

ELIMINATION OF CUSTOMS DUTY FOR CERTAIN AIRCRAFT TYPES

October 16, 2009

To Our Clients and Friends:

On September 14, 2009, the Russian Government temporarily introduced new regulations on import customs duty applicable to certain types of civil aircraft and finally eliminated customs duty for the following types of aircraft:

- aircraft having no more than 50 passenger seats and basic operating weight between 15,000 kg and 20,000 kg;
- aircraft having basic operating weight exceeding 120,000 kg; and
- cargo aircraft without a cargo ramp and having maximum take-off weight (“MTOW”) exceeding 370,000 kg.

According to the information available to us, the following types of aircraft should qualify under the 0% customs duty rate: Boeing B747 Freighter, Airbus A330 and A350XWB. The other aircraft popular among Russian carriers, such as Boeing B787 and B767, McDonnell Douglas MD-11 and Airbus A319, A320 and A321, do not qualify for the exemption and are subject to the standard 20% customs duty. The attached Schedule contains a chart summarizing customs duty rates applicable to various types of civil aircraft taking into account these new regulations.

The new regulations come into effect on October 18, 2009, and all customs duty rates are set for nine months, except rates for small aircraft having basic a operating weight of no more than 2,000 kg. The regulations expire on December 14, 2009. The new regulations supersede the former nine month customs duty exemption that came into effect on March 14, 2009, addressing aircrafts with having no more than 50 passenger seats and a basic operating weight between 2,000 kg and 15,000 kg.

The new regulations re-classify aircraft for customs purposes, superseding in entirety the classification of aircraft having a basic operating weight in excess of 15,000 kg. The new classification appears to be more logical and clear and is shown on the attached Schedule.

New regulations were introduced in relation to certain cargo aircraft. Formerly, cargo aircraft were subject to general regulation and were not classified into separate categories. Pursuant to the new regulations, the customs duty rate applicable to cargo aircraft having MTOW in excess of 370,000 kg depends on whether such aircraft have an installed cargo

ramp. A cargo ramp is a structural part of the aircraft connecting the internal space of the aircraft with the ground at an angle which allows transportation of cargo in and out of the aircraft. If a cargo aircraft has MTOW in excess of 370,000 kg and an installed cargo ramp, it is subject to a 20% customs duty. If such aircraft has no cargo ramp, it is subject to a 0% customs duty. Such distinction was probably made to benefit a certain operator of cargo aircraft without a cargo ramp. MTOW of cargo aircraft should be determined pursuant to the relevant manufacturer's flight manuals.

The new regulations do not cover Russian import VAT, which is currently charged at 18% of the sum of the aircraft customs value and the customs duty. Therefore, the effective rate of customs payments applicable to an aircraft qualifying for the 0% rate would be 18% of the aircraft's customs value. At the same time, under the temporary import regime, in certain circumstances payment of customs duty and import VAT may be made in equal installments over a period of up to 34 months; 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 regime. 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, 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 10%) will be payable.

If you have any questions on the new regulation or any other aviation issues, please contact one of the attorneys listed below.

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Schedule

Customs Duty Rates

Legend:

BOW – basic operating weight

MTOW – maximum take-off weight

P – number of passengers

CR – cargo ramp

Weight (kg)	Aircraft Specification				
	P≤50	50<P≤300	P>300	With CR	Without CR
BOW≤2,000	20%	20%	20%	20%	20%
2,000<BOW≤15,000	0%	20%	20%	20%	20%
15,000<BOW≤20,000	0%	20%	20%	20%	20%
20,000<BOW≤120,000	20%	20%	0%	20%	20%
BOW>120,000	0%	0%	0%	20%	20%
MTOW>370,000	0%	0%	0%	20%	0%