

## ABOLITION OF RUSSIAN CUSTOMS DUTY APPLICABLE TO CERTAIN TYPES OF CIVIL AIRCRAFT

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To our clients and friends:

On December 31, 2008 the Russian Government passed a resolution that temporarily establishes a 0% import customs duty rate for civil aircraft having 50 passenger seats or fewer and basic operating weight between 2,000 kg and 15,000 kg. The 0% rate comes into effect on March 15, 2009 and is applicable for 9 months thereafter.

Aircraft types popular with Russian carriers that fall under these criteria include turbo-powered ATR 42 (basic operating weight 11,250 kg, capacity - 46-50 passenger seats), Embraer 120 (7,580 kg, 30 passenger seats) and Bombardier Q200 and Q300 (10,400-11,700 kg, from 37 to 50 passenger seats), and jet-powered Embraer 135 (11,400 kg, 37 passenger seats).

The Russian Government introduced such import customs duty rate temporarily in order to coordinate its customs tariff regulation with countries of the Customs Union of the Eurasian Economic Community (which includes Russian Federation, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan). Once a customs tariff for particular goods is agreed by the countries of the Customs Union, the Russian Federation can establish it on a permanent basis. For example, before abolishing import customs duty for aircraft having more than 300 passenger seats permanently, the 0% import customs duty rate applied on a temporary basis for 9 months (with the effect from February 2008 until November 2008).

The described 0% rate does not cover Russian import VAT, which is currently charged at the 18% rate on the sum of the aircraft customs value and the customs duty. Therefore, the effective rate of customs payments applicable to an aircraft qualifying for 0% rate would be 18% of the aircraft's customs value. At the same time, under Russian law, in certain circumstances the payment of customs duty and import VAT may be deferred over a period of up to 34 months and import VAT may be set-off against an importer's regular output VAT or refunded (usually through the court).

The reduced customs duty may facilitate the release for free circulation of aircraft imported earlier under the temporary import customs regime with partial conditional exemption from customs payments (where 3% of the total customs payments are payable per month). Under the Customs Code, upon release of temporarily imported goods into free circulation, their customs value is to be determined as of the moment of initial import (it is

possible to claim adjustment of the customs value for ordinary wear and tear and other reasons specified in the Customs Code) where the rates of customs duty and taxes are to be determined as of the moment of release for free circulation. Therefore, if a temporarily imported aircraft qualifying for the reduced rate is released for free circulation when such rate is in effect, the reduced customs duty rate should apply. The amount of customs payments paid during the period of temporary import should be offset against the total amount of customs payments due. Together with the balance of customs payments, interest for actual deferment of customs payments over the period of temporary import at the refinancing rate of the Central Bank of the Russian Federation (currently 13%) will be payable.

This measure is a part of a general policy of creating favorable conditions for and stimulating Russian airline carriers and manufacturers, which also includes a recent reduction to 0% of import customs duty for civil aircraft having more than 300 passenger seats and basic operating weight more than 15,000 kg and civil aircraft having basic empty weight of 15,000 kg to 20,000 kg and 19 passenger seats or fewer.

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We will keep you updated and would be most happy to answer any queries you may have on this or any other aviation issues.

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