

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

May 8, 2009

To Our Clients and Friends:

On April 30, 2009, the Russian government passed a resolution that permanently establishes a 0% import customs duty rate for civil aircraft having 19 passenger seats or fewer and basic operating weight between 15,000 kg and 20,000 kg. The 0% rate comes into effect retroactively from April 16, 2009 (the date when the temporary abolition expires; see our client update dated August 4, 2008).

The same resolution establishes, on a permanent basis, a 20% customs duty rate on aircraft having more than 19 passenger seats and fewer than 200 passenger seats, with basic operating weight exceeding 15,000 kg.

As described in our previous client updates in relation to the establishment of a 0% import customs duty, the described 0% rate does not cover Russian import VAT, which is currently charged at the 18% rate on the aggregate amount 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 (often through the court).

The reduced customs duty rate 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 12.5%) will be payable.

The abolition of the import customs duty for civil aircraft having 19 passenger seats or fewer and basic operating weight between 15,000 kg and 20,000 kg is a part of a general policy of creating favorable conditions for and stimulating Russian airline carriers and manufacturers. The resolution 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 2,000 kg to 15,000 kg and 50 passenger seats or fewer (established for nine months from March 15, 2009), as well as abolition/reduction of import customs duty for certain aircraft components.

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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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