EURASIAN ECONOMIC UNION: LEGAL FRAMEWORK
MOSCOW, 13 NOVEMBER 2014
WHAT IS THE EURASIAN ECONOMIC UNION?

The Eurasian Economic Union (the EEU) is an international organization of the regional economic integration based on the Eurasian Economic Union Treaty signed on 29 May 2014 by and between:

- the Russian Federation,
- the Republic of Belarus and
- the Republic of Kazakhstan and
- adhered by the Republic of Armenia on 10 October 2014.

Within the EEU free movement of goods, capital and labor, as well as coordinated policy in specified sectors and industries are provided for.
EEU in numbers:

Members: Russia, Kazakhstan, Belarus (Armenia to ratify by the end of 2014)

Possible members: Kyrgyzstan, Tajikistan

Population: 173 million (Russia, 146 million; Kazakhstan, 17 million; Belarus, 10 million)

Total GDP: $2.4 trillion

Share of world gas reserves: 20%

Share of world oil reserves: 15%
EEU Bodies: Supreme Eurasian Economic Council

The Supreme Eurasian Economic Council (the 'Supreme Council'):

- consists of the heads of the member states;
- gathers at least once a year;
- in charge for the EEU strategy, appointment of the Court of the Eurasian Economic Union judges, taking decisions on joining of new members and termination of the members, negotiating and entering into international treaties, etc.
EEU Bodies: Eurasian Intergovernmental Council

The Eurasian Intergovernmental Council:

- consists of the heads of the governments of the member states;
- gathers at least twice a year;
- controls implementation of the EEU Treaty and other treaties in/of the EEU, reviews and suspends the Eurasian Economic Committee decisions; approves the EEU budget, etc.
EEU Bodies: Eurasian Economic Committee

The Eurasian Economic Committee (the 'Committee'):

- a permanent regulatory EEU body located in Moscow;
- consists of the Council and the Board comprising each members state’s representatives;
- The Committee Council provides for the general regulation of integration within the EEU;
- The Committee Board adopts decisions, decrees and recommendations on customs and technical regulation, veterinary and sanitary and phytosanitary quarantine measures, competition policy, energy policy, state and municipal procurement, IP, work force migration, transportation, financial markets, etc.
EEU Bodies: EEU Court

The Court of the EEU:

- a permanent judicial EEU body located in Minsk;
- 2 judges from each members state appointed for 9 years;
- considers disputes arising from the EEU Treaty, treaties within/or the EEU and the EEU bodies decisions upon a claim of:
  - a member state (on compliance of treaties within/or the EEU to the EEU Treaty, compliance with the EEU Treaty, etc.);
  - any entity of a member state (on compliance of the Committee decisions with the EEU Treaty and contesting of such decisions).
EEU Law

a. The Eurasian Economic Union Treaty of 29 May 2014
b. International treaties within the EEU
c. International treaties of the EEU with third parties
d. Decisions and Decrees of the Supreme Eurasian Economic Council
e. Decisions and Decrees of the Eurasian Intergovernmental Council
f. Decisions and Decrees of the Eurasian Economic Committee.
EEU Law (continued)

Under the Treaty on Accession of Armenia to the EEA Treaty 29 agreements entered into Russia, Kazakhstan and Belarus within the Customs Union constitute the law of the EEU as well, including:


b. The Agreement on Determination of Customs Value of the Goods Transferred Over the Customs Boarder of the Customs Union dated 25 January 2008 (as amended by the Protocol dated 23 April 2012);

c. The Protocol on Common System of Tariff Preferences of the Customs Union dated 12 December 2008;


e. The Treaty on the Customs Code of the Customs Union dated 27 November 2009 (as amended by the Protocol dated 16 April 2010);

f. The Agreement on Mutual Administrative Aid of Customs Bodies of the Member States of the Customs Union dated 21 May 2010;

g. The Agreement on the Common Customs Register of Intellectual Property Objects of the Member States of the Customs Union dated 21 May 2010.
Fields of EEU Competence

Economy sectors:
- foreign trade
- circulation of medicines and medical devices
- trade in services
- investment activities
- financial markets
- natural monopolies
- energy industry
- transport
- manufacturing industry
- agricultural complex

Regulation areas:
- customs
- veterinary and sanitary and phytosanitary quarantine measures
- consumers' rights protection
- macroeconomic policies
- currency regulation
- competition (antitrust) policy
- work force migration
Customs Union of the EEU

Member states provide for:

a. functioning of an internal market of goods, services, work force and capital;

b. application of the Common Customs Tariff of the EEU and other unified measures of regulating trade in goods with third parties;

c. application of the unified trade regime in relations with third parties;

d. common customs regulation (according to the Customs Code of the EEU);

e. free movement of goods without customs declaration and state control (transport, sanitary, veterinary and sanitary, phytosanitary quarantine), except as provided by the EEU Treaty.
External Trade Policy

- Most favored nation treatment according to GATT 1994 if provided for by the EEU treaties and the member states treaties with third parties.
- Free trade treatment according to GATT 1994 if provided for by the EEU treaties with third parties.
- Common rules for determination of a country of origin.
- Common customs tariff
- Member states in trading with third countries may unilaterally introduce and apply:
  - increased customs duties (if provided for by their treaties entered into before 1 January 2015);
  - non-tariff regulation as described in the Appendix No. 7 to the EEU Treaty.
- The Committee may introduce special protective, antidumping and countervailing measures, etc.
Technical Regulation

Technical regulations of the EEU are adopted with respect to the goods included in the unified list approved by the Committee.

Member states provide for free circulation of the goods meeting the requirements of the EEU technical regulations within their territories without additional requirements and assessments.
Sanitary, Veterinary, Quarantine and Phytosanitary Measures

Each member state may adopt temporary sanitary, veterinary, quarantine and phytosanitary measures.

Common sanitary epidemiological and hygienic requirements with respect to goods are established by technical regulations.

The Committee approves:
- common veterinary requirements;
- the list of products which may be subject to quarantine.
Taxes and Taxation

Excise duties rates shall be harmonised with respect to the most sensitive goods.

VAT and other indirect taxes in trade of goods are withheld on the basis of the country of destination principle: a zero VAT rate is applied and (or) export of goods is exempted from excise duty and indirect taxes are imposed at import of goods.

Are exempt from indirect taxes when imported into the territory of a member state:

a. goods that are under the laws of that member state are exempted from taxation at import into the state territory;

b. goods imported into the territory of a member state by individuals not for the purpose of business;

c. goods imported into the territory of a member state from the territory of another member state in connection with their transfer within the same legal entity.
Competition

Common principles for competition:

- Agreements between state and municipal agencies, other authorities and economic entities restricting competition are prohibited;
- Granting of state or municipal preferences is generally prohibited;
- Antitrust bodies of member states shall exchange information and cooperate in investigations.

Common rules for competition:

- abuse of a dominant position;
- unfair competition;
- agreements involving restriction of competition; and
- coordination of economic activity are prohibited.
Consumer Rights Protection

Citizens of one member state enjoy in the territory of another member state the rights and protection the same as citizens of the latter.

Member states provide for coordinated policy based on the following principles:

- Provision of up-to-date and accurate information on goods, services, works and suppliers;
- Measures aimed at prevention of unfair trade practices;
- Approximation of consumer rights protection laws;
- Exchange of information and cooperation between authorised bodies
Natural Monopolies

Natural monopolies in Russia, Kazakhstan and Belarus (Appendix No. 1 and No. 2 to Annex No. 20 to the EEU Treaty):

- Transportation of oil and oil products by oil trunk pipelines;
- Transfer and/or distribution of electric and heat energy;
- Rail road carriages (Russia), services in connection with their provision (Belarus) and mainstream railroad networks (Kazakhstan);
- Transportation of gas by gas trunk pipelines;
- Air navigation, transport terminal and airport services;
- Public telecommunication and postal services;
- Water supply and sewage services.

Means of regulation by member states (Annexes No. 21 and No. 22 to the EEU Treaty):

- Tariffs (prices);
- Rules for access to natural monopoly services
Financial Markets

Member states shall provide for harmonization of their laws based on the following principles:

- National and most favored nation treatment to providers of certain insurance and re-insurance services, provision of financial information and consulting services from another member state (with the exceptions provided for by Annex No. 17 to the EEU Treaty);

- National and most favored nation treatment to providers of financial services with respect to establishment and activity in each member state (with the exceptions provided for Annex No. 17 to the EEU Treaty);

- Licensing and qualification requirements and technical standards should be transparent and not burdensome;

- Banking, insurance and securities markets sectors shall be regulated based on international principles and best practices.
Currency Policy

A special body of the EEU comprising heads of national (central) banks of member states shall provide for coordination of currency policy.

Member states shall provide for:
- coordination of exchange rates of national currencies of member states;
- conversion of national currencies on the current and capital items of balance of payments without restrictions;
- mutual payments between residents of member states in national currencies;
- establishment of official exchange rates for national currencies on the basis of exchanges quotations, etc.
Common Market of Medicines

The **common market of medicines** will be established from 1 January 2016 based on the international treaty of the member states (to be concluded by 1 January 2015).

Member states shall provide, in particular, for:

- harmonization and unification of the requirements in the sphere of medicines circulation;
- similar or comparable methods of trials and control in the course of medicines quality, efficiency and security.

The **common register of medicines** will be formed and the Committee shall adopt, in particular:

- the common rules for registration and expert appraisal of medicines to be circulated in the common market of the EEU;
- the common rules for good manufacturing and good clinical practice;
- the common requirements to marking of medicines and medicines application instructions.
Common Market of Medical Devices

The common market of medical devices (medical devices and medical equipment) will be formed from 1 January 2016 based on:

a. the international treaty of the member states to be concluded by 1 January 2015;

b. the principles of:
   - harmonization of the requirements in the sphere of medical devices circulation;
   - harmonization of the laws on control over medical devices;
   - common approaches to establishment of the system of medical devices quality;
   - common rules in the sphere of medical devices circulation (to be adopted by the Committee).
Common Markets in Energy Industry

Common energy market, common gas market and common markets of oil and petroleum products will be formed based on:

- the concepts and programs to be approved by the Supreme Council and
- international agreements between the member states for the formation of the relevant markets.
Common Markets in Energy Industry (continued)

The member states shall provide for within available technical capability:

- unimpeded access to the services of natural monopolies in the electrical energy sector subject to the priority use of these services for the domestic demand for electric energy (power) of the member states;
- unimpeded access for entities of other member states to the gas handling systems located in the territories of member states for the gas transportation;
- unimpeded access for entities of other member states systems to the oil and petroleum products handling systems located on the territories of the member states.
Trade in Services, Establishment and Doing Business and Making Investments

The member states shall, in particular:

- liberalize trade in services, establishment, doing business and making investments (meaning step-by-step simplification or abolishment of excessive domestic regulation, including permissions and procedures for suppliers and customers, harmonization of the laws and administrative cooperation);
- abstain from introducing new discriminatory measures with respect to trade in services, establishment, doing business and making investments by persons of other member states as compared with the regime effective on 1 January 2015 (e.g. for payments and money transfers);
- provide national treatment to suppliers and customers of services of other member states.

Restrictions may be implemented if they are provided for by domestic laws and the Annex No. 16 to the EEU Treaty.
Manufacturing: Cooperation and State Aid

The member states shall adopt the Principal Lines for Industrial Cooperation to be approved by the Intergovernmental Council and providing for priority types of economic activities and the list of sensitive goods.

Common rules for provision of state aid (subsidies) with respect to industrial goods (i.e. at provision or receipt of services in connection with manufacturing, sales and consumption of such goods) shall be applied in the member states in accordance with Annex No. 28 to the EEU Treaty.

Specific subsidies (that may be applied only by certain enterprises located in a certain geographic area being a part of the territory under control of the body granting the subsidy) may be granted by a member state upon permission of the Committee.

The procedures for approval by the Committee of specific subsidies, for investigations by the Committee of violations of the rules, conditions and use of specific subsidies and criteria for taking decisions by the Committee on admissibility or non-admissibility of specific subsidies shall be determined by a treaty between the member states to enter into force by 1 January 2017.
Agricultural Complex

Coordinated policy shall be worked out by means of regular (at least once a year) consultations of the member states and aimed at:

- balanced development of agricultural production and markets of agricultural products and goods;
- provision of fair competition among entities from the member states including equal conditions for market access;
- unification of the requirements in connection with circulation of agricultural products and goods;
- protection of interests of manufacturers from the member states in the internal and external markets.

Member states may grant state aid to agricultural complex in accordance with Annex No. 29 to the EEU Treaty and shall abstain from taking state aid measures with the most distorting effect on trade, that is, where granting of state aid is connected (as the only one or several conditions) with:

- the results of export of agricultural products from the territory of the member state granting this aid to the territory of another member state;
- acquisition or use of agricultural products originating exclusively from the territory of the member state granting this aid, in the course of producing of agricultural products in the territory of this member state irrespective of whether or not the particular products, their volume, price, a share in the volume or cost of production or use of domestic goods, a level of localization of production of domestic goods are determined.
Transportation

Member states shall provide for stage-by-stage liberalization of transportation services between member states in accordance with treaties between them.

International automotive carriages of cargoes by carriers registered in one member state shall be performed without permits:

a. between the member state in which carriers are registered and another member state;

b. by transit through territories of other member states;

c. between other member states.

Vessels under the flag of a member state may perform carriages of cargoes, passengers and their luggage, towing between the state of the vessel’s flag and another member state on neighboring internal water routes, transit passage on water routes of another member state, except for carriage and towing between ports and carriages in or from ports of another member state and third countries, in accordance with an international treaty of member states on navigation.
State Procurement

Members states shall provide for:

- National treatment of suppliers from other member states (exemptions may be introduced by a member state unilaterally for a term up to 2 years);
- Information transparency in the course of state procurement;
- Unimpeded access of suppliers from other member states to public procurement tenders in electronic form by mutual recognition of electronic signatures.

State procurement shall be made in the following forms:

a. Open tender providing for 2-stage selection based on qualification (in electronic form only);
b. Request for quotations;
c. Request for proposals (if provided for by domestic laws);
d. Open electronic auction;
e. Exchange trading (if provided for by domestic laws);
f. Purchase from a single supplier
Intellectual Property

Persons of one member state in the territory of another member state enjoy national treatment in terms of legal regime of intellectual property objects (with exceptions provided by domestic laws in relation to judicial and administrative proceedings).

Terms for protection:

a. copyright - not less than provided for by the Berne Convention 1886 and WHO TRIPS Agreement 1994;

b. trademark initial protection (registration) – 10 years (may be extended for 10 years without limitation);

c. inventions – not less than 20 years;

d. utility models and industrial designs – not less than 5 years.

The EEU trademarks and service marks may be registered (only graphic).

The exclusive right to a trademark/EEU trademark shall expire upon putting into circulation legally of goods in any member state.
Free Movement of Work Force

- Workers of the member states are not required to obtain permits to work in the another member state.

- Employers and(or) customers of works (services) of a member state are entitled to engage workers of the member states regardless of the restrictions for the protection of national labor market.

- Employees of one member state may perform educational, legal, medical or pharmaceutical activities in another member state subject to the recognition of educational certificates in accordance with the laws of the state of employment.

- The period of temporary stay (residence) of a worker and his/her family members of one member state in the state of employment is determined by the period of employment or a services/works contract.
THANK YOU
FOR YOUR ATTENTION!

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