

First Steps to Introduce Mandatory Carbon Regulation in Russia

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On April, 20 2021, the State Duma adopted, in the first reading, draft Federal Law on the Restriction of Greenhouse Gases Emissions (the “Draft Law”).¹ The Draft Law will contribute to the achievement of the objectives specified in the Climate Doctrine of the Russian Federation² aimed at the reduction of man-made emission of the greenhouse gases and the development of economic instruments encouraging such reduction.

The Draft Law introduces the concepts of the “carbon unit” and the “carbon footprint” and provides for the so-called “soft” model of the carbon regulation. Such model is based on setting a target indicator of the reduction of the greenhouse gas emissions, creating an accounting and reporting system for the emission of greenhouse gases (greenhouse gas inventory, greenhouse gas emissions register and carbon unit register), providing for economic incentives and state support for the development of projects implemented for the purposes of reduction and prevention of gas emissions or increase of gas absorption.

The scope of regulation of the Draft Law includes legal entities and sole entrepreneurs whose business activities involve emissions of greenhouse gases in the volume equivalent to 150,000 tonnes of carbon dioxide per year or more over the period up to 2024 or 50,000 tonnes of carbon dioxide per year or more after 2024 (“regulated entities”). The list of types of business activities involving emissions of greenhouse gases, performance indicators for such activities and criteria for the determination of business entities as regulated entities must be approved by the Russian Government.

The reduction of the carbon footprint of the Russian manufacturers should contribute to the reduction of potential carbon payments that may be introduced in the EU and, therefore, increase their competitiveness in the European Union market.³ The Draft

¹ The full text of the Draft Law No. 1116605-7 on the Restriction of Greenhouse Gases Emissions is available on the website of the State Duma’s Law-Making Process System at <https://sozd.duma.gov.ru/bill/1116605-7>.

² The Climate Doctrine of the Russian Federation was approved by Resolution No. 861-rp of the Russian President dated December 17, 2009.

³ As part of the EU Green Deal, the EU intends to introduce the mechanism of the so called cross-border carbon regulation which may provide, for example, for a duty/tax applicable to certain products with high carbon footprint imported in the EU. The Russian exporters operating in carbon intensive industries are strongly concerned that such measure may hinder their sales in the EU market. However, the EU regulation is likely to

Law contains a generalised description of the carbon regulation model, with further details to be developed in the implementing regulations.

To become law, the Draft Law must be adopted by the State Duma in the second and third readings, approved by the Federation Council and signed into law by the Russian President. The date of consideration of the Draft Law in the second reading by the State Duma has not been scheduled yet.

Carbon Footprint and Carbon Unit. The key elements of the proposed system of carbon regulation are the carbon footprint and the carbon unit.

The Draft Law defines the carbon footprint as the total volume of emission and absorption of greenhouse gases generated in the full production cycle or at its various stages or in the provision of services which includes direct emissions of greenhouse gases (generated by business or any other activities) and/or indirect emissions of greenhouse gases (related to the consumption of power and/or heat energy and/or any other resources used for the support of business and any other activities obtained from third parties) and/or absorption of greenhouse gases as a result of business or any other activities.

The carbon unit is defined as a verified result of the climate project implementation expressed in the volume of greenhouse gases⁴ equivalent to one tonne of carbon dioxide that can be attributed to proprietary rights.⁵

Pursuant to the Draft Law the carbon units will be allocated to the regulated entities that implement climate projects. The climate project means a set of procedures ensuring the reduction/prevention of emissions of the greenhouse gases or for the increase of their absorption. The carbon units will be credited by the authorised body to the accounts of regulated entities upon receipt of their reports on the results of implementation of the climate projects and verification of the data so provided. The issued carbon units will be recorded in special registers of carbon units linked to the implemented climate projects underlying their issue. The holders of carbon units will be able to transfer those to third parties. Both the assignment of carbon units and the set-off of the carbon units against the carbon footprint will be reflected in the register.

provide for benefits or even exemption from payments for exporters whose home countries implement their own systems of emission quotas or other appropriate mechanisms of carbon regulation.

⁴ The Draft Law sets forth that the “greenhouse gases” are those substances of natural or anthropogenic origin in the gas form that absorb and re-emit infrared radiation found outside of the residential, production or any other premises.

⁵ The indication that the carbon unit may become a new class of proprietary rights is contained in the explanatory note to the Draft Law.

To date, the body that will be responsible for the issue of carbon units and the criteria for the determination whether the projects implemented by legal entities or individuals qualify as climate projects have not been identified yet. It is expected that those will be set forth in the implementing regulations.

The Russian Government will identify a legal entity (operator) that will be authorised to maintain the carbon unit register and record any operations in it in the manner prescribed by the Russian Government.

Target Indicator of Reduction of Greenhouse Gas Emissions. This indicator is introduced for the purposes of reduction of the greenhouse gas emissions. The Russian Government will determine such target indicators, in particular, for various sectors of the economy subject to the volume of investments in the respective sector, revenues from the sale of goods, works and services and tax payments to the treasury generated by the respective sector.

The Draft Law does not set forth any liability for the failure to achieve the target indicators, but it does provide (but not in any detail) that if it is anticipated that the target indicator for the reduction of the greenhouse gas emissions will not be met the Russian Government may take further steps to regulate economic processes aimed at ensuring that such indicator is met.

Accounting and Reporting. It is proposed to create and maintain an inventory of greenhouse gases which is taken by the Draft Law to mean an organised body of data containing descriptions (with the volume indicated) of the greenhouse gases emitted and absorbed based on the official statistical data. The Russian Government will be required to determine a list of greenhouse gases subject to the state accounting and recording in the greenhouse gas inventory. As follows from the documents supporting the Draft Law, the Russian Ministry of Nature will set forth procedures for maintaining the greenhouse gas inventory and evaluating the quantity of the greenhouse gases emitted and absorbed.

The regulated entities will be required to provide annual reports on the emissions of greenhouse gases to the authorised body within the timeframe, in the manner and form as prescribed by the Russian Government. Such report will, inter alia, contain information on the volume of the greenhouse gas emissions attributable to the business activity of the regulated entity for the calendar year and basic data serving as a basis for the calculation of the volume of emissions. The data from such reports will be used to

constitute the register of greenhouse gas emissions⁶ maintained in the manner to be prescribed by the Russian Government.

Commercial entities other than regulated entities will have the right but not the obligation to submit reports on the emissions of greenhouse gases generated as a result of their business activities.

The Draft Law provides that the authorised body will verify the reports on the emissions of greenhouse gases prior to making any entries on emissions of the greenhouse gases to the register.⁷ The Russian Government will be required to determine the procedure for the verification of such reports.

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Please do not hesitate to contact us should you have any questions.

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⁶ However, the Draft Law further provides that the information on the emissions of the greenhouse gases resulting from the activities conducted in the interests of national defence and security will not be recorded in the register of greenhouse gas emissions.

⁷ As follows from the documents supporting the Draft Law, it is proposed to make amendments to the Russian Code of Administrative Offences to provide for the liability of the regulated entities for the failure to submit or late submission of reports on the emissions of greenhouse gases or provision of misleading information in such reports.