

Trade & Customs



Continuing with our focus on Trade and Customs, we speak to Evgeny Zhilin, a Partner at YUST Law Firm in Russia. YUST is a leading Russian law firm providing a wide range of legal services, particularly in the corporate, antitrust, tax, trade, bankruptcy and litigation areas.

Please introduce yourself and your firm.

The history of the Firm dates back to 1992, the beginning of an era of major changes in the economic and legal environment of Russia due to the transition from USSR to the Russian Federation. The Firm currently employs more than 70 attorneys and lawyers in Moscow and in Kiev. YUST has been constantly praised for its excellent reputation in the legal market by its peers, as well as by independent agencies.

I graduated cum laude from the Moscow State Institute of International Relations (University) of the Ministry of Foreign Affairs of the Russian Federation. In 2005, I completed a course of post-graduate study at the Moscow State Institute of International Relations of the Ministry of Foreign Affairs of the Russian Federation. I have participated in a consultative capacity in the drafting of legislation relating to advocacy in the Russian Federation. I have considerable experience in undertaking the legal due diligence of Russian legal entities, including provision of the necessary legal support in respect of their acquisitions. I act as a consultant to major foreign concerns wishing to establish subsidiary companies or enter into joint ventures within the Russian Federation. I have wide experience of conducting cases in the Supreme Court of the Russian Federation and in the Russian Federation's courts of arbitration, including disputes involving state authorities. I act as

an external advisor to the Russo-German Law Institute. I am recommended by EMEA Legal Experts as an expert in corporate law and M&A and by Best Lawyers rating agency as an expert in trade law. The IFLR 1000 international rating points me out as one of the leaders of the Firm's M&A practice.

What are the most common types of cases you deal with related to Trade and Customs?

On the one hand, our Firm on a regular basis deals with trade disputes in both national litigation and international commercial arbitration. For domestic litigation, the most common types of disputes include dispute resolution related to various distribution, supply, services and agency contracts, sale and purchase of securities, disputes in respect of pricing, validity of contracts or their certain provisions and/or due performance of terms and conditions of contracts, trade mark disputes, disputes with state authorities such as antitrust and patent office disputes, disputes with customs and tax authorities, enforcement of foreign arbitral awards, etc.

On the other hand, YUST provides its clients with a wide range of legal services and permanent legal assistance in carrying out foreign trade activities, inter alia: drafting various types of foreign trade agreements of any level of complexity, issuing legal opinions and preparing memoranda with respect to specific matters of national laws

and/or Customs Union laws, international rules and treaties, representing clients vis-à-vis all government and non-government authorities, organizations and institutions, etc.

How strict is regulation surrounding Trade and Customs in your country?

A large number of conditions, terms, restrictions and prohibitions regarding Trade and Customs are stipulated and regulated by Russian national legislation, including laws and regulations on export control, currency regulation and currency control, customs procedures, tax and duties, technical regulation, certification and declaring of conformity of goods, works and services etc. At the same time Russia is a member of the Customs Union (CU) together with Republic of Kazakhstan and Republic of Belarus since 2010 and shall comply with obligations and rules established by the Customs Union legislation, including CU's Customs Code, CU's Technical Regulations, a number of Treaties, Decisions and Regulations. Moreover, the Russian Federation has been a member of WTO since 22 August 2012. Russia's accession to WTO (taking into account that Russia's Customs Union partners are not yet WTO's members) implies a significant liberalization of customs tariff policy in respect of imported goods, decreasing or elimination of protective duties and trade barriers, cancellation of trade and tax preferences to Russian

producers and benefits to residents of special economic zones. Transitional periods from 1 up to 7 years are stated in respect of various groups of products. Thus, Russia has a three-level system of regulations in Trade and Customs fields: national legislation, laws and rules of the Customs Union and WTO's regulations.

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Can you tell me about anti-dumping, countervailing duties, safeguards and other trade remedies in your country? What are the regulatory issues affecting corporate transactions at the moment?

Special protective, anti-dumping and countervailing measures are applied in order to protect economic interests of Russian manufacturers' in connection with increased (dumped and subsidized) imports to the customs territory of the Russian Federation and of the Customs Union.

The above protective measures include tariff and non-tariff regulations, in particular: implementation of anti-dumping and/or countervailing duties,

(including preliminary duties), application of special protective measures through import quotas or special duties (including preliminary duties), etc. These measures can be applied on the national level (in accordance with Russian laws) as well as on the level of Customs Union. Thus, if a decision of the relevant authority - Eurasian

Union standards. Certification/declaring procedure establishes specific requirements, schemes of certification or declaring (for single shipment or for serial production) and covers a wide range of products such as cosmetics, food products, toys, textiles, mechanical and electrical goods and industrial equipment for food, chemical, oil and gas, construction and other industries. There are various mandatory certification systems regulated by laws of the Russian Federation and of the Customs Union including Technical Regulation Conformity Certificate "GOST R", "TR RF", "TR CU", "Sanitary registration", etc. In certain cases when state registration is required by respective Technical Regulations of Customs Union, relevant product shall be marked by the market circulation sign of the Eurasian Economic Community (the "EAC" - Eurasian Conformity). Additionally it should be noted that the provision of the Decision of Eurasian Economic Community concerning unified form of certificate/declaration of conformity to requirements of technical regulations of the Customs Union and rules of its issuing enters into full force since 01.07.2014. **LM**

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Economic Commission (the former Customs Union Commission) - on the application of special protective, anti-dumping and countervailing measures in the common customs territory of the Customs Union was adopted, the relevant national measure is terminated. Charging of anti-dumping, countervailing and special duties is performed by customs authorities apart from the import customs duties.

According to the Russian and Customs Union's laws and requirements, substantial numbers of products to be sold or used in Russia or in Customs Union require mandatory certification or declaring, i.e. they should be approved by relevant local authorities in terms of conformity to national or Customs