

CIS LEGAL NEWSWIRE

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RUSSIA

Mandatory Sale of Convertible Currency Proceeds Decreased

On July 13, 2001, the Russian Federation (“RF”) State Duma (the “Duma”) adopted a law which decreases from 75% to 50% the amount of convertible currency proceeds that Russian exporters will be required to sell. Concurrently, the law eliminates certain previous exemptions which had allowed some exporters to sell only 50% of their convertible currency proceeds. In a rare development, the law passed all of its three readings in a single day. Analysts believe that the expeditious passage of the law is primarily due to the support of the RF Government and President Vladimir Putin, who have made such currency reforms a high priority. The law will have a major impact on all businesses in Russia, reducing expenses for conversion of earnings. The law could also ease facilitation of securities arrangements for foreign lenders. / *P. Gloushkov*

New Land Code Moves Closer to Approval

On the final day of its extended spring session, the Duma passed, in its second reading, the new Land Code (the “Land Bill”). This highly important and controversial bill allows Russians and foreigners to buy and sell commercial and residential land. The RF Government lobbied hard for the Land Bill’s passage, and the Duma voted 253-152 in favor (with six abstentions), despite staunch Communist and Agrarian opposition.

Under the Land Bill, foreign entities are free to lease any land in Russia. The Land Bill will allow the sale of up to 2% of the country’s land, including land underlying, or adjacent to, existing or planned urban industrial sites. The purchase price of such land must be 5-30 times the land tax rate, depending on the size of the city. This land may be purchased by foreigners and foreign companies provided they own, or plan to construct, a building on the land plot. Yet, foreign entities are still forbidden from owning land plots in certain federally-designated border regions; however, there may be certain legal options available to sidestep this prohibition. Agricultural land is not affected by the current bill.

The Land Bill must still pass its third reading in the fall, which should be comparatively easier. However, it is likely that the sparks will continue to fly around the Land Bill, as the Communists and the Agrarians are close to filing a complaint with the RF

Constitutional Court challenging the approval process in the Duma. If that complaint is filed, consideration of this matter by the RF Constitutional Court may delay final passage of the new Land Code. / *N. Menshikova*

Plan for Electricity Reform Approved by Government

After several months of debate, RF Prime Minister Mikhail Kasyanov finally signed a Decision of the RF Government on July 11, 2001, to approve the main principles governing the reform of the Russian electricity market, as these principles were set forth in the restructuring plan proposed by the Ministry of Trade and Economic Development (the "Ministry"). This plan, in turn, was drafted on the basis of recommendations made by RAO UES, Russia's electric power monopoly, and the consulting firm Arthur Andersen, among others. At present, UES currently owns the high-voltage transmissions grid and central dispatch systems, as well as Russia's 73 regional energy companies – called Energos – and 32 federal generation systems. According to the Restructuring Plan, a temporary holding company ("Tempco") will be established on the basis of UES' current assets and will contain several new structures while retaining UES' current shareholders. Tempco would own the grid, a separate holding company uniting the power stations and up to seven guarantor energy suppliers.

During the transition, Tempco would own between 51% and 100% of the above structure. In the second phase, Tempco would be liquidated and its controlling stakes in the various structures, except for the grid company, would be sold. The RF Government would retain at least a 51% stake in the grid company, which would remain a monopoly. Shareholders in UES would be offered the opportunity to exchange their UES shares for shares in the new companies.

According to the plan, the reform will last eight years and will be carried out in three stages. According to the Decision, the action plan for the first stage must be submitted to the RF Government within two weeks. In general, the

plan proposed by the Ministry was not significantly changed, but the RF Government's Decision additionally establishes that by February 1, 2002, the federal power grid company and system operator must be founded as separate entities and wholly-owned subsidiaries of UES.

For more details on the plan, please see our article "Russian Electricity Market Edges Closer to Restructuring" in the Spring 2001 issue of "Law of the CIS: The Bottom Line." You may find this article online on our website, www.chadbourne.com. Follow the links to "Publications"; "Newsletters," and under "Russian/CIS Practice/Law of the CIS: The Bottom Line," click on "Spring 2001." / *L. Brank*

Government Considers Splitting Gazprom's Production and Transportation

While the possibility of restructuring Gazprom, Russia's natural gas monopoly, has been discussed for several years, Prime Minister Kasyanov has recently made certain statements indicating that a restructuring program will be prepared by the end of this year. These plans were announced a few weeks after the ouster of Rem Vyakhirev, Gazprom's former chief executive. Prime Minister Kasyanov stated that Gazprom's production units would be split from the transportation unit as part of a general overhaul of the company. The main purpose of these reforms will be to give all producers access to the pipeline network on an equal footing. A special government working group is still in the process of preparing the restructuring program.

According to some reports, the first stage of the program will be to transfer certain gas transportation-related assets to a wholly-owned subsidiary of Gazprom. In the future, direct state control over this company will be established. At the same time, the production companies will be reorganized into joint stock companies with the right to sell gas on a more

independent basis. As a result of the restructuring, the gas transportation sector could become more transparent and effective, which may attract more investment for production-related ventures. Currently, no timetable for fulfillment of any restructuring plan is available, but analysts and investors will continue to monitor this issue closely. / *E. Korotkova*

Duma Votes on New Version of the Labor Code

On July 5, 2001, after consideration of numerous proposals, the Duma adopted a new version of the Labor Code prepared by a conciliation commission formed on March 15, 2001, to work out the differences between the various drafts of the Federation Council and the Duma. The revised Code provides for the right of a new owner of a company to terminate employment contracts with members of management and the chief accountant within three months after acquiring the company. This is a change from the current Labor Code, which has an exhaustive list of grounds for termination and gives the employer the right to fire an employee only in limited circumstances. Individuals terminated under these new provisions will have the right to a severance payment equal to three months' salary.

As expected, the new Code won the support of the centrist parties. Despite objections expressed by extremists from both the far left and far right, the new Code includes many new provisions that will benefit ordinary workers. For example, the new Code will: (1) specifically prohibit collecting personal information on an employee, such as political interests, trade union membership, and private life, etc; (2) establish that the minimum monthly wage must not be less than the "minimum needed for subsistence"; and (3) establish a vacation schedule based on a 28 calendar day period (resulting in 20 working days of vacation), for which employees will be eligible after only six months of employment (as opposed to the current 11-month requirement). / *S. Sineva*

Duma Restricts Foreign Ownership of Major TV Channels

On July 6, the Duma passed a final draft of the RF Law "On Mass Media" (the "Media Bill"). The originally harsh provisions of the Media Bill were softened after intense debate. Presently, the Media Bill forbids all foreign legal persons, Russian legal entities that are 50% or more foreign-owned and Russian citizens with dual citizenship from owning or founding television-broadcasting entities. Notably, the Media Bill only affects those entities whose broadcasts reach either: (1) more than half of Russia's regions (the so-called "Subjects of the Federation"); or (2) more than half of Russia's population.

Interestingly, the Media Bill requires compliance by all present Russian television companies. All companies have one year from the Media Bill's official enactment to bring their ownership structure in line with the new requirements. The Media Bill has yet to be approved by the Federation Council and the President. / *P. Gloushkov*

Moscow Adopts Debt Law

The Moscow City Duma has recently adopted Law No. 15, "On the State Debt of the City of Moscow" (the "Debt Law"). In essence, the Debt Law echoes certain provisions of the RF Budget Code. Yet the Debt Law also gives the Moscow City Government a limited right to assume debt obligations (i.e., to issue guarantees), on behalf of the city. In contrast, most other RF regional governments may enter into such obligations only with the authorization of the legislature, if at all.

Certain limitations and relevant details of the new powers are worth mention. All debt-related expenses, primary and otherwise, are included in the city's budget for the respective year, including any guarantee that is in excess of 0.01% of the city's total budget for expenses. Furthermore, the maximum amount of debt to be used to service the city's

obligations may not exceed 15% of the total budget for expenses. The Debt Law does not establish a maximum term for guarantees, as long as the term of the guarantee corresponds with the term of the underlying obligation.

Pursuant to the Debt Law, all of the city's debt obligations, within three days after their origination, must be recorded in a special register maintained by the city's Department of Finance. / *P. Gloushkov*

BELARUS

Legal Entities to be Taxed Equally on Securities

In June 2001, the State Tax Committee of the Republic of Belarus (the "Committee") resolved a discrepancy concerning the taxes due by foreign legal entities on income from operations with Belarusian securities. The Committee confirmed that foreign entities must pay a 40% tax on the total income derived from the sale or redemption of Belarusian securities. Such tax has always been payable by Belarusian legal entities. The payment procedure for this tax will depend upon whether the foreign legal entity operates in Belarus through a permanent representative office. For entities with a representative office, such office must pay the tax directly to the state budget. For foreign legal entities without a permanent representative office, the tax will be deducted and remitted to the budget at the income source. / *U. Dodichenko*

Negotiations on Brewery Investment Moving Slowly

At the end of July, negotiations of the proposed investment by the Russian company "OAO Baltika Brewery" in the Belarusian brewery "OAO Krynitsa" will begin anew. St. Petersburg-based Baltika, Russia's largest brewery, has yet to

make the key decision to invest. In biding its time, Baltika has cited its unsettled legal matters stemming from completion of the privatization process of Krynitsa. Baltika, apparently, is demanding not only a controlling stake in Krynitsa, but also strict conformity with Belarusian legislation in the brewery's operations. However, the Belarusian brewery has voiced concerns that the delay may be connected to the political situation in the country, especially in light of the coming Presidential elections. Krynitsa has also announced that it is considering an alternative offer made by Belgium's Interbrew. Yet most experts believe that Baltika's offer is more likely to succeed over that of Interbrew, thanks to the favorable view held by senior Belarusian officials concerning Krynitsa's participation in Baltika. In any case, the appearance of Interbrew may force concessions from Baltika when negotiations get underway. / *U. Dodichenko*

Convertible Currency Market Rules to be Relaxed

On June 28, 2001, the Management of the National Bank of the Republic of Belarus issued a decision to cancel certain acts previously approved. The limit on the volume of purchase-sale transactions with foreign currency on the off-exchange currency market has been cancelled. Furthermore, the volume of advance payments that businesses can make without presenting bank guarantees has been increased from US \$50,000 to US \$100,000. In addition, non-resident banks paying in Belarusian Rubles, as well as non-resident legal entities paying from their "T-type" accounts, can continue to purchase foreign currency on the Belarusian internal currency market. The decision will enter into force after its official registration. / *U. Dodichenko*

UKRAINE

Ukrainian Securities Commission Establishes Recording Regulations for Non-Residents

In order to bring the Ukrainian securities market standards closer to international norms, regulations concerning the system for recording securities of Ukrainian issuers have been implemented. On April 20th, Decision No. 138 of Ukraine's State Securities and Exchange Commission established a new procedure for recording non-resident ownership rights to securities of Ukrainian issuers. The new regulations require securities circulating domestically to be recorded with depositories/custodians administered by Ukraine's National Depository System. Ukrainian-issued securities circulating outside the country are to be recorded with foreign depositories. The regulations do not apply, however, to domestic and foreign governmental bonds. The new standards for non-residents are an extension of an earlier decision changing the way Ukrainian residents record security ownership. / *J. Dyachenko*

Government Hopes Tax Exemptions will Spur Published Materials Market

Through December 31, 2002, Ukraine has exempted the publishing industry from certain taxes and tariffs on items ranging from books to maps. The industry boon comes in the form of an exemption from import duties, the value added tax and taxes on proceeds of sales to customers and direct consumers. The measure is expected to benefit all

three of the publishing business' players, namely, importers of published material, domestic producers and self-production groups. Among the items excepted are books, periodicals issued by mass media with Ukrainian registration certificates, brochures, booklets, albums, sheet music, and posters. The measure was undertaken in response to a perceived lack of printed materials being widely available to the public, either because the materials were nonexistent or too expensive to purchase. / *J. Dyachenko*

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