, including those, constituting commercial, banking or tax secret, in compliance with the requirements of the legislation of the CU Member States on the protection of State, commercial, banking, tax secret and other confidential information, protected by law. Banks and other credit organizations of the CU Member States must submit, upon the request of the Customs authorities, the documents and information, regarding cash flows on the accounts of the organizations, necessary for Customs inspection.

Paragraph 3 of Article 82 of the Tax Code of the RF sets out that the tax authorities, Customs authorities and law enforcement agencies inform each other, under the procedure, established by an agreement between them, on all materials on breaches of tax and revenue legislation and tax revenue, on measures adopted for their prevention, on conducted tax control, as well as exchange of other necessary information to complete their tasks.

[166] The Law deems the submission of information as actions, directed at acquiring information by a certain number of persons, or transfer of the information to a certain number of persons.

The Agreement on Cooperation between the Federal Customs Service and the Federal Tax Service, concluded on 21 January 2010, may serve as an example. One of the main fields of the cooperation of the Parties under this Agreement is the information exchange (which does not relate to the information, constituting State secret) with a view of controlling the observance of Customs, currency legislation, tax and revenue legislation and other Russian legislation, which observance is controlled by tax and Customs authorities.

The Agreement enumerates the types of information to be exchanged by the Parties on a regular basis (in electronic form through the Central Science Information Centre of the FCS of Russia and the Interregional Inspection of the FCS of Russia on Centralized Data Processing) and upon request. The Parties undertake to ensure the protection of information during its transfer and receival, and use it only for work purposes and not transfer to third parties without the consent of the source of information.

In accordance with Federal Law №135-FZ of 26 July 2006 “On the Protection of Competition", commercial organizations, federal bodies of executive power, other bodies or organizations must submit to the antimonopoly body, upon its grounded request, documents and information necessary for it to execute its powers, including information constituting commercial, service secret and other secret protected by law.

Federal Law № 294-FZ of 15 November 2010 “On the Amendments to Some Legislative Acts of the Russian Federation with Regard to Regulating the Exchange of Documents and Information between the Bodies of Foreign Exchange Control and the Operators of the Foreign Exchange Control” stipulates that authorized banks and Vneshekonomnabk must submit to the Customs and tax authorities copies of some documents for their control over foreign exchange operations made by residents. Among those documents are the certificates of transactions, registers of bank control, bank statements, materials which prove the transfer of the goods. The Law establishes that the submission of such information does not violate commercial, banking, tax and business secret.

The Law «On Information, Information Technologies and Protection of Information» contains also a provision, that the organization has the right to receive information from State bodies, which directly concerns the rights and duties of this organization, as well as the information necessary for the cooperation with those bodies while carrying through the activities according to the statutes.

Thus, the submission of information to the Single Window and receiving information from it may be done in two ways: under an agreement or by virtue of law. The first option may

hardly be applied to the relations between the Single Window[167] and a person, engaged in foreign trade, who communicates with the Single Window (B2G) to clear the import, export or transit of goods, because of the different status of the participants of those public law relations. At the same time, the conclusion of agreements, between the State bodies,[168] which take part in the Single Window facility, may significantly provide for the regulation of many technical issues at an inter-agency level, with regard to the exchange of the information between them, assuming that the necessity of such exchange is foreseen by the legislation.

As regards the information exchange between the Russian Single Window and its foreign counterparts, the legal base for it may be formed by a treaty concluded between the Russian Federation and a corresponding State, including a treaty of inter-agency nature. For example, Article 124 of the CC CU foresees that the exchange of information between Customs authorities is exercised in accordance with international treaties of the CU Member States, including with the use of information systems and information technologies.

According to Article 6 of the Law «On Information, Information Technologies and Protection of Information», a State body, which is not a holder of the information, submitted to it, is entitled to authorize or restrict the access to this information, determine the procedure and conditions of that access, transfer the information to other persons under an agreement or on another legitimate ground; protect its rights by legal means, in case of illegal acquisition or use of information by other persons. At the same time, when exercising those rights, the State body must respect the rights and legal interests of other persons;[169] take measures to protect information; restrict access to the information, if such an obligation is stated in federal laws.

Article 14 of the Law also foresees that State information systems are created to carry out powers of State bodies and provide for information exchange between those bodies, as well as for other purposes, established by federal laws. Those information systems are created and operated based on statistics and other documented information, submitted by persons, organizations, State and municipal bodies. The Lists of information types for mandatory submission are established by federal laws, and the conditions for their submission are determined by the Government of the Russian Federation or by the appropriate State bodies, unless otherwise is provided for by federal laws. The information, contained in State information systems, as well as other information and documents at the disposal of State bodies is considered State information resources.

---

[167] In case, the functions of a Single Window Facility are entrusted to a state body.

[168] See above in this Section the example of the Agreement, concluded by the FCS and the FTS.

[169] Among them are the persons who submit information to the state body.

In the context of considering the issue of how the State information system could be used for the purposes of the Single Window, it would be practicable to pay attention to the above mentioned Inter-Agency Integrated Computerized Information System of Federal Bodies of Executive Power, Performing Control at the Border Crossing Points at the State Border of the Russian Federation (IAICIS). It is being created under the Provision, approved by Resolution №1057 of the Government of the Russian Federation of 29 December 2008.

If the prospects of creating the Single Window within the frames of the Customs Union are taken into account, then, the Integrated Information System for Foreign and Mutual Trade of the Customs Union, which is being created according to the Agreement of the CU Member States of 21 September 2010, may be used for its operation.

The Provision on the IAICIS sets out the principles, which form the basis for its creation and operation, and which include the following:

observance of constitutional rights of the citizens during computer treatment of information containing personal data;

inadmissibility of interference of bodies of State power, local authorities and their officials, other persons and organizations which do not have corresponding powers in accordance with the legislation of the Russian Federation into the process of IAICIS operation;

guaranteeing technology resources for information cooperation between the existing and newly created information systems of controlling bodies and other information systems;

application of common technology formats and protocols of information cooperation, unified software;

use of licensed general system software and certified specialized software and hardware, as well as means of communication;

ensuring the integrity and authenticity of the information transferred with the use electronic digital signature;

single entry and multiple use of information;

ensuring real time operation;

ensuring confidentiality of obtaining information.

The Provision foresees that the IAICIS includes the following segments:

integration segment, which contains the components providing for inter-agency information cooperation and allowing work with the single database using the infrastructure of the Russian State Information Centre;

agency segments of controlling bodies, including the existing and newly created components of agency computerized information systems and agency data bases of control

bodies on persons and means of transport, which cross the State border of the Russian Federation and on goods transported through it;

segment of the border crossing point, which contains components, providing for inter-agency information cooperation of control bodies at border-crossing points.

The main functions of the integration segment of the IAICIS are, in particular, to:

Implement the mechanisms of documenting, routing and treating requests, sent to the single data base and agency data bases within the framework of inter-agency information cooperation;

maintain a single database;

confirm the authenticity of signature key certificates of the EDS in electronic documents;

provide for the protection of the information transferred from unauthorized access, its misrepresentation or blocking;

maintain a single register of users of the inter-agency information system, providing for the regulation of access to it;

accumulate, store and archive information within the frames of inter-agency information cooperation.

Agency segments of control bodies collect, within the limits of their competence, electronic information, certified by the EDS, with regard to persons and means of transport, crossing the State border of the Russian Federation and the goods transported through it.

The procedure of access of participants to inter-agency information cooperation to information resources of the IAICIS, submission, treatment and further use of the information, including obtaining information by the IAICIS users, must be determined by a joint regulation (agreement) made by the participants in the inter-agency information cooperation.

The analysis of the principles, established in the Regulation on IACIS, which serve as the basis for its creation and operation, as well as of the functions of its segments, allow for the conclusion that during its preparation, such important issues for its potential use for the Single Window, as security, quality, accuracy and integrity of data, transferred within the IACIS, one entry and multiple use of information, its storage and archiving were taken into account. At the same time, the regulation does not stipulate, how disputes, which may arise between the participants to the IACIS, will be settled.

3.4. Data Protection Mechanisms

According to Article 9 of Federal Law №149-FZ of 27 July 2006 «On Information, Information Technologies and Protection of Information», the access to information may be restricted under federal laws, in order to protect the foundations of constitutional order, morality, health, rights and legitimate interests of third persons, ensuring national defence and State security. The conditions of classifying information as commercial secret, official secret or any other type of secret, the obligation of keeping such information confidential,[170] as well as the liability for its disclosure are established by the federal laws.

The said Law sets out that the protection of information is carried out through adopting legal, organizational and technical measures, targeted at ensuring information protection from unauthorized access, destruction, modification, blocking, copying, disclosure, distribution, as well as other illegal actions with regard to such information; observance of confidentiality of information of limited access. The requirement on protection of information, contained in the State information systems, is set out by a federal body of executive power competent in the field of guaranteeing security and by a federal body of executive power, authorized for counteraction against technical intelligence and technical protection of information, within the limits of their competence.

One of the principles of legal regulation of the relations arising in the sphere of information, information technologies and protection of information, proclaimed by the said Law, is the principle of privacy, inadmissibility of collecting, storing, using and distributing information on the private life of a person without his/her authorization. The provisions regarding the protection of personal information are determined in Federal Law № 152-FZ of 27 July 2006 «On Personal Information».[171] Thus, Article 7 establishes the obligation of the operators and third persons who have access to personal data, to protect the confidentiality of such data. Article 19 specifies the obligation of operators to take the necessary organizational and technical measures to protect personal data from illegal or accidental access to it, destruction, modification, blocking, copying, distribution of personal data as well as from other illegal actions, when they treat personal data.

In accordance with the Law «On Information, Information Technologies and Protection of Information» the information holder, operator of the information system, must, in cases, foreseen by the legislation of the Russian Federation, provide for:

[170] The Law defines keeping confidentiality of information as a mandatory requirement that a person, who has access to certain information, must not disclose such information to third persons without prior consent of the information holder.

[171] As amended on 25 November, 27 December 2009, 28 June 2010.

the prevention of unauthorized access to the information and/or its transfer to the persons who do not have the right to access to this information;

timely detection of cases of unauthorized access to the information;

prevention of a possibility of adverse effects from the violation of the procedure of access to the information;

inadmissibility of impact on technical means of data processing, which could result in disturbing their operation;

the possibility of immediate recovery of data modified or destroyed because of unauthorized access to it;

constant control for the level of data protection.

Together with the above-mentioned general provisions, which cover all types of data, attention should be paid to special requirements with regard to the information, constituting commercial secret, taking into account that problems may arise in relation to the protection of such information in connection with the establishment of the Single Window.

The Federal Law № 98-FZ of 29 July 2004 "On Commercial Secret" is the main legislative act, regulating the issues of protection of information, constituting commercial secret.[172] The Law delegates the obligation on protecting commercial secret to all the participants to legal relations, which arise in the transfer and use of the information, constituting commercial secret.

Under Article 10 of the Law, the holder of the information, constituting commercial secret, must determine a list of such data and restrict access to it by establishing an order of requesting such information and control for the observance of such an order; register the persons who obtained access to such information and/or persons, who such information was disclosed to or transferred to; regulate the relations regarding the use of information, constituting commercial secret, by employees under labour agreement; label the data carrier (documents) with a stamp "Commercial Secret", specifying the holder of that information. Only after all those measures are taken, the regime of commercial secret is deemed to be established with regard to the mentioned information. Together with the mentioned measures, the holder of the information, constituting commercial secret, has the right to use means and measures of technical protection of information confidentiality, if necessary.

Article 11 of the Law «On Commercial Secret» regulates the issues of protection of confidential information within the frames of labour relations. In particular, it establishes that an employee shall not disclose information, constituting commercial secret, if the holder of such

[172] As amended on 2 February, 18 December 2006, 24 July 2007.

information is the employer or its contractors, and not use this information for personal purposes without their prior consent.

In accordance with Article 13 of the Law, the bodies of State power must create the conditions ensuring for the protection of confidential information, submitted by legal persons or individual entrepreneurs. The officials and civil servants of the bodies of State power do not have the right to disclose or transfer the information, constituting commercial secret, to third persons, bodies of State power, other State bodies, without prior consent by the information holder, if such information became known to them in virtue of their official functions (duties), with the exception of the cases, foreseen by that Law, as well as they do not have the right to use such information for personal purposes or for benefit.

The information, constituting commercial secret and transferred in accordance with Article 6 of the Law to the bodies of State power, is attributed the status of official secret within those bodies.

Thus, Article 8 of the CC CU sets out that Customs authorities and their officials do not have the right to disclose, use for personal goals or transfer to third persons, including State bodies, the information, received by them in accordance with the Customs legislation of the Customs Union and/or the legislation of the CU Member States, which constitutes State, commercial, banking, tax secret or other secret, protected by law, and other confidential information, with the exception of the cases, established by the Code and/or the legislation of the CU Member States.

Article 136 of the CC CU foresees that tax and other State bodies of the CU Member States must, upon the request of Customs authorities, submit necessary documents and information, with regard to incorporation of legal entities, payment and calculation of taxes, accounting reports, as well as the documents and information, including the ones constituting commercial, banking and tax secret, provided they observe the requirements of the legislation of the CU Member States on safeguarding State, commercial, banking, tax and other secret, protected by law.

In accordance with Article 102 of the Tax Code of the Russian Federation, a tax secret is deemed to be any information on the taxpayer, received by the Customs authorities, with the exception of some information, listed in that article, in particular, the information, submitted to Customs authority of other States under international treaties on mutual cooperation between tax authorities, which the Russian Federation is a party to. The tax secret must not be disclosed by Customs authorities, their officials and engaged specialists, experts, with the exception of cases, foreseen by a federal law.

The obligation to protect confidential information by officials of the bodies of State power is also specified in other legislative acts. For example, Article 15 of the Federal Law № 79-FZ of 27 July 2004 «On State Civil Service in the Russian Federation» establishes the obligation of civil servants not to disclose information, constituting State or other secret, protected by a federal law, as well as the information, which became known to him/her in connection with his/her official duties. The Federal Law № 135-FZ of 26 July 2006 "On the Protection of Competition" gives the definition of prohibited unfair competition as illegal use, disclosure of information, constituting commercial, service secret, or other secret, protected by law (Article 14).

Notably, the obligation to keep confidential the information constituting State, commercial, banking or other secret, also concerns the Customs authorities and Customs carriers.[173]

The issues of protecting commercial secret are also reflected in international treaties of Russia. Article 2 of the Treaty "On the Determination of the Customs Value of Goods Transported through the Customs Border" of 25 December 2008 may serve as an example. This Article foresees that during the consultations regarding the foundation of choice of the value basis for determining the Customs value of the imported goods, the Customs authority and the declarant may exchange the information they have, provided they observe the legislation of the corresponding State-Party on commercial secret.

3.5. Liability Issues that May Arise as a Result of the Single Window Operation

With regard to the operation of the Single Window, some matters, regarding the liability of the participants to the Single Window operation, may arise.

The legislation regarding the electronic document flow contains only a few provisions, which may concern the Single Window operation.

Article 5 of the Law «On Electronic Digital Signature» stipulates that the generators and distributors of the EDS keys for use in general information system by uncertified EDS means may be held liable for payment of damages, resulting in this connection. Article 8 of the Law foresees that the Certification Authority must have all necessary material and financial means, which allow it to bear civil responsibility before the operators of signature key certificates for the loss, arising from inaccurate information, contained in a signature key certificate. Article 12 of

[173] Articles 16 and 21 of the CC CU.

the Law foresees also that in case of non-compliance of the signature key certificate holder with the requirements, established in this connection in the Law, he/she is liable for the loss caused.

Article 17 of the Law «On Information, Information Technologies and Protection of Information» contains a reference rule with regard to the violation of the requirements of this Law, which entails disciplinary, civil law, administrative or criminal liability in accordance with the legislation of the Russian Federation.

Articles 13 and 14 of the Law "On Commercial Secret" also contain reference rules.

Thus, in the absence of special rules on liability of the participants to legal relations arising in connection with the exchange of electronic documents, general provisions of the legislation should be taken into account.

Thus, Article 15 of the RF Civil Code sets out a general rule, that a person, whose right has been violated, may demand full compensation for the damages caused. Under Article 16 the damages caused to a citizen or a legal entity because of illegal actions (or failure to act by) State bodies must be compensated by the Russian Federation. Besides, Article 1064 of the Civil Code of the RF foresees that the harm caused to the person or property of a citizen and the harm caused to the property of a legal person shall be subject to compensation by the person who has caused the harm in full measure. In addition, under Article 1069, the harm caused to a citizen or a legal person as the result of illegal actions (or inactions) of the State bodies or their officials, is subject to compensation at the expense of the Treasury of the Russian Federation. These provisions give the persons engaged in foreign trade the right to claim compesation from the Single Window, when the damages result from illegal actions (or inactions) of the Single Window, for example, as a result of the damage to the goods, which were registered through the Single Window with the violation of the established time limits.

Some provisions of the Administrative Code may also be mentioned. For instance, persons, legal entities and officials are punished with an administrative penalty or the confiscation of uncertified means of communication for the use of uncertified means of communication in communication networks or supply of uncertified communication services in cases where mandatory certification is prescribed by legislation (Article 13.6). The like measures of liability are also foreseen for violating the conditions, foreseen by a license for the activities in the field of information protection, use of uncertified information systems, data banks and databases, as well as uncertified measures of information protection (Article 13.12). Administrative penalties are also foreseen for the cases of violations of the procedure for collecting, storing, using and distributing personal data of citizens (Article 13.11); disclosure of information, access to which is restricted by a federal law, by a person who obtained access to such information in virtue of performing his/her official or professional duties (Article 13.14);

non-submission or untimely submission of information to State bodies, the submission of which is foreseen by law and necessary for the performance of its legal activities by this body, as well as the submission of incomplete or misrepresented information to a State body (Article 19.7).

The Federal Law № 135-FZ of 26 July 2006 "On Protection of Competition" sets out that the officials of federal bodies of executive power are liable for any violation of antimonopoly legislation (Article 37). In particular, Article 14.9 of the Administrative Offence Code foresees an administrative penalty for officials of federal bodies of executive power, amounting from 15.000 to 50.000 roubles, or their disqualification for the term up to three years.

At least, attention may be paid to Article 183 of the Criminal Code of the RF, which foresees a heavy monetary fine, deprivation of the right to hold certain official positions or to be engaged in certain types of activities, or imprisonment for illegal disclosure or use of information, constituting commercial, tax or banking secret by a person who the information was entrusted to or became known because of work or service, without prior consent of the information holder. Those provisions will also fully apply to the employees of the Russian Single Window, in case of illegal disclosure or use of information, constituting commercial, tax or banking secret, without prior consent by the information holder.

3.6. Mechanisms for Dispute Resolution

In virtue of the existing Russian proceedings legislation, the disputes, which may arise between a person engaged in foreign trade and State bodies, engaged in the Single Window facility, must be submitted for consideration to State arbitration courts.

According to Arbitration Proceedings Code of the Russian Federation, the arbitration court has the jurisdiction over economic disputes and other cases, related to entrepreneurial and economic activity with participation of legal entities, individual entrepreneurs, as well as with the participation of the Russian Federation, State bodies and officials (Article 27). Among others, arbitration courts consider in administrative proceedings economic disputes, arising out of administrative and public legal relations, and other cases related to the performance of entrepreneurial and other economic activities by organizations and persons, including challenging in court normative and non-normative acts of the bodies of State power of the Russian Federation, decisions and actions (omissions) of State bodies and officials, which concern the rights and legitimate interests of the applicants in the field of entrepreneurial or other economic activity (Article 29).

In some cases, arbitration courts of the Russian Federation consider the cases on economic disputes and other cases, related to entrepreneurial and other economic activity with participation of foreign organizations, international organizations, foreign persons and stateless persons, which are engaged in entrepreneurial or other economic activity (Article 247). Besides, if the parties, or at least one of them, are foreign persons and they concluded an agreement, where they stated that the arbitration court of the Russian Federation has jurisdiction over a dispute which arises or may arise in connection with the exercise of entrepreneurial or other economic activity, then the arbitration court of the Russian Federation will have exclusive competence to consider this issue, provided such an agreement does not modify the exclusive competence of a foreign court (Article 249).

The Russian legislation also foresees the possibility of using alternative mechanisms of dispute settlement.

In accordance with the Federal Law № 102-FZ of 24 July 2002 «On Arbitration Courts in the Russian Federation» non-public arbitration courts may be created and operate in Russia. Under the agreement by the parties to arbitration, such courts may consider any disputes, arising out of civil law relations, unless otherwise is provided for by a federal law.

According to the Law of the RF № 5338-I of 7 July 1993 «On International Commercial Arbitration» international arbitration may consider, upon the agreement of the parties, disputes, arising out of contractual or other civil law relations arising out of foreign trade and other types of international economic relations, if the commercial enterprise of at least one of the parties is located abroad, as well as the disputes between foreign investment enterprises and international associations and organizations, created at the territory of the Russian Federation, disputes between them, their participants, as well as their disputes with other subjects of law of the Russian Federation.

As the field of application of those two laws shows, alternative mechanisms of dispute settlement foreseen therein are not meant for settling disputes, arising out of administrative and other public law relations, that are disputes, which may arise between persons engaged in foreign trade (including foreign persons) and Russian State bodies at the operation of the Single Window.

With regard to probable disputes between the Russian Single Window and its counterparts in other countries, it is necessary to take into account that the Russian legislation is grounded on the principal of absolute immunity of the State, when it acts as a representative of the power. For instance, this principle is reflected in Article 251 of the Arbitration Procedure Code of the RF. The consent of the State to waive the legal immunity may be done by virtue of an international treaty or a federal law. Assuming that a State body will perform the role of the

Russian Single Window, the most convenient way of regulating the issue of dispute settlement between it and its foreign counterpart would be to conclude a treaty between Russia and the corresponding foreign State, which would contain provisions on dispute settlement. The treaties between Russia and foreign States on encouragement and protection of investments, which contain provisions on settlement procedure for interstate disputes, as well as disputes between a foreign investor and the State, which receives the investment, may serve as an example.

3.7. Issues of Intellectual Property and Database Ownership

The main legislative act in Russia, regulating the issues of intellectual property, is the Civil Code of the RF, in particular part IV of the said Code. According to Article 1225, compilations of data and computer programs are, among other results of intellectual activity, protected by law.

Article 1260 of the RF Civil Code stipulates that the author of a compilation of data has rights over the collection of materials made by this person. At the same time, this Article defines a compilation of data as an unprejudiced set of independent materials (articles, calculations, normative acts, judicial decisions and other like materials) systematized in a way that the materials could be found and treated by a computer. To recognize a compilation of data as a copyright object, the set of materials should be of creative nature.

According to Article 1255 of the Civil Code of the RF, copyright includes, among others, an exclusive right for work, the right for immunity of work, the right to promulgate the works. Accordingly, the author of a compilation of data enjoys the same rights.

Taking into account the legislative provisions, it seems unlikely that the information and documents, which must be submitted by persons engaged in foreign trade to the Single Window, to obtain the necessary permits for import, export or transit of goods, may have the nature of compilations of data, as to the way they are prepared and their content, according to the definition given by the Civil Code of the RF.

Alternatively, the data received from the processing of Customs declarations and represented as Customs statistics by the Federal Customs Service, might, for instance, correspond to this definition. However, the Administrative Regulation on the Performance of Functions on Organizing the Acceptance of Applications for State Registration of Computer Software and Applications for State Registration of Data Bases, their Consideration and Issuance according to the Procedure on State Registration of Computer Software or Data Bases by the

Federal Service for Intellectual Property, Patents and Trademarks[174], adopted under Article 1262 of the Civil Code of the RF, states that the application for the registration of a data base may be lodged in the name of the Russian Federation, only if this data base is created under a State contract for the State needs. Thus, for instance, the Customs statistics might be registered as a data base, if it were created not by the Federal Customs Service itself, but by a contractor under the State contract with this Service. But as it was said earlier, the Customs Code of the Customs Union contains a provision, that the Customs authorities are not entitled to transfer the information, received in accordance with the Customs legislation and constituting State, commercial, banking, tax and other secret, protected by law, as well as other confidential information to third persons. It is quite obvious, that Customs declarations, declarations on Customs value and other documents, submitted to Customs authorities and serving as the basis for preparing Customs statistics, contain confidential information. Accordingly, it may not be transferred for processing by third persons.

Another object of intellectual property rights, which may concern the Single Window operation, is software computer programs. In accordance with Article 1261 of the Civil Code of the RF, copyright to all types of computer programs (including operation systems and software systems), which may be created on any language and in any form, whether in source or object code, are protected the same way as the copyright for works of literature. The problems of illegal use of computer programs will hardly arise within the Single Window system, because State bodies do not use pirate computer software. As to the persons engaged in foreign trade, the legal rule on the liability for use of pirate computer software applies the same way as for the cases, not related to the Single Window operation.

3.8. Competition Issues

Taking into account the issues discussed in Section 2.2, regarding the approach to the establishment of the Single Window in Russia by State bodies, it is difficult to imagine that its operation may raise concerns with regard to antimonopoly laws and protectionism, although such a probability should not be excluded.

With regard to the Single Window, attention may be paid to the provisions of Federal Law № 135-FZ of 26 July 2006 «On Protection of Competition»,[175] in particular its Chapter 3,

[174] Approved by the Order of the Ministry of Education and Science of the RF № 324 of 29 December 2008.

[175] As amended on 1 December 2007, 29 April, 30 June, 8 November 2008, 17 July, 27 December 2009, 5 April 2010.

dedicated to prohibitions on acts, actions (omissions), agreements, concerted actions by federal bodies of executive power and other bodies or organizations, performing functions of the said bodies. The Law determines that the prevention, restriction or elimination of competition by State bodies refers to the:

introduction of restrictions with regard to economic operators in any sphere of activities, as well as the introduction of restrictions regarding some types of activities or production of some types of goods;

unjustified prevention of economic operators from performing their activities, including by establishing requirements to goods or economic operators that are not foreseen by the legislation of the Russian Federation;

establishing prohibitions or restrictions with regard to free circulation of goods within the territory of the Russian Federation, other restrictions of rights of economic operators for sale, purchase, other acquisition, exchange of goods;

giving economic operators instructions on first priority delivery of goods for some categories of buyers (customers) or on concluding priority agreements;

establishing restrictions for the goods consumers regarding the number of economic operators, which supply such goods;

granting economic operator with priority access to information;

granting State or municipal preferences in violation of the procedure, established by that Law.

Except providing priority access to information for an economic operator, other violations of antimonopoly legislation listed here, may hardly arise during the Single Window operation. In case the Single Window violates the antimonopoly legislation, the antimonopoly body will have the right to make a binding order to stop the violations and hold the officials of the Single Window liable (Article 23 of the Law). As it was mentioned earlier, such liability is foreseen by the Administrative Offence Code as an administrative penalty for officials of federal bodies of executive power, or their disqualification for the term up to three years.

3.9. Potential Legal Problems (Impediments) for the Implementation of a Single Window Facility in Russia

As a result of the analysis above, some issues, regarding possible impediments of legal nature for the establishment of the Single Window in Russian may be pointed out.

3.9.1. Creation of the Customs Union

After the Customs Union of Belarus, Kazakhstan and Russia was created, many issues regarding document flow while registering import, export and transit of goods are regulated by international treaties, concluded between those countries, as well as by the Decisions of the CU Commission (the CUC), which are adopted by a majority vote. In case of objection, submitted in written form, the issue in question is referred to the EurAsEC Interstate Council, as the supreme body of the Customs Union, which adopts decisions by consensus. Thus, if it were necessary for the establishment of the Single Window in Russia to amend the regulations, active within its territory and based on the acts of the Customs Union, such amendments could not be made by Russia on its own.

For example, the Customs Code of the Customs Union directly foresees that the Customs declaration and other related to it documents are to be submitted to the Customs authorities while placing goods under a Customs procedure. If the FCS will be chosen to perform the functions of the Single Window in Russia, then this provision of the CC CU does not seem to impede the submission of the mentioned documents to the Single Window. If the functions of the Single Window are entrusted to another body, then the submission of the Customs declaration to this body instead of the FCS will contradict the CC CU.

Sanitary, phyto-sanitary, veterinary, technical control at the import, export or transit of goods is also exercised in Russia on the basis of international treaties and acts of the CUC, which foresee that the persons engaged in foreign trade or the manufacturers apply for permits, certificates. If they apply for these documents through the Single Window but not themselves, it could be considered as a derogation from the respective international treaties or the CUC decisions.

3.9.2. Form of the Submission of Documents

As it follows from the definition of the Single Window, given in UNECE Recommendation 33, its indispensable attribute is the lodging by the parties engaged in foreign trade of standardized information and documents with a single entry point; and if information is in electronic format, then individual data elements should only be submitted once.

Although the mentioned Recommendation supposes the possibility of submitting documents on paper to the Single Window, the efficiency of its operation will be much higher when using electronic document flow.

Consequently, it seems necessary to pay attention to the following moments when evaluating the current regulations in Russia.

The Customs Code of the Customs Union (the CC CU), in force since 1 July 2010, sets out the general rule, that Customs operations may be carried out with the use of information systems and information technologies, including ones based on electronic data transfer, as well as their support. Paragraph 5 of Article 183 of the Code foresees that during the Customs declaration of goods the documents may be submitted as electronic documents in accordance with this Code and the procedure of submitting and using electronic documents is determined by the Customs legislation of the Customs Union.

At the same time, many provisions of the CC CU foresee that the documents are to be submitted on paper. For example, Paragraph 4 of Article 183 sets out that during the Customs declaration of goods, original documents or their copies must be submitted. The use of paper copies is foreseen with regard to transport (shipment), commercial and/or other documents, when they are accepted instead of Customs declaration; when declaring goods, sent in international postal items; when transporting goods through the Customs border via pipeline; when transporting electrical power through the border; when declaring means of international transportation at the Customs.

Even in the cases, when the electronic declaration of goods applies in Russia, the person, who declares goods, must have all paper documents, necessary for Customs clearance of the declared goods.[176]

In order to foster the transition to electronic document exchange, it seems necessary for the appropriate State bodies to follow up on the work, conducted by different international organizations with regard to the development of electronic versions of documents, used in international trade, take part in this development and implement the developed electronic versions and those international standards of electronic data exchange in international trade, which served the basis for those documents, in the shortest possible time.

As example one could mention the setting up of a Focus Group of Electronic Certificate of Origin, created within the Certificate of Origin Task Force of the World Chambers Federation of the International Chamber of Commerce. The main mission of this Focus Group will be to identify the minimum standards that chambers of commerce will have to follow in the issuance of electronic certificates of origin. The Focus Group consists of representatives of the chambers of commerce, which already issue electronic certificates of origin, including Australia, Belgium,

[176] See the Letter of the Federal Customs Service № 01-06/38576 of 7 November 2005.

Canada, Chili, China, France, Germany, Japan, Korea, Switzerland, the United Kingdom, the USA. The representative of the CCI of the RF will also take part in the work of this Group.

Some forms of the documents, which should be submitted at import, export or transit of goods, are established by international treaties.

In Russia, as well as in other Customs Union Member-States, the certificate of the origin of goods must be submitted on paper, under A form, adopted within the framework of Generalized System of Preferences, and filled in according to the Annex to the Agreement of 12 December 2008.

The Agreement on the Rules of Licensing in the Field of Foreign Trade in Goods, concluded by the CU Member States on 9 June 2009, stipulates that in order to obtain a license, the applicant must submit to the authorized body, among other documents, an application, filled in and lodged in accordance with the instruction, attached to the Agreement. Each page of the copies of the documents submitted must be signed and stamped by the applicant, or the copies of the documents must be bundled and signed and stamped once by the applicant. The Agreement foresees the same approach with regard to permits, issued to persons engaged in foreign trade based on foreign trade transactions, the object of which are the goods, subject to monitoring of export and/or import.

Many Provisions on Application of Restrictions, attached to the Decision of the CU Commission № 132 of 27 November 2009, foresee that in order to obtain licenses, it is necessary to submit documents, based on international arrangements.

For example, the Provision on the Procedure of Import, Export and Transit of Hazardous Wastes stipulates that in order to obtain a license, it is necessary, among others, to submit written authorization issued by a competent authority of the State to the territory of which the wastes are being transported, in accordance with the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989; among the documents, necessary for import of rough diamonds into the Customs Union, is the certificate of export of rough diamonds issued by the exporting country (Kimberly certificate) in accordance with the requirements of the rough diamonds certification scheme[177].

In Russia, there is a special procedure for import, export and re-export of goods, regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), as of 3 March 1973, which establishes a permit-based procedure of export, import and re-export of the goods, listed therein. The permits and certificates, issued for that

[177] There is information that the World Customs Organisation has prepared the basis for harmonization of data, necessary for Kimberly Certificates, with the WCO Data Model and international classifiers.

purpose, must conform to the requirements, established by the Convention. The Convention contains also a sample of the permit.

Many issues, regarding the documents, necessary for the import, export or transit of goods, are regulated by the decisions of the CU Commission. Examples of such decisions where the use of document forms, established by international treaties and conventions, is foreseen, have already been given above. Notably, the use of paper documents is foreseen by the Decisions of the CUC with regard to the documents, confirming the safety of goods in relation to sanitary control, and authorizing signatures (stamps) on phytosanitary certificates.

Finally, special requirements, applied in Russia to the clearance of foreign trade in goods, subject to export control, should be mentioned. They foresee, among others, the necessity of submitting a written obligation of a foreign person not to use the controlled goods and technologies, included in respective lists, to create weapons of mass destruction and their carriers.[178] The Law «On Export Control» sets out that one of the methods of export control consists of a permit-based procedure of carrying out foreign trade operations with controlled goods and technologies, which foresees licensing or other form of their State regulation. General licensing rules, determined by the Law with regard to foreign trade operations with the mentioned goods, foresee that licenses are issued on headed paper, which is a protected printed product.

The documents, approved by the President of the RF, regarding import and export of military-purpose goods, also foresee that the licenses are issued on headed, special, protected from falsification paper under the established form. At the same time, in order to obtain export licenses, the applicants must submit to the Federal Service for Military and Technical Cooperation, together with other documents, the end-user certificate. This is a document, legalized according to the established procedure, containing the obligation of an authorized body of the foreign State to use the military purpose goods, exported from Russia, only for the declared goals, and not to allow their re-export or transfer to third countries without agreement of the Russian Federation.[179]

Taking into account that international trade in goods, subject to export control, and in goods for military use is regulated by special rules, related to State security, and that the WTO allows some derogations from general rules regarding this type of goods, it seems that those

[178] Details see in Section 1.2.7 of this study.

[179] The issue of practicability of including the document flow, related to the foreign trade of military purpose goods or goods, subject to export control in the field of activities of the Single Window, should be considered separately.

goods should be excluded from the competence of the Single Window at the first stage of its establishment.

3.9.3 Exchange of information between State bodies

Article 10 of the Federal Law № 149-FZ of 27 June 2006 «On Information, Information Technologies and Protection of Information» foresees, that federal laws determine the cases and conditions of mandatory information submission. The examples of such instructions are given in Section 2.4 of this study. However, the mentioned rule is not always carried through to the letter. Above, we gave many examples when the requirements of submitting some documents for import, export or transit of goods are established by the Decisions of the President of the RF or the Government of the RF. Supposedly, such decisions were adopted within the limits of the competences, delegated by law to those bodies. In any case, with regard to the establishment of the Single Window, it should not be excluded, that the issue arises whether the introduction of an obligation for the Single Window to submit information to other State bodies and their obligation to submit information to the Single Window, adopted at the level of an act of the Government of the RF, will contradict to this provision of the Law on Information. The probability of such a problem arising is low, but it exists, at least in virtue of a prospective opposition of State bodies, which do not want to quit their powers, which suppose direct contact with the applicants, who turn to them to obtain necessary documents.

The Customs Code of the Customs Union contains a provision, that the Customs authorities have no right to submit to third parties, including State bodies, the information, received in accordance with the Customs legislation, constituting State, commercial, banking, tax or other secret, protected by law, and other confidential information, with the exception of cases, established by this Code and/or by the legislation of the CU Member States (Article 8.2.1). However, directly after that there is a provision, that the Customs authorities of one CU Member State must submit the information submitted to them to the State bodies, if such information is necessary for those bodies to complete tasks, vested in them by the legislation of this State (in compliance with the requirement of keeping information confidential). Then there is a question, whether those provisions will apply to the information, submitted to the Single Window, in case the Federal Customs Service is determined as such a facility, that is whether this information will be in this very case considered as information, received by the FCS in accordance with the Customs legislation? Such interpretation leaves unclear, how the information, submitted to the FCS (Single Window) will be differentiated between the information received in accordance

with the Customs legislation and other types of information, and which law determines the cases, when this information of second type is transferred to other State bodies and back.

3.9.4. Electronic Document flows

The analysis of the Russian legislation above, which relates to electronic documents, lets us draw a conclusion, that it is at the stage, when some grounds are created, but they need further development. In particular, attention should be paid to the following.

The Law «On Electronic Digital Signature» sets out that if all the conditions specified therein are observed, this allows recognizing the EDS as equal to the person's handwritten signature in a document on paper. At the same time, the Law «On Information, Information Technologies and Protection of Information» sets out that electronic communication, signed by the EDS, is recognized as an electronic document equal to a document, signed by a handwritten signature, if federal laws or other normative legal acts do not establish or suppose the requirement to produce such a document on paper. As it seems, there is some contradiction between those two provisions, and the application of the second one may create substantial difficulties for the transition to electronic document flows in the framework of the Single Window, at the time when the first provision will not impede such transition.

However, the Law «On Electronic Digital Signature» also has some shortcomings. The mentioned provision on the recognition of equivalency of the EDS to a handwritten signature of a person, made on paper, is only declared as a goal. At the same time, this Law does not contain the norms on associating biometric data contained in the signature to the holder of signature key certificate on the one hand, and on the other hand the closed key and the EDS respectively may be transferred to third authorized person, or one find it conceivable that the EDS may be used without authorization by a third person, which means that the closed key is compromised. The data of electronic signature does not contain any references to the date and time the document was signed, which is very important nowadays and substantial for law enforcement practices.

The absence in the Law on EDS of rules concerning the unique association of an electronic digital signature with a person may result in some problems in practice. Thus, if, for any reason, a third person learns the closed key, it will be impossible to determine the forgery of the signature until the keys are destroyed. One must not exclude probable situations, when interested persons or non-honest officials refuse to recognize their signature on electronic document, when an analogue of a handwritten signature is used. In these cases, it will be almost impossible to prove the opposite.

The requirement of the Law to include in the EDS the "information on the relations, in which the electronic document, signed by the electronic digital signature, will have legal force" is also strange. The use of this legal construction in the Law means the necessity of passing a normative legal enactment, which contains a list of legal relations, where the EDS may apply.

Those shortcomings of the Law on EDS may be substantially eliminated if the new Law on electronic signatures, described in Section 3.1.5 of this Study is adopted. At the same time, the Bill has not yet passed the second reading in the State Duma of the RF, where it could be substantially amended. If the main provisions of the Bill are not altered, its provisions would be more acceptable as the legal base for the establishment of the Single Window.

The Russian Federation signed the UN Convention on the Use of Electronic Communications in International Contracts. However, to ratify this Convention it is necessary to make amendments into the Russian legislation. In particular, the definitions to the terms "electronic communication", "data transfer", "information system", given in the Law on the EDS and in the Law on Information, do not conform to Article 4 of the Convention.

Although the Convention applies to the use of electronic messages in connection with the conclusion and performance of contracts between the parties, commercial enterprises which are located in different States, and does not directly concern the document flow which may exist within the frames of the Single Window, its principles may have beneficent effect on the development of the Russian legislation in the field of electronic document flow. Thus, for example, the Convention establishes that the message or contract may not be deprived of validity or limits of prescription only because they are made in electronic form. According to the Convention, in those cases when the legislation requires that the message or contract be submitted on paper, or foresees that some consequences may arise in the absence of a paper copy, this requirement is considered to be fulfilled by submitting the electronic message, if its information is accessible for its further use. The Convention also determines the conditions when the legislative requirements on the submission or storage of a message or contract in their original are deemed to be fulfilled with regard to electronic messages.

The early ratification of the said Convention would contribute not only to the development of the electronic documents flow between Russian and foreign enterprises, which enter into contractual relations, but would also fill up some gaps of the Russian legislation in the sphere of regulating electronic document flows, which may also be required in connection to the establishment of the Single Window.

As it was said earlier, there is no law on electronic commerce in Russia. Although such a law must regulate B2B relations, its provisions may become an additional legal basis for the

establishment of the Single Window in Russia. Such conclusion may be drawn after analyzing the UNCITRAL Model Law on Electronic Commerce and the Guide to its Enactment.

As the Guide says, the communication of legally significant information in the form of paperless messages may be hindered by legal obstacles to the use of such messages, or by uncertainty as to their legal effect or validity. The purpose of the Model Law is to offer national legislators a set of internationally acceptable rules as to how a number of such legal obstacles may be removed, and how a more secure legal environment may be created for what has become known as “electronic commerce”.

The Model Law presumes that legal requirements which establish the use of traditional paper documents, are the main obstacle for the development of modern means of data transfer. The Model Law must allow the States to adopt their domestic legislation taking into account the changes in the communication technologies from the point of view of the trade law, without forcing them to refuse those requirements, related to the use of paper documents, or reconsider legal concepts and approaches, which form the base for those requirements.

The Model Law assumes a new approach, which is sometimes called functional equivalent approach. It is based on the analysis of objectives and functions of traditional requirements to the production of documents on paper, with a view to establish how those objectives and functions may be reached or fulfilled with the use of methods of electronic commerce. The Guide says that in connection to the functions of paper documents, the electronic entries provide the same level of security as paper documents and in much more cases higher level of reliability and treatment speed, especially what regards the determination of the source and the content of the information, provided some technical and legal requirements are observed. At the same time, the concept of “functional equivalent approach” must not lead to the establishment of stricter standards of reliability (and related costs), for the operators of electronic commerce, than those which exist in the sphere of paper documents.

At the international level the Model Law may also be useful in some cases, as an instrument for interpretation of existing international conventions and other international treaties, which create legal obstacles for the use of electronic commerce because they, for example, establish the requirement on mandatory written production of some documents and annexes to contracts. The Adoption of the Model Law as a rule of interpretation may become a means of recognition of the use of electronic commerce in the relations between the States, parties to such international documents, without the necessity of concluding a special protocol to the corresponding international document.

3.10. Identification of the Needs for Adjustment of Russian Legislation

Legislation and sub legislative regulation is constantly developing in Russia. Of late, this process has intensified with the creation of new norms within the Customs Union. Besides, some amendments are made into the legislation as a result of the negotiations on the accession of Russia to the WTO. The necessity of adopting new normative legal acts or amending the existing ones may arise with regard to the establishment of the Single Window.

First of all, it will be necessary to decide, which body will be empowered to establish the Single Window. The easiest would be, if the Government of the RF adopts such a decision. It could be analogous to the Resolutions of the Government of the RF, which approved the "Rules of Performing Control at the Border Crossing Points at the State Border of the Russian Federation" and the Regulation on Inter-Agency Integrated Computerized Information System of Federal Bodies of Executive Power, Performing Control at the Border Crossing Points of the State Border of the Russian Federation. However after those documents were adopted, many of the powers in the field of foreign trade regulation were delegated to the bodies of the Customs Union. Besides, in such spheres as military and technical cooperation, foreign trade in precious stones and precious metals, many decisions are adopted by the President of the RF. The adoption of a federal law regarding the issues of establishment and operation of the Single Window could be a universal solution. However, a great political will and thorough work will be necessary to prepare such a bill and promote it in the chambers of the Federal Assembly of the Russian Federation.

Finding an acceptable legal form to solve the issue of establishing the Single Window in Russia will require the adoption of measures to remove or neutralize obstacles, discussed in the previous Section.

Thus, it will be necessary to find the possibility to derogate from the rules, foreseen by the CC CU and a number of Agreements within the framework of the CU, as well as by the Russian legislation and other acts, which directly establish that Customs declarations and other documents must be submitted by persons engaged in foreign trade to the corresponding authorized State bodies. Within the framework of the CU this problem may be solved by concluding an international treaty. As to the Russian acts, the solution may be more complicated, especially when the issues of submitting documents to specific bodies are regulated by laws, for example, the Law on Customs Regulation, since they may not be amended by acts which are inferior in the hierarchy of legal acts. Now it seems premature to consider the issue of specific

amendments to the existing legislation when studying the matter of the establishment of the Single Window, also because the amendments will depend on the model of the Single Window, which will be chosen by the State bodies at the end. The correction of the above-mentioned shortcomings of the legislation related to electronic document flow hardly directly concerns the establishment of the Single Window. For instance, they do not impede to develop the Program of Electronic Government in Russia.

Besides, one may hope, that a number of the revealed shortcomings will be eliminated in the new Law on electronic signatures, which may be adopted soon. Alongside, the ratification of the UN Convention on the Use of Electronic Communications in International Contracts by Russia as well as the elaboration of the legislation on electronic trade based on the said Model Law and Guide to Enactment, adopted by UNCITRAL, would play a positive role.

From a practical point of view, it would be important to consider the possibility of amending the Regulation on Inter-Agency Integrated Computerized Information System of Federal Bodies of Executive Power, Performing Control at the Border-Crossing Points of the State Border of the Russian Federation, by «offering» this system for the persons engaged in foreign trade, and allowing to start creating a data base for the establishment of the Single Window.

4. Legal Aspects of the Establishment of the Single Window within the Customs Union

4.1. Prerequisites for the Establishment of the Single Window within the Customs Union

As it was said above, one of the main obstacles of legal nature for the establishment of the Single Window in Russia is the fact that after the creation of the Customs Union of Belarus, Kazakhstan and Russia, many issues related to the documents flow when completing formalities for import, export and transit of goods are regulated by international treaties concluded between those countries, as well as by decisions of the CU Commission, and Russia may not, on its own, make amendments into the regulations active within its territory and made according to the acts of the Customs Union. Besides, after the remaining restrictions on the movement of goods between the Member States of the Customs Union are abolished, the common Customs territory is created, the agreements on the creation of the common economic space are concluded und put into operation, all the formalities regarding import, export and transit of goods will be completed at the outer border of the Customs Union. Accordingly, there is no much sense in establishing

the Single Window only for Russia. Especially that no measure was put in practice with this regard.

It would be more practicable and reasonable to study the issue of establishing the Single Window within the framework of the Customs Union. The Integrated Information System for Foreign and Mutual Trade of the Customs Union (ISFMTCU) could be considered as a certain base for its creation.

Originally, the concept of the ISFMTCU was adopted by the Decision of the Interstate Council of EurAsEC № 22 of 27 November 2009. The Agreement on the Creation, Functioning and Development of the ISFMTCU and the Agreement on the Use of Information Technologies for the Exchange of Electronic Documents for Foreign and Mutual Trade within the Customs Territory of the Customs Union were adopted 21 September 2010. The feasibility study (FS) of the ISFMTCU creation was developed in the summer of 2010.

In order to fulfill the said decisions and Agreements, the Interstate Council of EurAsEC adopted Decision № 60 of 19 November 2010 which approved the Concept of the ISFMTCU creation and nominated the authorized bodies for the creation of the national segments of the ISFMTCU: the Ministry of Communication and Computerization of the Republic of Belarus, Ministry of Communication and Information of the Republic of Kazakhstan and Ministry for Mass Communications of the Russian Federation. Besides, the Interstate Council of the EurAsEc ordered the CU Commission to approve the Regulation on the Coordination Council on Information Technologies, created under the Commission.

A number of provisions, which have substantial legal importance in the context of possible establishment of the Single Window within the framework of the Customs Union result from this analysis.

Thus, the Agreement on the Creation, Functioning and Development of the ISFMTCU says that the objective of this System is to create favourable conditions for economic operators of the Member States, ensure efficient regulation of foreign and mutual trade within the common Customs territory of the Customs Union, provide for Customs, tax, transport and other types of State control with the use of information and telecommunication technologies.

The Agreement on the Use of Information Technology for Electronic Document Exchange in Foreign and Mutual Trade within the Common Customs Territory of the Customs Union declares the intent of the Parties to work out a common approach to meet the challenge of eliminating legal barriers for the use of electronic documents for foreign and mutual trade within the common Customs territory of the Customs Union. The Agreement establishes that an electronic document on foreign and mutual trade, produced in accordance with the rules and requirements to documenting, determined by the CU Commission, shall be recognized to have

equal legal force as the same document on paper, signed by the person who produced the electronic document or certified by a signature and a stamp. The document may not be deprived of the legal force only because it is produced in electronic form. The use of an electronic document by the Member States as a proof of validity may not be prohibited only because it is made in electronic form.

The Agreement foresees that the issues related to the object of its regulation and not directly mentioned therein are regulated by the legislation of each Member State. At the same time, one of the tasks of the Coordination Council on Information Technologies is to prepare recommendations for the harmonization of domestic legislation of each of the Member States for the use of electronic documents on foreign and mutual trade within the common Customs territory of the Customs Union.

According to the definition of “electronic document on foreign and mutual trade”given in the Agreement only the documents signed by electronic digital signature are deemed to be such documents. The EDS in such documents will be verified by authorized third parties, which will be State bodies of the Member States or organizations certified by them. The authorized third parties must cooperate to establish confidence for the organisation of cross border electronic documents flow between the subjects of electronic intercommunication of the Member States, which use different means of electronic documents protection.

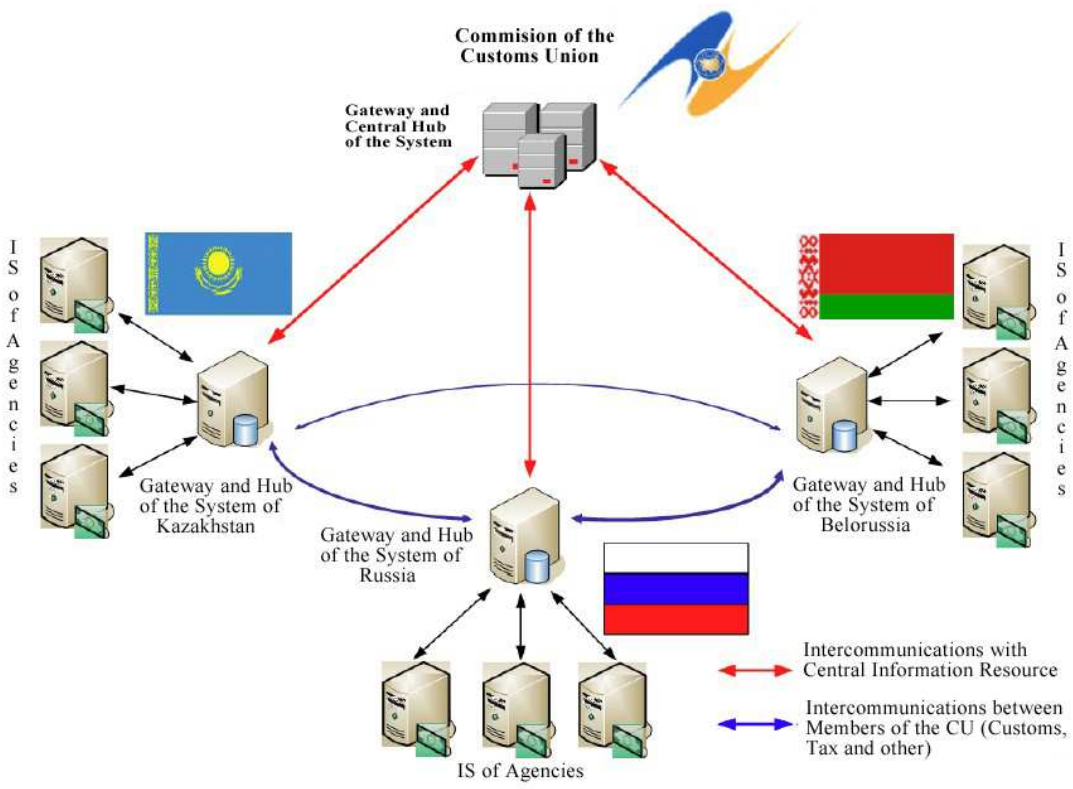
According to the Concept on the ISFMTCU Creation, this System has several tasks, among which is the creation of an integrated information structure of interstate exchange of information and electronic documents within the Customs territory of the Customs Union; organize information cooperation of the bodies of the Member States to ensure the full payment of Customs duty, taxes and charges collection; provide for informational support of the control of international Customs transit; ensure the possibility of realizing the mechanisms of preliminary notification and electronic declaration; organize information cooperation of the bodies exercising State control (phyto-sanitary, veterinary, sanitary quarantine, transport, export and other types of control) within the territory of the Cusoms Union; provide for informational cooperation based on interstate and inter-agency agreements.

The Concept notes that the works on the development of domestic systems are carried out by the Memeber States within the framework of their own plans in accordance with the normative legal acts active on their territory. In this regard, it is possible to complete the task of reliable integration of information systems within the Customs Union on the basis of creation of integration segments, which support the processes of informational cooperation of state bodies of the Member States, which regulate foreign and mutual trade and use the common system of

references and classifiers, ensuring that the legal significance of transferred data and electronic documents is recognized by all the participants.

The Concept establishes the main requirements to the ISFMTCU. These include the following. The System must not replace domestic systems of the Member States; the System must support regulated access by the users to common information resources, necessary for interstate cooperation of State bodies; the System must ensure for the collection, treatment and storage of regulated information on foreign and mutual trade; the System must provide for the observance of the requirements for the documents, such as authenticity, reliability, integrity, validity for use in accordance with the international standard ISO 15489-1:2001 Information and documentation. Records management. General; the System must give the possibility of exchange of information and electronic documents, which have legal force, or mutually recognized as such.

The created System must consist of the central node of the CU Commission and nodes, which are developped at each Member-State:



The Concept foresees two stages of the ISFMTCU creation, including the development of the Feasibility Study (FS) and forms of documents, communications, formats of data, regulations, standards and rules, which determine interfaces and information cooperation at the first stage. The time limits for the realization of the stages must be set in the FS. According to the prepared FS, the test version of the ISFMTCU must be set in operation in 2012, and the

System management will be done in 2013.

If the said Agreements and Concept say about the use of the ISFMTCU for cooperation and exchange of electronic documents between the agencies of the CU Member States, what is shown on the figure above, the FS states the necessity of foreseeing the possibility for the persons engaged in foreign trade of submitting documents in electronic form through legally valid electronic document flow, meaning that this would happen within the frames of the Single Window, which is seen by the FS developers as the ISFMTCU subsystem.

The FS also points out that it is necessary to create common computerized means of receiving, sorting and treating unified documents, used for performing Customs operations when Customs procedures are applied to goods, Customs control or other types of control are conducted, for further realization of the Single Window facility within the Customs territory of the Customs Union.[180] According to the FS, it is practicable to use the integration segment of the ISFMTCU for communication with the users within the Single Window facility. The information, received by the Single Window should be distributed, after appropriate registration, among the controlling bodies of the CU Member States, depending on its purpose. The Single Window subsystem must provide for the persons engaged in foreign trade processing of data, used for Customs operations and other types of control at the border-crossing points of the Customs border of the Customs Union and at the places of arrival of goods and their Customs clearance; acceptance and processing of information on goods intended for movement across the Customs border, means for international transportation, which carry these goods, the time and place of the arrival of goods into the Customs territory of the Customs Union or departure from this territory.

The FS also declares that it is necessary to ensure the communication with the information systems of third countries by sending and receiving information under agreed format within the frames of information exchange with third countries at the level of the Customs Union.

The FS foresees that the main part of Customs operations will be computerized during the process of elaboration and development of the ISFMTCU. Some secondary operations used while carrying through Customs operations may not be computerized or may be performed only in the domestic information systems of the CU Member States.

[180] At the same time, this should be carried out in accordance with UNECE Recommendation 33.

4.2. Main Problems of Legal Nature

Thus, a conclusion may be drawn, that there arise some prerequisites for the creation of the Single Window within the Customs Union. However, at this stage they are mere general provisions, contained in the FS ISFMTCU. The FS is not a normative legal act; it was prepared by a private organization under a contract with the CU Commission. In order to build legal support for the idea of the Single Window, it is necessary to amend the said Agreements and the Concept with a view of "plugging" persons engaged in foreign trade to the ISFMTCU[181]. At the same time, it will be necessary to update these documents or adopt a separate document regarding the work on standardization of data and information, which are submitted by persons engaged in foreign trade when completing formalities for import, export and transit of goods, including paying attention to the use of international standards (UN and WCO) when carrying out this work.

Some important provisions of the mentioned Agreement on the Use of Information Technologies, including the definition of an "electronic document on foreign and mutual trade", depend on the rules and requirements for the document exchange, which must be determined by the CU Commission. However, this has not been done yet.

The approved documents foresee that the exchange of electronic documents within the ISFMTCU must be exercised with mandatory use of electronic digital signature. If this requirement may be met, without doubt by State bodies, for the persons engaged in foreign trade such requirements may create serious difficulties instead of simplification of document flows. That is why it seems reasonable to consider the issue of possible use of simple electronic signatures by persons engaged in foreign trade within the frames of the Single Window. Such electronic signatures do not require authenticity certification and issuance of signature key certificates. At the same time, this Agreement on the Use of Information technologies does not establish general norms, regarding ensuring the validity of the use of the EDS in electronic documents by an authorized third party, but refers to domestic legislation, as well as for some other issues.

However, the Agreement does not regulate the issue how to solve the problem if there are discrepancies between the applicable rules of the legislation of two States. For example,

[181] Although, the preamble to the Concept declares that it takes into account international experience and the existing practices of unification and standardization of the processes of informational cooperation between citizens, entities and state bodies, all other parts of the Concept mention only communication between state bodies. As to the Agreement on Informational Cooperation, it includes physical and legal persons into the definition of "subjects of informational cooperation", but does not reveal the possibilities of cooperation between those subjects and state bodies.

according to Article 10 of the Agreement, the authorized third party of the State, where the electronic document is sent from, has provided for the legality of the use of the EDS in this electronic document, according to the rules and requirements of this State, but the authorized third party of the State where the document is received believes that the use of the EDS in this document is illegal in accordance with the legislation of that State.

Although the Agreement states the necessity of harmonizing domestic legislation in the spheres covered thereof, this process may last quite a long time. That is why, from the point of view of the Single Window establishment, it would be more reasonable to update the regulation of that kind of issues by an international treaty between the CU Member States.

With regard to the harmonization of the legislation of the CU Member States in the sphere of regulating electronic documents flow, it seems reasonable to exercise this work based on model laws and corresponding guides, prepared by UNCITRAL.

Neither the Agreements nor the Concept regulate the issues of responsibility for damages in case of use of inaccurate, incomplete or wrong data or lost of data during their transfer via the ISFMTCU mechanisms. The Concept sets out that when creating the system, interstate and interagency agreements on information exchange cooperation between State bodies, taking part in the regulation of foreign and mutual trade, will be concluded. Probably, these agreements will regulate the issues of the said liability with regard to the communication between State bodies. Nevertheless, if we speak about the Single Window, it is necessary to work out the issues of liability of State bodies before the persons engaged in foreign trade and of the liability of the persons engaged in foreign trade before State bodies for the damages in the mentioned cases.

The issue of dispute resolution, which may arise between the subjects of information cooperation within the ISFMTCU, as the Single Window facility, must also be considered.

The Agreement on the ISFMTCU creation and the Agreement of the Use of Information Technologies contain general provisions, that the disputes between the Parties, related to the interpretation and/or any Party may submit the application of the provisions of those Agreements, for consideration to the EurAsEC Court. The Decision of the EurAsEC Interstate Committee № 534 of 9 December 2010 adopted the Agreement on Applying to the EurAsEC Court by Economic Operators Regarding the Disputes within the Framework of the Customs Union. Under this Agreement, the EurAsEC Court shall consider the cases upon the application of economic operators on challenging acts or actions (inactions) of the CU Commission in the Court. The ground to challenge the acts or actions (inactions) of the CU Commission in the Court is their inconsistency with international treaties concluded within the framework of the Customs Union, which entailed the violation of rights and legitimate interests of economic

operators in the field of entrepreneurial activity and other economic activity, granted by those international treaties.

These provisions may lead to the conclusion that they partly solve the problems regarding the procedure of settlement of disputes, which may arise during the Single Window operation. It is not clear, which body will have the competence to settle the disputes between the persons engaged in foreign trade and the Single Window, which rules will it be guided by in case of conflict of laws, regarding the applicable rules of domestic legislation of different states.

As in the case of the Single Window establishment in Russia, there are questions regarding the observance of the provisions of the CC CU and agreements, concluded within the framework of the Customs Union, which foresee the submission of documents at import, export and transit of goods to the corresponding domestic State bodies by persons engaged in foreign trade. With regard to the Single Window within the Customs Union, however, such issues may be solved by concluding an international agreement. When considering the issue of establishing the Single Window within the Customs Union, it will be necessary to analyze the legislation of Belarus and Kazakhstan[182] to reveal possible existing (absent) legal obstacles, including with regard to data transfer outside domestic jurisdiction. It is necessary to make a thorough analysis of the laws of three States regarding the protection of information: whether they limit or not the transfer of data to third parties and whether the Single Window may be considered as such a third party. This issue led to the adoption of the decision of the European Union on the network operation of 27 domestic Single Window facilities, which will exchange information based on established international standards.

[182] Taking into account that the analysis of the Russian legislation was made in this Study.

Conclusions and Recommendations

The above analysis suggests the following conclusions and suggestions:

1. In general, Russia's legislative system is ready for the implementation of the Single Window principle. The legislative and other norms in force in Russia do not create impediments with regard to most issues listed in UNECE Recommendation 35, namely, the:
   - protection, quality, veracity, and integrity of data in electronic data interchange;
   - legal equality of electronic and paper documents;
   - admissibility of electronic documents as evidence in courts;
   - cases and conditions of compulsory submission of information;
   - confidentiality and responsibility for distributing information that represents commercial, professional or other secret, or personal data;
   - responsibility with respect to public, administrative and criminal legislation;
   - dispute resolution;
   - protection of databases and software for electronic data exchange.
2. At the same time, certain issues still remain:
   2.1. The new law on Electronic Signatures provides for the right of participants in electronic data exchange to use electronic signatures in any format at their will, yet certain exceptions remain. In particular, the Law provides for the equality of an electronic document with a qualified electronic signature with a paper document with a personal signature, except for cases when laws and related to them bylaws require the preparation of the document only in paper format. This situation may hamper the development of electronic document exchange in the framework of a Single Window mechanism, as the legal norms implemented in Russia often require filing documents for the exportation, importation and transit of goods in paper format.[183] As most of these cases refer to areas, which should probably be left out of the scope of the Single Window (see section 3.3), and as Recommendations 33 and 35 do not raise any condition *sine qua non* for the use of only electronic documents and electronic signatures in the Single Window mechanism, one should not exaggerate the limitation noted above.
   2.2. Russia does not have a special law on electronic commerce, but uses provisions of other laws in this area. The recognition of foreign electronic signatures and certificates in international trade transactions remains an issue. The ratification by Russia of the United Nations Convention on the Use of Electronic Communications in International Contracts and the development of legislation on electronic commerce on the basis of the UNCITRAL Model Law would be very useful.

[183] In many cases in Russia, legislation (international treaties, Customs Union and internal acts) requires the provision of documents in paper. These cases are indicated in this study, sections 1.2.3; 1.2.5; 1.2.6; 1.2.7; 1.2.9; 1.2.10.

2.3. After the creation of the Customs Union of Belarus, Kazakhstan and Russia, international treaties and decisions of the Commission of the Customs Union regulate many issues related to document exchange in international trade. Russia alone cannot introduce any changes in the regulation of trade procedures, if the establishment of a Single Window requires doing so.

3. In the context of the idea of establishing a Single Window in Russia, we can suggest the following:

3.1. Include in any decisions on setting up a Single Window mechanism provisions that all participating agencies should conclude agreements among themselves on data exchange.[184] This will help the interagency regulation of many technical and organizaitonal issues on data exchange.

3.2. Continue the analysis of laws, bylaws (e.g. instructions on the procedures of border control of goods, transported by different modes of transport), acts of the Customs Union bodies in force in Russia, and international treaties. Prepare a full list of provisions requiring the filing of documents for export, import and transit of goods exclusively on paper, and explore the possibility to use, in these cases, electronic documents, taking into account the need to provide for *de facto* equality between electronic and paper carriers of information.

3.3. Provide for technological neutrality in the implementation of laws and systems of certification of electronic signatures.

3.4. Draft a model agreement among the Customs Union Member States on the mutual recognition of electronic signatures.

3.5. Analyze the level of compliance of Russia's legislation to the provisions of the United Nations Convention on the Use of Electronic Communications in International Contracts. In case legal barriers for its ratification by RUssia are identified, prepare proposals for the elimination of these barriers.

3.6. Ensure that governmental bodies follow the work of relevant international organizations on developing electronic versions of the forms used in international trade, that they participate in the development work, implement those electronic documents and the international standards, on which they are based.

3.7. On the first stage of the establishment of the Single Window, exclude goods under the regime of exports control and products for military use.

4. In Russia, the only possible option is the establishment of a Single Window by governmental agencies, notably, through the adoption of a relevant act of the Goverment of the Russian Federation or of a federal law. The lead agency may be the Governmental Commission on Economic Development and Integration.[185] The Federal Customs Service should occupy an important place in the structure of the Sigle Window.

---

[184] Examples of such agreements are given on p. 131 of this study.

[185] See p. 91 of this study.

5. Given the elimination of limitations for the movement of goods among the Customs Union countries and the implementation of agreements on the establishment of a Single Economic Space, a promising direction of work remains the possibility to create a Single Window in the framework of the Customs Union. The technical basis for this work can be the prospective creation of an Integrated Information System for Mutual and Foreign Trade (IISMFT), and the legislative basis can be the agreements signed by the Customs Union countries regarding IISMFT and the implementation of common standards in the exchange of electronic documents in international trade.

5.1. Complement the above agreements, involving traders in the common system (e.g. IISMFT), by including into them such issues as resolving situations of «incompatibility » of existing legislative norms of two countries. Provide for a mechanism of establishing liability for the use of incorrect, incomplete or false data or for their loss during their transmission via the mechanisms of IISMFT. Provide for a system of resolution of disputes, which may arise between participants in the information exchange in the functioning of IISMFT.

5.2. Analyze the legislation of Belarus and Kazakhstan on the existence (or lack) of other possible impediments of legal character, including on the transfer of data across the borders of national jurisdiction.

Annexes

List of Laws and Normative Legal Acts Used in the Course of the Preparation of the Study
(in Russian)

1. Таможенный **кодекс** Таможенного союза

2. **Федеральный закон** от 10 января 2002 г. N 1-ФЗ "Об электронной цифровой подписи" (с изменениями от 8 ноября 2007 г.)
3. Таможенный **кодекс** Российской Федерации от 28 мая 2003 г. N 61-ФЗ (с изменениями от 23 декабря 2003 г., 29 июня, 20 августа, 11 ноября 2004 г., 18 июля, 31 декабря 2005 г., 10 января, 18 февраля, 19, 30 декабря 2006 г., 6, 26 июня, 24 июля, 30 октября, 6 декабря 2007 г., 26 июня, 24 ноября, 3, 30 декабря 2008 г., 9 апреля, 24 июля, 13 октября 2009 г.)
4. **Федеральный закон** от 29 июля 2004 г. N 98-ФЗ "О коммерческой тайне" (с изменениями от 2 февраля, 18 декабря 2006 г., 24 июля 2007 г.)
5. **Федеральный закон** от 27 июля 2006 г. N 149-ФЗ "Об информации, информационных технологиях и о защите информации"
6. Постановление **Правительства РФ** от 28 января 2002 г. N 65 "О федеральной целевой программе "Электронная Россия (2002 - 2010 годы)" (с изменениями от 26 июля 2004 г., 15 августа 2006 г., 10 марта, 10 сентября 2009 г.)
7. **Концепция** создания межведомственной интегрированной автоматизированной информационной системы федеральных органов исполнительной власти, осуществляющих контроль в пунктах пропуска через государственную границу Российской Федерации (одобрена распоряжением **Правительства РФ** от 4 мая 2008 г. N 622-р) (с изменениями от 10 марта 2009 г.)
8. Положение о межведомственной интегрированной автоматизированной информационной системе федеральных органов исполнительной власти, осуществляющих контроль в пунктах пропуска через государственную границу Российской Федерации (утв. постановлением **Правительства РФ** от 29 декабря 2008 г. N 1057)
9. Приказ **Министерства связи и массовых коммуникаций РФ** от 11 февраля 2009 г. N 22 "Об утверждении положения о межведомственной рабочей группе "Совет конструкторов межведомственной интегрированной автоматизированной информационной системы федеральных органов исполнительной власти, осуществляющих контроль в пунктах пропуска через государственную границу Российской Федерации" (с изменениями от 27 апреля 2009 г.)
10. Приказ **ГТК РФ** от 30 марта 2004 г. N 395 "Об утверждении Инструкции о совершении таможенных операций при декларировании товаров в электронной форме" (с изменениями от 5 сентября, 29 ноября 2006 г.)
11. Приказ **Федеральной таможенной службы** от 3 августа 2006 г. N 724 "Об утверждении новых форм комплектов бланков таможенной декларации и транзитной декларации" (с изменениями от 10 октября 2007 г., 18 августа 2009 г.)
12. Приказ **Федеральной таможенной службы** от 25 апреля 2007 г. N 536 "Об утверждении Перечня документов и сведений, необходимых для таможенного

оформления товаров в соответствии с выбранным таможенным режимом" (с изменениями от 18 марта, 30 сентября, 13 октября 2008 г., 11 февраля, 22 июня 2009 г.)

13. Приказ **Федеральной таможенной службы** от 24 января 2008 г. N 52 "О внедрении информационной технологии представления таможенным органам сведений в электронной форме для целей таможенного оформления товаров, в том числе с использованием международной ассоциации сетей "Интернет"
14. Приказ **Федеральной таможенной службы** от 29 июля 2009 г. N 1361 "О таможенных органах, правомочных принимать таможенные декларации"
15. **Концепция** таможенного оформления и таможенного контроля товаров в местах, приближенных к государственной границе Российской Федерации (середина 2009 г.)
16. Перечень таможенных органов, имеющих достаточную техническую оснащенность для применения электронной формы декларирования, по состоянию на 1 апреля 2010 г.
17. Приказ **Федеральной таможенной службы** от 26 мая 2010 г. № 1022 «О сводном перечне нормативно-справочной информации, используемой при предоставлении освобождений от уплаты таможенных платежей»
18. Письмо **Минтранса РФ** от 24 мая 2010 г. № ОБ-16/5460 (о формах транспортных (товаросопроводительных) документов, используемых при перемещении товаров в таможенном союзе)
19. Проект **Федерального закона РФ** «О таможенном регулировании в Российской Федерации»
20. Приказ **Минсельхоза РФ** от 16 ноября 2006 г. N 422 "Об утверждении Правил организации работы по выдаче ветеринарных сопроводительных документов" (с изменениями от 14 августа 2007 г., 19 марта, 4 декабря 2008 г., 5 мая 2009 г., 19 марта 2010 г.)
21. Письмо **Роспотребнадзора** от 29 июня 2010 г. № 01/9646-0-32 «О вступлении в силу Соглашения Таможенного союза по санитарным мерам»
22. Письмо **Роспотребнадзора** от 5 июля 2010 г. № 01/9950-0-23 «О государственной регистрации товаров на территории Таможенного союза и территории Российской Федерации»
23. Письмо **Роспотребнадзора** от 2 июля 2010 г. № 01/9848-0-32 «О практике применения документов Таможенного союза»
24. Письмо **Федеральной таможенной службы** от 30 июня 2010 г. № 01-11/32342 «О перемещении товаров в соответствии с таможенной процедурой таможенного транзита по таможенной территории Таможенного союза»
25. Постановление **Правительства РФ** от 24 декабря 2008 г. N 990 "О ввозе (вывозе) на таможенную территорию Российской Федерации уловов водных биологических ресурсов, добытых (выловленных) при осуществлении промышленного рыболовства во внутренних морских водах Российской Федерации, в территориальном море Российской Федерации, на континентальном шельфе Российской Федерации, в исключительной экономической зоне Российской Федерации, и произведенной из них рыбной и иной продукции"
26. Постановление **Правительства РФ** от 30 июня 2010 г. № 480 «О внесении изменений в пункт 2 Постановления Правительства РФ от 24 декабря 2008 г. N 990» (об особенностях ввоза/вывоза уловов водных биологических ресурсов)

27. Постановление **Совета Министров - Правительства РФ** от 11 октября 1993 г. N 1030 "О контроле за выполнением обязательств по гарантиям использования импортируемых и экспортируемых товаров (услуг) двойного применения в заявленных целях" (с изменениями от 3 июня 1995 г., 24 июля 1999 г., 29 августа 2001 г., 4 февраля 2005 г., 1 июня 2010 г.)

28. Инструкция **ЦБР** от 15 июня 2004 г. N 117-И "О порядке представления резидентами и нерезидентами уполномоченным банкам документов и информации при осуществлении валютных операций, порядке учета уполномоченными банками валютных операций и оформления паспортов сделок" (с изменениями от 8 августа 2006 г., 20 июля 2007 г., 12 августа 2008 г.)

29. **Арбитражно-процессуальный кодекс** Российской Федерации

30. Постановление **Правительства РФ** от 30 июня 2004 г. N 322 "Об утверждении Положения о Федеральной службе по надзору в сфере защиты прав потребителей и благополучия человека" (с изменениями от 23 мая, 14 декабря 2006 г., 29 сентября, 7 ноября 2008 г., 16 июля, 8 августа 2009 г., 20 февраля, 15 июня 2010 г.)

31. Приказ **Министерства здравоохранения и социального развития РФ** от 31 декабря 2006 г. N 893 "Об утверждении Административного регламента Федеральной службы по надзору в сфере защиты прав потребителей и благополучия человека исполнения государственной функции по осуществлению санитарно-карантинного контроля в пунктах пропуска через Государственную границу Российской Федерации"

32. Постановление **Правительства РФ** от 30 июня 2004 г. N 327 "Об утверждении Положения о Федеральной службе по ветеринарному и фитосанитарному надзору" (с изменениями от 4 августа 2005 г., 23 мая, 19 июня, 20 ноября, 14 декабря 2006 г., 1 ноября 2007 г., 25 января, 11 июня, 7 ноября 2008 г., 27 января 2009 г., 27 января, 13 апреля, 15 июня 2010 г.)

33. Письмо **Федеральной службы по ветеринарному и фитосанитарному надзору** от 22 июля 2009 г. N ФС-НВ-4/7702 (по АРГУСу)

34. Письмо **ФТС РФ** от 01.07.2010 N 01-11/32361 «Об уплате таможенных сборов»

35. Письмо **Роспотребнадзора** от 12.07.2010 N 01/10220-0-32 "О действиях по упорядочению работ, связанных с реализацией Соглашения Таможенного союза по санитарным мерам"

36. Приказ **Федерального агентства по рыболовству** от 18 июня 2009 г. N 526 "О порядках оформления, выдачи и регистрации разрешения на экспорт и разрешения на импорт, сертификата на реэкспорт и сертификата на интродукцию из моря осетровых видов рыб и продукции из них, включая икру, а также внесения в них изменений, приостановления действия и аннулирования указанных разрешений/сертификатов"

37. Постановление **Правительства РФ** от 10 апреля 2006 г. N 201 "О порядке формирования и ведения единого реестра сертификатов соответствия, предоставления содержащихся в указанном реестре сведений и оплаты за предоставление таких сведений" (с изменениями от 30 января, 7 июня 2008 г.)

38. Приказ **ГТК РФ** от 3 марта 2003 г. N 203 "О декларировании товаров"

39. Постановление **Правительства РФ** от 20 ноября 2008 г. N 872 "Об утверждении Правил осуществления контроля в пунктах пропуска через государственную границу Российской Федерации"

40. Приказ **Минтранса РФ** от 9 февраля 2010 г. N 31 "Об утверждении Типовой схемы организации пропуска через государственную границу Российской Федерации лиц, транспортных средств, грузов, товаров и животных в железнодорожных пунктах пропуска через государственную границу Российской Федерации"
41. Приказ **Минтранса РФ** от 29 января 2010 г. N 21 "Об утверждении типовой схемы организации пропуска через государственную границу Российской Федерации лиц, транспортных средств, грузов, товаров и животных в воздушных пунктах пропуска через государственную границу Российской Федерации"
42. Приказ **Минтранса РФ** от 22 декабря 2009 г. N 247 "Об утверждении Типовой схемы организации пропуска через государственную границу Российской Федерации лиц, транспортных средств, грузов, товаров и животных в морских и речных (озерных) пунктах пропуска через государственную границу Российской Федерации"
43. Приказ **Минтранса РФ** от 9 октября 2009 г. N 177 "Об утверждении Типовой схемы организации пропуска через государственную границу Российской Федерации лиц, транспортных средств, грузов, товаров и животных в автомобильных пунктах пропуска"
44. Постановление **Правительства РФ** от 26 июня 2008 г. N 480 "Об утверждении Правил представления таможенным органам в пунктах пропуска через государственную границу Российской Федерации документов, необходимых для осуществления иных видов контроля помимо таможенного контроля"
45. Приказ **Федеральной таможенной службы** от 29 сентября 2008 г. N 1206 "Об утверждении Инструкции о действиях должностных лиц таможенных органов, расположенных в пунктах пропуска через государственную границу Российской Федерации, при приеме документов, необходимых для осуществления иных видов контроля помимо таможенного, и при осуществлении отдельных действий по транспортному контролю"
46. Приказ **Федеральной таможенной службы** от 15.06.2010 N 1133 "О таможенных органах, правомочных принимать таможенные декларации"
47. Письмо **Роспотребнадзора** от 20.07.2010 N 01/10733-10-31 "О порядке осуществления санитарно-карантинного контроля в пунктах пропуска таможенного союза"
48. Распоряжение **Правительства РФ** от 28 декабря 2002 г. N 1854-р (о создании в 2003-2007 годах единой государственной автоматизированной информационной системы контроля за вывозом товаров с таможенной территории Российской Федерации)
49. Распоряжение **Правительства РФ** от 14 декабря 2005 г. N 2225-р (об одобрении Концепции развития таможенных органов Российской Федерации)
50. Распоряжение **Правительства РФ** от 27 сентября 2004 г. N 1244-р (с изменениями от 29 июля 2005 г., 21 ноября 2006 г., 24 декабря 2008 г., 10 марта 2009 г.) (Об одобрении Концепции использования информационных технологий в деятельности федеральных органов государственной власти до 2010 года)
51. Постановление **Правительства РФ** от 6 февраля 2010 г. N 60 "О Правительственной комиссии по внедрению информационных технологий в деятельность государственных органов и органов местного самоуправления"
52. Постановление **Правительства РФ** от 19.07.2010 N 535 "О внесении изменений и признании утратившими силу некоторых актов Правительства Российской

Федерации" (касается драгоценных металлов, драгоценных камней и сырьевых товаров, содержащих драгоценные металлы)

53. Постановление **Правительства РФ** от 30 декабря 2009 г. N 1166 "О Правительственной комиссии по экономическому развитию и интеграции"
54. Постановление **Правительства РФ** от 16 июля 2005 г. N 438 "О порядке ввоза и вывоза лекарственных средств, предназначенных для медицинского применения" (с изменениями от 14 февраля, 8 августа, 30 декабря 2009 г.)
55. **Федеральный закон** от 12 апреля 2010 г. N 61-ФЗ "Об обращении лекарственных средств"
56. **Федеральный закон** от 27.07.2010 N 228-ФЗ "О внесении изменений в Арбитражный процессуальный кодекс Российской Федерации"
57. Постановление **Правительства РФ** от 26.07.2010 N 560 "О внесении изменений в приложение N 3 к Положению об экспорте и импорте ядерных материалов, оборудования, специальных неядерных материалов и соответствующих технологий"
58. Приказ **Минфина РФ** от 07.07.2010 N 69н "Об утверждении формы налоговой декларации по косвенным налогам (налогу на добавленную стоимость и акцизам) при импорте товаров на территорию Российской Федерации с территории государств - членов Таможенного союза и порядка ее заполнения"
59. Письмо **Роспотребнадзора** от 29.07.2010 N 01/112590-0-23 "О государственной регистрации подконтрольной продукции на территории Российской Федерации и Таможенного союза"
60. Приказ **ФСБ РФ** от 17.06.2010 N 305 "Об утверждении Административного регламента Федеральной службы безопасности Российской Федерации по исполнению государственной функции по осуществлению пограничного контроля в пунктах пропуска через государственную границу Российской Федерации"
61. Письмо **Россельхознадзора** от 19.07.2010 N ФС-ГК-4/8729 (об изменении формы сертификата здоровья на рыбопродукцию, экспортируемую из Российской Федерации на территорию стран - членов Европейского Союза)
62. Приказ **Федерального агентства по атомной энергии** от 10 октября 2007 г. N 527 "Об утверждении Административного регламента Федерального агентства по атомной энергии по исполнению государственной функции "Выдача сертификатов (разрешений) на перевозки радиоактивных материалов и ведение их реестра"
63. **Закон РФ** от 7 июля 1993 г. N 5340-I "О торгово-промышленных палатах в Российской Федерации" (с изменениями от 19 мая 1995 г., 21 марта 2002 г., 8 декабря 2003 г., 29 апреля, 23 июля 2008 г.)
64. Постановление **Правительства РФ** от 24 февраля 1994 г. N 150 "О выдаче сертификатов о происхождении товаров при их вывозе в государства - участники Содружества Независимых Государств"
65. **Федеральный закон** от 10 января 2006 г. N 16-ФЗ "Об Особой экономической зоне в Калининградской области и о внесении изменений в некоторые законодательные акты Российской Федерации" (с изменениями от 17 мая, 30 октября 2007 г.)
66. Постановление **Правительства РФ** от 30 марта 2006 г. N 171 "Об утверждении Правил применения критериев достаточной переработки и выдачи соответствующих сертификатов в отношении продуктов переработки товаров, ввезенных в соответствии с таможенным режимом свободной таможенной зоны, применяемым в Калининградской области"

67. Письмо **Россельхознадзора** от 09.07.2010 N ФС-НВ-2/8191 (разъяснено применение нормативных документов, изданных в целях реализации Соглашения Таможенного союза по ветеринарно-санитарным мерам)
68. Приказ **ГТК РФ** от 15 сентября 2003 г. N 1014 "О выдаче разрешения на переработку товаров на таможенной территории" (с изменениями от 4 марта 2004 г., 8 июня 2007 г., 22 апреля 2009 г.)
69. Приказ **Федеральной таможенной службы** от 14 марта 2008 г. N 267 "Об утверждении Инструкции о совершении отдельных таможенных операций при использовании таможенного режима переработки вне таможенной территории" (с изменениями от 20 февраля, 24 апреля, 14 сентября, 25 декабря 2009 г.)
70. Приказ **Федеральной таможенной службы** от 11 апреля 2007 г. N 457 "Об утверждении Инструкции о совершении отдельных таможенных операций при использовании таможенного режима уничтожения" (с изменениями от 25 декабря 2009 г.)
71. Приказ **Федеральной таможенной службы** от 7 мая 2009 г. N 812 "Об утверждении Инструкции о совершении отдельных таможенных операций при использовании таможенного режима переработки для внутреннего потребления" (с изменениями от 25 декабря 2009 г.)
72. Приказ **Федеральной таможенной службы** от 13 августа 2009 г. N 1488 "Об утверждении Административного регламента Федеральной таможенной службы по исполнению государственной функции по ведению таможенного реестра объектов интеллектуальной собственности"
73. Приказ **Федеральной таможенной службы** от 28 апреля 2009 г. N 748 "Об утверждении Административного регламента Федеральной таможенной службы по исполнению государственной функции по выдаче и аннулированию разрешения на транзит вооружения, военной техники и военного имущества" (с изменениями от 26 февраля 2010 г.)
74. Письмо **Роспотребнадзора** от 29 декабря 2009 г. № 01/20277-9-32 «О выдаче разъяснений по санитарно-эпидемиологическим заключениям»
75. Постановление **Правительства РФ** от 15 декабря 2007 г. N 880 "О мерах по реализации Соглашения между Российской Федерацией и Европейским сообществом о торговле некоторыми изделиями из стали" (с изменениями от 7 июня 2008 г.)
76. **Федеральный закон** от 15 июля 2000 г. N 99-ФЗ "О карантине растений" (с изменениями от 25 июля 2002 г., 22 августа 2004 г., 9 мая 2005 г., 30 декабря 2006 г., 23 июля 2008 г.)
77. Постановление **Правительства РФ** от 30 июня 2004 г. N 327 "Об утверждении Положения о Федеральной службе по ветеринарному и фитосанитарному надзору" (с изменениями от 4 августа 2005 г., 23 мая, 19 июня, 20 ноября, 14 декабря 2006 г., 1 ноября 2007 г., 25 января, 11 июня, 7 ноября 2008 г., 27 января 2009 г., 27 января, 13 апреля, 15 июня 2010 г.)
78. Письмо **Россельхознадзора** от 09.07.2010 г. № ФС-НВ-2/8191 о вступлении в силу документов, утвержденных Комиссией таможенного союза, о ветеринарно-санитарном контроле
79. Письмо **Федеральной таможенной службы** от 09.07.2010 № 01-11/33801 "О совершении таможенных операций и таможенном контроле товаров, перемещаемых через российско-белорусскую государственную границу"

80. **Федеральный закон** от 27 декабря 2002 г. № 184-ФЗ "О техническом регулировании" (с изменениями от 9 мая 2005 г., 1 мая, 1 декабря 2007 г., 23 июля 2008 г., 18 июля, 23 ноября, 30 декабря 2009 г.)
81. Постановление **Правительства РФ** от 17 июня 2004 г. № 294 "О Федеральном агентстве по техническому регулированию и метрологии" (с изменениями от 27 октября 2004 г., 5 сентября 2006 г., 5 июня, 7 ноября 2008 г., 27 января, 15 июня, 12 августа 2009 г., 9, 15 июня 2010 г.)
82. Постановление **Правительства РФ** от 1 декабря 2009 г. № 982 "Об утверждении единого перечня продукции, подлежащей обязательной сертификации, и единого перечня продукции, подтверждение соответствия которой осуществляется в форме принятия декларации о соответствии" (с изменениями от 17 марта и 17 августа 2010 г.)
83. Письмо **Федеральной таможенной службы** от 19 декабря 2006 г. № 06-73/44906 "О списке товаров, для которых требуется подтверждение проведения обязательной сертификации при выпуске на таможенную территорию Российской Федерации" (с изменениями от 20 ноября 2007 г., 29 декабря 2008 г., 19 января 2009 г.)
84. **Федеральный закон** от 8 декабря 2003 г. № 164-ФЗ "Об основах государственного регулирования внешнеторговой деятельности" (с изменениями от 22 августа 2004 г., 22 июля 2005 г., 2 февраля 2006 г.)
85. Постановление **Правительства РФ** от 7 февраля 2008 г. № 53 "О ввозе на таможенную территорию Российской Федерации продукции, подлежащей обязательному подтверждению соответствия"
86. **Закон РФ** от 14 мая 1993 г. № 4979-I "О ветеринарии" (с изменениями от 30 декабря 2001 г., 29 июня, 22 августа 2004 г., 9 мая, 31 декабря 2005 г., 18, 30 декабря 2006 г., 21 июля 2007 г., 12 июня, 30 декабря 2008 г.)
87. **Федеральный закон** от 21 ноября 1995 г. № 170-ФЗ "Об использовании атомной энергии" (с изменениями от 10 февраля 1997 г., 10 июля, 30 декабря 2001 г., 28 марта 2002 г., 11 ноября 2003 г., 22 августа 2004 г., 18 декабря 2006 г., 5 февраля, 1 декабря 2007 г., 14, 23 июля, 30 декабря 2008 г., 27 декабря 2009 г.)
88. **Федеральный закон** от 9 января 1996 г. № 3-ФЗ "О радиационной безопасности населения" (с изменениями от 22 августа 2004 г., 23 июля 2008 г.)
89. **Федеральный закон** от 23 ноября 2009 г. № 261-ФЗ "Об энергосбережении и о повышении энергетической эффективности и о внесении изменений в отдельные законодательные акты Российской Федерации" (с изменениями от 8 мая 2010 г.)
90. Постановление **Правительства РФ** от 9 июня 2005 г. № 363 «Об утверждении Положения о наблюдении за экспортом и (или) импортом отдельных видов товаров» (с изменениями от 14 февраля 2009 г.)
91. Постановление **Правительства РФ** от 9 июня 2005 г. № 364 «Об утверждении положений о лицензировании в сфере внешней торговли товарами и о формировании и ведении федерального банка выданных лицензий» (с изменениями от 14 февраля 2009 г.)
92. Приказ **Министерства промышленности и торговли РФ** от 27 февраля 2009 г. № 84 «Об утверждении формы лицензии и заявления о предоставлении лицензии»
93. Постановление **Правительства РФ** от 5 июня 2008 г. № 438 "О Министерстве промышленности и торговли Российской Федерации" (с изменениями от 13

октября, 7 ноября, 29 декабря 2008 г., 27 января, 10 марта, 15, 23 июня, 12 августа 2009 г., 2, 20 февраля, 9, 15 июня 2010 г.)

94. **Федеральный закон** от 19 июля 1998 г. № 114-ФЗ «О военно-техническом сотрудничестве Российской Федерации с иностранными государствами (с изменениями от 25 октября 2006 г., 17 мая, 26 ноября, 4 декабря 2007 г., 7 мая 2009 г.)
95. **Указ Президента РФ** от 10 сентября 2005 г. № 1062 «Вопросы военно-технического сотрудничества Российской Федерации с иностранными государствами» (с изменениями от 17 декабря 2007 г., 1, 12 декабря 2008 г., 16 октября, 7 декабря 2009 г.)
96. Приказ **Минобороны РФ** от 23 ноября 2007 г. № 485 «Об утверждении Административного регламента исполнения Федеральной службой по военно-техническому сотрудничеству государственной функции по принятию решения о выдаче в установленном порядке субъектам военно-технического сотрудничества лицензий на ввоз в Российскую Федерацию и вывоз из нее продукции военного назначения»
97. **Федеральный закон** от 18 июля 1999 г. № 183-ФЗ «Об экспортном контроле» (с изменениями от 30 декабря 2001 г., 29 июня 2004 г., 18 июля 2005 г., 29 ноября, 1 декабря 2007 г., 7 мая 2009 г.)
98. **Указ Президента РФ** от 16 августа 2004 г. № 1085 «Вопросы Федеральной службы по техническому и экспортному контролю» (с изменениями от 22 марта, 20 июля 2005 г., 30 ноября 2006 г., 23 октября, 17 ноября 2008 г.)
99. Приказ **Федеральной службы по техническому и экспортному контролю** от 28 октября 2008 г. № 313 «Об утверждении Административного регламента Федеральной службы по техническому и экспортному контролю по исполнению государственной функции по осуществлению (в пределах своей компетенции) нетарифного регулирования внешнеторговой деятельности, в том числе выдаче лицензий на осуществление операций по экспорту и (или) импорту товаров (работ, услуг), информации, результатов интеллектуальной деятельности (прав на них) в случаях, предусмотренных законодательством Российской Федерации»
100. Приказ **Министерства здравоохранения и социального развития РФ** от 31 декабря 2006 г. № 903 «Об утверждении Административного регламента Федеральной службы по надзору в сфере здравоохранения и социального развития по исполнению государственной функции по выдаче заключений о возможности выдачи лицензии на ввоз лекарственных средств на территорию Российской Федерации в установленном законодательством Российской Федерации порядке»
101. **Указ Президента РФ** от 20 августа 2007 г. № 1083 «Об утверждении Списка микроорганизмов, токсинов, оборудования и технологий, подлежащих экспортному контролю»
102. **Указ Президента РФ** от 5 мая 2004 г. № 580 «Об утверждении Списка товаров и технологий двойного назначения, которые могут быть использованы при создании вооружений и военной техники и в отношении которых осуществляется экспортный контроль»
103. **Указ Президента РФ** от 14 января 2003 г. № 36 «Об утверждении Списка оборудования и материалов двойного назначения и соответствующих технологий, применяемых в ядерных целях, в отношении которых осуществляется экспортный контроль»

104. **Указ Президента РФ** от 8 августа 2001 г. № 1005 «Об утверждении Списка оборудования, материалов и технологий, которые могут быть использованы при создании ракетного оружия и в отношении которых установлен экспортный контроль»

105. **Указ Президента РФ** от 14 февраля 1996 г. № 202 «Об утверждении Списка ядерных материалов, оборудования, специальных неядерных материалов и соответствующих технологий, подпадающих под экспортный контроль»

106. **Указ Президента РФ** от 28 августа 2001 г. № 1082 «Об утверждении Списка химикатов, оборудования и технологий, которые могут быть использованы при создании химического оружия и в отношении которых установлен экспортный контроль»

107. Постановление **Правительства РФ** от 15 сентября 2008 г. № 691 «Об утверждении Положения о лицензировании внешнеэкономических операций с товарами, информацией, работами, услугами, результатами интеллектуальной деятельности (правами на них), в отношении которых установлен экспортный контроль»

108. Постановление **Правительства РФ** от 21 июня 2001 г. № 477 «О системе независимой идентификационной экспертизы товаров и технологий, проводимой в целях экспортного контроля»

109. Постановление **Правительства РФ** от 29 февраля 2000 г. № 176 «Об утверждении Положения о государственной аккредитации организаций, создавших внутрифирменные программы экспортного контроля»

110. Постановление **Правительства РФ** от 15 сентября 2008 г. № 6912 «Об утверждении Положения о лицензировании внешнеэкономических операций с товарами, информацией, работами, услугами, результатами интеллектуальной деятельности (правами на них), в отношении которых установлен экспортный контроль» (с изменениями от 15 июня 2009 г.)

111. **Федеральный закон** от 10 декабря 2003 г. № 173-ФЗ «О валютном регулировании и валютном контроле» (с изменениями от 29 июня 2004 г., 18 июля 2005 г., 26 июля, 30 декабря 2006 г., 17 мая, 5 июля, 30 октября 2007 г., 22 июля 2008 г.)

112. Распоряжение **Федеральной таможенной службы** от 31 декабря 2008 г. № 368-р «О формировании базы данных паспортов сделок»

113. Письмо **Россельхознадзора** от 07.07.2010 № ФС-НВ-2/8139 по вопросам, касающимся применения форм ветеринарных сопроводительных документов, применяемых во взаимной торговле в рамках Таможенного союза

114. Постановление **Правительства РФ** от 30 декабря 2009 г. № 1166 «О Правительственной комиссии по экономическому развитию и интеграции»

115. Постановление **Правительства РФ** от 6 февраля 2010 г. № 60 «О Правительственной комиссии по внедрению информационных технологий в деятельность государственных органов и органов местного самоуправления»

116. Постановление **Правительства РФ** от 5 июня 2008 г. № 437 «О Министерстве экономического развития Российской Федерации» (с изменениями от 7 ноября, 29 декабря 2008 г., 29, 30 апреля, 1, 22 июня, 15 сентября, 2 октября, 5 ноября 2009 г., 26 января, 20, 27 февраля, 4, 15 мая, 15 июня 2010 г.)

117. Постановление **Правительства РФ** от 26 июля 2006 г. № 459 «О Федеральной таможенной службе» (с изменениями от 21 апреля, 5 июня, 7 ноября 2008 г., 27 января, 10 марта 2009 г., 20 февраля, 15 июня 2010 г.)

118. Постановление **Правительства РФ** от 2 июня 2008 г. № 418 «О Министерстве связи и массовых коммуникаций Российской Федерации» (с изменениями от 13 октября, 7 ноября, 29 декабря 2008 г., 27 января, 12 августа 2009 г., 17 марта, 15 июня 2010 г.)

119. Постановление **Правительства РФ** от 26 сентября 2005 г. № 584 «О мерах по обеспечению выполнения обязательств Российской Федерации, вытекающих из Конвенции о международной торговле видами дикой фауны и флоры, находящимися под угрозой исчезновения, от 3 марта 1973 г., в отношении осетровых видов рыб (с изменениями от 1 ноября 2007 г., 11 июня 2008 г., 14 февраля 2009 г.)

120. Письмо **Федеральной таможенной службы** от 12 мая 2006 г. № 06-70/16426 «О временной форме бланка разрешения/сертификата СИТЕС»

121. Постановление **Правительства РФ** от 4 мая 2008 г. № 337 «О мерах по обеспечению выполнения обязательств Российской Федерации, вытекающих из Конвенции о международной торговле видами дикой фауны и флоры, находящимися под угрозой исчезновения, от 3 марта 1973 г., в отношении видов дикой фауны и флоры, находящихся под угрозой исчезновения, кроме осетровых видов рыб» (с изменениями от 14 февраля 2009 г.)

122. Приказ **Министерства природных ресурсов РФ** от 27 февраля 2008 г. № 47 «Об утверждении Административного регламента Федеральной службы по надзору в сфере природопользования по исполнению государственной функции по выдаче разрешения на вывоз из Российской Федерации и ввоз на ее территорию видов животных и растений, их частей или полученной из них продукции, подпадающих под действие Конвенции о международной торговле видами дикой фауны и флоры, находящимися под угрозой исчезновения, от 3 марта 1973 г., кроме осетровых видов рыб» (с изменениями от 29 января, 3 сентября 2009 г.)

123. Постановление **Правительства РФ** от 8 сентября 2010 г. № 697 «О единой системе межведомственного электронного взаимодействия»

124. Письмо **Роспотребнадзора** от 13.08.2010 № 01/11861-0-32 «О ввозе подконтрольных товаров, предназначенных для обращения исключительно на территории Республики Казахстан»

125. Письмо **Россельхознадзора** от 20.08.2010 № ФС-АС-2/10343 «О временном порядке ввоза отдельных видов товаров»

126. Постановление **Правительства РФ** от 20 августа 2010 г. № 650 «О внесении изменений в некоторые акты Правительства Российской Федерации в связи с принятием Федерального закона "Об обращении лекарственных средств»

127. Указ **Президента РФ** 25 августа 2010 г. № 1060 «О совершенствовании государственного управления в сфере информационных технологий»

128. Приказ Министерства связи и массовых коммуникаций РФ от 10 июля 2009 г. № 92 «Об утверждении Административного регламента предоставления Федеральным агентством по информационным технологиям государственной услуги по подтверждению подлинности электронных цифровых подписей уполномоченных лиц удостоверяющих центров в выданных ими сертификатах ключей подписей»

129. Приказ **Министерства связи и массовых коммуникаций РФ** от 30 января 2010 г. № 17 «Об утверждении Административного регламента исполнения Федеральным агентством по информационным технологиям государственной функции по организации ведения единого государственного реестра сертификатов ключей подписей удостоверяющих центров и реестра сертификатов ключей подписей уполномоченных лиц федеральных органов государственной власти, а также по обеспечению доступа к ним граждан, организаций, органов государственной власти и органов местного самоуправления»

130. Приказ Федерального агентства по информационным технологиям от 5 июня 2006 г. № 33 «Об утверждении Порядка организации работ по ведению Единого государственного реестра сертификатов ключей подписей удостоверяющих центров»

131. Распоряжение Правительства РФ от 17 октября 2009 г. № 1555-р

132. Распоряжение Правительства РФ от 17 ноября 2008 г. № 1663-р (с изменениями от 8 августа, 2 ноября, 1, 14 декабря 2009 г.)

133. Распоряжение Правительства РФ от 17 ноября 2008 г. № 1662-р (с изменениями от 8 августа 2009 г.)

134. Стратегия развития информационного общества в Российской Федерации (утв. Президентом РФ 7 февраля 2008 г. № Пр-212)

135. Постановление Правительства РФ от 28 января 2002 г. № 65 «О федеральной целевой программе "Электронная Россия (2002 - 2010 годы)» (с изменениями от 26 июля 2004 г., 15 августа 2006 г., 10 марта, 10 сентября 2009 г., 9 июня 2010 г.)

136. Письмо **Роспотребнадзора** от 08.09.2010 № 01/12975-0-32 «О совершенствовании деятельности организаций Роспотребнадзора при проведении экспертиз»

137. Письмо **Таможенного комитета Союзного государства** от 16.08.2010 № ТКС-1014 «О контроле за перемещением товаров Таможенного союза»

138. Постановление **Правительства РФ** от 02.09.2010 № 659 «О внесении изменений в некоторые акты Правительства Российской Федерации»

139. **Федеральный закон** от 27 июля 2004 г. № 79-ФЗ «О государственной гражданской службе Российской Федерации» (с изменениями от 2 февраля 2006 г., 2 марта, 12 апреля, 1 декабря 2007 г., 29 марта, 23 июля, 25 декабря 2008 г., 17, 18 июля, 25 ноября, 17 декабря 2009 г., 29 января, 14 февраля 2010 г.)

140. Постановление **Правительства РФ** от 15 июня 2009 г. № 477 «Об утверждении Правил делопроизводства в федеральных органах исполнительной власти»

141. **Налоговый кодекс** Российской Федерации часть первая от 31 июля 1998 г. № 146-ФЗ (с изменениями от 30 марта, 9 июля 1999 г., 2 января, 5 августа 2000 г., 24 марта, 28, 29, 30 декабря 2001 г., 28 мая, 6, 30 июня, 7 июля, 23 декабря 2003 г., 29 июня, 29 июля, 2 ноября 2004 г., 1 июля, 4 ноября 2005 г., 2 февраля, 27 июля, 30 декабря 2006 г., 26 апреля, 17 мая 2007 г., 26, 30 июня, 23 июля, 24, 26 ноября 2008 г., 19, 24 июля, 23, 28 ноября, 29 декабря 2009 г., 9 марта 2010 г.)

142. **Кодекс Российской Федерации об административных правонарушениях** от 30 декабря 2001 г. № 195-ФЗ (с изменениями от 25 апреля, 25 июля, 30, 31 октября, 31 декабря 2002 г., 30 июня, 4 июля, 11 ноября, 8, 23 декабря 2003 г., 9 мая, 26, 28 июля, 20 августа, 25 октября, 28, 30 декабря 2004 г., 7, 21 марта, 22 апреля, 9 мая, 18 июня, 2, 21, 22 июля, 27 сентября, 5, 19, 26, 27, 31 декабря 2005 г., 5 января, 2 февраля, 3, 16 марта, 15, 29 апреля, 8 мая, 3 июня, 3, 18, 26, 27 июля, 16 октября, 3,

5 ноября, 4, 18, 29, 30 декабря 2006 г., 9 февраля, 29 марта, 9, 20 апреля, 7, 10 мая, 22 июня, 19, 24 июля, 2, 18 октября, 8, 27 ноября, 1, 6 декабря 2007 г., 3 марта, 29 апреля, 13, 16 мая, 14, 22 июля, 8 ноября, 3, 22, 25, 26, 30 декабря 2008 г., 9 февраля, 7 мая, 3, 28, 29 июня, 17, 19, 24 июля, 9, 23, 25, 28 ноября, 21, 27, 28 декабря 2009 г., 9 марта, 5, 30 апреля, 8, 19, 31 мая, 17 июня 2010 г.)

143. **Уголовный кодекс Российской Федерации** от 13 июня 1996 г. № 63-ФЗ (с изменениями от 27 мая, 25 июня 1998 г., 9 февраля, 15, 18 марта, 9 июля 1999 г., 9, 20 марта, 19 июня, 7 августа, 17 ноября, 29 декабря 2001 г., 4, 14 марта, 7 мая, 25 июня, 24, 25 июля, 31 октября 2002 г., 11 марта, 8 апреля, 4, 7 июля, 8 декабря 2003 г., 21, 26 июля, 28 декабря 2004 г., 21 июля, 19 декабря 2005 г., 5 января, 27 июля, 4, 30 декабря 2006 г., 9 апреля, 10 мая, 24 июля, 4 ноября, 1, 6 декабря 2007 г., 14 февраля, 8 апреля, 13 мая, 22 июля, 25 ноября, 22, 25, 30 декабря 2008 г., 13 февраля, 28 апреля, 3, 29 июня, 24, 27, 29 июля, 30 октября, 3, 9 ноября, 17, 27, 29 декабря 2009 г., 21 февраля, 29 марта, 5, 7 апреля, 6, 19 мая, 17 июня 2010 г.)

144. **Гражданский кодекс Российской Федерации** - часть первая от 30 ноября 1994 г. № 51-ФЗ, часть вторая от 26 января 1996 г. № 14-ФЗ, часть третья от 26 ноября 2001 г. № 146-ФЗ и часть четвертая от 18 декабря 2006 г. № 230-ФЗ (с изменениями от 26 января, 20 февраля, 12 августа 1996 г., 24 октября 1997 г., 8 июля, 17 декабря 1999 г., 16 апреля, 15 мая, 26 ноября 2001 г., 21 марта, 14, 26 ноября 2002 г., 10 января, 26 марта, 11 ноября, 23 декабря 2003 г., 29 июня, 29 июля, 2, 29, 30 декабря 2004 г., 21 марта, 9 мая, 2, 18, 21 июля 2005 г., 3, 10 января, 2 февраля, 3, 30 июня, 27 июля, 3 ноября, 4, 18, 29, 30 декабря 2006 г., 26 января, 5 февраля, 20 апреля, 26 июня, 19, 24 июля, 2, 25 октября, 4, 29 ноября, 1, 6 декабря 2007 г., 24, 29 апреля, 13 мая, 30 июня, 14, 22, 23 июля, 8 ноября, 25, 30 декабря 2008 г., 9 февраля, 9 апреля, 29 июня, 17 июля, 27 декабря 2009 г., 21, 24 февраля, 8 мая 2010 г.)

145. **Арбитражный процессуальный кодекс Российской Федерации** от 24 июля 2002 г. № 95-ФЗ (с изменениями от 28 июля, 2 ноября 2004 г., 31 марта, 27 декабря 2005 г., 2 октября 2007 г., 29 апреля, 11 июня, 22 июля, 3 декабря 2008 г., 28 июня, 19 июля 2009 г., 9 марта, 30 апреля 2010 г.)

146. **Федеральный закон** от 24 июля 2002 г. № 102-ФЗ «О третейских судах в Российской Федерации»

147. **Закон РФ** от 7 июля 1993 г. № 5338-I «О международном коммерческом арбитраже» (с изменениями от 3 декабря 2008 г.)

148. **Федеральный закон** от 26 июля 2006 г. № 135-ФЗ «О защите конкуренции» (с изменениями от 1 декабря 2007 г., 29 апреля, 30 июня, 8 ноября 2008 г., 17 июля, 27 декабря 2009 г., 5 апреля 2010 г.)

149. Приказ **ФСБ РФ** и **Федеральной службы по техническому и экспортному контролю** от 31 августа 2010 г. № 416/489 «Об утверждении Требований о защите информации, содержащейся в информационных системах общего пользования»

150. Письмо **Федеральной таможенной службы** от 06.10.2010 № 14-82/48693 «О направлении письма Роспотребнадзора от 22.09.2010 N 01/13620-0-23»

151. Приказ **Министерства образования и науки РФ** от 29 декабря 2008 № 324 «Об утверждении Административного регламента исполнения Федеральной службой по интеллектуальной собственности, патентам и товарным знакам государственной функции по организации приема заявок на государственную регистрацию программы для электронных вычислительных машин и заявок на государственную регистрацию базы данных, их рассмотрения и выдачи в установленном порядке

свидетельств о государственной регистрации программы для ЭВМ или базы данных»

152. Письмо **Федерального казначейства** от 20 марта 2007 г. № 42-7.1-17/10.1-102 «О примерном договоре об обмене электронными документами»

153. Информационное письмо **Федеральной службы по финансовым рынкам РФ** от 27 октября 2010 г. «О Технических рекомендациях по представлению электронных документов в ФСФР России»

154. Письмо **Федеральной таможенной службы** от 25.10.2010 № 01-11/51836 «О направлении информации»

155. Постановление **Правительства РФ** от 29 сентября 2010 г. № 771 «О порядке ввоза лекарственных средств для медицинского применения на территорию Российской Федерации»

156. Постановление **Правительства РФ** от 15 июня 2009 г. N 478 «О единой системе информационно-справочной поддержки граждан и организаций по вопросам взаимодействия с органами исполнительной власти и органами местного самоуправления с использованием информационно-телекоммуникационной сети Интернет» (с изменениями от 16 июня 2010 г.)

157. Приказ **Министерства связи и массовых коммуникаций РФ** от 25.08.2009 г. № 104 «Об утверждении требований по обеспечению целостности, устойчивости функционирования и безопасности информационных систем общего пользования»

158. Приказ **Федеральной налоговой службы** от 2 июля 2009 г. № ММ-7-6/353@ «Об утверждении Требований к сертификату ключа подписи и списку отозванных сертификатов для обеспечения единого пространства доверия сертификатам ключей электронной цифровой подписи»

159. Приказ **Федеральной налоговой службы** от 17 декабря 2008 г. № ММ-3-6/665@ «Об утверждении Порядка ведения единого пространства доверия сертификатам ключей ЭЦП"

160. Приказ **Федеральной таможенной службы** от 28 сентября 2010 г. N 1786 "О компетенции таможенных органов по совершению таможенных операций в отношении товаров, перемещаемых воздушным транспортом»

161. Приказ **Федеральной таможенной службы** от 28 сентября 2010 г. № 1787 «О компетенции таможенных органов по совершению таможенных операций в отношении товаров, перемещаемых морским (речным) транспортом»

162. Приказ **Федеральной таможенной службы** от 14.07.2010 № 1331 «О внесении изменений в Приказ ГТК России от 30 марта 2004 г. № 395»

163. Приказ **Федеральной таможенной службы** от 06.09.2010 № 1640 «О сертификатах Кимберлийского процесса и сертификатах вывоза необработанных природных алмазов»

164. Распоряжение Правления **ПФР** от 11 октября 2007 г. № 190р «О внедрении защищенного электронного документооборота в системе индивидуального (персонифицированного) учета для целей обязательного пенсионного страхования» (с изменениями от 10 июня 2009 г.)

165. Распоряжение **Правительства РФ** от 6 мая 2008 г. № 632-р (с изменениями от 10 марта 2009 г.)

166. **Федеральный закон** от 3 ноября 2010 г. № 285-ФЗ «О внесении изменений в статью 165 части второй Налогового кодекса Российской Федерации и статью 45 Федерального закона "Об основах государственного регулирования внешнеторговой деятельности»

167. **Федеральный закон** от 3 ноября 2010 г. № 279-ФЗ «О присоединении Российской Федерации к Международной конвенции об упрощении и гармонизации таможенных процедур от 18 мая 1973 года в редакции Протокола о внесении изменений в Международную конвенцию об упрощении и гармонизации таможенных процедур от 26 июня 1999 года»

168. **Федеральный закон** от 15 ноября 2010 г. № 294-ФЗ «О внесении изменений в отдельные законодательные акты Российской Федерации в части регулирования обмена документами и информацией между органами валютного контроля и агентами валютного контроля»

169. Распоряжение **Правительства РФ** от 20 октября 2010 г. № 1815-р «О государственной программе Российской Федерации «Информационное общество (2011 - 2020 годы)»

170. **Федеральный закон** от 27 ноября 2010 г. № 311-ФЗ «О таможенном регулировании в Российской Федерации»

171. Письмо **Федеральной таможенной службы** от 13.12.2010 г. № 01-11/60587 «О применении сертификата обеспечения уплаты таможенных пошлин, налогов»

172. Письмо **Федеральной таможенной службы** от 16.12.2010 г. № 04-44/61493 «О проведении таможенного контроля»

173. **Федеральный закон** от 28 декабря 2010 г. № 394-ФЗ «О внесении изменений в отдельные законодательные акты Российской Федерации в связи с передачей полномочий по осуществлению отдельных видов государственного контроля таможенным органам Российской Федерации»

174. Письмо **Россельхознадзора** от 31.12.2010 г. «О порядке осуществления карантинного фитосанитарного контроля (надзора) на таможенной границе»

175. Письмо **Федеральной таможенной службы** от 31.12.2010 г. № 01-11/64683 «О классификаторах, используемых для заполнения декларации на товары»

176. Письмо **Федеральной таможенной службы** от 12.01.2011 г. № 01-11/109 «О направлении образцов банковских гарантий»

177. Указ Президента **РФ** от 24 января 2011 г. № 86 «О единой национальной системе аккредитации»

178. Временный порядок подачи документов в арбитражные суды Российской Федерации в электронном виде (утвержден приказом **Высшего Арбитражного Суда** Российской Федерации от 12 января 2011 г. № 1)

179. **Федеральный закон** от 27 июля 2010 г. № 228-ФЗ «О внесении изменений в Арбитражный процессуальный кодекс Российской Федерации»

180. Рекомендации по стандартизации Р 50.1.056-2005 (утверждены Приказом Федерального агентства по техническому регулированию и метрологии от 29 декабря 2005 г. № 479-ст)

181. Соглашение о сотрудничестве Федеральной таможенной службы и Федеральной налоговой службы (Москва, 21 января 2010 г. № 01-69/1/ММ-27-2/1)

182. Разъяснения **Россвязи** от 20.01.2011г. «О порядке получения государственной услуги по регистрации сертификатов соответствия в электронном виде через единый портал государственных и муниципальных услуг»

183. Постановление **Правительства РФ** от 7 февраля 2011 г. № 59 «О предоставлении информации о ввозе лекарственных средств на территорию Российской Федерации и вывозе лекарственных средств с территории Российской Федерации»

184. **Федеральный закон** от 21 июля 2005 г. № 94-ФЗ «О размещении заказов на поставки товаров, выполнение работ, оказание услуг для государственных и муниципальных нужд» (с изменениями от 31 декабря 2005 г., 27 июля 2006 г., 20 апреля, 24 июля, 8 ноября 2007 г., 23 июля, 1, 30 декабря 2008 г., 28 апреля, 8 мая, 1, 17 июля, 23, 25 ноября, 17, 27 декабря 2009 г., 5, 8 мая 2010 г.)

185. **Федеральный закон** от 28 марта 2002 г. № 32-ФЗ «О внесении изменения и дополнения в Федеральный закон «О бухгалтерском учете»

186. **Федеральный закон** от 30 декабря 2006 г. № 268-ФЗ «О внесении изменений в часть первую и часть вторую Налогового кодекса Российской Федерации и в отдельные законодательные акты Российской Федерации»

187. Приказ **Федеральной таможенной службы** от 06.09.2010 г. № 1640 «О сертификатах Кимберлийского процесса и сертификатах вывоза необработанных природных алмазов»

List of International Treaties and Documents of International Organizations Analyzed in the course of the preparation of the Study
(in Russian)

Международные договоры, заключенные в рамках Таможенного союза

1. Соглашение о Таможенном союзе между Российской Федерацией и Республикой Беларусь от 6 января 1995 года
2. Соглашение о Таможенном союзе от 20 января 1995 года
3. Договор о Таможенном союзе и Едином экономическом пространстве от 26 февраля 1999 года
4. Договор об учреждении Евразийского экономического сообщества от 10 октября 2000 года (с изменениями от 25.01.2006г. и от 06.10.2007г.)
5. Соглашение о едином порядке экспортного контроля государств-членов Евразийского экономического сообщества от 28 октября 2003 года
6. Протокол о механизме применения специальных защитных, антидемпинговых и компенсационных мер в торговле государств-участников Таможенного союза от 17 февраля 2000 года
7. Соглашение об основах гармонизации технических регламентов государств-членов Евразийского экономического сообщества от 24 марта 2005 года
8. Соглашение о применении Единого знака обращения продукции на рынке государств-членов ЕврАзЭС от 19 мая 2006 года
9. Протокол от 6 октября 2007 г. о внесении изменений в Договор об учреждении Евразийского экономического сообщества от 10 октября 2000 года
10. Соглашение о проведении согласованной политики в области технического регулирования, санитарных и фитосанитарных мер Евразийского экономического сообщества от 25 января 2008 года
11. Соглашение о создании информационной системы Евразийского экономического сообщества в области технического регулирования, санитарных и фитосанитарных мер от 12 декабря 2008 года
12. Протокол от 12 декабря 2008 г. о внесении изменений в Соглашение об основах гармонизации технических регламентов государств – членов Евразийского экономического сообщества от 24 марта 2005 года
13. Договор о Комиссии таможенного союза от 6 октября 2007 года
14. Договор о создании единой таможенной территории и формировании таможенного союза от 6 октября 2007 года
15. Протокол о порядке вступления в силу международных договоров, направленных на формирование договорно-правовой базы таможенного союза, выхода из них и присоединения к ним от 6 октября 2007 года
16. Соглашение о едином таможенно-тарифном регулировании от 25 января 2008 года
17. Соглашение о единых правилах определения страны происхождения товаров от 25 января 2008 года
18. Соглашение о единых мерах нетарифного регулирования в отношении третьих стран от 25 января 2008 года
19. Соглашение о применении специальных защитных, антидемпинговых и компенсационных мер по отношению к третьим странам от 25 января 2008 года
20. Соглашение об определении таможенной стоимости товаров, перемещаемых через таможенную границу таможенного союза от 25 января 2008 года
21. Соглашение о Секретариате Комиссии таможенного союза от 12 декабря 2008 года
22. Соглашение об условиях и механизме применения тарифных квот от 12 декабря

2008 года

23. Протокол о единой системе тарифных преференций таможенного союза от 12 декабря 2008 года
24. Соглашение о порядке декларирования товаров от 12 декабря 2008 года
25. Соглашение о порядке таможенного оформления и таможенного контроля в государствах – участниках таможенного союза от 12 декабря 2008 года
26. Соглашение о видах таможенных процедур и таможенных режимов от 12 декабря 2008 года
27. Протокол об обеспечении единообразного применения правил определения таможенной стоимости товаров, перемещаемых через таможенную границу таможенного союза от 12 декабря 2008 года
28. Соглашение о Порядке декларирования таможенной стоимости товаров, перемещаемых через таможенную границу таможенного союза от 12 декабря 2008 года
29. Соглашение о Порядке осуществления контроля правильности определения таможенной стоимости товаров, перемещаемых через таможенную границу таможенного союза от 12 декабря 2008 года
30. Протокол об обмене информацией, необходимой для определения и контроля таможенной стоимости товаров, между таможенными органами Республики Беларусь, Республики Казахстан и Российской Федерации от 12 декабря 2008 года
31. Соглашение о правилах определения происхождения товаров из развивающихся и наименее развитых стран от 12 декабря 2008 года
32. Соглашение о порядке введения и применения мер, затрагивающих внешнюю торговлю товарами, на единой таможенной территории в отношении третьих стран от 9 июня 2009 года
33. Соглашение о правилах лицензирования в сфере внешней торговли товарами от 9 июня 2009 года
34. Протокол о статусе Центра таможенной статистики Комиссии таможенного союза от 11 декабря 2009 года
35. Договор о Таможенном кодексе таможенного союза от 27 ноября 2009 года
36. Соглашение об обращении продукции, подлежащей обязательной оценке (подтверждению) соответствия, на таможенной территории таможенного союза от 11 декабря 2009 года
37. Соглашение о взаимном признании аккредитации органов по сертификации (оценке (подтверждению) соответствия) и испытательных лабораторий (центров), выполняющих работы по подтверждению оценке (подтверждению) соответствия от 11 декабря 2009 года
38. Соглашение таможенного союза по санитарным мерам от 11 декабря 2009 года
39. Соглашение таможенного союза по ветеринарно-санитарным мерам от 11 декабря 2009 года
40. Соглашение таможенного союза о карантине растений от 11 декабря 2009 года
41. Протокол о порядке передачи данных статистики внешней торговли и статистики взаимной торговли от 11 декабря 2009 года
42. Протокол (от 21 мая 2010 года) о внесении изменений в Соглашение таможенного союза по санитарным мерам от 11 декабря 2009 года
43. Протокол (от 21 мая 2010 года) о внесении изменений в Соглашение таможенного союза по ветеринарно-санитарным мерам от 11 декабря 2009 года
44. Протокол (от 21 мая 2010 года) о внесении изменений в Соглашение таможенного союза о карантине растений от 11 декабря 2009 года

45. Соглашение о взаимной административной помощи таможенных органов государств-членов таможенного союза от 21 мая 2010 года
46. Соглашение о требованиях к обмену информацией между таможенными органами и иными государственными органами государств-членов таможенного союза от 21 мая 2010 года
47. Соглашение о представлении и об обмене предварительной информацией о товарах и транспортных средствах, перемещаемых через таможенную границу таможенного союза от 21 мая 2010 года
48. Соглашение об особенностях таможенного транзита товаров, перемещаемых железнодорожным транспортом по таможенной территории таможенного союза от 21 мая 2010 года
49. Соглашение о некоторых вопросах предоставления обеспечения уплаты таможенных пошлин, налогов в отношении товаров, перевозимых в соответствии с процедурой таможенного транзита, особенностях взыскания таможенных пошлин, налогов и порядке перечисления взысканных сумм в отношении таких товаров от 21 мая 2010 года
50. Соглашение о едином таможенном реестре объектов интеллектуальной собственности государств - членов таможенного союза от 21 мая 2010 года
51. Соглашение об особенностях таможенных операций в отношении товаров, пересылаемых в международных почтовых отправлениях от 18 июня 2010 года
52. Соглашение об освобождении от применения таможенными органами государств – членов таможенного союза определенных форм таможенного контроля от 18 июня 2010 года
53. Соглашение о свободных складах и таможенной процедуре свободного склада от 18 июня 2010 года
54. Соглашение об особенностях использования транспортных средств международной перевозки, осуществляющих перевозку пассажиров, а также прицепов, полуприцепов, контейнеров и железнодорожного подвижного состава, осуществляющих перевозку грузов и (или) багажа для внутренней перевозки по таможенной территории таможенного союза от 18 июня 2010 года
55. Соглашение по вопросам свободных (специальных, особых) экономических зон на таможенной территории таможенного союза и таможенной процедуры свободной таможенной зоны от 18 июня 2010 года
56. Протокол об отдельных временных изъятиях из режима функционирования единой таможенной территории таможенного союза от 5 июля 2010 года
57. Договор об особенностях уголовной и административной ответственности за нарушения таможенного законодательства таможенного союза и государств – членов таможенного союза от 5 июля 2010 года
58. Соглашение о правовой помощи и взаимодействии таможенных органов государств – членов таможенного союза по уголовным делам и делам об административных правонарушениях от 5 июля 2010 года
59. Соглашение о создании, функционировании и развитии интегрированной информационной системы внешней и взаимной торговли Таможенного союза от 21 сентября 2010 года
60. Соглашение о применении информационных технологий при обмене электронными документами во внешней и взаимной торговле на единой таможенной территории Таможенного союза от 21 сентября 2010 года

Рекомендации ЕЭК ООН

61. РЕКОМЕНДАЦИЯ № 33 - Рекомендация и руководящие принципы по созданию механизма «единого окна» для улучшения эффективного обмена информацией между

торговыми организациями и государственными органами

62. РЕКОМЕНДАЦИЯ № 35 - Выработка правовой основы системы «единого окна» в международной торговле

Документы ЮНСИТРАЛ

63. Конвенция Организации Объединенных Наций об использовании электронных сообщений в международных договорах (2005 год)
64. Типовой закон ЮНСИТРАЛ об электронных подписях и Руководство по принятию (2001 год)
65. Типовой закон ЮНСИТРАЛ об электронной торговле и Руководство по принятию (1996 год)
66. Содействие укреплению доверия к электронной торговле: правовые вопросы международного использования электронных методов удостоверения подлинности и подписания

Прочие международные договоры

67. Соглашение о Правилах определения происхождения товаров развивающихся стран при предоставлении тарифных преференций в рамках Общей системы преференций от 12 апреля 1996 года
68. Конвенция по международной торговле видами дикой фауны и флоры, находящимися под угрозой исчезновения (СИТЕС) от 3 марта 1973 г.
69. Международная конвенция об упрощении и гармонизации таможенных процедур от 18 мая 1973 г. (с учетом изменений, внесенных Протоколом от 26 июня 1999 г.)

List of Decisions of Customs Union Bodies Used in the Course of the Preparation of the Study
(in Russian)

Решения Межгосударственного Совета ЕврАзЭС

от 6 октября 2007 г. № 1 «О формировании правовой базы таможенного союза в рамках Евразийского экономического сообщества»
от 27 ноября 2009 г. № 15 «О вопросах организации деятельности Комиссии таможенного союза»
от 19 ноября 2010 г. № 60 «О Концепции создания Интегрированной информационной системы внешней и взаимной торговли Таможенного союза и первоочередных мерах по ее реализации»

Решения Комиссии таможенного союза

Дата	№	Наименование Решения
26.11.2009	121	О вопросах создания Интегрированной информационной системы внешней и взаимной торговли таможенного союза
27.11.2009	132	О едином нетарифном регулировании таможенного союза Республики Беларусь, Республики Казахстан и Российской Федерации
27.01.2010	168	Об обеспечении функционирования единой системы нетарифного регулирования таможенного союза Республики Беларусь, Республики Казахстан и Российской Федерации
20.05.2010	254	О таможенной стоимости товаров, перемещаемых через таможенную границу таможенного союза, в отношении которых не требуется представление документа, подтверждающего страну происхождения товаров
	255	О порядке внесения изменений и (или) дополнений в декларацию на товары после выпуска товаров
	256	О порядке внесения изменений и (или) дополнений в декларацию на товары до принятия решения о выпуске товаров при предварительном таможенном декларировании
	257	Об Инструкциях по заполнению таможенных деклараций и формах таможенных деклараций
	258	О порядке проведения таможенной экспертизы при проведении таможенного контроля
	260	О формах таможенных документов
	262	О порядке регистрации, отказе в регистрации декларации на товары и оформления отказа в выпуске товаров
	263	О порядке использования транспортных (перевозочных), коммерческих и (или) иных документов в качестве декларации на товары
	275	О создании интеграционного сегмента Интегрированной информационной системы внешней и взаимной торговли таможенного союза
	285	О проекте единой формы заключения (разрешительного документа) на ввоз, вывоз и транзит отдельных товаров, включенных в Единый перечень товаров, к которым применяются запреты или ограничения на ввоз или вывоз государствами-участниками

		таможенного союза в рамках Евразийского экономического сообщества в торговле с третьими странами
18.06.2010	289	О форме и порядке заполнения транзитной декларации
	290	О Регламенте взаимодействия таможенных органов государств-членов таможенного союза по вопросам ведения единого таможенного реестра объектов интеллектуальной собственности
28.05.2010	299	О применении санитарных мер в таможенном союзе
	317	О применении ветеринарно-санитарных мер в таможенном союзе
	318	Об обеспечении карантина растений в таможенном союзе
	319	О техническом регулировании в таможенном союзе
	321	О едином порядке контроля таможенными органами ввоза на таможенную территорию таможенного союза в рамках ЕврАзЭС и вывоза с этой территории лицензируемых товаров
18.06.2010	310	Об утверждении Инструкции о порядке использования документов, предусмотренных актами Всемирного почтового союза, в качестве таможенной декларации
	330	"О Порядке подтверждения таможенным органом, расположенным в месте убытия, фактического вывоза товаров с таможенной территории таможенного союза"
	335	О проблемных вопросах, связанных с функционированием единой таможенной территории, и практике реализации механизмов Таможенного союза
17.08.2010	339	О применении специальных защитных, антидемпинговых и компенсационных мер на единой таможенной территории Таможенного союза в рамках ЕврАзЭС
	340	О вопросах обеспечения карантина растений на таможенной территории Таможенного союза
	341	О вопросах применения санитарных мер в Таможенном союзе
	342	О вопросах в сфере ветеринарного контроля (надзора) в Таможенном союзе
	343	О вопросах технического регулирования в Таможенном союзе
	344	О применении части первой статьи 6 Соглашения об обращении продукции, подлежащей обязательной оценке (подтверждению) соответствия, на таможенной территории Таможенного союза от 11 декабря 2009 года
	356	Об экспортном контроле государств – членов Таможенного союза
	359	О внесении изменения в Инструкцию о порядке использования транспортных (перевозочных), коммерческих и (или) иных документов в качестве декларации на товары, утвержденную Решением Комиссии Таможенного союза от 20 мая 2010 г. № 263
	438	О порядке совершения таможенными органами таможенных операций, связанных с подачей, регистрацией транзитной декларации и завершением таможенной процедуры таможенного транзита
20.09.2010	376	О порядках декларирования, контроля и корректировки таможенной стоимости товаров
	378	О классификаторах, используемых для заполнения таможенных деклараций
14.10.2010	421	О структуре и форматах электронных копий таможенных деклараций

	422	О форме таможенной декларации на транспортное средство и Инструкции о порядке ее заполнения
18.11.2010	450	О структурах и форматах электронных копий декларации таможенной стоимости и формы корректировки таможенной стоимости и таможенных платежей
	451	О внесении изменений и дополнений в Решение Комиссии Таможенного союза от 14 октября 2010 г. № 421«Об утверждении структур и форматов электронных копий таможенных деклараций»
	511	Об Инструкции о порядке совершения отдельных таможенных операций в отношении временно ввозимых и временно вывозимых транспортных средств международной перевозки
8.12.2010	494	Об Инструкции о порядке предоставления и использования таможенной декларации в виде электронного документа
28.01.2011	537	О внесении дополнений в Решение Комиссии Таможенного союза от 18 июня 2010 г. № 289 «О форме и порядке заполнения транзитной декларации»